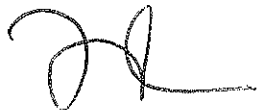


Modification of Major Project Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

I, the Executive Director Strategic Sites and Urban Renewal, as delegate of the Minister for Planning, under Instrument of Delegation dated 7 June 2007, modify, under s.75W of the *Environmental Planning and Assessment Act 1979*, the Project approval referred to in Schedule 1 in the manner set out in Schedule 2.



Jason Perica
Executive Director
Strategic Sites and Urban Renewal

Dated this 5 day of December 2007

MP 06_0294 MOD 1
S07/01509

SCHEDULE 1

Approval of 'Early Works' for the construction of a studio and office complex, constituting site establishment, minor demolition works, remediation, excavation, drainage works and basement slab (MP 06_0294) granted by the Minister for Planning on 25 January 2007.

SCHEDULE 2

The above approval is modified as follows:

- (a) Delete Condition A1 (1) and replace with the following:

A1 Development Description

(1) Development consent is granted only to carrying out the development described in detail below and in accordance with the approved Major Project 06_0149:

Stage 1

- Site establishment (including removal of vegetation)
- Demolition (several temporary building and sheds, retaining wall)
- Temporary diversion of a stormwater pipe
- Shoring works
- Bulk excavation (approximately 45,000m³) works
- Decontamination/remediation works
- Archaeology and heritage works (if required)
- Rock anchoring
- Dewatering
- Detailed excavation
- Install detention tank
- Install box culvert
- Piling and pile capping
- Install lift pits

Stage 2

- Basement slab

Staged Construction Certificates may be obtained for each of the above stages and are referred to in the conditions of consent below as 'Stage 1' and 'Stage 2' to reflect the above listed works for each stage.

(b) Delete Condition B2 and replace with the following:

B2 Site Contamination

(1) The site must be remediated in accordance with the Remediation Action Plan Project 44050B-1, Waste Classification Report Project 44050B and the Acid Sulphate Soil Management Plan Revision 1 Project No. 44050-1 all dated September 2007. The validation of the site is to be staggered into three stages/areas on site – Validation Areas 1, 2 and 3 as per Drawing 2, Appendix A of the Remediation Action Plan Project 44050B-1 dated September 2007. A Site Audit Report, Site Audit Statement and Validation Report is to be submitted to the Certifying Authority for all three stages - Validation areas 1, 2 and 3, following completion of remediation activities for each area. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.

(2) Prior to the issue of Construction Certificates for Stage 2 work, that is to progressively follow the Stage 1 work, the Certifying Authority is to ensure the:-

- validation of the Validation Area 1, 2 or 3 has occurred relative to the proposed Stage 2 area of work (Validation Areas as per the Drawing 2, Appendix A in the Remediation Action Plan Project 44050B-1 dated September 2007); and
- validation is in accordance with the Validation Report, Site Audit Report and Site Audit Statement issued by the Site Auditor for each area – Validation Area 1, 2 and 3.

(c) Delete Condition E7 and replace with the following:

E7 Validation Report

A Validation and Monitoring Report must be submitted to the Redfern Waterloo Authority together with a notice of completion of remediation pursuant to clause 18 of SEPP 55, on completion of all three Validation stages.



NSW GOVERNMENT
Department of Planning

***Australian Technology Park – Studio and
Office Complex - Early Works
Proposed by Sydney Broadcast Property
Pty Ltd***

Modification MP06_0294 Mod 1

Modification of Minister's Approval
Section 75W of the
Environmental Planning and Assessment Act 1979

December 2007

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1. INTRODUCTION

On 31 July 2007, Sydney Broadcast Property Pty Ltd (the Proponent) lodged an application to modify MP06_0294 (**tag D**) pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* ("the Act"). The Proponent is seeking to modify the Stage 1 and 2 scope of works to better reflect a practical construction methodology that takes into account the requirements to remediate the site of potential contamination and validate the site for its proposed use while eliminating risk of further contamination and minimising project delay. Also, the modification seeks that the validation of the site is broken down into three definable parcels of land in order to allow for continuation of Stage 2 work during the validation process.

The modification involves amending the development description and the scope of works in Stages 1 & 2 in addition to introducing conditions for staged validation.

2. DEVELOPMENT CONSENT BACKGROUND

On 25 January 2007, the Minister for Planning approved a Concept Plan MP 06_0149 for a studio and office complex on part of Lot 500, DP 1033739, being land owned by the Redfern-Waterloo Authority within the Australian Technology Park (ATP), Eveleigh in the City of Sydney Local Government Area.

Concept Plan MP 06_0149 for the studio and office complex comprised of:-

- Twelve (12) storey building including office space and plant room
- Four (4) large studios and associated warehousing.
- 41,800m² of gross floor space
- Two levels of semi-basement car parking (697 spaces), one which is for use by the occupants of the building (347 spaces) and the remaining level is for use by the landowner including visitor/public spaces (350 spaces).
- A landscaped open plaza at the south-eastern end of the building adjacent to a café, retails shops and entry foyers as well as various storage and utility rooms all at ground floor level.
- A landscaped park at the western end of Central Avenue, to the south of the building.
- General office area in levels 1 to 10 of the building.

On the same day, the Minister for Planning concurrently approved MP 06_0294 for 'Early Works' to facilitate the construction of the above studio and office complex, constituting site establishment, minor demolition works, remediation, excavation, drainage works and basement slab within part of the site.

Specifically, the 'Early Works' were broken down into two stages:

Stage 1

- Site establishment (including removal of vegetation)
- Demolition (several temporary building and sheds, retaining wall)
- Temporary diversion of a stormwater pipe
- Shoring works
- Bulk excavation (approximately 45,000m³) works
- Decontamination/remediation works
- Archaeology and heritage works (if required)
- Rock anchoring
- Dewatering

Stage 2

- Detailed excavation
- Install detention tank
- Install box culvert
- Piling and pile capping
- Basement slab and lift pits

A copy of the original consent is at **tag A** and a copy of the original report is at **tag B**.
The original project cost of the development was \$11 million.

3. DESCRIPTION OF PROPOSED MODIFICATION

The modification seeks approval for the following amendments/additions to the conditions:

1. To modify Condition A1(1) of the Development Description and the scope of works in the two stages as follows:
 - Stage 1
 - Site establishment (including removal of vegetation)
 - Demolition (several temporary building and sheds, retaining wall)
 - Temporary diversion of a stormwater pipe
 - Shoring works
 - Bulk excavation (approximately 45,000m³) works
 - Decontamination/remediation works
 - Archaeology and heritage works (if required)
 - Rock anchoring
 - Dewatering
 - Detailed excavation
 - Install detention tank
 - Install box culvert
 - Piling and pile capping
 - Install lift pits
 - Stage 2
 - Basement slab
2. That the validation of the site is staggered into three stages/areas on the site – Validation Areas 1, 2 and 3 (see map at **tag C**); and
3. Stage 2 basement slab works be permitted to continue to progressively follow the validation of Areas 1, 2 and 3, thereby allowing Stage 2 works to commence in the first area in advance of the completion of the overall sites validation.

As a consequence of the requested modifications, Condition E7 – Validation Report will also need to be modified and this was agreed with the proponent on the 22 November 2007. It is considered that the environmental impacts of the development and potential for contamination will be minimised if excavation works and work that involve disturbance of soils are undertaken in Stage 1, prior to final validation. The modification is considered to have positive environmental benefits.

4. STATUTORY CONTEXT

Modification of a Minister's approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the 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 under this Part. In this instance, the proposed modification is consistent with the existing approval granted under Part 3A but proposes an amendment to conditions and therefore a formal modification to the approval is required.

Environmental Assessment requirements

In this instance, it was not considered necessary to notify the Proponent of environmental assessment requirements pursuant to Section 75W(3) with respect to the proposed modification as sufficient information was provided to the Department to consider the application.

5. CONSULTATION AND EXHIBITION

Under Section 75W of the Act, a request for a modification of an approval does not require public exhibition. However, under Section 75X(2)(f) of the 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 referred to the City of Sydney Council and Department of Environment and Climate Change (DECC) on 22 October 2007 for 14 days until 6 November 2007. Both the Council and DECC responded and did not raise any issues with the proposed modifications.

6. CONSIDERATION OF PROPOSED MODIFICATIONS

1. Amendment to Staging

Existing Condition

A1 Development Description

(1) Development consent is granted only to carrying out the development described in detail below and in accordance with the approved Major Project 06_0149:

Stage 1

- Site establishment (including removal of vegetation)
- Demolition (several temporary building and sheds, retaining wall)
- Temporary diversion of a stormwater pipe
- Shoring works
- Bulk excavation (approximately 45,000m³) works
- Decontamination/remediation works
- Archaeology and heritage works (if required)
- Rock anchoring
- Dewatering

Stage 2

- Detailed excavation
- Install detention tank
- Install box culvert
- Piling and pile capping
- Basement slab and lift pits

Staged Construction Certificates may be obtained for each of the above stages and are referred to in the conditions of consent below as 'Stage 1' and 'Stage 2' to reflect the above listed works for each stage.

Proposed Condition

A1 Development Description

(1) Development consent is granted only to carrying out the development described in detail below and in accordance with the approved Major Project 06_0149:

Stage 1

- Site establishment (including removal of vegetation)
- Demolition (several temporary building and sheds, retaining wall)
- Temporary diversion of a stormwater pipe
- Shoring works
- Bulk excavation (approximately 45,000m³) works
- Decontamination/remediation works
- Archaeology and heritage works (if required)
- Rock anchoring

- Dewatering
- Detailed excavation
- Install detention tank
- Install box culvert
- Piling and pile capping
- Install lift pits

Stage 2

- Basement slab

Staged Construction Certificates may be obtained for each of the above stages and are referred to in the conditions of consent below as 'Stage 1' and 'Stage 2' to reflect the above listed works for each stage.

Assessment

Condition A1(1) relates to the development description and the modification seeks to amend the scope of works detailed in Stages 1 and 2 to allow additional work to form part of Stage 1. This work includes the detailed excavation, installation and lift pits previously proposed for Stage 2. Stage 2 work is proposed to be limited to the basement slab. The amendments provides a practical construction methodology that takes into account the requirements to remediate the site of potential contamination and validate the site for its proposed use. The risk of cross-contamination is eliminated as the significant excavation works, disturbance of soil and removal of waste material previously proposed as part of Stage 2 that could have potentially re-contaminated the site, are now proposed to form part of Stage 1.

Further, if excavation was to occur in Stage 2 as previously approved, it would cause serious project delay and require duplication of the validation process through re-sampling, administrative /documentary reporting which would incur unnecessary expenses.

It is logical that excavation works and work that involves disturbance of soils be conducted prior to final validation, to ensure the environmental impacts of the project namely potential contamination are minimised. Accordingly, the modification to Condition A1 (1) is acceptable.

2. Amendment to Validation

Existing Condition

B2 Site contamination

- (1) Prior to the issue of any Construction Certificate, the Proponent shall submit to the Certifying Authority a copy of the Remedial Action Plan provided with the Environmental Assessment (Report on Remediation Action Plan, Project 44050-2 Rev 1, dated August 2006 and prepared by Douglas Partners) and the Acid Sulphate Soil Management Plan provided with the Environmental Assessment (Report on Acid Sulphate Soil Management Plan, Project No. 44050-1, dated June 2006 and prepared by Douglas Partners). The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue site audit statements.
- (2) The remediation works on the site shall be completed prior to the release of the Construction Certificate for Stage 2 works and the Proponent shall submit a detailed Site Audit Summary Report and Site Audit Statement and Validation Report to the Certifying Authority. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.

Proposed Condition

B2 Site contamination

- (1) The site must be remediated in accordance with the Remediation Action Plan Project 44050B-1, Waste Classification Report Project 44050B and the Acid Sulphate Soil Management Plan Revision 1 Project No. 44050-1 all dated September 2007 and prepared by Douglas Partners. The validation of the site is to be staggered into three stages/areas on site – Validation Areas 1, 2 and 3 as per Drawing 2, Appendix A of the Remediation Action Plan Project 44050B-1 dated September 2007. A Site Audit Report, Site Audit Statement and Validation Report is to be submitted to the Certifying Authority for all three stages - Validation areas 1, 2 and 3, following completion of remediation activities for each area. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.
- (2) Prior to the issue of Construction Certificates for Stage 2 work, that is to progressively follow the Stage 1 work, the Certifying Authority is to ensure the:-
 - validation of the Validation Area 1, 2 or 3 has occurred relative to the proposed Stage 2 area of work (Validation Areas as per the Drawing 2, Appendix A in the Remediation Action Plan Project 44050B-1 dated September 2007); and
 - validation is in accordance with the Validation Report, Site Audit Report and Site Audit Statement issued by the Site Auditor for each area – Validation Area 1, 2 and 3.

Assessment

In relation to the remediation of the site, the modification also seeks the staged validation of the site/areas to allow the works including Stage 2 to continue and also avoid delays and a complete stop to the project. The modification seeks that the validation of the site be broken down into three definable parcels of land– Validation Areas 1, 2 and 3 as per Drawing 2, Appendix A of the Remediation Action Plan Project 44050B-1 dated September 2007. Validation Area 1 is located to the western boundary of the site nearest to Alexander Street. Validation Area 2 is in the middle of the site and Validation Area 3 adjoins the eastern boundary of the site.

Due to the significant scale of this project and the size of the site being (15,600m²) breaking down the site into these three Validation Areas will allow for continuation of work, during the validation process rather than a complete stop to the project while the administrative process of validating the site with the regulatory authorities occurs. The current approval and specifically Condition B2(2) would delay the project by requiring the remediation works on the site to be completed, prior to the release of the Construction Certificate for Stage 2 works. Accordingly it needs to be deleted and replaced with conditions permitting the staged validation and staged construction certificates for Stage 2.

The modified condition B2 (1) states that the site must be remediated in accordance with the Remediation Action Plan, that in turn makes reference to all remedial works on site being undertaken according to WorkCover NSW requirements. The EPA appointed Site Auditor – WSP has provided a written letters in support of the proposed staging of the validation process. The Site Auditor has also requested the opportunity to review from an environmental perspective, Work Method Statements/Construction EMP's for any Stage 1 tasks that have the potential to spread or disturb the current distribution of contaminants at the above site.

To ensure that the approval conditions relating to site contamination and validation are still satisfied, a Site Audit Report, Site Audit Statement and Validation Report will be required to be submitted to the Certifying Authority for all three stages - Validation areas 1, 2 and 3, following completion of remediation activities within each area. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses. This will involve an amendment to Condition B2(1).

Stage 2 work involving the pouring of the basement slab can only commence on a particular validation area 1,2 or 3 when it has been satisfactorily remediated and validated in accordance with the Validation Report, Site

Audit Report and Site Audit Statement submitted to the Certifying Authority. Accordingly, staged Construction Certificates will need to be issued for Stage 2 so that it can progressively follow the Stage 1 work upon remediation and validation of areas 1, 2 and 3.

It is noted that an updated Remediation Action Plan Project 44050B-1, Waste Classification Report Project 44050B and the Acid Sulphate Soil Management Plan Revision 1 Project No. 44050-1 all dated September 2007 were submitted for information purposes with the proposed modification. The EPA appointed Site Auditor – WSP has reviewed these reports and concludes that they are suitable to facilitate the remediation and bulk excavation works at the site. The Site Auditor also submitted a letter in support of the modification. Also, the proponent's Geotechnical Engineer – Douglas Partners supports the subject modification.

No other concerns relating to the proposed modifications were raised by the Department or City of Sydney Council or the DECC. Due to the modification to the staging and validation process, Condition E7 relating to a Validation Report will also need to be modified. The proponent was alerted to this on the 22 November 2007 and agreeable to the modification of Condition E7. No other conditions require modification. It is therefore recommended that the proposed modifications be approved, subject to conditions.

7. MODIFICATION TO CONDITIONS OF APPROVAL

The Department recommends that conditions of approval apply to the proposed modifications. These are included at **tag E**.

8. CONCLUSION

The proposed modifications does not change the overall scope of works, rather the staging of the works and site validation. The modified development is considered to be consistent with the originally approved development and provides for a practical construction methodology on the site that eliminates the risk of further site contamination and reduces project delay.

It is considered that the proposal, as modified, still achieves the same objectives as assessed for the originally approved Major Project 06_0294 and does not alter the overall nature, need or justification of the approved project.

9. DELEGATION

Under the instrument of delegation dated 7 June 2007, the Minister has delegated his functions under Section 75W of the Act relating to modifying Part 3A approvals to the Executive Director Strategic Sites and Urban Renewal.


Having regard to the Urban Assessments Guidelines for Delegates, it is considered appropriate that the application be determined under delegation.

10. RECOMMENDATION

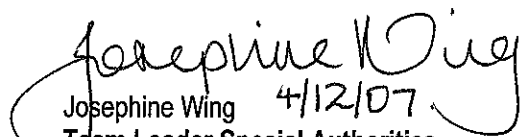
It is recommended that the Executive Director Strategic Sites and Urban Renewal, as delegate of the Minister for Planning:

- (A) consider the findings and recommendations of this report;
- (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 (tag E).

Prepared by:

 4/12/07

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