

11130
26 July 2011

Mr Sam Haddad
Director General
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Attention: Michael File

Dear Mr Haddad

**MODIFICATION 3 TO MAJOR PROJECT 06_0130
EGDELEA, ETON ROAD LINDFIELD (FORMER UTS KURING-GAI CAMPUS)**

We refer to the above Major Project for a residential development on the former UTS Kuring-gai Campus at Lindfield approved by the Minister on 11 June 2008.

On behalf of Defence Housing Australia (DHA), the developer and new owner of the site, we are writing to request that the Minister or his delegate modify the approved Concept Plan under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as described in this letter. The modification relates to the requirements in the Instrument of Approval regarding the location of the community facility and the timing of the dedications of land, roads and a community facility.

In accordance with section 245K of the *Environmental Planning and Assessment Regulation 2000*, the assessment fee of \$850 is enclosed. Also enclosed is the relevant application form.

1.0 BACKGROUND

1.1 The approval and subsequent modifications

On 11 June 2008, the then Minister for Planning approved Concept Plan MP 06-130, and gazetted an amendment to Schedule 3 of the then State Environmental Planning Policy (Major Projects) 2005 for the redevelopment of the UTS Kuring-gai Campus. The Concept Plan and the Schedule 3 amendment facilitated a broader range of land uses on the site, providing for residential development in addition to educational uses. Amongst other things, the Instrument of Approval provided for the following:

- new residential development for 345 dwellings;
- contributions in the form of a 9,800 sqm sports field and 300 sqm of community space to be dedicated to Ku-ring-gai Council;
- dedication of internal roads to Ku-ring-gai Council;
- an Asset Protection Zone (APZ); and
- the timing for the above dedications.

The Statement of Commitments approved with the Concept Plan included, amongst other matters, that a Voluntary Planning Agreement (VPA) be negotiated with Ku-ring-gai Council to address the above contributions.

The amendment to Schedule 3 of the then State Environmental Planning Policy (Major Projects) 2005 - now Major Development SEPP (MD SEPP) - rezoned the site, provided for heritage conservation of the UTS Kuring-gai Campus main building, and set out controls in relation to a number of matters including height of buildings and the maximum number of dwellings (as set out in Part 30 of Schedule 3).

Subsequent to this, the Concept Plan was modified under section 75W of the EP&A Act on 7 November 2008 (MP 06_0130 MOD 1). The modification rectified typographical errors and amended the provisions relating to contributions.

On 21 May 2010 a second modification (MP 06_0130 MOD 2) approved further changes to the Concept Plan including:

- retaining the existing gymnasium building and footbridge and setting the uses for the gymnasium;
- reconfiguring Precincts 2 and 3 of the site;
- requiring a 25 metre setback from the sports oval to Building B; and
- requiring the 300sqm community facility to be located in areas of the site zoned R1.

The consolidated Instrument of Approval is appended at Attachment 1.

1.2 New landowner and proposed development

In late 2010 UTS successfully tendered and sold to DHA the areas of the site zoned for residential development as well as the APZ. The development site, now known as Edgelea, is 12.64 hectares in area and known as Lot1 in DP1151638.

The planning and detailed design of the site is now well underway in preparation for the first development application to Ku-ring-gai Council for subdivision and construction of roads, services and the sports oval. At the same time, DHA is in detailed discussion and consultation with the officers of Ku-ring-gai Council regarding the nature and location of the sports oval and community facility and the timing of the dedication of these facilities as well as the roads.

It has now emerged that a number of the conditions of approval will inhibit the delivery of the community facility which meets the requirements of Ku-ring-gai Council, and that the stipulated timing of dedications is unworkable in the circumstances. Associated with this are a number of provisions in Schedule 30 of the MD SEPP which will need to be amended. While we will be writing to you separately about these, the amendments to the SEPP and this proposed modification should be considered together.

The matters in the Instrument of Approval are discussed below and the proposed amendments are set out in Section 3 of this letter.

2.0 CONDITIONS OF APPROVAL

2.1 Clause 13(1)(b)

Clause 13(1)(b) requires that the 300sqm community facility be located within areas of the site zoned R1 General Residential.

The detailed design of the site undertaken by DHA in conjunction with Council has identified that the most suitable location for the community facility is in the south eastern corner of the land zoned RE 1 Public Recreation proposed to be dedicated to Council. This will enable it to be contiguous with the sports oval and

close to a public road, gymnasium and other educational facilities. It is Ku-ring-gai Council's specific preference that the community facility be a separate building serving a multi-function purpose and that it also incorporates amenities for the proposed sports field. The optimal location for the building is on the eastern side of the sports oval on the land to be dedicated to Council. The wording of clause 13(1)(b) prevents this.

Accordingly, it is proposed that clause 13(1)(b) be amended to remove reference to the R1 zone.

The concurrent separate request for an amendment to the SEPP referred to above will propose inserting community facilities into the land use table for the RE1 zone and removing the 3m height limit applicable to the zone.

To ensure that the design of the community facility is appropriate for, and sympathetic to, its setting in close proximity to the heritage buildings on the site, guidelines for the community facility will be inserted into the Urban Design Guidelines being prepared in accordance with the consent.

There are no impacts as a result of this change - specifically:

- It is supported by Ku-ring-gai Council officers and enables the Council's specific needs for a multi-purpose community centre to be met.
- The proposed zone amendments are consistent with the Council's Town Centre LEP and foreshadowed comprehensive LEP.
- From a heritage perspective there are no impacts on the heritage significance of the adjacent gymnasium and the proposed location is supported by Graham Brooks and Associates (see Attachment 2) as it provides an opportunity for a built form that links into the existing pedestrian spine that runs through the existing gymnasium. Furthermore, Graham Brooks indicates that the massing and existing heights of the circulation spine suggest that the new community facility building should be two storeys in height as a means of complementing the original architectural concept and heritage values of the heritage listed buildings.

To ensure the new building complements the architectural scale, massing and materiality of the existing campus complex, the urban design guidelines referred to above will establish the building envelope for the facility, the materials and finishes, and measures to manage the interface with the adjacent gymnasium.

2.2 Clause 13(3)(a)

This clause establishes the timing for the transfer of the sports field to Ku-ring-gai Council. The proposed timing is neither practical or feasible as it intended by both DHA and the Council that the transfer should occur once the works to create the sports field are completed.

Accordingly, it is proposed that the clause be amended to require transfer and dedication in accordance with the VPA between DHA and Council. The VPA currently under negotiation has a detailed schedule setting out when contributions (that is, the various dedications) will occur.

There are no impacts as a result of this modification. It meets the requirements of both the Council and DHA and ensures that the Council receives a completed facility.

2.3 Clause 13(3)(b)

This clause establishes the timing for the transfer of the community facility to Ku-ring-gai Council. The proposed timing is neither practical or feasible as it intended by both DHA and the Council that the transfer should occur once the construction works are completed and the occupation certificate issued.

Accordingly, it is proposed that the clause be amended to require transfer and dedication in accordance with the VPA between DHA and Council as above.

There are no impacts as a result of this modification. As above, it meets the requirements of both the Council and DHA and ensures that the Council receives a completed facility.

2.4 Clause 14(2)

This clause establishes the timing for the transfer of roads to Ku-ring-gai Council. The proposed timing is neither practical or feasible as it intended by both DHA and the Council that the transfer should occur once the construction works for the roads and associated parking are completed.

Accordingly, it is proposed that the clause be amended to require transfer and dedication in accordance with the VPA between DHA and Council as above.

There are no impacts as a result of this modification. As above, it meets the requirements of both the Council and DHA and ensures that the Council receives the roads and the parking associated with the playing field once they are built.

3.0 PROPOSED AMENDMENTS TO INSTRUMENT OF APPROVAL

The following sets out the proposed amendments to the above clauses in the Instrument of Approval. Deletions are ~~struck through~~ and insertions are in ***italics bold***.

B13. Contributions

(1) The Proponent shall enter into arrangements for the transfer of that land identified in the additional commitments provided by the Proponent by letter dated 13 May 2008 in accordance with those commitments, including:

- (a) 9,800sq.m of land for an adult sized soccer field and curtilage to Council;
- (b) 300sq.m for a community facility to Council, ~~which is to be located in areas within the site zoned R1 General Residential (but excluding the gymnasium building)~~ ***to be located in the area of the site zoned RE1;*** and
- (c) ...

Note: These items will be in lieu of s.94 Contributions in future applications.

(3) Arrangements for the transfer of land identified in:

- (a) B13(1)(a) is to occur ~~prior to or with first application for development on the Site~~ ***in accordance with the provisions in the Voluntary Planning Agreement between the landowner and the Council;***
- (b) B13(1)(b) is to occur ~~prior to occupation of the building in which it is to be located~~ ***in accordance with the provisions in the Voluntary Planning Agreement between the landowner and the Council;***
- (c)

B14. Dedication and Management of Roads

- (1) The proponent is to dedicate, in accordance with any Council requirements, the road entrance to the Site from the end of the public road to the sports oval and car parking area and bus stop to allow for public access.
- (2) The dedication referred to in (1) shall be undertaken ~~prior to the lodgement of the first application for development on the Site~~ ***in accordance with the provisions in the Voluntary Planning Agreement between the landowner and the Council.***

4.0 CONCLUSION

The Concept Plan approval as proposed to be amended by this modification will be consistent with that approved by the Minister and subsequently modified (under Modification 1 and 2). The proposed modifications are necessary to facilitate the development of the site and meet both the landowner's and Council's requirements for the delivery of public infrastructure and facilities.

They do not change the approved Concept Plan and are consistent with the objectives of relevant statutory plans. Indeed they facilitate meeting some of the Objects of the EP&A Act, namely coordination of the orderly development of the land; the provision of land for public purposes; and the provision and coordination of community facilities.

There are no environmental impacts as a result of this modification. Accordingly, we recommend its approval.

Should you have any queries about this matter, please do not hesitate to contact me on 9409 4927 or vgoldschmidt@jbaplanning.com.au.

Yours sincerely



Vivienne Goldschmidt
Associate

Enc:
Instrument of Approval
Letter from Graham Brooks and Associates