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**Our Ref: 21717:RD**

14 September 2010

DIRECTOR GENERAL  
NSW DEPARTMENT OF PLANNING  
23-33 BRIDGE STREET  
SYDNEY NSW 2000

**ATTENTION: ANNA BRADLEY**

Dear Madam,

**RE: SECTION 75W APPLICATION – MINOR MODIFICATION TO FREEWAY  
NORTH BUSINESS PARK MAJOR PROJECT 06\_0199 (FILE NO.9042757)**

This letter has been written to support a modification to the Concept Plan Approval (No. 06\_0199). Approval for this modification is sought in accordance with Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

On 29 September 2008 Concept Plan and Project Approval 06\_0199 was granted by the Minister for a 90 lot industrial business park subdivision, associated services and infrastructure and conservation lands at Beresfield.

Condition A5 of Schedule 2 of the Concept Plan Approval states the following:

*"The determination of future applications for development is to be generally consistent with the terms of approval of MP No.06-0199 as described in Part A of Schedule 1 and subject to the modifications of approval set out in Parts A and B of Schedule 2. Future applications for development are subject to Part 4 of the EP&A Act except where Schedule 2 of State Environmental Planning Policy (Major Projects) 2005 applies."*

Recent discussions between officers of the Department of Planning, the proponent and RPS have highlighted an administrative error in Condition A5 of Schedule 2 in so far as the condition refers to Schedule 2 of *State Environmental Planning Policy* (SEPP) (Major Development) 2005. As a result of the error, any major projects which fall under Schedule 1 of the SEPP (Major Development) 2005 cannot be determined by the Department. Clearly this situation was not intended and if left as is would prevent proposals such as the recent Aldi Warehouse Project MP 10\_0042 from proceeding. Accordingly this condition will need to be modified in accordance with the following (with strike throughs indicating deletion and bold underlined text indicating additional matter):

NSW DEPARTMENT OF PLANNING  
21717  
14 September 2010

*"The determination of future applications for development is to be generally consistent with the terms of approval of MP No.06-0199 as described in Part A of Schedule 1 and subject to the modifications of approval set out in Parts A and B of Schedule 2. Future applications for development are subject to Part 4 of the EP&A Act except where Schedule 2 1 of State Environmental Planning Policy (Major Projects) 2005 applies."*

Similarly to avoid doubt in the future, item (c) of the Instrument of Approval dated 29 September 2008, should also be amended to state (with bold underlined text indicating additional matter):

*(c) That approval to carry out the remainder of the project is to be subject to Part 4 of the EP&A Act under section 75P(1)(b) of the ~~EP&A Act~~, **except where Schedule 1 of SEPP (Major Projects) 2005 applies.***

#### **Conclusion**

The modification to the Concept Plan Approval will correct an administrative error within the stated conditions and its correction is considered to be minor in nature. It is therefore requested that the Department consider this modification favourably in accordance with Section 75 W of the EP&A Act.

If you have any further enquiries regarding the above please do not hesitate to contact the writer.

Yours faithfully  
RPS

**Robert Dwyer**  
**General Manager**  
**BSc, GDipURP, MPIA, CPP**