



MODIFICATION REQUEST:

***Lot 2 DP 748682
132-138 Killeaton Street, St Ives***

***MP 10_0057 MOD 2 – Modification to enable
permanent dewatering, post construction of
the basement***

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

November 2011

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1. BACKGROUND

1.1 The Site

The site is located at Lot 2 DP 748682, 132-138 Killeaton Street, St Ives, situated on the southern side of Killeaton Street between Mona Vale and Yarrabung Roads in the Ku-ring-gai Local Government Area.

The site is L-shaped and has an area of 2.297 hectares that falls approximately 3 metres from the northern (Killeaton Street) boundary to the southern (rear) boundary. The site formerly accommodated a complex which comprised a monastery, college and chapel. The site has been largely cleared, with only the monastery, a two storey brick building, and a small stable remaining (refer **Figure 1** below).

An avenue of large mature trees is located along the existing driveway located adjacent the eastern (side) boundary. A group of mature Ironbark trees is located centrally on the front (Killeaton Street) boundary and are identified in Ku-ring-gai LEP 2010 as having "Biodiversity Significance".

Killeaton Street is a two-lane local road with parking either side and forms a T-Junction with Mona Vale Road approximately 120 metres to the west.



Figure 1: Site Locality

1.2 Previous Approvals

On 2 May 2011, the Planning Assessment Commission approved a Project Application (MP 10_0057) for the construction of a residential development including demolition and excavation; construction of 6 residential buildings of 4-6 storeys in height comprising 298 apartments; adaptive – reuse of the monastery building for communal facilities including pool and gymnasium; basement parking; and landscaping works.

On 6 August 2011, the Director-General approved amended plans to satisfy Condition B1A of the approval. The plans (including an additional basement car parking level) provided car parking numbers in accordance with the requirements for visitor and residential parking in the *Ku-ring-gai Development Control Plan (Town Centres) 2010*.

1.3 Previous Modifications

On 17 October 2011, the Acting Director General approved a Modification Application (MP 10_0057 MOD 1) which involved the use of the existing driveway along the eastern boundary during construction.

On 7 September 2011, the proponent lodged a Modification Application (MP 10_0057 MOD 3) for a reduction to the number of visitor parking spaces. This modification is still under assessment by the department. Once an assessment is finalised, it will be forwarded to the Planning Assessment Commission for determination as Council has objected to the modification.

Works in accordance with the approval are currently being carried out on the site.

2. PROPOSED MODIFICATION

The application seeks to modify condition C35 (a) and (b) that currently precludes the need for permanent dewatering of the basement. It is proposed to enable permanent dewatering of the basement, post construction, through a dewatering system that will be electronically activated upon water rising within the pump pit on the basement floor.

The proposed condition as modified reads as follows:

C35 Groundwater

- (a) ~~The design and construction of the structure must preclude the need for permanent dewatering.~~ **The design and construction of the structure may permit permanent dewatering, post construction, subject to obtaining the necessary licensing approvals.**
- (b) ~~The design and construction of the structure that may be impacted by any watertable must include a water-proof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of water table levels. (It is recommended that a minimum allowance for a water table variation of at least +/-1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.~~
- (c)

The application states that the basement will intersect with the groundwater and over the long term, the additional water in the basement should be collected in sumps and pumped into Council's stormwater system.

The proponent engaged Hayes Environmental Consulting Pty Ltd to prepare a *Management Plan for Post-Construction Permanent Basement Pump Out* that provides a plan for the on-going

(permanent) management of the basement pump out system (in operation post-construction of the basement slabs). The objectives of the plan are to ensure that:

- all basement water is discharged to Council's stormwater drainage system in accordance with the requirements of the *Protection of the Environment Operations Act 1997*; and
- discharges derived from the basement pump out do not cause adverse impacts on any receiving waterways, both in terms of quantity and quality of water.

A water monitoring program and contingency measures are also included that would be implemented should failures of the dewatering system be encountered.

Further details of the proposed modifications are provided in **Appendix A**.

The department further notes that this proposal would also require a modification to Condition C34(a) as follows:

C34 NSW Office of Water

*Licences under Part V of the Water Act 1912 are required for the works **for the take of water (i.e. dewatering either pre, during or post construction and of any on-going dewatering for the life of the structure)** for purposes of temporary dewatering as part of any proposed excavation and construction and in accordance with the following;*

- (a) Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering;*
- (b)*

The recommended modified wording is provided in **Appendix C**.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

Under Section 75W (2) of the EP&A Act, 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. In this instance, it was concluded that the proposed modification required a formal application to modify the approval.

3.3 Environmental Assessment Requirements

Section 75W (3) of the EP&A Act provides that the Director-General may notify the Proponent of environmental assessment requirements (DGRs) with respect to the proposed modification that the Proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the Proponent of environmental assessment requirements pursuant to Section 75W (3) with respect to the proposed modification, as sufficient information was provided to the Department to consider the application.

3.4 Delegated Authority

The Minister has delegated his functions to determine Part 3A applications to the Deputy Director General where:

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

There have been no submissions received from the public and the issues Council originally raised have been resolved. There has been no political disclosure statement made for this application.

Accordingly the application is able to be determined by the Deputy Director General under delegation.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X (2) (f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the Department's website and referred to Ku-ring-gai Council, the Office of Environment and Heritage and the NSW Office of Water for comment.

No public submissions were received on the modification request.

The following comments were received from the NSW Office of Water, Office of Environment and Heritage and Ku-ring-gai Council:

NSW Office of Water (NOW) raised no concerns with the proposed modification provided that the modified conditions of approval stipulate that the proponent obtains the necessary licensing approval under NSW water legislation from NOW prior to undertaking the works. Any licensing approval from NOW is also to include metering requirements.

Condition C34 of the approval requires the proponent to obtain licences under Part V of the Water Act 1912 for purposes of temporary dewatering as part of the excavation and construction of the proposal. An amendment to this condition is required to enable permanent dewatering, post construction, in accordance with the proposed modification.

Recommended conditions to satisfy comments received from NOW are included in **Appendix C**.

Office of Environment and Heritage (OEH) initially raised concerns with the proposed modification in terms of the protection of water quality (ensuring that only clean water is discharged) and the impact upon groundwater dependent ecosystems.

In response to the issues raised by OEH, the proponent submitted an amended management plan, however OEH maintained its concerns. The proponent again provided further information regarding:

- discharge of groundwater from the pump pit; and
- confirmation of groundwater treatment including the use of an oil separator and 3 gross pollutant traps.

OEH has reviewed the information and has advised the department that OEH does not oppose the proposed modification to the conditions of approval. OEH also advised that the proponent is required to comply with Section 120 of the *Protection of the Environment Operations Act 1997* which makes it an offence to pollute waters.

Ku-ring-gai Council initially did not support the proposed modification and raised concerns with the submitted management plan. Further details were requested to address a range of issues. The proponent submitted an amended management plan having particular regard to Council's submission.

On 4 November 2011, further comments were received from Council following a site inspection held with the proponent. Council advised that as NOW has not opposed the proposal, Council does not raise any objections if the following matters were addressed:

- obtaining the necessary licensing approvals from NOW; and
- inclusion of a positive covenant / restriction as to user condition for the future protection of the receiving waters.

The proponent has agreed with Council's recommended condition, which is included in **Appendix C**.

5. ASSESSMENT

The Department considers the key issue for the proposed modification is the quality of the water discharged into Council's stormwater system or reinjected into the subsoil drainage trenches.

OEH and Council initially raised concerns with the proposed modification, predominantly based on the information submitted in support of the modification and the lack of certainty over the quality of the water once it had been treated. Concerns were also raised regarding the justification for the change from a water proof basement to one requiring permanent dewatering.

In response to these issues, the proponent submitted an amended *Management Plan for Post-Construction Permanent Basement Pump Out* prepared by Hayes Environmental Consulting Pty Ltd. This plan complements HEC's *"Management Plan for Temporary Dewatering During Excavation and Construction"*.

The plan states that:

- all water that accumulates in the basement will be collected and drained into a pit containing a functioning oil-water separator, prior to being purified;
- treated water is then pumped into the local stormwater system;
- the estimated total volume of water to be discharged from the basement is approximately <2500 litres per day (2.5m³ / day);
- monthly inspections and monitoring are proposed to be carried out to ensure the system is operating as required; and
- a comprehensive data set will be collated over a 6-12 month period to determine further monitoring and / or treatment requirements.

The department has reviewed the plan, comments received from NOW, OEH and Council (which raise no objection) and considers that subject to the implementation of the plan as proposed and compliance with the recommended conditions of approval, the proposed modification to enable permanent dewatering will ensure that the quality of water is of an acceptable quality when discharged from the basement. The measures proposed by the proponent are considered to be acceptable.

Appropriate conditions of approval have been incorporated into the recommended modifying instrument at **Appendix C**.

6. RECOMMENDATION

It is recommended that the Deputy Director General:

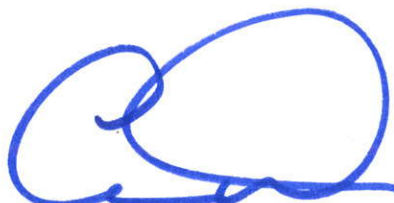
- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modification request under delegated authority, subject to conditions; and
- (c) **sign** the attached Instrument of Modification for MP 10_0057 MOD 2.

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23.11.11

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APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4910

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4910

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
