



***MODIFICATION REQUEST:
Residential and Child Care Centre
Development
14-18 Boondah Road, Warriewood***

MP10_0177 MOD 4

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

April 2012

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1. BACKGROUND

1.1 The Site

The subject site, 14-18 Boondah Road, Warriewood, is located in the Warriewood Valley Release Area within the Pittwater Local Government Area (LGA). The site is irregular in shape, has an area of 8.118 hectares and frontages of 293 metres to Boondah Road and 273 metres to Macpherson Street. Vehicular access is available from both road frontages. The land slopes approximately 2.5 metres to the rear (south) towards the wetlands.

The site is currently being developed in accordance with the approved Stage 1 Project Approval (MP 10_0177).

The site locality and site boundary is illustrated in **Figure 1**.



Figure 1: The Site (Base Image Source: Google Maps, 2012)

1.2 Previous Approvals

On 18 January 2011, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 09_0162) for a multi-unit housing development and childcare centre, private and public open space, parking, road works, pedestrian and cycle pathway, landscaping and ecological rehabilitation works.

The PAC also issued Stage 1 Project Approval (MP 10_0177) for a development comprising:

- demolition of the existing buildings and structures on site and tree removal;
- excavation, earthworks and flood mitigation works;
- construction of 7 residential buildings apartments with associated pools and gymnasium;
- childcare centre;
- external road works, internal public access roads, pedestrian and cycle way; and
- ecological rehabilitation and landscaping works.

This approval was granted subject to a number of agreed conditions requiring the proponent to undertake a range of works as a consequence of the development. This included

lengthening of the right turn bay within Pittwater Road at the intersection with Warriewood Road, road and footpath construction in Macpherson Street and Boondah Road and roundabouts at the Macpherson Street entry to the site and at the intersection of Macpherson Street and Boondah Road.

The approved project layout is provided in **Figure 2**.

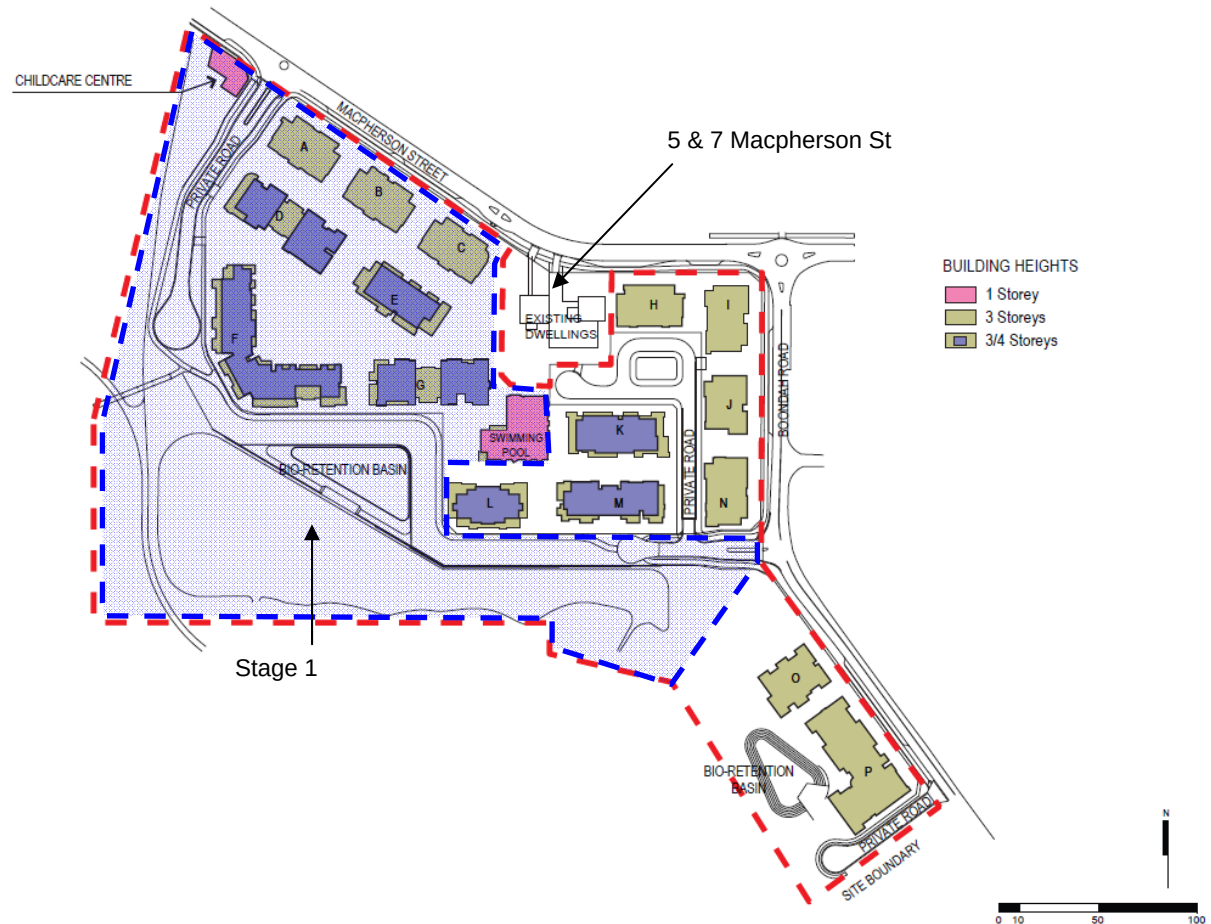


Figure 2 The Approved Project Layout (as modified) (Base Image Source: Meriton Apartments, 2011)

1.3 Previous Modifications

A number of modification applications have been pursued by the proponent which have been assessed by the Department and determined by the PAC or the Department. The modification applications are summarised in **Table 1** below.

Table 1: Previous Modifications

Concept Plan Modifications		
Modification No.	Application details	Determination
MP09_0162 MOD 1	The deletion of the internal road, re-alignment of the bicycle path routes, amendment to the requirements of accessible units and car parking provision.	Approved by PAC on 15 December 2011

Project Modifications		
Modification No.	Application details	Determination
MP10_0177 MOD 1	The deletion of the second basement level and provision of a total of 474 spaces within a single level basement. Amendment to Condition B13 to provide for a car parking rate of 2 resident car parking spaces per 2 bedroom unit and 1 visitor car parking space per 5 units.	Approved by PAC on 15 July 2011
MP10_0177 MOD 2	Modification of Condition C19 – Ground water to allow for the installation of a permanent pumping system to ensure the basement is free of stormwater.	Approved by the Director General on 12 October 2011
MP10_0177 MOD 3	Amendment to the basement car park plan including the deletion of a vehicular entry/exit point.	Approved by PAC on 15 November 2011
MP10_0177 MOD 5	Amendment to Condition C21 relating to CPTED measures within the basement car park for the painting of the soffit.	Approved by PAC on 12 January 2012
MP10_0177 MOD 7	Staged strata subdivision of Buildings A, B, C, D, E, F, G and Pool Building.	Approved by the Deputy Director General on 18 April 2012.

1.4 Other Modifications Currently Proposed

The Department is currently assessing the following modification applications:

Table 2 Current Modifications

Modification No.	Application details
MP10_0177 MOD 6	Deletion of the internal roadway linking Macpherson Street and Boondah Road and replacement with two private roads and realignment of the bicycle path route.
MP10_0177 MOD 8	Amendment of Conditions C2(c), C2(d), C12(d), C12(e), F4, F12, F13, F14(a), F16 and F17 to require that works be completed prior to issue of a final Occupation Certificate.

2. PROPOSED MODIFICATION

On 24 October 2011, the proponent lodged the modification application seeking to:

- (a) defer the requirement for the Boondah Road improvements/reconstruction as part of this development until the future Stage 2 development (Condition C6); and
- (b) delete the required works to lengthen the right turn bay within Pittwater Road for right turn movements into Warriewood Road (Condition F15).

On 16 January 2012, the proponent submitted an amended modification request seeking to:

- (a) provide for the cost of the required lengthening of the right turn bay within Pittwater road to be deducted from the required Section 94 Contributions* for the development (Condition F15);
- (b) defer the requirement for the Boondah Road improvements/reconstruction as part of this development until the future Stage 2 development (Condition C6);
- (c) delete the requirement for the construction and cost sharing of the roundabout at the intersection of Macpherson Street and the entry to the Anglican Retirement Villages (ARV) (Condition C6);
- (d) delete reference to the internal road consistent with the Concept Plan Modification approved by PAC to delete the internal road (Condition C6 and C7); and
- (e) provide for the cost of the required road works for the frontage of 5-7 Macpherson Street to be deducted from the required Section 94 Contributions* for the development (Condition C6).

On 28 February 2012, the proponent submitted a further amended modification request seeking to:

- (a) provide for the cost of the required lengthening of the right turn bay within Pittwater Road to be jointly funded by Council* and Roads and Maritime Services (RMS). The works will be carried out by the proponent, with payment provided upon completion of works (Condition F15);
- (b) remove the requirement for road works to the frontage of 5 and 7 Macpherson Street or provide for the cost of the required road works for the frontage of 5-7 Macpherson Street (if undertaken by the proponent) to be deducted from the required Section 94 Contributions* for the development (Condition C6)
- (c) amend the cost sharing for the roundabout at the intersection of Macpherson Street and the entry to the ARV to provide for 50% of the cost of works to be paid by Council* to the proponent;
- (d) defer the requirement for the road improvements/reconstruction east of 5 and 7 Macpherson Street and all works in Boondah Road until the future Stage 2 development (Condition C6, C10 and F14);
- (e) provide that any additional cost of raising the level of the road or other flood infrastructure works in association with the improvement/reconstruction of Boondah Road be funded by Council* (and not by the proponent) (Condition C6);
- (f) provide for the extent of landscaping to be completed prior to issue of a final Occupation Stage 1 (Condition C2); and
- (g) remove the requirement for street lighting and placement/relocation of services underground for the frontage of 5 and 7 Macpherson Street (Condition C10).

**It is noted that the works which the proponent is seeking a credit or deduction from the required Section 94 Contributions are not identified works within the Warriewood Valley Section 94 Contributions Plan.*

A locality plan which provides the context for the proposed modifications is provided in **Figure 3**.

This report provides an assessment of the amended modification request received on 28 February 2012.

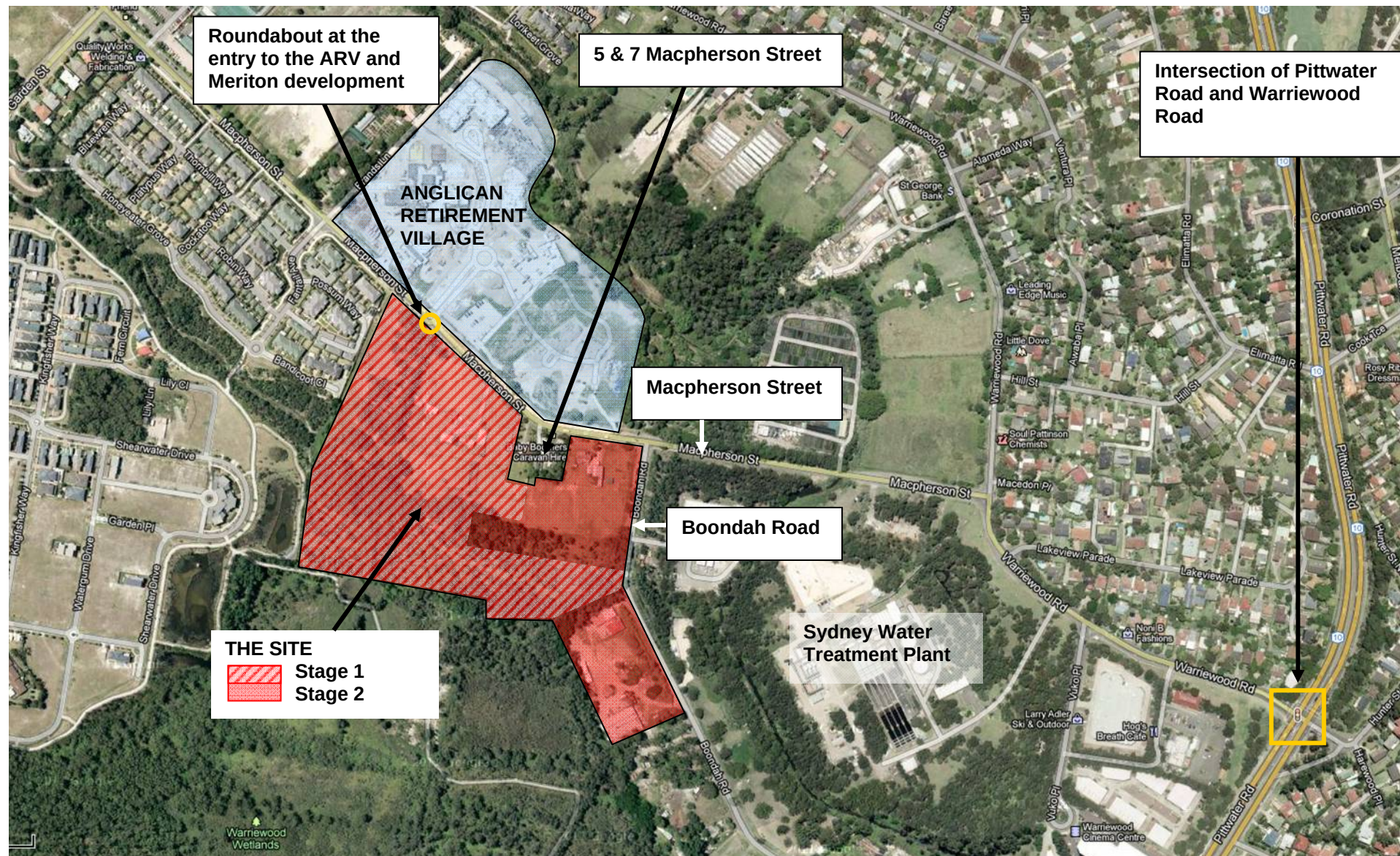


Figure 3: Location Plan identifying the location of the site and key road improvements required (Base Image Source :Google Maps, 2012)

3. STATUTORY CONTEXT

3.1 Continuation of Part 3A

Under clause 3C of Schedule 6A to the *Environmental Planning & Assessment Act 1979* (the Act), Section 75W of the Act (as in force immediately before its repeal on 1 October 2011) continues to apply for the purpose of the modification of a project application approved before or after the repeal of Part 3A.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the PAC may approve or disapprove of the modification to the project under Section 75W of the Act.

3.2 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.

3.3 Environmental Assessment Requirements

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.

3.4 Delegated Authority

The Minister has delegated his functions to determine Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority.

The application is being referred to the PAC for determination as Pittwater Council has lodged a submission objecting to the proposal.

4. CONSULTATION AND SUBMISSIONS

4.1 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 required 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 and was referred to Pittwater Council, Transport for NSW (TfNSW) and the Roads and Maritime Services (RMS).

Both Council and the RMS object to the proposal. TfNSW do not object to the proposal and no public submissions were received.

A submission was also received from Transgrid which objects to any proposed modification to remove the requirement for locating existing and new services underground.

A summary of the issues raised in submissions is provided below.

4.2 Pittwater Council

Pittwater Council made submissions to the modification application and the two amended modification requests. Council's comments on the amended modification request are summarised in **Table 3** below:

Table 3: Council's comments on the Modification Application

Aspect	Council's comments	
Lengthening of the right turn bay within Pittwater Road to be jointly funded by Pittwater Council and RMS (Condition F15)	Objects	Council objects on the following basis: - the extension to the right turn bay is directly necessitated by the increased traffic volumes as a result of the approved higher density development than the development envisaged within the Warriewood Valley Roads Master Plan – 2006 Review (WVRMP); - the previous consultants reports (for the EA/PPR) recommended that the right turn lane be extended to cater for the increase in traffic generation; - the WVRMP identifies the need for an additional turning lane in Warriewood Road only (not Pittwater Road); - the concept intersection design within the WVRMP does not provide for the extension of the right turn bay in Pittwater Road; - the extension of the right turn bay is not an item within Council's Section 94 Plan; - providing for the proponent to be credited for the works will result in an unfunded liability and sets and precedent that is inequitable to other development in the land release; and - the proponent may wish to discuss funding with the RMS.

Aspect	Council's comments
Remove the requirement for road works to the frontage of 5 and 7 Macpherson Street or provide for the cost of the required road works for the frontage of 5-7 Macpherson Street to be deducted from the required Section 94 Contributions for the development (Condition C6)	Objects Council objects on the following basis: • access to Stage 1 is generally via Macpherson Street and vehicles and pedestrians will travel either direction; • the need for continuity of the roadworks along the frontage of the development site and 5 and 7 Macpherson Street for safety and functional reasons; • adverse traffic and amenity impacts as a result of a missing Section of road being on a bend, and gaps in drainage and pedestrian footpaths; • improvements to existing roads are directly provided through development and are not included in the Section 94 Plan and any proposal to credit works would result in an unfunded liability against the Section 94 Plan.
Amending the cost sharing for the required roundabout at the intersection of Macpherson Street and the entry to the Anglican Retirement Villages (ARV) to provide for 50% of the cost of works to be covered by Council (Condition C6)	Objects Council objects on the following basis: • the roundabout provides a controlled intersection for both the ARV development and the Meriton development; • the roundabout is not an item in the Section 94 Plan; • the roundabout is to be constructed prior to issue of a final occupation certificate for the ARV development and prior to issue of any occupation certificate for Stage 1 of the Meriton development; • the condition is not a duplication, but reinforces the shared outcome that requires ARV and Meriton to provide and fund this roundabout because it is collectively used by both development and its cost should be equitably shared; and • the ARV's aged care facility has a significantly lower traffic generation than the approved Meriton development.
Staging of works in Macpherson Street deferring all works east of 5 and 7 Macpherson Street to a future Stage 2 application (Condition C6, C10 and F14)	Objects Council objects to the staging of works within Macpherson Street which would result in an unnecessary infrastructure gap that is detrimental to road and pedestrian safety and amenity and affects reliability of power and communications supply.
Staging of all works in Boondah Road to be completed as part of a future Stage 2 application (Condition C6, C10 and F14)	Does not object Council does not object subject to the recommended wording for a caveat to be inserted within Condition C6 to ensure that the balance of road works required by the approval and not completed as part of Stage 1 to be completed prior to occupation of Stage 2 of the development.

Aspect	Council's comments	
Provide that any additional cost of raising the level of the road or other flood infrastructure works to be funded by Council (Condition C6)	Objects	Council objects on the following basis: - the road construction is not listed in the Section 94 Plan; - the existing Boondah Road pavement was built to a former low traffic volume, rural standard and its reconstruction must be to contemporary road pavement and access specification standards; - the road needs to be constructed to the relevant standard to provided flood free access; and - the road and adjustment of levels to accommodate flood and access requirements as well as the safe transition to existing infrastructure is the responsibility of the proponent.
Amend the extent of landscaping to be completed prior to issue of a final Occupation Stage 1 (Condition C2)	Does not object	Council does not object to the staging of landscaping works subject to landscaping works in the riparian corridor and to the frontage of 5 and 7 Macpherson Street is completed prior to issue of an Occupation Certificate for any building.
Remove the requirement for street lighting and placement/relocation of services underground for the frontage of 5 and 7 Macpherson Street (Condition C10)	Objects	Council objects to the staging of works within Macpherson Street and exclusion of works in front of 5 and 7 Macpherson Street.

4.2 Roads and Maritime Services

The Roads and Maritime Services (RMS) objected to the deletion of Condition F15 in response to the original modification request. The objection was on the basis that the traffic generated by the proposal will exacerbate the current overflow of right turning vehicles (from Pittwater Road into Warriewood Road) into the through traffic lanes. The lengthening of the right turn bay is required to address this issue.

RMS made a further submission to the amended modification request and objected to the proposed funding arrangements for the right turn bay in Pittwater Road. RMS noted that the land use changes and associated traffic generation of this development necessitate the upgrade and therefore considers that the costs should be met by the proponent.

4.3 Transgrid

Transgrid advised that they object to any proposal to remove the requirement for placing existing or new services underground.

The Department has considered the issues raised in submissions in its assessment of the proposed modification.

5. ASSESSMENT

The Department has assessed the proposed modification and considers the key issues to be:

- extension of the right turn bay in Pittwater Road;
- local road upgrade to the Macpherson Street and Boondah Road frontages;
- the portion of works to the frontage of 5 and 7 Macpherson Street;
- roundabout at the entry to the Anglican Retirement Villages and the Stage 1 development; and
- staged landscaping.

5.1 Extension of the right turn bay in Pittwater Road

The existing right turn bay in Pittwater Road into Warriewood Road, as shown in **Figure 4**, is 45 metres (plus 10 metre taper) in length. The proponent's traffic assessment submitted with the original application indicated that queuing vehicles currently overflow into through traffic lanes in peak periods and that an extension of the right turn bay was required to cater for the additional traffic generated by the development.

To address the current issues at this intersection, along with increased turning movements associated with the Concept Plan (Stage 1 and 2), the then Roads and Traffic Authority (RTA) recommended that the existing right turn bay be lengthened. Condition F15 of the Project Approval was imposed in accordance with the RTA recommendation and requires the proponent to undertake works to lengthen the existing right turn bay in Pittwater Road (for movements into Warriewood Road) for a minimum of 80 metres storage plus 20 metres taper prior to issue of the final Occupation Certificate for Stage 1. These works are to be undertaken and funded by the proponent in accordance with RTA requirements.

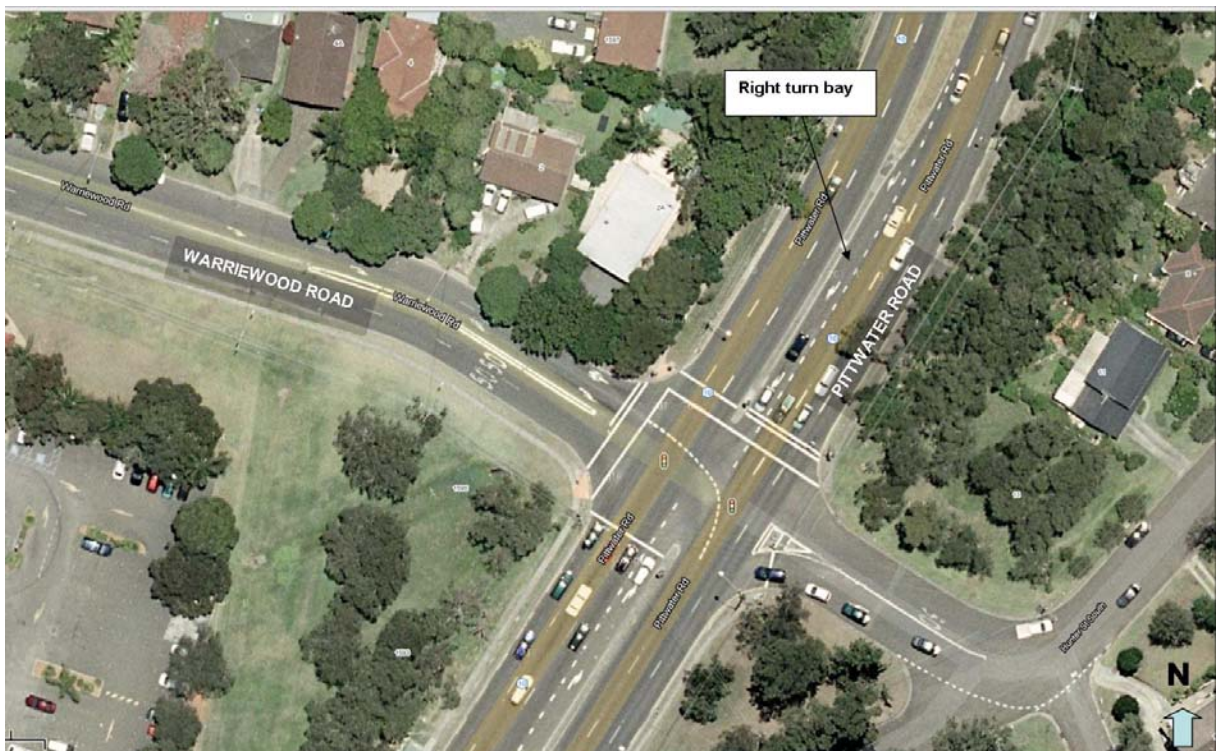


Figure 4: Existing intersection of Pittwater Road and Warriewood Road (Source: Google Maps, 2012)

Proponent's justification

The proposed modification seeks that 50% of the cost of these works be funded by Pittwater Council and 50% by the Roads and Maritime Services. The proponent proposes that they would undertake the works, but the works would be 100% funded by Council and RMS with payment provided to the proponent upon completion of the works. The existing condition of approval requires the works to be 100% funded by Meriton.

The traffic assessment undertaken by Halcrow for the original Concept Plan application noted that existing right turning traffic from Pittwater Road into Warriewood Road overflowed into through travel lanes.

As part of its assessment, Halcrow considered the range of infrastructure improvements for the Warriewood Valley release area within the Warriewood Valley Roads Master Plan – 2006 Review (WVRMP). One of these improvements was an upgrade of the intersection of Pittwater Road and Warriewood Road. Although only a concept sketch of the intersection upgrade (showing an additional lane within Warriewood Road) was provided within the WVRMP, Halcrow assumed that the right turn bay from Pittwater Road into Warriewood Road would also be lengthened as part of the identified works.

The proponent submitted an updated traffic assessment by Halcrow with the current modification which considers that the lengthening of the right turn bay is required to cater for the increase in traffic for the overall development in the Warriewood Valley and is not directly necessitated by the approved development only.

The proponent therefore considers that the funding for this infrastructure should be funded through Section 94 Contributions and by the Roads and Maritime Services.

RMS comments

RMS advised that the lengthening of the right turn bay is required given that the traffic generation of the development will exacerbate the already congested intersection. RMS advises that the requirement should remain and objects to the request that the RMS fund 50% of the works.

Council's comments

Council advised that the WVRMP identified an upgrade of the intersection of Pittwater Road and Warriewood Road, however the works at this intersection were limited to works within Warriewood Road to provide an additional right turn lane from Warriewood Road into Pittwater Road. There were no works within Pittwater Road, as identified in **Figure 5**.

Council objects to the request that 50% of the cost of the works be funded by Council given that:

- the works are not identified in the WVRMP which considered the range of traffic improvements required for the Warriewood Valley release area;
- the approved development has a higher density than planned for in the WVRMP;
- the need for the lengthening of the right turn bay is generated by the approved development;
- the required lengthening of the right turn bay in Pittwater Road is not identified in the Section 94 Plan; and
- the proposed modification would result in an unfunded liability against the Section 94 Plan.

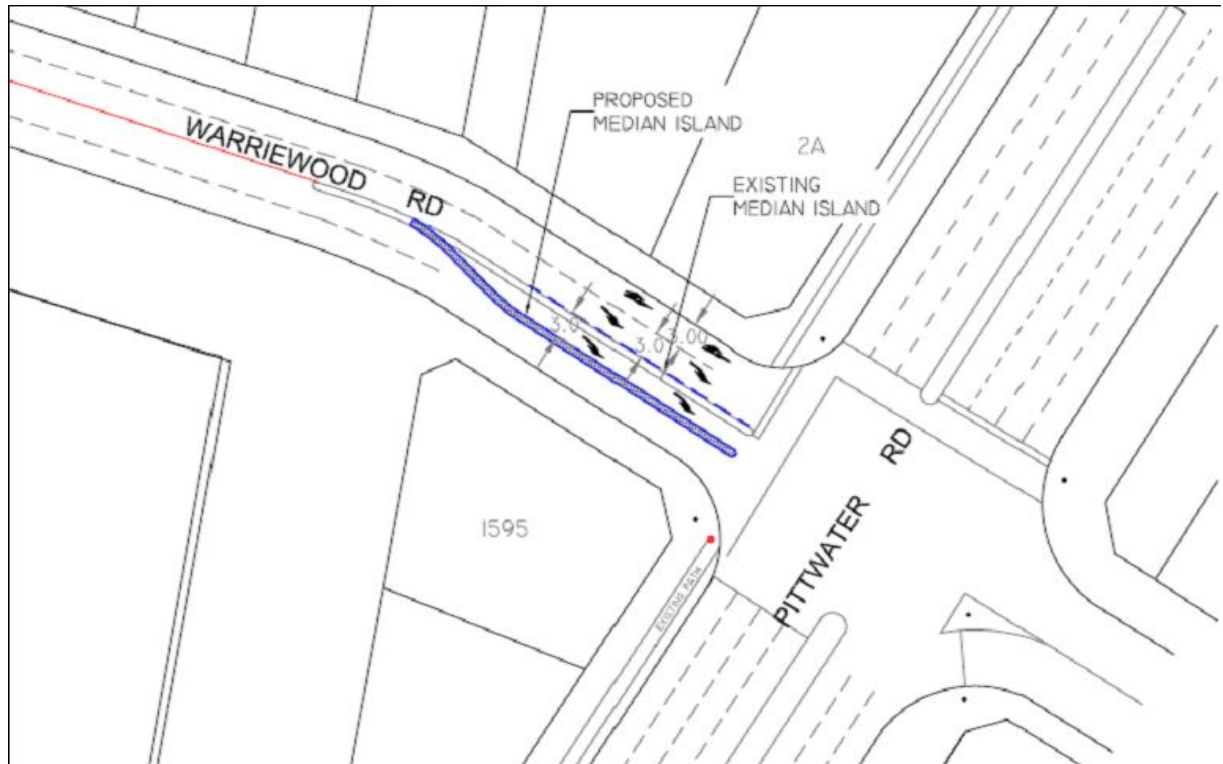


Figure 5: Proposed Concept Design for upgrade of the intersection of Pittwater Road and Warriewood Road is identified within the WVRMP and Section 94 Plan (Source: Pittwater Council, 2012)

Department's consideration

During its assessment of the original major project application, the Department commissioned an independent traffic study to consider the traffic implications of an increased residential density within the Warriewood Valley buffer areas (around the Sydney Water treatment plant). A number of scenarios were considered for increased residential densities of up to 75 dwellings/hectare.

The Study found that all intersections would continue to operate at satisfactory levels even at traffic volumes generated by higher densities of up to 75 dwellings/hectare with the main exception being the intersection of Pittwater Road and Warriewood Road. It was found that this intersection would operate at an unacceptable level in the evening peak and would require upgrading to lane capacity and signals. The Study recommended that these future works will need to be further considered through an appropriate Section 94 contribution framework if densities in the Warriewood Valley buffer areas were increased.

As this development was determined independently of the Warriewood strategic review of the buffer areas, it was considered necessary that the proponent contribute to an immediate upgrade of the intersection of Pittwater Road and Warriewood Road. The RTA also advised that the right turn lane from Pittwater Road into Warriewood Road requires lengthening to increase evening peak hour capacity arising from increased traffic flows from this development.

A condition of approval was therefore imposed requiring this work be undertaken by the Proponent. The Department considered that this was an appropriate contribution for the Stage 1 Project.

It was also noted that future stages under the Concept Plan approval may be required to further contribute to further intersection works through Section 94 Contributions, should an increased density in the Warriewood Valley buffer areas be implemented.

The Department maintains the view taken during the assessment of the original application and considers that the existing condition which requires the right turn bay to be lengthened at full cost to the proponent be maintained for the following reasons:

- the lengthening of the right turn bay was not identified as a requirement for the Warriewood Valley release area;
- the need to upgrade the intersection was identified in the Warriewood Valley Traffic Study commissioned by the Department if densities in the buffer areas (including this site) were increased;
- the need to lengthen the right turn bay was imposed as a condition of approval on this development given that the approved development has a higher dwelling yield than planned for in the Warriewood Valley and was considered independently of the strategic review of the buffer areas;
- RMS has restated its original position that the right turn bay needs to be lengthened to accommodate this development;
- the lengthening of the right turn bay is not covered in the Section 94 Plan and therefore no funding or offset against Section 94 Contributions is applicable; and
- both RMS and Council have objected to contributing towards the funding for the lengthening of the right turn bay.

The Department considers that the extent to which the Pittwater Road works relate to future higher density development in the Warriewood Valley can be further considered as part of future planning and Section 94 Contributions following the outcome of the Warriewood Valley Strategic Review. It is possible that this may include future recoupment of Meriton's costs, if justified.

5.2 Local road upgrade to the Macpherson Street and Boondah Road frontages

The site has frontage to Macpherson Street and Boondah Road.

Half of the width of Macpherson Street, opposite the site, has recently been upgraded to an urban standard with kerb and gutter, footpaths, on street car parking bays, a bus bay and associated linemarking as part of the Anglican Retirement Villages (ARV) development. The half road width in front of the site, however, remains a rural standard road.

Boondah Road has not been upgraded and the full width of this road is a rural standard with unsealed shoulders, no kerb and gutter, line marking or footpaths. The proponent notes that Boondah Road is also flood affected.

Condition C6 requires upgrade works along the Macpherson Street and Boondah Road frontage (including 5 and 7 Macpherson Street) including road shoulder and half width road construction, kerb and guttering, footpath/cycleway, drainage, indented parking bays, indented bus bays, dedication of a splay corner, landscaping, roundabouts and entry treatments to the site.

The proponent is also required to provide street lighting and relocate existing overhead services and place all new services underground in accordance with Condition C10.

Proponent's justification

The modification request involves the staging of road works between Stage 1 and a future Stage 2 development in accordance with the approved Concept Plan.

The proponent considers that it is standard practice that conditions of approval only require the road to be upgraded for the frontage of the approved site. It is therefore proposed that all road works to the west of 5 and 7 Macpherson Street will be completed as part of Stage 1 of the development and that works east of 5 and 7 Macpherson Street and all works in Boondah Road will be constructed as part of a future Stage 2 development.

In relation to Boondah Road, the proponent also seeks to include an additional condition that any additional cost associated with raising or any flooding infrastructure works of the road is to be funded by Council from the Section 94 Plan.

Council's comments

Council does not object to the deferral of the required road upgrade to Boondah Road as part of a future Stage 2 development, subject to a caveat being inserted into the Stage 1 approval requiring that the balance of all roadworks not completed as part of Stage 1 be completed as part of Stage 2. Council's proposed wording of the caveat is:

All references to Boondah Road in this condition will also include reference to the balance of proposed roadworks not completed as part of Stage 1 which, while relevant to the overall development, will be deferred until the construction and prior to the final occupation of Buildings H, I, J, K, L, M, N, O and P thereby providing access to Stage 2 of the development.

Council, however, objects to the staging of works within Macpherson Street and considers that the entire frontage of Macpherson Street should be upgraded as part of Stage 1 of the development. Council objects on the basis that staging of the works in Macpherson Street would result in an unnecessary infrastructure gap which will affect road and pedestrian safety and amenity and reliability of power and communications supply. Council considers that delaying the works within Macpherson Street will impact on residents of Stage 1 in terms of access to bus stops, kerb side parking, safety and amenity.

Council also objects to any credit for the additional cost incurred with raising the road level or other flood infrastructure works against Section 94 Contributions, noting that it is not a listed works item within the Section 94 Plan. Council considers that the road needs to be constructed to the relevant standard to provide flood free access as part of the upgrade from a rural road to serve the new urban development.

In this regard, Council considers that it is the responsibility of the proponent to provide the adjustment of levels to accommodate flood and access requirements as well as the safe transition to existing infrastructure.

Department's consideration

The Department considers that the staging of the road works generally as proposed by the proponent is acceptable and consistent with standard Council practice of requiring the local road upgrade for the frontage of development sites. This approach is considered equitable throughout the release area.

The provision of the local road upgrade to the east of 5 and 7 Macpherson Street aligns with the extent of the Stage 1 development as shown in **Figure 2**.

The works to the west of 5 and 7 Macpherson Street and the entire frontage of Boondah Road relate to a future Stage 2 development and it is appropriate that these works be undertaken with this future stage. The Department also considers that the road upgrade to the frontage of 5 and 7 Macpherson Street should be undertaken as part of Stage 2 (as discussed in **Section 5.3**).

Given that the staging of works in Macpherson Street is also supported, the Department has amended Council's suggested caveat as follows:

The balance of all roadworks required by this condition and not completed as part of Stage 1, while relevant to the overall development, will be deferred until the construction

and prior to the final occupation of Buildings H, I, J, K, L, M, N, O and P thereby providing access to Stage 2 of the development.

The Department does not consider that deferring the balance of works to Macpherson Street as part of Stage 2 is likely to cause adverse safety or amenity impacts for existing or future residents. It is also noted that Stage 1 residents will be provided with on-site car parking in accordance with the Pittwater DCP requirements (and at a rate agreed by Council) and can use the already constructed pedestrian footpath on the northern side of Macpherson Street to access bus services until the balance of works are completed as part of Stage 2. The proposed staging of works is therefore supported.

The Department, however, does not consider it appropriate to include a new condition in relation to funding of any additional cost associated with raising the road level of other flood infrastructure works in Boondah Road. It is noted that the proponent may be required to undertake additional works involved in the safe transitioning of road levels to existing infrastructure and that this may involve additional costs. It is not however appropriate to provide funding from the Section 94 Plan, as this road upgrade is not identified as an item within the Section 94 Plan. Any additional cost from the adjustment of levels of Boondah Road should be agreed between Council and the proponent as part of a future Stage 2 development.

In response to concerns raised by Transgrid, the Department recommends that the existing conditions of approval which require all existing and future services to be placed underground remain on the Project Approval.

5.3 Works to the frontage of 5 and 7 Macpherson Street

The conditions also require the proponent to provide half width road construction and underground services for the full frontage of 5 and 7 Macpherson Street. While these properties are not within the development site, the street frontage forms a small portion (approximately 55 metres) of the Macpherson Street frontage that is otherwise surrounded by the development site. As such, it was identified that the proponent should provide continuous road, footpath and drainage construction across these properties. The conditions also require that street lighting and new/relocated services to be placed underground for the frontage of 5 and 7 Macpherson Street.

Proponent's justification

The proponent originally sought to remove the requirement for all works in front of 5 and 7 Macpherson Street, however has amended the request to alternatively propose that the funding for the works be deducted from the required Section 94 contributions. The request also seeks to delete the requirement for street lighting and undergrounding of all existing and new services for the frontage of 5 and 7 Macpherson Street.

The proponent considers that it should not be required to undertake public works in front of another adjoining development site. These works should be required as a condition of any future approval on the adjoining site to be constructed and funded by that developer. The proponent has also advised that 5 and 7 Macpherson Street are currently on the market for sale and that it is therefore not possible to seek cost sharing for these works.

Therefore, the proponent requests that if they are required to undertake the works, then Council should provide a deduction of \$250,000 from the Section 94 Contributions.

Council's comments

Council objects to the removal of the requirement for the proponent to undertake works to the frontage of 5 and 7 Macpherson Street. Council considers that the missing gap, which would result from not providing the required the road upgrade to the frontage of 5 and 7 Macpherson Street, would result in vehicle and pedestrian safety impacts, disconnected

drainage and potential service issues. Council also notes that 5 and 7 Macpherson Street are situated on a bend further justifying the need to undertake a coordinated road upgrade to these properties as part of the development.

Council objects to a deduction from the required Section 94 Contributions given that the upgrade of this local road is not an item within the Plan and it would result in an unfunded liability against the Plan.

Council considers that the proponent should provide this infrastructure directly and negotiate with other landowners regarding a contribution/equitable share of those costs.

Department's consideration

The Department considers that the requirement to undertake the required road reconstruction/improvement including street lighting and underground services to the frontage of 5 and 7 Macpherson Street is still relevant given that:

- the frontage of 5 and 7 Macpherson Street is approximately 55 metres, which equates to only a small portion of the total site frontage to be upgraded (8% of the total frontage to Macpherson Street and Boondah Road (approximately 625 metres);
- 5 and 7 Macpherson Street is surrounded by the Meriton development on three sides;
- a coordinated road upgrade with street lighting and underground services is required to provide safety and amenity for vehicles, pedestrians and cyclists; and
- no new information or further justification has been provided to remove this requirement.

As discussed in **Section 5.2** above, the Department considered that it was appropriate to allow for the staging of the upgrade of Macpherson Street and Boondah Road relative to the frontage of the development site.

It is therefore considered appropriate that the road upgrade to the frontage of 5 and 7 Macpherson Street occur as part of this development in conjunction with the Stage 2 development. The proposed staging would not result in a gap in infrastructure.

5.4 Roundabout at the entry to the Anglican Retirement Villages and Stage 1 development

Condition C6 requires that the roundabout at the entry to the ARV and Stage 1 be constructed as part of the Stage 1 development and that cost sharing for the remaining portion be agreed between the proponent and the ARV.

The modification seeks to provide for 50% of the cost of the roundabout (the proportion to be covered by the ARV) to be deducted from the required Section 94 Contributions.

Proponent's justification

The proponent initially requested that the requirement for the roundabout be deleted given that it is a duplicate of an existing condition on the ARV development consent for a Seniors Living development at 6-14 Macpherson Street (refer to Condition C21 within Development Consent 102/05 at Appendix C).

In response to Council's submission, the amended request seeks that the ARV portion of the roundabout is funded by Council, suggesting that Council is in a better position to recover the funding from the ARV than the proponent. In this instance, the proponent agrees to fund 50% of the costs.

The proponent considers that it is not appropriate for the private sector to manage the financing of infrastructure such as roundabouts. Further, the proponent raised concerns over the possibility that the ARV do not want to contribute to the roundabout.

Council's comments

Notwithstanding that a condition was imposed on the ARV development consent requiring the roundabout to be constructed and fully funded as part of the Seniors Living development, Council now considers that both the ARV and the proponent should share costs towards the construction of the roundabout. Council notes that the roundabout provides a controlled intersection for both developments and is a direct result of both developments. The roundabout is not identified in the original infrastructure requirements for the Warriewood Valley and is not an item within the Section 94 Plan.

The development consent issued to the ARV for a Seniors Living development at 6-14 Macpherson Street requires the roundabout to be constructed prior to issue of a final Occupation Certificate. Council considers that the imposition of the condition on the subject Project Approval is not a duplication but reinforces the shared outcome that requires the ARV and the proponent to provide and fund the roundabout.

Council further argues that the traffic generation of the ARV development is significantly lower than the residential development and therefore it is inequitable that the ARV fund the entire cost of the works.

Department's consideration

The Department has observed that the required roundabout construction has been commenced by the ARV in conjunction with the road construction to the frontage of the ARV site (refer to **Figure 6**). The intersection currently operates as a roundabout, with signage, linemarking and pedestrian/cycle refuges provided at the existing three legs of the roundabout and a painted circle within the centre of the roundabout.



Figure 6: Roundabout at the intersection of Macpherson Street, the ARV site and the Stage 1 development (Source: Google Maps, 2012)

The Department agrees that the roundabout will serve both the ARV and Meriton developments. However, given that Council has previously taken the view that the works are required to be undertaken and 100% funded by the ARV, it is not considered appropriate to require the proponent to contribute to the remaining portion of these works at a later date. At the time of granting development consent to the ARV, Council determined that the roundabout to the main entrance to the development was to be provided by the ARV.

During its assessment of the original application, the Department was not aware of this existing requirement for the ARV to fully fund and construct the roundabout at this intersection as a condition of its development consent for Seniors Living opposite the site. Had this been known at the time, it would not have recommended that the proponent undertake this work.

It is however, necessary for the proponent to undertake the remaining half of the roadworks along Macpherson Street for the frontage of the site, which will involve the road pavement construction (within the roundabout) and kerb returns and pedestrian/cycle refuge for the fourth leg of the roundabout into the development site.

It is considered that conditions for half width road construction and entry treatments are adequately addressed in Condition C6(m) which requires that the entry at Macpherson Street is to include kerb returns and pedestrian/cycle refuge.

It is also noted that Condition F12 requires that any road damage (which includes the already constructed roundabout infrastructure) caused by the proponent during construction be rectified by the proponent. The condition ensures that the works already undertaken by ARV are reinstated by the proponent if any damage occurs as a result of this development.

However, the Department considers that any other works required by Council to complete the roundabout, are the responsibility of the ARV in accordance with their development consent.

The Department therefore recommends that the requirement for roundabout construction and cost sharing of the remaining portion be deleted.

5.5 Staged Landscaping

The approved landscape plans within Condition A1 and detailed landscaping requirements in Condition C2 include landscaping for the entire Concept Plan, including Stage 1 and a future Stage 2. The proponent requests that Condition C2 be amended to provide clarification that the required landscaping for the Stage 1 development only includes parts of the site within Stage 1.

Council comments:

Council raised no objection to the staged landscaping subject to landscaping works within the riparian corridor and the frontage of 5 and 7 Macpherson Street being completed prior to issue of any Occupation Certificate for Buildings A, B, C, D, E, F or G.

Department's consideration

It is considered that the staged landscaping is appropriate. The Department supports Council's request that the landscaping works within the riparian corridor be completed as part of Stage 1 but considers that the works be completed prior to issue of the final Occupation Certificate for Stage 1, rather than an Occupation Certificate for any building within Stage 1.

However, given that it is recommended that the local road upgrade to the frontage of 5 and 7 Macpherson Street be associated with Stage 2 of the development, it is also appropriate for landscaping in this location to be undertaken as part of Stage 2.

6. KEY RECOMMENDATIONS

The Department supports the following aspects of the proposal:

- staging the local upgrade of Macpherson Street and Boondah Road, subject to the upgrade of the frontage of 5 and 7 Macpherson Street being undertaken as part of a future Stage 2 development; and
- staged landscaping, provided that the works within the riparian corridor are completed prior to issue of a final Occupation Certificate for Stage 1.

Further, the Department has reconsidered the requirement for shared costs associated with the roundabout construction in Macpherson Street at the entry to the ARV Seniors Living development and the Meriton development and recommends that this condition be deleted.

Notwithstanding the above, the following aspects of the modification request are not supported for reasons outlined within this report:

- the proposed funding arrangements in relation to the lengthening of the right turn by in Pittwater Road;
- the proposed additional condition in relation to funding of any additional cost associated with raising the road level of other flood infrastructure works in Boondah Road; and
- the removal of the requirements for road upgrade and associated street lighting and underground services to the frontage of 5 and 7 Macpherson Street.

7. CONCLUSION AND RECOMMENDATION

The Department has assessed the various components of the modification and considers that parts of the modification are worthy of approval and other parts should remain as previously approved as outlined in Section 6.

The Department considers that the proposed staging of the upgrade of Macpherson Street and Boondah Road frontages of the development is appropriate and consistent with standard Council practice which requires local road upgrades for the frontage of development sites. The staged landscaping is also supported as it aligns with the staged construction of the site.

Upon review of additional information provided by the proponent in relation to the requirements of the ARV to provide the roundabout, the Department now considers that the condition which requires the proponent to contribute to the cost of the remaining portion of the roundabout is not justified. It is considered that the conditions which require the proponent to undertake new pavement construction, kerb returns and entry treatment to the roundabout are adequate.

The Department maintains its previous assessment that the lengthening of the right turn bay in Pittwater Road is required as a result of this development and the provision of the infrastructure by the proponent is equitable. Further, the previous recommendation that the proponent be required to provide the road upgrade, street lighting and underground services to the frontage of 5 and 7 Macpherson Street remains relevant, and it is recommended that this form part of the future Stage 2 development.

Finally, the proposed funding arrangement for readjustment of levels in Boondah Road and any other flood infrastructure works is not supported, and it is considered that this matter should be agreed between Council and the proponent as part of the future Stage 2 development.

The Department is satisfied that the aspects of the proposed modification which are supported do not change the original assessment as to the site's suitability for this development.

It is recommended that the Planning Assessment Commission:

- (A) **Consider** the 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 (**Appendix C**).



A/Director
Metropolitan & Regional Projects South



A/Executive Director
Major Projects Assessment



Deputy Director-General
Development Assessment
& Systems Performance

22/4/12

APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4983

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4983

**APPENDIX C DEVELOPMENT CONSENT 102/05 FOR ANGLICAN
RETIREMENT VILLAGES SITE AT 6-14 MACPHERSON STREET**

APPENDIX D RECOMMENDED MODIFYING INSTRUMENT
