

Ms Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Ms McNally,

**Modification of development consent (SSD 7719 MOD 1)
Sigma Pharmaceutical Warehouse and Distribution Facility**

1. Thank you for your Department's letter, received on 14 June 2018, referring the above modification application to the Independent Planning Commission NSW for determination. The Department has referred the modification application to the Commission for determination because of a reportable political donations disclosure.
2. I constituted the Commission to determine the modification application.
3. The approved development comprises a warehouse facility, two story main office building and single-story dock office in the Oakdale South Industrial Estate, at Kemps Creek in the Penrith local government area.
4. In the modification application, Sigma Company Ltd, the applicant, seeks to modify the building and site layout for the approved the Sigma warehouse to:
 - reduce the main office building to a single-story building, the gross floor area by 282 m², and the awning footprint;
 - reconfigure internal working of the building to establish an additional office space, including an extra internal window; and
 - add an additional four recessed truck docks and two business signs.
5. The modification application identified that since approval was original granted on 16 February 2018, the applicant has carried out more accurate volume forecast for its NSW operations and a tailored operational design of the interior of the facility. The modification application stated the proposed modifications are required to better reflect changes in the applicant's market projections.
6. On 1 March 2018, the *Environmental Planning and Assessment Act 1979* (EP&A Act) was amended. While the modification application was submitted prior to 1 March 2018, the amended EP&A Act applies. Therefore, the Commission is the consent authority under section 4.5(a) of the EP&A Act and clause 8A(2) of the *State Environmental Planning Policy (State and Regional Development) 2011*.

7. *Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000* (Regulation) specifies that the notification requirements of the Regulation do not apply to State significant development. Accordingly, the application was not notified or advertised.
8. However, the modification application was made publicly available on the Department's website on 21 February 2018, and referred to Penrith City Council (Council), the Office of Environment and Heritage (OEH) and the Department of Primary Industries (DPI) for comment.
9. No public submissions from the community were received by the Department.
10. In determining this modification application, I have carefully considered:
 - *Sigma Warehouse & Distribution Facility Oakdale South Estate Site 3a - SSDA 7719 section 96(1a) Modification Application - MOD 1*, dated 16 February 2018;
 - The Department's *Assessment report for Sigma Pharmaceutical Warehouse and Distribution Facility (SSD 7719 MOD 1)*, dated 13 June 2018;
 - The development consent to State significant development application SSD 7719, dated 28 July 2017;
 - The development consent to staged State significant development application SSD 6917 for the Oakdale South Industrial Estate (the Concept Proposal);
 - submissions from DPI dated 7 March 2018, OEH dated 13 March 2018 and Council dated 6 March 2018 and 19 June 2018; and
 - section 4.15 of the EP&A Act, including the relevant environmental planning instrument, the likely impacts to the environment, social and economic impacts in the locality of Western Sydney, and the public interest.
11. The relevant environmental planning instruments are the *Penrith Local Environmental Plan 2010* and the *State Environmental Planning Policy (State and Regional Development) 2011*.
12. Sigma Pharmaceutical Warehouse and Distribution Facility was identified as State significant development as involves capital investment value greater than \$50 million, which meets the criteria in clause 12, Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011*.
13. The project site is zoned is IN1 General Industrial and E2 Environmental Conservation under the *Penrith Local Environmental Plan 2010*. The project is permissible with consent in this zone and complies with the zone objectives which are to:
 - *provide a wide range of industrial and warehouse land uses.*
 - *encourage employment opportunities.*
 - *minimise any adverse effect of industry on other land uses.*
 - *support and protect industrial land for industrial uses.*
 - *promote development that makes efficient use of industrial land.*
 - *permit facilities that serve the daily recreation and convenience needs of the people who work in the surrounding industrial area.*The area of the project site zoned E2 Environmental Conservation will not be impacted by this development.
14. Key matters for this modification application include business signage, visual impacts, vehicle maneuverability, traffic and parking.

15. Council raised concerns in its submission dated 6 March 2018 regarding the visual impacts of removing landscaping to construct the hardstand area in the north-east corner of the project site. The Department's assessment report identified that the applicant has withdrawn the removal of this landscaping from the modification application. Consequently, Council confirmed in its submission dated 19 June 2018 that it was satisfied with this outcome.
16. The Department's assessment report relevantly concludes in section 4.2 that:
 - *"the primary function and purpose of the approved project would not change as a result of the proposed modification;*
 - *any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of approval; and*
 - *the modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application."*
17. In relation to the key matters, table 2 of the Department's assessment report for the modification dated 13 June 2018 provides a series of relevant conclusions, as follows:
 - *"revised signage plan meets the requirements of the Concept Proposal (SSD 6917) and the assessment requirements of State Environment Planning Policy No 64 – Advertising and Signage (SEPP 64);*
 - *proposed warehouse amendments would not result in additional (visual) impacts beyond what has been assessed as part of the original application (SSD 7719) and the Concept Proposal (SSD 6917);*
 - *updated swept path diagrams demonstrate the longest vehicle could safely manoeuvre around the site and emergency vehicle access would not be impeded; and*
 - *the minor reduction in the total gross floor area (approximately -0.6%) would result in negligible impacts to both traffic generation and parking requirements."*
18. After careful consideration, I have accepted the conclusions as the Department set out in paragraph 17 because the proposed modifications in the modification application:
 - are of minimal environmental impact and satisfy section 4.55(1A)(a) of the EP&A Act, because the:
 - revised business signage remains consistent with Concept Proposal and the provisions of SEPP 64;
 - reduced scale of the building is unlikely to result in additional visual impacts;
 - vehicle maneuverability on the site and emergency vehicle access remains adequate; and
 - the change in gross floor area would have negligible effect on traffic generation and parking requirements; and
 - remain substantially the same as the development for which consent was originally granted and satisfy section 4.55(1A)(b) because the essential nature of the development as a warehouse remains the same.
19. I am satisfied that my findings in paragraph 18 demonstrate that the modification application is in the public interest because the proposed modification abides by the statutory scheme for modifications and therefore represents orderly and economic use of the land in accordance with section 1.3(c) of the EP&A Act.

20. Therefore, I have decided to approve the modification application, subject to the conditions in the attached modification instrument, for the following reasons:
- the proposed modifications satisfy the requirements of section 4.55(1A) of the EP&A Act; and
 - the proposed modifications are in the public interest.

21. I have imposed the conditions in the modification instrument for the following reasons:
- to prevent, minimise and/or offset adverse environmental impacts; and
 - to set standards and performance measures for acceptable environmental performance.



Mary O'Kane
Chair
Independent Planning Commission

27/6/18

cc The Hon. Anthony Roberts, MP
 Minister for Planning
 GPO Box 5341
 Sydney NSW 2001