

Section 75W of the EP&A Act Modification Application

Bungarribee Industrial Estate Modified Subdivision Layout

Submitted to
Department of Planning
On Behalf of Goodman

February 2011 ■ 10787

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A handwritten signature in blue ink that reads "T. Ward".

Date 09/02/2011

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Gordon Kirkby

A handwritten signature in blue ink that reads "Gordon Kirkby".

Date 09/02/2011

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Goodman

Executive Summary

Approval is sought to modify the subdivision layout approved under MP08_0055 by:

- Subdividing Lot 21 into two allotments being Lot 30 and Lot 31 (Lot 21 is the result of a boundary amendment to the originally approved Lot 1).
- Subdividing Lot 4 into two allotments being Lot 32 and Lot 33.

The proposed modification to the subdivision layout is facilitative only. No physical works are proposed as part of this project application. All physical works, including the clearing of vegetation, earthworks or provisions of services and/or construction activities etc will be the subject of separate project applications. Likewise, this project application does not seek approval for the use of any part of the site. Approval for the use of land will also be the subject of separate project applications.

It is therefore not considered that the proposed modification to the subdivision layout would result in any impacts to the biophysical environment.

The proposed modifications to the approved subdivision layout are consistent with the approved Concept Plan (MP06_0203), and are also not inconsistent with the Project Applications made for Stage 1 infrastructure works for the Bungarribee Industrial Estate (MP08_0225) and for the Metcash proposal (MP10_0140).

The subdivision plan approved under MP08_0055 for the Bungarribee Industrial is in the interest of the public, as it facilitated selling the site to new land owners in order to provide future employment uses and development on the site, thereby disposing of surplus public land.

The proposed modification to the approved subdivision layout would further this objective by tailoring the subdivision to meet the needs of industry so helping to facilitate the timely release of employment land to the market, and therefore facilitating the achievement of development and employment targets for the estate. It is therefore considered that it remains in the public interest to permit the proposed modifications to the approved subdivision layout to ensure the orderly and efficient transfer and development of land.

1.0 Introduction

This Modification Application is submitted to the Department of Planning in support of a proposed Modified Subdivision Layout at the Bungaribee Industrial Estate, Huntingwood West.

The Modification Application seeks approval for a modified subdivision layout which results in there being two additional lots in the estate. The current subdivision layout was approved under Project Application MP08_0055, and it is this approval which is proposed to be modified.

This report describes the reason for the proposed subdivision layout and provides an assessment of the proposal in terms of the matters for consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This report has been prepared by JBA Planning on behalf of Goodman.

1.1 Background

The Bungaribee Industrial Estate has been subject to a number of planning approvals which relate to the subdivision layout for the estate. These are described below in chronological order, from earliest to most recent.

1.1.1 Concept Plan MP06_0203

A Concept Plan was submitted under Part 3A of the EP&A Act for a 47 lot subdivision over 46 ha of the Huntingwood West Employment Lands. The subdivision was to provide for employment generating uses, associated services and infrastructure, and public open space.

The Concept Plan was submitted on 25 September 2006 and was approved by the Minister for Planning on 9 December 2006.

1.1.2 Project Application MP08_0055

A Project Application was submitted under Part 3A of the EP&A Act to modify the subdivision layout into 6 super-lots. This Project Application was for a facilitative subdivision only and did not involve any development works nor did it propose to change any uses of the site.

The modified subdivision layout was considered to be generally consistent with the road layout in the Concept Plan Approval. The modified subdivision retained the main access points from Brabham Drive and the Great Western Highway, with associated primary roads dissecting the site into a rectangular lot layout resulting in 6 super-lots.

The Project Application was submitted in April 2008 and was approved by the Minister for Planning on 4 September 2008. It is the subdivision layout approved under this Major Project that is proposed to be modified through this Modification Application.

On 29 October 2010 the Minister for Planning approved a boundary adjustment between Lots 1 and 2, to create Lots 20 and 21 (see **Section 2.2** below).

1.1.3 Project Application MP08_0225

A Project Application was submitted in September 2010 for the Stage 1 infrastructure works associated with the Bungaribee Industrial Estate. The scope of works proposed as part of this Project Application was:

- Subdivision to create development lots, estate road lots and drainage lots;
- Construction of a new intersection to Great Western Highway and internal estate roads in accordance with the approved Concept Plan and Statement of Commitments;
- Bulk earthworks and stormwater management;
- Estate landscaping and offsite stormwater detention works; and
- Modifications to the development design controls.

The project has a total capital investment value of \$42million.

Under this Project Application the proponent provided an indicative subdivision layout which shows how internal roads and drainage would be provided for the industrial estate. The proponent does not specify that the shown indicative subdivision layout within this Project Application is the final layout, but rather states that a final subdivision plan would be prepared, in consultation with Blacktown Council and the satisfaction of the Director-General, prior to obtaining a subdivision certificate for the subdivision.

This application also included a Modification Application to modify the Concept Plan MP06_0203. These modifications relate to design control of future development including setbacks and site cover, and frontage controls. These modifications to the Concept Plan do not affect the approved or proposed subdivision layout.

This Project Application is currently being assessed by the Department of Planning.

1.1.4 Project Application MP10_0140

A Project Application was submitted in October 2010 for a Metcash distribution centre to be located on Lot 3 and part of Lot 2 DP 1127100. The Project Application seeks approval for the following:

1. Staged construction of:
 - (i) Three warehouse buildings with an ancillary office building and staff amenities having a total gross floor area of 103,087m² which represents a floor space ratio 0.55:1
 - (ii) A two level car parking structure for 797 cars (including bicycle parking)
 - (iii) Associated hardstand, loading and servicing areas
2. Landscaping of the site
3. Fit-out and use of the completed building by the Metcash

The estimated capital investment value of the project is \$65 million and it will employ 400 people during construction and 600 people once fully operational. The facility would operate 24 hours a day, 365 days a year.

This Project Application is currently being assessed by the Department of Planning.

1.2 Purpose of the Development

The purpose of the proposed Modification Application is to modify the subdivision layout approved under MP08_0055. The reasons for modifying the approved subdivision layout are to:

- establish a subdivision pattern that permits the orderly and economically efficient use of land, namely to provide developable blocks that more appropriately reflect the nature and scale of industrial development of the precinct; and
- specifically in relation to lot 31, to regularise the shape of Lot 30.

This would help facilitate the timely release of employment land to the market and would facilitate the achievement of employment targets for the estate.

1.3 Statutory Context – Section 75W:

In order to facilitate the development of the Bungarribee Industrial Estate, the existing plan of subdivision needs to be modified. Section 75W of the EP&A Act allows the Minister to modify the Minister's approval for a project as follows:

- (2) *The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*
- (3) *The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.*
- (4) *The Minister may modify the approval (with or without conditions) or disapprove of the modification.*

Accordingly, the proposed modification has been submitted for consideration by the Minister for Planning under Section 75W.

1.4 Consultation

No consultation has taken place with any infrastructure providers, Government agencies or neighbours as part of this application. Because there will not be any change to the land uses within the estate nor the scale and extent of development (none of which is related to this application) it is not considered necessary to consult with any third parties.

As the owners of the land the NSW Land and Property Management Authority, Office of Strategic Lands, has provided landowners consent for the application to be made to modify the subdivision layout.

2.0 Site Analysis

2.1 Site Context

The site is located at Bungarribee Industrial Estate, in the Blacktown Local Government Area.

The Bungarribee Industrial Estate is a 56 hectare parcel of land bounded by Eastern Creek, the Great Western Highway, Brabham Drive and the M4 Motorway (refer to **Figure 1**). The site is located within the Local Government Area of Blacktown.

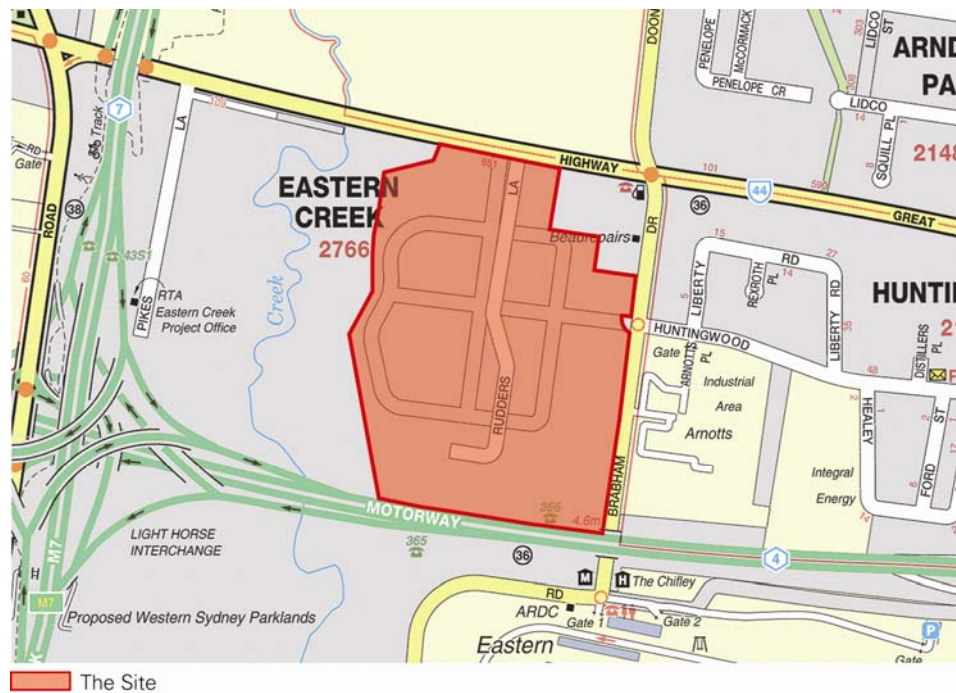


Figure 1 – Location Plan

2.2 Site Zoning

The site is zoned IN1 General Industrial under Part 9, Schedule 1 of *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP) which relates to the Huntingwood West Precinct.

2.3 Site Description

The Huntingwood West site is owned by the Corporation Sole and a copy of the land owner's consent for the modification application is included at **Appendix A**.

The site was legally described as Lots 1-6 in DP 1127100 as a result of the approval of Major Project MP08_0055.

The size of each lot is provided in **Table 1** and the registered plan of subdivision for DP 1127100 is shown in **Figure 2**.

Table 1 – Approved Lots under MP08_0055

Lot No.	Area
Lot 1	9.60 ha
Lot 2	11.27 ha
Lot 3	11.26 ha
Lot 4	11.47 ha
Lot 5	7.80 ha
Lot 6	4.83 ha
Total Area	56.23 ha

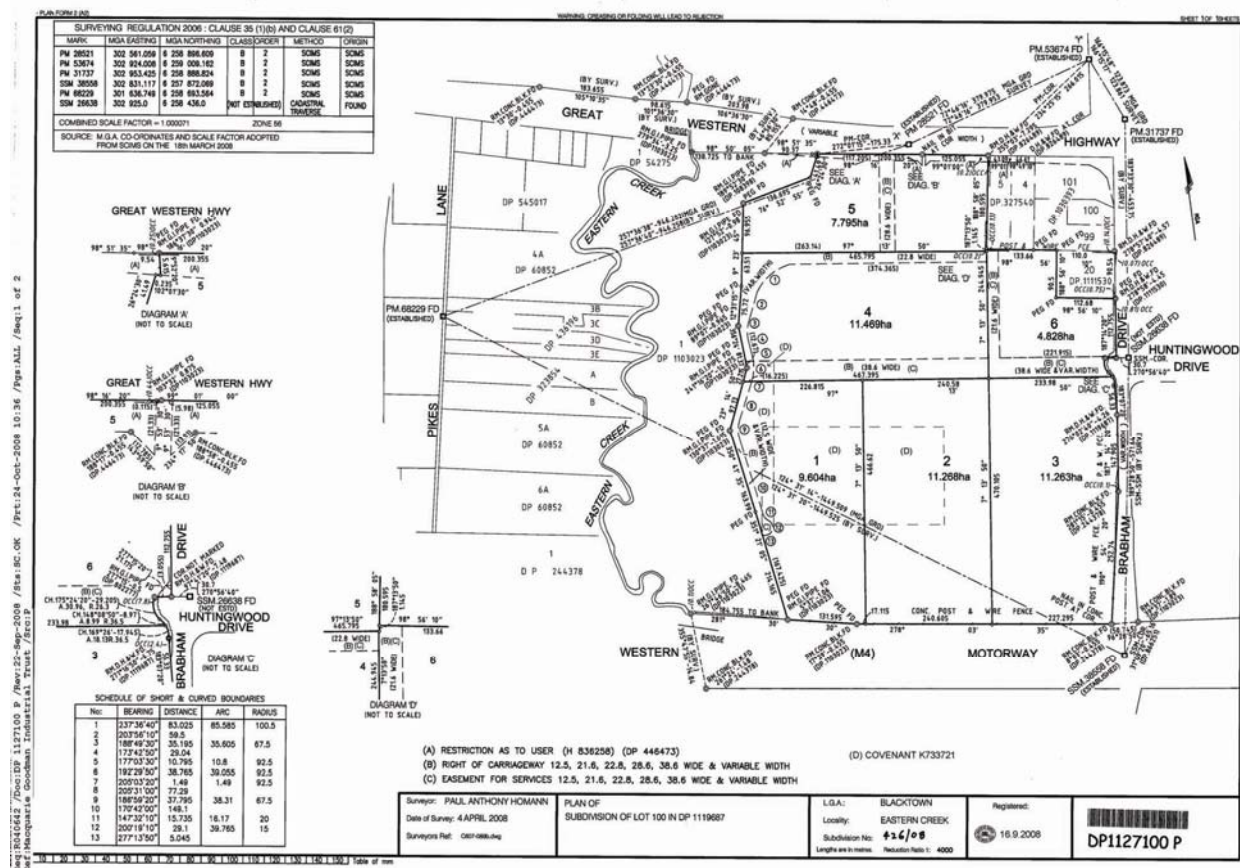


Figure 2 – Registered Plan of Subdivision DP1127100

2.4 Landform and Vegetation

The site has a shallow fall westwards toward Eastern Creek. There is an overall fall of some 15 m between Brabham Drive and the banks of Eastern Creek.

The site contains little vegetation and is in the main open grassland reflecting its former users for grazing and agriculture. The site does contain some areas of Cumberland Plain Woodland (Shale Plains Woodland) within its north-eastern corner. However, the vegetation and habitat values of the Cumberland Plain Woodland are considered 'moderate' within the site.

Major views to the site are available from the M4 and from the intersection of the Great Western Highway and Doonside Road/Brabham Drive.

2.5 Existing and Surrounding Development

The site was previously used for agricultural and grazing purposes. The former residences and associated agricultural uses were removed and all leases terminated upon granting of the preferred tenderer status in mid 2007. The site is currently vacant and is not used for any purpose.

The site is currently subject to two unapproved Major Project Applications for development works, being:

- Stage 1 infrastructure works as described in MP08_0225, across the entire Bungaribee Industrial Estate.
- A Metcash distribution facility as described in MP10_ to be located on Lot 3 and part of Lot 2.

The Western Sydney Parklands (Bungaribee Precinct) adjoins the site to the north and west. To the east of the site are existing employment /industrial lands at Huntingwood.

3.0 Description of Proposed Development

Approval is sought to modify the subdivision layout approved under MP08_0055 by:

- Subdividing Lot 21 in DP1158955 into two allotments being Lot 30 and Lot 31.
- Subdividing Lot 4 in DP1127100 into two allotments being Lot 32 and Lot 33.

No physical works are proposed as part of this project application. All physical works, including the clearing of vegetation, earthworks or provisions of services and/or construction activities etc will be the subject of separate project applications. Likewise, this project application does not seek approval for the use of any part of the site. Approval for the use of land will also be the subject of a separate project application.

The area of each allotment, as proposed to be modified, is detailed in **Table 3** below. The proposed subdivision plan is provided in **Appendix B**. The proposed plan of subdivision also shows the internal road system, as proposed in MP08_0225, in dashed lines.

As can be seen in the Table and the proposed plan of subdivision there are no modifications proposed to Lot 3, Lot 5, or Lot 6.

Table 3 – Development Lot Schedule – As Proposed to be Modified

Lot No.	Area
Lot 20	7.40 ha
Lot 30 (Formerly part of Lot 21 in DP1158955)	11.61 ha
Lot 31 (Formerly part of Lot 21 in DP1158955)	1.86 ha
Lot 3	11.26 ha
Lot 32 (Formerly part of Lot 4 in DP1127100)	5.15 ha
Lot 33 (Formerly part of Lot 4 in DP1127100)	6.32 ha
Lot 5	7.80 ha
Lot 6	4.83 ha
Total Area	56.23 ha

As part of this Modification Application it is proposed that only minor amendments are required to the wording of the Instrument of Approval for MP08_0055, to ensure that it continues to reflect the project as it is proposed to be modified. These proposed amendments are described below.

- Condition A1 is proposed to be modified to state that approval is granted only to carrying out subdivision of the site into 8 lots.
- Condition A2 is proposed to be modified to include
 - (c) *Modification Application for a Modified Subdivision Layout, Bungarribee Industrial Estate, prepared by JBA Urban Planning Consultants (Reference Number: 10787) dated January 2011, incorporating the Draft Plan of Subdivision at Appendix B.*
- Condition B2 is proposed to be modified to insert the word *for* in the second sentence so that it reads “...prior to lodgement of any future project applications or development applications *for* further subdivision or development of the super lots.”

4.0 Relevant Environmental Planning Instruments and Controls

4.1 Relevant Planning Instruments

A detailed assessment of proposed 47 lot subdivision for employment uses, associated roads, services and infrastructure on the site and public open space against all the relevant environmental planning instruments and strategic plans was undertaken by the Planning Group as part of the concept plan for Huntingwood West (MP06_0203).

Amalgamation of the 47 lot subdivision to form 6 larger super-lots (MP08_0055) was not considered to give rise to any inconsistency with the previous assessment undertaken as part of the Concept Plan and was assessed against the provisions of Part 9 of Schedule 3 of *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP).

This Modification Application similarly does not involve any physical works nor does it change any of the approved land uses at the site. The Modification Application has been considered against the provisions of Part 9 of Schedule 3 of the Major Development SEPP.

Major Development SEPP

The site is zoned IN1 General Industrial under the Major Development SEPP. In accordance with Part 9, Division 3, Clause 5(2), the consent authority must take into consideration each of the objectives for the development in the IN1 General Industrial zone when determining a development application.

The zone objectives of the IN1 zone are as follows:

- (a) *to facilitate development for a wide range of employment-generating industrial, manufacturing, warehousing, storage or research purposes, including ancillary office space,*
- (b) *to ensure development enhances the amenity of the Huntingwood West Precinct by including high quality landscaping, adequate building setbacks, high quality external finishes and the like,*
- (c) *to encourage employment opportunities,*
- (d) *to minimise any adverse effect of industry on other land uses.*

Modification of the approved subdivision layout is consistent with the objectives of the IN1 zone in that:

- it will facilitate the staged transfer of land to the purchaser and will enable redevelopment of the site for employment generating industrial uses;
- it does not preclude the achievement of a high quality built and natural environment;
- the modified subdivision layout will assist in providing an appropriate mix of employment uses to encourage a diversity of job opportunities (approximately 800 jobs will be created); and
- it will have no adverse impact on other land uses.

In accordance with Part 9, Division 3, Clause 10, development for the purposes of subdivision is permissible within the IN1 zone with development consent.

Public utility infrastructure

In accordance with Part 9, Division 3, Clause 13, the consent authority must not grant consent to development on land within the Huntingwood West Precinct unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

The proposed subdivision layout will not affect the provision of infrastructure to the Bungarabee Industrial Estate as described in the approved MP08_0055. Future project applications for physical subdivision works or future development of the lots will capture the provision of services and utilities.

5.0 Assessment of Planning Issues

It is important to note that the proposed modification to the subdivision layout is facilitative only. There are no physical works proposed as part of the development, and it does not include any change to the ultimate land uses across the estate, which will in any case be subject of further planning applications.

It is therefore not considered that the proposed modification to the subdivision layout would result in any impacts to the environment. As such, no assessment of the environmental effects of the proposed modification to the approved subdivision has been provided.

The key planning issues associated with the proposed subdivision are therefore limited to considerations of the conditions of approval for MP08_0055, consistency with Concept Plan approval MP06_0203 and consistency with the project applications already submitted.

5.1 Conditions of Approval MP08_0055

Conditions A1 to A6 of Schedule 2 of the approval are administrative conditions. These conditions are proposed to be modified as follows:

- A1 – This condition limits the approved subdivision to only 6 lots across the site. As described in **Section 3** this condition is proposed to be modified to permit the subdivision of the site into 8 lots.
- A2 – This condition describes the plans and documents which describe the project as approved. As described in **Section 3** this condition is proposed to be modified to include this Modification Application report and the proposed plan of subdivision provided in **Appendix B**.
- A3-A6 – these administrative conditions would not be affected by the proposed Modification Application and no modification to the existing conditions is proposed.

Conditions B1 to B6 of Schedule 2 are considered below:

- B1 – This condition specifies that a Subdivision Certificate be obtained prior to lodgement of a plan of subdivision for registration. The proposed Modification Application does not change the intent or application of this condition and it is not proposed to modify this condition.
- B2 – This condition specifies that the proponent enter into a legally binding agreement with the RTA for regional road contributions prior to the lodgement of further development applications or project applications for carrying out subdivision or development. The proponent entered into a legally binding agreement with the RTA in September 2010. A minor modification to this condition is proposed to amend a typographical error.
- B3 – This condition requires that easements for public access be created. The proposed Modification Application does not change the intent or application of this condition and it is not proposed to modify this condition.
- B4 – This condition requires that easements for services and the like be created. The proposed Modification Application does not change the intent or application of this condition and it is not proposed to modify this condition.
- B5 – This condition requires that evidence of arrangements with Sydney Water, Integral Energy and Telstra (or other approved suppliers) be provided prior to an application for works on the land. The proposed Modification Application does not include any works on the land and so the condition does not apply to the Modification Application. The intent or application of this condition is therefore not affected and it is not proposed to modify this condition.
- B6 – This condition relates to the issue of an Occupation Certificate. The proposed Modification Application does not include any works on the land and so the condition does not apply to the Modification Application. The intent or

application of this condition is therefore not affected and it is not proposed to modify this condition.

5.2 Consistency with Concept Plan (MP06_0203)

5.2.1 Concept Plan

The Concept Plan contains provisions which affect subdivision and lot dimensions. **Table 3** describes the key provisions and provides a comment regarding compliance.

Table 4 – Compliance with Concept Plan Approval

	Issue	Key Provisions	Comments	Compliance (As modified)
4.1.1	Subdivision	<ul style="list-style-type: none"> Development to be generally in accordance with Figure 17 Size and orientation of lots to have regard for topography and solar access Minimum sized lots to be confined to internal local loop roads Larger lots are to be located on corners and fronting parklands 	<ul style="list-style-type: none"> MP08_0055 permitted the creation of 6 facilitative super lots. This proposal is seeking to modify the subdivision layout established in MP08_0055. The smaller allotment (Lot 31) would be located on the internal local road. 	Yes
4.1.2	Min Lot Size & Dimension	<ul style="list-style-type: none"> Minimum lot size 4,000sqm Lots to have a minimum width at the building line of 45m. 	<ul style="list-style-type: none"> The smallest lot is 18,610sqm 	Yes

5.2.2 Concept Plan Conditions of Approval

There are eight conditions of approval for the Concept Plan MP06_0203.

Conditions A1-A5 in Part A of Schedule 2 are administrative conditions. The proposed modification does not affect these conditions.

Conditions B1-B3 relate to roadworks within the Bungarribee Industrial Estate, including subsequent approvals by the Roads and traffic Authority, planning agreements and funding for regional road improvements and road design and construction requirements. These conditions would apply to any subsequent Project Application for roadworks or development of the land by way of a specific land use of facility. The proposed modifications to the approved subdivision layout do not involve any roadworks nor do they propose specific land uses within the estate and so these conditions do not apply to the proposed modifications. Further, the proposed modifications would not impact on the intent or application of these conditions for relevant subsequent Project Applications.

5.3 Consistency with Current Project Applications

5.3.1 Consistency with MP08_0225

The proposed modified subdivision layout is not inconsistent with the indicative subdivision layout shown within Project Application MP08_0225. In particular, the proposed plan of subdivision (provided in **Appendix B**) shows the internal road system, as proposed in MP08_0225, in dashed lines.

As stated within the Environmental Assessment Report for MP08_0225 a final subdivision layout would ultimately be prepared in consultation with Blacktown Council and would be prepared to the satisfaction of the Director-General. The commitment made as part of MP08_0225 is not affected by this proposed Modification Application.

5.3.2 Consistency with MP10_0140

The Metcash facility would result in a residual allotment (part of Lot 2) which due to its proportions would be difficult to develop and accommodate any particular development.

The proposed modifications to the subdivision layout are therefore partly proposed in response to the requirements for the Metcash distribution facility and to regularise the subdivision layout surrounding the Metcash facility.

As such, the modification is consistent with the Metcash facility as described in MP10_0140.

6.0 Conclusion

The subdivision plan approved under MP08_0055 for the Bungarribee Industrial Estate was previously considered to be in the interest of the public, as it facilitated selling the site to new land owners in order to provide for future employment uses and developments on the site, thereby disposing of surplus public land.

This objective has not changed and the proposed modification to the approved subdivision layout would help facilitate the timely release of employment land to the market and would facilitate the achievement of employment targets for the estate. It is therefore considered that it remains in the public interest to permit the proposed modifications to the approved subdivision layout to ensure the orderly and efficient transfer and development of land.

Landowners Consent

Land & Property Management Authority, Office of Strategic Lands

8 November

Mr Brendon Quinn
Development Manager
Goodman
Level 10, 60 Castlereagh Street
SYDNEY NSW 2000

Dear Mr Quinn

**Subject: Landowners Consent - Plan of Subdivision of Lot 4 in DP 1127100 –
Huntingwood West**

The owner of the abovementioned land, The *Minister Administering the Environmental Planning and Assessment Act, 1979* a corporation sole incorporated under section 8(1) of the *Environmental Planning and Assessment Act, 1979* hereby consents to the lodgement by Goodman (the applicant) of the proposed plan of subdivision and associated Project Application at the Department of Planning for its review and assessment.

This landowners consent is given on the basis that:

- (a) it only applies to the lodgement of the proposed plan to subdivide the existing lot;
and
- (b) all costs associated with the lodgement are for the account of the applicant.

For any enquiries please contact me on 9895 7940.

Yours sincerely



Stephen Dewick
Senior Manager, Divestments, Office of Strategic Lands
Authorised delegate of the Landowner

Proposed Plan of Subdivision

Goodman

