

SYDNEY CENTRAL CITY PLANNING PANEL

TO: Sydney Central City Planning Panel

SUBJECT: 7 Long Street, Smithfield

FILE No: DA 2015/529/3 (Panel Reference: 2018CC1020)

Application lodged	5 October 2018
Applicant	Mr Brad King;
Owner	Mark Haugh & Debbie Theo
Application No.	DA-2015/529/3
Description of Land	Lot 7, DP 238072, No. 7 Long Street, Smithfield
Proposed Development	S4.55(2) modification to allow for truck movements 24 hours a day seven (7) days a week in association with the sludge dewatering plant
Site Area	2,654.09m ²
Zoning	IN1– General Industrial
Disclosure of political donations and gifts	Nil disclosure
Heritage	No
Principal Development Standards	FSR – No maximum Height of Building – No maximum
Issues	None

BACKGROUND

- Development Application No. 2015/529/1 was approved by Sydney West Joint Regional Planning Panel (Ref: 2016SYW174) on 4 October 2016 for the installation and use of an existing industrial site as a sludge dewatering plant.

This application was considered by the Panel and subsequently approved on the 4/10/16 subject to an amendment to condition 64 of the consent as follows:

64. *Truck movements to and from the site associated with the operation of the sludge dewatering plant shall be restricted to between the following hours:*

- *Monday to Saturday 7.00am to 6.00pm.*

The following reasons for Panel's decision for approval are provided on the JRPP website:

- *The proposal has environmental merit in that it will process sludge material into product capable of being usefully recycled.*
- *The proposal satisfies the relevant State legislation, State Environmental planning policies and local planning provisions;*
- *The proposal subject to the conditions imposed will have no unacceptable adverse impact on the natural or built environments;*
- *The panel noted that the use will be conducted within the confines of an existing building in an established industrial area well removed from residential premises and considers that is suitable use of the site.*

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2. Section 96(1A) application 2015/529/2 was approved by Council on 29 August 2017 for alterations and additions to the approved sludge dewatering plant including the following modifications:
 - a) *Relocate an existing roller door within the rear elevation and create a new opening within the rear elevation for loading/unloading;*
 - b) *Provide 2 x storage tanks underground measuring 8.7m x 6.7m (SMU Pit) and 8m x 4m (Clarifier Pit) within the existing warehouse; and*
 - c) *Provide a weighbridge within the existing concrete driveway to the east of the building.*

SUMMARY

1. The subject section 4.55(2) modification is seeking to allow for truck movements 24 hours a day seven (7) days a week in association with the sludge dewatering plant by amending Condition 64.
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 30 days between 7 November 2018 and 5 December 2018. No submissions were received as a result of this notification.
3. The original application was approved by the Panel being a designated development. Under division 12A of Environmental Planning and Assessment Regulation 2000, the subject s4.55 (2) modification application is referred to the Panel as the consent authority.
4. Based on the assessment of the development as amended, it is considered that the proposal is appropriate for the site and for the locality and will have minimal impact on the surrounding environment. It is therefore recommended that the application be approved **subject to conditions** as outlined in Attachment 1 of this report.

REPORT

SUBJECT SITE AND SURROUNDING AREA

The subject site is legally described as Lot 7, DP 238072, No. 7 Long Street, Smithfield.

The site is regular in shape and has an area of 2,654.09m². The site contains an existing two storey industrial building, with a factory floor area including amenities of approximately 940 m² and a first floor mezzanine level office area of approximately 110sqm (total GFA of 1145 m² including stairs). To the rear of the building is hard-stand for the purpose of car parking and vehicle manoeuvrability. An easement for electricity transmission traverses the site above the rear hardstand area.

It is unclear when the building was first constructed. Council's records indicate a number of industrial uses since the 1980s. The last approval on Council's system is for the use of the site for the manufacture of tubular pallets (Development Consent No. 89/342) issued by Council on 12 December 1989.

The site is bordered by other similar type developments, being single and two storey industrial buildings characteristic of the Smithfield Industrial area, and is located approximately 240 metres to the west of the Cumberland Highway. The nearest residential development is located approximately 365 metres to the south of the site. The site is zoned IN1 General Industrial.

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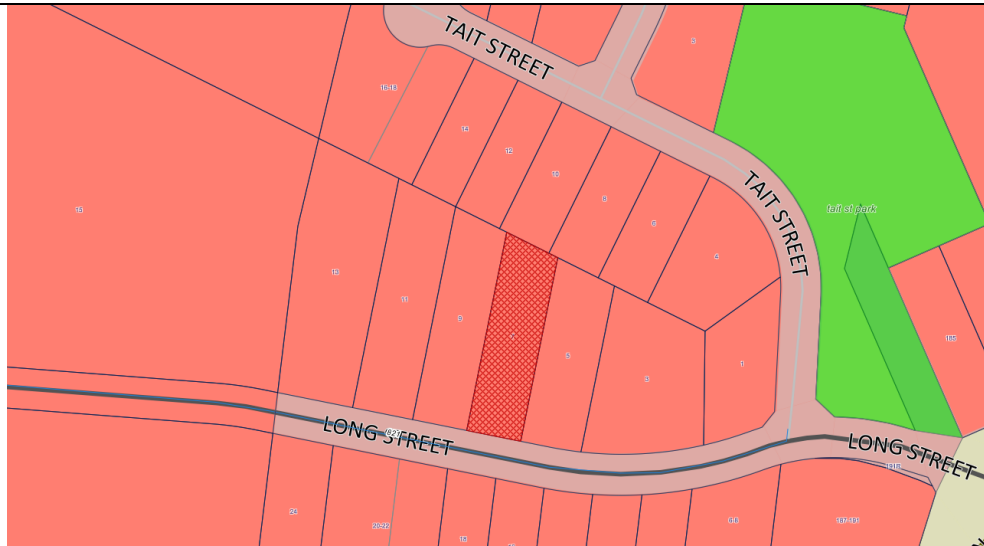


Figure 1 – Locality Plan of subject site



Figure 2 – Aerial view of subject site

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Figure 3 – Street view of the subject site

DESCRIPTION OF THE PROPOSED DEVELOPMENT

DA 2015/529/1 was approved by Sydney West Joint Regional Planning Panel on 4 October 2016 for the “*Installation and use of an existing industrial site as a sludge dewatering plant*”.

DA 2015/529/3 is seeking to allow for truck movements 24 hours a day seven (7) days a week in association with the sludge dewatering plant by amending Condition 64.

Key features of the modification proposal are as follows:-

Features	Approved	Modifications
Hours of operation - Condition 64) of 2015/529/1	64. <i>Truck movements to and from the site associated with the operation of the sludge dewatering plant shall be restricted to between the following hours:</i> Monday to Saturday 7.00am to 6.00pm.	The proposal necessitates the modification of Condition 64 of DC 2015/529/1 to and from the site 24 hours a day, 7 days a week as follows: “Safety and Amenity Condition 64: Truck movements to and from the site associated with the sludge dewatering plant are permitted: 24 hours a day, seven days a week”.

HISTORY

Date	Action
5/10/ 2018	The subject modification application was lodged with Council.
31/10/2018	The application was referred to Environment Protection Authority
31/10/2018	The application was referred to the following internal sections: - Traffic Engineering - Environmental Health
7/11/2018 to 5/12/2018	Application placed on public notification. In response, no submissions were received.
25/01/2018 June 2018	Application deferred for further clarification on the vehicles movement.
13 February 2019	Application referred to JRPP for electronic determination.

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APPLICANTS SUPPORTING STATEMENT

A Statement of Environmental Effects dated 12 September 2018, REF M180248 prepared by Planning Ingenuity has been submitted in support of the subject application.

INTERNAL REFERRALS

Environmental Health Unit	Considered satisfactory subject to conditions.
Traffic Engineer	Considered satisfactory.

EXTERNAL REFERRALS

NSW EPA	Considered satisfactory subject to amended GTAs.
Transgrid	Considered satisfactory
Endeavour Energy	Considered satisfactory

PLANNING COMMENTS

Section 4.55(2) of the Environmental Planning and Assessment Act (EP & A Act) 1979

Pursuant to section 4.55(2), 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:

Requirement	Comment
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 as proposed to be modified is substantially the same as the original consent.
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	The application was notified in accordance with Holroyd Development Control Plan 2013, and as required by the regulations.
It has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person	No submission was received during the notification period.
It has considered any submissions made concerning the proposed modification within any	As a result of the notification, no submissions were received.

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period prescribed by the regulations or provided by the development control plan, as the case may be.	
In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 as are of relevance to the development the subject of the application.	The provisions of the applicable EPIs are discussed elsewhere in this report. The provisions of HDCP 2013 are discussed elsewhere in this report. There are no relevant matters referred to in the regulations. There is no coastal zone management plan applying to the land. The likely impacts of the proposal are considered satisfactory. The site is considered to be suitable for the development as proposed to be modified. No submissions were received as a result of the notification. Approval of the subject application is not contrary to the public interest.
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 reasons given by the regional panel to grant the original consent have been considered. The development as proposed to be modified will continue to satisfy this requirement.

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

a) State Environmental Planning Policy (State and Regional Development) 2011

Development of a type that is listed in Schedule 7 of the SEPP (State and Regional Development) 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the Environmental Planning and Assessment Act 1979. The proposed development constitutes 'Regional Development' as it is an application for a modification (pursuant to section 4.55(2) of the EP&A Act) of a development consent previously granted by the Panel.

b) Environmental Planning & Assessment Regulation 2000 – Schedule 3 Designated Development

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The approved development is classified as 'Designated Development' as it is captured within Schedule 3 of the Environmental Planning & Assessment Regulation 2000 ('the Regulation'), and falls under the definition of 'Waste management facilities or works', as the development proposes to recycle more than 1,000 tonnes of sludge per year. The application is referred to the Sydney West Joint Regional Planning Panel for consideration pursuant to Clause 32, Schedule 3 of the of the Environmental Planning & Assessment Regulation 2000 ('the Regulation'), as the proposal is defined as a 'waste management facility or works', which meets the requirements for Designated Development.

The subject modification does not propose to alter the approved use of the site and is not considered to significantly change the intensity of the activity approved for the site.

c) **Environmental Planning & Assessment Act 1979 – Integrated Development**

Pursuant to Section 4.46 of the Act, the proposed development requires an Environmental Protection License (EPL) to authorise the carrying out of a scheduled activity at the subject premises. Under Schedule 1 of the Protection of the Environment Operations Act 1997, the proposal is defined as 'Waste processing (non-thermal treatment)'.

The proposal was referred to Environment Protection Authority (EPA) and the EPA has issued their amended General Terms of Approval.

The proposal is identified as 'Nominated Integrated Development' and in accordance with the provisions for Advertised Development under the Regulation, the application was publicly exhibited for a period of 30 days. No submissions were received.

d) **State Environmental Planning Policy (Infrastructure) 2007**

Clause 45 – Development likely to affect an electricity transmission or distribution network

In accordance with Clause 45, the application was forwarded to Endeavour Energy given the site is affected by an easement for electricity transmission. The proposal was considered satisfactory subject to conditions.

Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

a) **Greater Metropolitan Regional Environmental Plan No. 2 – Georges River (Deemed SEPP)**

The subject site is contained within the Georges River REP catchment. The SEPP aims to maintain and improve water quality of Georges River and protect and enhance the environmental quality of the Catchment. The proposed modifications are satisfactory with regard to the planning principles and planning requirements under the SEPP.

Local Environmental Plans

Holroyd Local Environmental Plan 2013 (HLEP 2013)

The provision of the Holroyd Local Environmental Plan 2013 (HLEP 2013) is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the HLEP 2013 and the objectives of the IN1 General Industrial zone.

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The proposed modifications do not result in any new non-compliances with the relevant LEP standards.

An assessment against all the relevant LEP provisions is provided at **Appendix A**.

The provisions of any draft Environmental Planning Instruments (EP& A Act s4.15 (1)(a)(ii))

The proposed development is not affected by any relevant Draft Environmental Planning Instruments.

The provisions of any Development Control Plans (EP& A Act s4.15 (1)(a)(iii))

Holroyd Development Control Plan (HDCP) 2013

HDCP 2013 contains general controls which relate to all developments under Part A, and Industrial Controls under Part D.

A comprehensive HDCP compliance table is attached to this report at **Appendix B**.

4.15(1)(a)(iia) - any planning agreement that has been entered into under part 7.4, or any draft planning agreement that a developer has offered to enter into under part 7.4, and

There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP& A Act s4.15 (1)(a)(iv))

The matters relating to Designated Development and Integrated Development were assessed under the original application and considered to be satisfied. The proposed changes do not alter these requirements.

The Likely Environmental, Social or Economic Impacts (EP& A Act s4.15 (1)(b))

It is considered that the development as proposed to be modified will have no significant adverse environmental, social or economic impacts in the locality as discussed below:

Natural and Built environment

The proposed modifications relate to an approved use and are consistent with the previous consent in terms of providing a 'sludge dewatering plant'. The proposal does not seek any changes to the building footprint and will continue to maintain compliance with the approved conditions of consent and the General terms of Approval issued by the Environmental Protection Authority.

In this regard, the development as proposed to be modified is appropriate at the subject site in context to the surrounding industrial area development and is not considered to adversely affect the natural or built environments.

Traffic impacts

The Traffic and Parking Assessment prepared by Transport & Urban Planning Pty Ltd submitted in support of the development considers potential impacts to the local traffic network. The report states that occasional 24/7 truck operation to and from the site would typically involve similar truck volumes that occur during normal Business hours, that is 1 to 2 truck trips per hour. The vehicles

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that will be used for the night operations are either vacuum excavation trucks or long rigid vehicles. In summary, the report sets out the following findings:

“The proposal to operate trucks to and from 7 Long Street overnight will have a low truck trip generation of typically 4 (2 in / 2 out) and occasionally 8 (4 in / 4 out) movements per hour. These movements will be easily absorbed onto the surrounding road network during these quiet traffic periods, with no adverse traffic impact”.

Council’s Traffic Engineer has reviewed the proposal and raised no objections to the proposal on traffic grounds.

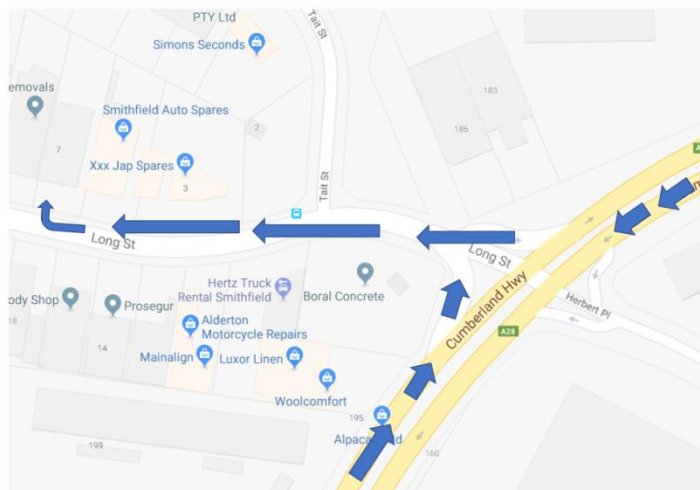
Noise impacts

With regards to the noise impacts of the 24/7 truck movements, an acoustic assessment was undertaken by Benbow Environmental.

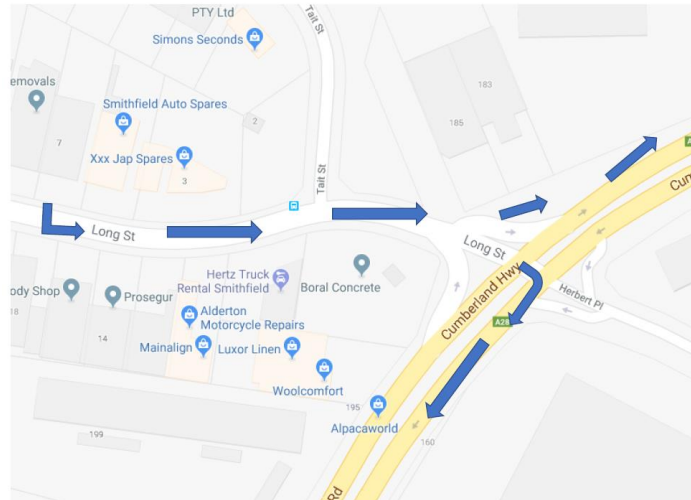
The report sets out the following conclusions:

The proposed night-time truck movements are predicted to readily comply with the operational site criteria and Road Noise Policy criteria. Approval for modification to condition 64 to enable proper function of the approved facility with night-time truck movements (24 hours) rather than restriction from 7:00am to 6:00pm (Monday to Friday) is recommended given the demonstrated compliance as detailed in this statement.

In addition, the applicant submitted a route map with regards to the vehicle movements for night operation. The information submitted demonstrates that the access to the site will be via Cumberland Highway which is considered satisfactory. A condition of consent has been imposed accordingly to ensure that the vehicle movement adheres to the endorsed route map.



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Vehicles Route Map

The proposal was reviewed by Council's Environmental Health Section who advised that the potential noise impacts from the subject modification are considered to be negligible as the subject premises is not located near any sensitive residential receivers and trucks will be exiting Long Street onto Cumberland Highway being an arterial road and is satisfactory.

In addition, the subject modification application was referred to Environmental Protection Authority and General Terms of Approvals (GTA's) have been provided. It is pertinent to note that no conditions relating to noise or extended hours of operation are imposed by the EPA in their GTA's, other than monitoring any reports of noise disturbance as a result of the extended operating hours.

It is therefore considered that the development as proposed to be modified is appropriate at the subject site in context to the surrounding industrial area and will not result in any significant adverse environmental, social or economic impacts on the locality.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The site is considered suitable for the proposed modifications taking into consideration the original approval granted and the continuing use of the site as a sludge dewatering plant.

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with the Act and the Regulation with regard to Designated Development and Integrated Development, the application was placed on public exhibition for 30 days between 7 November 2018 to 5 December 2018. No submissions were received as a result of the notification.

The public interest (EP& A Act s4.15(1)(e))

The proposed modifications relate to an approved 'waste dewatering plant' on land in the IN1 – General Industrial zone. The proposed modifications are considered to be sensitive to the

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surrounding environment and have regard to the reasonable amenity expectations of surrounding land users. Accordingly, it is considered that the proposed modifications are not contrary to the public interest.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The NSW Government introduced The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 (NSW). This disclosure requirement is for all members of the public relating to political donations and gifts. The law introduces disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of various types of development proposals and requests to initiate environmental planning instruments or development control plans. The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION

The modification application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No 55- Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Environmental Planning & Assessment Regulation 2000, Holroyd Local Environmental Plan 2013 and Holroyd Development Control Plan 2013, and is considered to be satisfactory.

The proposed development is appropriately located within the IN1- General Industrial zone under the relevant provisions of the Holroyd LEP 2013. The proposal is consistent with all statutory and non-statutory controls applying to the development. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

Allowing 24/7 truck movements to and from the site is not considered to have any significant amenity impacts upon adjoining industrial properties, or the closest residential area as demonstrated in the supporting documents.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the development may be approved subject to conditions.

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RECOMMENDATION

That Development Application 2015/529/3 which seeks to allow for truck movements 24 hours a day seven (7) days a week in association with the sludge dewatering plant on land at 7 Long Street, Smithfield be **approved** subject to the conditions within the draft notice of determination provided at attachment 1.

ATTACHMENTS

1. Draft Notice of Determination
2. Statement of Environmental Effects
3. Noise Specific Statement
4. Traffic Statement
5. NSW EPA General Terms of Approval (Amended)
6. Locality Map
7. Copy of original Development Consent and Approved Plans
8. Appendix A - HLEP 2013 Assessment Table
9. Appendix B - HDCP 2013 Assessment Table