



MERITON
MERITON PROPERTY SERVICES
PTY LIMITED

16 March 2012.

Mr Alan Bright
Director, Urban Assessments
NSW Department of Planning & Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

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

Dear Alan

SECTION 75W APPLICATION TO MAJOR PROJECT APPLICATION NO. 10_0177 (STAGE 1 FOR RESIDENTIAL AND CHILD CARE DEVELOPMENT AT 14 – 18 BOONDAH ROAD, WARRIEWOOD (LOT 20, DP 1080979) - MODIFICATION TO VARY CONDITIONS

INTRODUCTION

Pursuant to Section 75W(1)(a) of the Environmental Planning and Assessment Act, 1979, a "Modification of Approval" is sought to vary Conditions to allow for the orderly occupation of completed buildings.

The need for this modification has come about as we are seeking certification to occupy the first three Buildings of Stage 1, being Buildings B, C and E. However, the Conditions are worded as if the whole of Stage 1 is being completed at the same time.

The Conditions of the Project Approval do not allow for staging of the occupation. For example, other Consents frequently break up the Certification requirements into the following segmentation.

Stage	Construction Deal
1A	Shoring walls and associated works around the building footprint.
1B	Ground preparation, piling and excavation.
2	Construction of structures from basement to ground level.
3	Construction of structures above ground level
4	Construction fitout works from basement to ground level.
5	Construction fitout works above ground level.
6	Final Occupation Certificate.

This approach allows for continual assessment at various points in the construction process, and more closely reflects the works on site. The current Project Approval typically uses the term, "Prior to Occupation Certificate". This term is too broad and creates difficulties for the Certifying Authority, in terms of staging occupation as buildings are completed.

For large developments with multiple buildings it is not commercially viable to have buildings empty while others are at different stages of construction. It is anticipated, as mentioned above that Buildings B, C and E will be completed first, then Buildings A and D followed by Buildings F and G with the swimming pool. Therefore the need to amend the wording of the Conditions pertaining to Occupation is critical, so as not to hold up occupation of the first three buildings.

Identified below are all the relevant Conditions that are affected by requirements for an Occupation Certificate and associated amendments sought to stage occupation.

Condition C2(c) – Landscaping of the Site

*“All landscaping in the approved plan is to be completed prior to a **Final** Occupation Certificate (~~interim or final~~) for the aboveground works being issued for that part of the site of the use commencing, whichever its earlier.*

*Prior to the release of **the Final** Occupation Certificate, all landscape works need to be certified as complying with approved landscape plans by a registered landscape architect.*

Condition C2(d) – Landscaping of the Site

*“A Landscape Management Plan is to be prepared and implemented to outline the technique and frequency of maintenance tasks during the establishment of the landscaping and on a permanent basis. The Management Plan, is to be implemented for 24 months immediately following completion of the landscaping works on site, and is to incorporate a procedure for the replacement of failed plantings, and a reconsideration of other epidemic species type where plantings do not respond to the conditions as expected. Evidence of engagement of maintenance contractor for 24 months for all landscape works as conducted by the applicant to be dedicated to Council, 24 month period to be completion of all landscape works as proposed. Evidence of engagement to be submitted to and approved by certifier/Council prior to issue of **the Final** Occupation Certificate.*

Condition C12(d) – Developer Contribution

*The Proponent shall dedicate to Pittwater Council 15,601sqm of land as detailed on the plan attached to the correspondence from the Proponent dated 11 November 2010 for the provision of multi-functional creek line corridors and open space. The area to be dedicated is to be subject to a final plan of survey prepared by a registered surveyor and shall be detailed on the required Plan of Subdivision. The required dedication is to take place by way of subdivision. Evidence that the required Subdivision Certificate has been registered shall be provided to the Certifying Authority prior to the issue of the ~~First~~**Final** Occupation Certificate for Stage 1 works.*

Condition C12(e) – Developer Contribution

*In accordance with the Warriewood Valley Section 94 Contributions Plan No. 15, the Proponent may negotiate with Council for the direct provision of other facilities and services and dedication of land (other than the 15,601 sqm of land stated above) in lieu of the cash contribution in C12(a) above (or any portion of that cash contribution) through an agreement for Material Public Benefit under the Warriewood Valley Section 94 Contributions Plan No. 15. Where an agreement for Material Public Benefit is sought in lieu of payment of the cash contributions in C12(a) (or any portion of that cash contribution), the agreement for Material Public Benefit is to be finalised and signed by the Proponent and Pittwater Council prior to the release of the ~~first~~ **Final** Occupation Certificate.*

Condition F4 – Certifying Authority to Arrange Qualified Landscape Architect

*The Certifying Authority shall arrange for a qualified Landscape Architect/Designer to inspect the completed landscape works to certify adherence to the Approval conditions and Construction Certificate drawings. Landscape works within and adjacent to the areas the subject of the Occupation Certificate are to be fully completed prior to the issue of the **Final** Occupation Certificate.*

Condition F12 – Road Damage

*The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of **any-Final** Occupation Certificate.*

Condition F13 – Landscaping shall be completed prior to occupation

*The landscaping adjacent to and within the areas the subject of the occupation shall be fully completed in accordance with the approval and approved plans, prior to **Final** Occupation or use of the premises, and shall be maintained at all times.*

Condition F14(a) – Works within Council's road reserve

Prior to the issue of an Occupation Certificate for the buildings, all works in the public roads (Macpherson Street and Boondah Road) described in the plans required in the Construction Certificate must be constructed.

*ii) Photographic evidence of the condition of the street trees and road reserve, including the area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall accompanied by a statement that no damage has been done (or where damage has been remediated, that Council has approved that work.) In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of **any the Final** Occupation Certificate.*

*iii) Restoration of all damaged public infrastructure caused as a result of the development to Councils satisfaction. Councils written approval that all restorations have been completed satisfactorily must be obtained and provide to the private Certifying Authority with **the Final** Occupation Certificate application.*

Condition F16 – Certification

*Prior to issue of the **Final** Occupation Certificate, the following certification matters are to be obtained and submitted to the Principal Certifying Authority:*

c. Civil Engineering Works, including roads and drainage.

*i All roads, drainage and civil engineering works required by these conditions of this approval are to be completed prior to the issue of the **Final** Occupation Certificate.*

*iii A maintenance period is to apply to all civil engineering works to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for six (6) months after the issue of the **Final** Occupation Certificate. In that period the applicant will be liable for any part of*

the works which fail to perform in the manner required by the relevant certifications, or would reasonably be expected under the design conditions.

e. Installation of Smoke Alarms.

*All proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of **any the relevant** Occupation Certificate.*

Condition F17 – Engagement of Landscape maintenance contractor

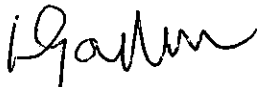
*A landscape maintenance contractor is to be engaged to maintain the landscape elements/planting for the 24 months period in accordance with the approved landscape plans and Landscape Management Plan (under condition C2 of this approval, prior to the issue of **any final** Occupation Certificate.*

CONCLUSION

The proposed amendments are as a result of the practicalities pertaining to the construction process and the resulting staged occupation of buildings as they are completed. In order to facilitate the orderly occupation of the buildings, this amendment is required. It is not possible to meet the requirements of the above Conditions under the current Project Approval, as not all buildings in Stage 1 will be completed and occupied at the same time.

Should you have any queries please do not hesitate to contact me in the first instance.

Yours faithfully
MERITON GROUP



WALTER GORDON
Manager Planning and Development