

Ms Carolyn McNally  
Secretary  
Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

Dear Ms McNally,

**Eastern Creek Business Hub - Concept Plan (SSD 5175 MOD 3)**  
**Eastern Creek Business Hub - Retail Development (SSD 8588)**

1. This statement of reasons needs to be read and considered in conjunction with the Department of Environment and Planning's (**Department**) *Section 4.55(2) Modification and State significant development assessment report: Eastern Creek Business Hub at Rooty Hill Road South, Eastern Creek* dated 15 June 2018, including all attachments.
2. On 19 June 2018, the Department referred the above concept plan modification application and associated State significant development application to the Independent Planning Commission NSW (**Commission**) for determination.
3. The Department referred the applications to the Commission for determination because of an objection raised by Blacktown City Council (**Council**).
4. Professor Mary O'Kane AC, Chair of the Commission, nominated John Hann (Chair) and Soo-Tee Cheong to constitute the Commission to determine the applications.
5. Though comprising two separate applications, the Department has referred them concurrently because the modifications to the concept plan approval are required to facilitate the proposed development in the State significant development application. As a result, the Commission has considered the two applications concurrently.
6. The approved concept plan (SSD 5175), (as previously modified), comprises a staged development to provide 'retail premises', 'bulky goods premises' and 'business premises' uses on a site located on Rooty Hill Road South, Eastern Creek. The approved concept plan includes building envelopes and design guidelines to guide the subsequent development of the site.
7. The site is located on Rooty Hill Road South, Rooty Hill and is composed of Lot 1 DP 1103025, Lots 2 & 3 DP 1041487, Lot 100 DP 882326, Lots 1B, 2A, 3A, 3B, 4B, 5B & 13B DP 8681, Lot 1 DP 135665, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, & 10 DP 830836, Lot A DP 358346, Lots 1, 3, 4, 5, 6, 7 & 8 DP 31130, Lots 11, 12 & 14 DP 882325 and Lots 1 & 2 DP 1069269.
8. The site forms part of the Western Sydney Parklands. The site is owned by the Western Sydney Parklands Trust. Fraser Property Group (the **applicant**) has a development management agreement to develop the land for a retail centre. The site is located within the Blacktown Local Government Area.

9. In the concept plan modification application (SSD 5175 MOD 3), the applicant seeks to modify Stage 1 to increase the total maximum gross floor area (**GFA**) by 2,338 m<sup>2</sup> (comprising 654m<sup>2</sup> of retail GFA and 1,684m<sup>2</sup> of circulation space) from 53,500m<sup>2</sup> to 55,838m<sup>2</sup> (**modification application**).
10. In the State significant development application (SSD 8588), the applicant seeks approval to develop, construct and operate a convenience retail development on approved Lot 2 (under Stage 1 of the Concept Approval) comprising a supermarket, specialty shops, food and drink premises, a medical centre, pharmacy, gymnasium and car parking, end-of-trip facilities, community garden, signage zones, loading dock facilities and convenience retail, a medical centre, childcare facility, and associated landscaping and infrastructure (**development application**).
11. On 1 March 2018, the *Environmental Planning and Assessment Act 1979 (EP&A Act)* was amended. Even though the concept plan modification application and State Significant development application were both submitted prior to 1 March 2018, the amended EP&A Act applies.
12. Therefore, the Commission is the consent authority under section 4.5(a) and 4.55(2) of the EP&A Act and clauses 8A(1)(a) and 8A(2) of the *State Environmental Planning Policy (State and Regional Development) 2011*.
13. On 5 July 2018 the Commission met with representatives of Council and the applicant. The Commission also visited the proposed development site. Records of these meetings are available on the Commission's website.
14. In determining the applications, the Commission has carefully considered:
  - the concept plan (SSD 5175), as previously modified, including the Department's assessment reports dated 7 January 2015, 28 April 2016 (SSD 5175 MOD 1), and 21 December 2018 (SSD 5175 MOD 2) including the attached environmental impact statements and Response to Submissions (**RtS**);
  - the Department's report for State significant development application (SSD 8588) and concept plan modification application (SSD 5175 MOD 3) dated 15 June 2018, including all attachments (**the Department's report**);
  - submissions from agencies as set out in Table 4 of the Department's report;
  - the public submission as set out in section 4.1.2 of the Department's report;
  - submissions from Council dated 5 July 2018 and 9 July 2018;
  - section 4.55(2) of the EP&A Act for the concept plan modification application; and
  - section 4.15 of the EP&A Act and the matters it requires the Commission to consider including the likely impacts on the environment, social and economic impacts in the locality, the principles of ecologically sustainable development, the public interest and relevant environmental planning instruments:
    - *State Environmental Planning Policy (State & Regional Development) 2011*;
    - *State Environmental Planning Policy (Western Sydney Parklands) 2009*;
    - *State Environmental Planning Policy (Infrastructure) 2007*;
    - *State Environmental Planning Policy No.64 Advertising Structures and Signage*;
    - *State Environmental Planning Policy No.55 Remediation of Land*.
15. In the case of the modification application the Commission has carefully considered and accepts the Departments' consideration of the modification against section 4.55(2) of the EP&A Act. The Commission finds that:
  - the proposed concept plan modification is substantially the same development as the development originally approved;

- there are no conditions or general terms of approval imposed as a requirement of concurrence on the original approval (and therefore no requirement to consult others in respect of such concurrence);
- the modification application was appropriately modified and the Commission has considered all submissions as identified in paragraphs 19 and 20 below.

16. The Commission must be satisfied of a number of matters set out in *State Environmental Planning Policy (Western Sydney Parklands) 2009* before granting consent to the State significant development application. These are pre-conditions to the Commission's authority to grant consent and they are set out in table 1 below.

**Table 1:** Pre-conditions to consent as set out set out in *State Environmental Planning Policy (Western Sydney Parklands) 2009*.

CI	Pre-condition	Commission's view
13	The Commission must be satisfied that the development will have a neutral or beneficial impact on the quality of the water in the bulk water supply infrastructure (as mapped), and other particulars in relation to the bulk water supply infrastructure.	The site is not within the bulk water supply catchment and there is no bulk water supply infrastructure near the site. The Commission is satisfied that the development does not offend clause 13.
14	This clause applies to development on land in the Western Sydney Parklands that is in, or adjoins a nature reserve an environmental conservation area.	The development is not located on such land.
14A	This clause applies to land that is at or below the flood planning level.	The development is not located on such land.
16	The Commission must be satisfied that publicly visible signage is consistent with any signage policy prepared by the Western Sydney Parklands Trust; and if a road sign, consider any comments provided by Roads and Maritime Services (RMS).	RMS' submission (13 December 2017) identified that they were notified of the development application on 6 October 2017. The Commission has considered this submission.  The signage at the Eastern Creek Business Hub is consistent with the <i>Western Sydney Parklands Design Manual Version 1</i> .  The Commission accepts the assessment of signage set out in item 3 of Table 9 of the Department's report. The Commission is therefore satisfied that the development signage does not offend clause 16.
17A	The Commission must be satisfied that essential services are available to the development, or arrangements have been made to make them available when required.	The Commission is therefore satisfied that all the essential services required for the development and specified in clause 17A are to be made available to the development when required.
17B	This clause states development consent is required for earthworks unless the work is exempt development under this Policy or another applicable environmental planning instrument, or the work is ancillary to other development for which development consent has been given	The earthworks included as part of this development are ancillary to the development. Therefore, the earthworks do not require development consent specifically under this clause

17. The Commission has carefully considered and accepts the assessment of relevant environmental planning instruments set out in Appendix B of the Department's report. In particular, the Commission finds that the development application is:

- State significant development because it has capital investment value greater than \$50 million, which meets the criteria in clause 12, Schedule 1 of *State Environmental Planning Policy (State and Regional Development) 2011*; and
- permissible with development consent under clause 11 (2) of *State Environmental Planning Policy (Western Sydney Parklands) 2009*. Because it is "Any development not specified in subclause (1) or (3), or permitted without consent by subclause (1A)"

18. In accordance with schedule 1, clause 9 of the EP&A Act and clause 83 of the *Environmental Planning and Assessment Regulation 2000*, the Department publicly exhibited the applications from 12 October 2017 until 27 November 2017. The Department placed a public exhibition notice in the Blacktown Advocate on the 11 October 2017, and notified adjoining landholders and relevant State and local government authorities in writing. The Department received a total of eight submissions, comprising seven submissions from public authorities, and one public submission.
19. The public submission objected to the modification application, noting the proposed median strip and traffic signals would impact on residents and traffic along Rooty Hill Road South and that the proposed liquor store should not be located near a school.
20. The Commission accepts the Department's summary of the submissions, including the submission received by Council. A summary of the issues in the submissions is provided in sections 4.1.1 and 4.1.2 of the Department's report.
21. In addition, the Commission met with Council representatives on 5 July 2018. Council re-stated its concerns, as summarized in Table 4 of the Department's report, and also raised the following concerns:
  - Council is satisfied that the intersection design of Beggs Road and Rooty Hill Road South, including the pedestrian fencing for the median strip, and the traffic signals at Cable Place are important to maintain the safe operation of Rooty Hill Road South;
  - most impacts to Beggs Road will be from heavy vehicle traffic using the loading facilities for the retail centre and it is unreasonable for the community to completely cover the maintenance cost and a developer contribution should be provided; and
  - the proposed development does not provide adequate consideration of Council's requirements for storm water management.
22. Council provided follow up emails on 5 July 2018 and 9 July 2018, requesting the Commission impose further conditions regarding storm water management and a developer contribution in accordance with Blacktown City Council's *Section 94 Contributions Plan No 1*.
23. The applicant provided a RtS on 6 April 2018, included as part of the Department's report. The RtS provided additional information in regarding the submissions received and amended the development application to remove the child care centre from stage 1 of the development of the retail centre.
24. The RtS was made publicly available and referred to Council and RMS. Council maintained that it does not support the detailed design of Beggs Road in the development application and did not support the increase in retail GFA as outlined in its original submission. No response from RMS was received.
25. With regard to RMS' submission the Department's report identified that the approved concept plan requires the applicant to enter into a Works Authorisation Deed prior to any construction impacting on Rooty Hill Road South. The Department's report also identified that the concept plan "*includes land dedicated for road widening as part of the approved subdivision layout and an agreement with RMS in relation to the road upgrade works*".
26. In respect to the public submission and Council's concerns raised in paragraphs 19 and 21, the Commission finds:
  - as stated in the Department's report, the operator of the liquor store "*will need to obtain all relevant licenses and abide by the application regulations pertaining to the sale of packaged liquor in accordance with the Liquor Act 2007*" and the establishment of the proposed liquor store is allowable under relevant planning polices and the approved

- concept plan;
  - as stated in the Department's assessment report and RMS submission, inclusion of the median strip, including the pedestrian fencing, and traffic signals are important features in maintaining the safe operation of Rooty Hill Road South;
  - the Department's report identified two existing bus stops on Rooty Hill Road South, located near the project site, servicing both north and south bound traffic and providing suitable pedestrian connectivity to surrounding areas;
  - the updated acoustic report, provided as part of the RtS and contained in the Department's report, demonstrates the acoustic amenity of the two adjacent residences on Beggs Road, after the implementation of the described acoustic treatments, is unlikely to be significantly impacted, as the relevant noise level criteria, established by the NSW Environmental Protection Authority's *Industrial Noise Policy 2000*, are unlikely to be exceeded;
  - the upgrade to Beggs Road was considered as part of the Department's assessment and approval of the concept plan. In approving the concept plan, the Department noted the constraints on the site and that "*a single footpath would be sufficient in this case, given the road only services the loading dock and a single dwelling house, and adequate pedestrian links to the Business Hub are provided...*".
  - storm water management was considered and conditioned as part of the approved concept plan (Schedule 2, Condition B21), which requires that storm water and drainage management are "*designed in accordance with relevant requirements under Part R Blacktown Development Control Plan 2015 and Blacktown Engineering Guide for Development 2005 unless otherwise agreed with Council*"; and
  - allocation of car parks has been adequately considered and incorporated into the design guidelines for the concept plan, which sets a car parking ratio of 1 space per 25m<sup>2</sup> of GFA, as set out in the *RMS Guide to Traffic Generating Developments*. The concept plan modification application is consistent with this parking allocation.
27. The Commission acknowledges the Council's concerns, as presented in paragraph 22 regarding adequate contributions towards the maintenance of Beggs Road. The Commission notes that since the approval of the concept plan on 29 January 2015 no Section 94 Contribution Plan has been developed and that currently, no such plan is applicable to the development site.
28. The Commission has carefully considered the material identified in paragraph 14 and accepts the Department's assessment of:
- other submissions, including the one public submission, as set out in sections 4.1.1 and 4.1.2 of the Department's report;
  - the concept plan modification application and State significant development application against section 4.15 of the EP&A Act set out in section 5.2.4 of the Department's report; and
  - the proposed development against the concept plan approval and associated building envelope and design guidelines as set out in sections 5.2.5 and 5.2.6 and Appendices C and D of the Department's report.
29. The Commission is satisfied that the modification application and the development application are in the public interest, because:
- community and Council concerns have been appropriately considered in the Department's report, and managed through the proposed conditions in the concept plan modification instrument and the State significant development consent; and
  - the Department's report shows they satisfy the respective statutory schemes set out in the EP&A Act, and therefore represent the orderly and economic development of land in accordance with section 1.3 of the EP&A Act, as set out in Table 3 of the Department's report.

30. Therefore, the Commission has determined to approve the modification application and development application, subject to the conditions in the attached instruments, for the following reasons:
- the modification application and the development application satisfy the respective statutory schemes set out by the EP&A Act, including:
    - the concept plan (SSD 5175) dated 29 January 2015, as previously modified;
    - section 4.55(2) of the EP&A Act for the concept plan modification application;
    - section 4.15 of the EP&A Act and the matters it requires the Commission to consider including the likely impacts on the environment, social and economic impacts in the locality, the principles of ecologically sustainable development, the public interest and relevant environmental planning instruments, including:
      - *State Environmental Planning Policy (State & Regional Development) 2011*;
      - *State Environmental Planning Policy (Western Sydney Parklands) 2009*;
      - *State Environmental Planning Policy (Infrastructure) 2007*;
      - *State Environmental Planning Policy No.64 Advertising Structures and Signage*;
      - *State Environmental Planning Policy No.55 Remediation of Land*;
  - the modification application and the development application are in the public interest for the reasons set out in paragraph 29; and
  - Council's objections do not provide adequate reasons for why consent for the concept plan modification application and State significant development application should not be granted because the potential impacts are small and can be appropriately managed, as set out in paragraphs 26, 27, and 28.
31. The Commission has amended Condition A13 of the State significant development instrument to allow development on approved Lot 2 (Stage 1) not exceeding 11, 448 sqm to ensure consistency with the proposed development application and Schedule 1 of the development instrument.
32. The Commission has imposed the conditions in the attached modification application modification instrument and State significant development instrument for the following reasons:
- to prevent, minimise and/or offset adverse environmental impacts; and
  - to set standards and performance measures for acceptable environmental performance.
33. The reasons for the Decision are given in this Statement of Reasons for Decision dated 20 July 2018.



**John Hann**  
**Chair**  
**Independent Planning Commission**



**Soo-Tee Cheong**  
**Member**  
**Independent Planning Commission**

cc The Hon. Anthony Roberts, MP  
Minister for Planning  
GPO Box 5341  
Sydney NSW 2001