

25 January 2018

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

Attention: Brendon Roberts

SECTION 96(1A) APPLICATION TO SSDA 7317 – AUSTRALIAN TECHNOLOGY PARK, EVELEIGH
CONSTRUCTION OF BASE STRUCTURE FOR TRAVELATOR

Dear Mr Roberts,

This application has been prepared by Ethos Urban on behalf of Mirvac Projects Pty Ltd (Mircac), pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This application proposes 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 request is to seek approval for the construction of a concrete base structure beneath Locomotive Street to house a travelator that will connect Bay 4 of the Locomotive Workshop to the lower ground floor of Building 2.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 79C(1) of the EP&A Act. Accordingly, this application is accompanied by the following documents:

- Architectural plans (**Attachment A**):
 - SA-AR-DWG-BB-B\$-D410 and SA-AR-DWG-BB-B4-0411, prepared by Sissons Architects, dated 12 September 2017; and
 - General Arrangement Plans Lower Ground – Commercial Layout (fjmt-AR-DWG-BB-B2-300L), prepared by FJMT, dated 10 October 2017
- Structural Assessment letter, prepared by Enstruct, dated 15 September 2017 (**Attachment B**);
- Structural Design Letter, prepared by Arcadis, dated 22 January 2018 (**Attachment C**);
- Building Code of Australia Assessment Statement, prepared by Advance Building Approvals, dated 25 October 2017 (**Attachment D**); and
- Fire Safety Assessment, prepared by ARUP, dated 12 September 2017 (**Attachment E**).

1.0 Background

1.1 Consent Proposed to be modified

Development consent (SSD 7317) was granted by the Planning Assessment Commission on 20 December 2016 for a 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:
 - Building 1 for commercial/ office, retail and child care uses (GFA of 46,830m²/ height of nine storeys);
 - Building 2 for commercial/ office and retail uses (GFA of 56,686m²/ height of seven storeys);
 - 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.

1.2 Previous modification applications

Since the original approval was issued, there have been several applications seeking to amend the original development. These include:

- Modification 1 which sought changes Condition B53. This modification was approved on 26 June 2017;
- Modification 2 which sought changes to signage zones on Building 1, lower ground floor layout reconfiguration of Building 2 and amendments to Conditions B4 and B8. This modification was approved on 22 August 2017;
- Modification 3 which sought amendments to the design of Building 3 (the community building); and
- Modification 4 which sought approval for the placement of mechanical exhausts, flues, vents and photovoltaics on top of the roof of Building 1 and amendments to the wording of Condition A14 accordingly. This modification was approved on 20 October 2017.

1.3 Locomotive Workshop State Significant Development Applications

The redevelopment and adaptive re-use of the Locomotive Workshop at the Australian Technology Park was originally intended to be part of SSDA 7317. However due to the sensitivity of the heritage significance of the building, Mirvac decided to seek approval for the works to the Locomotive Workshop as separate applications.

Accordingly, two State Significant Development Applications (SSDA 8449 and 8517) relating to the Locomotive Workshop were submitted the Department of Planning and Environment on 13th November 2017. They were placed on public exhibition until 16th December 2016 and Mirvac and it's consultant team are currently preparing the Response to Submissions reports.

SSDA 8449 relates to the adaptive reuse and redevelopment of the western portion of the Locomotive Workshop (being Bays 5-13 and Bay 15) and seeks consent for:

- demolition of existing modern infill fit-out elements to Bays 5-13, Bay 15 and two annex structures;
- adaptive re-use of Bays 5-13, Bay 15 and two annex structures for commercial premises uses and light industrial floorspace;
- construction of internal and external alterations to Bays 5-13, Bay 15 and to the two annex structures and roof; a maximum of 27,237 sqm GFA for commercial premises uses within Bays 5-15 and the two annex structures;
- on-street car parking and loading and servicing bays;
- public domain improvements; and
- associated utilities and infrastructure.

SSDA 8517 relates to the eastern portion of the Locomotive Workshop being Bays 1-4a and seeks approval for the following:

- demolition of existing 'modern' infill fit-out elements to Bays 3-4a, including display barriers in Bays 1 & 2;
- adaptive reuse of the Bays 1-4a and two annex structures for a mix of retail premises uses, function centre uses, information and education facility uses, general industrial uses, recreation facility (indoor) uses and associated back of house facilities;
- construction of internal and external alterations to Bays 1-4a;
- construction of a travelator between the Locomotive Workshop and Building 2;
- establishment of maximum quantum of 11,358m² GFA to be provided within Bays 1-4a;
- relocation of moveable heritage items;
- heritage interpretation and conservation works;
- public domain improvements within the curtilage of Bays 1-4a;
- provision of an external building illumination system;
- signage; and
- associated utilities and infrastructure.

In determining the original land-use concepts and arranging the spaces and uses within the Locomotive Workshop into a logical sequence, extensive research and analysis of the existing and future Eveleigh demographic was undertaken. In line with Mirvac's desire to truly activate the ATP precinct, break the business park atmosphere and draw people to appreciate the significance of its heritage as well as provide the necessary facilities to service the future workers and visitors in Buildings 1, 2 and 3 and the surrounding local residential population, it was determined that a critical mass of retail floorspace was needed and this was not going to be provided by the development currently being constructed under SSDA 7317. Mirvac therefore determined that the Locomotive Workshop provided the best opportunity to deliver this 'critical mass' whilst creating a unique and significant point of difference in the market.

Critical factors of success were then researched, and as justified in SSDA 8517, it was determined that in order to generate a significant and frequent visitation, a key established anchor and everyday offer such as a supermarket, would be fundamental to attracting other speciality retailers, including food and beverage type retailers and bespoke maker/seller operations. One of the identified critical success factors in establishing a contemporary retail offer at the Locomotive Workshop, was the need to provide connected car parking to the retail offer within the Locomotive Workshop. Accordingly, given the heritage constraints of the Locomotive Workshop, it was determined that the following strategy would be adopted:

- Mirvac would allocate car parking spaces at the lower ground floor level of Building 2 for use by visitors of the ATP and the Locomotive Workshop;
- Mirvac would enable 230 car spaces currently provided within the Channel 7 Building for use by Mirvac and visitors to the ATP precinct to be utilised by the tenants of Buildings 1 and 2; and
- Mirvac would seek to connect the Locomotive Workshop to the lower ground car parking level in Building 2 through the provision of a travelator.

Whilst SSDA 8517 seeks approval for the construction of the travelator between Bays 4 within the Locomotive Workshop, beneath Locomotive Street to Building 2 to provide direct, all weather internal pedestrian access between the two buildings, Mirvac are seeking to modify consent of SSD 7317 to enable the concrete shell that will house the travelator to be constructed at the same time Mirvac are undertaking the public domain works within Locomotive Street.

It is more logical to excavate and install the shell in the ground beneath Locomotive Street, fill the hole around it and complete the surface treatment works to Locomotive Street than include the shell as part of another DA and have to take up the road and undertake the public domain works a second time.

2.0 Proposed modifications to SSDA 7317

The proposed modifications to SSDA 7317 are detailed in **Table 1**:

Table 1 – Proposed Modifications

Proposal	Driver for Change
Construction of an 8.25m wide concrete base structure beneath Locomotive Street.	To enable the concrete shell that will ultimately house the travelator to be constructed in sequence with other works to Locomotive Street.
Provision of an 8.25m wide opening in the northern wall of Building 2 at lower ground floor.	To enable the future connection between the base structure and the travelator.
Reduction of 3 parking spaces in the lower ground floor carpark of Building 2.	To provide sufficient space within the car park layout to provide access to the future travelator.
Amendments to the Plan details in Conditions A2.	To ensure the condition is updated appropriately and corresponds to the amendments.

The proposed carpark layout and base structure of the travelator are illustrated in the Architectural Drawings prepared by Scissons and FJMT (**Attachment A**).

The concrete base structure will be located beneath Locomotive Street and will connect to the lower ground floor level of Building 2 of Pt Lot 4007 in DP1194309 being the northern site boundary of SSD 7317. The end of the concrete base structure will be capped until the travelator is approved in SSDA 8517 and construction works commence.

It is noted that the full extent of the travelator forms part of the SSDA 8517 for the adaptive reuse of Bays 1-4a of the Locomotive Workshops.

1.1 Modification to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~**bold-strike through**~~ and words to be inserted are shown in ***bold italics***.

Condition A2

The Applicant shall carry out the project generally in accordance with the:

- State significant development and conditions of consent (SSD 7317);
- Environmental Impact Statement (EIS) prepared by JBA Urban Planning Consultants Pty Ltd, dated December 2015;
- The Remedial Action Plan entitled 'Australian Technology Park Remedial Action Plan, 2 Locomotive Street, Eveleigh NSW dated 15 June 2016 and prepared by JBS&G;
- The Site Audit Report entitled 'Site Audit Report- Remedial Action Plan for Australian Technology Park dated June 2016 and prepared by Graeme Nyland of Ramboll Environ Australia Pty Ltd;
- Response to Submissions (RtS) and Amended Proposal prepared by JBA Urban Planning Consultants Pty Ltd, dated May 2016;
- Additional information submitted subsequent to the RtS;
- The Section 96(1A) modification application SSD 7317 Mod 1, prepared by JBA Urban Planning Consultants Pty Ltd, dated 11 April 2017 and response to submissions dated 29 May 2017;

- h) The Section 96(1A) modification application SSD 7317 Mod 2, prepared by JBA Urban Planning Consultants Pty Ltd, dated 20 April 2017, response to submissions dated 19 June 2017 and correspondence from Ethos Urban dated 7 August 2017;
- i) The Section 96(1A) modification application SSD 7317 Mod 4, prepared by Ethos Urban Pty Ltd, dated 31 August 2017, correspondence from FJMT Architecture dated 11 October 2017 and correspondence from Ethos Urban dated 13 October 2017 and 17 October;
- j) The Section 96(1A) modification application SSD 7317 MOD 4, prepared by Ethos Urban Pty Ltd, dated 25 August 2017, response to submissions dated 6 October 2017 and additional information dated 30 October 2017 and 23 November 2017;
- k) **The Section 96(1A) modification application SSD 7317 Mod 5, prepared by Ethos Urban Pty Ltd, dated 26 October 2017;**
- l) Following drawings as set out in the table below, except for:
 - i) Any modifications which are Exempt or Complying Development;
 - ii) otherwise provided by the conditions of this consent.

Architectural (or Design) Drawings prepared by FJMT and Sissons

Building 2

Drawing No.	Rev	Name of Plan	Date
Fjmt-AR-DRG-BB-B2-300L	PA	General Arrangement Plans Lower Ground – Commercial Layout	19/07/17 10/10/17
SA-AR-DWG-BB-B4-0410	A	Building 2 – Travelator B2/B3 Link	12/09/2017
SA-AR-DWG-BB-B4-0411	A	Building 2 – Travelator Plan & Sections	12/09/2017

3.0 Substantially the same development

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if “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)”.

Whilst there is no hard and fast rule when it comes to determining what constitutes ‘substantially the same development’ the ‘substantially the same test’ has been considered and approved through various cases within the Land & Environment Court.

The applied phrasing as described in *Moto Projects (No2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280, requires the consent authority to undertake both quantitative and qualitative analysis:

“The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved.... Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including circumstances in which the development consent was granted)”.

Further *Moto Projects Pty Ltd v North Sydney [1999] NSWLEC 280* established the following key principles when considering what constitutes a modification:

- The verb “modify” means to alter without radical transformation.
- “Substantially” in this context means essentially or materially or having the same essence.
- A development as modified would not necessarily be “substantially the same development” simply because it is precisely the same use as that for which consent was originally granted.
- A modification application involves undertaking both a qualitative and quantitative comparison of the development as originally approved and modified.
- Although the comparative task required under Section 96 involve a comparison of the whole development being compared, that fact does not eclipse if a particular feature of the development, particularly if that feature is found to be important material or essential to the development.

With the above in mind, the development, as proposed to be modified, is substantially the same development as the development for which consent was originally granted as:

- the proposed amendments do not seek to substantially modify the approved use or building envelopes;
- the modified development retains the same design and development parameters as approved;
- the amendment to Condition A2 is administrative in nature and does not seek to materially affect the intent of the original condition;
- the environmental impacts of the modified development remain substantially the same as the approved development as outlined below; and
- the proposed modifications do not give rise to any new matters/ areas of non-compliance and are of minimal environmental impact.

4.0 Planning 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 relevant matters that require specific detailed assessment in relation to the modification application are further discussed below.

4.1 Built Form

The proposed works seek to provide an 8.25m wide opening in the vertical retaining wall of Building 2 at the lower ground floor level. The opening will be used (if the travelator proposed in SSD 8517 is approved) to house a pedestrian tunnel and travelator that provide a direct connection between Building 2 and Bay 4 of the Locomotive Workshop. The embellishment of the concrete base structure will be undertaken as part of the works proposed within SSDA 8517, however, the concrete base structure that is sought to be constructed under this application will be fully enclosed. The proposed works will not be visible from the public domain and will not adversely impact on the approved built form of Building 2 or the site levels approved for Locomotive Street. Refer to **Figure 1**.

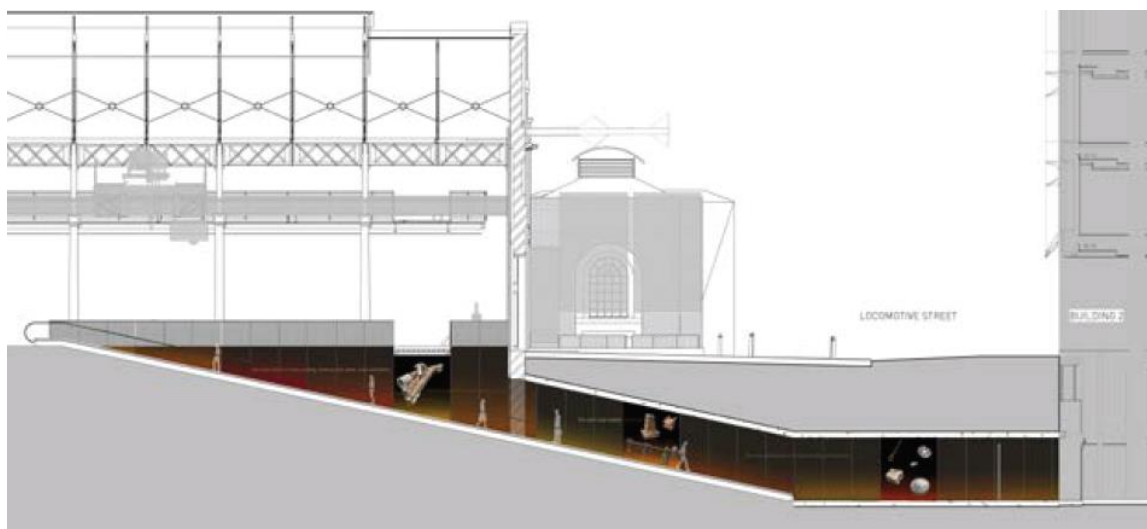


Figure 1 - Proposed travelator connecting Building 2 to Bay 4 forms part of SSDA8517

4.2 Impact on the Public Easement

The concrete base structure will be located below ground level, therefore there will be no impact on the public easement that resides over Lot 4007 in DP1194309. Accordingly, the proposed works will not impact upon the terms of the Public Access Easement.

4.3 Heritage Impact

Under the NSW State Heritage Register and the Australian Technology Park S170 Heritage and Conservation Register, the ATP campus, along with North Eveleigh west precinct, Carriageworks, South Eveleigh precinct and the Operational Rail precinct is included under the Eveleigh Railway Workshops listing on the State Heritage Register.

The proposed concrete structure will be located at lower ground floor level of Building 2 and will not be visible from the Locomotive Workshops or directly connect with or impact on the Locomotive Workshops or any other element that is considered to have a high level of heritage significance. Therefore, it is considered the proposed works would not have an adverse impact on the heritage significance of the Eveleigh Railway Workshops, the Locomotive Workshop or any other heritage item within the vicinity of the proposed works.

4.4 Aboriginal Archaeology

The Heritage Impact Statement prepared by Curio Projects in support of SSD 7317 found that the risks of finding in-situ Aboriginal archaeological sites and/or objects during the proposed site preparation works and subsequent construction program across Lots 8, 9 and 10 - are considered to be nil-low due to the previous high levels of disturbances, including the high levels of cutting and filling across the site which has resulted in removing the majority of the natural soil profiles from the site – in which Aboriginal objects and sites would be found. Therefore, the demolition and excavation works identified for this modification are unlikely to have any impact on Aboriginal objects or sites.

Furthermore, within the Heritage Impact Statement prepared in support of SSDA 8517, Curio Projects confirm that no additional Aboriginal archaeological assessments or excavations were identified as having been recently undertaken in the area of the ATP and the risk of finding in-situ Aboriginal archaeological sites are considered to be low-nil. It is considered unlikely that the works would impact on any Aboriginal Archaeology.

However, in the event that an unexpected archaeological resource be found, then works would cease in the immediate area and Mirvac's archaeologist contacted for advice, in the first instance. Depending on the nature of the find and its confirmation as an Aboriginal object, then the relevant regulatory authorities would be contacted for further advice, including the Office of Environment and Heritage, and the Department of Planning and Environment.

4.5 European Archaeology

The Heritage Impact Statement prepared by Curio Projects in support of SSD 7317 found that there are very few proposed impacts across the site that have the potential to impact on possible archaeological 'relics' of local or state significance. The assessment of historical archaeological potential contained in the CMP (GML:2013) and reassessment of the potential for historical archaeological relics to be impacted upon as part of the proposed redevelopment of the site by Mirvac has concluded that the majority of the site has been subject to cutting down and major impacts from the construction of the actual historic railway yards themselves and in more recent times, as a result of construction of four new buildings, therefore the risk of impact is low.

Within the Heritage Impact Statement in SSDA 8517, Curio Projects confirmed it is considered unlikely that European Archaeology would be found. Should an unexpected archaeological resource be found, then there is a requirement to cease works in the immediate area and report the discovery of the unexpected archaeological find to the relevant authority (NSW Heritage Division or OEH).

Should archaeological relics, associated with the earlier uses of the site be unexpectedly discovered during the works program, an historical archaeologist will be contacted for advice, in the first instance, and works should cease in the immediate vicinity of the discovery until further archaeological advice has been provided.

4.6 Structural Assessment

A Structural assessment letter has been prepared by Enstruct (**Attachment B**) to assess the impact of the proposed opening in Building 2. The letter noted that the impact on the Building 2 structure, due to the opening required in the pile wall, is minor and can be accommodated by the addition of a new lintel beam over the opening to support the vertical load of the piled wall. The new lintel beam will be designed to meet the requirements of the BCA, Australian Standards and sound engineering judgement.

A Structural Design Letter has also been prepared by Arcadis (**Attachment C**) to assess the structural requirements for the concrete base structure beneath Locomotive Street. Arcadis note that the proposed structure consists of shoring walls extending from the existing shoring line of Building 2 under the perimeter wall and into the Locomotive Workshops. The proposed shoring walls consist of 600mm diameter piles at 2 metre centres embedded into rock below the tunnel floor level. A 180mm thick shotcrete wall is to span between the piles to provide support to the soil beyond.

Arcadis has proposed an excavation and temporary works procedure to ensure that all existing in-ground services will be supported during and after the installation of the tunnel. Arcadis has also proposed a works procedure to reduce the excavation required and minimise the impact on Locomotive Street.

The proposal is considered to be structurally sound considering the opening of the pile wall is minor and the new lintel beam will meet BCA requirements. Furthermore, the excavation and temporary works procedure will ensure excavation and impact to Locomotive Street is minimised, therefore the proposed works are considered acceptable.

4.7 Access and Building Code of Australia

A Building Code of Australia Assessment Statement has been prepared by Advance Building Approvals (**Appendix D**). The proposed opening to the lower ground level will be protected with fire rated doors or similar, therefore under BCA 2016, Building 2 still will be considered as a separate building and the provision of new opening, which opens to the concrete shell, will not impact on it.

Advance Building Approvals consider that the proposed building works are capable of complying with the provisions of the Building Code of Australia 2016, subject to the resolution of items noted including departures from the “deemed to satisfy” requirements for which Alternate Solutions are proposed.

The non-compliances will be addressed prior to the issue of the Construction Certificate. Detailed construction drawings will be provided at Construction Certificate application stage, demonstrating compliance with the BCA.

4.8 Fire Safety

The connection between Building 2 and the Locomotive Workshop will be fully enclosed and is being designed under the scope of the Locomotive Workshop design team and fire engineer.

Notwithstanding this, ARUP have prepared a fire safety statement (**Appendix E**) and reviewed the plans. ARUP are of the view that a satisfactory level of life safety to Building 2 occupants can be maintained by providing an active fire separation system (located approximately in line with the basement concrete structural wall) to separate Building 2 and the connection in the event of a fire. The method of fire separation will also accommodate egress provisions from the internal travelator connection.

ARUP consider that a combination of Deemed to Satisfy compliance and performance based fire engineering can be used to demonstrate compliance with the Performance Requirements of the BCA without major changes to the current design. We therefore believe that there are no significant issues that would affect the building design arising from fire safety

4.9 Parking

Three car parking spaces are proposed to be removed to facilitate access to the new travelator connection and provide access through the car spaces to the doorway. The number of car parking spaces therefore remain consistent with Condition B8 of SSD 7317.

5.0 Conclusion

The proposed modification seeks approval for the construction of a concrete base structure beneath Locomotive Street to facilitate a travelator (subject to SSDA 8517) and amendments to the plan details in Condition A2.

In accordance with Section 96(1A) of the EP&A Act, the Department may modify the consent 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.

Yours sincerely,



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