

Strategic Sites and Urban Renewal, Urban Assessments

Planning Assessment Report

Application to Modify Development Consent

MOD 54-6-2007 modifying DA 80-4-2004

1 SUMMARY

This report is an assessment of the proposed modification of development number MOD 54-6-2007 modifying DA 80-4-2004 under section 96(1A) of the Act lodged by Applicant Bovis Lend Lease, on 20 June 2007.

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

The site is located at site 6 and 7 Dawn Fraser Avenue, Sydney Olympic Park.

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

Under the instrument of delegation dated 5 April 2006, the application can be determined by the Executive Director, Strategic Sites and Urban Renewal.

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

1.1 Relevant approvals / modifications:

DA 80-4-2004

DA 80-4 -2004 was determined by the Minister Assisting the Minister for Infrastructure and Planning on 27 January 2005 and approved the following development:

- Subdivision of land into four (4) separate parcels (3 lots for the proposed buildings and one separate lot for the creation of the existing Stockroute Park into one lot);
- Construction of three retail/commercial office buildings over sites 5, 6, and 7. The approval included 46,003m² (GFA) of office space, and 7,434m² GFA of retail area spread out over the three buildings (total GFA is 53,437m²);
- Associated basement parking including a total of 892 retail/ commercial car spaces across buildings 5, 6 & 7 and 239 public car parking spaces for building 6 & 7.
- Landscaping and public improvement works.

MOD 95-7-2005

Modification number MOD 95-7-2005 was approved by the Acting Team Leader on 26 August, 2005. The modification included a range of building alterations to Building No. 5, and also sought to extend the delivery and dispatch hours from the approved hours of 7am to 6pm Monday to Friday, 7am to 1pm on Saturdays, and 7am and 11am on Sundays, to amended hours of 7am to 7pm seven days a week.

MOD 151-9-2005

Modification number MOD 151-9-2005, was approved by the Acting Deputy Director-General on 1 December, 2005. The modification included a further range of amendments to Building 5 including an atrium and balconies at the western end of the building and the provision of a

recessed glazed element between the wings with two sliding door openings to Marshall Road, and reconfiguration of the basement.

MOD 86-7-2006

Modification number MOD 86-7-2006 was approved by the Executive Director on 29 March, 2007. The modification included an increase of two storeys to the height of buildings 6 and 7, an increase to the basement car park size, an increase in site coverage, addition of two 5.2 metre wide double height aerial pedestrian bridges between buildings 6 and 7 and associated amendments to building 6 and 7.

MOD 151-12-2006

Modification number MOD 151-12-2006 was approved by the Executive Director on 10 May 2007. MOD 151-12-2006 included an increase to the maximum retail tenancy area 'first use' approvals from 120m² to 260m² for Building 5, allowing the Pavilion to be used by a single retail tenant, and an extension to the approved operating hours for retail tenancies for the overall development from the originally proposed hours which were limited to 11pm, to allow trading until 1am seven days a week.

MOD141-12-2006

Modification number MOD141-12-2006 was approved by the Executive Director on 5 June 2007. The approved modification included a range of minor design and façade changes to building 5 and the Pavilion building. The changes include an extension of 4.6m² to the ground floor, modification to some materials, changes to doors, allowances and amendments for services and facilities etc.

2 THE PROPOSED MODIFICATIONS

The applicant is seeking to modify Building 7 as shown in Plans at **Tag B** and as follows:

- Infill the voids facing Australia Avenue on levels 2, 4 and 6 of Building 7, resulting in an increase in net lettable area and gross floor area of approximately 135.2m²
- The incorporation of 'mixed mode spaces' designed as informal areas for staff member's to relax away from their place of work. The façade glass is to become operable to these spaces.

3 STATUTORY FRAMEWORK

3.1 Statement of permissibility

The site is situated in Sydney Olympic Park and is subject to the controls of *Sydney Regional Environmental Plan No. 24 – Homebush Bay Area* (SREP 24) and the Sydney Olympic Park Master Plan 2002.

Clause 11 of SREP 24 states that development of land within the Homebush Bay Area may be carried out for any purpose that the consent authority considers to be consistent with any one or more of the planning objectives for the Homebush Bay Area set out in Clause 12.

The development for the purpose of a commercial development is permissible with the Minister's consent because the proposal is considered to be consistent with the objectives detailed in SREP 24.

3.2 Instrument of consent and other relevant planning instruments

See Section 79C assessment in Section 5.2 and as attached (**Tag C**) and the relevant instruments are listed in Section 3.3 below.

3.3 Legislative context

- *Sydney Olympic Park Act, 2001;*
- *Sydney Regional Environmental Plan No. 24 – Homebush Bay Area;* and
- *Sydney Olympic Park Master Plan 2002.*

4 CONSULTATION / PUBLIC EXHIBITION

The proposal is a Section 96(1A) application of minimal environmental impact. Accordingly, there was no requirement for exhibition or for notification of the proposal to adjoining landowners under the relevant provisions of Auburn Council's DCP for Notification and the *Environmental Planning and Assessment Regulations, 2000*. Nonetheless, the Sydney Olympic Park Authority (SOPA) was invited to provide comment on the proposal.

SOPA had no objection to the infilling of the void spaces however raised the following issues:

- Any increase in floor space should not increase the net lettable area (NLA) of the building but be offset elsewhere for a use other than commercial office space.
- Mixed mode spaces for staff amenity and break out space would fulfil this requirement however the plans submitted do not include adequate detail to confirm that an area equivalent to the increased floor area will be allocated for mixed mode spaces.
- Concern was expressed that the pedestrian bridge between buildings 6 and 7, and shown on the floor plan for building 7, level 6 (Drawing No A710600 Issue 03) indicates a width of 5.8m. A previous modification of consent approved a maximum width of 5.2m for the pedestrian bridges.

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). The Sydney Olympic Park Master Plan (SOPA Master Plan) was adopted by the Minister for Planning on 31 May 2002. It is considered that the proposed development complies with the aims and objectives of the Master Plan.

Relevant issues requiring further consideration are addressed below:

5.3 'Mixed Mode Spaces' for Staff Amenity

The Draft Master Plan provides a numeric threshold for commercial floor space for the entire Town Centre precinct. As the threshold applies across sites 2 – 8 any increase of commercial floor space on one site potentially impacts the permissible commercial floor space on other sites in that Precinct.

The proposed infilling of the voids in Building 7, as indicated on the floor plans, provides an increase of floor space of approximately 135m². It is noted that the infilled voids are wholly internal and will have little impact on the building as originally approved.

Any increase in floor space in the application under consideration should not result in an increase in the commercial office space (NLA).

This view is supported by SOPA in consideration of a previous modification which permitted the GFA for sites 6 and 7 to exceed the originally approved GFA by 12,064 sq m and exceed the NLA by 7,293sqm.

An agreed alternative use for the increased floor area would be space(s) within the building that would provide for staff amenity. The plans submitted indicate one very small mixed mode space within building 7 (approximately 27m²).

Amended plans have been submitted indicating further mixed mode spaces for buildings 6 and 7 however the areas and locations of the mixed mode spaces have yet to be finalized. The applicant is of the view that these will exceed the floor area previously nominated as voids.'

A condition of consent is recommended, requiring mixed mode spaces of a minimum 135m² within the internal fitout of buildings 6 and 7 (see condition of consent No. B2A).

5.4 Pedestrian bridge

Modification of the width of the two approved aerial pedestrian footbridges between buildings 6 and 7 was not proposed as part of this application. However the floor plan submitted for building 7 level 06 (drawing No. A710600 issue 03) indicates an aerial pedestrian bridge of approximately 5.8m wide i.e. 0.6m wider than the approval.

The two aerial pedestrian footbridges were original proposed under MOD 86-7-2006 to be 7.2m wide and were finally approved at 5.2 m wide.

At that time SOPA was concerned about visual impact and overshadowing from the proposed double storey pedestrian bridges. SOPA was of the view that, as footbridges only and not commercial space, a maximum of 3.5m wide would be adequate.

Schedule 1 of the approval documents for MOD 86-7-2006 indicates that 'two 5.2 metre wide double storey aerial pedestrian bridges between building 6 and 7 at levels 2/3 and 6/7 respectively' were approved.

In commenting on this proposal under assessment SOPA expressed concern about the indicated 5.8m width of the pedestrian bridge. Bovis Lend Lease has submitted further section details indicating an internal width of 5.2m between internal sills, no finished dimension has been provided (see **Tag D**). It is evident that a finished dimension greater than 5.2m is intended.

It is considered that the existing consent permits two 5.2m wide bridges and that this dimension is a total external finished dimension for the bridges.

In view of the apparent confusion which has arisen over the width of the aerial pedestrian footbridges it is recommended that a condition of consent be included which clarifies that the maximum external width permitted is 5.2 metres. Condition No.B2B has been included in this regard.

5.5 Car Parking Provision

In consideration of the proposed increase in gross floor area it is appropriate that the adequacy of the number of car parking spaces to be provided be reviewed.

It is noted that the Master Plan for the Town Centre Precinct has a commercial development limit for car parking of 10,000 spaces for that precinct. The previously modification (MOD 86-7-2006) approved an additional 9,838m² of GFA, comprising an increase in commercial GFA by 14,439m² and a decrease in retail GFA of 4,601m² from what was originally approved. In response to the significant increase in GFA the number of parking spaces was increased by 90 spaces to a total of 1,221 in buildings 5, 6 and 7.

The proposed floor area increase of 135.2m² will not increase the capacity of the office building as it will all be 'mixed mode spaces' for staff amenity and relaxation and not additional commercial office space. As such it is considered that the existing car parking provision for this site is adequate and no increase is required.

6 CONCLUSION

The Minister for Planning or his delegate 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 and S96 of the Act.

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 11 September 2007. The applicant does not agree with the proposed bridge width condition as they are of the view that the internal approved dimension is 5.2 metres. A close review of the file and the consents issued for this DA do not support this view.

An email from Lendlease dated 10 October indicates they are accepting of the external bridge width of 5.2m. On this basis, the conditions of consent recommended.

8 DELEGATION

Under the instrument of delegation dated 5 April, 2006, the Minister has delegated to Executive Director, Strategic Sites and Urban Renewal his functions under Section 96(1a) of the Act relating to modifying development consents, such as that proposed.

9 RECOMMENDATION

It is recommended that the Executive Director, Strategic Sites and Urban Renewal in accordance with the Instrument of Delegation issued by the Minister for Planning, on 5 April, 2006, pursuant to Section 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.

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