

28 March 2017

Minister for Planning  
Level 22, 320 Pitt Street  
Sydney NSW 2000  
Attention: Chris Richie

Dear Minister

**SSD 7491: OAKDALE CENTRAL – S.96 APPLICATION TO MODIFY CONDITION B6  
CONCERNING MAXIMUM PERMISSIBLE GFA ON THE SITE**

I refer to Development Consent SSD 7491, which approved a dangerous goods store on 16 September 2016 for Lot 3B, Oakdale Central, Old Walgrove Road, Horsley Park (Lot 21 DP 1173181) (the site). The approval included:

- *Construction and operation of a Dangerous Goods Storage Facility with a total Gross Floor Area of 36,365m<sup>2</sup> comprised of:*
  - *35,840sqm of warehouse space including storage space for aerosols, flammable and corrosive substances;*
  - *700sqm of ancillary office space*
  - *95sqm of dock office space;*
  - *Minor grading earthworks; and*
  - *150 car parking spaces*

**Condition 6B** of SSD7491 provides the total permissible building area on the site, as follows:

**B6.** *The Applicant shall ensure the total building area does not exceed the limits outlined in Table 1 below:*

*Table 1: Maximum GFAs*

<b>Use</b>	<b>Area (m<sup>2</sup>)</b>
<i>Warehouse</i>	<i>35,840</i>
<i>Office</i>	<i>700</i>
<i>Office Dock</i>	<i>95</i>
<b>Total</b>	<b>36,365</b>

While **Condition B6** requires that no more than 36,365sqm of GFA be constructed on the site, Goodman's agreement with tenants Reckitt Benckiser is worded such that Goodman is obliged to provide no less than 36,365sqm of building area on the site.

Therefore, while Goodman will make every endeavour to construct the Lot 3B warehouse in accordance with the approved DA plans, the likelihood of achieving the exact 36,365sqm GFA is unlikely. A deviance from the exact approved 36,365sqm GFA would therefore result in an inevitable breach by Goodman of either Condition B6, or its contractual obligations with Reckitt Benckiser.

## Proposed Modification

In order to avoid a breach of either the conditions of consent or contractual obligations, we seek a modification to the approval pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979 (the Act). This modification seeks to amend SSD 7491 to provide an update the architectural plans to increase the GFA schedule marginally in the plans to provide GFA tolerance.

The proposed GFA is therefore sought to be increased from the approved 36,365sqm to 37,454sqm.

To enable the above we propose the following updates wording to the following conditions:

### A) Title Condition

#### **Development:**

*Construction and operation of a Dangerous Goods Storage Facility with a total Gross Floor Area of ~~36,365m<sup>2</sup>~~ **37,454m<sup>2</sup>** comprised of:*

- (i) ~~35,840m<sup>2</sup>~~ **36,638 m<sup>2</sup>** of warehousing space including storage space for aerosols, flammable and corrosive substances;*
- (ii) ~~700 m<sup>2</sup>~~ **714m<sup>2</sup>** of ancillary office space;*
- (iii) ~~95m<sup>2</sup>~~ **102m<sup>2</sup>** of dock office space;*
- (iv) minor grading earthworks: and*
- (v) 150 car parking spaces.*

### B) Condition B6

**B6. The Applicant shall ensure the total building area does not exceed the limits outlined in Table 1 below:**

<b>Use</b>	<b>Area (m<sup>2</sup>)</b>
<b>Warehouse</b>	<del>35,840</del> <b>36,638</b>
<b>Office</b>	<del>700</del> <b>714</b>
<b>Office Dock</b>	<del>95</del> <b>102</b>
<b>Total Building Area</b>	<del>36,365</del> <b>37,454</b>

It should be noted that no maximum floor space ratio applies to the site.

## C) APPENDIX 1 • SCHEDULE OF APPROVED DRAWINGS

Architectural Plans Prepared by SBA Architects			
Drawing No.	Rev .	Name of Plan	Date
OAK 3 DA01	<del>W</del> X	Cover Sheet/Location Plan	<del>15/04/2016</del> 01/12/2016
OAK 3 DA02	<del>U</del> W	Estate Masterplan	<del>10/03/2016</del> 01/12/2016
OAK 3 DA03	<del>F</del> H	Lot 3 Masterplan	<del>10/03/2016</del> 1/12/2016
OAK 3 DA10	<del>V</del> W	Site Plan/Floor Plan	<del>22/05/2016</del> 01/12/2016
OAK 3 A11	F	Roof Plan	15/04/2016
OAK 3 DA12	K	Office Plans	15/04/2016
OAK 3 DA13	F	Office Elevations	15/04/2016
OAK 3 DA14	F	Warehouse Elevations	15/04/2016
OAK 3 DA15	C	Section	10/03/2016
OAK 3 DA16	A	Lighting Plan	07/04/2016

## Statutory Provisions

Section 96(1) of the Act stipulates the following provisions:

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:

***(b) it is satisfied that the proposed modification is of minimal environmental impact, and***

The proposal does not seek any additional environmental impact to that of the approved development, merely a degree of flexibility with construction. The proposal still aims to be constructed with a GFA as close to 36,365sqm (original approval) as possible.

***(c) 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***

No change is proposed to the approved development as a result of the proposed modification to the maximum GFA permissible on the site.

***(d) it has notified the application in accordance with:***

***(i) the regulations, if the regulations so require, or***

***(ii) 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***

Noted

***(e) 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.***

Noted

## **Suitability of the Site for development**

The proposed modifications will have no adverse impact on the public's interests.

## **Conclusion**

Pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979 (the Act), we hereby seek to conditions of SSD 7491 to nominally increase the maximum permissible GFA on the site. This tolerance will enable Goodman to avoid either a breach of either its contractual obligations to Reckitt Benckiser or its obligations under the conditions of SSD 7491.

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

Yours sincerely

A handwritten signature in black ink, appearing to be "Guy Smith", with a stylized "A" above the "y".

Guy Smith  
Planning Manager