



1 November 2018

Minister for Planning
Level 22, 320 Pitt Street
Sydney NSW 2000

Attention: Jennifer Bautovich

Dear Minister

SSD 6917: OAKDALE SOUTH – S.96(1) APPLICATION TO MODIFY CONDITION E37 - NOISE VERIFICATION – EXTERNAL MECHANICAL PLANT

I write on behalf of Goodman, the applicant to SSD 6917 (Oakdale South Industrial Estate), to lodge an application under S.96(1) of the Environmental Planning and Assessment Act 1979 (the Act). This modification is merely intended to correct a minor error, misdescription or miscalculation.

S.96 (1) of the Act provides 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 a development consent granted by it to correct a minor error, misdescription or miscalculation.

As the consent authority for SSD 6917, the Department of Planning and Environment are authorised to modify the consent to correct a minor error, misdescription or miscalculation on application by Goodman, as applicant for SSD 6917.

Proposed modification

Condition E37 of SSD6917 requires the preparation of a Noise Validation Report for warehouses within Oakdale South, and is proposed to be modified as follows (deleted wording shown with ~~strike through~~ and new wording in red):

E37 Noise Verification – External Mechanical Plant

Within three months of the commencement of operation of each warehouse building containing external mechanical plant, the Applicant shall undertake noise testing and prepare a Noise Validation Report (NVR) to demonstrate that operation of the mechanical plant and equipment meets the noise limits in Condition B18. The NVR shall:

- a) Be prepared by an appropriately qualified and experienced noise expert;*
- ~~b) Be approved by the Secretary, prior to the installation of any external mechanical plant;~~*
- € b) Demonstrate that the location, design and operation of external mechanical plant would achieve the noise limits in Condition B18;*

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- d c) Demonstrate any acoustic treatments required to ensure compliance with the noise limits in Condition B18; and*
- e d) If necessary, recommend, prioritise and implement measures to improve noise controls on-site to ensure the Development meets relevant criteria and protects off-site receivers from excess noise.*

Reason for S.96(1) application

Condition E37 requires on the one hand a NVR to be prepared “within three months of commencement of operation” of each warehouse, but also that the NVR be both prepared and approved by the Secretary prior to the installation of the plant. The current wording is therefore contradictory. The proposed modified wording removes Condition E37(b) to remove the contradiction.

Thomas Piovesan of DoP on 6 October 2017 confirmed by telephone that he agrees the current wording of the condition is contradictory and recommended that a S.96(1) application be lodged to remove Condition E37(b) to rectify this.

As the wording of Condition E37 is considered an error in the SSD6917 consent, a S.96(1) application under the Act is appropriate in order to “correct a minor error, misdescription or miscalculation”.

Anticipated Environmental Impacts and Substantially the Same Test

Clause 115, (f) and (g) of Environmental Planning and Assessment Regulation 2000, requires that an application under S.96 of the Act include the following:

(f) a description of the expected impacts of the modification,

As the proposal seeks merely to correct an existing contradiction in the wording of Condition E37 of SSD6917, the proposed modification is not anticipated to have any environmental or other impacts in addition to that already approved under SSD6917.

(g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,

As no changes are proposed in this application to any approved Estate works or Stage 1 precinct, the development remains substantially the same as that originally approved.

Conclusion

Pursuant to Section 96(1) of the Environmental Planning and Assessment Act 1979 (the Act), we hereby seek to amend **Condition E37** of SSD 6917 to update currently contradictory wording.

Yours sincerely



Guy Smith
Planning Manager