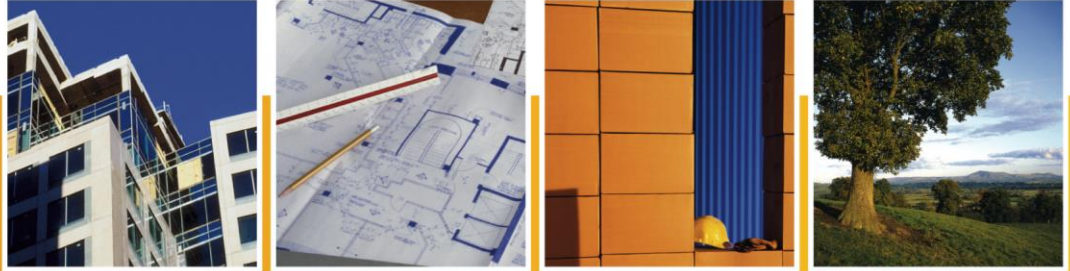


STATEMENT OF ENVIRONMENTAL EFFECTS



For
Section 4.55 Application for DA 05/3986
- To extend the Site Operation
At
Lot 1 DP195915
881 New England Highway, Lochinvar

Prepared For
Display Home Properties No. 2 Pty Ltd

August 2021
Report 21/046 Rev B

Prepared by



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CONTENTS

1.0	Introduction	5
2.0	Background.....	6
2.1	Approved development.....	6
2.2	Application particulars	6
2.2.1	Site description.....	6
2.2.2	Applicant details.....	6
2.2.3	Contact details	6
3.0	Proposed modifications.....	7
3.1	Conditions.....	7
4.0	Legislative Requirements	8
4.1	Environmental Planning & Assessment Act 1979	8
4.1.1	Modification of Consents.....	8
4.1.2	Designated Development	9
4.1.3	Integrated Development.....	9
4.2	State Environmental Planning Policy (Infrastructure 2007).....	9
4.3	State Environmental Planning Policy No 64 (Advertising and Signage).....	10
4.4	Maitland Local Environment Plan 2011	10
4.5	Maitland Development Control Plan 2011	12
5.0	Assessment under s4.15(1).....	13
5.1	Maitland Local Environmental Plan 2011	13
5.2	Maitland Development Control Plan 2011	13
5.4	Planning Agreement (including Draft Planning Agreements)	13
5.5	The Regulations.....	13
5.6	The Suitability of the Site for the Development.....	13
5.7	Any Submissions Made	13
5.8	The Public Interest	13
5.9	Likely Impacts of the Modification	14
5.9.1	Access and Traffic	15
6.0	Requirement of CI115	16
7.0	Conclusion.....	18

APPENDICES

- Appendix A: Approved Consents
- Appendix B: Approved Plans
- Appendix C: Traffic Report
- Appendix D: Owners Consent Form

TABLES

Table 1: Assessment of likely impact from proposed modification.....	14
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1.0 INTRODUCTION

This application has been prepared by HDB Town Planning and Design on behalf of *Display Home Properties No. 2 Pty Ltd* to lodge a s4.55 application in regard to *DA 05/3986* for the property at *881 New England Highway, Lochinvar, NSW 2321*.

This application seeks an extension to allow for continued operation of the existing display home pursuant to *s4.55(1A)* of *Environmental Planning & Assessment Act 1979* (the Act).

The following details are provided in accordance with the requirements of Clause 115 of EP&A Regulation 2000 for an application to modify development consents.

2.0 BACKGROUND

2.1 APPROVED DEVELOPMENT

The subject site is owned by Display Home Properties No. 2 Pty Ltd, and was granted approval on 28 March 2006, for the erection of display home under DA 05/3986. The consent only allowed the development to operate as an exhibition home for 2 years, from the date of the occupation certificate.

To extend this operational period, a modification application was lodged on 8 December 2010, which was determined to extend the previously two (2) year time frame to five (5) years from the date of issue of occupation period (10 October 2007). Refer to *Appendix A –Approved Consents*.

2.2 APPLICATION PARTICULARS

2.2.1 SITE DESCRIPTION

Address:	881 New England Highway, Lochinvar NSW 2321
Lot/DP:	Lot 1 DP 195915
Local Government:	Maitland
Locality:	Lochinvar
Area:	7847m ²
Zone:	R1 – General Residential

The current registered owner of the site is Display Home Properties No. 2 Pty Ltd.

2.2.2 APPLICANT DETAILS

Display Home Properties No. 2 Pty Ltd
C/- HDB Town Planning & Design
PO Box 40
MAITLAND NSW 2320

2.2.3 CONTACT DETAILS

Aprajita Gupta
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3.0 PROPOSED MODIFICATIONS

The proposal seeks to modify the existing consent to extend the operational period of the existing development to continue using the dwelling as a display home until the end of 2030.

Operational Details:

- Type of Business – “Exhibition Home”
- Number of Staff – Two
- Number of Visitors – Projections of initial peak of 70 per week leveling off to about 40 per week
- Number of Vehicles – Peak of 35 per week or 5 per day on average
- Hours of Operation – 10am – 5pm, 7 days per week

There will be no change required in the existing design, landscaping, access and other urban design considerations of the exhibition home.

The existing and the proposed consent conditions have been detailed as follows: -

3.1 CONDITIONS

Existing Condition 3:

The consent shall be limited to a five (5) year period from the date of issue of the Occupation Certificate, in accordance with Council's Exhibition Homes Policy.

Proposed Condition 3:

Subject to any further Development Application the consent shall operate until the end of 2030.

4.0 LEGISLATIVE REQUIREMENTS

The following legislative review is provided to give context to the application. It should be noted that due to minor nature and scale of the requested modification there is no requirement to review and/or consider the following legislation beyond what is provided herein.

4.1 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

4.1.1 MODIFICATION OF CONSENTS

Environmental Planning and Assessment Act 1979 provides the capacity to modify consents under Section 4.55 of the Act. To modify an application under s4.55 the application must fall within one of the three nominated pathways. These are: -

- S4.55(1) – Correction of a minor error, mis-description, or miscalculation.
- S4.55(1A) – Substantially the same development with the modification being of minimal environmental impact; and
- S4.55(2) – All other applications provided the development remains substantially the same development.

Extension to the operational period of the existing development would have no/minimal additional environmental impact, therefore it is considered that Section 4.55(1A) is the most appropriate action.

4.55 Modification of consents - generally

(1A) Modifications involving minimal environmental impact - A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- b) it is satisfied 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), and*
- c) it has notified the application in accordance with—*
 - i. the regulations, if the regulations so require, or*
 - ii. a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

(3) In determining an application for modification of consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

(4) The modification of development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to development consent includes a reference to development consent as so modified.

This modification will not produce any additional impacts other than those already considered in the original application. Therefore, the proposal would be substantially the same development and would have no additional impacts.

An assessment of the proposal against all relevant matters for consideration as required in Section 4.15(1) is provided later in this report.

4.1.2 DESIGNATED DEVELOPMENT

The proposed modification is not a Designated Development as defined by Schedule 3 of the EPA Act and therefore can be address via Section 4.55 modification.

4.1.3 INTEGRATED DEVELOPMENT

For the purposes of s4.46 of the Act, the proposed development is not considered as Integrated Development.

4.2 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE 2007)

101 Development with frontage to classified road

(1) The objectives of this clause are—

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The proposed amendment seeks to extend the time-period only without changing the existing access to the property. However, a Traffic Impact Assessment has been produced considering the current traffic conditions for the development. Refer **Appendix C – Traffic Report**.

The volume of vehicles has already been reduced on the primary road from the date of consent due to the construction of the Hunter Expressway. This has therefore reduced the impact of the approved development.

4.3 STATE ENVIRONMENTAL PLANNING POLICY NO 64 (ADVERTISING AND SIGNAGE)

3 Aims, objectives etc

(1) This Policy aims—

(a) to ensure that signage (including advertising)—

(i) is compatible with the desired amenity and visual character of an area, and

(ii) provides effective communication in suitable locations, and

(iii) is of high-quality design and finish, and

(b) to regulate signage (but not content) under Part 4 of the Act, and

(c) to provide time-limited consents for the display of certain advertisements, and

(d) to regulate the display of advertisements in transport corridors, and

(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

The proposed amendment does not pose any change to that approved under the previous consent. The signage is consistent with the approved plan considered under the DA 05/3986: 2. Refer to **Appendix B – Approved Plans**.

4.4 MAITLAND LOCAL ENVIRONMENT PLAN 2011

Existing Zoning & Permissibility

The subject lot is zoned R1 – General Residential under the provisions of the Maitland Local Environmental Plan (MLEP) 2011.

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Home occupations

3 Permitted with consent

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Group homes; Home-based child care; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Tank-based aquaculture; **Any other development not specified in item 2 or 4***

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies

Display Homes are permitted with consent in R1 zone. The proposed amendment does not seek to introduce any additional land uses or activity. In a new residential area Display Homes are a facility required by new residents and therefore, is not contrary to the objectives of the zone.

4.5 MAITLAND DEVELOPMENT CONTROL PLAN 2011

Maitland DCP is a companion document to the LEP and contains development standards for the land uses and activities supported in the planning instrument.

Modifications sought in this application is mostly consistent and do not result in any variation to the development standards or the built environment.

It is understood that DCP needs the development consent for an exhibition home to be granted for a maximum operational period of 5 years. However, due to the amount of investment to the property and the development happening in the surrounding area, the application seeks to extend the operational period until 2030.

5.0 ASSESSMENT UNDER S4.15(1)

Section 4.55 of the Act requires that an assessment under Section 4.15(1) must be undertaken. The following provides an assessment of the proposed modification against the provisions as outlined in Section 4.15(1).

5.1 MAITLAND LOCAL ENVIRONMENTAL PLAN 2011

As stated in *Section 4.4*, there are no additional considerations in Maitland LEP that would adversely affect this application. The proposed amendment is consistent with the provisions of this instrument.

5.2 MAITLAND DEVELOPMENT CONTROL PLAN 2011

The proposed modifications do not result in any variation to the development standards or the built environment, as stated in *Section 4.5*.

5.4 PLANNING AGREEMENT (INCLUDING DRAFT PLANNING AGREEMENTS)

No Planning Agreements or draft Planning Agreements were entered into and therefore this is not applicable.

5.5 THE REGULATIONS

There are no specific regulations that affect the site or the application.

5.6 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The property has functioned as an Exhibition Home since 2007. The proposed changes do not affect the existing operational activities only the length of the consent.

5.7 ANY SUBMISSIONS MADE

Any submission received as a result of the proposal will be considered.

5.8 THE PUBLIC INTEREST

Display homes not only provide people with information on dwellings, but also help understand the design techniques, construction aspects and cost associated with building homes. This needs the involvement of professionals including builders, analysts, and support staff to provide people with the reliable information via a display home.

Therefore, the proposed modification for the extension in operation period of the existing display home, will not only educate people on design and constructional aspects, but also help employees with their jobs. Public interest is therefore served by maintaining the existing benefits to the community and local economy.

5.9 LIKELY IMPACTS OF THE MODIFICATION

The table below provides a snapshot of the likely impacts of the modification on both the natural and built environments, and social and economic impacts on locality:

Matters for consideration	Assessment of likely impact from the proposed modification
Geology and soil	The proposed modification does not involve any changes to the current site activities that affect the soil conditions or stability.
Hydrology and water quality	There are no changes, or works, that affect the water quality or hydrology or stormwater regime on the site.
Contamination	There is no issue of contamination on the site, moreover the proposed amendment will not trigger any issues.
Access and Traffic	A Traffic Impact Assessment has been included in <i>Appendix C – Traffic Report</i> reviewing the current traffic numbers, conditions, and their impact. <i>Section 5.9.1</i> below summarises the impact of the proposal in accordance with the current access and traffic conditions.
Noise	The display home has been operating without any noise complaints since 2007. Given no significant change in operating conditions, no adverse impacts are anticipated.
Air Quality	There will be no impact on the air quality of the area.
Flora and Fauna	The proposed modification seeks to extend the use of the existing property as an Exhibition Home/Display Home and will not have any impact on the matters relating to the flora and fauna significance.
Visual Environment	The proposed amendments do not involve any external changes to building design and aesthetic of the existing property; hence the visual amenity of the area will remain unaffected by the proposal.
Waste Storage and Collection	The existing waste management measures will continue to be used on site.
Socio-economic Impacts	The proposed modification would help in maintaining the current employment levels associated with the property.

Table 1: Assessment of likely impact from proposed modification

Source: HDB Town Planning and Design

5.9.1 ACCESS AND TRAFFIC

The existing display home has a 7m wide combined entry/exit and is accessed via a driveway from the New England Highway. There is a provision of 10 onsite car-parking spaces (staff and visitors).

A Traffic Impact Assessment has been produced for the development, identifying any impact of current traffic numbers and conditions on the current provisions of access and parking. Refer to *Appendix C – Traffic Report*.

The report indicates that the proposal's peak traffic generation has remained the same since initially approved in 2007 and will not change as a result of the continued use of the display home. Additionally, since the opening of the Hunter Expressway (M15), there is a 30% reduction in traffic on the New England Highway. The existing traffic volume is less than the two-way mid-block capacity of the road and there is sufficient spare capacity to cater the future traffic involved with the continued use of the display home. Therefore, proposed modification would not impact on the adjoining road network and will not result in a deterioration of the level of service experienced by motorists.

The current provision of 10 car parking spaces for the development is in compliance with *Maitland DCP (2011) - Part C.3 – Exhibition Homes & Villages* which specifies the requirement of 2 car spaces including 1 access space.

The proposal is compliant with Maitland City Council, the Australian Standard and TfNSW's requirements.

6.0 REQUIREMENT OF CL115

Considerations under Clause 115(1) of the Environmental Planning & Assessment Regulation 2000 (EPA Regulations)

The following details are provided to the consent authority in accordance with the requirements of Clause 115 of EP&A Regulation 2000 for an application to modify development consents.

a) Name and address of the applicant

HDB Town Planning & Design
PO Box 40
Maitland NSW 2320

b) Description of the development to be carried out under the consent

The current consent, DA 05/396:2 provides the Display Home with a five (5) year operational period from the date of occupation certificate issue (being 10 October 2007). This application seeks to extend this date to the end of 2030.

c) Address and formal particulars of titles of the land on which development is to be carried out

Lot 1 DP 195915, 881 New England Highway, Lochinvar NSW 2321.

d) A description of the proposed modification to the development consent

A detail description of the proposed Modification has been included in **Section 3** of this report.

e) A statement that indicates either:

- (i) that the modification is merely intended to correct a minor error, misdescription, or calculation; or***
- (ii) that the modification is intended to have some other effect, as specified in the statement.***

The proposed modification only intends to increase the operational period of the existing Display Home without posing any external and internal changes to the existing structure, hence it is not considered to have any additional impact other than those considered in the initial proposal.

f) A description of the expected impacts of modification

Section 5 of the report provides an assessment of the modification against all relevant matters for consideration stipulated in s4.15(1).

In summary, the proposed modification does not inflict any additional risks, as it only seeks an extension to continue the existing use of the property as an Exhibition Home. As a result, the proposed modification will not vary from the current use on the site.

g) An undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved

A detailed assessment of the proposal has been undertaken to assess the proposed changes in **Section 4** and **Section 5** of this report. The proposed modification will allow the existing Display Home to operate for a longer time period, without additional impact other than those considered in the initial proposal. Hence, development as proposed is substantially the same as the currently approved.

e) If the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to making of the application:

- (i) a statement as to whether the application is being made to the Court or to the consent authority; and***
- (ii) if the consent authority so requires, must be in the form approved by that authority.***

The required owner's consent has been attached in **Appendix D – Owners Consent Form**.

This application is submitted to Maitland City Council under provisions of s4.55(1A) of the Act, as a modification with no or minimal environmental impact.

7.0 CONCLUSION

The modification to the consent as outlined in the report clearly indicates that the amended development is substantially the same as previously proposed and no additional impacts are anticipated.

An assessment of the proposal has been undertaken in accordance with s4.15(1A) which demonstrates that the modification meets the relevant planning requirements.

Maitland City Council is therefore respectfully requested to grant consent to this s4.55 amendment to *DA 05/3986: 2*, as requested.

APPENDIX A

APPROVED CONSENTS

APPENDIX B

APPROVED PLANS

APPENDIX C

TRAFFIC REPORT

APPENDIX D

OWNERS CONSENT FORM