

5 November 2019

218335

Jim Betts
Planning Secretary
Department of Planning, Industry and Environment
320 Pitt Street
Sydney NSW 2000

Attention: Sally Munk, Principal Planner Industry Assessments

Dear Sally,

SECTION 4.55(1A) MODIFICATION APPLICATION: SSD 7228 SYDNEY ZOO MODIFICATION 5

This application has been prepared by Ethos Urban on behalf of Sydney Zoo, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify State Significant Development 7228 (SSD 7228) relating to the Sydney Zoo, Bungarribee, in the Western Sydney Parklands (the site).

The modification relates to minor amendments to Condition B7 relating to exotic animals.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act.

1.0 Consent proposed to be modified

On 8 September 2017 the Planning Assessment Commission (PAC) approved the SSD 7228 for the construction and operation of a zoological facility within the Western Sydney Parklands, the Sydney Zoo. The development provides a new recreational facility for Western Sydney. The development comprises a zoological facility containing animal exhibits and associated infrastructure over the site, being a total area of approximately 16.5ha, for the following key components:

- Animal exhibits across several enclosures of varying design for a range of native and exotic animals;
- Back-of-house buildings for exhibits;
- Main entrance building comprising entry/exit, and gift shop;
- Restaurant and café;
- Kiosks and amenities;
- Educational show arena;
- Picnic areas and gardens;
- Wetlands and waterways;
- Service building containing:
 - Administration areas;
 - Curatorial and food preparation areas; and
 - Veterinarian space;
- Wayfinding signage;
- Service yard with maintenance shelter;
- Internal services and utilities to support the zoo, including water, sewer, electricity and telecommunications;

- Car parking for approximately 1,053 vehicles;
- Bus and coach parking;
- Subdivision; and
- Landscaping of the site associated with all of the above.

A number of modifications have been lodged and approved by the Department of Planning and Environment since the consent was issued and as a result of design development refinement:

- Modification 1 sought to provide for design refinement based on the operational needs of the zoo and after consultation with the Department of Primary Industries (Exhibited Animals) in relation to improving animal welfare, handling and management. The modification provided for the reconfiguration of exhibits, buildings and back-of-house facilities within the zoo site and was approved by the Department on 8 May 2018.
- Modification 2 related to the reconfiguration of the aquatic habitat, realignment of the boardwalk access path and amendments to the Landscape Masterplan. MOD 2 was approved on 20 September 2018.
- Modification 3 relates changes to the hours of operation and was lodged on 4 December 2018. The application is currently under assessment; and
- Modification 4 related to the addition of new back of house sheds and was approved on 4 July 2019.

This application represents the fifth modification to date.

2.0 Proposed modifications to the consent

The proposed modification to the development consent comprises changes to the wording of Condition B7 which currently requires the following:

For the commencement of opening to the public the Development must have for display to the public at least two-thirds of the exotic species nominated in the Additional Information.

It is intended to modify Condition B7 to read as follows, with words to be inserted shown in **bold italics**.

*For the commencement of opening to the public the Development must have for display to the public at least two-thirds of the exotic species nominated in the Additional Information. **A maximum of five of the nominated exotic species may be substituted with a similar exotic species with the prior written approval of the Planning Secretary.***

The purpose of Condition B7 is to ensure that on opening there is a sufficient number of exotic animals for the zoo to operate as intended with a broad range of animals and a high proportion of exotic species, ensuring it is a unique offering in the Western Sydney context.

This proposed modification still maintains this purpose ensuring a high proportion of exotic species are present on opening but allows for flexibility in terms of specimen availability.

The Additional Information referred to in Condition B7 identified a range of exotic species but also highlighted the potential need for substitution of those species with other similar exotic species pre-opening, due to factors outside of Sydney Zoo's control associated with the availability of animals.

There are several reasons as to why the proposed amendment to Condition B7 is necessary, including but not limited to those outlined below:

- The timeframes for receipt of animals are no longer achievable due to a range of factors, including the extended construction timeframe, medical issues to marked animals for transfer from other institutions, biosecurity issues and separate animal transfers;
- Mogo Zoo, which was intended to be a significant supplier of several species, was recently purchased by the owners of Featherdale Wildlife Park and so those species are no longer available from Mogo Zoo;
- Training issues with one animal specimen means that despite best intentions the animal is at risk of being unable to transport safely, due to the need for further training to ensure safe movement; and
- Health Import Permit delays from some international suppliers are not likely to be resolved in time to ensure the specimens can arrive in time for opening.

Furthermore, Conditions C19 and C20 require that the Zoo ensure exhibits are appropriate for their intended species, through the requirements imposed under the Department of Primary Industries – Animal Welfare Unit:

C19. The Development shall comply with the NSW Exhibited Animals Protection Act 1986, the NSW Exhibited Animals Protection Regulation 2010 and the NSW Biosecurity Act 2015.

C20. The Applicant shall obtain all relevant approvals and design all exhibits in consultation with the Department of Primary Industries – Animal Welfare Unit.

As such, the Department can be assured that only similar exotic species would be substituted into the relevant exhibits, due to the need to meet the requirements under Conditions C19 and C20.

3.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- the proposed modification does not alter the key components of the approved development description;
- the proposed amendment does not seek to amend the approved land use;
- there are no built form changes proposed;
- the number of exotic species required on opening is maintained as the modification only proposes to substitute similar exotic species, not to reduce the minimum number of exotic species required on opening;
- there are no changes to car parking areas, access arrangements or the vehicular/pedestrian circulation paths;
- there are no changes to the total area of exhibit space associated with the display of native animals, pursuant to the 1.6ha maximum display area under Condition B6 of the consent;
- there are no changes to the overall capacity of the development in regard to staff numbers or visitors;
- the proposed modifications are internal to the Zoo, with no significant changes proposed in relation to sensitive views from the public domain; and
- the environmental impacts of the modified development remain the same as the approved development, as the species substituted must still be of a sufficiently similar type that the exhibit is suitable for the substituted species.

For these reasons, the Department can be satisfied that the modified proposal is substantially the same development for which consent was originally granted.

The proposed modification is relatively minor in nature and will not result in any off-site environmental impact. The modification simply allows for Sydney Zoo to use similar exotic animal species in place of the exotic species listed in the Additional Information referred to in Condition B7. The consent, if modified, will still ensure that on opening the zoo will meet the minimum display requirement for exotic animals.

As the changes result in minimal environmental impact, the modification application can be appropriately assessed and determined under Section 4.55(1A) of the EP&A Act. Further discussion is provided in **Section 4.0** below.

4.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact. In particular, the proposed modifications will not create any additional environmental impacts beyond those already considered by the Department as part of the original assessment of SSD 7228 with regard to the following:

- Air and odour;
- Noise;
- Traffic, parking and access;
- Aboriginal Heritage;
- Landscaping
- Built form;
- Visual impact;
- Social and economic impacts;
- Vegetation and biodiversity;
- Waste management
- Bushfire management;
- Hazards and risk;
- Ecologically sustainable development; and
- Infrastructure and servicing.

4.1 Compliance with Environmental Planning Instruments and Strategies

The proposed modifications do not alter the approved development’s compliance with the statutory and strategic plans including:

- *Environmental Protection and Biodiversity Conservation Act 1999*;
- *Environmental Planning and Assessment Act 1979*;
- *Exhibited Animals Protection Act 1986*;
- *Roads Act 1993*;

- *Biodiversity Conservation Act 2016*;
- *Contaminated Land Management Act 1997*;
- *Biosecurity Act 2015*;
- *State Environmental Planning Policy (Western Sydney Parklands) 2009*;
- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy (Infrastructure) 2007*;
- *State Environmental Planning Policy No 64 – Advertising and Signage*;
- *State Environmental Planning Policy No 55 – Remediation of Land*;
- *State Environmental Planning Policy No 33 – Hazardous and Offensive Development*;
- NSW Biosecurity Strategy 2013-2021;
- NSW State Plan 2021;
- A Metropolis of Three Cities and Western City District Plan; and
- Western Sydney Parklands Plan of Management 2020.

4.2 Site Suitability

The site remains suitable for the proposed development and will continue to provide a catalyst for tourism and recreation in Western Sydney.

4.3 The public interest

The proposed modifications to the approved development are considered to be in the public interest as they will facilitate the provision of exotic species upon opening of the Sydney Zoo, to ensure an exciting visitor experience supporting the objectives of the Western Sydney Parklands Plan of Management in relation to providing a tourist hub as part of the Bungaribee Super Park.

5.0 Conclusion

The proposed modification relates to wording changes of Condition B7 to provide for substitute of exotic species. The proposed modification does not result in any change in the fundamental aspects of the approved development such as overall development area, approved land uses, or the capacity of the zoo.

The proposed change will ensure that the Zoo will open with its minimum quota of exotic species. There will be no impact on the bulk and scale of the zoo and no environmental impact.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



Christopher Curtis
Principal
02 9956 6962
ccurtis@ethosurban.com