



11230
16 September 2016

Ms Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2000

Attention: Karen Harragon (Director, Social and Other Infrastructure Assessments)

Dear Ms McNally

**MODIFICATION TO MP 10_0032
PROJECT APPLICATION APPROVAL FOR THE AUSTRALIAN HEARING HUB**

We are writing on behalf of Macquarie University (MU) to request that the Minister (or his delegate) modify Project Application approval MP 10_0032 for the Australian Hearing Hub (AHH) project pursuant to the savings provisions under clause 2(1)(b) of Schedule 6(A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Clause 2 (1)(b) allows Section 75W of Part 3A of the EP&A Act to continue to apply to modifications of Part 3A consents referred to in clause 8J(8) of the *Environmental Planning and Assessment Regulations 2000*.

The project approval for development of the site, as described in Section 1 of this letter, was granted under delegation from the Minister by the then Director-General of the Department on 20 December 2010, subject to conditions. Modifications No.1, No. 2, No. 3 and No.4 to the project were subsequently granted under delegated authority on 1 November 2012, 14 December 2013, 12 December 2014 and 20 January 2016, respectively. The approved modifications extended the required timeframe to satisfy the respective conditions relating to the need to enter into an agreement with RMS.

This proposed modification seeks approval for a further time extension to satisfy Condition E1, and in particular Condition E1(b) in relation to the required RMS agreement for road and infrastructure works. As detailed in Section 1, the agreement between RMS and MU to satisfy the intersection works under Condition E1(b) has been delayed by discussions around a second agreement between City of Ryde Council (Council) and MU for the Shared Use Path (SUP) required by Condition C15(2) of the Concept Plan approval (MP06_0016).

We therefore submit that this is a minor administrative matter only.

1.0 BACKGROUND

The current approval (as modified) sets out various conditions that are required to be satisfied within specified timeframes following occupation of the building (Conditions E1 and E5). The AHH was completed in December 2012 with an Occupation Certificate issued on 18 December 2012.

The conditions, as modified, are included below:

Access and Traffic

- E1 Within 45 months of occupation of the building:*
- (a) the detailed micro-simulation model, as required by Modification C10(2) in the Concept Plan MP 06_0016 Approval, is to be completed in consultation with Council, the RMS, and Transport for NSW and submitted to the Department of Planning and Infrastructure for approval;*
 - (b) an agreement is also to be made with the RMS, as required by Modification C15(1) in the Concept Plan MP 06_0016 Approval, for relevant road and intersection works within 45 months of occupation of the building.*
 - (c) the amendment to the Concept Plan, as required by Modification B5 in the Concept Plan MP 06_0016 Approval, shall make provision for any setbacks along Balaclava Road (from Epping Road to University Avenue) and Waterloo Road (from Herring Road to Research Park Drive) to facilitate additional capacity improvements and bus priority, if identified as being required by the detailed micro-simulation modelling.*

Developer Contributions

- E5 Within 8 months of the occupation of the building the Proponent shall provide written evidence to the Department that demonstrates:*
- (a) that an agreement has been made with Council for the provision of development contributions and/or agreed works in kind as required by Condition C15(5) of Concept Plan MP 06_0016 Approval;*
 - (b) development contributions have been paid to Council and/or agreed works in kind have been commenced in accordance with the agreement with Council in (a) in relation to this project.*

Condition E5 has previously been satisfied.

The University's micro-simulation model was provided to the Department in December 2015, as part of the most recent modification application. The micro-simulation model was referred to RMS, Transport for NSW and Council for their approval. In response to this referral, a number of comments were received from both Council and RMS regarding the suitability of the model. Transport for NSW did not raise any significant concerns.

The University provided a response to the issues raised on 15 April 2016, and has since carried out further consultation with both Council and RMS. As outlined in the attached correspondence, RMS now agrees that the micro-simulation model is satisfactory for the purposes of the Concept Plan requirements. Council has been consulted during the process (as required by the condition) and has provided their verbal support for the micro-simulation model. In doing so, it is considered that Condition E1(a) is now resolved, pending the Department's approval.

A copy of the micro-simulation model is provided under separate cover for the Department's consideration. We note that no changes have been made since December 2015.

Similarly, Macquarie University is continuing to work towards a resolution on Condition E1(b) and the requirement to have an agreement with RMS in place for the relevant road and intersection works. The University's original Voluntary Planning Agreements (VPA) offer in December 2014 included both the intersection works and the SUP. However, this agreement has now been delayed as RMS has advised that the SUP should form part of a separate agreement with Council, and should not form part of the agreement for the intersection works. As a result, an agreement will not be in place by 18 September 2016.

To facilitate resolution of this condition, the University is now proposing to enter into two separate VPAs being:

1. an agreement with the Department, on behalf of RMS, for the outstanding road infrastructure upgrades to satisfy Condition E1(b) of the Hearing Hub approval and Condition C15(1) of the Concept Plan approval; and
2. a separate agreement with Council for the construction of the SUP to satisfy Condition C15(2) of the Concept Plan approval. MU is still waiting confirmation from Council that this approach is acceptable.

A status update of each of these agreements is outlined in Section 3, below.

With respect to Condition E1(c), the University is firmly of the view that no bus priority setback measures are required, as demonstrated in the micro-simulation model. However, the provision of bus priority setbacks has been an ongoing concern for RMS. To alleviate RMS's concerns, the University has agreed to undertake a traffic count, over a minimum four-week period, every two years. The count will determine the volume of traffic using the kerbside travel lane on University Avenue. Should the volume of traffic in the kerbside lane, in the busiest hour of the day for greater than 50% of the survey period, exceed 398 vehicles (the modelled capacity of the lane), MU is committed to initiating discussions with RMS and Transport for NSW to discuss the potential for either:

- providing a bus priority lane on University Avenue; or
- reinstating the right turn lane on University Avenue (which is proposed to be removed as part of a package of works at the University's Herring Road entry, and is subject to ongoing discussions with RMS).

The University issued a letter to RMS on 16 September 2016 seeking endorsement of this approach. This is reflected in the amended conditions below.

2.0 PURPOSE OF MODIFICATION

Despite the progress that has been made on this matter in recent months, this application seeks to modify the above conditions to allow additional time for the finalisation of the VPA with the Department, to satisfy Condition E1(b). Whilst the VPA negotiations are well progressed and a draft VPA has been prepared, delays associated with the SUP mean that it will not be executed by 18 September 2016 as originally hoped, and so the conditions will not be completed / satisfied by the nominated deadline.

The intent of the modification is to provide an additional 12 months for the VPA between the Department and Macquarie University to be executed. The additional 12 months will also provide the necessary time for the Department to formally approve the micro-simulation model, and for the Concept Plan to be modified to reflect the amendments to Condition E1(c). It is hoped that these matters will not take the full year to resolve.

3.0 CURRENT STATUS

The history of negotiations between the University and RMS has been well documented in previous section 75W modification applications. As noted above, RMS and Council have now provided their in-principle support for the micro-simulation model, and subject to the Department's approval, the University is of the view that Condition E1(a) can now be satisfied.

A copy of the most recent correspondence between RMS and MU is attached. A copy of the micro-simulation model is provided under separate cover for the Department's approval under Condition E1(a).

Consistent with Condition E1(c), the micro-simulation model includes an assessment of the operation of the internal street network within the Macquarie University campus, and has considered existing and future bus flows through Macquarie Park. The agreed micro-simulation model demonstrates that additional bus priority measures to facilitate increased capacity are not required to support bus and traffic movements through the campus. As a result, the University is of the view that there is no need to modify the Concept Plan MP06_0016 Approval to make provision for any setbacks along Balaclava or Waterloo Roads. However, as outlined above, to alleviate ongoing concerns regarding bus operation, Condition E1(c) has been modified to reflect the University's commitment to undertake regular traffic counts to monitor the performance of the University Avenue intersection.

To enable Condition E1(b) to be resolved, the University is entering into a VPA with the Department (on behalf of RMS) to provide a monetary contribution towards regional road and transport infrastructure. It was originally intended that this VPA would also address the required contributions for the SUP (Condition C15(2) of the Concept Plan) however RMS has subsequently advised that this should be managed through a separate agreement with Council. Whilst not directly linked to the satisfaction of Condition E1(b), discussions around the agreement for the SUP have delayed the execution of the VPA for the regional road and transport infrastructure, as these issues are linked under the Concept Plan.

A summary of the ongoing discussions that have been held between MU, the Department, RMS and Council is provided in **Table 1** below. Once all parties have agreed to the revised approach, a Concept Plan modification will be submitted to enable a second VPA to be entered into with Council. It is anticipated that both VPAs, and particularly the VPA required to satisfy Condition E1(b), can be resolved reasonably quickly.

Table 1 – Summary of events

Date	Event / Action
Pre-June 2014	Ongoing discussions between MU and RMS to reach in principal agreement in relation to the SUP and regional road and transport infrastructure (refer to previous modification applications for further details).
3 June 2014	University began discussions with Council regarding the SUP, and the option of providing a monetary contribution or delivering the path as works in kind. MU requested Council provide a cost estimate for the SUP. Council later advised (29 July 2014) that the University should undertake the works on Council's behalf.
12 December 2014	MU issued a Letter of Offer to the Department to enter into a VPA for the intersection contributions and SUP.
19 June 2015	RMS accepted MU's offer for a total contribution of \$7.2M, to be provided in-lieu of any outstanding road upgrade works. RMS's letter excluded reference to the SUP.
12 October 2015	Department's Urban Renewal team issued the Draft VPA to MU. The Draft VPA excluded reference to the SUP.
December 2016	Ongoing correspondence between MU and the Department regarding omission of the SUP from the Draft VPA. As outlined below, MU has been working to resolve this issue, prior to providing comment on the Draft VPA.
12 April 2016	Meeting held between MU and the Department's Development Contributions Team regarding the VPA. At this meeting: <ul style="list-style-type: none"> The Department asked if MU would consider making the \$7.2m payment upfront (in one or two tranches). MU also requested that the requirement to provide the SUP be satisfied by the payment of an additional cash contribution. The Department was satisfied with this approach, however suggested that MU obtain RMS's endorsement.
20 April 2016	MU sent an email to the Department regarding the staging of the \$7.2M contribution, as follows: <ol style="list-style-type: none"> 1/3 payment due on or about date of execution of the VPA; 1/3 payment 12 months after execution; and 1/3 payment 24 months after execution.

Date	Event / Action
25 May 2016	MU sought endorsement from RMS around whether the SUP could form part of the VPA for regional road and transport infrastructure.
1 June 2016	RMS advised that the SUP is outside of their area of control, and that the SUP should be resolved between MU and Council.
23 June 2016	MU sent an offer to Council to provide a cash contribution for the SUP, including a budget estimate for construction of the path. MU requested that Council accept a cash contribution, rather than MU carrying out the works on Council's land.
15 August 2016	Council provided MU with an updated construction cost for the SUP.
2 September 2016	MU sent correspondence to Council seeking in-principle agreement around the SUP, as follows: <ul style="list-style-type: none"> • MU and Council have agreed in-principle that MU will pay a contribution of \$825,000 to Council, for Council to provide a SUP along Epping Road (location to be finalised). These funds are to be contributed in order to satisfy Condition C15(2) of the Concept Plan approval. • Council will prepare a letter to the MU nominating the details of the arrangement, including a plan describing the proposed location of the SUP. • MU will contact the Department and RMS to ensure each party is satisfied with this arrangement and to work out an appropriate mechanism to ensure the contribution satisfies the requirements of Condition C15(2) of the Concept Plan.
12 September 2016	Correspondence sent to RMS seeking agreement to separate the VPA for the SUP from the VPA for the intersection upgrades.
13 September 2016	Correspondence sent to the Department providing an update on negotiations with RMS and Council, and requesting confirmation that the Department is willing to accept payment of the \$7.2M contribution in three tranches, as outlined above.

4.0 PROPOSED MODIFICATION

The purpose of Condition E1 was to ensure that Macquarie University resolves various traffic and transport-related matters in a timely manner and with a suitable level of certainty for the Department, Council and RMS (as relevant).

Whilst the University has made reasonable endeavours to resolve the condition, it seeks to modify Condition E1 of the original and modified consent for MP 10_0032 for a further 12 months. This means that the Department's approval of micro-simulation model, execution of the VPA and revision of Condition C15(1), would be required by 18 September 2017 to satisfy Conditions E1(a), E1(b) and E1(c).

The proposed amended wording of the relevant condition is identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

Access and Traffic

- E1 Within ~~45 months~~ ***57 months*** of occupation of the building:
- the detailed micro-simulation model, as required by Modification C10(2) in the Concept Plan MP 06_0016 Approval, is to be completed in consultation with Council, the RMS, and Transport for NSW and submitted to the Department of Planning and Infrastructure for approval;*
 - an agreement is also to be made with the RMS, as required by Modification C15(1) in the Concept Plan MP 06_0016 Approval, for relevant road and intersection works within ~~45~~ ***57*** months of occupation of the building.*
 - the amendment to the Concept Plan, as required by Modification B5 in the Concept Plan MP 06_0016 Approval, shall ~~make provision for any setbacks along Balaclava Road (from Epping Road to University Avenue) and Waterloo Road (from Herring Road to Research Park Drive) to facilitate additional capacity improvements and bus priority, if identified as being required by the detailed micro-simulation modelling.~~ be modified to require that the University undertake a traffic count, over a minimum four-week period every two years, to determine the volume of traffic using the kerbside travel*

lane on University Avenue. Should the volume of traffic in the kerbside lane, in the busiest hour of the day for greater than 50% of the survey period, exceed 398 vehicles (the modelled capacity of the lane), the University must initiate discussions with RMS and Transport for NSW to discuss the potential for either:

- i) Providing a bus priority lane on University Avenue; or*
- ii) Reinstating the right turn lane on University Avenue.*

5.0 PLANNING AND ENVIRONMENTAL ASSESSMENT

5.1 Merits of the Modification

Whilst best endeavours have been made, the above process to seek to resolve Condition E1 is still likely to take additional time. A further period of 12 months to resolve this complex matter is reasonable given the significant level of work already completed by Macquarie University to gain an agreement with the RMS, now via a VPA with the Department, and the recent progress that has been made regarding the micro-simulation model and bus priority measures.

The reworded condition will allow for this condition to be satisfied in a reasonable timeframe. The condition (as reworded) does not lessen the need for Macquarie University to complete the actions required, nor the University's desire to resolve them.

6.0 CONCLUSION

In our view, the scope of the modification sought in the context of the original approval is minor and largely administrative, and does not seek to remove Macquarie University's obligation to resolve the matter in a timely manner with the Department. By its actions to date, Macquarie University has already demonstrated its commitment to satisfying the condition, and the condition is now nearing resolution.

We trust this request for a modification contains all the necessary information required. Consistent with the provisions of the relevant legislation, please find enclosed the section 75W modification application form and the requisite landowner's consent.

If you have any queries or would like to discuss this matter further, please do not hesitate to contact me on 9956 6962 or ktudehope@jbaurban.com.au.

Yours sincerely



Kate Tudehope
Principal Planner

Attachments:

- MU response to issues raised by Council and RMS in relation to the micro-simulation model, dated 15 April 2016.
- Recent email correspondence between MU and RMS providing in-principle support for the micro-simulation model, dated 30 June 2016.
- Traffic Management Plan and letter to RMS seeking endorsement of proposed traffic counts and bus priority measures, dated 16 September 2016
- Section 75W modification form including landowner's consent.
- Political Donations declaration.

Submitted Under Separate Cover:

- Micro-simulation model can be accessed via this link - <https://arup.sharefile.com/d-s0048570a0c94d3a8>