

Your ref: SSD 5175 MOD 1  
Our ref: MC-12-1769

26 October 2015

Planning Services  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Attention: Acting Director, Key Site Assessments

Dear Mr Lusher,

**Section 96(2) modification request to amend the concept approval and stage 1 subdivision and early works for the Eastern Creek Business Hub**

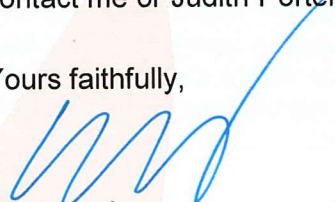
Thank you for your letter, dated 8 September 2015, providing Council the opportunity to comment and provide advice on the amended conditions of consent for above State Significant Development (SSD) approved on 7 January 2015.

We have undertaken a review of the requested modifications to SSD 5175 and the accompanying planning report prepared by JBA, and in principle raise no objection to the modified development subject to appropriate conditions being imposed on any consent granted. However, we are strongly opposed to any proposal by the Western Sydney Parklands Trust (WSPT) to divest itself of its management responsibilities for the subject site. The land remains part of the Western Sydney Parklands. The development must therefore operate without any impact on the Parklands and must be closely monitored by the WSPT in this regard. We hope the Department will condition this in any Section 96 approval granted.

To ensure that a high standard of development is produced, and that the development operates in a manner that will have no adverse impact on the surroundings, it is requested that as part of your assessment consideration be given to the issues raised in **Attachment A** and to the recommended conditions in **Attachment B** to this letter.

Should you have any enquiries or wish to discuss this matter further, please do not hesitate to contact me or Judith Portelli, Manager Development Assessment on 9839 6228.

Yours faithfully,



Glennys James  
Director Design and Development

# ATTACHMENT A

## Issues for consideration – SSD 5175 MOD 1 for the ‘Eastern Creek Business Hub’

### TOWN PLANNING & ECONOMIC MATTERS

#### 1. Land ownership

The proposed modifications seek to transfer all responsibilities for the management of the land from Western Sydney Parklands Trust (WSPT) to the future tenants. Council strongly objects to any proposal by WSPT to divest itself from these responsibilities as this would be contrary to the spirit and intent of the Western Sydney Parklands to remain predominantly a parkland use. We believe the Trust should remain in full control of the land and maintain responsibility for the land at all times.

#### 2. Size of the supermarket

No objections are raised to the proposed redistribution of the retail floor space given:

- a. It does not affect the restriction already in place to prevent food and beverage tenancies from occupying the large format retail component (i.e. condition A8).
- b. It maintains the integrity of the original proposal as a place for bulky goods facilities with speciality retail shops.

To ensure the integrity of the proposal is maintained it is recommended, however, that a minimum floor plate of 2,000sq.m be introduced for a supermarket. Given the maximum gross floor area (GFA) of the supermarket is currently 4,000sq.m (i.e. condition A7), this would mean that the maximum amount of floor space that could be transferred to specialty shops/small business would be 2,000sq.m. It is considered that this would provide adequate flexibility for the WSPT while still providing for an adequate sized supermarket and ensuring that the speciality shop component is ancillary to the high grade commercial space.

### ENVIRONMENTAL HEALTH MATTERS

#### 3. Remediation Action Plan (RAP)

No objection is raised to the updated Stage 1 RAP subject to the requirement for an independent site audit statement being maintained in accordance with condition D9.

### ABORIGINAL AND EUROPEAN HERITAGE MATTERS

#### 4. It is requested that the following matters be addressed prior to determining the Section 96 application:

- a. The impact of the proposed changes (especially the additional on-site detention basin) should be addressed in relation to aboriginal archaeology.
- b. The impact of the proposal should be assessed in relation to potential for European archaeology on the site.
- c. An historical archaeological management plan (AMP) is currently required prior to commencement of any works (condition B23). It is considered that the recommendations of this report should be included as part of any approval for

bulk earthworks. As such, it would be preferable if the required AMP was prepared prior to the issue of any Section 96 consent.

- d. The required AMP should make recommendations for the management of any artefacts found on site, as well as the potential for interpretive opportunities, given that artefacts relating to the first Eastern Creek School and earlier colonial uses of the land may be present.
- e. The additional on-site detention basin has not been assessed in regard to its potential impact on Aboriginal or non-indigenous archaeology on the site. This issue needs to be addressed prior to endorsing the location of the second on-site detention basin.
- f. Condition B23 requires that an Archaeological Management Plan be prepared prior to commencement of works. It is considered that this plan should be submitted prior to approval of any Section 96 so that impacts of the site modulation and the second on-site detention basin can be thoroughly assessed.
- g. The impact of the proposed changes should be assessed in terms of visual amenity and the approved site design guidelines. In particular, the visual impact of changing retail spaces to bulky goods areas should be considered.
- h. It appears that the modified development involves adjustments to the building platforms levels. If any changes are proposed, an additional review in terms of visual impact and non-indigenous archaeology should be undertaken.
- i. PAD 2 may have a significant impact on the Beggs Road pedestrian link alignment and the remaining cottage located adjacent to the remnant bushland in the centre of the site. Consideration should therefore be given to adjusting the boundary alignment of the 1.5m – 3m high retaining wall, in the north west corner of PAD 2, so that a better transition is provided adjacent to the remnant bushland.
- j. The supporting Planning Report provides no discussion in terms of the potential impact of the proposed changes on the design guidelines and built form potential of the site. Any impact on built form would have an impact on the visual assessment criteria and should be addressed.

## **DRAINAGE MATTERS**

5. Council's Drainage Engineers believe that the drainage design as originally approved, and the subsequent Section 96 currently under assessment, are both unsatisfactory.

Figures and mapping for the floodplain management were never provided and therefore could not be assessed. Also, the proposed bypass swales have always been lacking in detail and do not give certainty that they will provide adequate protection for flows entering from outside the site and combining with the internal flows.

From Council's current flood mapping it is uncertain that the site can be developed as proposed without identifying parts of the development as being floodprone. The matter can only be confirmed with complete modelling and mapping, which we believe the applicant should be required to undertake.

The batter slopes shown on the typical channel section do not comply with

Council's standard for maintenance. If Council is to maintain this infrastructure, then all batters should be redesigned to suit Council's requirements. It is recognised that this may necessitate a greater land take. If the channel is to remain in private ownership then appropriate easements will be required to allow the overland flow of stormwater from public infrastructure and should be conditioned accordingly.

The applicant should also be required to provide full details of the stormwater detention systems for Council's assessment. Full details of the MUSIC modelling and water quality infrastructure should also be provided to confirm that the claims in the applicant's reports can be achieved. The above information is required before any approvals for stormwater infrastructure can be considered.

## **OTHER MATTERS**

### **6. Voluntary Planning Agreement (VPA)**

The Western Sydney Parklands Trust (WSPT) has previously indicated that it is willing to enter into negotiations with the Minister for Planning for the preparation of a planning agreement in relation to the concept proposal. The VPA would offer to provide public works in lieu of any other contributions which might otherwise be capable of being imposed under s94, 94A and 94EF of the Act.

It is understood that the WSPT intends to begin discussions in respect of the terms of the VPA shortly. The purpose of those discussions will be to explain the detail of the public works and to determine whether the public works are accepted as material public benefits within the meaning of the Act, and are sufficient to satisfy the Minister and Blacktown City Council that no further development contributions need to be made in respect of the concept proposal, or any subsequent development applications for the Eastern Creek Business Hub. The Trust is open to Blacktown City Council being a party to the VPA.

We are unaware if these negotiations have happened as yet. However, we believe that Council does not need to be party to any VPA. Instead it is requested that we are consulted and invited to comment on the specific public works that will be dedicated in lieu of a Section 94 contributions plan.

### **6. Traffic**

Council does not support the changes at the intersection of Francis Road/Eastern Road and Rooty Hill Road South. It is proposed that the south approach along Rooty Hill Road South will be changed to a right turn only lane and the remaining lane will be changed to a combined left/straight through lane. Based on the applicant's consultants assessment there is no justification for the change. The proposed arrangement will significantly reduce the efficiency of the operation of this signalised intersection.

The proposal also indicates direct left-in/left-out vehicular access to 'Building 3' off Rooty Hill Road South. Concerns are raised on the proposed direct vehicular access to the 'Building 3' off Rooty Hill Road South as the traffic volumes on this road are significant at peak traffic periods. Council does not support this direct access. However, should direct left-in/left-out vehicular access to 'Building 3' off Rooty Hill Road South be retained a deceleration lane should be provided together with a median to prevent right turn in and out of 'Building 3'.

## **ATTACHMENT B**

### **Recommended additional and amended conditions of consent – SSD 5175 MOD 1 for the 'Eastern Creek Business Hub'**

#### **SCHEDULE 2**

##### **PART A - TERMS OF APPROVAL FOR CONCEPT PROPOSAL**

###### **Restrictions on Convenience Retail**

A9. The approved supermarket is to be provided with a minimum floor plate of 2,000sq.m.

###### **Other matters**

The Part B heading should insert the word "future" as follows:

##### **PART B - CONDITIONS TO BE MET IN FUTURE DEVELOPMENT APPLICATIONS**

#### **SCHEDULE 3**

##### **PART B - PRIOR TO COMMENCEMENT OF WORKS**

###### **Historical Archaeological Management Plan**

B24. The required Historical Archaeological Management Plan (AMP) should make recommendations for the management of any artefacts found on site given that artefacts relating to the first Eastern Creek School and earlier colonial uses of the land may be present.

###### **Aboriginal Interpretation Strategy**

B25. An interpretation strategy for the site affected by the former Eastern Creek School and other relevant areas of the site as established in the AMP, is to be established in consultation with the Mount Druitt Historical Society.

###### **Aboriginal Heritage Impact Permit (AHIP)**

B26. Prior to the commencement of any works on site, an AHIP for the management of Aboriginal archaeological remains is to be submitted to the Certifying Authority.

###### **Drainage**

B27. Prior to the commencement of any works on the site, all calculation in regards to reconfiguration of the stormwater drainage system for a second on-site detention basin are to be submitted to Council for separate approval.

B28. Prior to the commencement of any works on the site, the drainage plans (prepared by Costin Roe) are to be amended to meet the requirements under Blacktown Development Control Plan 2015 Part R and Blacktown Council's Engineering Guide for Development 2005. The amended plans must address the following:

- i. The channel conveying the upstream 100 year flows is to be designed with a Mannings n of 0.07 along the base of the channel and n = 0.1 along the sides and designed with a meandering low flow base. The slope is not to exceed 0.9%.

- ii. The landscape plans for the channel are to include riparian native plants.
- iii. The rainwater tanks for the northern stage developments are to be designed to achieve a minimum 80% of non-potable demand to be met through rainwater.
- iv. Plan reference CD12693.00-DA45(B) prepared by Costin Roe (i.e. under the bioretention notes) use only coarse sand in the temporary 75-100 mm layer. The drainage layer note is to be updated to include CLEAN WASHED GRAVEL. The 6 species nominated is to be updated to state that there will be a minimum of 10 species with all tufted species at 10 plants/m<sup>2</sup>, and all the amelioration and application of fertiliser to the filter media is to be deleted.
- v. Plan reference CD12693.00-DA45(B) under the Typical Bio-Retention Detail is to be updated to provide 50 mm cover over the slotted PVC subsoil lines.

### **Cut and Fill**

- B29. All cut and fill details are to be provided to the Certifying Authority. Cut and fill is to be limited to ensure the original topography of the site remains understood.

### **Retaining Walls**

- B30. Details of any retaining walls, including height and material, to be constructed on site as part of the development are to be submitted to the Certifying Authority. Masonry retaining walls (i.e. no timber walls) are to be provided. All retaining walls shall be in maximum 2 metres high sections and stepped with 1 metre wide minimum planting bays which are to be landscaped. Where retaining walls 1.5m or greater are provided, these should not be provided in long expanses.

## **PART C - DURING CONSTRUCTION**

### **Drainage**

- C14. Prior to the placement of the filter media layer, certification for the following is to be provided to the Certifying Authority:
- i. A minimum hydraulic conductivity as defined by ASTM F1815-06 of 200 mm/hr (actual not predicted).
  - ii. A maximum hydraulic conductivity as defined by ASTM F1815-06 of 700 mm/hr (actual not predicted).
  - iii. An Orthophosphate content < 40 mg/kg.
  - iv. A Total Nitrogen content < 1000 mg/kg.
  - v. Is not hydrophobic.

## **PART D - PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

### **Drainage**

- D11. A Restriction to User and Positive Covenant is to be provided over the Stormwater Quality Improvement Devices and Rainwater Tanks in accordance with the

requirements of Blacktown Council's Engineering Guide for Development 2005. The covenant requirements are to include the submission of an annual report on water treatment by the first business day on or after 1 September each year. The Restriction to User and Positive Covenant must be registered with Land & Property Information (LPI) prior to the issue of a subdivision certificate.

- D12. A Geotechnical Engineer is to undertake in-situ Saturated Hydraulic Conductivity Testing of each of the bio-retention systems in accordance with Practice Note 1 of the FAWB guidelines. For bio-retention systems with a filter area less than 50 m<sup>2</sup>, *in situ* hydraulic conductivity testing should be conducted at three points. For systems with a filter area greater than 50 m<sup>2</sup>, an extra test point should be added for every additional 100 m<sup>2</sup> or part thereof. Points are to be spatially distributed. Where the hydraulic conductivity of the soil differs from the rate specified in MUSIC of by 100 mm/hr (tolerance -5% to +400%), remediation works will be required over the filter area to restore the conductivity and the test repeated until the hydraulic conductivity is achieved. A Geotechnical Engineer is to then certify that in accordance with Practice Note 1 of the FAWB guidelines, the Saturated Hydraulic Conductivity is within tolerance to the rate specified in MUSIC for each of the bio-retention systems.
- D13. After the hydraulic conductivity has been certified by the Geotechnical Engineer, a horticulturalist that has relevant tertiary qualifications and technical knowledge with a minimum of five (5) years demonstrated experience is to certify that the planting within the bio-retention area including bank areas, is of the same quality in type and quantity as per the construction certificate approved landscape plans, that any plants lost have been replaced and that any areas of scour or disrepair have been restored.

## **OTHER MATTERS**

While this application is for minor modifications only, Council believes that consideration should be given to imposing the following additional conditions to address concerns not adequately addressed as part of the original development consent.

## **SCHEDULE 2**

### **PART B – CONDITIONS TO BE MET IN 'FUTURE' DEVELOPMENT APPLICATIONS**

#### **Demolition**

- B22. Separate approval is to be obtained for the demolition of any existing building or structure.

#### **Substations**

- B23. In the event that a new substation is required for the development, details regarding its location and design will be required to be submitted for Council's separate approval. Any substation or other utility installation required to service the approved development shall not under any circumstances be sited on future or existing Council land, including road reservations and/or public reserves, and is to be suitably screened from any public road or place. Any proposal to locate a proposed substation or other utility installation on Council land shall be negotiated with and fully endorsed by the relevant Council Directorates.

## **SCHEDULE 3**

### **PART C - DURING CONSTRUCTION**

## **Hours of Work**

C1. It is recommended that the following matters be added to condition C1:

Any objectionable noise, dust, concussion, vibration or other emission from the development works shall not exceed the limit prescribed in the Protection of the Environment Operations Act 1997.

The hours of any offensive noise-generating development works shall be limited to between 7.00am to 6.00pm, Mondays to Fridays; 8.00am to 1pm, Saturdays; and no such work to be undertaken at any time on Sundays or public holidays.

## **Traffic**

C15. To ensure safe pedestrian movements from the residential area west of the development to the proposed business hub, appropriate measures should be put in place to ensure pedestrians cross at the signalised crossing at Cable Place and Rooty Hill Road South. Consideration should be given to providing a continuous median with fence along the full length of Rooty Hill Road South to address this issue.