



DA2 September 2021

General Manager
Penrith City Council
601 High Street
Penrith NSW 2750

Attention: Laurne van Etten

Dear General Manager

DA20/0685, OAKDALE SOUTH INDUSTRIAL ESTATE, Lot 2B - S.4.55(1A) APPLICATION

This is the first (1) modification application for **DA20/0685**, approved on 31 May 2021 for Lot 2B, Oakdale South Estate (OSE).

Under S.4.55(1A) of the Environmental Planning and Assessment Act 1979 (the Act), this application seeks updates in respect of the following conditions of DA20/0685:

- + **Condition 7** - Materials and Goods Storage
- + **Condition 13** - Landscaping
- + **Condition 14** - External mechanical plant
- + **Condition 16** - Dangerous Goods
- + **Condition 59** - Fire & Rescue NSW Consultation

The following documents are relevant to this application:

- + **Appendix A** – Updated architecture plans, Lot 2B
- + **Appendix B** – Lot 2B & 2B, SEPP No. 33 Report, Riskcon, dated 12 July 2021
- + **Appendix C** – Condition 59 FrNSW Consultantion advice

1. Background

- + On 26 October 2016, **SSD6917** was approved for the staged development of the Oakdale South Estate. While this SSD approved the masterplan layout of the estate and warehouse buildings within Precinct 1, warehouse approvals for other lots including Precinct 2 required separate DA approval.
- + On 18 December 2017 **SSD6917 MOD4** was approved. The application amended the layouts and areas of Precincts 1 and 2.

Goodman Group

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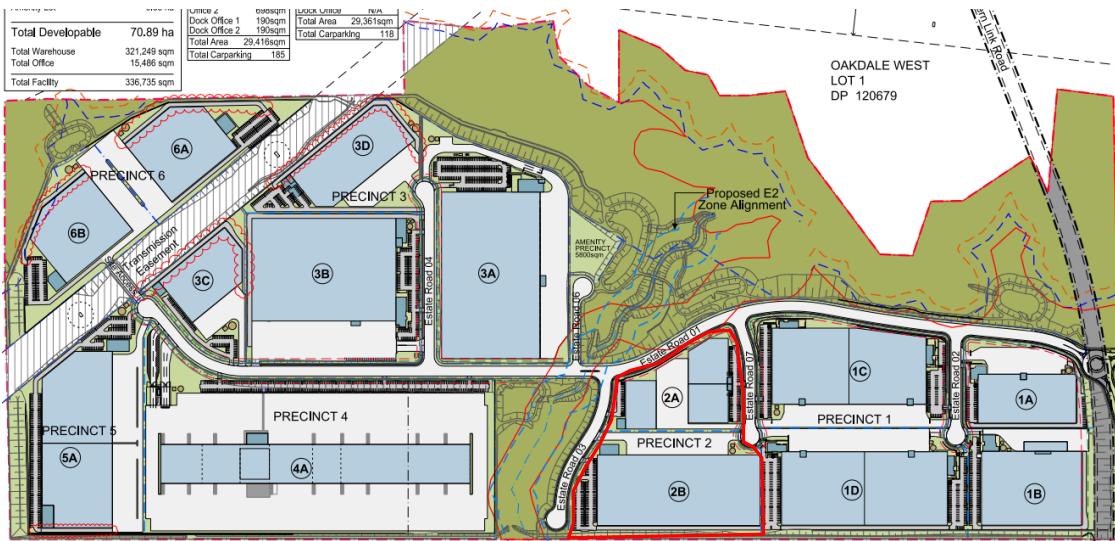


Figure 1 - Masterplan (MOD4), with updated Precinct 2 layout

- + On 31 May 2021 Penrith Council approved Warehouses 2B-1, 2B-2 & 2B in Precinct 2 under **DA20/0693 (Lot 2A)** and **DA20/0685 (Lot 2B)**.

2. Proposed Modification

Pursuant to Section 4.55(1A) of the Act, we seek the below modifications to DA20/0685. Proposed updates to the wording to conditions of consent are shown in red, and strikethrough for proposed removed wording, as follows:

+ Condition 7 – Materials and Goods Storage

All materials and goods associated with the use shall be contained stored within the building at all times.

Long term storage of materials and goods associated with the use are to be confined within the building.

Justification:

- Conditions requiring goods to be contained within the building unnecessarily onerous, as flexibility is required for goods loaded or unloaded on the outdoor hardstand areas. Requirement for goods be contained within the building at all times, not permitting temporary storage and transfer of good from the hardstand, will unreasonably impact the operation of future tenants.
- It is agreed that no long term storage of goods and materials should be permitted outdoors on the site, sought by the proposed updated wording.
- It should be noted that as Goodman generally retains ownership of its properties, it is heavily invested in ensuring its assets are maintained in a 'best in class' manner. To this end, agreements executed with future tenants require strict adherence to site maintenance to ensure presentation standards are maintained.

+ Condition 13 - Landscaping

The landscaping proposed and required by both this development consent, and the approval for SSD 6917 (Conditions E61/E65) shall be completed prior to any Occupation Certificate being issued for the DHL warehouse. In particular, the landscaping in the southern bund/setback area and the eastern setback area is to be completed and maintained thereafter. A cyclical landscape maintenance plan is to be submitted and endorsed by the Certifier prior to any Occupation Certificate being issued. The landscaping is to be maintained in a healthy state, in accordance with the approved plan (and SSD approval). If any of the vegetation dies or is removed, it is to be replaced.

Justification:

- This condition requires the landscaping DA20/0685 and SSD6917 (Conditions E61 / E65) to be completed prior to the occupation of the DHL warehouse (Precinct 5). As DHL occupation commenced in 2019, compliance with condition is not possible. The removal of "for the DHL warehouse" wording is therefore necessary.
- It is noted that the landscape bund along the southern and eastern boundary has been installed and is being maintained in accordance with SSD6917.

+ Condition 14 – External Mechanical Plant

No external mechanical plant, including air conditioning units, have been approved as part of this development consent. A separate application is to be submitted for any external mechanical plant that is not Exempt or Complying Development.

Justification:

- While no change proposed to Condition 14, the approved plans are proposed to be update to include air conditioning units for the offices, required for cooling.
- These units will be placed at ground level outside the offices (refer Fig. 2 below).

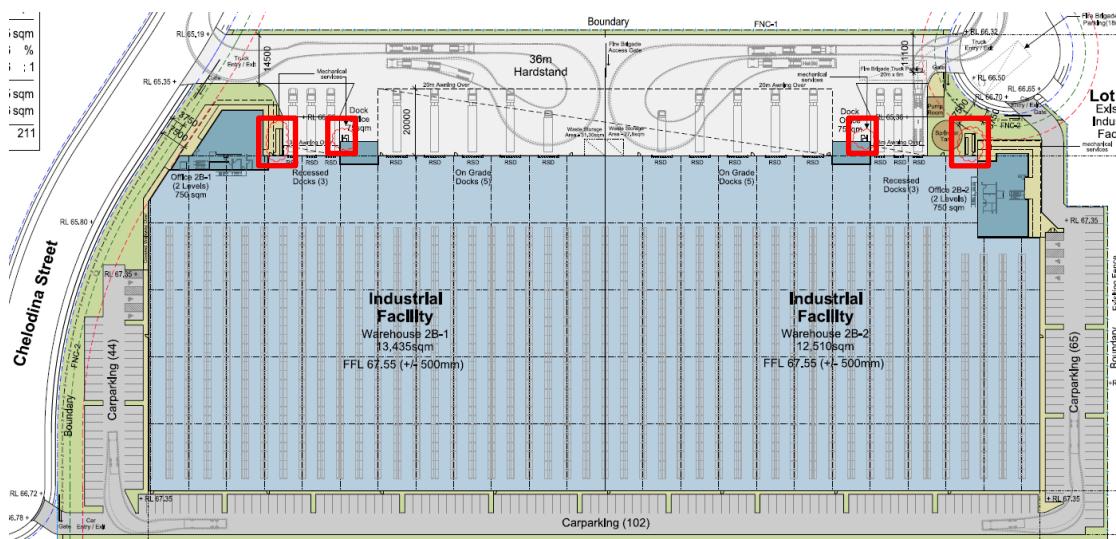


Figure 2 - Office air conditioning units

Updated architecture plans are included ([Appendix A](#)).

+ **Condition 16 – Dangerous Goods**

Proposed Condition removal:

~~No storage of dangerous goods, nor potentially hazardous or offensive industry has been approved as part of this development consent. A separate application is required for any such uses.~~

Updated proposed wording:

16A. The storage of Dangerous Goods shall not exceed the thresholds outlined in the Hazardous and Offensive Development Application Guidelines: Applying SEPP 33.

16B. Dangerous Goods, as defined by the Australian Dangerous Goods Code, shall be stored and handled strictly in accordance with all relevant Australian Standards, and in accordance with the 'Recommendations' in the Riskcon Report, dated 12 July 2021.

16C. The storage of dangerous goods on-site must not exceed the quantities provided in the following tables:

Table 4-6: DG Classes or Materials Stored and Maximum Quantities at Warehouse 2B-1

Class (PG)	Description	Maximum Quantity (kg)
2.1	Flammable gases (i.e. aerosols)	12,640 / 3,160*
2.1	Flammable gas (LPG)	840 / 1,644 L^
3 (II & III)	Flammable liquids (e.g. hand sanitisers)	500,000
4.1	Flammable solids (e.g. ethanol wipes)	2,000
5.1	Oxidising substances, excl. ammonium nitrate	2,000
8 (II)	Corrosive substances (e.g. cleaning chemicals)	10,000
8 (III)	Corrosive substances (e.g. cleaning chemicals)	20,000

*Based upon 25% of the aerosol product weight being LPG; ^Density of LPG is 550 kg/m³

Table 4-7: DG Classes or Materials Stored and Maximum Quantities at Warehouse 2B-2

Class (PG)	Description	Maximum Quantity (kg)
2.1	Flammable gases (i.e. aerosols)	12,640 / 3,160*
2.1	Flammable gas (LPG)	840 / 1,644 L^
3 (II & III)	Flammable liquids (e.g. hand sanitisers)	500,000
4.1	Flammable solids (e.g. ethanol wipes)	2,000
5.1	Oxidising substances, excl. ammonium nitrate	2,000
8 (II)	Corrosive substances (e.g. cleaning chemicals)	10,000
8 (III)	Corrosive substances (e.g. cleaning chemicals)	20,000

*Based upon 25% of the aerosol product weight being LPG; ^Density of LPG is 550 kg/m³



16D. The storage of any dangerous goods on-site above the limits set in the above table would require DA approval.

Justification:

- Currently, Condition 16 doesn't allow any storage of dangerous goods within Lot 2B, even below the SEPP 33 thresholds. Condition 16 is therefore proposed to be replaced with a condition permitting dangerous goods under the SEPP 33 threshold levels.
- While neither Warehouse 2B-1 nor 2B-2 have been allocated to a tenant yet and is a speculative development, the approval of dangerous goods within the warehouses would provide necessary flexibility for potential future tenants, and recognise that storage below the threshold limits have acceptable environmental impacts.
- To this end, a SEPP 33 assessment has been undertaken (**Appendix B**) for Lot 2B, to provide an allowance for storage of dangerous goods up to the SEPP 33 limits.
- Any dangerous goods storage over the proposed limits would require separate DA approval, including the preparation of a 'Preliminary Hazards Assessment' for Council review and approval.

+ Condition 59 – Fire & Rescue NSW Consultation

Prior to the issue of Construction Certificate, the certifier shall ensure that consultations are undertaken with Fire & Rescue NSW and approval for in relation to emergency vehicle access and egress from site is obtained. A copy of final approval from F&R NSW shall be submitted to Council.

Justification:

- Condition wording is proposed to be updated to require consultation with Fire & Rescue NSW (FrNSW), rather than approval.
- In relation to the wording of DA Condition 59, the pre-CC consultation stages with FRNSW does not request/incorporate any form of "approval" component. The FEBQ process provides for FRNSW to provide stakeholder input into the fire engineering/performance solution process, and the Initial Fire Safety Report application, requests FRNSW to provide recommended conditions to be placed on then Construction Certificate (see extract from Cl.144 of the Environmental Planning & Assessment Reg. 2000 below):
 - (5) An initial fire safety report may recommend conditions to be imposed on the erection, rebuilding, alteration, enlargement or extension of the building to which the report relates.
 - (6) The certifier must not issue a construction certificate for a building to which this clause applies unless it has taken into consideration an initial fire safety report for the building issued in accordance with this clause.
- Furthermore, FRNSW are currently only reviewing a very small proportion of FEBQ referrals and Initial Fire Safety Report applications that are being lodged with them, due to resourcing constraints.
- Principal Certifier for this project has advised that for the above reasons it is not possible for the 'approval' requirement under the existing Condition 59 to be satisfied.

3. Statutory Provisions

Section 4.55(1A) 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:

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

The proposal seeks minor updates to the conditions of consent and does not propose any change to the approved building:

- + Footprint, height, built form, and presentation
- + GFA
- + Use
- + Landscaping
- + Traffic and parking numbers
- + Noise and air quality impacts
- + Waste generation

An assessment of proposed outdoor plant and air quality as a result of the updates are as follows:

1) Acoustic impacts

The air conditioning units are only proposed to operate during office hours. As they are located on the ground floor and setback a significant distance from residential or sensitive receptors, it is not anticipated to have any discernable noise impacts compared with the industrial activity occurring on the site.

2) Air Quality Impacts

As the proposed dangerous goods will be within sealed containers or packaging, and will be below the SEPP 33 levels, there will be no resulting air quality impacts.

Council should therefore be satisfied that the proposed updates result in minimal environmental impacts.

(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

The development remains substantially the same as that approved under DA20/0685, as no changes proposed to approved use, built form, presentation, access, parking and landscaping.

(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.

4. Conclusion

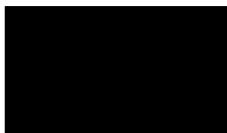
Pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (the Act), we hereby seek to amend DA20/0685 to update Conditions:

- + Condition 7 - Materials and Goods Storage**
- + Condition 13 - Landscaping**
- + Condition 14 - External mechanical plant**
- + Condition 16 - Dangerous Goods**
- + Condition 59 – Fire & Rescue NSW Consultation**

The updates are required to enable proper operation of the facility, without having any unacceptable environmental impacts.

Based on the reasons provided above, we are of the opinion that the proposed changes to DA20/0685 are justified. For any questions, please contact the undersigned on (02) 9230 7225.

Yours sincerely



Guy Smith
Head of Planning, Goodman