

8 Australia Ave, Sydney Olympic Park
Application for Modification of Minister’s Approval (MP06-0175)
Under Section 75w of the EP&A Act 1979 (MOD 3)

Prepared by Watpac Developments
 November 2009



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01 INTRODUCTION

This report accompanies an application to modify MP06_0175 pursuant to Section 75w of the Environmental Planning and Assessment Act 1979 (the Act).

The Minister for Planning approved Major Project No. 06_0175 on 26 May 2008 for a commercial office building on Site 8A at the corner of Murray Rose and Australia Avenues, Sydney Olympic Park.

Subsequent Section 75w approvals, MOD 1 was granted on 24 October 2008 and MOD 2 was granted on 6 April 2009.

This application seeks to modify the Project Approval, MOD 1 and MOD 2 to amend the conditions relating to car parking restrictions to building tenants and / or occupants of this development.

This request for modification application (MOD 3) has been lodged 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.

02 CONDITIONS FRO AMENDMENT

2.1 AMENDMENT OF E1

Condition E1 of the original approval reads:

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:

- 1. Restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919,*
- 2. Restriction on use to all lots comprising in part or whole car parking spaces in any subsequent strata subdivision of the building, and*
- 3. 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.

We respectfully seek to amend E1 to remove the reference to occupants and tenants of the subject building.

The proposed amended wording for Condition E1 is:

Condition E1

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of businesses or individuals currently residing in Sydney Olympic Park. 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 businesses or individuals currently residing in Sydney Olympic Park.

These requirements are to be enforced through the following:

- 1. Restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919,*
- 2. Restriction on use to all lots comprising in part or whole car parking spaces in any subsequent subdivision of the building, and*
- 3. 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.

Site 8A is approved as a commercial building with ancillary retail uses on the ground floor only, and includes a car park allocation of approximately 1 space per 50m² of building area. Current tenants / occupants have not taken the full car space allocation as approved, leaving surplus car spaces within the building. The car spaces generate revenue and are an important component of the overall commercial viability of this development. In consultation with Sydney Olympic Park Authority (SOPA), it has been

agreed in principle to allow car spaces to be let to occupants and / or tenants of businesses or individuals currently residing in Sydney Olympic Park.

Therefore, condition E1 should be amended so as not to restrict the car spaces within the building to solely occupants and / or tenants of the subject building only.

02 CONDITIONS FOR AMENDMENT (Continued)

2.2 AMENDMENT OF F14

Condition F14 of the original approval reads:

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:

- 1. Restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919,*
- 2. Restriction on use to all lots comprising in part or whole car parking spaces in any subsequent strata subdivision of the building, and*
- 3. 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.

We respectfully seek to amend F14 to remove the reference to occupants and tenants of the subject building.

The proposed amended wording for Condition F14 is:

Condition F14

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of businesses or individuals currently residing in Sydney Olympic Park. 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 businesses or individuals currently residing in Sydney Olympic Park.

These requirements are to be enforced through the following:

- 1. Restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919,*
- 2. Restriction on use to all lots comprising in part or whole car parking spaces in any subsequent subdivision of the building, and*
- 3. 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.

Site 8A is approved as a commercial building with ancillary retail uses on the ground floor only, and includes a car park allocation of approximately 1 space per 50m² of building area. Current tenants / occupants have not taken the full car space allocation as approved, leaving surplus car spaces within the building. The car spaces generate revenue and are an important component of the overall commercial viability of this development. In consultation with Sydney Olympic Park Authority (SOPA), it has been

agreed in principle to allow car spaces to be let to occupants and / or tenants of businesses or individuals currently residing in Sydney Olympic Park.

Therefore, condition E1 should be amended so as not to restrict the car spaces within the building to solely occupants and / or tenants of the subject building only.

03 ENVIRONMENTAL ASSESSMENT

The proposed modifications do not impose any detrimental environmental impacts on the surrounding environment and are considered minimal if any. The modifications are requested to ensure the efficient facilitation of development already approved.

The documentation included in support of the original Environmental Assessment application (October 2007) has been prepared for a development with the attributes displayed in the development as sought in this Modifications Application. We submit to the Department of Planning that there will not be any environmental impacts that will require additional assessment.

04 CONCLUSION

It is considered that the proposal, as modified, still achieves the same objectives as the originally approved Major Project 06_0175 and does not alter the overall nature, need or justification of the proposal. The amendments to the car parking restrictions are necessary amendments to the conditioned approval.

It is therefore submitted that the Minister grants approval to this Section 75w application (MOD 3) and amend the development consent in the manner requested.

APPENDIX A

Letter from SOPA (27 October 2009)



Sydney Olympic Park Authority, 7 Figtree Drive, Sydney Olympic Park NSW 2127

27 October 2009

Mr Grant Price
Senior Development Manager
Watpac Developments Pty Ltd
Suite 1602, Level 16
15 Castlereagh Street
Sydney NSW 2000

Via email

Dear Grant,

Site 8A Sydney Olympic Park

We refer to your letter of 26 October 2009 regarding the sub-leasing of parking bays by tenants of site 8A.

Whilst the Long Term Lease contemplates an arrangement where this can occur under the stewardship of SOPA, the consent conditions do not permit sub-leasing of car spaces. To overcome this, a modification of consent (s.75W) would need to be successful in modifying/removing condition E1.

Upon successful achievement of the application to modify SOPA would grant consent to your proposal subject to the following:

- I. that the sub-leasing will require SOPA consent, and
- II. SOPA will require that spaces are sub-let to businesses or individuals currently residing in the Park, and
- III. that the spaces will not be placed on the open market.

Should you require any further information please do not hesitate to contact Steve Jensen.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Nick Hubble".

Nick Hubble
General Manager, Commercial and Corporate