

DEPARTMENT OF PLANNING & INFRASTRUCTURE

Development Assessment Systems and Approvals

SUBJECT: MODIFICATION TO UNSW MATERIALS SCIENCE AND ENGINEERING BUILDING (SSD 5373 MOD 1)

PURPOSE

To determine a section 96(1A) modification request (SSD 5373 MOD 1) to modify condition B17 Flooding of the development consent for the construction of the Materials Science and Engineering Building at the UNSW Kensington Campus.

BACKGROUND

On 19 June 2013, the Executive Director, Development Assessment Systems and Approvals, under delegation from the Minister for Planning and Infrastructure, approved the State significant staged development application for the construction of the Materials Science and Engineering Building at the UNSW Kensington Campus (TAG A). The development comprised:

- removal of at-grade car park;
- bulk excavation;
- construction of a nine storey education and research building, including ancillary retail space;
- tree removal;
- landscaping works; and
- loading zone.

PROPOSED MODIFICATION

The applicant is seeking an amendment to condition B17 Flooding, to enable basement openings to be 0.3 m above the 1 in 100 year flood level rather than the 0.5 m required in condition B17, as outlined below.

Flooding

B17 The applicant shall demonstrate to the Certifying Authority that any opening into the basement area of the building is located 0.5 0.3 metres above the determined one per cent AEP (1 in 100 year) flood or suitably protected up to this level.

MODIFICATION OF THE MINISTER'S CONSENT

Section 96(1A) of the EP&A Act provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent that is deemed to be substantially the same development. Therefore, the Minister is the consent authority for the subject application as the original application was granted by the Executive Director, Development Assessment Systems and Approvals, as delegate of the Minister for Planning and Infrastructure on 19 June 2013.

Section 96(1A) of the EP&A Act requires the matters outlined in Table 1 to be assessed in respect of all applications which seek modifications to an approval.

Table 1: Matters to be considered under section 96(1A) of the EP&A Act

Matter	Consideration
Whether the proposed modification is of minimal environmental impact	The proposed modification relates to the freeboard above the 1 in 100 year flood level and the applicant has provided stormwater engineering report to demonstrate that the 0.3 metre freeboard would be sufficient given the stormwater detention works that have been undertaken for the lower campus.

Matter	Consideration
Whether the development to which the consent as modified relates is substantially the same development	The proposed modification seeks to modify a condition. The proposed development was designed with the basement opening located 0.3 m above the 1 in 100 year flood level as such the modified development would be substantially the same development.
Whether notification has occurred and any submissions have been considered	In accordance with the EP&A Act and the EP&A Regulations, the modification request does not need to be notified. The submission received from council is considered in the key issues section of this report.
Any relevant provisions of section 79C(1) of the EP&A Act	The relevant provisions of section 79C(1) of the EP&A Act are considered in this section and the key issues section of this report.

CONSULTATION

The application was notified in accordance with the Environmental Planning and Assessment Regulation 2000. The application was made publicly available on the department's website. Randwick City Council was also notified of the proposal.

Council raised no objections to the modification request as the design of the building and stormwater system meets council's relevant requirements. Council notes that all future applications on the campus should be designed to meet the new 0.5 metre freeboard requirement. No public submissions were received on the modification request.

DELEGATED AUTHORITY

The Minister has delegated his functions to determine section 96 applications to the Directors in the Major Projects Assessment Division where:

- the relevant local council has not made an objection, and
- a political disclosure statement has not been made, and
- there are less than 10 public submissions objecting to the proposal.

It is noted that:

- council does not object to the proposal, and
- no public submissions were received, and
- no reportable political donation has been declared in relation to the original application or this modification request.

In accordance with the Minister's delegation, the Director, Industry, Social Projects and Key Sites, may determine this project under delegated authority.

KEY ISSUES

The development consent includes a condition that requires the basement area of the building to be located 0.5 metres above the determined one per cent AEP (1 in 100 year) flood, or suitably protected up to this level. The design of the approved building incorporates a 0.3 metre freeboard based on the stormwater engineering design supporting the early works package undertaken as development without consent under a REF, pursuant to clause 29 of the Infrastructure SEPP.

The applicant contends that the building has been designed to meet council's standards and the incorporated freeboard is adequate to minimise the risk of flooding. Council have acknowledged that the 0.5 metre freeboard requirement is a new standard and accepts that the 0.3 metre incorporated in the design would have been adequate to meet council's requirements at the time of lodgement of the original SSD application. Council notes that future applications on the campus would be required to meet the new standard.

Accordingly, the department considers the condition as amended would still ensure flood risk mitigation is incorporated in the design of the building and therefore recommends the modification request be approved.

RECOMMENDATION

It is RECOMMENDED that the Director, Industry, Social Projects and Key Sites:

- note the information provided in this briefing;
- approve the modification request; and
- sign the attached modifying instrument (TAG B).

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