

ASSESSMENT REPORT

M2 SITE, NORTH RYDE SSD 5093 MOD 1

1. INTRODUCTION

This report provides an assessment of an application seeking approval to modify a State Significant Development approval (SSD 5093) for the redevelopment of the M2 Site within the North Ryde Station Precinct. The application has been lodged by Urban Growth NSW pursuant to section 96(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to modify the alignment of an underground gas main, from within the subject site onto the adjoining RMS land.

2. SUBJECT SITE

The subject site, known as the 'M2 Site' is located adjacent to the M2 Motorway at North Ryde. The site has a total area of 91,530m² and is owned by Urban Growth NSW. The modification application also relates to the adjoining land within the M2 Motorway road reserve, legally described as Lot 183 in Deposited Plan 1154994 (**Figure 1**). The land within the M2 Motorway road reserve is owned by the RMS.



Figure 1: Site Location: M2 Site shown in red; adjoining section of M2 road reserve land shown in green (base image source: Nearmap)

The northern portion of the site contains remnant bushland and a small creek known as Porters Creek. Otherwise the site has generally been cleared and used as a site compound associated with the M2 Hills Motorway upgrade and the Epping to Chatswood railway line.

Development surrounding the site includes large scale commercial / office premises to the north and west, a mix of open space and residential uses to the south across Epping Road, and the Macquarie Park Crematorium and Cemetery to the east beyond the M2 Motorway.

3. APPROVAL HISTORY

On 6 March 2015, the Executive Director, Infrastructure and Industry Assessments, granted State Significant Development Approval (SSD 5093) for a Concept Proposal and Stage 1 works for the redevelopment of the M2 Site at North Ryde.

The Concept Approval included subdivision of the site into 12 development lots, allocation of floor space across the site, public open space, roads, and infrastructure works.

The approved Stage 1 works included site preparation works; super lot subdivision, civil and public domain works, including construction to the new roads, open space, relocation of an existing gas main to the boundaries of the site, a pedestrian bridge over Delhi Road, and other infrastructure works.

4. PROPOSED MODIFICATION

On 18 June 2015, the Proponent lodged a section 96(2) modification application (SSD 5093 MOD 1) seeking approval to amend the proposed location of the gas main, from inside the site running along the northern and eastern boundaries, to outside the site onto the adjoining RMS land and road reserve just outside the northern and eastern boundaries.

The modification application was subsequently revised, and now seeks approval to locate the gas main just outside the eastern boundary, but remaining inside the site along the northern boundary, as originally approved (refer **Figure 2**).

The works would involve:

- clearing trees and vegetation over a 5 metre wide path;
- progressively excavating a trench up to 1.2 metres deep and 0.45 metres wide, centrally located within a 3.0 metre wide easement along the property boundary;
- laying the gas main;
- refilling the trench; and
- rehabilitating the 5 metre wide path with native shrubs and groundcovers.

The modification is requested on the basis that it would:

- allow the site to be redeveloped without the encumbrance of the gas pipeline; and
- reduce impacts to the Northern Bushland Park and Porters Creek.

A comparison of the existing and proposed location of the gas main is shown in **Figure 2**. A typical cross section of the pipeline construction is shown in **Figure 3**.

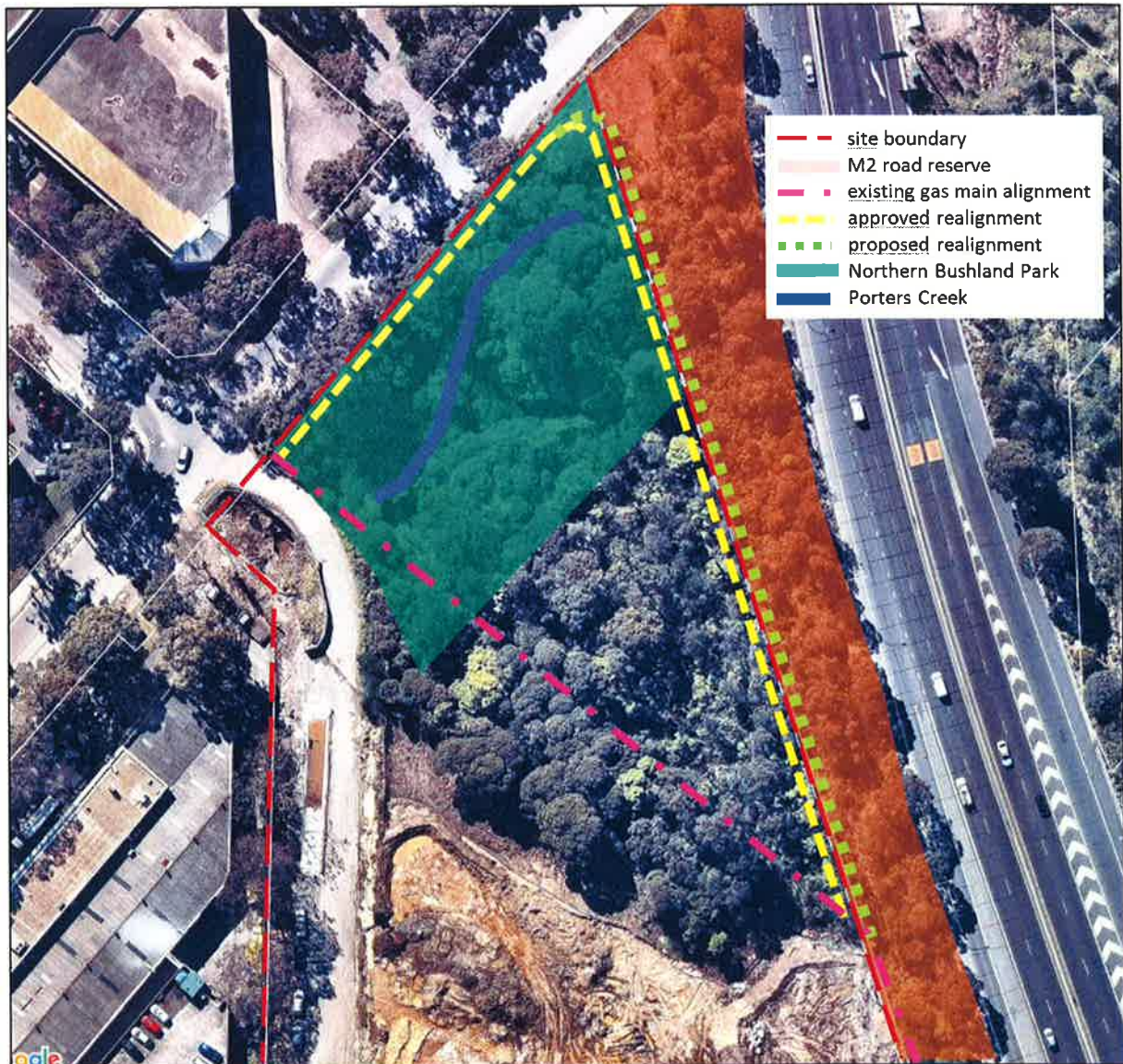


Figure 2: Northern part of M2 Site showing line of existing, approved and proposed gas main

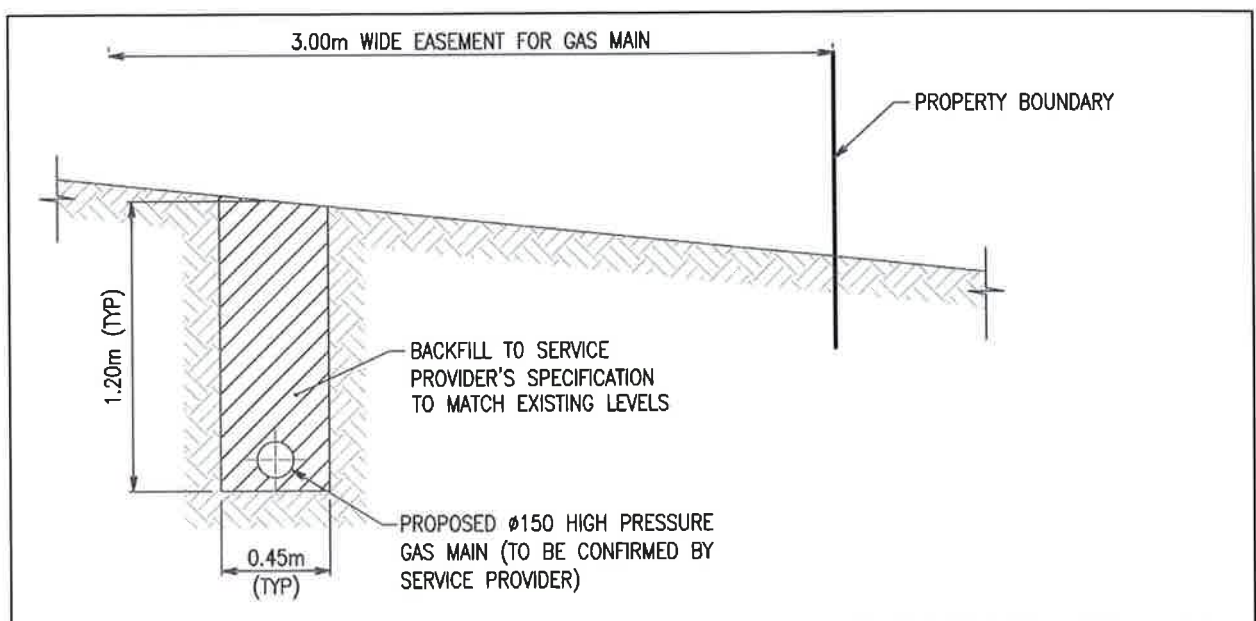


Figure 3: Typical cross section

5. STATUTORY CONSIDERATION

5.1 Modification of approval

Section 96(2) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approval:

Section 96(2) matters for consideration	Comment
<i>That the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).</i>	<p>In quantitative terms the proposed modification results in no material change to the development. The proposed relocation of the gas main does not change the number of development lots, approved future floor space, or the delivery of any of the approved infrastructure.</p> <p>In qualitative terms, the proposal represents a minor change to the alignment of an underground gas main (shifting the alignment approximately 4 metres to the east). In the context of the entire approval, the gas main realignment is a minor element, and being located underground, the proposed modification, including relocating the gas main to the adjoining land, would result in no discernible change to the final development of the site.</p> <p>The Department is therefore satisfied that the proposal is substantially the same development for which consent was originally granted.</p> <p>The incorporation of the adjoining land into the land to which the consent relates is within the concept of modification of the development under s 96.</p>
<i>The Department has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent.</i>	While the approved development was not integrated development (due to it being State Significant Development), a consent under Section 138 of the Road Act 1993 is still required pursuant to section 89K of the EP&A Act. The Department has consulted Roads and Maritime Services (RMS) on the proposed modification and no objection was made (see Section 6.1). RMS has made recommendations for conditions to be included on the development consent. The Department has included conditions in the recommendation where appropriate.
<i>The application has been notified in accordance with the regulations</i>	The modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 6 of this report.
<i>Any submission made concerning the proposed modification has been considered.</i>	The issues raised in submissions are outlined in Section 6.1 and have been considered in Section 7 of this report.
<i>Consideration of relevant matters referred to in Section 79C(1) of the EP&A Act.</i>	The Department has considered all relevant matters for consideration under section 79C(1) of the EP&A Act in its assessment of the proposal provided in this report. The proposed modification would not have any adverse environmental impacts as outlined in Section 7 . Environmental Planning Instruments relevant to the modification have been considered in Appendix C .

5.2 Environmental Planning Instruments

The following environmental planning instruments (EPIs) apply to the site:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Infrastructure);*
- *State Environmental Planning Policy No 55 - Remediation of Land*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and*
- *Ryde Local Environmental Plan 2014.*

The Department undertook a comprehensive assessment of the redevelopment against the above EPIs in its original assessment. The Department's consideration of the EPIs relevant to the proposed modification is provided in **Appendix C**.

5.3 Permissibility

The adjoining M2 road reserve where the gas pipeline is proposed is zoned SP2 Infrastructure "Classified Road" under *Ryde Local Environmental Plan 2014* (LEP). The proposed gas pipeline is prohibited on that land under the LEP. It also sits just outside the boundary the land identified as a SSD site under *State Environmental Planning Policy (State and Regional Development) 2011* (the SRD SEPP).

However, Clause 8F(2) of the SRD SEPP provides that where development is only partly SSD, the remainder of the development is also declared to be SSD (except where the Director-General determines it is not sufficiently related to the SSD).

The Department is satisfied that the relocation of the gas pipeline is sufficiently related to the development of the M2 site, and therefore is also declared to be SSD.

Section 89E(3) of the EP&A Act provides that in the case of SSD, consent may be granted despite being partly prohibited, and on this basis, the proposed modification is therefore permissible with consent.

5.4 Approval Authority

The Minister for Planning is the approval authority for the application. However, in accordance with the Minister's delegation dated 16 February 2015, the Executive Director, Infrastructure and Industry Assessments may determine the application as:

- City of Ryde Council has not objected to the application;
- a political disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

6. CONSULTATION

The application was exhibited in accordance with the *Environmental Planning & Assessment Regulation 2000*. The modification request was made publicly available on the Department's website and at the Department's Information Centre and at the City of Ryde Council (Council). The Department also placed a public exhibition notice in the Sydney Morning Herald, Daily Telegraph, and Northern District Times on 15 July 2015 and notified adjoining landholders and relevant State and Local Government Authorities in writing. Nine submissions were received, including seven from public authorities and two from the public, as outlined below.

No submission was received from Council.

6.1 Public Authority Submissions

Roads and Maritime Services (RMS) does not object to the proposal but recommend the inclusion of a number of new conditions requiring the proponent to follow RMS protocols, provide surety for M2 infrastructure, provide a construction traffic management plan, and to limit all works to a 3 metre wide easement to be established from the common boundary. RMS also recommends that the site be rehabilitated in accordance with the *M2 Landscape Management Plan*, and that appropriate consideration be given to heritage, noise, and vibration impacts.

Ausgrid does not object to the proposed modification but advised that there were two large cables in the vicinity of the proposed pipe alignment (within the Wick Road road corridor) and

recommended that any modification approval include conditions to ensure the protection of the cables including Ausgrid's associated costs.

In response to Ausgrid's concerns, the proponent amended the modification request and no longer seeks to run the pipeline within the Wicks Road road reserve. Ausgrid advise this change has addressed its concerns in respect of a potential conflict with its power cables.

Office of Environment and Heritage, Heritage Division (OEH), does not object to the proposal, but suggested that the heritage impacts of the modification on the heritage listed Northern Suburbs Cemetery should be considered. Specifically, that the pipeline requires removal of trees which form a visual buffer to the site when viewed from the cemetery. A condition in relation to the discovery of archaeological deposits during construction is also recommended.

Department of Primary Industries, Office of Water (DPI) does not object to the modification, but sought clarification as to whether the gas pipeline would cross Porters Creek, and if so, whether there would be impacts to the riparian corridor.

In response to DPI's concerns, the applicant submitted additional information to demonstrate that the pipeline would not cross the creek, but would be located above the headwall (refer to discussion in **Section 7.2**). DPI advise it supports this approach.

Environment Protection Authority (EPA) did not object to the modification but recommended consideration be given to whether a licence is required under the Protection of the Environment Operations (POEO) Act, as well as compliance with the POEO Act. The EPA also recommended that the Construction Environment Management Plan required by condition B3 of the existing approval should be updated to reflect the changes arising from the modification.

Sydney Water does not object to the modification. Existing conditions requiring a Section 73 certificate will address Sydney Water issues in relation to wastewater, servicing and Sydney Water assets.

Jemena does not object to the modification. It owns and operates the gas pipeline. It advises it requires an easement over the pipeline which should be rehabilitated with low growing grass species for erosion control and ease of monitoring.

6.2 Public Submissions

Two submissions were received from the public including the Ryde – Hunter's Hill Flora and Fauna Preservation Society. Key concerns included:

- lack of clear plans showing impacts to / relationship with existing concrete drain and other infrastructure;
- tree removal impacts including impacts to native fauna and soil stabilisation;
- appropriate revegetation of the corridor; and
- protection of the Porters Creek culvert and impacts to riparian zone.

7. ASSESSMENT

The Department considers the key issues associated with the proposed modification are:

- tree removal and revegetation; and
- impacts to infrastructure.

All other issues are considered in **Table 2** below.

7.1 Tree Removal and Revegetation

Construction of the gas pipeline requires the removal of trees and vegetation over a path of up to 5 metres in width. Following construction, it is proposed to rehabilitate and revegetate the cleared area with new local ground covers and shrubs (to a mature height of up to six metres), however replacement trees are not recommended for replanting above the new pipeline, for maintenance and monitoring reasons.

The modification essentially results in the relocation of impacts from just inside the eastern boundary to just outside the eastern boundary of the site (refer **Figure 2**).

Overall, the modification is likely to result in a net increase in tree removal from the area, as the land outside the boundary contains numerous trees which would otherwise be retained, while much of the area along the approved alignment inside the boundary is already approved to be cleared of trees for future construction. However, the proposed modification would also result in less trees being removed from the 'Northern Bushland Park', which forms part of the Porters Creek riparian zone (refer **Figure 2**).

The Flora and Fauna Assessment prepared for the modification notes that affected M2 Motorway land contains no threatened flora or fauna species, no threatened ecological communities, and is dominated by exotic plant species and weeds. It makes recommendations for revegetation and rehabilitation with local shrubs and groundcovers following construction.

Information has also been submitted to update the approved Vegetation Management Plan to reflect the new pipeline alignment, to ensure trees within the Northern Bushland Park previously identified for removal are appropriately retained and protected.

The Department is satisfied the proposed tree removal is acceptable for the following reasons:

- the modification allows more trees to be retained within the Northern Bushland Park, which would improve the amenity of this open space area, its function as a bushland reserve and value as a riparian zone;
- vegetation in the M2 road reserve is of limited environmental value, given it does not serve an open space purpose, is dominated by weeds and exotic plant species, and contains no threatened flora or ecological communities;
- revegetation of the pipeline route after construction with local shrubs and groundcovers would result in an improved outcome for the provision of native flora; and
- the additional tree removal would not result in any other adverse impacts such as impacts to fauna or heritage values as discussed in **Table 2** below.

7.2 Impacts to Infrastructure

Concerns were raised with respect to the relationship of the pipe on:

- Porters Creek and headwall;
- an open drain in the M2 road reserve; and
- electricity cables owned by Ausgrid.

The Department has considered the potential impacts on this infrastructure below.

Porters Creek and Headwall

In response to concerns raised in submissions about the impact of the realignment on Porters Creek, the applicant submitted additional details confirming that the gas main would not cross the creek, but would be located above the headwall of the creek (**Figure 4**). The gas main would cross the culvert in a concrete encasement on top of the existing headwall outlet.

The Department considers that the proposed modification results in an improved outcome compared to the approved alignment, which located the crossing to the west of the outlet, traversing through Porters Creek. This would have required temporary disturbance of the creek and creek bank stabilisation to construct a trench and pipeline underneath the waterway. The proposed modification allows the gas pipeline to be relocated without any disturbance to the creek bed or banks.

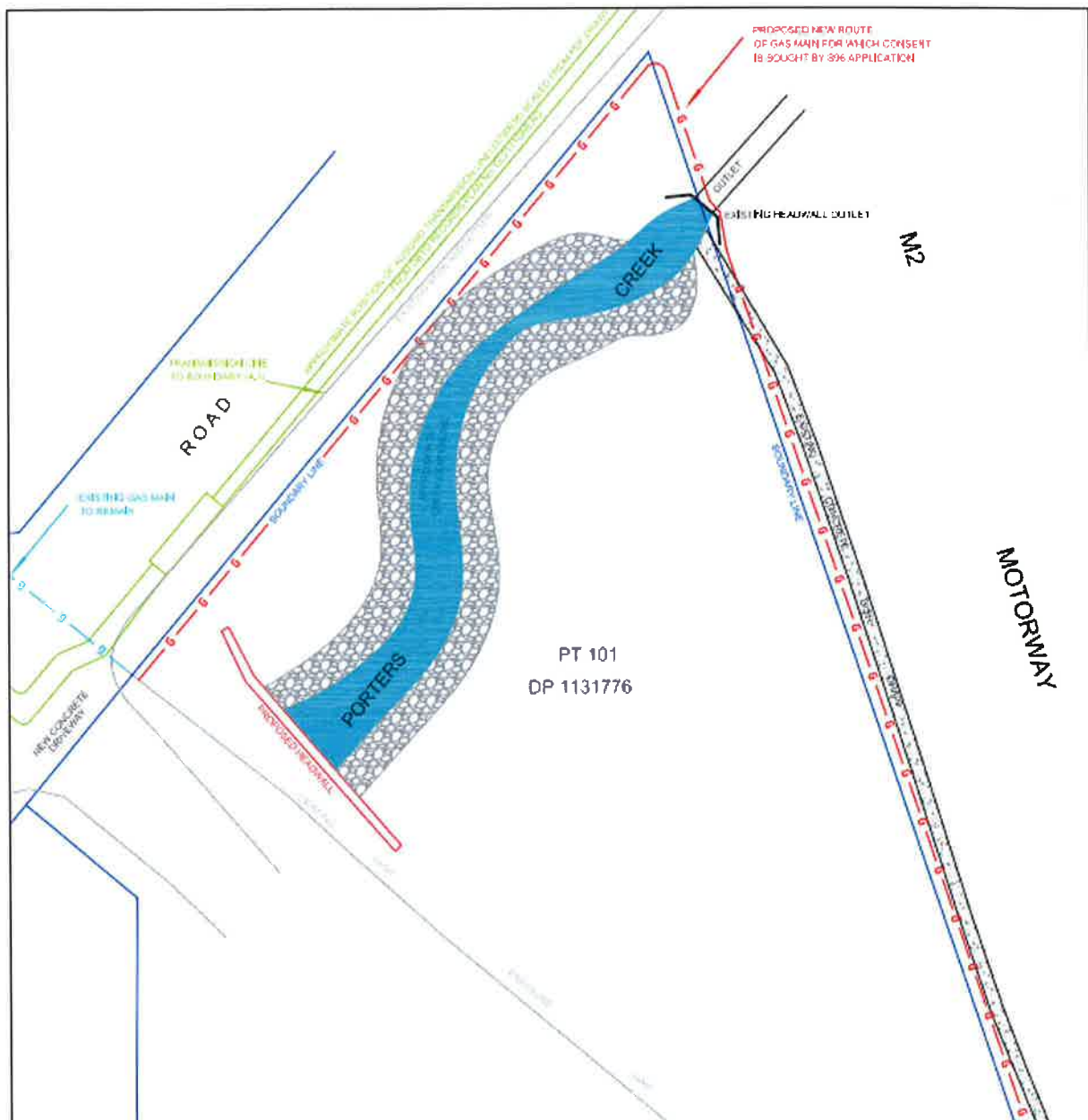


Figure 4: proposed location of gas pipe relative to Porters Creek headwall and stormwater drain.

M2 Motorway Open Drain

As shown in **Figure 4**, the proposed pipeline would intersect with an open concrete drain which diverts stormwater runoff from the M2 Motorway to Porters Creek. Concerns were raised regarding the impact of construction on the drain.

The applicant advises that where the drain intersects with the proposed pipeline, it would be demolished and reinstated to its former condition following installation of the pipeline. As the drain is a basic structure with no separate foundations or reinforcing, it is considered to be a

simple process to demolish and reinstate it to its former condition. In the interim, routine sediment and erosion control measures, which are required by existing conditions of consent, would be maintained.

A condition has been also recommended to ensure the proper reinstatement of the drain. On this basis, the Department is satisfied that the proposal would adequately manage impacts to existing infrastructure on the M2 site.

Electricity Lines

As described above in **Section 6.1**, Ausgrid's concerns in relation to potential impacts on electricity cables located in Wicks Road (shown in green on **Figure 4**) have been resolved, as the applicant no longer proposes to run the pipeline along the Wicks Road road reserve (as was the original intention of the modification), but to maintain the approved alignment inside the northern boundary of the site.

7.3 Other Issues

Table 2: Assessment of Other Issues

Issue	Consideration	Recommendation
<i>Heritage Impacts</i>	<ul style="list-style-type: none"> • OEH raised concern with the trees to be removed for the construction of the pipeline. OEH understood the Heritage Impact Statement (HIS) prepared for the development of the M2 site identified these trees as forming a visual buffer to the site when viewed from heritage listed Northern Suburbs Cemetery (located on the opposite side of the M2 Motorway). • However, the HIS does not recognise the affected trees as having any heritage value or value as a visual buffer. Rather, it is the trees within cemetery itself, and along the western boundary of the cemetery which are recognised by the HIS as providing a landscape buffer to surrounding development. • Given the significant separation of the trees from the cemetery by the M2 Motorway, the Department is satisfied that the trees do not form a material part of the visual setting of the cemetery and removal of the trees would not have any discernible impacts on the visual setting or heritage values of the cemetery. • OEH also recommends a condition in relation to the discovery of archaeological deposits during construction. The Department considers that existing conditions C17 and C18, which include requirements in the event of archaeological or Aboriginal objects being discovered, are satisfactory to manage the impacts on relics if found during the realignment of the gas main. 	No additional conditions or amendments necessary.
<i>Riparian Impacts</i>	<ul style="list-style-type: none"> • The potential for impacts to the riparian zone of Porters Creek was raised by DPI and in public submissions. • However, as discussed above, the modification results in an improved outcome for Porters Creek and the riparian zone, as the pipeline would no longer cross the creek, and there would no longer be a requirement to disturb the creek during the construction phase. • Further, by relocating the pipeline further to the east, there would be a significant reduction in the need for tree removal or disturbance along the eastern edge of the riparian zone within the Northern Bushland Park. • As discussed above, conditions are recommended requiring the Vegetation Management Plan to be updated to ensure that trees and vegetation along the eastern edge of the park, which are now no longer required to be removed, be retained and managed appropriately. 	Conditions are recommended to update the Vegetation Management Plan to reflect the realignment of the gas main and to improve impacts on vegetation in the riparian zone.

Issue	Consideration	Recommendation
<i>Fauna Impacts</i>	<ul style="list-style-type: none"> • The Flora and Fauna Assessment submitted with the modification found that the affected area is unlikely to provide suitable habitat for any threatened fauna. • The assessment also found that even if some non-threatened native species use the area intermittently as marginal foraging habitat, the disturbed nature of the vegetation and dominance of exotic species, in conjunction with the large availability of other foraging habitat in the locality, means that adverse impacts to fauna are unlikely to occur as a result of the proposed gas main works. • Potential impacts on fauna as a result of tree removal were raised in one public submission. • Mitigation measures recommended by the Flora and Fauna Assessment, including rehabilitation of the disturbed areas with local species to improve long-term foraging habitat have been included in the recommendation. • Further, existing conditions of approval which require an ecologist to conduct pre-clearing surveys of habitat trees prior to felling, and the provision of nest boxes in the Northern Bushland Park, would appropriately managed and mitigated potential impacts on fauna. 	Conditions are recommended incorporating the mitigation measures recommended by the Flora and Fauna Assessment
<i>Construction Impacts</i>	<ul style="list-style-type: none"> • The EPA recommends that the Construction Environmental Management Plan required by Condition B3 of the approval, should be reviewed to ensure the proposed mitigation measures are adequate to address the proposed gas main realignment. • RMS recommends the provision of a Construction Traffic Management Plan and request that consideration be given to noise and vibration impact of the proposal. • As the proposed modification merely relocates the realignment from just within to just outside the eastern boundary (essentially shifting construction 3 metres to the east), the Department is satisfied that the proposal would not result in any material changes to construction impacts (other than the changes to trees and revegetation discussed above). • The Department is therefore satisfied that the current approval and requirements for Construction Environmental Management and Construction Traffic Management Plans are sufficient to adequately address traffic, noise, dust, soil, water, and waste issues during the construction phase. 	No additional conditions or amendments necessary.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- it would allow for a more appropriate alignment of the gas main away from residential development, resulting in reduced potential for land use conflicts and improved access for monitoring and maintenance over the long term;
- it would allow for improved retention of trees and vegetation within the Northern Bushland Park, improving the amenity of the open space area, its function as a bushland reserve and value as a riparian zone;
- it would result in improved outcomes for Porters Creek as it would no longer require disturbance of the creek; and
- while it would result in some additional tree removal, revegetation of the route after construction with local shrubs and groundcovers would result in an improved outcome for the provision of native flora within the road reserve and the removed trees would not result in any unacceptable impacts in terms of heritage or fauna impacts.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is RECOMMENDED that the Executive Director, Infrastructure and Industry Assessments ,as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 96(2), subject to conditions; and
- **signs** the notice of modification (**Appendix A**).

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