

22 January 2014

Fiona Gibson
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Ms Gibson,

Subject: Section 75W Request to modify the terms of the Concept Approval at the
Kirrawee Brick Pit site (MP10_0076 MOD 2)
Property: 566-594 Princes Highway, Kirrawee

I refer to your request for a response to the submissions which have been received by the Department of Planning & Infrastructure in relation to the Section 75W application for housekeeping amendments to the approved Concept Plan (MP10_0076 MOD2) for the Brick Pit site in Kirrawee.

The submissions are addressed as follows:

Submission	Issue	Response
Sutherland Shire Council	Concern that the suggested wording of Condition B1 and B2, which would only require resolution of the requirements of the conditions prior to detailed development applications for the residential component, would allow more than only Early Works to be completed. Suggested alternative wording which would only allow 'applications for de-watering works, remediation works and earthworks' to be lodged and approved by Council prior to resolution of the requirements of the conditions.	The intention of the amended wording is only to allow the commencement of Early Works (i.e. de-watering, remediation and earthworks) and therefore no objection is raised in relation to the Council's suggested alternative wording.
	Concern that the introduction of a new definition of Gross Leaseable Area (GLA) in reference to the size of the supermarkets is problematic as GLA is not a statutory planning term. However, it is recognised that approved GFAs for the supermarkets excluded common circulation areas which would ordinarily be included in the definition of GFA under the SSLEP 2006. To ensure parity, it is suggested that the description of the proposal is amended to identify that the size of the supermarkets excludes common circulation areas.	The concerns of Council are understood and no objection is raised in relation to the alternative amended wording for the approved description of the proposal.

	<p>Council therefore raises no objection to the proposal to construct a temporary water body in conjunction with dewatering, rather than prior to dewatering (modification of Condition A2 of Schedule 2 and Issues 2 and 8 of Schedule 4).</p>	Noted.
	<p>A number of concerns have been outlined in relation to the proposed new de-watering plan prepared by DLA to replace the approved dewatering plan prepared by CMJA. The DLA plan should be amended as follows:</p> <ul style="list-style-type: none"> • To require water quality testing and treatment in accordance with the approved CMJA Plan • To have proper regard to, and co-ordinate with, the recommendations of reports for the project prepared by Pells Sullivan Meynink • To require a maximum discharge water pumping rate of 15L/s or a maximum pumping rate determined by a detailed assessment of the minimum capacity of Council's relevant stormwater system and subject to written agreement with Council; • To require no discharge of water during rainfall events. 	<p>A response has been prepared by DLA dated 20 December 2013 and accompanies this correspondence, along with an amended Dewatering Report prepared by DLA Environmental dated January 2014.</p> <p>The response prepared by DLA provides that:</p> <ul style="list-style-type: none"> • Additional water testing has been undertaken which indicated that recorded concentrations of manganese and iron were acceptable. • DLA will provide for ongoing testing of manganese and iron as part of the water quality monitoring. • DLA have reverted to the approved water discharge rate of 15L/s in the amended Dewatering Report • The Dewatering Report is amended to require cessation of water discharge during rainfall events. • DLA acknowledge and will adopt the management recommendations for monitoring requirements for environmental impacts during dewatering as outlined in the Pells Sullivan Meynink Geotechnical Groundwater and Assessment Report (October 2013) and Geotechnical Monitoring Plan During Dewatering (November 2013)
	<p>Council raises no objection to the proposed modification of the proponent's commitment in relation to geotechnical matters (Issue 11 of Schedule 4).</p>	Noted.
Office of Environment and Heritage	<p>OEHL does not raise concerns in regard to this modification provided that a minimum area of 800 sq. metres water surface area is maintained at all times and the water level, quality and clarity is in accordance with water quality guidelines as outlined by Equatica8 and Northrop and as agreed by Sutherland Council.</p>	Noted
Department of Primary Industries	<p>The Dewatering and Groundwater Management Plan proposes to</p>	<p>A response has been prepared by DLA dated 20 December 2013 and</p>

	<p>undertake weekly monitoring of the water table and notes the dewatering rate may be decreased if it is found to be negatively impacting on groundwater levels but no details are provided on what is considered to be a negative impact on groundwater levels. As the Plan indicates that dewatering of the site has the potential to effect changes on groundwater levels within the local aquifer, it is recommended the Plan also includes a dewatering management protocol for groundwater level.</p>	<p>accompanies this correspondence, along with an amended Dewatering Report prepared by DLA Environmental dated January 2014.</p> <p>DLA have reviewed the NSW Aquifer Interference Policy (DPI – NSW Office of Water, September 2012). As the site has been identified to fall within a fractured rock aquifer and meets the criteria of a less productive groundwater source, a decline in water table of less than 2m is identified in the Minimal Impact Considerations for Aquifer Interference Activities from Less Productive Groundwater Sources as an acceptable impact on the water table.</p> <p>The De-watering Report has been amended to introduce an additional protocol for groundwater level management by incorporating the requirement for weekly monitoring of groundwater levels during discharge. A change in groundwater levels of 1m from pre-dewatering levels will be utilised as a trigger for increased frequency of groundwater level monitoring and the Site's geotechnical consultants will be notified. In the event of a change in groundwater levels of 1.5m or greater from pre-dewatering levels, DLA will work with the site's Geotechnical consultants, with the option of reducing or ceasing discharge until further geotechnical investigations have been undertaken.</p>
Environment Protection Authority	<p>The proponent should ensure that dewatering does not cause pollution of water under Section 120 of the Protection of the Environment Operations Act 1997.</p> <p>Care should be taken to ensure that the dewatering operation does not result in scour and resultant discharge of sediments from either the base of brick pit or drainage channels where the water is discharged.</p>	<p>Noted. The amended Dewatering Report prepared by DLA and dated January 2014 addresses these issues.</p>
Milestone Planning (public submission)	<p>Objection raised in relation to the use of the term GLA to describe the size of the supermarket on the basis that:</p> <ul style="list-style-type: none"> The retail component of the mixed use development including the supermarket tenancies are referred as Gross Floor Area and not Gross Leasable Area in the Environmental Assessment Report and Preferred Project Report submitted with the approved application. We consider there is no ambiguity or conflict in this regard. 	<p>The applicant is prepared to accept the Council's position that it is preferable to utilise the reference GFA in favour of GLA as it is a statutory term and for the purpose of consistency, however, with an exemption of common circulation areas from inclusion in the definition.</p> <p>The subject housekeeping will therefore no longer result in any change to the size of the supermarkets and discussion regarding the impact of an increase in supermarket size is irrelevant to the</p>

	<ul style="list-style-type: none"> • GLA is not a statutory planning term and GFA should be utilised • any increase to the size of the supermarkets has the potential to detrimentally impact the existing independent retailers in the Kirrawee Village as well as in surrounding centres. 	subject application.
	<p>The previous significant public interest of the development demonstrates the need for community and stakeholder consultation of the modified development. In light of the above, we therefore do not consider that an appropriate and justified level of consultation has been carried out by the Department.</p>	<p>The nature of the proposed amendments are appropriately described as housekeeping and do not change any of the fundamental characteristics of the approved Concept Plan.</p> <p>The proposed amendments only seek to facilitate the timely commencement of Early Works on the site and orderly construction process. Accordingly, the proposed amendments have no implications with respect to the public interest beyond those matters already approved and public consultation is therefore not warranted in this instance.</p>

The issues raised by the government agencies have been appropriately addressed and in particular there is no objection raised to the modified wording to the conditions of consent as suggested by Sutherland Shire Council.

The proposed Housekeeping amendments are fundamental to providing an efficient construction timetable which is of critical importance having regard to the substantial scope of the Early Works which are necessary to prepare this site for construction works. As the outstanding issues have now been addressed, there are no further issues which would prevent the timely approval of the application.

If you have any questions regarding this submission please do not hesitate to contact me on either (02) 9894 2474 or alternatively on 0410 452 371.

Yours faithfully



Aaron Sutherland

Sutherland & Associates Planning Pty Ltd