

## Oakdale South SSD6917 MOD 8 – Response to Submissions – November 2018

| Matters Raised  | Applicant consideration of matter/response   |
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| <b>Pazit Lands Submission</b>   |  |
| <p><i>“Noise emissions from mechanical plant should be confirmed during detailed design when specific types and models of plant have been determined. Should the SWL’s of the selected units be higher than those modelled it is expected that the noise emissions of the individual units could e sufficiently mitigated through standard acoustic measures such as judicious selection of mechanical plant and localised shielding around fixed plant”.</i></p> <p><i>The parent document contained within it advice as to the vagaries of noise and made concessions at Pages 3 and 32 of the report as follows:-</i></p> <p><i>“... sound power levels for rooftop fixed plant units ... should be confirmed during detailed design when the corresponding equipment is selected...”; and</i></p> <p><i>“The limiting sound power levels for rooftop fixed plan units was found to be SWL of 70dBA per unit and should be confirmed during detailed design when the corresponding equipment is selected”.</i></p> <p><i>The predicted operational noise impacts are therefore not reliable particularly given the foreshadowed requirement by the acoustic experts for the potential need for localised shielding around fixed plant.</i></p> | <p>MOD8 seeks only to update Condition B11 with respect of plant height. No change is proposed to the approved noise criteria of SSD6917, particularly the strict criteria set by Condition B18 and E35 of SSD6917. Noise assessment is therefore not relevant to MOD8 application.</p> <p>It should however be noted that a conservative noise assessment was undertaken in DA17/0802 which took into account the noise of the rooftop plant on a worst-case scenario basis (refer to response prepared by SLR, <b>Appendix A</b>). This assessment was deemed acceptable and approved by Penrith Council on this basis.</p> <p>The proposed roof plant will be required to comply with the strict Condition B18 and E35 noise assessment criteria of SSD6917. The detailed design phase of the Lot 5 warehouse is currently being undertaken and a Noise Validation Report (NVR) will be prepared pursuant to Condition E37 of SSD6917 to consider the detailed plant specifications, noise generation within the estate and any required mitigation measures. The NVR confirming that the cumulative noise generation of Lot 5 and other development within Oakdale South Estate meets the Condition B18 and E35 noise criteria, before any a Construction Certificate (CC) is issued for works to commence. From the modelling undertaken to date, Goodman is confident the proposal will meet the Condition B18 and E35 criteria.</p> |
| <p><i>Noise impact is, was and remains a matter of concern in terms of externalities i.e. impact off-site and in the absence of finite and particularised advice remains objectionable.</i></p>   | <p>Noted. As above, Condition E37 SSD6917 requires a detailed NVR to be undertaken to assess the detailed plant proposed and mitigation measures. This will provide ‘finite and particularised’ confirmation that the proposed plant meets the relevant noise criteria set out in SSD6917. This assessment is appropriately undertaken at pre-CC design stage, with the NVR confirming the proposed plant and other noise generation will meet the strict noise criteria set by Condition B18 and E35.</p>   |

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| <p><i>What is proposed is the installation of non-specified roof plant of non-specified design, type or model but of such proportions that requires variation to the controls with respect to height to accommodate such plant and equipment.</i></p> <p><i>The Regulations to the Environmental Planning &amp; Assessment Act 1979, stipulate what is required to accompany a Development Application. In this case what is required is sufficient information as to the precise specifications of the mechanical plant which (by way of reference to the applicant's experts advice:-</i></p> <p><i>"... should be confirmed during detailed design when specific types and models of plant have been determined".</i></p> <p><i>We make the observation that until and unless the specific types and models of plant have been determined, the noise attenuation and/or performance with required standards is unknown and the justification of variation to height limit is not made without the vagaries of the likelihood or otherwise of the need for future "... acoustic measures such as ... localised shielding around fixed plant".</i></p> | <p>The proposed temperature control units are essential to enable DHL to store goods sensitive to extreme temperature. The proportion of roof which will include plant which penetrates the existing maximum 15m height limit is a nominal 0.4% of total roof top area.</p> <p>As discussed above, MOD8 is not seeking to modify the noise criteria set in Condition B18 and E35 of SSD6917. We note that DPE included Condition E37 to enable Goodman to provide detailed noise assessment of the settled rooftop plant appropriately prior to CC, rather than at DA stage, at a time when the detailed plant specifications are known. The NVR will confirm the proposal meets the noise criteria, prior to issue of CC. MOD8 does not seek a variation to this process.</p>                                       |
| <p><i>The Department will hold in its files copies of previous submissions made by this office and supported relevantly by the report of Sebastian Giglio Acoustic Consultant (Your Reference: SSD 6917 Goodman Property Services).</i></p> <p><i>That report (copy attached for completeness) raised particular concerns with the absence of relevant information and specifically identified concerns with the impact of a combination of fixed plant and on-site vehicle noise emphasising the concerns of fixed plant "at rooftop locations around the development".</i></p> <p><i>When considered in context, the noise attenuation identified as being required together with the specific need for the proponents to consider visual impacts, being mandatory considerations under State Environmental Planning Policy (Western Sydney Employment Area) 2009, were matters that were not properly contemplated by the proponent, nor adequately mitigated in the original proposal; a proposal approved within maximum height limits.</i></p>  | <p>As above, noise assessment is not relevant to the plant height proposed for change under MOD8 SSD6917. Detailed plant and cumulative noise verification will appropriately be undertaken in the NVR at pre-CC stage.</p> <p>A thorough visual impact assessment (VIA) has been undertaken which confirms that no additional unacceptable visual impacts will result from the proposed temperature control units. The VIA submitted with DA18/0802/1 was assessed, deemed acceptable and approved by Penrith Council on this basis. The VIA demonstrates that the temperature control units will be significantly screened and will not result in any additional visual impacts to the south or east. (An additional response to the visual impact comments has been prepared by E8Urban <b>(Appendix B)</b>).</p> |
| <p><i>Concerns now arise as to the effect and impact of multiple roof mounted items of unspecified plant and equipment in terms of both visual affect and aural impact on the rural residential receptors identified as vulnerable generally south in the approved and commenced residential subdivision.</i></p>   | <p>The concern is noted, however the visual and noise impact assessment adequately demonstrates acceptable impacts resulting from the proposed rooftop plant units.</p>  |
| <p><i>The proponents and their advisors would have known or at least ought to have</i></p>  | <p>The architecture plans show the extent of the roof top units, demonstrating the limited visual impact these will have on the surrounds. As above, only a minor</p>  |

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| <p><i>known of the likely requirements at the planning stage and must now reveal the precise specifications and need for roof mounted plant.</i></p>  | <p>0.4% of the rooftop includes plant which penetrate above the approved maximum 15m height plane, and only by approximately 1.3m. A review of the building elevations confirms the minor nature of the proposed roof plant relative to the approved bulk, scale and height of the host warehouse.</p> <p>As above, the noise assessment undertaken as part of the DA included conservative “worst case” assessment of noise generation and determined it complied with the strict noise criteria set in SSD6917 (<b>Appendix A</b>). The NVR report will consider a more detailed assessment to confirm the noise criteria are complied with, prior to CC.</p>   |
| <p><i>The implications of simply adjusting specific height controls post “commencement” to accommodate what now appears to be an afterthought is not justification for variation to the height limit applicable.</i></p>  | <p>Unclear meaning of “post commencement” referred to in submission. A S.4.55(1A) application was lodged to DA2018/0802 to ensure the necessary temperature-controlled units were included in the DA17/0802 approval. This application was duly notified to neighbours who were given the opportunity to provide responses. No submissions were received. Council undertook a thorough assessment of the application and determined that the environmental impacts resulting from the proposal were acceptable and approved the application on this basis.</p> <p>Construction has not yet commenced on the DHL warehouse. As discussed, there are various pre-CC requirements which will need to be satisfied before construction will commence, including assessment of the proposed rooftop units in the NVR. The pre-CC requirements are distinct from the current MOD8 application which seeks only to increase the height limit of SSD6917 relating to rooftop plant structure.</p> |
| <p><i>We reconfirm our concerns as to the off-site effects in terms of both visual amenity and acoustic impacts initially identified at master plan phase which led to the specific requirements of a noise attenuation wall and finished floor levels.</i></p>   | <p>Noted. However, submission is unclear as to what aspect of the rooftop units are unacceptable from a visual perspective. As demonstrated in the VIA approved under DA2018/0802 and addendum at <b>Appendix B</b>, the proposed rooftop units will not be viewable from the east or south. The mitigation measures of the noise walls, landscape setback and bund agreed with the southern neighbours in the SSD6917 successfully mitigate visual and acoustic impacts of the proposal.</p>   |
| <p><i>To vary now the overall height controls requires the most stringent assessment by the consent authority; a level of assessment unable to be made given the absence of relevant information, specification, model and type of proposed roof mounted plant and whether or not such plant might lead to the need for localised shielding to achieve the necessary level of performance and likely result in yet additional visual degradation.</i></p> | <p>The height control for the building ridge for Oakdale South is proposed to remain at 13.7m, with only rooftop plant sought for update on Lot 5. As demonstrated by the VIA approved under DA2018/0802, the visual impacts to the surrounds is considered minor and acceptable.</p> <p>The Pazit Lands submission does not clarify which aspect of the plant it considers to cause unacceptable visual impact.</p>  |
| <p><b>Jacfin Submission</b></p>   |   |

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| <p><b>1. Lack of Notification of Earlier Applications</b></p> <p><i>The construction of a DHL warehouse within Precinct 5 of the Oakdale South Estate was approved by Penrith City Council on 24 July 2018 (DA 18/0510) (Council Consent). The development consent stated that no external mechanical plant, including air conditioning units, were approved. Jacfin received no notification of this application to Council and consequently did not have any opportunity to comment on that application.</i></p> <p><i>Goodman subsequently lodged an application under section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (NSW) to modify the Council Consent to include roof top plant and two generators on the ground floor carpark area (DA 18/0510.01) (Council Modification). That application has been approved by Council on 12 September 2018. Jacfin also did not receive any notice of the Council Modification nor have any opportunity to comment on the Council Modification.</i></p> <p><i>As a directly adjoining landowner who has previously made submissions on the application for the SSD Consent for the Oakdale South Estate, as well as subsequent modification applications, it is concerning that the first notice Jacfin received of the DHL development, or proposed modification to include rooftop plant on that building, was the notice received from the Department by mail on 27 September 2018 in relation to the current Modification Application.</i></p> <p><i>While it is acknowledged that the scope of the current Modification Application is limited to amending the SSD Consent to permit an increase in the maximum height of the Precinct 5 building, it is significant to note that this is the first opportunity that Jacfin has had to consider or comment on any aspect of the proposed DHL development. The lack of notice received by Jacfin of previous applications relating to the DHL proposal is a matter of great concern to Jacfin which it will be separately raising with Council.</i></p> | <p>This comment relates to DA2018/0802 and not relevant for the SSD6917 MOD8 application. However, it is understood that Penrith Council undertook the relevant legislative notification process for both DA2018/0802 and DA2018/0802/1. Jacfin did not provide a submission either during the relevant notification period, or at any time up until determination of these applications.</p> |
| <p><b>2. Noise Impacts</b></p> <p><i>Jacfin has commissioned an independent peer review of the noise assessment report prepared by SLR Consulting dated May 2018 in support of the original development application to Council (DA 18/0510) (Noise Report) and the report titled 'Clarification of Noise Model Inputs' by SLR Consulting in relation to the Modification Application (Clarification Report). A copy of the independent peer review undertaken by Wilkinson Murray is attached.</i></p> <p><i>Wilkinson Murray has identified significant failings in the assessment undertaken by SLR.</i></p>   | <p>A response to the issues raised by Wilkinson Murray is addressed in the Response prepared by SLR, dated 31 October (<b>Appendix A</b>).</p>  |
| <p><b>2.1 Erroneous assumptions</b></p> <p><i>The Clarification Report does not include any substantive assessment of noise</i></p>  | <p>A response to the issues raised by Wilkinson Murray is addressed in the Response prepared by SLR, dated 31 October 2018 (<b>Appendix A</b>).</p>   |

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| <p><i>impacts associated with the Modification Application. Rather, the Clarification Report simply asserts that the current plans for the DHL building show fewer mechanical plant units than were modelled by SLR in the Noise Report and makes an assumption that these will have a similar sound power level to those modelled in the Noise Report, such that noise emissions from mechanical plant would be consistent with or lower than the noise emissions modelled in the Noise Report.</i></p> <p><i>This assumption in the Clarification Report is unsound. Wilkinson Murray have identified that the sound power level of 70dBA for the rooftop plant assumed by SLR is consistent with small domestic style roof condensers and not the large Air Handling Units which are proposed by Goodman in the Modification Application. Wilkinson Murray have confirmed that these type of Air Handling Units will have a much higher sound power level than modelled by SLR (approximately 80 to 90 dBA).</i></p> <p><i>In addition, the report by Wilkinson Murray notes that the Noise Report does not consider or factor in additional noise from the following sources:</i></p> <p><i>(a) freezer rooms and cool rooms which will require large condensers to be located on the outside of the building; and</i></p> <p><i>(b) nine roof exhaust fans.</i></p> <p><i>The failure by SLR to adopt appropriate assumptions regarding the sound power level of the rooftop condensers and to assess all relevant noise sources associated with external plant is extremely concerning to Jacfin as it means that the actual noise impacts of the Modification Application have not been properly assessed or modelled and are therefore currently unknown. In the circumstances, Jacfin submits that the Department does not have sufficient, reliable information to enable it to assess the noise impacts of the Modification Application.</i></p> |   |
| <p><b>2.2 No margin for error</b></p> <p>Condition B18 of the SSD Consent imposes a noise limit of 40dB(A) at all 'L3' receivers, including the Jacfin Residential Land. The Noise Report predicts that cumulative noise emissions from the Oakdale South at the Jacfin Residential Land, including the new DHL facility, will be 40 dBA under adverse weather conditions, before factoring in noise from mechanical plant.</p> <p>Accordingly, even before any noise from mechanical plant is considered, the modelling indicates that Goodman will only just comply with the applicable 40 dBA criterion. This is concerning as it means that there is no margin for error in the modelling undertaken by SLR. If even one of the assumptions adopted by SLR in relation to noise levels from truck movements or forklift operations is slightly incorrect, this could result in exceedances of the applicable noise criterion at the Jacfin Residential Land.</p>  | <p>As discussed above, noise assessment not relevant to MOD8, as the only modification sought is to plant noise height and not seeking to vary the noise criteria approved under SSD6917. A NVR will be prepared, pursuant to Condition E37, to confirm that the cumulative noise generation meets the strict noise criteria set by Condition B18 and E35 of SSD6917.</p> <p>SLR has confirmed (<b>Appendix A</b>) that the noise modelling undertaken with DA18/0802 included a cumulative assessment of plant and all vehicle and other operations within Oakdale South. The noise impacts include peak vehicle movements together with proposed plant and was a conservative 'worst case' scenario assessment. SLR does not therefore not agreed that there is inadequate 'margin for error' provided.</p> |

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| <p>This is concerning in circumstances where Wilkinson Murray has previously raised issues with the assumptions adopted by SLR in relation to truck noise and reversing alarms and has indicated that in its experience, actual measurements of truck noise and reversing alarms are higher than assumed by SRL (see submission on behalf of Jacfin by Allens and accompanying report by Wilkinson Murray in relation to Development Application SSD 8209).</p> <p>Furthermore, in circumstances where the predicted noise level at the Jacfin Residential Land is already at the limit of 40 dBA before noise from mechanical plant is factored in, the accurate modelling of plant noise and mitigating this noise a level that will not contribute to the overall cumulative noise impacts is crucial. Wilkinson Murray has indicated that mechanical plant noise will need to be limited to 30 dBA at the Jacfin Residential Land in order not to contribute to overall cumulative noise and cause an exceedance of the overall 40 dBA noise limit.</p> <p>Jacfin submits that given the deficiencies in the modelling undertaken by SLR as noted above, the Modification Application should not be approved unless and until Goodman has demonstrated that the mechanical plant can be designed and operated to not exceed a noise level of 30 dBA at the Jacfin Residential Land. Jacfin further submits that any consent issued should be subject to conditions limiting noise emissions from mechanical plant to 30 dBA at the Jacfin Residential Land and requiring Goodman to undertake an assessment of the actual noise generated by the DHL facility once operational to certify compliance with the 30 dBA limit for mechanical plant and overall 40 dBA limit at the Jacfin Residential Land.</p> |  |
| <p><b>3.1 E8urban letter</b></p> <p><i>The Modification Application is supported by a letter from e8Urban dated 7 August 2018 which purports to address the visual impacts of the proposed increase in plant height in Precinct 5 (e8Urban Letter).</i></p> <p><i>The e8urban Letter notes that the additional plant elements proposed are approximately 2 metres above the ridge line assessed in the 2016 visual impact assessment (2016 VIA) prepared for the original SSD application. Notwithstanding this, the e8urban Letter 'recommends that there will be no additional visual impacts or material changes to the advice provided' in the 2016 VIA'.</i></p> <p><i>It is unclear whether this statement by e8urban is intended to express a conclusion by e8urban that there will be no additional visual impacts as a result of the Modification Application, or whether e8urban is simply recommending that the changes to the height of the rooftop plant be managed so as to not cause</i></p>  | <p>Refer to response prepared by E8 Urban, dated 16 November 2018 (<b>Appendix B</b>).</p> |

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| <p>any additional visual impacts.</p> <p>If e8urban is in fact expressing a view that there will be no additional visual impacts or material changes to the impacts as assessed in the 2016 VIA, then this view appears to have been provided without any assessment having being undertaken by e8urban. Rather, e8urban appears to have made an assumption that because the rooftop plant will be spaced out along the roof and will be of a particular size (unspecified) then there will be no additional visual impact, even though e8urban acknowledges that there will be an increase in height of 2 metres above what was assessed in the 2016 VIA.</p> <p>Jacfin submits that the e8urban Letter is wholly inadequate as an assessment of the visual impacts of the Modification Application. The e8urban Letter is extremely brief and does not include any updated photomontages or view lines showing the visual impact of the proposed plant on the roof of the building. A single section is included showing the proposed vegetation on the southern boundary of Lot 5. No assessment has been undertaken of visual impacts on the Jacfin Residential Land to the east.</p> |  |
| <p><b>3.2 Goodman letter</b></p> <p>Figure 2 in the letter from Goodman dated 28 August 2018, submitted with the Modification Application, is stated to be the view of Precinct 5 from the south, including the landscape berm. The letter goes on to state that Figure 2 and 3 demonstrate that the visual impact arising from the rooftop plant is acceptable. The same Figure 2 is included in the e8urban Letter and is correctly labelled in that letter as the 'View 06 photo-montage' prepared by e8urban in 2016. Figure 2 therefore does not include the proposed rooftop plant 2 metres above the height of the building, which is the subject of the Modification Application, and is not an accurate depiction of the visual impact of the rooftop plant. Jacfin is concerned that the inclusion of Figure 2 in the Modification Application letter and the commentary provided in relation to Figure 2 has the potential to mislead the public and, in particular, residents to the south of the Oakdale South site as to the visual impacts of the proposed rooftop plant and that this should be clarified by Goodman.</p>   | <p>Figure 2 in the Goodman letter of 28 August 2018 demonstrates that, due to the topography, the berm, and the landscaping, the roof top plant will be adequately screened particularly by the landscaping on the southern boundary. Goodman retains ownership of Lot 5 and is responsible for its maintenance and management along with the rest of the Oakdale South Estate. As with all Goodman assets, there is strict landscape maintenance programme in place to ensure the estate presents as attractively as possible. This is extremely important to the Goodman brand. The boundary landscape treatment will therefore be carefully maintained on an ongoing basis pursuant to Condition E61 of SSD6917. The boundary landscaping provides full range screening through both low-level shrub and tree planting. This landscaping has already been established and will continue to develop over time.</p> <p>E8Urban have confirmed that the roof top units will not protrude above the landscaping (refer to sections, <b>Appendix B &amp; C</b>) on either the southern or eastern boundaries and that the additional visual impact resulting from the units is acceptable, particularly when viewed in context with the approved height and scale of the host warehouse building. As above the proposed units penetrating above the maximum 15m roof height only applies to a minor 0.4% of the total roof area and only by approximately 1.3m. Both Figure 2 and the section provided in Figure 3 assists to demonstrates this.</p> |
| <p>The Modification Application letter notes that the 30 metre landscape bund on the southern boundary of the Oakdale South Estate includes significant landscaping which screens the building on the site from the land to the south,</p>  | <p>While the change in topography is reduced along the southern boundary towards the west, various sections were provided along the entire southern boundary (<b>Appendix C</b>), all which demonstrate that the berm and landscaping will continue</p>  |

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| <p><i>and relies on this as a key factor in justifying that the visual impacts of the Modification Application will be acceptable. However, the letter separately acknowledges that the landscaped bund slopes down towards the transmission easement to the west, so that parts of the warehouse and roof plant will still be visible from the adjoining property. Further, the landscape bund on the southern boundary will do nothing to mitigate visual impacts on the Jacfin Residential Land to the east. No consideration or assessment of these visual impacts has been undertaken.</i></p> | <p>to provide adequate screening to rooftop plant units.</p> <p>It should be noted that while the change in topography reduces as you move towards the Transgrid easement, the Pazit subdivision layout is focused in the south eastern portion of the site away from the Riparian corridor which will not be habitable (refer to subdivision plan at <b>Appendix D</b>). The visual sensitive uses therefore diminish as you move towards the riparian corridor / Transgrid easement area.</p> <p>The E8 Urban Assessment (<b>Appendix B</b>) considers the Jacfin Residential Land to the east through 3D modelling, including assessment of the topography of the land, building form, and mitigation measures such as noise wall, and landscaping and determines that the roof top units will not be visible from the residential land.</p> <p>It should however be noted that the Jacfin RU4 land was originally zoned IN1 and has only recently been rezoned. In the DPE's Assessment Report dated May 2015 which accompanied the RU4 rezoning included the following statement: "An important consideration is that the rural residential proposal does not impact on the industrial activities owned and operated by others to the north and west."</p> <p>The assessment report emphasised that industrial employment land uses are the priority for the precinct, with RU4 uses only recently approved to operate as a "buffer use to solve an existing land use conflict".</p> <p>The Assessment report also included the following statements "While it is acknowledged that new landowners moving into the interface area are likely to do so with the knowledge of adjoining industrial land uses, the Department considers that the number of potential new dwellings should be limited to ensure that future land use conflicts are not created ..."</p> |
| <p><i>Finally, the Modification Application letter states that the application will not increase the perception of bulk and height. It is difficult to accept this assertion in circumstances where the application materials indicate that the rooftop plant will protrude approximately 2 metres above the ridge line assessed in the 2016 VIA.</i></p>   | <p>As discussed above there are only 4 rooftop units proposed to extend above the ridgeline along the entire 260m of building length, and only approximately 1.3m above the 15m limit, at the tallest point. Only 0.4% of the total roof area will include plant which will protrude above the currently approved 15m height limit. The units are therefore considered to be relatively fine elements and recessive when considered against the bulk and scale of the approved warehouse, and do not therefore have unacceptable visual impacts on the surrounds.</p>  |