

DEPARTMENT OF PLANNING & INFRASTRUCTURE

Development Assessment

SUBJECT: DISCOVERY POINT STAGE 6 (MP 10_0031)

MOD 1

1. PURPOSE

To determine a modification as requested by Australand Property Group, on behalf of Discovery Point Pty Ltd and Discovery Point Development Pty Ltd (the proponent) for minor modifications (MOD 1) to the Stage 6 approval in accordance with section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. BACKGROUND

The Discovery Point site was granted a Masterplan approval by Rockdale Council on 11 April 2001 and three building stages were subsequently approved. These buildings, 'Greenbank', 'Vine' and 'Verge' (see figure 2), have been constructed and are occupied.

2.1 Site Description

The site is known as 1 Princes Highway, Wolli Creek and is located on the western side of the Princes Highway, approximately 8 kilometres south-west of the Sydney CBD. Discovery Point is bounded by the Princes Highway, Cooks River, the Illawarra and East Hills Railway Lines and Magdalene Terrace (see figures 1 and 2).

The Discovery Point site is within the Rockdale Local Government Area.

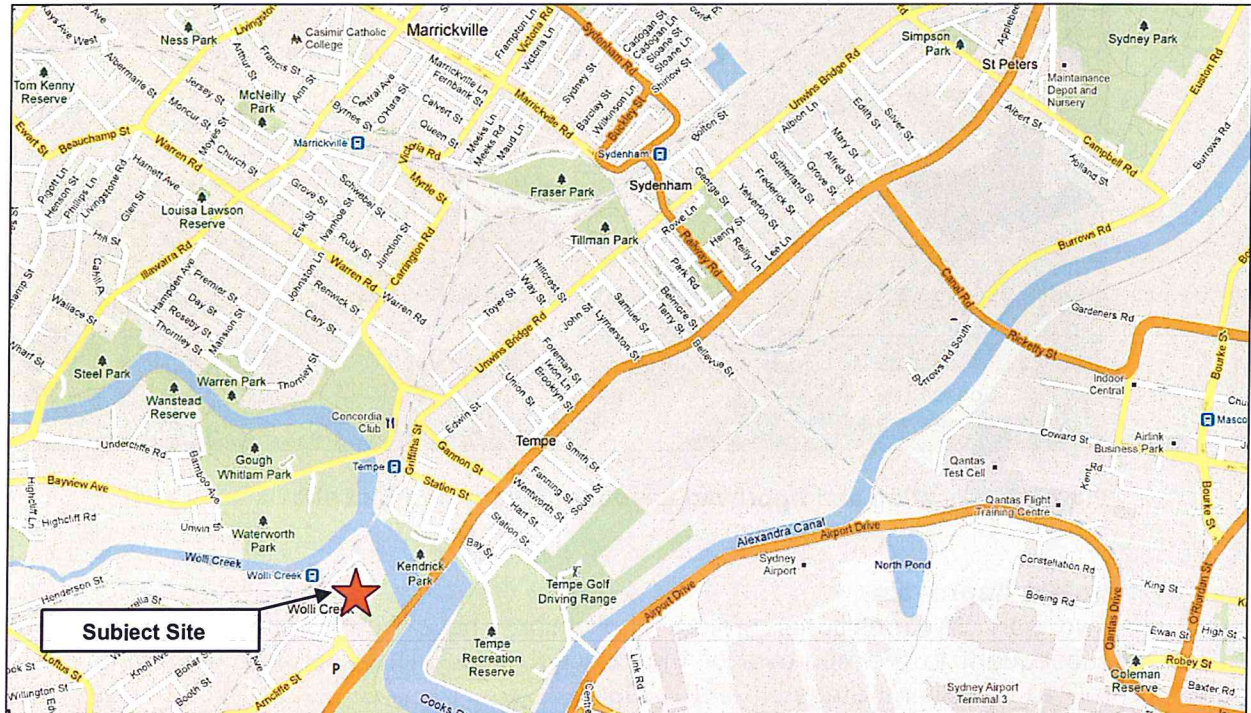


Figure 1: Location of Discovery Point

2.2 Concept Plan (MP 10_0003) and Project Approvals

On 5 May 2011, the Director General as delegate for the then Minister for Planning granted concept plan approval (MP10_0003), for a mixed use development with associated public open space, indicative building envelopes for 14 buildings, road works and landscaping.

The concept plan approval included Development Design Guidelines to inform the detailed design of each building at the project application stage.

The concept plan approval was modified (MOD 1) on 15 June 2012 amending solar access and building separation requirements on the Discovery Point site. A second modification (MOD 2) to the concept plan, which includes the proposal to increase the area available for car parking on the Discovery Point site, was approved on 13 March 2013

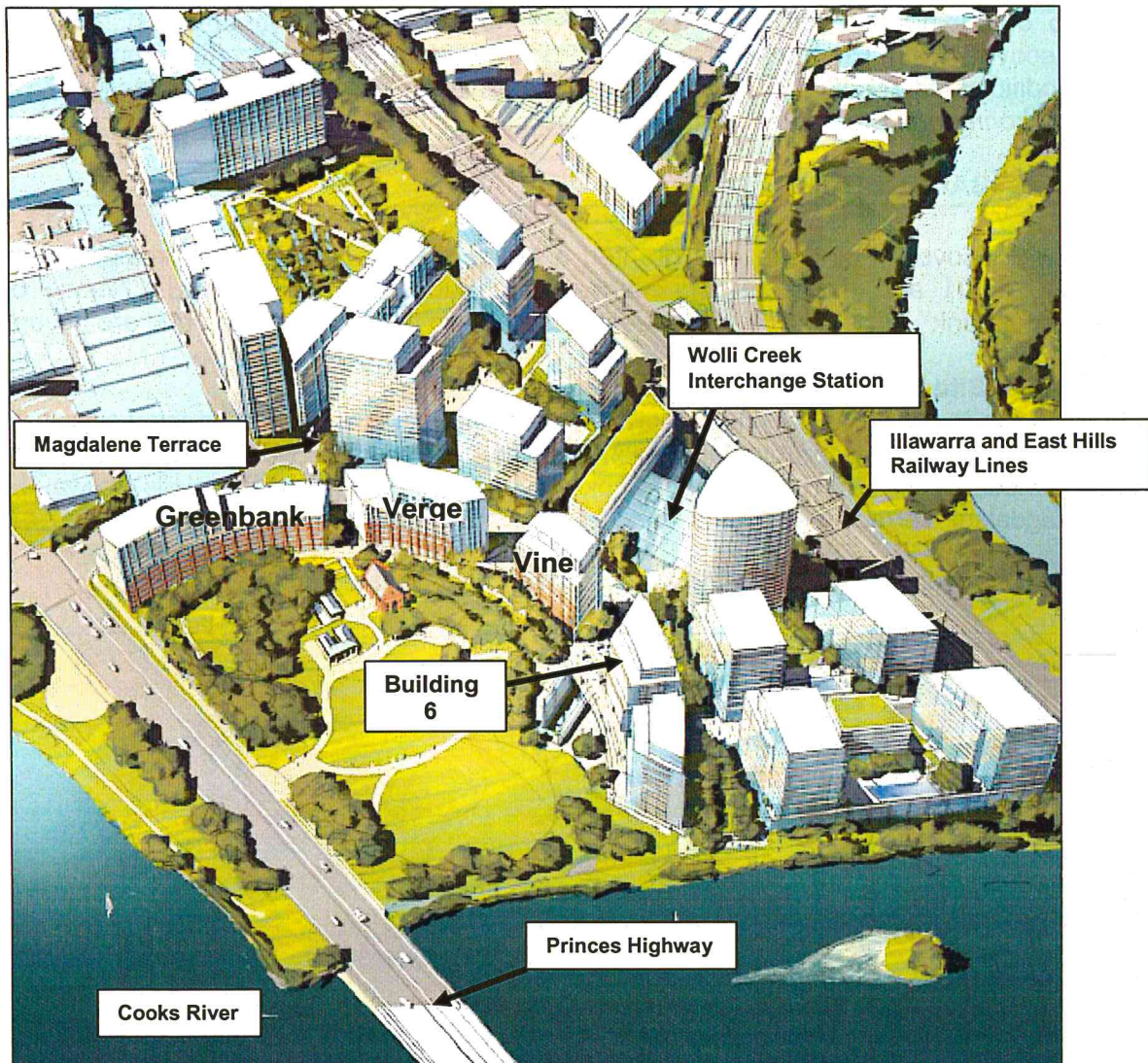


Figure 2: Location and Approved Layout of Discovery Point site

Project Approvals

Two part 3A transitional project applications have been approved by the department subsequent to the approval of the concept plan. These project approvals are Stage 1 (MP10_0030) and Stage 6 (MP10_0031).

- Stage 6 was approved on 18 July 2012 by the Deputy Director General as delegate for the Minister for Planning and Infrastructure. Stage 6 (see figure 2 and 3) approved the development of 88 residential units within a 13 storey building.

- Stage 1 (MP 10_0030) was approved on 19 March 2012 by the Deputy Director General as delegate for the Minister for Planning and Infrastructure. The Stage 1 project approval was for mixed use development and includes buildings 1B and 1C (see figures 2) and bulk earthworks for a range of other stages including Stage 6.

An application for modification (MOD 1) of Stage 1, which includes the proposal to increase the area of car parking within the Stage 1 approval, was received on 7 September 2012. The modification is undetermined to date.

Modification 2 of Stage 1, for variation of construction hours was approved on 6 February 2013.

Stage 2 and Stage 7 have been approved by the Sydney East Joint Regional Planning Panel and an application has been lodged with Rockdale City Council for Stage 4 approval.

3. PROPOSED MODIFICATION

An application to modify Stage 6 of the Discovery Point site was received by the Department on 16 January 2013. On the 25 January 2013 the department received an amended proposal for modification of the Stage 6 approval to extend the hours of construction as follows:

- a) from 7.00 am to 5.00 pm on Saturday 9 and Sunday 10 February 2013 in order to carry out works in conjunction with a RailCorp network shutdown, and
- b) on the written approval of the Director-General of the Department of Planning and Infrastructure within specified conditions.

Condition D2 of the project approval currently confines hours of construction to between 7.00 am and 6.30 pm Mondays to Fridays and between 7.00 am and 3.30 pm Saturdays with no work on Sundays.

The department informed the proponent that the Stage 6 bulk earthworks are approved under the Stage 1 approval and a subsequent modification (MOD 2) for the variation of construction hours to Stage 1 was submitted to the department.

On 6 February 2013 the department approved modification 2 of Stage 1 for variation of construction hours on 9 and 10 February 2013 as well as for the Director General to provide written approve of extended hours of construction.

The proponent advised they still seek variation of construction hours to Stage 6 in anticipation of future site works being required to be undertaken during periods of RailCorp network shutdown. Part a) of the proposal, which references a specific date which has passed, is not relevant to this Stage 6 modification.

Building 6 is located on top of subterranean RailCorp infrastructure (see figure 3). In recognition of the need for works to be undertaken, during construction of the basement of building 6, in conjunction with RailCorp Network Shutdown weekends, a variation of condition D2 in Stage 6 is sought.

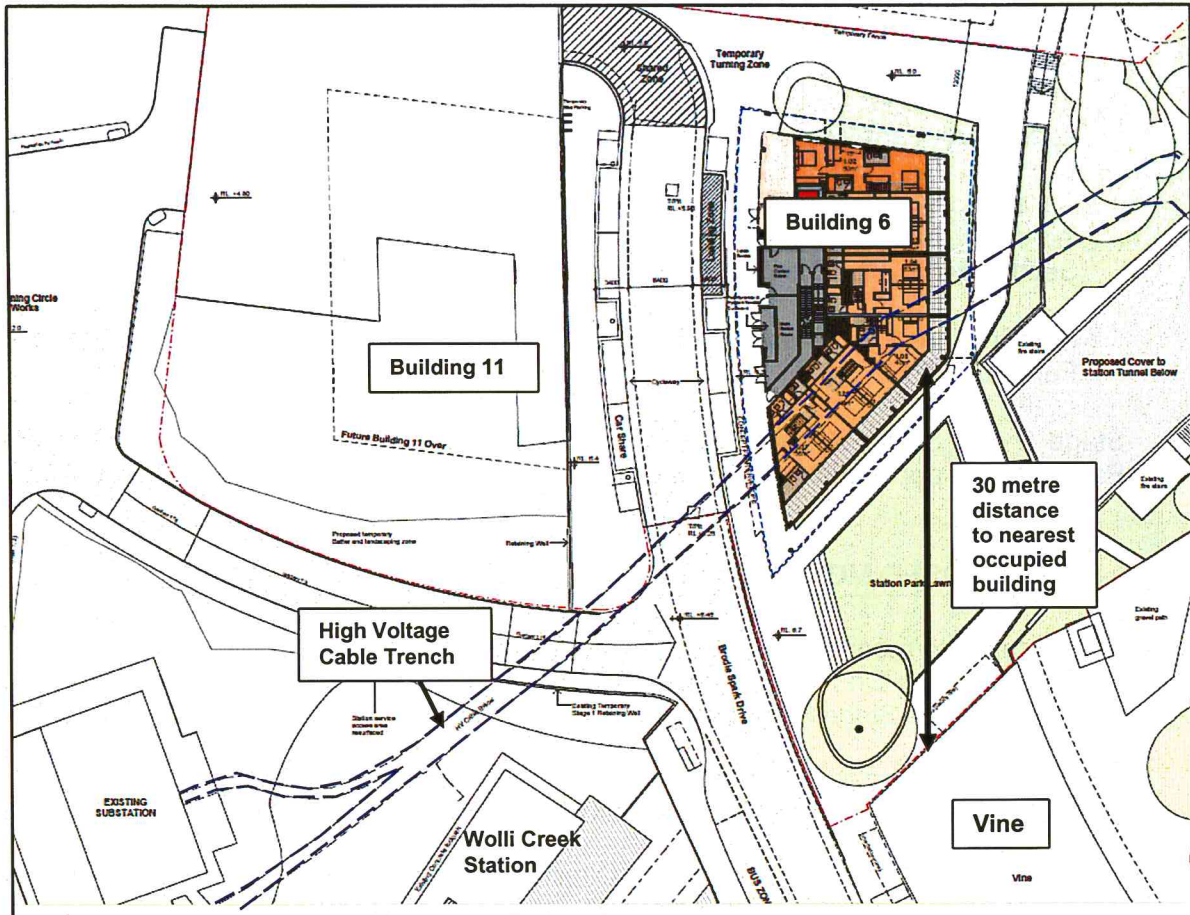


Figure 3: Location of building 6 and RailCorp high voltage cable trench

4. STATUTORY CONTEXT

4.1 Continuing Operation of Part 3A

In accordance with clause 3 of Schedule 6A of the Environmental Planning and Assessment Act 1979 (EP&A Act), section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects. 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 of the carrying out of the project under section 75W of the Act.

4.2 Delegated Authority

On 27 February 2013 the Minister confirmed the delegation of his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where the relevant local council has not made an objection, a political disclosure statement has not been made and there are less than 10 public submissions in the nature of objections.

This proposal was not exhibited, council did not object and a political disclosure statement has not been made. The Director, Metropolitan and Regional Projects North may determine the modification request under delegated authority.

streamlined approach to out of hours applications, the department recommends a mechanism be put in place to enable the Director General to vary the hours on a case by case basis, subject to conditions.

With respect to Council's submission, any application to vary hours of construction will be considered on a case by case basis and a range of constraints, such as confirmation of prior consultation with any relevant agencies will apply. As such, the department considers adequate protection is provided and it is not necessary to restrict this provision to Railcorp Track Possession Weekends only.

Accordingly, it is recommended that a new condition of consent (condition D2A) be inserted into the Stage 6 project approval. Condition D2A details the circumstances under which variation of construction hours may be approved by the Director-General.

The proponent has also provided an Environmental Management Plan (EMP) identifying potential impacts of the construction works on the environment and surrounding communities. The plan includes reference to a range of relevant guidelines and documents and provides mitigating measures, as may be required, during Stage 6 works. The EMP confirms that all relevant legislative requirements are met and that it will be updated regularly.

The department supports the implementation of the EMP for Stage 6 works and a condition of consent (Condition D2B) is recommended to be inserted in the Stage 6 amended instrument confirming that current statutory and regulatory environmental, health and safety requirements will be implemented on the Stage 6 site.

7. RECOMMENDATION

It is RECOMMENDED that the Director, Metropolitan and Regional Projects North:

- note the information provided in this report;
- approve the modification request of Stage 6, subject to conditions; and
- sign the attached modifying instrument (Tag A).

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5. CONSULTATION AND SUBMISSIONS

5.1 Consultation

In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made available on the Department's website. Due to the minor nature of the proposal, the modification request was not exhibited by any other means.

The request for modification was referred to Rockdale City Council and Railcorp for comment.

5.2 Rockdale City Council Submission

Rockdale City Council was notified of the proposal to modify the Stage 1 approval. Council supports the variation to condition D2 provided the applicant notifies residents in the nearby 'Vine' building by letter of the extended construction hours.

Council agreed that it would be more convenient to permit the Director-General to provide approval for future requests for variation of construction hours rather than modifying the approval each time. It was stipulated however that the proposal to vary construction hours subject to Director-General approval, is only supported by Council if it coincides with scheduled Railcorp Track Possession Weekends.

5.3 RailCorp

Condition 10a. of schedule 3 of the concept plan approval (MP10_0003) requires the proponent to obtain RailCorp's land owners consent prior to the lodgement of any application which affects Railcorp land.

The department notified RailCorp of the proposed modification. No submission was received.

RailCorp issued land owner's consent for the application requesting the variation of hours of construction to the proponent.

6. KEY ISSUES

6.1 Impact on Neighbourhood Amenity

The Discovery Point site is extensive and much of the site under early stage construction. There is currently no residential development to the north, east and west of the Stage 6 construction site. There is however an occupied residential flat building, 'Vine' to the south of the stage 6 site. The building 'Vine' is 30 metres south of the proposed excavation works (see figure 2 and 3).

Condition D2 of the Stage 6 approval, permits construction work on Saturdays between 7.00 am and 3.30 pm however no works are approved on Sundays. An extension of the hours of construction outside of approved hours, may impact residential amenity.

Rockdale City Council supports the modification to enable the future variation of construction hours to be permitted on the written approval of the Director-General with specified conditions. The Council however stipulated that the proposal to vary construction hours is only supported by Council if it coincides with scheduled RailCorp Track Possession Weekends.

The department accepts there may be times where out of hours works may be necessary. Currently the approval does not allow any flexibility in work hours and a modification of the approval would be required each time a change was proposed. In order to provide a more