

ASSESSMENT REPORT

MIXED USE DEVELOPMENT, EASTLAKES SHOPPING CENTRE MP 09_0146 MOD 3

1. INTRODUCTION

This report is an assessment of a request seeking to modify the Project Approval for a mixed-use development at Eastlakes Shopping Centre in the Bayside local government area. The request has been lodged by Urbis on behalf of Crown Group (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to remove four London Plane trees located along the northern side of Evans Avenue and replace them with six new street trees.

2. SUBJECT SITE

The subject site is located at Eastlakes Shopping Centre, approximately six kilometres (km) south of the Sydney CBD. The northern portion of the site has frontages to Gardeners Road to the north, Evans Avenue to the south, and adjoins residential flat buildings to the east and west. The southern portion of the site has frontages to Evans Avenue to the north, Barber Avenue to the east and south, and Eastlakes Reserve to the west (see **Figure 1**). Construction on the northern part of the site has commenced.



Figure 1: Site Location

3. APPROVAL HISTORY

On 19 September 2013, the then Planning Assessment Commission (the Commission) granted Project Approval for a mixed-use development incorporating basement car parking, ground floor retail area, and residential development above, communal open space, public domain landscaping and associated infrastructure works.

On 19 December 2017, the Department approved MP 09_0146 MOD 2 to amend Condition B29(e) to allow construction vehicles up to 19 metres (m) to access the site during construction.

The Department is currently assessing MP 09_0146 MOD 1 for the changes to the northern site including reconfiguration of parking and ground level retail and an increase in the height of building 1B.

4. PROPOSED MODIFICATION

On 1 December 2017, the Proponent lodged a section 75W modification application (MP 09_0146 MOD 3) seeking approval to remove four *Platanus Acerifolia* (London Plane) trees located along the northern side of Evans Avenue and replace them with six new *Platanus orientalis cuneata* (Oriental Plane) trees.

The modification is requested on the basis that the existing trees along Evans Avenue are located within the awning line of the building approved under MP 09_0146. In addition, the trees would be impacted by underground services required by Condition B41 of the Project Approval.

The tree removal was included as part of MOD 1, however, due to construction timeframes, approval to remove the trees is now sought as a separate application. The request for tree removal has been removed from MOD 1.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. The project is a transitional Part 3A project under Schedule 2 to the EP&A (Savings, Transitional and Other Provisions) Regulation 2017. The power to modify transitional Part 3A projects under section 75W of the Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the ‘cut-off date’ of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. Consequently, 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 carrying out of the project under section 75W of the EP&A Act.

The Department is satisfied that the proposed changes are within the scope of section 75W of the EP&A Act, and the proposal does not constitute a new application.

5.2 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Executive Director, Key Sites and Industry Assessments, may determine the request under delegation as:

- the relevant council has not made an objection
- a political disclosure statement has not been made
- there are less than 25 public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification request publicly available on its website, and consulted with Bayside Council (Council) about the proposed modification.

Council requested confirmation that the most updated Landscape Plans had been provided, and a section diagram for the awnings along Evans Avenue.

No **public** submissions were received.

In response to Council's comments, the Proponent provided a section diagram for the awning along Evans Avenue and confirmed the submitted Landscape Plans are up to date.

Council reviewed the updated diagram and advised it supports the proposed removal of the four London Plane Trees on the northern side of Evans Avenue. However, it recommended the replacement species by provided in accordance with the City of Botany Bay Street Tree Master Plan 2014, with the Applicant's Landscape Architect to make the final decision. It also requested that Council's Landscape Architect and Public Domain Engineer be invited to conduct and inspection prior to installation of the street trees.

7. ASSESSMENT

The Proposal seeks approval to remove four existing street trees and replace them with six new street trees. The Proponent seeks approval to remove the trees because they would be impacted upon by the awning line of the approved building. The existing street trees would also be impacted upon by the underground services required by Condition B41 of the approval.

To support the removal of the existing street trees, the Proponent submitted a Arboricultural Impact Assessment which concludes the extent of the building and service encroachments on the impacted trees is characterised as major, and therefore the retention off the trees is not viable.

The Department accepts the findings of the Arboricultural Impact Assessment and is satisfied the retention of the existing street trees is not possible. The Department also considers the proposal to plant six new replacement trees is acceptable as the additional street trees would improve the overall amenity of the street and help soften the appearance of the adjoining development.

The Department has also recommended Council's suggested conditions requiring the Proponent to plant either London Plan Trees or Spotted Gum Trees (in accordance with the City of Botany Bay Street Tree Master Plan 2014) and Council officers to inspect the site before the street trees are planted. Subject to the recommended conditions, the Department is satisfied the proposal is acceptable.

8. RECOMMENDATION

It is recommended that the Executive Director, Key Sites and Industry Assessments, as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report;
- **determine** that the application falls within the scope of section 75W of the EP&A Act;
- **Approve** the modification application MP 09_0146 MOD 3, subject to conditions; and
- **sign** the attached notice of modification (**Appendix A**).

Recommended by:



Anthony Witherdin
Director
Modification Assessments

DECISION

Approved by:



Anthea Sargeant 14/3/18
Executive Director
Key Sites and Industry Assessments
as delegate of the Minister for Planning.

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8954

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8954

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8954

3. Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8954