



**STATE SIGNIFICANT DEVELOPMENT  
ASSESSMENT REPORT:  
Horsley Drive Business Park -  
Subdivision and Infrastructure Works  
Corner of The Horsley Drive and  
Cowpasture Road, Wetherill Park  
(SSD 5169)**



Director-General's  
Environmental Assessment Report  
Section 89H of the  
*Environmental Planning and Assessment Act 1979*

January 2013

## ABBREVIATIONS

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Applicant	Western Sydney Parklands Trust
CIV	Capital Investment Value
Consent	Development Consent
Council	Fairfield City Council
Department	Department of Planning and Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning and Infrastructure
EIS	Environmental Impact Statement
EPA	Environmental Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning and Infrastructure
OEH	Office of Environment and Heritage
PAC	Planning Assessment Commission
Parklands SEPP	State Environmental Planning Policy (Western Sydney Parklands) 2009
Regulation	Environmental Planning and Assessment Regulation 2000
RMS	Roads and Maritime Services
RtS	Response to Submissions
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SEPP	State Environmental Planning Policy
SCA	Sydney Catchment Authority
SSD	State Significant Development

## HYPERLINKS

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[Hyperlinks](#) (CTRL + click to access) are included in this document to allow quick navigation to explanations and interpretations of commonly used legal, scientific or industry terms / phrases used in this document. The explanations / interpretations appear in the glossary Appendix C. Be sure to print the relevant glossary appendix to enable interpretation of these terms or phrases when printing the main body of the report.

Cover Photograph: Aerial image of the subject site

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# 1. PROPOSED PROJECT & SITE DESCRIPTION

## 1.1 The Proposal

Western Sydney Parklands Trust (the applicant) seeks approval for a subdivision and infrastructure works for the purposes of a future business park known as “Horsley Drive Business Park” at the corner of The Horsley Drive and Cowpasture Road, Wetherill Park.

The Western Sydney Parklands Trust is a self funded agency, responsible for developing the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney and to maintain and improve the Parklands on an ongoing basis. The Western Sydney Parklands Plan of Management 2020 identifies that two percent of the parklands are to be developed for long term leases for business purposes to provide funding towards the development of facilities, programs and environmental initiatives throughout the Parklands. The proposal represents a portion of the two percent of the Western Sydney Parklands which is to be developed for business purposes under the Western Sydney Parklands Plan of Management 2020.

## 1.2 Site Description

The site of the proposal is approximately 7 km south-east of the M7/M4 interchange and is located on the north-western corner of The Horsley Drive and Cowpasture Road, Wetherill Park within the Fairfield Local Government Area (LGA). The site location is shown in Figure 1, and a description of the site is provided in Table 1.

Figure 1: Site Location

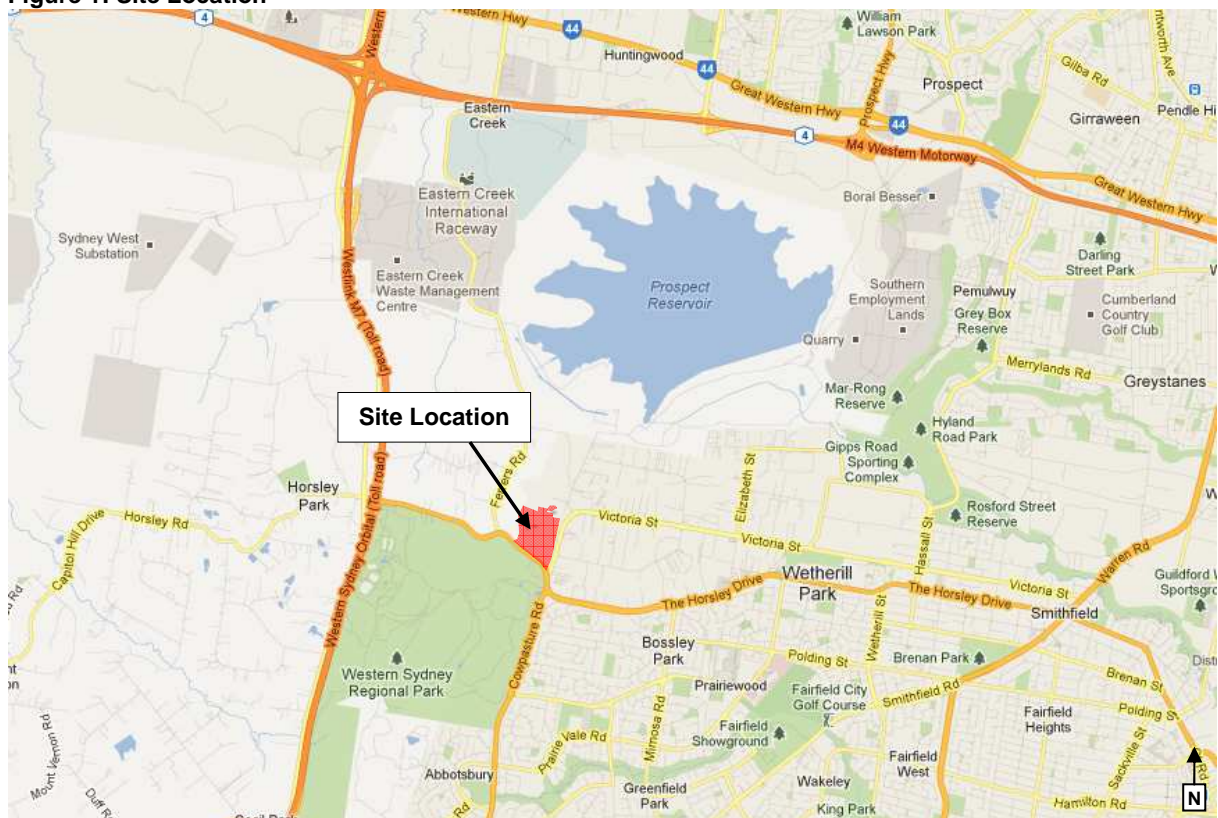


Table 1: Site Description

<b>Site area</b>	21 ha
<b>Site frontages</b>	The site has a frontage of 580 m to Cowpasture Road and a frontage of 438 m to The Horsley Drive.
<b>Topography</b>	The topography of the site comprises undulating rolling hills with a dominant east-west ridge line which divides the site into two catchments.
<b>Existing development</b>	The site predominantly comprises degraded farming land and paddocks covered in pasture with a number of areas of scattered trees and shrubs, however, two residences and ancillary structures also exist on the site.
<b>Site history</b>	The site has previously been used for agricultural purposes and part of the site was also previously used as a fuel storage depot.

<b>Surrounding land use(s)</b>	Development surrounding the site comprises: <ul style="list-style-type: none"> <li>• agricultural land to the north owned by Western Sydney Parklands Trust and an electrical easement</li> <li>• Cowpasture Road to the east, beyond which is the Smithfield Wetherill Park Industrial Estate</li> <li>• The Horsley Drive to the south, beyond which is agricultural land owned by Western Sydney Parklands Trust</li> <li>• the Upper Canal Corridor to the west containing an open water supply canal which is owned by the Sydney Catchment Authority, beyond which is agricultural land owned by the Western Sydney Parklands.</li> </ul>																																														
<b>Lot and DP</b>	The site comprises 19 separate allotments including:																																														
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The existing site layout and surrounding development is shown in Figure 2, and a photo looking across the site from north to south is shown in Figure 3.

**Figure 2: Existing Site Layout and Surrounding Development**



**Figure 3: Site Photo (looking across the site towards the south-east corner)**



### 1.3 Key Project Components and Features

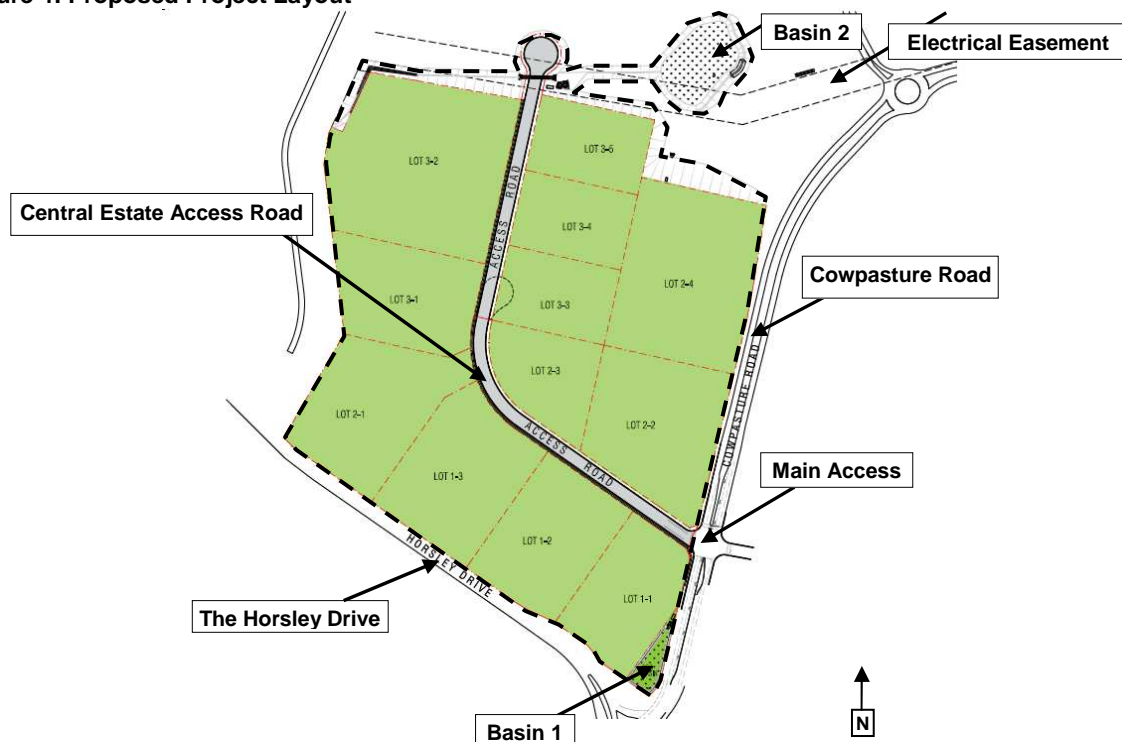
Table 2 provides a summary of the development proposal's key components and features. Figure 4 details the proposed project layout.

**Table 2: Key Components**

<b>Project Summary and features</b>	<ul style="list-style-type: none"> <li>• <b>Subdivision and Infrastructure works to facilitate the development of a business park known as “Horsley Drive Business Park”, comprising:</b> <ul style="list-style-type: none"> <li>○ <b>12 lot subdivision and access road (lot sizes range from 9895 sqm to 31800 sqm)</b></li> <li>○ <b>demolition</b></li> <li>○ <b>remediation</b></li> <li>○ <b>bulk and detailed earthworks</b></li> <li>○ <b>estate infrastructure</b></li> <li>○ <b>estate landscaping</b></li> </ul> </li> </ul>
<i>Development of the business park</i>	<ul style="list-style-type: none"> <li>• The application includes the bulk earthworks associated with the subdivision, the central estate access road and associated intersection works, landscaping and infrastructure works, however, no buildings form part of the application</li> <li>• The specific use of each lot and buildings on the lots within the business park will be the subject of separate future development applications</li> </ul>
<i>Staging</i>	<ul style="list-style-type: none"> <li>• Approval is sought for the entire development, however the construction of the business park is to be staged across three stages</li> </ul>
<i>Subdivision</i>	<ul style="list-style-type: none"> <li>• Subdivision of the site into 12 lease-hold lots, and an estate access road lot and a service lot for on site detention</li> </ul>
<i>Demolition</i>	<ul style="list-style-type: none"> <li>• Two existing dwellings, ancillary buildings, fencing and farm dams on the site are proposed to be demolished/removed</li> <li>• All trees are proposed to be removed throughout the site</li> </ul>
<i>Remediation</i>	<ul style="list-style-type: none"> <li>• Remediation of part of the site where identified contamination exists which is associated with the former fuel storage use on part of the site</li> </ul>
<i>Bulk earthworks</i>	<ul style="list-style-type: none"> <li>• Smoothing of contours to create building pads for future</li> </ul>

	development and for estate infrastructure and services
<i>Estate Infrastructure</i>	<ul style="list-style-type: none"> <li>• Construction of a central estate access road off Cowpasture Road which will provide direct access and egress to all allotments in the business park, with the exception of one lot in the north east corner of the site which will have a separate access and egress directly off Cowpasture Road</li> <li>• Connection to the existing zone substation approximately 400 metres from the north-east corner of the site</li> <li>• Connection with the existing reticulated water supply available immediately adjacent to the site on Cowpasture Road and The Horsley Drive</li> <li>• Provision of estate stormwater infrastructure, including two on-site detention (OSD) basins and stormwater quality improvement devices</li> <li>• Connection with the existing reticulated sewer services available on the corner of Cowpasture Road / Victoria Street and Newtown Road / Cavasinni Place</li> <li>• Connection with the telecommunication services available immediately adjacent to the site on Cowpasture Road</li> <li>• Connection with the existing gas services available immediately adjacent to the site on the intersection of Cowpasture Road and Newton Road</li> </ul>
<i>Estate Landscaping</i>	<ul style="list-style-type: none"> <li>• Landscape treatments comprising predominantly native vegetation which addresses the entire perimeter of the site as well as the verges to the proposed spine road, and landscaped setbacks as follows: <ul style="list-style-type: none"> <li>• 10 m landscaped setback + 10 non-landscaped building setback to The Horsley Drive</li> <li>• 10 m landscaped setback to Cowpasture Road</li> <li>• 4 m landscaped setback to the western boundary of the site</li> <li>• No landscaped setback to the northern boundary of the site</li> <li>• 7.5 m to the central estate access road</li> </ul> </li> </ul>
<i>Value / Jobs</i>	<ul style="list-style-type: none"> <li>• \$15.6 million capital investment value</li> <li>• Creation of 100 construction jobs and potential for 600 future operational jobs when the business park is fully established</li> </ul>

Figure 4: Proposed Project Layout



## 2. STATUTORY AND STRATEGIC CONTEXT

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### 2.1 SEPP (State and Regional Development) 2011

The proposal is for State significant development because it is development with a capital investment value (CIV) in excess of \$10 million on land identified as being within the Western Sydney Parklands, under clause 5 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore the Minister for Planning and Infrastructure is the consent authority.

### 2.2 Approval Authority

On 14 September 2011, the Minister for Planning and Infrastructure [delegated responsibility](#) for the determination of State significant development under Division 4.1 of Part 4 of the EP&A Act to the Executive Director, Major Projects Assessment. The proposal complies with the [terms of that delegation](#).

### 2.3 Permissibility and Zoning

The site is unzoned under clause 9 of the State Environmental Planning Policy (Western Sydney Parklands) 2009 (Parklands SEPP). The development of the business park is permissible with consent under clause 11(2) of the Parklands SEPP. No specific development standards or controls apply to the site under the Parklands SEPP, including setbacks, floor space ratio or height controls.

### 2.4 Environmental Planning Instruments

The department's consideration of relevant [EPIs](#) (including SEPPs) is provided in [Appendix B](#). The proposal is consistent with the relevant requirements of the EPIs.

### 2.5 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the [objects of the EP&A Act](#), as set out in section 5 of the EP&A Act. The proposal complies with the objects as the proposal will create employment opportunities for the Western Sydney Region whilst also generating important funds for the Western Sydney Parklands Trust to carry out its functions in the provision and management of community services, facilities and public areas.

### 2.6 Ecologically Sustainable Development

The EP&A Act adopts the definition of [Ecologically Sustainable Development](#) (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes.

The department has considered the project in relation to the ESD principles. The ESD principles have been applied in the decision making process via a thorough and rigorous assessment of the environmental impacts of the project. The proposal is considered to be consistent with ESD principles as described in Section 4.2.2 and Section 6.7 of the applicant's EIS, which has been prepared in accordance with the requirements of Schedule 2 of the Regulation.

### 2.7 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the Regulation cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with.

### 2.8 Strategic Context

The department considers that the proposal is consistent with and/or supports the following local/state/regional strategies:

- NSW 2021, including key policy commitments to increase business investment and employment and encouraging job growth in centres close to where people live
- Metropolitan Plan for Sydney 2036, including the aims and objectives to provide fair access to jobs and to ensure appropriate services are located near transport, jobs and housing
- Draft West Central Subregional Strategy, including the employment capacity target of 61,000 new jobs in the subregion by 2031 and 15,000 of those jobs being in Fairfield LGA (the proposal will generate approximately 100 construction jobs and provide the potential for 600 future operational jobs).

## 2.9 Director Generals Requirements

Section 1.7 of the EIS addresses compliance with the Director General's Requirements. These matters have been addressed in the EIS sufficient to enable an adequate consideration and assessment of the proposal for determination purposes.

## 3. EXHIBITION CONSULTATION AND SUBMISSIONS

### 3.1 Exhibition

In accordance with s. 89F of the EP&A Act and cl. 83 of the Regulation, the Director-General has made the application and accompanying information publicly available for at least 45 days following the date of first publication (including a 15 day extension due to the exhibition coinciding with a NSW school holiday period), in accordance with the Regulation (see Table 3).

**Table 3: Exhibition Details**

Exhibition/Notification	Medium	Dates
Publicly exhibited	DPI and Fairfield City Council's Administration Centre and on the department's website	11 July 2012 to 27 August 2012
Newspaper notice	Sydney Morning Herald, Daily Telegraph and Fairfield Advance	Published 11 July 2012
Written notices to	Landholders, public authorities, local community groups	Dated 5 / 6 July 2012

The department received 10 submissions during the exhibition of the application – five submissions from public authorities and five submissions from the general public (of which two submissions were from the same person). The department also received two further submissions subsequent to the exhibition from Roads and Maritime Services and Endeavour Energy. A summary of the issues raised in all submissions is provided below.

### 3.2 Public Authority Consultation and Submissions

Relevant public authorities have been consulted. Five submissions were received from public authorities during the exhibition, including a submission from council (who initially objected to the proposal and later advised that its issues have been satisfactorily addressed), Office of Environment and Heritage (OEH), Environmental Protection Authority (EPA), Sydney Catchment Authority (SCA) and the Heritage Branch of the OEH (Heritage Branch). Additionally, subsequent to the exhibition, the department received submissions from the Roads and Maritime Services (RMS) and Endeavour Energy. A summary of these submissions is provided in Table 4.

**Table 4: Public Authority Submissions**

Comments	Department's Comment
<b>Fairfield City Council</b>	
<ul style="list-style-type: none"> <li>• Council initially objected to the potential establishment of commercial development within the business park servicing the day to day needs of the surrounding residential areas and industrial workforce, which has the potential to undermine the viability of existing town centres.</li> <li>• The EIS provides no clear indication of the exact scope and nature of end uses that might be established in the business park under future DA's.</li> <li>• Insufficient information has been provided to demonstrate compliance with the OEH Interim Construction Noise Guideline or the NSW EPA Contaminated Land Guidelines.</li> <li>• Council agrees with the dedication of the central estate access road.</li> <li>• The application proposes setbacks of the development to Cowpasture Road and The Horsley Drive ranging from 10 – 14 metres. Whilst council considers the setback to Cowpasture Road to be acceptable, council recommends that a minimum landscape setback of 20 m be provided to The Horsley Drive frontage as it forms part of the principal western entrance to Wetherill Park. Council also recommend a minimum landscape setback of 20 m to the western and northern</li> </ul>	<p>Whilst council initially objected to the proposal regarding the potential establishment of commercial development within the business park, council later advised that the applicant's Response to Submissions Report satisfactorily addressed council's concerns in relation to commercial use of the site (thereby withdrawing council's initial objection to the proposal).</p> <p>Consideration of council's concerns regarding</p>

<p>boundaries of the site to achieve a better transition to the surrounding parklands (council requested that amended landscape plans be prepared to address the above recommendations).</p> <ul style="list-style-type: none"> <li>• The EIS does not provide any detail or advice in relation to urban design guidelines for future development of the site.</li> <li>• The facades of future industrial buildings should provide high quality urban design.</li> <li>• Further information is required to confirm that there will be no impacts on the heritage listed Bunya Pines at the corner of Cowpasture Road and The Horsley Drive from the nearby stormwater detention basin.</li> <li>• Council requests that the proponent provide a revised schedule of estimated costs for the purposes of calculating s94A (indirect) contributions.</li> </ul>	<p>landscaped setbacks is provided in section 4.2 of this report.</p>
<p><b>Office of Environment and Heritage</b></p>	
<ul style="list-style-type: none"> <li>• OEH considers that the remanent vegetation on site does constitute remnant Cumberland Plain Woodland (CPW), albeit a degraded example, given some of the species in the final determination for CPW were recorded on site, and given the site is located on the Cumberland Plain.</li> <li>• OEH considers that the remnant vegetation on site has biological value.</li> <li>• OEH considers that if any Endangered Ecological Communities are to be lost as a result of the proposal, these impacts should be adequately offset in accordance with OEH's "Principles for the use of biodiversity offsets in NSW".</li> <li>• OEH considers that the applicant's flooding assessment should also include consideration of: <ul style="list-style-type: none"> <li>○ flood risk / hazards to people and properties between the 1 in 100 flood and up to the probable maximum flood.</li> <li>○ the impact of the development on flood behaviour.</li> <li>○ the impact of flooding between the 1 in 100 flood and up to the probable maximum flood on the development.</li> <li>○ sensitivity analysis to determine potential impacts of climate change.</li> <li>○ possibility of flood free access to and from the development.</li> <li>○ emergency response plan to manage floods above the flood planning level.</li> </ul> </li> </ul>	<p>Issues raised by the OEH have been considered in detail in section 4.2 of this report.</p> <p>Flooding issues have been considered in section 4.2.6.</p>
<p><b>Environmental Protection Authority</b></p>	
<ul style="list-style-type: none"> <li>• Construction hours should be in accordance with the DECCW Interim Construction Noise Guideline 2009.</li> <li>• EPA recommends that a detailed Erosion and Sediment Control Plan be prepared (as a recommended condition).</li> <li>• EPA recommends that a site audit statement be prepared by an EPA accredited site auditor to determine that the site will be suitable for the proposed land use following remediation.</li> <li>• EPA recommends that an Air Quality Management Plan be required as a condition of consent.</li> <li>• EPA recommends that a Waste Management Plan be prepared which consolidates the measures outlined in the Waste Management Control Plan regarding the demolition of dwellings on site and the Remedial Action Plan.</li> </ul>	<p>Contamination issues have been considered in detail in section 4.2 of this report.</p>
<p><b>Sydney Catchment Authority</b></p>	
<ul style="list-style-type: none"> <li>• SCA outlined a number of requirements for development occurring adjacent to the upper canal, including: <ul style="list-style-type: none"> <li>○ obtaining written approval from SCA for any access to the canal during the construction of the development</li> <li>○ access points for SCA staff (or subcontractors) carrying out</li> </ul> </li> </ul>	<p>Comments made by the SCA have been considered in detail in section 4.2 of this report.</p>

<p>inspections and maintenance shall be retained where necessary</p> <ul style="list-style-type: none"> <li>○ SCA are to be provided with details of the proposed earthworks, retaining walls or other construction along the SCA boundary</li> <li>○ works carried out adjacent to the Upper Canal shall not impact on the water quality or damage the water infrastructure</li> <li>○ the development shall make allowance for all flows emanating from land to the west of the Upper Canal and from the corridor itself onto the subject site</li> <li>○ stormwater systems for the development shall be designed to not impede upstream flows</li> <li>○ appropriate security fencing should be provided along the length of the development boundary with the Upper Canal.</li> </ul>	
<p><b>Heritage Council of NSW</b></p>	
<ul style="list-style-type: none"> <li>• The Heritage Branch of OEH, on behalf of the Heritage Council of NSW recommended two conditions regarding archaeological remains encountered during excavation, and aboriginal archaeological sites discovered during the development process. Additionally the Heritage Branch recommended including a landscaped area along the Upper Canal as a soft barrier to protect the setting of the canal.</li> </ul>	<p>Comments made by the Heritage Council of NSW have been considered in detail in section 4.2 of this report.</p>
<p><b>Roads and Maritime Services</b></p>	
<ul style="list-style-type: none"> <li>• The RMS identified that the warrants for upgrading the existing intersection of Cowpasture Road / Newton Road / Site Access are not fully met and therefore the Traffic Engineering Services Section has advised that it would not approve the provision of traffic signals at this intersection.</li> <li>• RMS identified that vehicular entry to the site should therefore be via a fourth leg to the existing roundabout, and vehicular exit should be via a left turn only and separate exit to the north of the existing roundabout.</li> <li>• RMS also advised that the section of The Horsley Drive in the vicinity of the site has limited space capacity, and that upgrades for this section of work is not in the current 5 year work program.</li> <li>• RMS identified that manoeuvrability through the proposed subdivision shall be in accordance with Austroads, and that details of the swept path of B-doubles entering and existing the site should be provided to council</li> <li>• Whilst no car parking is proposed in the individual allotments in the subdivision (which will be addressed in the separate future development applications for the use and development of the individual lots) RMS identified that it raised no objection to the nominal parking provision/rate to accommodate the likely parking demands of the overall site which was based on similar type developments (the indicative parking provision/rate was above the parking requirements specified in the RMS's Guide to Traffic Generating Development, but below the requirements of Council's DCP).</li> </ul>	<p>Comments made by the RMS have been considered in detail in section 4.2 of this report.</p>
<p><b>Endeavour Energy</b></p>	
<ul style="list-style-type: none"> <li>• Endeavour Energy identified that the site is affected by an existing electrical easement which is 30 m wide for dual circuit 132 kV transmission lines.</li> <li>• It recommended that the applicant consult with Endeavour Energy prior to the commencement of any works within the easement. As part of the consultation process, the applicant should provide Endeavour Energy with a centerline profile survey to assess statutory clearances between the conductors and roads and other infrastructure associated with the application.</li> <li>• Endeavour Energy require a minimum of 7.3 m clearance at the maximum operating temperature to be available across the final level of the easement.</li> </ul>	<p>Endeavour Energy's submission was received subsequent to the exhibition. The department has recommended a condition in relation to work within the electrical easement</p>

### 3.3 Public Submissions

Five submissions were received from the general public (of which two submissions were from the same person), with one submission objecting to the proposal and the remaining submissions providing comments on the proposal. The key issues raised in public submissions are summarised in Table 5.

**Table 5: Public Submissions**

Sub.	Comments	Department Comment
1.	<ul style="list-style-type: none"> <li>Current tenant of one of the existing dwellings on the site objects to the proposal on the basis of having to find alternative living arrangements</li> </ul>	Not relevant to the planning assessment of the application
2	<ul style="list-style-type: none"> <li>Support the proposal. No further comment provided.</li> </ul>	
3	<ul style="list-style-type: none"> <li>Submission requesting that the central access road within the site be called Menolotto Drive due to the historic associations the Menolotto family has with the site</li> </ul>	The naming of roads is a matter for the applicant in consultation with council
4 & 5	<ul style="list-style-type: none"> <li>Two submissions received from the same person on behalf of Blacktown &amp; District Environment Group Inc (BDEG).</li> <li>BDEG recommends the retention of rural dams on site, or alternatively, that the stormwater retention basin be constructed first, and an ecologist be engaged to relocate eels, tortoises and other water fauna to the storm water retention basin prior to removal of the existing dams.</li> <li>BDEG also recommend the retention of existing eucalyptus trees near the boundaries of the site</li> <li>BDEG also outlined that the treatment of fauna on site should be stipulated in the approval and referenced an example of where the treatment of fauna was stipulated in an approval made by the Commonwealth Department of Sustainability, Environment, Water, Population and Communities.</li> </ul>	The applicant provided a response to each of the issues raised in these submissions in the Response to Submissions Report.

The Department has fully considered the issues raised in submissions in its assessment of the project.

### 3.4 Applicant's Response to Submissions

McKenzie Group Consulting, on behalf of the Western Sydney Parklands Trust provided a response to the issues raised in submissions. The response included some minor changes to the design of Basin 1 and changes to the landscaped setbacks to the boundaries of the development and the internal road, as well as additional information, including:

- an Arborcultural Assessment
- revised plan of proposed subdivision
- revised civil engineering reports and plans
- revised landscape plan
- revised acoustic report.

The applicant's response was again reviewed by council, OEH, EPA, and SCA, who identified they were generally satisfied that the response addressed the issues raised in their submissions, however council maintained that some of the proposed landscaped setbacks should be increased.

## 4. ASSESSMENT

### 4.1 Section 79C Evaluation

Table 6 identifies the matters for consideration under s. 79C that apply to State significant development, in accordance with s. 89H of the EP&A Act. The table also represents a summary for which additional information and consideration is provided for in Section 4 (Key and Other Issues) and relevant appendices or other sections of this report and the EIS, referenced in the table. The EIS has been prepared by the proponent to consider these matters and those required to be considered in the DGRs and in accordance with the requirements of s. 78(8A) of the EP&A Act and Schedule 2 of the Regulation.

**Table 6: s79C(1) Matters for Consideration**

<b>s. 79C(1) Evaluation</b>	<b>Consideration</b>
(a)(i) any environmental planning instrument	Satisfactorily complies. Consideration of relevant EPI's has been undertaken at Section 2.4 of this report. See also Appendix B
(a)(ii) any proposed instrument	Not applicable – draft Fairfield LEP 2011 does not apply to the subject site (as it does not cover Western Sydney Parklands).
(a)(iii) any development control plan	Clause 11 of the State Environmental Planning Policy (State and Regional Development) 2011 provides that development control plans do not apply to State significant development. Notwithstanding, consideration of relevant controls has been given at Appendix B.
(a)(iiia) any planning agreement	Development contributions have been given consideration at Section 4.2 of this report.
(a)(iv) the regulations	The development application satisfactorily meets the relevant requirements of the Regulation, including the procedures relating to development applications (Part 6 of the Regulations), public participation procedures for SSD's and schedule 2 of the Regulation relating to environmental impact statements. Refer to discussion at Section 2.7.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	The impacts of the development have been considered in Section 4.2 of this report.
(c) the suitability of the site for the development	The suitability of the site has been addressed in Section 4.2 of this report.
(d) any submissions	Consideration has been given to submissions received during the exhibition of the development application. See Tables 4 and 5. The key issues raised in submissions have been considered in Section 4.2 of this report.
(e) the public interest.	See Section 4.2.10 of this report.
Biodiversity values exempt if:	Not applicable.
(a) On biodiversity certified land?	Not applicable.
(b) Biobanking Statement exists?	

## 4.2 Key and Other Issues

The department considers the key issues for the application to be:

- subdivision layout and landscaping
- future land uses
- traffic and transport
- ecology
- noise and vibration
- flooding and stormwater management
- heritage and archaeology
- contamination
- development contributions
- suitability of the site
- public interest.

### 4.2.1 Subdivision Layout and Landscaping

The proposal seeks approval for subdivision and infrastructure works for the purpose of a future industrial business park (a diagram illustrating the layout of the subdivision is provided in Figure 4 in Section 1 of this report). The subdivision includes 12 large 'superlots' which range in size from 9,895 sqm to 31,800 sqm, and the large configuration of the lots is intended to allow flexibility for the development of the future industrial business park. The central estate access road, which connects with the existing Cowpasture Road / Newton Road intersection, provides direct entry and egress to all superlots, except the north-eastern lot, which will have its own direct entry and egress off Cowpasture Road. The proposal also incorporates landscaped treatments to the entire perimeter of the site as well as the verges to the proposed central estate access road, including a 10 m landscaped setback plus a further 10 m building setback to The Horsley Drive, a 10 m landscaped setback to Cowpasture Road,

a 10 m landscaped setback to the verges of the internal central estate access road, and additional boundary tree plantings.

The Parklands SEPP does not provide any specific controls applicable to the development, and whilst acknowledging that DCP's do not strictly apply to SSD applications (under clause 11 of the SRD SEPP), the department considers that, in this instance, Fairfield City Wide DCP 2006 provides the only relevant controls which could be applied to assess the reasonableness of the development. The DCP, as it applies to industrial development, identifies that a 20 metre setback should be provided to The Horsley Drive, of which 10 metres is to be landscaping and the remaining 10 m is to be building setback, which may be used for car parking purposes. Additionally, the minimum setback to road frontages for all industrial development within Wetherill Park is to be 10 metres, all of which is to be landscaping (the proposal, as exhibited, complied with the landscaping requirements of the DCP).

Council's submission identified that the EIS does not include any detail or advice in relation to urban design guidelines for the future development on the site, and council requested that any approval for the proposal incorporate a condition requiring a high standard of urban design to the facades of buildings, particularly for buildings fronting The Horsley Drive. In addition, council requested that a full 20 m landscaped setback be applied to the entire frontage of the site to The Horsley Drive (beyond the requirements of the DCP), on the basis that the site forms part of the principal entrance into Wetherill Park, and that the additional landscaping was required to soften the visual impact of the future industrial development. Additionally, council suggested that a 20 m landscape buffer could be provided along the western and northern boundaries of the site to enhance the landscaped character of the site.

The Response to Submissions Report (RTS) acknowledged that the design of the future business park must be of a high quality, and identified that the applicant would endorse all base building designs proposed for the estate before they are submitted to the relevant consent authority for consideration as development applications. The RTS was also accompanied by a revised landscape plan which incorporated an additional 5 m of landscaping along The Horsley Drive (15 m landscaped setback plus a 5 m building setback), however the landscaped setback to the internal central estate access road was reduced from 10 m to 5 m (below the minimum 10 landscaped setback identified in the DCP). Additionally, a 4 m landscaped setback was provided along the western boundary of the site, but no additional landscaping was provided along the northern boundary. The applicant advised that the proposed 4 m landscape buffer along the western boundary could provide an adequate buffer with the adjoining lands, and the existing agricultural activities to the north would also provide a suitable landscaped buffer.

Council provided a further response identifying that they considered the proposed 5 m setback to the internal central estate access road to be deficient, and following further discussions between the council and the applicant, council later advised that it would accept a 10 m landscaped buffer, plus 10 m building setback along The Horsley Drive (in accordance with the DCP requirement), and a 7.5 m setback to the verges of the Central Estate Access Road. The applicant has agreed to this.

It is important to note that the layout and urban design elements in the proposal only establish the basis upon which future development can be accommodated, and the future development of individual "superlots" (which will be the subject of separate future applications) will have the most significant effect on the amenity, visual aesthetic and urban design outcome of the estate. Accordingly, the department considers that the urban design and detailed design of the future buildings on each allotment is primarily a matter to be considered as part of these future applications.

Additionally, whilst the DCP does not strictly apply to the application, it is considered appropriate that the landscaped setbacks comply with the provisions of the DCP (where possible), particularly along The Horsley Drive and Cowpasture Road frontages, being the primary road frontages of the estate. Whilst the proposed 7.5 m setback to the verges of the Central Estate Access Road does not comply with the DCP requirement, the department considers that this road primarily functions as a secondary internal road that provides vehicular access to the lots contained within, and will largely be obstructed from external views once the lots have been developed. Accordingly, the department considers the 7.5 m setback to the verges of the Central Estate Access Road to be acceptable.

The proponent's proposed 4 m landscape buffer along the western boundary will provide an adequate buffer between the development and the Upper Canal corridor immediately to the west (the 4 m landscaped buffer is considered further in section 4.2.7 of this report). The landscape buffer, the canal corridor (approximately 60 metres wide) and agricultural land uses will provide an appropriate buffer to

the west. The existing electrical easement (approximately 30 metres) immediately to the north of the industrial lots and agricultural land uses will provide an appropriate buffer to the north. Accordingly, the council's suggested 20 m landscape buffer along the northern or western boundaries of the site is not warranted.

The department is satisfied that, subject to the recommended conditions, the proposal will establish a sound layout and urban design basis for the future development of the individual lots on the site. In summary, the following setbacks will be provided: 20 m setback to The Horsley Drive (10 m building setback plus 10 m landscaping setback); 10 m landscaping setback to Cowpasture Road; 7.5 m landscaping setback to the verges of the internal central estate access road; and 4 m landscaping setback to the western boundary of the site.

#### **4.2.2 Future Land Uses**

The EIS identifies that the future business park is intended to accommodate commercial headquarters and high-tech businesses, logistics and warehousing. In its initial submission, council identified that the proposal provided no clear indication of the exact scope and nature of specific end uses that might be established in the business park, and council raised objection to the potential establishment of commercial development (general office and retail uses) within the site which would service the needs of the surrounding residential areas and industrial work force, as this would undermine the viability of existing retail centres.

In response to council's concerns, the applicant confirmed that no stand alone commercial or retail development is intended to be provided within the business park, and that any offices will only be ancillary to employment generating industrial business park activities. Additionally, the applicant advised that whilst the specific use of each lot will be subject to a separate development application, the intended outcome for the site is to create a business park that supports activities such as high tech businesses, logistics and warehousing.

In a subsequent submission council advised that the applicant's response satisfactorily addressed its concerns in relation to the potential establishment of commercial development on the site.

The department acknowledges that any land uses on the site are permissible with consent under the Parklands SEPP (with the exception of residential accommodation). Whilst the applicant has confirmed that no stand alone commercial or retail development is to be provided within the future business park, the future use and development of each lot does not form part of the current application, and will be considered as part of separate future development applications. Accordingly, consideration of any specific economic impacts of existing surrounding commercial development (office or retail) which services the surrounding residential areas and/or industrial workforce is a matter which can be considered further as part of the separate future development applications for the individual allotments in the business park.

#### **4.2.3 Traffic and Transport**

The EIS was accompanied by a Traffic Impact Assessment Report by Traffix (traffic report). Whilst specific land uses and development of the individual lots in the business park do not form part of the application (which will be the subject of separate development applications), the traffic and transport analysis accompanying the application is based on the full realisation of the business park. The traffic impacts were based on a future traffic generation of 15 trips per hour per hectare (as recommended by the RMS), which resulted in 321 vehicles per hour being generated by the business park (based on the site area of 21 ha).

The traffic report originally intended to provide an analysis of four transport modelling scenarios, including:

- a base case mode (existing)
- a base case plus traffic generated by the development model (existing + development)
- a base case plus a 10 year background growth traffic model (existing + background)
- a base case plus traffic generated by the development plus a 10 year background growth traffic model (existing + development + background).

However, after consultation between the applicant and the RMS, it was deemed that only the base case plus traffic generated by the development model was relevant to the application, as there was considerable delays and significant infrastructure upgrades required within the network to accommodate the 10 year background growth traffic model, which was outside the scope of the application.

The traffic report included a SIDRA analysis of the operation of key intersections in the vicinity of the site (incorporating the base case model and the base case plus traffic generated by the development model). The SIDRA analysis included the following intersections:

- The Horsley Drive / Westlink M7
- The Horsley Drive / Ferrers Road
- The Horsley Drive / Cowpasture Road
- Cowpasture Road / Newton Road
- Cowpasture Road / Victoria Street.

Based on the results of initial modelling, the applicant investigated upgrades to the road network, including the signalisation of the existing roundabout controlled intersection of Cowpasture Road / Newton Road / Site Access, which included the banning of the existing right turn movement from Newton Road onto Cowpasture Road (the proposed upgrade would be paid for by the Applicant). The upgrades were proposed to maintain the existing level of service and delay levels of the surrounding road network and were incorporated in the SIDRA analysis. A map identifying the location of the key intersections in the vicinity of the site is provided in Figure 5, and a table of the results of the SIDRA analysis is provided in Table 7.

Figure 5: Key intersection in the vicinity of the site

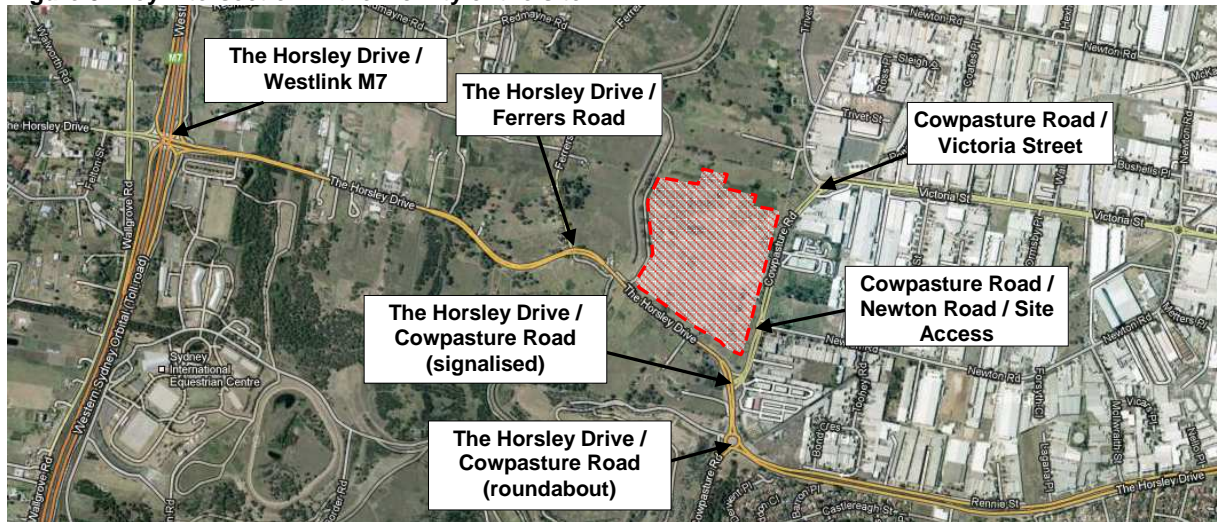


Table 7: SIDRA Analysis of surrounding intersections

Intersection Description	Control Type	Period	Existing Operation		Future Operation	
			Intersection Delay	Level of Service	Intersection Delay	Level of Service
The Horsley Drive / Westlink M7	Signals	AM	40.1	C	39.4	C
		PM	25.3	B	25.7	B
The Horsley Drive / Ferrers Road	Signals	AM	28.6	C	31.1	C
		PM	14.4	A	14.1	A
The Horsley Drive / Cowpasture Road	Signals	AM	55.5	D	57.7	E
		PM	34.0	C	40.6	C
The Horsley Drive / Cowpasture Road	Roundabout	AM	19.4	B	25.2	B
		PM	31.5	C	39.2	C
Cowpasture Road / Newton Road (which is proposed to be signalised as part of the application)	Roundabout	AM	6.5	A	17.0	B
		PM	31.5	C	37.2	C
Cowpasture Road / Victoria Street	Roundabout	AM	9.4	A	9.7	A
		PM	8.7	A	8.7	A

The traffic report identified that the existing network operates with limited spare capacity due to the interaction of the signalised intersection and roundabout controlled intersections of The Horsley Drive / Cowpasture Road. Additionally, the report identified that the inability to coordinate major movements at these two intersections results in considerable delays and queues on some approaches. The report also concluded that the proposed development would have only a minor impact on the operation of the

network, subject to the implementation of the proposed signalisation of the Cowpasture Road / Newton Road / Site Access intersection.

Council identified that the proposed signalisation of the existing roundabout controlled intersection of Cowpasture Road / Newton Road / Site Access will result in improved traffic flow.

RMS advised that the proposed signalisation of intersections requires its approval. RMS identified that the proposed signalisation of the intersection of Cowpasture Road / Newton Road / Site Access does not satisfy the general warrants identified in the RMS Traffic Signal Design, Section 2, and therefore the RMS will not approve the provision of traffic signals at this intersection. RMS advised that access and egress to the proposed development should instead be from a fourth leg to the existing roundabout. RMS also advised that exit movements from the site should be via a left turn only and separate exit to the north of the roundabout. RMS identified that the left turn only provision is required to avoid potential grid lock as a result of queues extending from the signalised intersection of The Horsley Drive / Cowpasture Road, queuing through the roundabout and extending past the roundabout to the north. RMS identified that the above access / egress arrangements should be designed and constructed to the satisfaction of council (as the relevant road authority).

The department has considered the information contained in the applicants traffic report and as well as submissions by council and the RMS. The department notes that the existing surrounding road network operates with limited spare capacity. Given the proposed signalisation of the Cowpasture Road / Newton Road / Site Access does not satisfy the general warrants of the RMS's Traffic Signal Design, Section 2, the department does not consider the proposed signalisation of this intersection to be appropriate. Accordingly, consistent with the recommendations of the RMS, the department has recommended a condition that the site access be from a fourth leg to the existing roundabout, and that the exit movement from the site be via a left turn only and separate exit to the north of the roundabout. The department has recommended that the applicant prepare the details of these access and egress arrangements and that they be approved by the local traffic committee and be approved under section 138 of the Roads Act 1993 by the council. The department is satisfied that, subject to the recommended conditions, the proposal will not result in any significant impacts to the surrounding road network.

#### **4.2.4 Ecology**

The application was accompanied by a Ecological Issues and Assessment Report (flora and fauna report).

##### Flora

The flora and fauna report identified that the site comprises degraded farming land which has been cleared of native vegetation in the past and has been used over a long period for small scale agricultural and residential purposes. The report also identified that the existing paddocks are interspersed with a few scattered exotic and native trees and two small patches of native vegetation, including a patch of regrowth mixed eucalyptus woodland, with a blackthorn understorey in the northern centre of the site, and a patch of Grey Box woodland along the eastern boundary of the site. The report also identified that some species identified in these two areas of native vegetation were characteristic of Cumberland Plain Woodland (CPW), which is identified as a critically engendered ecological community under the NSW Threatened Species Conservation Act 1995 (TSC Act) and the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act). In addition, the flora and fauna report identified that the National Parks and Wildlife Service has mapped a small area near the northern boundary of the site as Shale Hills Woodland, which is a type of CPW.

The flora and fauna report provided an analysis of the vegetation on the site which identified that 16 species listed as characteristic species in the final determination for the CPW community are identified on the site. Notwithstanding, the flora and fauna report identified that the ground cover in the areas of potential CPW were not a near-continuous groundcover dominated by native grasses and herbs and were not dominated by a diverse range of native grasses, as required by the final determination on CPW, and therefore the vegetation on the site could not be regarded as an example of CPW.

Notwithstanding, the flora and fauna report identified that, on a precautionary basis, an assessment of significance (referred to as "7 Part Test") was undertaken for CPW. The assessment of significance concluded that the proposed development is not likely to impose a significant effect upon the CPW community on the subject site given: the small area of possible CPW vegetation which is proposed for removal; the highly degraded, modified and disturbed condition; and its isolated and fragmented nature.

### Fauna

The flora and fauna report identified that the subject land provides very limited habitat opportunities for native fauna, threatened or otherwise, and is unlikely to be utilised by any fauna groups other than highly mobile species and/or habitat generalists (such as bats and birds). A total of 12 native species (eight birds, two amphibians and two reptiles) and five introduced (three birds, one mammal and one fish) were observed on the site. One of the fauna species identified on the site, namely the Little Eagle, is listed on the TSA Act as a vulnerable species, however, none of the species identified were listed on the EPBC Act.

The flora and fauna report included an assessment of significance of the Little Eagle, which concluded that there is no possibility that the proposed development of the subject land would impose a significant effect (if any effect at all) on the Little Eagle.

Whilst no other species listed under the TSA Act or EPBC Act were observed on the site, the flora and fauna report identified that it is theoretically possible that individuals of more mobile wide-ranging and habitat generalist species could utilise the subject land on an infrequent basis (such as the Grey-headed Flying Fox, Common Bent-wing Bat and Yellow-bellied Sheath-tail Bat). Whilst the surveying of the site did not identify any evidence for such species to occur on the site, the report included a generic assessment of significance for threatened biota which could theoretically or potentially occur on the subject site. The generic assessment of significance assessment determined that the proposed development is not likely to impose a significant effect on any threatened species, populations and ecological communities, or their habitats, pursuant to Section 5A of the EP&A Act.

### Office of Environment and Heritage.

OEH's submission identified that the remnant vegetation on site does meet the definition of CPW, albeit a degraded example, given that some of the species in the final determination for CPW were recorded on site, and given the site is within the specified area (ie the Cumberland Plain). OEH also identified that Cumberland Riverflat Forest, which is equivalent of River-flat Eucalyptus Forest (RFEF), and which is identified as an Endangered Ecological Community (EEC) in the TSA Act, is recorded on the site in the draft Native Vegetation of the Sydney Metropolitan Catchment Management Authority Area (SMCMA mapping, OEH 2009). OEH considers that this EEC may be present on site given many of the species characteristic of RFEF were recorded on site, and an assessment of the likely impacts on this EEC should also be undertaken. OEH also raised concern with the surveying undertaken on the site and the generic assessment of significance, and identified that each species population and EEC that is likely to be present on site, or is likely to utilise habitat on site, should be identified and assessed separately. OEH also disagreed with a number of statements in the flora and fauna report regarding the lack of conservation value on the site, and if critically EECs and/or EECs are to be lost as a result of the proposal, as well as habitats for fauna species, these impacts should be adequately offset in accordance with OEH's Principle for the use of biodiversity offsets in NSW.

The applicant provided a response to OEH's issues in the Response to Submissions Report, which included additional details of the surveying of vegetation on the site and the mapping of vegetation of the site, as well as additional details regarding the conclusions surrounding the presence of CPW on the site. OEH subsequently advised that it accepts that the biodiversity values of the site are low and provided no further comments regarding the potential for CPW or other threatened species or EEC's on the site. OEH also acknowledged that the impacts of future development will be adequately offset by programs elsewhere in the Western Sydney Parklands aimed at protecting and enhancing biodiversity values.

### Conclusion

The department has considered the information contained in the flora and fauna report, the submission from OEH and the Response to Submissions Report. The department notes that the site has been largely cleared for agricultural and other purposes and has been highly modified, and therefore the overall biodiversity values of the site are considered to be low. Whilst acknowledging there is potential for CPW to exist on the site, the potential area of this vegetation occupies only a very minor portion of the site, and is in a degraded state, and therefore the loss of this vegetation as a result of the development is not considered to result in any significant effect on the CPW community. The department also considers that the potential habitat of the Little Eagle to be removed or modified as a result of the development cannot be regarded as of any importance to the long term survival of the Little Eagle in the locality, or at any scale.

Accordingly, the department is satisfied that the proposed development is not likely to impose a significant effect upon any threatened species, populations or ecological communities, or their habitats.

#### 4.2.5 Noise and Vibration

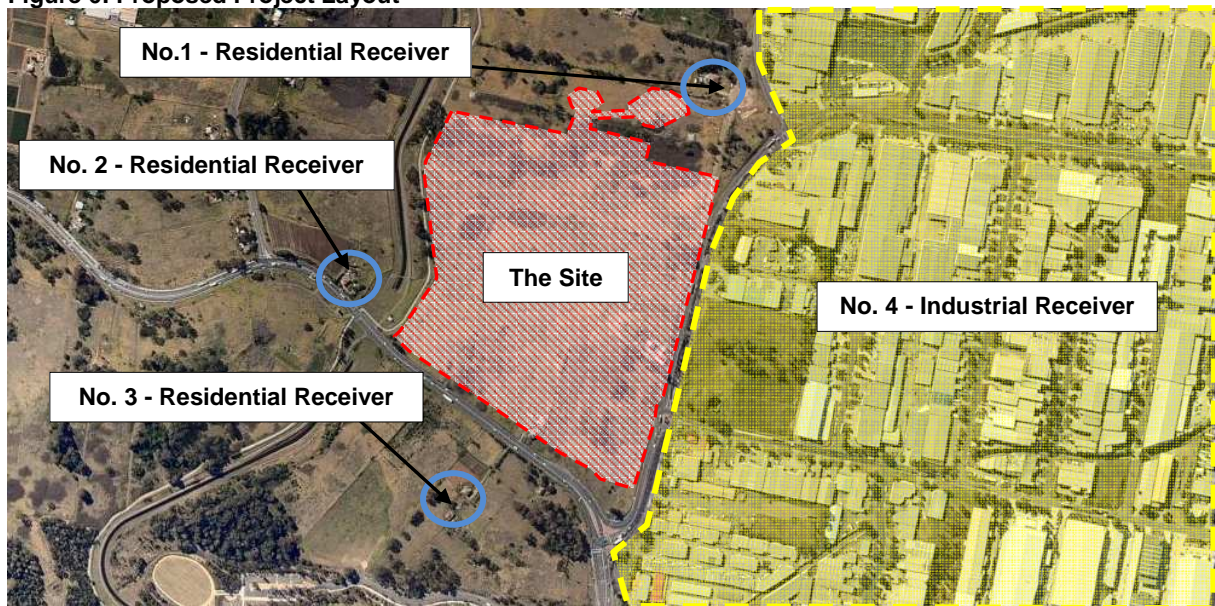
The application was accompanied by a Construction Noise and Vibration Plan by Acoustic Logic (noise and vibration report).

##### Noise

Noise will be generated during the bulk excavation and construction activities for the infrastructure works associated with the proposed subdivision. The noise and vibration report identifies four potentially affected noise sensitive receivers which are detailed below and identified in Figure 6.

- A residential receiver to the north of the site (100 m from boundary) (No. 1)
- A residential receiver to the west of the site (60 m from boundary) (No. 2)
- A residential receiver to the south of the site (60 m from boundary) (No. 3)
- Light industrial receivers to the east of the site (No. 4)

Figure 6: Proposed Project Layout



The noise and vibration report establishes noise management levels for each of the surrounding receivers, which are summarised in Table 8.

Table 8: Noise Management Levels

Receiver	Background Noise Levels (RBL)	Construction NMLs – Laeq (15 mins)	
		Noise Affected (RBL + 10 dBA)	Highly Noise Affected
No. 1 Residential	54 dBA	64 dBA	75 dBA
No. 2 Residential	54 dBA	64 dBA	75 dBA
No. 3 Residential	54 dBA	64 dBA	75 dBA
No. 4 Industrial	N/A	70 dBA – Retail or office receivers 75 dBA – Industrial receivers	

The noise and vibration report also provided predicted Laeq (15 mins) noise levels for each surrounding receiver based on predicted excavation and construction noise levels, as detailed in Table 9.

Table 9: Noise Predictions

Receiver	Distance from site	Predicted Laeq(15 mins)		Construction NMLs – Laeq (15 mins)		Compliance
		Excavation	Construction	Noise Affected (RBL + 10 dBA)	Highly Noise Affected	
1: Residential	100 m	62 dBA	62 dBA	64 dBA	75 dBA	Yes
2: Residential	60 m	63 dBA	63 dBA	64 dBA	75 dBA	Yes
3: Residential	60 m	63 dBA	63 dBA	64 dBA	75 dBA	Yes
4: Retail / Industrial	-	64 dBA	64 dBA	70 dBA – Retail or office receivers 75 dBA – Industrial receivers		Yes

Table 9 identifies that the predicted excavation and construction noise associated with the subdivision works will not exceed the noise affected management level (background + 10 dB criterion) for any of the surrounding residential receivers and that the predicted excavation and construction noise will not exceed the noise management level for retail, office or industrial receivers.

#### Vibration

The noise and vibration report identifies that the excavation and construction works have the potential to generate vibration at surrounding receivers, which can result in both cosmetic damage to structures and human discomfort. The report provided a breakdown of the safe limits for building vibration established in German Standard DIN 4150-3 (1999-02): Structural Vibration - Effects of Vibration on Structures" and the criteria to avoid "Adverse Comment" identified in British Standard BS 6472:1992 "Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz). The noise and vibration report concluded that, based on the distances between the boundary of the site and the surrounding receivers, the vibration levels would not exceed the criteria established in the two standards.

The department notes that both of these standards are widely used in the assessment of vibration associated with construction activities in Australia. The department also notes that, in addition to the distance between the boundary of the site and surrounding receivers, the vibration levels will depend on the particular type of plant used and the local geotechnical conditions. To ensure that surrounding receivers are protected from vibration impacts associated with the development, the department has recommended a condition requiring that vibration monitoring is undertaken throughout the works to ensure that the vibration levels remain below the criteria established in German Standard DIN 4150-3 (1999-02) and British Standard BS 6472:1992.

#### Conclusion

To ensure the amenity of the surrounding residential receivers is protected throughout the excavation and construction works, and to mitigate any noise and vibration impacts to surrounding development, the department has recommended a condition that the applicant prepare a Construction Environmental Management Plan, which will include a construction noise and vibration management plan, which will need to address all requirements contained in the ICN Guideline, including:

- identification of specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers
- noise and vibration monitoring and reporting procedures
- description of specific mitigation treatments, procedures and management measures.

Additionally, the recommended conditions require that the noise and vibration management plan address the relevant provisions of Australian Standard 2436 – 1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

The department has also recommended a condition that the hours of construction work be restricted to the hours of 8 am – 1 pm on Saturdays to minimise weekend noise impacts from truck movements in the surrounding streets.

The department is satisfied that, subject to the recommended conditions, any noise or vibration impacts associated with the proposed development can be adequately mitigated and managed.

#### **4.2.6 Flooding and Stormwater Management**

The site is not subject to flooding and has little to no formal drainage at present, however, the proposal is a significant development within the catchment area, and particular consideration is required of the stormwater system and runoff from the development to ensure it does not increase downstream flood risk.

The proposed development incorporates a formal stormwater drainage system, consisting of a combination of an underground drainage network, overland flow paths, two detention basins, and connections to council's surrounding stormwater network. The Civil Engineering Report accompanying the EIS identified that the stormwater drainage system has been designed to ensure the pre and post development stormwater flows closely match each other.

The site is divided into two sub catchments, with the southern catchment comprising an area of 7.56Ha and draining towards the intersection of The Horsley Drive and Cowpasture Road, and the northern catchment comprising an area of 14.28Ha and draining towards the intersection of

Cowpasture Road and Victoria Street. Particular consideration was given to the northern most catchment which is part of a larger catchment area of 83.6Ha where stormwater is conveyed overland to a low point at the intersection of Cowpasture Road and Victoria Street, and is then conveyed via an underground drainage system to a discharge point. The Civil Engineering Report confirmed that, following the development and implementation of the OSD basins, a minor reduction in peak flow and flooding levels is expected at the intersection of Cowpasture Road and Victoria Road.

OEH's submission identified that further consideration should be given to the probable maximum flood and the impact of the proposed development on flood behaviour. Sydney Catchment Authority's (SCA) submission requested that the applicant reinvestigate the adequacy of the stormwater drainage system to accommodate one of the external catchments which flows from the western side of the Upper Canal, across the corridor, and discharges on the subject site.

In response to OEH's issues, the applicant identified it would be willing to accept a condition of consent requiring the preparation of the additional flood information, and OEH subsequently advised that it was satisfied that the matters identified could be resolved through conditions. In response to SCA's issues, the applicant confirmed that there is sufficient capacity in the proposed stormwater drainage network to convey runoff from the external catchments and the Upper Canal corridor, including sufficient capacity to convey the Q100 peak flow. SCA subsequently advised that it was generally satisfied that the issues raised in its submission have been addressed by the applicant.

Whilst not contained in council's submission, during the assessment, the applicant and council also discussed and resolved a number of issues regarding the stormwater modelling for the proposed stormwater drainage system.

The department is generally satisfied that the proposal has adequately considered flooding and stormwater issues associated with the site and the surrounding catchments, however, in accordance with the recommendations of OEH and the commitments made by the applicant, the department has recommended a condition requiring the applicant to undertake further investigation into rare floods between the 1 in 100 year event and the probable maximum flood event, and the impact of such floods on the development.

#### **4.2.7 Heritage and Archaeology**

The EIS was accompanied by an Aboriginal and non-Aboriginal Archaeological and Cultural Heritage Assessment (heritage report).

##### Aboriginal Heritage and Archaeology

The heritage report identified that the site contains no previously documented aboriginal sites or objects, or any specific areas of potential aboriginal archaeological sensitivity. The heritage report concluded that there are no aboriginal archaeological constraints to the proposal proceeding and that no further Aboriginal archaeological heritage input is warranted. The report recommended that, in the unlikely event that any Aboriginal objects are unearthed during the excavation and construction works, activities should temporarily cease within the immediate vicinity of the find and OEH contacted to advise on the course of action to allow the identified item(s) to be appropriately managed.

OEH raised no objection to the findings and conclusions of the heritage report in regards to aboriginal heritage and archaeology, and identified that it agrees with the recommendations identified in the report.

In accordance with the recommendations of the heritage report, the department has recommended conditions to deal with the possibility of the discovery of aboriginal heritage during the excavation and construction works.

##### European Heritage and Archaeology

Based on information provided in the applicant's heritage report, the site does not contain any heritage sites or items (either built heritage or archaeological) which are listed on any state or local heritage registers, or schedules, including the State Heritage Register (SHR), State Heritage Inventory (SHI) or the Parklands SEPP . The heritage report also concluded that there are no identified European archaeological constraints identified on the subject site.

However, the site adjoins two separate heritage items, namely, the Sydney Catchment Authority's Upper Canal, which is located to the west of the site and identified as the Upper Canal System (Pheasants Nest Weir to Prospect Reservoir) on the State Heritage Register, and a Bunya Pine

located at the northern corner of The Horsley Drive and Cowpasture Road, which is identified as a heritage item in Schedule 1 of State Environmental Planning Policy (Western Sydney Parklands) 2009.

The heritage report concluded that the heritage listed canal is located outside the western boundary of the site and will remain unaffected by the proposal. The heritage report identified that the Bunya Pine is a landmark tree which has historical associations with the Horsley Homestead to the west, however, given the changes that have progressively occurred as a result of subdivision and development of the area since the early 1970s, the Bunya Pine is now largely disconnected from its original landscape association with the Horsley Homestead complex. Accordingly, the heritage report identified that, whilst the proposal would result in some changes to existing views between the Horsley Homestead to the west and the Bunya Pine, these potential changes would appear to be minor within the context of those that have already occurred.

SCA identified that any development adjoining the Upper Canal corridor should not detract from the canal's heritage significance, and the Heritage Branch of OEH recommended that a landscaped area be developed along the western boundary of the site (adjoining the canal) as a soft barrier to protect the setting of the canal. Additionally, the Heritage Branch identified that every effort should be made to ensure the future buildings along the canal frontage (which will be the subject of separate development applications) do not present high blank walls, and that it would be preferable to have a stepped built form along the canal frontage and that the ultimate size of any landscape setback should relate to the future building heights along that boundary. Council requested that confirmation be provided that the heritage listed Bunya Pine will not be impacted by the proposed stormwater detention basin located in the vicinity of the tree (the stormwater detention basin in the exhibited proposal was 2.5 m from the trunk centre of the Bunya Pine).

In response to the SCA and OEH, the applicant identified that the future urban design of buildings within the proposed business park will be of high quality and will need to respond to the site constraints, including the adjoining heritage items. Additionally, the applicant proposed a four metre landscaped buffer along the western boundary of the site to provide a soft barrier and protect the setting of the canal.

In response to council, the applicant submitted an additional arborist report and revised stormwater detention pond design. The arborist report identified that the proposed stormwater detention pond could be constructed at a setback of 3.6 m (an increase of 1.1 m from the 2.5 m setback proposed in the exhibited proposal). Additionally, the arborist report recommended that a tree protection zone be established at a setback of 11.8 m within the site boundary from the trunk centre prior to commencement of works, and that excavation at the closest edge of the stormwater detention basin (being 3.6 m from the trunk centre) be undertaken using hand tools and light machinery, with any roots to be cleaned out. Having regard to the recommendations in the arborist report, the applicant also revised the design of the detention pond wall in proximity to the tree to incorporate a long concrete block wall with a minimum setback of 4.4 m from the trunk centre. Council subsequently advised that arborist report and design response generally addressed the issues raised by council.

The department considers that the heritage significance of the canal primarily relates to its historic function as a water supply channel for the Sydney metropolitan population. However the canal is also an aesthetically significant landscape element, running in a serpentine route through a rural bushland setting with sandstone and concrete-lined edges. The department considers that the applicant's design response in the Response to Submissions Report, incorporating the 4 m landscape setback and buffer trees will provide an adequate "soft barrier" to protect the setting of the canal. It is noted that the specific use and development of each lot in the subdivision will be the subject of separate future development applications, and there will be an opportunity at that time to provide further internal landscaping for the lots that adjoin the western boundary of the site, if appropriate.

In regards to the Bunya Pine, the heritage report identifies that views between the Homestead to the west and the Bunya Pine located approximately 2 km to the east that existed during the mid nineteenth century are now diminished as a result of increased development in the locality. Whilst the proposal would result in some changes to existing views between the Horsley Homestead to the west and the Bunya Pine to the east, the department does not consider that these will result in any additional reduction in the heritage significance of the tree.

Accordingly, the department considers that the proposal will not result in any significant impact to the heritage significance of the adjoining upper canal or Bunya Pine.

#### 4.2.8 Contamination

The EIS was accompanied by a Phase 1 Preliminary Environmental Site Assessment by Environmental Investigation Services (Phase 1 Report), a Phase 2 Environmental Site and Geotechnical Investigation by WSP Environment & Energy (Phase 2 Report) and a Remediation Action Plan by WSP Environment & Energy (RAP).

The Phase 1 and Phase 2 Reports identified that contamination is present at Lot 10 DP 879209 (located approximately in the centre of the eastern boundary of the site), which was formally used as a fuel storage depot. The fuel storage tanks, fuel pumps, and associated line work were removed between 2005 and 2009, and part of the contaminated soils excavated from the former tank pits and infrastructure locations were remediated through a landfarm. Landfarming is remediation by bioremediation, whereby contaminated soils are regularly tilled over to allow for the degradation of the contaminants until the contaminants fall below the relevant site criteria. Additionally, a number of previous contamination studies have been undertaken for this part of the site, including tank removal investigations and soil investigation studies.

The Phase 2 Report identified that Total Petroleum Hydrocarbons (TPH) impacted soils exist on Lot 10 DP 879209, and that groundwater at the boundary of Lot 10 DP 879209 and Lot 100 DP 879680 is impacted with TPH and Phase Separated Hydrocarbons (PSH). The Phase 2 Report also identified that concentrations of heavy metals arsenic, nickel, cadmium, copper and zinc exceeded the ANZECC 2000 guidelines in the majority of groundwater wells (the groundwater wells were located within the south eastern corner of 10 DP 879209). To address the identified soil and groundwater contamination, a RAP was prepared which outlines the remediation strategy, methodology and proposed validation works recommended for the site to ensure the site will be suitable for unrestricted commercial/industrial land use.

The EPA's submission questioned whether landfarming is the most time-effective remediation approach whilst the site is undergoing redevelopment, and identified that little information has been provided about the proposed landfarming approach and mechanisms that will be used to promote bioremediation of the impacted soils, and identified that no estimated quantities of TPH impact soils have been provided. The EPA also advised that the landfarming approach will need to be accompanied by appropriate environmental mitigation measures, including odour, dust and stormwater controls. EPA also advised that, given that the source of groundwater contamination has been removed, the groundwater is highly saline and low yielding, and the contamination is located 6 – 15 m below ground level within fractured shale, monitored natural attenuation is considered to be the most suitable long-term management to groundwater contamination.

Council's submission raised concern with the soil sampling methodology detailed in the Phase 2 Report (the number of soil samples investigated was below the EPA guideline), and identified that the RAP does not include further sampling of identified potential fill areas, as recommended in the Phase 1 Report. Council also identified that the RAP does not include appropriate odour control measures or measures to prevent off site migration of contaminated soils during the proposed landfarming process.

In response to these issues, the applicant advised that the area to be used for landfarming cannot be determined until a detailed works plan is prepared and a suitable area can then be selected and appropriate environmental controls put in place, including, for example, odour controls and erosion and sediment controls. Additionally, the applicant advised that the staged approach to the development will ensure that the contaminated soil can be landfarmed in an area where the development works will occur later. The applicant provided a response to council's comments regarding soil sampling identifying that the Phase 2 report has addressed the requirements of the EPA's contaminated site sampling design guidelines when taking into consideration the previous contamination studies undertaken on the site.

The EPA provided further advice identifying that the applicant's response satisfactorily addresses the issues raised by the EPA. Council also provided further advice identifying that the applicant's response generally satisfies council's concerns, however, council maintained that some further soil sampling should be undertaken at the location of a former dam in the north western corner of the site which was backfilled with unknown fill (as identified in the Phase 2 Report).

State Environmental Planning Policy No. 55-Remediation of Land (SEPP 55) is the relevant environmental planning instrument guiding the remediation of contaminated land. Under SEPP 55, the proposed remediation works are category 1 remediation works requiring consent. The site can be

remediated through the remediation approach detailed in the RAP. To ensure appropriate mitigation measures are in place during the remediation works, the department has recommended a number of conditions regarding erosion and sediment control, waste management, and air quality management. The department has also recommended a condition for the applicant to obtain a validation report and site audit statement at the completion of remediation works which will verify that the land is suitable for the proposed future uses.

In regards to council's request for further testing, whilst the sub-soil testing detailed in the Phase 2 Report did not identify any contamination in this part of the site, the department considers that the scope of works detailed in the RAP could be extended to accommodate the recommended additional sampling in this part of the site and to undertake characterisation of the fill and appropriate remediation works, if required. Accordingly, the department has recommended a condition to ensure this occurs.

The department is satisfied that, subject to the implementation of the RAP and recommended conditions, the site can be made suitable for its proposed future commercial/industrial land use.

#### **4.2.9 Development Contributions**

The application is subject to Section 94A of the EP&A Act development contributions under Fairfield City Council Indirect (Section 94A) Development Contributions Plan 2011.

Contributions are levied at 1 percent of the cost of the development where the cost of development exceeds \$200,000. The applicant provided an independent estimate of costs during the assessment which identified that the cost of the proposal is \$13,530,279, which would thereby incur a contribution of \$135,302.79 under council's policy.

Accordingly, the department has recommended appropriate conditions requiring payment of the Section 94A contributions, and the Applicant has agreed to the payment.

#### **4.2.10 Suitability of the Site**

The proposed development is permissible with consent under the Parklands SEPP and represents a portion of the two percent of the Western Sydney Parklands which is to be developed for business purposes under the Western Sydney Parklands Plan of Management 2020. The proposal would complement the existing established Smithfield Wetherill Park Industrial Estate located to the east of the site, and is accessible from major road network routes, including the M7 motorway located to the west of the site. Accordingly, the department considers the site suitable for the proposed development.

#### **4.2.11 Public Interest**

The proposal represents a portion of the two percent of the Western Sydney Parklands which has been allocated to be developed for business purposes under the Western Sydney Parklands Plan of Management 2020. The proposal will generate revenue for the Western Sydney Parklands Trust which in turn will be invested in the development of facilities, programs and environmental initiatives throughout the parklands. The proposal will also generate \$15.6 million in capital investment value for the region and generate approximately 100 construction jobs and the potential to provide 600 future operational jobs. Given the residual impacts associated with the development can be mitigated and managed, the department considers the proposal in the public interest.

## 5. CONCLUSION AND RECOMMENDATION

### 5.1 Conclusion

The proposal seeks approval for subdivision and infrastructure works to create 12 'superlots' for the purposes of a future business park known as the Horsley Drive Business Park.

The department has reviewed the Environmental Impact Statement and duly considered advice from public authorities as well as issues raised in public submissions. All relevant environmental issues associated with the proposal have been extensively assessed. The proposal is consistent with the strategic objectives for the area, being consistent with the Metropolitan Plan for Sydney 2036 and the draft Inner North Subregion Draft Subregional Strategy.

The department is of the view that the recommended conditions and implementation of measures detailed in the applicant's Environmental Impact Statement and appendices and the Response to Submissions Report and appendices will adequately mitigate the environmental impacts of the proposal.

On balance, the department considers the site to be suitable for the proposed development and that the proposal is in the public interest. Accordingly the department recommends that the State significant development be approved, subject to conditions.

### 5.2 Recommendation

In accordance with s. 89E of the *Environmental Planning and Assessment Act, 1979*, it is recommended that the Acting Deputy Director-General, Development Assessment and Systems Performance:

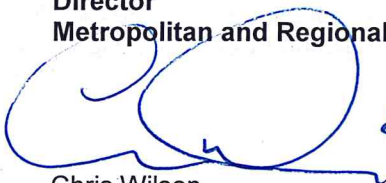
- (a) considers the findings and recommendations of this report
- (b) **approve** the State significant development application, as outlined in the Environmental Impact Statement, prepared by McKenzie Group Consulting, dated June 2012, as amended by the Response to Submissions Report by McKenzie Group Consulting, dated October 2012, subject to conditions of approval set out in the attached instrument at **TAG A**, under section 98E of the *Environmental Planning and Assessment Act 1979*
- (c) **sign** the attached development consent at **TAG A**.

Endorsed by



Heather Warton  
**Director**  
**Metropolitan and Regional Projects North**

8/1/13



Chris Wilson  
**A/Deputy Director-General**  
**Development Assessment and Systems Performance**

8.1.13

## APPENDIX A RELEVANT SUPPORTING INFORMATION

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The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Infrastructure's website as follows.

1. Environmental Impact Statement

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5169](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5169)

2. Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5169](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5169)

3. Applicant's Response to Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=5169](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5169)

## APPENDIX B CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENT(S) (INCLUDING DRAFT) AND DCP(S)

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The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Western Sydney Parklands) 2009
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Fairfield Local Environmental Plan 1994 and Fairfield City Wide DCP 2006

### State Environmental Planning Policy (State and Regional Development) 2011

The aims of this SEPP are to identify State significant development and State significant infrastructure and provide the necessary functions to joint regional planning panels to determine development applications.

The proposal is for SSD in accordance with s. 89C of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is development with a capital investment value (CIV) in excess of \$10 million on land identified as being within the Western Sydney Parklands, under clause 5 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011.

### State Environmental Planning Policy (Western Sydney Parklands) 2009

State Environmental Planning Policy (Western Sydney Parklands) 2009 (Parklands SEPP) is the principal planning instrument applying to the site. The site is unzoned under clause 9 of the State Environmental Planning Policy (Western Sydney Parklands) 2009 (Parklands SEPP). The development of the business park is permissible with consent under clause 11(2) of the Parklands SEPP. No specific development standards or controls apply to the site under the Parklands SEPP, including setbacks, floor space ratio or height controls.

Clause 12 of the Parklands SEPP sets out the matters to be considered by the consent authority as are relevant to the development. These matters include criteria specifically relating to:

Matter	Comment
The aims of this Policy	The proposal is considered with aims of the Parklands SEPP as it will provide funding towards the development of facilities, programs and environmental initiatives throughout the Parklands, which will facilitate the public use and enjoyment of the Parklands in the long term.
The impact on drinking water catchments and	The site adjoins the Upper Canal Corridor to the west containing an open water supply canal which is owned by Sydney Catchment

<p><b>associated infrastructure</b></p>	<p>Authority (SCA) and forms part of Sydney's drinking water infrastructure. SCA were consulted as part of the application and confirmed that the development is downstream of the canal and surrounding catchment, and therefore the canal is unaffected by stormwater flows from the development site. Notwithstanding, SCA recommended a number of conditions for the development relating to access and earthworks, and the department has included these conditions to ensure the proposed development will not impact on the corridor.</p>
<p><b>The impact on utility services and easements</b></p>	<p>As identified above, the proposal is not expected to result in any impacts to the Upper Canal Corridor, and department has included conditions to ensure the protection of the canal, as recommended by SCA.</p> <p>The proposed development also encroaches on a 30 m wide electrical easement for dual circuit 132 kV transmission lines in the north of the site. During the assessment, the department consulted with Endeavour Energy who identified that a minimum of 7.3 m clearance at the maximum operating temperature is to be available across the final level of the easement. Endeavour Energy also requested that a condition be included requiring that the applicant to consult with Endeavour Energy prior to the commencement of any works within the easement, and as part of the consultation process, the applicant provide Endeavour Energy with a centerline profile survey to assess statutory clearances between the conductors and roads and other infrastructure associated with the application. The department has included a condition reflecting this requirement and is satisfied that, subject to the recommended conditions, the proposal will not impact on utility services and easements.</p>
<p><b>The impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities</b></p>	<p>The site does not comprise any identified environmental conservation areas. The proposal was accompanied by a flora and fauna report and the department conducted an assessment of ecological issues in section 4.2 of the report. On the basis of the assessment, the department is satisfied that the proposed development on the subject site is not likely to impose a significant effect upon any threatened species, populations or ecological communities, or their habitats</p>
<p><b>The impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland</b></p>	<p>As identified above, the department conducted an assessment of ecological issues in section 4.2 of the report. On the basis of the assessment, the department is satisfied that the proposed development on the subject site is not likely to impose a significant effect upon any threatened species, populations or ecological communities, or their habitats. The department therefore considers that the proposal will not impact on the continuity of the Western Parklands as a corridor linking core habitat.</p>
<p><b>The impact on the Western Parkland's linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use</b></p>	<p>The proposed development will not impact on the north-south circulation and access network of the Parklands and will not impact on access to any recreational use areas of the Parklands.</p>
<p><b>The impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of Western Sydney</b></p>	<p>The proposal will be visible from The Horsley Drive, Cowpasture Road, and from within the parklands, particularly once the business park buildings are established on the individual allotments. To reduce potential impacts, the proposal has incorporated estate landscaping, including landscaped setbacks along the road frontages and along the western boundary, as well as tree plantings along all boundaries. The department is satisfied that the layout and landscaping of the proposal</p>

	(assessed in section 4.2 of this report) will establish a sound layout and urban design basis for the future development of the individual lots on the site, and will not result in any significant impact on the physical and visual continuity of the Parklands.
<b>The impact on public access to the Western Parklands</b>	The location of the proposed development will not hinder public access to the Parklands.
<b>Consistency with any plan of management or precinct plan for the WSP</b>	The Western Sydney Parklands Plan of Management 2020 (WSPPM 2020) identifies that two percent of the parklands are to be developed for long term leases for business purposes to provide funding towards the development of facilities, programs and environmental initiatives throughout the Parklands. The proposal represents a portion of the two percent of the Western Sydney Parklands which is to be developed for business purposes under the WSPPM 2020. The proposal is therefore consistent with the WSPPM 2020.
<b>The impact on surrounding residential amenity</b>	The nearest residential properties to the subject site are identified in Figure 6, and an assessment of potential noise impacts is provided in section 4.2.5 of this report. The proposal is not expected to result in any adverse impacts on the surrounding residential amenity, however, to ensure the amenity of surrounding residents is protected, the department has included a number of conditions regarding noise and vibration management.
<b>The impact on significant views</b>	The layout and urban design elements in the proposal only establish the basis upon which future development can be accommodated, and the future development of individual lots (which will be the subject of separate future applications) will have the most significant effect on the amenity, visual aesthetic and urban design outcome of the estate. Accordingly, the department considers that detailed consideration of potential visual impacts of the development of the business park is a matter to be considered as part of these future applications.
<b>The effect on drainage patterns, ground water, flood patterns and wetland viability</b>	The department has assessed flooding and stormwater management issues associated with the proposal in section 4.2.6 of this report. On the basis of this assessment, the department is generally satisfied that the proposal has adequately considered flooding and stormwater issues associated with the site and the surrounding catchments. Notwithstanding, a number of specific flooding and stormwater conditions have been included, as recommended by Council and the Office of Environment and Heritage.
<b>The impact on heritage items</b>	A full assessment of the heritage impacts associated with the proposal is provided in section 4.2.7 of this report.
<b>The impact on traffic and parking</b>	A full assessment of the traffic issues associated with the proposal is provided in section 4.2.3 of this report. The specific allocation of parking within the business park is a matter to be considered further as part of the future development applications for the use and buildings on the individual allotments.

Clause 13 of the Parklands SEPP identifies a number of matters to be considered by the consent authority in relation to bulk water supply infrastructure, which are identified below:

- the development will have a neutral or beneficial impact on the quality of the water in the bulk water supply infrastructure shown on the Bulk Water Supply Infrastructure Map, and
- the development will not impact on the integrity or security of the bulk water supply infrastructure, and
- the development will not increase the risk of illegal access to the bulk water supply or security of the bulk water supply infrastructure, and
- access to bulk water supply infrastructure for maintenance and operation activities by the Sydney Catchment Authority and Sydney Water Corporation will not be impeded by the development.

The site adjoins the Upper Canal Corridor to the west containing an open water supply canal which is owned by Sydney Catchment Authority (SCA) and forms part of Sydney's drinking water infrastructure. SCA were consulted as part of the application and confirmed that the development is downstream of

the canal and surrounding catchment, and therefore the canal is unaffected by stormwater flows from the development site. Notwithstanding, SCA recommended a number of conditions for the development relating to access and earthworks, and the department has included these conditions to ensure the proposed development will not impact on the corridor.

Clause 15 of the Parklands SEPP identifies a number of matters to be considered by the consent authority in relation to heritage conservation. A full assessment of the heritage impacts associated with the proposal is provided in section 4.2.7 of this report.

### **State Environmental Planning Policy No.55 – Remediation of Land**

SEPP 55 aims to provide a state wide approach to the remediation of contaminated land. In particular, SEPP 55 aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment by specifying under what circumstances consent is required, specifying certain considerations for consent to carry out remediation work and requiring that remediation works undertaken meet certain standards.

A full assessment of contamination issues associated with the proposal is provided in section 4.2.8 of this report. The Phase 1 and Phase 2 Reports accompanying the EIS identified that contamination is present at Lot 10 DP 879209 (located approximately in the centre of the eastern boundary of the site), which was formally used as a fuel storage depot. The Phase 2 Report identified that Total Petroleum Hydrocarbons (TPH) impacted soils exist on Lot 10 DP 879209, and that groundwater at the boundary of Lot 10 DP 879209 and Lot 100 DP 879680 is impacted with TPH and Phase Separated Hydrocarbons (PSH). The Phase 2 Report also identified that concentrations of heavy metals arsenic, nickel, cadmium, copper and zinc exceeded the ANZECC 2000 guidelines in the majority of groundwater wells (the groundwater wells were located within the south eastern corner of 10 DP 879209). To address the identified soil and groundwater contamination, a RAP was prepared which outlines the remediation strategy, methodology and proposed validation works recommended for the site to ensure the site will be suitable for unrestricted commercial/industrial land use.

Under SEPP 55, the proposed remediation works are category 1 remediation works requiring consent. The department is satisfied that, subject to the implementation of the RAP and recommended conditions, the site can be made suitable for its proposed future commercial/industrial land use.

### **State Environmental Planning Policy (Infrastructure) 2007**

The Infrastructure SEPP aims to facilitate the effective delivery of public infrastructure across the state. Under Clause 6 (2) of the Parklands SEPP, the provisions of the Parklands SEPP prevail to the extent of any inconsistency with the Infrastructure SEPP. As the proposal is being assessed under Part 4.1 of the EP&A Act, the exempt development provisions under the Infrastructure SEPP are not applicable.

The proposed development encroaches on an electrical easement in the north of the site. Under Clause 45 of the Infrastructure SEPP, before determining a development application for development within or immediately adjacent to an easement, the consent authority is required to:

- give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- take into consideration any response to the notice that is received within 21 days after the notice is given.

During the assessment, the department consulted with Endeavour Energy who identified that a minimum of 7.3 m clearance at the maximum operating temperature is to be available across the final level of the easement. Endeavour Energy also requested that a condition be included requiring that the applicant consult with Endeavour Energy prior to the commencement of any works within the easement, and as part of the consultation process, the applicant provide Endeavour Energy with a centerline profile survey to assess statutory clearances between the conductors and roads and other infrastructure associated with the application. The department has included a condition reflecting this requirement and is satisfied that, subject to the recommended conditions, the proposal will not impact on utility services and easements.

The proposed development does not trigger the notification requirements for traffic generating development under clause 103 of the Infrastructure SEPP. Notwithstanding, the department consulted with the RMS and had consideration for its comments and recommendations during the assessment.

### **Fairfield Local Environmental Plan 1994 and Fairfield City Wide Development Control Plan 2006**

In accordance with clause 3(2) of the Fairfield Local Environmental Plan 1994 (Fairfield LEP), Fairfield LEP does not apply to land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies. Additionally, under clause 11 of State Environmental Planning Policy (State and Regional Development) 2011, DCPs do not apply to SSD applications.

Notwithstanding, given the Parklands SEPP does not provide any specific controls applicable to the development, and whilst acknowledging that the Fairfield LEP and DCP do not strictly apply to the SSD application ((under clause 3(2) of the Fairfield LEP and under clause 11 of the SRD SEPP), the department considers that, in this instance, Fairfield City Wide DCP provides some relevant controls regarding landscaped setbacks, which should be considered as part of the application.

Fairfield City Wide DCP, as it applies to industrial development, identifies that a 20 metre setback should be provided to The Horsley Drive, of which 10 metres is to be landscaping and the remaining 10 m is to be building setback, which may be used for car parking purposes. Additionally, the DCP requires a minimum setback to road frontages for all industrial development within Wetherill Park of 10 metres, all of which is to be landscaping.

The proposal complies with the landscaped setbacks requirements along The Horsley Drive and Cowpasture Road frontages, however, the landscaping setback along the verges of the internal central estate access road is 7.5 m (2.5 m below the DCP requirement). The department considers that the reduced landscaping in this location is acceptable as the internal central estate access road primarily functions as an access road to the lots contained within the business park, and will largely be obstructed from external views once the lots have been developed.

## APPENDIX C GLOSSARY

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### Delegated Authority

On 14 September 2011, the Minister for Planning and Infrastructure delegated his functions under s. 89E of the *Environmental Planning and Assessment Act 1979*, and effective from 1 October 2011, to Executive Director, Major Projects Assessment to determine applications where:

- (a) the relevant council has not made an objection, and
- (b) a political disclosure statement has not been made, and
- (c) there are less than 10 public submissions in the nature of objections.

**Ecologically Sustainable Development** can be achieved through the implementation of:

- (a) *the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
  - (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
  - (ii) *an assessment of the risk-weighted consequences of various options,*
- (b) *inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) *conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*
- (d) *improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*
  - (i) *polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*
  - (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
  - (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.(Cl.7(4) Schedule 2 of the Regulation)*

### Objects of the Act

- (a) *to encourage:*
  - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iii) *the protection, provision and co-ordination of communication and utility services,*
  - (iv) *the provision of land for public purposes,*
  - (v) *the provision and co-ordination of community services and facilities, and*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
  - (vii) *ecologically sustainable development, and*
  - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

## **Relevant Environmental Planning Instruments.**

These are EPIs that are required to be taken into consideration in the assessment of the project under s. 79C. A detailed evaluation of each is provided at Appendix B.

### **Section 79C Evaluation**

#### **(1) Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

**Note.** See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

**Note.** The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995), or*
  - (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995.*
-