

Thursday, 27 September 2012

The Director General
 Department of Planning & Infrastructure
 23-33 Bridge Street
 Sydney NSW 2000

Architecture
 Urban Design
 Planning
 Interior Architecture

Attention: Cameron Sargent
 Team Leader, Metropolitan and Regional Projects North

**RE: Major Project MP 08_0116 - Potts Hill Residential Estate – Civil Works Stage 2
 Section 75W Modification No. 3**

Dear Cameron,

We write on behalf of Landcom, in support of a Section 75W Modification to the above mentioned Major Project Application approval, MP 08_0116. Under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act), consent is sought to modify Statement of Commitment No. 11, which requires that future residential development be consistent with the Residential Design Guidelines.

Architectus Sydney
 Level 3 341 George Street
 Sydney NSW 2000 Australia
 T 61 2 8252 8400
 F 61 2 8252 8600
 sydney@architectus.com.au
 www.architectus.com.au

It is proposed that this Commitment be:

1. Modified to replace reference to the Potts Hill Residential Design Guidelines with reference to the Potts Hill Residential Design Controls;

And that these controls be modified so that:

1. These controls be updated following consultation with Bankstown City Council; and
2. The controls reflect the revised subdivision plans approved under MP 08_0116 MOD 2.

The report should be read in conjunction with the following attached documentation:

- **Attachment A** - Potts Hill Residential Design Controls, *prepared by Architectus Group Pty Ltd*, dated 25 September 2012.
- **Attachment B** – Bankstown City Council email comments to Potts Hill Residential Design Controls dated 29 and 27 August 2012.

1. Site and locality

The subject site is located at Potts Hill, within the City of Bankstown LGA. The site is generally bounded by Rookwood Road and Graf Avenue (east), a water supply pipeline (north), Cooper Road (west) and Bruncker Road (south).

The approved project application as modified relates to surplus lands, divided into two precincts, being the Eastern Business Park Precinct (the 'Eastern Precinct') and the Western Residential Lands Precinct (the 'Western Precinct').

The land to which this modification relates is legally described Lot 106 in DP 1153671, and specifically relates to the Western Precinct.

The Western precinct (24.9 hectares) comprises 19.8 hectares of residential zoned land as well as 4.9 hectares zoned for open space. Vehicular and pedestrian access to this precinct will be located off Bruncker Road (south) and Cooper Road (west). The Eastern Precinct is zoned for Business Park uses and has an area of approximately 15.3 hectares.

Auckland
 Brisbane
 Melbourne
 Shanghai
Sydney

Architectus Group Pty Ltd
 ABN 90 131 245 684

Managing Director:
 David Sainsbery
 Nominated Architect
 NSWARB 5551
 ARBV 13176

Demolition and site remediation works have been completed and civil road and public domain works have commenced on the Stage 1 development area (southern portion of the site).

2. Development consent history

On 13 June 2007, a State Significant Site Study was lodged by Landcom and Sydney Water Corporation requesting that the Potts Hill site be listed as a State Significant Site under *State Environmental Planning Policy (Major Development) 2005*. On 14 July 2007, the former Minister for Planning declared that the site as a State Significant Site.

A Concept Plan application for development of the Western Precinct (MP 07_0099) was approved by the Minister for Planning (former) on 27 April 2009.

A Preliminary Environmental Assessment and request for Director-General's Requirements (DGRs) was lodged by Landcom in March 2009 for Major Project MP 08_0116 for Stage 2 civil and infrastructure works at the Potts Hill Reservoir site (proposed residential precinct), to include subdivision, bulk earthworks (including excavation and compaction), vegetation removal, site infrastructure (including roads, drainage works and utilities) and the dedication of public roads and open spaces. DGRs were issued on 4 July 2009. Major Project Approval was granted by Richard Pearson, Deputy Director-General of the Department of Planning for the subdivision of the Western Precinct on 4 September 2010. It is this consent, which is sought to be modified.

A Section 75W Modification to MP 08_0116 was submitted to the Minister for Planning on 10 March 2011. The modification application sought consent to amend an approved civil drawing and to amend the location of the 132 KV electricity main. The modification application was approved on 29 August 2011.

Modification No. 2 to MP 08_0116 was submitted to the Department of Planning and Infrastructure in July 2012, and approved by the Department of Planning on 13 September 2012. MP 08_0116 MOD 2 sought consent for amendments to the approved subdivision plans to accommodate community housing and additional terrace housing.

3. The proposed modifications

As aforementioned it is proposed that Commitment No 11 of the Statement of Commitments to MP 08_0116 (as modified), be:

1. Modified to replace reference to the Potts Hill Residential Design Guidelines with reference to the Potts Hill Residential Design Controls;

And that these controls be modified so that:

1. These controls be updated following consultation with Bankstown City Council; and
2. The controls reflect the revised subdivision plans approved under MP 08_0116 MOD 2.

3.1 Commitment No. 11

It is proposed that Commitment 11 be amended to read as follows (amendments identified in red text):

Commitment	Description	Timing
11. All future residential development is to be undertaken in accordance with the <i>Potts Hill Residential Design Guidelines</i> Controls.	All future residential development will be undertaken in accordance with the Residential Design Guidelines provided at Appendix R <i>Potts Hill Residential Design Controls at Attachment A to this report.</i>	Development of all residential development on the subject site.

It is proposed that the 'Residential Design Guidelines' title of the document be amended to the 'Potts Hill Residential Design Controls', in order to better reflect their status as a development control document for consideration as part of any future residential DA within the Potts Hill residential precinct. It is understood that the Potts Hill Residential Design Control will function as a Development Control Plan for the purposes of Council's assessment of future DAs.

3.2 Modifications to the Potts Hill Residential Design Controls

The Potts Hill Residential Design Controls have been modified to accommodate and reflect the following:

- The NSW Housing Code, including small lot housing;
- Bankstown Development Control Plan 2005;
- The inclusion of community housing as part of the Potts Hill development; and
- References to Standard Instrument and NSW Housing Code definitions.

As part of this process, Landcom has consulted with Bankstown City Council to ensure Council's satisfaction with the proposed controls. Landcom met with Council to discuss the guidelines on Wednesday 18 July 2012. Council also issued comments to the Controls via email (dated 29 August and 27 August 2012, provided at **Attachment B** to this report). Council's comments in relation to the controls, and Landcom's response are outlined at **Table 1**.

Table 1 Bankstown City Council comments

Bankstown Council comments	Landcom response
Council seek assurances that Community Housing will be for a minimum defined period.	The Potts Hill Residential Design Controls include a provision under Section 4 which requires community housing lots to remain such for a period of at least 10 years.
Council's DCP includes an 'asymmetrical design' requirement for attached dwellings/dual occupancies. Council does not permit mirror designs for such dwellings.	A control requiring asymmetrical design as per Council's DCP has been included into the Potts Hill Residential Design Controls (Section 2, 8. Façade Design).
Ensure that 'accessory dwelling' is detailed in the glossary as this is not a 'standard term' used in any Bankstown Council documents. Alternatively use 'secondary dwelling' term.	'Accessory dwelling' as a term has been removed in all instances in the Potts Hill Residential Design Controls and replaced with 'secondary dwelling', as defined under the Standard Instrument.
Delete the word 'if possible' should be deleted wherever they appear on Page 19 (Section 3) with respect to the retention of significant trees .	Whilst it is preferable that significant trees be retained, it is acknowledged that the retention of all significant trees significantly restrict the built form outcome available to the northern medium density lot. It is considered that tree retention should be considered as part of a future DA.
References to Council's privacy controls should refer to 'Part D2' of the Bankstown DCP.	This is noted and references within the Potts Hill Residential Design Controls have been amended to include 'Section D2' of the Bankstown DCP.
The Page 17 (Section 2) map, does not match/reflect the modification Application that is currently with the Department of Planning.	All figures within the Potts Hill Residential Design Controls are updated to be consistent with the approved subdivision plan under MP 08_0116 MOD 2.

Other modifications to the Potts Hill Residential Design Controls have also been made in consultation with the community housing provider Link Housing and to ensure the Control's are adequate for assessment of future DAs. These modifications include:

- Inclusion of a land application map within the Introduction.
 - **Purpose:** To provide clarity on land applicability of the Controls, and provide a clear index to which section of the Controls apply to particular lot types.
- Testing of fill, retaining wall and excavation controls.
 - **Purpose:** These controls have been tested to ensure their appropriateness for difficult sites, in particular sites with significant slopes. It was found that the controls are acceptable in their current form, with the exception external walls and retaining walls to contain fill on attached housing lots. The current control states that “*fill associated with the dwelling or garage must be contained within the external walls of the building or by a retaining wall with a height no greater than 600mm above existing ground level*”. As per the approved Civil Engineering Drawings provided as part of MP 08_0116 (as amended), a significant number of detached housing lots may require the containment of fill of up to 1500mm. Accordingly, it is proposed that this Condition be amended for detached housing lots only, to read as “*fill associated with the dwelling or garage must be contained within the external walls of the building or by a retaining wall with a height no greater than 1500mm above existing ground level*”. It is proposed that the maximum retaining wall height to contain fill for all other housing types be retained at 600mm.
- Expansion of Section 4 – Community Housing controls to include controls for articulation zones, earthworks and drainage.
 - **Purpose:** Additional articulation zone, earthwork and drainage controls have been added to Section 4 to provide certainty TO the development outcome and clarity on the applicability of such controls to community housing.
- Exclusion of ‘Section 10 – On-site Stormwater Detention Systems’ of the Bankstown City Engineering Standards 2009.
 - **Purpose:** The Potts Hill Civil Works Stage 2 Project Application has been designed taking into consideration the on-site stormwater detention (OSD) requirements of the Potts Hill Residential Precinct site including future development envisaged on the site. Accordingly, detention basins are located across the precinct to accommodate OSD requirements. It is therefore not required that each individual lot also include OSD.

4. Statutory considerations

4.1 Introduction

In accordance with Clause 3 of Schedule 6A of the EP&A Act, Section 75W of the Act as in force immediately before its repeal on 1 October 2011 as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

This report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under Section 75W of the Act.

4.2 Environmental Assessment Requirements

Section 75W of the EP&A Act states the following:

‘75W Modification of Minister’s approval

(1) *In this section:*

“Minister’s approval” means an approval to carry out a project under this Part, and includes an approval of a concept plan.

“Modification of approval” means changing the terms of a Minister’s approval including:

- (a) *revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
 - (b) *changing the terms of any determination made by the Minister under Division 3 in connection with the approval*
- (2) *The proponent may request the Minister to modify the Minister’s approval for a project. 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.*
- (3) *The request for the Minister’s approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modifications that the proponent must comply with before the matter will be considered by the Minister.*
- (4) *The Minister may modify the approval (with or without conditions) or disapprove of the modification.*
- (5) *The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request within 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.*
- (6) *Subsection (5) does not apply to a request to modify:*
- (a) *An approval granted by or as directed by the Court on appeal, or*
 - (b) *A determination made by the Minister under Division 3 in connection with the approval or a concept plan.*

The Proponent requests that the Minister for Planning, as the consent authority, approve the proposed modifications to the Project Application MP 08_0116 (as modified).

There are no provisions of Section 75W that impose any prohibition or limitations on the proposed modifications. The Proponent has not been notified of any environmental assessment requirements at the time of preparing this report. Should the Director-General consider additional environmental assessment requirements are necessary to be addressed by the Proponent, the proposal will provide an additional response to that request. Therefore it is considered that the proposed modifications satisfy the provisions of this Section.

5. Relevant planning instruments

The Potts Hill Residential Design Controls have been developed to complement the floor space ratio, height and zoning controls contained in **Bankstown LEP 2001**, that apply to the Potts Hill residential precinct. The *Potts Hill Residential Design Controls* are complementary to the LEP, and therefore will not result in any inconsistencies.

The relevant objectives of the LEP are:

- (a) *To regulate development in accordance with the following principles:*
 - (i) *new buildings shall be designed to achieve:*
 - (A) *Good urban design, and*
 - (B) *Public and private safety, and*
 - (C) *Energy and resource efficiency, and*

The proposed development is consistent with the relevant objectives of the Bankstown LEP 2001, in that the Potts Hill Residential Design Controls:

- Seek to promote good urban design through the implementation of design controls which will achieve a consistent quality built form outcome across the Potts Hill development site through the control of setbacks, site coverage, landscaping, earthworks and the like.
- The Potts Hill Residential Design Controls include provisions to promote passive surveillance and privacy, to ensure public and private safety is maximised by future development (for example requiring dwellings to overlook streets and public domain); and
- Residential Development at Potts Hill will be subject to the applicable BASIX energy and water efficiency and thermal comfort targets.

6. Conclusion

The proposed modifications under Section 75W of the EP&A Act 1979 will facilitate the implementation of the Potts Hill Residential Design Controls, allowing for greater consistency with the NSW Housing Codes and the Bankstown DCP.

Accordingly, it is recommended that this Section 75W application be approved by the Minister for Planning and Infrastructure.

If you have any queries or would like to discuss this matter further, please do not hesitate to contact Camille Lattouf, Urban Planner on 8252 8400 or Nic Manager at Landcom on 9841 8600.

Yours sincerely,




Jane Fielding
Senior Planner
Architectus Group Pty Ltd

Prepared by Camille Lattouf
Urban Planner, Architectus Group Pty Ltd

cc. Nick Chandler, Senior Development Manager, Landcom - nchandler@landcom.nsw.gov.au