

Modification of Development Consent

Section 4.55 (2) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthea Sargeant
Executive Director
Compliance, Industry and Key Sites

Sydney 13 December 2019

SCHEDULE 1

Development consent:	MP 10_0137 granted by the Planning Assessment Commission on 24 April 2013
For the following:	Huntlee Stage 1, including: • site preparation works; • internal and external road works; • subdivision to create 1,473 residential allotments; • 14 super lots; • 1 allotment for a primary school; • drainage; and • open space and reserves.
Applicant:	Huntlee Pty Ltd
Consent Authority:	Minister for Planning
Modification:	MP 10_0137 MOD 9: the modification includes: • extend the Stage 1 boundary to increase the town centre and provide a new residential substage 16 • provide a new infrastructure lot in the town centre to accommodate a future school • increase the total number of residential lots on the site by 83 lots (to 1,626 lots) • subdivide town centre superlots to create an additional 23 commercial lots, amend the town centre stage boundaries and reconfigure town centre roads • reconfigure residential lots in substages 5, 7, 8, 9, 10, 11 and 12 • amend the open space plan.

SCHEDULE 2

The consent (MP 10_0137) is modified as follows:

- (a) Schedule 2 Part A – Administrative Conditions, condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

A1. Development Description

Approval is granted only to carrying out the development described in detail below:

Subdivision of Stage 1 of the Huntlee New Town site including:

- subdivision to create ~~1,539~~ **1,626** residential allotments, ~~13~~ **7** super lots, 1 allotment for a ~~primary~~ school; landscaped areas,
- drainage, public open space and recreation areas;
- associated bulk earthworks; and
- infrastructure including roads, drainage works and utility services provision.

- (b) Schedule 2 Part A – Administrative Conditions, condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

A2. Development in Accordance with Plans and Documentation

- A) The development will be undertaken in accordance with the Project Application – Environmental Assessment Report – Huntlee Stage 1 Subdivision and Infrastructure Works (by JBA March 2011) and associated appendices as amended by:

- Project Application – Preferred Project Report – Huntlee Stage 1 Subdivision and Works (by JBA September 2012) and its associated appendices;
- Statement of Commitments in aforementioned Preferred Project Report (by JBA Planning 2012);
- Amended subdivision plan “121129 Overall Lot Plan_1 to 3000” (Roberts Day Dec 2012) as to be amended in line with the additional amended subdivision concept plan “Huntlee – Stage 1 Concept Master Plan dwg UD4-401 01.02.13” (Roberts Day Feb 2013).

- B) and as amended by:

- MOD 1 Application – Section 75W Modification MP_10_1037 Huntlee (by JBA Planning 2014), including; and
- Amended subdivision plans “PP DP1197581 sheets 1 and 2”, “PP DP1197586 sheets 1 to 5”, “PP DP 1197589 sheets 1 to 5” and “PP DP 1199264 sheets 1 to 4”, prepared by Andrew David McNamara.

- C) and as amended by:

- MOD 2 Application – Section 75W Modification MP10_0137 Huntlee, submitted by JBA Planning, dated 30 October 2014 including;
- Bushfire Threat Assessment, Huntlee Residential Development, 75W Modification Stage 1 Precincts 1-6, prepared by RPS dated 4 September 2014;
- Response to Submissions – Response to Issues – MP_10_0137 Stage 1 S.75W Modification 2, Huntlee, prepared by JBA Planning, dated 17 December 2014.

- D) and as amended by:

- MOD 3 Application – Section 75W Modification to Huntlee Major Project Approval MP_10_0137 Huntlee New Town, prepared by JBA Planning, dated 24 March 2015 and supporting documents, including;

- Amended subdivision plans "PP DP1199264 sheets 1 and 3 By Andrew David McNamara; and
 - Bushfire Threat Assessment – Lot 12 DP729973, Lot 36 DP755211 and Lot 37 DP755211 Huntlee Residential Development, Stages 2-5 Eastern Precinct, prepared by RPS Australia East Pty Ltd, dated 10 March 2015;
 - Amended Landscape Masterplan prepared by AECOM Issue B dated 16 July 2015;
 - Response to Submissions – Planning Advice, Huntlee New Town MP_10_0137 Modification 3 prepared by JBA, dated 15 May 2015 and accompanying Stormwater Advice from Northrop, dated 14 May 2015.
 - Additional Information prepared by JBA, dated 20 July 2015 and accompanying documents.
- E) and as amended by:
- MOD 4 Application – Section 75W Modification to Huntlee Major Project Approval MP_10_0137 Huntlee New Town, prepared by JBA Planning, dated 2 September 2015 including supporting documentation; and
 - Amended Subdivision Plan 20406(2)-1 to 3000 (MOD4) Sheet 1 of 1 Master Plan prepared by Daly Smith Pty Ltd 2015 dated 17/08/2015.
- F) and as amended by:
- MOD 5 Application – Section 75W Modification to Huntlee Major Project Approval MP_1-0137 Huntlee New Town, prepared by JBA Planning, dated 2 May 2016 including supporting documentation;
 - Amended Subdivision Plan 20406-1 TO 3000 (MOD5) Sheet 1 of 1 Master Plan prepared by Daly Smith Pty Ltd 2016 dated 26/02/2016;
 - Amended Staging Plan prepared by Daly Smith Pty Ltd and JBA dated 26/02/2016;
 - Amended Precinct 2 Street Hierarchy (Dwg No. RD1 309 Rev H) prepared by LWP and dated 16/04/2016;
 - Bushfire Threat Assessment, Huntlee Residential Development – Stage 10, prepared by RPS and dated March 2016; and
 - Letters from Huntlee dated 14 June offering to amend Voluntary Planning Agreements.
- G) and as amended by:
- MOD 6 Application – Section 75W Modification to Huntlee Major Project Approval MP_1-0137 Huntlee New Town, prepared by JBA Planning, dated 31 August 2016 including supporting documentation;
 - Intersection and Road Upgrade Threshold Analysis Review, prepared by Better Transport Futures, dated 12 August 2016;
 - Amended Subdivision Plan 20406-1 TO 3000 (MOD 6) Sheet 1 of 1 Master Plan prepared by Daly Smith dated 11/08/2016
- H) and as amended by:
- MOD 7 Application – Section 75W Modification to Huntlee Major Project Approval MP 10- 0137 Huntlee New Town, prepared by JBA, dated 30 January 2017, including supporting documentation.
- I) and as amended by:
- MOD 8 Application – Section 75W Modification to Huntlee Major Project Approval MP 10- 0137 Huntlee New Town, prepared by JBA, dated 30 January 2017, Response to Submissions prepared by Ethos Urban, dated 2 August 2017 and supplementary information prepared by Ethos Urban, dated 7 December 2017 and 15 February 2018.

J) and as amended by:

- MOD 10 Application – Section 4.55(1A) Modification to Huntlee Major Project Approval MP 10- 0137 Huntlee New Town, prepared by Ethos Urban, dated 26 September 2018, Response to Submissions prepared by Huntlee Pty Ltd, dated 21 February 2019 and supplementary information prepared by Ethos Urban, dated 27 March 2019.

K) and as amended by:

- MOD 9 Application – Section 4.55(2) Modification to Huntlee Major Project Approval MP 10- 0137 Huntlee New Town, prepared by Ethos Urban, dated 15 October 2018, Response to Submissions prepared by Ethos Urban, dated 22 January 2019 and supplementary information prepared by Ethos Urban (and accompanying plans) dated 12 June 2019, 14 August 2019 and 22 August 2019 and 22 October 2019.

Except as modified by conditions of this approval.

If there is any inconsistency between the above plans and documentation the more recent documents shall prevail to the extent of the inconsistency.

- (c) Schedule 2 Part A – Administrative Conditions, condition A6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

A6. Staging Plan

- a) Development should be carried out in accordance with the amended Staging Plan ~~20406-1 TO 3000 (MOD10)~~ **20406-1 to 3000 (MOD 9)** prepared by Daly Smith Pty Ltd dated ~~26/03/2019~~ **30/08/2019**.
- b) The Staging Plan can be varied with written consent of the Secretary of the Department of Planning and Infrastructure, or his nominee.
- (d) Schedule 2 Part B – Modifications, Condition B3 is added by the insertion of the **bold and underlined** words / numbered as follows:

B3. Residual Land in Substage 16

A future modification(s) to this consent to facilitate further subdivision for development lots within the residual (unnumbered) land along the eastern side of the riparian corridor in substage 16 as identified in the staging plan 20406-1 to 3000 (MOD 9) prepared by Daly Smith Pty Ltd dated 30/08/2019, shall include flooding information (including the Flood Planning Levels) to demonstrate that future development of the lots is not subject to flooding impacts.

- (e) Schedule 2 Part C – Prior to Issue of Construction Certificate, Condition C1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

C1. Site Contamination Remediation

- a) The site shall be made suitable for the approved development in accordance with the recommendations identified in the 'Huntlee Development Preliminary Stage 1 Site Investigation report', prepared by AECOM and dated 31 July 2012, to the satisfaction of the Certifying Authority. In particular:
- i) Areas of TPH and lead impacts shall be excavated and disposed of offsite in general accordance with *Waste Classification Guidelines* (2008) to the

- satisfaction of the Certifying Authority prior to issue of a construction certificate.
- ii) Remove bonded asbestos exposed at the site to the satisfaction of the Certifying Authority prior to issue of a construction certificate. If there is substantial delay in removing the asbestos impacted material, cover the area in plastic to prevent weathering/fragments/fibres becoming airborne and prepare an Asbestos Management Plan.
 - iii) Ensure areas used for metal scraps storage are cleared and remediated prior to issue of a construction certificate.
 - iv) Prepare a Hazardous Materials Study to assess potential presence of hazardous materials such as lead paint or asbestos and submit for approval by the Certifying Authority prior to first construction certificate.
 - v) Prepare an Environmental Management Plan (EMP) for development works and submit for approval by the Department of Planning and Infrastructure prior to first construction certificate – with procedures to follow in the event that evidence of contamination is encountered, and include an unexpected find protocol to stop works and contact environmental professional to undertake risk assessment.
 - vi) All investigation, reporting and identified remediation works must be in accordance with the protocols of the NSW EPA's (now OEH) 'Guidelines for Consultants Reporting on Contaminated Sites' and 'SEPP 55 – Contaminated Land'
 - vii) Where Phase 2 Investigations (recommended by the AECOM Report) require the preparation of a remedial action plan, an accredited site auditor under the *Contaminated Land Management Act 1997* shall certify the suitability of the site for the proposed uses. The certification may be issued in stages and shall be submitted to the Certifying Authority prior to the issue of the relevant construction certificate.
 - viii) **Prior to issue of a construction certificate for works within substages 16 and TC5, on land to which the recommendations of the Phase 1 Environmental Site Assessment prepared by RCA Australia (ref: 13148-402/2 dated 22 June 2018) apply, those recommendations shall be implemented, including the remediation of the land approved in Modification 9. Validation certificates for the remediation of these locations shall be submitted to the certifying authority prior to the release of a construction certificate.**

- (f) Schedule 2 Part C – Prior to Issue of Construction Certificate, Condition C9 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

C9. Landscape Plan modifications

- a) Detailed landscape plans are to be prepared in consultation with Cessnock Council prior to the issue of the first construction certificate for each sub stage, and are to be generally in accordance with the "Huntlee Landscape Concept Report" Hassell August 2012 as amended by the:
 - Amended Landscape Masterplan prepared by AECOM Issue B dated 16 July 2015 (relating to Stages 2 to 5)
 - Landscape and Public Open Space report prepared by AECOM Issue C dated 5 December 2017 (relating to Stages 6 to 13)
 - **Landscape masterplan – 20406-1 to 3000 (MOD9) – Public Embellishments prepared by Daly Smith dated 21 August 2019.**

The Landscaping plans shall be subject to the following amendments:

- (i) Provide details of car parking for each recreation area, including a sealed car park with a minimum of 35 car spaces and 10 bicycle spaces at each of the two main sports field areas
- (ii) Ensure the additional 2.8 ha of active open space is shown consistent with the

- approved subdivision layout plan.
- (iii) Ensure the area between Wine Country Drive road reserve and the internal road of the large lot subdivision that runs alongside the Wine Country Drive road reserve is landscaped to provide a visual and noise buffer to residential lots
 - b) The detailed landscape plans should provide details regarding proposed landscaping and embellishment of the open space, recreation facilities, drainage and riparian areas for the sub stage.
 - c) The Landscape plans should clearly outline the proposed open space in the north east corner of the large lot area and consider the appropriate conservation of the existing *Persoonia pauciflora* plants in consultation with OEH and taking into account the recovery plan for the species prepared by OEH, outlining measures to protect the endangered species, including the required 30m buffer and habitat protection.
 - d) **Prior to the release of a subdivision certificate for any lots approved under MOD 9, the Landscape Plans shall be updated to the satisfaction of Council to:**
 - i. **show all the approved detention basins and stormwater infrastructure**
 - ii. **verify and provide a breakdown of the overall area of the formalised parks (local sports facility, district parks, local parks, urban square/plaza), and the detention basins.**
- (g) Schedule 2 Part C – Prior to Issue of Construction Certificate, Condition C15 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the **~~bold and struckout~~** words/numbers as follows:

C15. Bushfire Protection

The proponent shall comply with the following requirements of the NSW Rural Fire Service:

- a) During construction of each sub-stage and until the next **stage or** sub-stage has begun, temporary concentric APZs shall be required to be provided around each release area where they face a fire hazard. Details of temporary APZs to be provided to the satisfaction of the Certifying Authority prior to issue of each sub stage construction certificate.
 - b) Public road access, provision of services, landscaping and open space and future development are to comply with the Rural Fire Service's "Planning for Bushfire Protection 2006."
 - c) For all perimeter lots directly adjoining the site boundary (i.e. where no perimeter road is provided), no dwellings shall be constructed within the APZ.
- (h) Schedule 2 Part C – Prior to Issue of Construction Certificate, Condition C17 is added by the insertion of the **bold and underlined** words / numbered as follows:

C17. Riparian Corridor and Open Space Management Plan

The proponent must submit a Management Plan for any public open spaces and riparian corridors, not included in the local VPA with Council. The Riparian Corridor and Open Space Management Plan must:

- a) **be submitted to and approved by the Secretary within six months of any variation to the local VPA being executed**
- b) **be prepared in consultation with the Council and the landowner**
- c) **provide the response actions and contingency actions that will be taken by the landowner and the proponent to ensure the Management Plan is complied with**
- d) **for riparian corridors:**
 - i. **provide for the protection, enhancement and restoration of these riparian corridors, their associated ecosystems, ecological processes and biological diversity and their water quality; and**

- ii. demonstrate compliance with the 'Guidelines for riparian corridors on waterfront land' (Department of Primary Industry, Office of Water), including how environmental management performance will be monitored and reported;
 - iii. demonstrate how bushfire risk will be managed, and how any adverse impacts on the watercourse will be mitigated.
- (i) Schedule 2 Part C – Prior to Issue of Construction Certificate, Condition C18 is added by the insertion of the **bold and underlined** words / numbered as follows:
- C18. Flood information required for future modification requests**
- The Developer shall submit updated flood information, including the 1% AEP, the PMF and flood planning levels for land within substage TC5 and 16 as described in Cessnock City Council Development Control Plan 2010: Chapter C9: Development on Flood Prone Land to Council, prior to the issue of a construction certificate for works approved under MOD 9.**
- (j) Schedule 2 Part C – Prior to Issue of Construction Certificate, Condition C19 is added by the insertion of the **bold and underlined** words / numbered as follows:
- C19. Restricted access to Wine Country Drive**
- No direct access from lots 1579 to 1580 onto Wine Country Drive is permitted.**
- (k) Schedule 2 Part E – Prior to Issue of Subdivision Certificate, Condition E16 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

E6. State Infrastructure Contributions

The proponent must enter into a Planning Agreement for contributions towards designating State Infrastructure in accordance with the terms of the agreed form of the Voluntary Planning Agreement and the letter of offer dated February 2013.

Prior to the release of a subdivision certificate for the **800725th lot**, ~~**Schedule 2**~~ of the Planning Agreement shall be amended to take account of:

- a) the lots approved under MOD 5 within sub-stage 3 (in accordance with the letter from the Proponent to the Department dated 14 June 2016) to include the land to which MOD 5 applies
- b) the changes to the school lot and the timing of the Wine Country Drive / HEX Link Road (A-1) intersection (in accordance with the letter from the Proponent dated 27 April 2018)
- c) **the letter of offer from Corrs Chambers Westgarth, Huntlee Pty Ltd's lawyer dated 3 December 2019.**

- (l) Schedule 2 Part E – Prior to Issue of Subdivision Certificate, Condition E11 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

E11. Bushfire Protection

The proponent shall comply with and implement the recommended mitigation measures outlined in the bushfire assessment documents to the satisfaction of the Certifying Authority:

- a) 'Bushfire Threat Assessment - Huntlee Residential Development – Stage 10' prepared by RPS (Ver. 1 / March 2016), prior to the release of a subdivision certificate for the lots approved under MOD 5 within sub-stage 3.
- b) 'Bushfire Threat Assessment - Huntlee New Town – Stage 1 75W Modification' prepared by MJD Environmental Pty Limited (Version V2 / 28/04/2017), prior to the release of a subdivision certificate for the lots approved under MOD 8
- c) Bushfire correspondence prepared by MJD Environmental Pty Limited (ref 16015 RFS RFI Huntlee MOD 10 26/03/2019) prior to the release of the subdivision certificate for the lots approved under MOD 10
- d) **'Bushfire Threat Assessment – Huntlee New Town – Stage 1 75W Modification 9' prepared by MJD Environmental Pty Limited (Final / August 2018), prior to the release of the subdivision certificate for the lots approved under MOD 9**

The plan of subdivision and Section 88B instrument shall establish the following restrictive covenants:

- i) on all residential lots requiring the maintenance of the designated Asset Protection Zone in accordance with the requirements of Planning for Bushfire Protection 2006,
- ii) on all perimeter lots directly adjoining the site boundary (i.e. where no perimeter road is provided), no dwellings shall be constructed within the APZ.

The Rural Fire Service shall have the benefit of these covenants and having sole authority to release vary or modify these covenants.

- (m) Schedule 2 Part E – Prior to Issue of Subdivision Certificate, Condition E12 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

E12. Bushfire Access Earthworks

- a) Access to all bushfire affected lots shall be provided in accordance with the design specifications set out in section 4.1.3 of Planning for Bushfire Protection 2006 (or any subsequent version).
- b) Services shall be provided in accordance with section 4.1.3 of Planning for Bushfire Protection 2006 (or any subsequent version). If a water hydrant is not provided within 70 metres of the building envelope, a 5000 litre static water supply must be provided.

**End of Modification
(MP 10_0137 MOD 9)**