

## Notice of Modification

### Section 96(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate, under delegation executed on 16 February 2015, I approve the section 96(1A) modification of the development consent referred to in Schedule 1, subject to the modified conditions of consent outlined in Schedule 2.



Chris Ritchie  
**Director**  
**Industry Assessments**

Sydney

6 AUGUST

2015

#### SCHEDULE 1

**Application No.:** SSD 5169

**Applicant:** Western Sydney Parklands Trust

**Consent Authority:** Minister for Planning

**Land:** Corner of The Horsley Drive and Cowpasture Road, Wetherill Park, and includes 19 separate allotments identified in the table below:

Lot	DP	Lot	DP
23 (Part)	13961	32	13961
24 (Part)	13961	32A	13961
25	13961	1	1098128
1	1036933	2	1098128
10	879209	3	1098128
28B	13961	4	1098128
30	13961	5	1098128
30A	13961	100	879680
39B	13961	C	103755
22 (Part)	13961		

**Development:** Horsley Drive Business Park subdivision and infrastructure works, comprising:

- 6 lot subdivision and access road;
- demolition;
- remediation;
- bulk and detailed earthworks;
- estate infrastructure; and
- estate landscaping.

## SCHEDULE 2

1. In Schedule 2, Part A, delete Condition A2, and replace it with the following:
- A2 The Applicant shall carry out the project generally in accordance with the Environmental Impact Statement titled *Environmental Impact Statement, SSD 5169, The Horsley Drive Business Park, Cnr The Horsley Drive and Cowpasture Road, Wetherill Park*, prepared by McKenzie Group Consulting Planning (NSW) Pty Ltd, dated June 2012, as amended by:
- a) Response to Submissions report titled *Response To Submissions Report, SSD 5169, The Horsley Drive Business Park, Cnr The Horsley Drive and Cowpasture Road, Wetherill Park*, prepared by McKenzie Group Consulting Planning (NSW) Pty Ltd, dated October 2012;
  - b) Section 96(1A) Modification Application report titled *Section 96(1A) Modification Application Horsley Drive Business Park (SSD 5169)*, prepared by McKenzie Group Consulting Planning (NSW) Pty Ltd, dated February 2015;
  - c) Section 96(1A) Modification Application report titled *Section 96(1A) Modification Application (MOD 2) to State Significant Development 5169 Horsley Drive Business Park - Subdivision and Infrastructure Works Corner of the Horsley Drive and Cowpasture Road, Wetherill Park*, prepared by McKenzie Group Consulting Planning (NSW) Pty Ltd, dated 5 March 2015;
  - d) Response to Submissions report titled *Response To Submissions Section 96(1A) Modification Application (MOD 2)*, prepared by McKenzie Group Consulting Planning (NSW) Pty Ltd, dated May 2015;
  - e) letter titled *Horsley Drive Business Park, Wetherill Park, NSW, SSD 5169 MO1, Response to Council Request for Information*, prepared by Costin Roe Consulting Pty Ltd, dated 4 May 2015; and
  - f) following drawings, except for:
    - i) any modifications which are 'Exempt' or 'Complying Development';
    - ii) otherwise provided by the conditions of this consent.

<b>Architectural (or Design) Drawings prepared by Concept Architecture Pty Ltd</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
HY-HW-MP-002	A	Concept Local Aerial	23.05.2012
HY-HW-MP-003	A	Concept Regional Aerial	23.05.2012
MP-WSPT-FS-011	F	Master Plan	14.04.2015
HY-HW-MP-005	A	Concept Topography Plan	23.05.2012
<b>Landscape Drawings prepared by Habitation Landscape Architecture + Urban Design</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
L000	I	Title Page	26.06.2015
L001	I	Landscape Concept Masterplan and Precinct Imagery	26.06.2015
L002	I	Landscape Sections	26.06.2015
L003	I	Planting Schedule	26.06.2015
<b>Civil Engineering Drawings prepared by Costin Roe Consulting Pty Ltd</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
Co11492.05-DA10	B	Drawing List & General Notes	02.12.2014
Co11492.05-DA20	B	Erosion & Sediment Control Plan &	02.12.2014

		Details	
Co11492.05-DA25	B	Erosion & Sediment Control Details Sheet 2	02.12.2014
Co11492.05-DA31	B	Bulk Earthworks Plan – Sheet 1	02.12.2014
Co11492.05-DA32	B	Bulk Earthworks Plan - Sheet 2	02.12.2014
Co11492.05-DA33	A	Bulk Earthworks Sections – Sheet 1	02.12.2014
Co11492.05-DA34	A	Bulk Earthworks Sections – Sheet 2	02.12.2014
Co11492.05-DA40	B	Stormwater Catchment Plan	02.12.2014
Co11492.05-DA41	C	Concept Civil Works Plan – Sheet 1	02.12.2014
Co11492.05-DA42	C	Concept Civil Works Plan – Sheet 2	09.02.2015
Co11492.05-DA43	B	Bio Retention Basin Plan	02.12.2014
Co11492.05-DA45	B	Concept Stormwater Details – Sheet 1	02.12.2014
Co11492.05-DA46	B	Concept Stormwater Details – Sheet 2	02.12.2014
Co11492.05-DA50	B	Access Road Details	02.12.2014
Co11492.05-DA61	B	Retaining Wall Plan – Sheet 1	02.12.2014
Co11492.05-DA62	B	Retaining Wall Plan – Sheet 2	02.12.2014
Co11492.05-DA65	D	Retaining Wall Details	09.02.2015
Co11492.05-DA66	A	Retaining Wall Plan & Elevation – Sheet 1	02.12.2014
Co11492.05-DA67	C	Retaining Wall Plan & Elevation – Sheet 2	09.02.2015
Co11492.05-DA68	C	Retaining Wall Plan & Elevation – Sheet 3	09.02.2015
Co11492.05-DA69	A	Retaining Wall Comparison Plan and Sections	20.03.2015
Co11492.05-SK01	A	Roundabout Layout and General Alignment	02.12.2014
Co11492.05-SK02	A	Roundabout Turning Path Plan	02.12.2014
<b>Draft Subdivision Plan prepared by Shawn Maurice Leclerc</b>			
<b>Surveyors Ref No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
10067-006-(A)	N/A	Draft -Stage 1	2-2015
10067-007-(A)	N/A	Draft - Stage 2	2-2015
10067-008-(A)	N/A	Draft - Stage 3	2-2015
10067-009-(A)	N/A	Draft - Stage 4	2-2015

2. In Schedule 2, Part A, delete Condition A15.
3. In Schedule 2, Part B, replace Condition B7 with the following condition:

**Maintenance Bond – Central Estate Access Road**  
B7

- a) at the time of road dedication, a maintenance bond covering the works associated with the internal central estate access road shall be provided to Council. The maintenance bond is to be paid in cash or a bank guarantee. The value of the maintenance bond will be determined by Council in accordance with the rates listed in Council's Annual Schedule of Fees and

Charges following the submission of "work as executed" plans detailing all works constructed in association with the subdivision.

- b) the maintenance bond will generally be held by Council for a period of twelve (12) months from the date of the dedication of the access road. The maintenance bond will be released at the end of the maintenance period, being twelve months from the date of dedication, subject to satisfactory performance of the works. Council may use the maintenance bond to carry out any rectification works required at the end of the maintenance period should the applicant fail to comply with any written request from Council to carry out such works.

- 4. In Schedule 2, Part B, after Condition B20 insert the following new conditions:

#### **Roundabout Road Safety Audit**

- B21 Prior to the issue of a Construction Certificate for the Cowpasture Road roundabout, a road safety audit of the new roundabout must be undertaken in accordance with the *Austroads Guide to Road Safety*, to justify the available safe intersection sight distance in Cowpasture Road and the approach sight distance in the proposed access road.

Details demonstrating compliance must be submitted to Fairfield City Council prior to the issue of the Construction Certificate for the construction of the Cowpasture Road roundabout and estate access road.

#### **Roundabout Design**

- B22. Prior to the issue of a Construction Certificate for the estate access road connection with Cowpasture Road, a dimensioned plan and longitudinal sections of the new roundabout must be submitted to Fairfield City Council. The plan shall show the existing and proposed levels within the roundabout and the new splitter levels including line marking and signposting. The sections shall provide the existing and finished levels of Cowpasture Road and the internal access road, within the extent of the proposed roundabout works. The proposed roundabout shall be designed to comply with the relevant standards. The required plan and sections must be submitted to Fairfield Traffic Committee for approval under Section 138 of the *Roads Act 1993*.

#### **Submission of Plans and Sections to Endeavour Energy**

- B23. Prior to the issue of a Construction Certificate for the estate access road, the plans and sections required by Condition B22, are to be provided to Endeavour Energy to inform the relocation of power poles associated with the Road works and the installation of the roundabout. Details demonstrating compliance are to be submitted to the certifying authority.

#### **Consultation with Water NSW**

- B24 The Applicant shall consult with Water NSW regarding the proposed extension of culverts in the Upper Canal corridor into the development site prior to construction of these works. In addition, if any amendments are made

to the plans for earthworks and civil infrastructure that could impact on the Upper Canal corridor, Water NSW shall be consulted prior to those works occurring.

5. In Schedule 2, Part D, delete Condition D1 *Subdivision and Infrastructure Works – Works-As-Executed* and replace it with the following:

**Subdivision and Infrastructure Works – Works-As-Executed**

D1 Following completion of the works the applicant shall provide Council with a detailed “works as executed” drawing signed by a registered surveyor showing the relevant finished surface levels of access roads, inter-allotment drainage and any lot filling, carried out under this consent.

**Note:** Council will not accept works as executed plans with coloured highlighter markings on the plans. All dimensions must be handwritten in blue or red pen only.

6. In Schedule 2, Part D, insert new Condition D1A after Condition D1:

D1A Subdivision and the works within the estate can be undertaken as a two phase process for each stage of the development as follows:

Phase 1 - create residual lots and a lot for the access road providing easements, services, and right of carriageway (over three sub stages).

Phase 2 - extinguishment of the easements for services and right of carriageway and dedication of the access road as "public road" to Fairfield City Council, following construction of the works.

7. In Schedule 2, Part D, replace Condition D6 with the following condition:

**Subdivision Certificate Release Fee**

- D6. If Council is the Certifying Authority, the Applicant shall make a payment to the Council for a Subdivision Certificate Release Fee prior to the release of each Subdivision Certificate in accordance with the Council's Annual Schedule of Fees and Charges. Please note that this fee will be subject to review each financial year. The value of this fee will be reviewed by Council in accordance with the rates listed in the Council's Annual Schedule of Fees and Charges following compliance with the conditions of approval and the submission of each Subdivision Certificate.

8. In Schedule 2, Part D, delete Condition D7.

9. In Schedule 2, Part D, delete Condition D10 and replace it with the following:

**Section 94A Development Contributions**

- D10 In accordance with Division 6 of Part 4 of the Act, the Applicant shall pay the following section 94A monetary contributions:

**a) Amount of Contribution**

The total amount of the contribution is \$135,302.72. This contribution may be paid in stages as per the table below:

Subdivision Stage	Proposed Residual Lots	Area per (ha)	Split Stage	% Split per Stage	Section 94 Payment Per Stage
1	1	2.583		13	\$17,100.61
2	31 & 32	6.113		30	\$40,470.77
3	331, 332 & 333	11.741		57	\$77,731.34
<b>TOTAL</b>	<b>6</b>	<b>20.437</b>		<b>100</b>	<b>\$135,302.72</b>

**b) Timing and Method of Payment**

- i) the contribution(s) shall be paid in the form of cash or bank cheque, made out to Council. For accounting purposes, the contribution(s) may require separate payments to different Council programs/projects, and you are advised to check with Council prior to making a payment;
- ii) evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of each Subdivision Certificate.

**c) Indexing**

- i) the contributions will be adjusted at the time of payment (if required) in accordance with the requirements of the EP&A Regulation and Fairfield City Council Indirect (Section 94A) Development Contributions Plan 2011.

10. In Schedule 2, Part D, delete Condition D12.

11. In Schedule 2, Part D, replace Condition D13 with the following condition:

**D13 Post-construction Dilapidation Report**

Prior to road dedication:

- a) the Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.
- b) the report is to be submitted to the Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:
  - i. compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions; and
  - ii. have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
- c) a copy of this report must be forwarded to the Council.

12. In Schedule 2, Part D, replace Condition D15 with the following condition:

**Dedication**

**D15** The internal central estate access road shall be constructed by the Applicant and is to be dedicated to Council as a public road. Prior to any dedication, the Applicant shall ensure that the construction of the road has been completed to Council requirements and engineering standards. Evidence demonstrating that the road construction has been undertaken in accordance with the Council's requirements must be submitted to the satisfaction of the Certifying Authority. Despite any formal dedication, the Applicant shall remain responsible for the maintenance of the road for the duration of the

maintenance period, being 12 months from the date of dedication of the road to Council.

**END OF SSD 5169 MOD 2**

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