



**MERITON**  
MERITON PROPERTY SERVICES  
PTY LIMITED

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20 February, 2012.

Mr A Bright  
Acting Director, Metropolitan and Regional Projects South  
NSW Department of Planning and Infrastructure  
23-33 Bridge Street  
SYDNEY NSW 2001

Dear Mr Bright

**RE: COUNCIL SUBMISSION TO MP10\_0177 MOD 7, APPLICATION FOR MODIFICATION OF MAJOR PROJECT APPROVAL UNDER SECTION 75W, 14 -18 BOONDAH ROAD, WARRIEWOOD**

I refer to Council's letter dated the 7 February 2012 in relation to the above modification that is to permit staged strata subdivision of the development currently under construction on the site.

Each of Council's issues are addressed below. Importantly, the application for staged strata subdivision can be determined by the Minister, as Council do not object in principle to the proposed modification (paragraph 4, page 1 of Council's letter).

Project Approval MP10\_0177 Condition A6(2) – Land Subdivision

Pittwater Council seeks part removal of condition A6(2) to specifically delete reference to the wording ***“individual lots for containing dwellings any utility lots (garages, storage areas etc.)”***.

Meriton raise no objection to this request of Council.

Additional Conditions

Council are seeking additional conditions that relates to the strata subdivision as follows. Our comments on the proposed additional conditions follow each proposed condition.

Council proposes the following conditions:

- a) ***Each dwelling being provided with a car parking space(s) commensurate with the number of bedrooms contained in the dwelling and storage area within the single level basement in accordance with Condition B3 (as amended). The 46 visitor parking spaces, spaces for emergency and delivery vehicles and a space for car washing, and bicycles spaces are not allocated to individual dwellings through the subdivision and must be “Common Property” readily available for use.***

**Response:** The first sentence in the above condition is contrary to the number of car parking spaces approved by the PAC and is not in accordance with Council's own DCP21. Car parking was approved on the following basis:

- 1 car space for a 1 bedroom unit;
- 2 car spaces for a 2 bedroom unit, and
- 2 car spaces for a 3 bedroom unit.

Were the above condition to be approved in the proposed form, the condition could be read that a 3 bedroom unit would be required to have 3 car spaces, which I do not believe is Council's intention. The basement car park has been built and there is no area to provide more car parking spaces.

Condition B13 (as amended) already imposes car parking requirements as approved by the PAC. There is no need for further conditions which repeat the same outcome. Therefore the condition proposed by Council should be amended as follows:

- a) ***~~Each dwelling being provided with a car parking space(s) commensurate with the number of bedrooms contained in the dwelling and storage area within the single level basement in accordance with Condition B3 (as amended). The 46 visitor parking spaces, spaces for emergency and delivery vehicles and a space for car washing, and bicycles spaces are not allocated to individual dwellings through the subdivision and must be "Common Property" readily available for use.~~***

The following part of the condition which is outlined in Council's letter is as follows:

***Any future strata subdivision of the subject site must respect the car parking and storage area allocation approved in accordance with Condition B13. Prior to the release of the approved linen plan subdivision, the parking spaces (with the exception of the 46 visitor parking spaces) and storage areas in the single level basement are to be allocated to each dwelling, to be shown as Part Lot rather than individual lots in the linen plan. The remainder of the basement parking level comprising 46 visitor parking spaces, spaces for emergency and delivery vehicles and area for car washing, bicycle spaces, garbage areas, vehicular ramps etc. to be shown as 'Common Property' and must not be individually allocated by the subdivision or any by-law or other mechanism.***

**Response:** No objection is raised to this part of the above proposed condition.

The second part of the condition that Council seeks to impose is as follows:

***Prior to the release of the approved linen plan of subdivision, a restrictive covenant is to be created to the effect that the residential and visitor parking spaces including spaces for emergency and delivery vehicles and car washing are not to be used in a manner inconsistent with the Project Approval (as amended). The covenant is to be created appurtenant to, at no cost to and to the satisfaction of Council and shall include a condition that the covenant cannot be varied, modified or released without the prior approval of Pittwater Council. The covenant is to be lodged with the Land and Property Information Office at the same time as the linen plan of subdivision is lodged. Any future strata subdivision of the site is to include a restriction on user burdening all utility car parking allotments in the strata plan and/or an appropriate restrictive covenant burdening all car parking part-lots in the strata scheme.***

**Response:** Council is seeking a restrictive covenant to be placed on the title for all vehicle parking within the basement, including the shared delivery/garbage space at ground level. This is extremely onerous and such a condition has not been experienced by Meriton from any other council or other PAC determination involving a residential flat building development. The above proposed part condition should therefore be deleted.

The strata plan lodged with the Department of Planning has resident car parking in Part lots as required. The strata subdivision will also have visitor spaces, emergency spaces, car wash bay and the shared deliver/garbage collection space in common property. This is standard practise for strata title of common property and basement car parking. A condition reflecting this can be imposed.

Car spaces required to be retained in common ownership can be titled on the strata plan. For example, the emergency spaces will be marked "emergency car space" on the title. In addition the emergency car spaces in common ownership will also be marked on site "Emergency Car Space".

Part b) of the proposed condition that Council is seeking reads as follows:

- b) Any associated infrastructure (including roads, drainage and other civil engineering works within and external of the development site) and services required by MP10\_0177 being completed prior to the release of the approved linen plan of subdivision.***

The associated infrastructure works mention in the above proposed condition by Council should be related to the final occupation, as all these works must be operational prior to residents moving into accommodation. As such the wording of the condition should be amended as follows:

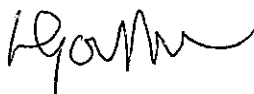
- b) Any associated infrastructure (including roads, drainage and other civil engineering works within and external of the development site) and services required by MP10\_0177 being completed prior to the release of the approved linen plan of subdivision the final occupation.***

Council has also sought that Conditions F2, F14, F15 and F16 be amended to include "prior to the release of the approved linen plan". In this regard, Condition F2 already states that the Section 73 Certificate is required prior to the release of the plan of subdivision. No change is required to this condition. Conditions F14, F15 and F16 are related to occupation, and as such should be changed to "prior to the Final Occupation Certificate".

#### Subdivision Sequence

Council is of the opinion that the strata subdivision is to occur before the land subdivision is approved. This is not the case. A residential lot must be created and registered prior to a strata title. This is confirmed in the attached letter by JBW Surveyors. The Land subdivision before Council will create the residential lot and separate public land from private land, and must be approved first.

Yours faithfully  
**MERITON GROUP**



**WALTER GORDON**  
**Manager Planning and Development**



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10<sup>th</sup> February 2012

The Managing Director  
Meriton Apartments Pty Ltd  
576 Kent Street,  
SYDNEY NSW 2000

Attention: Mr Peter Spira

Dear Sir,

**RE: PLANS THAT NEED TO BE REGISTERED PRIOR TO THE  
REGISTRATION OF A STRATA PLAN**

As requested I am writing this letter to explain in general terms the order that plans need to be registered at the Land Titles Office (LTO) to enable the registration of a strata plan.

Prior to registering a strata plan it is necessary to have the land comprising the entire strata scheme in its own title, or titles.

This is required due to the fact that it is not possible to register a strata plan over part of a Lot.

What this means is that in larger development projects there are in most cases one or more land subdivision plans prepared and registered at the LTO prior to the strata plan being registered.

These subdivisions might be necessary due to:-

1. The consent authority for the development requires the creation of a public reserve,
2. The consent authority for the development requires the creation of a public road or road widening strip,
3. The consent authority for the development requires the creation of a public path,
4. The development needs to create separate parcels of land for differing land use and titling purposes,
5. The development needs to create separate parcels of land to enable the creation of separate strata schemes,
6. The development needs to create a separate parcel of land over a part of the development for future road widening purposes.

In all of the abovementioned cases it would be necessary to obtain a subdivision DA from the consent authority and also get the consent authority to sign the subdivision certificate on the final subdivision plan.

The completion and signing of the subdivision certificate on the subdivision plan is required to enable the registration of the subdivision plan at the LTO.

Yours faithfully,

Wayne Diver-Tuck  
Director