

26 June 2009

The Planning and Assessment Commission
C/- The Director-General
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Andrew Smith – Team Leader, Urban Assessments

Dear Andrew,

Concept Approval granted on 27 April 2009 for the Redevelopment of 630-726 Princes Highway, Tempe for Bulky Goods Retail Store and Warehouse, Commercial Offices, Parking, Infrastructure Works and Associated Signage (“Tempe Concept Approval”) (ref: MP 07_0149)

Request for Modification pursuant to Section 75W of the Environmental Planning and Assessment Act 1979.

The purpose of this letter is to request that the Planning and Assessment Commission of New South Wales (or delegate) to modify the Tempe Concept Approval pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* so as to:

1. Correct a number of minor typographical errors in the conditions as outlined at item 1 below;
2. Clarify (and amend) a number of potential uncertainties in the conditions as outlined at item 2 below; and
3. Vary condition C9 as outlined at item 3 below.

Please find enclosed a completed modification application form in support of this application.

1 Typographical Errors

- **Condition B2(b):** The phrase “the relevant development consent” appears to be in error and should be replaced with “the terms of this Part 3A Concept Approval”.
- **Conditions C7:** There are 2 conditions called condition C7. In the interests of clarity, the second should be renamed condition C7A.
- **Condition E1:** There is a typo in (e) which it appears should be part of (d).
- **Incorrect Cross References:** The following internal cross references in the conditions appear to be in error:
 - **Condition B30:** The cross reference to condition “A14” should be replaced by a reference to condition “A5”;
 - **Condition D14:** The cross reference to condition “B31” should be replaced by a reference to condition “B28”; and
 - **Condition E6:** The cross reference to condition “B8” should be replaced by a reference to condition “B7”.

2 Clarifications/Amendments

- **Condition A1:** It is requested that the scope of the approval be clarified by amending:
 - the bullet point concerning “Redevelopment” be amended to insert the words “and associated offices” after the words “staff amenities”.
- **Condition A2:** Note that the this application replaces Drawing DA-002 Revision E “Site Analysis Plan” with a revised plan (same reference) that removes the erroneous note regarding a shared pathway/cycleway at the southern (or rear) boundary of the site.
- **Condition B3:** It is requested that clarification be provided as to the subject matter of the Deed of Agreement and Positive Covenant referred to in the second paragraph of this condition as this is presently unclear.
- **Condition B35:** It is requested that the phrase “The carrying out of works on” be inserted at the commencement of condition B35 so as to clarify the operation of this clause. This is because the Environmental Management Plan contains provisions relating to ongoing monitoring etc which are not relevant to the construction activities proposed and which are carried out by the Council in accordance with an agreement made between the Council and the landowner.
- **Condition F7:** It is requested that this condition be amended by replacing the heading “Hours of Operation” with “Trading Hours”. Secondly, we request deleting the words “associated uses”. The clause should therefore read:

“The bulky goods retails store shall be limited to the following trading hours:

- 10am to 10pm Monday to Friday; and
- 9am – 10pm weekends”.

This clarifies the intention that activities such as cleaning, restocking, deliveries and office uses are not restricted by the stated hours. This will clarify the intent of the condition to control the trading hours of retailing.

Upon advice from the Principal Certifying Authority, the precise wording of several conditions is ambiguous and could unintentionally impact on the proposed staging of construction works. Consequently the following amendments are proposed to clarify the timing of when specific conditions should be met.

- **Conditions B1, B2 and B32:** It is requested that the phrase “Prior to the issue of the Construction Certificate” be amended to read, “Prior to the issue of the **relevant** Construction Certificate”.
- **Condition B3:** It is requested that the phrase “Prior to release of any Construction Certificate” be amended to read, “Prior to the release of any **relevant** Construction Certificate”.
- **Conditions B7, B8, B9, B13, B14, B15, B16, B19, B22, B29:** It is requested to change the phrase “A Construction Certificate” to “A **relevant** Construction Certificate” to enable the construction works to be staged.
- **Condition B37:** It is requested that the phrase “prior to the commencement of any works” be amended to read “prior to the commencement of any **relevant** works”.
- **Condition C8:** It is requested that the phrase “An application for any of the following works” be amended to read “An application for any of the following **relevant** works”.

3 Variation of Condition C9

Advice has been sought from the Site Auditor, Graeme Nyland from Environ to clarify the process upon the issuance of the Section A and B Site Audit Statement Statements. As a result this advice the following amendments to this condition are requested.

- **Condition C9** is requested to be amended as follows:

The site is to be remediated in accordance with the Remediation Action Plan (RAP) prepared by Coffey Environments Pty Ltd, reference ENVILCOV00315AH-R03d and dated 3 February 2009 ~~and the~~. Any variations to the RAP must be approved in writing by the Accredited Site Auditor ~~and the Certifying Authority~~ prior to the commencement of any work.

Prior to the commencement of any work, other than demolitions or excavation in association with remediation of the site, a Site Audit Statement is to be submitted to and approved by the Certifying Authority clearly stating that the site, **can be remediated to a standard consistent with the intended land use** ~~is suitable for the proposed use~~.

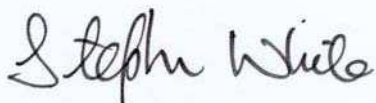
The final Site Audit Statement, prepared by an accredited Site Auditor, certifying that the site has been remediated to a standard consistent with the intended land use is to be submitted to the Director-General prior to occupation of the site.

The amendment is requested so that:

- The RAP may be amended if required by the Accredited Site Auditor and the Accredited Certifier (who will not be a qualified expert in remediation) is not required to provide additional approval in this regard;
- The SAS can be issued in two stages, allowing IKEA to commence construction with a Section B SAS. It is envisioned that a SAR and SAS (Section A) for the entire site (630-726 Princes Highway and Areas 1A and 1B) would be issued following the construction works and prior to occupation stating that the site is suitable subject to a site specific EMP. As the building is integral to the current remedial strategy outlined in the RAP, it is not possible to prepare a Section A SAS until the base concrete slab is in place. Given this, the Site Auditor would support a change in the consent conditions which would allow submission of the Section B SAS prior to construction and a Section A SAS prior to occupation.
- Ongoing remediation, which is likely to require works and monitoring over some extended period of time, does not delay the commencement of construction in circumstances where remediation may be reasonably carried out along side construction; and
- The Accredited Certifier of the Certifying Authority (who will not be a qualified expert in remediation) is not required to approve the site audit statement providing it certifies that the site is suitable for commercial and industrial use subject to the usual conditions imposed on site audit statements.

Once you have had time to review this letter, we would be happy to discuss any clarification or queries to assist in your assessment of the modification request. I can be contacted directly on 8233 9955.

Yours sincerely,



Stephen White
Associate Director

Encl

Completed Modification Application Form

Corrected Site Analysis Plan - Drawing DA-002 Revision E