

DEPARTMENT OF PLANNING

Development Assessment & Systems Performance

SUBJECT: SECTION 75W MODIFICATION REQUEST FOR MODIFICATION TO CONDITION B2 VOLUNTARY PLANNING AGREEMENT AT 61 MOBBS LANE, EPPING FORMER CHANNEL 7 SITE (MP08 0257 MOD 1)

PURPOSE

The purpose of this report is to determine a request to modify Condition B2 of MP 08_0257 to vary the timing of execution of the Voluntary Planning Agreement with Parramatta City Council.

THE SITE

The site, known as 61 Mobbs Lane, is situated on the northern side of Mobbs Lane, approximately 24km from the Sydney CBD within the Parramatta Local Government Area (Figure 1). The buildings on the site were previously utilised by Channel 7 as studios and associated facilities.

The site has an area of 8.9ha, with a frontage of approximately 500 metres to Mobbs Lane. The surrounding development is predominantly low density detached residential dwellings which are mainly characterised by Californian Bungalows and Federation style architecture. A TAFE Campus is adjoins the site on the north eastern boundary.

The eastern proportion of the site is generally flat, while the western portion is undulating. The site has a change in elevation of approximately 30 meters from east to west. A drainage line flows into Terry's Creek along the north western section of the site.

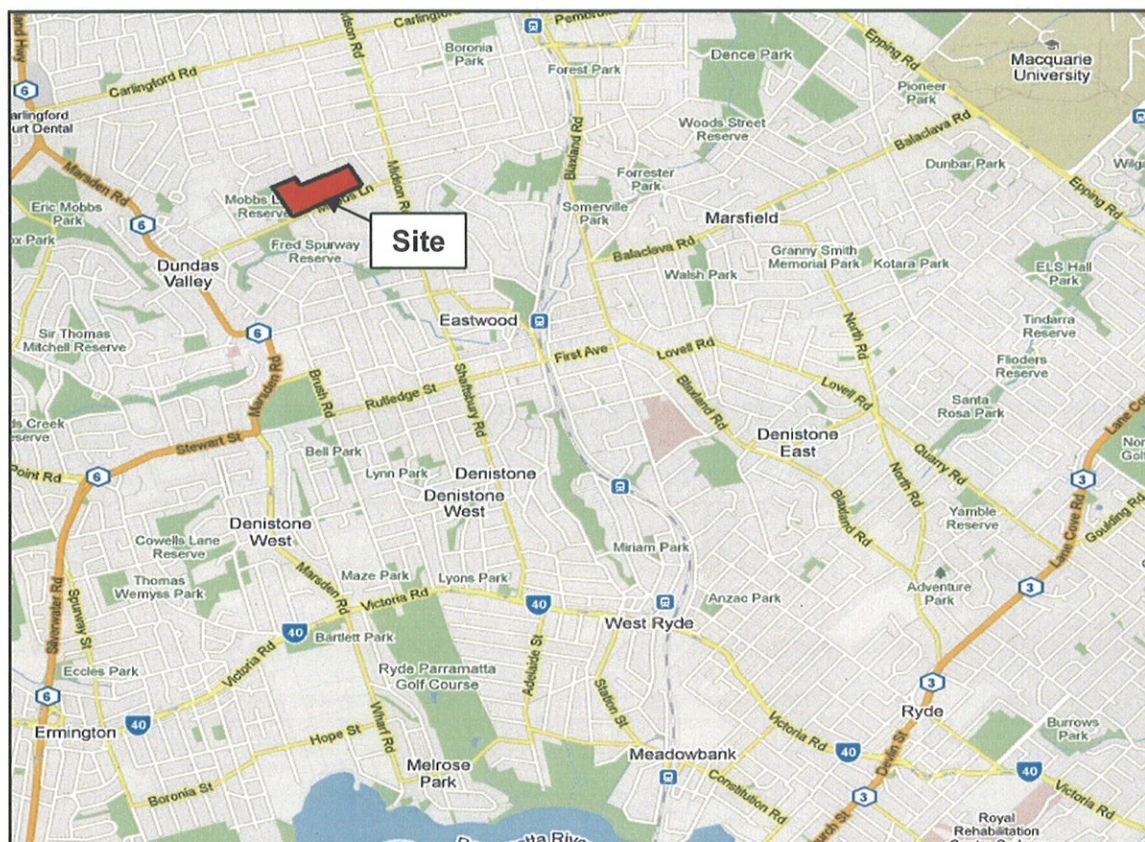


Figure 1: Site location

BACKGROUND

On 22 August 2005, a Concept Plan (MP 05_0086) was approved for the redevelopment of the former Channel 7 site for residential purposes. The approval included provisions for the maximum number of units, building layout, maximum building heights, gross floor area, floor space ratio, and requirements in relation to dwelling mix and minimum public open space provisions.

On 14 July 2010, the Planning Assessment Commission (PAC) approved a major project for early works (MP 08_0258), for the demolition of all existing structures and the construction of internal and external roads, utilities, stormwater management works, tree removal, a child care centre and private resident facilities.

On 15 September 2010, the PAC approved the construction of residential flat Buildings 4 and 5, located in the central eastern part of the site, providing a total of 134 units, associated basement parking and landscaping (MP 08_0257). The two previous approvals are consistent with the approved Concept Plan.

On 17 January 2011, the PAC approved the construction of Buildings 1, 2 and 3, located within the south-eastern part of the site, providing a total of 28 townhouses, parking and landscaping (MP 10_0107).

The Department is currently considering a proposed modification to the approved Concept Plan, seeking changes to the approved total number of units, dwelling mix, deletion of references to maximum permitted FSR, modification of the GFA definition to be consistent with the Standard Local Environmental Planning Instrument, and the provision of a neighbourhood shop.

PROPOSED MODIFICATION

This request seeks to modify a condition relating to the project approval MP 08_0257 for the construction of Buildings 4 and 5. The application seeks to amend existing Condition B2 which reads:

*Pursuant to Section 93I(3) of the Act, the Proponent must enter into a planning agreement prior to the release of the Construction Certificate relating to the approval above the podium level, substantially in accordance with the terms set out in the letter of offer dated **27 August 2010** to Parramatta City Council.*

to read (as indicated in bold):

*Pursuant to Section 93I(3) of the Act, the Proponent must enter into a planning agreement prior to the release of the Construction Certificate relating to the approval of **the fit out works at level 1**, substantially in accordance with the terms set out in the letter of offer dated **27 August 2010** to Parramatta City Council.*

The proposed wording is considered to be ambiguous and unclear in that it does not provide certainty as to when fit out works to level 1 would be carried out in relation to the whole development. It is therefore recommended that the condition be modified to require the VPA to be executed prior to the issuing of a Construction Certificate for the internal fit out works of the two buildings. This will allow structural works to the buildings to be carried out while ensuring the VPA is executed in a timely manner.

CONSULTATION

In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation, the modification request was made available on the Department's website and referred to Parramatta City Council. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means. No public submissions were received on the modification request.

Parramatta Council provided comments on the proposal maintaining concerns raised in the past regarding the VPA not being finalised prior to the commencement of any works. It is Council's ordinary policy for all contributions to be made prior to the commencement of works. The Department considers that as the modification would only alter the timing, not the amount or type of public benefits being secured by the VPA, the proposed timing is acceptable. The modified timing will still require the VPA to be finalised before the proponent can complete the first residential developments on site.

Parramatta Council also raised concern regarding the proposed wording of the modified condition, commenting that the condition was not clear in confirming what works would be carried out prior to the fit out works at level 1. To avoid uncertainty and misinterpretation, it is recommended that the condition be reworded to require the VPA to be executed prior to any internal fit out works, rather than fit out works at level 1.

DELEGATED AUTHORITY

On 25 January 2010, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where there are less than 10 public submissions (not including submissions from public authorities) in the nature of objections in respect of the modification request. As no public submissions were received, the Director may determine the modification request under delegated authority.

KEY ISSUES

Timing of VPA Execution

The original condition required the VPA to be executed prior to the release of the Construction Certificate relating to works above the podium level. The Proponent has advised that they have been in discussion with Parramatta Council since June 2010 seeking to finalise the VPA. Parramatta City Council Officers have endorsed the final VPA.

On 22 November 2010, the final VPA was considered at a Parramatta Council meeting. Council resolved to place the VPA on public exhibition, and that a wider consultation be undertaken, incorporating provisions for the additional 150 houses, which are subject to a modification application currently being considered by the Department. The extended exhibition would end on 14 February 2011. Further to this, any submissions received as a result of the exhibition would be reported to Council.

The Proponent has advised that building work has already commenced on site and that construction works to the below podium level of Buildings 4 and 5 are likely to be completed in advance of the likely timing of finalisation of the VPA.

The proposed modification will allow structural construction works to Buildings 4 and 5 to continue, while accommodating the time required for Council's exhibition of the VPA and subsequent meeting for consideration of the exhibition responses.

The proposal to alter the timing of the VPA execution is supported, subject to recommended amended wording. The modification would only alter the timing triggering the finalisation of the VPA, not the amount or type of public benefits being secured by the VPA. The modification, as recommended, will allow works to Buildings 4 and 5 to continue avoiding unnecessary delays. In this context, it is considered that the proposed time frame for the execution of the VPA is reasonable.

CONCLUSION

The proposed modification is considered to be minor and does not result in a change to the overall development. The Department has considered the key issues associated with this modification and finds the recommended modified wording satisfactory for the above reasons. It is therefore recommended that the modification be approved subject to the amended condition.

RECOMMENDATION

It is RECOMMENDED that the Director:

- note the information provided in this briefing;
- approve the modification request, subject to conditions; and
- sign the attached modifying instrument (Tag A).

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