



Office of Sustainable Development Assessment and Approvals, Urban Assessments

Planning Assessment Report

Application to Modify Development Consent

MOD 95-7-2005 modifying DA 80-4-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Modification number MOD 95-7-2005 modifying DA 80-4-2004 under section 96(1A) of the Act lodged by Urbis JHD on 12 July 2005.

The application seeks to modify DA 80-4-2004 approved by the Minister on 27 January 2005.

The site is located at Sites 5, 6 and 7 Dawn Fraser Avenue, Sydney Olympic Park 2127, in the Auburn local government area.

The site is located in the Town Centre Precinct within the Sydney Olympic Master Plan. This precinct includes the Novotel and Ibis hotels, the Vernon Buildings and Maiden gardens of the former State Abattoir, Olympic Park railway station and Jacaranda Square.

Under the instrument of delegation dated 4 August 2003 and having regard to the Guidelines for Delegates, it is considered appropriate that the application be determined under delegation by Team Leader, Urban Assessments, Office of Sustainable Development Assessments and Approvals.

It is recommended that the modification application be **approved**.

1.1 Relevant approvals / modifications:

The Development Application DA 80-4-2004 was granted consent on 27 January 2005. The development consent granted was for the following:

- Construction of three retail/commercial office buildings with a total of 46 003m² (GFA) of office space and 7434m² (GFA) of retail area.
- subdivision of land into 4 separate parcels (3 lots for the proposed buildings and one separate lot for the creation of the existing Stockroute Park into one lot)
- associated basement parking (including a public car park)
- landscaping and public improvement works.

2 THE PROPOSED MODIFICATIONS

The applicant is seeking to modify the approved development as follows:

Building 5:

- Restrict public access through the originally approved pedestrian link within Building 5 (which linked the Abattoir Precinct with Stockroute Park) by replacing the openable doors with security controlled glazed doors.
- Widen originally approved pedestrian link within Building 5 to 4m as per the original DA consent, together with the provision of double height spaces on level

- 2 and associated design changes to the eastern façade of Building 5 to further enhance the visibility and amenity of the space.
- Remove a half basement level to Building 5 with other minor changes within basement levels thereby reducing basement by 19 spaces.
 - Relocate the sub station, LV switch room and loading dock from the lower ground level to the upper ground level (now referred to as level 1.) Replace area formerly occupied by sub station, LV switch room and loading dock (now referred to as level G) with car parking, bike racks and staff amenities and required space for additional storage and communication facilities. Reduction in depth of retail tenancy fronting Dawn Fraser Avenue due to provision of these facilities and “in house “ cafeteria for tenant.
 - Increase to commercial component of Building 5 floor space, total floor space reduced by 1084m².
 - External change to Herb Elliott Avenue frontage due to relocation of sub station, LV switches room and loading dock. Balance of space adjacent these facilities will be used for training and conference facilities and will be linked to conference space located on the Dawn Fraser Avenue frontage on the same level. The notional area for themed pub shown within original application will not be proceeded with.
 - Install additional roof-top plant on building 5 for back up power and air conditioning purposes.

For whole of Site 5, 6 and 7:

- To permit SOPA to allow extended business operating hours and loading times.

The majority of the amendments are supported, except for the matters raised in part 5.3 of this report.

3 STATUTORY FRAMEWORK

3.1 *Statement of permissibility*

The proposed modification is permissible with consent

3.2 *Instrument of consent and other relevant planning instruments*

SREP 24 (see 5.2).

3.3 *Legislative context*

No other known relevant legislation.

3.4 *Other statutory provisions*

No other known statutory provisions.

4 CONSULTATION / PUBLIC EXHIBITION

Public exhibition of the proposal was not considered necessary given the minor nature of the modification, however adjoining leaseholders and previous agencies that made a submission on the original DA were notified in writing of the proposal. The issue raised by Railcorp are discussed in Section 5 of this report.

Two submissions were received regarding the modification:

1. Heritage Office (no objection)
2. Railcorp (see part 5.3.2)

Issues raised in submissions are considered in Section 5 of this report. The application was referred to Auburn Council in. No response from Council was recorded.

5 CONSIDERATION

5.1 Section 96

The application is considered to meet the prerequisites of Section 96(1A) of the Act in that the proposed modifications are considered to be of minimal environmental impact, and that the development as modified is considered to be substantially the same development as that to which consent was originally granted.

5.2 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. The consideration is also given to relevant provisions of Sydney Regional Environmental Plan No 24 (Homebush Bay Area SREP 24). It is considered that the proposed development complies with the statutory controls and the relevant aims and objectives.

Relevant issues requiring further consideration are addressed below:

5.3 Issues

5.3.1 Termination of through site link from Stockroute Park to Building 5 and Vernon Buildings in the Heritage Precinct.

Issue: Applicant seeks to amend condition B2(2) to delete "enhance legibility through to the Heritage Precinct" reference within condition requiring 4m wide through site link.

Raised by: DIPNR

Consideration: Although applicant has amended plans to include a 4m wide site link, DIPNR does not consider the total removal of the reference acceptable. Although acknowledged that the proposed tenant requires a secure building, the removal of the reference within the condition would effectively extinguish the requirement for any tenants beyond the first. Instead, DIPNR has inserted the following amendment to condition A1:

Condition A1(3): Conditional consent is granted for the public pedestrian link though Building 5 to be closed to public access only whilst the building is occupied by a major tenant associated with financial, banking and call centre operations as described in the Urbis JHD Statement of Environmental Effects dated June 2005. The link is to revert to a public pedestrian route (accessible during normal business hours) upon any change in major tenancy or cessation of the specified use. Any further extension or limitation on public access to the link is to be the subject of a separate development application to the relevant consent authority.

Resolution: Above condition is considered to address issue.

5.3.2 Carparking

Issue: Claim that proposal proposes additional car parking spaces for staff. Railcorp believes a superfluous amount of spaces are proposed. Railcorp recommends DIPNR consider a reduction in the number of car spaces proposed to meet objectives of SEPP 66.

Raised by: Railcorp

Consideration: Original DA approved 419 spaces for Building 5. The applicant seeks to reduce car parking spaces by 19 spaces and a rearrangement of the spaces within Building 5 to

a total of 400 spaces (See condition B13).

Resolution: Submission is noted however is incorrect.

5.3.3 Ground floor tenancy sizes

Issue: Applicant sought to amend condition A1(2a) by increasing the size of the ground floor retail tenancies from 120m² to 300m².

Raised by: DIPNR

Consideration: The SOPA Master Plan prescribes that Dawn Fraser Avenue contains an active retail frontage. An increase in the size of tenancies may decrease the retail mix and erode this street activation. DIPNR does not support proposed amendment and will not amend condition A1 (2a).

Resolution: Applicant informed DIPNR in writing on 15 August 2005 that they no longer wish to amend this condition.

5.3.4 Proposed ground floor commercial component

Issue: Applicant sought to amend condition A1 (2b) to allow for the inclusion of commercial space on the ground floor of Building 5.

Raised by: DIPNR

Consideration: DIPNR considers this amendment acceptable as it will not create any commercial space with frontage to Dawn Fraser Avenue. Proposed amended commercial space would be contained within footprint on ground floor and would be out of view of street.

DIPNR accepts proposed amendment and recommends amending condition A1(2)(b) to include use as follows:

A1(2)(b): Commercial office space on the ground floor of Building 5 but not with street frontage, as well as commercial office space above the ground floor of Building 5.

Resolution: Condition is considered to address issue.

5.3.5 Modification of floor space

Issue: Applicant sought to amend condition A1(1) to allow for the reallocation of retail and commercial floor space that would occur if proposed ground floor commercial component for Building 5 was approved by DIPNR (See part 5.3.4)

Raised by: DIPNR

Consideration: The original proposal approved 46 003m² of commercial and 7434m² of retail for the entire site (Buildings 5, 6 and 7). The SOPA Master Plan proposes indicative commercial and retail floor space and an assessment of this floor space was carried out during the assessment of the original DA 80-4-2004. The original proposal was slightly below this indicative figure and this amendment does not seek more cumulative floor space.

The proposed reduction in retail floor space for building 5 is 2619m² and increase to commercial space is 1535m². Reallocation of this floor space is considered to be negligible and is supported.

Resolution: Condition A1 (1) is amended to reflect this change in GFA.

5.3.6 Modification to allow SOPA to extend business/delivery operating hours

Issue: Applicant sought to amend condition G5 to allow SOPA greater ability to extend business and delivery hours.

Raised by: DIPNR

Consideration: DIPNR informed the applicant that any condition that sought to increase the operating hours on a consent would not be delegated and would require consent of the Minister.

DIPNR also conveyed that DIPNR would be unlikely to support an increase in the operating hours of retail tenancies that did not have defined tenants.

DIPNR informed the applicant that the consent may be modified to allow greater clarity to the proposed operating hours. Applicant informed DIPNR in writing on 16 August 2005 that they no longer intend to amend condition G5 in the manner proposed however accepted that clarity of hours could be included in modification.

Condition G5 (b) added:

Commercial – Sites 5, 6 and 7 (excluding deliveries)

The hours of operation shall be restricted to between:

Day	Day	Night - provided no audible noise above 3dB at site boundary.
Monday to Friday	7am to 7pm	7pm to 7am
Saturday and Sunday	7am to 7pm	7pm to 7am

c) Deliveries and Dispatches

All deliveries and dispatches are to be conducted between 7am and 6pm Monday to Friday and 7am to 1pm Saturdays and Sundays 7am to 11am. Extension of hours of operation and deliveries and dispatches as identified above are permitted for both special events and business operations on the site with the written approval of SOPA.

Resolution: New condition G5 (b) is considered to address issue.

6 CONCLUSION

The Minister for Planning is consent authority for modifications to consents he has granted.

The proposed development as modified is considered to be substantially the same development as that originally approved.

The application has been considered with regard to the matters raised in section 79C of the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development as modified is acceptable and should be approved.

7 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was asked to comment on the draft conditions of consent on 22 August 2005. The applicant responded on 23 August and their comments have been incorporated into the conditions.

8 DELEGATION

Under the instrument of delegation dated 4 August 2003, the Minister has delegated to Team Leaders and officers holding a higher position his functions under Section 96(1A) of the Act relating to modifying development consents except where they relate to designated development or development that is declared to be State Significant development (other than under SEPP 56).

Having regard to the Urban Assessments Guidelines for Delegates, it is considered appropriate that the application be determined under delegation by a Team Leader.

9 RECOMMENDATION

It is recommended that the Minister for Planning pursuant to Sections 81 and 96(1A) of the *Environmental Planning and Assessment Act, 1979* and clause 122 (2) of the *Environmental Planning and Assessment Regulations, 2000*:

- (A) **approve** the application subject to conditions (tagged “A”), and
- (B) authorise the Department to carry out notification of determination of the application to modify the consent.

For Approval Under delegation

Prepared by:

Endorsed by

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(Determined as Delegate of the Minister
for Planning)**