



**Planning &
Environment**

***MODIFICATION REQUEST:
Global Switch Data Centre
273 Pyrmont Street, ULTIMO
(MP 08_0222 MOD 4)***

***Modification to Condition B5 (b) – Public
Domain Plan***



Secretary's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

June 2014

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1.1 The Site

This report provides an assessment of a section 75W modification application, lodged by M&W Cockram Joint Venture on behalf of Global Switch Property (Australia) Pty Ltd, seeking to modify the project approval (MP 08_0222) for the construction of a six-storey data centre building and three basement levels. The modification (MOD 4) seeks approval to re-word Condition B5 (b) – Public Domain Plan, to allow partial occupation of Stage 1 of the building prior the completion of the approved Stage 1 public domain works.

The site is located at 273 Pyrmont Street, Ultimo within the City of Sydney Local Government Area. The site is bound to the north by the Western Distributor, to the east by Pyrmont Street and to the south by Quarry Street. The site adjoins the existing Global Switch Sydney data centre at 400 Harris Street (see **Figure 1**). The Western Distributor partially traverses the northern end of the site, where the approved service yard is to be constructed.



Figure 1: Aerial view of the subject site in context of the existing Global Switch Sydney 1.

1.2 Previous Approvals

Major Project MP08_0222

On 16 November 2010, the then Deputy Director-General, Development Assessment and Systems Performance approved a Project Application (MP08_0222) for a purpose built, six storey data centre building comprising:

- 22,285sqm of technical area and 15,227sqm of plant area;
- a total of 12 at-grade car parking spaces on the northern boundary of the site with vehicular access directly off Pyrmont Street; and
- landscaping, street upgrade works and building identification signage.

Major Project MP08_0222 (MOD 1)

On 1 December 2010, the then Director of Government Lands and Social Projects, approved a modification to Project Application MP08_0222 to:

- amend the 'Land' description of the subject site.

Major Project MP08_0222 (MOD 2)

On 15 March 2012 the then A/Director, Metropolitan & Regional Projects South approved a modification to Project Application MP08_0222 for:

- deletion of two basement levels;
- introduction of staged construction (two stages) and progressive occupancy provisions; and
- minor changes to approved layout and building areas including to reduce the gross floor space of the technical areas and plant areas to 18,75sqm and 7,615sqm, respectively.

Major Project MP08_0222 (MOD 3)

On 3 September 2013, the then Director of Industry, Key Sites and Social Projects approved a modification to Project Application MP08_0222 for:

- minor changes to the approved layout and internal floor levels;
- modifications to the basement footprint;
- an increase to overall gross floor area by 757m to 18,932sqm;
- widening of the entry vehicle gate off Pyrmont Street to the loading bay; and
- staged construction changed from two stages to three stages.

2. PROPOSED MODIFICATION

2.1 Modification Description

On 1 May 2014, M&W Cockram Joint Venture on behalf of Global Switch Property (Australia) Pty Ltd submitted a request to modify the project approval seeking to re-word Condition B5 (b), to allow Global Switch to partially occupy Stage 1 of the new Global Switch East building under an Interim Occupation Certificate, prior the completion of the Stage 1 Public Domain Works.

The proposed wording of Condition B5 is as follows (changes shown ~~struck through~~ and in **bold**):

B5 Public Domain

- (b) The Public Domain Plan must be prepared in accordance with City of Sydney's Public Domain Manual and the Ultimo Pyrmont Public Domain Manual. The works to the public domain are to be completed in accordance with the approved plan before any ~~Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier~~ **the Final Occupation Certificate is issued in respect of the development.**

2.2 Justification for Modification

The proponent has advised that the Stage 1 public domain works have commenced but due to programme delays, including weather and various authority approvals (i.e pending Ausgrid approval), the public domain works may not be completed before the scheduled occupation of Stage 1 of the new Global Switch East building. Therefore, to ensure that the scheduled occupation is not delayed in its entirety, Condition B5(b) is sought to be amended to allow the issue of an Interim Occupation Certificate for Stage 1, prior the completion of the Stage 1 public domain works.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify the Project Approval

In accordance with Clause 3 of Schedule 6A of the EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6, continues to apply to transitional Part 3A projects.

Consequently this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or delegate) may approve or disapprove the modification of the project under Section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

Section 75W (2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project, as modified, would be consistent with the original approval. As the proposed modification seeks to amend Condition B5 (b), the modification will require the Minister's approval.

3.3 Secretary's Environmental Assessment Requirements

Section 75 (2) of the EP&A Act provides the Secretary with scope to issue Environmental Assessment Requirements (SEARs) that must be complied with before the matter will be considered by the Minister. SEARs were not issued for this modification as the proponent has addressed the key issues related to the modification request.

3.4 Delegated Authority

Under the instrument of delegation dated 14 September 2011, the Minister's function to determine applications under section 75W of the EP&A Act has been delegated to the Director, Industry, Key Sites and Social Projects where:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

As City of Sydney Council did not object, a political donation disclosure has not been made, and no public submissions were received, the Director, Industry, Key Sites and Social Projects, may determine the modification request under delegated authority.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under Section 75X (2) (f) of the EP&A Act, the Secretary is required to make the modification request publicly available, the modification request was made available on the department's website. The department also notified the City of Sydney Council (council) for comment.

4.2 Submission from Council

Council raised no objection to the proposed modification, though raised concerns regarding:

- the proposed wording of Condition B5 (b) not being specific enough to ensure that the Stage 1 public domain works are completed; and
- the importance of site safety measures to ensure the occupants safety when using the alternate public access route via 400 Harris Street.

4.3 Public Submissions

No submissions were received from the public.

5. ASSESSMENT

5.1 Completion of Stage 1 Public Domain Works

The department notes that the intention of Condition B5 (b) is to ensure that the approved public domain works are completed by restricting the occupation of the new Global Switch East building. However, due to unforeseen delays to the Stage 1 public domain works the proponent seeks to re-word Condition B5 (b) so that the scheduled occupation of the Global Switch East building is not delayed in its entirety.

Whilst the department has no issue in principal with the request, the department shares council's concern that the proposed wording of Condition B5 (b) does not bind the proponent to completing the relevant public domain works to each specific stage of the project. Therefore, to ensure the intention of Condition B5 (b) is upheld the department recommends that the approved staged public domain works are completed as follows:

- the Stage 1 public domain works are to be completed prior to the issue of any Occupation Certificate for Stage 2 of the building; and
- the Stage 2 and Stage 3 public domain works are to be completed prior to the issue of any Occupation Certificate for Stage 3 of the building.

Subject to Condition B5 (b) reflecting the timing recommended above, the department supports the proponent's request and is satisfied that the public domain works will be completed in a timely manner.

5.2 Public Access

If the proposal is approved, public access from Pymont Street to Stage 1 of the Global Switch East building will be restricted due to the construction of the Stage 1 public domain (see **Figure 2**). Therefore, the proponent is proposing an alternate access route from 400 Harris Street via an approved internal link between the existing Global Switch West building and the partially constructed Global Switch East building (See **Figure 3**).

The department concurs with council's comment regarding the importance of implementing site safety measures to ensure the safety of the Stage 1 occupants using the alternate access route through the partially constructed Global Switch East building. However, the department is satisfied that appropriate site safety measures will be implemented prior the partial occupation of Stage 1 of Global Switch East as an Interim Occupation Certificate cannot be issued unless the partially built building is suitable for occupation in accordance with its classification under the Building Code of Australia.

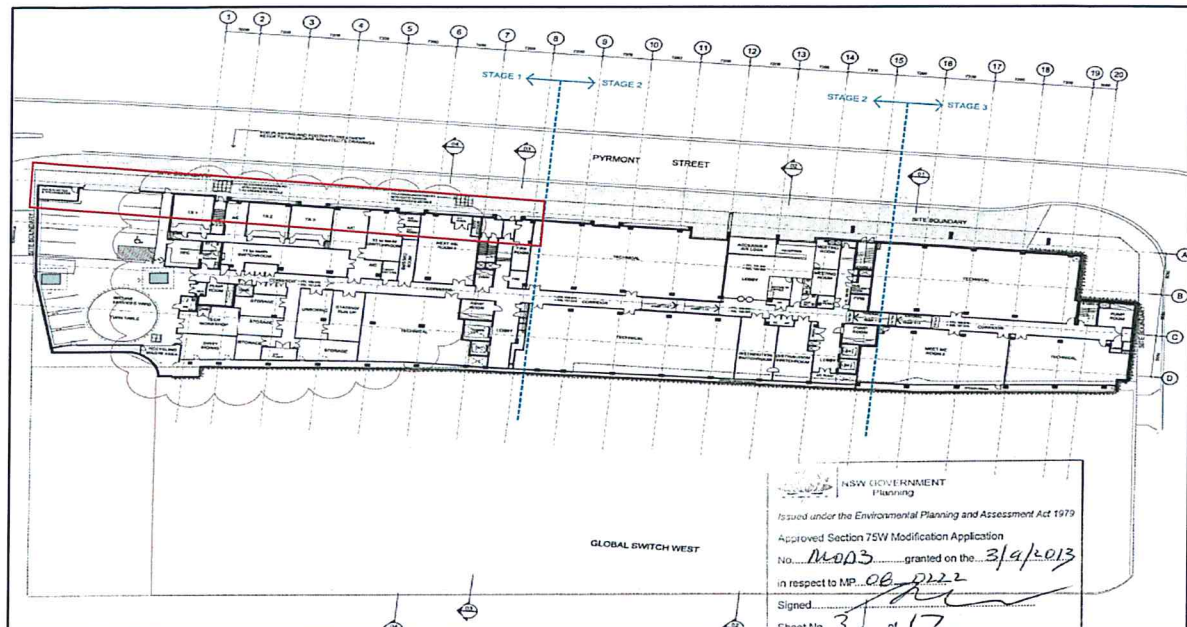


Figure 2: Location of Approved Stage 1 Public Domain Works

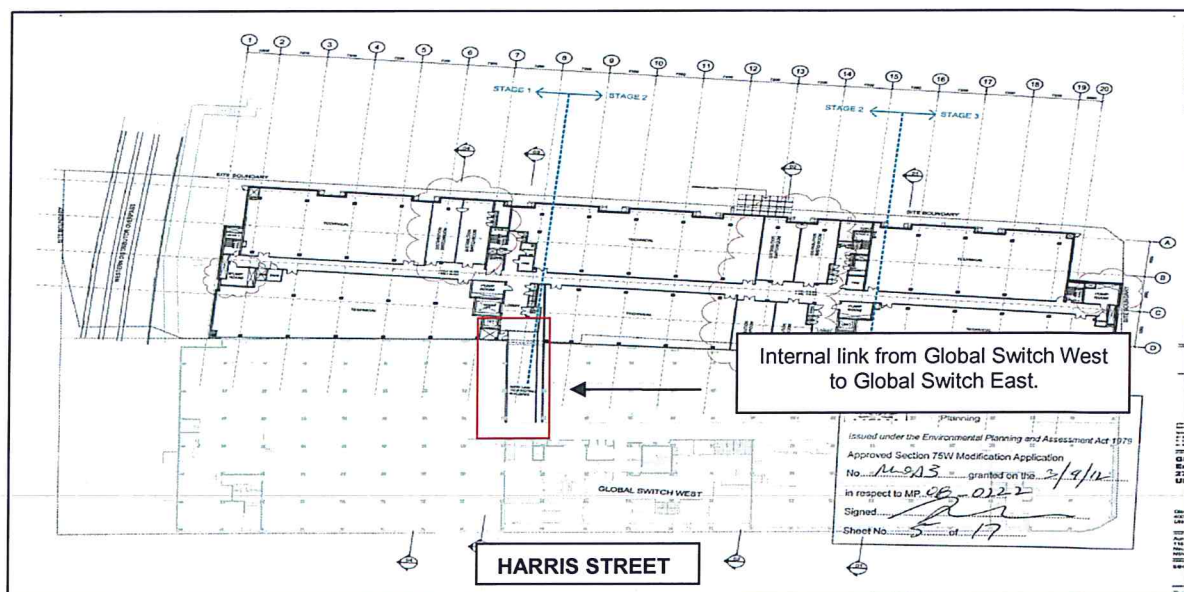


Figure 3: Approved Internal Link from Global Switch West to Global Switch East

6. CONCLUSION

The department has considered the proposed modification to the project approval for MP 08_0222 (as modified), and the key issues associated with this modification. The department is satisfied that the modification is necessary to support the practical completion of the project and critically will not remove the proponent's obligation to complete the public domain works.

In addition, the department considers that the existing conditions will be adequate to ensure the amenity and function of the surrounding area during the delayed construction the Stage 1 public domain works.

It is therefore recommended that the modification application be approved, as outlined in the recommend Instrument of Modification.

7. RECOMMENDATION

It is recommended that the Director, Industry, Key Sites & Social Projects:

- a) Consider the findings and recommendations of this report;
- b) Approved the modification under section 75W of the EP&A Act; and
- c) Sign the attached Instrument of Modification (Tag A).

Endorsed by:



12/6/14

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Endorsed by:



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APPENDIX A MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6514

APPENDIX B SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6514

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT