

07314
25 March 2009

Sam Haddad
Director General
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Michael File

Dear Mr Haddad

**SANCTUARY VILLAGES – ADDENDUM TO PREFERRED PROJECT REPORT
MILLFIELD ROAD, SANCTUARY VILLAGES**

We refer to the meeting held at the Department on 27th February 2009 regarding the Sanctuary Villages Concept Plan, Stage 1 Project Application and SSS Study, and in particular the progress of the Department's assessment. This letter is intended to clarify the position of both parties on the key issues discussed at the meeting and to confirm the procedures going forward on the planning assessment processes.

1.0 DEVELOPMENT CONTRIBUTIONS

1.1 Department's Position

The Department has advised that the State Government's Levies Implementation Committee (LIC) has adopted a regional levy of \$10,000 per lot for all development in the Lower Hunter. The Department has advised the proponent's proposed contributions framework comprising payment of Cessnock City Council's Section 94 Contributions (\$3,136 per lot) and an additional \$8,000 per lot is inconsistent with the regional levy and accordingly the Department must obtain the LIC's agreement to impose our proposed contributions framework prior to the Minister approving the Concept Plan approval.

Further details regarding the proponent's \$350,000 commitment towards embellishment of local open space for a sports field (Stage 1) have also been requested, particularly the size and location of the playing field, proposed works and Council's views regarding this component of the proposal.

1.2 Proponent's Response

Local contributions

Payment of Council's Section 94 Development Contributions at a rate of \$3,136 per lot (+ CPI) is proposed for all 709 lots envisaged by the Concept Plan in accordance with Council's current Section 94 Development Contributions Plan (March 2009). Contributions will be monetary or in kind and will generally be made prior to release of the relevant subdivision certificate. It should be noted however, that a proportion of the Section 94 contributions will be towards the provision of open space and parklands which will require funding from sources other than just the Sanctuary Villages proponent.

For the purposes of Stage 1, the proponent has committed to an additional levy of \$8,000 per lot (equating to \$1.6 million) towards:

- construction of a new roundabout at the intersection of Middle Road/Millfield Road/Congewai Road generally in accordance with the preliminary concept design depicted in Appendix C of the EAR (ie: Parsons Brinckerhoff's Traffic and Accessibility Assessment). The construction of these roadworks has been estimated at \$735,500.00. This figure includes a contingency amount;
- upgrade of Millfield Road (including road works, pathway and additional landscape buffering) up to the value of \$515,000.00; and
- contribution to the construction of a local sports field off site within the Paxton-Millfield area up to the value of \$350,000, subject to Council formally committing to expenditure of the nominated funds on the sports field in question.

In terms of the proposed playing field, Cessnock City Council has expressed an interest in the offer and has forwarded the proponent a copy of Council's draft Sportsground Guidelines (Attachment 1) for consideration. Council has also identified Council-owned Lot 1 DP 309362 as an appropriate site to provide a sports playing field (refer Attachment 2). The site identified by Council is adjacent to the existing Paxton Park, which is owned and maintained by Council, and as such the playing field would form a logical extension to existing facilities.

The proposed \$350,000 voluntary contribution being offered by the proponent will go a long way to providing the priority facilities identified in the draft Guidelines including the field (earthworks); irrigation; turf and topsoil and some car parking. We recommend constructing a smaller car parking area on the basis that the playing fields will not have a 5,000 person catchment as suggested in Council's draft Guidelines. Additional facilities such as floodlights and amenities block are not critical and are not proposed to be provided unless funded by Council.

Payment of a cash contribution to Council would be preferred, however the proponent is prepared to undertake value-in-kind works, if details were worked out in a written agreement with Council.

Regional Contributions:

The principle behind the imposition of development levies is to offset the costs of providing additional infrastructure that is caused by the development. In the case of Sanctuary Villages, the technical reports indicate that Stage 1 of the development will have minimal impact on the existing regional infrastructure. In particular, it will have a negligible impact on the regional road network.

Notwithstanding this, the development will have impacts on the local environment. It is therefore appropriate that Stage 1 contributions be directed towards addressing local impacts such as an upgrade to the major Middle Road/ Millfield Road/Congewai Road intersection, the shortage of playing fields in the area, and the state of the main road through Millfield and Paxton. Importantly, this position reflects the strong feedback received from the Community Reference Group (CRG) meetings and from the public submissions.

Contributions in future stages can however be directed towards addressing regional issues. To this end, the proponent has reconsidered its proposed contributions framework and proposes \$10,000 per lot (cash or in kind) for lots approved in Stages 2-4 of the development, with the timing of the payments to be at the time of transfer of the land to the future purchaser consistent with the Department of Planning's *Review of Infrastructure Contributions Circular PS 08-017*. Expenditure of the contributions is to be determined by the Community Enhancement Fund as outlined in previous correspondence to the Department.

The \$2,000 per lot difference in contributions proposed between Stage 1 and subsequent stages can be readily justified given:

- the contributions already made in relation to environmental works;
- creation of a parma wallaby sanctuary and heritage restoration works; and

- the significant environmental conservation off set lands that will be delivered immediately upon Concept Plan approval (ie: as part of Stage 1).

2.0 CONSERVATION LANDS AND INFRASTRUCTURE EASEMENTS

2.1 Department and DECC's Position

DECC has advised that it is unwilling to accept portions of the conservation lands which are considered to exhibit limited ecological value or are encumbered by services, stormwater quality control and detention facilities infrastructure and APZs. We also understand that DECC has raised concerns about the creation of sewer or water easements through the conservation lands.

2.2 Proponent's Position

Despite the Deed of Agreement expressly providing for service easements within the conservation lands, the attached subdivision plan has been prepared to create new "buffer lots" located between the urban areas and conservation areas. A new buffer lot will also be created to accommodate the gully on the Millfield site (Attachment 3). Any required stormwater infrastructure will be accommodated within these new buffer lots, which are proposed to be zoned RE1 Public Recreation. Land between detention basins, will be zoned E4 Environmental Living and accommodate any required APZs, consistent with the approach adopted at the North West and South West Growth Centres.

Initially, the proponent will retain ownership of all RE1 and E4 zoned land and take full responsibility for the management of the buffer lots. However, those buffer lots zoned RE1 Public Recreation will eventually be dedicated to Council – a proposition which Council staff confirmed at the last CRG meeting is common practice and supported in principle. As future stages are developed, the APZs will be incorporated into the residential lots and Restrictions-as-to-User placed on the titles to alert future purchasers of their obligations to maintain the APZs. Again, this approach is common practice, and we have attached examples where the same approach has been adopted by the proponent and consent authority (Attachment 4). Based on this precedent, we have prepared revised draft subdivision plans for the Concept Plan and Stage 1 Millfield Project Application giving effect to our proposed approach (Attachment 5).

The draft subdivision plan also indicates the proposed location of the sewer / water easements across the conservation lands. The location of these easements is considered appropriate given this infrastructure is subterranean and will not compromise the ecological values of the conservation lands. We understand that the Department of Planning has raised no objection to the creation of these easements through the conservation lands.

We note that there is no necessity or technical requirement to consult with DECC given its issues have been addressed by the Preferred Project Report and through this addendum. We strongly consider that the assessment of the proposal should not be dependent on further input from DECC. However, the proponent is continuing to work with DECC regarding the conservation lands and is proposing to brief DECC officers in the coming week on the proposed buffer lot, and infrastructure arrangements. The proponent will brief the Department of Planning of the outcomes of that meeting as a courtesy.

3.0 WATER LICENSES

3.1 Department's Position

The Department has sought clarification regarding the current and proposed water licensing arrangements following concerns raised by the Department of Water and Energy (DWE) and the community, that water flow volumes to downstream properties may be affected.

Clarification has also been sought regarding the arrangements surrounding the 100ML water license.

3.2 Proponent's Response

The site currently comprises 13 rural lots which enjoy informal 10ML Basic Landholder Rights (Attachment 6). It should be noted that since the plan at Attachment 6 was prepared, the proponent has purchased Lot 5 in the north west corner (coloured purple on the plan); Lot 21 and Lot 2 on the lagoon site have been amalgamated to create the single lagoon lot (Lot 210); and Lot 6 has been subdivided into Lots 61 and 62 as per the subdivision plan also enclosed at Attachment 6.

In addition, the proponent purchased an 80ML license from an adjoining property owner (i.e. MB Davies & Sons Pty Ltd) and has made an application to transfer 40ML of this license to Stanford Land Pty Ltd and 40ML of this license to Fame Cove Three Pty Limited. In addition the proponent has purchased a further 100ML from MB Davies & Sons Pty Ltd (as evidenced by the attached signed transfer (Attachment 7), which will be relinquished to fulfil the obligations under the Deed of Agreement.

The total of these informal and licensed water rights is currently 310ML.

Whilst all 13 lots are currently owned by the proponent, each lot can be sold separately under the existing zoning to individual purchasers. The site therefore currently enjoys a maximum of 13 Basic Landholder Rights x 10 ML limit per lot maximum consumption, as well as the additional 180ML water license being transferred from MB Davies & Sons Pty Ltd.

The proposed reconfiguration of the rural lands will create 7 rural lots with riparian creek frontages. The proponent proposes to relinquish (as opposed to transfer) the 100ML water license to fulfil its obligations under the Deed of Agreement. The creation of 7 rural lots, retention of the 80ML and rescission of the 100ML license will equate to informal and licensed water rights of 150ML, a reduction of 160ML in Basic Landholder Rights, not an increase as suggested.

In short, DWE's concerns arise from a misunderstanding of the current water entitlements and the above comments should clarify the matter. Importantly, with less Basic Landholder Rights, concerns regarding impacts to the water course and water quality downstream are ameliorated. The reconfiguration of the rural lots is in fact a positive outcome for the environment.

The reconfiguration of the rural lots means that the proponent will voluntarily forego 60ML of Basic Landholder Rights (in addition to the 100ML relinquished) at its own expense. We are of the view that the proponent should be appropriately compensated and as such, request DWE credit the proponent with 60ML of Basic Landholder Rights equating to the difference between the existing and proposed Basic Landholder Rights.

4.0 SEPP AMENDMENT

4.1 Department's Position

The Department of Planning has confirmed that it will list the former mine workings as heritage items in the Major Projects SEPP amendment, rather than mapping the entire commercial/tourist centre as a heritage conservation area.

4.2 Proponent's Position

The Department's revised position regarding the commercial/tourist centre is welcomed.

The draft SEPP and zoning map (Attachment 8) have been revised to address the reconfiguration of the conservation lands and placement of infrastructure/APZs within the buffer lots. We would

appreciate a copy of the draft SEPP and maps once prepared by Parliamentary Counsel, to ensure the draft SEPP is workable and achieves the intended outcomes.

5.0 CONTAMINATION

5.1 Department's Position

Further supporting documentation has been requested confirming that the site can be made suitable for the proposed uses in accordance with SEPP 55 requirements.

5.2 Proponent's Position

Parsons Brinckerhoff has prepared the attached letter (Attachment 9) confirming the site can be made suitable for the proposed residential, recreation and commercial centre/tourist uses.

6.0 PROGRAM

Given that all outstanding issues have now been addressed, we consider the rezoning, Concept Plan and Stage 1 Project Application approval can proceed without further delay.

Should you have any queries about this matter, please do not hesitate to contact me on 9409 4957 or sballango@jbaplanning.com.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ballango', with a stylized flourish at the end.

Stephanie Ballango
Principal Planner