



ASSESSMENT REPORT

Section 96(1A) Horsley Drive Business Park, Fairfield Local Government Area SSD5169 MOD 3

1. BACKGROUND

This report is an assessment of a modification application seeking approval to modify the development consent for the Horsley Drive Business Park (SSD 5169). The request has been lodged by McKenzie Group Consulting Planning (the Applicant) on behalf of Australand Property Group and the Western Sydney Parklands Trust pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks to modify the approved subdivision layout to reduce the number of allotments from six to five, so as to accommodate the Martin Brower Warehouse/Distribution and Industrial Facility as proposed under SSD 7078.

2. SUBJECT SITE

The subject site is located approximately seven kilometres (km) south-east of the M4/M7 interchange at the intersection of The Horsley Drive and Cowpasture Road, Wetherill Park (see **Figure 1**). The site forms part of the Western Sydney Parklands and is surrounded by agricultural land and an electrical easement to the north, Cowpasture Road and the Smithfield Wetherill Park Industrial Estate to the east, The Horsley Drive and agricultural land to the south, and an open water supply canal and agricultural land to the west. The closest residences are located opposite the site's The Horsley Drive frontage, and approximately 300 metres to the east in Horsley Park.

The subject site is around 21 hectares (ha) and has frontage to The Horsley Drive and Cowpasture Road. It is legally described as Lot 1 in Deposited Plan 1036933, Lot 10 in Deposited Plan 879209, part lots 22 to 24 and lots 25, 28B, 30, 30A, 32, 32A and 39B in Deposited Plan 13961, lots 1 to 5 in Deposited Plan 1098128, Lot 100 in Deposited Plan 879680, and Lot C in Deposited Plan 103755.



Figure 1: Site Location

3. APPROVAL HISTORY

On 8 January 2013, development consent was granted by the then A/Deputy Director-General, Development Assessment and Systems Performance for the development of the Horsley Drive Business Park (SSD 5169). The development consent permits the following works:

- a 12 lot subdivision;
- demolition of two existing dwellings and ancillary structures;
- remediation works;
- bulk and detailed earthworks;
- estate infrastructure, including utility connections and stormwater infrastructure; and
- estate landscaping.

On 7 August 2014, the Applicant lodged a section 96(2) modification (SSD 5169 MOD 1) seeking approval to:

- reduce the number of allotments from 12 to eight and amend the building footprints;
- reduce the site area by 2,210 m²;
- amend the staging of the development;
- increase the retaining wall heights;
- reshape the detention basin to improve stormwater management outcomes; and
- permit the registration of Certificates of Title prior to the completion of the road works.

This request was subsequently withdrawn on 23 February 2015 following the lodgement of SSD 5169 MOD 2 to further reduce the number of allotments.

On 6 August 2015, the Director, Industry Assessments, approved a section 96(1A) modification (SSD 5169 MOD 2) which permitted the following design changes:

- reduce the number of allotments from 12 to six and amend the building footprints;

- increase the height of the retaining walls and the finished floor levels (FFLs) on The Horsley Drive and Cowpasture Road frontages from RL 69.0 m to RL 74.5 m;
- increase the landscape setback on The Horsley Drive frontage of the site;
- increase the net developable area from 200,807 m² to 204,278 m²;
- amend the site access arrangements and create a new estate access road and roundabout on Cowpasture Road; and
- modify the design of the stormwater infrastructure.

4. PROPOSED MODIFICATION

On 7 August 2015, the Applicant lodged a section 96(1A) modification (SSD 5169 MOD 3) seeking approval to consolidate lots 5 and 6 in Master Plan MP-WSPT-FS-011 into one lot. The Applicant has advised that the modification is required to facilitate the construction of the Martin Brower Warehouse/Distribution and Industrial Facility as proposed under SSD 7078.

A comparison of the approved and proposed subdivision layout is provided in **Figure 2** overleaf.



Figure 2: Comparison of Approved and Proposed Subdivision Layout (approved left, proposed right)

5. STATUTORY CONSIDERATION

5.1 Section 96(1A)

Section 96(1A) of the EP&A Act permits a consent authority to modify a development consent provided that it:

- (a) is satisfied that the proposed modification is of minimal environmental impact;
- (b) is satisfied that the development to which the consent is modified is substantially the same development for which the consent was originally granted; and
- (c) has notified the application in accordance with the regulations, if required, or a development control plan, if the consent authority is a council that has made a development control plan that requires notification or advertising of a modification application, and it has considered any submissions made in relation to the modification application within the period prescribed by the Regulations or a development control plan.

The Department has reviewed the scope of the modification application and is satisfied that the proposed modification would result in minimal environmental impacts, and relates to substantially the same development as the original development consent on the basis that:

- the application will not increase the number of industrial lots;
- the application will not result in any additional traffic, flooding or visual impacts beyond those contemplated under the development consent; and
- it will still facilitate the creation of an industrial subdivision with associated demolition, remediation, bulk and detailed earthworks, and estate landscaping works.

Clause 117(3B) of the *Environmental Planning and Assessment Regulations 2000* (EP&A Reg) specifies that the notification requirements of the EP&A Reg does not apply to State significant developments. Given the above the application was not notified or advertised, however it was made publicly available on the Department's website on Thursday 13 August 2015, and was referred to Fairfield City Council and Water NSW for comment.

All submissions received in relation to the application are considered in **Section 6** of this report.

5.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Industry Assessments, may determine the application under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The modification request was made publicly available on the Department's website and referred to Fairfield City Council and Water NSW for comment. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means.

The Department received submissions from Fairfield City Council and Water NSW. It should be noted that no public submissions have been received.

Fairfield City Council raised no objection to the application and did not provide any additional comments.

Water NSW raised no objection to the application and did not provide any additional comments.

As previously outlined, **no public submissions** were received.

7. ASSESSMENT

In its assessment of the modification application the Department has considered the following:

- the planning report provided to support the proposed modification (see **Appendix A**); and
- the Secretary's assessment report for the original development application and subsequent modification application.

Based on the above, the Department considers the key issue to be the consolidation of lots 5 and 6. In this regard, the Department has reviewed the revised subdivision layout and has concluded that:

- the revisions to the lot layout will continue to facilitate employment generating developments (industrial warehouses) within the Horsley Drive Business Park;
- the proposed modification will not generate the need for additional servicing infrastructure; and
- the proposed modification will not result in any additional environmental impacts beyond those assessed under the original development application.

Accordingly, the Department supports the proposed modifications to the subdivision layout.

8. CONCLUSION


The Department considers the proposed modification is appropriate on the basis that:

- the application will still facilitate the creation of larger industrial lots within the Horsley Drive Business Park and is consistent with current market demand; and
- it will not result in any additional environmental impacts beyond those assessed under the original development application.

Consequently, the Department has concluded that the modification application should be approved subject to the conditions recommended in the Instrument of Modification at **Appendix B**.

9. RECOMMENDATION

It is **RECOMMENDED** that the Director, Industry Assessments, as delegate of the Minister for Planning, approve SSD 5169 MOD 3, subject to the conditions recommended in the Instrument of Modification at **Appendix B**.


15.09.15
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Team Leader
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15/9/15
Chris Ritchie
Director
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APPENDIX A: MODIFICATION REQUEST SSD 5169 MOD 3

Refer to the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7209

APPENDIX B: INSTRUMENT OF MODIFICATION
