

22 March 2019

218153

Mr Jeremy Bath
Chief Executive Officer
PO Box 489
Newcastle NSW 2300

Attn: Mr Ian Clark, Senior Development Officer

Dear Ian

**RE: DA2018/00933 – 16 HONEYSUCKLE DRIVE, NEWCASTLE
RESPONSE TO DRAFT CONDITIONS**

We write on behalf of the University of Newcastle in response to the draft conditions of consent for DA 2018/00933 relating to the proposed early works at 16 Honeysuckle Drive, Newcastle. We thank you for the opportunity to review the draft conditions and provide the following comments for Council's consideration.

Condition 2

Condition 2 of the draft conditions of consent seeks to impose a monetary contribution of \$132,100 on the development, pursuant to Section 7.12 of the EP&A Act. This condition is not considered appropriate in context of the proposal and is not agreed to by the University for the following reasons.

The proposal comprises site preparation works only and will not generate demand for additional community services or facilities by way of increasing the intensity of the land use. Whilst it is recognised that section 7.12 plans do not require any connection between the development on which the levy is imposed and the facilities to be funded, any contribution to be levied must be reasonable. It is considered unreasonable to impose development contributions on development for site preparation works.

The proposed enabling works only required the submission of a DA because the works extended over land the University does not directly control. Ordinarily, if the works were undertaken at one of the University's other campuses, including the Callaghan campus, they would be undertaken without consent in accordance with Part 5 of the EPA & Act and a contribution would not apply. A contribution for routine enabling works should not be imposed just because a DA was necessary in the circumstances.

The University is recognised as the Crown by virtue of clause 226 of the EP&A Regulation and the Department of Planning and Environment's Circular D6 sets out reasons why Crown developers should be exempt from certain developer contributions. While Circular D6 "*Crown Development Applications and Conditions of Consent*" was formulated in 1995, it still remains the guiding document in relation to Crown applications and development contributions.

The Circular recognises that where the applicant is a Crown authority, the activities are not likely to require the provision of public services and amenities in the same way as development undertaken with a commercial object would. Accordingly, Circular D identifies justifiable categories of contributions towards off-site works for Crown developments providing an essential community service. The proposed development is for works associated with a future educational establishment, and therefore the Circular states contributions are unwarranted for open space, community facilities, parking, and general local and main road upgrades. It is noted that drainage is listed as an appropriate category for contributions in the Circular, however, the application includes upgrades to drainage in the surrounding public domain and as such an additional monetary contribution is unnecessary.

The University and the proposed future use of the site which this application will facilitate are inherently of a public nature, providing educational and employment opportunities to the Newcastle community. Therefore, an exemption is appropriate as the University is a not-for-profit public institution which often relies on government grants, donations, and community funding to provide new facilities for both the University community, and the public at large. The levying of a development contribution would divert a portion of these public funds to local services without any direct nexus to the impact on those services.

This request to remove the requirement for the payment of a development contribution is consistent with the Department of Planning and Environment's position in its determination of the SSD application for the University's 'New Space' building in 2015 and in the recent determination of the Bioresources Facility Building at the Callaghan Campus in February 2019.

In light of the above, it is requested that Condition 2 not be imposed on the development consent.

Condition 10

Condition 10 requires the preparation of a Hazardous Substances Management Plan for 'the building(s) or parts of the building(s) proposed to be demolished'. The condition is not relevant to the proposal as there are no existing buildings or structures at the Site and the proposal does not seek demolition of any buildings or structures. As such, it is requested that this condition be removed.

Conclusion

With the exception Conditions 2 and 10, the University agrees to the draft conditions proposed by Council. Should you have any further queries about this matter, please do not hesitate to contact me on 9409 4953 or cforrester@ethosurban.com.

Yours sincerely,



Chris Forrester
Principal
9956 6962
cforrester@ethosurban.com



Gordon Kirkby
Director
9956 6962
gkirkby@ethosurban.com