

18 July 2014

Chris Wilson
Executive Director
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2000

Dear Mr Wilson

RE: 566-594 PRINCES HIGHWAY, KIRRAWEE – S75W Modification (MOD 4) to MP10_0076

This letter 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* (EP&A Act).

1.0 Background

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 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).

Several of the conditions of consent required certain issues to be addressed prior to the determination of any future development application on the site. However, S75W Modification (MOD 2) was approved on 16 May 2014 to amend conditions of consent B1 and B2 as well the Statement of Commitments to allow for Development Consent to be granted by Sutherland Shire Council for early works (de-watering, remediation and bulk excavation) on the site prior to these requirements being satisfied.

The Department supported the proposed amendment on the following basis:

It is considered that the proposed modifications are reasonable and consistent with the existing Concept Plan approval and will allow for early works to be carried out on the site.

An Early Works development application (DA 14/0368) was lodged with Sutherland Shire Council in April 2014 and is currently under assessment.

2.0 Proposed Modification

Some of the Early Works may require a Construction Certificate to be obtained. However, Schedule 3 Condition No. 8j states the following:

8j. Construction Certificate

The Construction Certificate for any stage of the proposed development shall not be released until such time that the abovementioned WAD has been executed, the detailed design drawings and geotechnical reports for the excavation of the site and support structures have been assessed by the RMS and all the detailed signal and civil road design plans have been approved by the RMS construction approval.

Further to the above, no Construction Certificate shall be approved for any stage of the development until such time that a detailed Construction Traffic Management Plan (CTMP) and associated Traffic Control Plan (TCP) is submitted to Council and the RMS for review and acceptance. The CTMP and TCP shall be undertaken in accordance with the RMS's Traffic Control at Worksites Manual and the author shall be certified.

The requirements for the execution of the WAD ("Major Works Authorisation Deed") and approval of all the detailed signal and civil road design represents a significant volume of work and negotiation with the RMS and will be a time consuming process.

Whilst these approvals are necessary to inform the detailed design for the development of the site, they are not necessary to simply allow for the dewatering of the site, remediation and bulk excavation. The condition currently may result in an unnecessarily and significant delay to the commencement of any early works on the site.

Accordingly, it is proposed to amend Condition 8j as follows:

8j. Construction Certificate

*The Construction Certificate for ~~any~~ **the first substantive** stage of the proposed development shall not be released until such time that the abovementioned WAD has been executed, the detailed design drawings and geotechnical reports for the excavation of the site and support structures have been assessed by the RMS and all the detailed signal and civil road design plans have been approved by the RMS construction approval.*

*Further to the above, no Construction Certificate shall be approved for ~~any~~ **the first substantive** stage of the development until such time that a detailed Construction Traffic Management Plan (CTMP) and associated Traffic Control Plan (TCP) is submitted to Council and the RMS for review and acceptance. The CTMP and TCP shall be undertaken in accordance with the RMS's Traffic Control at Worksites Manual and the author shall be certified.*

3.0 Assessment

In accordance with clause 3 of Schedule 6A of the Environmental Planning and Assessment Act 1979 (EP&A Act), Section 75W as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

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.

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 nature of the proposed modification for a minor modification to facilitate commencement of early works it is considered that new or amended DGRs are not required.

The proposed Early Works are intended to prepare the site for the forthcoming development of the site in accordance with the Concept Plan and any forthcoming Part 4 Development Consent for substantive building components. Notwithstanding, the Early Works may require a Construction Certificate and the current wording of Condition No. 8j would prevent the release of any Construction Certificate until the entire signal and civil design for the upgrade of the identified intersections is approved by the RMS, as well as the acceptance of a detailed Construction Traffic Management Plan (CTMP) and associated Traffic Control Plan (TCP).

The ability to commence Early Works as soon as possible 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.

It would be unreasonable and unnecessary to prevent the commencement of Early Works on the site until these the entire signal and civil design is resolved and approved by the RMS and would be inconsistent with the approval of MOD 2 which was supported by the Department in recognition of the benefits of the commencement of Early Works as soon as possible on the site. In addition, the Early Works are unlikely to generate a significant volume of construction traffic compared to the commencement of construction works for the substantive components of the development and so it is not necessary for a detailed Construction Traffic Management Plan (CTMP) and associated Traffic Control Plan (TCP) to be accepted by the RMS at this stage. In any event, the Council can address this issue in the development consent for Early Works at its discretion.

Accordingly, the proposed amendment of Condition No. 8j to prevent the release of a Construction Certificate in relation to the first substantive stage of the development, rather than any stage (such as the Early Works), has merit and is capable of support.

4.0 Conclusion

The proposed modification seeks to amend Condition No. 8j to allow the release of a Construction Certificate for the Early Works stage, should this be necessary, with the satisfaction of the requirements of the condition deferred to the first substantive stage of development.

The proposed modification is a housekeeping amendment which is consistent with the approved MOD 2 amendments to facilitate the timely commencement of Early Works on the site. The modification is minor, does not materially alter the approved elements of the Concept Plan, and assists in achieving an efficient construction timetable which is in the public interest. Therefore the proposed amendment is appropriate for approval.

Yours faithfully



Aaron Sutherland
Sutherland & Associates Planning Pty Ltd