



**Planning &
Infrastructure**

***Residential and Childcare Centre
Development***

***14-18 Boondah Road, Warriewood
Proposed by: Meriton Apartments Pty
Ltd***

Modification MP 10_0177 MOD 1

Modification of Minister's Approval under Section
75W of the *Environmental Planning and
Assessment Act 1979*

June 2011

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EXECUTIVE SUMMARY

Meriton Apartments Pty Ltd ('the Proponent') lodged an application to modify the Stage 1 Project Approval MP 10_0177 ('Project Approval') pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ('the Act').

On 18 January 2011, the Planning Assessment Commission (PAC) approved the project subject to conditions requiring a reduction to the dwelling yield from 75 dwellings per hectare to 60 dwellings per hectare and reduced building heights. The revisions to the buildings to comply with the conditions imposed by the PAC necessitate some further amendments outside the scope of the conditions of approval. Modifications to the basement layout are also proposed due to the reduction in car parking spaces required for the reduced dwelling yield for Stage 1.

The application seeks approval to modify Condition A1 – *Development in Accordance with Plans and Documentation* to incorporate amended plans which:

- delete the second basement level and provide a total of 474 spaces within a single level basement and associated modifications to deep soil planting, stair/lift locations and associated minor modifications at podium level; and
- make general internal layout changes to Buildings A, B and C which include the provision of studies.

The application also seeks to modify Condition B13 - *Car and Bicycle Parking Provision and Storage* imposed on the Project Approval. The amendment to Condition B13 is required to overcome uncertainty on the parking required for Residential Flat Buildings in accordance with Pittwater DCP 21.

The Department is aware that Proponent has commenced construction of a single level basement which is inconsistent with the approved plans. The proposed modification seeks approval for inter alia the construction of a single level basement as opposed to the approved 2 level basement.

The Department has assessed the modification and considers it to be acceptable. The Department is satisfied that this modification application falls within the scope of section 75W of the Act.

The proposed modifications are generally consistent with the terms of the Project Approval and are considered to be acceptable. It is therefore recommended that the application be approved subject to the modified conditions.

- single storey childcare centre (270m²);
- external road works, internal public access roads and public pedestrian and cycle way; and
- asset Protection Zone, Environmental Buffer areas and ecological rehabilitation and landscaping works.

Condition B1 of the PAC approval of the Stage 1 Project Application included several design modifications and layout changes, including:

- The dwelling yield is limited to a maximum of 60 dwellings per hectare.
Note: For the purposes of calculating the dwelling yield, the site area is the developable area of 7.45ha and excludes Fern Creek and the creekline corridor.
- The height of the development shall be limited to 3 storeys, with the exception of Buildings D, E, F and G which may be permitted to be a maximum of 4 storeys to achieve the maximum density specified in Condition B1(a) above, subject to;
 - any 4th storey having a smaller footprint than the 3rd level below to provide articulation to the building form;
 - any change to the siting or form of the envelopes resulting from Conditions B1(a) and/or B1(b) shall maintain compliance with the relevant provisions of the Residential Flat Design Code; and,
 - the amendments shall maintain a minimum of 50% of the developable area of 7.45ha as deep soil area.

On 6 June 2011, the Director-General approved amended plans to satisfy the above condition. In summary, the amendments to Stage 1 involve a reduction from 295 apartments to 226 apartments and reduced heights of Buildings D, E, F and G to part 3 and part 4 stories. The Project layout, as approved by the Director-General is provided in **Figure 2**.

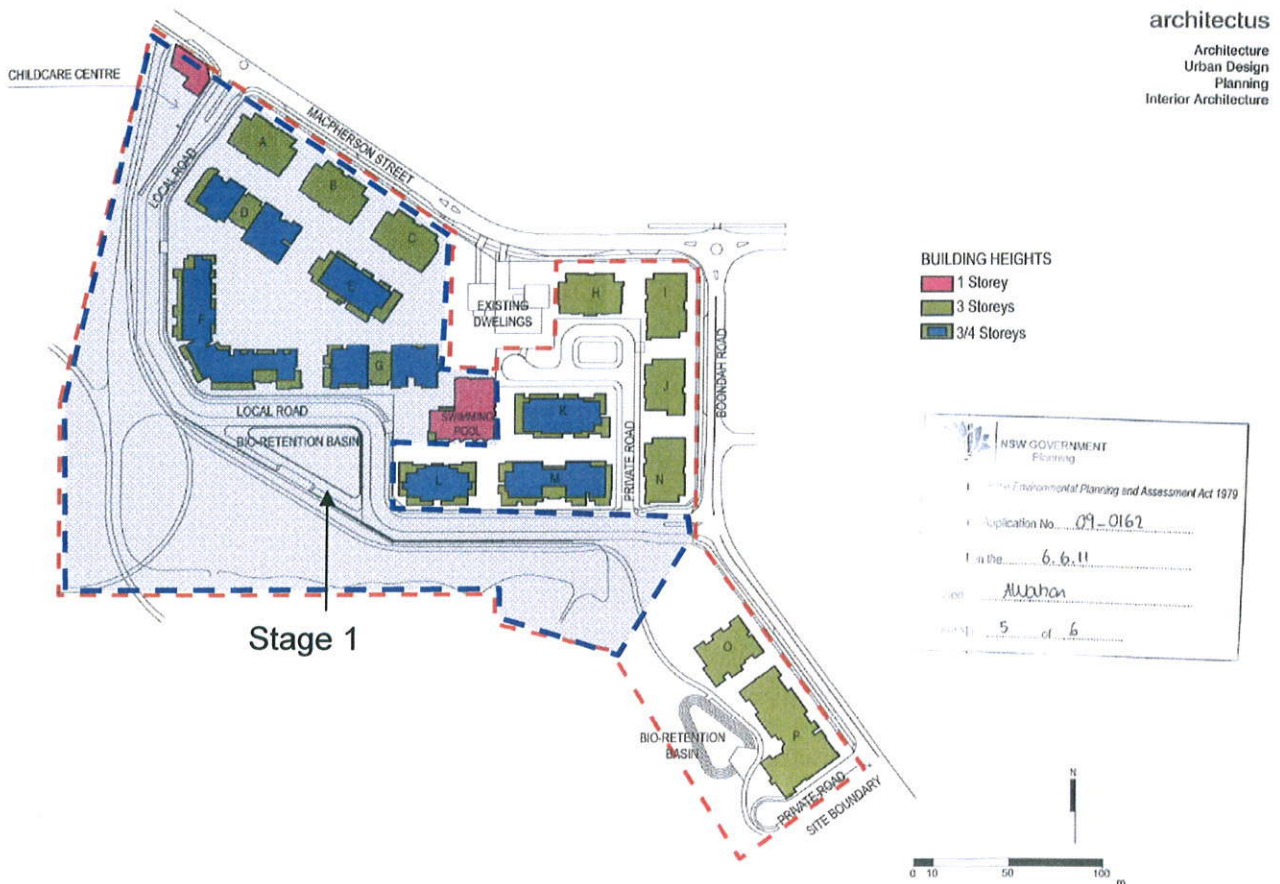


Figure 2 The revised Project Layout approved by the Director-General in accordance with modification requirement 2 of the PAC Concept Plan Approval and Condition B1 of the Project Approval.

3. PROPOSED MODIFICATION

This application seeks approval to modify *Condition A1 – Development in Accordance with Plans and Documentation* to amend the plans outlined in **Table 1** below.

Table 1: Approved Plans to be modified

Drawing No.	Approved Revision	Name of Plan	Proposed modification
DA00	B	Cover Sheet	Revised Cover Sheet (Revision D) outlining complete drawing list.
DA01	B	Overall Site Staging Plan	Revised Staging Plan (Revision D) incorporating revisions approved by the Director General in accordance with condition B1 of the PAC approval and the proposed revised deep soil planning, stair/lift location and internal layout for Buildings A, B and C including studies.
DA03	B	Carparking Plan 1	Carparking Plan 1 deleted - Basement level 1 deleted.
DA04	B	Carparking Plan	Carparking Plan (Revision C) modifying Basement level 2 to provide a total of 474 spaces (428 resident and 46 visitor) including 2 disabled spaces, 98 bicycle spaces and 187 storage units Note: 362 of the 428 resident spaces are in a stacked arrangement.
DA05	B	Podium Plan	Revised Podium Plan (Revision D) incorporating revisions approved by the Director General in accordance with condition B1 of the PAC approval and the proposed revised deep soil planning, stair/lift location and internal layout for Buildings A, B and C including studies.
DA06	B	Typical Floor Plan (Level 2)	Revised Typical Floor Plan (Revision E) incorporating revisions approved by the Director General in accordance with condition B1 of the PAC approval and the proposed revised deep soil planning, stair/lift location and internal layout for Buildings A, B and C including studies.
DA07	B	Deep Planting	Revised Deep Planting Plan (Revision D) providing revised deep soil planting areas and calculations for the site.
DA11	B	Site Sections	Revised Site Sections (Revision D) showing single level basement and incorporating revisions approved by the Director General in accordance with condition B1 of the PAC approval.
DA20	B	Building A Plans & Elevations	Revised floor plan for Building A (Revision D) including studies.
DA21	B	Building B Plans & Elevations	Revised floor plan for Building B (Revision D) including studies.
DA22	B	Building C Plans & Elevations	Revised floor plan for Building C (Revision D) including studies.

Revised Basement Car Park

Condition B1 imposed by the PAC required:

- a reduction in dwelling yield from 75 dwellings per hectare to 60 dwellings per hectare; and
- reduction in height of Buildings D, E, F and G from 5 storeys to a maximum of 4 storeys.

Condition B1 did not allow any modifications to the basement car park or the number of car parking spaces. Condition B13 required compliance with Pittwater DCP 21. It is noted that the 2 level basement (approved by the PAC subject to modification) comprised 471 car parking spaces, which did not comply with Pittwater DCP (total 604 spaces required for 295 apartments).

The plans submitted to the Director-General to satisfy Condition B1 involve a reduction in the number of apartments from 295 to 226. As a result, the parking required for the development is reduced commensurate with the reduction in apartment numbers. The Proponent therefore proposes to reduce the approved 2 level basement car park to a single level, incorporating 474 car parking spaces.

Inclusion of Studies in Buildings A, B and C

The Proponent seeks to modify the approved internal layout of Buildings A, B and C to provide studies. The proposed modifications involve a redistribution of floor space by deleting the media room, amending the bathroom layout, and a minor reduction in living space to provide a separate study. The proposed modifications do not alter the approved building envelope or result in additional floor space.

A detailed assessment of the proposed modifications is provided in **Section 6** of this report.

4. STATUTORY CONTEXT

5.1 Modification of the Minister's Approval

The modification application has been lodged with the Director General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including "*revoking or varying a condition of the approval or imposing an additional condition of the approval*".

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify conditions imposed on the Project Application approval and therefore, approval to modify the application is required.

5.2 Environmental Assessment Requirements (DGRs)

No additional environmental assessment requirements were issued with respect to the proposed modification, as sufficient information has been provided to the Department in order to consider the application and the issues raised remain consistent with the key assessment requirements addressed in the original DGRs.

5. CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request to modify an approval does not require public exhibition. However, under Section 75X (2) (f) of the Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the application to modify the approval was made publicly available on the Department's website on 6 June 2011 and referred to Pittwater Council for comment.

Council has not provided a response to date and no submissions have been received from the public.

6. CONSIDERATION OF PROPOSED MODIFICATIONS

Revised Basement Car Park

Condition B13 of the project approval provides the following requirements:

- a. *Car parking provision shall meet the requirements of Pittwater DCP 21. Visitor parking shall include a minimum of 2 spaces designated for persons with a disability. The design and construction of the parking area and parking spaces must be in accordance with AS2890.1 and AS2890.6.*
- b. *Secure bicycle parking is to be provided for 98 bicycles on site, designed and constructed in accordance with AS2890.3.*
- c. *Storage areas for each dwelling are to be provided within the unit and/or basement or part lot.*

The original Concept Plan application proposed 559 apartments and 908 car parking spaces. The Stage 1 Project Application proposed 295 apartments and 479 car parking spaces. The Pittwater DCP 21 required 1,239 spaces for the Concept Plan and 653 spaces for Stage 1 (assuming the development is categorised as "multi unit housing"). The PAC required that the dwelling yield be reduced, but that the car parking provision comply with Pittwater DCP 21.

In this regard, the 2 level basement car park was approved subject to modification of the number of parking spaces to comply with Pittwater DCP 21. The PAC did not impose a numerical requirement within Condition B13, as the dwelling yield was to be reduced in accordance with Condition B1 and the number of car parking spaces required under the DCP could only be calculated when the final plans were approved by the Director-General in accordance with Condition B1.

The modification application proposes to reduce the basement to a single level and demonstrate compliance with Condition B13. A modification to Condition B13 is proposed to provide certainty on the number of spaces to be provided within the basement.

The proposed single level basement car park comprises 474 spaces (428 resident spaces and 46 visitor spaces, including 2 disabled spaces). Of the 428 resident spaces, 362 are in a stacked configuration which will be allocated to 2 and 3 bedroom apartments only. This is consistent with DCP 21 which states that stacked parking will only be accepted if the spaces relate to the same dwelling. The modification also proposes a total of 187 storage units and 98 bicycle spaces.

Pittwater DCP 21 does not contain car parking requirements for residential flat buildings and includes a reference to defer to the *RTA Guide to Traffic Generating Development* or analysis from surveyed data of similar development uses. The DCP however outlines car parking controls for 'multi unit housing' and residential components of shop-top housing at a rate of:

- 1 space per 1 bedroom dwelling;
- 2 spaces for each dwelling containing 2 bedrooms or more; and
- 1 visitor space per 3 dwellings.

For the purposes of this assessment, the Proponent and the Department have reviewed both requirements.

An assessment of the proposed car parking provision against Pittwater DCP 21 and the *RTA Guide to Traffic Generating Development* is provided in **Table 2** below.

Table 2: Car parking Compliance Table

Proposal	Pittwater DCP 21 requirement for multi unit housing	RTA Guide to Traffic Generating Development	Proposed car parking provision	Comment
Resident parking				
1 x studio and 25 x 1 bedroom apartments	1 space per 1 bedroom dwelling 26 spaces	0.6 spaces per 1 bedroom unit 15.6 spaces	28	Complies with Pittwater DCP 21
185 x 2 bedroom apartments	2 spaces per 2 bedroom dwelling 370 spaces	0.9 spaces per 2 bedroom unit 166.5 spaces	370	Complies with Pittwater DCP 21
15 x 3 bedroom apartments	2 spaces per 3+ bedroom dwelling 30 spaces	1.4 spaces per 3+ bedroom unit 21 spaces	30	Complies with Pittwater DCP 21
Total	426	203.1	428	Complies with Pittwater DCP 21
Visitor parking				
226 apartments	1 visitor space per 3 dwellings 76 spaces (46 spaces)*	1 visitor space per 5 dwellings 46 spaces	46	Complies with RTA Guideline
Total parking provision				
Total	502 (472)*	249	474	Complies with Pittwater DCP and RTA Guideline

* While Pittwater DCP 21 requires visitor parking at a rate of 1 space per 3 dwellings, Council has written to the Department advising that they support the RTA Guideline rate of 1 space per 5 dwellings. This is on the basis that the RTA rate provides a more accurate representation of the nature of visitations likely to occur to a development of this size in Warriewood Valley.

It is considered that the revised car parking provision satisfies Condition B13 and addresses the concerns of Council in relation to car parking, by providing a minimum of 1 space for the 26 x 1 bedroom apartments and 2 spaces for the remaining 200 apartments which have 2 or more bedrooms. Further 46 visitor car parking spaces are provided, including 2 accessible spaces in accordance with Council's letter which supported the application of the visitor parking rates within the RTA Guide to Traffic Generating Development over the DCP rates for multi unit housing.

In response to the original application, Pittwater Council advised:

"The RTA Guidelines for Traffic Generation Development requires visitor parking at 1 space per 5 to 7 dwellings, for medium density development. It is considered appropriate that the RTA rate may be used for visitor parking as this reflects a more accurate representation of the nature of visitations likely to occur to a development of this size in Warriewood Valley. In accepting the RTA rate of one visitor space per five dwellings (in lieu of the DCP requirement), the number of visitor space required for 295 dwellings for Stage One is 59 visitor parking spaces ..."

Given that the dwelling yield for Stage 1 is reduced to 226 apartments, 46 visitor parking spaces are required.

The Department is satisfied that a minimum of 98 bicycle parking spaces and appropriate resident storage is provided in the basement in accordance with Condition B13.

In summary, the Department considers that the proposed car parking provision complies with the Pittwater DCP 21 and the *RTA Guide to Traffic Generating Development* in relation to visitor parking rates and satisfies the intention of Condition B13.

In order to provide certainty on the number of car parking spaces within the basement, the recommended modified condition will read as follows:

“B13 Car and Bicycle Parking Provision and Storage

- a. ~~Car parking provision shall meet the requirements of Pittwater DCP 21.~~ **A total of 474 car parking spaces are to be provided within the basement, including a minimum of 46 visitor parking spaces.** Visitor parking shall include a minimum of 2 spaces designated for persons with a disability. The design and construction of the parking area and parking spaces must be in accordance with AS2890.1 and AS2890.6.
- b. Secure bicycle parking is to be provided for 98 bicycles on site, designed and constructed in accordance with AS2890.3.
- c. Storage areas for each dwelling are to be provided within the unit and/or basement or part lot.
- d. **The 362 parking spaces in a stacked formation shall be allocated to the 2 or 3 bedroom units, ie. 2 stacked spaces must be allocated to a single unit. All studio and 1 bedroom units, which are only allocated 1 parking space, must be provided with a single unstacked space. The 46 visitor parking spaces must not comprise stacked spaces.”**

Inclusion of studies in Buildings A, B and C

The Proponent seeks to modify the approved internal layout of Buildings A, B and C to provide studies. The modification will increase the variety of dwelling types. The reconfiguration of the layout of the apartments does not adversely affect amenity of the affected apartments and has no impact on density, height, floor space or the requirements for Section 94 Contributions. Further, the apartments continue to comply with SEPP 65 and the Residential Flat Design Code and there are no proposed modifications to the external appearance of the buildings. The modification is considered appropriate.

7. CONCLUSION

The Department has assessed the application on its merits and the proposed modification is considered to be reasonable given that:

- the proposed parking layout provides 428 resident car parking spaces at a rate of 1 space for each 1 bedroom apartment and 2 spaces for each 2 and 3 bedroom apartments. This is considered to be in accordance with Pittwater DCP 21 and Condition B13 of the project approval;
- 46 visitor car parking spaces are provided (1 space for each 5 apartments). This is in accordance with Pittwater DCP 21, which defers to the RTA Guide to Traffic Generating Development where the DCP does not prescribe a car parking rate. Pittwater Council had previously indicated support of the provision of 1 visitor space per 5 apartments;
- the reduction in car parking is commensurate with the reduction in dwelling yield for Stage 1, in accordance with Condition B1 of the project approval;
- the Proponent has redesigned the basement to provide all parking on a single level. This has been achieved through the overall revision in parking numbers and provision of stacked spaces for 181 apartments. It is noted that there are 200 x 2 and 3 bedroom apartments which require 2 spaces and that all visitor spaces and the 26 x 1 bedroom units are provided with a single space (in a non stacked arrangement);
- Pittwater DCP 21 does not impose car parking controls for residential flat buildings. In this regard, the more onerous car parking requirements for "multi unit housing" have been generally imposed (with the exception of visitor spaces);
- 2 of the visitor spaces are allocated as accessible spaces in accordance with Condition B13 of the project approval;
- 187 storage units and 98 bicycle spaces are provided within the basement for use of residents which satisfies Condition B13 of the project approval;
- the revised basement layout maintains 53.45% of the site as deep soil planting, which is consistent with Condition B1 which requires a minimum of 50%; and
- the provision of studies in Buildings A, B and C will increase the variety of dwelling types. The reconfiguration of the layouts does not adversely affect amenity of the affected apartments and has no impact on density, height or floor space. The apartments continue to comply with SEPP 65 and the NSW Residential Flat Design Code.

The Department is satisfied that this modification application falls within the scope of section 75W of the Act.

The proposed modification does not change the original assessment as to the site's suitability for this development.

The proposed modifications are generally consistent with the terms of the Project Approval and are considered to be acceptable. It is therefore recommended that the application be approved subject to the modified conditions.

8. RECOMMENDATION

On 28 May 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to the Planning Assessment Commission where:

- the application is not for major infrastructure development and the proponent is not a public authority (other than a local authority);
- a statement has been made disclosing a reportable political donation in relation to the project; or
- a statement has been made disclosing a reportable political donation in connection with any previous concept plan or project application.

The project meets the above criteria because the Proponent provided a statement disclosing a reportable political donation with the previous Concept Plan (MP 09_0162) and Stage 1 Project Application (MP 10_0177).

The Planning Assessment Commission can therefore determine the modification request under delegated authority.

It is recommended that the Planning Assessment Commission:

- (a) **Consider** the findings and recommendations of this report;
- (b) **Approve** the modification, subject to conditions; under Section 75W of the *Environmental Planning and Assessment Act. 1979*, and
- (c) **Sign** the attached Instrument of Modification for MP10_0177 MOD 1 (Tag A).

Endorsed by



Michael Woodland
Director
Metropolitan & Regional Projects South



Chris Wilson
Executive Director
Major Projects Assessment

10.6.11

Endorsed by



Richard Pearson
Deputy Director-General
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