

Ben Lusher
Manager
Key Sites and Social Projects
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

MIN2010/6

Attention: Fiona Gibson

3 July 2014

Dear Mr Lusher

Section 75W Modification for Stage 1 Project Approval (MP10_0113).

Thank you for your letter inviting Council to comment the above Modification application. Council's response to each of the proposed amendments is provided below.

- 1. Modify condition B29 to reflect the NSW's current water rating system. This will allow a 3 star WELS appliance rating to be used in lieu of an AAA water rating.**

Council raises no objection to the above change to reflect compliance with the new water efficiency rating system. Council will expect that compliance with the new rating system will be certified prior to occupation certificates for units are issued.

- 2. Modify condition D1 to reflect Ryde Council's standard construction operating hours.**

Council raises no objection to a change of the hours of construction to be the same as those which would generally be applied to other major development in the City of Ryde under Council's standard conditions. Consistent with that approach, any variation to those hours during the actual construction period of the development needs to be formally approved by in accordance with Council's policies. Council will require a minimum of 14 days advance notice of any variation with any supporting documentation provided. Any unauthorised breach of the hours of construction will be subject to the issuing of notices and penalties in accordance with the applicable legislation.

3. Amend compliance timeframes for Part B of the consent to reflect the proposed staging for the issue of construction certificates.

Council objects to the proposal to amend Part B of the consent to delay payment of the Security Bond and Enforcement Levy until a construction certificate is issued for the proposed buildings. Further it objects to delaying payment of the Long Service Leave Levy with the construction certificate for demolition. Payment of all fees and charges – including a Damage Deposit to protect Council's existing infrastructure - should be made prior to any works commencing on the site and therefore prior to any construction certificate.

Council's objection is based on interpretation of the term "Security Bond" as an means to protect Council's infrastructure and assets by payment or security during and after the full construction period. Another term for the same thing is "Damage Deposit". This differs from a bond or bank guarantee that may include a value for new works to be dedicated and that covers the construction cost of the work and an agreed maintenance period. The latter payment will relate to the value of the proposed works and is separate to the payment of fees and charges required prior to any work taking place on the site.

Council's Damage Deposit is designed to protect its existing assets and is calculated on the frontage of the site (in this case, the Herring Road frontage as a restriction to access the site from Epping Road would be put in place by the Roads and Maritime Services authority). All access to the development site for demolition, excavation and construction will be from Herring Road (a Council road) for all vehicles entering or leaving the site and for the full duration of construction works on the site. (i.e. for Stage 1 and Stage 2).

As such, the Damage Deposit (or Security Bond) will be in place for the full duration of the construction phase and until such time as Council is satisfied that its assets are in satisfactory condition.

On the other hand, any infrastructure works proposed for dedication to Council will need to be bonded for the full duration of the construction period and for a maintenance period beyond. For this reason, Council suggests that these matters be the subject of a separate condition to differentiate them from the statutory fees and charges discussed above. The nomination of the value of any bond payment will depend on the value of the works being undertaken. With regard to release of the any such construction and maintenance bond, the following wording is suggested:

Following certification by the PCA of the practical completion of the work in Stage 1, the proponent may apply to Council to redeem that part of the bond not required to secure protection of the works in subsequent stages of development on the site. The remainder of the bond shall be released following a minimum satisfactory 12 months maintenance period following practical completion of the works.

The currently proposed percentage figure of 25% being retained at the completion of works may not be sufficient to cover the actual value of the new works. It is preferred that the figure be negotiated between the parties (Council and Developer) and managed in the same way as for a development approved by Council. This will provide a continuity of approach with the future Stage 2 development application for which Council is the assessing authority. A 12 month period for maintenance is required to ensure that the work is satisfactorily completed.

The proponent is seeking to link payment of the Long Service Leave Levy to the construction certificate for demolition. While the LSL is a State Government charge, it is preferable from Council's point of view that if the payment is made through Council, that it be resolved up front and in a single transaction with all other fees and charges. For this reason, the LSL should also be made payable prior to the release of any construction certificate. If the Department chooses to keep the payment time separate, then the condition should direct the proponents to pay the levy directly to the NSW Long Service Corporation.

4. Defer the requirement for a Section 73 Sydney Water Certificate until prior to issue of the Occupation Certificate

Council makes no comment on this matter as it falls generally within the jurisdiction of Sydney Water.

If you have any questions or wish to discuss the matter further, please contact me or Glenn Ford (Client Manager) on 9952 8227 or gford@ryde.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'D. Johnson', with a long horizontal flourish extending to the right.

Dominic Johnson
Group Manager
Environment and Planning