



25 October 2017

Minister of Planning
NSW Department of Planning &
Environment 320 Pitt Street
Sydney NSW 2000

Section 96(1A) Modification Application SSD6078, MOD 9 – Oakdale Central Horsley Park (Lot 21 in Deposited Plan 1173181)

This letter seeks to modify SSD6078 for Oakdale Central Estate (OCE) under section 96(1A) of NSW Environmental Planning and Assessment Act 1979 (the Act), in order to update the:

- 1) subdivision plan referenced under the consent; and
- 2) wording of Condition 16 of the consent.

1 BACKGROUND

Consent was granted to State Significant Development 6078 on 18 March 2015 for the staged construction of three (3) warehouse and distribution facilities and the upgrade of Old Wallgrove Road at the Site.

Concept Approval was granted to MP08_0065 on 2 January 2009 for the establishment of OCE including subdivision, earthworks, internal road layout, recreation and biodiversity land, seven industrial buildings, pad levels, external upgrades and infrastructure.

Subsequent to the Concept and Project Approval, a number of modifications were carried out pursuant to Section 75W and S.96(1A) of the Environmental Planning & Assessment Act 1979. Review of the Concept Plan indicates there is nothing which prevents the proposed modification identified in this application.

2 PROPOSED MODIFICATIONS

A modification to SSD6078 is sought to update of the subdivision plan and wording of Condition 16 of the existing approval.

The Subdivision Plan approved under SSD6078 (OAK 3 DA 4 (J), **Appendix A**) is proposed to be updated to reflect the final subdivision plan proposed for OCE (**Appendix B**).

A comparison between the approved and proposed subdivision plans of OCE are as follows:

Approved Subdivision Plan (Fig.1)	Proposed Subdivision Plan (Fig.2)
<p>Eleven (11) lots including:</p> <ul style="list-style-type: none"> - four (4) development lots - two (2) road reserve lots proposed to be dedicated to Council - three (3) biodiversity lots - one (1) services lot - one (1) remnant lot 	<p>Five (5) lots including:</p> <ul style="list-style-type: none"> - two (2) development lots - two (2) road reserve lots proposed to be dedicated to Council - one (1) remnant lot

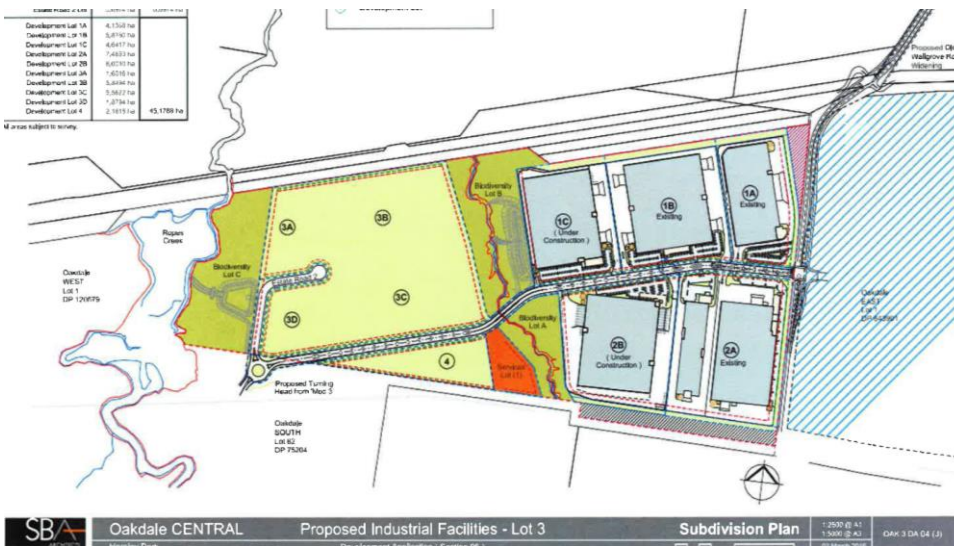


Figure 1 - Approved Subdivision Plan (OAK 3 DA 04 (J)) (Appendix A)

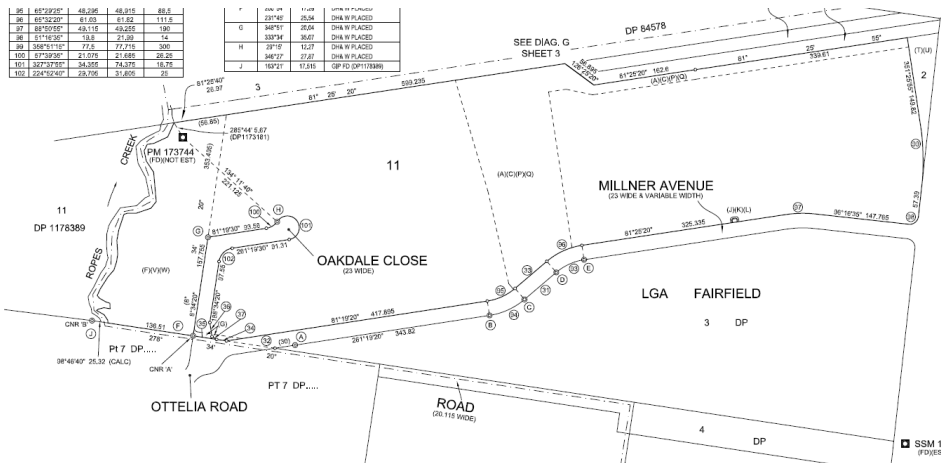


Figure 2 - Proposed Subdivision Plan (Appendix B)

2.1 Changes to SSD 6078 Conditions of Consent

The following changes are proposed to the Conditions of Consent for SSD6078, with wording proposed for removal shown with ~~strike through~~, and additional wording in red:

2.1.1 Conditions concerning subdivision plan reference

"SCHEDULE 2

The above development consent is modified as follows:

1. *In the Definitions table delete the definition of 'Development' and replace with the following:-*

*The development that is approved by this consent for the construction of three warehouse and distribution facilities and internal subdivision roads, and the upgrade of Old Wallgrove Road generally as described in Schedule 1, and the Applicant's EIS, EIS Addendum, RTS and Addendum Report for the Austral Internal Driveway Works: and Section 96(1A) Modification Application (SSD 6078 – MOD 1) – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181) and Section 96(2) Modification Application (SSD 6078) – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181) and Section 96(1A) Application to vary SSD 6078 – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181 unit 28) (Mod 3) and Section 96 Application (to remove Condition 34 requirement for screening to be provided to warehouse water tanks (Mod 4) and Section 96(2) Modification Application (SSD 6078) MOD 5 – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181) Section 96(1A) Modification Application (SSD 6078) MOD 6 – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181) and Section 96(1A) Modification Application (SSD 6078) MOD 7 – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181) MOD 8 – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181) and Section 96(1A) Modification Application (SSD 6078) **Section 96(1A) Modification Application (SSD 6078) MOD 9 – Oakdale Central, Horsley Park (Lot 21 in Deposited Plan 1173181) to update Subdivision Plan.***

2. *In Schedule 2 Administrative Conditions, Terms of Consent Condition 2, delete the condition and replace with the following:-*

TERMS OF CONSENT

2. *The Applicant shall carry out the development generally in accordance with the:*
 - a) *EIS;*
 - b) *consolidated RTS;*
 - c) *addendum report;*
 - d) *subdivision plan (see Appendix 1);*
 - e) *plans and elevations (see Appendix 1);*
 - f) *Management and mitigation measures (Appendix 2);*
 - g) *the Voluntary Planning Agreement entered into between the Minister for Planning, Goodman Property Services (Aust) Pty Ltd, 8GAI 6 Pty Ltd, 8GMG 8 Pty Ltd and 8GAI 2 Limited and executed on 12 March 2015;*
 - h) *the modification application 6078 MOD 1 and supporting documentation;*
 - i) *the modification application 6078 MOD 2 and supporting documentation;*
 - j) *the modification application 6078 MOD 3 and supporting documentation;*
 - k) *the modification application 6078 MOD 4 and supporting documentation;*
 - l) *the modification application 6078 MOD 5 and supporting documentation;*
 - m) *the modification application 6078 MOD 6 and supporting documentation;*



- n) the modification application 6078 MOD 7 and supporting documentation; ~~and~~
- o) the modification application 6078 MOD 8 and supporting documentation; ~~and~~
- p) conditions of this Consent.

The following plans of SSD 6078 MOD 8 are proposed for update:

**APPENDIX 1
SCHEDULE OF APPROVED DRAWINGS**

Architectural Plans and Elevations by SBA Architects			
<i>Drawing No.</i>	<i>Revision</i>	<i>Name of Plan</i>	<i>Date</i>
OAK-DA-04	N	Subdivision Plan	7 June 2016

Subdivision Plan by Cardno		
<i>Drawing No.</i>	<i>Name of Plan</i>	<i>Date</i>
<i>Surveyor's Ref: 117037504_03</i>	<i>PLAN OF SUBDIVISION OF LOT 1 IN DPXXXXXXX (DEDICATING OAKDALE CLOSE AS PUBLIC ROAD)</i>	<i>22/8/2017</i>

2.1.2 Condition 16 Update

Condition 16 is proposed to be updated as follows (wording proposed for removal shown with strikethrough, while new wording proposed in red):

"16 The Applicant shall subdivide the land in accordance with the ~~draft~~ subdivision plan ~~OAK-DA-04 (J-N) dated 02 March 2016~~ ~~7 June 2016~~ prepared by Matthew Cleary of Cardno, Surveyor's Ref: 117037504_3, date of survey: 22/8/2017 (see Appendix 1). However, prior to ~~obtaining a~~ lodging the Subdivision Plan and associated Subdivision Certificate with the LPI for registration, the Applicant shall prepare a final subdivision plan for the land in consultation with Fairfield City Council, and to the satisfaction of the Secretary. Despite any notations on the subdivision plan, approval is not granted for subdivision of Lot 3 into smaller lots. Lot 3 is to remain as a single allotment.

Note: Any easements in the subdivision plan must nominate Fairfield City Council as the authority to release, vary or modify the easement. The form of the easement must be in accordance with Fairfield City Council's standard recitals for terms of easements, or the standard form for easements accepted by the Department of Lands."

Reasons for modification to Condition 16:

Condition 16 is proposed to be updated for the following reasons:

- 1) Update the correct subdivision plan; and
- 2) Remove the requirement for Fairfield Council to be approached twice to review the subdivision plan and then subsequently to issue the subdivision certificate. The updated wording will enable, once the DoP have approved the final subdivision plan, Council to review and issue the subdivision certificate in a single step, streamlining the subdivision approval process.

(Thomas Piovesan and Kelly McNichol indicated agreement with this updated wording at a meeting with Goodman on 17.10.17).

3 LEGISLATIVE REVIEW

3.1 OVERVIEW

The proposed development continues to meet the relevant provisions of planning and environmental legislation, policy and planning instruments as assessed in the SSD 6078.

3.2 Section 96 of EP&A Act

Section 96 of the EP&A Act deals with modifications to development consents. Proposed modifications must address this section. Section 96(1A) makes provision for modifications involving minimal environmental impact and states that:

“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, and*
- (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), and*
- (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, and*
- (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.”*

Matters relevant to Section 96(1A) are addressed in the following sections.

3.2.1 Minimal Environmental Impact

The proposal seeks merely to update the subdivision plan approved under the SSD6078 to reflect the ultimate proposed subdivision of the Site. The updated subdivision plan will not result in any environmental impacts, with the development on the Site remaining as approved under SSD6078.

The updated wording of Condition 16 will likewise have no environmental impacts as it merely streamlines the subdivision approval process.



3.2.2 Substantially the Same Development

As there are no changes proposed to the approved development at OCE, the development remains “substantially the same” as approved.

3.3 Clause 115 of EP&A Regulations 2000

The requirements of Clause 115 of the EP&A Regulation 2000 have been addressed in this application, where relevant.

4 Conclusion

Pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979 (the Act), we hereby seek to amend SSD6078 to update the subdivision plan approved in the consent, and the wording of Condition 16. This modification will have no unacceptable environmental impacts and the proposal remains substantially the same as approved.

Based on the above, we are of the opinion that the S.96(1A) application should be approved.

Yours sincerely

A handwritten signature in black ink, appearing to read "Guy Smith", is written over a faint, illegible printed name.

Guy Smith
Planning Manager