

22/07/20

**Our Ref:** 18-211 (AC)**Chair Carl Scully**

Sydney Eastern City Planning Panel

Via email

[enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au)

Dear Chair,

**RE: DA-2019/79****PPS-2019ECI021****132 WENTWORTH AVENUE, PAGEWOOD**

This letter has been prepared by City Plan Strategy and Development P/L (City Plan) on behalf of Leda Holdings Pty Ltd (Leda) as the applicant of DA-2019/19 in relation to the site at 132 Wentworth Avenue, Pagewood.

Leda has reviewed the Council Assessment Report and is supportive of its recommendation to grant consent. They are also generally supportive of the conditions of consent with the exception of the following:

- Condition 26 (b) and (c)
- Condition 33 (c) - (e)
- Condition 76
- Condition 79 (b)

It is requested that the Sydney Eastern City Planning Panel consider amending the conditions listed above as recommended in the table below at the panel meeting to be held on Thursday 23 July 2020 at 10am. It is in relation to these recommended amendments that City Plan and Leda would like to address the panel on.

The amendments being requested relate to additional financial implications that are being imposed by the consent. Before these additional charges are applied, the consent requires the following expenditure by the applicant:

Item	Cost
<b>Bonds/ deposits</b>	
Tree Preservation Bond (Condition 25)	\$6,000
Footpath Crossing Deposit (Condition 26 (b))/ Builder's Damage Deposit and Performance Bond (Condition 29)	\$241,026.39

Item	Cost
Total	\$247,026.39
<b>Fees/ charges</b>	
Environmental Enforcement Fee (Condition 26 (a))	\$26,000.00
Section 7.12 Contributions (Condition 26 (c))	\$357,759.89
Long Service Levy (Condition 27)	\$125,215.96
Total	\$508,975.85
<b>Cost of works (Wight Street only)</b>	\$185,250.00
<b>Cost of works (Wight Street and Wentworth Avenue)</b>	\$612,233.00

Where parts of a condition are proposed to be deleted these amendments are shown in the table with strikethrough, while proposed amendments to the wording of the conditions are shown in the table as red text.

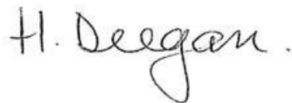
Condition and proposed amendment	Reasoning/ Justification
<p>26. The applicant must prior to the commencement of any works, pay the following fees:</p> <p>(a) Environmental Enforcement Fee 0.26% of cost of works (with estimated cost of works capped at \$10 million)</p> <p>(b) Footpath Crossing Deposit <del>\$425,224.78</del> <b>\$241,026.39</b></p> <p><b>The applicant must prior to the issue of any Occupation Certificate:</b></p> <p>(c) Section 7.12 Contributions See condition below</p> <p>Or</p> <p><b>Where a Construction Certificate is issued prior to 25 September 2022, Section 7.12 contributions are to be paid prior to the issue of an Occupation Certificate. After 25 September 2022, Section 7.12 contributions are to be paid prior to the issue of a Construction Certificate.</b></p>	<p>Condition 26 (b) requires the applicant to pay a footpath crossing deposit to Bayside Council (Council). The amount included in the recommended conditions of consent is \$425,224.78. This is significantly less than the \$874,748.35 amount previously identified by Council, and significantly more than the \$241,026.39 confirmed by Council on 17 July 2020. This amount has continued to be calculated incorrectly, with minimal consideration given to the specific characteristics of the site and the development application in applying standard conditions.</p> <p>It is requested that this condition of consent be amended to reflect the correct deposit amount required. As at 17 July 2020 this was \$241,026.39. However, this should be reconfirmed given the continuing inconsistencies in calculating the footpath crossing deposit amount. Council's fees and charges for 2020/ 2021 nominate a rate of \$452/ linear metre for this purpose.</p> <p>It is also requested that the payment of the Section 7.12 contributions be delayed to prior to the issue of an Occupation Certificate. Council</p>

Condition and proposed amendment	Reasoning/ Justification
	<p>has the discretion under the City of Botany Bay Section 94A Development Contributions Plan 2016 to defer the payment of contributions. It is requested that this discretion be applied to DA-2019/79, noting that the payment of \$357,759.89 is a significant cost for the applicant to take on before construction has even commenced.</p> <p>In the event that this amendment is not acceptable, it is requested that the condition be amended to reflect COVID-19 measures, which form part of a ministerial direction, deferring the payment of Section 7.11 and 7.12 contributions and levies until the issuing of the first Occupation Certificate issued prior to 25 September 2022. This amendment would also mean that the applicant would not be required to write a formal letter to Council requesting deferment of the payment within the COVID-19 prescribed period.</p>
<p>33. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:</p> <ul style="list-style-type: none"> <li>(a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,</li> <li>(b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers) and Council in connection with: <ul style="list-style-type: none"> <li>(i) The additional load on the system, and</li> <li>(ii) The relocation and/or adjustment of the services affected by the construction.</li> </ul> </li> <li>(c) The Ausgrid lighting poles along <del>Wentworth Avenue and</del> Wight Street, adjacent to development, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,</li> <li>(d) All above ground utilities along <del>Wentworth Avenue and</del> Wight Street, adjacent to</li> </ul>	<p>Conditions 33 (c)-(e) relate to the undergrounding of utilities in Wight Street and Wentworth Avenue. Leda accepts the imposition of this condition within the consent as it relates to Wight Street. However, it is noted that Wentworth Avenue is a State classified road managed and financed by TfNSW. The undergrounding of utilities along a State classified road is a more extensive exercise than for a local road and likely to be more costly to the applicant than intended by imposing the condition. As an example of the extent of works required, the utilities within Wentworth Avenue adjacent the proposed development are generally powered from the southern side of the road feed into the utilities along northern side of the road and therefore would likely require works across the entire width of this six-lane road, noting this would require Wentworth Avenue to be closed (or partially closed) while the works are undertake. A Quantity Surveyors has estimated these utility relocation works to be in the order of \$317,162, based on these works being carried out within normal construction hours. However, TfNSW is unlikely to permit these works within the normal construction hours and therefore would</p>

Condition and proposed amendment	Reasoning/ Justification
<p>development, shall be relocated underground in accordance with Ausgrid specifications and any other affected and relevant service provider, and</p> <p>(e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.</p> <p>All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to the issue of the Construction Certificate.</p> <p>Any costs in the relocation, adjustment, and provision of land or support of services as requested by the Council and service authorities are to be the responsibility of the developer.</p>	<p>need to be carried out at nighttime and on weekends. The cost of carrying at works at nighttime and on weekends is exponentially more, equating to a 40% increase or a total of \$444,026.</p> <p>It is considered that the cost of these works is inconsistent with the type and scale of development proposed and has the potential to make a development with no identified impacts unviable.</p> <p>Additionally, it is noted that the recommended conditions require the payment of \$357,759.89 for Section 7.12 (formerly Section 94A) Contributions. The City of Botany Bay Section 94A Development Contributions Plan 2016 is the current contributions plan that applies to the site. This contributions plan identifies works for which contributions are obtained under Section 7.12, and for the Banksmeadow Industrial Area (north), these works include street lighting. Therefore, it is considered that part of the Section 7.12 contributions to be paid by the applicant could contribute to the undergrounding of utilities anyway.</p> <p>It is reminded that Leda is only seeking to remove application of this condition to Wentworth Avenue and not its principal street address along Wight Street.</p>
<p>76. Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in the street/s adjacent to the development (Wight Street <del>and Wentworth Avenue</del>), and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.</p>	<p>See justification above in relation to Condition 33.</p>
<p>79. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Council:</p>	<p>Condition 79 (b) requires the applicant to demolish the existing concrete footpath on Wight Street and Wentworth Avenue adjacent the</p>

Condition and proposed amendment	Reasoning/ Justification
<p>(f) On Wight Street, adjacent to development, remove redundant driveway crossovers and provide required tree planting and public domain improvements as specified by Council in accordance with Council's Infrastructure Specifications, and</p> <p>(g) On Wight Street <del>and Wentworth Avenue</del>, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and</p> <p>(h) On Wight Street, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and</p> <p>(i) On Wight Street, construct new kerb inlet pit(s) and stormwater pipe(s), connecting to existing stormwater infrastructure located within Wight Street to Council infrastructure specifications, and</p> <p>(j) On Wight Street, adjacent to development, reconstruct the road asphalt full width in accordance with Council's Infrastructure and Pavement Engineer's specifications.</p> <p>All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be constructed to the satisfaction of Bayside Council.</p>	<p>development and construct a new footpath as per Council's Infrastructure and Landscape Architect specifications prior to the issue of any Occupation Certificate. No works are proposed within the Wentworth Avenue road reserve adjacent to the proposed development as part of DA-2019/79 and therefore this condition should be amended to only require footpath works within Wight Street. The existing footpath along the part of Wentworth Avenue adjacent the site is not well used and the cost of demolishing and reconstructing the footpath is considered to be inconsistent with the type and scale of development proposed. Furthermore, pedestrian mobility is works for which contributions are obtained under the City of Botany Bay Section 94A Development Contributions Plan 2016 and therefore the Section 7.12 contributions required to be paid by the applicant could contribute to the footpath works.</p> <p>It is reminded that Leda is only seeking to remove application of this condition to Wentworth Avenue and not its principal street address along Wight Street.</p>

Yours Sincerely,



**Helen Deegan**  
Director