



## **SECTION 75W MODIFICATION, POTTS HILL, PROPOSED BY LANDCOM**

**MP 08\_0069 (MOD 2)**

Modification of Minister's Approval under section 75W  
of the *Environmental Planning and Assessment Act*  
1979

February 2010



- 1 Eastern Precinct Site
- 2 Brunker Street Site
- 3 Bagdad Street Site

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## 1. INTRODUCTION

This is a report on an application seeking to modify the Project Approval MP 08\_0069 for Stage 1 Civil Works at Potts Hill.

### Concept Plan MP 07\_0099

On 27 April 2009, the Minister for Planning approved a Concept Plan for the redevelopment of the Potts Hill Reservoir land. The Concept Plan included a mix of land uses, including residential, employment and recreational use. 40 hectares of the site will be developed to provide more than 400 dwellings, a new business park and three separate open space areas.

On 29 April 2009, an amendment to the Major Development SEPP was gazetted, which rezoned the Potts Hill site for a mixture of residential, business and public recreation uses.

### Project Application MP 08\_0069

On 26 November 2008, the Minister for Planning approved 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 and include 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 to form the Eastern Precinct, Brunner Street site, Western (Residential) Precinct, Sydney Water retained lands, Bagdad Street side and associated lands; 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.

### MP 08\_0069 – MOD 1

On 16 January 2009, the Executive Director of Major Projects Assessments, as delegate for the Minister, approved a modification application under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act).

The approval provided for:

- 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 SITE

The 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 Brunner Road (south).

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

## 3. THE PROPOSED MODIFICATIONS

The proponent is now seeking approval for the following:

1. Demolition and remediation works to be undertaken on the western residential precinct.
2. Amend the proposed plan of subdivision to reflect the current boundary alignments and sequence of plan registration in relation to the eastern employment precinct.
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.

As part of this proposal, the proponent is also seeking to amend the following Conditions of Approval:

- i) Condition 1: Development Description – add references to additional draft road plans.
- ii) Condition 2: Development Description – add references to additional plans and documentation.
- iii) Condition 3: Subdivision – modifications to the subdivision reflecting the boundary alignments and adjustments to subdivision registration.
- iv) Condition 9: Site Audit – extend the location of the site audit assessment to zones 1A, 1C and 3, due to the identification of contaminated soils and materials within these areas.
- v) Condition 21: Stability of Eastern Slope – amend the condition to require the reinforcement of the stability wall to be to the satisfaction of a civil engineer prior to the issue of a Construction Certificate.

#### **4. ASSESSMENT PROCESS**

Section 75W(2) of the Act provides that a proponent may request the Minister to modify the 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 relates to the Western (residential) precinct which was subdivided under the Project Approval MP 08\_0069, and seeks to approve demolition and remediation works in the Western precinct in addition to the previously approved demolition and remediation works in the Eastern and Bagdad Street precincts. Thus the modification seeks to change the terms of the Minister's determination through amending 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 and issues relating to the modification application are adequately covered by the previous DGRs.

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, the Department recommends the modification be approved.

#### **5. 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 notified Bankstown Council and the Department of Environment, Climate Change and Water (DECCW) of the proposed modification. The proponent also undertook consultation with Bankstown Council regarding the proposed signage on the retaining walls.

Council commented on the proposed signage location, embankment works and contamination requirements. Specifically Council requested that the signage location be amended and requested specific management plans as part of the Construction Environmental Management Plan (CEMP). The signage has been amended and the requests from Council have been included in the amended conditions.

DECCW raised issues regarding the preliminary CEMP, the Contamination Summary and the proponent's Environment Protection Licence.

The proponent responded to submissions on the 22 December 2009. The proponent advised that incorrect plans were inadvertently included in the initial EA and this had now been rectified. The proponent's response and plans were forwarded to both Council and DECCW for comment. Council was satisfied with the proponent's response and raised no further issues. DECCW recommended that conditions of approval be included regarding contamination and the Construction Environmental Management Plan. Where relevant, these recommendations have been included in the approval.

## **6. CONSIDERATION OF PROPOSED MODIFICATION**

### Demolition, Contamination and Remediation

The proposed modification works are generally consistent with the Concept Plan and Project Application and will facilitate demolition and remediation works within the western residential precinct. These works are necessary in order to prepare the site for future development on site. The demolition works include removing 10 structures, including warehouses and ancillary buildings, and are estimated to take approximately 2 months to complete. A Project Application (MP 08\_0116) has been lodged with the Department for the residential subdivision of the site and is currently under assessment.

DECCW requested that the proponent provide further information regarding contaminated land within the conservation zone of Potts Hill in order to inform the future Conservation Agreement. The Conservation Agreement is required under the approved Concept Plan for the Potts Hill site, and requires that Sydney Water Corporation execute the agreement with the Minister (administering the National Parks and Wildlife Act 1974) prior to the commencement of any works within the residential precinct that would result in the removal of Endangered Ecological Communities and/or threatened species. The proponent has advised that the proposed works under the S75W application will not remove Endangered Ecological Communities or threatened species. Therefore it is considered that the proposed demolition and remediation works can proceed without the execution of the agreement.

Following consultation with Bankstown Council and DECCW, the Department is also proposing to modify Condition 10 and add Condition 22. DECCW raised as an issue that the proponent should also address issues such as air quality and dust management, soil and water management and noise and vibration. Accordingly Condition 10 has been amended to address these matters. Condition 22 was added to require the proponent to forward specific plans associated with the CEMP and contamination to Council and the Department.

### Plan of Subdivision

The proposed amendments to the subdivision plan reflect the proposed boundary alignments in relation to the eastern employment precinct as a result of the remediation works. Therefore the proposed sequence of plan registration has also been amended via Condition 3.

### Landscape plan

The proponent has submitted revised landscape plans that incorporate entry statements at both the Cooper Road and Rookwood Road intersections in relation to the eastern employment precinct. The entry statement comprise of a steel panel with zinc plated lettering. Bankstown Council initially raised concern with the location of the entry statements as they were located within the walk way. The proponent has subsequently amended the location of these entry statements so they are outside any pedestrian areas and accordingly submitted amended plans. The amended plans have been referenced in the amended instrument of approval.

### Site Audit Assessment

Currently MP 08\_0069 allows for the site audit assessment within the Eastern Precinct and Bagdad Street precinct only. The proponent is now seeking to extend the location of the site audit assessment to zones 1A, 1C and 3, which are situated in the western residential precinct of the site, due to the identification of contaminated soils and materials within these areas. It is considered reasonable to enable the site audit works within the Western Precinct given the proposed demolition, contamination and remediation works.

### Stability of eastern slope

The current approval under MP 08\_0069 requires the proponent to regrade or construct the eastern slope within 24 months of the approval. The proponent has advised that the retaining walls may not be the optimum solution and is seeking greater flexibility to treat the embankment for structural stability. The proponent is therefore seeking to amend Condition 21 to require the reinforcement of the eastern slope to be conducted to the satisfaction of a civil engineer and that landscaping be issued prior to the issue of a Construction Certificate. This will allow for each lot to be subdivided prior to the construction of the originally proposed retaining wall and for each lot to address the structural stability of the embankment through individual retaining walls or other methods deemed suitable by the civil engineer. The Department raises no objection to this request and accordingly condition 21 is amended.

## **7. CONCLUSION**

The Department considers that the proposed modifications are acceptable as the works would not result in any new or increased environmental impacts. As such the proposed modifications are supported.

## **8. DELEGATION**

Under the Instrument of Delegation dated 25 January 2010, the Minister has delegated his functions under section 75W of the EP&A Act relating to modifying Part 3A approvals to the Director, Government Land and Social Projects, where there are less than 10 public submissions objecting to the subject application.

Therefore, the Modification can be determined under delegation.

## **9. RECOMMENDATION**

It is recommended that the Director, as delegate of the Minister for Planning:

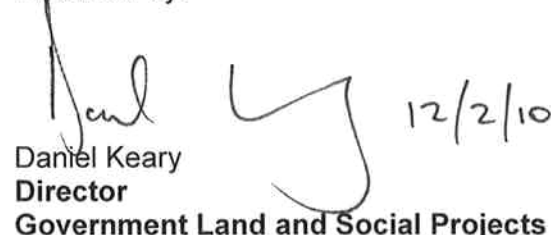
- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act, 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**Tag A**).

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