

ASSESSMENT REPORT

Section 75W Modification

Additions to the Borg Panels Timber Panel Processing Facility (DA 27/95 MOD 7)

1. BACKGROUND

Borg Panels (the Proponent) owns and operates the Borg Panels Timber Panel Processing Facility located at the northern edge of Oberon in the Oberon local government area. The site has been in use for timber production since 1941 and employs around 160 people. The nearest sensitive receivers to the site are about 520 metres (m) north-west and about 860m to the south within the township of Oberon.

The Borg Panels site was formerly part of a larger operation known as the Oberon Timber Complex, which operated under two Ministerial consents granted in 1995 and 2001 and development consents granted by Oberon Shire Council (see **Figure 1**). The two Ministerial consents approved the following works:

- (DA 27/95) a medium density fibre board (MDF) and moulding plant, door-skin plant on the eastern side of Lowes Mountain Road; and
- (DA 403-11-00) two sawmills and a particle board plant on the western side of Lowes Mountain Road.

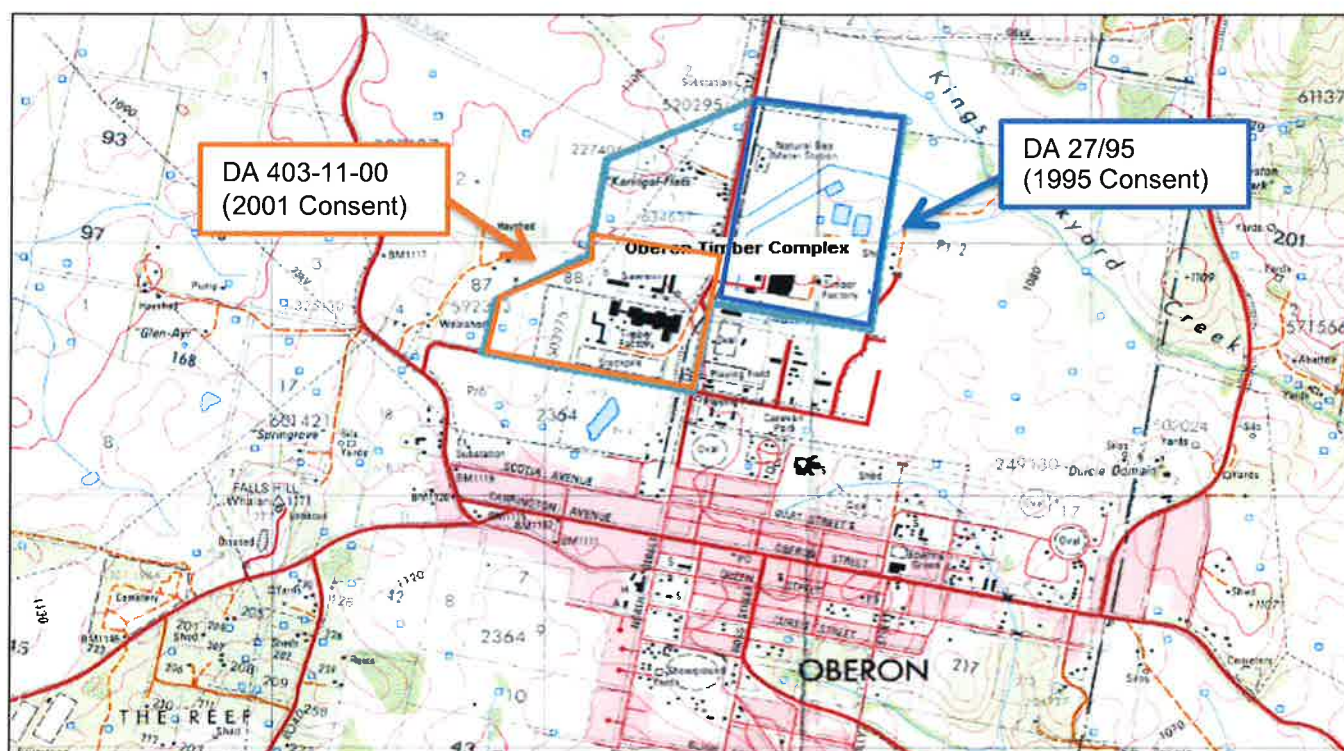


Figure 1: Location map showing the two consents that apply to the Oberon Timber Complex

Until ownership arrangements for the Oberon Timber Complex changed in early 2010, it was operated by separate businesses as an integrated plantation softwood facility, collectively producing a range of timber products for the construction and furniture industries including softwood for house frames and trusses and internal joinery products such as shelving and melamine board products. The business entities operating under the 1995 consent were:

- Carter Holt Harvey, operating the MDF and moulding plant; and
- JELD-WEN Fibre Australia, operating the door-skin plant.

While under the 2001 consent, there was:

- Highland Pine Products, operating two sawmills; and
- Structaflor, operating a particle board plant.

In addition, Council approved a resin production facility (also known as the Woodchem facility) in 1998 (DA 152/98), which is located adjacent to the MDF plant on the eastern side of Lowes Mount Road (See **Figure 2**).

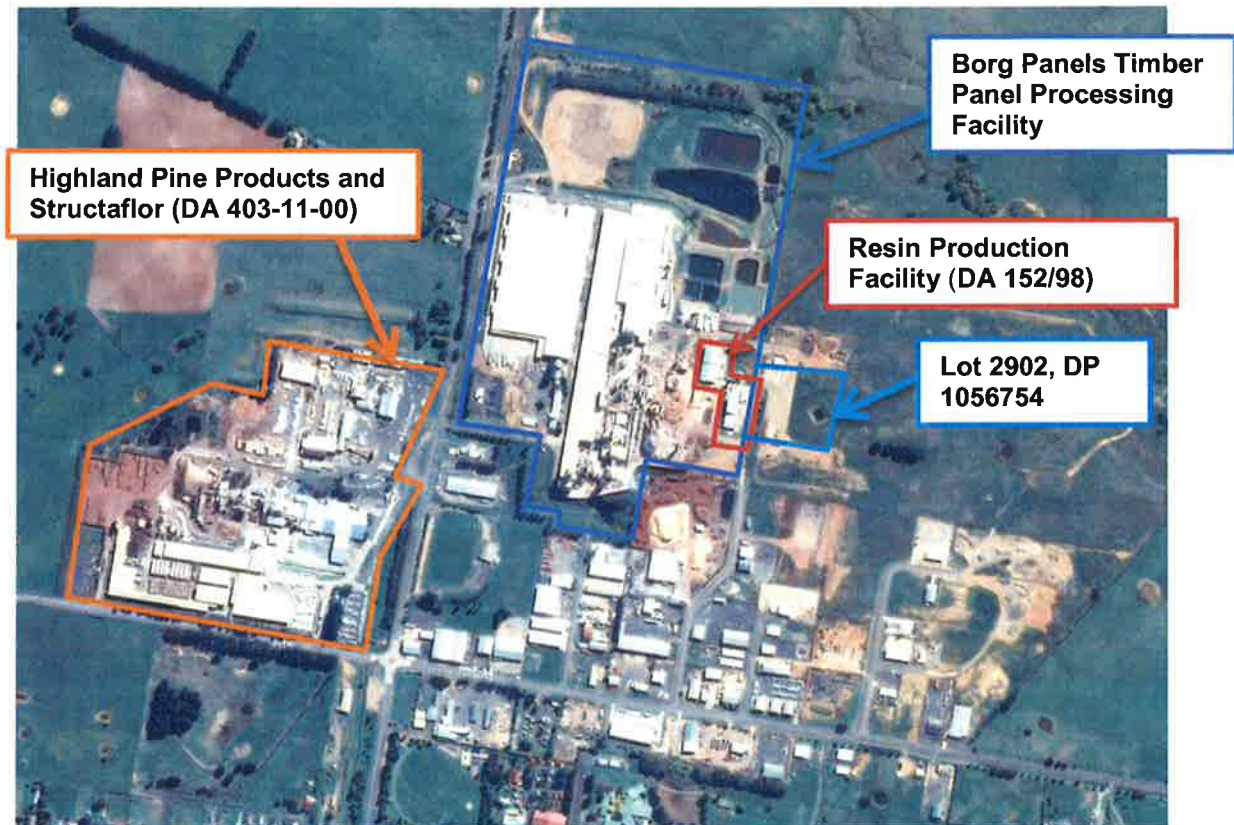


Figure 2: Aerial photo showing the location of the Borg Panels Facility

In early 2010, the Proponent acquired and now operates all of the assets under the 1995 and 1998 consents. As part of a number of recent modifications to the 1995 consent, the Proponent is presently undertaking work to consolidate the operation of its assets which included:

- construction of a building between the MDF plant and the door-skin plant to improve weather protection and organisation between the two plants (MOD 5); and
- extensions to the Woodchem facility on the south-eastern part of the site (MOD 6).

The Proponent has now made a further request to modify the 1995 consent to carry out minor works to the existing facility to further improve site configuration and amenities.

2. PROPOSED MODIFICATION

On 17 November 2014, the Proponent submitted a modification request (DA 27/95 MOD 7) and supporting environmental assessment prepared by The Design Partnership to alter its existing buildings, improve the site layout and air quality and noise impacts associated with the current operations. The proposed modifications would be undertaken in stages and are summarised in **Table 1** and illustrated in **Figures 3** and **4**.

The modification would not result in an increase in production capacity or a significant change to the processes that occur on the site and relates only to the layout and upgrade of existing facilities. Construction of all the additions is expected to take approximately two years to complete.

Table 1: Proposed modifications

Proposed Modification	Description
Stage 1 - Temporary Construction Laydown (Lot 2902, DP 1056754)	• Use of Lot 2902, DP 1056754, adjacent to the Woodchem facility, as a temporary construction laydown area (see Figure 3). • Short term storage of materials, plant and equipment for the duration of construction activities associated with the Woodchem facility (MOD 6) and DA 27/95 MOD 7.
Stage 2 - De-barker Enclosure	• Construction of a 432m² enclosure with a maximum height of 12m for the existing de-barker units (See Figure 4). • The de-barker unit removes bark, loose rock and soil from the log. The plans also indicate a replacement for the existing de-barker, although the Proponent does not seek explicit approval to carry out this maintenance activity. • The de-barker enclosure would be constructed using colourbond panels and acoustic panels. The new enclosure would also include an amenities and lunch room.
Stage 3 - Log Storage Area, log lifter and Bark Shed	<u>Log lifter and log storage area</u> • Debarked logs are proposed to be transported from the de-barker unit via a log lifter to the log storage area located adjacent to the de-barker enclosure. • A retaining wall with a height of 6m would be constructed to ensure logs are safely stored. <u>Bark Shed</u> • Construction of a bark shed and bark conveyor from the de-barker enclosure that will receive bark from the de-barker unit.
Stage 4 - Cyclone Bunker Enclosure	• The cyclone bunker houses the start-up equipment for the plant and is currently located at the southern end of the site. • The cyclone bunker would be relocated approximately 10 metres to the east of its existing location. • The enclosure for the cyclone bunker would be constructed using concrete panels and acoustic roof panels.
Stage 5 - Fire tanks, Pump House and Fire Control Centre	• Relocation of the existing fire tanks, pump house and fire control centre to improve emergency service access and site safety.
Stage 6 - Front Entry Gate and Gate House	• Relocation of existing front entry gate and gate house to a more appropriate location.
Stage 7 - Permanent Hardstand Area	• Installation of permanent hardstand area for additional truck parking on the south west corner of the site near the gate house.

2.1 Temporary Construction Laydown (Stage 1)

The Proponent recently acquired a vacant lot adjacent to the eastern boundary of the existing facility (Lot 2902, DP 1056754) (see **Figure 1**).

In July 2014, the Department became aware of a compliance issue involving unauthorised clearing and use of the vacant block as a temporary construction laydown for the Proponent's operations.

In terms of this early work, the Department investigated the matter as part of a broader compliance review of the site and appropriate compliance action was taken for some aspects of the Proponent's operation including regularising Lot 2902, DP 1056754 as part of this modification.

LEGEND

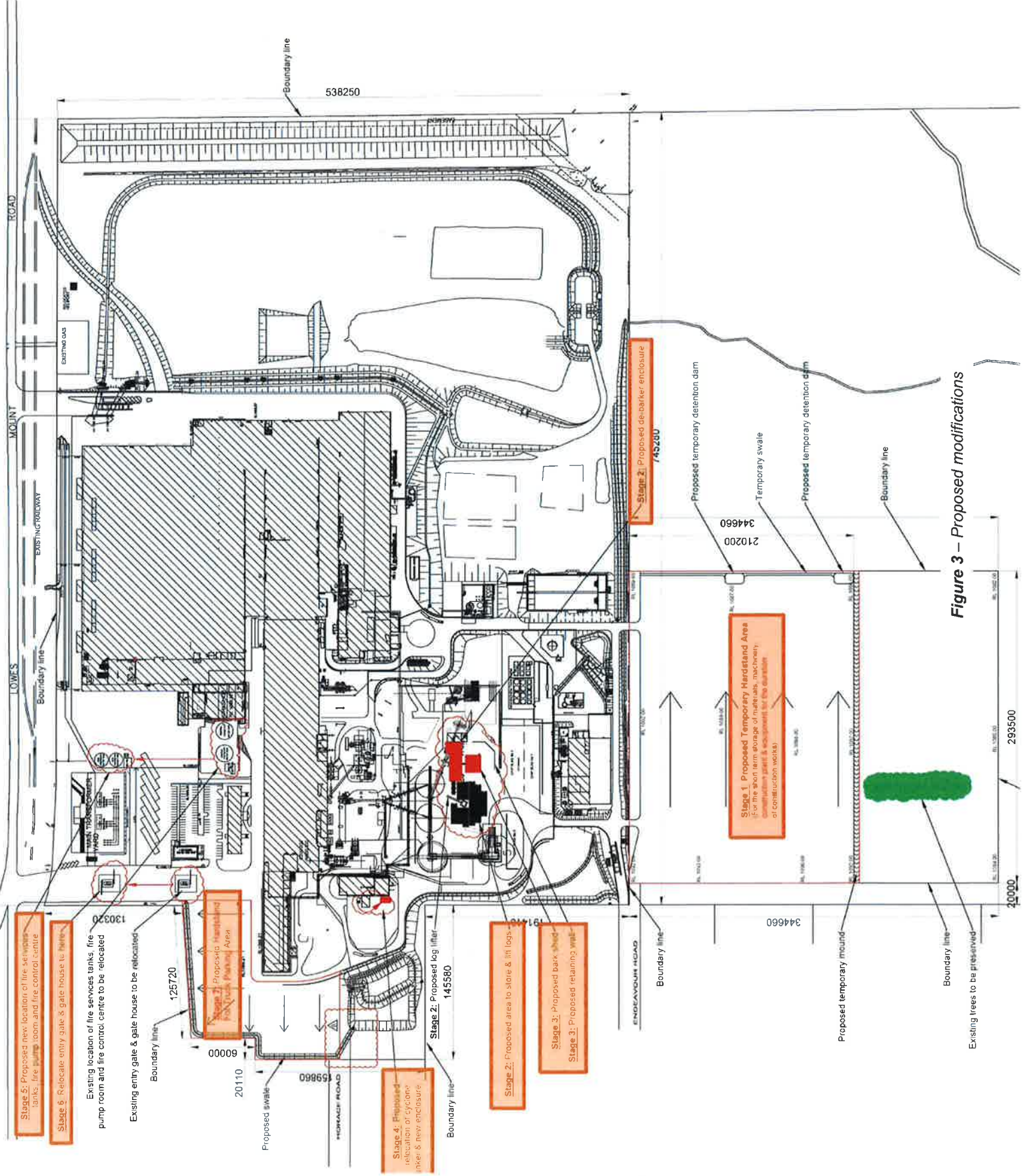
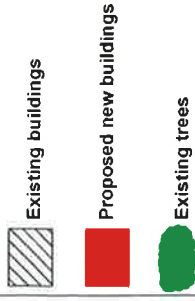


Figure 3 – Proposed modifications

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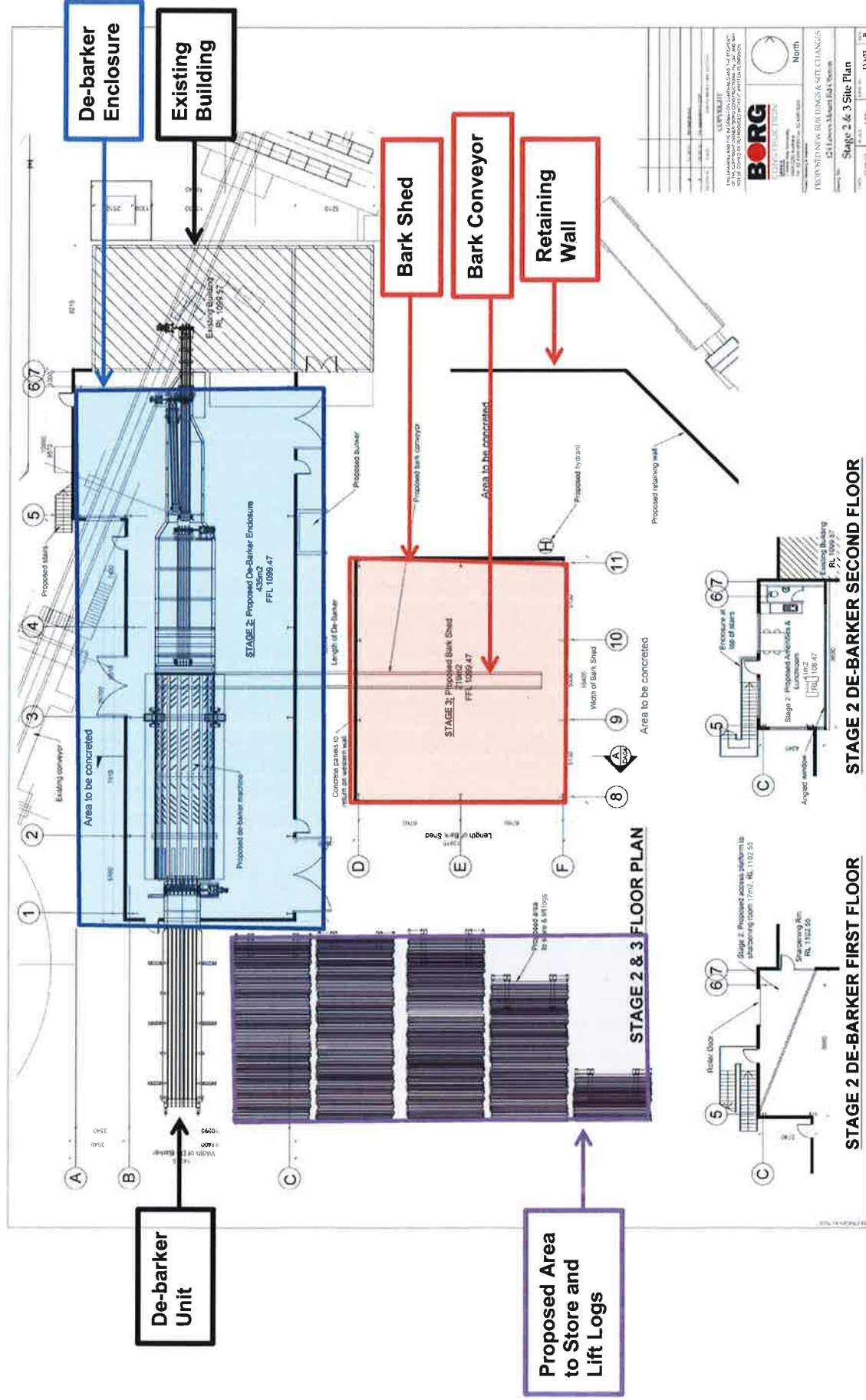
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PROPOSED NEW BUILDINGS & SITE CHAN
124 Lowers Mount Rd Obregon

Site Plan



3. STATUTORY CONTEXT

3.1 Approval Authority

The 1995 development consent (DA 27/95) was granted under Part 4 of the *Environmental Planning and Assessment Act 1979* (the Act). Clause 8J(8) of the *Environmental Planning and Assessment Regulation 2000* requires modifications of such development consents to be carried out under Section 75W of the Act. The effect of Section 75W is continued for such consents by the operation of clause 12 of Schedule 6A of the Act.

The Minister for Planning delegated responsibility for the determination of section 75W modification applications to Directors who report to the Executive Director, Infrastructure and Industry Assessments where:

- 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.

The proposal complies with the terms of the delegation as Oberon Shire Council (Council) does not object to the proposal, a political donations disclosure has not been made in relation to the application, and no public submissions were received in the nature of objections. Accordingly, the Director, Industry Assessments may determine the application in accordance with the Minister's delegation.

3.2 Modification

The Department is satisfied that the application can properly be characterised as a modification to the original development consent, and can therefore be assessed and determined under Section 75W of the Act.

In this respect, the alterations relate only to construction of a de-barker enclosure, bark shed and cyclone bunker enclosure, relocation of site equipment to improve site layout. The Department notes that there is no increase in production or amendments to the processes that occur on the site. While the modification includes an additional lot, the inclusion of the additional land does not represent an expansion of the facility. The land in this case is to be used temporarily as a construction laydown.

3.3 Consultation

The EIS for the modification was made publicly available on the Department's website. Consultation with adjoining landowners was considered to be un-necessary owing to the limited reach of predicted impacts associated with the modification. The Department received four submissions from agencies and one from Council. Full copies of all submissions are included at **Appendix C**. A summary of the issues raised in the submissions is below.

No public submissions were received.

Council did not object to the proposal but raised concerns about existing operational noise coming from the facility and potential contamination issues on the proposed temporary construction laydown (Lot 2902, DP 1056754).

The **Environmental Protection Authority** (EPA) did not raise any concerns in relation to the proposal and recommended conditions to manage noise and air quality impacts and surface water management particularly on the proposed temporary construction laydown. The EPA advises that the existing Environment Protection Licence (EPL) for the site will need to be varied for the proposed modification.

The **NSW Office of Water** (NOW) did not raise any concerns in relation to the proposal but commented on the stormwater management measures proposed for the permanent and temporary hardstand area.

The **Office of Environment and Heritage (OEH)** did not raise any concerns in relation to the proposal.

Roads and Maritime Services (RMS) did not raise any concerns in relation to the proposal.

3.4 Response to Submissions

On 27 April 2015, the Proponent provided a response to the issues raised in the submissions (see **Appendix D**). This response has been made publicly available on the Department's website.

The Response to Submissions (RTS) report addressed the issues raised by Council and other agencies identified in Section 4.1 above. The Department notes that there were delays following consultation with Council and the agencies as the Proponent was required to undertake additional investigations regarding a potential contamination issue on the temporary construction laydown adjacent to the site. The contamination report was submitted to the Department as part of the Proponent's RTS to address Council's concerns (this land is the proposed temporary construction laydown).

4. ASSESSMENT

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

- environmental assessment (EA) for the modification (see **APPENDIX B**);
- Secretary's assessment reports for the original development consent and previous modifications;
- existing consent conditions;
- all submissions (see **APPENDIX C**);
- Response to Submissions (see **APPENDIX D**);
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the Act, including the objects of the Act.

The Department considers that the main issue associated with the proposal are contamination, air quality and noise impacts. Other issues are considered in **Table 2**.

4.1 Contamination

Council, in its submission, raised concerns about potential site contamination issues on the adjacent lot where the temporary construction laydown is to be situated due to its previous use as a sheep dip. A preliminary environmental investigation was undertaken for the site in 2002 by PPK Environment, and reported the presence of arsenic and organochlorine pesticides such as dieldrin in the soil. The report concluded that the contamination does not constrain or limit development of the lot for commercial and industrial land use, but recommended that the former sheep dip and soil in contact with it should be further investigated and remediated.

Since this report was published, both Council and the Proponent could not confirm if the area had been remediated and whether any other additional contaminated areas were identified. As such, a second environmental investigation was undertaken by Envirowest Consulting to determine the current site contamination levels on the lot. The investigation concluded that there were no additional contaminated areas and that all evidence of the sheep dip had been removed. The investigation reported slightly elevated levels of arsenic and organochlorine pesticides in one sample but overall these contaminants were below commercial/industrial environmental and health screening levels and, despite the recommendations of the 2002 report, did not require further remediation for the purposes of using the site for the proposed temporary construction laydown.

In addition, the EPA did not raise any concerns in relation to the potential contamination issue on the site and the subsequent investigation report.

The Department considers that the current contamination levels on the lot are below the threshold for further investigation and that no remediation is required. In addition, as the hardstand area is only for short term use, once construction of the Woodchem facility and the proposed works associated with DA 27/95 MOD 7 are complete, the temporary hardstand area would no longer be used. Council was satisfied with the additional information provided by the Proponent. The Department's assessment concludes that contamination on the vacant block has been adequately addressed by the Proponent and that no additional measures are required.

4.2 Air Quality

The site has a history of air quality issues associated with the existing operation. Parts of the operation are exposed to the elements or on unsealed ground. The EA for the modification indicated that the proposal to enclose operational processes and plant equipment such as the de-barker unit and cyclone bunker would lead to overall improvements in air emissions while sealing truck parking areas would improve air emissions across the site.

While the EPA is generally of the view that the proposed modifications are likely to improve air quality overall, it raised issues with the temporary construction laydown. In particular, traffic on its unsealed surface may lead to wheel dust emissions and there is currently a large stockpile of sawdust on the partially constructed laydown potentially leading to sawdust emissions.

The Department agrees with the EPA and considers that appropriate measures should be in place to manage dust and air quality impacts associated with the temporary construction laydown. The EPA has recommended that the stockpiles of sawdust on the vacant lot should be restricted by height and enclosed on three sides to prevent the mobilisation of sawdust by wind. The Department has recommended that this condition be included in the modification instrument. In addition, wheel dust emissions during the use of the temporary laydown can be adequately managed with standard construction site dust suppression.

The Department's assessment concludes that dust and air quality impacts are likely to improve overall with the enclosure of equipment such as the de-barker and cyclone unit. Residual air quality impacts can be managed in an acceptable way subject to the following conditions:

- application of construction site dust suppression to the temporary construction laydown while in use; and
- ensure that stockpiles on sawdust on the temporary construction laydown are kept for no longer than 24 months and is restricted by a height to 3m and enclosed on three sides, unless fully covered by tarpaulin.

4.3 Noise

Noise limits are currently in place for the facility and are set out in the site's existing EPL and development consent. The EA for the modification indicated that the proposal to enclose operational processes and plant equipment such as the de-barker unit and cyclone bunker is likely to improve the noise environment. The EA included a noise impact assessment (NIA) carried out by Vipac Scientists and Engineers (see **Appendix A** of the EA) which considered the potential noise impacts from the de-barker unit and its proposed enclosure.

The de-barker unit is located in the middle of the site and is not currently enclosed. The NIA predicted that in a worst case scenario, noise levels from the fully enclosed de-barker unit would range from 8 dB(A) to 26 dB(A) at the closest sensitive receivers during day and evening/night-time periods. Therefore, the noise from the de-barker unit would be negligible at each of the sensitive receivers as it would be masked by the rest of the operation. To achieve these noise levels, the Proponent has committed to using acoustic panelling and insulation for the roof and wall construction of the enclosure. The Department has included this commitment in its recommended conditions.

The EPA also noted that the enclosed de-barker would not be audible at receivers and considers it appropriate that the facility should comply with the existing noise limits in the EPL.

Council raised the issue that noise monitoring should be carried out for the existing operations and the Department understands that there have been a number of noise complaints about the operation in the recent past. The Proponent is currently undertaking an independent audit of its environmental management plans in accordance with the development consent and the Department will be able to consider recommendations for further contingency measures or appropriate regulatory action if the audit reveals any operational noise non-compliance.

Both the Department and the EPA are satisfied that proposed modification would not contribute to existing noise levels on the site and will improve the noise emissions from facilities like the cyclone and de-barker. The Department is satisfied that noise impacts associated with the modification can be generally managed through the existing consent conditions and the EPL, and has included a new condition for the Proponent to:

- ensure that acoustic panelling and insulation is used in the construction of the de-barker enclosure.

4.4 Other Issues

Table 2: Assessment of modification

Issue	Assessment	Recommendation
<i>Soil and Water</i>	• The existing consent has conditions relating to soil and water management, which include requirements for construction erosion and sediment controls and the management of stormwater from the site under a stormwater management plan. <u>Permanent Hardstand Area and Temporary Construction Laydown</u> • An existing open swale on the south-west section of the site will be relocated as part of the construction of the permanent hardstand area. The proposed swale will continue to drain to an existing sediment pond further east. • The EA stated that the temporary construction laydown would remain unsealed with no significant increase in the amount of runoff. • The Proponent has proposed to install a temporary detention dam and temporary swale in the temporary hardstand area to manage any runoff and would install appropriate erosion and sediment control regimes along the perimeter of the site. • The NOW is satisfied with this approach and recommends an approval condition referencing the design requirements of 'Managing Urban Stormwater – Soils and Construction (Landcom 2004)'. <u>Other Works</u> • The construction of the de-barker enclosure, bark shed and cyclone enclosure would occur within the existing operational parts of the site, and would be connected to the existing stormwater infrastructure. • Ongoing stormwater management on the site would continue to be governed by the Stormwater Management Plan, which should be updated to reflect the modification. There is an existing condition that requires such updates following any modification approval. • NOW raised no concerns with these works. <u>Conclusion</u> • The Department considers that the new additions to the site such as the de-barker enclosure and bark shed can be managed by the site's stormwater management system. The Department has	Recommended conditions require the Proponent to: • ensure stormwater and sediment control structures on Lot 2902 are constructed in accordance with <i>Managing urban stormwater: soils and construction</i>, vol. 1 (Landcom 2004).

Issue	Assessment	Recommendation
	recommended conditions for the Proponent to ensure that stormwater management for the permanent hardstand area and temporary construction laydown is designed in accordance with the relevant guidelines.	
Traffic Access	and • The modification does not increase production capacity at the site, and therefore there are no expected increases in traffic generation. • The relocation of the entry gates and the gate house would rationalise entry movements for visitors to the site and improve accessibility. • The permanent hardstand area at the south-west section of the site would provide additional parking for trucks. • Access for construction vehicles to the temporary hardstand area would be via the main site entrance on Lowes Mount Road. • Neither the RMS nor Council has raised any traffic or parking issues. • The existing approval includes a condition that requires construction of suitable hardstand for trafficable areas, and this condition would apply to the new parking. • The Department's assessment concludes that changes to the internal parking arrangements as well as the relocation of entry gates and the gates house would improve access to the site. • As such, no additional conditions are required.	No additional approval conditions required.
Hazards and Risk	• The proposed modification proposes to relocate the existing water tank, pump house and fire control centre away from the timber log holding area and move it closer to the transformer yard to improve emergency service access to the site. The proposed modification does not intend to modify the existing sprinkler system. • The Department considers that the relocation of the fire tanks, pump house and fire control centre would improve the site layout. • The existing Fire Safety Study must be updated to reflect the additional enclosed spaces in the proposed modification. • The requirement to update this study is captured by an existing approval condition, which requires an update following any modification approval. • The Department's assessment concludes that hazards and risks of the development would be adequately managed by the existing conditions in place.	No additional approval conditions required.
Biodiversity	• The existing facility is largely modified with little to no remnant vegetation on site. • The vacant lot adjacent to the Woodchem facility has been used in the past for both agricultural and industrial purposes and is largely dominated by exotic grasses. • The proposed temporary construction laydown would involve clearing of exotic grasses but the existing trees on the eastern side of the vacant block would be retained. • The EA stated that no critical habitat or significant areas of native vegetation are located on the vacant lot. • The OEH did not raise any issues with the modification. • The Department considers that given the past industrial and agricultural uses on the vacant lot next to the existing facility, the proposed temporary hardstand area would not significantly impact on any critical habitats within or surrounding the site.	No additional approval conditions required.

Issue	Assessment	Recommendation
	No additional conditions are required.	
Visual impacts	- The enclosure of the de-barker, bark shed and cyclone bunker would improve the visual amenity of the site by enclosing some operational processes using cladding that would be of similar colour and design to the existing buildings on site. - The vacant lot next to the existing facility is currently cleared of any vegetation and would be used as a temporary construction laydown. - The Proponent also stated that the temporary construction laydown is only a short term use and a change in the future use of the land may be the subject of a future development application. - Council did not raise any issues. - The Department considers that the proposed modification improves the overall visual amenity of the site by enclosing parts of the operation that are currently exposed to the elements. Further, the visual impact of the temporary construction laydown is acceptable, given it is a short term use and would be removed after construction works are completed. - No additional conditions are required.	No additional approval conditions required.

5. CONCLUSION

The Department's assessment has found that the building work described in the proposed modification can be carried out with minimal additional environmental impact and is likely to improve air and noise emissions from the site.

The modifications are primarily intended to improve the operational organisation of the Borg Panels facility, within the Proponent's broader aim of 'cleaning-up' the site and do not involve an increase in production capacity. The capital investment would modernise the facility and allow it to continue its contribution to the employment of people in Oberon.

The existing suite of consent conditions include requirements for ongoing impact mitigation relating to traffic, air quality, noise, hazards, chemical storage, and stormwater, and these requirements would apply to the proposed modification. The EPA advised that the EPL for the site would need to be varied for the proposed modifications, but that the existing noise limits in the EPL would remain as they are.

The Department has identified the need for additional conditions around air quality and stormwater to reflect the additional buildings and the temporary hardstand area in the modification. Consequently, the Department is satisfied that the proposed modification should be approved subject to these conditions.

6. RECOMMENDATION

It is RECOMMENDED that the Director – Industry Assessments:

- consider the findings of this report;
- approve of the proposed modification under Section 75W of the Act; and
- sign the attached instrument (Tag A).

Pamela Morales
Planning Officer

Endorsed:


Chris Ritchie
A/Director
Industry Assessments
3/8/15.