

DEPARTMENT OF PLANNING & INFRASTRUCTURE

Development Assessment

SUBJECT: SITE 4B, SYDNEY OLYMPIC PARK (MP06 0273 MOD 2)

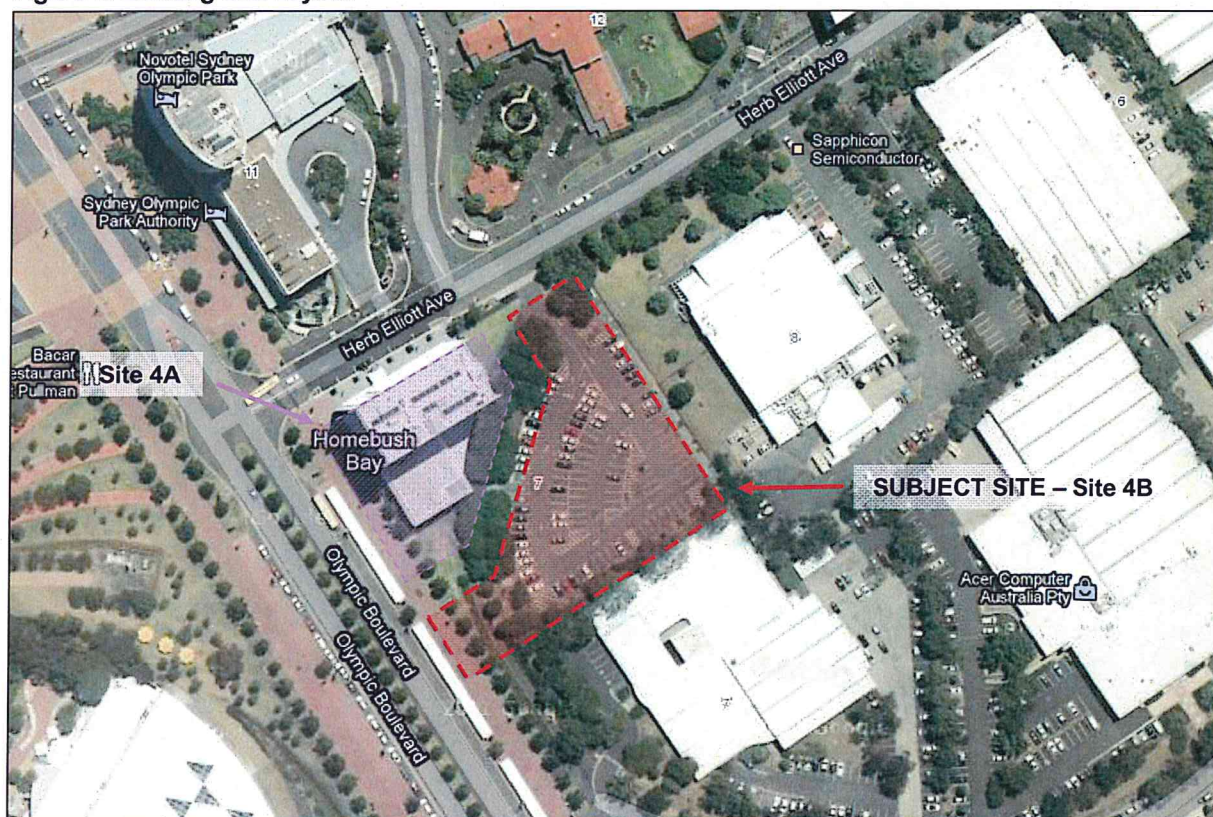
PURPOSE

To determine a modification request by Helen Mulcahy Urban Planning, on behalf of Colonial First State, for the insertion of a new condition in the instrument of approval to provide for lapsing in accordance with section 75Y(1) of the Environmental Planning and Assessment Act 1979 (the EP&A Act).

BACKGROUND

The subject site is known as Site 4B, which occupies the south eastern portion of Site 4, is legally described as Lot 60 in DP 786296 and Part Lot 50 in DP1045522 and is under the ownership of the Sydney Olympic Park Authority (SOPA). Site 4B has street frontages to both Herb Elliott Avenue and Olympic Boulevard, with Site 4A occupying the north western corner (see Figure 1).

Figure 1: Existing Site Layout



On 19 October 2007, the then Minister for Planning, approved MP06_0273 for the construction of a 7 storey commercial office building, comprising café, lobby and loading dock at ground level and six levels of commercial office space above, and the construction of 5 basement car park levels for 369 parking spaces and associated landscaping and public domain works.

On 12 August 2011, the Director-General, as delegate for the Minister, approved a modification request (MP06_0273 MOD 1), involving the reconfiguration and redistribution of floor space to create two separate building towers. The approved modification request comprised:

- staged construction of two commercial buildings comprising an 8 storey building fronting Herb Elliot Avenue (North Building) and a 10 storey building fronting Olympic Boulevard (South Building)
- additional gross floor area of 1,956sqm as a result of an increase in gross floor area and building height from 7 storeys to 8/10 storeys
- 735sqm increase in landscaped area to a total of 2,545sqm as a result of the proposed deletion of the atrium entrance/lift lobby
- removal of 17 trees, whereas 22 were previously approved for removal resulting in net increase of trees retained from 4 to 9
- reconfiguration of the basement car park with the provision of 273 parking spaces provided over 5 basement levels resulting in a reduction of 96 car spaces.

To date, building works have not commenced on the approved development. The modification request has been prepared in response to discussions held between the proponent and department regarding the ambiguity of the lapsing provision provided within Schedule 1 of the instrument of approval and the proponent's desire to have a lapsing provision clearly defined within the instrument of approval.

PROPOSED MODIFICATION

The proponent's request seeks the imposition of a condition to provide a clear lapsing provision, to remove any ambiguity that currently exists within the instrument of approval, seeking a lapsing period under s75Y until 19 October 2015.

CONSULTATION

In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made available on the Department's website. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means. No public submissions were received on the modification request. Land owners consent correspondence from Sydney Olympic Park Authority notes that they have reviewed the documentation and raise no objection to the proposed modification.

DELEGATED AUTHORITY

On 14 September 2011 and taking effect from 1 October 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases 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 no submissions from the public or council were received and a political disclosure statement has not been made, the Director, Metropolitan and Regional Projects North may determine the modification request under delegated authority.

KEY ISSUES

Schedule 1 of the instrument of approval for MP07_0273 provides a description of the approved major project, which is subject to conditions outlined in Schedule 2 of the instrument. Specifically, Schedule 1 Part A – Table provides details of the date the approval is liable to lapse as follows:

"5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the Act."

The lapsing provision provided within Schedule 1 of the instrument of approval does not satisfy the requirement of section 75Y(1) of the EP&A Act, in that the approval, however, does not prescribe the "specified action" that is to be undertaken.

The proponent has raised concerns regarding the ambiguity of this lapsing provision and concurs with the department's position that an appropriate condition should be imposed prescribing a lapsing date. In this regard, the proponent has recommended the following condition be inserted into the instrument of approval:

"For the purposes of section 75Y(1) of the Environmental Planning and Assessment Act 1979, this approval is liable to lapse if building, engineering or construction work on the land relating to the project the subject of the approval has not commenced by 19 October 2015."

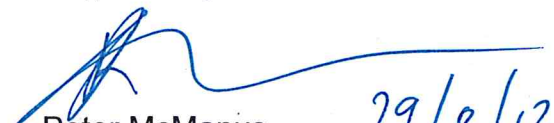
The department has considered the proponent's modification request and is satisfied that the proposed condition is appropriate in terms of providing a lapsing date for the approval. Accordingly, the department recommends that a new condition, condition A5 (as detailed above), be inserted following condition 'A4 Prescribed Conditions'.

RECOMMENDATION

It is RECOMMENDED that the Director, Metropolitan and Regional Projects North:

- note the information provided in this briefing;
- approve the modification request, subject to conditions; and
- sign the attached modifying instrument (Tag A).

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