

ASSESSMENT REPORT

Section 75W and Section 96(1A) Modifications Oakdale Central Industrial Estate MP 08_0065 MOD 7 and SSD 6078 MOD 9

1. INTRODUCTION

This report assesses proposed modifications to the Concept Approval (MP 08_0065) and the State Significant Development consent (SSD 6078) for the Oakdale Central Industrial Estate at Horsley Park. The proposed modifications seek to amend the subdivision plan for the Estate and have been concurrently lodged by Goodman Property Services (Aust) Pty Ltd (the Applicant), pursuant to section 75W and section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. BACKGROUND

The Oakdale Central Industrial Estate is located on Old Wallgrove Road, Horsley Park in the Fairfield LGA (see **Figure 1**).

The subject site is within the Western Sydney Employment Area (WSEA), and located 15 kilometres (km) west of Parramatta's Central Business District (CBD). The site is located approximately 3 km west of the M7 Motorway, and 3.5 km south of the M5 Motorway.

The site is bound by a large water pipeline and easement to the north, whilst there is a quarry and several industrial uses located to the east. Ropes Creek is located to the west, and land to the south of the site is characterised by a mixture of industrial uses and vacant paddocks. The nearest residential dwellings are located approximately 500 metres (m) to the east of the site in Horsley Park, and 1.5 km to the north-west in Erskine Park (see **Figure 2**).

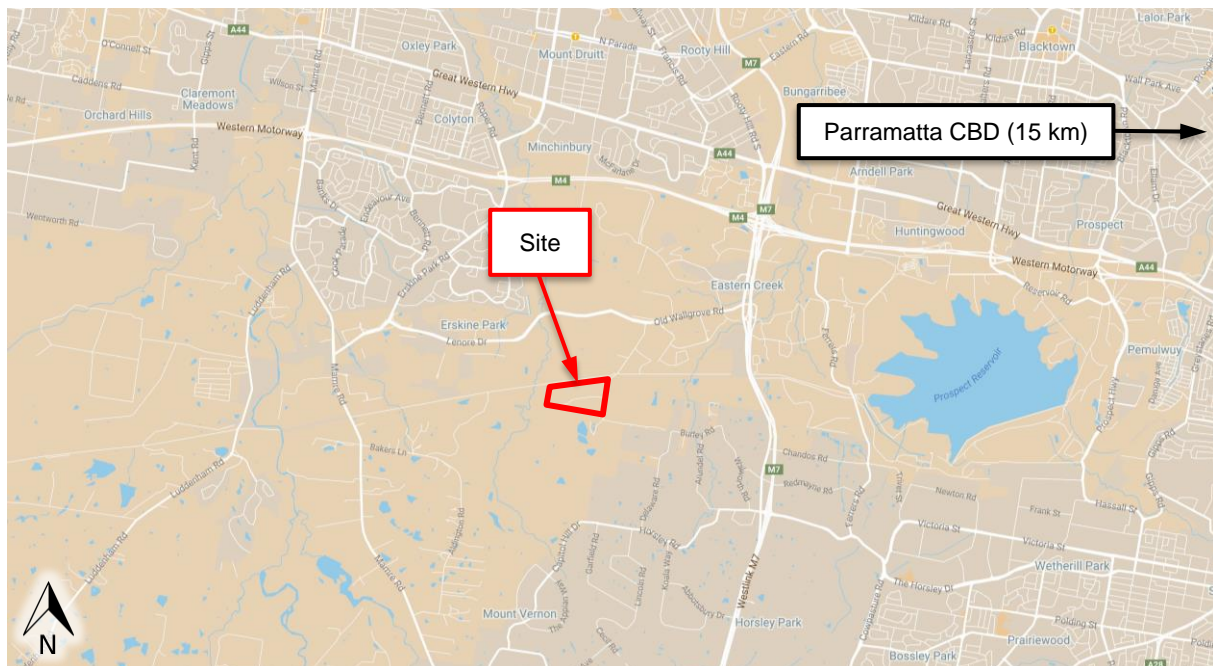


Figure 1: Site Location

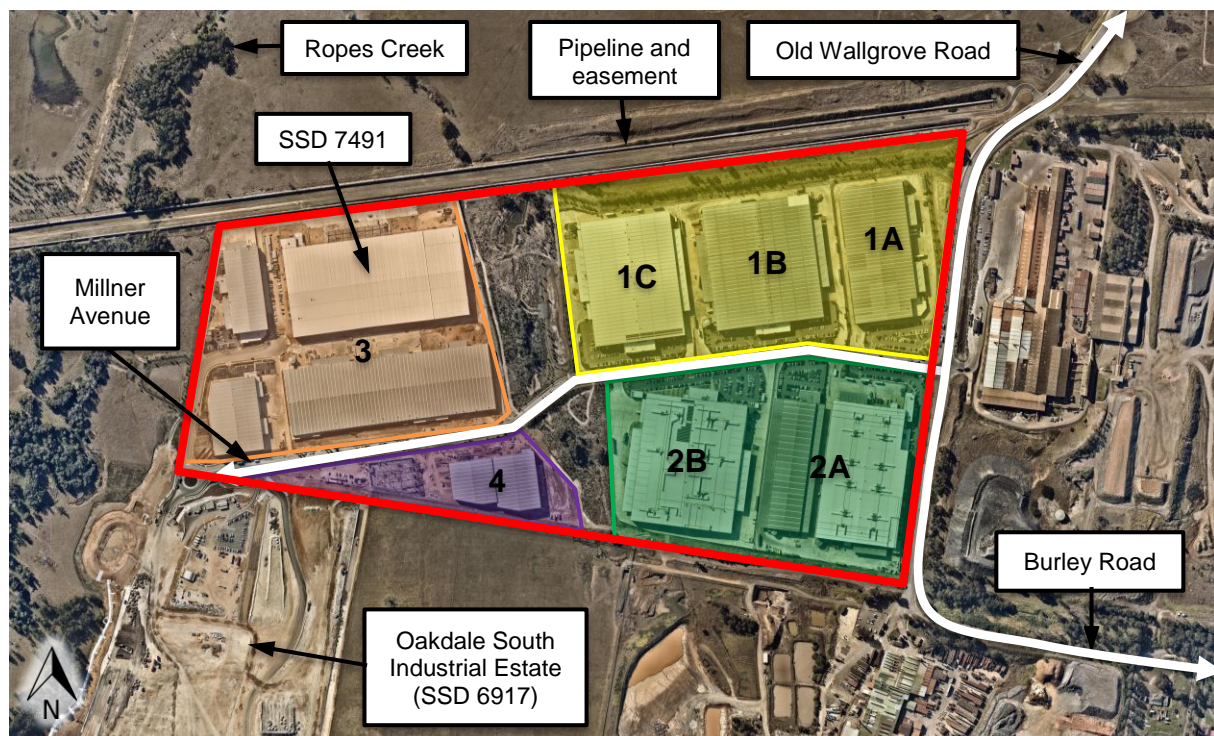


Figure 2: Aerial View of the Site (depicted in red) and Immediate Surroundings

3. APPROVAL HISTORY

On 2 January 2009, the then Minister for Planning approved the Oakdale Central Concept Plan Approval (MP 08_0065) which permitted a range of employment generating uses including warehouses, distribution centres and freight logistics facilities (Concept Approval).

On 18 March 2015, SSD 6078 was approved under delegation for the construction and operation of three warehouse buildings on Lots 1C, 2B and 3 and supporting infrastructure (SSD Consent). Lots 1C, 2B and 3 are depicted in **Figure 2**. It is important to note that these are not legal lots, but rather indicative development sites.

The Concept Approval has been modified on six occasions and the SSD Consent has been modified on eight occasions, as summarised in **Table 1** and **Table 2**.

Table 1: Summary of Modifications to the Concept Approval

MOD No.	Summary of Modifications	Approval Date
MP 08_0065 MOD 1	<ul style="list-style-type: none"> Amendment to subdivision layout and reduction of the number of estate roads. 	4 November 2010
MP 08_0065 MOD 2	<ul style="list-style-type: none"> Amendment to subdivision layout, shape and location of stormwater basin, bulk earthworks, pad levels, staging and importation of fill. 	5 March 2013
MP 08_0065 MOD 3	<ul style="list-style-type: none"> Amendments to subdivision plan and inclusion of vehicle turning head and detention basin. 	18 March 2015
MP 08_0065 MOD 4	<ul style="list-style-type: none"> Amendments to the building envelopes on Lot 3 and extension of the Estate Road. 	9 June 2016
MP 08_0065 MOD 5	<ul style="list-style-type: none"> Amendments to building envelopes 34, 38 and 3C within Lot 3. 	1 September 2016
MP 08_0065 MOD 6	<ul style="list-style-type: none"> Amendments to building envelopes 3A and 3C within Lot 3. Consolidate "Services Lot (1)" into new Lot 4. 	14 November 2016

Table 2: Summary of Modifications to the SSD Consent

MOD No.	Summary of Modifications	Approval Date
SSD 6078 MOD 1	<ul style="list-style-type: none"> Amendments to the layout of the warehouse on Lot 1C. 	15 June 2015
SSD 6078 MOD 2	<ul style="list-style-type: none"> Amendments to the layout of the warehouse on Lot 2B. Inclusion of a Dangerous Goods Store (DGS). 	30 June 2015
SSD 6078 MOD 3	<ul style="list-style-type: none"> Internal and external amendments to the warehouse on Lot 2B. Increase in the size of the DGS. 	3 August 2015
SSD 6078 MOD 4	<ul style="list-style-type: none"> Deletion of Condition 34 of the approval which requires screening and landscaping of the water tanks and plant rooms on Lot 2B. 	1 December 2015
SSD 6078 MOD 5	<ul style="list-style-type: none"> Modification to replace one warehouse on Lot 3 with five smaller warehouses (3A1, 3A2, 3C1, 3C2 and 3D). Exclusion of part of Lot 3 from the approval site. Extension to the Estate Road from Millner Avenue. 	8 June 2016
SSD 6078 MOD 6	<ul style="list-style-type: none"> Consolidation of Warehouse 3A-1 and 3A-2 from two to one building (retaining two tenancies). Division of Warehouse 3C-1 and 3C-2 into three tenancies. Reduction of 1,462 m² GFA. Relocation and reconfiguration of car parking areas and reduction of 1 car parking space. Reconfiguration and division of hardstand areas. Relocation of sprinkler tanks and pump rooms. 	1 September 2016
SSD 6078 MOD 7	<ul style="list-style-type: none"> Minor amendments to the GFA of Warehouses 3A-1, 3A-2 and 3C. Reduction in Warehouse 3A-1's office area and minor changes to its design. Amendments to the number and type of docks at Warehouse 3A-1 and 3A-2. Reduction in the number of car parking spaces for Warehouse 3A-1 and 3A-2. Introduction of additional car parking spaces to Warehouse 3C. Relocation of dock offices in Warehouse 3A-1 and 3C-1. 	14 November 2016
SSD 6078 MOD 8	<ul style="list-style-type: none"> Amendments to estate signage and warehouse design. 	1 July 2017

4. PROPOSED MODIFICATION

The Applicant has concurrently lodged a modification request under section 75W and a modification application under section 96(1A) of the EP&A Act to modify the Concept Approval and SSD Consent for the Oakdale Central Industrial Estate.

The proposed modifications involve the amendment of the subdivision plan to consolidate and reduce the number of lots. The subdivision of the Oakdale Central Industrial Estate would be completed through two stages, as depicted in **Figure 4** and **Figure 5**, to facilitate the dedication of the internal estate roads to both Fairfield City Council and Penrith City Council. Stage 1 would involve the dedication of part of Millner Road to Fairfield City Council. The remainder of Millner Road is located within Oakdale South Industrial Estate (SSD 6917), and would be dedicated to Penrith City Council. Lastly, Stage 2 would involve the dedication of Oakdale Close to Fairfield City Council.

The Applicant also proposes to modify Schedule 2 Condition 16 of SSD 6078 to remove the provision to prepare the final subdivision plan in consultation with Fairfield City Council.

The modifications are described in full in the Environmental Assessment (EA) and Statement of Environmental Effects (SEE) included in **Appendix B**, are summarised in **Table 3** and are illustrated in **Figure 3**, **Figure 4** and **Figure 5**.

Table 3: Proposed Modifications to Subdivision Plan

Lot Type	Approved	Proposed
Development lots	4	2
Road reserve lots (to be dedicated to Council)	2	2
Biodiversity lots	3	0*
Services lot	1	0
Remnant lot	1	1
Total	11	5

*The biodiversity lots are proposed to be within the development lots.

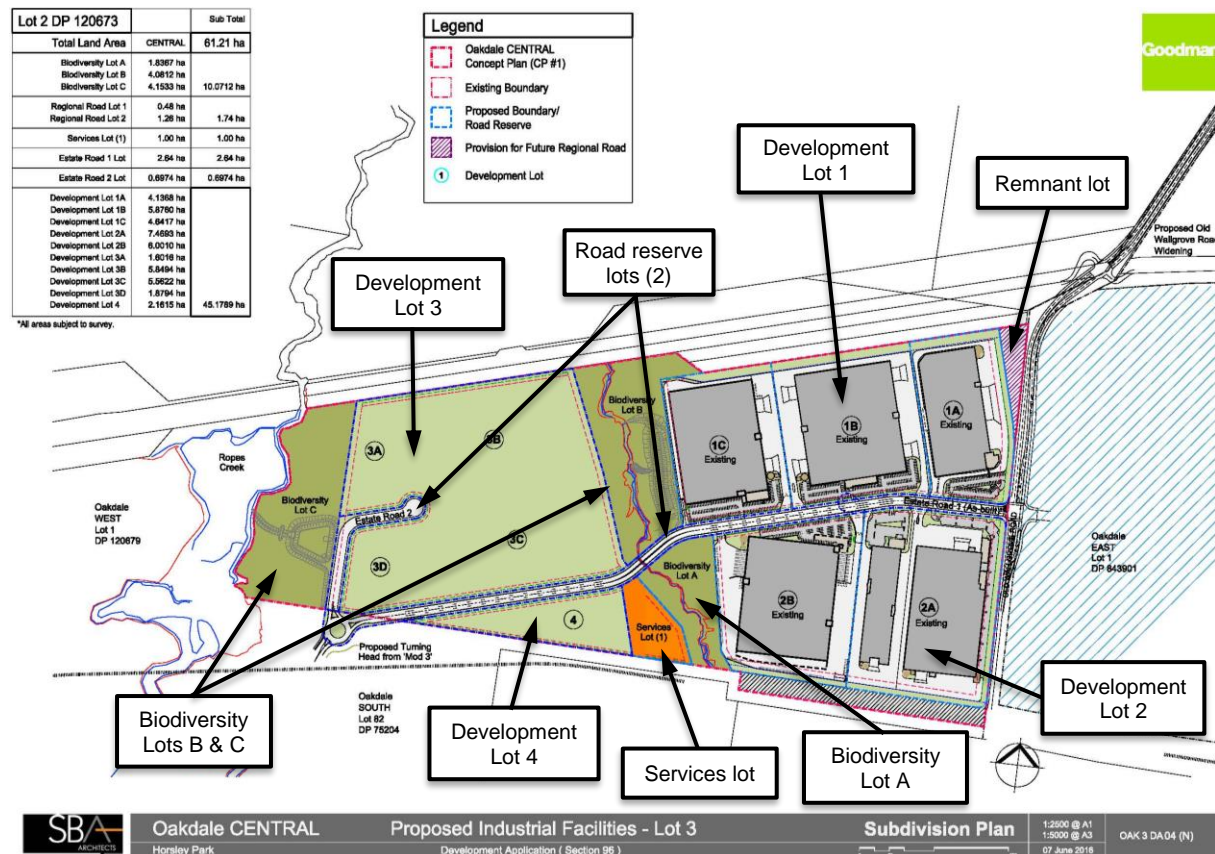


Figure 3: Approved Subdivision Plan

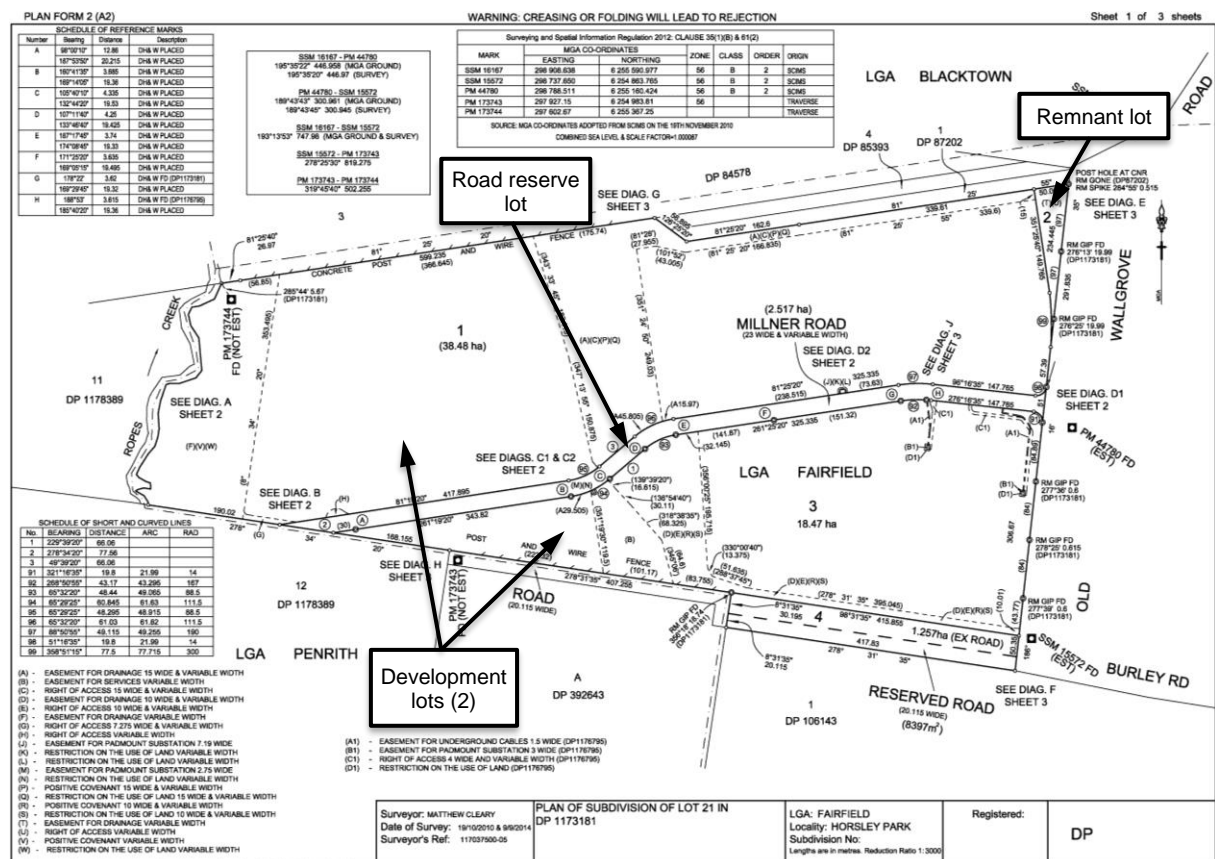


Figure 4: Proposed Subdivision Plan (Stage 1)

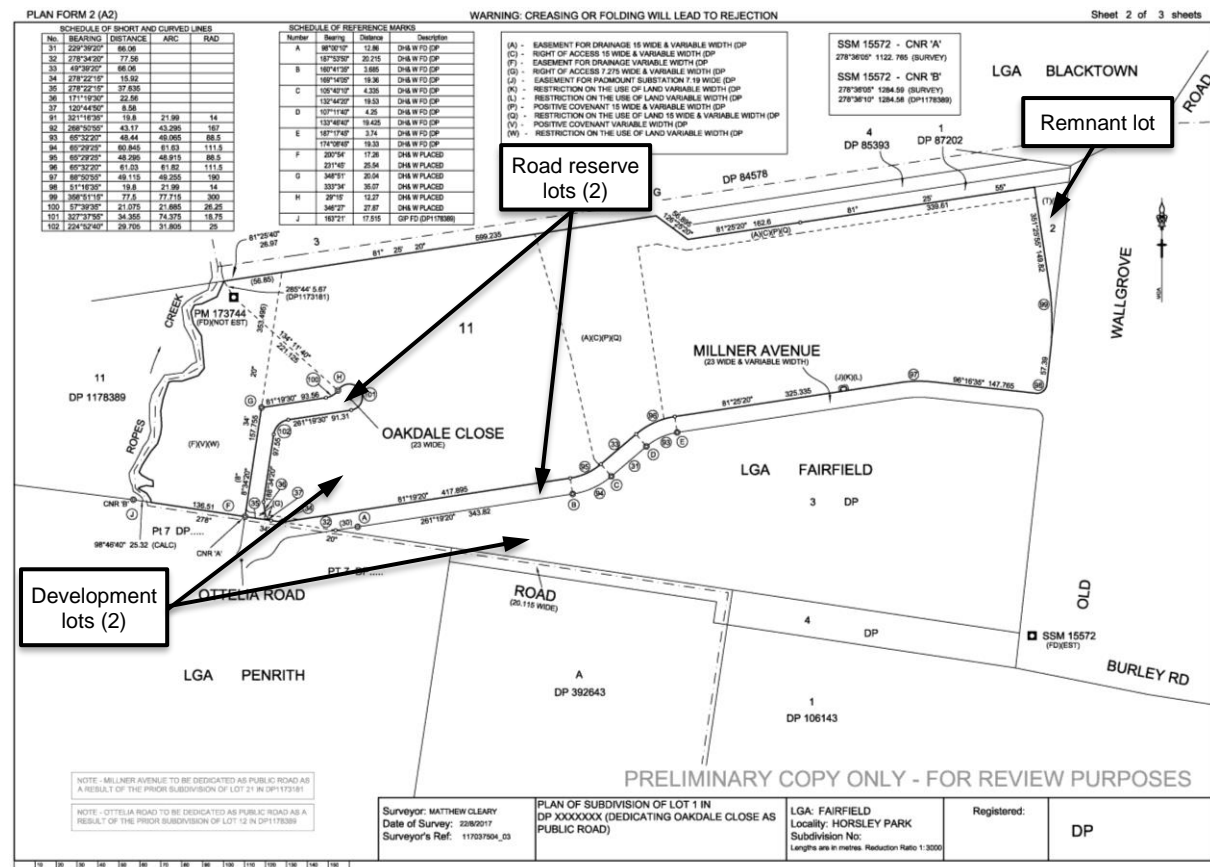


Figure 5: Proposed Subdivision Plan (Stage 2)

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
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

5.2 Section 75W – Concept Approval Modification

In accordance with Clause 12 of Schedule 6A of the EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

The Department notes 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 75W of the EP&A Act
- the approved operations of the development would remain unchanged as a result of the proposed modification
- any potential environmental impacts would be appropriately managed through the existing or modified conditions of approval.

The Department is satisfied the proposed Concept Approval modification is within the scope of section 75W of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the request should be assessed and determined under section 75W of the EP&A Act rather than requiring a new development application to be lodged.

5.3 Section 96(1A) – SSD Modification

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(1A) of the EP&A Act
- the approved operations of the development would remain unchanged as a result of the proposed modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of approval.

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

6. CONSULTATION

Under section 75W of the EP&A Act, the Department is not required to notify or exhibit the modification request. Further, 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 applications were not notified or advertised, however, it was made publicly available on the Department's website on 1 November 2017, and was referred to Fairfield City Council (Council) and the Office of Environment and Heritage (OEH) for comment.

The **OEH** raised no objection to the modifications. The Department did not receive any submissions from **Council** or the public.

7. ASSESSMENT

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

- the EA and SEE provided to support the proposed modifications (see **Appendix B**)
- the assessment reports for the original development applications and subsequent modification applications
- submissions from the public, State government authorities and Council (**Appendix C**)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issue is justification for the modifications.

The Applicant has advised that a corporate decision was made to retain ownership of the development lots and lease the individual units rather than subdivide. As such, the subdivision plan approved under the SSD Consent and its underlying concept plan approved under the Concept Approval would consequently need to be modified. The resulting subdivision plan includes five lots, rather than the approved eleven lots (see **Table 3**). The subdivision would be achieved in two stages to enable the dedication of Millner Road and Oakdale Close to Council (see **Figure 4** and **Figure 5**). The Applicant has lodged concurrent modifications to amend the subdivision plan of the SSD Consent and underlying concept plan to facilitate these changes.

The proposed subdivision plan consolidates the biodiversity lots with the development lots rather than subdividing them as individual lots. In other words, the biodiversity lots would remain attached to the development lots. If the subject site is sold in the future, the new landowner would also inherit responsibility of the biodiversity lots. The Department considers this approach beneficial as it ensures the better management of the biodiversity areas over time by keeping the biodiversity areas and development areas under the same ownership. The OEH raised no objections to the biodiversity areas being located within the development lots as they are required to be protected by other conditions of consent and a restriction on the use of the land on the 88B instrument.

The modification also seeks to amend Schedule 2 Condition 16 of SSD 6078 to remove the requirement to consult with Fairfield City Council in preparing a final subdivision plan, prior to obtaining subdivision certificate. The Department considers removal of this requirement is appropriate as the Applicant would

have to satisfy Fairfield City Council regardless in obtaining the subdivision certificate. The modification of this condition removes an unnecessary step.

The Department notes that the modifications would not involve any construction works or amendments to the site operations. The modifications would not result in changes to the road network or overarching site layout.

The Department considers the proposed modifications are minor in nature and would not result in any impacts beyond what has already been assessed as part of the Concept Approval and SSD Consent. Further, the proposed modifications are generally consistent with the overarching estate master plan. As such, the Department's assessment concludes the proposed modifications should be approved.

8. CONCLUSION

The Department has assessed the proposed modifications in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modifications are appropriate on the basis that:

- they could facilitate better management of the biodiversity lots
- they would not result in any construction works or changes to the site operations, road network or overarching site layout
- they would result in minimal environmental impacts beyond the approved facility.

The Department is satisfied that the modification should be approved, subject to conditions.

9. RECOMMENDATION

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

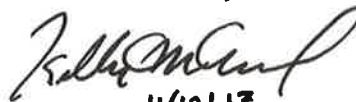
- Consider the findings and recommendations of this report
- Determine that the application SSD 6078 MOD 9 falls within the scope of section 96(1A) of the EP&A Act and that the request MP 08_0065 MOD 7 falls within the scope of section 75W of the EP&A Act
- Modify the concept approval MP 08_0065 and the consent SSD 6078
- Sign the attached approvals of the modifications (**Attachment A**).

Recommended by:


11/12/17

Bianca Thornton
Planning Officer
Industry Assessments

Recommended by:


11/12/17

Kelly McNicol
Team Leader
Industry Assessments

DECISION

The recommendation is: Approved by:


11/12/17.

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

APPENDIX A – NOTICE OF MODIFICATION

The notices of modification can be found on the Department's website as follows:

Concept Approval (MP 08_0065 MOD 7)

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8849

SSD Consent (SSD 6078 MOD 9)

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8848

APPENDIX B – ENVIRONMENTAL ASSESSMENT AND STATEMENT OF ENVIRONMENTAL EFFECTS

The Environmental Assessment and Statement of Environmental Effects can be found on the Department's website as follows:

Concept Approval (MP 08_0065 MOD 7)

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8849

SSD Consent (SSD 6078 MOD 9)

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8848

APPENDIX C – SUBMISSIONS

Submissions can be found on the Department's website as follows:

Concept Approval (MP 08_0065 MOD 7)

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8849

SSD Consent (SSD 6078 MOD 9)

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8848