



MODIFICATION REQUEST:
61 Mobbs Lane, Epping (former Channel 7 site)
(MP 10_0107 MOD 7)
Modification of condition relating to road works for Buildings 1, 2 and 3 at 61 Mobbs Lane, Epping



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

May 2012

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EXECUTIVE SUMMARY

This report is an assessment of a section 75W modification application identified as (MP10_0107 MOD 7) lodged by Meriton Apartments (the proponent) requesting an amendment to the wording of one condition in the project approval for MP10_0107, which permitted the construction of Buildings 1, 2 and 3 at 61 Mobbs Lane, Epping.

The proponent has advised that the purpose of the modification is to remove an inconsistency between a condition in the subject application (MP10_0107) and a condition and statement of commitment in the Early Works Approval (MP08_0258) which relates to the timing for constructing road works to Mobbs Lane.

The proponent seeks the amendment of Condition E2 contained in MP10_0107 which requires road works to Mobbs Lane to be completed prior to the issue of 'any Occupation Certificate'. The proponent requests that the wording of the condition be either deleted completely or amended to read 'Final Occupation Certificate'.

The modification application was placed on the department's website and Parramatta City Council (council) and the Roads and Maritime Services (RMS) were both notified in writing. The council raised no issue with the proposal. RMS did not support the application stating that works along Mobbs Lane are required for safe access to the site.

The department notes that the reason for the difference in the wording of the two conditions relates to the submissions made by Roads and Maritime Services (RMS) in response to the project application for Buildings 1, 2 and 3 which requested that certain roads works to Mobbs Lane be done (right turn bay, pedestrian refuge, bus bay and footpaths) prior to the issue of any Occupation Certificate for the buildings.

It is noted that such a request was not made by RMS in response to the early works project. It was also not requested by RMS for the first part of Stage 1, which approved the construction of buildings 4 and 5 (MP08_0257), which consisted of 134 residential units.

The addition of 28 dwellings proposed under the subject approval is relatively minor and would not place significant demands on existing road infrastructure surrounding the site. Accordingly, while the department does not support the deletion of Condition E3, it does support the re-wording of the condition so that the road works are completed prior to the issue of a final Occupation Certificate for Buildings 1, 2 and 3.

On this basis, the department considers that the proposed modification application should be approved, subject to conditions.

1. BACKGROUND

1.1 The Site

The site is known as 61 Mobbs Lane, Epping. It is approximately 24km from the Sydney CBD within the Parramatta Local Government Area (see **Figure 1**). The site is described as the former Channel 7 site, having previously been used by Channel 7 for their television studios and associated facilities. The buildings approved under MP 10_0107 (as modified) are currently under construction and expected to be completed by the end of May or June.

The site has an area of 8.9ha, with a frontage of approximately 500m to Mobbs Lane. The surrounding development is predominantly low density detached residential dwellings which are mainly characterised by Californian Bungalows and Federation style architecture. Sydney Institute of TAFE adjoins the site on the north eastern boundary.

The eastern proportion of the site is generally flat, while the western portion is undulating. The site has a change in elevation of approximately 30 metres from east to west. A drainage line flows into Terry's Creek along the north western section of the site.

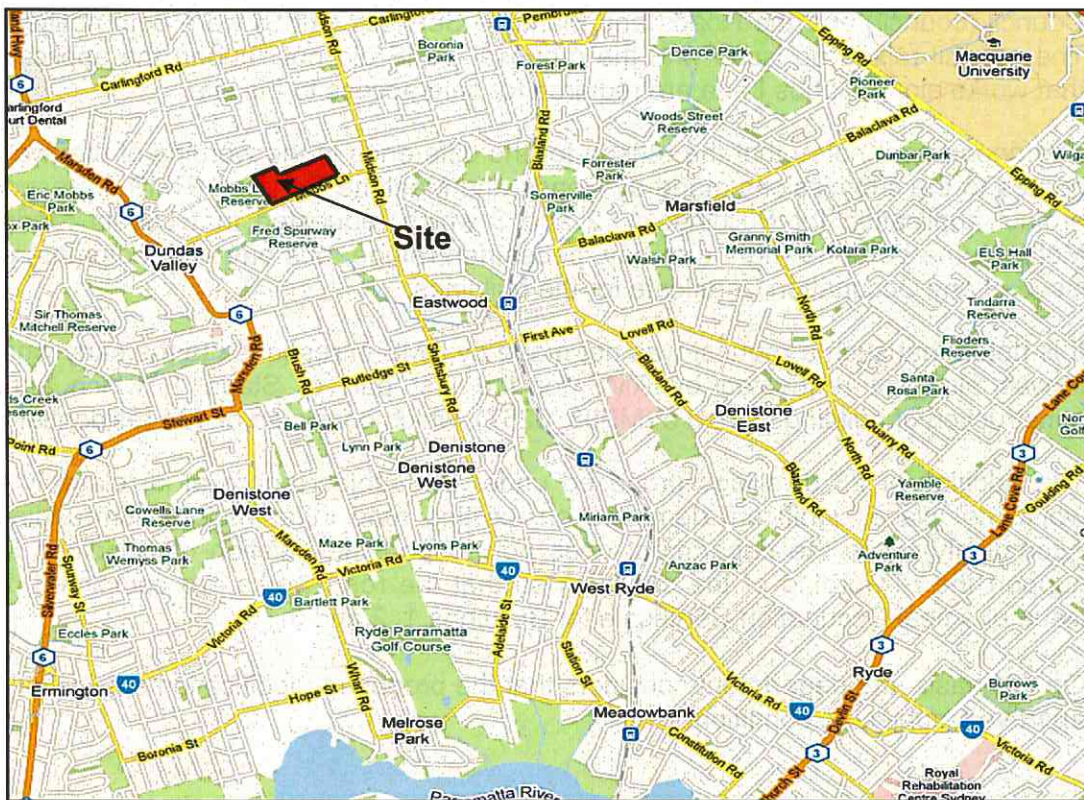


Figure 1: Site location

1.2 Approval History

State Significant Site Listing and Concept Plan

On 1 August 2006, State Environmental Planning Policy (Major Projects) 2005 (Amendment No. 6) was gazetted, which amended the Major Projects SEPP (now known as the Major Development SEPP) by listing the site as a State Significant Site in Schedule 3 of the SEPP.

On 22 August 2008, the then Minister for Planning approved a Concept Plan (MP 05_0086) for the redevelopment of the site for residential and public open space uses. The Concept Plan was subsequently modified under delegation on 23 December 2008, to clarify the timing for the lodgement of a number of management plans.

MP08_0258 Early Works

On July 14 2010, approval was granted for the Early Works (MP08_0258) by the Planning Assessment Commission (PAC). This approval related to the following:

- demolition of existing structures and tree removal
- internal and external road works, including works to Mobbs Lane
- reticulation of services and stormwater management works
- the provision of a child care facility and tennis court to south-west of corner of site
- private residents' facility in the centre of the site
- subdivision

On 22 November 2010, approval was granted for modifications to the early works approval (MP08_0258 MOD 1) by the PAC. Modifications related to the tree removal, stormwater, road works, the wetlands to the west of the site and the relocation of the tennis court to the centre of the site.

On 25 August 2011, approval was granted for further modifications to the early works approval (MP08_0258 MOD 2 and MOD 3) by the PAC. Modifications related to tree removal and subdivision amendments to clarify staged community titling of residential development.

On 5 March 2012, a fourth modification request (MP08_0258 MOD 4) was lodged by the proponent seeking to modify the timing of installing traffic signals. At the time of writing, this application is currently under assessment.

On the 12 April 2012, a fifth modification request (MP08_0258) was lodged that seeks approval for the use as well as design changes to the approved child centre building and deletion of a redundant condition in the approval. At the time of writing, this application is still under assessment.

MP08_0257 Buildings 4 and 5

On 15 September 2010, the PAC approved the construction of Buildings 4 and 5 which consisted of two residential flat buildings ranging in height from 3-6 storeys, 134 residential units, and provision for 224 car park spaces and landscaping.

A modification (MOD 1) to MP08_0257 was subsequently approved on 27 January 2011, which approved the modified timing for the completion of the required Voluntary Planning Agreement.

On 20 June 2011, a modification (MOD 2) was approved for internal and external design amendments to Buildings 4 and 5.

MP10_0107 Buildings 1, 2 and 3

On 17 January 2011, the PAC approved a project application (MP10_0107) for the construction of 28 townhouses, identified as Buildings 1, 2 and 3, provision of 34 car park spaces and landscaping works at 61 Mobbs Lane, Epping.

A modification (MOD 1) to MP10_0107 was approved by the Deputy Director-General, Development Assessment and Systems Performance on 21 October 2011. MOD 1 permitted an amendment to the unit mix, internal and external design changes, new landscaped areas, and new courtyard fences.

A second modification (MOD 2) to MP10_0107 was approved on 9 January 2012, by the Deputy Director-General, Development Assessment and Systems Performance, and permitted the strata subdivision of buildings 1 and 2.

On 13 February 2012, a third modification (MOD 3) to MP10_0107 was approved by the Deputy Director-General, Development Assessment and Systems Performance, which authorised changes to Building 2 that addressed minor drawings errors and facilitated compliance with the egress provisions of the BCA.

On 21 March 2012, a fourth modification (MOD 4) to MP10_0107 was approved by the Deputy Director-General, Development Assessment and Systems Performance, which amended the description of the approved development in Schedule 1 of the Instrument of Approval to include Torrens Title subdivision.

On 16 April 2012, a fifth modification (MOD 5) was approved by the Deputy Director-General for external design changes to Building 3.



Figure 2: Site plan identifying buildings approved under the MP10_0107 (Buildings 1, 2 and 3)

MP10_0158 Buildings 7 and 8

On 12 July 2011, the PAC approved the construction of Buildings 7 and 8 consisting of 127 residential units, 173 basement car park spaces and 11 parking spaces at street level.

On 28 November 2011, the Deputy Director-General approved a modification (MOD 1) for the strata subdivision of Buildings 7 and 8.

2. PROPOSED MODIFICATION

2.1 Modification Description

The modification seeks to maintain consistency with the Early Works Approval regarding the timing of road improvement works along Mobbs Lane fronting the site. Consequently, the proponent proposes to:

- delete Condition E2 of MP10_0107 or
- reword condition E2 so that a final occupation certificate cannot be issued until safe vehicular access is provided to each townhouse from internal roads.

2.2 Justification for Modification

Meriton is seeking to modify the subject Project Approval to ensure conditions related to the timing for constructing road improvement works are consistent with the timing for completion of the works contained in the Early Works Approval.

3. STATUTORY CONTEXT

3.1 Changes to Part 3A

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (the 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.

3.2 Modification of the Minister's Approval

Section 75W (2) of the Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend a condition of approval (E2), the modification will require the Minister's approval.

3.3 Environmental Assessment Requirements

Section 75(3) of the Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. Environmental Assessment Requirements were not issued for this modification as the proponent has addressed the key issues related to the modification request.

3.4 Delegated Authority

The Minister has delegated his functions to determine a modification request under section 75W of the Act where:

- the relevant local council has not made an objection
- a political disclosure statement has been made but only in respect of a previous application
- there are less than 10 public submissions in the nature of objections.

As previously outlined, the council raised no objection to the application, and no public submissions were received. In addition, the proponent has made a political donation but only in relation to a previous application. As such, the application can be determined under delegation by the Deputy Director-General, Development Assessment and Systems Performance.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made publically available on the department's website. The department also notified council and Roads and Maritime Services (RMS) of the application.

4.2 Submissions by public agencies

Parramatta City Council (council)

The council reviewed the proposed modification request and raised no objection to the application.

Roads and Maritime Services (RMS)

Roads and Maritime Services reviewed the proposal and did not support the modification, citing that safer access to the site must be provided.

4.3 Public Submissions

No submissions were received from the public.

5. ASSESSMENT

5.1 Purpose of the road improvement works

There are four components of the road works to Mobbs Lane that were requested to be completed prior to the issue of any Occupation Certificate for Buildings 1, 2 and 3. Of these four components, the department considers that only the right turn bay off Mobbs Lane to Road 1 is relevant to providing safe access to the site.

Right turn bay to Road 1

Construction of the right turn bay on Mobbs Lane to Road 1 (internal road) is not crucial to the occupation of Buildings 1, 2 and 3 as it only provides access to the car park for Building 2. Furthermore, of the 10 dwellings that are housed in Building 2, only 4 require the use of Road 1, as access off this road provides access to the lower level basement car park.

While the department accepts access to the lower level basement car park is not critical to occupy the 4 dwellings as on-street parking within the site can service the residents in the short-term, the department agrees with RMS that road safety is paramount. For this reason, the department will impose a new condition which prohibits resident access into Road 1 off Mobbs Lane until such time as the right turn bay has been completed. This shall ensure road safety is not compromised.

Bus bay

The approval, construction, and subsequent occupation of the first part of the Stage 1 development (Buildings 4 and 5) consisting of 134 dwellings was not dependant on the completion of the bus bay. As the subject approval proposes a small increase in dwelling numbers (an additional 28 dwellings) which would result in an insignificant increase in demand for public transport, the department does not consider it unreasonable to re-word the condition so that the bus bay and shelter is constructed prior to the issue of a final Occupation Certificate for Buildings 1, 2 and 3.

Pedestrian refuge

The increase in persons associated with an additional 28 dwellings is not considered significant enough to necessitate construction of the pedestrian refuge prior to the issue of any Occupation Certificate for reasons outlined above in relation to the bus bay.

Pedestrian footpath

Construction of the pedestrian footpath is not considered crucial to the access and safety of residents as internal pedestrian routes are located within the site.

5.2 Re-wording of Condition E2 and new Condition E2 (1)

To facilitate the modification request the department will amend Condition E2 to read:

E2 Road Works to Mobbs Lane

Road works to Mobbs Lane approved by MP08_0258, including the right turn bay into Road 1, the bus bay, pedestrian refuge and footpaths shall all be constructed and fully operational prior to the release of the final Occupation Certificate related to Buildings 1, 2 and 3.

To prevent residents from turning right off Mobbs Lane into Road 1, the department will impose a new Condition E2 (1) as follows:

E2 (1) No resident access off Mobbs Lane into Road 1

Access into Road 1 off Mobbs Lane by residents of the site is strictly prohibited until the right turn bay off Mobbs Lane is constructed and fully operational. In this regard, the proponent shall advise the Director-General, Parramatta City Council and Roads and Maritime Services of the measures employed to ensure access is prevented within 14 days of the approval of the modification request (MOD 7). The road safety measures are to be made to the satisfaction of the Director-General.

6. CONCLUSION

The department has considered the request to modify MP10_0107 (Buildings 1, 2 and 3) and the key issues associated with the modification. The department is satisfied that the proposed modification is reasonable and acceptable.

The department agrees with RMS that safe access to the site is important, and considers that the new condition prohibiting access off Mobbs Lane into Road 1 addresses RMS's issues. The demand created by the construction of an additional 28 dwellings on the site (which is part 2 of Stage 1) does not warrant the prevention of any Occupation Certificate to be issued for the buildings, and the re-wording of the condition will in any case require the works to be completed prior to the issue of a final Occupation Certificate.

Given the absence of issues that would prevent the application from being endorsed, and given that council has not objected to the modification request, it is recommended that the modification application be approved as outlined in the recommended Instrument of Modification.

7. RECOMMENDATION

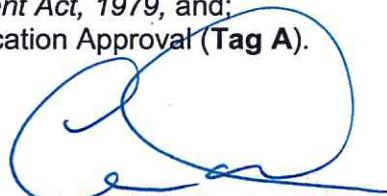
It is recommended that the Deputy Director-General, Development Assessment & Systems Performance:

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



11/5/12

Team Leader
Metropolitan & Regional Projects North



11.5.12

Executive Director
Major Projects Assessment

APPENDIX A MODIFICATION REQUEST

See disk attached.

APPENDIX B SUBMISSIONS

APPENDIX C. RECOMMENDED MODIFYING INSTRUMENT
