

15 March 2011

Ku-ring-gai Council  
Level 4, 818 Pacific Highway  
**GORDON NSW 2072**

Attention: Stuart Ratcliff (By email: [sratcliff@kmc.nsw.gov.au](mailto:sratcliff@kmc.nsw.gov.au))

Dear Stuart

**Aevum Lourdes Village, 95-97 Stanhope Road, Killara, DA0495/10**

I write to you on behalf of the applicant for this Development Application. We are in receipt of JRPP (Sydney West Region) Business Paper – (Item 1) (17 March 2011) – (JRPP 2010SYW044), downloaded from the JRPP website, containing Ku-ring-gai Council's recommended conditions of consent to the JRPP, which became available on 9 March 2011.

Whilst grateful for Council's recommendation to the JRPP that development consent be granted, our project team is concerned by the implications of a number of the proposed conditions of consent, some of which would, if unamended, require the applicant to immediately lodge a Section 96 Application in order to obtain a Construction Certificate. We have been advised by the JRPP to take up this concern directly with Council, in advance of our scheduled JRPP meeting.

Our concerns are as follows (listed from items of greatest concern to least concern):

- **Conditions 28, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and title of section preceding 68, in relation to Occupation Certificates**
  - A number of these conditions will prevent the applicant from staging the construction and occupancy of the development, as they may prevent the issue of any Occupation Certificate prior to the comprehensive completion of all works. The applicant would otherwise be able to arrange the use and occupancy of buildings as they are completed, via an Interim Occupation Certificate (in which a Principal Certifying Authority is required to consider only matters of health and safety to the occupants of the building). To maintain the intention of Council's requirements whilst addressing this issue, it is proposed that the wording around the term Occupation Certificate is amended to clarify the operation of the conditions for 'portions' of the development.
  - For similar reasons the section preceding condition 68 entitled "Conditions to be satisfied prior to the issue of an Occupation Certificate" should be amended to "Conditions to be satisfied prior to the issue of the Interim/Final Occupation Certificate for the applicable portion of the development".





- **Condition 12 – Tree Protection Fencing**

- Radii prescribed by Council for tree protection fences will physically prevent construction of works in several instances, including the vehicular access ramp to the Stanhope building basement carpark, planter bed walls to the north of the Stanhope building, and pedestrian pathways north of the Stanhope building. It is proposed that Council instead allow the applicant to adjust the extent of tree protection where necessary, in accordance with Australian Standards and allow for removal during structural landscape construction.
- Radii prescribed by Council for tree protection fences includes Tree No.14, centred in a neighbour's property (91 Stanhope Rd), yet the applicant has no right of access to this property.

- **Condition 24 – Location of plant (residential flat buildings)**

- The condition requires all plant and equipment to be located within basement areas. However, services engineering advice indicates that this is likely to result in excessive heat building up within basement areas. It is proposed that the condition is deleted; or amended to allow plant to be located in other areas, subject to confirmation being sought from Council outside a Section 96 process.

- **Condition 56 – Cutting of tree roots**

- It is considered typical practice to restrict roots of 50mm diameter or greater from being cut or injured. However the condition as drafted sets a threshold of 30mm, meaning that work around a much larger number of roots will need to be supervised by a qualified Arborist during mechanical and 'by hand' excavating. This additional time is excessive cost to the development.

- **Condition 59 – Hand Excavation**

- It is considered typical practice to require hand excavation within the top 600mm below natural ground levels, around significant trees that are to be retained. However the condition as drafted requires all such excavation to be carried out by hand, unnecessarily increasing the cost of development.
- In the case of Tree No.14, the use of hand excavation and the radius prescribed by Council will prevent the mechanical excavation of the vehicular access ramp to the Stanhope building basement carpark, unnecessarily increasing the cost of development.

- **Condition 18 – Privacy**

- The sill height prescribed by Council for west facing windows of 1.6m to two units is high, and beyond the expected reach of the aged occupants of the unit. The inability of residents to open the window will restrict cross ventilation in the unit. There is screen planting proposed along this western boundary that will provide appropriate privacy for the adjacent resident from the development.



- **Condition 80 – Certification of as-constructed driveway/carpark**

- Part 4 of the condition as drafted seeks to ensure "unrestricted access for internal garbage collection" by requiring all doors, gates and other structures be removed from "the access driveways to the basement carpark". This part of the condition is considered unreasonable as:
  - Drawing DA7.5, referenced in condition of consent No.1, shows that all garbage collection is from external kerb-side locations. Village staff are to be responsible for transferring garbage from internal basement storage areas to external collection areas, and are capable of navigating any doors, gates, etc.
  - Vehicular entries to basement carparks have been annotated as 'RS' in plan, indicating that roller shutter doors are intended to be provided. These are also considered as essential to the security of the property.
  - Garbage storage rooms in the basement carpark are to be provided with doors, as was shown in plans. These doors will assist in managing odour and vermin.

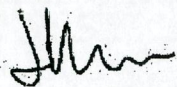
- **Condition 19 – Amendments to approved landscape plan**

- Part 7 of the condition as drafted is considered unreasonable as the increased height of proposed planting (2.0m) along Stanhope Rd will prevent the passive surveillance of the landscaped garden area by village staff. Such surveillance is in the interest of the safety of village residents.

Please find attached a revised version of the proposed conditions of consent, amended to reflect all changes above being implemented.

Whilst conscious of the limited time before the JRPP meeting we trust that Council will provide due consideration of this request, mindful that these conditions have only recently been released to the applicant for review.

Yours sincerely,  
**epm Projects Pty Ltd**



**Johan O'Brien**  
Senior Project Manager

Cc: Suzie Jattan, Project Officer, Panel Secretariat for JRPP Sydney West Region

Cc: Carlo Di Giulio, Willana Associates (for Vicki Shirlaw, Applicant)

Cc: Andrew Nichols, Aevum Limited / Stockland Development Pty Ltd

**ATTACHED: "Proposed Amendments to Consent Conditions" - 15 March 2011**