



Sydney Business Park – Stage 3 Modification 2

State Significant Development Modification Assessment
(SSD-10477-Mod-2)

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Glossary

Abbreviation	Definition
Applicant	Marsden Park Developments Pty Ltd
Council	Blacktown City Council
Department	Department of Planning and Environment (DPE)
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
LEP	Local Environmental Plan
Minister	Minister for Planning
Planning Secretary	Secretary of the Department
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
TfNSW	Transport for NSW

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1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department) assessment of an application to modify the State significant development (SSD) consent for Sydney Business Park – Stage 3 (SSD-10477, as modified).

The modification application seeks to amend Condition B5(c) of development consent SSD-10477 as modified, which requires the Applicant to enter into a Works Authorisation Deed (WAD) with Transport for NSW (TfNSW) prior to the issue of an Occupation Certificate (OC) for the development. The Applicant is proposing to amend the timing indicated in Condition B5(c) to enable it to obtain OCs for Warehouses 1 and 4, which are nearing completion.

The application was lodged on 29 December 2021 by Marsden Park Developments Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The Applicant is constructing a warehouse and distribution estate at Astoria Street and Hollinsworth Road in the Blacktown local government area (see **Figure 1**). The development seeks to provide distribution and employment opportunities within the Marsden Park Industrial Precinct (MPIP), which is a strategically identified employment area in the North-West Priority Growth Area in Sydney's north-west.

Sydney Business Park is a large-scale business park that has been progressively developed, comprising of numerous retailers including IKEA, Bunnings and Costco. Sydney Business Park – Stage 3 is the current stage of development. On 28 January 2021, the Applicant was granted development consent for the construction and operation of Sydney Business Park – Stage 3 (SSD-10477), a development consisting of four warehouse and distribution facilities.



Figure 1 | Local Context Map

Sydney Business Park Stage 3 is currently being constructed over five stages as follows (See **Figure 2**):

- Stage 1 – Hollinsworth Road and the north-south collector road (completed)
- Stage 2 – Warehouse 4 – API Facility (nearing completion)
- Stage 3 – Warehouse 1 – TJX Facility (nearing completion)
- Stage 4 – Warehouse 2 – end user not yet identified (not yet constructed)
- Stage 5 – Warehouse 3 – end user not yet identified (not yet constructed) – intersection upgrades required prior to operation of Warehouse 3

This modification application pertains to Warehouse 1 and Warehouse 4, which are part of Stages 2 and 3.

The construction of Warehouse 1 and Warehouse 4 is nearing completion and the Applicant is planning for the first OC to be obtained in early 2022. However, Condition B5(c) of the consent requires the Applicant to enter into a WAD with TfNSW for the delivery of intersection upgrade works to Hollinsworth Road and Richmond Road, prior to the issue of an OC for the development. The Applicant has advised that it has been working closely with TfNSW but there have been delays in finalising the WAD. This delay has implications for one of its tenants, a pharmaceutical distributor of COVID 19 vaccines, which urgently needs to occupy Warehouse 4.

As such, the Applicant has lodged a modification application to modify the timing of Condition B5(c), which would allow OCs to be obtained for Warehouses 1 and 4, without it being tied to the finalisation of the WAD.

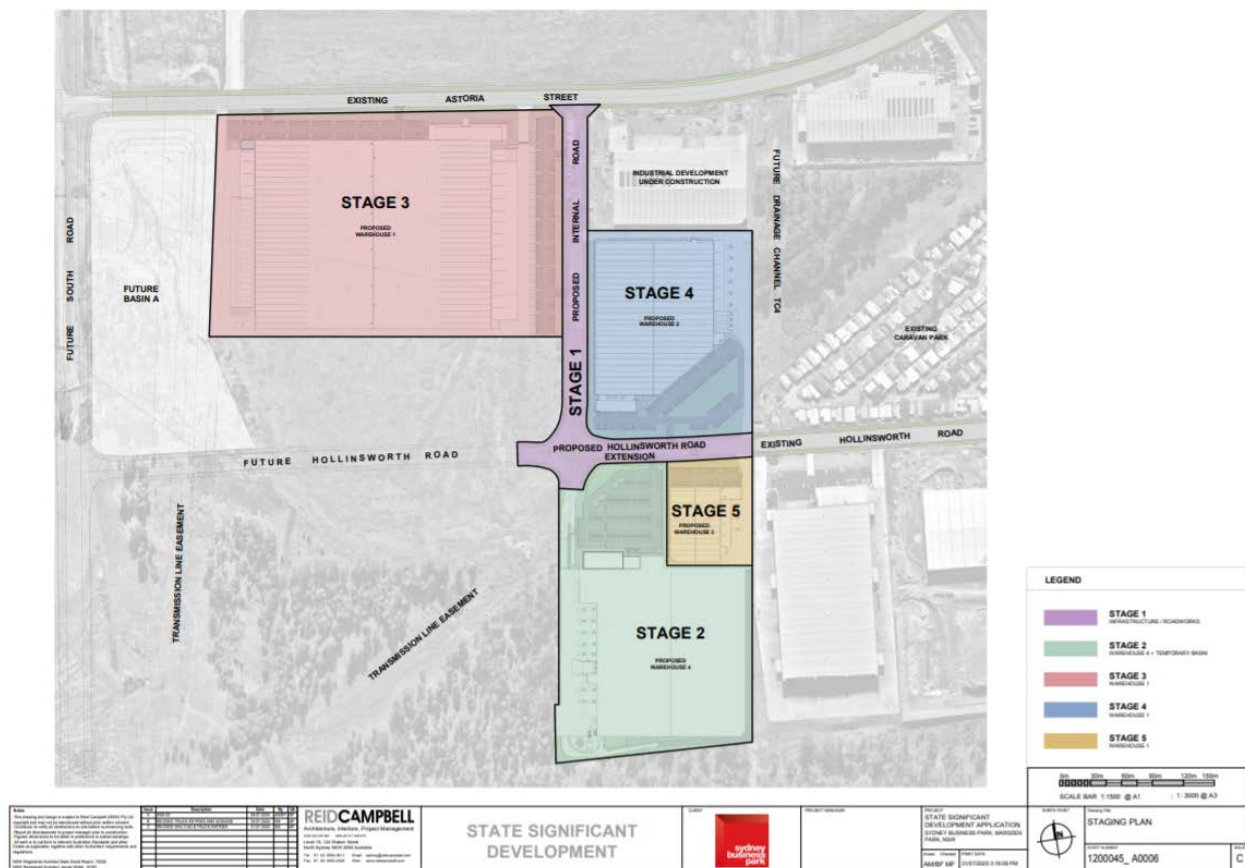


Figure 2 | Staging Plan

1.2 Subject Site

The site is located 40 kilometres (km) north-west of the Sydney Central Business District and 3.1 km from the M7 Motorway, covering approximately 17.2 hectares (ha) of land zoned for light industrial and infrastructure uses. The site is legally described as Lot 4 DP 1210172 and part Lots 50 and 51 DP 1265695. The development lots for the proposal front both Hollinsworth Road and Astoria Street (see **Figure 1**).

Surrounding land uses include predominately industrial activities (see **Figure 3**):

- to the east are sites within the MPIP, including Bucher Municipal Industrial and Warehouse (Council DA 18-2532), Ingenia Lifestyle Stoney Creek retirement village and the Marsden Park Warehousing Estate (SSD-8606)
- on the northern side of Astoria Street is the IKEA Distribution Facility (SSD-6954), which is included within the Sydney Business Park
- to the south are undeveloped parts of Sydney Business Park, with the residential suburb of Bidwell further south
- to the west are parcels of undeveloped land within the MPIP and areas zoned for conservation.

The closest residential zoned land is Bidwill, approximately 120 m to the south of the site.

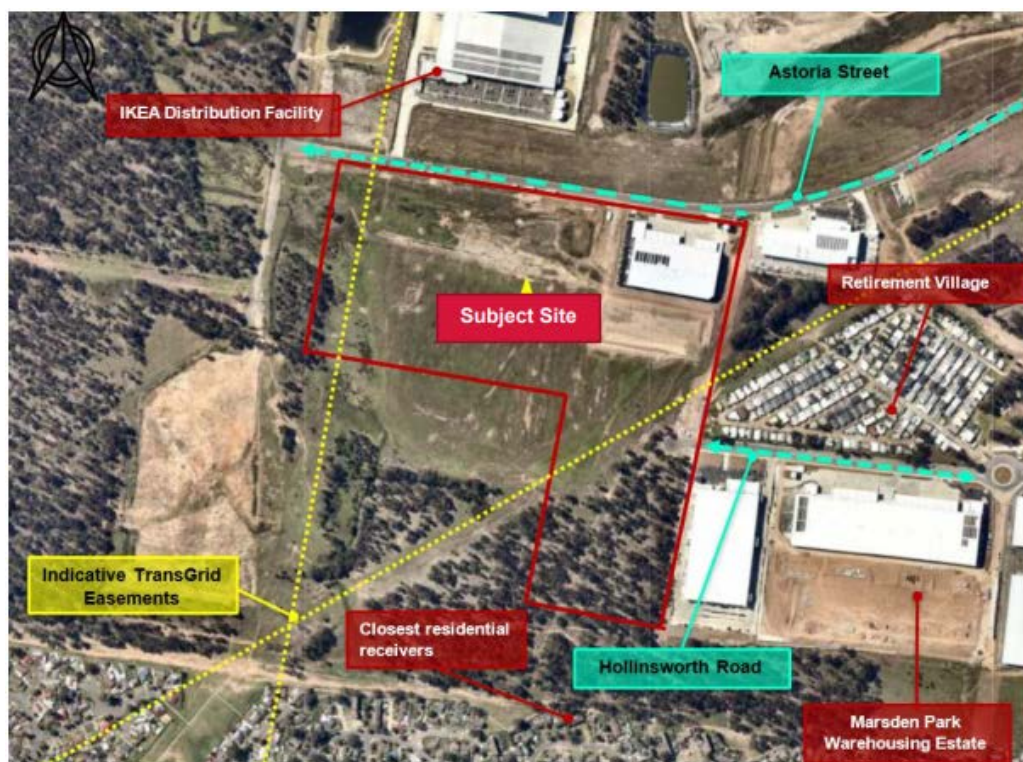


Figure 3 | Subject Site

1.3 Approval history

On 28 January 2021, development consent was granted by the then Executive Director, Energy, Industry and Compliance as delegate of the then Minister for Planning and Public Spaces for the development of the Sydney Business Park – Stage 3 SSD-10477. The development consent permits the construction and operation of a warehousing estate comprising four buildings (Warehouses 1 to 4)

and associated infrastructure including the subdivision into nine lots, vegetation clearing and earthworks, construction of two estate roads, car parking, infrastructure and landscaping. Construction of Warehouse 1 and Warehouse 4, including broader estate works within the Stage 3 site are nearing completion.

The development consent has been modified on one occasion (see **Table 1**)

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Consent Authority	Type	Approval Date
MOD 1	Amendments to design and layout of Warehouse 1	Team Leader	s.4.55(1A)	20 August 2021

2 Proposed modification

2.1 Proposed Modification

The Applicant has lodged a modification application under section 4.55(1A) of the EP&A Act to modify Condition B5(c) of SSD-10477 which requires the Applicant to enter into a WAD with TfNSW prior to the issue of an OC for the development.

Condition B5 requires completion of upgrade works to the Hollinsworth Road and Richmond Road intersection prior to the commencement of operation of the final stage of the development which is shown in **Figure 4**.

The Applicant proposes to amend Condition B5(c) as follows (in strikethrough, underline and bold):

B5. *The Applicant must undertake upgrade works to the Hollinsworth Road and Richmond Road intersection to the satisfaction of TfNSW. As part of these upgrade works, the Applicant must:*

(c) *enter into a Works Authorisation Deed (WAD) with TfNSW ~~prior to~~ **within 6 months of the issue** of an Occupation Certificate, **or as otherwise agreed by the Planning Secretary**, to undertake these intersection upgrade works; and*

There would be no physical changes to the development, or to the nature and delivery of the intersection upgrade works.

The modification is described in full in the Statement of Environmental Effects (SEE) included in **Appendix A**.

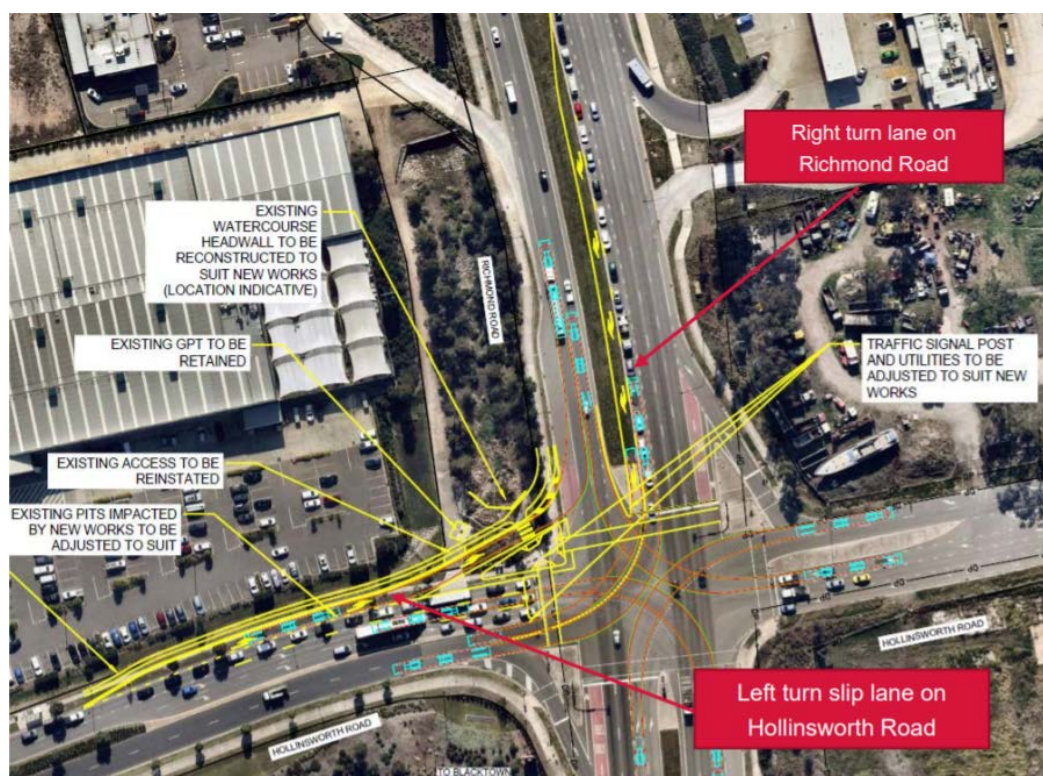


Figure 4 | Concept design plan of road upgrades

3 Statutory context

3.1 Scope of Modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not significantly increase the environmental impacts of the project as approved
- the primary function and purpose of the approved development would not change as a result of the proposed modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent
- the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act.
- is substantially the same development as originally approved
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application (DA). Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new DA to be lodged.

3.2 Consent Authority

The Minister for Planning (Minister) is the consent authority for the application under section 4.5(a) of the EP&A Act. Under the Minister's delegation of 26 April 2021, the Team Leader, Industry Assessments, may determine the application under delegation as:

- the application has not been made by a person who has disclosed a reportable political donation under section 10.4 of the EP&A Act
- there are no public submissions (other than a council) in the nature of objections, and
- Council has not made a submission by way of objection under the mandatory requirements for community participation listed under Schedule 1 of the EP&A Act.

3.3 Mandatory Matters for Consideration

The Department undertook a comprehensive assessment of the application against the mandatory matters for consideration as part of the original assessment of SSD-10477. This modification application does not result in significant changes that would alter the Department's consideration of the mandatory matters for consideration under section 4.15(1) of the EP&A Act and conclusions made as part of the original assessment.

3.4 Biodiversity Conservation Act 2016

Section 7.17 of the BC Act specifies that if the determining authority is satisfied a modification will not increase the impact on biodiversity values, a biodiversity development assessment report (BDAR) is not required.

The proposed changes are minor and the development would be substantially the same as to what was originally approved with no greater area of disturbance proposed.

The Department is satisfied that due to the nature of the modification, being an amendment to the timing of the Applicant entering into a WAD with TfNSW, there would be no additional clearing of native vegetation or habitat loss beyond what was previously assessed and considered under SSD-10477.

For the reasons discussed above, the Department's assessment concludes a BDAR is not necessary for the proposed modification.

4 Engagement

Clause 117(4) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) requires a section 4.55(1A) modification application to be notified or advertised if specified by a community participation plan. The Department's Community Participation Plan notes the exhibition requirements for such modifications are discretionary, and based on the urgency, scale and nature of the proposal.

Given the proposed changes would result in minimal environmental impacts (see **Section 4**), the application was not notified or advertised. However, it was made publicly available on the Department's website on 11 January 2022 and was referred to Blacktown City Council (Council) and TfNSW for comment.

4.1 Summary of Submissions

Council did not object the modification and had no comments.

TfNSW did not object to the modification. While TfNSW sought additional information regarding what stage the upgrade works would be required, the Department did not request a response from the Applicant as this information was previously provided in the original EIS.

No other submissions were received.

5 Assessment

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- the SEE provided to support the proposed modification (see **Appendix A**)
- the documentation and Department's assessment report for the original DA and subsequent modification application(s) (see **Appendix A**)
- advice from the State government authorities and Council (**Appendix A**)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the Objects of the EP&A Act.

The Department's assessment of the amendment to Condition B5(c) is provided in Section 5.1.

5.1 Amendment to Condition B5(c)

The modification relates to changing the timing of Condition B5(c) which would enable the Applicant to obtain OCs for Warehouses 1 and 4. As discussed in Section 1.1, the Applicant is unable to obtain OCs for Warehouses 1 and 4 as it has yet to enter into a WAD with TfNSW under Condition B5(c). The Applicant proposed an amendment to the condition which would require that it enter into a WAD with TfNSW within six months of the issue of an OC or as otherwise agreed by the Planning Secretary.

The SEE stated the modification would not affect the timing for the completion of the intersection upgrade works at Hollinsworth Road and Richmond Road. Additionally, the Applicant advised that it has been working closely with TfNSW since March 2021 to resolve issues relating to the WAD, however there have been ongoing delays in finalising the agreement.

Council did not object to the modification and has no comments due to the modification being a matter for TfNSW.

TfNSW did not object to the modification but requested further information regarding the timing of delivery of the Richmond Road and Hollinsworth Road upgrade works. The Department considered TfNSW's request and concluded that this information was previously provided by the Applicant in the original assessment. The Department did not seek any further comments from TfNSW.

The Department has reviewed the SEE and considers the modification is appropriate for the following reasons:

- changing the timing of the WAD would not affect the scope and timing of delivery of the intersection upgrade works, as Condition B5(d) requires the intersection works are completed prior to the operation of the final stage of the development i.e. Stage 5 – Warehouse 3. The Applicant has acknowledged the intersection upgrades will be completed by the final stage of the development.
- no additional physical works are proposed and traffic impacts assessed under the original application would not change.

The Department recognises the Applicant has made reasonable attempts to satisfy the requirements of Condition B5(c) and notes the Applicant will continue to work closely with TfNSW to resolve any outstanding matters associated with the WAD. The Department has recommended Condition B5(c) be

amended to require the Applicant to enter into a WAD within nine months of the determination of this modification.

The Department's assessment concludes the proposed modification to amend Condition B5(c) would not result in any additional traffic or environmental impacts.

6 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- the proposed modification will result in minimal environmental impacts beyond the approved facility
- the proposed modification to change the timing of the Applicant entering into a WAD with TfNSW would allow for the operation of Warehouse 1 and Warehouse 4
- the proposed modification would not result in any physical changes to the development or the timing of the delivery of the required intersection upgrade works
- the proposed development is substantially the same development for which the original consent was granted.

The Department is satisfied that the modification should be approved, subject to conditions.

7 Recommendation

It is recommended that the Team Leader, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD-10477-Mod-2 falls within the scope of section 4.55(1A) of the EP&A Act
- **forms the opinion** under section 7.17(2)(c) of the *Biodiversity Conservation Act 2016* that a BDAR is not required to be submitted with this application as the application will not increase the impact on biodiversity values on the site
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent SSD-10477.
- **signs** the attached approval of the modification (**Appendix B**).

Recommended by:



Kathryn Moreira
Planning Officer
Industry Assessments

Recommended by:



9 February 2022

Pamela Morales
Principal Planning Officer
Industry Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in dark ink, appearing to read 'Joanna Bakopanos', is written over a faint, circular official stamp.

9 February 2022

Joanna Bakopanos

Team Leader

Industry Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of Documents

The Department has relied upon the following key documents during its assessment of the proposed development:

Modification Application

- 'Sydney Business Park Stage 3 Facilities (SSD-10477) – Section 4.55 Modification (Mod 2) – Statement of Environmental Effects' prepared by PJEP Environmental Planning dated 23 December 2021 - <https://www.planningportal.nsw.gov.au/major-projects/project/43821>

Submissions and Advice

- <https://www.planningportal.nsw.gov.au/major-projects/project/43821>

Department's Assessment Report for SSD-10477

- <https://www.planningportal.nsw.gov.au/major-projects/project/37941>

Appendix B – Notice of Modification

<https://www.planningportal.nsw.gov.au/major-projects/project/43821>

Appendix C – Consolidated Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/43821>