



3 May 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 36,365m² 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

Use	Area (m²)
<i>Warehouse</i>	<i>35,840</i>
<i>Office</i>	<i>700</i>
<i>Office Dock</i>	<i>95</i>
Total	36,365

Goodman Group

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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.

Condition B6 - Proposed Modification

In order to avoid a contractual or condition breach we seek, pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979 (the Act), to amend SSD 7491 to provide a minor 1 % degree of tolerance to the total 36,363sqm of building area.

The proposed amendment also seeks to update the GFA as relates to office, which was mistakenly referenced in Condition B6 as 700sqm, when the stamped plans in fact showed 800sqm. This application therefore seeks to correct this discrepancy.

This proposal therefore seeks Condition B6 to be updated to show a maximum GFA across the site up to a maximum of 37,102sqm.

To enable the above we propose the wording of Condition B6 to be amended as follows (additional wording included in red):

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

Use	Area (sqm)
Warehouse	35,840 36,198
Office	700 808
Office Dock	95 96
Total	36,365 37,102

Statutory Provisions

Section 96(1) of the Ac 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:

(a) 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.

(b) 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 Condition B6 wording.

(c) 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

(d) 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 amend **Condition B6** of SSD 7491 to enable a 1% tolerance to the maximum approved GFA. 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 flourish at the end.

Guy Smith
Planning Manager