



15 January 2025

Louise Densmore  
A/Director, Regional Assessments  
NSW Department of Planning, Housing and Infrastructure

via email: [REDACTED]

Dear Louise,

### **Mundamia Residential Subdivision MOD 4 - Request for Information**

I refer to the modification application for the Mundamia Residential Subdivision MOD 4 (**Application**), currently before the Independent Planning Commission (**Commission**) for determination.

The Commission is seeking information from the Department of Planning, Housing and Infrastructure (**Department**) on the following matters:

1. Is the Department satisfied that the present modification application – in particular the changes sought to condition D14 – is consistent with the judgment of Chief Judge Preston at [63]-[71] of [Ku-ring-gai Council v Buyozo Pty Ltd \[2021\] NSWCA 177](#), noting in particular that the present modification application does not appear to fit any of the three “remedies” set out at [67]-[70] of the judgment?
2. To the extent that the change to the lot boundaries is relied on by the applicant to bring the present modification into conformity with the judgment in *Buyozo*, does the Department consider that the aspect of the modification application that seeks to modify development (that is, the change to the lot boundary) must give rise to (or otherwise fairly and reasonably relate to) the change to condition D14 sought by the applicant?
3. If the answer to 2 is “Yes”, how does the modification application demonstrate that connection between the development sought to be modified (i.e. the change to the lot boundary) and the changes to conditions sought by the applicant?
4. At [25] of the Department’s Assessment Report, under subheading 5.1.1, the Department states that it *‘considers it appropriate to allow the substitution of credit requirements to be effectively managed as a post-approval matter without a formal modification of the consent being required’*. If this is the case, what utility is there in the applicant seeking to change condition D14 through this modification application?

The Commission requests that the Department provide a response by **5pm, Wednesday 29 January 2025**.

Should you require any clarification in relation to the above, or wish to discuss further, please contact Brad James at [REDACTED] or [REDACTED].

Yours sincerely,

[REDACTED]  
Stephen Barry  
Planning Director