



Planning Assessment Report Development Application

DA 275-11-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 275-11-2004.

The application seeks consent for land subdivision of 1 Burroway Road, Homebush Bay into 2 lots, Lots 121 and 122.

The Minister for Infrastructure Planning and Natural Resources is consent authority under clause 10 of *Sydney Regional Environmental Plan No.24—Homebush Bay Area*.

It is recommended that the development application be granted **consent** subject to conditions (tagged 'A')

2 BACKGROUND

2.1 Site Context

The site is located at 1 Burroway Road, Homebush Bay in the Auburn local Government area.

The development application was lodged with the Department on 9 November 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

The site (tagged 'D') is located at the corner of Burroway Road and Hill Road. The site is bounded by Burroway Road to the north, Hill Road to the west, private property to the south, and Homebush Bay to the east.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for land subdivision of 1 Burroway Road, Homebush Bay into 2 lots:

- Lot 121 (3.17 ha) to accommodate stages 1 to 3 of future development; and
- Lot 122 (7.8 ha) to accommodate stages 4 to 9 of future development (see tag "E").

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

The subject site is located within the area covered by *Sydney Regional Environmental Plan No. 24 – Homebush Bay Area* (SREP 24) which provides planning objectives for the Homebush Bay Area. Subdivision in this area is permissible under clause 11 of SREP 24.

4.2 Instrument of consent and other relevant planning instruments

The minister is the consent authority for development under SREP 24.

The environmental planning instruments applicable to this land and proposed development are as follows:

- *State Environmental Planning Policy No.55—Remediation of Land* (SEPP 55)
- *State Environmental Planning Policy No.56—Sydney Harbour Foreshores and Tributaries* (SEPP 56)
- *Sydney Regional Environmental Plan No.24—Homebush Bay Area* (SREP 24)
- *Homebush Bay West Development Control Plan* (DCP)

4.3 Legislative context

The development is State Significant development under the Act.

5 CONSULTATION

5.1 Public consultation

The application was notified, in accordance with the Regulations including:

Notifications – landowners/occupiers	The application was referred to Auburn City Council, Sydney Olympic Park Authority and NSW Maritime (formerly Waterways Authority)
Newspaper advertisements	Not advertised
Site notices	N/A
Exhibition dates	Not exhibited

5.2 Referrals

5.2.1 Integrated Approval Bodies

The application was not integrated.

5.2.2 Council

The application was referred to the Auburn City Council on 18 January 2005. Council responded on 31 January 2005 and raised no objection to the proposal.

5.2.3 Other Agencies

5.2.3.1 Sydney Olympic Park Authority

The application was referred to the Sydney Olympic Park Authority (SOPA) on 18 January 2005. No response was received from SOPA regarding the proposal.

5.2.3.2 NSW Maritime

The application was referred to the NSW Maritime on 18 January 2005. No response was received from NSW Maritime regarding the proposal.

6 CONSIDERATION

6.1 *The Environmental Planning & Assessment Act, 1979*

6.1.1 *Section 79C*

The application and the likely impacts of the proposed development have been considered in accordance with s.79C of the Act. Significant issues are discussed below in Section 6.2 and a detailed assessment is provided in Compliance Table (tag 'C').

The subject site is considered suitable for the proposed development. No issues were raised in the submissions.

6.2 *Issues*

6.2.1 *Foreshore Promenade*

Issue: DIPNR has formed an agreement that any consent granted to develop land along Homebush Bay will include a condition that dedicates a 20 metre foreshore waterfront strip for public use.

Raised by: DIPNR Urban Assessments

Consideration: Initial draft conditions of consent sought the applicant to create a restrictive covenant over the 20m wide strip of land adjoining the foreshore upon further creation of proposed Lot 122. The applicant raised the issue that this would need to occur by creating a notation in the 88B instrument creating the easement now. The applicant provided the view that it would be more appropriate to leave the issue of the restriction until future subdivision of proposed Lot 122.

Resolution: A condition of consent is included such that the 20m wide strip of land in proposed Lot 122 adjacent to the foreshore shall be shown on title as future public access and restricted on title by way of a public positive covenant. The terms of agreement for the public positive covenant are to be submitted to the Director for approval prior to the issue of any Subdivision Certificate in relation to proposed Lot 122.

6.2.2 *Existing Buildings*

Issue: Currently there is a building on the site that would encroach over the boundary of the 2 lots the subject of this development application.

Raised by: DIPNR Urban Assessments

Consideration: The previous subdivision consent for the site required that the buildings that will encroach over the boundary of the two new lots be removed prior the granting subdivision consent.

The applicant stated that as the building is still in use; removal at this time is unnecessary and would be more appropriate if carried out in conjunction with the building works.

Resolution: A condition of consent requires that prior to the issue of a Subdivision Certificate, the applicant is to provide evidence that either all buildings encroaching the new boundary have been demolished or evidence of cross-easements or restrictions for the site that indicate how the existing building encroachments on the boundary are to be retained in the event that the new lots are separately owned or titled.

7 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The Applicant was asked to comment on the draft conditions of consent on 30 March 2005. The Applicant responded on 7 April 2005 and raised the following issues:

- (1) Delete condition E4, which requires the creation of a restrictive covenant over the 20m wide strip of land adjoining the foreshore upon further subdivision of proposed Lot 122, as it would be more appropriate if it was left until further subdivision occurred on Lot 122.

The Department responded by amending the condition relating to the dedication of the 20m strip of land requiring instead that the land be shown on title as future public access and restricted by way of a public positive covenant (see Section 6.2.1 of this Report).

A second draft of the conditions of consent were issued to the applicant for comment on 15 April 2005. The applicant responded on 19 April 2005 and raised no issues. No final draft conditions of consent were issued as they were similar to the previous draft viewed by the applicant.

8 CONCLUSION

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in s79C of the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

The proposed development is considered to be in the public interest. On balance, it is considered that the proposed development is acceptable and should be approved, subject to the conditions (tagged 'A').

9 RECOMMENDATION

For Ministerial Approval:
Prepared by:

Endorsed by:

Verity Humble-Crofts
Planner, Urban Assessments

Scott Wilson
Senior Planner, Urban Assessments

Robert Black
Director, Urban Assessments