



***Commercial Office Building
Site 8A Murray Rose Avenue
Sydney Olympic Park***

Proposed by Watpac Development Pty Ltd

MP 06_0175 (MOD 3)

Modification of Minister's Approval under section 75W
of the *Environmental Planning and Assessment Act*
1979

November 2009



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1. SECTION 75W MODIFICATION APPLICATION

This is a report on an application seeking to modify the Project Approval for the construction of a commercial office building at Site 8A, Murray Rose Avenue, Sydney Olympic Park, which is bound by the Royal Agricultural Society Exhibition Halls to the north, Australia Avenue to the east, Murray Rose Avenue to the south, and a car park to the west which has been identified as Sites 8B, 8C and 8D (see **Figure 1**).

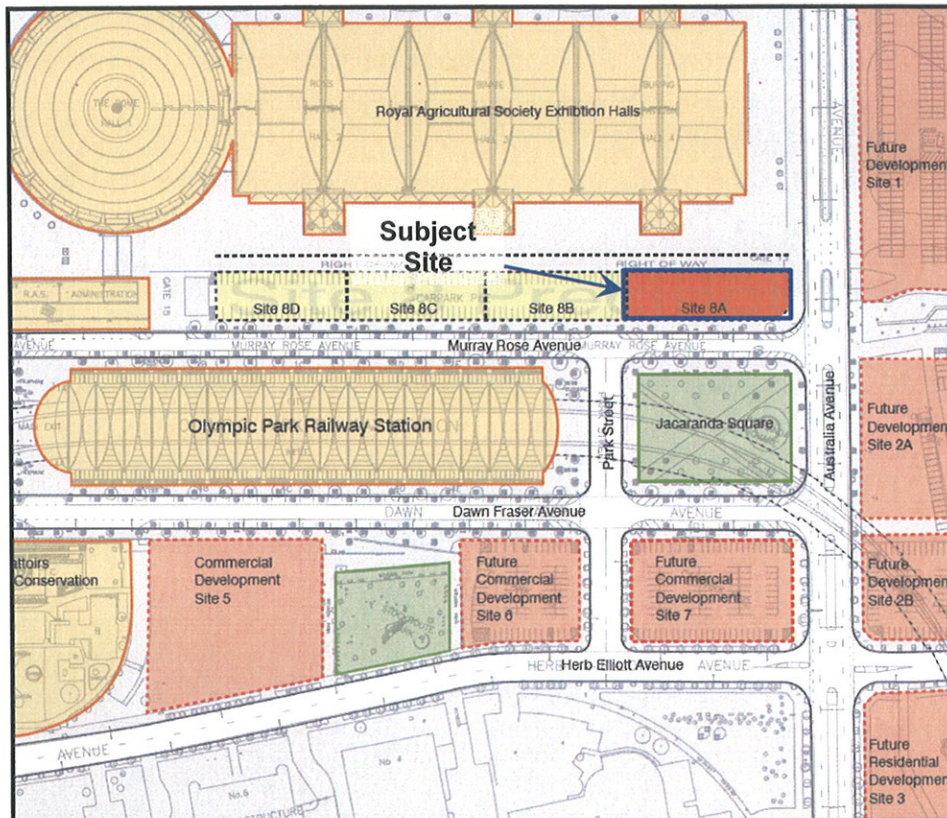


Figure 1. The subject site

1.1 Major Project Application

Project Application MP 06_0175 was approved by the Minister for Planning on 26 May 2008, and comprised the following:

- Construction of a six (6) storey commercial office building with a gross floor area (GFA) of 7,311m², including ground floor retail units and a café, plus associated rooftop plant equipment;
- Construction of two (2) basement car park levels consisting of 89 car spaces and at grade parking for 12 car spaces, totalling 101 spaces and 31 bicycle spaces;
- Provision of a designated loading area off the rear service lane and a restricted loading bay within the rear service lane;
- Erection of four (4) business identification signs located on the southern, northern and eastern buildings facades, and at ground level to Murray Rose Avenue; and
- Removal of six (6) street trees and retention of five (5) street trees along Murray Rose Avenue.

1.2 Previous Modifications

MP 06_0175 MOD 1 was approved under delegation on 24 October 2008, to allow an additional 16 stacked car spaces in the basement car park and removed the requirement to relocate the Energy Australia substation.

MP 06_0175 MOD 2 was approved on 3 April 2009, and modified the size and design of the plant area; increased the size of the loading zone located on the right of way/service lane; deleted the second loading area located at the rear of the building within the site; and modified the number of car spaces allocated to retail tenancies.

1.3 Proposed Modification

On 4 November 2009, Watpac Development Pty Ltd (the proponent), submitted an application to modify the project approval to amend conditions that restrict parking to building tenants and occupants only and to allow parking to be allocated to other Sydney Olympic Park tenants and residents.

2. STATUTORY CONTEXT

2.1 MODIFICATION OF A MINISTER'S APPROVAL

The modification application has been lodged with the Director General pursuant to section 75W of the EP&A 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"*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. In this instance, whilst the proposed modification is relatively minor, it would not be consistent with the existing approval as it requires changes to the Instrument of Approval. Accordingly, an application under section 75W is required.

2.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGR'S)

It was considered unnecessary to notify the proponent of environmental assessment requirements, pursuant to section 75W(3) of the EP&A Act with respect to the proposed modification, as sufficient information was provided to the Department to consider the application, and the relevant issues are addressed by the DGR's issued on 22 August 2006.

2.3 CONSULTATION AND EXHIBITION

Under section 75W of the EP&A Act, a request for a modification of an approval does not require public exhibition. However, under section 75X(2)(f) of the EP&A Act, the Director General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website.

The modification application was also referred to SOPA for comment. SOPA raised no objections to the modification provided that any car spaces that are allocated to other businesses and residents at Sydney Olympic Park are approved by SOPA. Given the modifications sought are primarily amending conditions of approval, no other referrals to government agencies were considered necessary.

3. CONSIDERATION OF PROPOSED MODIFICATIONS

The proponent seeks to amend conditions E1 and F14. The conditions were imposed to manage car parking at Sydney Olympic Park given the existing availability of public car parking to visitors of Sydney Olympic Park. The condition as amended would still ensure that the public utilises public parking, but would now allow other Sydney Olympic Park tenants and residents to access to surplus car parking.

The proposed modifications are minor and do not result in significant changes to the overall development. The modification does not alter the nature or justification of the approved project. Accordingly, the modification is considered to be acceptable. Condition E1 shall be modified as follows and Condition F14 shall be deleted as it is a duplicate of E1:

Condition E1 Car parking restrictions

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 **except other occupants, tenants or lessees of businesses or individuals residing at Sydney Olympic Park and with the approval of SOPA**. 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 **except other occupants, tenants or lessees of businesses or individuals residing at Sydney Olympic Park and with the approval of SOPA**.

These requirements are to be enforced through the following:

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

4. DELEGATION

Under the instrument of delegation dated 4 March 2009, the Minister has delegated her functions under section 75W of the EP&A Act relating to modifying Part 3A approvals to the Executive Director, Major DA Assessments.

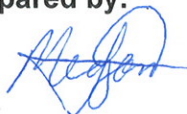
Having regard to the instrument of delegation, it is considered appropriate that the application be determined under delegation.

5. RECOMMENDATION

It is recommended that the Executive Director, Major DA Assessments, as delegate of the Minister for Planning:

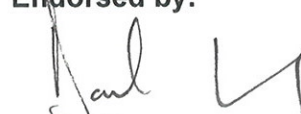
- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act, 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**TAG A**).

Prepared by:



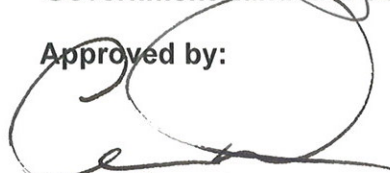
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3.12.09