



CB/AC
15756
11 April 2017

Carolyn McNally
Secretary
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Brendon Roberts

Dear Mr Roberts

**SECTION 96(1A) MODIFICATION APPLICATION - SSD7317
AUSTRALIAN TECHNOLOGY PARK, EVELEIGH**

On behalf of Mirvac Projects Pty Ltd (Mircac), we hereby submit an application pursuant to section 96(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify development consent SSD 7317, which relates to the development of a commercial campus at the Australian Technology Park, Eveleigh.

The purpose of this modification application is to seek a minor administrative change to the timings for fulfilling Condition B53 to ensure that the construction programme for the development proceeds in a timely and efficient manner.

This application identifies the consent, describes the proposed modification and provides a planning assessment of the relevant matters for consideration contained in section 96(1A) of 79C(1) of the EP&A Act.

1.0 CONSENT PROPOSED TO BE MODIFIED

Development consent (SSD 7317) was granted by the Planning Assessment Commission on 20 December 2016 for:

- Commercial campus at the Australian Technology park, including:
 - site preparation works, site clearance, excavation and remediation;
 - construction of three mixed use buildings with a total gross floor area (GFA) of 107,427m² comprising:
 - o Building 1 for commercial/ office, retail and child care uses (GFA of 46,830m²/ height of nine storeys);
 - o Building 2 for commercial/ office and retail uses (GFA of 56,686m²/ height of seven storeys);
 - o Building 3 for retail, gym, child care, community office and commercial uses (GFA of 3,911m²/ height of four storeys).
 - car and bicycle parking;
 - landscaping, road and public domain works; and
 - building identification signage zones.

This consent has not been previously modified.

2.0 PROPOSED MODIFICATIONS TO CONSENT

2.1 Modifications to Conditions

The proposed amendments are set out below. Words proposed to be deleted are shown in ~~bold strike~~ through and words to be inserted are shown in ***bold italics***.

B53 Landscaping and Public Domain

Prior to the issue of the first Construction Certificate for above ground works, an Arborist report shall be prepared, in conjunction with Council, by an appropriately qualified Arborist including an assessment of the age, health, condition and significance of individual trees and recommendations for retention, relocation or removal. The report shall provide details of measures to ensure the health of relocated trees and protection measures for all trees to be retained/ relocated during construction.

Landscape and Public Domain Plan

- a) A detailed landscape and public domain plan, drawn to scale, by a qualified landscape architect or landscape designer, must be prepared in consultation with Council and the Heritage Council and approved by the Secretary prior to the issue of the ~~first~~ Construction Certificate for ~~above ground building works~~ ***the Public Domain Area 1 - stage 2 landscaping (above finished level)***. The plan must reference the industrial character of the precinct, and be generally in accordance with Council's 'Public Domain Manual', and include.....*condition continued...*
- ~~d) All landscaping and public domain works in the approved plan are to be completed prior to any Occupation Certificate being issued (unless an appropriate bond is secured to cover the cost of the outstanding landscaping).~~
- d) ***Landscaping and public domain works in the approved plan are to be completed on a staged basis prior to the issue of the Occupation Certificate for each building (unless an appropriate bond is secured to cover the cost of the outstanding landscaping for the relevant public domain area). Staging is as follows:***
 - (i) ***Public Domain Area 1 will be completed prior to the issue of the Occupation Certificate for Building 1.***
 - (ii) ***Public Domain Area 2 will be completed prior to the issue of the Occupation Certificate for Building 2.***

2.2 Justification

Condition B53

The first Construction Certificate for above ground works will not include works that will impact upon any of the landscaped or public domain areas that will be the subject of the detailed landscape and public domain plan referred to in Condition B53. In order for the first stage of above ground works to commence as programmed, we request that the requirement for the detailed landscape and public domain plan be deferred as proposed.

Mirvac remains committed to providing a world class precinct with high quality public domain and landscaped areas. The deferral of the requirement for a detailed landscape and public domain plan to be prepared and approved prior to the issue of the construction certificate for the Public Domain Area 1 – Stage 2 Landscaping (above finished level), will simply bring the timing more in line with the Construction Certificate pertaining to those particular works and enable sufficient time to consult with Council and the Heritage Council on the detailed design of the public domain.

In addition, the proposed landscaping and public domain works are proposed to be completed in two stages. The proposed amendment to part (d) of Condition B53 is therefore sought to specifically clarify the relationship between the different two stages of the landscaping and public domain works and Occupation Certificate for each building.

3.0 SUBSTANTIALLY THE SAME DEVELOPMENT

The power to amend a development consent is found in section 96 of the EP&A Act. Section 96 is an independent facilitative power that is separate to the grant of a development consent. Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if:

- (a) *it is satisfied that the proposed modification is of **minimal environmental impact**, and*
- (b) *it is satisfied that the development to which the consent as modified relates is **substantially the same development** as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

(emphasis added)

The proposed modification will result in a development that is substantially the same as the development for which consent was granted and is of minimal environmental impact as:

- the proposed amendments do not seek to modify the approved use or building envelopes;
- the amendments are administrative in nature and do not seek to affect the intent of the original conditions; and
- the environmental impacts of the modified development remain substantially the same as the approved development as outlined below.

4.0 ENVIRONMENTAL ASSESSMENT

Section 96(3) of the EP&A Act requires the consent authority to take into consideration such of the matters referred to in Section 79C(1) as are of relevance to the development, the subject of the application. The EIS submitted with the original DA addressed the following environmental impacts:

- Consistency with relevant legislation, Strategic and Statutory Plans;
- Built form and design quality;
- Public Domain and urban design;
- Transport, traffic and access;
- Aboriginal and European heritage;
- Accessibility;
- Noise and vibration;
- Civil infrastructure and utilities;
- Railway infrastructure;
- Operational waste management;
- Geotechnical implications;
- Contamination;
- Wind impacts;
- Reflectivity;
- BCA and Fire Safety;
- Social and economic impact;
- Crime prevention and public safety;
- Environmental and construction management;
- Ecologically sustainable development;

- Development contributions;
- Site suitability; and
- Public interest.

The planning assessment of the proposed modified development generally remains unchanged with respect to the above matters. The following matters however warrant further assessment.

4.1 Public Domain and urban design

Mirvac remain committed to delivering a world class technology focussed employment precinct at ATP, which is integrated with a high quality public domain.

The proposed minor amendments to the consent do not affect the design or quality of the public domain, but simply establish a more reasonable strategy and timeframe for delivering the public domain.

5.0 CONCLUSION

The proposed modifications to Condition B53 will more closely align with the construction programme and ensure the development proceeds in a timely and efficient manner. The changes are administrative in nature and continue to ensure the outcomes and public benefits secured through the project are achieved.

Therefore in accordance with section 96(1A) of the EP&A Act, the Minister or his delegate may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or cburdett@jbaurban.com.au.

Yours faithfully



Claire Burdett
Principal Planner