



NSW GOVERNMENT
Department of Planning

***Commercial Office Building
Site 8A Murray Rose Avenue,
Sydney Olympic Park
Proposed by Watpac Developments Pty Ltd***

***Modification of Conditions B1(1), B1(3),
B11, B12, E1, F13(4) and (6)
MP06-0175 Mod 1***

Modification of Minister's Approval
Section 75W of the
Environmental Planning and Assessment Act 1979

October 2008

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1. INTRODUCTION

On 19 August 2008, Hassell Ltd (the Proponent) lodged an application to modify MP06_0175 (TAG B) pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ("the Act"). The Proponent is seeking to modify Conditions B1(1), B1(3), B11, B12, E1, and F13(4) and (6) of MP 06_0175.

These modifications essentially seek to delete conditions imposed requiring a reduction in the level of stacked parking and overall parking on the site and relocation of the Energy Australia Substation. In addition minor amendments are also proposed to several other conditions.

2. ORIGINAL APPLICATION

On 26 May 2008, the Minister approved the construction of a 6 storey commercial building development comprising of basement parking, ground floor retail space, and commercial offices at Site 8A, Murray Rose Avenue, Sydney Olympic Park (Lot 1021 & Lot 1023, DP 875723). The site is owned by the Sydney Olympic Park Authority and is located within the Town Centre Precinct of Olympic Park on the corner of Australia Avenue and Murray Rose Avenue. The site comprises a total area of 1395m². A copy of the original approval is at TAG C.

Specifically the approved development comprises:

- 5 levels of commercial office space with a net lettable area of approximately 5,774m²;
- 2 retail units (665m²) and a café and lobby at ground floor facing onto Murray Rose Avenue;
- 2 basement car park levels and at grade car parking spaces to the rear providing a total of 101 vehicle spaces and 31 bicycle spaces;
- 4 business identification signs located on the buildings facades and at ground level; and
- Removal of 6 street trees and retention of 5 street trees.

The original project cost of the development was \$19.3 million and is expected to create 50 full time and 500 part time equivalent construction jobs and 10 full time equivalent operational jobs. Fees were paid for the assessment of the Major Project based on the capital investment value (CIV) of the project.

Issues considered in the assessment of MP06_0175 included:

- Sydney Olympic Park Master Plan 2002;
- Built Form, Urban Design and Landscaping;
- Traffic, Access and Parking;
- Sustainability;
- Overshadowing; and
- Contamination and Remediation

These issues were either addressed by way of additional documentation lodged by the Proponent or via conditions of approval.

3. DESCRIPTION OF PROPOSED MODIFICATION

On 19 August 2008, Hassell Ltd (the Proponent) submitted to the Director-General a request for modification of the approved building to permit the following changes:

- Modification to Condition B1(1) (a) to have this condition deleted in order to allow 28 spaces of stacked parking to be accommodated in the basement levels parking.
- Modification to Condition B1(3) to have this condition deleted in order to comply with the location criteria for substations as prescribed in 'NS113 Site Selection and Construction Design Requirements for Chamber Stations (Energy Australia, December 2007).
- Modification to Condition B11 to have this condition amended in order to increase the total number of car spaces to 119 (12 at grade, 105 basement and 2 disabled spaces), and not to provide a breakdown of the number of spaces allocated by the developments use (commercial/retail).
- Modification to Condition B12 to have this condition amended to ensure clarity of the condition accepted in the Director General's Major Project Assessment Report (April 2008) to allow the 31 bicycle spaces both on and adjacent to the subject site.

- Modification to Condition E1 to have this condition amended to ensure that the restriction be applied to stacked parking spaces only, in order to allow the remaining on-site car spaces to be leased or transferred to the owner or occupier of another building (off-site).
- Modification to condition F13(4) and (6) to have condition F13(4) amended to alter the wording of the signage from 'Temporary' to 'Short Term' to ensure greater certainty as to the use of the loading bay and to delete condition F13(6) so that visitor car parking spaces are not required on the development site.

4. STATUTORY CONTEXT

Modification of a Minister's approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *revoking or varying a condition of the approval or imposing an additional condition of the approval*.

The Minister's approval for the modification is required as conditions are proposed to be varied, which is consistent with the definition under clause 75W of the Environmental Planning and Assessment Act 1979.

Environmental assessment requirements (DGRs)

In this instance, it was not considered necessary to notify the Proponent of environmental assessment requirements pursuant to Section 75W (3) with respect to the proposed modifications as sufficient information was provided to the Department to consider the application.

Notification of the modification to Council was not required as the proposed modification is minor, will be consistent with the existing approval granted under Part 3A, and relates to specific conditions recommended by the Department.

CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request for a modification of an approval does not require public exhibition. However, under Section 75X(2)(f) of the Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with Clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website.

The Department has notified and consulted SOPA on the details of the subject application.

5. CONSIDERATION OF PROPOSED MODIFICATIONS

CAR PARKING

Stacked Parking

Condition B1(1) - Design Modifications and Plans

(1) In order to reduce the extent of stacked car parking and ensure that designated loading areas are provided on site, the car park design is to be amended as follows:

- (a) Delete 16 stacked car spaces from the basement levels to a maximum number of stacked spaces at basement levels of 12.
- (b) Delete a further 4 car spaces at grade to designate car spaces 13-16 as a loading area suitable for accommodating Small Rigid Vehicles.
- (c) Provide a restricted 20m loading bay alongside the building for Large Rigid Vehicles within the rear service lane.

Details shall be submitted to and approved by the Department prior to the issue of a Construction Certificate.

Condition B1(1) (a) of the approval specifies that a maximum number of 12 stacked car spaces are permitted as part of the developments parking plan. The stacked parking concept was developed by the Proponent in consultation with SOPA and is a response to the constrained dimensions of the site.

The RTA's previous comments on the PPR (including the Parking Management Plan) did not support the extent of stacked parking proposed for the development and was one of the reasons for imposition of the condition. The RTA expressed concerns that A.S. 2890.1 -2004 does not recognise stacked parking as an acceptable arrangement for car parking facilities and that the scale of stacked parking proposed for the subject development (25% of the total parking provision) was not favoured for safety and efficiency reasons. Further, the management of the amount of stacked parking is impractical as there is no control over the size of the tenancy and the number of employees which increases the likelihood of vehicles being blocked and that is likely to create an undesirable precedent for future developments in Sydney Olympic Park and the wider Sydney Region.

The current approval permits a maximum of 12 stacked car parking spaces for the site which was considered to be the maximum reasonable amount to allow management of these spaces. The proposed modification to delete condition B1(1) (a) would permit a maximum number of 28 stacked parking spaces as applied for in the PPR at the basement levels of the development site.

The proponent has developed a revised Parking Management and Operations Plan (**tag D**). The revised Plan sets out measures to address the management of stacked parking within the development. The RTA advised the proponent in writing (**tag E**) that it considers the Parking Management and Operations Plan is satisfactory subject to it being conditioned within the lease arrangements for each tenancy and the establishment of an appropriate system to ensure compliance with the Plan.

The proponent has also claimed that AS 2890.1-2004 does not provide any guidance on the provision/management of stacked parking and that there are no specific guidelines and controls relating to stacked parking in NSW. Also, that a significant precedent of stack parking already exists in key commercial centres such as Sydney CBD, North Sydney and Parramatta.

The modification to delete condition B1(1) (a) will increase the amount of stacked parking permitted in the development site. The condition, currently allows for a maximum number of 12 stacked parking spaces. The Parking Management and Operation Plan prepared by the Proponent (including 28 stacked parking spaces at the basement levels of the development site) was agreed by the RTA on the basis that:

1. The principles of the Parking Management and Operation Plan being conditioned within the lease arrangements and documents for each tenancy.
2. The owner of the site establishing a system to ensure compliance with the Parking Management and Operation Plan.

Given the above reasons, and the fact that the RTA is now satisfied, the proposed modification to condition B1(1) (a) is satisfactory.

Number of Car Spaces

Condition B11 – Number of Car Spaces

The maximum number of car spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

CAR PARK ALLOCATION	NUMBER
Retail car parking spaces (at Grade)	12
Commercial Spaces	89
Inclusive of commercial disabled spaces	2
Inclusive of commercial visitor car spaces	6
TOTAL CAR SPACES	101

Condition B11 of the approval requires the reduction of car parking spaces on the site from 121 to 101, a loss of 20 spaces. The modification seeks to amend condition B11 in order to permit 117 car spaces in line with the request to increase stacked parking spaces and delete the requirement for a breakdown of the number of spaces allocated for visitor parking and the commercial and retail uses.

The Sydney Olympic Park Master Plan 2002 establishes a maximum car parking ratio for commercial buildings within Sydney Olympic Park of 1 space per 55m², equating to a maximum of 133 car spaces. The draft Sydney Olympic Park Master Plan 2030 maintains this maximum ratio and also states that sites within 800m of Sydney Olympic Park Railway Station must have a minimum car parking ratio of 1 space per 80m² equating with a minimum of 91 spaces on the site. The increase in stacked parking to a total of 117 car spaces would comply with the numerical controls.

The requirement for visitor parking was imposed as it was considered necessary for a commercial building and this was reinforced by the RTA's initial advice, with a visitor parking rate of between 2-5% (6 spaces) determined to be appropriate. However, given that the RTA is satisfied with the proponents revised Parking Management Operation Plan (which does not provide for any on-site visitor parking spaces) that there is no requirement for visitor parking under the Sydney Olympic Park Master Plan 2002, and the close proximity of the site to alternative car parking facilities, an amendment to delete the need for visitor spaces in this instance is considered appropriate.

However, the requirement to specify the breakdown of spaces allocated for commercial and retail use is considered necessary in order to ensure a sufficient allocation of parking spaces for each use. An appropriate allocation of retail parking spaces should be set at a minimum of 1 car parking space per tenancy which is indicated as 8 in the Parking Management and Operations Plan.

Given the above reasons the proposed modification to condition B11 to permit 117 car spaces and to delete the requirement for a minimum number of visitor spaces is satisfactory.

The proposed modification to delete the requirement for a minimum number of retail spaces is not satisfactory and not supported. The number has been amended from 12 to 8 to reflect the requirement for 1 space per tenancy.

Parking Restrictions

Condition E1 – Car Parking Restrictions

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- (a) Restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919,
- (b) Restriction on use to all lots comprising in part or whole car parking spaces in any subsequent strata subdivision of the building, and

(c) Sign visible at exits (excluding fire stairs and individual unit entries) from car parking areas.

These requirements are to be made to the satisfaction of SOPA. All costs associated with the above requirements are to be borne solely by the Proponent.

Condition E1 of the Approval requires that on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of the subject building.

The modification seeks that this restriction be applied to stacked parking spaces only, in order to allow the remaining spaces to be transferred to owners / occupiers of other buildings (off-site).

The Condition is a standard condition imposed by the Department and was also requested by SOPA to allow for a restrictive covenant to be placed on the use of car parks that ensures that they are for the exclusive use of the tenants of the building. This is due to the nature of the precinct, and helps to ensure that during a Major Event SOPA is able to effectively manage traffic and access issues.

The deletion of the condition could result in the owner of the building leasing spaces to other building owners / occupiers and could impact on both the operational requirements of the building and for SOPA during major events.

It is also undesirable as it may result in insufficient parking being available for building users (ie; less than the minimum requirement of the draft Sydney Olympic Park Master Plan 2030).

Given the above reasons the proposed modification to condition E1 is not satisfactory.

Loading bay signage and visitor parking requirements

Condition F13 - Parking and Traffic Management

- (1) The recommendations of the Parking Management Plan must be complied with by all tenants occupying the premises and included in all leasing information to prospective tenants. In this regard, the stacked car parking spaces shall be allocated/designated to specific tenancies in the basement and the at grade spaces and each pair of stacked spaces must be allocated to a single tenancy.*
- (2) An operational traffic and parking management plan is required to be submitted to the PCA, prior to the issue of the Occupation Certificate.*
- (3) The proposed access controlled boom gate in the service lane at the site 8A end is to be included in a future management plan. The final location needs to be determined in consultation with relevant authorities.*
- (4) A 20m signposted TEMPORARY loading bay is to be provided within the rear service lane to the east of the car spaces adjacent to the rear building wall.*
- (5) A loading area for SRVs (small rigid vehicles) is to be designated off the rear service lane in spaces 14 and 16;*
- (6) 6 visitor car parking spaces are to be designated on site.*
- (7) A 2.5m clearance height is required to the accessible spaces within the basement level 1.*

Condition F13 requires all tenants occupying the premises to comply with the recommendations of the Parking Management Plan for the development and specifies a number of conditions to manage traffic movements and servicing arrangements for the site. The modification is seeking to amend Conditions F13(4) regarding loading bay signage and F13(6) visitor car parking requirements.

The current approval refers to the loading bay at the rear of the building as 'temporary', it is intended that the loading bay will service the building permanently and form part of the vehicular access way when not in use. To avoid confusion, the proponent has recommended that the signage should refer to a short term loading bay and therefore that condition F13(4) be amended to have the word 'TEMPORARY' replaced with 'SHORT TERM'. The proposed modification will provide clarity to the condition and does not impose any detrimental environmental impacts and is supported by SOPA.

Given the above reasons the proposed modification to condition F13(4) is satisfactory.

The current approval provides for 6 visitor car parking spaces to be designated on the site. The modification is seeking to have the condition deleted as there is no requirement under the Sydney Olympic Park Master Plan 2002 for visitor car parking on site and due to the significant supply of car parking facilities in close proximity to site 8A.

As previously discussed the deletion of the requirement for visitor parking is acceptable and supported. Therefore condition F13(6) will be deleted.

SUBSTATION

Australia Avenue Frontage

Condition B1(3) - Design modifications and Plans

- (3) *The Australia Avenue building frontage at ground level shall consist entirely of retail use. The ground floor layout is to be amended as follows:*
- (a) *Reconfigure the ground floor layout to revise the location of the ground floor Substation;*
 - (b) *Extend the retail space along the frontage of Australia Avenue.*
 - (c) *Extend the canopy to the north-eastern corner of the Australia Avenue frontage above the additional retail space.*

Condition B1(3) of the Approval requires that the Australia Avenue building frontage at ground level shall consist entirely of retail use and requests the relocation of the proposed substation (from the ground floor north east corner of the building) to allow for retail uses to continue along the entire length of Australia Avenue. In order to satisfy the 'NS113 Site Selection and Construction Design Requirements for Chamber Substations' it is necessary that the substation is located in a position that provides access 24 hours 7 days a week from a public area.

The current approval however, does not permit the substation to be located on the ground level of Australia Avenue (street frontage) the ideal location for the substation in order to satisfy NS113 access requirements.

The modification requests that condition B1(3) of the project approval be deleted so that the substation can be located in the north east corner of the building along Australia Avenue as specified in the proponents PPR. The location of the substation was determined in consultation with SOPA and Energy Australia and complies with criteria 'NS113' as it provides access 24 hours 7 days a week from a public area. As part of the modification application, the proponent has provided a copy of a letter from Energy Australia (**tag F**) which details the access and location requirements that highlight the Australia Avenue site as the most suitable for the substation.

In addition, the service lane to the rear of the building (a possible alternative site of the substation) will be used for loading activities with access outside business hours and be controlled by a boom gate, and may not have the capacity to meet Energy Australia's access requirements (as per Energy Australia's letter **tag F**). Also, the majority of the street frontage along Australia Ave (almost 92%) will remain active.

Given the above reasons the proposed modification to condition B1 (3) is satisfactory.

Bicycle Parking

Condition B12 - Number of Bicycle Spaces

A minimum of 31 bicycle spaces are to be provided on the subject site for the development. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Condition B12 of the Approval requires a minimum of 31 bicycle spaces to be provided on the subject site for the development. In order to ensure clarity of the condition, consistent with the development plans submitted with the application the proponent seeks to distribute the 31 bicycle spaces between the second basement level and along Murray Rose Avenue footpath to the west of the main entrance of building.

The current approval however, specifies that a minimum of 31 bicycle spaces are to be provided on the subject site and would preclude the bicycle spaces provided adjacent to the site such as those proposed along the footpath of Murray Rose Avenue.

The proponent has requested that the condition is reworded to allow bicycle spaces both on and adjacent to the subject site, that will include the 10 spaces along Murray Rose Avenue as illustrated in drawing PSA7515-0100-M submitted with the Part 3a application. The approval complies with the bicycle parking requirements of the Sydney Olympic Park Master Plan 2002 (1 space per 500m² of GFA) which requires a minimum of 15 spaces. SOPA are supportive of the amount and location of bicycle parking facilities provided in the application.

Given the above reasons the proposed modification to condition B12 is satisfactory.

8. MODIFICATION TO CONDITIONS OF APPROVAL

The Department recommends that conditions of approval apply to the proposed modifications. These are included at TAG A.

9. CONCLUSION

The proposed modifications are minor in detail and do not result in significant changes to the overall design and appearance nor to the conditions of the development as approved.

It is considered that the proposal, as modified, still achieves the same objectives as assessed for the originally approved under Major Project 06_0175 and does not alter the overall nature, need or justification of the approved project.

10. DELEGATION

Under the instrument of delegation dated 7 June 2007, the Minister has delegated his functions under Section 75W of the Act relating to modifying Part 3A approvals to the Executive Director Strategic Sites and Urban Renewal.

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

11. RECOMMENDATION

It is recommended that the Executive Director Strategic Sites and Urban Renewal, as delegate of the Minister for Planning:

- (A) consider the findings and recommendations of this report;
- (B) approve the modification, subject to conditions, under Section 75W of the *Environmental Planning and Assessment Act, 1979*; and
- (C) sign the attached Instrument of Modification (TAG A).

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