

14 February 2013

Director General  
Department of Planning & Infrastructure  
23-33 Bridge Street  
SYDNEY NSW 2000

**Attention: Ben Lusher**

Dear Ben,

**MP10\_0110 – Concept Approval – 74-76 Belmore Street, Ryde  
Request for Modification to Condition C15**

We act on behalf of Legacy Property in respect to the above Major Project Approval for the redevelopment of the site for residential purposes.

This submission is seeking consent for a modification to the Concept Approval issued for the site on 14 November 2012, relating specifically to the operation of condition C15. The request is made pursuant to the provisions of section 75W of the *Environmental Planning & Assessment Act 1979*.

The purpose of the proposal is to make a minor modification to the 'trigger point' for the delivery of the Conservation Management Plan (CMP) and application for works for Tellaraga House within the phasing of the overall development. The proposed amendment is minor, remains consistent with the intent and purpose of the condition and will ensure the practical staging of development works.

**Background**

Concept Plan approval was granted by the Planning Assessment Commission in November 2012 for the development of medium density residential development on the site, comprising a number of residential apartment buildings to be constructed over a series of stages. Located centrally within the site, the locally listed heritage item 'Tellaraga House' was proposed to be retained and adaptively reused as part of the project.

Condition **C15** of the Approval states the following:

*The restoration of Tellaraga House must be provided for no later than the development application for the 150<sup>th</sup> dwelling and may be required as a condition of approval prior to that date.*

*The development application providing for the restoration must include a Conservation Management Plan for Tellaraga House and associated garden and curtilage, to be prepared in accordance with NSW Heritage Guidelines.*

As discussed at our recent meeting, Legacy Property in association with Achieve Australia is preparing a development application for submission to Ryde Council for the first stage of works (known as Blocks C and B). Blocks C and B represent stages 1 and 2 of the project as per the approved Staging Plan (Plan reference 09002-EA13-C). It is anticipated that this application will be lodged with Ryde Council in late March 2013.

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In the initial design planning for Buildings C and B, (which are combined due to the shared basement), it was anticipated that the total number of units for this first development stage would fall below the threshold of Condition C15 (ie. 150<sup>th</sup> dwelling). However, as the unit mix for Buildings C and B has been refined and resolved in response to market assessment, it is now evident that the first stage of development will result in a project slightly exceeding 150 dwellings and therefore invoking Condition C15.

## Proposed Modification

It is proposed to modify Condition C15 by amending the number of dwellings that may comprise a development application before a conservation management plan and detailed development works to Tellaraga House are required. The proposed amended wording is as follows:

*The restoration of Tellaraga House must be provided for no later than the development application for the ~~150<sup>th</sup>~~ **175<sup>th</sup>** dwelling and may be required as a condition of approval prior to that date.*

*The development application providing for the restoration must include a Conservation Management Plan for Tellaraga House and associated garden and curtilage, to be prepared in accordance with NSW Heritage Guidelines.*

The request is made pursuant to the provisions of section 75W of the *Environmental Planning & Assessment Act 1979*. Under Clause 12 of Schedule 6A (relating to transitional arrangements for Part 3A projects), modifications may still be made to Concept Approvals, notwithstanding the repeal of the Part 3A provisions of the Act.

## Merits of Request

The proposed amendment to the timing for the preparation of the CMP and implementation of works to Tellaraga House is considered to be minor and consistent with the original intent of the overall project phasing.

There are some important practical considerations that necessitate this approach as follows:

- Achieve Australia remain operational on the site and will continue to do during the early stages of development works. They have a continuing use of Tellaraga House for the next 2 years, hence there is a need to separate the first stage project from works to Tellaraga House.
- The objective of Condition C15 was not to impose the obligations at the first stage of development. However the first stage of development has by necessity, incorporated both Blocks C and B due to the connected basement, which pushes over this threshold. This in turn means that it is not practical to manage the first stage of development without triggering this provision or revising down the number of units within the first stage.
- There is no discretion for Ryde Council under the terms of the condition to accept the first stage development application without the accompanying CMP and DA for works to Tellaraga House. As Legacy Property is yet to finalise its approach to the future use and works to Tellaraga House, this will cause an unreasonable delay to the project. It is important for Achieve Australia to progress the first stage of development as part of its relocation strategy, with 10 adaptable apartments proposed in this first stage as per condition C5.
- The proposed amendment to the condition, altering the trigger from the 150<sup>th</sup> dwelling to no later than the 175<sup>th</sup> dwelling, will ensure that the conservation works occur at the very next stage of development (as was always anticipated), given that the next development Block is estimated to yield at least 60 dwellings.

## Conclusion

The proposed amendment seeks to amend condition C15 to better align with the timing of the initial development stage of the project. Importantly, this remains consistent with the original objective of the Concept Approval which is to ensure that works to Tellaraga House are not unreasonably delayed, but equally aligned with the orderly phasing of the overall project.

We look forward to your earliest review of this request. A copy of this request has also been forwarded to Ryde Council for their information and comment as appropriate.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'TB', with a stylized flourish extending from the end.

Tim Blythe  
Regional Director