

09342
21 July 2009

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

Attention: Dan Keary

Dear Mr Haddad

**CLAUSE 6 DECLARATION AND PRELIMINARY ENVIRONMENTAL ASSESSMENT
BUILDING 14, 14-28 ULTIMO ROAD, ULTIMO - LOT 1 DP 76938**

We are writing on behalf of the University of Technology Sydney (UTS), the proponent for the development of a new building for educational uses at 14-28 Ultimo Road, Ultimo (formerly known as the Dairy Farmers building).

The purpose of this letter is to:

- seek the Minister's opinion that the proposal is a development of the kind described in Schedule 1 (Classes of development) of State Environmental Planning Policy (Major Development) 2005 (the Major Development SEPP) and therefore, is a 'project' to be determined under Part 3A of the *Environmental Planning & Assessment Act, 1979* (the EP&A Act); and
- request that the Director-General issue the requirements for the preparation of an Environmental Assessment to accompany a Project Application for the proposed development, should the Minister form the necessary opinion.

This letter outlines the project, describes the site and the locality, and provides the statutory planning context. To support the request for the Director-General's requirements relating to the environmental assessment, a Preliminary Assessment relating to the project follows identifying the key likely environmental planning issues associated with the proposal.

1.0 THE PROJECT

UTS wishes to develop 2,826 square metres of land it owns at 14-28 Ultimo Road, Ultimo in the local government area of the City of Sydney, for a new education building. A component of the UTS City Campus Master Plan 2020, the approximately 15,500 square metres development will expand the University's Haymarket Precinct and capitalise on the site's synergy with existing educational facilities in Building 5 located to the east on Ultimo Road, between Darling Drive and Quay Street.

The proposed building envelope has resulted from extensive analysis and options development undertaken by BVN for the UTS City Campus. As illustrated in the accompanying concept drawing (see **Attachment 1**), the proposed building will provide eight (8) storeys of teaching and related facilities for the Faculty of Business plus one level of basement parking.

The proposal specifically incorporates the following components:

- construction of a new education building approximately 15,500 square metres in area and 42 metres in height (8 storeys);
- provision of recreation facilities on the roof – for activities such as tennis, basket ball and the like;
- provision of parking for vehicles (approximately 78) in one basement in accordance with the maximum permitted under City of Sydney parking requirements; and
- provision of bicycle parking in accordance with City of Sydney requirements as a minimum.

It is UTS's intention that the design of the building will be the subject of a Design Excellence Competition as part of a Design and Construct contract. Accordingly, the details of the building cannot be provided at this stage. Nevertheless, the design will incorporate the Director-General's requirements (requested in this letter) as well as the following possible elements:

- **Floor space ratio (FSR):** 5.5:1 (based on 'design excellence').
- **Building envelope:** built to the site boundary at three lower levels with the upper floors set back from the north and south (see **Attachment 2**) to limit overshadowing the Inner City Child Care Centre at the ABC on the opposite side of Ultimo Road.
- **Entries and access:** pedestrians at ground level on Ultimo Road and at Level 2 to the Ultimo Pedestrian Network (UPN) (proposed future extension); vehicles from Mary Ann Street (see **Attachments 3 and 4**).
- **Street level activity:** active uses at ground floor.

The capital investment value of the project is approximately \$85 million.

2.0 THE SITE AND LOCALITY

2.1 The site

With two main street frontages (Ultimo Road and Mary Ann Street), the site is orientated on a north-west south-east axis, and located between Ultimo Road to the south and Mary Ann Street to the north, and between Omnibus Lane to the west and the former heavy rail corridor to the east (see **Figure 1**). It comprises one lot owned by UTS legally described as Lot 1 in DP 76938.

The site is occupied by a one storey brick and galvanised roof warehouse-type building constructed in the 1930s by the Dairy Farmer Milk Co-Op for warehousing and distribution. The building is currently (temporarily) leased to Energy Australia for construction of the City West 132kV Cable Tunnel Project and is to be demolished in accordance with Energy Australia's approval under Part 3A for the tunnel (NSW Department of Planning reference MP05_0178).

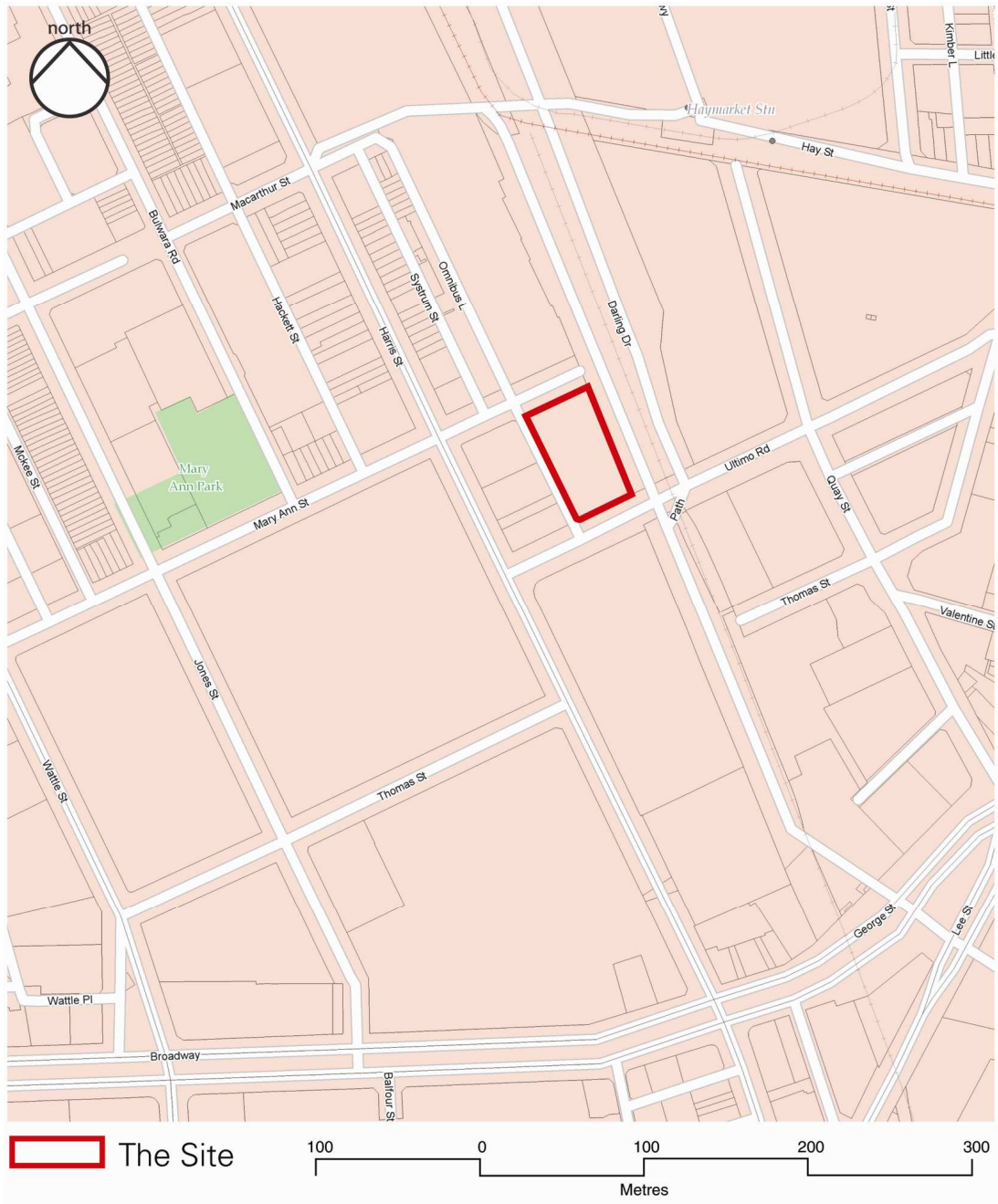


Figure 1 – The site and surrounds

2.2 The locality

Within the Ultimo Cultural and Education Precinct, the surrounding locality comprises a mix of educational, cultural, residential and commercial uses, including the Powerhouse Museum, the Sydney Institute of TAFE and the Broadway Precinct of the UTS City Campus (see **Figure 2**).

Directly abutting the eastern boundary of the site is a concrete adit owned by TransGrid ('Mary Ann Street Adit') and a vehicle ramp to the adit (see **Attachment 3**). On Ultimo Road above the adit (a horizontal passage or shaft for entering the TransGrid cable tunnel) is a concrete bunker-like structure housing ventilation and cooling equipment for the tunnel. The roof of this building more or less aligns with the eastern side of the embankment of the former Darling Harbour Railway Line. This part of the rail corridor (see **Attachment 4**) is mooted for the future northerly expansion of the

UPN up to the Powerhouse Museum and Darling Harbour. Further to the east across the embankment are Darling Drive and the Haymarket Precinct of the UTS City Campus – essentially Building 5.

Across the road from the site on the southern side of Ultimo Road is the ABC Headquarters, with the ABC’s loading dock and the Inner City Child Care Centre directly opposite the site.

To the west of the site along Omnibus Lane are the following: a 9-10 storey apartment building occupying the corner block between Ultimo Road and Harris Street; a four storey building, owned by TAFE known as Building U or 622-632 Harris Street, on the corner with Mary Ann Street; and a vacant lot also owned by TAFE used for car parking. Omnibus Lane is very narrow (approximately 7 metres wide) and fronted by garage and loading dock entries associated with the two aforementioned buildings.

Immediately to the north of the site at 84 Mary Ann Street is the Harwood Building – part of the Powerhouse Museum. The other development on the northern side of Mary Ann Street (between Harris Street and the rail line) consists of commercial buildings with retail uses at ground level.



The Site

Figure 2 – The locality

3.0 RELEVANT PLANNING PROVISIONS

The following strategic plans, state, regional and local environmental planning instruments, and development control plans apply to the proposed development:

- Metropolitan Strategy;
- Draft Sydney City Subregional Strategy;
- Sydney 2030;
- NSW State Plan;
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007 (in relation to traffic generating development);
- State Environmental Planning Policy No 55 – Remediation of Land;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Sydney Local Environmental Plan 2005;
- City of Sydney Heritage Development Control Plan 2006;
- City of Sydney Access Development Control Plan 2004;
- Draft City of Sydney Ecologically Sustainable Development – Development Control Plan;
- Urban Development Plan for Ultimo Pyrmont.

The following is a summary of the relevant local planning provisions that apply to the site.

3.1 Zoning and Permissibility

Sydney Local Environmental Plan 2005 (SLEP) is the principal local environmental planning instrument applying to the site and contains planning principles, key development standards, land use zones and zone objectives for Ultimo-Pyrmont.

The site is zoned **Residential-Business** under SLEP 2005 (see **Figure 3**). Uses that are consistent with one or more of the zone objectives are permissible with development consent in the zone. None of the zone objectives are directly or specifically relevant to the proposed educational use, however it is noted that there are numerous and significant educational uses in the zone and the locality – principally TAFE and all of the UTS Broadway Precinct. Accordingly, the proposed use would not be inconsistent or out of character with the zone. Notwithstanding this, the use is considered to be consistent with the following two objectives and the proposal would thus be permissible in the zone:

- Accommodate uses which generate employment opportunities and provide facilities and services that enable people to live and work in the same community; and
- Encourage sustainable transport modes for journeys to work and other trips, including walking, cycling and all forms of public transport.

In addition, SLEP 2005 has a range of planning principles applicable to development in Ultimo-Pyrmont - in relation to role and land use activities; residential development; social issues; urban design; the public domain; education; leisure and recreation; heritage; and movement and parking. Of specific relevance to the proposal are the following principles:

- Role and land use activities:
 - Development is to provide for a significant increase in residential population in a mixed-use development pattern also accommodating employment, **educational** (our emphasis) and other uses;

- Uses at the ground level of buildings fronting the public domain should complement the functions of the public domain; and
 - Where possible, development is to make use of existing under-utilised buildings and large areas of land which are either vacant or occupied by out of date facilities.
- Education:
- Development relating to educational establishments should be based on strategies for their growth and response to technological and other changes, and their integration with surrounding development.

The proposed development is consistent with the above principles.

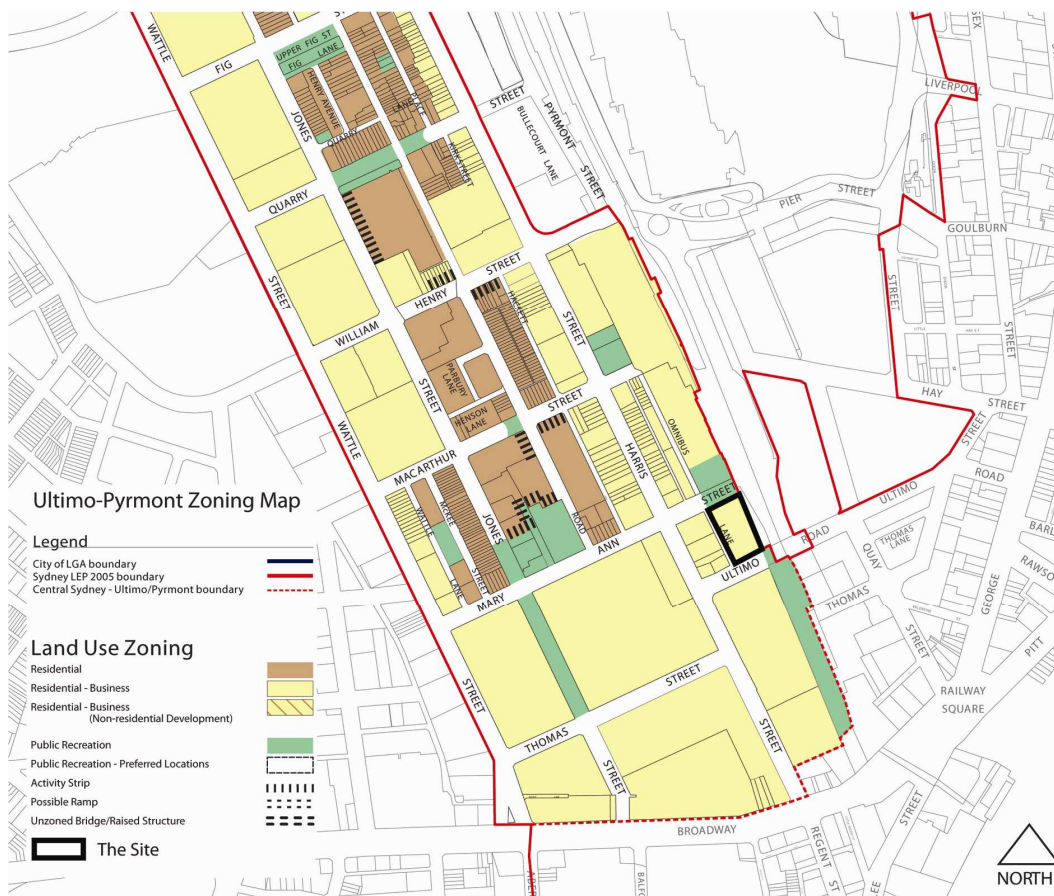


Figure 3 - SLEP 2005: zoning extract

3.2 Development standards

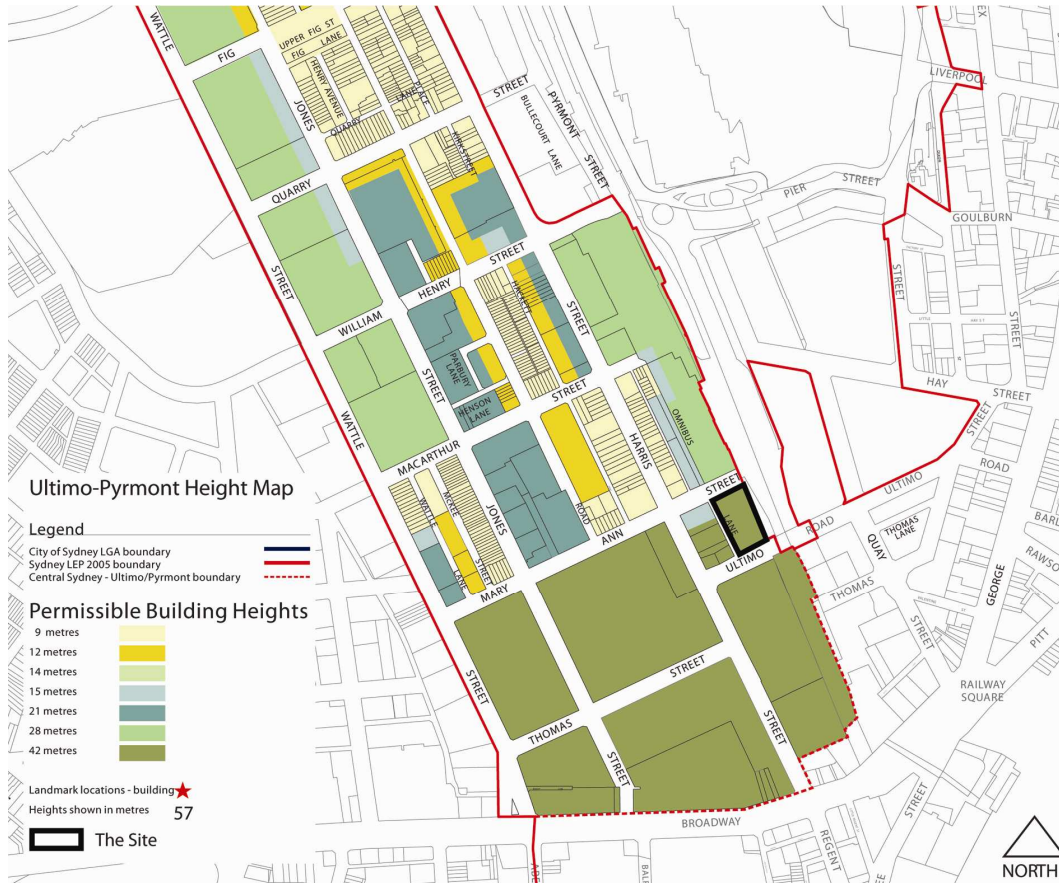
The following development standards in SLEP 2005 apply to the Residential –Business zone:

- Maximum building height (Clause 93) - 42 metres for the site (see **Figure 4**);
- Floor space ratio (FSR) for business uses in non-master planned areas (Clause 99): 5.0:1.

The proposal will result in an FSR of 5.5:1. Accordingly the following clauses in SLEP 2005 are relevant. Clause 10 enables certain development standards to be waived by up to 10% if a proposed development will improve or contribute positively to the public domain and would achieve design excellence. Clause 26 of SLEP 2005 requires that, in determining an application, the consent authority consider whether the building exhibits design excellence.

In particular, consideration must be given to whether:

- A high standard of architectural design, material and detailing will be achieved appropriate to the building type and location; and
- The form and external appearance of the building will improve the quality and amenity of the public domain; and
- The new development detrimentally impacts on important view corridors.



3.3 Development Controls

The Urban Development Plan (UDP) for the Ultimo Pyrmont Precinct – 1999 Update provides detailed planning and urban design principles for the locality, including controls in relation to street wall height, narrow streets and lanes, building setbacks, parking and other built form guidelines.

The UDP establishes controls in relation to building envelopes (controls for street wall heights and for narrow streets and lanes), setbacks, corner articulation, development in the vicinity of heritage items and the like. While an indicative building envelope for the site is shown at **Attachment 2**, this will be the subject of the aforementioned Design Excellence competition and the EAR.

4.0 MAJOR DEVELOPMENT SEPP 2005

Clause 6(1) of the Major Development SEPP provides that development that, in the opinion of the Minister, is development of a kind described in Schedule 1 (Classes of Development) is declared to be a project to which Part 3A of the EP&A Act applies.

'Educational facilities' are covered in Clause 18 of Schedule 1 as follows: "Development for the purposes of teaching or research (including universities, TAFE or schools) that has a capital investment value of more than \$30 million".

The proposed development has a capital investment value of approximately \$85 million and appears to be a development of a kind referred to in Schedule 1. Accordingly, subject to your opinion confirming this, the proposed development may be considered to be a project to which Part 3A of the Act applies.

It is therefore requested that the Minister form the opinion that the proposed development is of a type listed in Schedule 1 of the Major Development SEPP and therefore declared to be a project to which Part 3A of the EP&A Act applies.

A Preliminary Environmental Assessment to support the request for the Director-General's Requirements follows. The Preliminary Assessment provides details about the key likely environmental and planning issues associated with the proposal.

5.0 PRELIMINARY ENVIRONMENTAL ASSESSMENT

The following section outlines the key environmental issues and impacts which could potentially arise from the proposed development. Each is summarised below and will be addressed in detail in the Environmental Assessment Report (EAR) that will accompany the Project Application subject to the Minister advising that this is a major project.

As discussed below there are few environmental issues associated with the proposal, and all can be managed and/or mitigated through building design. There are no social and economic issues associated with the proposed development which will augment and expand the existing educational uses in the immediate vicinity of the site associated with UTS and TAFE. As discussed above, the use is permissible within the zone and the development will comply with relevant planning provisions and most development controls.

The following key environmental issues – in no particular order – are relevant to the development of the site under Part 3A of the EP&A Act:

- heritage;
- traffic and access;
- overshadowing;
- contamination; and
- geotechnical and groundwater conditions.

5.1 Heritage

There are a number of heritage items adjacent, or in close proximity, to the site. The Harris Street Conservation Area is situated roughly 100 metres to the north-west but is not considered relevant to the proposal because of its distance from the site. The following information is based on heritage advice prepared for the proponent by Godden Mackay Logan (July 2009).

Former National Cash Register Building

This four storey building is located opposite the site on the corner of Omnibus Lane and Mary Ann Street and fronts Harris Street. Cubic in form, it was constructed circa 1952 of reinforced concrete with curtain walls and rendered brickwork facades. It is listed as an item of local significance in SLEP 2005 (Item 107) and on the NSW State Heritage Inventory, where it is described as 'a good and rare example in the area of a postwar international style commercial building on a prominent corner site which makes a positive contribution to the streetscape' (NSW State Heritage Inventory, www.heritage.nsw.gov.au). The façade of the building retains a high degree of intact original fabric.

Ultimo Street Railway Underbridge

Located directly east of the site, the Ultimo Street Railway Underbridge is a mid 19th century construction with classic revival inspired cast iron columns and sandstock brick abutments. It is listed as a built heritage item on the NSW State Heritage Register and the Sydney Harbour Foreshore Authority Heritage and Conservation Register. Constructed in 1855 the underbridge and abutments are of state significance for their historical, scientific, social and archaeological heritage values and the underbridge is one of two remaining structures of the Darling Harbour goods line. The line's siting strongly influenced the development of Pyrmont and Ultimo, and as a result wool stores, engineering works and other industries were built here giving this part of Ultimo its industrial flavour (SHFA Heritage and Conservation Register, www.shfa.nsw.gov.au).

Given the proximity of the site to the former National Cash Register Co. Pty Ltd building and the Ultimo Street Railway Underbridge, the proposed development may impact on the heritage values of these items. Accordingly, the proponent will commission a Statement of Heritage Impact. In addition, if the proposed development were to have an impact on the Ultimo Street Railway Underbridge, the proponent will consult with the NSW Heritage Council.

Sandstone Culvert and Brick Drain

In 2003 a substantial sandstone culvert and brick drain located below the former Darling Harbour rail line directly adjacent to the site and the Ultimo Street railway underbridge were exposed during excavation for the MetroGrid Tunnel. It is understood that the remains were recorded and removed for interpretation elsewhere. A related drain running west from the sandstone culvert is believed to still be on the subject site. This matter will be addressed in the EAR.

Archaeological Potential

The site is considered to have moderate archaeological potential as it may include structural remains of mid nineteenth century buildings, drains constructed circa 1850 and associated archaeological deposits. Construction of the Dairy Farmers Building is likely to have disturbed surface and subsurface deposits. However, the low-lying original landform, evidence from historical maps and plans and the nearby sandstone culverts and brick drains suggest that archaeological remains of historical occupation and use of the site may survive. Given the potential for there to be archaeological remains, the proponent will commission the preparation of an Archaeological Assessment and Research Design.

5.2 Traffic and access

Access to the proposed car park and loading dock is planned to be from Mary Ann Street – which terminates as a cul de sac at the former heavy rail corridor. With approximately 78 car parking spaces to be provided, the development is not expected to generate significant traffic or impact on the intersection of Harris Street and Mary Ann Street. The proponent will undertake a detailed traffic, access and parking assessment as part of a future environmental assessment.

5.3 Overshadowing

A building on the site has the potential to overshadow the ABC building – specifically the outdoor area of the Inner Child Care Centre – to the immediate south across Ultimo Road. Shadow analysis will be undertaken as part of detailed design and provided with the EAR. The proposed building will be designed to avoid unacceptable overshadowing.

5.4 Contamination

Historical information and inspection of the site for due diligence purposes indicate no obvious on or off site activity that could be expected to generate significant soil or groundwater contamination other than the presence of a number of abandoned underground storage tanks and potentially contaminated fill. Sampling of the fill indicates elevated levels of TPHs – probably old diesel fuels (Environmental Investigation Services, Environmental Site Screening report prepared for UTS, June 2004).

Based on preliminary investigations the contaminants will not present any risk as the site is to be excavated to levels below the fill for the basement and piling. It is therefore considered suitable for the proposed development. Disposal of fill will be considered as part of the Stage 2 Environmental Site Assessment to be undertaken for the EAR.

5.5 Geotechnical and groundwater conditions

The site is overlain by fill to depths of 1.5 to 3 metres), deposited over alluvial deposits over sandstone bedrock. Groundwater is likely to be present in parts of the site – evidenced in seepage encountered during preliminary investigations (alluded to above). Investigations of geotechnical and groundwater conditions will be undertaken for the site as a whole for the EAR, with further investigations likely to be necessary after demolition of the existing building on the site.


As described above, the site directly abuts underground infrastructure owned by TransGrid, including the Mary Ann Street Adit. This relationship and any potential impacts will be considered in the EAR.

6.0 CONCLUSION

We trust that the above information is sufficient to enable the Minister to form an opinion that the proposed development is a project to be dealt with under Part 3A and to allow the Director-General to issue requirements for the preparation of the necessary Environmental Assessment.

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

Attachments