

22 November 2021

Mr Chris Ritchie
Director, Industry Assessments
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney, NSW

Dear Mr Ritchie,

Oakdale West Industrial Estate SSD 7348 – Modification Application 9

1 Introduction

This Modification Application Request has been prepared by *Keylan Consulting Pty Ltd* (Keylan) on behalf of *Goodman Property Services (Aust.) Pty Ltd* (the Applicant).

The request is submitted to modify the State Significant Development (SSD) Concept Plan and Stage 1 development consent for the Oakdale West Estate (SSD 7348), under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application follows issues raised by the Department of Planning, Industry and Environment (DPIE) and Penrith City Council (Council) during the assessment of the SSD application for Stage 3 of the Oakdale West Estate (SSD 9794683). Specifically, this application seeks an amendment to the approved height of Buildings 2C and 2D to reflect the relative height from the estate road.

2 Background

The Oakdale West Industrial Estate (OWE) is located at 2 Aldington Road, Kemps Creek NSW within the boundaries of the Western Sydney Employment Area.

The land, previously Lot 26 in DP 1269741, is now legally described under the current registered plans of subdivision as Lot 101, Lot 102 and Lot 103 in DP 1262308 and Lot 105 to Lot 111 in DP 1262310.

2.1 SSD 7348 – Concept Plan and Stage 1

On 13 September 2019, DPIE approved SSD 7348 for the staged development of the OWE. SSD 7348 comprises a Concept Proposal and Stage 1 development application (DA) which includes estate-wide earthworks, infrastructure, and services and the construction and operation of warehouses in Precinct 1.

SSD 7348 establishes development controls for all warehouse buildings in the estate, which future applications must comply with.

SSD 7348 has been subject to eight modifications, with the most recently approved modification (SSD 7348 Mod 7) approved on 8 October 2021. The SSD 7348 Mod 7 application entails minor amendments to the estate infrastructure including bulk earthworks in Precincts 3 & 4, the removal of part of an Estate Road in Precinct 4, and inclusion of additional retaining walls in Precinct 3 & 4. SSD 7348 Mod 8, approved on 10 September 2021, entails minor architectural design amendments in Precinct 1.

SSD 7348 includes approval for the following development:

- Concept layout of 18 warehouse buildings inclusive of dock offices and ancillary offices providing 556,824 square metres (m²) of GLA, built over five development stages (Figure 1);
- Concept layout of development lots, internal roads, drainage, landscaping, noise walls, basins and biodiversity offsets;
- Development controls (including building height, setbacks, lot size, and site coverage);
- Stage 1 approval for bulk earthworks and infrastructure, including pad levels for each warehouse and landscaping of estate roads; and
- Stage 1 approval for construction and operation of warehouse buildings in Precinct 1.

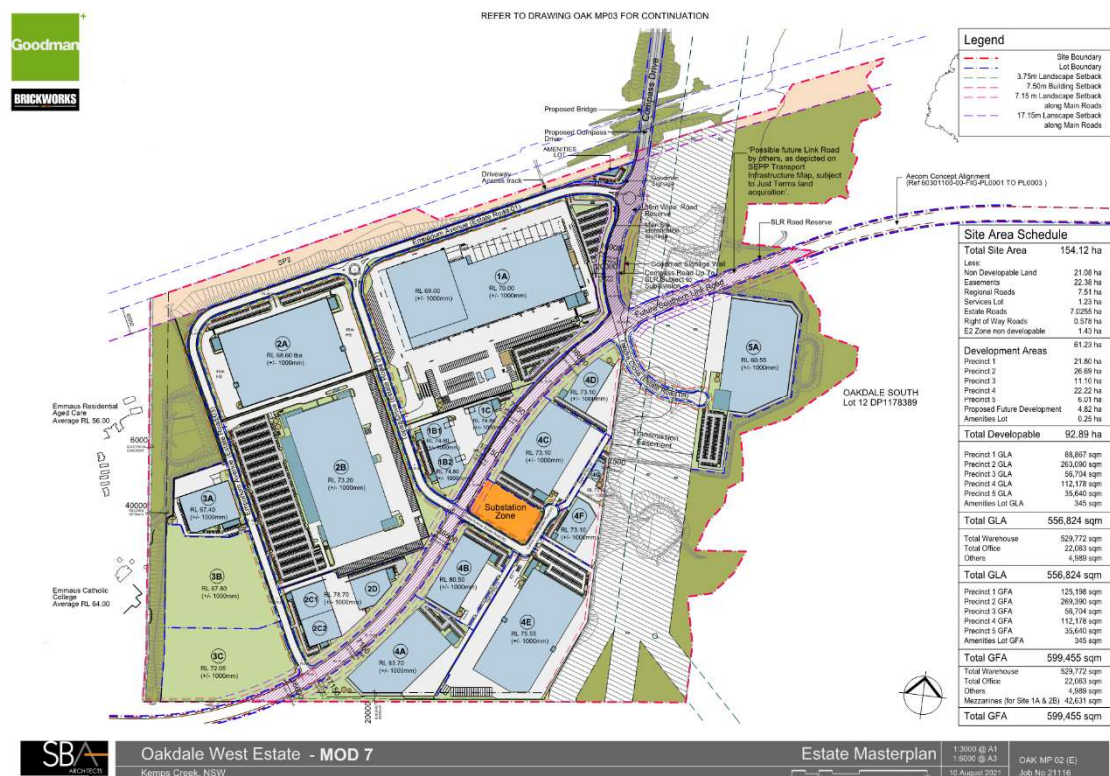


Figure 1: Approved (SSD 7348 Mod 7) Masterplan Layout (Source: SBA Architects)

2.2 SSD 10397 – Building 2B

SSD 10397 was approved on 9 April 2020 for Building 2B within Precinct 2. SSD 10397 includes the construction, subdivision, fit-out, operation and use of a four-level automated warehouse, associated office space, internal roads and parking. Building 2B has an approved ridge height of 28 m, which is equivalent to a reduced level (RL) of 101.2 m.

2.3 SSD 22191322 – Building 4E

SSD 22191322 was approved on 29 October 2021 for Building 4E within Precinct 4. SSD 22191322 includes the construction, subdivision, fit-out, operation and use of a 34,000 m² warehouse to be used for the storage and distribution of liquor. Building 4E has an approved ridge height of 13.7 m, which is equivalent to a RL of 89.25 m.

2.4 SSD 9794683 – Buildings 2A, 2C and 2D

SSD 9794683 relates to Stage 3 of the OWE and is currently under assessment by DPIE. This application seeks consent for the following:

- construction of Warehouse 2A, 2C and 2D within Precinct 2 of the OWE;
- the subsequent fitout and use of the proposed warehouses; and
- associated earthworks and landscaping.

The originally proposed layout of Building 2A under SSD 9794683 is shown in Figure 2.

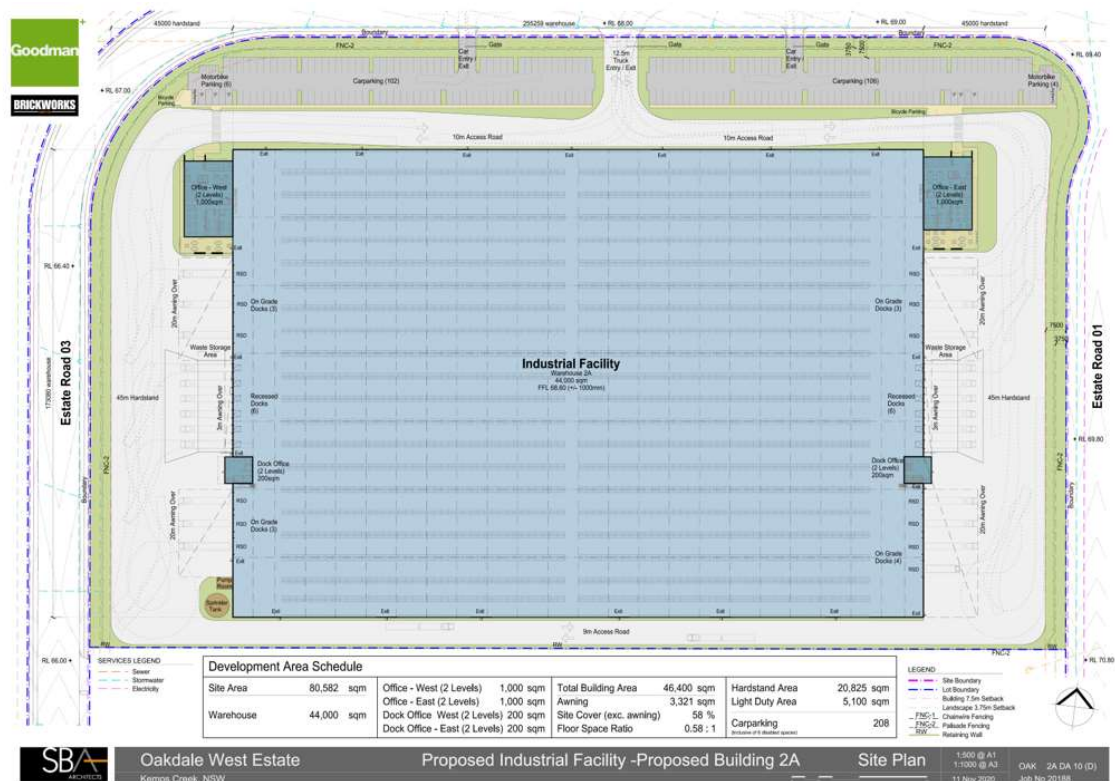


Figure 2: Originally proposed site layout Building 2A (Source: SBA Architects)

The originally proposed layout of Buildings 2C and 2D under SSD 9794683 is shown in Figure 3.

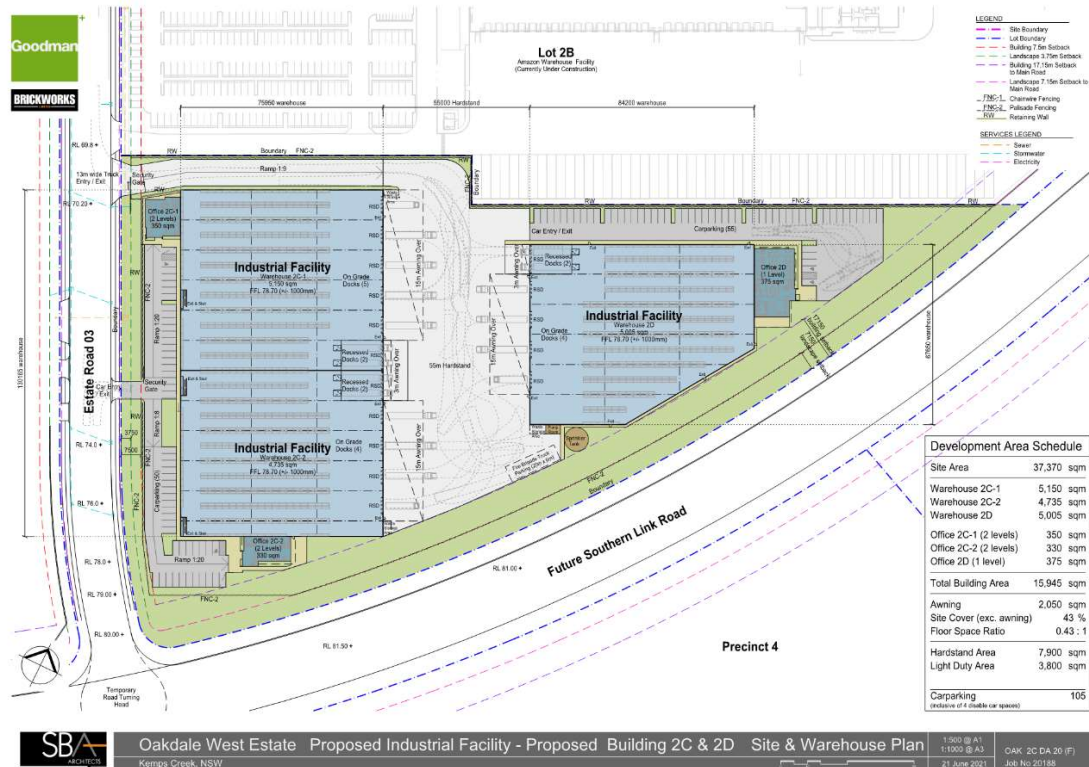


Figure 3: Originally proposed site layout Buildings 2C and 2D (Source: SBA Architects)

Amended Application

An amendment to the SSD 9794683 application was submitted on 25 October 2021 which made changes to the layout of Building 2A and the configuration of driveway access to Building 2D.

The proposed layout changes to Building 2A include changes to warehouse and office layout, access changes and internal fitout.

The proposed changes to Buildings 2C and 2D relate to access arrangement for Building 2D to provide a dedicated and separate heavy vehicle access driveway to the warehouse loading docks.

The revised layout of Building 2A is shown in Figure 4 and the revised layout of Buildings 2C and 2D under the amendment to SSD 9794683 is shown in Figure 5.

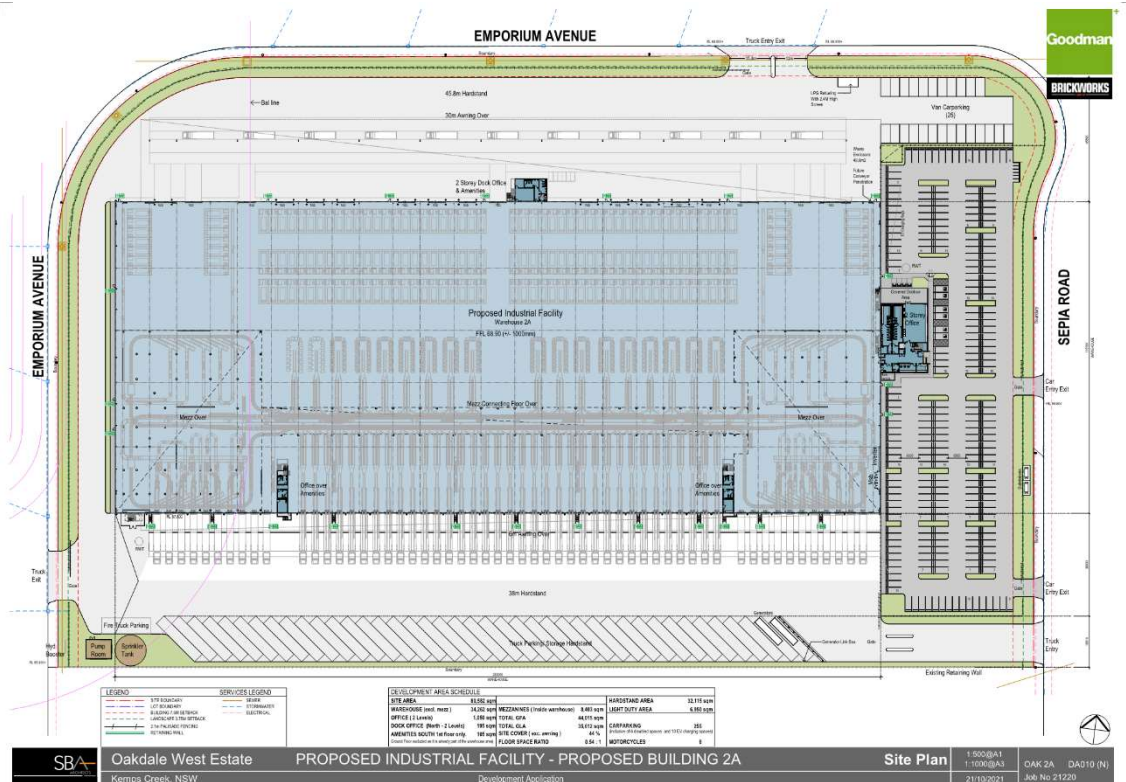


Figure 4: Amended site layout – Building 2A (Source: SBA Architects)

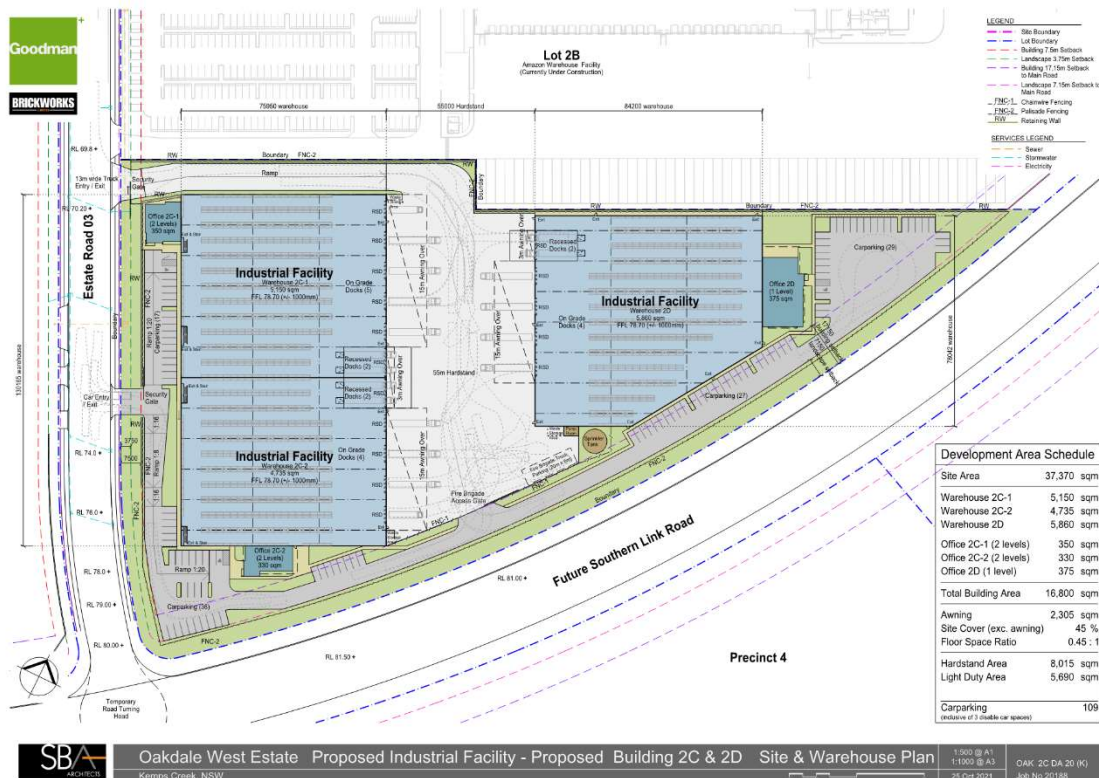


Figure 5: Amended site layout – Buildings 2C and 2D (Source: SBA Architects)

Building Height

Following exhibition of the EIS for Stage 3 in February and March 2021, a Response to Submissions (RTS) was lodged in April 2021. In response to the RTS, both DPIE and Council raised issues regarding the relative building height, proposed arrangement and building form of Building 2C.

DPIE's Request for Information (RFI) dated 8 June 2021 states the following:

The Department notes that the effective height of Building 2C is approximately 22.2 m, which exceeds the 15 m limit in the Oakdale West Estate Development Control Plan (OWEDCP).

The “effective building height” of Building 2C is a consequence of the profile of the estate landforms, which includes an approximately 10 m fall in Estate Road 3 from the south to the north, and the establishment of level pad for the warehouse buildings and loading docks (Figure 6 and Figure 7).



Figure 6: Warehouse Perspective – Building 2C (Source: SBA Architects)

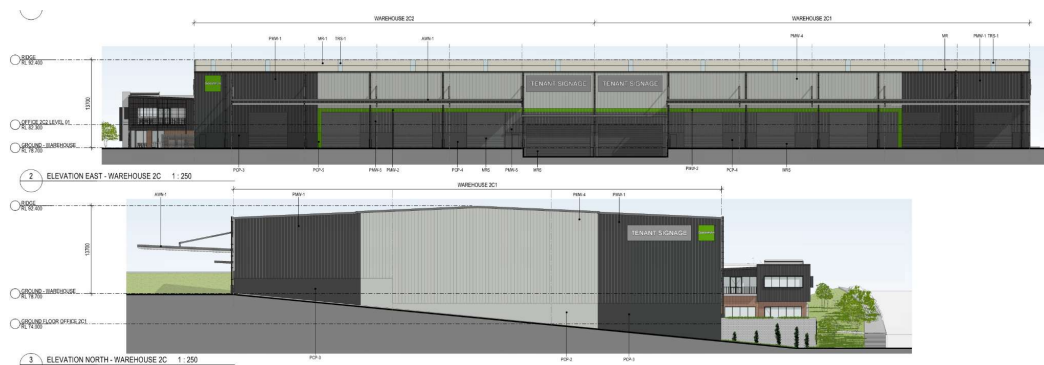


Figure 7: Warehouse 2C Elevations (Source: SBA Architects)

The levels of these landforms are approved as part of Stage 1 bulk earthworks under SSD 7348 (as modified).

The approved building pad of Buildings 2C and 2D is RL 78.7 m and the approved level of the road at the driveway entrance to the loading dock ramp is approximately RL 70.2 m. The original landform over Lots 2C and 2D ranged from RL 74 m to 90 m. To create a level landform for Precinct 2, up to 11.3 m has been removed from the original landform to create the pad level of Buildings 2C and 2D.

Under SSD 7348 Condition B10, Building 2C has an approved maximum height limit of 15 m and under Condition B11 an approved maximum ridge height of 13.7 m, excluding rooftop mechanical plant and solar panels. The proposed height of Buildings 2C and 2D under SSD 9794683 complies with these limits.

A 13.7 m high building is equivalent to a building ridge level of RL 92.4 m. This equates to an approximately 22.2 m height difference between the road and the ridge of Building 2C.

3 Proposed Modifications

3.1 Estate Masterplan

The proposed amendments to the layout of Lot 2A and Lots 2C and 2D associated with the amended Stage 3 SSD 9794683 application, discussed in Section 2.4, has led to a revision of the estate masterplan to reflect these changes, as shown in Figure 8.

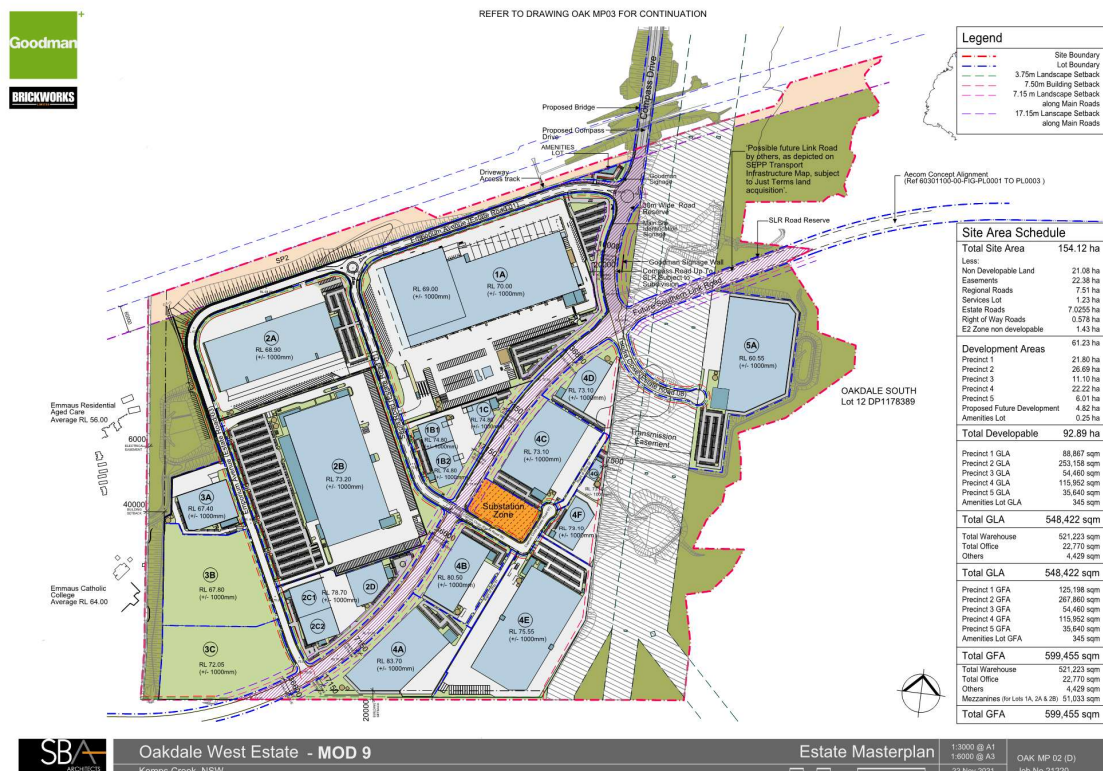


Figure 8: Amended Estate Masterplan (Source: SBA Architects)

Therefore, this application seeks a modification to the SSD 7348 consent to replace Figure 1 in Appendix 1 of SSD 7348 with the figure provided in Attachment 1.

No changes are sought to the maximum approved Gross Lettable Area figures in Table 1 of Condition B9 in SSD 7348.

3.2 Relative Height of Building 2C

The modification is proposed to reflect the effective height of Building 2C when measured from the lowest adjacent point on the site.

The Applicant seeks to amend the existing height limits in Condition B10 of SSD 7348 for Building 2C, to a maximum ridge height of 22.2 m as measured from the driveway entry point. This application also seeks to exclude Building 2C from the 13.7 m height limit in Condition B11, to reflect the modified height limit in Condition B10.

This modification to SSD 7348 proposes no changes to the approved layout and profile of the buildings in Precinct 2.

4 Statutory Assessment

4.1 Section 4.55 (1A) Consideration

The following section provides an assessment against the statutory environmental planning instruments relevant to the development. The section includes discussion and evaluation of the key issues and matters for consideration under Sections 4.55 and 4.15(1) of the EP&A Act.

Section 4.55(1A) of the EP&A Act states:

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 the consent if:

Section 4.55(1A) Provision	Response
(a) <i>it is satisfied that the proposed modification is of minimal environmental impact, and</i>	<p>The proposed modification seeks minor changes to the conditions of consent to gain approval for the effective building height of a building to be constructed on an approved landform.</p> <p>As such, the proposed modification does not result in any changes to the environmental impacts of the site, other than approved.</p>
(b) <i>it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	<p>The proposed modification is considered substantially the same as approved.</p> <p>The proposal involves an increase to the 'ridge height' of Buildings 2C and 2D. There are no proposed changes to the</p>

Section 4.55(1A) Provision	Response
	approved building layout, built form or use.
(c) <i>it has notified the application in accordance with:</i> <ol style="list-style-type: none"> <i>the regulations, if the regulations so require, or</i> <i>a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</i> 	This application will be notified in accordance with the regulations.
(d) <i>it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	Consideration will be given to any submissions.

Table 1: Section 4.55 (1A) Assessment

4.2 Section 4.55 (3) Assessment

Section 4.55(3) of the EP&A Act states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The following section also includes discussion and evaluation of the key issues and matters for consideration under Section 4.15(1) of the EP&A Act.

4.3 Section 4.15(1) Assessment

This section provides an assessment against Section 4.15(1) of the EP&A Act.

Provision	Comment
(a) <i>The provisions of:</i>	
(i) <i>any environmental planning instrument, and</i>	SSD 7348 provided an assessment of the development against the relevant planning instruments. The proposed modification will not alter the approved developments compliance with the relevant EPI's.
(ii) <i>any proposed instrument that is or has been the subject of public consultation under this Act and that</i>	N/A

Provision	Comment
<i>has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	
(iii) <i>any development control plan, and</i>	The site is subject to the <i>Penrith Development Control Plan 2014</i> , with site specific controls established in Schedule C of SSD 7348 for the OWE. The proposed modification is consistent with the relevant development control plan.
(iia) <i>any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</i>	The Applicant has entered into a planning agreement for the development at OWE with the Minister for Planning and Public Spaces, in accordance with the requirements of clause 29 of the WSEA SEPP.
(iv) <i>the regulations (to the extent that they prescribe matters for the purposes of this paragraph)</i>	N/A
(v) <i>(Repealed)</i>	N/A
<i>that apply to the land to which the development application relates,</i>	
(b) <i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	The request to modify the conditions of consent will not result in any adverse environmental impacts as discussed in Section 5.
(c) <i>the suitability of the site for the development,</i>	The site has been deemed suitable for the development under SSD 7348. The modification application involves no physical changes to the site, as such the suitability of the site remains as approved.
(d) <i>any submissions made in accordance with this Act or the regulations,</i>	Any submissions made will be considered accordingly.
(e) <i>the public interest.</i>	The SSD application addressed the public interest. Given, the minor amendments of this modification, the proposal remains within the public interest.

Table 2: Section 4.15(1) Assessment

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

The WSEA SEPP establishes the WSEA and identifies eleven precincts within its boundary. The site is located within Precinct 8 – South of Sydney Catchment Authority Warragamba Pipelines.

The approved OWE concept masterplan is consistent with the strategic objectives of the WSEA SEPP and the proposed modification is consistent with those objectives. Consideration of the proposed development against the applicable clause of the WSEA SEPP is provided in Table 3.

Clause	Provision	Response
21. Height of Buildings	Building heights for proposed development to adequately respond to site topography and preserve the amenity of adjacent zones.	<p>The proposed modification includes an amendment to the concept approval to reflect the relative building height of Buildings 2C and 2D.</p> <p>The proposed modification does not seek an increase to the height of buildings approved under SSD 7348.</p>

Table 3: WSEA SEPP Considerations

4.5 State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

The *State Environmental Planning Policy (Western Sydney Aerotropolis)* (Aerotropolis SEPP) rezones 6,500 hectares of land to a range of employment, residential and environmental uses to support the development of a new Western Sydney airport.

The OWE is located to the north-east of the boundary of the Western Sydney Aerotropolis. Notwithstanding, the site is included in the Obstacle Limitation Surface (OLS) and the Wildlife Buffer Zone mapping under the SEPP. The OLS mapping prescribes a height limitation of 223.2 m for the eastern portion of the site and a limitation of 230.5 m for the western portion of the site. Given the proposed warehouse heights are within the limitations of the concept approval, the proposed modification will not impact flight paths.

4.6 State Environmental Planning Policy (Major Infrastructure Corridors) 2020

In July 2020, the Department of Planning, Industry & Environment gazetted *State Environmental Planning Policy (Major Infrastructure Corridors) 2020* (Major Corridors SEPP). The Major Corridors SEPP aims to preserve corridors for future major infrastructure and covers the Fairfield, Blacktown, Penrith, Liverpool, Camden and Campbelltown LGAs.

As shown on the mapping for the Major Corridors SEPP, a SP2 Infrastructure zone now runs along the northern boundary of the site. The proposed modification does not impact on the application of the Major Corridors SEPP. Given the location and proximity of the proposed modifications to the SP2 zone, there is no potential for future conflicts between the provisions of the SEPP and the proposed amendments.

5 Built Form and Visual Impact Assessment

The potential visual impacts of the built form of Building 2C, inclusive of its effective building height of 22.2 m, are assessed in the visual impact assessment (VIA) and assessment report prepared for SSD 7348 Mod 6, as approved by DPIE. The EIS and supporting visual impact statement for SSD 9794683, along with information in the RTS, also consider visual impacts of the proposed built forms of Buildings 2C and 2D.

DPIE's assessment of SSD 7348 Mod 6 concluded that:

Overall, the VIA found the changes to be largely visually imperceptible from the previously assessed viewpoints and do not significantly change the overall quantum of view, scale and magnitudes for the viewpoints.

... there will not be any additional significant visual impacts from the proposed modifications and the changes to building design maintain compliance with the development controls of the consent for SSD 7348, as modified.

On this basis, DPIE has already assessed the proposed ridge height of Buildings 2C and 2D and determined these to be acceptable. We also note that Buildings 2C and 2D would be approximately 8.8 m lower than the approved warehouse building on Lot 2B (approved under SSD 10397). Building 2B has an approved ridge height of 28 m, which is equivalent to 101.2 m RL.

The RTS also notes that the effective height of Buildings 2C and 2D would primarily be observed by road users within the estate (see Figure 6). Given the position of Building 2B to the east of Precinct 3, the relative 22.2 m building height would not be apparent from receivers to the west of the estate (Figure 9). From the residential receiver to the south, Buildings 2C and 2D would appear significantly lower than Building 2B (Figure 10).



Figure 9: Photomontage from Emmaus Residential Aged Care showing proposed Building 2A and approved Building 2B. Buildings 2C and 2D are not visible due to noise barrier and landscaping (Source: Clouston Associates)



Figure 10: Photomontage from Private Residence on Bakers Lane, Building 2C in the centre of the image with approved building 2B shown yellow and Building 2D to the right (Source: Clouston Associates)

This analysis demonstrates that the effective building height of 22.2 m would not change the visual impacts of the approved estate under SSD 7348.

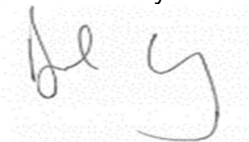
6 Conclusion

This modification request has been prepared by Keylan Consulting Pty Ltd on behalf of the Applicant to modify SSD 7348 (as modified) for the Oakdale West Industrial Estate. The approved heights of Buildings 2C and 2D remain unchanged. The request to approve the effective building height of these building does not alter the scale of the building and is considered substantially the same development as approved under SSD 7348.

The assessment of built form and visual impacts of the height of Buildings 2C and 2D demonstrates that the proposed modifications result in no changes to the predicted visual impacts of the development as approved under SSD 7348 (as modified). These conclusions are that on balance, and in the context of the entire estate, the changes proposed are of minimal environmental impact.

Based on the assessment in this report, we consider that the applicant has shown good cause for DPIE to modify the consent as requested. Please do not hesitate to contact Kane Winwood on 02 8459 7507 or kane@keylan.com.au if you wish to discuss any aspect of this correspondence.

Yours sincerely



Dan Keary BSc MURP MPIA
 Director

Attachment 1 – Updated Site Masterplan

