

10 September 2018

718742

Minister of Planning
NSW Department of Environment and Planning
320 Pitt Street
Sydney, NSW 2200

Dear Sir,

**RE: Section 4.55(1A) modification (modification 10) to DA- 220-07-2002 – i
1 Dampier Street, Bomen NSW**

This application has been prepared by Ethos Urban on behalf of Teys Australia Southern Properties Pty Ltd (Tey's) pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent 220-07-2002 – i (DA 220-07-2002-i).

This proposal is for a refinement of the amendments to DA220-07-2002-i approved as part of modification 6 in 2015 for chiller upgrades; the additions of a new sorting and palletising area; new loading docks and truck access from Dampier Street at the existing Abattoir located at 1 Dampier Street, Bomen NSW (the 'site').

The proposal does not involve an intensification of the use i.e. the approved throughput of 1,600 cattle per day is not proposed to be changed as part of this application. Subsequently, the modifications only relate to changes to the previously approved built form in modification 6.

DA 220-07-2002-i has been modified nine (9) times. The most recent mechanism used to modify the original consent was via section 75W under Part 3A of the NSW Environmental Planning and Assessment Act, 1979 (EP&A Act). However, on 1 March 2018, Part 3A of the EP&A Act and subsequently section 75W were repealed.

As the original consent granted was not an application made under Part 3A of the EP&A Act, it does not need to be transitioned by a ministerial order to a Part 4 application as it already is such. Subsequently, the modification (modification 10) sought in this proposal is submitted under the provisions of section 4.55 of the EP&A Act 1979.

As demonstrated herein, this proposal meets the test of being 'substantially the same development' as originally approved and subsequently amended. Given the minor nature of the proposal and as confirmed in discussions with the NSW Department of Environment and Planning (DPE), amended Secretaries Environment Assessment Requirements (SEAR's) were not required to be sought for this matter.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 4.55(1A) of the EP&A Act and is accompanied by:

- Section 4.55(1A) application form and fee;
- Plans and elevations prepared by Wiley – **Attachment A**.

1.0 Site location and description

The site (as identified in Figure 1 below) is located at 1 Dampier Street, Bomen NSW and is legally described as Lot 1 in DP 1213252. The site, which has a total area of 160.32ha is located east of East Street and west of Byrnes Road. The northern property boundary is situated south of Bomen Road and the southernmost portion of the site is located north of Hillary Street.

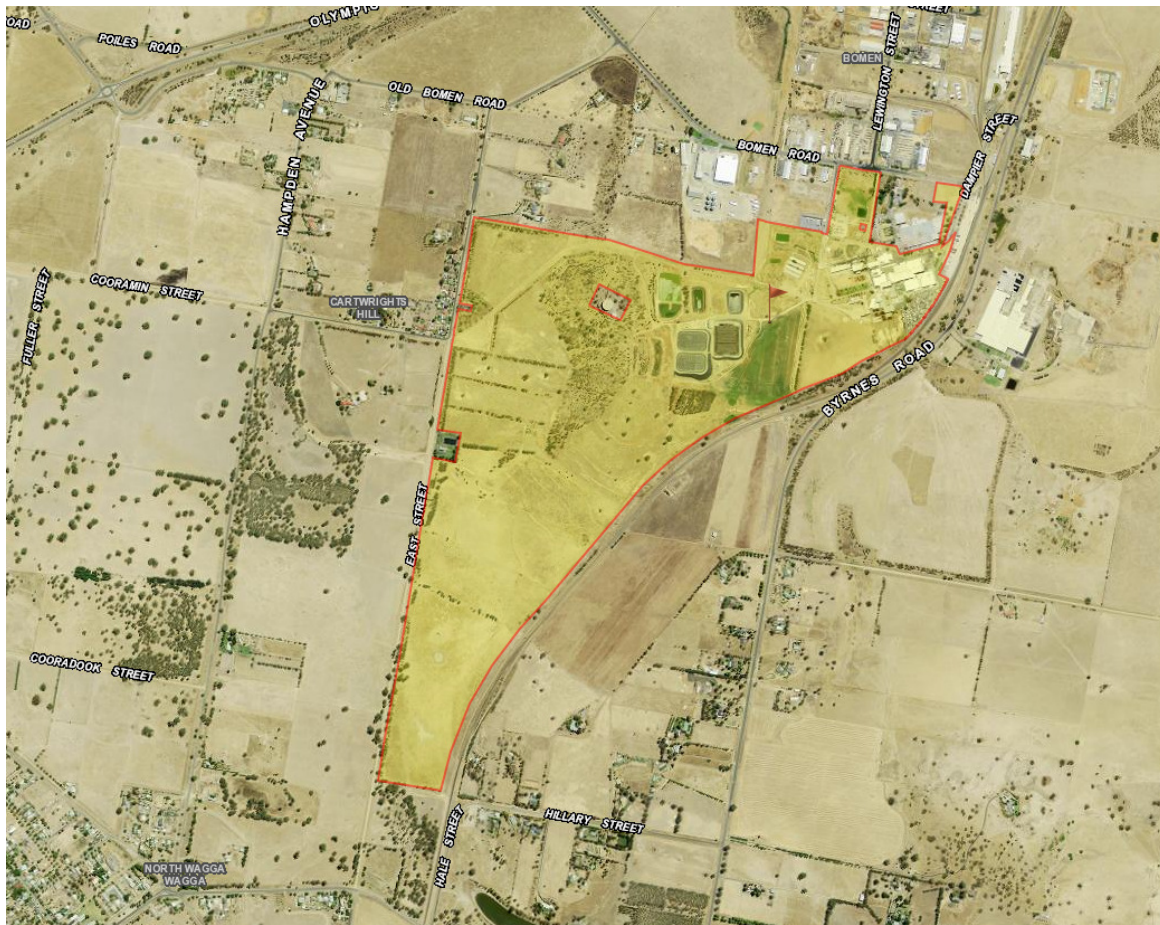


Figure 1 – Site location

The area of the site, which is subject to this proposal is identified more acutely by the area within the red square in Figure 2 below. This specific area has approval (via modification 6) for:

- reinstatement of a former heavy vehicle access point off Dampier Street;
- construction of additional cold storage and palletising space;
- construction of a new loading dock; and
- internal refurbishments to carcass chillers and provision of new chillers

This proposal seeks to make further refinements to these works approved, which are yet to have been constructed.

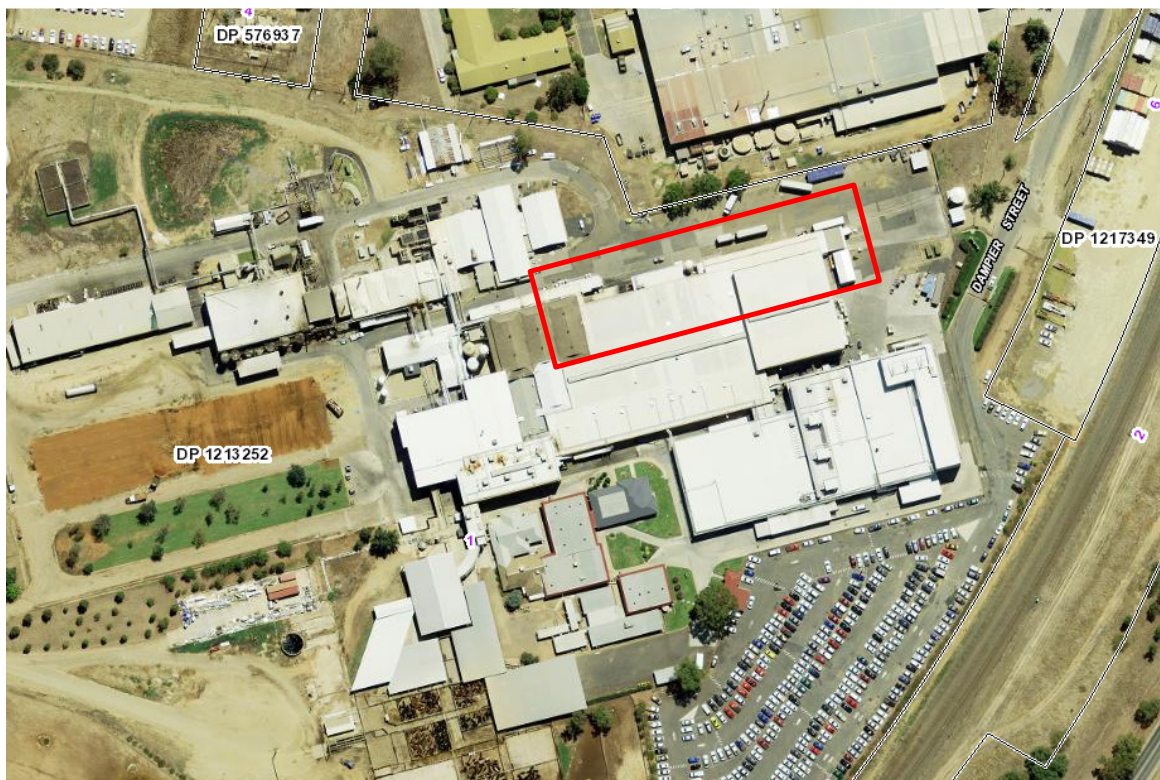


Figure 2 – Identification of the location on site (areas within red square) subject to the modifications proposed in this application

2.0 Consent proposed to be modified

The site is currently used for the purposes of the Teys Australia Bomen Beef Processing Facility (abattoir), which has operated on the site since the 1940's. The facility was owned by the local Council until 1991 when it was purchased by Cargill Beef Australia (CBA). Teys Australia is an equal partnership between the Teys Family and the Cargill Company.

The original development application (DA 220-07-2002-i) was submitted to the former Department of Urban Affairs and Planning (now the DPE) in 2002 for extensions to the facility and was subsequently approved by the Minister on 27 February 2003. Nine (9) subsequent modifications have been submitted and approved by the DPE with the most recent being in January 2017.

As previously outlined above, with the removal of Part 3A from the EP&A Act 1979, the appropriate mechanism for modifying DA 220-07-2002-I is now under the provisions of section 4.55(1A).

3.0 Description of the proposed modifications

3.1 Proposed changes

The modification proposed as part of this application are a refinement to those changes approved in modification number 6, which was approved on 7 July 2015 for:

- reinstatement of a former heavy vehicle access point off Dampier Street
- construction of additional cold storage and palletising space
- construction of a new loading dock

- internal refurbishments to carcass chillers and provision of new chillers

The modifications being sought as part of this proposal are being primarily driven by the decision to change the supplier of the conveying system to be used within the new cold storage and palletising space, which is also known as the Auto Sortation and Retrieval System (ASRS). This new system and the proposal will allow for an additional 4,500 boxes to be stored on site. The proposal however does not include any intensification of the existing use, which has approval for the throughput of 1,600 cattle per day.

Subsequently, the proposed modifications, which are illustrated on the plans and elevations provided in **Attachment A**, include:

- A 5.2m expansion to the western end of the cold storage and palletising space to the full building height, which is also described as the Auto Sortation and Retrieval System (ASRS)
- Demolition of small existing dock currently in location or proposed ASRS extension to the west
- A 2.6m expansion of the ASRS cold store into the approved proposed load out area
- Provision of a Dematic Workshop at the western end of the ASRS building for service and maintenance purposes
- Provision of a small office/control room in proposed mezzanine expansion
- Retention of existing battery recharge building and subsequent relocation of the new dock office adjacent
- Previously proposed new battery charge that was to be placed adjacent to plastics and carton store to be deleted
- Provision of new external stairs to northern side and providing access to load out area
- Provision of new internal stairs providing access from load out area to proposed mezzanine expansion above

4.0 Assessment of Proposed Modifications

4.1 Refinement of cold storage and load out facility (ASRS)

The proposal seeks only minor modifications to alterations and additions approved as part of modification 6 of DA 220-07-2002-i. As noted above, the changes are being driven primarily as the operators of the site have decided to select an alternate conveying system, which requires additional space within the ASRS.

The extent of additional building footprint proposed by the extension of the ASRS building to the west is 5.2m. The mezzanine extension over the future approved load out area will extent 2.6m to the east. These two areas of minor expansion will result in a total additional gross floor area (GFA) of 115.44m². Given the scale of existing buildings already on the site, the size of the approved ASRS and the significant distance the facility is located from the nearest residence some 909m away, the proposal will be negligible in terms of potential visual impacts.

Other minor changes proposed to the ASRS include a new external access stair on the northern elevation at the junction between the cold store and load out area. Internal changes include a new stair to the proposed extended mezzanine level from the approved new load out area. A small office/control room is also proposed within the new mezzanine space. Given these changes are predominantly internal, there will be no adverse visual amenity impact derived.

4.2 Dock office retention

As part of the modification 6, a new dock office was proposed adjacent to the load out bays. This required the relocation of the current battery recharge room. To reduce costs, Teys have decided that the battery recharge room is to be retained in its current location. Subsequently, the dock office space has been reorientated at the northern end of the battery charge room to accommodate the latter's retention.

This small-scale building and the retention of the battery recharge room will have no adverse visual impacts as they will not be readily viewed from any main roads or any existing residence within the site's proximity.

5.0 Section 4.55 (1A) Assessment

Section 4.55(1A)(a)(b) 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, and

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)

5.1 Minimal Environmental Impact

The proposal will not result in any environmental impact as it only relates to minor refinements of larger alterations and additions, which have already been approved. These refinements, that result in a small extension to the ASRS system will be negligible when compared with the size of the additions already approved as part of modification 6 and within the context of other buildings already on the site. Subsequently there will be no adverse visual impacts as a result of the proposal.

In addition, given the proposal does not result in any increase in intensification of the current operations there will be no environmental impacts on terms of traffic generation, noise or air quality.

5.2 Substantially the Same Development

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

- There is very minimal change to the approved built form in modification 6
- The modifications will not result in any environmental impacts.

The incorporation of the proposed modifications will result in a development which is substantially the same as the approved development. The modification of the DA can therefore lawfully be approved under section 4.55(1A) of the EP&A Act.

6.0 Planning Assessment

Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application.

The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters.

6.1 Compliance with Statutory Plans

The development, as proposed to be modified, remains generally consistent with the following statutory plans and policies:

- *State Environmental Planning Policy No.33 – Hazardous and Offensive Development*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *Wagga Wagga Local Environmental Plan 2010*
- *Bankstown Local Environmental Plan 2015*
- *Wagga Wagga Development Control Plan 2010*

The following matters require further consideration

6.2 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)

State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33) defines 'hazardous industry', 'hazardous storage establishment', 'offensive industry' and 'offensive storage establishment' for all NSW planning instruments, existing and future. The definitions enable decisions to approve or refuse a development to be based on the merit of proposal. The proposal does not involve an increase in the storage of hazardous materials and chemicals beyond that deemed as to require a preliminary hazard analysis (PHA) or result in the operations changing such that it would be offensive. Subsequently, the modifications are not deemed hazardous or offensive development under the provisions of SEPP 33.

6.3 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP), aims to facilitate the effective delivery of infrastructure across the State. This is important to cater for developments that will require new infrastructure. The relevance of SEPP (Infrastructure) 2007 to the proposed modifications are whether it will result in an operation deemed traffic generating development. In this case, the proposed modifications do not seek to intensify the existing approved use of the operations.

6.4 Wagga Wagga Local Environmental Plan 2010

The site is zoned IN1 General Industrial (IN1 zone), under the provisions of Wagga Wagga Local Environmental Plan 2010 (WWLEP 2010). The existing and subsequent proposed modifications are defined as 'rural industry' in WWLEP 2010, which are permissible with consent in the IN1 zone.

6.5 Wagga Wagga Development Control Plan 2010

The Wagga Wagga Development Control Plan 2010 (WWDCP 2010) supports the WWLEP 2010 by providing additional objectives and controls. Many of those objectives and controls are not relevant to the proposed modifications. However, where they do apply it has been determined that the proposed modifications comply with the relevant numerical controls and the objectives in WWDCP 2010.

6.6 Section 4.15(1)(b) Impact on the Environment

The proposed modifications do not give rise to any alteration to the assessment of the potential impacts assessed as part of the original DA and subsequent modification approved since.

7 Conclusion

In accordance with Section 4.55(1A) of the EP&A Act, the modified development will be substantially the same as the originally approved development and result in minimal environmental impact. The proposed modification will not result in any adverse environmental impacts or raise any additional environmental issues.

In light of the above, we therefore recommend that the proposed modification is supported. We trust that this information is sufficient to enable a prompt assessment of the proposed modification. Should you have any queries about this matter, please do not hesitate to contact me on 07 3852 1822.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ben Haynes', with a long horizontal flourish extending to the right.

Ben Haynes
Director
07 3852 1822
bhaynes@ethosurban.com

Appendix A.