

Contact: Jenny Smithson

19 January, 2011

Mr Mark Schofield  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

Dear Mark,

**ADDENDUM TO SECTION 75W MODIFICATION REQUESTS  
MAJOR PROJECT APPROVAL 06\_0250 - FERN BAY SEASIDE VILLAGE**

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Further to our meeting today, please accept this submission as a formal request to:

1. Amend Modification Application 1 lodged December 8, 2010 in the manner outlined in this letter; and
2. Formally withdraw Modification Application 2 lodged December 14, 2010.

As discussed at our meeting the condition which was sought to be modified under Modification Application 2 has since been complied with in full and so a modification is no longer necessary.

In terms of Modification Application 1, subsequent discussions with the Council have suggested that modifications to a number of the conditions are not required to achieve compliance. Furthermore, the VPA has progressed to the point where approval of Stage 4 earthworks under the Deferred Commencement condition is now not likely to be required and the various conditions required by the approval for Stage 4 can now be met, with the exception of the 3 outlined in this letter.

The 3 conditions which still require modification in order for Stage 4 to proceed are B1, B4 and B14. The modifications sought are all relatively straightforward and relate to the timing of the works only, not to their necessity.

Whilst all are already the subject of the first Modification Application, in order to simplify the documentation to be assessed and referred to other agencies, this Addendum letter summarises (and can therefore replace) previous supporting modification documentation in terms of the remaining 3 conditions to be modified.

**Conditions to Be Modified**

The three conditions sought to be modified are:

- **Condition B1 – Design Modifications** – this condition requires Basin 6 to be relocated from the Conservation Lands into the development area, with the new location approved by DoP, before any construction certificate can be issued for Stage 4 works (other than clearing or earthworks).
- **Condition B4 – Footway/Cycleway on Nelson Bay Road** – This condition requires the Footway/Cycleway to be designed and approved by the RTA and Council before any construction certificate can be issued for Stage 4 works (other than clearing or earthworks).

- **Condition B14 – Landscaping and Revegetation** – this condition requires a detail landscaping and revegetation plan for the entire site before any construction certificate can be issued for Stage 4 works (other than clearing or earthworks).

#### **Summary of Modifications Sought**


With each of these 3 conditions, it is requested that the requirement to comply with them be deferred to later stages as they can not be complied with in order for timely approval of Stage 4 works. The following provides a summary of the issue associated with each condition:

- **Condition B1** – This condition requires that Detention Basin 6 be relocated from the Community Conservation Lands. It was previously agreed with the DoP that Basin 6 was not required for the drainage of Stage 4 and could therefore occur at a later stage. It is requested that the condition be reworded so that the location of Basin 6 need not therefore be resolved until Stage 6.
- **Condition B4** – This condition requires the construction of a footpath and cycleway along Nelson Bay Road as part of Stage 4. As outlined at previous meetings, there is an issue with confirming and obtaining the reserve width required for these works but this does not physically impact on Stage 4. There is insufficient land within the road reserve to accommodate the works and not all of the land adjacent is in Aspen's control. It will therefore take some time to agree a solution with the RTA and the Council although negotiations are underway. Both agencies can confirm this. It is therefore requested that the condition be amended to not require the provision of the facilities until Stage 7.
- **Conditions B14** – This condition requires a detailed Landscaping and Revegetation Plan for the entire site ahead of works for Stage 4. However, this level of detail upfront for a 10 year project is considered unreasonable particularly given it is known that some redesign of the balance of the estate is required – eg to accommodate the relocation of Basin 6. There is already an adopted and detailed Landscape Master Plan for the estate. It is therefore requested that such a plan only be required for each stage and the condition modified accordingly. This would then make the condition consistent with Developer Commitment 39.

The above summarises the extent of the modifications now sought to the existing project approval. As indicated at our meeting, clearing of Stage 4 is now underway in accordance with the approval. Earthworks for the stage are scheduled for February 2011. Given the simplicity of the modifications sought, the justification provided for seeking the modifications, and the fact that they only affect the timing of certain works, timely issuing of a modified approval is sought accordingly.

Thankyou for your attention to this matter. If you have any queries or require additional information, please do not hesitate to contact me at your convenience.

Yours faithfully



Jenny Smithson  
Senior Principal – Planning

for Cardno

cc; Mr Damien Carpenter – Aspen  
Mr Rob Monteath – Monteath & Powys