



18 November 2016

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

Attention: Chris Richie

Dear Minister

SSD 6917: OAKDALE SOUTH – S.96(1) APPLICATION TO MODIFY CONDITION D16.(E)

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).

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 D16 of SSD6917, which concerns the creation of easements across the site, is proposed to be modified as shown below (deleted wording shown with ~~strike through~~, while additional wording shown in **red**) to correct a minor error as described below:

D16. The creation of easements for services, rights of carriageway and restrictions as to user are applicable under section 88E of the Conveyancing Act 1919, including (but not limited to) the following:

- (a) easements for sewer, water supply and drainage over all public services/Infrastructure on private property;*
- (b) drainage easements are to be placed over all subsurface drains and inter allotment drainage, benefiting and burdening the property owners;*
- (c) maintenance of the subsurface drains is to be included in the 88E Instrument;*
- (d) restriction as to user and positive covenant relating to the:*
 - (i) on-site detention system/s;*
 - (ii) stormwater pre-treatment system/s; and*
 - (iii) overland flow path works;*

Goodman Group

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- (e) *a restriction to user for each lot requiring that at the commencement of building works, and in perpetuity, each affected lot shall be managed, in accordance with the drawing OAK MP 13 (C) titled 'Fire Protection Plan', prepared by SBA Architects, dated 4 September 2015, to be endorsed by Fire and Rescue NSW and approved by the Secretary prior to ~~issue of the Construction Certificate for Stage 1~~ commencement of any on-lot building works in Precinct 1, 4 or 5.*

This modification seeks to vary the timing in which to obtain Fire & Rescue NSW (F&RNSW) endorsement and the Secretary's approval of the 'Fire Protection Plan' (FPP), to occur prior to any on-lot building works for Precinct 1, 4 & 5, rather than prior to any Construction Certificate (CC) for Stage 1, as is currently required under Condition D16(e) wording.

Reason for S.96(1) application

- + As the FPP referred to in Condition D16(e) concerns the protection of buildings (all located within Precinct 1, 4 & 5), it is appropriate for the F&RNSW and Secretary endorsement and approval to be obtained prior to commencement of any on-lot building works within these precincts, rather than all Stage 1 works. (It should be noted that there are no buildings proposed to be located within the 'defendable space' zone referred to in the FPP).
- + The Stage 1 works, referred to in Condition D16(e), includes a variety of earthworks and infrastructure works over and above that associated with the construction of the buildings in Precincts 1, 4 & 5. It is therefore unnecessary and unreasonable for ALL Stage 1 works, unassociated with building works, to be delayed by the required endorsement and approval of the unrelated FPP.
- + This issue was flagged with the Department of Planning following review of the draft conditions of consent for SSD 6917, however the modified wording was not included in the final consent. (Which is the reason this modification is sought as a S.96(1), rather than S.96(1A) application.)

Conclusion

Pursuant to Section 96(1) of the Environmental Planning and Assessment Act 1979 (the Act), we hereby seek to amend **Condition D16(e)** of SSD 6917 to require Fire and Rescue NSW endorsement and approval by the Secretary prior to commencement of on-lot building works in Precinct 1, 4 or 5, rather than the Stage 1 Construction Certificate.

Based on the reasons provided above, we are of the opinion that the proposed modification is justified.

Yours sincerely



Guy Smith
Planning Manager