



NSW GOVERNMENT  
**Department of Planning**

***IKEA DEVELOPMENT  
630 – 726 Princes Highway, Tempe***

***Modification MP07\_0149 MOD 1***

Modification of Minister's Approval  
Section 75W of the  
Environmental Planning and Assessment Act 1979

August 2009

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## 1. DESCRIPTION OF MODIFICATION APPLICATION

On 30 June 2009, the Proponent (Urbis on behalf of Valad Commercial Property Pty Ltd) lodged an application to modify Concept Plan approval MP07\_0149 (**Tag B**) pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ("the Act").

The Proponent is seeking to modify 26 conditions of consent, to correct a number of minor typographical errors, clarify (and amend) a number of potential uncertainties in the conditions, and, to vary Condition C9 - Remediation in respect to timing and potential modification of the RAP and final Site Audit Statement.

## 2. ORIGINAL APPLICATION

On 15 April 2009, the Minister for Planning delegated her powers and functions as an approval authority for the concept plan application for the Ikea project (Application No. MP07\_0149) to the Planning Assessment Commission for determination.

On 27 April 2009, the PAC granted consent to the IKEA Concept Plan application, as amended through the Preferred Project Report (PPR), subject to conditions, in respect of the following proposal;

- **Demolition** of all buildings and structures on the site comprising of the KAS Auto, Kennards and former Council tip site;
- **Redevelopment** of the site for construction of a new 2 storey bulky goods retailing building to house the **IKEA showroom and warehouse, café and staff amenities** with a GFA of 39,999m<sup>2</sup> and **warehouse** consisting of 1,460m<sup>2</sup>;
- **Retention and adaptive reuse** of the façade of the heritage listed ATECO building and use for commercial floor space for IKEA headquarters' with GFA of 2,780m<sup>2</sup> and **light industrial** use of 290m<sup>2</sup> on the ground level;
- **Total GFA 44,529m<sup>2</sup>/ FSR 0.45:1;**
- **Car parking at grade for a maximum of 1,775 vehicles** with access off the Princes Highway;
- **Loading and unloading of goods** in loading docks along the western boundary;
- **Public domain** improvements and landscaping totaling up to 2.3ha; and
- **Signage** on each of the warehouse building elevations, a 20.5m pylon sign with "IKEA" on a triangular sided structure and 8 x 12m high flag poles with "IKEA" flags adjacent to the main vehicular entry.

In this case, the Minister exercised the available discretion under Section 75P(1)(c) of the Act to approve all aspects of the Concept Plan proposal without requiring any further environmental assessment. That is, there was no requirement for the submission of a separate Project Application. A separate instrument of delegation was made to delegate the Minister's determination of the Concept Plan application pursuant to Section 75P(1)(c) to the PAC. The general delegation of the Minister's functions under s.75J for project approval therefore applied in this regard.

## 3. STATUTORY CONTEXT

### Modification of the PAC's approval

The modification application has been pursuant to Section 75W of the *Act*:

Section 75W provides for the modification of a 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 approval under this Part. The Ministerial delegations made on 4 March 2009, delegated her functions under Section 75W of the Act relating to modifying Part 3A approvals to the Executive Director, Major Projects Assessment.

It is noted that the Minister's delegation to the PAC of 15 April 2009 did not include her powers and functions in respect of Section 75W modifications applications.

### Environmental Assessment requirements

In this instance, it was not considered necessary to notify the Proponent of environmental assessment requirements pursuant to Section 75W (3) with respect to the proposed modification as sufficient information was provided to the Department to consider the application.

### 4. CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request for a modification of an approval does not require public exhibition. However, under Section 75X (2)(f) of the Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website.




### 5. ASSESMENT OF PROPOSED MODIFICATION

The submitted modification application is seeking to modify 26 conditions of consent for a variety of reasons, and these are categorised and addressed below in **Table 1** below.

A Notice of Approval incorporating the modified conditions is contained at **Tag A**.

**TABLE 1: Summary of Modifications**

REQUESTED MODIFICATION	RATIONALE FOR MODIFICATION	SUPPORTED
<b>CORRECTION OF TYPOGRAPHICAL ERRORS</b>		
Conditions B2(6), C7 & E1	To correct typographical errors such as incorrect use of "development application" and numbering.	Yes
<b>CORRECTION OF CROSS REFERENCES</b>		
Conditions B30, D14 & E6	To correct cross references to other conditions.	Yes
<b>CLARIFICATION OF WORDING AND INTENT OF CONDITIONS</b>		
Condition A1	The bullet point concerning "Redevelopment" is amended to insert the words "and associated offices" after the words "staff amenities".	Yes
Condition A2	Drawing DA-002 Revision E "Site Analysis Plan" replaces Revision D plan to remove the erroneous note regarding a shared pathway/cycleway at the southern (or rear) boundary of the site. The subject pathway is proposed/required by condition on the western (Princes Hwy) frontage only.	Yes
Condition B3	Wording clarified to precribe that any Deed of Agreement and Positive Covenant referred to in the second paragraph of this condition is only necessary if required by Council.	Yes

<p><b>Condition B35</b></p>	<p>The phrase "<i>The carrying out of works on</i>" is inserted 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 issuance of construction certificate(s).</p>	<p>Yes</p>	
<p><b>Condition F7</b></p>	<p>This condition is amended by replacing the heading "Hours of Operation" with "Trading Hours", and secondly, by deleting the words "associated uses" to clarify the intention that activities such as cleaning, restocking, deliveries and office uses are not restricted by "retailing" hours and to clarify the intent of the condition to control the trading hours of retailing.</p>	<p>Yes</p>	
<p><b>CLARIFICATION FOR STAGED CONSTRUCTION CERTIFICATES</b></p>			
<p><b>Conditions B1, B2, B3, B7, B9, B13, B14, B15, B16, B19, B22, B29, B32, B37 &amp; C8</b></p>	<p>The proponents Principal Certifying Authority has advised that the precise wording of several conditions is ambiguous and would unintentionally impact on the proposed staging of construction works, and the insertion of a reference to "relevant" works will clarify this matter.</p>	<p>Yes</p>	
<p><b>MODIFICATION TO TIMING OF CERTIFICATION FOR REMEDIATION WORKS</b></p>			
<p><b>Condition C9 states as follows;</b></p> <p><b>"C9 Remediation</b> 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.</p> <p>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 is suitable for the proposed use."</p>	<p><b>Condition C9</b> is requested to be amended as follows:</p> <p><i>"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 <b>submitted to</b> the Certifying Authority prior to the commencement of any work.</i></p> <p><i>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, <b>can be remediated to a standard consistent with the intended land use.</b></i></p> <p><b><u>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.</u></b></p> <p>The amendment is requested on the advice of 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 amendments to this condition are</p>	<p>Yes</p>	

	<p>requested. The subject amendemnt will enable the following to occur on site;</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• 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.</li> <li>• 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 alongside construction; and,</li> <li>• 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.</li> </ul>	
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## 9. CONCLUSION

The proposed modifications are generally minor in detail and do not result in any changes to the overall design and appearance nor operations of the development as approved.

It is considered that the proposal, as modified, is consistent with the approved development and still achieves the same objectives as assessed and approved by the PAC.

The proposed modification does not alter the overall nature, need or justification of the approved project.

## 10. DELEGATION

Under the instrument of delegation dated 4 March 2009, the Minister has delegated his functions under Section 75W of the Act relating to modifying Part 3A approvals to the Executive Director, Major Projects Assessment.

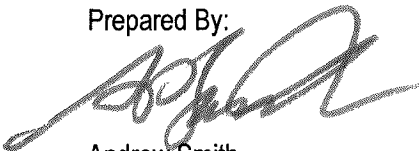
Having regard to the Urban Assessments Guidelines for Delegates, it is considered appropriate that the application be determined under delegation.

## 11. RECOMMENDATION

It is recommended that the Executive Director Major Projects Assessment, as delegate of the Minister for Planning:

- (A) consider the findings and recommendations of this report;
- (B) approve the modification under Section 75W of the *Environmental Planning and Assessment Act, 1979*; and,
- (C) sign the attached Notice of Approval (**Tag A**).

Prepared By:



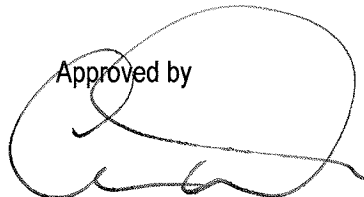
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