



**Planning &
Infrastructure**

MODIFICATION REQUEST:

Modification to approved Torrens Title Plan of Subdivision

***Royal Rehabilitation Centre Sydney, 600-640 Victoria Road,
Ryde***

MP07_0100 MOD 2

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

October 2012

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1. BACKGROUND

1.1 The site

The purpose of this report is to determine a request to modify the project application approval (MP07_0100) for the Torrens Title subdivision of Royal Rehabilitation Centre Sydney (RRCS) site, Ryde.

The site is located at 600-642 Victoria Road and 59 Charles Street, Ryde and is legally known as Lot 102 DP 826426, Lot 1010 DP 836975 and Lot D DP 415046. The site is located within the City of Ryde Local Government Area (LGA). The site comprises approximately 17.83 hectares and has frontages to Victoria Road, Charles Street, Morrison Road and Princes Street (see **Figure 1**).



Figure 1: Location Plan of the Royal Rehabilitation Centre Sydney site

Background of approvals

On 23 March 2006, the then Minister for Planning approved a Concept Plan (MP05_0001) for the redevelopment of the RRCS site including a new purpose built specialised rehabilitation and disability facility, residential development of not more than 50 residential dwellings per hectare, landscaped public and private open space and associated services and infrastructure.

On 12 August 2008, the then Minister for Planning approved a Project Application (MP07_0100) for Torrens title subdivision to create seven superlots, associated rights of carriageway and service easements.

On 16 December 2008, the then Minister for Planning approved a Project Application (MP 08_0054) for:

- demolition of part of the Coorabel facility and associated structures on part of the RRCS site;
- a Health Facility Main Building containing rehabilitation care, professional suites and at least 60 ward beds;
- new Weemala High Care Residential Facility with accommodation for 32 residents;
- pharmacy / general store building;
- recreation circle comprising child care centre, community centre, and multi use courts;
- open space comprising Central Parklands and Wetlands;
- landscaping; and
- internal roads 1, 2, 3 and 6 and car parking for 304 vehicles.

The project layout is illustrated in **Figure 2** below.

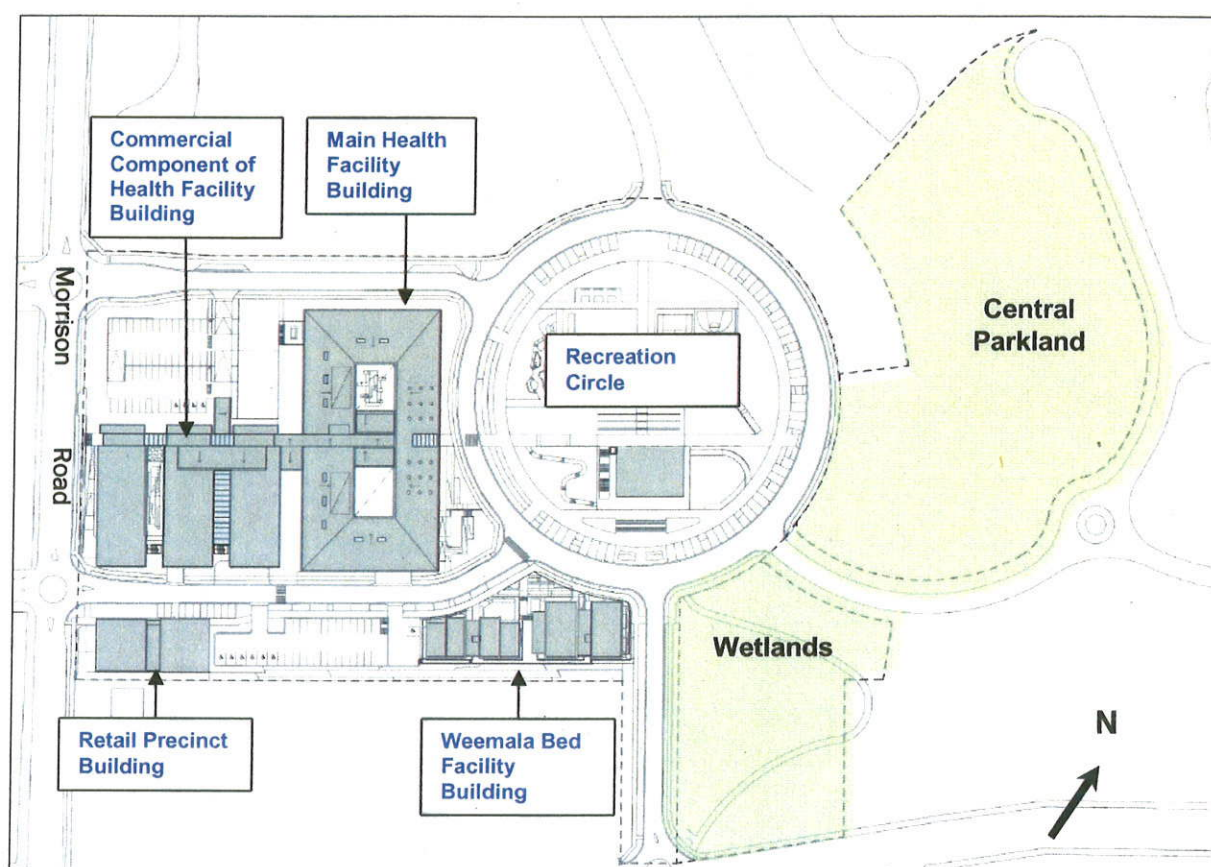


Figure 2: Approved Project Layout (MP 08_0054)

On 5 July 2010, the A/Director, Government Land & Social Projects approved a Section 75W modification (MP07_0100 MOD 1) to modify the approved plan of subdivision to be consistent with the zoning map within SEPP (Major Development) 2005 Amendment No. 5.

On 17 November 2010, the Director of Government Land and Social Projects, as delegate of the then Minister for Planning, approved a Section 75W modification (MP08_0054 MOD 1) to include the construction of 'Road 4' as part of the approved works and to rename it as 'Road 4' and 'Road 5'.

On 1 August 2011, the Planning Assessment Commission (PAC) approved a Section 75W modification (MP08_0054 MOD 2) for the following:

- modified design of the Main Health Facility including:

- rearrangement of levels between lower ground and second floor levels;
- revised elevations and roof plans;
- modified staging of the works to be carried out on site; and
- modified Statement of Commitments.

On 10 October 2011, the then A/Deputy Director-General approved a Section 75W modification (MP08_0054 MOD 3) for the following:

- reduction in carriageway width of internal 'Road 4' and 'Road 5'; and
- reduction in width of approved shared bicycle pathway to internal 'Road 5'.

On 16 August 2012, the PAC approved a Section 75W modification (MP08_0054 MOD 4) for the following:

- modification of road widths (Roads 1, 3, 6 and 2a);
- a new one way road system (Road 2a);
- refinements to the Main Health Facility elevations and lower ground floor plan; and
- insertion of a new condition to ensure Health Facility roads are not subject to conditions applicable to residential components of the approved Concept Plan.

On 16 May 2012, a modification to the Concept Plan (MP05_0001 MOD 1) was submitted to the Department proposing to modify the layout of dwellings and to update the Concept Plan drawings relating to Stage 1 Phase 2 of the development. At the time of writing, this modification application is currently being assessed by the Department.

2. PROPOSED MODIFICATION

2.1 Modification Request

The proposal seeks approval to modify the approved plan of subdivision (MP07_0100) by dividing approved Lot 5 DP 112973 into two lots identified as:

- Lot 71 which will have an area of 1.097ha and is generally rectangular in shape. Approved buildings on this proposed lot comprise a part of the Commercial Component of the Health Facility Building, a Retail Precinct Building consisting of a general store/pharmacy and an at-grade car park; and
- Lot 72, which will have an area of 3.040ha, is irregular in shape and will comprise the Main Health Facility, Weemala Bed Facility Building, Child Care Centre and Community Centre in the Recreation Circle.

The Department notes that the proposed line of subdivision divides the footprints of the basement car park (located under the Health Facility Building) and the at-grade car park (located between the Retail Precinct Building and the Weemala Bed Facility Building). This issue is discussed in detail under Section 5 of the report.

A comparison of the approved and proposed plan of subdivision is shown in **Figures 3 and 4** on the following page.

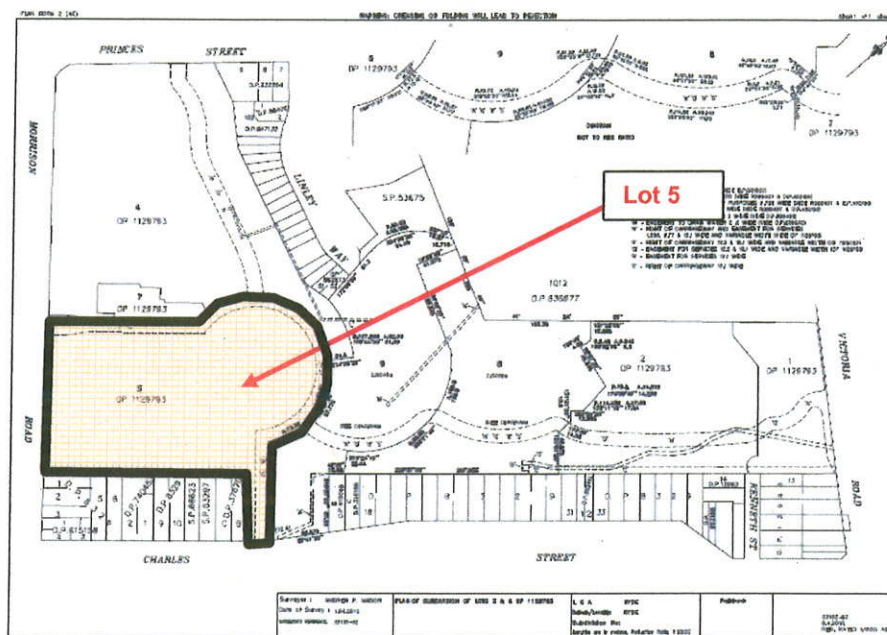


Figure 3: Approved plan of subdivision

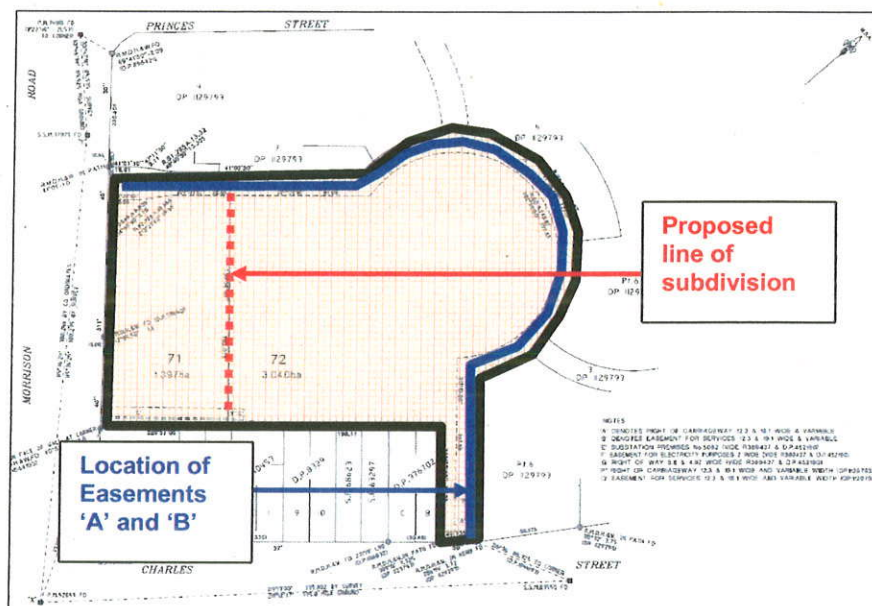


Figure 4: Proposed subdivision into Lots 71 and 72

The proposed subdivision plan also modifies the easements on the site as follows:

- 'A' is a new easement for pedestrian and vehicle access between Lots 71 and 72; and
- 'B' is a new easement for services.

As a result of the abovementioned modifications, the proponent seeks to alter the description of the development and amend the wording of Condition A2 to make reference to the modified plan of subdivision.

The proponent justifies its modification request by stating the application is to:

- provide the RRCS with maximum flexibility for the use of the site;
- separate the commercial component from the Main Health Facility building;
- facilitate the sale of part or all of the commercial uses of the Health Facility development; and
- secure adequate onsite power capacity.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with Clause 3 of Schedule 6A of the *Environmental Planning & Assessment Act 1979* (the Act), section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

Section 75W of the Act provides that a Proponent may request the Minister to modify the Minister's approval of a project. The modification of the Minister's Approval by way of section 75W is appropriate in this case, as the proposal is consistent with the original Project Approval and will have limited environmental consequences.

3.3 Environmental Assessment Requirements

Section 75W (3) of the Act provides that the Director-General may notify the proponent of environmental assessment requirements (DGRs) with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

Following an assessment of the modification request, it was considered unnecessary to notify the proponent of environmental assessment requirements pursuant to Section 75W (3) as sufficient information was provided to the Department to consider the application.

3.4 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the Act to the Planning Assessment Commission (PAC) in cases where:

- there has been 25 or more objections to the application;
- council has made an objection to a development; or
- there has been a reportable political donation in connection with the application, or to a previous related application.

As the proponent has provided a disclosure of two political donations in connection with the subject application, the modification is required to be referred to the PAC for determination.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the Act and clause 8G of the EP&A Regulation 2000, the modification request was made publically available on the Department's website. The Department also sought comment from City of Ryde Council and Ausgrid.

4.2 Public submissions

No public submissions were received in response to the modification application.

4.3 Council's submission

On 20 July 2012, City of Ryde Council advised that it had no objection to the proposed modification provided the revised subdivision pattern would not affect community

accessibility to facilities, forming part of the agreement between the Royal Rehabilitation Centre Sydney and Council. This is addressed in Section 5.3.

4.4 Ausgrid

On 19 July 2012, Ausgrid commented on the proposal noting the subdivision of Lot 5 into Lots 71 and 72 will require two separate supplies.

On 14 August 2012, Ausgrid provided additional comments noting that:

- Lot 5 is currently fed by a single power supply (D1 of S5082). This supply needs to be separated into two in order to serve both Lots 71 and 72 via an easement;
- any additional load on the site will require a new electricity kiosk which will be a contestable project funded by the developer; and
- depending on the load, Lots 71 and 72 may require separate substations funded by the Proponent. The issues raised by Ausgrid are addressed in Section 5.4.

5. ASSESSMENT

The Department considers the key issues for the proposed modifications are:

- Consistency with the Concept Plan;
- Consistency with approved Health Facility development;
- Deed of Agreement; and
- Connection of services to the sites.

5.1 Consistency with Concept Plan

The proposed modification is considered to be consistent with the Concept Plan approval (MP05_0001). The creation of an additional lot on the site will not alter the approved dwelling mix, building heights and densities, layout of roads and staging of the development established under the Concept Plan. Furthermore, Condition B5 of the Concept Plan refers to the preparation of a Deed of Agreement between the proponent and Council for the establishment of community and infrastructure services. The proposed modification will not impact the terms of the Deed of Agreement which is discussed in detail under Section 5.3.

5.2 Consistency with Health Facility development

The approved development on Lot 5 (MP08_0054) consists of a new Health Facility building comprising a modern high care residential facility and a commercial component, a Retail Precinct Building, the Weemala Bed Facility building, a Recreation Circle comprising a child care and community centre building, open space, landscaping and internal roads and car parking for 304 cars. The development is to be constructed in stages to enable the RRCS to operate uninterrupted throughout the redevelopment of the site.

Figure 5 on the following page identifies the buildings on Lot 5 approved under MP08_0054 and the line of subdivision proposed under this modification application.

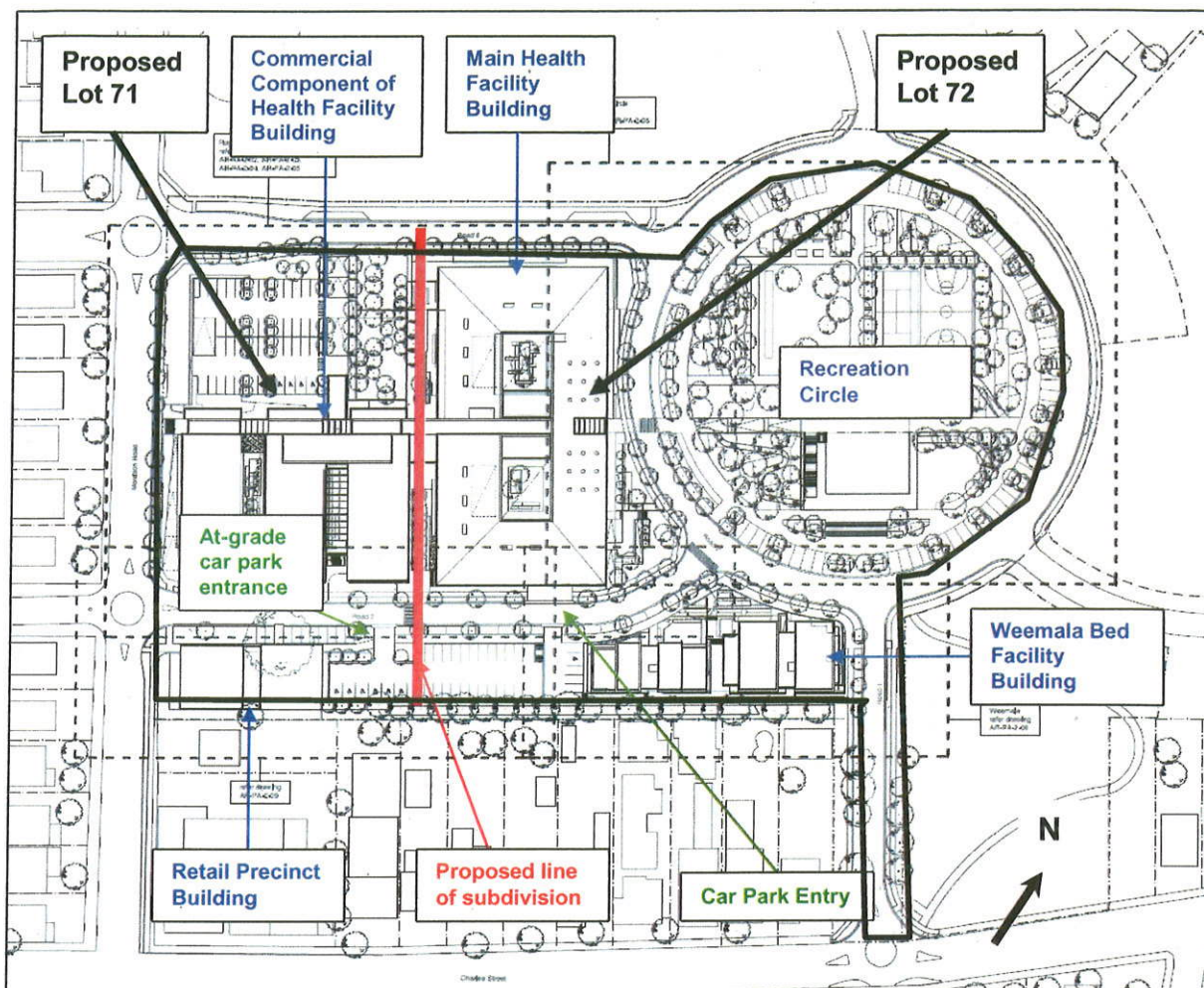


Figure 5: Proposed line of subdivision (shown in red) to existing Lot 5 (outlined in black) superimposed over the buildings approved under the Health Facility development identified as MP08_0054

Proponent's justification

The proponent states in its submission that:

- the proposed line of subdivision does not conflict with the approved building footprints of the Health Facility development; and
- the current operations of the RRCS do not rely on the construction of the commercial component of the Health Facility development.

Department's comment

The Department raises no issue with the proposed line of subdivision with regard to the buildings located above ground level. As illustrated in **Figure 5**, the proposed subdivision divides the commercial component from the Health Facility building and does not conflict with the building envelopes of the other built forms on the lot which include the Retail Precinct, Weemala Bed Facility and Recreation Circle.

The proposed line of subdivision does however conflict with the two level basement car park and at-grade car park approved as part of the Health Facility development and the at-grade car park located between the Retail Precinct Building and the Weemala Bed Facility.

The basement car park provides parking for both the commercial and health care components and its footprint stretches across the proposed line of subdivision. The car park only has one vehicle entry located in the southeast of the building via proposed Lot 72. This would present access and egress issues for visitors to both components of the approved building should the sale of the commercial component take place in the future.

To ensure visitors to both components of the building retain access to and use of the basement car park, a condition is recommended to be inserted in the instrument of approval requiring the placement of a covenant on the title of proposed Lot 72. In the event that the commercial component of the building (Lot 71) is sold in future, the covenant will ensure access, egress and use of the basement car park for visitors associated with both components of the building is maintained.

Likewise, access to and use of the at-grade car park located adjacent to the commercial component of the Health Facility Building (Lot 71) would not be permitted if the commercial component is sold. Therefore, a covenant is recommended to be placed on the title of Lot 71 to ensure users and visitors associated with the Main Health Facility (Lot 72) have access to and ongoing use of the at-grade car park.

The proposed line of subdivision divides the at-grade car park located between the Retail Precinct Building (Lot 71) and the Weemala Health Facility Building (Lot 72). Vehicle access to the car park is located with proposed Lot 71. Access and use of this car park would therefore not be permitted for users or visitors to the Weemala Facility if the retail building is sold. In this regard, a covenant is recommended to be placed on the title of Lot 71 to permit users and visitors of the Weemala Bed Facility ongoing access and use of the car park.

Subject to the above recommended conditions, the Department considers the proposed modification to the approved subdivision pattern to be consistent with the approved development on the site as it avoids conflict with building envelopes approved under the RRCS Health Facility development with the exception of the basement and at-grade car parks. As detailed above, a condition is recommended to be added to the approval to ensure owners and visitors to any building within Lots 71 and 72 are permitted unconditional use of these car parks. The recommended condition is provided as follows:

F1 Covenant for use of the Basement Car Park and at-grade Car Parks

Prior to the issue of an Occupation Certificate and in accordance with Section 88B of the Conveyancing Act 1919:

- *a covenant shall be placed on the title of Lot 72 requiring the ongoing unrestricted access to and use of the shared basement car park below the Health Facility to users of Lot 71;*
- *a covenant shall be placed on the title of Lot 71 requiring the ongoing and unrestricted access to and use of the at-grade car park (located in the western corner of Lot 71) to users and visitors of Lot 72; and*
- *a covenant shall be placed on the title of Lot 71 requiring the ongoing and unrestricted access to and use of the at grade car park (located adjacent to the Pharmacy Building) to users and visitors of the Lot 72.*

Registered title documents identifying the covenants shall be submitted to the Principal Certifying Authority for approval, prior to the issue of an Occupation Certificate for the health care and commercial components of the Health Facility building.

It is considered that the imposition of covenants on the lot titles, in lieu of a 'right of way' is more appropriate in this instance as it also allows for persons associated with both lots to legally make use of the car parks on the other lot, in addition to accessing a right of way across them.

The Department therefore considers the inclusion of Condition F1 in the approval will resolve the issue of access and use of the basement and at-grade car parks associated with the development in the event the sale of Buildings in Lot 71 takes place.

5.3 Deed of Agreement

A condition imposed in the Concept Plan Approval (Condition B5) required the preparation of a Deed of Agreement between the developer and Council, which was subsequently finalised prior to determination of the original Project Application. The Deed of Agreement relates to the development or provision of a monetary contribution for the establishment of community facilities, open space, traffic calming measures, infrastructure and the dedication of lands as road reserve.

The proposed modification to the approved plan of subdivision will not impact the terms dictated in the deed of agreement established between the RRCS and the City of Ryde as no change is proposed to the approved buildings. The Department raises no issue in this regard.

5.4 Connection of services to the site

The Department sought advice from Ausgrid regarding the implications of the modified subdivision pattern on the provision of power to the site. Ausgrid has advised that the subdivision of Lot 5 into two lots (Lots 71 and 72) may require the establishment of two separate power supplies dependant on the load requirements of the two sites.

An existing condition (Condition E6) of the subdivision approval requires the proponent to comply with the requirements of any public authority where the connection of services is concerned and submit details of compliance with the application for the subdivision certificate. Condition E6 will ensure Ausgrid's requirements with regard to the provision of power to the lots are complied with prior to issue of the subdivision certificate. The condition is reproduced as follows:

E6 Requirements of Public Authorities for Connection to Services

The proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection, relocation and/or adjustment of the services affected by the proposed subdivision. All costs related to the relocation, adjustment or support of services are the responsibility of the Proponent only. Details of compliance with the requirements of any relevant public authorities are to be submitted with the application for a subdivision certificate.

The Department considers any connection of services to the site including the provision of power to be accommodated for by existing condition E6 of the subdivision approval.

6. CONCLUSION

The Department has assessed the proponent's application and Council's submission and considers the proposed modifications to be consistent with the terms of the Concept Plan approval (MP05_0001) and the approved Health Facility development (MP08_0054).

The subject modification will not alter the general layout or distribution of uses approved under the Concept Plan or the design and operation of the approved Health Facility development. Pedestrian and vehicle access throughout the proposed lots will be maintained by the introduction of new easements. Furthermore, access and ongoing use of the basement and at-grade car parks by users and visitors to each lot can be maintained through the placement of covenants on the titles.


The Department considers the proposed modification to the approved plan of subdivision to be consistent with both the Concept Plan for the site and the Project Approval on the subject lot subject to the addition of conditions in the approval as outlined in **Appendix C**.

7. RECOMMENDATIONS

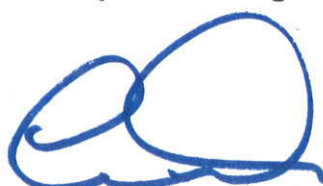
It is recommended that the Planning Assessment Commission:

- (A) **Consider** the recommendations of this report;
- (B) **Approve** the modification, subject to conditions; under Section 75W of the *Environmental Planning and Assessment Act. 1979*, and
- (C) **Sign** the attached Instrument of Modification (**Appendix C**).

Endorsed by:


Director 26/10/2012
Metropolitan & Regional Projects South


A/Executive Director
Major Projects Assessment
26/10/12


26.10.12
A/Deputy Director-General
Development Assessment &
Systems Performance