



MODIFICATION REQUEST:
61 Mobbs Lane, Epping (former Channel 7 site)
(MP11_0048 MOD 2)
Strata Subdivision of Building 6 and Staged Strata Subdivision of Buildings 9, 10, 17 and the Resident Recreation and Retail Facilities



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

August 2013

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1. BACKGROUND

1.1 The Site

Meriton Apartments Pty Ltd, has lodged a section 75W application seeking approval to strata subdivide building 6 and stage the subsequent strata subdivision of buildings 9, 10, 17 and the resident recreation and retail facilities at 61 Mobbs Lane, Epping (MP11_0048 MOD 2).

The site is known as 61 Mobbs Lane, Epping and is approximately 24km from the Sydney CBD within the Parramatta Local Government Area (see Figure 1).

The site has an area of 8.9 ha, with a frontage of approximately 500m to Mobbs Lane. The surrounding development is predominantly low density detached residential dwellings which are mainly comprised of Californian Bungalows and Federation style dwellings. A TAFE Campus 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 30m from east to west. A drainage line flows into Terry's Creek along the north western section of the site.

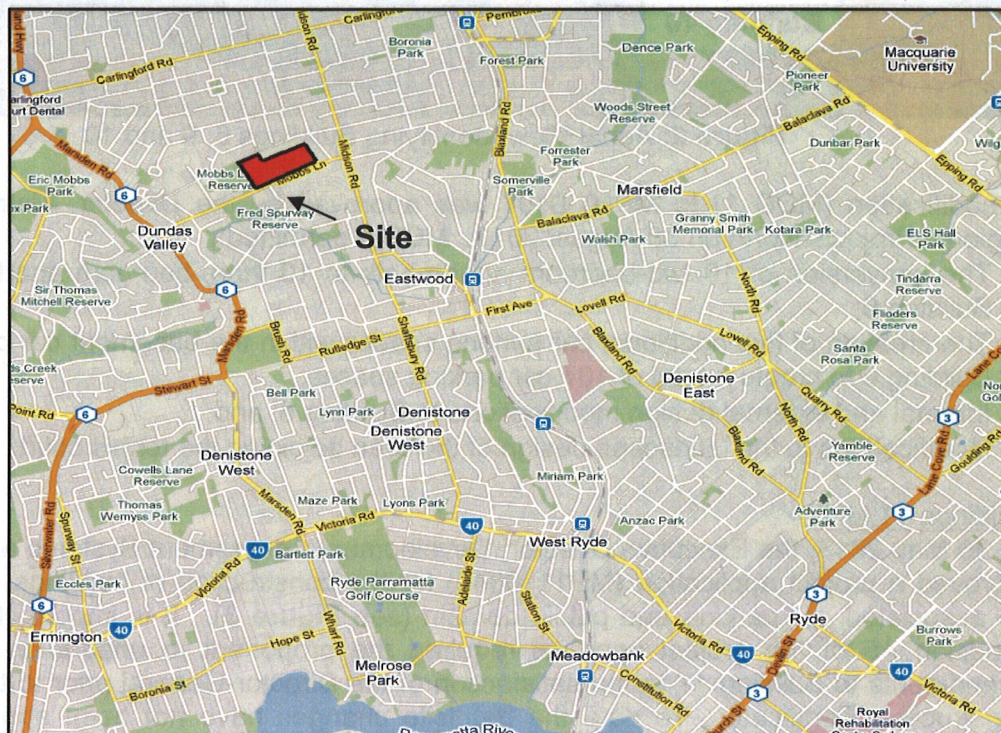


Figure 1: Site Location

1.2 Approval History

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 2006, 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.

Buildings 6, 9 and 10

On 28 May 2012, the Deputy Director-General, Development Assessment and Systems performance approved a project application (MP11_0048) for the construction of buildings 6, 9 and 10, a 120 m² retail shop, a 49 m² community room, recreational facilities including a

tennis court, enclosed gym and pool, and associated car parking and landscaping works at 61 Mobbs Lane, Epping (see **Figure 2**).



Figure 2: Aerial View Identifying Buildings 6, 9 and 10

A modification (MOD 1) to MP10_0107 was approved by the Director, Metropolitan and Regional Projects North on 30 August 2012. MOD 1 permitted:

- The conversion of 10 two-bedroom apartments to 10 three-bedroom apartments within Building 6;
- The creation of five additional car parking spaces within the basement car park servicing Building 6 to create a total of 107 car parking spaces;
- Internal and external design modifications to Building 6; and
- Modifications to the landscape design of the area adjoining the tennis court.

Buildings 11 to 17

On 30 May 2013, the Executive Director, Development Assessment Systems and Approvals approved a project application (MP11_0046) for the construction of buildings 11 to 17 and the associated car parking and public domain (see **Figure 3**). It is important to note that Condition A5 of the project approval required the proponent to undertake a number of amendments to Building 17 to the satisfaction of the Director-General prior to the issue of a Construction Certificate. To date the requisite changes have not been approved by the Director-General.

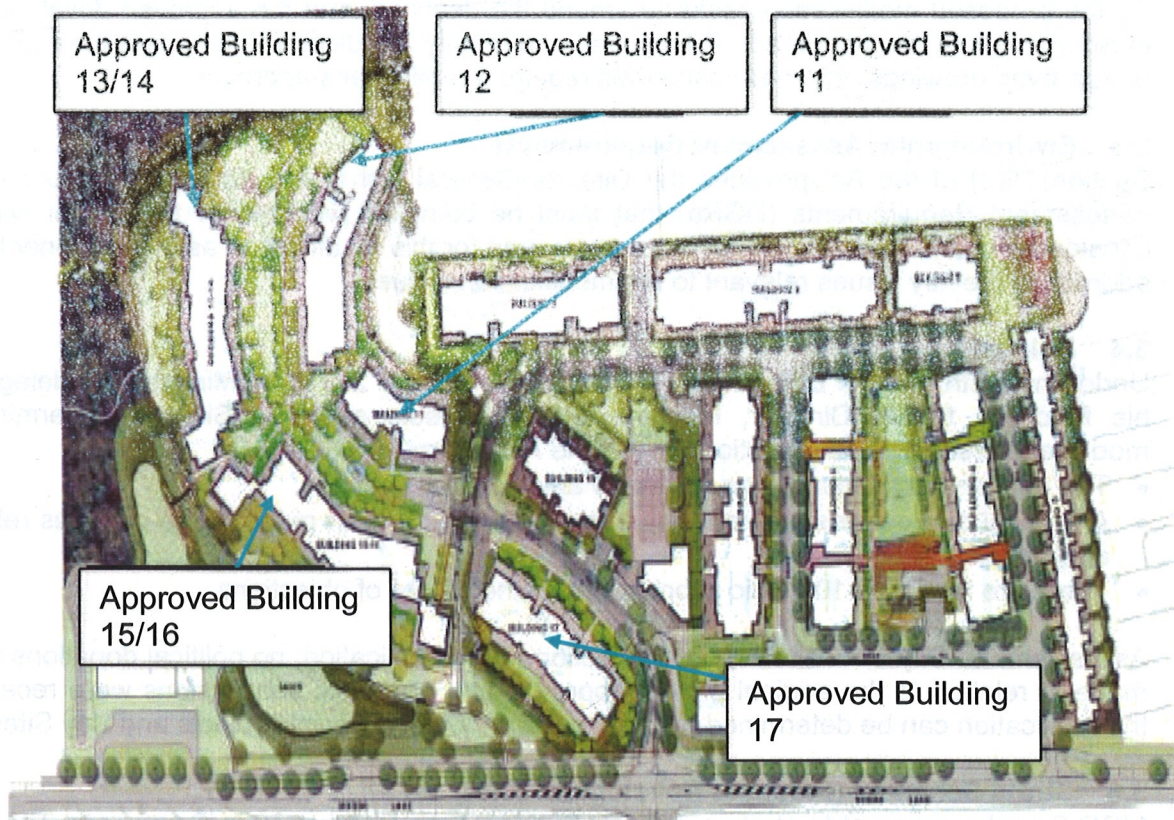


Figure 3: Buildings Approved under MP11_0046

2. PROPOSED MODIFICATION

2.1 Modification Description

The application seeks approval to strata subdivide Building 6 and stage the strata subdivision of buildings 9, 10 and 17, and the resident recreation and retail facilities located within Stage 2. It is important to note that Building 17 does not form part of the development approval for Stage 2, and its construction was approved under MP11_0046.

In order to facilitate the proposed modification, the Instrument of Approval will need to be amended to:

- Revise the description of the project in Schedule 1 to include the strata subdivision of Building 6, and the staged strata subdivision of buildings 9, 10, 17 and the resident recreation and retail facilities located within Part Lot 10 in Community Plan 270279; and
- Modify Condition A2 to insert plans of strata subdivision for Building 6.

2.2 Justification for Modification

The application is necessary to facilitate the creation of certificates of title for each dwelling approved under MP11_0048 and Building 17 which was approved under MP11_0046. In addition, the application will also facilitate the creation of strata lots associated with the resident recreation and retail facilities.

3. STATUTORY CONTEXT

3.2 Modification of the Minister's Approval

Section 75W(2) of the *Environmental Planning and Assessment Act 1979* (the EP&A 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 the description of the approved development in Schedule 1 of the Instrument of Approval, and modify Condition A2 to update the schedule of approved drawings, 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. DGRs were not issued for this modification as the proponent has addressed the key issues relevant to the modification request.

3.4 Delegated Authority

Under the Instrument of Delegation executed on 1 October 2011, the Minister has delegated his functions to the Director, Industry, Social Projects and Key Sites 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 related application.
- There are less than 10 public submissions in the nature of objections.

As Parramatta City Council raised no objection to the application, no political donations were made in relation to the original project approval, and no public submissions were received, the application can be determined by the Director, Industry, Social Projects and Key Sites.

3.5 Strata Schemes (Freehold Development Act) 1973

MOD 2 seeks approval to strata subdivide Building 6 on Part Lot 10 in Community Tile Plan 270279, and stage the strata subdivision of buildings 9, 10 and 17 and the resident recreation and retail facilities, also located within Part Lot 10 (see Figure 4).

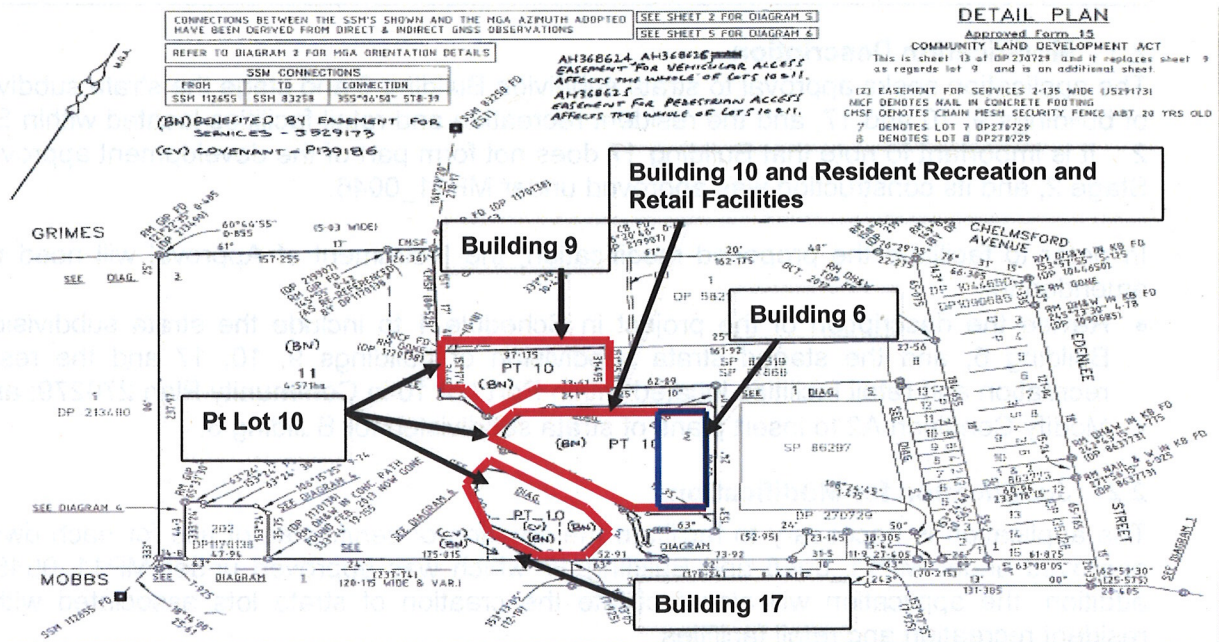


Figure 4: Location of Part Lot 10 in Community Plan 270279

Under section 28B of the *Strata Schemes (Freehold Development Act) 1973* (Strata Act), a consent authority must not, at the same time, grant development consent for the subdivision of land by a strata plan and the subsequent subdivision of a lot in that plan by a strata plan of subdivision unless:

- The lot intended to be subdivided is identified in the proposed strata plan as a development lot;

- The development application is accompanied by a proposed strata development contract; and
- The consent authority has certified in the approved form that the application will not contravene any condition of development consent or the provisions of any environmental planning instrument (EPI) that was in force when the consent was granted, except to the extent specified in the certificate.

The department is satisfied that the proposed modification is consistent with the requirements of section 28B for the following reasons:

- The land proposed for subdivision under the proposed strata plan is identified as a development lot;
- The application includes a draft strata development contract prepared in accordance with the requirements of section 28C of the Strata Act; and
- The modification application is consistent with the project approval and the provisions of the relevant EPI(s).

Given the above, it is recommended that the Director, Industry Social Projects and Key Sites sign the form provided at **Tag A** to certify that the application will not contravene any conditions of project approval, or the provisions of any EPI(s), prior to approving the proposed modification.

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 publicly available on the department's website. As the proposed modification is administrative in nature, the department did not notify Parramatta City Council of the proposed modification.

4.2 Submissions by public agencies

No submissions were received from public agencies.

4.3 Public Submissions

No submissions were received from the public.

5. ASSESSMENT

The key issues for the proposed modifications are outlined and addressed below.

5.1 Consistency with the Project Approval

The department has reviewed the Draft Plan of Strata Subdivision for Building 6 and is satisfied that it is consistent with the schedule of approved drawings for MP11_0048 (as modified).

5.2 Staged Strata Subdivision of Building 17

The department notes that the application seeks approval to include the staged subdivision of Building 17 in the description of approved development in Schedule 1 and Condition A1 of MP11_0048 even though Building 17 is not included in the project area.

The department obtained independent advice confirming that it was necessary to include the staged subdivision of Building 17 in the description of approved development for MP11_0048 as it is not possible to modify MP11_0046 to permit the staged strata subdivision of Building 17. This is because the application would not meet the definition of 'staged' strata subdivision contained in section 28A of the Strata Act in its own right.

5.3 Strata Subdivision of Buildings 9, 10, 17 and the Resident Recreation and Retail Facilities

In order to ensure that the strata subdivision of buildings 9, 10, 17 and the resident recreation and retail facilities are consistent with the drawings approved under MP11_0048 (as modified) and MP11_0046, the department has recommended a condition requiring the proponent to modify MP11_0048 and MP11_0046 in the future to seek approval for the strata subdivision of buildings 9, 10, 17 and the resident recreation and retail facilities.

6. CONCLUSION

The department has considered the request to modify MP11_0048 and the key issues associated with the proposed modification. The department is satisfied that the proposed modification would not result in any changes to the approved design of the Building 6.


In terms of the strata subdivision of the residual buildings, the department has recommended a condition to require the proponent to modify the project approvals for MP11_0046 and MP 11_0048 to permit the strata subdivision of these buildings. This will ensure that the department has the ability to require modifications to any draft plans of strata subdivision if there is an inconsistency between the draft strata plan(s) and the architectural drawings approved under MP11_0048 (as modified) and MP11_0046.

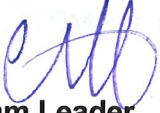
It is therefore recommended that the staged strata subdivision plans be approved and the description of the development be amended to include the staged strata subdivision as outlined in the Instrument of Modification.


7. RECOMMENDATIONS

It is recommended that the Director, Industry, Social Projects and Key Sites:

- a) **Consider** the findings and recommendations of this report;
- b) **Approve** the proposed Strata Development Contract under section 28B(1) of the *Strata Schemes (Freehold Development) Act 1973 (Strata Act)*, and certify the proposed Strata Development Contract, in accordance with section 28B(2) of the *Strata Act (Tag A)*;
- c) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act, 1979*, and;
- d) **Sign** the attached Instrument of Modification Approval (**Tag B**).

 05.08.13
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APPENDIX A MODIFICATION REQUEST

See the Department's website at:

<http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

No submissions were received by the department.

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
