



**REPORT TO ACCOMPANY A SECTION 4.55(1A)
APPLICATION TO MODIFY THE CONSENT TO
DA 157-6-2004 SO AS TO MODIFY CONDITION
G16 TO ENABLE PUBLIC USE OF THE ON-SITE
CHILD CARE CENTRE**

**OPTUS CORPORATE HEADQUARTERS,
1 LYONPARK ROAD, MACQUARIE PARK**

**Prepared for
Optus Administration Pty Ltd**

**By
BBC Consulting Planners**

Job No. 22-074
SSD Mod Report.F
September 2022

Table of Contents

1.	INTRODUCTION	1
2.	THE SITE.....	2
2.1	Location	2
2.2	Areas and Frontages.....	2
2.3	Real Property Description and Ownership.....	2
2.4	Optus Corporate Headquarters.....	2
2.5	Recent Planning History	2
3.	REQUESTED MODIFICATION TO THE CONSENT	4
3.1	Overview	4
3.2	Condition G16: Shared Communal Facilities	4
4.	RELEVANT PROVISIONS OF SECTION 4.55(1A).....	5
5.	PLANNING ASSESSMENT.....	7
5.1	Section 4.15(1)(a): Statutory Planning Considerations	7
5.1.1	Ryde Local Environmental Plan 2014 ("RLEP 2014")	8
5.1.2	Ryde Development Control Plan 2014 ("RDCP 2014")	9
5.1.3	Section 4.15(1)(b): Impacts on the Environment	9
5.1.4	Section 4.15(1)(c): Suitability of the Site	10
5.1.5	Section 4.15(1)(d): Submissions Received	10
5.1.6	Section 4.15(1)(e): The Public Interest	10
6.	CONCLUSION.....	11

FIGURES

Figure 1: Location

Figure 2: Site

Figure 3A: Aerial Photograph – Detail

Figure 3B: Aerial Photograph – Wider Area

Figure 4A: Zoning Map – Ryde LEP 2014

Figure 4B: Height of Buildings Map – Ryde LEP 2014

Figure 4C: Floor Space Ratio Map – Ryde LEP 2014

Figure 4D: Centres Map – Ryde LEP 2014

Figure 4E: Macquarie Park Corridor Precinct Map – Ryde LEP 2014

Figure 4F: Macquarie Park Corridor Precinct Incentive Height of Buildings Map – Ryde LEP 2014

Figure 4G: Macquarie Park Corridor Precinct Incentive Floor Space Ratio Map – Ryde LEP 2014

Figure 4H: Macquarie Park Corridor Precinct Parking Restrictions Map – Ryde LEP 2014

APPENDICES

Appendix 1: Development Consent to DA 157-6-2004

Appendix 2: Traffic and Parking Impact Assessment

Appendix 3: Certificate of Title and Deposited Plan

1. INTRODUCTION

Consent for State Significant Development (“SSD”) Development Application (reference: DA 157-6-2004) (“the consent”) was granted by the Department of Planning and Environment (“the Department”) on 7 November 2004 at No. 1 Lyonpark Road, Macquarie Park (“the site”) for:

- “(1) The demolition of existing buildings on site;*
- (2) The construction of a technology-orientated corporate complex comprising two (2) x four (4) storey and four (4) x five (5) storey buildings, incorporating the following:*
 - (a) basement tenant car parking;*
 - (b) at grade visitor parking;*
 - (c) dedicated floorspace for the purposes of a gymnasium;*
 - (d) dedicated floorspace for the purposes of a child care centre accommodating ninety children;*
 - (e) active sports facilities; and*
 - (f) food service facilities.*
- (3) Landscaping and civil works, including a new internal road system;*
- (4) consolidation of existing allotments;*
- (5) the commencement of the use of the premises;*
- (6) the partial fitout of the premises including internal partitioning of the buildings where specified in the plans; and*
- (7) the removal of those trees required to facilitate the development.”*

A copy of the consent is provided in **Appendix 1**.

Pursuant to the consent, Condition G16 (Use of the Buildings) permits the on-site child care centre, gymnasium and food amenity services only to be used by the tenant of the building.

BBC Consulting Planners have been instructed by Optus Administration Pty Ltd (“the Applicant”) to prepare this report to accompany a Section 4.55(1A) application which seeks to modify Condition G16 of the consent so as to enable the use of the on-site child care centre by members of the public as well as Optus staff.

A Traffic and Parking Impact Assessment accompanies this application and is provided in **Appendix 2**.

2. THE SITE

2.1 Location

The site is located on the south eastern side of Lyonpark Road in Macquarie Park (see **Figure 1**). Lyonpark Road is accessible from Epping Road located to the south of the site. The site is located within Macquarie Park, an extensive urban area comprising a diverse range of retail, industry, commercial offices, educational establishments, and residential uses.

2.2 Areas and Frontages

The site has an area of approximately 7.586ha and is irregularly shaped, with a principal frontage of approximately 233.5 metres to Lyonpark Road. The remainder of the site has frontages to Optus Drive, a local circulation road accessible via Lyonpark road and Giffnock Lane. The boundaries of the site are identified on **Figure 2**.

2.3 Real Property Description and Ownership

The site comprises Lot 511 in DP 1153119 (see **Figure 2**).

The site is owned by Trust Company Limited.

A certificate of title and a deposited plan for the site are provided in **Appendix 3**.

2.4 Optus Corporate Headquarters

The Optus Corporate Headquarters, Sydney, comprises six interconnected buildings above basement car parking within a verdant landscaped setting. The Optus Corporate Headquarters is a technology and innovation hub comprising offices, function spaces, research and development facilities and amenities for staff including a child care centre, gym and food outlets.

2.5 Recent Planning History

Council's DA Tracker shows the following planning history:

Council Reference	Description	Status
MOD2019/0205	Section 4.55(1A) to modify public domain conditions.	Approved 7/11/2019
MOD2014/0144	Section 96 application to modify condition 9 of development consent to make seating fixed and permanent.	Approved 20/10/2014
MOD2013/0102	Modifications to extend awning	Approved 25/07/2013

Council Reference	Description	Status
LDA2019/0224	Re-development works at Optus Campus involving installation of external canopies, modification to bus interchange, adjustment to car parking, removal of 15 trees and other upgrades to the building.	Approved 16/08/2019
LDA2018/0330	Conversion of a number of accessible parking spaces to standard spaces, including minor basement parking adjustments.	Approved 21/09/2018
LDA2016/0411	Demolition and construction of a new café.	Approved 26/10/2016
LDA2016/0026	Addition of a stage structure and construct pergola/awning over an existing deck area.	Approved 29/02/2016
LDA2015/0588	Three business identification signs for Optus.	Approved 15/12/2015
LDA2015/0583	Provision of Carwash & associated storage area in basement carpark and configuration of parking spaces.	Approved 29/02/2016
LDA2014/0184	New awning to commercial building.	Approved 21/05/2014
LDA2014/0095	Installation of 3 lightning masts	Approved 21/03/2014
LDA2013/0215	Construction of a cover over an existing loading dock	Approved 9/07/2013
LDA2014/0214	Cafe & Outdoor Dining	Approved 13/08/2013
LDA2013/0049	To erect one glass canopy and one awning for Optus.	Approved 13/03/2013
LDA2011/0203	Refurbishment of existing courtyard, including seating and coffee cart	Approved 13/05/2011

3. REQUESTED MODIFICATION TO THE CONSENT

3.1 Overview

Optus has identified a need to utilise an existing childcare centre located within the Optus Corporate Headquarters site. The optimal use of this facility has been in decline, partly as a result of the COVID-19 pandemic which has restricted employees from attending the office on a full time basis. The Optus Corporate Headquarters has now shifted traditional work practices to a hybrid model where employees have the flexibility to work from home or from the office, resulting in less employees visiting the site and in turn, using other child care facilities. The existing child care centre has capacity to accommodate for up to 90 children at any one time.

This Section 4.55(1A) application proposes to modify Condition G16 of the consent (157-6-2004) to seek approval for the public use of the childcare facility.

3.2 Condition G16: Shared Communal Facilities

Condition G16 of the consent states as follows:-

“G16 Shared communal facilities

The child care centre, gymnasium and food amenity services are only to be used by the tenant of the building.

It is requested that Condition G16 be modified as follows:-

“G16 Shared communal facilities

The ~~child care centre~~, gymnasium and food amenity services are only to be used by the tenant of the building.

The approved childcare centre is permitted to be used by members of the general public as well as staff associated with the tenant of the building.”

Justification for the above requested amendment to Condition G16 is provided in Section 5 of this report.

4. RELEVANT PROVISIONS OF SECTION 4.55(1A)

Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 states as follows:

*“(1A) **Modifications involving minimal environmental impact** 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

(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

(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 any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.”

In relation to **Section 4.55(1A)(a)** the Department can be satisfied that the proposed modification is of minimal environmental impact. A Traffic and Parking Impact Assessment accompanies this application and is provided at **Appendix 2**. The report concludes:

- 1. The development will have minimal impact on the traffic capacity of Lyonpark Road and the surrounding street network in the area.*
- 2. The proposed parking provision meets the requirements of Council's Development Control Plan, and there is likely to be minimal impact on the existing on-street parking supply in the area due to the childcare centre operation.*
- 3. The existing parking layout and access complies with the Australian Standard in terms of space dimensions, aisle width, blind aisle, and manoeuvring requirements.*
- 4. Minimal traffic impact on the amenity of the surrounding development has been anticipated.*
- 5. Manoeuvring and circulation within the site can be accommodated with minimal safety concerns.*

6. *The development site is accessible by the available public transport in the area.*

In relation to **Section 4.55(1A)(b)**, the Department can be satisfied that the development as originally approved will be substantially the same development when modified in accordance with this application. The original approval permits the childcare facility to operate as part of the consent, the only change will be to the availability of the childcare facility to be used by the general public as well as Optus Staff. The child care centre will not exceed 90 children as specified in the consent.

As such, the proposed modification to the consent is considered to be cognisant of the original consent and is substantially the same development as that which was originally approved.

In relation to **Section 4.55(1A)(c) and (d)**, the Department may notify the application and consider any submissions made.

Section 4.55(3) of the Environmental Planning and Assessment Act, 1979 states as follows:

“(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.

These Section 4.15(1) matters are discussed in Section 6 of this report.

5. PLANNING ASSESSMENT

Section 4.55(3) of the Environmental Planning and Assessment Act, 1979 states that the matters referred to in Section 4.15(1) of the Act, as are of relevance to the development the subject of the application, must be taken into consideration in determining an application for modification of a consent.

These Section 4.15(1) matters are discussed below.

5.1 Section 4.15(1)(a): Statutory Planning Considerations

Section 4.15(1)(a) requires the consent authority to take into consideration the following matters:-

“(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (iv) (Repealed)*

that apply to the land to which the development application relates”

In relation to **Section 4.15(1)(a)(i) and (ii)**, relevant matters are addressed in Section 6.2.1 below.

In relation to **Section 4.15(1)(a)(iii)**, there are no development control plans of relevance to this application.

In relation to **Section 4.15(1)(a)(iiia)**, there is no planning agreement pursuant to Section 7.4 of the Act relating to this application.

In relation to **Section 4.15(1)(a)(iv)**, there are no matters arising out of the proposed modifications to the consent which raise compliance issues with relevant regulations.

5.1.1 Ryde Local Environmental Plan 2014 (“RLEP 2014”)

The site is zoned B7 Business Park pursuant to RLEP 2014 (see **Figure 4A**)

The objectives of the B7 Business Park zone are as follows:-

- “• To provide a range of office and light industrial uses.*
- To encourage employment opportunities.*
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- To encourage industries involved in research and development.”*

Clause 2.3(2) of RLEP 2014 requires that:-

“(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.”

The proposed modification is consistent with the above objectives and does not change the permissibility of the use.

No changes are proposed to the approved physical form of the building as part of this application and will therefore not affect the consistency of the development with the maximum height and GFA provisions in RLEP 2014 (see **Figures 4B and 4C**).

5.1.1.1 Macquarie Park Corridor (Clause 4.5B)

Clause 4.5B (3) of RLEP 2014 states:

“(3) The objectives for development on land in Zone B7 Business Park within the Macquarie Park Corridor are as follows—

- (a) to provide for the daily convenience needs of employees and visitors,*
- (b) to ensure that development supports the needs of businesses and organisations in the area.”*

The proposed development is relevantly consistent with these objectives. Permitting use of the childcare centre for the general public will provide daily convenience needs for employees of other businesses and organisations in the area.

5.1.1.2 Development in Macquarie Park Corridor (Clause 6.9)

Clause 6.9 of the RLEP 2014 aims to encourage additional commercial development in the Macquarie Park Corridor, coordinating development with an adequate access network and recreation areas. The clause provides for incentives in relation to height and FSR, however,

the proposed modification to the consent does not include any physical changes to the built form and is not relevant in the determination of this application.

5.1.2 Ryde Development Control Plan 2014 (“RDCP 2014”)

There are no changes to the development’s compliance with the RDCP 2014 under the proposed modification.

5.1.3 Section 4.15(1)(b): Impacts on the Environment

Section 4.15(1)(b) requires the consent authority to take into consideration the following:-

“(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”

5.1.3.1 Impacts on the natural and built environment

The proposed modification seeks a change to the wording of condition G16, so as to allow for the on-site childcare facility to be used by the general public as well as Optus employees.

The physical form and function of the building will remain unchanged by the proposed modification therefore, the proposal will have no additional impacts on either the natural or built environment.

Traffic and parking impacts have been considered and are presented in the Traffic and Parking Assessment Report (see **Appendix 2**). The report concludes:

- 1. The development will have minimal impact on the traffic capacity of Lyonpark Road and the surrounding street network in the area.*
- 2. The proposed parking provision meets the requirements of Council’s Development Control Plan, and there is likely to be minimal impact on the existing on-street parking supply in the area due to the childcare centre operation.*
- 3. The existing parking layout and access complies with the Australian Standard in terms of space dimensions, aisle width, blind aisle, and manoeuvring requirements.*
- 4. Minimal traffic impact on the amenity of the surrounding development has been anticipated.*
- 5. Manoeuvring and circulation within the site can be accommodated with minimal safety concerns.*
- 6. The development site is accessible by the available public transport in the area.*

Traffic and parking impacts associated with making the existing on-site child care centre will be minimal and can be managed appropriately as a result of existing infrastructure already available on the site.

5.1.3.2 Social and economic impacts in the locality

The social and economic impacts of the proposal will be positive, in that:-

- employment at the childcare centre will be maintained;
- parents who work or live nearby will benefit from a new child care centre.

5.1.4 Section 4.15(1)(c): Suitability of the Site

Section 4.15(1)(c) requires the consent authority to take into consideration the following:-

“(c) the suitability of the site for the development”

The building currently contains a child care centre which is in a highly suitable location as it complements the surrounding employment uses by providing an essential service to employees with children.

5.1.5 Section 4.15(1)(d): Submissions Received

Section 4.15(1)(d) requires the consent authority to take into consideration the following:-

“(d) any submissions made in accordance with this Act or the regulations”

Any submissions made when the Section 4.55(1A) application is notified for public comment will need to be considered by the Department in the determination of the modification application.

5.1.6 Section 4.15(1)(e): The Public Interest

Section 4.15(1)(e) requires the consent authority to take into consideration the following:-

“(e) the public interest.”

The public interest is generally best served by development that is reasonable and appropriate, that is consistent with the character of the area, that does not create any significant adverse impacts on the environment or on neighbouring properties, and that is operationally well-managed. The proposed modification will allow for children of parents who do not work in the building to attend the childcare centre, providing a beneficial and essential service to the public.

6. CONCLUSION

The childcare centre was originally approved in 2004 under the consent 157-6-2004 for the construction of a technology-orientated corporate complex. The use of this facility has been in decline, partly as a result of the COVID-19 pandemic which has restricted employees from attending the office on a full time basis.

Modifying Condition G16 of the consent so as to enable the use of the on-site child care centre by members of the public as well as Optus staff will allow for the childcare centre to be better utilised and will provide a childcare service to parents who live or work in the local area.

The modification of this condition will not result in any unacceptable traffic impacts as stated in the traffic report (see **Appendix 2**).

Having regard to the above, the proposed modifications to the consent are considered to be in the public interest and are not likely to give rise to any significant adverse amenity impacts. As such, it is considered appropriate, warranted and reasonable for the childcare facility to be available for members of the public in addition to Optus staff.

The modification of the consent for which approval is now sought does not alter the original findings made in relation to 157-6-2004 regarding the appropriateness and reasonableness of the proposal when considered in light of the matters listed in Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

The Section 4.55(1A) application thus warrants approval.



FIGURES



APPENDICES
