



NSW GOVERNMENT

## Department of Planning

Strategic Assessments, Strategic Sites and Urban Renewal

### Planning Assessment Report

#### Application to Modify the Minister's Approval for Stage 1 Civil and Infrastructure Works, Potts Hill Reservoirs Land

#### Major Project 08\_0069 MOD 1

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## 1 BACKGROUND

The Minister for Planning approved on 26 November 2008 a project application for civil and infrastructure works to proceed on the Sydney Water Reservoirs land at Potts Hill, subject to conditions (MP 08\_0069 Civil and Infrastructure Works Stage 1). The works are stage 1 of a Concept Plan for the land which is currently under assessment by the Department, and includes employment lands, residential development and public open space.

The approval provided for:

- subdivision of the entire Potts Hill Reservoirs land into nine Torrens Title lots; and
- civil works in the proposed employment lands and the Bagdad Street site including site remediation, demolition of 21 existing built structures, removal of existing vegetation, bulk excavation and earthworks, construction of two roads and upgrading drainage infrastructure and utilities.

On 5 January 2009, the proponent submitted a modification application under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) (see **Tag A**) seeking:

- approval to undertake additional earthworks within the western precinct of the site for the purpose of the eastern precinct civil works; and
- amendments to the existing conditions of approval concerning the development description, road design and dedication requirements and dust control.

## 2 THE PROPOSED MODIFICATIONS

### a) Additional earthworks

The proponent is seeking approval to excavate approximately 50,000m<sup>3</sup> of soil from a new 'borrow pit' in the western precinct (the area to be developed for residential purposes) for use as fill within the eastern precinct (the area to be developed as employment lands). The proposed borrow pit is wholly located within the land to which the approval of MP 08\_0069 applies.

As part of this proposal, the proponent is seeking approval to amend Minister's Condition of Approval 1 for MP 08\_0069, which describes the proposal.

### b) Amendments to existing conditions of approval

The proponent is seeking to amend several other Minister's Conditions of Approval for the project as follows (see **Tag A** for details):

- i) Condition 2: Plans and documentation – add references to additional draft road plans;
- ii) Condition 5: Public dedication of roads – give option for roads to be public or private and gives relevant specifications (either those of Bankstown Council if public or other if private) while still ensuring access to subdivision lots;

- iii) Condition 15: Dust control measures – replace “adequate measures” with “best endeavours”.

### 3 ASSESSMENT PROCESS

Section 75W(2) of the Act provides that a proponent may request the Minister to modify his approval of a project. The Minister’s approval is not required if the project as modified will be consistent with the original approval.

The proposed modification seeks to change the terms of the Minister’s determination through amendment to the conditions of approval. Accordingly, the modification will require approval.

Section 75W(3) of the Act provides the Director-General with scope to issue environmental assessment requirements (DGRs) that must be addressed before the consideration by the Minister or his delegate. DGRs have not been issued for the modification as it is considered that its impacts would be minimal and similar to the original proposal.

Section 75W(4) of the Act gives the Minister the authority to modify the approval (with or without conditions) or disapprove the modification. Following consideration of the proposed modification (see below), the Department recommends the modification be approved.

### 4 CONSULTATION

Pursuant to Section 75X(2)(f) of the Act the Director-General is required to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the Environmental Planning and Assessment Regulation 2000, the request for the modification was placed on the Department’s website. Modifications are not required to be publicly exhibited.

The Department also notified Bankstown Council of the proposed modification. Council advised the Department that it had no comment to make on the proposal.

### 5 CONSIDERATION

#### a) Additional earthworks

The proposed works are permissible under the existing zoning regime of Zone 5 Special Uses (Sydney Water) under the Bankstown Local Environmental Plan (LEP) 2001.

The Department considers that the proposed borrow pit potentially raises the following key environmental issues: geotechnical stability, safety, soil contamination, construction traffic, ecological impact, heritage impact, noise and dust (see map of proposed borrow pit at **Tag B**).

#### ***Geotechnical and surface stability***

The proponent has referred to information submitted as part of the MP 08\_0069 Environmental Assessment, which identified the site of the proposed borrow pit as generally consisting of relatively dense silty clay with crushed shale fragments, created by placement of excavated natural materials during the construction of Reservoir 2. This material is likely to be suitable for use as fill elsewhere in the site but further compaction may be required.

The removal of 50,000m<sup>3</sup> of material will also leave a significant hole in the substrate that may require ongoing stabilisation until such time as the residential development proposed for the area is constructed. The proponent has committed to ensuring that no dust-generating material is left exposed or unmonitored.

The proponent has committed in the original project proposal to undertaking development in accordance with the recommendations of the relevant geotechnical reports and Australian Standards. The Department remains satisfied that the proponent is committed to ensuring the geotechnical and surface stability of the final development.

### ***Safety***

The Reservoirs site as a whole is currently fenced to prevent access from the general public with regular security patrols. The borrow pit, when fully excavated, will reach a maximum depth of approximately 3 metres but the sides will be battered to a maximum gradient of 2:1. The Department is satisfied that the design of the borrow pit is sufficient to minimise safety risk to an acceptable level.

### ***Soil contamination***

Information submitted as part of the MP 08\_0069 Environmental Assessment found that typically there was no contaminated material in the area of the proposed borrow pit, although some local areas may contain construction chemically stable construction waste.

The proponent has committed to employing an experienced engineering contract superintendent to oversee excavation from the borrow pit, and to appropriately managing and removing any contaminated materials identified during excavation. The Department is satisfied with this commitment.

### ***Construction traffic***

The proponent states that all construction traffic generated by excavation of the borrow pit and removal of fill to the eastern precinct will be along existing pathways suitable for vehicle use within the Reservoirs site, resulting in no additional traffic movements on the surrounding public road network.

### ***Ecological impact***

The proposed site for the borrow pit does not contain any identified threatened species or endangered ecological communities. It is near but not adjacent to some Cumberland Plain Woodland identified on the western edge of the Reservoirs site. The project approval for MP 08\_0069 requires the proponent to prepare and implement environmental management plans for all aspects of the proposed works, including management of impact on native vegetation. The Department is satisfied that this will sufficiently protect any identified threatened species or communities in the vicinity of the borrow pit.

### ***Heritage***

The borrow pit is on land currently listed on the State Heritage Register. However, the Heritage Council has resolved to recommend to the Minister for Planning that some parts of the site, including the proposed borrow pit site, may not be of State heritage significance. It also does not impact any individual items identified as being of heritage significance.

### ***Noise and Dust***

The nearest sensitive receivers to the borrow pit are residences approximately 50 metres to the west of the site on Cooper Road. These are no closer than the nearest sensitive receivers to the eastern precinct civil and infrastructure works as already assessed. Therefore the Department considers the existing project conditions of approval sufficient for managing these issues.

### ***Amendment to Condition 1***

The Department considers it necessary to amend Condition 1 – Development Description in order to capture the proposed works described in the Modification Application.

### ***b) Amendments to other conditions of approval***

#### ***Condition 2 – Plans and Documentation***

Although the proponent has indicated that the proposed road design may vary from that already approved (see below), the Department does not consider the proposed amendment to Condition 2 to be necessary as the existing wording gives the proponent scope to submit alternative plans to the Director of Strategic Assessments for approval, and the road design plans are yet to be finalised.

### Condition 5 – Public dedication of roads

The proponent has informed the Department that since the time of project approval, further discussions have been undertaken with Bankstown Council which indicate that one or both of the proposed roads may not be dedicated as public and may remain in private hands. The final outcome has not been determined at this time. No additional environmental impacts would result from such a change.

Therefore the Department is satisfied that it is necessary to amend Condition 5 in order to permit the proposed roads to remain in private hands and the design to be varied accordingly. The Department recommends that the amendment also permit an accredited certifier to approve any new road specifications or plans prior to construction.

### Condition 15 – Dust control measures

The proponent has sought an amendment to this condition due to a concern that the existing wording may require an unachievable absolute outcome of retaining all dust within the construction site. This is not the case as the condition only requires that adequate measures be taken to manage dust to prevent the amenity of the surrounding area being affected, and in particular to contain dust resulting from contamination remediation. Therefore an amendment to Condition 15 is not considered necessary.

## 6 CONCLUSION

### a) Additional earthworks

The Department considers the proposed borrow pit to be appropriate and necessary for the undertaking of the approved works under MP 06\_0089. Therefore it is necessary to amend Condition 1 to refer to the modification application in the proposal description. However, a specific referral to the borrow pit in the proposal description is not considered necessary as it is captured within the existing reference to excavation. Therefore it is recommended that Condition 1 be replaced with the wording given in the attached Modification Approval (**Tag C**).

### b) Amendments to other conditions of approval

The proposal to modify Condition 5 is considered generally acceptable, as it facilitates the intent of the original approval and does not result in additional adverse environmental impacts. Therefore it is recommended that Condition 5 be replaced with the wording given in the attached Modification Approval (**Tag C**).

The Department considers that the proposed modifications to Conditions 2 and 15 unnecessary and therefore does not recommend any changes to these conditions.

## 7 RECOMMENDATION

It is recommended that Executive Director of Strategic Sites and Urban Renewal under delegated authority, approve the modifications as detailed in this report and in doing so sign the attached Modification Approval under Section 75W (Modification of Minister's Approval) of Part 3A of the Act at **Tag C**.

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 16/1/09

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