



Planning & Environment

MODIFICATION REQUEST:

***Mixed Use Development, Kirrawee Brick Pit Concept Plan
566-594 Princes Highway, Kirrawee***

MP 10_0076 Modification 4

***Modification to Future Environmental Assessment
Requirement No. 8j – Works Authorisation Deed, detailed
signal road design plans, Geotechnical report,
Construction Traffic Management Plan and Traffic Control
Plan***

Secretary's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

November 2014

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1. BACKGROUND

1.1 Introduction

The purpose of this report is to assess an application to modify the Kirrawee Brick Pit Concept Approval (MP 10_0076) for a mixed use development pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The modification seeks to amend future environmental assessment requirement 8j which requires execution of a Major Works Authorisation Deed (WAD) and approval of detailed signal/road design plans, a geotechnical report, a Construction Traffic Management Plan (CTMP) and a Traffic Control Plan (TCP) prior to issue of any Construction Certificate (CC).

1.2 The Site in Context

The site is known as the Kirrawee Brick Pit and is located at 566-594 Princes Highway, Kirrawee within the Sutherland Local Government Area. It is approximately 25 km south-west of the Sydney CBD (see **Figure 1**).

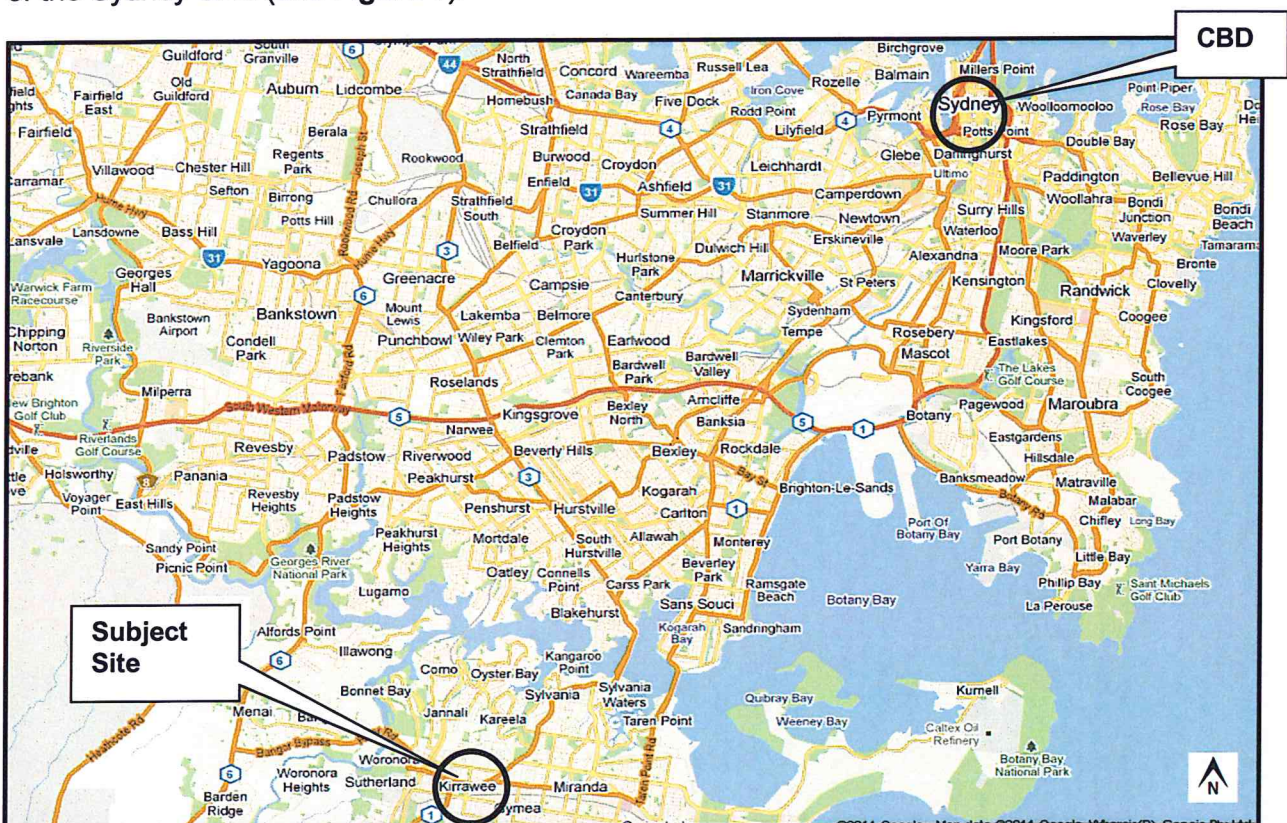


Figure 1: Regional context plan of Kirrawee, Sydney (source: Google Maps 2014)

The site is located on the southern side of the Princes Highway and east of the Oak Road intersection (see **Figure 2**). The site has a total area of 42,524 m² and is rectangular with frontages of approximately 252 metres along the Princes Highway to the north, 160 metres to Oak Road to the west, 251 metres to Flora Street to the south, and 177 metres to the existing industrial area located immediately east.



Figure 2: Kirrawee Brick Pit Site Location (Source: Nearmaps 2014)

1.2 Previous Approvals

Kirrawee Brick Pit Concept Plan 2012

On 23 August 2012, the Planning Assessment Commission (PAC) approved a Concept Plan (MP 10_0076), permitting the redevelopment of the site for the following purposes:

- a mixed use development with associated open space;
- indicative building envelopes for 9 buildings to a maximum height of 14 storeys;
- 60,735 m² of gross floor area, comprising 45,505 m² of residential (432 dwellings) and 15,230 m² of retail/commercial floor space (including 3,900 m² of supermarket and 1,470 m² of discount supermarket);
- basement level, ground and above ground car parking;
- road layout to support the development;
- public pedestrian and cycle pathway;
- the public park, lake and surrounding forest; and
- landscaped areas throughout the site.

The Department imposed a number of Future Environmental Assessment Requirements to the Concept Approval. This included 8j which requires a major Works Authorisation Deed (WAD), detailed signal and civil road design drawings, a geotechnical report, a Construction Traffic Management Plan and a Traffic Control Plan (TCP) to be executed/approved prior to any Construction Certificate (CC) being issued.

The Concept Approval has previously been modified on two separate occasions as follows:

- On 17 January 2013, the Department approved a modification (MP 10_0076 MOD 1) to amend the wording of the future environmental assessment requirement 18, by removing the need for development below the finished ground level to exhibit design excellence; and
- On 16 May 2014, the Department approved a modification (MP 10_0076 MOD 2) to modify approval requirements (B1 and B2) to enable the commencement of early works and amend the Statement of Commitments.

Subsequently an early works development application (DA 14/0368) was submitted to Sutherland Shire Council and is currently under assessment.

A modification application (MP 10_0076 MOD 3) is currently under assessment by the Department seeking approval for substantial design changes to the Concept Approval. This application will be referred to the Planning Assessment Commission (PAC) for determination.

This subject application is Modification 4 (MP 10_0176 MOD 4).

2. PROPOSED MODIFICATION

The modification application seeks approval to amend future environmental assessment requirement 8j to defer the requirement for execution of a WAD and approval of detailed signal/road design plans, a geotechnical report, a CTMP and TCP until the CC for the first substantive stage of the development. The modification request is made on the basis that these details/plans are not considered necessary to allow for the commencement of the early works including dewatering of the site, remediation and excavation.

The proponent seeks to amend future environmental assessment requirement 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.*

Further details of the proposed modification are provided in **Appendix A**.

3. STATUTORY CONTEXT

3.1 Continuation of Part 3A

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A of the EP&A Act, continues to apply to Section 75W modification applications for Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and the associated regulation, the Minister (or delegate) may approve or disapprove the modification to the Concept Approval under Section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

The application has been lodged pursuant to Section 75W of the EP&A Act, which provides for the modification of the Minister's approval including "revoking or varying a condition of the approval or imposing an additional condition of the approval."

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing proposal. As the proposal involves modification to the terms of approval, the application will require the Minister's approval.

3.3 Secretary's Environmental Assessment Requirements

In this instance, it was not considered necessary to notify the proponent of the Secretary's Environmental Assessment Requirements pursuant to Section 75W (3) of the EP&A Act as sufficient information was provided to assess the modification application.

3.4 Delegated Authority

In accordance with the Minister's delegation of 10 November 2014, the Executive Director, Infrastructure and Industry Assessments can determine the application as:

- the relevant local Council has not made an objection;
- a political donation disclosure statement has been made, but only respect of a previous related application; and
- there are less than 10 public submissions in the nature of objections.

4. CONSULTATION AND SUBMISSIONS

4.1 Notification

In accordance with Section 75X (2) (f) of the EP&A Act, the Department is required to make the modification request publicly available. The modification application was made available on the Department's website and was referred to Sutherland Shire Council and RMS for comment. Due to the nature of the proposal, the modification request was not exhibited by any other means.

No public submissions were received in relation to the modification request.

4.2. Sutherland Shire Council Submission

Council initially did not support the proposed modification due to the potential traffic impacts from the early works. Council noted that a CTMP will need to be provided as part of the development application process for the early works, which is currently under assessment by Council. Council identified management plans should be provided to manage the truck movements that are expected to occur during the excavation phase of the early works.

The proponent responded to Council's comments and confirmed that a CTMP relevant to the early works will be submitted to Council to satisfy this requirement. On this basis Council does not raise any objection to the proposed modification subject to an amended future environmental assessment requirement.

4.3. RMS Submission

RMS raised no objection to a CC to be issued for site preparation works prior to execution of the WAD and the approval of detailed signal and civil road design plans, subject to an amended condition. The proponent provided a response to the submission and is satisfied with the amended future environmental assessment requirement.

Council and RMS' comments in relation to specific issues are set out further in **Section 5** of this report.

5. ASSESSMENT

Future environmental assessment requirement 8j currently outlines that a CC for any stage of the development may not be released until:

- a WAD has been executed;
- detailed design drawings and geotechnical reports for the excavation and support structures have been assessed by the RMS;
- detailed signal and civil road design plans have been approved by RMS; and
- a detailed CTMP and TCP are approved by Council and RMS;

The proposal seeks to modify future environmental assessment requirement 8j on the basis that the requirements for the execution of the WAD and approval of the above detailed documentation will involve a significant workload and negotiation with RMS that will result in an unnecessary delay to the commencement of early works on site. The proponent accepts that these requirements are necessary for the detailed design for the development, however not necessary to allow for early works, including dewatering, remediation and excavation of the site.

Council's initial concern was that a CTMP should be provided for the early works, to ensure that the impacts of truck movements associated with the early works are appropriately managed.

The RMS' initial concern was that a geotechnical report, CTMP and TCP should be provided for the early works to ensure that the Princes Highway is stabilised during excavation and that the truck movements, and any required road/lane closures can be managed.

Both Council and RMS have raised no objection to the deferral of the requirement for the WAD and detailed signal and civil road design drawings to allow the CC for the early works to be issued.

The proponent has agreed with Council and RMS' requirements for the above reports/plans to be provided prior to the CC for early works.

Noting the advice provided by Council and RMS, the Department is satisfied that the execution of the WAD and approvals of the detailed signal and civil road design drawings is not necessary for the CC for early works. However, it is recommended that a geotechnical report, CTMP and TCP are approved prior to issue of the CC for early works to ensure that appropriate measures are in place to manage the potential traffic impacts from the early works and structural stability of existing road infrastructure (ie. Princes Highway).

The Department is satisfied the modifications will not alter the original intent of the 8j requirement, noting that the WAD is still required to be executed prior to the issue of any CC for the proposed development (other than early works).

On this basis, the Department concludes that the modification is acceptable, subject to the amended future environmental assessment requirement as follows:

8j. Construction Certificate

The Construction Certificate for any stage (other than the Early Works stage as defined in Development Application No. 14/0368 submitted to Sutherland Shire Council) of the development shall not be released until such time that:

- **the WAD (required by future assessment requirement 8g) has been executed;**
- **the detailed signal and civil road design drawings have been approved by the RMS for construction approval; and**
- **a detailed Construction Traffic Management Plan (CTMP) and associated Traffic Control Plan (TCP) is submitted to Council and the RMS for the review and acceptance.**

Prior to any excavation of the subject site or release of any Construction Certificate relative to the Early Works DA 14/0368, the following plans/reports shall be approved:

- a geotechnical report shall be prepared and submitted to RMS for review and approval to ensure that the Princes Highway is stabilised during excavation activities;
- a CTMP relevant to the early works shall be prepared and approved by Council; and
- a TCP relevant to the early works to be prepared by a certified practitioner and approved by RMS.

Prior to any Construction Certificate being released for the erection of support structures associated with the proposed basement car park, a geotechnical report shall be submitted to RMS for review to ensure that the Princes Highway is stabilised during and post construction.

Notes: The CTMP and TCP shall be undertaken in accordance with the RMS' Traffic Control at Worksites Manual and the author shall be certified.

Any temporary road or lane closures will require a Road Occupancy Licence to be obtained from the Transport Management Service.

6. CONCLUSION AND RECOMMENDATION

The Department has assessed the merits of the proposed modification taking into consideration the key concerns raised by RMS and Council and is satisfied that the amendments to the future environmental assessment requirement 8j are acceptable. The amendments to 8j remain consistent with the intent of the Concept Approval and will allow for the early works to be appropriately carried out on the site with sufficient measures in place to manage the potential traffic impacts and ensure the stability of existing road infrastructure.

It is therefore recommended that the Executive Director, Infrastructure and Industry Assessments as delegate for the Minister for Planning:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification subject to future environmental assessment requirement under Section 75W of the *Environmental Planning and Assessment Act 1979*; and
- (c) **sign** the attached modifying instrument (**Appendix C**).

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APPENDIX A MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6618

APPENDIX B SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6618

APPENDIX C MODIFYING INSTRUMENT OF APPROVAL
