



566-594 Princes Highway, Kirrawee

Section 75W Modification
to Concept Plan MP10_0076

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566-594 PRINCES HIGHWAY, KIRRAWEE

Housekeeping Amendments

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Prepared under instructions from
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by

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1.0 INTRODUCTION

This Statement has been prepared in support of an application to modify an approved Concept Plan pursuant to Section 75W and Clauses 2(1)(a) and 3(1) of Schedule 6A of the Environmental Planning and Assessment Act, 1979.

On 23 August 2012, as delegate of the Minister for Planning and Infrastructure, the Planning Assessment Commission (PAC) approved Concept Plan MP10_0076 for a mixed use development at 566-594 Princes Highway, Kirrawee. The Concept Plan provides for the following:

- Indicative building envelopes for 9 buildings to a maximum height of 14 storeys;
- 60,735 square metres of gross floor area, comprising 45,505 square metres of residential floor space (432 dwellings) and 15,230 square metres of retail/commercial floor space (including a 3,900 square metre supermarket and 1,470 square metre discount supermarket);
- Basement, ground and above ground car parking;
- Road layout to support the development;
- Public pedestrian and cycle pathway;
- Public park with lake and surrounding forest; and
- Landscaping areas throughout the site.

In addition, the PAC issued future environmental assessment requirements for subsequent stages of the development pursuant to section 75P(1)(a) of the Environmental Planning and Assessment Act 1979 (EP&A Act), and determined that all future stages will be subject to the provisions of Part 4 of the EP&A Act, as provided for under section 75P(1)(b). The Concept Plan was subsequently modified on 17 January 2013 to amend the wording of Environmental Assessment Requirement No. 18 so that the design excellence provisions only relate to above ground works.

Several of the conditions of consent require modification to the plans to address concerns of the Planning Assessment Commission, prior to the determination of any future application on the site. Whilst it is intended that these requirements will be addressed, due to the significant time line associated with the construction process, it is intended to commence early works on the site as soon as possible including dewatering, bulk excavation and remediation. This is a common practice where a Concept Plan and Early Works applications are issued concurrently to facilitate timely construction on large projects which is in the public interest.

The proposed modification also seeks to introduce a reference to the clarify that the size of the approved supermarkets is Gross Leasable Area (GLA). This is to provide consistency with the references in the HillPDA and Leyshon peer review to 'floorspace' which refers to the trading floor area or GLA of the supermarkets. This request is accompanied by a letter from Leyshon Consulting dated 24 October 2013.

Finally, the proposed modification also seeks a minor amendment the methodology for dewatering and includes an addendum to the Biodiversity Management Plan, addendum to the Geotechnical Report and an updated Dewatering Report.

The Statement provides a discussion of the proposed modifications having regard to the relevant legislative context and demonstrates that they are only housekeeping matters which do not result in any alteration to the approved Concept Plan.

1.0 INTRODUCTION

The supporting documents which accompany this S75W modification include:

- Letter from Leyshon Consulting dated 24 October 2013.
- Amended Plan: 0600 Version C - Indicative Staging - Lower Ground Stage 1 dated 31 October 2013
- Addendum to Biodiversity Management Plan (Cumberland Ecology dated November 2011) prepared by Sutherland & Associates Planning Pty Ltd
- Updated Dewatering Report prepared by DLA Environmental
- Addendum to Geotechnical Report (Jeffrey and Kataukus dated October 2010) by Pells Sullivan Meynink Engineering Consultants
- A new Geotechnical Monitoring plan by Pells Sullivan Meynink Engineering Consultants

2.0 SITE DESCRIPTION AND LOCATION

2.1. Site Description

The site is located within the suburb of Kirrawee, which is located within the Sutherland Shire Local Government Area. The site is approximately 25km south west of the Sydney CBD and 1.5km east of Sutherland Town Centre.

The site is legally described as Lot 1 DP 179075, Lot 1 DP 589977 and also Lot 2 DP 589977, and is known as No. 566-594 Princes Highway, Kirrawee. The site is located on the southern side of the Princes Highway and east of the Oak Road intersection. The site is rectangular in shape with frontages of 252.13 metres to the Princes Highway to the north, 160.75 metres to Oak Road to the west, 251.66 metres to Flora Street to the south, and 177.85 metres to the existing industrial area located immediately east. The site, which comprises three lots, has a total area of 42,542 square metres.

The land slopes from the south-western corner down approximately 5 metres to the north-western corner and 10 metres to the eastern boundary. The site contains a large excavated pit along the southern side of the site which is up to 20 metres deep and filled with water.



Figure 1:

Site (Source: Six Maps, Department of Lands 2013)

2.2. Surrounding Development

Surrounding development includes light industrial units to the south across Flora Street, immediately adjacent to the east and to the north of the site across the Princes Highway. To the south-west of the site along Oak Road are the Kirrawee village shops and Kirrawee train station is located beyond the shops approximately 250 metres to the south. A variety of residential flat buildings of between one and three storeys in height are located to the west of the site along Oak Road.

3.0 BACKGROUND

3.1. Major Project MP10_0076

On 23 August 2012, as delegate of the Minister for Planning and Infrastructure, the Planning Assessment Commission granted approval for Concept Plan MP10_0076 for the subject site.

The Concept Plan provides for a mixed use development of the site comprising the following:

- Use of the site for a mixed use development with associated public open space;
- Indicative building envelopes for 9 buildings to a maximum height of 14 storeys;
- 60,735 square metres of gross floor area, comprising 45,505 square metres of residential floor space (432 dwellings) and 15,230 square metres of retail/commercial floor space (including a 3,900 square metre supermarket and 1,470 square metre discount supermarket);
- Basement, ground and above ground car parking;
- Road layout to support the development;
- Public pedestrian and cycle pathway;
- Public park with lake and surrounding forest; and
- Landscaping areas throughout the site.

In addition, the PAC issued future environmental assessment requirements for subsequent stages of the development pursuant to section 75P(1)(a) of the Environmental Planning and Assessment Act 1979 (EP&A Act), and determined that all future stages will be subject to the provisions of Part 4 of the EP&A Act, as provided for under section 75P(1)(b).

3.1. Major Project MP10_0076 (MOD 1)

The Concept Plan was subsequently modified on 17 January 2013 to amend the wording of Environmental Assessment Requirement No. 18 so that the design excellence provisions only relate to above ground works.

4.0 PROPOSED MODIFICATION

4.1. Description of Proposed Modifications

This application seeks to modify the wording of Conditions B1 and B2, and the description of the approved Concept Plan (MP07_0076 MOD 1), pursuant to S75W of the Environmental Planning and Assessment Act 1979 as follows.

4.1.1. Modification to Conditions B1 and B2

Due to concerns by the Department of Planning and Infrastructure regarding separation distances between the residential buildings, and some other design considerations, Condition B1 and B2 were imposed on the consent and are required to be satisfied prior to the determination of any future application on the site.

However, whilst it is intended that these requirements will be addressed in due course, due to the significant time line associated with the construction process, it is intended to commence Early Works on the site as soon as possible including de-watering, remediation and bulk excavation. These works require the lodgement and determination of a Development Application.

The proposed Early Works do not involve the construction of any elements of the development which have the capacity to dictate building separation and other detailed design considerations which are the subject of modification as required by Conditions B1 and B2. Therefore it would be unreasonable and unnecessary to prevent the commencement of Early Works on the site until these issues are resolved. The ability to commence Early Works represents orderly development and will commence the process of introducing the economic benefits associated with the development including employment both during construction and at the completion of the project, and the timely delivery of residential accommodation to relieve housing affordability within the area.

To facilitate the approval of an Early Works development application, Conditions B1 and B2 are proposed to be amended as follows:

B1 BUILDING ENVELOPE AND SEPARATION MODIFICATIONS

*The plans, as described in A2, shall be modified so that the building separation between residential portions of the buildings complies with the minimum requirements of the Residential Flat Design Code. Amended plans demonstrating compliance with this modification shall be submitted to, and approved by, the Department prior to the determination of any future application on the site **for the residential apartments**.*

B2 DEVELOPMENT DESIGN

Future applications shall be designed to include that:

- (a) roof terraces are setback a minimum of 1.5 metres from the buildings edge.*
- (b) plant rooms, lift overruns and mechanical ventilation rooms provided on the roof of a building are appropriately screened and not exceed the heights approved by the Concept Plan.*
- (c) the reference to building depth of 24 metres is deleted.*

*The amended Development Designs shall be submitted to and approved by the Department prior to determination of any future application on the site **for the residential apartments**.*

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4.1.2. Introduction of reference for supermarket floorspace

The approved Concept Plan makes reference to the size of the supermarket, however, it fails to provide specific reference as to whether the size of the supermarket is Gross Floor Area (i.e. the total of the trading floor area plus the back of house area) or Gross Leasable Area (i.e the trading floor area).

Both the HillPDA retail assessment and the Leyshon retail assessment peer review deliberately use the term 'floorspace', which specifically differs from the term Gross Floor Area and refers to the area of the store which is subject to lease (or Gross Leasable Area) which is the area which is relevant to economic analysis, not the gross floor area which includes other areas.

Accordingly, the discussions and conclusions in both the retail assessment and peer review in relation to the economic need and capacity of the area to accommodate the proposed supermarkets refers to the Gross Leasable Area (GLA), not Gross Floor Area. Both HillPDA and Leyshon have concluded that a provision of a 3,900 square metre GLA supermarket and 1,470 square metre GLA discount supermarket are acceptable on the site.

This position is supported by Peter Leyshon of Leyshon Consulting in a letter which accompanies this application dated 24 October 2013 where he states:

I can confirm that the floorspace references are to Gross leasable Area (GLA). As noted in the report the plan on which our comments were based contained two supermarkets. One such store had an area of 3,810 sq.m GLA and the other 1,460 sq.m GLA.

The term GLA is utilised by planning and property analysts in relation to retail property. It refers to the area of a store that is subject to a lease and usually excludes areas such as plant rooms, multi-user loading docks, and staff amenity areas. The latter areas, (together with GLA areas and public circulation space), are usually included in an alternative method of measurement known as Gross Floor Area (GFA).

Therefore, it is proposed to amend the approved description of the Concept Plan to introduce a specific reference to the size of the supermarkets consistent with the measure which was used to determine their appropriateness for the site, as follows:

Mixed Use development, including:

- (a) Use of the site for a mixed use development with associated public open space;*
- (b) Indicative building envelopes for 9 buildings to a maximum height of 14 storeys;*
- (c) 60,735 square metres of gross floor area, comprising 45,505 square metres of residential floor space (432 dwellings) and 15,230 square metres of retail/commercial floor space (including a 3,900 square metre **Gross Leasable Area** supermarket and 1,470 square metre **Gross Leasable Area** discount supermarket);*
- (d) Basement, ground and above ground car parking;*
- (e) Road layout to support the development;*

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- (f) *Public pedestrian and cycle pathway;*
- (g) *Public park with lake and surrounding forest; and*
- (h) *Landscaping areas throughout the site.*

4.1.3. Revised Dewatering Methodology

The Biodiversity Management Plan prepared by Cumberland Ecology and dated November 2011 forms a component of the consent and is specifically referenced in the Statement of Commitments.

Section 5.10 Phase 9: Drainage and Compensatory Water Body of the Biodiversity Management Plan includes a methodology for dewatering the brick pit to ensure that a constant minimum 800 square metre water surface remains available at all times as a drinking water source for the bats which occupy on the site. The methodology provides for a temporary water source to be created prior to dewatering of the brick pit on the site and to remain in place until a compensatory water source is built on the site.

The methodology in the report is also accompanied by approved Plan: 0600 Version B - Indicative Staging - Lower Ground Stage 1 dated 19 October 2011 which has the notation "temporary water body constructed prior to dewatering". This architectural plan is referenced in Condition A2 of the consent.

Specifically, the methodology in the Biodiversity Management Plan under Section 5.10 states:

Each stage however, must be completed prior to the commencement of the following stage.

i. Construction of the temporary pond

The requirements for this pond are to serve only as a drinking source for the GHFF and EBWB. To fulfil this requirement, the temporary pond specification will generally conform to the specifications for the permanent water body as provided in Section 5.10.3, and cover a total area of approximately 800m².

ii. Drainage of the existing pit

The drainage process may reveal aquatic or semi-aquatic fauna species currently occupying the brick pit. The extent of use by native species is unknown, however the lack of natural water sources nearby and the recent filling indicates that this will be limited. A detailed subplan for the translocation of native species will be prepared subject to expert advice, and the determination of suitable permanent or temporary habitat.

iii. Filling of the pit, and construction of the permanent pond within the Southwestern Sector

The filling of the pit will be carried out, followed by the construction of the permanent pond. Construction on the pond will be carried out at the earliest possible time to reduce the time period between drainage of the brick pit and the construction of the permanent pond.

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The GHFF is known to drink water from these bodies by skimming over the top of the water body. To provide adequate quantities of clean freshwater for the GHFF and EBWB, the pond must:

- i. Be of a total area of approximately 800m²;
- ii. Be of an elongated shape, in order to accommodate the 'skimming' drinking behaviour of the GHFF;
- iii. Be located adjacent to suitable roosting habitat for the GHFF;
- iv. Have methods in place to maintain water level, quality and clarity to meet the site specific water quality guidelines as outlined by Equatica⁸ and Northrop and as agreed with Council.
- v. Be constructed generally in accordance with the VPA documents as agreed with Council.

The critical factor is to ensure the ongoing presence of a minimum 800 square metre area of water on the site at all times to ensure the protection of the bats which occupy the site. Accordingly, it is possible to commence dewatering of the brick pit on the site provided that the dewatering does not result in a reduction of water surface area below 800 square metres.

Therefore, the critical trigger for providing a temporary alternative source of water of at least 800 square metres is not prior to the commencement of dewatering, but rather prior to dewatering the brick pit below 800 square metres of surface area. Accordingly, it is proposed to alter the methodology provided in the Biodiversity Management Plan to allow simultaneous commencement of dewatering and construction of the temporary water source, with a limitation on dewatering of the brick pit below 800 square metres until the temporary water source is complete and provided with a minimum of 800 square metres.

This approach achieves significant improvements to the efficiency of construction works on site with no adverse impact to the bats. An important additional benefit of this approach is that it allows some of the water which is to be removed from the lake to be recycled into the temporary water source, which is not possible under the approved methodology.

The addendum to the Biodiversity Management Plan provided by Sutherland & Associates Planning Pty Ltd provides the following revised methodology:

- i. Initial drainage of the existing pit only to 800 square metres

The dewatering process will commence and will continue only until a minimum of 800 square metres of water surface area is maintained. The drainage process may reveal aquatic or semi-aquatic fauna species currently occupying the brick pit. The extent of use by native species is unknown, however the lack of natural water sources nearby and the recent filling indicates that this will be limited. A detailed subplan for the translocation of native species will be prepared subject to expert advice, and the determination of suitable permanent or temporary habitat.

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ii. Construction of the temporary pond

The requirements for this pond are to serve only as a drinking source for the GHFF and EBWB. To fulfil this requirement, the temporary pond specification will generally conform to the specifications for the permanent water body as provided in Section 5.10.3, and cover a total area of approximately 800m².

iii. Complete drainage of the existing pit

Once the temporary pond is completed and contains a body of water with a minimum of 800 square metres water surface area, complete drainage of the existing pit will be finalised. The drainage process may reveal aquatic or semi-aquatic fauna species currently occupying the brick pit. The extent of use by native species is unknown, however the lack of natural water sources nearby and the recent filling indicates that this will be limited. A detailed subplan for the translocation of native species will be prepared subject to expert advice, and the determination of suitable permanent or temporary habitat.

iii. Filling of the pit, and construction of the permanent pond within the Southwestern Sector

The filling of the pit will be carried out, followed by the construction of the permanent pond. Construction on the pond will be carried out at the earliest possible time to reduce the time period between drainage of the brick pit and the construction of the permanent pond.

The GHFF is known to drink water from these bodies by skimming over the top of the water body. To provide adequate quantities of clean freshwater for the GHFF and EBWB, the pond must:

- i. Be of a total area of approximately 800m²;
- ii. Be of an elongated shape, in order to accommodate the 'skimming' drinking behaviour of the GHFF;
- iii. Be located adjacent to suitable roosting habitat for the GHFF;
- iv. Have methods in place to maintain water level, quality and clarity to meet the site specific water quality guidelines as outlined by Equatica8 and Northrop and as agreed with Council.
- v. Be constructed generally in accordance with the VPA documents as agreed with Council.

It is proposed that Condition A2 of the Concept Plan approval is amended to reference the updated architectural plan 0600 Version C - Indicative Staging - Lower Ground Stage 1 dated 31 October 2013 which has been amended to reflect the revised methodology. In addition, it is proposed that the relevant Commitments in Schedule 4 of the Concept Plan approval are amended to reference the addendum by Sutherland & Associates Planning Pty Ltd to the Biodiversity Management Plan

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prepared by Cumberland Ecology. This is detailed below.

4.1.4. Statement of Commitments

The Statement of Commitments reference a number of reports, to which an addendum or updated reports prepared by additional environmental and engineering consultants are now proposed.

The relevant report and addendum or replacement are referenced in the table below:

Report	Addendum/Replacement
Biodiversity Management Plan by Cumberland Ecology	Addendum by Sutherland & Associates Planning Pty Ltd to update methodology in Section 5.10 of the Plan
Dewatering Report by CM Jewell	Updated Dewatering Report by DLA Environmental
Geotechnical Report by Jeffrey and Katauskas	Addendum by Pells Sullivan Meynink Engineering Consultants to the Jeffrey and Katauskas Geotechnical Report and also a new Geotechnical Monitoring Plan.

Accordingly, the relevant Statement of Commitments are proposed to be amended to reference the addendum and updated reports as follows (bold and italic):

Issues	Action
2. Ecology	Subsequent applications will incorporate the recommendations of the revised Biodiversity Management Plan as described in Appendix 7 of the PPR <i>and addendum by Sutherland & Associates Planning Pty Ltd dated 31 October.</i>
8. Drainage and stormwater management	Subsequent applications will be based on the stormwater concept design prepared by Northrop Engineers dated 29 October 2010 with the exception of the proposed water quality standard for the compensatory water body for the threatened bat species which is dealt with in the revised Biodiversity Management Plan at Appendix 7 of the PPR <i>and addendum by Sutherland & Associates Planning Pty Ltd dated 31 October</i> and Equatica report at Appendix 19.
9. Dewatering	The dewatering of the existing pit will be undertaken in accordance with the management principles as set out in the Dewatering Report prepared by CM Jewell and dated October 2010 <i>DLA Environment dated October 2013</i>

4.0 PROPOSED MODIFICATION

Issues	Action
11. Geotechnical	Further geotechnical investigations of the site will accompany subsequent applications. These will include the engineering solutions as detailed in the Geotechnical Report prepared by Jeffrey and Katauskas and dated October 2010 <i>except where varied by the recommendations in the addendum and Geotechnical Monitoring plan by Pells Sullivan Meynink Engineering Consultants dated October 2013</i>

5.0 STATUTORY PLANNING FRAMEWORK

5.1. Modification of the Minister's Approval

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend the wording of Conditions B1 and B6, clarify the definition of the size of the supermarket, seeks an amendment to the methodology for dewatering, and provide addendum for some reports, the modification will require the Minister's approval.

5.2. Environmental Assessment Requirements

Section 75(3) of the EP&A Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will, be considered by the Minister. Given the housekeeping nature of the proposed amendments, it is considered that new or amended DGRs are not required as this application sufficiently addresses the key issues relevant to the modification request.

6.0 CONCLUSION

The proposed modifications are housekeeping amendments to facilitate the timely commencement of Early Works on the site, to introduce the appropriate reference to the clarify that the size of the approved supermarkets is Gross Leasable Area (GLA), provide a revised methodology for dewatering, and provide addendum or updates to some of the specialist reports referenced in the Statement of Commitments.

These modifications are minor, do not materially alter the approved elements of the Concept Plan, and assist in achieving an efficient construction timetable which is in the public interest. Therefore the proposed amendments are appropriate for approval.