

GYDE

Section 4.55 (1) modification

2 Mandala Parade, Castle Hill

submitted to the Department of Planning and Environment
on behalf of Deicorp Projects (Showground) Pty Ltd

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1. INTRODUCTION

This statement has been prepared for Deicorp Projects (Showground) Pty Ltd to accompany an application under Section 4.55(1) of the Environmental Planning and Assessment Act 1979 (the EP&A Act) to modify condition A2 of the development consent SSD-15882721 to include Stratum Subdivision Plans that were inadvertently omitted from the approved documentation.

The report is accompanied by the following documentation:

- Stratum Subdivision Plans - Dorian Drive Showground prepared by LTS

2. APPROVED DEVELOPMENT

On 18 August 2022 the Independent Planning Commission granted development consent to SSD-15882721 to the development described as follows:

“Construction of the Doran Drive Plaza Precinct within the Hills Showground Station Precinct, comprising:

- *four residential towers above a retail/commercial podium*
- *basement car parking*
- *infrastructure upgrades, civil and stormwater works*
- *outdoor public plaza (Doran Drive Plaza)*
- *signage strategy*
- *stratum subdivision”*

(emphasis added)

The consent applies to land adjacent to the Hills Showground Metro Station legally described as Lot 55 in DP 1253217 known as 2 Mandala Street, Castle Hill.

3. PROPOSED MODIFICATION

Approval is sought to modify development consent SSD-15882721 by including the stratum subdivision plans identified in Table 1 below in the table of approved plans at Condition A2 of the development consent.

There are no physical or operational modifications of the approved development that would result from the proposed modification. The proposed modification merely addresses an omission from the documents referenced in the development consent and is consistent in every way with the intent of the development consent as demonstrated by the description of the approved development.

Stratum subdivision plans prepared by LTS			
Drawing Number	Rev	Drawing Name	Date
Sheet 1	B	Location Plan	22-04-2022
Sheet 2	B	Basement 06 & Below	22-04-2022
Sheet 3	B	Basement 05	22-04-2022
Sheet 4	B	Basement 04	22-04-2022

Sheet 5	B	Basement 03	22-04-2022
Sheet 6	B	Basement 02	22-04-2022
Sheet 7	B	Basement 01	22-04-2022
Sheet 8	B	Ground Level	22-04-2022
Sheet 9	B	Upper Ground Level	22-04-2022
Sheet 10	B	Level 01	22-04-2022
Sheet 11	B	Level 02	22-04-2022
Sheet 12	B	Level 03	22-04-2022
Sheet 13	B	Level 04	22-04-2022
Sheet 14	B	Level 05	22-04-2022
Sheet 15	B	Level 06-19	22-04-2022
Sheet 16	B	Level 20	22-04-2022
Sheet 17	B	Level 21 & Above	22-04-2022

Table 1: Schedule of Stratum Plan additions.

4. STATUTORY CONSIDERATIONS

4.1. Section 4.55 (1) Modification involving minor error, misdescription or miscalculation

Section 4.55(1) of the *Environmental Planning and Assessment Act* (EPA Act) provides that a consent authority may modify a development consent granted by it to correct a minor error, misdescription or miscalculation.

The proposed modification seeks to address a minor error by referencing the stratum subdivision plans (identified in Table 1 above) in the table of approved plans.

In doing so, it is important to note that:

- In granting development consent, the Independent Planning Commission explicitly granted consent to the stratum subdivision of the development. This is evident from the description of the development in the Notice of Determination noted in Section 2 above.
- The stratum subdivision plans are consistent with the approved development and do not prejudice any of the conditions of development consent.
- The stratum subdivision creates five lots as follows:
 - Lot 1 Residential Buildings A & B
 - Lot 2 Residential Buildings C & D
 - Lot 3 Supermarket / Retail
 - Lot 4 Park Area (Doran Drive Plaza)
 - Lot 5 Community Rooms
- To give effect to condition E39 of the development consent, it is necessary to register the stratum subdivision and the associated restrictive covenant ensuring that proposed Lot 5 (Community Rooms) is burdened in perpetuity to remain as a community facility. In this regard the consent cannot operate as intended without the modification to address the omission of the stratum subdivision plans from the schedule of approved plan.

5. CONCLUSION

The proposed modification to correct the omission of the stratum subdivision plans from the schedule of approved plans in Condition A2 purely relates to administrative or procedural matters that do not have any implications for the physical form or operation of the building. We therefore consider that the proposed modified development is within the ambit of section 4.55(1) of the EPA Act.

The consequence of not modifying the consent is that the approved development as described in the notice of determination and condition E39 as it relates to the community rooms cannot be implemented.

We see no reason therefore why the modification should not be approved.