



28 October 2009

Daniel Keary
Director, Government Land and Social Project Assessments
NSW Department of Planning
22-33 Bridge Street
Sydney NSW 2000

Attention: Daniel Keary
Director, Government Land and Social Project Assessments

Dear Daniel,

RE: Potts Hill Reservoir
Section 75W application to Major Project No 08_0069

We write to submit a Section 75W application to modify the Major Project Application No MP 08_0069 MOD 1 Consolidated Consent, granted by the Minister for Planning on 16 January 2009.

This report describes an application made under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Conditions 1, 2, 3, 9 and 21 of the Project Application Consolidated Consent 08_0069 MOD 1 to allow:

1. Demolition and remediation works to be undertaken on the western residential precinct;
2. Amend the proposed plan of subdivision to reflect current boundary alignments and sequence of plan registration in relation to the eastern employment precinct; and
3. Amend the Landscape Plan to incorporate entry statements at both the Cooper Road and Rookwood Road intersections in relation to the eastern employment precinct.
4. Allow for appropriate stability and erosion management measures to be addressed on an individual site basis in relation to the eastern employment precinct.

The modifications are proposed in accordance with the requirements of Section 75W of the EP&A Act. The modification provides additional environmental assessment to the project approval, to include demolition and remediation works on the Western Precinct site. The modifications also provide amended landscape plans, and plans of subdivision and outlines proposed stability and erosion management measures along the eastern boundary on the eastern precinct.

The report should be read in conjunction with the attached documentation including:

- **Attachment A** – Modifications to Conditions 1, 2, 3, 9 and 21
- **Attachment B** – Conditions of Approval MP 08_0069 MOD 1, issued by the NSW Department of Planning
- **Attachment C** - Demolition plan, prepared by YSCO Geomatics Land Resource Consultants
- **Attachment D** – Construction Environmental Management Plan, prepared by Cardno



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- **Attachment E** – Contamination Summary, prepared by AECOM
- **Attachment F** – Landscape drawings, prepared by Taylor Brammer
- **Attachment G** – Subdivision plans, prepared by YSCO Geomatics Land Resource Consultants
- **Attachment H** – Sydney Water Corporation letter to City of Bankstown Council
- **Attachment I** – City of Bankstown Council letter to Landcom
- **Attachment J** – Hazardous Materials Investigation Report prepared by GHD.
- **Attachment K** – Asbestos Materials Re-Inspection Report

An application form and fee is submitted separately.

1. Consultation

In the preparation of this modification application, consultation has been undertaken with the NSW Department of Planning and the City of Bankstown Council.

A meeting outlining the proposed Section 75W modification was held between Landcom and the NSW Department of Planning on 21 September 2009.

On 2 October 2009, Alix Carpenter, Team Leader, Government Lands and Social Projects Assessments from the NSW Department of Planning, confirmed by email that modifying MP 08_0069 MOD 1 to include proposed demolition and remediation works on the Western Precinct is an acceptable approach to permitting these works.

An alternative approach considered by the proponent was to modify the Western Precinct concept plan approval (MP 07_0099) to allow for the undertaking of demolition and remediation works, however modifying MP 08_0069 MOD 1 was considered a more acceptable approach by the NSW Department of Planning.

Sydney Water have consulted with the City of Bankstown Council regarding the proposed signage on the retaining walls at the entry intersections of the Eastern Precinct. On 4 September 2009, Sydney Water Corporation, in a letter to Council, confirmed its commitment to maintain the proposed entry statements to the Potts Hill Business Park. Council responded to this letter on 13 October 2009, confirming the terms of management, land ownership and liability associated with the proposed signage. These letters are provided at **Appendix H** and **I** respectively.

2. Site and locality

The subject site is situated at Potts Hill, a Sydney Water Reservoir site within the City of Bankstown local government area. The site is generally bounded by Rookwood Road and Graf Avenue (east), a water supply pipeline (north), Cooper Road (west) and Bruncker Road (south).

The approved project application as modified relates to surplus lands, divided into two precincts, being the Eastern Business Park Precinct (the 'Eastern Precinct') and the Western Residential Lands Precinct (the 'Western Precinct').

The land to which this modification relates is legally described as Part Lot 1 in DP 610303, Lot 2 in DP 456502 and Lot 2 in DP 225818.

The Western Precinct comprises 19.8 hectares of residential zoned land as well as 4.9 hectares zoned for open space. Entrances to this precinct will be located off Bruncker Road (south) and Cooper Road (west). The Eastern Precinct is zoned for Business Park uses and has an area of approximately 15.3 hectares. Construction has commenced on the Eastern Precinct.

Sydney Water Corporation has continuously occupied the site since 1880. As a result, a number of buildings and important infrastructure exist on the site.

Several large embankments are situated on the site, created in the construction of the water reservoirs. A large embankment runs north-south close to the western boundary of the site.

3. Development consent history

On 13 June 2007, a State Significant Site Study was lodged by Landcom and Sydney Water Corporation requesting that the Potts Hill site be listed as a State Significant Site under State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP). On 14 July 2007, the Minister for Planning declared that the site could be considered a State Significant Site.

A project application for civil and infrastructure works on the Potts Hill site (MP 08_0069) was approved by the Minister for Planning on 26 November 2008. A Section 75W application (known as MP 08_0069 MOD 1) was lodged seeking approval to undertake additional earthworks within the western precinct of the site and make amendments to the original conditions of approval concerning the development description, road design, dedication requirements and dust control. This Modification was approved on 16 January 2009. A copy of the Consolidated Consent of the Modification is provided at **Attachment B**.

Further project applications have been approved, and construction has commenced on the Eastern Precinct for the construction of individual buildings. A Concept Plan application for development of the Western Precinct (MP 07_0099) was approved by the Minister for Planning on 27 April 2009.

A Preliminary Environmental Assessment and request for DGRs was lodged by Landcom in March 2009 for Major Project MP 08_0116 for subdivision, demolition, bulk earthworks, soil remediation and site infrastructure for the Western Precinct. DGRs were issued on 4 July 2009.

4. Statutory requirements

This section assesses the proposed modifications against the relevant legislation, environmental planning instruments, guidelines and controls.

4.1 Section 75W modification of Minister's approval

Section 75W of the EP&A Act states the following:

75W Modification of Minister's approval

(1) *In this section:*

"Minister's approval" means an approval to carry out a project under this Part, and includes an approval of a concept plan.

"modification of approval" means changing the terms of a Minister's approval including:

- a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
- b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*

(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 modifications 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.*
- (5) *The proponent of a project to which section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request within 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.*
- (6) *Subsection (5) does not apply to a request to modify:*
 - (a) *An approval granted by or as directed by the Court on appeal, or*
 - (b) *A determination made by the Minister under Division 3 in connection with the approval or a concept plan.*

The proponent, Landcom and Sydney Water, request that the Minister for Planning, as the consent authority, approve the proposed modifications to the project application consolidated consent MP 08_0069.

No provisions of Section 75W impose any prohibition or limitations on the proposed modifications. Therefore it is considered that the proposed modifications satisfy the provisions of this Section.

The modifications are described in **Section 5** below.

5. The proposed modifications

It is proposed that Conditions 1, 2, 3, 9 and 21 of the Conditions of Approval to MP 08_0069 MOD 1 be modified to allow for remediation and demolition works to be undertaken on the Western Precinct. It is also proposed to amend the approved Plans of Subdivision and Landscape Plans for the Eastern Precinct, as described in detail below, and to allow details of embankment stability along the eastern boundary with Graf Avenue properties to be provided on an individual development lot basis prior to the occupation certificate being granted.

This proposed modification will also satisfy the Conditions of Consent of the Concept Plan approval, MP 07_099 which requires demolition and remediation works to be assessed under the project application approval for the Western Precinct. This will eliminate the need for further environmental assessment of demolition and remediation works required by the Director-General's Requirements issued for the assessment of Major Project MP 08_0116.

The proposed modifications to Conditions 1, 2, 3, 9 and 21 are provided at **Appendix A** for clarity.

The proposed modifications are outlined in detail below:

5.1 Modification to Condition 1

Condition 1 outlines the development description. Condition 1 currently reads:

'1 Development description

Project approval is granted only to construction activities within the areas of the Potts Hill Reservoirs land identified as the Eastern Precinct, Brunker Road Site and Bagdad Street Site as described in the

EA and amended in the PPR, and further amended in the Modification to MP 08_0069 dated 23 December 2008, principally:

- a) *Disconnection, relocation, augmentation and reconnection of utilities and services;*
- b) *Removal and proper disposal of hazardous materials and site remediation;*
- c) *Demolition of 21 existing built structures and any subterranean elements identified as being of low or no heritage significance;*
- d) *Removal of existing trees and vegetation/landscaping as necessary;*
- e) *Bulk excavation and earthworks;*
- f) *Construction of two roads within the Eastern Precinct and associated retaining walls;*
- g) *Provision of new stormwater management and drainage infrastructure; and*
- h) *Subdivision into nine lots.'*

It is proposed that demolition and remediation works also be permitted on the Western Precinct under this Project Application consent.

It is proposed that existing structures within the Western Precinct shown on the demolition plan at **Attachment C** be demolished. These buildings currently consist of old warehouse and storage facilities, staff training facilities and associated offices. These buildings are not identified as items of heritage significance in the Conservation Management Plan. A demolition plan has been prepared by YSCO Geomatics, indicating the structures and pavement to be demolished and removed. As outlined in the Statement of Commitments at Section 6, demolition works are to be undertaken in accordance with the Construction Environmental Management Plan at **Attachment D**.

In previous assessments of site contamination prepared by URS and Coffey, minor levels of soil contamination associated with the construction and use of the site by Sydney Water were found to exist. In the contamination summary (provided at **Attachment E**) and previous assessments of contamination the Potts Hill site was divided into 11 zones. Of these zones, zones 1A, 1B, 1C, 2, 3 and 11 are situated or partly situated within the Western Residential Precinct. A plan showing the location of these zones is provided at **Attachment E**. Section 3 of the Contamination Summary identifies the following level of contamination in these zones:

- Zone 1A – The zone is covered in reservoir-derived fill material to an approximate depth of 1.6 metres. Some total petroleum hydrocarbons (TPH) contamination was identified within this fill material. The contamination can be excavated and remediated on site, or disposed to landfill in order to make the site suitable for residential uses.
- Zone 1B – Previous contamination assessments did not identify contamination in this zone. Some potential contaminant sources are present, such as transformers, former vehicle servicing pits and disused oil/water separators. It is envisioned that excavation and validation sampling of these items is not complex.
- Zones 1C and 3 – Large volumes of reservoir derived fill is present within these zones. A surface of veneer (1 to 1.5 metres thick) of filling material affected with TPH, polycyclic aromatic hydrocarbons (PAH), metals and a small extent of asbestos. The identified contamination is to be remediated in accordance with future RAPs for the respective zones, to be prepared. This is expected to comprise of excavation and disposal to landfill. After completion of remediation, bulk earthworks will need to be undertaken to recontour the sites. The bulk earthworks will need to be need to be undertaken in accordance with a construction phase Environmental Management Plan and/or an Unexpected

Finds Protocol, both of which should be approved by an Auditor prior to the commencement of bulk earthworks.

- Zone 2 – No significant soil contamination was identified by URS or Coffey in their assessments. Some additional assessment will be required after demolition of existing buildings. Based on historical information and site use, the potential for significant soil contamination is considered to be low.
- Site 11A – It is understood that URS and Coffey did not identify soil contamination within this zone and that an Auditor is currently providing a Site Audit Statement for this zone.

It is proposed that remediation be undertaken in contaminated areas of the site to render the site appropriate for future residential uses. Contaminated zones within the Western Precinct will be remediated in accordance with the Contamination Summary at **Attachment E**.

As outlined in the Statement of Commitments in **Section 6** of this report, remediation action plans (RAPs) will be prepared for Zones 1, 2 and 3 as stated above, in accordance with the methodologies described in the Contamination Summary at **Attachment E**.

In providing this Section 75W Environmental Assessment addressing remediation and demolition, the Director-General's Requirements (DGRs) issued for Stage 2 Civil Works (MP 08_0116) regarding demolition and excavation, and contamination are satisfied. Given that this Environmental Assessment satisfies the following DGRs, it is considered that no further environmental assessment of these matters is necessary as part of the Stage 2 Civil Works Project Application (MP 08_0116):

- **Assess the potential for contaminated materials** – The Contamination Summary provided at **Attachment E**, provides a summary of the soil contaminants of each Zone (described above). A HAZMAT report has been provided at **Appendix J**, identifying and assessing the potential for contaminated/hazardous materials.
- **Provide a management plan for the correct disposal of materials** – A management sub-plan for the correct management and disposal of these materials is provided for in the CEMP at **Attachment D**. As outlined in the Statement of Commitments in **Section 7** of this report, all materials will be disposed of correctly in accordance with the CEMP.
- **Justify the suitability of the site in accordance with SEPP 55** – SEPP 55 requires the consideration of potential site contamination and the suitability of the site for the proposed use, in this case being residential and open space uses. SEPP 55 was not addressed as part of the Concept Plan approval. Previously Preliminary Environmental Site Assessments and contamination studies were undertaken by URS and Coffey, separate to the Concept Plan application. The Contamination Summary provided at Appendix D reviews the findings of these previous studies. At present, the site is considered unsuitable for the proposed uses given the contaminated nature of some parts of the site, as listed above. The contamination summary was prepared by AECOM in August 2009 for Landcom and is attached at **Attachment E**. The contamination summary recommends that the remediation be undertaken with a combination of the following:
 - *“Excavation of affected fill materials with subsequent disposal of an appropriately licensed landfill facility;*
 - *Excavation of affected fill materials and on-site remediation with subsequent beneficial re-use after the material is validated as suitable for use;*
 - *Excavation of fill materials affected with inclusion of rubbish materials (e.g. concrete, steel, general refuse, timber etc). Excavated materials will be screened, sorted and sifted to remove these “aesthetic” impacts. Separated rubbish materials will be processed by commercial*

recyclers where possible, or disposal to an appropriately licensed landfill facility. The screened/sorted/sieved fill materials will be beneficially re-used wherever possible, after it is validated as suitable for the intended land use. Materials not suitable for the intended land use will be disposed to an appropriately licensed landfill facility."

As outlined in the Statement of Commitments in **Section 7** of this report, a Remediation Action Plan will be prepared in accordance with the above remediation methodologies and any conditions imposed by the granting of consent prior to undertaking any remediation works.

The area to be remediated has not been identified for having Aboriginal cultural significance, or any Aboriginal relics. In a submission to the Concept Plan Environmental Assessment (MP 07_0099), the Department of Environment, Climate Change and Water advised that should any relics be found, work on the site is to stop immediately. As stated in the Preferred Project Report, the proponent will have an archaeologist available to attend to the site in such an event.

Remediation of the site in accordance with future Remediation Action Plans will make the site suitable for the proposed residential and open space land uses.

The provision of a Construction Environmental Management Plan is also required under Condition B6 of the Concept Plan approval MP 07_0099. This modification application proposes to provide a CEMP for demolition and remediation works, in accordance with this Condition. The CEMP will be updated and revised as necessary, subject to the Statement of Commitments at **Section 7** of this report, and the Conditions of Approval to this Modification Application.

Accordingly, it is proposed that Condition 1 be amended to allow for the undertaking of demolition and remediation works on the Western Residential Precinct given the above environmental assessment. It is proposed that Condition 1 be modified to read as follows:

'1 Development description

Project approval is granted only to construction activities within the areas of the Potts Hill Reservoirs land identified as the Eastern Precinct, Brunker Road Site, Bagdad Street Site and the Western Precinct, as described in the EA and amended in the PPR, and further amended in the Modification to MP 08_0069 dated 23 December 2008 and [INSERT DATE OF THIS MODIFICATION], principally:

- c) Disconnection, relocation, augmentation and reconnection of utilities and services;*
- d) Removal and proper disposal of hazardous materials and site remediation;*
- e) Demolition of 43 existing built structures and any subterranean elements identified as being of low or no heritage significance;*
- f) Removal of existing trees and vegetation/landscaping as necessary;*
- g) Bulk excavation and earthworks;*
- h) Construction of two roads within the Eastern Precinct and associated retaining walls;*
- i) Provision of new stormwater management and drainage infrastructure;*
- j) Subdivision into nine lots; and*
- k) The undertaking of demolition and remediation works on the Western Precinct.'*

5.2 Modification to Condition 2

Condition 2 of the Conditions of Approval to MP 08_0069 MOD 1 provides that development shall be in accordance with the plans and documentation outlined. The Conditions reads:

‘2 Development description

The development shall be in accordance with the following plans and documentation, as provided in the EA and PPR, unless otherwise approved by the Director, Strategic Assessments, Department of Planning:

Drawing Number	Revision Number	Name of Plan	Date
7337-PA-01	Issue C	Title Sheet, Locality Plan and Drawing List	16 July 2008
7337-PA-02	Issue D	Site Layout	11 August 2008
7337-PA-03	Issue C	Road 2 Long Section and Typical Cross Section	16 July 2008
7337-PA-04	Issue C	Road 1 Long Section and Typical Cross Section	16 July 2008
7337-PA-05	Issue C	Bulk Earthworks Plan	16 July 2008
7337-PA-06	Issue C	Retaining Wall Plan*	16 July 2008
5128-T-01	Issue D	Wall Layout and Notes	30 September 2008
5128-T-02	Issue D	Wall Elevations Sheet No 1	1 October 2008
5128-T-03	Issue D	Wall Elevations Sheet No 2	1 October 2008
5128-T-04	Issue D	Wall Elevations Sheet No 3	1 October 2008
5128-T-05	Issue D	Wall Elevations Sheet No 4	1 October 2008
5128-T-07	Issue C	Typical Wall Sections	1 October 2008
7337-PA-07	Issue C	Site Cross Sections	16 July 2008
7337-PA-08	Issue C	Demolition Plan	16 July 2008
7337-PA-09	Issue C	Erosion and Sediment Control Plan	16 July 2008
7337-PA-10	Issue C	Erosion and Sediment Control Details	16 July 2008
7337-PA-11	Issue D	Construction Staging Plan	11 August 2008
LC01	Revision A	Landscape Planting	29 September 2008
LC02	Revision A	Landscape Details	29 September 2008

*This plan is approved with the exception of the gabion retaining wall for the eastern slope of the Eastern Precinct – see Plans 5128-T and Condition of Approval 21.’

It is proposed that Condition 2 be modified to include the demolition plan for the Western Precinct, and to provide new and additional landscape plans pertaining to the landscaping of the road entries of the Eastern Precinct at Brunner Road and Rookwood Road.

A Demolition Plan for the Western Precinct has been prepared by YSCO Geomatics and is provided at **Attachment C**. As described in **Section 5.1**, it is proposed that demolition works be undertaken on the Western Precinct. The Demolition Plan highlights the buildings and structures proposed for demolition. Accordingly, this application seeks approval to modify Condition 2 of the Consolidated Consent to include reference to the Demolition Plan for the Western Precinct, prepared by YSCO Geomatics and dated 16 July 2009.

It is also proposed to modify and provide additional landscape drawings, provided at **Attachment F**. The landscape plans provide details of the Rookwood Road and Brunner Road entries. The plans include additional and amended details regarding vegetation species proposed, layout of landscape elements, sections and elevations of planting and fencing, fencing types and locations, public domain landscaping and treatment, detailed plans of site entrances/intersections of Rookwood Road and Brunner Road, and signage details for the ‘Potts Hill Business Park’ at these entrances.

The signage details were not provided as part of the original application. It is proposed that signage identifying the 'Potts Hill Business Park' be located at the entrances to the Business Park off Bruncker Road and Rookwood Road. In considering the impact of the signage, SEPP 64 – Advertising and Signage, has been taken into consideration. It is unclear whether this SEPP is applicable to business park identification signs, given that the provisions of this SEPP generally apply to advertising signage, and exclude business and building identification signage.

In response to the assessment criteria in Schedule 1 of SEPP 64, the proposed signage is considered acceptable, given the following:

- **Character of the area** – The signage will identify the Eastern Precinct as the 'Potts Hill Business Park', in accordance with the desired future character of the site as set out by the zoning of the site as a Business Park.
- **Streetscape, setting or landscape** – The proposed signage will not have any significant impact on the streetscape, setting or landscape. The signage will allow for identification of the Eastern Precinct. Associated landscaping and illumination will enhance the existing streetscape of Bruncker Road and Rookwood Road.
- **Site and building** – The proposed signage is of an appropriate scale, providing a clear yet unobtrusive identification of the Potts Hill Business Park.
- **Illumination** – It is not considered that illumination of the signage will result in any unacceptable glare or compromise the safety of pedestrians, aircraft or vehicles. The proposed up lighting will be directed towards to wall of the signage only. This will not result in any unacceptable reflection.
- **Safety** – The proposed signage will not reduce the safety of any public road, or the safety of pedestrians. The location of the signage is along the entry walls at Rookwood Road and Bruncker Road, and will not obscure sight lines for pedestrians from public areas.

Sydney Water and Landcom have consulted with Bankstown Council regarding the modified landscape designs. This is detailed in the **Section 1**, Consultation of this report. Copies of the correspondence between Sydney Water Corporation and Bankstown Council are provided at **Attachment H** and **I** respectively.

Accordingly, to accommodate the above, it is proposed that Condition 2 be modified to read as follows:

'2 Development description

The development shall be in accordance with the following plans and documentation, as provided in the EA and PPR, unless otherwise approved by the Director, Strategic Assessments, Department of Planning:

Drawing Number	Revision Number	Name of Plan	Date
7337-PA-01	Issue C	Title Sheet, Locality Plan and Drawing List	16 July 2008
7337-PA-02	Issue D	Site Layout	11 August 2008
7337-PA-03	Issue C	Road 2 Long Section and Typical Cross Section	16 July 2008
7337-PA-04	Issue C	Road 1 Long Section and Typical Cross Section	16 July 2008
7337-PA-05	Issue C	Bulk Earthworks Plan	16 July 2008
7337-PA-06	Issue C	Retaining Wall Plan*	16 July 2008
5128-T-01	Issue D	Wall Layout and Notes	30 September 2008
5128-T-02	Issue D	Wall Elevations Sheet No 1	1 October 2008

Drawing Number	Revision Number	Name of Plan	Date
5128-T-03	Issue D	Wall Elevations Sheet No 2	1 October 2008
5128-T-04	Issue D	Wall Elevations Sheet No 3	1 October 2008
5128-T-05	Issue D	Wall Elevations Sheet No 4	1 October 2008
5128-T-07	Issue C	Typical Wall Sections	1 October 2008
7337-PA-07	Issue C	Site Cross Sections	16 July 2008
7337-PA-08	Issue C	Demolition Plan	16 July 2008
7337-PA-09	Issue C	Erosion and Sediment Control Plan	16 July 2008
7337-PA-10	Issue C	Erosion and Sediment Control Details	16 July 2008
7337-PA-11	Issue D	Construction Staging Plan	11 August 2008
LC01	Revision I	Landscape Planting	7 October 2009
LC02	Revision I	Landscape Details	7 October 2009
LC03	Revision I	Boundary Fencing Layout Plan	7 October 2009
LC04	Revision C	Landscape Detail Plans and Sections	7 October 2009
LC05	Revision P4	Rookwood Road Entry Walls Plan and Details	7 October 2009
LC06	Revision P4	Rookwood Road Entry Walls, Elevations, Section and Details	7 October 2009
LC07	Revision P4	Brunker Road Entry Wall Plan	7 October 2009
LC08	Revision P4	Brunker Road Entry Wall Elevations	7 October 2009
LC09	Revision P3	Brunker Road Entry Wall Detail Plan and Sections	7 October 2009
1008/32		Plan showing area of demolition works for western precinct developments of part of Sydney Water land at Cooper Road, Potts Hill in Bankstown L.G.A.	16 July 2009

This plan is approved with the exception of the gabion retaining wall for the eastern slope of the Eastern Precinct – see Plans 5128-T and Condition of Approval 21.

5.3 Modification to Condition 3

Condition 3 provides that staging plans of subdivision and a final subdivision plan are to be provided in accordance with the approved subdivision plans prior to the registration of any lots. Condition 3 currently reads as follows:

‘3 Subdivision

Prior to the registration of any lots, a staging plan for subdivision shall be submitted indicating:

- Staging plans depicting the proposed sequence of lot registration; and*
- A final subdivision plan generally consistent with the following plans prepared by YSCO Geomatics Land Resources Consultants dated 26 September 2008, unless otherwise approved by the Director, Strategic Assessments, Department of Planning:*

Drawing Number	Sheet Number	Name of Plan	Date
1008/14A	1 of 3	Proposed subdivision of part of Sydney Water Land at Rookwood Road and Brunker Road, Potts Hill, being Lot 2 DP 225818, Lot 1 DP 610303 and Lot DP 456502 in Bankstown and Auburn LGAs.	26 September 2008
1008/14A	2 of 3		26 September 2008
1008/14A	3 of 3		26 September 2008'

The subdivision plans have been modified to reflect the current boundary alignments and adjust the sequence of subdivision registration. It is now proposed that the subdivision registration be sequenced based on the subdivision plans provided at **Attachment G**.

This modification will not result in any additional environmental impact. Accordingly, it is proposed that Condition 3 be modified to read as:

‘3 Subdivision

Prior to the registration of any lots, a staging plan for subdivision shall be submitted indicating a final subdivision plan generally consistent with the following plans prepared by YSCO Geomatics Land Resources Consultants, unless otherwise approved by the Director, Government Land and Social Project Assessment, Department of Planning:

Drawing Number	Stage Number	Name of Plan	Date
1008/24	Stage I	Plan showing proposed subdivision of part of Sydney Water land at Rookwood Road and Brunker Road, Potts Hill, being Lot 2 DP 225818 in Bankstown and Auburn LGAs.	24 June 2009
1008/29	Stage II	Plan showing proposed subdivision of part of Sydney Water land at Rookwood Road and Brunker Road, Potts Hill, being Lot 1 DP 610303 in Bankstown and Auburn LGAs.	24 June 2009
1008/30A (Sheet 1 of 2)	Stage III	Plan showing proposed subdivision of part of Sydney Water land at Rookwood Road and Brunker Road, Potts Hill, being Lot 1006 DP 1140109 & Lot DP 456502 in Bankstown and Auburn LGAs	24 June 2009
1008/30A (Sheet 2 of 2)	Stage III	Plan showing proposed subdivision of part of Sydney Water land at Rookwood Road and Brunker Road, Potts Hill, being Lot 1006 DP 1140109 & Lot 2 DP 456502 in Bankstown and Auburn LGAs.	24 June 2009
1008/31A	Stage IV	Plan showing proposed subdivision of part of Sydney Water land Rookwood Road and Brunker Road, Potts Hill, being Lot 105 in unregistered DP in Bankstown and Auburn LGAs.	24 June 2009

5.4 Modification to Condition 9

Condition 9 requires that the proponent prepares a Site Audit Summary Report, Site Audit Statement and Validation Report for contaminated zones within the Eastern Precinct. Condition 9 currently reads as follows:

'9 Site audit

In the Bagdad Street site, the Brunker Road site and zones 5, 6 and 7 of the Eastern Precinct, the proponent shall prepare a Site Audit Summary Report, Site Audit Statement and Validation Report, with the approval of an accredited site auditor, in accordance with the Contaminated Land Management Act 1997. These documents must verify that the land is suitable for the proposed uses. Each site may be managed separately from other sites in regard to this matter.'

As discussed in **Section 5.1** of this report, contaminated soils and materials have been identified in Zones 1A, 1C and 3 of the Western Precinct (Refer to Contamination Summary at **Attachment E**). Accordingly, a Site Audit Summary Report, Site Audit Statement and Validation report for these zones should be provided in accordance with the *Contaminated Land Management Act 1997*. Accordingly, it is proposed that Condition 9 be amended to read as follows:

'9 Site Audit

*In the Bagdad Street site, **zones 4 (the Brunker Road site), 5, 6 and 7 of the Eastern Precinct, and zones 1A, 1B, 1C, 2, 3, and 11A of the Western Precinct**, the proponent shall prepare a Site Audit Summary Report, Site Audit Statement and Validation Report with the approval of an accredited site auditor, in accordance with the Contaminated Land Management Act 1997. These documents must verify that the land is suitable for the proposed uses. Each site may be managed separately from other sites in regard to this matter **in accordance with the timing outlined in the following table:***

Zone	Site	Timing (prior to the issue of the following subdivision certificates)
11A	Western Precinct	Residential Lot Subdivision Certificate
1A	Western Precinct	Residential Lot Subdivision Certificate
1B	Western Precinct	Residential Lot Subdivision Certificate
1C	Western Precinct	Residential Lot Subdivision Certificate
2	Western Precinct	Residential Lot Subdivision Certificate
3	Western Precinct	Residential Lot Subdivision Certificate
4	Brunker Road Site	Stage 1 Subdivision Certificate
5	Eastern Precinct	Stage 3 Subdivision Certificate
6	Eastern Precinct	Stage 3 Subdivision Certificate
7	Eastern Precinct	Stage 3 Subdivision Certificate
N/A	Bagdad Street Site	Stage 2 Subdivision Certificate

5.5 Modification to Condition 21

Condition 21 requires that an appropriate reinforcement structure (retaining wall) be built for the purpose of stabilising the eastern slope. Condition 21 currently reads as follows:

'21 Stability of eastern slope

If works on the purpose of stabilising the eastern slope of the Eastern Precinct have not commenced within 24 months of the date of this approval, the proponent is to regrade the slope or construct

appropriate reinforcement, with landscape, in accordance with the recommendations of the geotechnical report in Attachment G of Environmental Assessment.'

It is considered that a retaining wall along the whole length of the site may not be the optimum solution for stability for each lot. It is proposed to amend this condition to require reinforcement to the satisfaction of a civil engineer, and that landscaping be issued prior to the issue of a Construction Certificate for development on each individual lot.

In doing so, each lot may be subdivided prior to the construction of the originally proposed retaining wall, and each individual lot may address the structural stability of the embankment through individual retaining walls, terraces or other methods deemed suitable by a civil engineer. For example, at the time of writing this report, Landcom, project managers of the NSW Police site were considering the following approach for Lot 103:

'Buildings placed at the top of the eastern embankment are supported on piles and therefore do not exert loads on the embankment. The location of piling along the top of the embankment will provide some additional stability for the embankment itself.'

Further geotechnical testing has been carried out in relation to the embankment and its final treatment. These investigations indicate that a permanent batter of 2:1 will be suitable subject to some regrading, compaction and revegetation. Appropriate drainage systems will also be installed to prevent run-off impacting on the embankment. The landscaped embankment on completion will provide a level of screening and aesthetic amenity for the Graf Avenue residential area'.

It is proposed that Condition 21 be modified to read as follows:

'21 Stability of eastern slope

Works for the purposes of stabilising the eastern slope of the Eastern Precinct are to be completed prior to the issue of an Occupation Certificate for development on Lots 103 and 104.

The design of the proposed stabilisation method is to be submitted to the Certifying Authority with certification from a civil engineer to demonstrate the design will satisfactorily stabilise the eastern slope. Associated landscaping must also be shown on the plans/details submitted to the Certifying Authority prior to the issue of a Construction Certificate'.

6. Relevant planning instruments

The following planning instruments and controls may be applicable to the proposal. Section 75W does not require the consideration of relevant planning instruments, however the DGRs for the original application for the Eastern Precinct and the proposed subdivision application for the Western Precinct require consideration of the following instruments and policies:

Statutory controls

- State Environmental Planning Policy No 55 – Remediation of Land
 - SEPP 55 requires that an assessment is made of the level of contamination of a site prior to the carrying out of development on land. It also requires that a site be remediated to an appropriate level for proposed future uses of the site. Contamination has been addressed on the Eastern Precinct as part of the Conditions of Approval of MP 08_0069.

- Minor contamination has been identified on the Western Precinct. Accordingly, remediation works are required on the site to allow future residential uses. A Contamination Strategy has been prepared and is provided at **Attachment E**.
- As provided in the Statement of Commitments, the proponent will prepare a Remediation Action Plan(s) prior to any the commencement of any remediation works on the subject site. Remediation is to occur in accordance with the relevant plans, policies and conditions.
- Accordingly, it is considered that the objectives and provisions of SEPP 55 are satisfied.
- State Environmental Planning Policy No 64 – Advertising and Signage
 - SEPP 64 provides assessment criteria for advertising and signage. The proposed modification includes details of identification signage to the Potts Hill Business Park. Under the SEPP, it is unclear whether this SEPP applies, as building and business identification signage are excluded from the provisions of the SEPP. Notwithstanding this, the proposed signage will not result in any inconsistencies with the provisions of this SEPP. The proposed signage is consistent with the Assessment Criteria stipulated in Schedule 1 of SEPP 64, as outlined in **Section 5.2** of this report.
- State Environmental Planning Policy (Major Development) 2005
 - The subject site is listed as a State Significant Site under Schedule 3 of the Major Development SEPP.
 - The proposed modifications to the project application consent MP 08_0069 do not result in any inconsistencies with SEPP Major Development in that the subject site is intended for residential, open space and business park uses under Schedule 3 of the Major Development SEPP. The proposed modifications facilitate the use of the site in accordance with current approvals.

7. Statement of Commitments

The following Statement of Commitments have been compiled based on the environmental assessment undertaken in this report, the recommendations made by specialist consultants and a review of the conditions of consent for relevant applications.

This statement provides a commitment by Landcom and Sydney Water Corporation indicating the responsibilities to implement management measures to mitigate against potential risks, as well as ensure that relevant investigations and assessments are made prior to the undertaking of works.

The commitments are outlined in **Table 1** below:

Table 1 Statement of commitments

Item	Commitment	Timing
1. Demolition	Demolition works are to be undertaken in accordance with the CEMP at Attachment D .	During demolition works on the Western Precinct.
2. Hazardous Waste	Hazardous waste materials are to be disposed appropriately having regard to the findings of the HAZMAT Report provided at Attachment J .	During demolition works.
3. CEMP Recommendations	A detailed Final CEMP is to be lodged for the Director-General's approval before demolition	Prior to the commencement of any demolition works.

Item	Commitment	Timing
	commences. The final CEMP must be prepared and reviewed by the Environmental Management Representative (EMR) in accordance with the Statement of Commitments dated June 2008.	
4. Remediation Action Plan	Remediation Action Plans for Zones 1, 2 and 3 (as outlined in the Contamination Summary) of the Western Precinct is to be prepared, incorporating the methodology recommendations made in the Contamination Summary prepared by AECOM and provided at Attachment E .	Prior to the commencement of any remediation works.

8. Conclusion

The proposed modification under Section 75W of the EP&A Act will allow for the undertaking of demolition and remediation works in the Western Precinct prior to the lodgement of the first project application on the Western Precinct. The application will also modify the approved subdivision and landscaping under the consolidated consent MP 08_0069, as well as allow for appropriate stability of the eastern slope to be addressed on an individual lot basis in relation to the Eastern Precinct.

The proposed works are to be undertaken in accordance with this Environmental Assessment and the attachments. The proposed modification raises no adverse environmental impacts. The anticipated impacts can be managed through the recommendations in specialist reports and the Statement of Commitments.

Accordingly, it is recommended that this Section 75W application be approved by the Minister for Planning.

If you have any queries or would like to discuss this matter further, please do not hesitate to contact me on 9841 8600 or nchandler@landcom.nsw.gov.au.

Yours sincerely,



Nick Chandler
Senior Development Manager