

28 August 2018

Secretary
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Ms Emma Butcher, Assessment Planner

Dear Sir/Madam,

Re: RESPONSE TO SUBMISSIONS

**MINOR MODIFICATION OF MAJOR PROJECT APPLICATION NO. 06_0025 (MODS 5 & 6) –
VINCENTIA DISTRICT TOWN CENTRE – “MOD 7”**

1.0 INTRODUCTION

With reference to the original application Modification 7 (Mod 7) to Major Project Application No. 06_0025, lodged on 10 November 2017 with Department of Planning and Environment (the Department), this letter has been prepared on behalf of Woolworths Group and their development arm Fabcot Pty Ltd (Fabcot which is a wholly owned subsidiary of Woolworths) as the proponent, as the proponent's "Response to Submissions".

2.0 RESPONSE TO SUBMISSIONS

2.1 Matters raised in Submissions

The Department advised via email that 2 submissions have been received.

2.1.1 Submission from Shoalhaven City Council which advises:

I apologise for the delay and thank the Department for giving Council the opportunity to provide comment on the proposal. Council has reviewed the submitted documents and supports the provision of the timber screen feature near the loading dock area which will screen the sprinkler tank and improve the aesthetics of this area. Council supports the provision of additional landscaping as indicated on the submitted plans.

Council notes that Stage 1 of the development has been completed and is operational and requests that a time frame is placed on completion of the works proposed in the modification.

2.1.2 Submission from a member of the public, which can be summarised as:

1. Noise – the proposed timber screen does not address noise;
2. Landscaping – the proposed changes are inadequate;
3. Completion – queries when approved works will be completed; and
4. Compliance – queries what compliance action has been taken by the Department.

This letter responds to the matters summarised above.

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2.2 Proponent's Responses

2.2.1 Response to Noise Concern

In order to assist with responding to the matters raised by a member of the public, it is important to understand some key background information.

It should be noted that the timber screen was proposed by the proponent to provide a screen to block part of the view from Moona Creek Road to the loading dock area in Modification 5 drawings but did not include specifications or sufficient specific details to readily implement that screen. Modification 6 drawings did not include this screen. The Department has requested the instalment of a timber screen. This Modification includes specific details of a timber screening structure including installation details to enable a Construction Certificate to be issued and implement the works during construction.

The Revised Draft Statement of Commitments supplied by the proponent (Stockland at that point in time) to the Department as part of the Response to Submissions Report in 2009 with the original Project Application included the following commitment:

46a	Stockland will impose a Section 88B instrument under the Conveyancing Act, 1919 on the title of any future residential allotments fronting Moona Creek Road in the area as predicted by the receiver points labelled 1-12 on the plan attached to the Noise Impact Assessment, prepared by Heggies Pty Ltd, Report No. 10-3015-R2, Revision 2, dated 1 October 2008. The Section 88B instrument will require acoustic treatments to be incorporated into future dwellings and/or associated landscaped site works to meet the acoustic design criteria as set out in the Noise Impact Assessment, prepared by Heggies Pty Ltd, Report No. 10-3015-R2, Revision 2, dated 1 October 2008.	Prior to the issue of a subdivision certificate for the affected residential land
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Commitment 46a has been continued with each subsequent Modification application.

Please see extract of commitment 46a with Modification 5, as follows:

Commitment No. 46a	<u>Acoustics</u> Stockland will impose a Section 88B instrument under the Conveyancing Act, 1919 on the title of any future residential allotments fronting Moona Creek Road in the area as predicted by the receiver points labelled 1-12 on the plan attached to the Noise Impact Assessment, prepared by Heggies Pty Ltd, Report No. 10-3015-R2, Revision 2, dated 1 October 2008. The Section 88B instrument will require acoustic treatments to be incorporated into future dwellings and/or associated landscaped site works to meet the acoustic design criteria as set out in the Noise Impact Assessment, prepared by Heggies Pty Ltd, Report No. 10-3015-R2, Revision 2, dated 1 October 2008.	Prior to the issue of a subdivision certificate for the affected residential land
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Copies of each Statement of Commitments can be found on the Department's webpages associated with the original approval and subsequent modifications. A copy of the relevant noise report is also located on the Department's webpage associated with Modification 2.

The proponent for this Modification has checked if a Section 88B instrument has been registered and imposed on certain allotments of land to fulfil the requirements in Commitment 46a. **Appendix A** contains a copy of the Section 88B and accompanying Deposited Plan which registered a positive covenant on Lots 208, 209, 218 and 219 (being the residential allotments fronting Moona Creek Road). The Section 88B states at number 17:

Terms of Positive Covenant numbers 17 in the plan

Any building to be erected on any lot burdened shall give consideration to the architectural treatments as outlined in the "Vincentia District Centre Noise Impact Assessment" report 10-3015-R2 revision 1 dated 31 January 2008 prepared by Heggies.

Given the provisions of the Section 88B instrument it appears the burden to address noise is required to be met in the design of the houses on the lots with a boundary to Moona Creek Road, to include architectural treatments as outlined in the January 2008 Heggies noise report which states:

Architectural Treatments

Residual exceedances may be addressed by applying property treatments to habitable rooms of the affected lots (bedrooms and living areas). In general a dwelling of standard construction would conservatively provide an “outside to inside” noise reduction of 20 dBA with the windows closed, and nominally 10 dBA with the windows open. Therefore potential architectural treatments generally provided effectively are limited to:

- Fresh air ventilation systems that meet Building Code of Australia requirements with the windows and doors shut;
- Upgraded windows and glazing and solid core doors on the exposed facades;
- Upgrading window and door seals; and
- The sealing of wall vents.
- Designing residential dwellings such that non-sensitive spaces such as bathrooms, laundries and garages face onto the proposal.

In order to comply with the design criteria set in accordance with the DECCW’s INP it is recommended consideration be given to the inclusion of architectural treatments to the receivers located on Lot 1 and Lot 2.

The proposed timber screen as detailed by the proponent in the information supplied to the Department in letter dated 31 May 2018 under heading “2.2.2 What changes are being requested in this Modification?”, advises:

Also, the proponent seeks to change a portion of the architectural drawings listed above because there are insufficient specifics in the details of the “timber feature” as the architectural drawings were prepared to a “Development Application” standard and now demonstrate information to a “Construction Certificate” detail, as follows:

iii. Provide details for a timber screen feature treatment in addition to the existing palisade fencing adjacent to the Moona Creek Road loading dock area – referred to as “ZONE B” on the Site Plan.

The proponent’s position is unchanged. The details in this Modification are for a timber screen as a visual feature.

2.2.2 Response to Landscape Concern

The concerns raised have been considered by the proponent’s landscape architect who has advised:

The site visit in October 2017 revealed that areas of regeneration within the swale region had occurred. Because of what we discovered (the wonderful self-regeneration), the only area we could see that would benefit from some additional landscape plantings and intervention is the zone shown on L_102. See also notes on this plan to ‘protect’ the other zones.

The reason for this zone not regenerating quite as well, is (I believe) due to the compacted soil and I suspect inverted or removed topsoil layer. This may’ve occurred with erosion. Thus, I included the following notations on the landscape drawing L_102:

“THIS ZONE HAS
REVEGETATED.
RETAIN AND
DON'T DISTURB
DURING WORKS.”

“TAKE CARE NOT TO DAMAGE CURRENTLY ESTABLISHING/GERMINATING PLANTS.”

“NO ADDITIONAL MOUNDING OF SOIL OR MULCH
IS RECOMMENDED SO AS NOT TO DISRUPT CURRENTLY
ESTABLISHED/NATURALLY REGENERATED NATIVE SHRUBS AND
VIABILITY OF SEED STOCK IN GROUND AND SO AS NOT TO
DISTURB THE ESTABLISHED SURFACE WATER FLOWS WHICH
HAVE ENABLED THE NATURAL REVEGETATION. IN ADDITION, IT IS
RECOMMENDED THAT INSTEAD OF GRASS ON THE WESTERN
SIDE OF THE OVERLAND FLOW SWALE, THAT NATIVE AND
APPROPRIATE UNDERSTOREY PLANTING BE ESTABLISHED.”

The proposed landscape plantings as detailed by the proponent in the information supplied to the Department in letter dated 31 May 2018 under heading “2.2.2 What changes are being requested in this Modification?”, advises:

The proponent seeks changes to portions of the drawings listed above because there are insufficient specific details of plantings in the approved landscape drawings. This is due to the approved drawings having been prepared to a “Development Application” standard detail rather than landscape plantings to being specified to a “Construction Certificate” detail, which will ordinarily include more detailed and appropriate selections of plantings, which in this instance need to allow for greater tolerance to the existing environment. Therefore, the proponent seeks amendments to the landscape drawings:

- i. To provide for more specific details to ensure the landscaping on the batter area to Moona Creek Road suits the site conditions and includes species which can be clearly interpreted and understood in its implementation – referred to as “ZONE C” on the Site Plan;*
- ii. To provide for more specific details to ensure the landscaping around the overland flow area, can be clearly interpreted and understood in its implementation – referred to as “ZONE A” on the Site Plan;*

The proponent’s position is unchanged. The proponent seeks approval for the landscape architectural drawings supplied to the Department via email dated 13 June 2018 which corrected a typographical error pointed out by the Department, copy attached to assist at **Appendix B**.

2.2.3 Response to Completion

If the Modification is approved, Woolworths will implement the changes as soon as possible once a Construction Certificate has been issued.

2.2.4 Response to Compliance

The Department has already taken compliance action to address what in the Department’s opinion required the appropriate action. Woolworths continues to work with the Department to resolve any concerns and lodged this application to assist.

6.0 CONCLUSION

We trust the above information will assist the Department in assessing Modification 7 favourably when undertaking its assessment report.

Should the Department still have a concern regarding the modification, the proponent requests the Department's feedback and co-operation to understand the concern in detail prior to an assessment report being completed for determination.

Should you have any queries or require clarification on any matters please do not hesitate to contact the undersigned on (02) 9929 4044.

Yours sincerely,



Marian Higgins
Planning Manager
Higgins Planning Pty Ltd

APPENDIX A – SECTION 88B INSTRUMENT

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APPENDIX B – LANDSCAPE DRAWINGS

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