

Urban Renewal and Major Sites, Strategic Assessment

## Planning Assessment Report

### Application to Modify the Minister's Approval for the UTS Ku-ring-gai Campus site, Ku-ring-gai

#### Major Project 06\_130 MOD 3

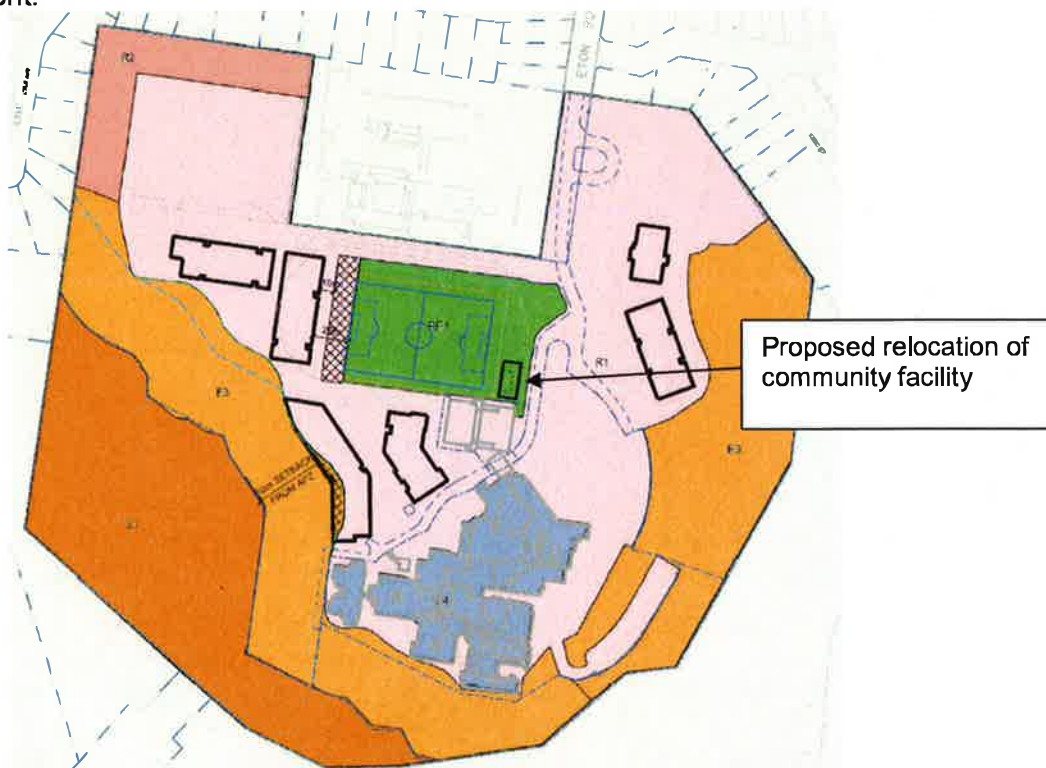
## 1 PROPOSED MODIFICATION

Defence Housing Australia (DHA), the Proponent has submitted a modification application in accordance with section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) to modify the former Minister for Planning's approval of the UTS Ku-ring-gai Concept Plan. The Concept Plan was approved subject to modifications on 11 June 2008. DHA's main role is to provide housing for Australian Defence Force members and their families.

### S75W Modification

The Proponent's s75W modification application intends to:

- (1) Allow the Proponent to lodge the urban design guidelines (UDG) concurrently with the first Development Application for the site;
- (2) Relocate the proposed community facility from the zone R1 General Residential to the zone RE1 Public Recreation (**Figure 1**); and
- (3) change the timing of dedication of the community facility and roads in the Concept Approval to be determined in the future by a Voluntary Planning Agreement (VPA) between Council and the Proponent.



**Figure 1: Proposed amendments under Modification 3**

## SEPP Amendment

The community facility is now permissible within the RE1 Public Recreation zone following an amendment to Schedule 3 of *State Environmental Planning Policy (Major Development) 2005* which was published on 16 December 2011.

The SEPP Amendment was prepared by the Department and exhibited to amend the UTS Ku-ring-gai Campus State Significant Site listing in the Major Development SEPP.

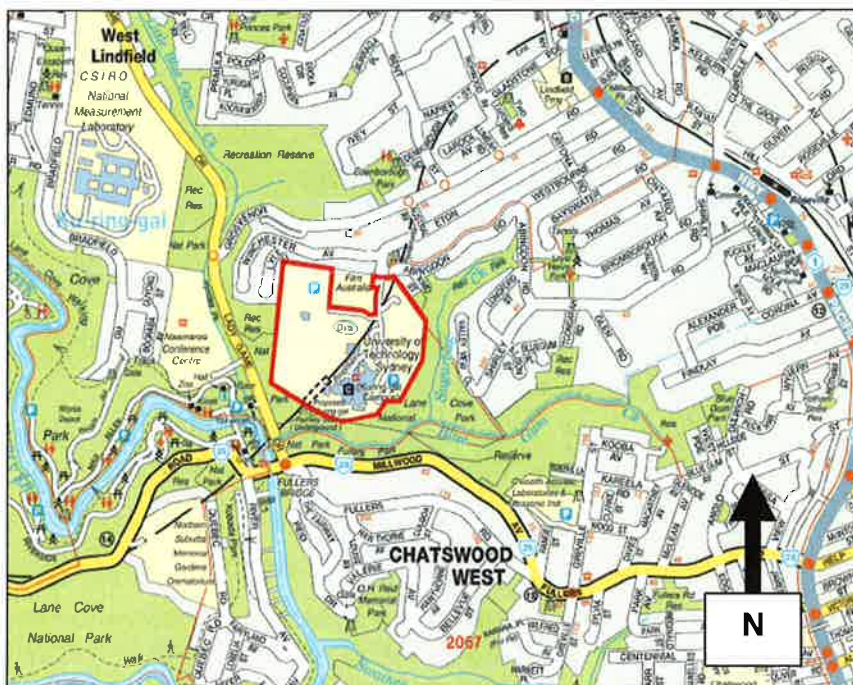
The SEPP Amendment was required to reflect the modified concept plan approval for the UTS Ku-ring-gai Campus redevelopment. The Proponent sought to amend the Major Development SEPP to:

- permit "community facilities" on land in Zone RE1 Public Recreation;
- remove the 3m height limit control in Zone RE1 Public Recreation to permit a two storey community facility on that land;
- increase area of land zoned RE1 Public Recreation from 9,800sqm to a total recreational area of 11,300sqm;
- vary the boundary between Zone R1 General Residential and Zone E3 Environmental Management by rezoning land resulting in an increase of 500m<sup>2</sup> of land zoned R1 General Residential; and
- include provisions that permit the carrying out of subdivision and demolition with development consent.

## 2 BACKGROUND

The University of Technology Sydney (UTS) Ku-ring-gai has Concept Plan Approval to redevelop its site. The UTS recently sold the residential component of the site to Defence Housing Australia (DHA). It is intended that the campus itself will be closed by 2014 and be transferred to the Department of Education and Communities to be used as a senior high school.

The UTS Ku-ring-gai campus site is located at Eton Road, Lindfield in the Ku-ring-gai Local Government Area, approximately 1.2 kilometres west of the Pacific Highway and Roseville train station. The Lane Cove National Park surrounds most of the site, with the exception of the Film Australia land and single lot residential housing development to the north and north-west of the site (refer to **Figure 2**).



**Figure 2 – The site and its locality**

On 11 June 2008, the former Minister for Planning granted Concept Plan Approval to a proposal by UTS Ku-ring-gai (previous Proponent) to redevelop the site for residential purposes (ranging from single dwellings to residential flat buildings) and the adaptive reuse of the campus building for continued education and commercial uses (31,041m<sup>2</sup> gross floor area).

The previous Proponent also committed to the dedication of a sports field to Ku-ring-gai Council (9,800m<sup>2</sup>) and dedication of conservation land with an area of 34,570m<sup>2</sup> (zone E1 National Parks and Nature Reserves) the Department of Environment, Climate Change and Water (now Office of Environment and Heritage).

In granting Concept Plan Approval, the Minister imposed a number of modifications and future assessment requirements. Key modifications included:

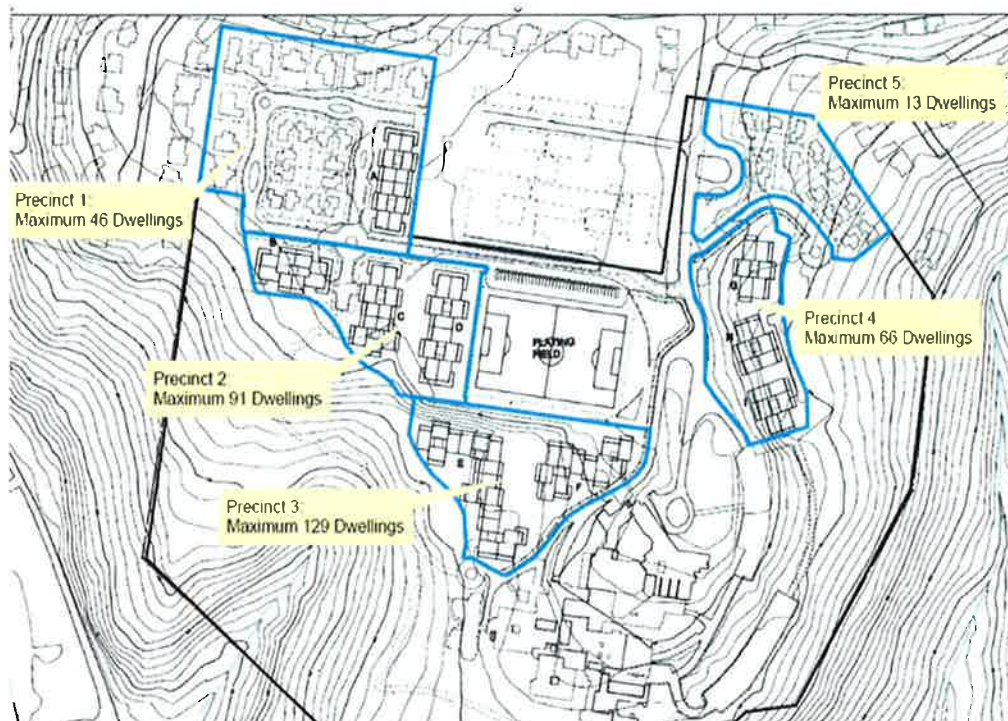
- reduction in the total dwelling yield from 382 to 345 dwellings;
- a requirement for at least 10% of dwellings (41 dwellings) to consist of 1 bedroom;
- increased the setback of proposed buildings from the sport oval (25m) and the boundary with Film Australia (4,5m); and
- reduction in height of Building A to a maximum of 2 storeys and Building B to a maximum 4 storeys (excluding attics for both) in height.

The site was listed as a State Significant site within Schedule 3 of *State Environmental Planning Policy (Major Development) 2005* on 11 July 2008, which zoned the site as General Residential, Mixed Use, Public Recreation and Environmental Conservation.

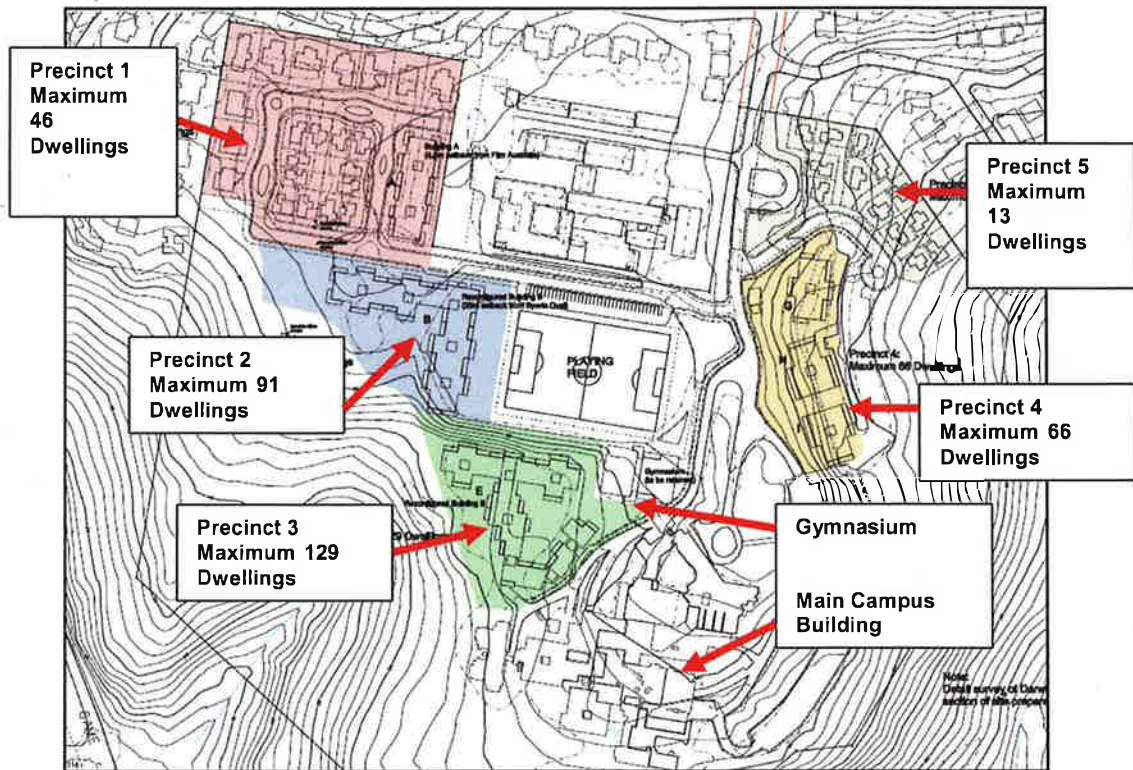
On 7 November 2008, Instrument of Approval was modified (Mod. 1) under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) to correct minor typographical errors, and clarify the contribution requirements. **Figure 3** identifies the originally proposed Concept Plan as modified by the Minister's approval. The following **Figure 4** reflects the Modification 2 approval.

On 21 May 2010 the previous Minister's delegate approved Modification 2 under section 75W of the Act to modify the Minister's Concept Plan Approval to enable the following:

- retain the existing gymnasium building (3,874m<sup>2</sup>), which was approved for demolition;
- reconfigure Precinct 2 in response to the dwelling yield reductions and setback requirements by consolidating blocks B, C and D into one building (91 dwellings);
- reconfigure 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
- change the Concept Plan to satisfy modifications imposed by the Minister.



**Figure 3 – The Concept Plan, as modified by the Minister's approval (2008)**



**Figure 4 – The Concept Plan, as modified (Mod. 2)**

### **3 STATUTORY CONTEXT**

#### **Continuing operation of Part 3A**

The modification does not fall under the current savings and transitional provisions as no DGRs were issued. The *Environmental Planning and Assessment Regulation 2000* was amended on 1 December 2011 to allow Section 75W of the Act to continue to apply for the purpose of modifying an approved Concept Plan.

#### **Approval Authority**

The Minister for Planning was the approval authority for the original Concept Plan and as such the Minister is the approval authority for any modification request.

#### **Delegation**

The Executive Director, Urban Renewal and Major Sites may determine the Modification, in accordance with the Instrument of Delegation issued by the Minister for Planning and Infrastructure, on 14 September 2011, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979*.

#### **Section 75W(3) of the Act**

No DGRs were issued due to the Proponent submitting necessary professional documentation prepared by heritage and ecology consultants to justify the proposed changes. The Environmental Assessment for the modification was deemed to be adequate on 17 August 2011.

#### **State Environmental Planning Policy (Major Development) 2005**

The UTS Ku-ring-gai Campus site is listed as a State Significant Site (SSS) in Schedule 3 of the *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP). Refer to (Figure 5) for the current and proposed (Figure 6) zoning map for the site.

With the exception of the proposed changes to the location of the community facility and mapping adjustments, the Concept Plan Approval remains essentially the same. Any amendment will follow after a determination is made on the modification request.

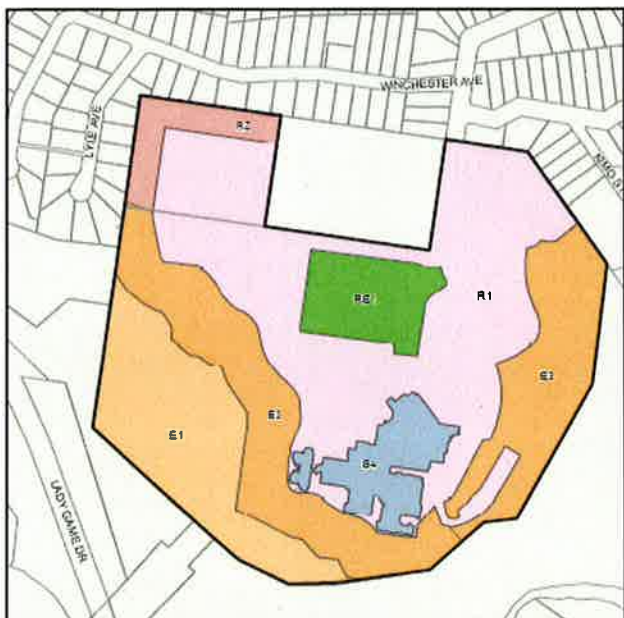


Figure 5 – Existing zoning map for the site

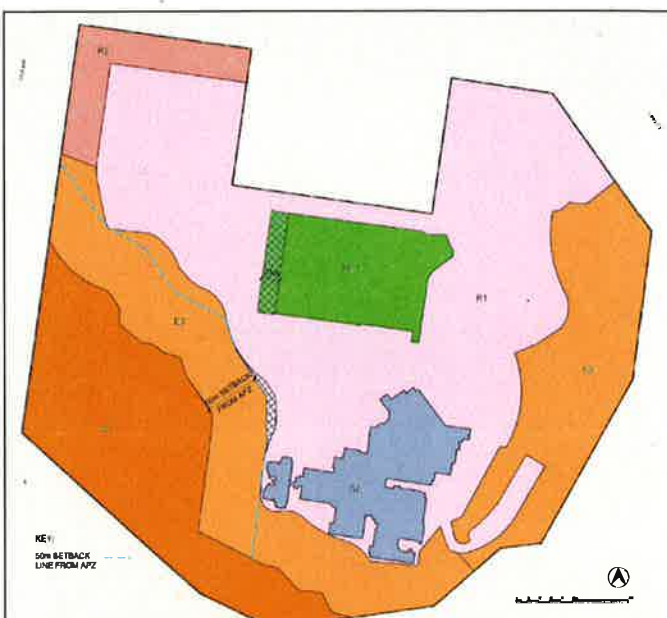


Figure 6- Proposed zoning for the site

#### 4 CONSULTATION AND SUBMISSION

Pursuant to Section 75X (2)(f) of the Act, the Director-General is required to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website.

In addition to the above, the Department also publicly exhibited the modification from 14 September 2011 to 30 September 2011 with notices placed in the Sydney Morning Herald and Daily Telegraph inviting the public to make submissions. Hard copies were viewable at the Department's Bridge Street office, Council's office, Gordon Library and Lindfield Library. Notification letters were also sent to Ku-ring-gai Council, Rural Fire Services, and Office of Environment and Heritage.

During the exhibition period, the Department received submissions from Ku-ring-gai Council, Rural Fire Services and Office of Environment and Heritage raising no objection to the proposed modification. The RFS advised that its comments on the approved Concept Plan still apply. Council advised that the proposed modifications will allow Council greater flexibility in the delivery of community facilities and open space through the proposed VPA and supported the proposed changes.

#### 5 ASSESSMENT

The proposed modifications will require the conditions of approval and the SEPP (Instrument and maps) to be amended. The following **Table 1 Modification summary** sets out relevant issues arising from the proposed modification. A detailed discussion on relevant matters follows.

**Table 1 Modification summary**

Relevant issue	Proposed change	Proponent justification	Department comment
<b>Condition B(1)</b> applies to urban design guidelines for the site.	Condition be reworded to be more clearer	By finalising the UDG before a DA is lodged with Council may pre-empt possible recommendations or amendments requested by public authorities from the exhibition process under Part 4 of the Act.	Condition reworded so that the <i>Urban Design Guidelines must be approved by Council before the first Development Application can be determined.</i>

<b>Condition B5(3)</b> applies to Building "B" to provide a minimum setback of 25 metres from the sports oval	The required 25m setback is to be reduced to 10m.	Reduced setback required to accommodated relocation of the community facility	Supported. Minimal impact on the amenity of both complimentary land uses
<b>Condition 13(1)(a)</b> requires a 9,800sqm of land for adult size soccer field to be dedicated to Council.	1,500sqm of extra land for adult size soccer field (11,300m <sup>2</sup> in total) to be dedicated to Council.	To accommodate location of sports field and community facility in RE1 zone, the Proponent has offered a larger piece of land on western boundary.	Supported. Will increase recreational land to benefit the users of the soccer field.
<b>Condition 13(1)(b)</b> requires a 300sqm community facility be located within areas of the site zoned R1 General Residential	Relocate to RE1 Public Recreation zoned land.	Will have a multi- function purpose and will incorporate amenities for the proposed sports field.	Condition B1 ensures that the Urban design Guidelines for the site will be prepared with Council. This will ensure the community facility is appropriately designed in relation to the adjacent heritage buildings.
<b>Condition 13(3)(a)</b> sets out the timing for the transfer of the sports field to Council.	VPA to ensure that transfer will occur once the works to create the sports field are completed.	A VPA is under negotiation with Council and the Proponent	Supported by Department and Council.
<b>Condition 13(3)(b)</b> sets out the timing for the transfer of the community facility to Council.	VPA to ensure that transfer will occur once the construction works are completed and the occupation certificate issued.	A VPA is under negotiation with Council and the Proponent	Supported by Department and Council.
<b>Condition 14(2)</b> sets out the timing for the transfer of roads to Council.	VPA to ensure that transfer will occur once the construction works are for the roads and associated parking are completed.	A VPA is under negotiation with Council and the Proponent	Supported by Department and Council.
<b>Proposed Condition B 17</b>	In the event that the VPA does not eventuate.	Supported by Proponent.	Condition will allow the Proponent to proceed with the DA while still ensuring the relevant contributions are guaranteed to Council.

### 5.1 Urban Design Guidelines

Condition B1 applies to the urban design guidelines (UDG) for the site and is worded as follows:

- (1) *The Design Guidelines referred to on page 2 of the revised Statement of Commitments are to have regard to DCP 55 Railway/Pacific Highway Corridor St Ives centre adopted by Council on 14 December 2004 and DCP 38 Residential Design Manual adopted by Council on 20 December 2001;*
- (2) *Are to be prepared to the satisfaction of Council; and*
- (3) *Provided prior to the lodgement of the first application for development on the Site.*

The Proponent wants to lodge the UDG concurrently with the first DA for the site so they can be assessed together. This was the intent of the original condition but can be expressed more clearly by rewording the condition.

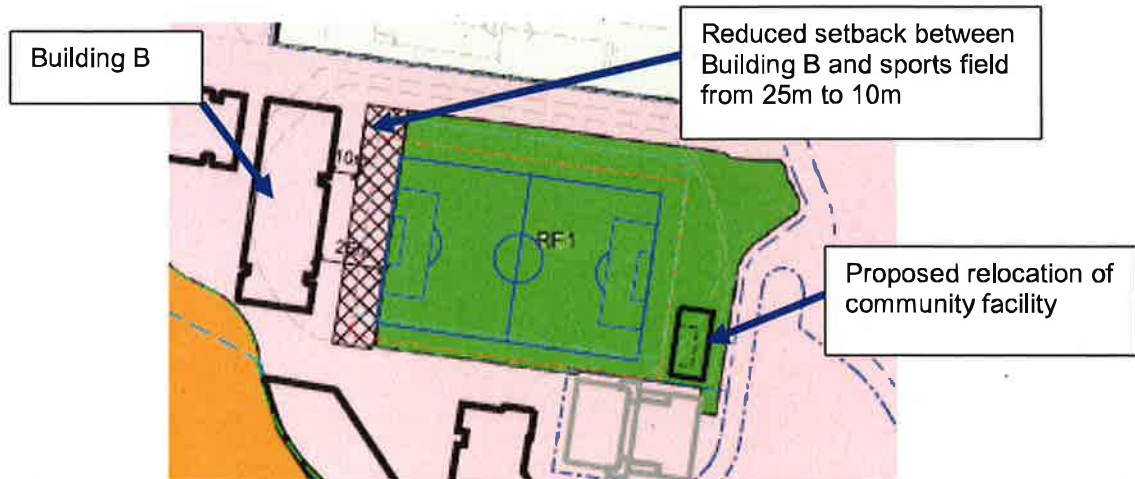
The Department recommends deleting condition B1(2) and (3) and replace them with:

- (2) *The Urban Design Guidelines must be approved by Council before the first Development Application can be determined.*

## 5.2 Setbacks

Condition B5(3) applies to setbacks. This condition states that "*Building "B" of Precinct 2 is to provide a minimum setback of 25 metres from the sports oval with particular regard to edge effects.*"

The proposed relocation of the community facility will require shifting the existing sports field 15m west onto zone R1 General Residential. This will result in the required 25m setback to be reduced to 10m (**Figure 7**). The Department has assessed that the reduced setback will have a minimal impact on the amenity of both complimentary land uses. Council has no objection to the reduced setback.



**Figure 7 Reduced setback to Building B**

## 5.3 Timing for transferring of Contributions

There are several arrangements for the transfer of land under the Conditions of Approval (B13 and B14):

- Soccer field to be transferred to Council prior to the first DA for the site;
- Community facility to be transferred to Council prior to occupation of the building; and
- Roads, car parking and bus stop to be transferred to Council prior to the first DA for the site.

The Proponent has advised the Department that it is in a position to lodge a Development Application with Council, however the timing of the transfers as set out in the Approved Instrument prevents this from happening. As a result of this disjuncture in timing, the Proponent with support from Council, has requested that the Conditions of Approval be modified.

The modification will require transfers to be in accordance with a Voluntary Planning Agreement under preparation with Council. The Proponent would now like to arrange for the transfers to occur once construction of the community facility and roads are completed.

If the above changes are supported, the conditions of approval for the Concept Plan will need to be amended to reflect the relocation of the community facility and new timing for transfers to occur in accordance with the VPA currently under preparation.

In the event that the VPA does not eventuate, the Department has prepared a new condition B17 of Approval to address this matter. In this respect, the Department considers that the revised timing should be "before the first plan of subdivision is registered for the site" to allow the Proponent to proceed with the DA while still ensuring the relevant contributions are guaranteed to Council.

### 5.3 New condition 'B17 Voluntary Planning Agreement' to read as follows:

- (1) *In the event that the Voluntary Planning Agreement does not transpire, the applicable timing for contributions to Council, at no further cost to Council, will be as follows:*
  - (a) *Delivery of the soccer field and dedication of roads to Council upon the registration of the first plan of subdivision for the site; and*
  - (b) *Delivery of the community facility within four (4) years of registration of the first plan of subdivision for the site.*

## 6 CONCLUSION

The Department considers that the proposed modifications are acceptable as it is consistent with the conditions of the Approved Concept Plan. As such, the modifications are considered worthy of support.

While the modifications to the Concept Plan are of a minor nature, once implemented, there will be benefits of housing, employment and recreation use to the new and existing community.

## 7 RECOMMENDATION

It is recommended that the Minister's delegate, the Executive Director, Urban Renewal and Major Sites:

- i) Approve the modifications as detailed in this report; and
- ii) Sign the instrument of modification approval under Section 75W of the *Environmental Planning and Assessment Act 1979*.

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10.12.2011