



18 January 2019

Alison Frame  
A/Secretary  
Department of Planning and Environment  
GPO Box 39  
Sydney NSW 2001

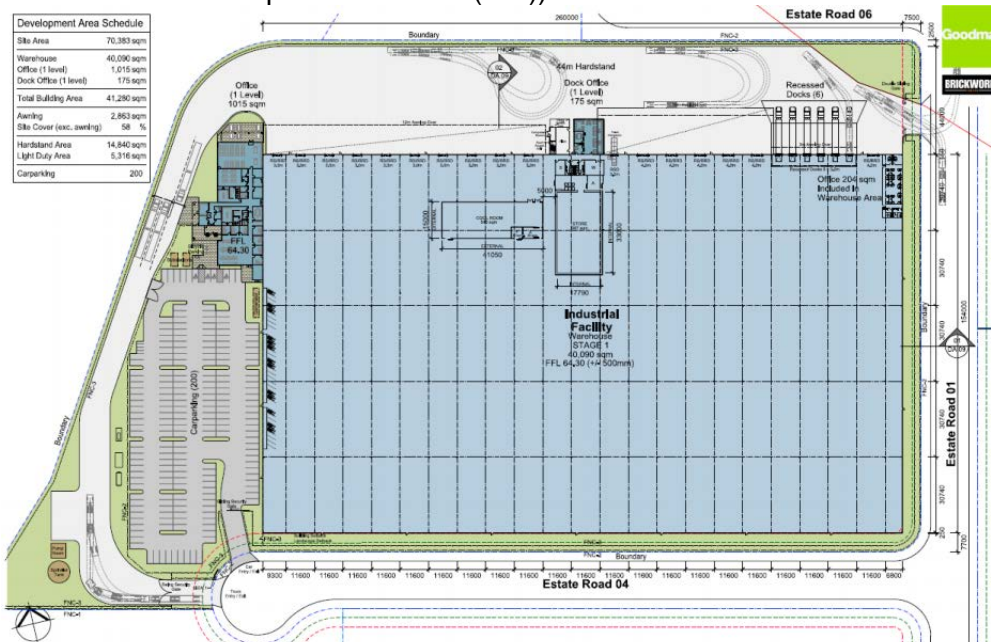
Dear Ms Frame,

**Determination of Modification Application  
Sigma Pharmaceuticals Warehouse and Distribution Facility (SSD 7719 MOD 2)**

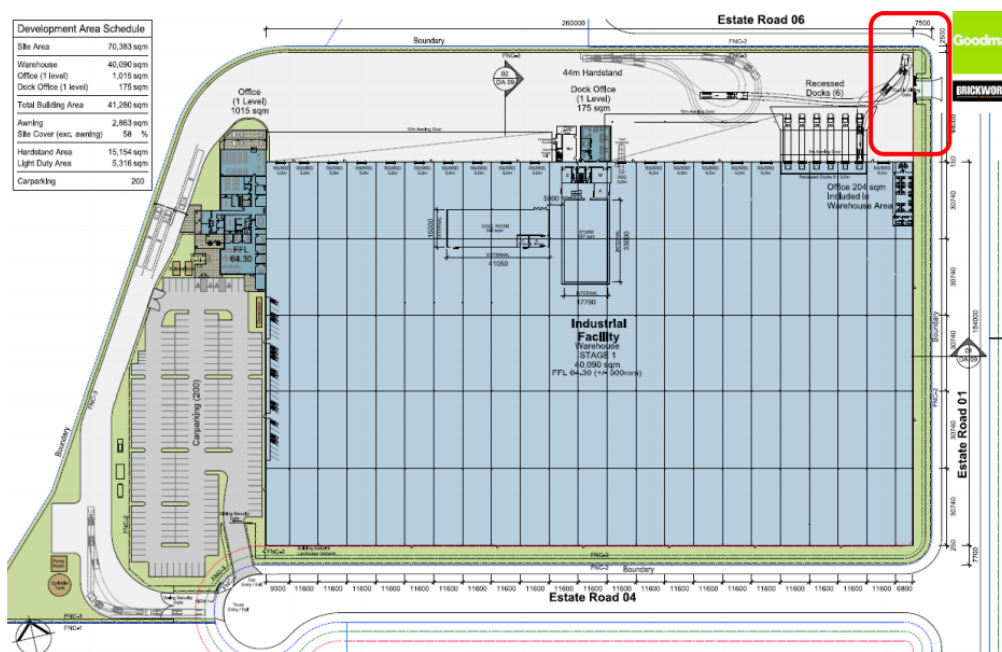
1. Thank you for your letter received on 13 December 2018, referring the above modification application (the **Application**) to the Independent Planning Commission NSW (the **Commission**) for determination.
2. It is understood that:
  - The Commission is the consent authority for the Application under section 4.5(a) of the *Environmental Planning and Assessment Act, 1979* given the proposal is State Significant Development (SSD 7719); and
  - The Department of Planning and Environment (the **Department**) is satisfied that the proposed modification would result in minimal environmental impacts and is *within the scope of section 4.55(1A) of the EP&A Act*.
3. It is further understood that given the Sigma Company Ltd (the **Applicant**) has made a reportable political donation disclosure, the application is referred to the Commission for determination consistent with the Minister's delegation dated 11 October 2017.
4. Professor Mary O'Kane AC, Chair of Commission, nominated me (Mr Chris Wilson) to constitute and chair the Commission panel to determine the modification application.
5. By way of background, on October 2016, the Department approved a concurrent Concept Proposal and Stage 1 DA for a warehousing and employment precinct (SSD 6917) known as Oakdale South Industrial Estate in the Penrith local government area.
6. On April 2017, the Department approved a modification to the Stage 1 Development Application (SSD 6917 MOD 1) changing the southern extent of the site layout including a realignment of the Ropes Creek Tributary.
7. On July 2017, the Department approved the Sigma Pharmaceutical Warehouse and Distribution Facility (SSD 7719) on Site 3A of the Oakdale South Industrial Estate.
8. On October 2017, a Planning Proposal (PP) was submitted to the Department to amend the State Environmental Planning Policy (Western Sydney Employment Area) 2009 (**WSEA SEPP**) by rezoning part of the E2 Environmental Conservation zone to IN1 General Industrial to reflect the outcomes of SSD 6917 MOD 1.

9. On June 2018, SSD 7719 was modified to amend the building and site layout and business identification signage (SSD 7719 MOD 1). A proposal to change the north-east corner of the site from landscape to hardstand at this time was not progressed given the PP had not been made.
10. On September 2018, and noting that the PP had progressed, the Applicant lodged the subject application (SSD 7719 MOD 2) seeking to modify the development consent to increase the hardstand area of the loading dock (circled in red in **Figure 2**) and to amend conditions relating to environmental reporting.
11. On November 2018, the State Environmental Planning Policy (Western Sydney Employment Area) Amendment (Ropes Creek) 2018 was made rezoning the north-east corner of Site 3A from E2 Environmental Conservation to IN1 General Industrial and enabling the determination of the subject application.

**Figure 1 – Approved Site Plan SSD 7719 MOD 1 (Source: Applicant Environmental Impact Statement (EIS))**



**Figure 2 – Proposed Site Plan SSD 7719 MOD 2 (Source: Applicant EIS)**



12. Clause 117(3B) of the *Environmental Planning and Assessment Regulation 2000* (**Regulation**) specifies that the notification requirements of the Regulation do not apply to this application. Accordingly, the application was not notified or advertised by the Applicant.
13. However, the modification application was made 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 Industry (**DoI**) for comment.
14. The Department received two submissions and two responses to the Applicant's Response to Submissions (**RtS**) (paragraph 19). No submission objected to the proposed modification.
15. In determining this modification application, I have carefully considered:
  - *Sigma Warehouse & Distribution Facility Oakdale South Estate Site 3A – SSDA 7719, Section 4.55 (1A) Modification* dated 28 September 2018;
  - *Sigma Pharmaceutical Warehouse & Distribution Facility Modification (SSD 7719 MOD 2) Response to Submissions* dated 7 November 2018;
  - The Department's *Assessment report for Sigma Warehouse & Distribution Facility (SSD 7719 MOD 2)* dated 12 December 2018;
  - The development consent to staged State significant development application SSD 6917 for the Oakdale South Industrial Estate (Concept Proposal and Stage 1 Development Application);
  - The development consent to State significant development application SSD 7719, dated 28 July 2017;
  - The development consent to State significant development application SSD 7719 MOD 1, dated 27 June 2018;
  - Submissions from Council dated 23 October 2018, OEH 24 dated October 2018 and DoI dated 22 October;
  - Submissions on the Response to Submissions from Council dated 12 November 2018 and DoI dated 23 November 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.
16. The relevant environmental planning instruments are the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*, *Penrith Local Environmental Plan 2010* and the *State Environmental Planning Policy (State and Regional Development) 2011*.
17. Sigma Pharmaceutical Warehouse and Distribution Facility was identified as State significant development as it 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*.
18. The project site is zoned IN1 General Industrial under the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*. The project is permissible with consent in this zone and complies with the zone objectives.
19. Council's submission dated 23 October 2018 provided comments regarding the visual impacts of removing landscaping to construct the hardstand area. Council also recommended that a number of conditions be imposed. The Applicant addressed Council's comments and the need for the recommended conditions in its RtS. Subsequently, Council

responded to the Applicant's RtS stating that 'Council has no further comment at this time'.

20. The Department stated in its assessment report that:

- *"The proposed change from landscape to hardstand in the north-east corner of the site is adequately justified as it was assessed as part of SSD 6719 MOD 1, it is now a permissible land use and would improve truck maneuverability;*
- *The existing conditions of consent adequately address the visual impacts of the development;*
- *The existing conditions of consent require the Applicant to review and, if necessary, revise the stormwater strategy within three months of the determination of a modification. No additional conditions of consent are recommended; and*
- *The proposed modifications to the environmental reporting conditions would not increase the potential amenity impacts of the development."*

21. The Department concludes in its assessment report that:

- *"The Department considers that the proposed modification is appropriate on the basis that it will result in minimal environmental impacts beyond the approved facility and the updated site plan will reflect the re-zoning approved under the State Environmental Planning Policy (Western Sydney Employment Area) Amendment (Ropes Creek) 2018 amendment."*

22. After careful consideration, I have accepted the Department's conclusions as set out in paragraph 20 and 21. I also accept that the proposed modification application:

- is of minimal environmental impact and satisfies section 4.55(1A)(a) of the EP&A Act; and
- remains substantially the same as the development for which consent was originally granted and satisfies section 4.55(1A)(b) because the essential nature of the development as a warehouse remains the same.

23. I am satisfied that my findings in paragraph 22 demonstrate that the modification application is in the public interest because it 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.

24. 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.

Yours sincerely



**Chris Wilson (chair)**  
**Member of the Commission**

CC

The Hon. Anthony Reports, MP  
Minister for Planning  
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