

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

AMENDMENT TO SCHEDULE 3 OF STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) EGDELEA, ETON ROAD LINDFIELD (FORMER UTS KURING-GAI CAMPUS)

We refer to Part 30 of Schedule 3 of State Environmental Planning Policy (Major Development) (MD SEPP) which covers the land associated with the former UTS Ku-ring-gai Campus at Lindfield.

On behalf of Defence Housing Australia (DHA), the developer and new owner of the site, we are writing to request that the Minister consider amending the MD SEPP as described in this letter. The amendments relate to the permissible land uses within the RE1 Public Recreation zone, the maximum height limit in the zone, and minor amendments to zone boundaries.

1.0 BACKGROUND

1.1 Concept Plan approval and SEPP amendments

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; and
- an Asset Protection Zone (APZ).

The Statement of Commitments approved with the Concept Plan required 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 the Major Development SEPP - rezoned the site, provided for heritage conservation of the main UTS Ku-ring-gai Campus 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 first modified under section 75W of the *Environmental Planning and Assessment Act 1979* (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 approved further changes to the Concept Plan including amongst other matters:

- retaining the existing gymnasium building and footbridge;
- reconfiguring Precincts 2 and 3 of the site; and
- requiring the 300sqm community facility to be located in areas of the site zoned R1.

As a consequence of retaining the gymnasium building and footbridge, the MD SEPP was amended on 22 October 2010 to include the gymnasium and footbridge as heritage items and add additional uses to the R1 General Residential Zone. The SEPP maps for the site were amended to reflect the change.

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 Lot 1 in DP1151638.

The planning and detailed design of the site is now well underway as part of the preparation of 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 dedication to Council of these facilities and roads.

It has now emerged that a number of provisions in Schedule 30 of the MD SEPP will inhibit the delivery and dedication of the community facility and sports field to meet the requirements of Ku-ring-gai Council, and that the boundary between the R1 zone and the E3 zone do not align with the proposed Asset Protection Zone - so affecting the development of the residential buildings in this location.

Associated with this are various modifications under section 75W of the Act to the Instrument of Approval for the Concept Plan. While we will be writing to you separately about these, the proposed amendments to the SEPP and the modification to the Concept Plan should be considered together.

The proposed SEPP amendments are described and assessed below.

2.0 NEED FOR AMENDMENTS TO PART 30 OF SCHEDULE 3 OF MD SEPP

2.1 Location and height of proposed community facility

The issues

Clause 13(1)(b) of the Concept Plan approval requires that the 300sqm community facility to be dedicated to Ku-ring-gai Council 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 at the eastern end of the land zoned RE1 Public Recreation. This will enable it to be contiguous with the sports oval and close to a public road, the 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 such as change rooms, a tuckshop etc. The optimal location for the building is to the east of the sports oval on the land to be dedicated to Council. Under Clause 11(4) of Part 30 of Schedule 3 the MD SEPP community facilities are not permissible uses in the RE1 zone - accordingly, the proposed community facility would be prohibited.

At the same time, the Height Map for the site sets a maximum building height of 3 metres (one storey) on the RE1 land. It is intended (and indeed desired) by Council that the community facility be designed and constructed to include sports amenities on the lower level of the building. Under this arrangement the lower level (undercroft) would be at the level of the playing field and the upper level community facility space would align with the adjacent road, footpath and parking. The community facility would also have a pleasant vista over the playing field and to the bush beyond. The height of the building will exceed 3 metres and be in the order of 8 metres maximum off the ground.

Accordingly, in order to accommodate the intended building as described above, it is proposed that '**community facilities**' be inserted into the land use table for the RE1 zone and the Height Map be amended to show no height limit.

The separate concurrent modification proposes that clause 13(1)(b) be amended to remove reference to the R1 zone.

Impact assessment

There are no negative impacts as a result of these proposed amendments - specifically:

- The amendments enable Ku-ring-gai Council's specific needs for a multi-purpose community centre with associated amenities for the sports oval to be met. They are supported by Council officers.
- If the building were to be located in the R1 zone the desired function of the facility would not be able to be achieved.
- The proposed amendments to the land use table for the RE1 zone are consistent with the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (Town Centres LEP) and the foreshadowed Principal Local Environmental Plan (LEP). Both land use tables include community facilities as a use permitted with consent. Indeed, the proposed amendment would bring the zoning for the Edgelea site in line with the zoning and height controls for public recreation land pertaining to the Ku-ring-gai local government area.

- The amendment to the land use table is consistent with the objectives of the RE1 zone in Schedule 3 of the MD SEPP, the Town Centres LEP and the proposed Principal LEP - all of which are the same - that is to:
 - enable land to be used for public open space or recreational purposes;
 - provide a range of recreational settings and activities and **compatible land uses** (our emphasis); and
 - protect and enhance the natural environment for recreational purposes.
- Land zoned RE1 in Ku-ring-gai does not have a maximum height limit. Accordingly, the proposed amendment will mean that this playing field is consistent with others in the LGA.
- Notwithstanding this, the purpose of the height of buildings clause in the MD SEPP (Part 30, clause 17) is to protect the heritage significance of, and the views to, the UTS Ku-ring-gai Campus main building. 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 1) as it provides an opportunity for a built form that links into the existing pedestrian spine that runs through the existing gymnasium. Moreover, 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.
- In terms of impacts on views, the facility will be located in the south-eastern corner of the playing field abutting a small cutting and set at the level of the playing field with the maximum top of the roof approximately 8 metres off the ground - well below the parapet of the adjacent gymnasium building. Accordingly, there will be no impact on views to the main campus building.

To ensure that the design of the community facility is appropriate for and complements the architectural scale, massing and materiality of, the existing campus complex, design guidelines for the building will be inserted into the Urban Design Guidelines being prepared in accordance with the consent. This will establish the building envelope for the facility, the materials and finishes, and measures to manage the interface with the adjacent gymnasium.

2.2 Boundary adjustment between the RE1 and R1 zones

The issue

It is proposed to adjust the western boundary between the RE1 and R1 zones. This involves extending the boundary of the proposed sports field and thus the RE1 zone 15 metres further west onto land currently zoned R1 (see Attachment 2). This will increase the overall size of the recreation area and the area of land to be dedicated to Ku-ring-gai Council by 1500 sqm. The reasons for the adjustment are three-fold:

- As a result of locating the community facility in the RE1 zone a small area of useable playing area on the eastern side (the field over-run) will be lost. This is made up on the western side.
- As outdoor recreation facilities are not a permissible use in the R1 zone, the proposed increase in the size of the playing field onto R1 land would be prohibited and thus not possible.
- Both the Council and DHA are of the view that all the land to be dedicated to Council should be in the RE1 zone and that the zone line should demarcate the boundary between public and private land.

Impact assessment

There are no negative impacts as a result of the proposed boundary adjustment. It meets the requirements of both the Council and DHA and ensures that the land dedicated to Council is correctly zoned for its public recreation purpose.

The zone boundary adjustment (and increase in land to be dedicated) is supported by Council.

2.3 Boundary adjustment between the E3 and R1 zones

The issue

A small adjustment is proposed to the boundary between the E3 Environmental Management zone and the R1 General Residential zone on the western side of the site (see Attachment 2). The rezoning will align the R1 zone line with the 50 metre APZ setback at this point and involves adding 500 sqm of E1 land to the R1 zone.

The need for the adjustment is essentially driven by the residential amenity requirements for the proposed medium density development in Precinct 3 of the site which would result in a small intrusion of one of the buildings into the E3 zone where it would be prohibited (unlike dwelling houses which are permissible in the zone under the MD SEPP).

More specifically, the adjustment to the boundary is needed so that the design requirements in SEPP 65 and the Residential Flat Design Code can be achieved in relation to the following:

- percentage of dwellings with daylight access to living rooms and private open space;
- percentage of dwellings with natural ventilation;
- building separation; and
- minimal single aspect units in a southerly direction;

In addition, the adjustment provides for a defined and legible distinction between communal and private open space and improves streetscape character and amenity.

Impact assessment

There are no negative impacts as a result of this adjustment. The requisite 50 metre APZ is retained and it facilitates the amenity of the future residents in Precinct 3.

An examination of the proposed zone adjustment provided by ERM concluded that the rezoning would not result in any significant impacts on the ecological values of the site (see Attachment 3). The area consists of Heath-leaved Banksia/ Scribbly Gum closed bushland and field surveys conducted in May 2011 identified no threatened flora or fauna species or their habitat in the area.

It is noted that the proposed new zone boundary will align with the management actions for the area detailed in the Bushfire Management Plan and Vegetation Management Plan for the Edgelea development.

3.0 PROPOSED AMENDMENTS TO SCHEDULE 3 OF MD SEPP

The following sets out the proposed amendments to Part 30 of Schedule 3 of the MD SEPP and the associated maps.

- Clause 11(3): insert 'community facilities' after recreation areas.
- Height of Buildings Map (Sheet HOB-001): remove height control from land zoned RE1 as adjusted.
- Zoning Map (Sheet LZN-001): adjust RE1 boundary as shown at Attachment 2.
- Zoning Map (Sheet LZN-001): adjust R1-E3 boundary as shown at Attachment 2.

4.0 CONCLUSION

The proposed amendments to Schedule 3 of the SEPP do not materially change the outcomes for the site envisaged in the approved Concept Plan and by the State Significant Site listing. They are necessary to facilitate the development of the site and to meet both the landowner's and Council's requirements for the delivery of quality and flexible public facilities and the provision of residential accommodation with a high level of amenity.

The amendments 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. Moreover, they ensure that the requirements of SEPP 65 and the Residential Flat Design Code are able to be achieved.

There are no negative environmental impacts as a result of amendments. 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 faithfully



Vivienne Goldschmidt
Associate

Enc:
Proposed amendments to Zoning Map
Letter from Graham Brooks and Associates
Letter from ERM