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Department of Planning and Environment
320 Pitt Street
Sydney NSW 2000

Attention: Karen Harrogan

Dear Karen,

PLANNING ASSESSMENT REPORT FOR SECTION 75W MODIFICATION (MOD 5) OF MP 06_0130 - FORMER UTS KU-RING-GAI CAMPUS, LINDFIELD

1. INTRODUCTION

This s 75W Modification has been prepared by Urbis on behalf of the NSW Department of Education (The Department) to modify Concept Approval MP06_0130 in relation to the former University of Technology (UTS) Ku-ring-gai Campus.

This application seeks a modification to the Conditions of Approval and Statement of Commitments to facilitate the Lindfield Learning Village proposed under separate State Significant Development Application SSD 16_8114.

2. PROJECT BACKGROUND

2.1. CONCEPT APPROVAL MP06_0130

On 11 June 2008, the Minister for Planning approved Concept Approval MP 06_0130, and gazetted an amendment to Schedule 3 of the then *State Environmental Planning Policy (Major Projects) 2005* for the redevelopment of the UTS Ku-ring-gai Campus at Lindfield. The approved Concept Plan included:

- (a) Part demolition of existing campus buildings;
- (b) Retention and adaptive reuse of the main campus building, a significant 20th century building, for continued education and commercial use, and including the existing auditorium and libraries;
- (c) New residential development on previously developed land;
- (d) A Gross Floor Area of buildings to be retained of 27,167m²;
- (e) A Gross Floor Area of new buildings of 60,376m²;
- (f) Provision of a 9,800m² sports field and 300m² community space to be dedicated to Ku-ring-gai Council;

- (g) 382 dwellings including 10 single lot dwellings, 25 integrated dwellings or townhouses and 347 apartments;
- (h) A street and pedestrian network;
- (i) A childcare centre or gymnasium on the ground floor of the building south of the sports oval; and
- (j) A Bushfire Asset Protection Zone.

MP No. 06_0130 was granted to Defence Housing Australia and, except for paragraph (b) above, the development has been substantially completed.

This s75W Modification Application relates to development of:

- (b) Retention and adaptive reuse of the main campus building for continued education and commercial use and including the existing auditorium and libraries; and*
- (i) A childcare centre or gymnasium on the ground floor of the building south of the sports oval.*

SSD 16_8114 (referred to in detail below) seeks Development Consent for the internal reconfiguration and refurbishment (adaptive repurpose) of the former UTS Ku-ring-gai Campus to accommodate the Lindfield Learning Village on Lots 2 and 4 in DP1151638, which incorporates subparagraph (b) and (i) above. The gymnasium is on the ground floor of the building south of the sports oval. It is not intended at this point in time to provide a childcare centre, but the Concept Plan provided an alternative of "a childcare centre or gymnasium".

Despite the broad range of courses offered at the Ku-ring-gai UTS campus, student numbers declined as students preferred to attend UTS's CBD campus. The Concept Plan facilitated a broader range of land uses on the site, including residential in addition to educational uses.

The Concept Approval was first modified on 7 November 2008 (MP 06_0130 Mod 1) to rectify some typographical errors and to amend the provisions relating to contributions (Condition B13).

The Concept Approval was subsequently modified on 21 May 2010 (MP 06_130 Mod 2). The approval was modified as follows:

1. Retention of the existing gymnasium building, which was approved for demolition;
2. Reconfiguration of Precinct 2 in response to the dwelling yield reductions and setback requirements by consolidating blocks B, C and D into one building (91 dwellings);
3. Reconfiguration of Precinct 3 to delete block F (where the existing gymnasium is located), and enlarge proposed Block E (129 dwellings) to incorporate dwellings originally proposed within block F; and,
4. Changes to the Concept Plan to satisfy modifications imposed by the Minister.

Subsequent MP 06_130 Mod 3 related to the requirements in the Instrument of Approval regarding the location of the community facility and the timing of the dedication of land, roads and community facility. MP 06_130 Mod 4 related to amending Figure 1 of the Instrument of Approval regarding the maximum number of dwellings within each precinct and amendment to Schedule 3 of the MD SEPP to allow interim land use for 'Exhibition and Sales Office' in the Zone RE1 Public Recreation.

The Concept Approval (MP 06_130) established the fundamental design and built form parameters applicable to the future development of the site.

2.2. SSD 16_8114

SSD 16_8114 was formally submitted to the DPE on 13 June 2017 and seeks development consent for the internal reconfiguration and refurbishment of the former UTS Ku-ring-gai Campus to accommodate the Lindfield Learning Village. The former UTS Ku-ring-gai Campus encompasses Lots 2 and 4 in DP1151638.

A request to amend the SSD was made as part of the Response to Submissions submitted to DPE on 14 June 2018. The amended application includes the introduction of Phase 1 to allow a school for 350 students, accommodating a 100m Asset Protection Zone (APZ), to be constructed and opened for Day 1, Term 1, 2019.

SSD 16_8114 was placed on public exhibition between 22 June 2017 and 7 August 2017 and is currently under assessment by DPE.

SSD 16_8114 is not fully consistent with the general terms of approval of MP 06_0130. A modification to the consent is therefore required.

2.3. RELEVANT HISTORY OF COMPLIANCE

In relation to the subject land:

1. Defence Housing Australia was granted consent to subdivision DA0677/11 on 27 June 2012. The Development Consent was granted relying upon various documents including a Bushfire Management Plan lodged by Ecological Australia dated 23 February 2012. Relevantly:
 - a. Condition 55 – Rural Fire Services Condition – Section 100B Asset Protection Zones provided:

The intent of measures is to provide sufficient space and maintain reduced fuel load so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

 1. *At the issue of the subdivision certificate and in perpetuity, or at any time prior to his, the landowner shall implement the required Asset Protection Zone and landscape management works in accordance with Planning for Bushfire Protection 2006 and the NSW Rural Fire Services document Standards for Asset Protection Zones. The asset protection zones shall consist of an Inner Protection Area (IPA) and Outer Protection Area (OPA) in accordance with Table A2.7 of "Planning for Bushfire Protection 2006". The IPA requirement shall be excluded from conservation areas.*
2. The Ecological Report 2012 contained a map showing the management zones on page 31. That map has been reproduced in almost all bushfire reports since that date and can be found on page 24, Figure 7 Management Zones of the Blackash Bushfire Assessment, Version 1.3 dated 23 August 2018 being a bushfire assessment for an SFPP development relating to Phase 1 Lindfield Learning Village.
3. Defence Housing Australia complied with the conditions in the Subdivision Approval together with MP No. 6_0130 by the preparation of the Vegetation Management Plan prepared by

Environmental Resource Management Australia, reference 0137046VMP final, dated 8 December 2012 which is registered on title pursuant to DP270770 which created a positive covenant numbered 8 in the 88B Instrument and provided as follows:

8. *Terms of Positive Covenant numbered 8 in the Plan*

8.1 *Excluding the area containing the threatened flora, *Darwina biflora* (which is subject of either associated approvals and agreements) the community association/precinct association/neighbourhood association (as relevant) shall comply with the Vegetation Management Plan prepared by Environmental Resource Management Australia, reference 0137046VMP final, dated 8 December 2012, a copy of which is included in or forms an annexure to this by-law. The community association shall engage the services of an independent environmental consultant on the fifth anniversary of the registration of the Management Plan...*

4. That Positive Covenant No. 8 appears on every title which is issued as a result of MP06_0130 except for the land the subject of this application.
5. Lot 4 in DP1151638 is an Inner Asset Protection and Outer Asset Protection Zone and no modification is required to the Concept Plan Approval in relation to Lot 4 DP1151638.
6. Lot 2 in DP11451638 consists of the former UTS Lindfield Campus built environment together with the area marked as buff colour on the Ecological Australia Pty Limited plan headed "Management Zones" – the buff coloured zone being nominated as a Strategic Fire Advantage Zone. The Department of Education is requesting modification to the Strategic Fire Advantage Zone as set out below.

3. PROPOSED MODIFICATION

This s 75W Modification seeks to amend the Conditions of Approval and Statement of Commitments, specifically as they relate to Lots 2 and 4 in DP1151638, to facilitate the proposed Lindfield Learning Village within the former UTS building.

To the extent of any inconsistency with MP 06_0130, Conditions B2, B7, B8, B9 and B10 as they relate to Lots 2 and 4 in DP1151638 are no longer applicable and are replaced with the conditions in Schedule 4 of the modified Conditions of Approval.

The proposed amendments to the Conditions of Approval are detailed in **Table 1** and proposed amendments to the Statement of Commitments are detailed in **Table 2** (and **Appendix A**). A rationale has been provided. New text is shown in **red** and deleted text is shown as a ~~strikethrough~~.

The project description in Condition A1 of MP 06_0130 does not require modification. The concept approval sought to retain the main buildings for education uses, or their adaptive reuse for a mixture of educational and commercial purposes. SSD 16_8144 retains the building for education use. Condition A1 is therefore not included in Table 1.

Similarly, Condition A2 - Development in accordance with plans and documentation has not been modified. The modification is generally in accordance with the approved plans and documents, as modified, as they relate to Lots 2 and 4 DP1151638.



Table 1 – Proposed Modifications to Conditions of Approval

Concept Plan Condition	Proponent Response
Schedule 4 – Modifications to Concept Plan – Lots 2 and 4 in DP1151638	
<u>B2-A. Landscaping</u> 1. Development is to be in accordance with the Landscape Management Plan referred to in the revised Statement of Commitments.	SSD 16-8114 requires extensive tree removal to establish a 100m APZ within Lots 2 and 4 in DP1151638. Due to the bushfire risk, heavy landscaping cannot be provided around the main building and therefore a modification to the condition is required.
<u>B7-A. Stormwater Management</u> 1. Stormwater Plans are to be prepared for any future application for the reuse/redevelopment the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638). 2. A Flood Emergency Management Plan is to be prepared for any future application for the reuse/redevelopment the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638). 3.	A separate Flood Emergency Management Plan has been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the condition is required.
<u>B8-A. Bushfire Protection</u> 1. Development is to be in accordance with the Bushfire Hazard Assessment and Bushfire Emergency Management and Evacuation Plan referred to in the revised Statement of Commitments.	A separate Bushfire Hazard Assessment and Bushfire Emergency Management and Evacuation Plan have been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the condition is required.



Concept Plan Condition	Proponent Response
<p><u>B9-A. Flora and Fauna</u></p> <p>1. Development is to be in accordance with the Landscape Management Plan referred to in the revised Statement of Commitments.</p>	<p>A separate Landscape Management Plan has been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the condition is required.</p> <p>It is anticipated that the Landscape Management Plan will be registered on title prior to occupancy of the former UTS building for the Lindfield Learning Village.</p>
<p><u>B10-A. Traffic, Transport and Parking</u></p> <p>1. Development is to be in accordance with the Transport Impact Assessment and Green Travel referred to in the revised Statement of Commitments.</p>	<p>A separate Transport Impact Assessment and Green Travel Plan have been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the condition is required.</p>



Table 2 – Proposed Modifications to Statements of Commitments

Subject	Commitments	Approved by Whom	Timing	Proponent's Response
Planning Agreements	A Voluntary Planning Agreement (VPA) will be negotiated that addresses the current plans to offset section 94 contributions by the provision of the soccer field and the community space which can accommodate a child care centre.	Minister for Planning	Prior to submission of any subsequent Project Application	<p>Commitment not relevant.</p> <p>The VPA does not affect Department of Education's land – it is excluded from the VPA.</p> <p>The benefits under the VPA were an international class soccer field, adjoining community centre (300m²), roads, bus bay, dedication of the conservation area for the <i>Darwhinia biflora</i>. There is no mention in the VPA of a childcare centre. A two-storey community space is provided adjacent the field. The upper storey can be used as a facility for purposes other than a club for the soccer field.</p>
Ecological Sustainable Development	Any proposed dwellings within the site will comply with BASIX requirements for water conservation and thermal and energy efficiency.	Director-General of Department of Planning	Prior to or with submission of first Project Applications for residential building works	<p>Commitment not relevant.</p> <p>This applies to residential development.</p>
Staging	Consideration will need to be given to the staging and delivery of the development of the Concept Plan. The staging of the	Director-General of Department of Planning	Prior to or with submission of first	<p>No change to the commitment.</p> <p>There are currently no construction projects for the remainder of concept approval site. All other</p>



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	<p>development components will need to have regard to:</p> <p>Minimisation of construction impacts upon adjoining properties;</p> <p>Protection of existing public benefits and access;</p> <p>Construction access; and</p> <p>Timing of infrastructure provision.</p> <p>A detailed project staging plan will be submitted with the first project application.</p> <p>A separate Construction Management Plan for the former UTS Building (Lots 2 and 4 DP1151638) will be prepared prior to construction.</p>		Project Applications for building works	<p>components are built. The proposal will therefore not create an unreasonable or intense construction situation.</p> <p>Construction for Phase 1 of the project will be done in accordance with a Construction Management Plan required as a Condition of Approval for SSD 16_8114.</p>
Built Form	<p>Floor to ceiling heights will be limited to 3.5 metres.</p> <p>Urban design guidelines will be developed for single lots, integrated lots, and residential flat buildings prior to the first</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works	<p>Commitment not relevant.</p> <p>The guidelines relate to residential development. The floor to ceiling heights are not changing.</p>



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	stage of development, to be outlined in the project staging plan to be submitted with the first project application.			
Contamination	<p>A hazardous material audit which will include sampling and identification of asbestos and Polychlorinated Biphenyls (PCBs) will be completed to determine the extent and integrity of the hazardous building materials which exist on the site;</p> <p>Any demolition/removal of Polychlorinated Biphenyls (PCBs) and asbestos containing material will be conducted in accordance with current NSW EPA waste classification and disposal guidelines, and WorkCover occupation health and safety procedures:</p> <p>At the project or development application stage, a limited and targeted Phase 2 intrusive contamination assessment at the northern property boundary will be undertaken to assess whether any contamination, from potentials sources identified on the Film Australia site, has migrated onto the UTS property. This</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works	A separate Remediation Action Plan has been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the Statement of Commitment is required.



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	<p>would involve the drilling and collection of soil samples as the installation of ground water wells. In addition, limited surface soil sampling will be conducted across the sports oval and any other sporting fields which may have been treated with organochlorine/organophosphate pesticides. The results of Phase 2 soil and groundwater investigation will be assessed against the relevant land use criteria stated by NSW EPA, NEPM and ANZECC guidelines. If concentrations of contaminants exceed the relevant land use guideline a remedial action plan will be developed, with remediation and validation works completed in accordance with NSW EPA guidelines, CLM Act (1997) and SEPP 55.</p> <p>Notwithstanding the above, a separate Remediation Action Plan is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>			



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
Flora and Fauna	<p>Indirect impacts on bushland such as weeds, feral and domestic animals and fire will be managed by the implementation of management plans and strategies including:</p> <p>A Threatened Species Management Plan that will address:</p> <ul style="list-style-type: none"> • Feral and domestic management strategies to minimise habitats post construction for feral animals and restrictions and controls for domestic cats and dogs. • Retention of areas of native vegetation and habitat for threatened flora and fauna within the site, including retention of D. biflora plants and habitat; • Fencing and flagging of all D. biflora plants to be retained within the development area. A minimum of two D.biflora habitats will be retained to the east and west of the village green. Any 	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works	<p>A separate Landscape Management Plan has been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the Statement of Commitment is required.</p> <p>It is anticipated that the Landscape Management Plan will be registered on title prior to occupancy of the former UTS building for the Lindfield Learning Village.</p>



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	<p>D.biflora habitats located in the APZ will be managed accordingly;</p> <ul style="list-style-type: none">• Translocation of soil and seeds from D.biflora habitat where this will be impacted by the development area. Translocation will be detailed within a plan prior to any works beginning on the site; ○ A monitoring program will be developed to ensure the viability of the D.biflora and determine the success of translocation of seeds. <p>A Weed Management Plan will be prepared as part of project applications to link into storm water control strategies.</p> <p>An Erosion and Sedimentation Control Plan will be developed to address both the construction phase and subdivision phase to ensure erosion and sedimentation controls will be put in place prior to any works beginning to ensure that any potential increase in runoff from removal of vegetation or leaf litter does not impact on downstream or off-site environments</p>			



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	<p>and development does not contribute to environmental damage of the waterways, bushland or air quality.</p> <p>A Vegetation Management Plan for the site that will address:</p> <ul style="list-style-type: none">• Retention and protection of trees, particularly hollow bearing trees within the development area where possible;• Retention of existing understorey vegetation within landscaped areas. These pockets will be rehabilitated as required to remove exotic species and enhance native shrubs and ground covers;• Pre-clearance surveys will be conducted by ecologists to ensure all fauna are removed prior to clearance and ecologists on site during all vegetation clearance activities to capture any displaced fauna;• Harvesting of seed banks for the purposes of on-site regeneration.			



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	<p>Greening Australia would be consulted regarding the best way to salvage soil seeds and canopy held seeds. These could be used in landscaping or regeneration of disturbed bushland areas adjacent to developed areas.</p> <ul style="list-style-type: none">• All riparian corridors will be protected and maintained.• The Red Crowned Toadlet breeding habitat and surrounding habitat will be protected and managed.• Fencing during construction of all areas of native vegetation that will not be removed for development, as protection from machinery and personnel. <p>Before future residents move in, information packages detailing the environmental sensitivity of the site including information on the threatened species and habitats will be provided to ensure greater awareness and involvement.</p>			



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	<p>In addition, no activities will be undertaken within DECC land.</p> <p>All non-APZ bushland on the site, south west of the 50 metre APZ will be dedicated to DECC with their approval, and will be initiated with the approval of the first Project or Development Application.</p> <p>Notwithstanding the above, a separate Landscape Management Plan (including vegetation management, threatened species management and weed management) is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>			
Trees	<p>A Landscape Management Plan for the site that will address:</p> <p>Retention or replacement of planting around the oval.</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works	A separate Landscape Management Plan has been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the Statement of Commitment is required.



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	<ul style="list-style-type: none"> • Long term preservation and maintenance of tree assets. • Retention and maintenance of planting along the entry road from Eton Road. • Retention of the planted retaining wall between the existing oval and tennis courts retained. <p>Notwithstanding the above, a separate Landscape Management Plan is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>			
Infrastructure	<p>A comprehensive infrastructure delivery plan will be prepared to ensure that the site can be adequately serviced with all utility services including gas, electricity, water, sewer and telecommunications, etc. The Plan will demonstrate that:</p> <ul style="list-style-type: none"> • Sewer infrastructure will be augmented to service the new development. 	Director-General of Department of Planning	Prior to or with submission of any subsequent Project Application	<p>A separate Infrastructure and Services Report has been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the Statement of Commitment is required.</p> <p>The proposal does not include OSD.</p>



Subject	Commitments	Approved by Whom	Timing	Proponent's Response
	<ul style="list-style-type: none">• Gas, Power and Potable water will be augmented where required to meet the requirements of new development. <p>A comprehensive stormwater management plan will be prepared which addresses:</p> <ul style="list-style-type: none">• Water flow;• Water quality;• Water catchments;• Water conservation;• Water retention;• Water treatment and re-use. <p>Above ground swales are to be constructed and vegetated with native species and indigenous flora conserved wherever possible.</p> <p>Water detention areas are to be provided within the development area.</p>			



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	<p>Cut and fill will be balanced across the site, any fill that is required will be clean fill.</p> <p>Notwithstanding the above, a separate Infrastructure & Services Report is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>			
Bushfire	<p>All development on the site will be carried out in accordance with the Planning for Bushfire guidelines.</p> <p>An APZ to be incorporated and maintained, as per the requirements of the Planning for Bushfire Protection Guidelines 2006, and the recommendations of the consultant report prepared by Barry Eadie Consulting;</p> <p>An APZ of a minimum width of 50 metre will be maintained between the south-east edge of the existing building and the north-west edge of the site;</p>	Director-General of Department of Planning	Prior to occupation and then on-going	A separate Bushfire Hazard Assessment and Bushfire Emergency Management and Evacuation Plan have been prepared for Lots 2 and 4 in DP1151638 and therefore a modification to the Statement of Commitment is required.



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	<p>An APZ of a minimum width of 60 metres is to be maintain to the east of the residential development, to the north east of the site.</p> <p>Detailed management practices will be outlined in a Bushfire Management Plan including management practices within the APZ prior to occupation of the site.</p> <p>Detailed Fire Emergency/ Evacuation plan will be developed prior to occupation of the site.</p> <p>The existing fire trail will be upgraded to meet Planning for Bushfire Protection Guidelines 2006 and will be extended to connect with proposed residential development to the NW to provide adequate access for fire fighting and management procedures.</p> <p>Prior to any clearance for the Asset Protection Zone (APZ) and fire trail creation, a survey will be conducted to identify any hollow bearing trees or trees</p>			



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	<p>considered to provide important fauna habitat. Such trees will be flagged and locations recorded with a GPS and mapped. These trees will be avoided.</p> <p>Small shrubs and ground cover to 50cm will be retained within the APZ. Large shrubs can be retained in vegetation clumps where they will not result in fore spreading to tree canopies;</p> <p>Rocky outcrops and rock will be avoided by the fire trail. No rock will be removed from the APZ or fire trail areas; and</p> <p>Wooden bridges will be built over the drainage lines for construction of the fire trail so that these environments are not disturbed.</p> <p>Significant trees will be retained within the development area where possible and all trees will be retained in the APZ.</p> <p>All D.biflora will be flagged and locations recoded with a GPS and protected. A</p>			



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	<p>map and works plan will then be devised prior to any vegetation clearance or modification for the APZ creation. Areas within the APZ where soil seed banks or plants could be translocated will also be investigated and identified prior to any works beginning;</p> <p>Construction of all buildings will be Level 3 construction.</p> <p>Notwithstanding the above, a separate bushfire assessment and emergency management evacuation plan is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>			
Transport	<p>A minimum of 320 184 car-parking spaces to be retained for the adaptive re-use of the existing UTS building.</p> <p>Car-parking for the reuse of the existing building will be fully assessed in the future Project Application.</p>	Minister for Planning or appointed delegate	With a future Project Application for re-use of the existing buildings	<p>The existing UTS development has never had 320 on-site car parking spaces. It is not known how this number was arrived at.</p> <p>A total of 184 car parking spaces are available at-grade or within the basement of the former UTS building. No additional car parking is proposed as part of the redevelopment of the former UTS</p>



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	<p>Retention of existing access and bus turnaround loop to ensure public transport services are retained, where practical.</p> <p>A Sustainable Transport Plan will be prepared at the Project (or Development) Application Stage which examines methods to promote the use of non-motorised and public transport to access the site for the reuse of the main campus building. This could include the development of Transport Behavioural Program to be distributed to future residents to encourage objectives outlined in the Sustainable Transport Plan.</p> <p>A separate Transport Impact Assessment and Green Travel Plan (or similar) is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>		Prior to or with submission of first Project Applications for building works	<p>building for the Lindfield Learning Village and therefore a modification to the Statement of Commitment is required.</p> <p>Car parking has been assessed by ARUP. Phase 1 would utilise the upper level car park, and part of the on-street parking outside the roundabout. There will be a total of 65 car parking spaces which meets the DCP parking requirements.</p>
Heritage	A copy of UTS Kuring-Gai, Rezoning Application Indigenous Heritage Issues Report prepared by Jo McDonald Cultural Heritage Management Pty Ltd will be			The adaptive reuse of the main building has been changed since the approval of MP 06_130. The revised Built Heritage and Aboriginal Heritage Assessments reflect the redevelopment of the



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	<p>made available to Metropolitan Local Aboriginal Land Council and three copies to Cultural Heritage Division of the Sydney Zone of the Department of Environment and Climate Change.</p> <p>The Metropolitan Local Aboriginal Land Council will be requested to monitor surface works during initial construction phase and promoted.</p> <p>The adaptive reuse of the main building is to respect the architectural integrity and quality and not adversely effect the significance of the building including retention of external materials</p> <p>Any future use of the building is to be in accordance with the Heritage Impact Assessment, as well as the Conservation Strategy for the site, prepared by Graham Brooks and Associates, heritage consultants.</p>			<p>former UTS building for the Lindfield Learning Village and therefore a modification to the Statement of Commitment is required.</p>



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	<p>Original light fittings will be retained and upgraded</p> <p>Planter boxes on roof terraces will be recovered and maintained, where possible</p> <p>Interim heritage listing of the Site to be progressed.</p> <p>Further recognise the architectural and heritage values of main campus of UTS complex on the National Trust Register.</p> <p>Any archaeological findings will be referred to Heritage Office.</p> <p>Notwithstanding the above, a separate Heritage Impact Statement is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>			
Geotechnical	A detailed geotechnical investigation will be submitted with the first Project Application.	Director-General	Prior to or with submission of first Project Applications for building works	Commitment not relevant.



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Community Facilities	<p>A full-size adult soccer field that is capable of accommodating either two junior cricket fields or two junior soccer fields will be provided and dedicated to Council.</p> <p>Use of the playing field will be consistent with other playing fields in the Ku-ring-gai local government area to ensure uses are compatible and conflicts do not arise.</p> <p>Council will be responsible for the maintenance of the playing field to the current standard and provision of appropriate facilities.</p>		Prior to or with submission of first Project Applications for building works	<p>Commitment not relevant.</p> <p>Soccer field has been constructed and dedicated to Council for management.</p>

4. STATUTORY FRAMEWORK

4.1. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) has been repealed. As part of the repeal, Schedule 6A of the EP&A Act was enacted to allow the application of the repealed Part 3A provisions to certain projects that had been approved or were in the process of environmental assessment under Part 3A. These projects are known as “Transitional Part 3A projects” and such projects may be modified under the modification framework set out in the repealed s 75W of the EP&A Act, as if it were in force. Major Project 06_0130 is a transitional Part 3A Project.

4.2. ENVIRONMENTAL PLANNING AND ASSESSMENT (SAVINGS, TRANSITIONAL AND OTHER PROVISIONS) REGULATION 2017

The Environmental Planning and Assessment Amendment Bill 2017 was passed by the Legislative Council and Legislative Assembly and assented to on 23 November 2017. The existing transitional arrangements for Part 3A were moved out of the EP&A Act into a new Regulation, the *Environmental Planning and Assessment (Saving, Transitional and Other Provisions) Regulation 2017*.

Section 75W remains in force by operation of clause 3BA of schedule 2 of the Environmental Planning and Assessment (Saving, Transitional and Other Provisions) Regulation 2017. Accordingly, modification of MP 06_0130 is sought under s 75W of the EP&A Act.

The following sections assess the proposed modifications against the relevant legislation, instruments, strategies, plans and guidelines relevant to this proposal.

4.3. SECTION 75W MODIFICATION OF PROJECT APPROVAL

Section 75W(2) of the EP&A Act sets out the right of a proponent to request a modification:

“The Proponent may request the Minister to modify the Minister’s approval for a project. The Minister’s approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.”

Section 75W(4) of the EP&A Act then provides the Minister with the power to “*modify the approval (with or without conditions) or disapprove of the modification.*”

The Minister has the power to make the proposed modifications to MP 06_0130 because section 75W(4) confers upon the Minister a broad power to modify a Major Project approval. Under the defined terms in s 75W(1), modifying an approval can include ‘changing the terms of’ an approval. The EP&A Act does not set out any express statutory limitation upon the nature or extent of the change that is permitted to be made under s 75W.

The proposed modification is an administrative application only. It seeks to amend conditions and commitments as they relate to the existing UTS building only to facilitate SSD 16_8114. The proposed modification has limited environmental impacts beyond those already assessed for MP 06_0130. The proposal under SSD 16_8114 is generally consistent with MP 16_0130:

- It retains the existing education use and adaptively repurposes it for a school.
- It does not alter the residential component.
- It does not alter the approved Gross Floor Area.
- It does not alter the sports oval or the community facility dedicated to Ku-ring-gai Council
- It does not alter the street network outside the boundary of the UTS site. The pedestrian network will be improved under the SSD proposal.
- It retains the approved bushfire asset protection zone and upgrades it as a Strategic Vegetation Zone to improve protection to the school, teachers/pupils/staff and bushfire personnel.
- It retains and protects as many trees as possible, particularly hollow bearing trees within the development area.

4.4. RELEVANT STATE AND ENVIRONMENTAL PLANNING POLICIES

The modification has no bearing on the proposal's compliance with the relevant State Environmental Planning Policies.

4.5. KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2015

The modification has no bearing on the proposal's compliance with the *Ku-ring-gai Local Environmental Plan 2015*.

4.6. KU-RING-GAI DEVELOPMENT CONTROL PLAN 2015

The modification has no bearing on the proposal's compliance with the *Ku-ring-gai Development Control Plan 2015*.

4.7. ENVIRONMENTAL IMPACTS

This modification application is administrative only. There are no environmental or amenity impacts resulting from the proposed modification. All impacts of SSD 16_8114 have been addressed in the Environmental Impact Statement submitted with that application and subsequent response to submissions.

5. CONCLUSION

This s75W application seeks a modification to the Conditions of Approval and Statement of Commitments for MP06_0130, as they relate to Lots 2 and 4 in DP1151638, to facilitate the proposed Lindfield Learning Village.

The proposed modification is reasonable and appropriate. The proposed modification is required to meet the forecasted demand for the growing residential population in the area. The Department is already receiving significant enquiries to enrol students at the Lindfield Learning Village. A school must be open on Day 1, Term 1, 2019 to meet demand and to meet the legislative responsibilities of the Department.



The proposal is substantially the same as that approved, as described in Section 4.3 of this report and satisfies the test for s 75W of the EP&A Act. The proposed modification should be approved pursuant to the provisions of s 75W of the EP&A Act.

If you have any questions about the application, please contact me on 8233 9927.

Yours sincerely,

A handwritten signature in blue ink that reads "Alaine Roff". The signature is written in a cursive, flowing style.

Alaine Roff
Associate Director



APPENDIX A – DRAFT STATEMENT OF COMMITMENTS



Subject	Commitments	Approved by Whom (where applicable)	Timing
Planning Agreements	A Voluntary Planning Agreement (VPA) will be negotiated that addresses the current plans to offset section 94 contributions by the provision of the soccer field and the community space which can accommodate a child care centre.	Minister for Planning	Prior to submission of any subsequent Project Application
Ecological Sustainable Development	Any proposed dwellings within the site will comply with BASIX requirements for water conservation and thermal and energy efficiency.	Director-General of Department of Planning	Prior to or with submission of first Project Applications for residential building works
Staging	<p>Consideration will need to be given to the staging and delivery of the development of the Concept Plan. The staging of the development components will need to have regard to:</p> <p>Minimisation of construction impacts upon adjoining properties;</p> <p>Protection of existing public benefits and access;</p> <p>Construction access; and</p> <p>Timing of infrastructure provision.</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<p>A detailed project staging plan will be submitted with the first project application.</p> <p>A separate Construction Management Plan for the former UTS Building (Lots 2 and 4 DP1151638) will be prepared prior to construction.</p>		
Built Form	<p>Floor to ceiling heights will be limited to 3.5 metres.</p> <p>Urban design guidelines will be developed for single lots, integrated lots, and residential flat buildings prior to the first stage of development, to be outlined in the project staging plan to be submitted with the first project application.</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works
Contamination	<p>A hazardous material audit which will include sampling and identification of asbestos and Polychlorinated Biphenyls (PCBs) will be completed to determine the extent and integrity of the hazardous building materials which exist on the site;</p> <p>Any demolition/removal of Polychlorinated Biphenyls (PCBs) and asbestos containing material will be conducted in accordance with current NSW EPA waste classification and disposal guidelines, and WorkCover occupation health and safety procedures:</p> <p>At the project or development application stage, a limited and targeted Phase 2 intrusive contamination assessment at the northern property</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<p>boundary will be undertaken to assess whether any contamination, from potentials sources identified on the Film Australia site, has migrated onto the UTS property. This would involve the drilling and collection of soil samples as the installation of ground water wells. In addition, limited surface soil sampling will be conducted across the sports oval and any other sporting fields which may have been treated with organochlorine/organophosphate pesticides. The results of Phase 2 soil and groundwater investigation will be assessed against the relevant land use criteria stated by NSW EPA, NEPM and ANZECC guidelines. If concentrations of contaminants exceed the relevant land use guideline a remedial action plan will be developed, with remediation and validation works completed in accordance with NSW EPA guidelines, CLM Act (1997) and SEPP 55.</p> <p>Notwithstanding the above, a separate Remediation Action Plan is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>		
Flora and Fauna	<p>Indirect impacts on bushland such as weeds, feral and domestic animals and fire will be managed by the implementation of management plans and strategies including:</p> <p>A Threatened Species Management Plan that will address:</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<ul style="list-style-type: none">• Feral and domestic management strategies to minimise habitats post construction for feral animals and restrictions and controls for domestic cats and dogs.• Retention of areas of native vegetation and habitat for threatened flora and fauna within the site, including retention of D. biflora plants and habitat;• Fencing and flagging of all D. biflora plants to be retained within the development area. A minimum of two D.biflora habitats will be retained to the east and west of the village green. Any D.biflora habitats located in the APZ will be managed accordingly;• Translocation of soil and seeds from D.biflora habitat where this will be impacted by the development area. Translocation will be detailed within a plan prior to any works beginning on the site; o A monitoring program will be developed to ensure the viability of the D.biflora and determine the success of translocation of seeds. <p>A Weed Management Plan will be prepared as part of project applications to link into storm water control strategies.</p> <p>An Erosion and Sedimentation Control Plan will be developed to address both the construction phase and subdivision phase to ensure erosion and sedimentation controls will be put in place prior to any works beginning to ensure that any potential increase in runoff from removal of vegetation or</p>		



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<p>leaf litter does not impact on downstream or off-site environments and development does not contribute to environmental damage of the waterways, bushland or air quality.</p> <p>A Vegetation Management Plan for the site that will address:</p> <ul style="list-style-type: none">• Retention and protection of trees, particularly hollow bearing trees within the development area where possible;• Retention of existing understorey vegetation within landscaped areas. These pockets will be rehabilitated as required to remove exotic species and enhance native shrubs and ground covers;• Pre-clearance surveys will be conducted by ecologists to ensure all fauna are removed prior to clearance and ecologists on site during all vegetation clearance activities to capture any displaced fauna;• Harvesting of seed banks for the purposes of on-site regeneration. Greening Australia would be consulted regarding the best way to salvage soil seeds and canopy held seeds. These could be used in landscaping or regeneration of disturbed bushland areas adjacent to developed areas.• All riparian corridors will be protected and maintained.		



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<ul style="list-style-type: none"> • The Red Crowned Toadlet breeding habitat and surrounding habitat will be protected and managed. • Fencing during construction of all areas of native vegetation that will not be removed for development, as protection from machinery and personnel. <p>Before future residents move in, information packages detailing the environmental sensitivity of the site including information on the threatened species and habitats will be provided to ensure greater awareness and involvement.</p> <p>In addition, no activities will be undertaken within DECC land.</p> <p>All non-APZ bushland on the site, south west of the 50 metre APZ will be dedicated to DECC with their approval, and will be initiated with the approval of the first Project or Development Application.</p> <p>Notwithstanding the above, a separate Landscape Management Plan (including vegetation management, threatened species management and weed management) is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>		



Subject	Commitments	Approved by Whom (where applicable)	Timing
Trees	<p>A Landscape Management Plan for the site that will address:</p> <p>Retention or replacement of planting around the oval.</p> <ul style="list-style-type: none"> • Long term preservation and maintenance of tree assets. • Retention and maintenance of planting along the entry road from Eton Road. • Retention of the planted retaining wall between the existing oval and tennis courts retained. <p>Notwithstanding the above, a separate Landscape Management Plan is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>	Director-General of Department of Planning	Prior to or with submission of first Project Applications for building works
Infrastructure	<p>A comprehensive infrastructure delivery plan will be prepared to ensure that the site can be adequately serviced with all utility services including gas, electricity, water, sewer and telecommunications, etc. The Plan will demonstrate that:</p> <ul style="list-style-type: none"> • Sewer infrastructure will be augmented to service the new development. • Gas, Power and Potable water will be augmented where required to meet the requirements of new development. 	Director-General of Department of Planning	Prior to or with submission of any subsequent Project Application



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<p>A comprehensive stormwater management plan will be prepared which addresses:</p> <ul style="list-style-type: none">• Water flow;• Water quality;• Water catchments;• Water conservation;• Water retention;• Water treatment and re-use. <p>Above ground swales are to be constructed and vegetated with native species and indigenous flora conserved wherever possible.</p> <p>Water detention areas are to be provided within the development area.</p> <p>Cut and fill will be balanced across the site, any fill that is required will be clean fill.</p> <p>Notwithstanding the above, a separate Infrastructure & Services Report is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>		



Subject	Commitments	Approved by Whom (where applicable)	Timing
Bushfire	<p>All development on the site will be carried out in accordance with the Planning for Bushfire guidelines.</p> <p>An APZ to be incorporated and maintained, as per the requirements of the Planning for Bushfire Protection Guidelines 2006, and the recommendations of the consultant report prepared by Barry Eadie Consulting;</p> <p>An APZ of a minimum width of 50 metre will be maintained between the south-east edge of the existing building and the north-west edge of the site;</p> <p>An APZ of a minimum width of 60 metres is to be maintain to the east of the residential development, to the north east of the site.</p> <p>Detailed management practices will be outlined in a Bushfire Management Plan including management practices within the APZ prior to occupation of the site.</p> <p>Detailed Fire Emergency/ Evacuation plan will be developed prior to occupation of the site.</p> <p>The existing fire trail will be upgraded to meet Planning for Bushfire Protection Guidelines 2006 and will be extended to connect with proposed residential development to the NW to provide adequate access for fire fighting and management procedures.</p>	Director-General of Department of Planning	Prior to occupation and then on-going



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<p>Prior to any clearance for the Asset Protection Zone (APZ) and fire trail creation, a survey will be conducted to identify any hollow bearing trees or trees considered to provide important fauna habitat. Such trees will be flagged and locations recorded with a GPS and mapped. These trees will be avoided.</p> <p>Small shrubs and ground cover to 50cm will be retained within the APZ. Large shrubs can be retained in vegetation clumps where they will not result in fore spreading to tree canopies;</p> <p>Rocky outcrops and rock will be avoided by the fire trail. No rock will be removed from the APZ or fire trail areas; and</p> <p>Wooden bridges will be built over the drainage lines for construction of the fire trail so that these environments are not disturbed.</p> <p>Significant trees will be retained within the development area where possible and all trees will be retained in the APZ.</p> <p>All D.biflora will be flagged and locations recoded with a GPS and protected. A map and works plan will then be devised prior to any vegetation clearance or modification for the APZ creation. Areas within the APZ where soil seed banks or plants could be translocated will also be investigated and identified prior to any works beginning;</p>		



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<p>Construction of all buildings will be Level 3 construction.</p> <p>Notwithstanding the above, a separate bushfire assessment and emergency management evacuation plan is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>		
Transport	<p>A minimum of 320 184 car-parking spaces to be retained for the adaptive re-use of the existing UTS building.</p> <p>Car-parking for the reuse of the existing building will be fully assessed in the future Project Application.</p> <p>Retention of existing access and bus turnaround loop to ensure public transport services are retained, where practical.</p> <p>A Sustainable Transport Plan will be prepared at the Project (or Development) Application Stage which examines methods to promote the use of non-motorised and public transport to access the site for the reuse of the main campus building. This could include the development of Transport Behavioural Program to be distributed to future residents to encourage objectives outlined in the Sustainable Transport Plan.</p> <p>A separate Transport Impact Assessment and Green Travel Plan (or similar) is to be submitted with any future application for the</p>	Minister for Planning or appointed delegate	<p>With a future Project Application for re-use of the existing buildings</p> <p>Prior to or with submission of first Project Applications for building works</p>



Subject	Commitments	Approved by Whom (where applicable)	Timing
	reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).		
Heritage	<p>A copy of UTS Kuring-Gai, Rezoning Application Indigenous Heritage Issues Report prepared by Jo McDonald Cultural Heritage Management Pty Ltd will be made available to Metropolitan Local Aboriginal Land Council and three copies to Cultural Heritage Division of the Sydney Zone of the Department of Environment and Climate Change.</p> <p>The Metropolitan Local Aboriginal Land Council will be requested to monitor surface works during initial construction phase and promoted.</p> <p>The adaptive reuse of the main building is to respect the architectural integrity and quality and not adversely effect the significance of the building including retention of external materials</p> <p>Any future use of the building is to be in accordance with the Heritage Impact Assessment, as well as the Conservation Strategy for the site, prepared by Graham Brooks and Associates, heritage consultants.</p> <p>Original light fittings will be retained and upgraded</p> <p>Planter boxes on roof terraces will be recovered and maintained, where possible Interim heritage listing of the Site to be progressed.</p>		



Subject	Commitments	Approved by Whom (where applicable)	Timing
	<p>Further recognise the architectural and heritage values of main campus of UTS complex on the National Trust Register.</p> <p>Any archaeological findings will be referred to Heritage Office.</p> <p>Notwithstanding the above, a separate Heritage Impact Statement is to be submitted with any future application for the reuse/redevelopment of the existing UTS Building (Lots 2 and 4 DP1151638).</p>		
Geotechnical	A detailed geotechnical investigation will be submitted with the first Project Application.	Director-General	Prior to or with submission of first Project Applications for building works
Community Facilities	<p>A full-size adult soccer field that is capable of accommodating either two junior cricket fields or two junior soccer fields will be provided and dedicated to Council.</p> <p>Use of the playing field will be consistent with other playing fields in the Kuring-gai local government area to ensure uses are compatible and conflicts do not arise.</p> <p>Council will be responsible for the maintenance of the playing field to the current standard and provision of appropriate facilities.</p>		Prior to or with submission of first Project Applications for building works