



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

12 November 2012

Dear Mr Haddad

**Subject: Determination of Modification 7 of the proposed residential development at 12-40 Bonar St & 5 Loftus St Arncliffe, Rockdale LGA**

I refer to your Acting Deputy Director-General's letter of 26 October 2012 referring the above project modification to the Planning Assessment Commission for determination under Ministerial delegation of 14 September 2011.

Ms Gabrielle Kibble AO, nominated me to constitute the Commission for the project.

Meetings

On Friday 9 November 2012 the Commission met with a representative of Rockdale City Council. Council first addressed condition B4c, and noted their preference for the Proponent to complete the works in question, which are a below-ground conduit for the undergrounding of overhead high voltage RailCorp power lines. However Council acknowledged that the works had not been completed at the time of construction at the request of Council. Should the Proponent elect to pay a contribution rather than complete the works, Council tabled their itemised costing for the works, which amounted to \$149,999 (ex GST), in contrast to the Proponent's proposed contribution of \$40,604. Council indicated their intent to install the conduit next financial year (2013/14).

With regard to condition B2, Council noted that actual undergrounding of the power lines is subject to RailCorp requirements, and had not yet taken place. Council rejected the Proponents request to adjust the amount held in accordance with CPI.

Immediately following the meeting with Council the Commission met with representatives of the Proponent. With regard to condition B4c, the Proponent noted that its preference would have been to install the conduit at the time of construction, as was done on the Hirst St boundary of the property, but that Council had requested that these works not proceed at that time. The Proponent then tabled an email from a Council staff member dated 28 February 2012 stating: "...Council will agree to your proposal to lodge a \$40,604 Bank Guarantee to cover the installation of the electrical ducts in Bonar St...". The proponent stated that it was not an option for it to return to undertake the works as the site was otherwise complete. Moreover, its preference is to pay by Bank Guarantee, and for this to expire on 1 March 2015 should the works not be completed.

With regard to condition B2, the Proponent argued that it was unfair for it not to receive CPI adjustment on an amount of \$477,617 which would be returned to them should Council not undertake the works within 5 years from the original approval.

### Consideration

With regard to condition B4c, the Commission notes the Proponents intent to undertake the works, and the completion of the works on Hirst Street, but that this was stopped on Bonar Street at Council's request. We note also that there is a marked difference between the contributions proposed by each party, however Council's higher figure includes associated costs such as restoration of the footpath and nature strip, traffic control, hoarding and site fences which would not have applied had the Proponent been able to install the conduit during construction. Moreover, Council's own correspondence from February 2012 indicates an agreement to the Proponent's proposed contribution of \$40,604. With this in mind, the Commission has required only the \$40,604 contribution for the installation of the conduits.

As Council indicated it would proceed to install the conduits next financial year, no mechanism for reimbursement (bond or bank guarantee) is considered necessary.

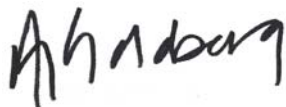
With regard to condition B2, the Commission notes that the matter is subject to RailCorp requirements. In addition the Commission notes the Department's sound reasoning for recommending against providing for indexation, which the Commission supports.

### Determination

The Commission determined that the modification to condition B4c regarding a contribution for the installation of conduits should be approved. The Proponent also sought for any reimbursed contribution for underground wiring to be indexed, however the Commission agreed with the Department's recommendation not to modify condition B2 to provide for indexation.

The signed instrument of modification and file (12/05405-1) are returned herewith.

Yours sincerely



Abigail Goldberg  
Member  
Planning Assessment Commission

cc.           The Hon. Brad Hazzard MP  
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