

## ASSESSMENT REPORT

### Section 96(1) Modification Application Oakdale South Industrial Estate (SSD 6917 MOD 5) Timing of Noise Verification Reports

#### 1. INTRODUCTION

This report assesses a modification application by Goodman Property Services (Aust) Pty Ltd (the Applicant) to the Oakdale South Industrial Estate (Oakdale South) (SSD 6917). The application has been lodged pursuant to section 96(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and seeks to correct a minor error regarding the timeframe to submit noise verification reports for warehouse buildings with external mechanical plant to the Secretary of the Department.

#### 2. BACKGROUND

Oakdale South is a warehousing and distribution complex wholly located in the suburb of Kemps Creek in the Penrith local government area (LGA). The site is 117 hectares (ha) in area with a development footprint of 71.3 ha. Several residential receivers are located near the site in the suburbs of Kemps Creek, Mount Vernon (Penrith LGA) and Horsley Park (Fairfield LGA), with the closest located 500 metres (m) to the south east on Aldington Road (see **Figure 1**). Bulk earthworks and infrastructure construction works are underway in development precincts 1 through 5. Warehouse construction in precinct 3 for the Toyota spare parts distribution centre (SSD 7663) is also underway (**Figure 2**).

The site is also located in the Western Sydney Employment Area (WSEA) which is strategically identified industrial and employment land under *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP). Key operations in the WSEA include manufacturing, warehousing, transport and logistics facilities (typically operating on a 24/7 basis), construction of infrastructure, industrial and residential development and retail trade (convenience food and drink premises) to service staff in large business hubs/warehousing estates.

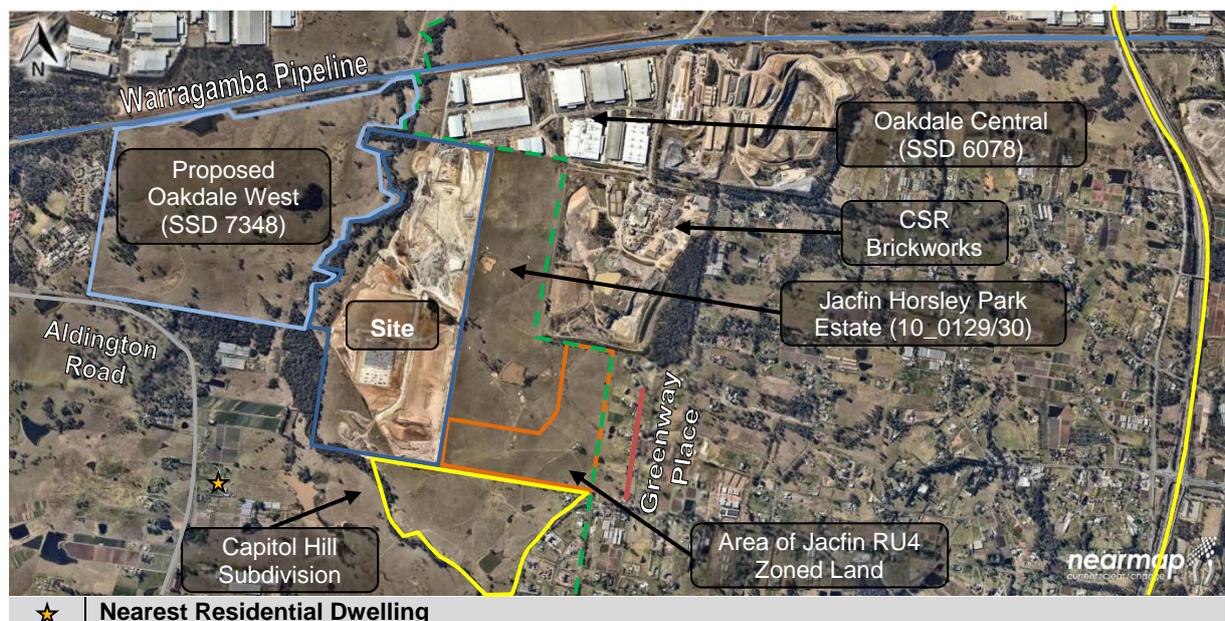


Figure 1: Site Location

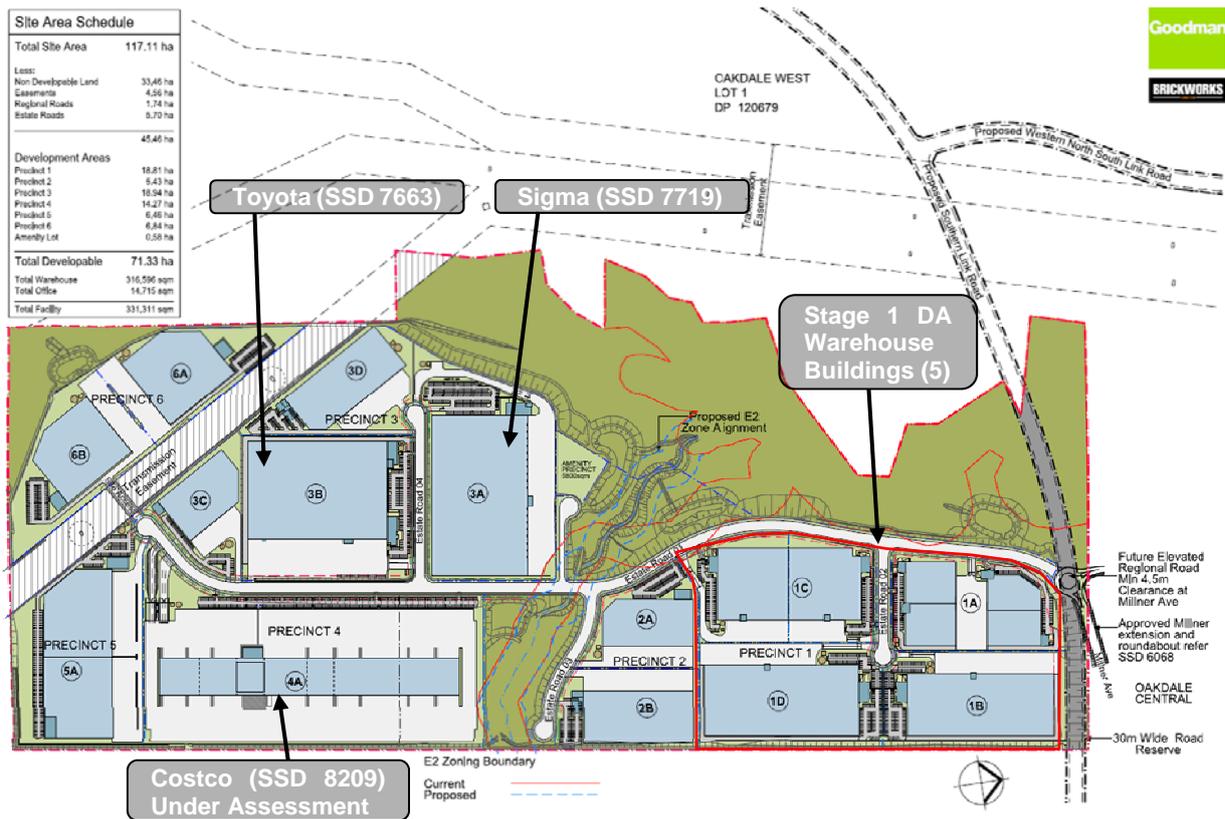


Figure 2: Approved Concept Proposal Layout – SSD 6917 as modified by MOD 1

### 3. APPROVAL HISTORY

On 26 October 2016, development consent was granted by the Executive Director, Key Sites and Industry Assessments for SSD 6917 consisting of a Concept Proposal and a Stage 1 Development Application (DA) for a warehousing and distribution complex known as Oakdale South. Since this approval, the development has been modified twice. The scope of the original approval and subsequently approves modifications are summarised at **Appendix C**.

On 23 June 2017, the Applicant lodged a section 96(1A) modification (SSD 6917 MOD 4) seeking to amend the Concept Proposal and Stage 1 DA to revise the building envelope and internal road layouts in precincts 1 and 2. SSD 6917 MOD 4 is currently under assessment.

### 4. PROPOSED MODIFICATION

The Applicant has lodged a modification application under section 96(1) of the EP&A Act to modify Condition E37 of the SSD 6917 development consent, relating to the timeframe when noise verification reports must be submitted for each warehouse building with external mechanical plant. The modification seeks to remove sub-clause b) of the condition, to resolve a conflict of when these reports need to be submitted to the satisfaction of the Secretary.

### 5. STATUTORY CONTEXT

#### 5.1 Consent Authority

The Minister for Planning is the consent authority for the application. Under the Minister's delegation of 11 October 2017, 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.

#### 5.2 Section 96(1)

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 primary function and purpose of the approved project would not change as a result of the proposed modification;
- the modification is of a scale that warrants the use of section 96(1) of the EP&A Act as it seeks to correct a minor error; and
- the modification would not result in any additional environmental impact and will be appropriately managed through the existing or modified conditions of consent.

Therefore, the Department is satisfied the proposed modification is within the scope of section 96(1) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers the application should be assessed and determined under section 96(1) of the EP&A Act rather than requiring a new development application to be lodged.

## 6. CONSULTATION

Clause 117(3B) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation does not apply to State significant development. Accordingly, the application was not notified or advertised, however, it was made publicly available on the Department's website on 25 October 2017. Due to its minor nature, it was not referred to Penrith City Council or any government agencies.

## 7. ASSESSMENT

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- the SEE provided to support the proposed modification (see **Appendix B**);
- the assessment report for the original development application and subsequent modification application(s);
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issue relates to correcting an error in Condition E37 regarding noise verification reporting at the operational stages of each warehouse building under the Stage 1 DA. The Stage 1 DA has five approved warehouse buildings, all located in precinct 1 of Oakdale South. Other buildings under the Concept Proposal will be subject to future DAs. The Department also considers it appropriate to correct a cross reference error to Condition E23 regarding imported soil requirements under Condition E27A.

Condition E37 requires the Applicant to undertake noise testing and prepare a noise verification report within three months of the operation of each warehouse building in the Stage 1 DA with external mechanical plant. The intent of this condition is to confirm warehousing operations comply with the performance based noise criteria set for the entire Oakdale South site under Condition B18 of the Concept Proposal.

However, sub-clause b) of Condition E37 creates a conflict where verification reports would be submitted to the Secretary prior to the installation of any external mechanical plant. This would result in noise testing being carried out for warehouse buildings in an unfinished state, and may underestimate the noise impacts of the warehouses when fully built and operating.

The Department acknowledges the current wording of Condition E37 conflicts with its intent and agrees sub-clause b) should be amended as its current wording may prevent noise verification reports from accurately assessing the cumulative compliance of warehousing operations, when factoring in external mechanical plant.

However, the Department does not support the Applicant's suggested wording to remove the role of the Secretary from approving the noise verification reports. The Department considers an approval role under the condition is warranted to ensure compliance with the noise criteria stipulated under Condition B18 of the Concept Proposal. Therefore, the Department has recommended a minor amendment to sub clause b) of Condition E37 to delete the words "prior to the installation of any external mechanical plant". The Department considers this amendment will ensure the verification reports assess the warehouse buildings in the Stage 1 DA while operating at practical completion.

Finally, the Department has recommended a minor revision to Condition E27A to correct a minor cross-referencing error to Condition E23, regarding requirements for imported soil as part of the out of hours

bulk earthworks. This change is administrative in nature and would have no environmental impact as the Applicant has previously satisfied Condition E23.

## 8. CONCLUSION

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that it seeks to correct a minor error to prevent a conflict in the timing of noise verification reports when each warehouse building begins operating, and would not result in any additional environmental impact. The Department is satisfied that the modification should be approved, subject to the revision to Condition E37 of the Stage 1 DA.

## 9. RECOMMENDATION

It is recommended that the Director, Industry Assessments, as delegate for the Minister for Planning:

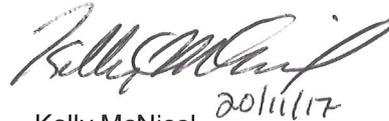
- Consider the findings and recommendations of this report;
- Determine that the modification application (SSD 6917 MOD 5) falls within the scope of section 96(1) of the EP&A Act;
- Modify the development consent (SSD 6917); and
- Sign the attached approval of the modification (**Attachment A**).

Recommended by:



Thomas Piovesan  
**Senior Planning Officer**  
**Industry Assessments**

Recommended by:



Kelly McNicol  
**Team Leader**  
**Industry Assessments**

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## DECISION

The recommendation is: Approved by:



Chris Ritchie  
**Director**  
**Industry Assessments**  
as delegate of the Minister for Planning

## **APPENDIX A – NOTICE OF MODIFICATION**

## **APPENDIX B – STATEMENT OF ENVIRONMENTAL EFFECTS**

## APPENDIX C – SSD 6917 HISTORY

Application	Details
SSD 6917	<p>Approved by the Executive Director, Key Sites and Industry Assessments on 26 October 2016, to permit a Concept Proposal and concurrent Stage 1 Development Application for the Oakdale South Industrial Estate, involving:</p> <ul style="list-style-type: none"> <li>• a Concept Proposal for a warehousing and distribution complex with: <ul style="list-style-type: none"> <li>– a total gross floor area (GFA) of 395,880 m<sup>2</sup> across six development precincts;</li> <li>– 15 building envelopes for warehouse and distribution uses; and</li> <li>– subdivision, site levels, landscaping, infrastructure services and development controls; and</li> </ul> </li> <li>• a Stage 1 DA involving: <ul style="list-style-type: none"> <li>– construction and operation of nine warehouse buildings with a total GFA of 237,070 m<sup>2</sup> across precincts 1, 4 and 5;</li> <li>– estate wide bulk and detailed earthworks involving the importation of 1,007,000 m<sup>3</sup> of fill to achieve warehouse and infrastructure levels during standard construction hours; and</li> <li>– infrastructure works including road construction, drainage and landscaping across the site.</li> </ul> </li> </ul> <p><a href="http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=6917">http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=6917</a></p>
MOD 1 - 96(2)	<p>Approved by the Director, Industry Assessments on 21 April 2017, involving:</p> <ul style="list-style-type: none"> <li>• amended Concept Proposal and Stage 1 DA-site, building envelope and road layout and gross floor area mix;</li> <li>• increase creek realignment works;</li> <li>• addition of an amenity lot in precinct 3;</li> <li>• removal of the construction of warehouse buildings in precincts 4 and 5 to be assessed under future DAs; and</li> <li>• amended site levels and bulk earthworks.</li> </ul> <p><a href="http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=8090">http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=8090</a></p>
MOD 2 - 96(1A)	<p>Withdrawn by the Applicant on 25 January 2017.</p>
MOD 3 - 96(1A)	<p>Approved by the Executive Director, Key Sites and Industry Assessments on 5 October 2017, involving:</p> <ul style="list-style-type: none"> <li>• extended weekday construction hours for the importation of fill material for the Stage 1 DA bulk earthworks, including spreading and compacting of fill material.</li> </ul> <p><a href="http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=8380">http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=8380</a></p>
MOD 4 - 96(1A)	<p>Lodged on 23 June 2017, and currently under assessment involving:</p> <ul style="list-style-type: none"> <li>• changes to the Concept Proposal and Stage 1 DA building envelope and internal road layouts in precincts 1 and 2, including the addition of one additional internal road.</li> </ul> <p><a href="http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=8581">http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&amp;job_id=8581</a></p>