



**Response to Submissions
Section 96(1A)
Modification Application
(MOD 2)**

Horsley Drive Business Park

Prepared by McKenzie Group Consulting Planning
on behalf of Australand Property Group
May 2015

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PART A PRELIMINARY

1.1 Introduction

This Response to Submissions (RTS) has been prepared by McKenzie Group Consulting on behalf of Australand Property Group, and is submitted to the New South Wales Department of Planning and Environment (DP&E) in support of the modification of SSD 5169 related to Horsley Drive Business Park.

This RTS Report responds to, and addresses, the submissions received following referral of the proposal to Fairfield City Council and assessment carried out by DP&E.

Clause 85A of the *Environmental Planning and Assessment Regulation 2000* permits the Secretary-General of the DP&E to require the Applicant to provide a written response to issues raised in submissions. This RTS report aims to fulfil the request from the Secretary-General.

A Planning Report was prepared and submitted with the Section 96(1A) Modification Application in January 2015. The Report and accompanying documentation was referred to Fairfield Council, Roads and Maritime Service and Sydney Water for a period of 14 days for comment. As the application was submitted pursuant to the provisions of Section 96(1A) of the *Environmental Planning & Assessment Act 1979*, exhibition to the surrounding landowners was not required.

Submissions were received from Fairfield City Council in relation to the application, and NSW DP&E also requested clarification be provided on several components of the proposal.

These issues and the respective responses are detailed in Part C

This RTS report is structured as follows:

Part A Introduction and overview of the exhibition period and summary of the submissions

Part B Response to the submissions

Part C Conclusion

PART B RESPONSE TO SUBMISSIONS

A summary of all submissions and response to the issues raised is addressed in the following tables.

Table 1 – Submissions and Responses	
NSW Department of Planning & Environment	
Summary of Submission	Response
<p>1. <i>Visual Impact Analysis - Streetscape Presentation to The Horsley Drive and Cowpasture Road</i></p> <p><i>There is concern that the proposed changes to the heights and locations of retaining walls in the site will adversely affect the visual amenity of the site and surrounding locality. The Horsley Drive and the Cowpasture Road frontages of the site are highly visible. The Horsley Drive is the principal western 'Gateway' entrance into Wetherill Park and this frontage also has a strong visual relationship with the parkland area to the south. The gateway and parkland character of the site necessitates a good streetscape presentation in order to complement this character.</i></p> <p><i>The perspective included at Appendix 2 to the modification request of February 2015, and Appendix 5 to the letter dated 5 March 2015, is not indicative of a good streetscape outcome. The height and scale of the proposed retaining walls appear to be overwhelming. While it is assumed that this perspective depicts the Horsley Drive frontage of the site, this is unclear as no indication is provided as to where this perspective is taken from. In order to address this issue, it is requested that you provide:</i></p> <ul style="list-style-type: none"> ▪ <i>A masterplan to indicate the viewing point;</i> ▪ <i>Additional perspectives from defined viewing points to demonstrate that the proposed retaining walls and landscaping will result in an acceptable streetscape outcome; and</i> ▪ <i>A visual impact analysis of the proposed modification.</i> 	<p>The Section 96 application seeks to improve the aesthetics of the site at The Horsley Drive and Cowpasture Road frontage by introducing a modified design that includes the following measures:</p> <ul style="list-style-type: none"> ▪ Introduction of boulder walls in lieu of Keystone on the Horsley Drive frontage. ▪ Replacement of the sandstone at the corner of The Horsley Drive and Cowpasture Road with gabions. ▪ Undulating curves on the keystone wall on Cowpasture Road. ▪ <u>No</u> stepping up of the formerly sandstone and keystone on Cowpasture Road. <p>In support of this revised design, a visual analysis has been provided that focuses on the critical aspects from The Horsley Drive and Cowpasture Road (refer Appendix 2). In total, seven different viewpoints have been shown that provide an accurate representation of the proposal.</p> <p>Drawing number Co11492.05-DA69 Rev A prepared by Costin Roe Consulting illustrates sections of the retaining wall which demonstrates the stepped approach and the opportunity to provide planting capable of softening the visual impact of the walls and achieving mature heights that will enhance the aesthetic value of the site frontage.</p> <p>Based on the information submitted as part of this submission, it is clearly demonstrated that the proposal will improve the outcome from that currently</p>

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<p><i>The landscape plans do not assist in satisfying the Departments streetscape concerns. No elevations to either The Horsley Drive or the Cowpasture Road have been provided. An additional section closer to the corner of The Horsley Drive and Cowpasture Road, where the retaining walls would appear to attain their maximum height, is requested in order to assist the Departments assessment of this issue.</i></p> <p><i>Consideration should also be given to lowering the heights of the proposed retaining walls and bulk earthworks in the vicinity of the corner of the Horsley Drive or Cowpasture Road in order to facilitate a good urban design outcome.</i></p>	<p>approved under SSD 5169.</p>
<p>2. Deletion of the Warehouse and Office Footprints/Envelopes from the Master Plan (MP WSPT FS-011)</p> <p><i>The development consent did not provide for the approval of any footprints or concept envelopes for the site. The inclusion of building footprints on the Master Plan as part of the proposed modification may result in a substantially different development to what was originally considered and approved. The inclusion of the footprints also pre-empts the assessment of the final built form for the site which should be the subject of the individual development applications to the Council.</i></p> <p><i>Accordingly, it is requested that you delete all reference to the warehouse and office envelopes on the Master Plan.</i></p>	<p>Building footprints have been deleted from the estate Master Plan as noted on Drawing MP – WSPT – FS – 011 Rev E dated 14 April 2015 (refer Appendix 3). This is to be incorporated as part of the approval of the modified proposal.</p>
<p>3. Clarification of the Number of Stages</p> <p><i>The development consent provides for three stages. The Staging Plan, which accompanied the modification request dated February 2015, refers to 2 stages. However, the Draft Staged Plan of Subdivision in Appendix 4 of the modification request specifies that four stages are proposed.</i></p>	<p>It is now proposed to delete reference to staging of the Estate on Drawing MP-WSPT-FS-011. A revised Estate Masterplan is annexed to this submission (Appendix 3) which details such. The staging is still required for the Subdivision of the land; however this is not staged development as defined under the Act.</p> <p>For the purpose of issuing a subdivision certificate as a staged approach, the following condition is required.</p>

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<p><i>Please clarify the number of stages involved in the proposed modification, together with the intent of proposed Condition D1A.</i></p>	<p><i>D1A. Approval is granted under this consent (SSD 5169 – MOD 1) to carry out subdivision and the works within the estate as a two phase process for each stage of the development:</i></p> <p><i>Phase 1 – Create residue lots and a lot for the road providing easements for services and right of carriageway (over 3 sub-stages).</i></p> <p><i>Phase 2 – Extinguishment the easement for services, right, of carriageway and dedication of the road as "public road" to Fairfield City Council, following the works construction.</i></p>
<p><i>4. Section 96 of the Environmental Planning & Assessment Act 1979</i></p> <p><i>The Department is concerned that the proposed modification would not have a minimal environmental impact as required under Section 96(1A). Please provide justification as to why the Department should assess the as a Section 96 modification Application.</i></p>	<p>As the modifications sought result in the development being substantially the same as that which consent was originally granted for, the provisions under Section 96(1A) of the Act apply. The following tests require consideration in this instance:</p> <p><i>A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</i></p> <p><i>(a) it is satisfied that the proposed modification is of minimal environmental impact</i></p> <p>The proposed development (as amended) shall result in minimal environmental impact on surrounding properties. On balance, the proposal is considered to satisfy this test for the following reasons:</p> <ul style="list-style-type: none"> ▪ Traffic generation rates are generally consistent with that approved under the parent approval being SSD 5169;

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	<ul style="list-style-type: none"> ▪ The proposed location of the roundabout on Cowpasture Road will improve traffic flows from that previously approved; ▪ Treatment of the retaining walls as proposed results in a significant visual improvement to the streetscape from that approved under SSD 5169; ▪ The materials and capacity for planting where the retaining walls are proposed in increased, thus improving the visual amenity of the site; ▪ Stormwater quality and quantity outcomes will remain unchanged from that approved under SSD 5169; and ▪ No Additional land is proposed to be included. <p><i>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)</i></p> <p>The development as amended is deemed to be substantially the same as that for which consent was granted under SSD5169. The proposal does not seek approval for any built form of the warehouse facilities, with physical works related to the bulk earthworks, construction of the retaining walls and provision of infrastructure.</p> <p>The underlying character of the proposal will remain unchanged as the intended future use of the land will be for warehousing and distribution purposes.</p> <p>Despite an increase in the height of the pad levels, the retaining wall solutions proposed will improve the visual amenity from that previously approved by stepping the walls and interspersed planting.</p> <p>When viewed within the streetscape and from surrounding properties, the site</p>

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Table 1 – Submissions and Responses	
NSW Department of Planning & Environment	
Summary of Submission	Response
	<p>will present as a modern business park that is sufficiently landscaped and contains built form that will set a desirable precedent for future development in the locality.</p> <p>Any perceived height increase is considered to be mitigated on this basis, noting that future built form of the facilities will be subject to separate approval.</p> <p>Having regard to the above, the proposed modifications will result in minimal environmental impact as the development modified will be substantially the same as that for which consent was originally granted. The revised pad designs will provide greater flexibility for future users when designing the facilities, which is consistent with current market demand.</p> <p>The proposal is therefore consistent with the provisions under Section 96(1A) the Act and is capable of being determined on this basis.</p>
<p><i>5. Responses to Other Issues Raised by the Council</i></p> <p><i>The Department notes the responses included in the letter dated 5 March 2015, in relation to the following issues raised by the Council:</i></p> <ul style="list-style-type: none"> ▪ <i>Proposed amendment to conditions and D1 and D10;</i> ▪ <i>Traffic and vehicular access; and</i> ▪ <i>Stormwater and drainage.</i> 	<p>Attached at Appendix 4 is a copy of the response that was provided to Council's correspondence to the Department dated 2 March 2015.</p> <p>Responses to the Council correspondence dated 2 April 2015 is provided below in Table 2.</p>

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Table 2 – Submissions and Responses	
Fairfield City Council	
Summary of Submission	Response
<p>1. <i>The applicant needs to provide further justification as to why the modified retaining walls along Cowpasture Road should be constructed to the proposed height, approximately 4.5 metres above the approved height under the approved application.</i></p> <p><i>This should also include justification for the amount of fill now proposed at the south eastern corner of the site. Council officers note that there would appear to be capacity to provide greater balance in the amount of fill along the eastern boundary of the site such that building pads and the height of retaining walls could be lowered in the south-eastern corner without compromising other site development and infrastructure (i.e. access and site drainage) issues.</i></p> <p><i>In particular, it is unclear to Council officers as to why the pads on the southern side of the proposed access road are significantly higher than the pads associated with Stage 1 of the proposal on the northern side of the access road, leading to excessive height in the pads along Cowpasture Road resulting in unsatisfactory urban design outcomes in the development.</i></p>	<p>As noted in item 1 of Table 1, the proposal now seeks to introduce new materials and treatments that are capable of accommodating planting and providing a stepped approach to the retaining of the Horsley Drive/Cowpasture Road frontage.</p> <p>Despite the increase in height in the order of 4.5 metres, it is considered that the modified design will sufficiently offset any visual impacts by stepping the retaining walls, increasing provision for planting and using materials enhance the presentation to the frontages (refer Appendix 2).</p> <p>In relation to the pad level height difference between the southern and northern side of the site, this has been proposed as the earthworks are going to be carried out in a staged manner with no material exported from the site. This will allow for the development of the estate</p>
<p>2. <i>The applicant needs to provide additional measures to reduce the bulk and scale of the proposed retaining walls. This includes addressing the needs for additional soft landscaped area, details of the location and depth of planting within retaining walls.</i></p>	<p>As detailed at Appendix 2, the tiered approach of the retaining walls is capable of accommodating planting that will enhance the visual amenity of the site. Suitable depths will be achieved for plants to reach a mature height.</p>
<p>3. <i>The finish of the retaining walls should have a more 'natural' appearance having regard to the setting of the site within the Western Sydney Parklands and gateway position to Wetherill Park.</i></p>	<p>As outlined in Item 1 of Table 1, the proposal seeks to provide:</p> <ul style="list-style-type: none"> ▪ Introduction of boulder walls in lieu of Keystone on the Horsley Drive frontage. ▪ Replacement of the sandstone at the corner of The Horsley Drive and Cowpasture Road with gabions.

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Table 2 – Submissions and Responses	
Fairfield City Council	
Summary of Submission	Response
	<ul style="list-style-type: none"> ▪ Undulating curves on the keystone wall on Cowpasture Road. ▪ No stepping up of the formerly sandstone and keystone on Cowpasture Road.
4. <i>The applicant needs to provide more detailed information including fully dimensioned plans and levels regarding the above.</i>	Fully dimensioned plans are provided at Appendix 2 and clearly illustrate the net improvement of the proposal.
5. <i>The applicant should substantiate as to why the proposed excessive height of the modified retaining walls is able to be dealt with as a minor modification under s96 (1A) of the EP&A Act.</i>	<p>The proposed development (as amended) shall result in minimal environmental impact on surrounding properties. On balance, the proposal is considered to satisfy this test for the following reasons:</p> <ul style="list-style-type: none"> ▪ The introduction of new materials and the replacement of sandstone at the corner of the Horsley Drive with gabions will offset any increase in height with the pad levels and enhance the appearance of the site within the public domain; ▪ Additional planting will be provided within the tiers of the retaining walls to offset impacts. This planting will be capable of reaching mature heights to screen any impervious surfaces; and ▪ No building works of any facilities is sought as part of the subject application – this will be required under separate approval. <p>The development as amended is deemed to be substantially the same as that for which consent was granted under SSD5169. The proposal does not seek approval for any built form of the warehouse facilities, with physical works related to the bulk earthworks, construction of the retaining walls and provision of infrastructure.</p> <p>Despite an increase in the height of the pad levels, the retaining wall solutions proposed will improve the visual amenity from that previously approved by stepping the walls and interspersed planting.</p>

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Table 2 – Submissions and Responses

Fairfield City Council

Summary of Submission	Response
	<p>When viewed within the streetscape and from surrounding properties, the site will present as a modern business park that is sufficiently landscaped and contains built form that will set a desirable precedent for future development in the locality.</p> <p>Having regard to the above, the proposed modifications will result in minimal environmental impact as the development modified will be substantially the same as that for which consent was originally granted. The revised pad designs will provide greater flexibility for future users when designing the facilities, which is consistent with current market demand.</p> <p>The proposal is therefore consistent with the provisions under Section 96(1A) of the Act and is capable of being determined on this basis.</p>

PART C CONCLUSION

This RTS provides a response to each item raised by NSW DP&E and Fairfield City Council during exhibition. As demonstrated, the proposal can be undertaken without resulting in unacceptable environmental impacts.

Based on the information provided in this response, it is evident that the proposed modification to SSD 5169 will improve the aesthetics of the site at the frontage of The Horsley Drive and Cowpasture Road. The retaining wall solutions provided result in a significant improvement to the previous approved scheme and sufficiently offset any impacts as a result of the increased pad heights.

Based on the findings of the Environmental Assessment, this RTS and the supporting documentation, it is recommended that the proposal be supported by DP&E, subject to appropriate conditions.

APPENDIX 1

Submissions

APPENDIX 2

Visual Perspectives/Landscape Sections

APPENDIX 3

Estate Masterplan

APPENDIX 4

Response to Fairfield City Council - 2 March 2015