



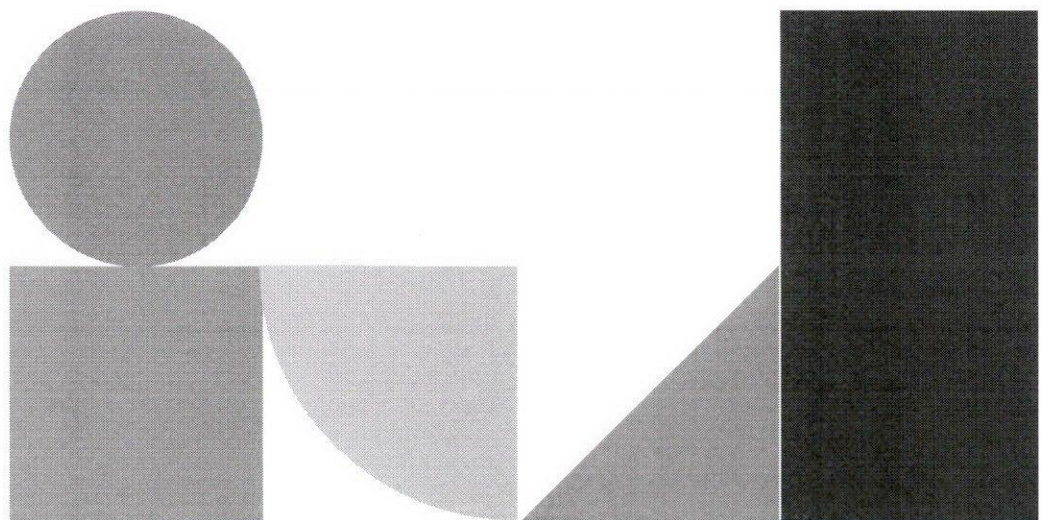
STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.55(2) Application

7 Long Street
Smithfield

Prepared for: Demast Pty Ltd

REF M180248
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Contents

1.	INTRODUCTION	3
2.	SITE DESCRIPTION	4
3.	DETAILS OF PROPOSED MODIFICATION	5
3.1	Condition of Consent to be Modified	5
4.	STATUTORY AND POLICY COMPLIANCE	6
4.1	Section 4.55	6
4.2	Section 4.15 Assessment	7
4.2.1	Holroyd Local Environmental Plan 2013	8
4.2.2	Holroyd DCP 2013	8
4.3	Impact of Proposed Modification	8
4.3.1	Natural Environment	8
4.3.2	Built Environment	8
5.	CONCLUSION	9

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1. Introduction

We act for the applicant for a modification to the hours of operation for truck movements in relation to the approved development at No. 7 Long Street, Smithfield subject to DA15/0529/1. This Statement of Environmental Effects accompanies a Section 4.55 application seeking to allow truck movements to and from the site 24 hours a day, seven days a week to meet the requirements of the operator and market demand. It

Is pertinent to note that this flexibility is sought to accommodate night time projects that occur infrequently but do arise from time to time where construction projects operate outside regular hours. As such, it is highlighted that the number of truck movements sought beyond the existing approved hours is finite rather than being unlimited or ongoing.

Development consent was granted by Cumberland Council on the 4 October 2017 for:

"Installation and use of an existing industrial site as a sludge dewatering plant"

The approved use was assessed as 'Designated development' under Schedule 3, Part 1 of the Environmental Assessment Act 1979 due to the volume of sludge treated at the site annually. General Terms of Approval from the NSW Environmental Protection Authority were issued with the development consent.

No conditions relating to noise or hours were imposed by the EPA in their GTA's, other than to recommend a condition relating to reversing sounds/beepers on trucks visiting the site. However, the original draft conditions prepared by Council sought to limit truck movements to and from the site to the following hours, as follows:

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

- *Monday to Sunday: 8.00am to 4.00pm*

The application was considered at the Sydney West Joint Regional Planning Panel (Ref: 2016SYW174) where it was determined to approve the development subject to an amendment to Condition 64 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*

We note, the decision to amend the condition by way of omitting Sunday truck movements and increasing permitted hours by a total of 2 hours is noted on the Panel commentary to be due to a request by Council rather than the intention of the Panel.

The reasons for the Panel's Decision to approve the application were:

- *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 notes 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 this is a suitable use of the site.*

Notwithstanding a restriction to the hours of truck movements to and from the site, the hours of operation for the sludge dewatering plant is unrestricted with 24 hours a day, seven days a week processing permitted. The owner seeks to

achieve a facility that can operate to meet the demands of the industry as not all construction and road work are carried out during normal business hours. While the majority of processing at the site and truck movements to and from the site will occur during normal business hours, there is a requirement outside of these times to accommodate the demands of night time construction works.

The purpose of this Statement is to address the planning issues associated with the modified proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Sections 4.15 and 4.55 of the Environmental Planning & Assessment (EP&A) Act, 1979.

2. Site Description

The subject site is an existing single industrial property situated to the west of the Cumberland Highway on Long Street, has a legal description of Lot 16 in DP 238072 and is commonly known as No. 7 Long Street, Smithfield. The subject land is a slightly irregular, rectangular shape lot with a frontage of 27.8m to Long Street (southern boundary), a northern splayed rear boundary of 29m, a western boundary of 100m adjoining No. 9 Long Street and 93m to the east adjoining No. 5 Long Street. The site has a total site area of 2,700m².

The site has been operating in accordance with its consent conditions for a short time, following a long and protracted assessment and approval process. The following site photos illustrate the existing operation as viewed from Long Street (Figure 1) and the driveway access and weighbridge (Figure 2).



Figure 1: View of the site from Long Street



Figure 2: Weighbridge and existing site access

3. Details of Proposed Modification

3.1 CONDITION OF CONSENT TO BE MODIFIED

As detailed in the introduction there have been some inconsistencies in the required hours for truck movements between the applicant's original submission, consultant's reports and Council's assessment report to the Planning Panel. The original Environment Impact Statement (EIS) submitted with the change of use application, prepared by *Benbow Environmental* indicated that "The proposed facility will be designed to operate 24 hours per day, 365 days per year". The report went on to state that "The site suits DEMAST as it is readily accessible to a major arterial roadway, it is already fully developed and is well separated from residential areas so that a 24/7 operation readily complies with noise criteria". It was the intention of the owner to access the site 24 hours a day, seven days a week but they indicated that the use would operate mainly during normal business hours.

It is highlighted that such flexibility is sought to accommodate night time projects that occur infrequently (and subject successful tender processes) but do arise from time to time where construction projects operate outside regular hours. As such, it is important to recognise that the number of truck movements sought beyond the existing approved hours is finite rather than being unlimited or ongoing.

The Council assessment report, when presented to the Planning Panel stated that:

"The plant would operate 24 hours a day 7 days a week, however, trucks delivering raw material to the site and processed material from the site would operate only during the hours of 8.00am to 4.00pm, with 1 to 2 HRV truck movements per hour".

Again these hours are different to the hours in the draft conditions, those sought by the owner and the final condition of consent imposed by the Planning Panel. The applicant (Demast) seeks to provide a service to their customers, which on occasion requires the processing of slurry waste from road and construction works undertaken at night when Sydney roads are less busy.

Condition 64

Condition 64 of the Notice of Determination Consent No. 2015/529/1 issued by Cumberland Council on 4 October 2016 states that:

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*

DEMAST request approval for truck movements associated with the operation of the plant to occur 24 hours per day, 7 days per week. The owner has commissioned reports from *Benbow Environmental* to evaluate the noise associated with truck movements to and from the site and *Transport and Urban Planning Pty Ltd* to assess the impact of 24/7 truck movements on road traffic noise and the road traffic network as part of the subject Section 4.55 application. These reports are provided separately with the application.

The proposal necessitates the modification of consent condition number 64 of DA15/0529/1 to allow truck movements 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”

All other conditions of consent remain unchanged, although the applicant would accept a new condition requiring noise beepers/alerts to be restricted during night time operation as originally suggested by the Environmental Protection Authority in their General Terms of Approval.

4. Statutory and Policy Compliance

4.1 SECTION 4.55

Section 4.55 of the Environmental Planning & Assessment Act 1979 contains provisions relating to the modification of consent. Specifically, subclause (2) states the following:

“(2) Other modifications

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 development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a*

concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(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

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

(3) 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 (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.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

(5) (Repealed)."

The proposal is the subject of a Section 4.55 modification. This proposal does not seek to alter the approved use of the site or significantly alter the intensity of activity approved for the site. The number of truck movements to and from the site is not excessive and was presented with the original application. The EIS stated that expected traffic movements related to the site activities would generate approximately 1-2 truck movements per hour. This will not change. The vehicles travelling to the site are either vacuum excavation trucks or long rigid vehicles which are able to manoeuvre within the site and exit in a forward direction. The majority of the time, the plant would operate during the normal business hours of 7:00am to 6:00pm, Monday to Saturday.

However, there are some instances when truck movement will need to occur outside the originally approved hours, for example, for road projects that are undertaken during the night to avoid traffic disruption and to meet the needs of the night road work operators. This will allow these projects to bring their sludge to the site after 6pm and in turn will require approval for trucks to access the site without restriction. It is noted that the sludge dewatering plant has consent permission to operate 24 hours a day, seven days a week as there are no anticipated noise impacts associated with its operation. As indicated in the General Terms of Approval from the Environmental Planning Authority (EPA) a condition addressing noise reversing sounds may be required and the applicant raises no objection to this being conditioned.

It is expected that the occasional night projects would generate an average of two (2) trucks per hour entering the site. It is also possible on the very rare occasion that the site would receive up to four (4) trucks per hour and then no trucks the following hour. The proposal provides adequate parking to meet the needs of the staff and visitors with nine (9) on-site car parking spaces. This will not change under the subject modification proposal.

The proposal will continue to operate under all other operational conditions imposed under DA15/0529/1, the Environmental Protection Licence and the General Terms of Approval issued by the Environmental Protection Authority.

4.2 SECTION 4.15 ASSESSMENT

Section 4.55(3) requires consideration of Section 4.15(1)(a) of the EP&A Act, 1979 which is detailed as follows under the relevant subject headings.

4.2.1 Holroyd Local Environmental Plan 2013

Under the Holroyd Local Environmental Plan (LEP) 2013, the subject site is within the IN1 General Industrial zone. The proposed changes to the truck movements to and from the site continues to meet the objectives of the zone. The continuation of the industrial land use supports employment opportunities and as demonstrated in the accompanying reports will have no adverse effect on other land uses.

There are no further provisions of the LEP that require consideration as part of this modification application.

4.2.2 Holroyd DCP 2013

The original application was assessed and approved having regard to the requirements of Part D 'Industrial Development' Holroyd DCP 2013. The changes proposed to the hours of truck movements to and from the site is consistent with the original proposal in terms of performance with the relevant Industrial controls.

There are no provisions within the DCP that seek to limit hours of operation or truck movements to and from industrial areas. The application is supported by a noise statement and traffic assessment which conclude that truck movements to and from the site will not have any adverse impact on the amenity of residential properties nearby.

Given that the owner provides a service to an industry that occasionally operates at night, there is a need to allow truck movements 24 hours a day, seven days a week to meet this demand and to ensure that the business is both viable and competitive.

4.3 IMPACT OF PROPOSED MODIFICATION

4.3.1 Natural Environment

The proposal does not give rise to any additional environmental impacts beyond that considered and approved as part of the original application. The proposal will maintain compliance with the approved conditions of consent that are imposed to minimise all environmental impacts during operation of the development.

In light of the above, there are no environmental impacts resulting from the proposed modification to allow 24 hour truck movements to and from the site, seven days a week.

4.3.2 Built Environment

In terms of the relationship of the proposal to the adjoining properties, there is no change to the building within which the use operates and it can continue to operate 24 hours a day, seven days a week as per Condition 63. Allowing night time truck movements to and from the site will have no impact on neighbouring industrial uses as for the most part they do not operate at night. The site is located at the centre of general industrial zoned land and is accessible from main roads and not through residential streets. The noise assessment by *Benbow Environmental* concludes that "night time truck movements are predicted to readily comply with the operational site criteria as shown in Table 3 and Table 4, and the Road Noise Policy criteria as shown in Table 7". The Traffic Statement further supports that there will be no adverse traffic impact on the road network as a result of 24 hour truck movements, 7 days a week.

Accordingly, the modification to the existing development will have no adverse impact on the built and natural environment as outlined above.

5. Conclusion

The proposed modification will result in a development that is substantially the same as the approved use under DA15/0529/1. The modification will not impact upon the amenity of neighbouring industrial properties, or the closest residential properties as demonstrated in the supporting documents and does not result in any other impacts. The proposal will allow the use to meet the requirements of its customers undertaking night time road projects and will allow the applicant to remain competitive within an emerging environmental industry recognised by the Panel to have environmental merit.

As indicated previously, the applicant is willing to accept a condition restricting reversing sounds at night as suggested by the EPA in their General Terms of Approval.

The use will continue to carry out most of its business during normal business hours but will have the flexibility to meet night time demand once the restriction on truck movements is removed. Importantly as raised through this Statement, flexibility is sought to accommodate night time projects that occur infrequently (and subject to successful tender processes) but do arise from time to time where construction projects operate outside regular hours. As such, it is stressed that the number of truck movements sought beyond the existing approved hours is finite rather than being unlimited or ongoing and that there are no impacts that will result as confirmed by Traffic and Acoustic specialist input accompanying this Statement.

The use will continue to operate in accordance with relevant consents and licences and approval for modification of Condition 64 to enable 24 hour truck movements is considered worthy of Council's support and a positive outcome for the sustainable and environmentally aware industry.