

**SECTION 75W MODIFICATION
APPLICATION
CIVIL WORKS STAGE 1 AT POTTS
HILL RESERVOIRS, POTTS HILL**

MP 08_0069 (MOD 3)

Modification of Minister's Approval under section 75W
of the *Environmental Planning and Assessment Act*
1979

July 2010





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1. INTRODUCTION

This is a report on an application seeking to modify Project Approval MP 08_0069 for Stage 1 Civil Works at the Potts Hill Reservoirs, Potts Hill.

The subject site is situated at Bagdad Street, Potts Hill within the Bankstown Local Government Area (LGA). The Potts Hill site is generally bounded by Rookwood Road and Graf Avenue to the east, a water supply pipeline to the north, Cooper Road to the west and Bruncker Road to the south.

The part of the site on which the proposed modification application applies is known as the Bagdad Street site, located in the north-western portion of the Potts Hill site. The Bagdad Street site is separated from the main part of the Potts Hill site by the Southern Sydney Freight Line. The land to which this modification relates is legally described as Part Lot 1 in DP 610303, Lot 2 in DP 456502 and Lot 2 in DP 225818.



Figure 1 – Location Plan of the Potts Hill Reservoirs site



2. BACKGROUND

Concept Plan MP 07_0099

On 27 April 2009, the Minister for Planning approved a Concept Plan for the redevelopment of the Potts Hill Reservoirs land. The Concept Plan included a mix of land uses, including residential, employment and recreational use. 40 hectares of the site will be developed to provide more than 400 dwellings, a new business park and three separate open space areas.

On 29 April 2009, an amendment to the Major Development SEPP was gazetted, which rezoned the Potts Hill site for a mixture of residential, business and public recreation uses, which is now listed in Schedule 3 of *State Environmental Planning Policy (Major Development) 2005* (MD SEPP).

Project Application MP 08_0069

On 26 November 2008, the Minister for Planning approved a project application for civil and infrastructure works to proceed on the Sydney Water Reservoirs land at Potts Hill, subject to conditions (MP 08_0069 Civil and Infrastructure Works Stage 1). The works are stage 1 of a Concept Plan and include employment lands, residential development and public open space.

The approval provided for:

- subdivision of the entire Potts Hill Reservoirs land into nine Torrens Title lots to form the Eastern Precinct, Bruncker Street site, Western (Residential) Precinct, Sydney Water retained lands, Bagdad Street side and associated lands; and
- civil works in the proposed employment lands and the Bagdad Street site including site remediation, demolition of 21 existing built structures, removal of existing vegetation, bulk excavation and earthworks, construction of two roads and upgrading drainage infrastructure and utilities.

MP 08_0069 MOD 1

On 16 January 2009, the Executive Director of Major Projects Assessments, as delegate for the Minister, approved a modification application under section 75W of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

The approval provided for:

- additional earthworks within the western precinct of the site for the purpose of the eastern precinct civil works; and
- amendments to the existing conditions of approval concerning the development description, road design and dedication requirements and dust control.

MP 08_0069 MOD 2

On 12 February 2010, the Director, Government Land and Social Projects, as delegate for the Minister, approved a modification application under section 75W of the EP&A Act.

The approval provided for:

- demolition and remediation works to be undertaken on the western residential precinct;
- amendments to the proposed plan of subdivision to reflect the current boundary alignments and sequence of plan registration in relation to the eastern employment precinct;
- amendments to the landscape plan to incorporate entry statements at both the Cooper Road and Rookwood Road intersections in relation to the eastern employment precinct; and
- appropriate stability and erosion management measures to be addressed on an individual site basis in relation to the eastern employment precinct.

3. PROPOSED MODIFICATION

On 8 April 2010, Landcom submitted a modification application under section 75W of the EP&A Act to modify the Project Approval MP 08_0069 for Stage 1 Civil Works at the Potts Hill Reservoirs, Potts Hill (MOD 3).



The proposed modification seeks to modify Conditions 1, 2 and 3 of the Major Project Approval 08_0069 (as amended) to allow for:

- bulk earthworks on the Bagdad Street site with cut and fill to parts of proposed Lots 1001 and 1002 to ensure Lot 1001 is above the 1 in 100 year flood level;
- stormwater management and drainage works on proposed Lots 1001 and 1002, including the construction of a stormwater channel and a retaining wall to facilitate future development of proposed Lot 1001;
- landscaping works in the proposed drainage channel (Lot 1002); and
- the subdivision of the Bagdad Street site (Lot 108) into two lots (referred to as Lots 1001 and 1002).

The proposed modification will make the site suitable for a future NSW Ageing, Disability and Home Care (ADHC) development. ADHC have advised that the site has been identified as suitable to accommodate a purpose built group home for people with a disability. ADHC note that under the Department of Human Service NSW's land purchase criteria, the State Property Authority does not purchase sites that are constrained by flooding or other hazards. Accordingly, the proposed modification works are necessary to ensure that proposed Lot 1001 meets the land purchase requirements of ADHC.

4. STATUTORY CONTEXT

4.1 MODIFICATION OF A MINISTER'S APPROVAL

Section 75W (2) of the EP&A Act provides that a proponent may request the Minister to modify the approval of a project. The Minister's approval is not required if the project as modified will be consistent with the original approval. As the subject modification seeks to change the terms of the Minister's determination through amending the conditions of approval, the modification requires approval.

4.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGR's)

Section 75W(3) of the EP&A Act provides the Director General with scope to issue environmental assessment requirements (DGR's) that must be addressed with respect to the proposed modification. DGR's have not been issued for the modification as it is considered that its impacts are similar to the original proposal and issues relating to the modification application are adequately covered by the previous DGR's.

4.3 PERMISSIBILITY

The Potts Hills Reservoirs site is listed as a State significant Site under Schedule 3 of State Environmental Planning Policy (Major Development) 2005 (MD SEPP). The Potts Hill Reservoirs site is divided into four land use zones:

- (a) Zone R2 Low Density Residential,
- (b) Zone R3 Medium Density Residential,
- (c) Zone B7 Business Park,
- (d) Zone RE1 Public Recreation.

The Bagdad Street site is zoned R2 Low Density Residential, and is permissible in the zone.

5. CONSULTATION

While section 75W of the EP&A Act does not require a modification application to be publicly exhibited, the application was placed on the Department's website in accordance with section 75X(2)(f) of the EP&A Act and clause 8G of the Environmental Planning and Assessment Regulation 2000.



PUBLIC AUTHORITY SUBMISSIONS

The Department notified Bankstown City Council, Auburn Council, the Department of Environment, Climate Change and Water (DECCW), the Roads and Traffic Authority (RTA), RailCorp and Sydney Water of the proposed modification.

A summary of the agency issues is provided below, with a final response to these issues provided in section 3.4 – Response to Submissions.

Department of Environment, Climate Change and Water (DECCW)

DECCW raised no objections to the proposal, however provided some comments as detailed below:

- appropriate construction and environmental management measures are required to be implemented during the construction phase to minimise environmental impacts and ensure there are appropriate mitigation measures. These include air quality and dust assessment and management, noise and vibration assessment and management and erosion and sediment control.
- the existing Environmental Protection Licence (EPL) to authorise the proposed modification activities may need to be modified if land based extractive activity involving the extraction, processing or storage of more than 30,000 tonnes per year of extractive materials are proposed.

Roads and Traffic Authority (RTA)

The RTA raised no objections to the proposal, however provided some advisory comments in relation to the need for a traffic management plan and traffic control plan, movement of vehicles and that the proponent is to be responsible for any public utility adjustment/relocation works.

RailCorp

RailCorp raised no objections to the proposal, however requested that a number of conditions be included to minimise the impacts of future development on the site on the adjoining rail corridor.

Sydney Water

Sydney Water raised no objections to the proposal, however commented on the ownership and ongoing maintenance of the overland flow path and advised that it would be appropriate that the care, control and management of the flow path be vested in a public authority.

Bankstown City Council (BCC)

BCC commented on the proposed stormwater management, landscaped plan and insurance liability. BCC requested additional information about stormwater management and suggested access road treatments to deal with flooding and stormwater events.

6. RESPONSE TO SUBMISSIONS

The proponent responded to submissions on the 9 June 2010, which included a revised Statement of Commitments and amended landscape plan. The proponent's response and landscape plan were forwarded to DECCW, RTA, RailCorp, Sydney Water and BCC for comment. The Proponent's response, together with the Agencies response, is detailed below.

Department of Environment, Climate Change and Water (DECCW)

The proponent indicated that conditions relating to air quality and noise and vibration management are included in the terms of approval for MP 08_0069, which requires the preparation of an Environmental Management Plan. Also the proponent has advised that the proposal does not involve the re-use or sale of more than 30,000 tonnes of extracted material from the subject site, and so an EPL is not required.

DECCW raised no further matters, and have concurred that an EPL is not required.



Roads and Traffic Authority (RTA)

The proponent has indicated that they commit to implementing a Traffic Management and Traffic Control Plan to ensure the proposed works do not have significant impacts on the surrounding road network.

The RTA raised no further matters, and a condition to reflect the requirement for the Traffic Management and Traffic Control Plan has been included in the terms of approval.

RailCorp

The Proponent has indicated that a number of the conditions requested by RailCorp have been addressed in the terms of approval for MP 08_0069, or will be addressed in the future development of proposed Lot 1001.

RailCorp have responded that they still require a condition relating to Electrolysis should the use of metal form part of the modification application, and they still require detailed Safe Work Method Statements for the proposed works to be submitted to RailCorp for review.

These two conditions have been included in the terms of approval.

Sydney Water

The proponent has advised that proposed Lot 1002 is to be dedicated to Bankstown City Council at the completion of stormwater and drainage works.

Council have given in-principle support to take ownership of the stormwater channel.

Bankstown City Council (BCC)

The Proponent has provided additional information relating to flood modelling as well as an updated Landscape Plan, and commits to ensuring its contractors each maintain current public liability insurance and the appropriate sealing of the road.

BCC have responded that they were unable to determine the Reduced Levels of the site, and that taking into consideration the flood levels, this level should be approximately 38.28 AHD.

The Proponent further stipulate (in an email addendum to the response to submissions dated 21 June 2010) that the relevant ground levels of the development site adjacent to the relevant flood levels vary from RL 38.20m AHD to RL 38.84m AHD, which is above the flood levels of the site.

Conditions relating to the treatment of the roads and public liability insurance have been included in the terms of approval.

7. CONSIDERATION OF PROPOSED MODIFICATIONS

Bulk earthworks

Bulk earthworks are proposed to raise the level of Lot 1001 above the 1 in 100 year flood level, and to form a drainage channel in Lot 1002 inclusive of 4 retaining walls along the boundary of Lots 1001 and 1002 ranging in height from 0.822 metres to 1.841 metres.

DECCW raised issues regarding appropriate construction and environmental management measures required to be implemented during the construction phase to minimise environmental impacts. These include air quality and dust assessment and management, noise and vibration assessment and management and erosion and sediment control.

The approval for MP 08_0069 requires the preparation of an Environmental Management Plan, which includes and air quality and dust management plan, noise and vibration management plan and erosion and sediment control plan. The proponent has indicated in the Response to Submissions that an appropriate Environmental Management Plan will be prepared in accordance with this Condition. Conditions 11, 12, 14 and 15 of MP08_0069 provide additional



requirements for noise and dust management which are to be complied with during the undertaking of any works.

The Department is satisfied that these measures will ensure the earthworks will be undertaken in an environmental sustainable manner and will mitigate impacts on the surrounding residential properties.

Drainage works

Drainage works are proposed to make Lot 1001 suitable for future development. Lot 1002 will include stormwater drainage infrastructure and be dedicated to Council upon completion of the works. Lot 1002 will include a drainage channel, to drain the catchments north and south of the site, and on the site to Cooper Road and Bagdad Street. The channel will drain from the Sydney Water supply pipeline (Lot 109) along the southern boundary of the site to the Bagdad Street culvert. A hydraulic control structure (3 x 600mm pipes in high flow weir) immediately upstream of Bagdad Street will attenuate flows into the channel downstream.

The drainage channel is proposed in the form of an open swale. The open swale will provide on-site detention, as well as stormwater flow management. This is considered to be the best solution by the Proponent, which will formalise flood storage on the site and avoid any adverse stormwater and flooding impacts downstream.

Bankstown City Council raised concerns whether the potential blockage factor has been addressed for the stormwater exiting the site into the local Council system (west side of the subject site). The proponent subsequently undertook a flood modelling study for a blocked case scenario, assessed based on a 50% blockage of the detention basin culvert.

The results of the flood modelling study revealed that the maximum 100 year flood level (allowing for the 50% blockage of the outlet structure as stipulated by Council) is RL 37.98m AHD. The flood level varies from RL 37.78m AHD at the downstream (western) end of the site to RL 37.98m AHD at the north eastern end of the site. The relevant ground level of the development site adjacent to the relevant flood levels vary from RL 38.20m AHD to RL 38.84m AHD. Based on the modelling undertaken, the site is designed to be above the 100 year flood levels.

The Department is satisfied the proposed levels of the site will accommodate future development above the 100 year flood levels.

Subdivision Plan

The approved subdivision plans for the Potts Hill Reservoirs Site show the Bagdad Street site forming Lot 108. The proposal involves the subdivision of this site into two lots, to be known as Lot 1001 and 1002, as illustrated in **Figure 2**. Proposed Lot 1001 is to accommodate a future ADHC development. Lot 1002 is to be dedicated to Council as a drainage reserve.

The proposed re-subdivision of the subject site does not affect the staging plan for the overall Potts Hill lands. Accordingly, it is recommended the Conditions of Approval to MP 08_0069 be modified to include new subdivision plans creating the two lots on the Bagdad Street site.

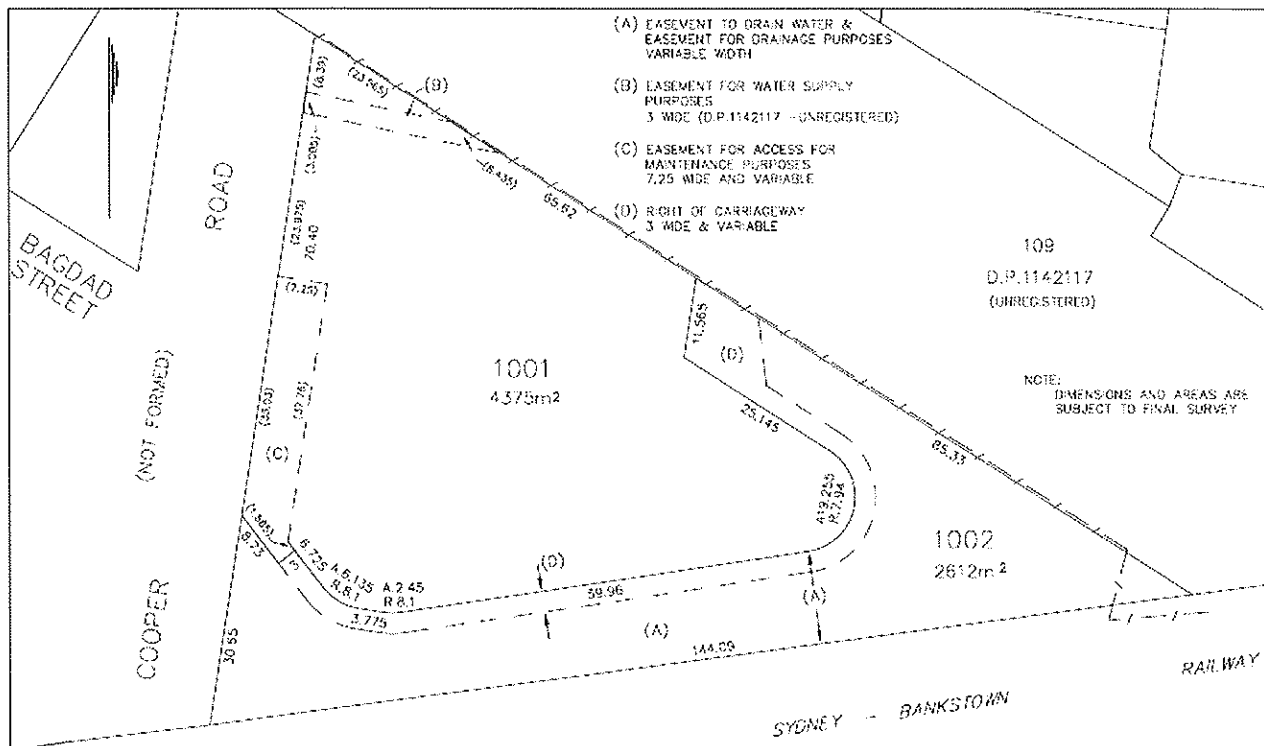


Figure 2 – Proposed amended subdivision plan

Traffic

The RTA has advised that the construction access for the abovementioned works requires the submission of a detailed Traffic Management Plan (TMP) and associated Traffic Control Plan (TCP). The proponent has committed to developing a detailed TMP and associated TCP which will include construction vehicle routes, the number of trucks, the hours of operation, access arrangements and traffic control, which has been included as a condition within the terms of approval.

The Department is satisfied the TMP and TCP will satisfactorily control construction access.

8. CONCLUSION

The Department considers that the proposed modifications are acceptable as the works would not result in any new or increased environmental impacts. As such, the proposed modification application is supported, subject to conditions in the terms of approval.

9. DELEGATION


Under the Instrument of Delegation dated 25 January 2010, the Minister delegated his functions under section 75W of the EP&A Act to the Director, Government Land and Social Projects, where there are fewer than 10 public submissions in the nature of objections in respect of the modification request. As there were no public submissions, the modification application can be determined under delegation.

10. RECOMMENDATION


It is recommended that the A/Director, as delegate for the Minister for Planning:

- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, under section 75W of the *Environmental Planning and Assessment Act 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**TAG A**).

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