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NSW Department of Planning & Environment
23-33 Bridge Street
Sydney, NSW 2001

Attention: Kate MacDonald

**Section 96(1A) Modification Application (MOD 3) to State Significant Development 5169
Horsley Drive Business Park – Subdivision and Infrastructure Works
Corner of The Horsley Drive and Cowpasture Road, Wetherill Park**

Dear Kate,

This application has been prepared to modify State Significant Development 5169 to consolidate proposed lots 5 and 6 within Horsley Drive Business Park pursuant to Section 96(1A) of *the Environmental Planning & Assessment Act 1979*.

Development History

On 8 January 2013, the Minister for Planning and Infrastructure granted approval for Horsley Drive Business Park subdivision and Infrastructure works (SSD 5169), comprising:

- 12 Lot subdivision and access road under leasehold arrangement;
- Demolition of two existing dwellings, ancillary structure and existing trees across the site;
- Remediation of part of the site which was associated with former fuel storage;
- Bulk and detailed earthworks to create building pads;
- Estate infrastructure including central access road, connection with essential utilities and provision of OSD basins and associated stormwater infrastructure; and
- Estate landscaping treatments, comprising predominately native vegetation.

Modification 1 to SSD 5169 was lodged in 2014 to modify the approved Estate layout, however it was subsequently withdrawn.

Modification 2 to SSD 5169 was lodged in December 2014 for the following:

- Reduce the number of allotments from 12 to 6;
- Provision of a new round-about on Cowpasture Road;
- Amend retaining wall heights comprising a tiered design;
- Re-shape detention basin to improve stormwater management outcomes; and
- Registration of subdivision and titles over 4 stages.

At present, the modified instrument of approval is pending, however it is imminent based on the fact draft conditions have been agreed.

The Estate layout as modified under MOD 2 is illustrated below in **Figure 1**.

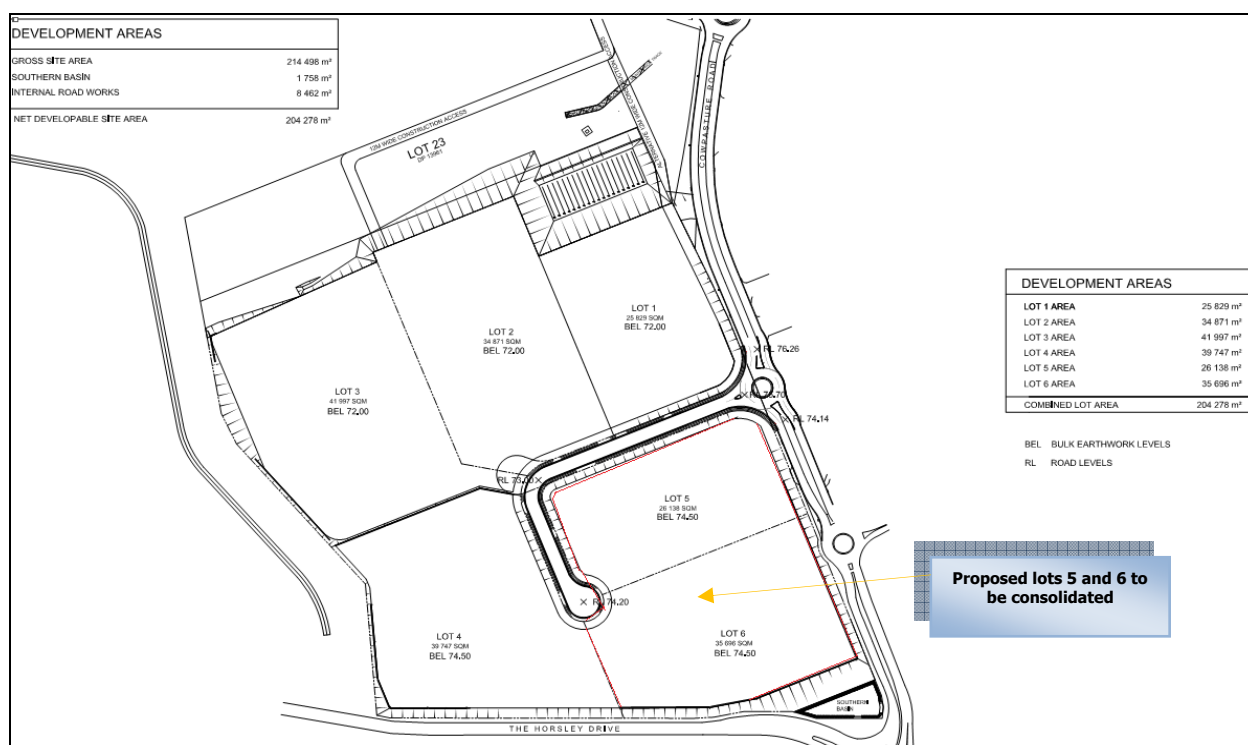


Figure 1: Estate Masterplan (as modified under MOD 2)

Further to the above, SSD 7078 was submitted to the Department of Planning and Environment on 7 July 2015 for a Warehouse/Distribution Facility on the subject site. This proposal is the driving factor that has necessitated the change to consolidate the allotments. The particulars of this proposal are outlined below:

Table 1: Proposal Particulars	
Element	Description
Warehouse	Warehouse 15,427sqm including: <ul style="list-style-type: none"> - Dry store (6,315sqm) - Ambient staging (593sqm) - Tomato room (53sqm) - Recycling (93sqm) - Chiller (604sqm) - Freezer (3,140sqm) - Receiving staging (1,158sqm) - Dispatch staging (2,457sqm) - Receiving office (116sqm) - Vestibule (308sqm) - Battery charge room (340sqm) - Plant rooms 1 and 2(232sqm)
Two Storey Office	3,132sqm
Total Building Area	18,559sqm
Car Parking	250 spaces
Building Height	13.7 metres
Diesel Storage Tank	Provision of a 60,000L Diesel Storage Tank (above ground)
Site Coverage	32.4%

Proposed Modifications and Justification

The subject application seeks to consolidate proposed lots 5 and 6 in order to accommodate the proposed Martin Brower Warehouse/Distribution and Industrial Facility that has been submitted to the Department of Planning and Environment (SSD 7078).

Accordingly, the proposed Estate now seeks consent for a 5 lot subdivision, and should be noted within the modified Instrument of Approval. The proposed subdivision is unchanged in staging and phasing as proposed in Mod 2. All infrastructure proposed for the subdivision to support the Mod 2 scheme remain

unchanged for this Mod 3 subdivision. The proposed drawings to be substituted are shown in the plans schedule below.

Statutory Requirements

As the modifications sought results in the development being substantially the same as which consent was originally granted for, the provisions under Section 96(1A) of the Act apply. The following tests require consideration in this instance:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact 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:*
- (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)*

The development as amended is deemed to be substantially the same as that for which consent was granted under SSD 5169. No additional works are proposed, with only a change to the approved subdivision pattern. The proposed subdivision is unchanged in staging and phasing as proposed in Mod 2. All infrastructure proposed for the subdivision to support the Mod 2 scheme remain unchanged for this Mod 3 subdivision. The consolidation of lots 5 and 6 does not contravene the desired future character of the estate or long term functional capacity.

- (c) it has notified the application in accordance with:*

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*

As approval is sought under Section 96(1A) of the *Environmental Planning & Assessment Act 1979*, notification to surrounding land owners is not required.

- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. Subsections (1), (2) and (5) do not apply to such a modification*

No submissions have been made in relation to the proposal.

Overall, the proposal does not result in intensification of the site or change in servicing strategy and the intended primary use for warehousing/industrial purposes will not change.

Environmental Risk Assessment

The following relevant Environmental Assessment Requirements have been considered in respect of the proposal:

Relevant Environmental Planning Instruments

The proposal is subject to the provisions of *State Environmental Planning Policy (Western Sydney Parklands) 2009* (SEPP WSP). The consolidation of proposed lots 5 and 6 does not result in any inconsistencies with the objectives of provisions of the SEPP.

Strategic Policies, Guidelines and Planning Agreements

The consolidation of the proposed allotments will have no impact on any existing planning agreements, guidelines or strategic policies.

Layout and Urban Design

The proposed lot layout provides a functional area for the future facility. No material change is proposed to the Estate itself, rather the lot consolidation simply changes the subdivision pattern to allow provide a platform for a Warehouse/Distribution and Industrial facility in the future. All infrastructure proposed for the subdivision to support the Mod 2 scheme remain unchanged for this Mod 3 subdivision

Transport and Accessibility

The access arrangements will not be altered as a result of the proposal, nor will the configuration of the estate road be changed.

Flora and Fauna

No additional vegetation is to be removed.

Utilities

All utilities and services as approved under SSD 5169 will be maintained. All infrastructure proposed for the subdivision to support the Mod 2 scheme remain unchanged for this Mod 3 subdivision

Contributions

No change to the Section 94 contributions payable will change as a result of the lot consolidation.

Flood and Stormwater Drainage Management

The stormwater management arrangements for the site and broader Estate are not proposed to be changed under the subject application. All infrastructure proposed for the subdivision to support the Mod 2 scheme remain unchanged for this Mod 3 subdivision

Conditions of Consent

The conditions of consent that are requested to be changed are:

- A. Schedule 1 - Development Description – change from 6 lots to 5 lots**
- B. Schedule 2 – Insert the following Plan Schedule (amendments in red)**

Plan	Drawing Number	Author	Date	Revision Number
Master Plan	MP – WSPT – FS – 011	Australand	17.07.15	G
Landscape Plan	L01	Habitation	26.06.15	I
Landscape Sections	L02	Habitation	26.06.15	I
Planting Schedule	L03	Habitation	26.06.15	I
Landscape Sections	L04	Habitation	26.06.15	I
Drawing List and General Notes	Co11492.05-DA10	Costin Roe	02.12.14	B
Erosion and Sediment Control Plan	Co11492.05-DA20	Costin Roe	02.12.14	B
Erosion and Sediment Control Plan Details – Sheet 2	Co11492.05-DA25	Costin Roe	02.12.14	B
Bulk Earthworks Plan – Sheet 1	Co11492.05-DA31	Costin Roe	02.12.14	B
Bulk Earthworks Plan – Sheet 2	Co11492.05-DA32	Costin Roe	02.12.14	B
Bulk Earthworks Sections – Sheet 1	Co11492.05-DA33	Costin Roe	02.12.14	A
Bulk Earthworks Sections - Sheet 2	Co11492.05-DA34	Costin Roe	02.12.14	A
Concept Stormwater Catchments Plan	Co11492.05-DA40	Costin Roe	02.12.14	B
Concept Civil Works Plan - Sheet 1	Co11492.05-DA41	Costin Roe	02.12.14	B
Concept Civil Works Plan - Sheet 2	Co11492.05-DA42	Costin Roe	09.02.15	C

Bio-Retention Basin Plan	Co11492.05-DA43	Costin Roe	02.12.14	B
Concept Stormwater Details - Sheet 1	Co11492.05-DA45	Costin Roe	02.12.14	B
Concept Stormwater Details - Sheet 2	Co11492.05-DA46	Costin Roe	02.12.14	B
Access Road Details	Co11492.05-DA50	Costin Roe	02.12.14	B
Retaining Wall Plan Sheet 1	Co11492.05-DA61	Costin Roe	02.12.14	B
Concept Stormwater Details - Sheet 2	Co11492.05-DA62	Costin Roe	02.12.14	B
Retaining Wall Details	Co11492.05-DA65	Costin Roe	09.02.15	D
Retaining Wall Elevations - Sheet 1	Co11492.05-DA66	Costin Roe	02.12.14	A
Retaining Wall Elevations - Sheet 2	Co11492.05-DA67	Costin Roe	09.02.15	C
Retaining Wall Elevations - Sheet 3	Co11492.05-DA68	Costin Roe	09.02.15	C
Retaining Wall Comparison Plan	Co11492.05-DA69	Costin Roe	09.02.15	A
Roundabout Layout and General Alignment Plan	Co11492.05-SK01	Costin Roe	02.12.14	A
Round about Turning Paths and Plan	Co11492.05-SK02	Costin Roe	02.12.14	A
Draft Plan of Subdivision - Stage 1	10067-006-(C)	Shawn Maurice Leclerc	7-2015	N/A
Draft Plan of Subdivision - Stage 2	10067-007-(C)	Shawn Maurice Leclerc	7-2015	N/A
Draft Plan of Subdivision - Stage 3	10067-008-(C)	Shawn Maurice Leclerc	7-2015	N/A
Draft Plan of Subdivision - Stage 4	10067-009-(C)	Shawn Maurice Leclerc	7-2015	N/A

Conclusion

The proposed modifications will have no adverse impact on the public interest.

Amendment of the master plan will ensure the Estate can operate successfully and accommodate the proposed Martin Brower Warehouse/Distribution and Industrial Facility.

Based on the above it is requested that the Department of Planning and Environment support the Modification Application.

Should you require further information, please contact the undersigned.

Yours Faithfully,



Andrew Cowan
Senior Associate
McKenzie Group Consulting Planning (NSW) Pty Ltd
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Enclosed:

- Revised Estate Masterplan
- Revised Subdivision Plans