

8 March 2012.

Mr A Bright
Acting Director, Metropolitan & Regional Projects South
NSW Department of Planning and Infrastructure
22-33 Bridge Street
SYDNEY NSW 2000



MERITON
MERITON PROPERTY SERVICES
PTY LIMITED

HEAD OFFICE

Level 11, 528 Kent Street
Sydney NSW 2000
Tel: (02) 9287 2888
Fax: (02) 9287 2653

Dear Mr Bright

**14-18 BOONDAH ROAD (MP10_0177 MOD 6)
RESPONSE TO COUNCIL SUBMISSION**



I refer to Pittwater Council's letter dated the 20 February 2012, which comments upon the abovementioned modification to allow for the shared pedestrian/bike path that was recently approved by the Planning and Assessment Commission (PAC) under the Concept Plan. Each of Council's issues are addressed below.

Insufficient Information

Council states that the justification is insufficient and seeks confirmation on conditions to be amended. With regard to insufficient justification, the specific details to justify the replacement of the internal road with a share pedestrian/bike path was provided with the initial application to amend the concept plan, which was subsequently approved by the PAC on the 18 January 2012.

Leading up to the 18 January 2012, detailed reports justifying the replacement of the pedestrian/bike path were made in response to Council and the Roads and Maritime Service submissions on the 9 September and 7 November 2011. Information justifying the pedestrian/bike path included the following reports.

- Effect on Intersection of Macpherson Street and Boondah Road – **(Annexure 1)**
- Bushfire access assessment – **(Annexure 2)**
- Emergency Vehicle Access Assessment – **(Annexure 3)**
- Fire Hydrant Location and Access Report – **(Annexure 4)**
- Amended Concept plan showing location of new pedestrian/bike path – **(Annexure 5)**
- Traffic report on removal of Internal Road dealing with traffic implications, visitor access, emergency access, and car park driveway designs – **(Annexure 6)**
- Extracts of Meriton letters dated the 9 September and 7 November 2011 – **(Annexure 7)**
- Letter dated the 9 January 2012 containing the detailed design drawings for the shared pedestrian/bike path.

The above reports form part of the approval by the PAC for the amended concept plan and remain the relevant justification for the shared pedestrian/bike path. The above reports are attached to annexures 1-7.

Council seeks clarification on conditions that make reference to the replaced internal road. In this regard the following conditions are sought to be amended or deleted.

1. Delete reference to **“internal public access roads”** in the project description.
2. Delete Condition B12 as this no longer applies.
3. Delete reference to Internal Access Roadways in Condition C2(a)(ii).
4. Amend Condition C6(m)(i) as follows:

The entry treatment ~~for the internal through-road linking into Macpherson Street and Boondah Road~~ is to include kerb returns and a pedestrian/bike refuge. ~~at the intersection of the roadway with Macpherson Street and Boondah Road.~~

5. Condition C7(a)(vi) to be amended as follows.

The entry treatment ~~for the internal through-road linking into Macpherson Street and Boondah Road~~ is to include kerb returns and a pedestrian/bike refuge. ~~at the intersection of the roadway with Macpherson Street and Boondah Road.~~

Consideration for Emergency Access

In relation to Condition 10 of the Concept Plan, the wording reads “*emergency access shall meet the requirements for emergency vehicles **and may be** constructed as a shared way with the bike path*”. This condition does not make it mandatory that emergency vehicles are to use the shared pedestrian/bike path.

The matter for emergency access was extensively addressed with the approval of the amended concept plan by the PAC that replaced the internal road with the shared pedestrian/bike path. Annexures 2, 3, 4 and 6 contain the relevant reports that were presented to the PAC when the approval was granted to delete the internal road in the concept plan.

Most importantly section E1.3 of the Building Code of Australia calls up Australian Standard 2419 to have the fire brigade services approval in regard to location of hydrant services and associated access. Meriton will be proving the required emergency access and facilities in accordance with the Building Code of Australia that subsequently is then compliant with Condition 10 of the amended concept plan approval.

Utility of the Shareway and Reduction in Amenity

The relevant conditions of consent that Council refer too are addressed in the correspondence above.

The matter of emergency vehicles using the pedestrian/bike path was previously considered by the PAC in approving the amendment to the concept plan for the pedestrian/bike path. This issue by Council is being repeated when already considered and approved by the PAC. The reports contained in the Annexures that formed part of the information presented to the PAC outlined that emergency access did not need to use the pedestrian/bike path. We reiterate that emergency access will be provided as directed by the NSW Fire Brigade in accordance with the Building Code of Australia requirements and relevant Australian Standard as required under Condition A1 of the Major Project Approval.

The issue with amenity of residents and bicycle users was also raised by Council during the assessment and consideration of replacing the internal road with a pedestrian/bike path when approved by the PAC. In terms of pedestrian and bike user safety, Drawing No. 75WC242 in **Annexure 8** shows a pedestrian fence proposed along the top of the regraded bio detention basin to address safety concerns of Council.

Council repeat that the share pedestrian/bike path must be 4m wide for emergency access. There is no condition in the Concept Plan determination stating a width. The actual Concept Plan approval is for a 3m wide path. As stated above, and in the attached reports previously considered by the PAC, emergency access vehicles will not use the shared pedestrian/bike path, and therefore does not have to be 4m. The plans and documents approved by the PAC was for 3m.

Council seek that emergency vehicle access complies with the relevant standards. This is a requirement of the consent to comply with the Building Code of Australia. As mentioned above, the relevant emergency access will comply with the Building Code of Australia and therefore the concept plan and Major Project Approval conditions.

Section 94 Contributions

Council is stating that the pedestrian/bike path is not a "separate dedicated" pedestrian/bike path, does not provide emergency access, and therefore works-in-kind from Section 94 Contributions should not be used to fund the path's construction.

In this regard, condition A6(2) of the Project Approval recognises that appropriate easements/rights of carriageways must be in place over services and facilities. The location of a pedestrian/bike path was always to be located within private land as shown on the original and amended concept plan. Therefore the pedestrian/bike path was always going to be a facility to be built by Meriton with appropriate easements/rights of carriageways placed on the title for public use. This does not change in this application and remains consistent with the amended concept plan approved by the PAC.

Meriton is building the shared pedestrian/bike path in a location that is above the 1 in 100 year flood event where the previous location would have been subject to flooding. This new location which is consistent with the amended concept plan does not change the Section 94 mechanism in any way. We are still required to build a public facility, which in any location on the site, would be required to have easements/rights of carriageways over private land for public use.

The matter that the path is required for emergency access, is false and misleading. All documentation presented to PAC for the approved concept plan amendment that shows evidence of no emergency vehicle access over the pathway, has not changed – see attached annexures. As such there is no change required to the Section 94 conditions of the consent.

Council Not Accepting Maintenance of the Shareway

Meriton acknowledges that current conditions under the Major Project Approval require the legal mechanism for maintenance of the pedestrian/bike path. The future strata subdivision will contain the relevant provisions as required by condition A6(2) for the Body Corporate to maintain the pedestrian/bike path through the site.

Plans Comprising Stage 2

The original plans lodged with the Department of Planning and Infrastructure formed a complete set, where some of Stage 2 were shown mistakenly. The plans sought for approval have been removed from the complete package and are contained in **Annexure 8**.

Conclusion

The theme of Council's current letter repeats the issues raised when the PAC ultimately approved the replacement of the internal road with a 3m wide pedestrian/bike path, which acknowledges that emergency access would not be required. Meriton will be complying with the relevant requirements of the Building Code of Australia for the provision of fire brigade services and access that also happens to be consistent with condition 10 of the amended Concept Plan approval.

Yours faithfully

MERITON GROUP



WALTER GORDON

Manager Planning and Development