

MODIFICATION REQUEST:
Potts Hill Reservoir Redevelopment
Modification to Civil Works Stage 2
(MP 08_0116 MOD 3)



Description of Modification Request

- Amendment to the Potts Hill Residential Design Guidelines

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

November 2012

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1. BACKGROUND

1.1 The Site

Landcom (the proponent), has lodged a section 75W application (MOD 3) seeking a modification to the Stage 2 Project Approval (MP08_0116) to modify Statement of Commitment No.11 through the update of the Potts Hill Residential Design Controls (controls). While the controls did not form part of the approval of the project, their preparation was a commitment made between Landcom and Bankstown City Council (council). The site is known as the Potts Hill Sydney Water Reservoir Site and is located in Bankstown Local Government Area (**Figure 1**). The land to which this modification relates is legally described Lot 106 in DP 1153671, and specifically relates to the Western Residential Precinct.

Land uses surrounding the site are detailed below:

- To the north of the site is a railway line corridor, water supply pipeline and residential development;
- To the east of the site is Rookwood Road, Sydney Water Office and Warehouse, NSW Police Office and Graf Avenue. This was part of the original Concept Plan site, but has been separately subdivided and developed;
- To the south of the site is Brunner Road; and
- To the west of the site is Cooper Road, residential development and Birrong Girls High School.

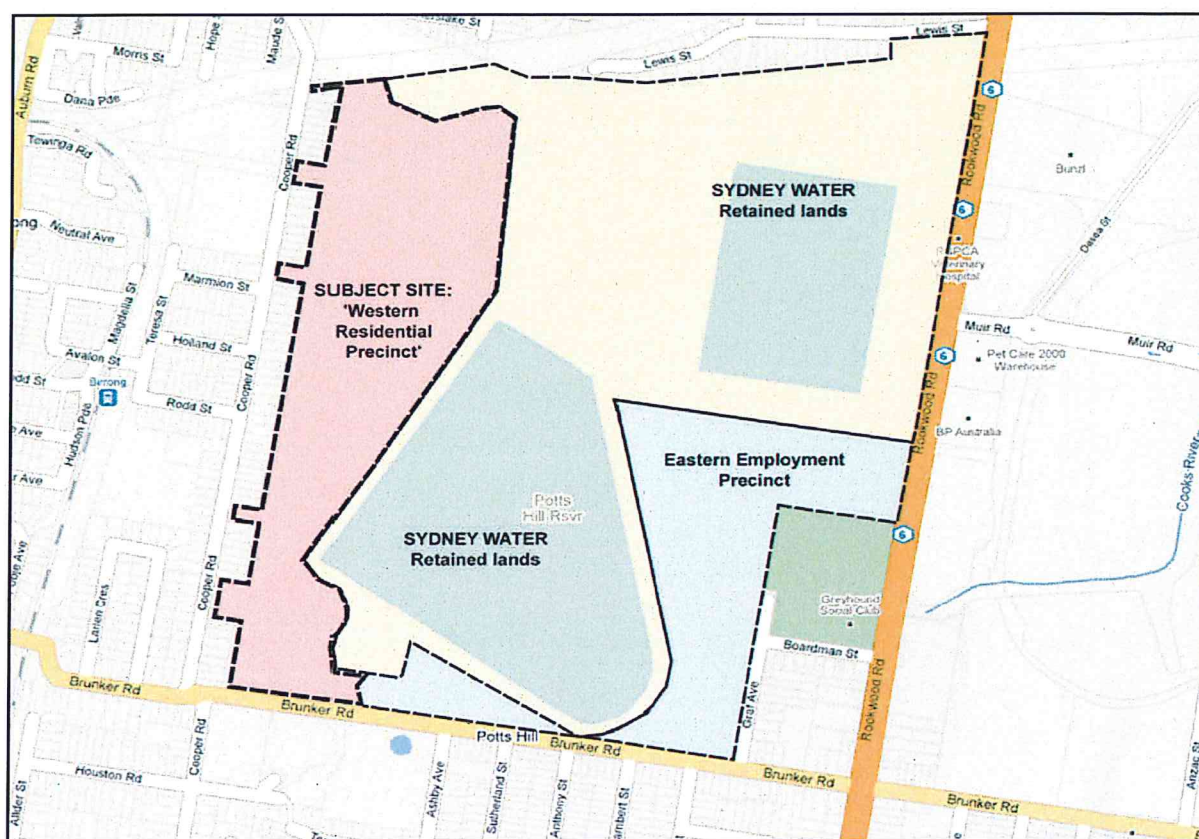


Figure 1: Potts Hill Reservoir Site (Stage 2 illustrated in pink)

1.2 Approval History

Concept Plan (MP07_0099)

On 27 April 2009, the (then) Minister for Planning approved a concept plan for the redevelopment of the Potts Hill Reservoir land (MP07_0099). The concept plan provided a broad overview of the proposed development, including residential, employment and open space purposes, and established a framework for detailed development of the site through future applications. Forty hectares of the site is to be developed to provide up to 450 residential dwellings, a new business park and three separate open space areas.

Additionally, on 27 April 2009, an amendment to the Major Development SEPP was gazetted which listed Potts Hill as a State Significant Site in Schedule 3 of State Environmental Planning Policy (Major Development) 2005 (MD SEPP) and rezoned the site for a mixture of residential, employment and public recreation uses.

Civil Works Stage 1 (MP08_0069)

On 26 November 2008, the (then) Minister for Planning approved a project application for Stage 1 Civil and Infrastructure Works (MP08_0069). 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 site and associated lands; and
- Civil works in the proposed employment lands and 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.

Civil Works Stage 2 (MP08_0116)

On 4 September 2010, under delegated authority, the Deputy Director-General, Development Assessment & Systems Performance, approved a project application for the Stage 2 civil and infrastructure works (MP08_0116). The approval provided for:

- Three-staged subdivision of the subject site into 226 lots to accommodate a maximum of 450 future dwellings, including:
 - 217 low-density lots
 - Two (2) medium-density residential lots
 - Seven (7) lots for open space.
- Dedication of roads, stormwater infrastructure and public domain areas to Bankstown City Council at registration of the subdivision plans;
- Site establishment works, bulk earth works and striping and stockpiling works;
- Construction of roads and associated infrastructure;
- Embellishment and construction of all public domain areas and structures; and
- Establishment of all stormwater quality management and on-site detention facilities, to be dedicated to council, including the provision of servicing infrastructure to residential lots.

Construction of all of the dwellings will be undertaken either as complying development or through the lodgement of Part 4 development applications with council.

MP08_0116 MOD 1 was approved on 29 August 2011, by the Director of Metropolitan and Regional Projects North, which allowed for the relocation of overhead electrical power lines and associated replacement of power poles.

On 13 September 2012, the Director, Metropolitan and Regional Projects North approved MP08_0116 MOD 2 that allowed changes to the subdivision layout resulting in an increase from 217 residential lots to 227 lots, introduction of 5.1 metre lots to accommodate three-bedroom terrace houses, consolidate of a number of lots to provide 28 community housing dwellings and amend the boundaries and staging of lots for Stages 1, 2 and 3.

2. PROPOSED MODIFICATION

2.1 Modification Description

Statement of Commitment No.11

The application seeks approval to modify Commitment No.11 of the Statement of Commitments by replacing reference to the Potts Hill Residential Design Guidelines with reference to the Potts Hill Residential Design Controls. This wording change is sought to better reflect its status as a development control document (though it's not strictly a Development Control Plan) for consideration as part of any future residential development application (DA) within the Potts Hill residential precinct.

Potts Hill Residential Design Controls

The controls are proposed to be treated as a type of Development Control Plan (DCP) by Bankstown council for developments that they will assess under Part 4 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) as currently Bankstown DCP does not apply to the site. They are also proposed to be updated to reflect consultation with Bankstown City Council that took place on 18 July 2012 and also council's comments via email (27 and 29 August 2012). The revised controls have considered the following:

- Bankstown Development Control Plan 2005 (Bankstown DCP);
- The NSW Housing Code;
- Definition of accessory dwelling replaced with secondary dwelling;
- Retention of significant trees;
- Community housing as part of the Potts Hill development;
- Approved subdivision plan under MP08_0116 MOD 2;

Consultation with the community housing provider Link Housing has also been included to ensure the controls are adequate for assessment of future DAs. These include:

- A land application map within the Introduction;
- Testing of fill, retaining wall and excavation controls for detached houses;
- Articulation zones, earthworks and drainage for Community Housing controls; and
- Exclusion of 'Section 10 – On-site Stormwater Detention Systems' on individual lots as detention basins are located across the precinct to accommodate on-site stormwater detention requirements.

2.2 Justification

The proposed controls are intended to be treated as a type of DCP by Bankstown council to facilitate the assessment of dwellings under Part 4 of the EP&A Act. This is because the site is subject to the MD SEPP and Bankstown DCP is not applicable.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval of a modification is not required if the project as modified would be consistent with the original approval. As the proposed modification seeks to make changes to the subdivision layout and its staging, the modification will require the Minister's approval.

Section 75W(3) of the EP&A Act provides the Director General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. Environmental Assessment Requirements were not issued for the proposed modification as the proponent had addressed the key issues in the modification request.

3.2 Delegated Authority

The Minister has delegated his functions to determine a modification request under section 75W of the Act where:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

No objection was received from the local council and there were no public submissions. A political disclosure statement was also not made in relation to the original project application or the subject modification.

Accordingly, the Director, Metropolitan and Regional Projects North can determine the modification application under delegation.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with section 75X(2)(f) of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made publicly available on the department's website. The department also notified Bankstown City Council of the application.

The department received a submission from Bankstown City Council (council) during the exhibition of the modification request. No submissions were received from the general public.

4.2 Public Authority Submissions

Bankstown City Council

Council acknowledged that consultations with the proponent had been reflected in the controls, however did notice their request in relation to retention of significant trees was omitted. Council and the proponent continued consultations on this issue, and as a result the proponent amended the controls (dated 31 October 2010) that were to council's satisfaction.

4.3 Public Submissions

No submissions were received from members of the public.

5. ASSESSMENT

5.1 Amending Statement of Commitment No.11

Commitment No. 11 is proposed to be amended to delete the word "Guidelines" and replace with "Controls." The department considers the title amendment of the Potts Hill Residential Design Guidelines to Potts Hill Residential Design Controls administrative in nature and minor. This will allow the controls to function as a type of DCP for the purposes of council's assessment of future DAs.

5.2 Potts Hill Residential Design Controls

The Potts Hill Residential Design Controls have been prepared to guide the development of the Potts Hill precinct to ensure high quality built form and aim to achieve a generally consistent built form across the precinct. They will be considered by council for DA assessment.

The controls are proposed to be updated to accommodate and reflect recent consultations with council and the community housing provider. These include:

- Bankstown DCP in Section 2 and Appendix B
- NSW Housing Code
- tree retention in Section 3
- additional community housing controls in Section 4
- replacing the definition of 'accessory dwelling' with 'secondary dwelling' on page 12
- approved subdivision plan under MP08_0118 MOD 2 in Appendix C
- fill controls for detached housing on page 7
- exclusion of on-site detention tanks on individual lots.

References to the NSW Housing Code and Bankstown DCP

Dwellings in the precinct will either be constructed in accordance with the NSW Housing Code and Exempt and Complying SEPP or will require development consent from council under Part 4 of the EP&A Act.

The proposed design controls have considered several controls including those in the NSW Housing Code and the Exempt and Complying SEPP. These controls are primarily concerned with setbacks, landscaping, car parking, access, and earthworks and drainage. They also consider some controls contained in the Bankstown DCP, including asymmetrical design for dual occupancy and visual and acoustic privacy controls. The purpose is to ensure consistency across the precinct and provide guidance to council in the consideration of future DAs.

The department considers that the inclusion of primary controls found in the NSW Housing Code and consideration of the Bankstown DCP acceptable as it will contribute to the design quality intent of the precinct. It will also allow for a development control framework to assist council assessing crucial controls such as setbacks, privacy and landscaping. In addition, controls have been included for small lot housing less than 200m² in area that are not covered by the NSW Housing Code. The department recognises the proposed controls will not limit the flexibility of merit assessment, rather contribute to desired built form outcomes across the precinct.

Council Consultations

Council were satisfied that the revised controls reflected their consultation, however did note that the request for the words "if possible" on page 18 to be deleted in relation to the retention of the frontage trees and the single significant tree on Lot 428 was excluded. Council requested to discuss this issue with the proponent to allow the opportunity to protect these trees.

After further consultation with council, the proponent amended the controls dated 31 October 2012, to reflect the retention of street frontage streets. The single significant tree is to be retained if possible (see **Figure 3**), as it may restrict the built form outcome on the lot. Consideration of its retention will be considered as part of a future DA.

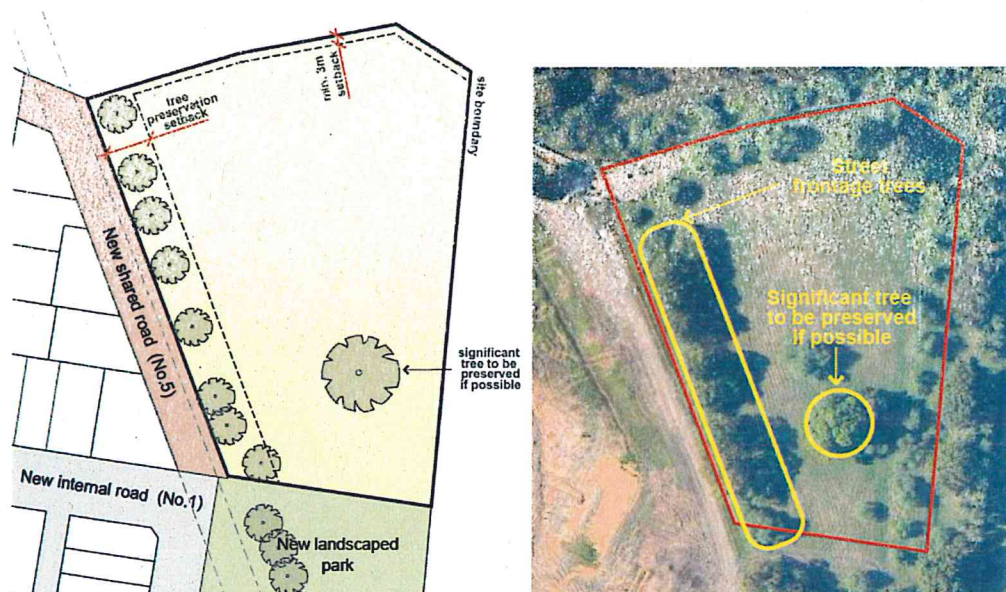


Figure 2: Location of Street Frontage Trees and Significant Tree on Lot 428

The department considers the revised controls acceptable as the issues raised in relation to retention of trees have been addressed to the satisfaction of council. This was confirmed in an email on 5 November 2012. In addition, the inclusion of greater community housing controls and the approved subdivision plan for Stage 2 (MP09_0116 MOD 2) will allow for further clarity and ensure adequate assessment of future DAs.

6. CONCLUSION

The department has considered the key issues associated with the modification request and supports the changes to update the design controls to allow greater consistency and design outcomes that complement the NSW Housing Code and Bankstown DCP, and also to reflect recent consultations with council. In addition, the amendment of the title to Potts Hill Residential Design Controls will guide council to achieve the desired built form outcomes for dwellings assessed under Part 4 of the EP&A Act.

The modification request is therefore supported and recommended for approval.

7. RECOMMENDATION

It is recommended that the Director, Metropolitan and Regional Projects North, as delegate of the Minister for Planning and Infrastructure:

- 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**).

CAS 22/11/12

Cameron Sargent
Team Leader
Metropolitan and Regional Projects North

HW 23/11/12

Heather Warton
Director
Metropolitan & Regional Projects

APPENDIX A MODIFICATION REQUEST

See disk attached and the department's website at:
<http://majorprojects.planning.nsw.gov.au>

APPENDIX C RESPONSE TO SUBMISSIONS

Potts Hill Residential Design Controls dated 31 October 2012.

APPENDIX B SUBMISSIONS

Two Bankstown City Council submissions

APPENDIX D RECOMMENDED MODIFYING INSTRUMENT
