



Oakdale West Estate Mod 1

*State Significant
Development
Modification
Assessment
(SSD 7348 MOD 1)*



March 2020

© Crown Copyright, State of NSW through its Department of Planning, Industry and Environment 2020

Cover photo

Oakdale West Estate (Source: The Urban Developer, 2019)

Disclaimer

While every reasonable effort has been made to ensure this document is correct at time of printing, the State of NSW, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance or upon the whole or any part of this document.

Copyright notice

In keeping with the NSW Government's commitment to encourage the availability of information, you are welcome to reproduce the material that appears in *Oakdale West Estate Mod 1, State Significant Modification Assessment (SSD 7348 MOD 1)*. This material is licensed under the Creative Commons Attribution 4.0 International (CC BY 4.0). You are required to comply with the terms of CC BY 4.0 and the requirements of the Department of Planning, Industry and Environment. More information can be found at: <http://www.planning.nsw.gov.au/Copyright-and-Disclaimer>.



Glossary

Abbreviation	Definition
Applicant	Goodman Property Services (Aust) Pty Ltd
BCA	Building Code of Australia
CIV	Capital Investment Value
Consent	Development Consent
Council	Penrith City Council
Department	Department of Planning, Industry and Environment
DoEE	Federal Department of the Environment and Energy
EA	Environmental Assessment titled OWE SSD 7438 MOD 1 Report prepared by Urbis Pty Ltd dated 9 December 2019
EES	Environment, Energy & Science Division
EIS	Environmental Impact Statement titled Environmental Impact Statement Oakdale West Estate State Significant Development Application prepared by Urbis Pty Ltd dated 1 November 2017
EPA	Environment Protection Authority
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
OSL	Office of Strategic Lands
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RMS	Roads and Maritime Services (now TfNSW)
RtS	Response to Submissions
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for New South Wales
WNSLR	Western North-South Link Road
WSEA	Western Sydney Employment Area



Executive Summary

Introduction

This report details the Department of Planning, Industry and Environment's (the Department) assessment of an application to modify the State significant development (SSD) consent for the Oakdale West Estate located within the Western Sydney Employment Area (WSEA) at Kemps Creek in the Penrith local government area (LGA).

Approval History

On 13 September 2019, development consent was granted by the then Executive Director, Compliance, Key Sites and Industry Assessments for the Oakdale West Estate (SSD 7348). The development consent permits a Concept Proposal for 22 warehouses and a Stage 1 Development comprising bulk earthworks, three warehouse buildings, main access road, landscaping and service infrastructure.

Modification Application

Goodman Property Services (Aust) Pty Ltd (the Applicant) has lodged a modification application to modify the Oakdale West Estate (SSD 7348) pursuant to section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* (EP&A Act).

The proposed modification seeks approval for changes to building pad levels for Lots 2A and 2B, minor redesign of bio-retention basins 1, 4 and 5, updated western bund maintenance track, updated design of Stormwater, updated biodiversity conditions and modification to a condition relating to the utilisation of polymer spray.

Statutory Context

The Department has reviewed the scope of the modification application and is satisfied the proposed modification application would result in minimal environmental impacts and relates to substantially the same development as the original development consent.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application.

Engagement

The Department notified the modification application to Penrith City Council (Council), Transport for New South Wales (TfNSW), Sydney Water, TransGrid and internally to the Office of Strategic Lands (OSL) and the Energy, Environment and Science Division (EES) from 13 January 2020 to 28 January 2020. The application was also made publicly available on the Department's website on 13 January 2020. During the notification period, a total of six submissions were received. Of the submissions received, none objected to the development.

Assessment

The Department's assessment of the modification application has fully considered all relevant matters under section 4.14 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development. The Department has assessed the EA, the submissions and the RTS and identified the key assessment issues to be visual impacts and biodiversity impacts. The modification application originally proposed the increase of building pad levels to Precinct 2 lots 2E, 2F and 2G located along the western boundary of the estate in addition to lots 2A and 2B. The Department and Council considered the potential visual impacts of the proposed building pad level increase to be unacceptable and requested the Applicant revise the changes to Precinct 2. The Applicant subsequently amended the proposed changes to Precinct 2 by decreasing lots 2E, 2F and 2G back to the approved levels which was considered by the Department to be an acceptable outcome.

Conclusion

The Department considers the modifications to be minor in the context of the Oakdale West Estate, with the changes to building pad levels providing an improved outcome for level transitions compared to originally approved in SSD 7348. Furthermore, the Department considers the revised Biodiversity Offset Strategy to be satisfactory in appropriately managing the offsetting of vegetation removal.

The Department concludes the development would not result in any adverse environmental impacts additional to those originally assessed in SSD 7348 and recommends the modification application be approved, subject to modifications to the conditions of consent.



Contents

Executive Summary	iv
Introduction	iv
Approval History	iv
Modification Application	iv
Statutory Context	iv
Engagement	iv
Assessment	v
Conclusion	v
1. Introduction	1
1.1 Background	1
1.2 Site Description and Surrounding Land Uses	2
1.3 Approval History	2
2. Proposed Modification	6
3. Strategic Context	3
3.1 Greater Sydney Region Plan	3
3.2 Western City District Plan	3
3.3 State Environmental Planning Policy (Western Sydney Employment Area) 2009	3
3.4 Western Sydney Aerotropolis	4
4. Statutory Context	5
4.1 Scope of Modifications	5
4.2 Consent Authority	5
5. Engagement	6
5.1 Department's Engagement	6
5.2 Summary of Submissions	6
5.3 Key Issues – Government Agencies	6
5.4 Key Issues – Council	7
5.5 Response to Submissions	7
6. Assessment	8

6.1	Visual Impacts	8
6.2	Biodiversity	9
6.3	Other Issues	11
7.	Evaluation	16
8.	Recommendation	17
9.	Determination	18
Appendices		19
	Appendix A – List of Documents.....	19
	Appendix B – Environmental Assessment.....	20
	Appendix C – Submissions	21
	Appendix D – Submissions Report	22
	Appendix E – Consideration of Environmental Planning Instruments	23
	Appendix G – Notice of Modification.....	27



1. Introduction

This report details the Department of Planning, Industry and Environment's (the Department) assessment of an application to modify the State significant development consent SSD 7348 for the Oakdale West Estate (OWE) Concept Proposal and Stage 1 development (the modification, SSD 7348 MOD 1).

The modification application seeks approval for changes in design levels for Precinct 2 building pads, minor redesign and relocation of bio-retention basins 1, 4 and 5, updated western bund maintenance track, updated design of stormwater infrastructure, updated biodiversity conditions and modification to a condition relating to polymer spray.

The modification application has been lodged by Goodman Property Services (Aust) Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

1.1 Background

On 13 September 2019, Goodman Property Services (Aust) Pty Ltd (the Applicant) obtained development consent (SSD 7348) from the Minister for Planning and Public Spaces, to develop the OWE at Kemps Creek in the Penrith Local Government Area (see **Figure 1**).

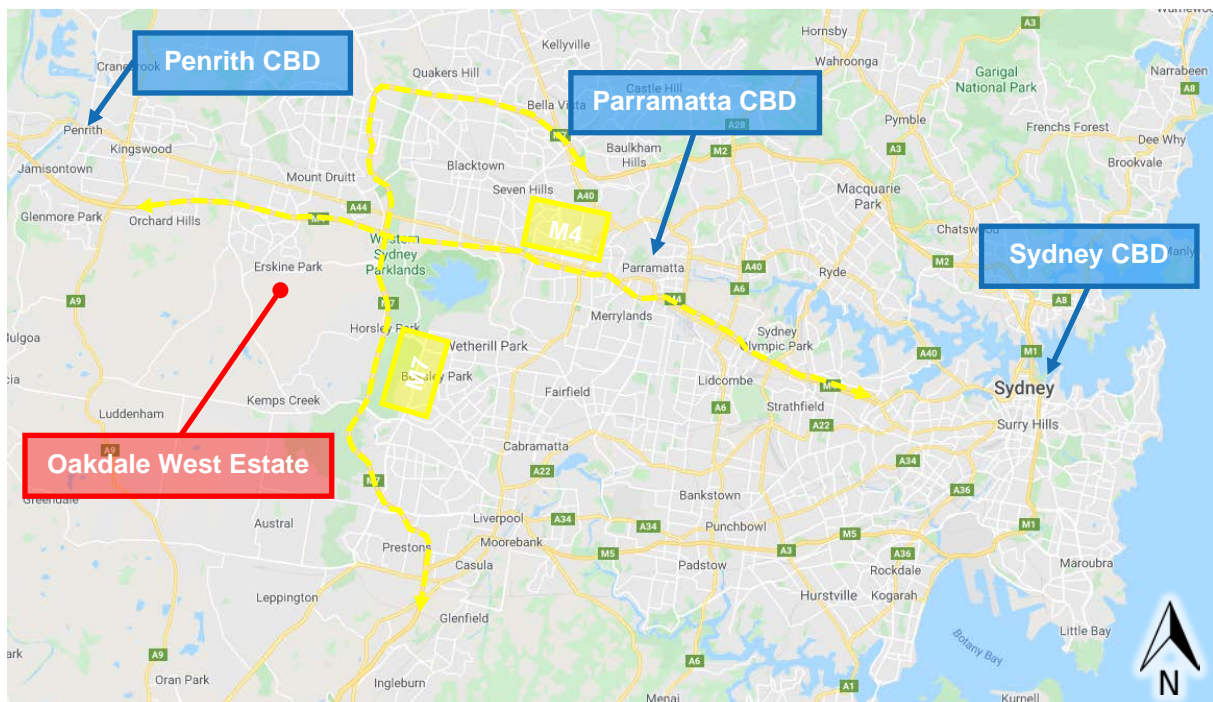


Figure 1 | Site Location

The development consent for SSD 7348 includes:

- a concept proposal for the whole estate (22 warehouses, offices and associated infrastructure, built over 5 stages)
- development of Stage 1 (3 warehouses and the site access road Western North South Link Road)
- requirements for future development applications for the remaining stages 2 to 5.

The Applicant is now securing tenants for the warehouse buildings and is proposing modifications to the concept proposal and Stage 1 development to accommodate the needs of individual tenants. The Applicant has also lodged an SSD application for a building within Stage 2 of the OWE (SSD 10397).

1.2 Site Description and Surrounding Land Uses

The OWE is located within the Western Sydney Employment Area (WSEA) at 2 Aldington Road, Kemps Creek, in the Penrith local government area (LGA) (see **Figure 1**).

The OWE is 154 hectares (ha) in area, located approximately 37 kilometres (km) west of the Sydney central business district (CBD) and approximately 12.5 km south-east of the Penrith CBD. The Applicant has additionally developed land immediately to the east for industrial warehouses [Oakdale Central (SSD 6078) and Oakdale South (SSD 7719) Estates].

Emmaus Catholic College, Emmaus Retirement Village, Trinity Primary School and Mamre Anglican School are located immediately to the west of the OWE (see **Figure 2**). Rural-residential land and native vegetation are located to the south, with one dwelling located close to the southern boundary of the OWE. Adjoining the OWE to the north is the Warragamba Pipeline Corridor owned by Water NSW, with the Erskine Park Biodiversity Corridor located immediately north of the pipelines. High voltage power lines run through the eastern part of the OWE within a TransGrid easement and Ropes Creek runs along the eastern boundary.

The proposed Southern Link Road (SLR) will pass through the OWE in a north-east to south-west alignment, and forms part of the strategic road network designed to service the WSEA, linking Wallgrove Road in the east with Mamre Road in the west. The OWE is currently accessed via Bakers Lane, a local road located at the south-western corner of the OWE which runs west to Mamre Road.

1.3 Approval History

Figure 3 shows the approved OWE Concept Proposal and Stage 1 development. The development consent for SSD 7348 has been modified on one occasion and three modification applications are currently under assessment by the Department, including this modification (MOD 1) (see **Table 1**).



Figure 2 | Site Locality

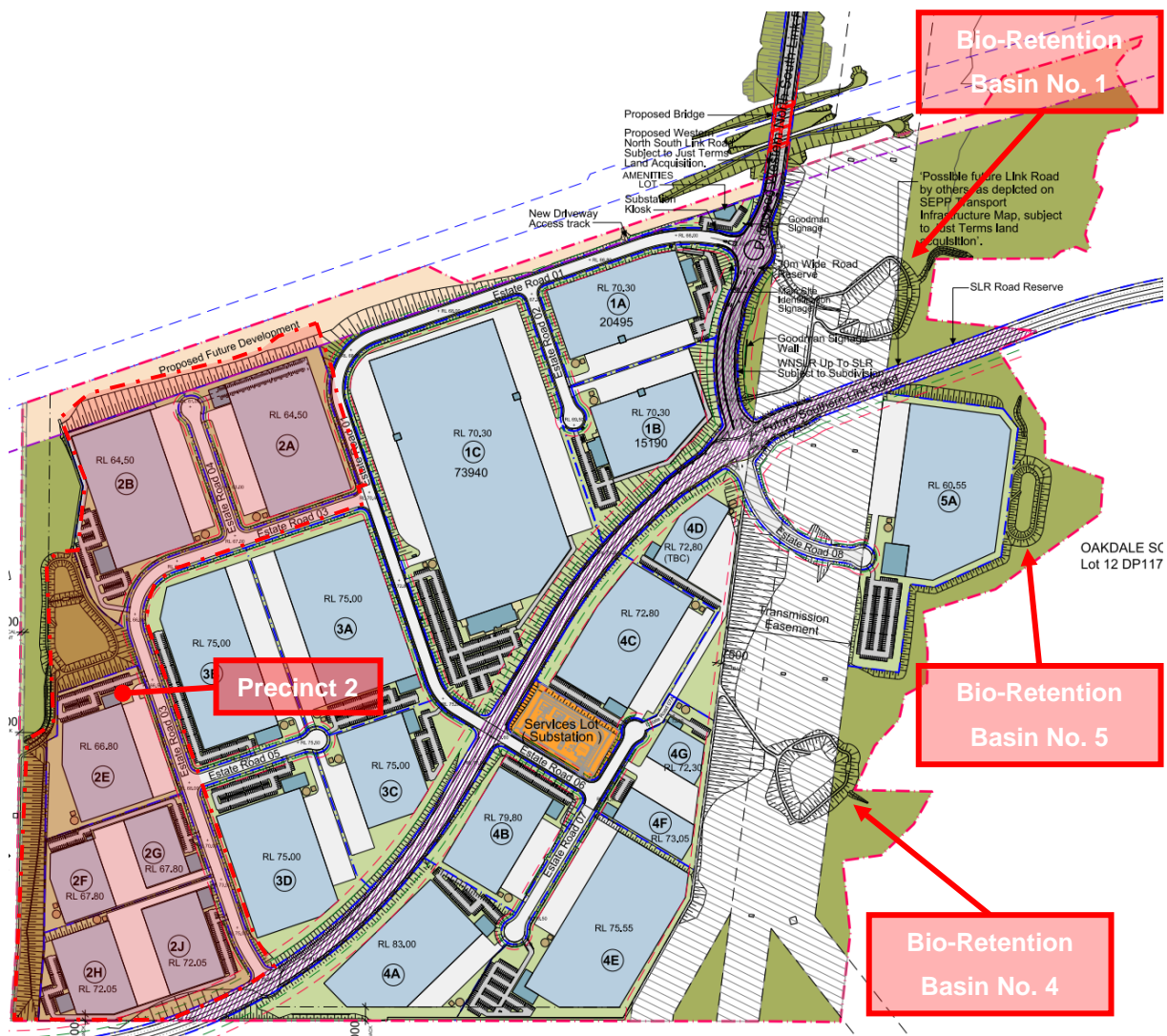


Figure 3 | Approved Master Plan

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Modification to Oakdale West Estate Concept Proposal and Stage 1 DA, including changes to sewer servicing, building pad levels of Precinct 2, bio-retention basins and biodiversity offset strategy.	Department	4.55(1A)	Under Assessment
MOD 2	Modification to Concept Proposal and Stage 1 DA, including master plan layout, increase gross floor area and expansion of Building 1A and changes to internal roads and civil design.	Department	4.55(2)	Under Assessment

MOD 3	Modification to Oakdale West Estate Concept Proposal including master plan layout, staging, increase in gross floor area and building height, internal roads, and changes to civil design and building pad levels.	Department	4.55(1A)	Under Assessment
MOD 4	Modification to works associated with the construction of the Western North South Link Road.	Department	4.55(1A)	Determined on 24 March 2020

In addition, the Department is currently assessing an SSD application in the Oakdale West Estate Stage 2 Development (SSD 10397). The proposed development includes the construction and operation of a warehouse and distribution centre with associated office space, car parking, internal roads, landscaping and services.



2. Proposed Modification

The Applicant has lodged a modification application under section 4.55(1A) of the EP&A Act to modify the Concept Proposal and Stage 1 DA, including, building pad levels of Precinct 2, bioretention basins and biodiversity offset strategy. The Applicant had originally requested additional changes as part of the modification, however these were amended and/or removed in response to concerns from Council and the Department, as described in Section 5.

The modification (as amended) is described in full in the Environmental Assessment (EA) and Response to Submissions (RTS) included in **Appendix B** and summarised in **Table 2** and shown in **Figure 4**, **Figure 5** & **Figure 6**.

Table 2 | Summary of Modifications

Aspect	Description
Summary	Modification to Oakdale West Estate Concept Proposal and Stage 1 DA, including changes to building pad levels of Precinct 2, bioretention basins, stormwater design and biodiversity offset strategy.
Concept Proposal	
Layout	<ul style="list-style-type: none">• Increase in height of Precinct 2 pad levels to provide an improved level transition, also resulting in increased elevation of part of the acoustic barrier wall at the western side of Precinct 2 (see Figure 4)• Changes to onsite stormwater management including location and design of bio-retention basins• Changes to western boundary bunding to accommodate updated vehicle track design.
Biodiversity	<ul style="list-style-type: none">• Biodiversity Offset Strategy (BOS) to include ecosystem credit purchase.• Removal of biodiversity offset area from the BOS• Implementation of a Vegetation Management Plan (VMP).
Stage 1 DA	
Earthworks (see Figure 4)	<ul style="list-style-type: none">• Pad level of lots 2A and 2B to be increased by 2 m• Importation of an additional 134,189 cubic meters (m³) of fill to accommodate Precinct 2 pad level increases.
Civil Works (see Figure 6)	<ul style="list-style-type: none">• Redesign of bio-retention basins 1, 4 and 5• Updated design of stormwater on Estate Road 1• Updated design of western bund maintenance track

Aspect	Description
Conditions	<ul style="list-style-type: none"> • Modifications to condition C35(c)(ii) for the use of polymer spray for pad stabilization (sediment control).
Vegetation Clearing (see Figure 5)	<ul style="list-style-type: none"> • Reduction in clearing of Plant Community Type (PCT) 835 and PCT 1232 • Reconfiguration of PCT 849 clearing (no net overall change).

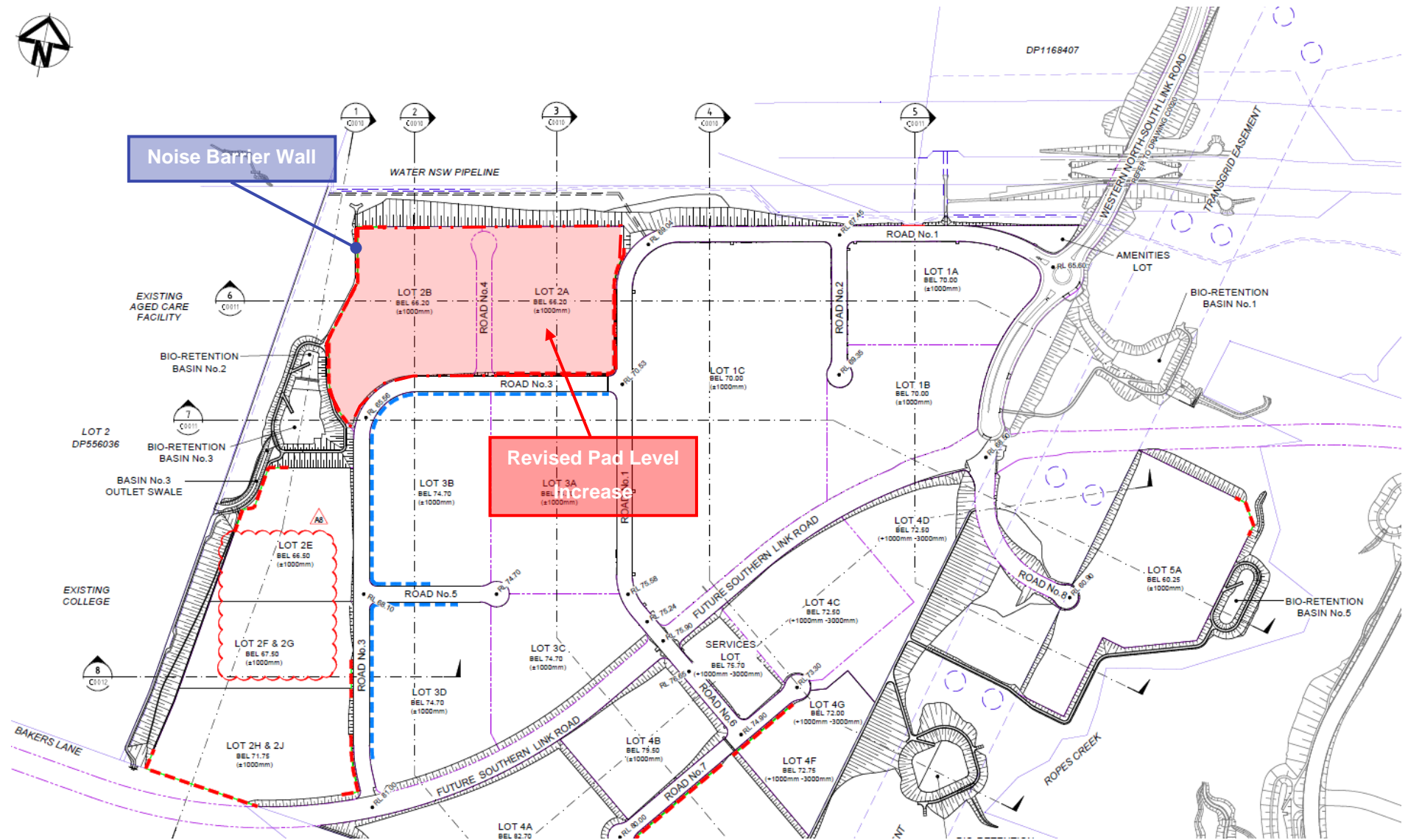


Figure 4 | Proposed changes to Precinct 2 pad levels

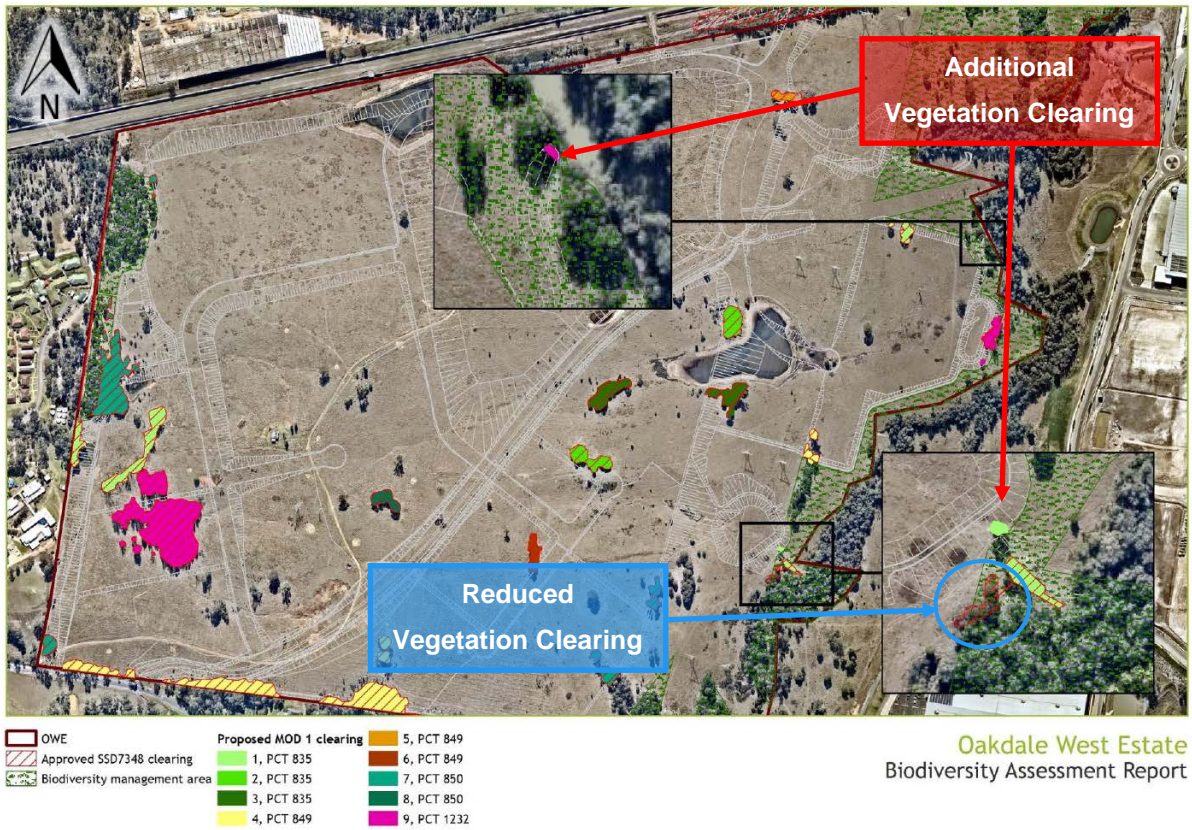


Figure 5 | Proposed changes to vegetation clearing

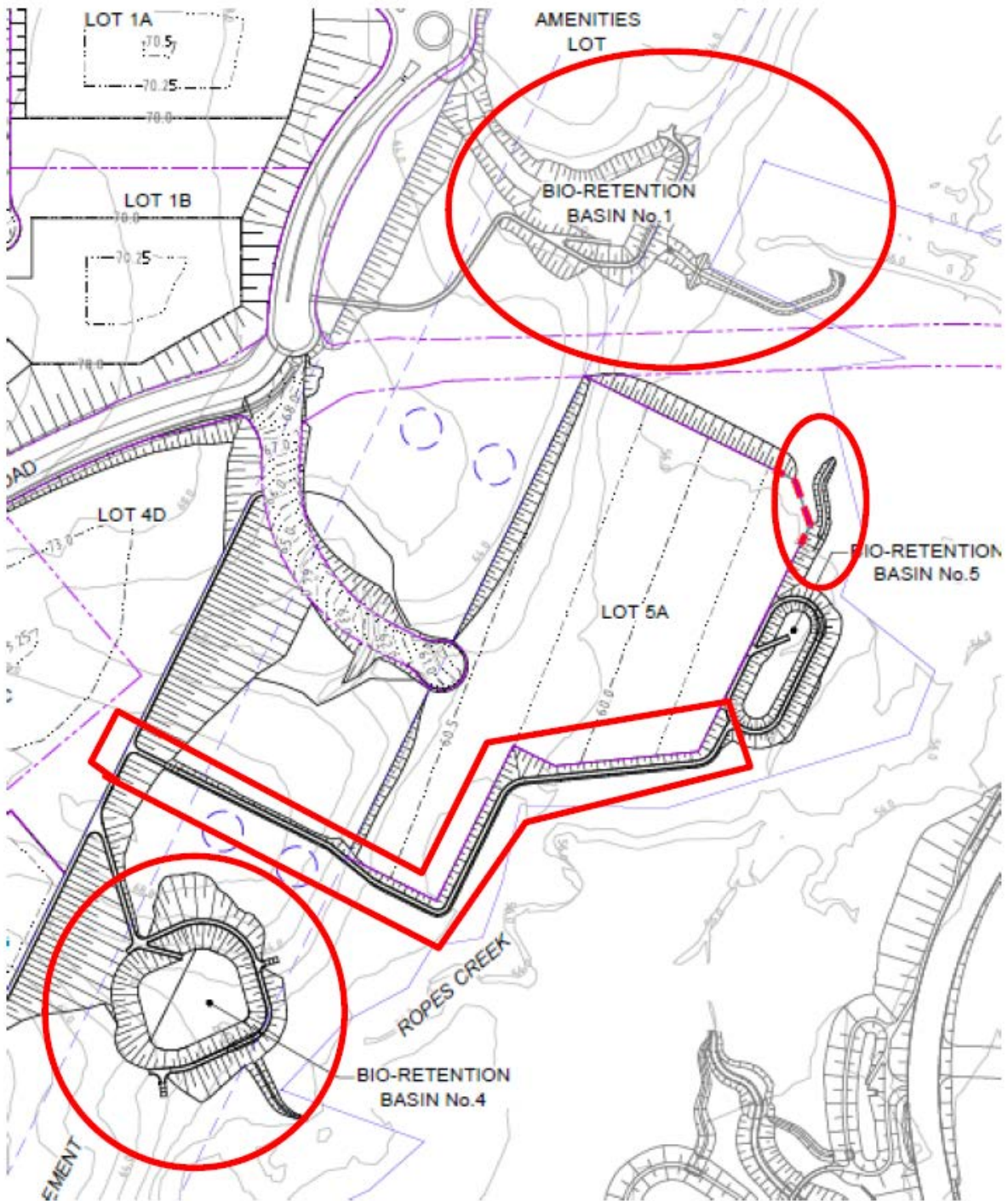


Figure 6 | Proposed redesign of bio-retention basins No.1, 4 & 5



3. Strategic Context

3.1 Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission (GSC) released the Greater Sydney Region Plan: *A Metropolis of Three Cities* (the Region Plan) which forms part of the integrated planning framework for Greater Sydney. The Region Plan is built on a vision of three cities; the Western Parkland City, the Central River City and the Eastern Harbour City. The 40-year vision to 2056 brings new thinking to land use and transport patterns to boost Greater Sydney's liveability, productivity and sustainability by spreading the benefits of growth.

The modification would assist in achieving Objective 16 by utilising industrial zoned land for warehouse and logistics use and Objective 23 by providing employment opportunities in Western Sydney.

3.2 Western City District Plan

The Greater Sydney Commission has released five District Plans encompassing Greater Sydney which will guide the delivery of the Region Plan. The District Plans set out the vision, priorities and actions for the development of each District.

The development is located within the Western City District. The Western City District Plan is a 20-year plan to manage growth in Western Sydney in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney. It is a guide to implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning.

The development would assist in achieving Planning Priorities W10 and W11 as it would maximise logistics opportunities, investment, business opportunities and jobs in strategic centres.

3.3 State Environmental Planning Policy (Western Sydney Employment Area) 2009

OWE is located on land identified within the State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP). The WSEA SEPP aims to promote economic development and employment, provide for the orderly and coordinated development of land, rezone land for employment or conservation purposes, ensure development occurs in a logical, cost-effective and environmentally sensitive manner and conserve and rehabilitate areas with high biodiversity, heritage or cultural value within the WSEA. The WSEA is strategically located to give businesses access to roads and utility services and is also in close proximity to the planned Western Sydney Airport. The modification is generally consistent with the relevant aims set out in clause 3 of the WSEA SEPP as:

- it is for a warehousing and distribution development
- the Concept Proposal will provide up to 1,845 jobs

- it includes the rehabilitation of riparian vegetation and the establishment of a biodiversity offset area.

In accordance with clause 29 of the WSEA SEPP, the Applicant has entered into a Planning Agreement with the Minister, for the provision of regional transport infrastructure (Planning Agreement between the Minister for Planning and Public Spaces, Goodman Property Services (Aust) Pty Ltd and BGMG 11 Pty Ltd which was executed on 5 August 2019). On 16 August 2019, the Acting Deputy Secretary, Place and Infrastructure Greater Sydney, as the Planning Secretary's delegate, certified satisfactory arrangements are in place for the development.

The Department's assessment of the development against the relevant development standards in the WSEA SEPP is provided in **Appendix E**.

3.4 Western Sydney Aerotropolis

The Western Sydney Aerotropolis covers 11,200 ha of land immediately to the west of the OWE. The aerotropolis is anticipated to provide 200,000 jobs in western Sydney. The modification is consistent with the objectives of the Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan, as it would facilitate future job generating development in western Sydney and provide logistics and distribution facilities close to the aerotropolis.



4. Statutory Context

4.1 Scope of Modifications

The Department has reviewed the scope of the modification application and is satisfied 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 4.55(1A) of the EP&A Act; and
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(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 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent Authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2020, the Director, Industry Assessments, may determine the application under delegations 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. Engagement

5.1 Department's Engagement

Clause 117(3B) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to State significant development. However, the Department notified the modification application to Council, Transport for New South Wales (TfNSW), the Environment, Energy and Science Group (EES), TransGrid and Sydney Water from 13 January 2020 to 28 January 2020. The application was also made publicly available on the Department's website on 13 January 2020.

5.2 Summary of Submissions

During the notification period, a total of six submissions were received, all from public authorities. Of the submissions received, none objected to the modification.

Council did not formally object to the modification but raised concerns with aspects of the modification.

EES did not object to the modification, and advised the modification was unlikely to increase impacts on biodiversity.

OSL did not object to the modification and noted the modification will not result in a loss of vegetation within the Erskine Park Biodiversity corridor.

TfNSW did not object to the modification and noted it is unlikely to have significant impacts on the classified road network.

TransGrid advised the modification was acceptable subject to works being undertaken in accordance with TransGrid's guidelines for development.

Sydney Water did not object to the modification and provided no comments.

5.3 Key Issues – Government Agencies

Of the six submissions received by the Department, five were made by NSW government agencies. None of the NSW government agencies objected to the modification application, however TransGrid provided comments. TransGrid, identified the proposed re-design of bio-retention basin 4 infringes on the 20 m buffer distance from the existing transmission line towers within the TransGrid transmission line easement.

5.4 Key Issues – Council

Council provided a submission on the modification application on 28 January 2020. Council did not object to the modification in principle, however advised the proposed increase of the Precinct 2 pad level was not supported by Council due to the significant visual impacts on the existing educational and aged care facilities adjoining the west of OWE. Council's submission provided the following comments:

- Council does not support the (original) building pad level increases of lots 2E, 2F & 2G in Precinct 2 of 2 m due to the resulting excessive retaining wall finish on the western boundary. Council considered the proposal (as originally submitted) to be a worse planning outcome than originally approved.
- The proposed western bund maintenance track should be sealed.
- The acoustic assessment does not consider the broader acoustic implications of the site from the changes proposed under MOD 2 and MOD 3.
- Inconsistencies between the Biodiversity Assessment Report (BDAR) and the EA regarding species credits requirements.

5.5 Response to Submissions

The Department raised concerns regarding the pad level increase of lots 2E, 2F & 2G by 2 m on the western boundary as it was considered to produce unacceptable visual impacts on adjoining visual receivers and advised the proposed changes to Precinct 2 would not be supported. The Department subsequently requested the Applicant to prepare a Response to Submissions (RTS) report to address the comments raised by the Department and the submissions. On 14 February 2020, the Applicant provided an RTS report to the Department for review including an amended Concept Master Plan and sections plans to address the Department and Council's concerns.

In response to Council and the Department's concerns regarding visual impacts, the Applicant amended the modification application to only propose a pad level increase to lots 2A and 2B within Precinct 2. The increase of lots 2A and 2B pad levels were retained to provide adequate levelling to accommodate future modifications to internal estate roads and future warehouse development. However, lots 2E, 2F & 2G were reduced back to the approved levels to satisfy the concerns raised by Council and the Department due to the unacceptable visual impacts of the western boundary of the estate on the adjoining visual receivers being educational and nursing home facilities.

The Department subsequently referred the RTS to Council for review to ensure Council's concerns had been adequately addressed. Council supported the amendments to the pad levels but noted concern for the existing level differences and extent of retaining walls from the approved development.



6. Assessment

6.1 Visual Impacts

The modification includes a net 2 m increase in the building pad level heights of Lots 2A and 2B within Precinct 2, located in the north-western portion of the OWE (see **Figure 4**). These increases may present adverse visual impacts at adjoining sensitive receivers as future development on that part of the OWE would subsequently be elevated.

The Applicant proposes to raise the building pads from a relative level (RL) of 64.50 to 66.50 RL to enable internal estate roads to service future warehouse development within the estate. The increase in pad level heights would enable a reduced height transition to Estate Road 3 by 700 millimetres (mm) and subsequently result in a reduction of retaining wall interfaces for Precinct 2.

The original modification proposal also included an increase in the pad level heights of lots 2E, 2F and 2G located on the western boundary, to the south-west of the OWE. to facilitate a redesign of sewerage infrastructure. In its submission, Council stated it was unable to support the increased pad level heights due to the increased visual impact on adjoining sensitive receivers to the west of the estate. In conjunction with Council's comments, the Department additionally advised the Applicant the potential visual impacts of the building pad level increase to lots 2E, 2F and 2G were not supported. The Applicant subsequently revised the modification proposal to only increase the pad level heights of lots 2A and 2B.

The Applicant provided a Visual Impact Assessment (VIA) prepared by e8urban Pty Ltd with the EA for the original modification application. Subsequently, an amended VIA was provided to support the revised building pad level heights. The amended VIA provided a comparison between the findings of the original VIA for SSD 7348 (undertaken in 2017) and the additional impacts of the increased pad levels from seven sensitive viewpoints, including residences and schools. In particular, the VIA examined the impacts on the approved Stage 1 warehouse development in the OWE and indicated the visual impact categories of all seven sensitive viewpoints would be unchanged as a result of the pad level increases.

The amended VIA found the approved landscaping buffer to the western boundary of the OWE was satisfactory to mitigate the proposed pad level increase of Lots 2A and 2B. In addition, it was considered the modification would not increase the visual impacts of the approved Stage 1 warehouse as it would reduce its visual impact from western receivers. The VIA concluded the modification would not contribute to any additional visual impacts above those identified in the original SSD 7348 assessment.

The revised modification application was referred to Council for review and comment. Council advised it supported the amendments to Precinct 2 pad levels in the RTS, however still noted concerns about the level differentiation across the site, particularly the interface between Precinct 2 and Precinct 3. Council additionally acknowledged the increased building pad levels of Lots 2A and 2B represent a

minor level transition with Estate Road 3, however raised concerns regarding the 4 – 6 m transition between Precinct 3 and Estate Road 3 in the current approval.

The Department has reviewed the EA and amended VIA in conjunction with the original SSD assessment. The Department notes the existing approval required the provision of a vegetation screening buffer along the western boundary of the OWE. Furthermore, the western boundary would feature a bio-retention basin and a 5 m high acoustic wall directly adjoining Lot 2A. The Department considers the approved visual buffering between Lots 2A and 2B and the western boundary of the OWE would provide sufficient screening of future buildings on the higher building pads to effectively mitigate the visual impacts.

Furthermore, the Department notes that Council's comments regarding the level transition between Estate Road 3 and Precinct 3 relate to the current approval and were considered in the original assessment. The Department advised Council the modification does not propose changes to the approved building pad levels of lots 3A and 3B and that Council's concerns relate to the current approval. The Department considers Council's comments to be unrelated to the modification application.

The Department has compared the modification to the original SSD approval and notes the increase of Lots 2A and 2B building pad levels would reduce the interface differentiation between the lots and Estate Road 3 to 700 mm and subsequently reduce the extent of retaining walls for Lot 2A. The Department considers the reduction in retaining walls presents an improved planning outcome in respect to the visual interface than what was originally approved.

The Department's assessment concludes the 2 m increase in the building pad levels of Lots 2A and 2B would result in negligible visual impacts on the educational and aged care facilities to the west of the estate as the approved visual vegetation buffer along the western boundary would remain sufficient to screen views of future warehouses. Furthermore, the Department considers the building pad level increase would improve the internal visual interface of the estate by reducing the extent of retaining walls.

The Department recommends Appendix 1 of the consent be modified to include plans reflecting the amended building pad level heights of Lots 2A and 2B within Precinct 2 of the OWE.

6.2 Biodiversity

The modification includes changes to the approved Biodiversity Offset Strategy (BOS) which required the Applicant to retire 172 ecosystem credits to offset the removal of 4.41 ha of native vegetation on the site. In addition, the Applicant is required to establish a Biodiversity Offset Area (BOA) in accordance with the Biodiversity Stewardship Agreement made with the Biodiversity Conservation Trust (BCT). The modification application proposes to reduce the removal of native vegetation by 0.03 ha to 4.38 ha and to require the purchase of one extra ecosystem credit (now 173 credits) instead of providing a BOA to offset the removal of native vegetation. The proposed modification may have impacts on the biodiversity values of the site.

The Applicant provided a Biodiversity Assessment Report (BDAR) prepared by Ecologique to support the proposed modification. The BDAR included an updated assessment of native vegetation clearing due to proposed changes in the development footprint resulting in a reduction of native vegetation to be cleared. The BDAR identified the four Plant Community Types (PCT) approved to be cleared as follows (see **Figure 5**):

- PCT 835: Forest Red Gum – Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin (HN526)
- PCT 849: Grey Box – Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin (HN549)
- PCT 850: Grey Box – Forest Red Gum grassy woodland on shale of the southern Cumberland Plain, Sydney Basin (HN550)
- PCT 1232: Swamp Oak floodplain forest fringing estuaries, Sydney Basin Bioregion and South East Corner Bioregion (HN594)

The modification proposed to incur a net change in PCT clearing of -0.03 ha from approved. Changes to PCT by coding and conditioning is outlined in **Table 2**.

Table 3 | PCT Clearing (ha)

Zone	PCT Code	Condition	Approved	Proposed	Net Change
1	PCT 835	Mod_Good	0.49	0.46	-0.03
2	PCT 835	Mod_Good_High	0.28	0.28	0.00
3	PCT 835	Mod_Good_Medium	0.31	0.32	+0.01
4	PCT 849	Mod_Good	0.97	0.97	0.00
5	PCT 849	Mod_Good_High	0.05	0.05	0.00
6	PCT 849	Mod_Good_Medium	0.10	0.10	0.00
7	PCT 850	Mod_Good	0.84	0.84	0.00
8	PCT 850	Mod_Good_High	0.10	0.10	0.00
9	PCT 1232	Mod_Good	1.26	1.25	-0.01
Total (ha)			4.41	4.38	-0.03

The Applicant has additionally proposed to restore approximately 4.2 ha of vegetation within the riparian zone of Ropes Creek and has prepared a Vegetation Management Plan (VMP) in accordance with the NRAR's guidelines to manage vegetation restoration.

The modification was referred to EES and the Federal Department of the Environment and Energy (DoEE) for comment. EES raised no objections to the modification and advised it is unlikely to increase

the impacts on biodiversity values as the modification results in an overall reduction in vegetation clearing. The modification was not required to be referred to DoEE for comment in respect to the EPBC Act, however it was referred for their reference.

The Department has reviewed the EA and amended BDAR and carefully considered the modification’s impact on biodiversity values, noting the Applicant proposes an overall reduction in native vegetation clearing and seeks to increase the number of ecosystem credits to be purchased and retired. As the BDAR concluded the modification does not result in additional impacts to biodiversity values above what was originally approved and EES has advised it concurs, the Department considers the provision of a 4.2 ha vegetation restoration zone in conjunction with the purchasing and retiring of 173 ecosystem credits to be appropriate in replacing the approved BOA and subsequently addressing the objectives of the approved BOS.

The Department recommends the conditions of consent relating to biodiversity be amended to delete reference to the BOA and reflect the changes to vegetation clearance areas and the number of ecosystem credits to be retired. In addition, a condition is recommended requiring the Applicant to restore and rehabilitate 4.2 ha of Ropes Creek riparian corridor land in accordance with the VMP.

6.3 Other Issues

Table 4 | Assessment of other issues raised

Issue	Findings	Recommended Condition
Noise Impacts	<ul style="list-style-type: none"> The proposed pad level height increase of lots 2A and 2B would result in the existing 5 m acoustic barrier on the western boundary of lot 2B to also increase its RL level by a further 2 m (see Figure 4_{cont}). The elevation of the acoustic barrier wall may impact on its capacity to effectively mitigate noise generated from the OWE. The Applicant provided an Operational Noise Impact Statement (ONIS) to demonstrate that, with the new pad level heights, the operations of OWE would remain compliant with the operational noise limits of the original consent. The ONIS identified the pad level increase would subsequently increase the effective height of the acoustic barrier wall. The ONIS predicted noise levels would decrease at all sensitive receivers, presenting an overall reduction in operational noise impacts. The Department notes that no concerns were raised in the submissions relating to noise impacts of the modification. The Department has reviewed the ONIS against the original assessment of SSD 7348 and considers the modification results in a 	<ul style="list-style-type: none"> No changes to existing conditions of consent required.

Issue	Findings	Recommended Condition
	<p>minor reduction of noise impacts at the adjoining sensitive receivers.</p> <ul style="list-style-type: none"> The Department's assessment concludes the modification would provide a reduction in operational noise impacts and remains consistent with the noise limits imposed by the original consent. The Department considers that, as there would be no increase in noise impacts due to the modification, the existing mitigation measures would continue to be satisfactory in managing the operational noise of the OWE and no further consent conditions are required. 	
Stormwater & Civil works	<ul style="list-style-type: none"> The modification application includes updates to the OWE's stormwater drainage required as a result of changes to site cut and fill importation. The updated stormwater drainage design seeks to ensure post-modification catchment flows do not exceed approved catchment flows and prevent adverse flooding impacts on downstream development. In addition, the updated stormwater design of Estate Road 1 is proposed to provide appropriate clearance from utility infrastructure and improve drainage. All stormwater is to be collected via pits and connected into On-Site Detention (OSD) basins. Overflow from OSD basins would drain into the adjacent Ropes Creek. The Applicant provided a Civil, Stormwater and Infrastructure Services Report prepared by AT&L Pty Ltd which demonstrated the OSD basins have capacity to accommodate 1:100 rainwater events without increasing stormwater peak flows in downstream areas. The Department notes the updates to stormwater drainage design are required to accommodate the increase in building pad levels and will result in negligible impacts. The Department is therefore satisfied the updated stormwater drainage design would result in catchment flows that would not exceed pre-development catchment flows and not have an impact on flooding. The Department recommends the approved stormwater and civil works plans be updated to reflect the proposed updates. 	<ul style="list-style-type: none"> Civil works plans in Appendix 1 and 2 of the consent to be updated to reflect changes.
Public Utility Infrastructure	<ul style="list-style-type: none"> The modification includes the redesign of bio-retention basins 1, 4 and 5 to provide clearance from existing vegetation to reduce bio-diversity 	<ul style="list-style-type: none"> Civil works plans in Appendix 1 and 2 of the

Issue	Findings	Recommended Condition
	<p>impacts (see Figure 6). The capacities and locations of the bio-retention basins remains unchanged.</p> <ul style="list-style-type: none"> • The bio-retention basins are currently approved within an existing TransGrid transmission line easement. The re-design of the bio-retention basins may impact on the structural integrity of the transmission line tower. • The EA indicated bio-retention basin 4 provides increased battering towards existing transmission tower footings. In addition, the modification proposes a new maintenance track access to bio-retention basin 5. • The EA and submitted engineering plans identify the modified bio-retention basins will provide a 20 m clearance from the existing transmission line footings. • TransGrid reviewed the modification application and advised the proposed changes to bio-retention basins within transmission line easements are acceptable subject to works being undertaken in accordance with TransGrid's guidelines. • The Department has reviewed the re-design to the bio-retention basins and considers the modification does not interfere with the existing TransGrid transmission lines or result in additional impacts above originally approved. • The Department therefore considers the redesign of the bio-retention basins is acceptable subject to works being undertaken in accordance with TransGrid's guidelines. • The Department recommends Appendix 1 and 2 of the consent be amended to reflect the redesign of the bio-retention basins. 	<p>consent to be updated to reflect changes.</p>
<p>Consistency with the SSD 7348 Concept Approval</p>	<ul style="list-style-type: none"> • The modification involves changes to the approved Concept Approval of SSD 7348 including changes to the BOS, bio-retention basin designs and Precinct 2 Pad levels. • The modification to the approved BOS is considered to be minimal in nature and does not result in more impacts than originally assessed in the Concept Approval. • The proposed changes to the bio-retention basins do not alter the proposed locations and capacities of the basins. Basins are re-designed to accommodate changes to vegetation clearing. • The proposed increase of Precinct 2 pad level heights is considered to improve the approved level transitions between allotments and 	<ul style="list-style-type: none"> • No changes to existing conditions of consent required.

Issue	Findings	Recommended Condition
	<p>remains generally consistent with the original approval.</p> <ul style="list-style-type: none"> The Department therefore considers the modification to be generally consistent with the Concept Approval of SSD 7348 as it does not result in any impacts greater than originally assessed. 	
Traffic Impacts	<ul style="list-style-type: none"> The modification application provided a Traffic Impact Statement (TIS) which combined the vehicle movements associated with the construction of the Western North-South Link Road (WNSLR) and the Stage 1 development construction. The EA reiterated there would be a minor increase of construction traffic associated with the fill importation for Lots 2A and 2B however, traffic would be dispersed across the day and managed in accordance with the Construction Environmental Management Plan (CEMP) and the Construction Traffic Management Plan (CTMP). The Department notes no concerns regarding construction traffic impacts were raised by TfNSW or Council in their submissions. The Department has reviewed the EA and the TIA and considers additional construction traffic to be minimal and the traffic impacts associated with the modification application to be minor. Additionally, a revision of the CTMP is considered appropriate in managing the minor increase in construction traffic. The Department recommends the CTMP to be updated in accordance with existing conditions of consent. 	<ul style="list-style-type: none"> No changes to existing conditions of consent required.
Sediment Control	<ul style="list-style-type: none"> Due to the extent of the earthworks of the pre-building construction phase of the development, a condition was included in the consent requiring the applicant to prepare and implement a Landscape Management Plan (LMP). The LMP is to include the grass seeding of building pads to mitigate the visual and dust impacts of the exposed soil sediment. The Applicant proposes to apply a compostable polymer spray to soil as an alternative to grass seeding. The EA notes polymer spray is more effective than grass seeding at sediment control and dust suppression. In addition, the time required for establishment of grass from seeding can be 	<ul style="list-style-type: none"> Modify Condition D35 of the consent to include the application of a green polymer spray.

Issue	Findings	Recommended Condition
	<p>lengthy and additional works are required to uplift grass prior to construction.</p> <ul style="list-style-type: none"> • The polymer spray is proposed in a green colour to provide a grass-like appearance. • No concern regarding application of the polymer spray was raised in submissions. • The Department considers the proposed polymer spray to be a satisfactory alternative to grass seeding due to the improved efficiency of soil sediment control and dust impression. • Furthermore, the Department considers the green coloured spray would provide sufficient visual mitigation of exposed soils. • The Department concludes the alternative mitigation measure is a more effective method than originally approved for sediment control, while continuing to mitigate visual impacts of the development. • The Department recommends the consent be modified to update the LMP to include the application of green polymer spray. 	
Landscape Management	<ul style="list-style-type: none"> • The modification proposes the inclusion of two vehicle passing/ parking bays and an entry for the Western Bund Maintenance Track (WBMT) located along the western boundary of the estate. • The update to the WBMT is proposed to improve maintenance access and vehicle flows along the maintenance track. • The EA notes the updates to the WBMT would not impact on the existing and approved landscaping design of the western boundary. • Council provided a submission requesting the changes to the WBMT be sealed to prevent dust generation. • The Applicant advised in the RTS the WBMT would be spray sealed with a bitumen spray for dust suppression. • The Department considers the updated WBMT would have minimal impact on the existing and approved landscaping amenity of the western boundary. • Furthermore, the Department notes the changes would improve the road performance and access of the WBMT. • The Department concludes the modifications to the WBMT would improve the efficiency of the maintenance track and not impact on landscape design. 	<ul style="list-style-type: none"> • Landscape design plans of Appendix 1 and 2 of the consent to be updated to reflect WBMT changes.

Issue	Findings	Recommended Condition
	<ul style="list-style-type: none"> The Department recommends the landscape design plans of Appendix 1 and 2 to be updated to reflect the changes to the WMBT. 	



7. Evaluation

The Department has assessed the proposed modification and EA and has considered submissions provided by Council and the relevant government agencies. The Department has also considered the objectives and the relevant considerations under section 4.55 of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- the original proposed increase of lots 2E, 2F and 2G was removed from the modification application to address the Department and Councils visual impacts concerns.
- the proposal would result in minimal environmental impacts including visual impacts, beyond the approved development
- satisfactory mitigation measures would be put in place to manage potential impacts
- the proposal would facilitate further infrastructure and future warehouse development within the OWE.

Overall, the Department is satisfied the impacts from the proposed modification can be appropriately manage through the Applicant's existing mitigation measures and the Department's recommended conditions. It is therefore recommended that the modification should be approved, subject to conditions.



8. Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 7348 MOD 1 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application
- **modifies** the consent SSD 7348
- **signs** the attached approval of the modification (Appendix G).

Recommended by:

26 March 2020

Shaun Williams

Planning Officer

Industry Assessments

Recommended by:

26 March 2020

Sheelagh Laguna

A/ Team Leader

Industry Assessments



9. Determination

The recommendation is: **Adopted by:**

26 March 2020

Chris Ritchie

Director

Industry Assessments



Appendices

Appendix A – List of Documents

The following documents were considered in the assessment of this modification application:

- Oakdale West Estate State Significant Development Assessment Report, prepared by NSW Department of Planning, Industry and Environment, dated September 2019.
- Environmental Impact Statement - Oakdale West Estate, prepared by Urbis Pty Ltd, dated November 2017.

Appendix B – Environmental Assessment

A copy of the Environmental Assessment can be found on the Department's website, at the following link:

<https://www.planningportal.nsw.gov.au/major-projects/project/25906>

Appendix C – Submissions

A copy of the submissions can be found on the Department's website, at the following link:

<https://www.planningportal.nsw.gov.au/major-projects/project/25906>

Appendix D – Submissions Report

A copy of the RTS and accompanying documents can be found on the Department's website, at the following link:

<https://www.planningportal.nsw.gov.au/major-projects/project/25906>

Appendix E – Consideration of Environmental Planning Instruments

State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP)

The WSEA SEPP aims to promote economic development and employment, provide for the orderly and coordinated development of land, rezone land for employment or conservation purposes, ensure development occurs in a logical, cost-effective and environmentally sensitive manner and conserve and rehabilitate areas with high biodiversity, heritage or cultural value within the WSEA. Part 5 of the WSEA SEPP sets out the principal development standards within the WSEA.

Table 5 | WSEA SEPP Assessment

Development Standard	Proposed	Department Comment
Cl. 23 Development adjoining residential land (1) This clause applies to any land to which this Policy applies that is within 250 metres of land zoned primarily for residential purposes.	The modification proposes to increase the building pad level of lots 2A and 2B in addition to minor civil infrastructure work to the estate.	The site is located adjacent to land zoned RU2 Rural Landscape. The objectives of the RU2 zone indicate the zone is not primarily for residential purposes. Notwithstanding, as there is existing residential development near the site, the Department has considered clause 23 of the WSEA SEPP in its assessment of the development.
(2) The consent authority must not grant consent to development on land to which this clause applies unless it is satisfied that:		
(a) wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity, and	N/A, no changes to building structures proposed as part of the modification application.	The modification remains consistent with the WSEA SEPP.
(b) goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from view from residential buildings and associated land, and	N/A, no changes to location of goods and plant equipment storage in estate development.	The modification remains consistent with the WSEA SEPP.
(c) the elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance, and	The modification would result in a 2 m building pad level increase of lots 2A and 2B which would subsequently elevate future development on the site. The subject lots are to be visually	The Department has assessed the development's impacts on visual amenity of nearby receivers. The Department considers the approved visual screening to the western boundary of the subject

Development Standard	Proposed	Department Comment
	screened by landscaping and an acoustic barrier wall.	allotments and future development to occur to the south would satisfactorily mitigate visual impacts to rural residences and educational facilities.
(d) noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised, and	An updated Noise Impact Assessment has been completed as part of the modification report. The noise assessment concludes that the increased elevation of the approved acoustic barrier wall on the western boundary would improve the mitigation of noise impacts of the estate.	The Department has assessed the development's noise impacts in Section 6.4 of this report. The Department's assessment has concluded the modification would result in a net reduction of noise impacts to the surrounding sensitive receivers of the estate.
(e) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like, and	N/A, the modification does not propose any changes to operational traffic movements.	The Department has considered there are no changes to the operational traffic movements of the OWE.
(f) the development will provide adequate off-street parking, relative to the demand for parking likely to be generated, and	N/A, the modification does not propose any changes to the parking provisions of the estate.	The Department notes the modification does not change the requirement of off-street parking provisions for the estate.
(g) the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.	N/A, the modification does not alter the internal landscape plan of the estate.	The Department considers there are no changes to the internal landscaping of the estate, particularly between building footprints and street frontages.
CI.25 Public utility infrastructure The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.	The proposed modification did not provide changes to the development's potential to deliver public utility infrastructure. In addition, the modification included changes to stormwater design to provide adequate clearance from public utility infrastructure.	The Department considers the modification would not impact on the existing arrangements for public utility infrastructure.

Development Standard	Proposed	Department Comment
Cl.26 Development on or in the vicinity of proposed transport infrastructure routes The consent authority must consider any comments made by the Director-General as to the compatibility of the development with the proposed transport infrastructure route.	The modification does not alter or impede on the proposed transport infrastructure route.	The Department notes that no changes to the WNSLR are proposed as part of the modification.
Cl.29 Industrial release area Assistance to the State authorities for the provision of regional transport infrastructure and services is required. The consent authority must not grant consent unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services.	The Applicant has entered into a Planning Agreement with the Minister for constructing the WNSLR, executed on 5 August 2019.	On 16 August 2019, the Acting Deputy Secretary, Place and Infrastructure Greater Sydney, as delegate of the Planning Secretary issued a satisfactory arrangements certificate in accordance with Clause 29 of the WSEA SEPP.

State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 outlines the items that a consent authority must consider assessing whether a development is hazardous or offensive. The Applicant reviewed the development in accordance with SEPP 33 and advised that the proposed development is not potentially hazardous or offensive.

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. The EIS stated the potential for historical contamination from historical uses had been considered as part of the Stage 1 development, which concluded the site would be suitable for commercial and industrial uses. The SSD 7348 RTS report included a Remediation Report prepared by AECOM (dated 22 August 2017) which validated previous remediation works undertaken at the site. The report concluded the OWE would be suitable for commercial/industrial land use, however an Unexpected Finds Protocol should be implemented during construction.

Penrith Local Environment Plan 2010 (PLEP 2010)

Clause 8 (2) of the WSEA SEPP specifies the WSEA SEPP prevails to the extent of any inconsistency with any local environmental plan (LEP) or environmental planning instrument (EPI). The Department

has reviewed the relevant provisions of the Penrith LEP 2010 and notes the site is not identified in any maps of the PLEP 2010 relating to principal development standards. The Department also notes the provisions relating to clauses '7.3 - Development on natural resources sensitive land' and '7.4 - Sustainable development' have been assessed through the provisions of the WSEA SEPP (Appendix C).

Appendix G – Notice of Modification

A copy of the notice of modification can be found on the Department's website, at the following link:

<https://www.planningportal.nsw.gov.au/major-projects/project/25906>