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Manly NSW 2095

5 September 2019

Anna Summerhayes A/Executive Director
Leader Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney, NSW 2000

Dear Ms Summerhayes

**11 Gibbons Street, Redfern (SSD 7449)
Request for a plan marking the footpath dedication**

This submission has been prepared on behalf of St George Community Housing (SGCH) (Applicant) to respond to the Independent Planning Commission's (IPC) letter dated 3 September 2019 regarding the proposed Draft Condition E43 relating to the dedication of part of the footpaths on Marian Street and William Lane for the above project at 11 Gibbons Street, Redfern.

We note the IPC has made the following request:

...The Commission is considering conditions relating to the dedication of parts of the footpaths on Marian Street and William Lane to City of Sydney Council prior to occupation. The Commission seeks from the Applicant a plan that has been prepared by a Registered Surveyor. The plan must clearly mark the land (including the corner splays) to be dedicated to the Council. Any conditions will specifically refer to this plan....

We have carefully considered the IPC's proposed Draft conditions and responses by the City of Sydney Council (Council) and the Department of Planning, Industry and Environment (DPIE) in consultation with the Applicant and our expert consultant team.

We note the relevant draft conditions as proposed by the IPC are as follows:

PUBLIC DOMAIN WORKS – MARIAN STREET AND WILLIAM LANE FOOTPATH DEDICATION

B58. *Details of the widened William Lane and Marion Street footpaths along the site's frontage are to be in accordance with Council's Technical Specifications and approval for the works under section 138 of the Roads Act, 1993 is to be obtained prior to issue of a Construction Certificate.*

FOOTPATH DEDICATION

E43. *Prior to the issue of the relevant Occupation Certificate, the portion of Marian Street and William Lane widened footpath that falls within the site must be constructed and dedicated to Council.*

A Public Domain Dedication Plan and a Draft Stratum Subdivision Plan to specifically address the IPC request is provided at **Attachment 1** and **Attachment 2**.

Response

On 22 August 2019, the IPC requested comments on draft conditions A2, B7, B9, B12, B13, B28, B57, B58, E4, E5, E9, E43 and F18 from DPIE and Council.

On 2 September 2019, the IPC made the respective responses available on its website.

We note that DPIE raised no objection to the proposed Draft condition E43 as proposed by the IPC.

In response to conditions B58 and E43, we note that Council's response included advice that rather than conditions of consent, a planning agreement is the Council's preferred method. We have carefully considered the comments from the DPIE and Council. We strongly request the IPC maintain its position that these areas of the public domain are delivered through a condition of consent rather than a Planning Agreement.

We can advise that in relation to these public domain works, the Applicant intends to:

- undertake works within Marian Street and William Lane in accordance with Council's specifications;
- obtain approval under Section 138 of the Roads Act 1993; and
- provide ongoing public access to the Marian Street and William Lane footpaths.

We do not support a Planning Agreement for the following reasons:

- We note that a Planning Agreement is a voluntary process. The current proposal does not contemplate a Planning Agreement for the site;
- The current condition of consent is considered an appropriate planning mechanism, particularly when combined with other draft conditions to ensure the area is clearly identified and will be constructed subject to appropriate approvals and standards;
- Any condition requiring the applicant to enter into a Planning Agreement at this late stage of the process will create significant uncertainty and further unnecessary delays for this project; and
- DPIE support the proposed IPC approach i.e. no Planning Agreement.

The above confirms the intent of Conditions B58 and E43 will be achieved without entering into a Planning Agreement.

In response to Council's other comments we provide the following we attach the Dedication Plan_ Ground and the proposed Draft Stratum Subdivision Plan which addresses all of Council's concerns.

Proposed new draft conditions:

Following our consideration above, we recommended minor amendments to the proposed Draft Conditions.

In the event Council does not accept the land dedication based on the current condition of consent, (should the IPC agree) we recommend the following amendments (insertions in **BOLD** and deletions in ~~strikethrough~~ text).

PUBLIC DOMAIN WORKS – MARIAN STREET AND WILLIAM LANE FOOTPATH DEDICATION

B58. Details of the widened William Lane and Marion Street footpaths along the site's frontage are to be in accordance with Council's Technical Specifications and approval for the works under section 138 of the Roads Act, 1993 is to be obtained prior to issue of **the relevant a** Construction Certificate.

FOOTPATHS DEDICATION

E43. Prior to the issue of the relevant Occupation Certificate, the portion of Marian Street and William Lane widened footpath that falls within the site **as detailed in Drawing Number SK107 Revision C, prepared by DKO and dated 04/09/2019, and must be constructed and:**

- a) **dedicated to Council; or**
- b) **provision must be made for public access/right of way via an easement, and evidence of this easement is submitted to the Secretary for approval.**

Conclusion

This submission clearly demonstrates that the remaining issue around the footpath widening has been resolved to enable the IPC to finalise its assessment of the project.

This proposal will provide much needed new social and affordable housing to the City of Sydney LGA within very close proximity to transport nodes and within walking distance of services and employment.

The affordable housing will be retained on site in perpetuity – well exceeding the provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* to retain units for a period of 10 years.

The timely determination of this project is now critical to ensure its delivery.

We trust this response with the suggested amendments to Conditions will allow the IPC to determine this project.

If you have any further enquiries, please do not hesitate to contact Michael Woodland on phone 8459 7506 email michael@keylan.com.au in the first instance if you wish to discuss any aspect of this response.

Yours sincerely



Michael Woodland BTP
Director

Attachment 1 – Dedication Plan_Ground

Attachment 2 – Draft Plan of Stratum subdivision for dedication