
ANNEXURE 5



15 December 2011

**Section 75W modification to the Warriewood Concept Plan
Boondah Road, Warriewood**

Background

The concept plan and Stage 1 project application for the Boondah Road, Warriewood proposal was approved by the Planning Assessment Commission (the Commission) with conditions in January 2011.

The approved concept plan set out the general layout and development controls for the site including the internal road, building height and envelop and parking requirements.

Stage 1 of the proposal is under construction and project application for Stage 2 is yet to be lodged.

The Modification

The modification application seeks approval to amend the approved concept plan. However, the application was amended following comments from Pittwater Council and the RTA. The modification application, as amended, proposes to:

1. delete the internal road linking Macpherson Street and Boondah Road and replace it with two driveways;
2. re-align the bicycle path;
3. provide 5% of adaptable units;
4. provide 1 parking space for each 2 bedroom unit; and
5. 1 visitor parking space per 5 dwellings.

The Department noted that the proposed modification to the requirements of adaptable units and car parking only relates to Stage 2 as Stage 1 has already been approved. The Commission noted that if the deletion of the internal road and realignment of the bicycle path were to be approved, a modification application will be required to modify the already approved Stage 1 development.

Delegation to the Commission

The application was referred to the Planning Assessment Commission for determination as it meets the Ministerial delegation relating to an application where the relevant Council raises objection to the proposal.

The Commission members nominated to determine the application were Mr Lindsay Kelly (chair) and Ms Donna Campbell.

Commission Meetings

On 12 November 2011, the Commission met separately with the Department of Planning and Infrastructure, Pittwater Council and the proponent.

Department of Planning and Infrastructure

The conclusion and recommendation of the Department's assessment report are:

- The proposed car parking rate of 1 space for 2 bedroom units and the provision of 5% of units to be adaptable are not appropriate;
- The recommended parking rate for 2 bedroom units is 1.5 spaces per unit;
- 10% of the units should be adaptable with at least 1 accessible car parking space per unit;
- The deletion of the internal road and realignment of bicycle path are acceptable; and
- the proposed modification is generally consistent with the approved concept plan.

The Departmental briefing meeting was held on 12 November 2011. The Department was represented by Mr Alan Bright and Ms Amy Watson. The meeting discussed the Department's recommendations and focused on:

- The reason for the recommended parking rate for 2 bedroom unit;
- The justification for 10% units to be adaptable; and
- The justification to delete the internal road, particularly the views of Pittwater Council, the RTA and RFS.

Pittwater Council

Pittwater Council was represented by Mr Lindsay Dyce, Mr Chris Hunt, Ms Lisa Cordoba and Mr Mark Eriksson. At the beginning of the meeting Council advised the Commission that Council has accepted the Department's recommended 10% units to be adaptable. However, Council argues that it should apply to the whole of the development as there is no provision in Stage 1. Therefore, Council believes Stage 2 should provide a total of 45 adaptable units. It is Council's intention to review its DCP requirement on adaptable housing.

As to parking requirements, Council has agreed to the visitor parking rate of 1 space for 5 units. However it maintains its view on the rate for 2 bedroom units. Council has not seen any additional information to support a change of requirement from Council's DCP requirement of 2 spaces for each 2 bedroom unit.

As to the internal road, Council wishes to clarify the misinterpretation that Council was unwilling to accept the internal road. Council advised that it will accept the road if it is constructed to Council's standard and its construction is supervised by Council in the role of the principle certifier for the construction. The internal road provides not only access to the buildings and for trades and services, but also spaces for overflow parking and emergency access. The deletion of the road would reduce about 100 at grade, informal and overflow visitor parking spaces. In agreeing to the reduced visitor parking rate, Council is relying on the availability of on-street parking for the overflow.

Council argued that the cycle path should remain at the approved location as the existing cycleway generally follows the creek line. The approved cycleway has a public focus in its original design. The relocation would change that to a private focus design that is inconsistent with Council's design principle. The relocation of the cycleway would create a significant amenity issue as it is very close to the residential buildings. If the proponent is not willing to build the cycleway at the approved location, Council could build it there and withdraw the credit given to the proponent for s94 contribution.

The Proponent

The Proponent was represented by Mr Harry Triguboff AO, Mr Peter Spira, Mr Walter Gordon and Mr Jason Rudd.

The meeting focused on the reasons for the proposed modification.

- No market demand for 2 parking spaces for 2 bedroom unit;
- Reduce parking requirement will correspondingly reduce excavation and associated environmental impacts;
- St Ives is located in a similar environment and the Ku-ring-gai Council's DCP only requires 1 parking space for 2 bedroom unit;
- Affordability – the requirement for extra parking spaces and adaptable housing would significantly increase the costs, hence reduce affordability;
- Question the demand on adaptable housing as Meriton's record shows only one person required an accessible unit;
- The economic burden to future residents when the road is not required and Council is not willing to take over the maintenance of the road;
- The construction of the detention basin and the final landform dictate the relocation of the cycleway.

Commission's Comments

The Commission notes a recent modification application to the Stage 1 project application to change the parking rate for 2 bedroom units was refused as "the Commission was not convinced that there is sufficient justification to alter its original approval of 2 parking spaces for a 2 bedroom unit."

This Commission remains unpersuaded that there is sufficient reason to vary the parking rate for 2 bedroom units.

The Commission agrees with the Department's assessment and recommendation for adaptable housing. However, it notes that the *Metropolitan Plan for Sydney 2036* requires at least 10% of all new multi-unit residential development to be adaptable units. Therefore the recommended condition is amended to read "at least 10%".

Following careful consideration of Council's submission, the proponent's submission and the Department's assessment, the Commission accepts the Department's recommendation that the internal road could be deleted. However, the Commission considers an emergency access road should be provided on the alignment of the internal road to ensure maximum accessibility to the units in case of emergency.

The Commission accepts the proponent's reason for relocating the cycleway based on their current experience with the construction of the detention basin. However, this only applies to the section that is located within Stage 1 as there is insufficient information on the Stage 2 section to justify its relocation. It is also the Commission's view that the relocated cycleway may be constructed as a shared access with the emergency access if future maintenance responsibility can be satisfactorily arranged with Pittwater Council.

Commission's Determination

Following careful consideration of the Director General's assessment report, Pittwater Council's submissions, the proponent's response to submissions and the discussion at the meetings with the Department, Council and the proponent, the Commission determines that:

1. The modification to reduce the parking rate for 2 bedroom unit from 2 spaces per unit to 1 space per unit is not approved.

2. At least 10% of the units in Stage 2 should be adaptable units.
3. The deletion of the internal road is approved and is to be replaced with 2 driveways and an emergency access that meets the requirements for emergency vehicles.
4. The relocation of the cycleway is approved for Stage 1 and is to be constructed to Pittwater Council's requirements.

The Modification of Ministerial approval is in Attachment 1.



Lindsay Kelly
Commission Member



Donna Campbell
Commission Member

Attachment 1

Modification of Minister's Approval

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation Issued on 14 September 2011, we the Planning Assessment Commission of New South Wales approve the modification of the concept approval referred to in schedule 1, subject to the terms of approval and modifications in schedule 2.



Lindsay Kelly
Member of the Commission



Donna Campbell
Member of the Commission

Sydney

15 December 2011

SCHEDULE 1

Concept Approval:

MP 09_0162 granted by the Planning Assessment Commission on 18 January 2011.

For the following:

Multi-unit housing development and childcare centre, private and public open space, parking, road works, pedestrian and cycle pathway, landscaping and ecological rehabilitation works.

At:

14-18 Boondah Road, Warriewood (Lot 20 in DP 1080979).

Proposed Modification:

MP 09_0162 MOD 1 - modification includes:

- deletion of internal roadway, linking Macpherson Street and Boondah Road, and replacement with two private roads;
- re-alignment of bicycle path route;
- provision of adaptable units at a rate of 5%; and
- provision of car parking at the rate of 1 space per 2 bedroom unit and 1 visitor space per 5 dwellings.

SCHEDULE 2

The above approval is modified as follows:

- a) Term of approval A1 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

1. Development in Accordance with the Plans and Documentation

The approval shall be generally in accordance with MP09_0162 and the Environmental Assessment prepared by Architectus dated March 2010, except where amended by the Preferred Project Report dated September 2010 and received by the Department on 29 September 2010, **the Section 75W modification dated 8 September 2011**, and the following drawings:

Architectural Drawings				
Drawing No.	Revision	Name of Plan	Drawn By	Date
A000	D-4 <u>E</u>	Open Space and Ecology Diagram	Architectus	June 2011 <u>October 2011</u>
A001	D-4 <u>E</u>	Vehicle Access and Street Network	Architectus	June 2011 <u>October 2011</u>
A002	D-4 <u>E</u>	Pedestrian Footpath and Access Cycleway	Architectus	June 2011 <u>October 2011</u>
A003	D-4 <u>E</u>	Land Use Diagram	Architectus	June 2011 <u>October 2011</u>
A004 <u>A005</u>	F-4 <u>G</u>	Building Height Diagram	Architectus	June 2011 <u>October 2011</u>
DA01	B	Overall Site Staging Plan	Meriton Apartments Pty Ltd	13/08/2010
<u>DA07</u>	<u>D</u>	<u>Deep Planting</u>	<u>Meriton Apartments Pty Ltd</u>	<u>12.09.11</u>
Landscape and Earthworks Plans				
Drawing No.	Revision	Name of Plan	Drawn By	Date
LA101	B	Landscape Masterplan Vegetation Plan	Site Image Landscape Architects	13/08/2010
LA102	B	Landscape Masterplan Landscape Management Zones	Site Image Landscape Architects	13/08/2010
C025	P1	Site Earthworks Plan and Section	AT&L Civil Engineers and Project Managers	07/09/2010
Other Documents				
Reference	Name of Document	Prepared By	Date	
None	Letter regarding public open space dedication	Meriton Apartments Pty Ltd	11/11/2010	
<u>None</u>	<u>Solar Access Assessment – Concept Plan - 14 – 18 Boondah Road, Warriewood</u>	<u>SLR Consulting Australia Pty Ltd</u>	<u>2 June 2011</u>	

<u>SKC22</u> <u>Issue P4</u>	<u>Revised Master Plan Layout</u>	<u>AT&L Civil Engineers and Project Managers</u>	<u>28-10-11</u>
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except for as modified by the following pursuant to Section 75O(4) of the Act.

- b) Future Environmental Assessment Requirement 8 to be added by the insertion of the **bold and underlined** words as follows;

8 Adaptable units

At least ten percent of the residential units provided as part of the Stage 2 works shall be developed as adaptable housing as defined by Pittwater Development Control Plan 21. Each adaptable unit shall be provided with at least one accessible car parking space.

- c) Future Environmental Assessment Requirement 9 to be added by the insertion of the **bold and underlined** words as follows;

9 Car Parking

Car parking for the Stage 2 works shall be provided at the following minimum rate:

- (a) **1 space per studio / 1 bedroom unit;**
- (b) **2 spaces per 2 bedroom unit;**
- (c) **2 spaces per 3 bedroom unit;**
- (d) **1 visitor space per 5 dwellings; and**
- (e) **Other requirements are to be consistent with the Pittwater Council's DCP 21.**

- d) Future Environmental Assessment Requirement 10 to be added by the insertion of the **bold and underlined** words as follows;

10 Emergency Access

The emergency access shall meet the requirements for emergency vehicles and may be constructed as a shared way with the cycle path.


- e) Future Environmental Assessment Requirement 11 to be added by the insertion of the **bold and underlined** words as follows;

11 Stage 2 Pedestrian/cycle paths

The location of the Stage 2 pedestrian/cycle paths may vary from the alignment shown on the approved concept plan (18 January 2011) if future applications demonstrate that it is unreasonable in physical, environmental and economic terms to provide the pedestrian/cycle paths along the approved alignment.

END OF MODIFICATIONS TO MP 09_0162




NSW GOVERNMENT
 Planning
 Issued under the Environmental Planning and Assessment Act 1979
 Approved Section 75W Modification Application
 No. 1 granted on the 15/12/11
 in respect to MP 09-0162
 Signed AW
 Sheet No. 1 of 7

