

27 November 2019

2190140

Mr Jim Betts
Secretary
Department of Planning, Industry and Environment
320 Pitt Street
SYDNEY NSW 2000

Attention: Amy Watson (Team Leader, Key Sites Assessments)

Dear Amy,

**SECTION 4.55(1A) MODIFICATION APPLICATION
BAYS 5-15, LOCOMOTIVE WORKSHOPS, SOUTH EVELEIGH (SSD 8449)**

This application has been prepared by Ethos Urban on behalf of Mirvac Projects Pty Ltd (Mircac), pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 8449 relating to Bays 5-15 of the Locomotive Workshop, South Eveleigh (the site).

The modification relates to amendments to the Conditions of Consent (Part B & E). Amendments to Part B are required to ensure that replacement glass panels in the heritage arched windows do not adversely impact on the heritage aesthetic of the Locomotive Workshop. Amendments to Part E are required to enable the issuing of staged Occupation Certificates, to enable the timely completion and commencement of commercial uses in Bays 5-15 of the Locomotive Workshop.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 4.55(1A) of the EP&A Act. This application is accompanied by Heritage Advice prepared by Curio Projects (**Attachment A**).

1.0 Consent Proposed to be Modified

Development Consent SSD 8517 and SSD 8499 were granted by the Independent Planning Commission (IPC) on 22 February 2019 for the adaptive reuse of the existing Locomotive Workshop in the Australian Technology Park (ATP).

SSD 8517 relates to the adaptive reuse of Locomotive Workshop (Bays 1-4a), including:

- a maximum of 11,607m² GFA for uses including retail premises, function centre, educational establishment, information and education facility, artisan food and drink industry, general industrial (retention of the Blacksmith) and recreation facility (indoor);
- a loading dock and travelator;
- associated heritage conservation works; and
- public domain works, external illumination and signage.

SSD 8449, which is the subject of this modification application, relates to the adaptive reuse of Locomotive Workshop (Bays 5-15), including:

- a maximum of 27,458m² GFA for commercial premises including 156m² for retail uses;
- associated heritage conservation works; and
- external illumination and signage.

To date, three (3) modifications to SSD 8449 have been approved since February 2019. There are another two (2) modification applications currently under assessment by the Department and another modification application currently in the pre-lodgement stage. The approved and proposed modification applications are summarised below in **Table 1**.

Table 1 Modifications to SSD 8449

Modification #	Date Approved	Description
Modification 1	10 September 2019	Modification to Condition B25 (Stormwater and Drainage).
Modification 2	29 May 2019	Deletion of Condition D6.
Modification 3	2 August 2019	Minor amendments to the location and configuration of service pods (containing lift cores and building services) in Bays 5-13.
Modification 4	Under Assessment	Minor amendments to the internal design and layout of commercial tenancies on the Ground Floor and Level 1 of Bays 5-13 of the Locomotive Workshop.
Modification 5	Under Assessment	Installation of additional skylights above Bays 5-15 of the Locomotive Workshop.
Modification 6	Pre-Lodgement	Amendments to the internal design and layout of Bay 15 of the Locomotive Workshop.

2.0 Proposed Modifications to the Consent

2.1 Modifications to the Development

The proposed amendments do not involve any physical development.

2.2 Modifications 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***.

PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

GLAZING

B35. All new external glazing used for the Locomotive Workshop is to be clear. ~~Tinted glazing is not permitted to be used.~~ ***Opaque or tinted glazing is only permitted in existing heritage arched windows to colour match surrounding tinted and/or opaque glazing within the same windows. Where tinted or opaque glazing is proposed to be used, consistency with the appearance of existing heritage fabric is to be verified by the heritage consultant prior to installation.***

Justification

A significant amount of the of the early and original glass panels of the heritage arched windows of the Locomotive Workshop are frosted. They are also currently in poor condition and require replacement. However, under Condition B35, the replacement of glass planes must be clear, which is inconsistent with the original windows and would result in a mix of glazing types within the existing heritage windows.

Therefore, as detailed in the advice provided at **Attachment A**, Curio Projects considers it essential that the wording of Condition B35 be amended to ensure the windows maintain their integrity and original quality given:

The installation of clear glass panels together with the frosted and/or opaque original panes within one frame would be a major visual heritage impact on the original fabric of the building, and especially the heritage aesthetics of the arched windows.

MOVEABLE HERITAGE

B40. The MCMP is to be updated and completed, in consultation with the Heritage Council and Council, within 12 months of the issue of the first ~~Construction Certificate~~ **Occupation Certificate** for the Locomotive Workshop, to provide detailed recommendation on the future conservation, management, display conditions, storage, security, and identify the location and management of all moveable heritage.

Justification

Due to the staging of the redevelopment of the Locomotive Workshop (across SSD 8517 and SSD 8449), it is necessary that the Moveable Collections Management Plan (MCMP) be updated and completed once all construction has concluded. This is necessary to ensure the MCMP is updated accurately and in accordance with the requirements of Condition B40. Once construction has been completed in the Locomotive Workshop, the MCMP will be updated and completed accurately to provide detailed recommendation on the future conservation, management, display conditions, storage, security, and identify the location and management of all moveable heritage.

PART E PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

PROTECTION OF PUBLIC INFRASTRUCTURE

E1. Unless the Applicant and the applicable authority agree otherwise, ***prior to the issue of the final Occupation Certificate*** the Applicant must:

- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
- (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

Justification

Due to the required staging of occupation within Bays 5-15 of the Locomotive Workshop and the development as a whole, an assessment of whether infrastructure needs to be repaired or relocated should occur once all construction for the development is complete. This will ensure that the assessment encompasses all infrastructure that might have been impacted by the development, and that the assessment is not undertaken prematurely.

POST CONSTRUCTION DILAPIDATION REPORT

E11. Prior to the issue of ~~an~~ ***the final Occupation Certificate*** for the Locomotive Workshop:

- (a) the Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads;
- (b) the report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
- (c) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions; and
- (d) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
- (e) a copy of this report is to be forwarded to the Secretary and each of the affected property owners.

Justification

Due to the staging of the redevelopment of the Locomotive Workshop (across SSD 8517 and 8449), it is necessary that the post-construction dilapidation report be undertaken at the once construction has been completed. This is necessary to ensure that the report accurately identifies any structural damage that might have occurred during the construction process, which is only possible once construction has been completed.

WASTE DISPOSAL

E16. Prior to the issue of any Occupation Certificate, details shall be submitted to the satisfaction of the PCA that waste handling works have been completed in accordance with Condition ~~E14~~ B9.

Justification

Mirvac understand that reference to Condition E14 within the Development Consent for SSD 8449 was made in error. Accordingly, Condition E16 has been amended to reference Condition B9, which deals with the preparation of a Construction Waste Management Plan.

EXTERNAL LIGHTING

E23. External Lighting shall comply with AS 4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting. ***Prior to the issue of the final Occupation Certificate*** ~~Upon installation of lighting, but before it is finally commissioned~~, the Applicant shall submit to the PCA evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

Justification

The installation of external lighting will occur in conjunction with the completion of the works to the public domain (final Occupation Certificate). As such, it is logical that the requirement to have lighting submitted to the PCA is also linked to the issue of the final Occupation Certificate.

3.0 Substantially the Same Development

Section 4.55(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)*”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- will not alter the approved uses;
- will not alter the internal or external appearance of the building, beyond enabling replacement glazing in existing heritage arched windows to be opaque or tinted;
- will not alter the approved gross floor area of the development;
- will not alter the key benefits of the adaptive reuse of the Locomotive Workshop, namely the creation of employment opportunities near the CBD and public transport, provision of heritage interpretation experiences, improved public access to a state listed heritage building and an enhanced public domain;
- do not alter the approved development's compliance with the applicable environmental planning instruments and policies; and
- do not result in any additional environmental impacts beyond those considered and determined to be acceptable by granting Development Consent to SSD 8449.

The consent authority may therefore be satisfied that the development consent as proposed to be modified will remain substantially the same as the original development consent, with the proposed modifications representing only a minor amendment to the staging of the already approved development and the glass panels of heritage arched windows. The proposed modification of Development Consent SSD 8449 may therefore be lawfully approved under Section 4.55(1A) of the EP&A Act.

4.0 Environmental Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. Under Section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in Section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under Section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Reasons Given for Granting Consent

The Statement of Reasons for Decision issued by the IPC noted that “*the impacts of the development are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent*”. The Commission also recognised that the approved development was in the public interest, as they will result in a range of public benefits, including:

- employment opportunities near the CBD and public transport;
- improved public access to a state listed heritage building;
- heritage interpretations experiences; and
- an improved public domain which will benefit workers, visitors and the local community.

The proposed modifications will not alter the public benefits identified by the IPC in granting Development Consent to SSD 8449.

4.2 Compliance with Environmental Planning Instruments

4.2.1 State Environmental Planning Policy (State Significant Precincts) 2005

The Australian Technology Park is located within the Redfern-Waterloo Authority ‘specified site’ and therefore *State Environmental Planning Policy (State Significant Precincts) 2005* (SEPP SSP 2005) is the principal planning instrument that applies to the ATP. This modification will not alter the approved land uses and gross floor area of the development, with the proposed modifications predominately related to minor changes to the timing of Conditions of Consent. The proposed amendments to heritage fabric are confined to the heritage arched windows and will not adversely impact on the heritage aesthetic of the Locomotive Workshop (refer to **Section 4.3.1**). Therefore, the proposed modifications will not alter the original assessment of the SSD 8449, which will remain consistent with the objectives of the Business Zone – Business Park zone.

4.3 Environmental Impacts

4.3.1 Heritage

Curio Projects has prepared advice (**Attachment A**) regarding the potential heritage impacts associated with amending Condition B35 to enable replacement glazing in existing heritage arched windows to be opaque or tinted, where it is consistent with the existing heritage fabric.

Having considered the amendments to Condition B35, Curio Projects confirm that the amendments are necessary given the installation of clear glass panels together with the frosted and/or opaque original panes within one frame would be a major visual heritage impact on the original fabric of the building, and especially the heritage aesthetics of the arched windows.

On this basis, Curio Projects conclude that it is:

essential for the wording of the Conditions of Consent to be altered in order to ensure that the windows maintain their integrity and original quality, without having any visual impact on the heritage fabric of the building, as it will secure the new glass panels match the original ones surrounding them.

Accordingly, Curio Projects conclude that the proposed modifications to Condition B35 (detailed in **Section 2.2**) are supported on heritage grounds.

4.4 Suitability of the Site

Under SSD 8449, Bays 5-15 of the Locomotive Workshop have already been approved for commercial uses. The proposed modifications will not alter the suitability of the site for these commercial uses.

4.5 The Public Interest

The proposed modifications to the approved development are in the public interest, as the amendments will ensure the benefits associated with the completion and commencement of uses in Bays 5-15 of the Locomotive Workshops can commence as soon as completed, improving activation and amenity of South Eveleigh for workers and the local community. The amendments to Condition B35 will also ensure that replacement glass panels in the heritage arched windows do not adversely impact on the heritage aesthetic of the Locomotive Workshop.

5.0 Conclusion

The proposed modification seeks approval for amendments to the Conditions of Consent (Part B & E) to enable the issuing of staged Occupation Certificates and ensure that replacement glass panels in the heritage arched windows do not adversely impact on the heritage aesthetic of the Locomotive Workshop.

In accordance with Section 4.55(1A) of the EP&A Act, Council may modify the consent as:

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

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Sincerely,



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