

Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation dated 14 September 2011, I approve the modification of the application referred to in Schedule 1, subject to the conditions in Schedule 2.



Alan Bright
A/Director, Metropolitan & Regional Projects South

Sydney

15 MARCH

2012

SCHEDULE 1

Project Approval: MP 08_0222 granted by the Deputy Director General, Development Assessment & Systems Performance, on 16 November 2010.

For the following: Construction of a six-storey data centre building and three basement levels, including:

- site preparation works;
- excavation;
- 12 car parking spaces;
- plant and equipment;
- landscaping and street upgrade works; and
- building identification sign.

Modification: MP 08_0222 MOD 2: Modification includes:

- deletion of the two lower basement levels and reduction of the size of the remaining basement level;
- reduction of the Gross Floor Area of the building from 22,285m² to 18,175m²;
- re-configuration of the floor levels and space allocation of the plant rooms;
- undertaking the development in two stages with internal fitout and occupation to occur progressively, including staged payment of Section 94 Contributions;
- replacing the co-generation for the first stage of the development by drawing power from the existing Global Switch 1 electrical supply;
- introduction of an energy efficient free cooling air conditioning system to offset the deletion of the original proposed tri-generation system;
- removal of gas engines from the upper levels; and
- relocation of the roof level breakout area to the north of the building to coincide with the new position of the lift core.

SCHEDULE 2

- 1) Condition A1 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

A1. Development Description

Project Approval is granted for the construction of a six-storey data centre building and three **one** basement levels.

- 2) Condition A2 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

A2. Development in Accordance with Plans and Documentation

The development shall be in accordance with the following plans, documentation and recommendations made therein:

| A. Environmental Assessment report for Global Switch Sydney 2 dated March 2010, including appendices and Preferred Project Report prepared by dem (aust) Pty Ltd dated August 2010 including appendices | | | |
|--|-----------------------|---|-------------------------------------|
| B. Statement of Commitments prepared by dem (aust) Pty Ltd contained in Schedule 3 | | | |
| <u>C. Section 75W Modification Application dated December 2011, including modified Statement of Commitments, prepared by dem (aust) Pty Ltd</u> | | | |
| <u>DC. Architectural Drawings prepared by dem (aust) Pty Ltd dated February 2010, itemised as follows:</u> | | | |
| Drawing No | Issue | Name of Plan | Date |
| CV-00 | B01 <u>B02</u> | Cover Sheet, Drawings List, Abbreviations | 22/02/2010 <u>22/12/2011</u> |
| 0200 | B01 <u>B03</u> | Site Plan | 22/02/2010 <u>22/12/2011</u> |
| 1200 | B01 | Basement Level 3 | 15/02/2010 |
| 1201 | B01 | Basement Level 2 | 22/02/2010 |
| 1202 | B01 <u>B03</u> | Basement Level 1 | 22/02/2010 <u>22/12/2011</u> |
| 1203 | B02 <u>B04</u> | Ground Floor | 06/07/2010 <u>22/12/2011</u> |
| 1204 | B01 <u>B03</u> | First Floor | 22/02/2010 <u>22/12/2011</u> |
| 1205 | B01 <u>B03</u> | Second Floor | 22/02/2010 <u>22/12/2011</u> |
| 1206 | B01 <u>B03</u> | Third Floor | 22/02/2010 <u>22/12/2011</u> |
| 1207 | B01 <u>B03</u> | Fourth Floor | 22/02/2010 <u>22/12/2011</u> |
| 1208 | B01 <u>B03</u> | Fourth Floor Mezzanine | 22/02/2010 <u>22/12/2011</u> |
| 1209 | B01 <u>B03</u> | Fifth Floor | 22/02/2010 <u>22/12/2011</u> |
| 1210 | B01 | Fifth Floor Mezzanine | 22/02/2010 |
| 1211 | B01 <u>B03</u> | Roof | 22/02/2010 <u>22/12/2011</u> |
| 2100 | B01 <u>B03</u> | Section One | 15/02/2010 <u>22/12/2011</u> |
| 2101 | B02 <u>B04</u> | Section Two | 06/07/2010 <u>22/12/2011</u> |
| 2102 | B01 <u>B03</u> | Section Three | 22/02/2010 <u>22/12/2011</u> |
| 2103 | B01 <u>B03</u> | Section Four | 22/02/2010 <u>22/12/2011</u> |
| 2500 | B01 <u>B03</u> | North & South Elevations | 22/02/2010 <u>22/12/2011</u> |

| | | | |
|------|----------------|-----------------------------|------------------------------|
| 2501 | B02 B03 | East Elevation | 06/07/2010 22/12/2011 |
| 5004 | B01 | Signage Views | 22/02/2010 |
| 0501 | A02 | Landscape Plan Ground Floor | 15/02/2010 |
| 0502 | A02 | Landscape Plan Roof Level | 15/02/2010 |

- 3) Condition B1 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

B1 Section 94 Contribution

Contribution required

In accordance with Section 94(2) of the *Environmental Planning and Assessment Act 1979* and Sydney City Council's "Ultimo Pyrmont Section 94 Contributions Plan," a cash contribution shall be paid in the form of a bank cheque made out to the Sydney Harbour Foreshore Authority and lodged with the Department of Planning.

Amount of contribution

The amount of the contribution shall be calculated in accordance with the Ultimo Pyrmont Section 94 Contributions Plan and agreed between the proponent and SHFA. The agreed amount of the contribution shall be notified to the Department of Planning and endorsed by the Director General.

Timing of Payment

The contributions ~~shall be paid prior to the release of any Construction Certificate~~ **may be paid in stages as follows:**

- **50% payment prior to issue of the Stage 1 Construction Certificate; and**
- **50% payment prior to issue of the Stage 2 Construction Certificate.**

Indexing

If the contribution is paid after 31 December of the year in which the approval is granted, then the figure calculated shall be indexed in accordance with clause 19 of the Ultimo Pyrmont Contributions Plan 1994.

- 4) Condition B3 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

B3 Stormwater and Drainage

- (a) Prior to the issue of a **the relevant** Construction Certificate being issued, details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standards requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to a Construction Certificate being issued and prior to the commencement of any work within the public way.
- (c) The requirements of Sydney Water with regard to the on-site detention of stormwater must be ascertained and complied with. Evidence of approval of Sydney Water to the on-site detention must be submitted prior to a Construction Certificate being issued.

(d) An 'Application for Approval of Stormwater Drainage Connections' must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.

- 5) Condition B5 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

B5 Public Domain Plan

(a) A detailed Public Domain Plan must be prepared and lodged with Council's Public Domain Section and approved by Council prior to the issue of a **the relevant** Construction Certificate being issued for new building work, excluding approved preparatory, demolition or shoring work.

(b) The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual and the Ultimo Pyrmont Public Domain Manual. The works to the public domain are to be completed in accordance with the approved plan being **before** any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

Note: A security deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges. You should contact Council to determine the deposit amount prior to payment.

- 6) Condition B7 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

B7 Car Parking Spaces and Dimensions

A maximum of 12 off-street car parking spaces must be provided. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1-2004 Parking Facilities. The details must be submitted to and approved by the PCA prior to a **the relevant** Construction Certificate being issued.

- 7) Condition B8 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

B8 Accessible Parking Spaces

The design, layout, signage, line marking and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6-2009 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the PCA prior to a **the relevant** Construction Certificate being issued.

- 8) Condition C2 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

C2 Development Staging

The proponent is to comply with the conditions contained in this instrument for all stages of development subject to this approval.

Prior to the commencement of each stage of works, the proponent is to notify the Department and Council of the proposed works and compliance to date with this

approval. The proponent, or any party acting upon this approval, shall also submit a report addressing future compliance with all relevant conditions of this approval.

The development will be constructed in two (2) main building stages with internal fitout of each stage being undertaken, completed and occupied progressively. Final details of the main building stages and progressive internal fitout and occupation of the building are to be provided to the PCA for approval prior to release of the relevant Construction Certificate.

- 9) Condition E1 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

E1 Occupation Certificate to be Submitted

An **Interim and Final** Occupation Certificates must be obtained from the PCA and a copy submitted to the Department and Council prior to the commencement of occupation or use of **staged components** of the building.

The following documents should be forwarded to the Department and Council within two (2) days of the date of the Certificate being determined:

- (1) A copy of the determination;
- (2) Copies of any documents that were lodged with the **Interim or Final** Occupation Certificate application;
- (3) A copy of **the Interim or Final** Occupation Certificate, if it was issued;
- (4) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- (5) A copy of any missed inspections; and
- (6) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the **Interim or Final** Occupation Certificate.

- 10) Condition E2 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

E2 Infrastructure Repair

Prior to issue of the **any Interim or Final** Occupation Certificate, the PCA must be satisfied that any damaged public infrastructure caused as a result of construction works **related to the relevant stage of the works completed** (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council Development Engineer and at no cost to Council.

- 11) Condition E3 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the struck-out words/numbers as follows:

E3 Existing Light Rail Line Corridor

Prior to the issue of the **any Interim or Final** Occupation Certificate, a joint Inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and Sydney Metro Transport Pty Ltd and the proponent. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.

Prior to the issue of an **any Interim or Final** Occupation Certificate, the proponent is to submit to RailCorp a copy of the final As-Built drawings **for the relevant portion of the completed works** and surveyed location of all rock anchors used.

- 12) Condition E4 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E4 WAE Plans for Stormwater Management and Disposal

Prior to issue of the **any Interim or Final** Occupation Certificate, a registered surveyor must provide a works as executed (WAE) survey of the completed stormwater drainage and management systems **for the relevant portion of the completed works**. The survey must be submitted to and approved by the PCA prior to issue of the **any Interim or Final** Occupation Certificate. The survey must indicate:

- as built (reduced) surface and invert levels for all drainage pits
- gradients of drainage lines, materials and dimensions
- as built (reduced) level(s) at the approved point of discharge to the public drainage system
- as built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site
- the achieved storage volumes of the installed retention and detention storages and derivative calculations
- as built locations of all access pits and grates in the detention and retention system(s), including dimensions
- the size of the orifice or control fitted to any on-site detention system
- dimensions of the discharge control pit and access grates
- the maximum depth of storage possible over the outlet control
- top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system

The works as executed plan(s) must show the as built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of **the relevant stage of the** works. All relevant levels and details indicated must be marked in red on a copy of the PCA stamped construction certificate stormwater plans.

- 13) Condition E5 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E5 Sydney Water Section 73 Compliance Certificate

Prior to issue of an **any Interim or Final** Occupation Certificate, the Section 73 Sydney Water Compliance Certificate **for the relevant portion of the completed works** must be obtained and submitted to the PCA.

- 14) Condition E7 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E7 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems **for the relevant portion of the completed works**, the PCA shall be satisfied of the following prior to the issue of any **Interim or Final** Occupation Certificate:

- The installation and performance of the mechanical systems complies with:
 - the Building Code of Australia
 - Australian Standard AS1668
 - Australian Standard AS3666 where applicable

- The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible (**i.e. not produce a measured noise level above the background noise level**) within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining boundary.

Note: Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the PCA prior to the issue of the **any Interim or Final** Occupation Certificate.

- 15) Condition E8 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E8 Accessibility

Prior to the issue of an **any Interim or Final** Occupation Certificate, the PCA shall be satisfied that **the relevant part of the buildings works satisfy the following**:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

- 16) Condition E9 is amended by the insertion of **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E9 Works as Executed Plans

Prior to **final** occupation **of the fully completed building**, one (1) full set of works as executed plans, and other supporting documentation including further studies and revised plans required by this approval, shall be submitted to Council for information purposes only.

- 17) Condition E10 is amended by the insertion of **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E10 Post-Construction Dilapidation Report

The proponent shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of **the relevant completed stages of** the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.

The report is to be submitted to the Department and the Council and is to:

- (a) Compare the post-construction dilapidation report with the pre-construction dilapidation report, identifying the nature and costs of damage (if any) which has occurred during and as a result of construction, and

- (b) Have written confirmation from the relevant authority that there is no adverse structural damage to its infrastructure and roads (as far as reasonably practical) or that satisfactory arrangements have been made to remedy any damage. If this has been unreasonably delayed by the relevant authority, attempts to seek such confirmation shall be given to the satisfaction of the Department.
- 18) Condition E11 is amended by the insertion of **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

E11 Cooling Towers

Prior to the commencement of use **of the relevant portion of the completed works**, the owner or occupier of the premises must apply to Council for the registration of water cooling systems and warm water systems installed on the premises in accordance with the *Public Health (Microbial Control) Regulation 2000*.

- 19) Part F – Post Occupation Note to be added by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

PART F – POST OCCUPATION

Note: Part F applies to the fully completed works or staged works as appropriate at the completion of each stage.

F1 Annual Fire Safety Certification

The owner of the building shall certify to Council and the NSW Fire Brigade every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. The purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

F2 Outdoor Lighting

All outdoor lighting shall not detrimentally impact upon the amenity of other premises and adjacent dwellings and shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

F3 Noise Control - Operational

- (1) The L_{aeq} , 15 minutes noise level emitted from the use must not exceed 5dB above the background (L_{90}) noise level in any Octave Band Centre Frequency (31.5 Hz to 8kHz inclusive) between the hours of 7.00 am and 12 midnight when assessed at the boundary of any affected receiver. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS 1055.
- (2) The L_{aeq} , 15 minutes noise level emitted from the use must not exceed the background (L_{90}) noise level in any Octave Band Centre Frequency (31.5Hz to 8kHz inclusive) between the hours of 12 midnight and 7.00 am when assessed at the boundary of any affected receiver. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS 1055.
- (3) The use of the premises shall be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*, to any affected receiver.

Notwithstanding the noise limits specified in F3 above, the use of the premises must always operate in accordance with noise limits specified in the environmental protection licence issued under the *Protection of the Environment Operations Act 1997* for the development. If there is an inconsistency with the noise limits outlined above with those specified in the Environmental Protection Licence, the noise limits specified in the Environmental Protection Licence shall prevail.

F4 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:

- (1) Transmission of “*offensive noise*” as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver.
- (2) A sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS 1055.
- (3) Notwithstanding compliance with (1) and (2) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.
- (4) Notwithstanding the noise limits specified in (1), (2) and (3) above, the use of the premises must always operate in accordance with noise limits specified in the environmental protection licence issued under the *Protection of the Environment Operations Act 1997* for the development. If there is an inconsistency between the noise limits outlined above with those specified in the Environmental Protection Licence, the noise limits in the Environmental Protection Licence prevail.

F5 Loading

All loading and unloading, including deliveries to and from the site in connection with the use, must be carried out in a manner so as not to cause inconvenience to the public or detrimentally impact the amenity of the locality.

F6 Cooling Towers

All cooling towers and cooling and warm water systems must be operated and maintained in accordance with AS 3666.2:1995 (or AS 3666.3:2000 subject to prior notification of Council), the *Public Health Act 1991*, and *Public Health (Microbial Control) Regulation 2000*.

A true copy of the annual certificate as stipulated in clause 9(2) of the *Public Health (Microbial Control) Regulation 2000* which certifies the effectiveness of the process of disinfection used for the water cooling system, must be submitted to Council prior to the period ending 30 June each year.

- 20) Condition AN1 is amended by the insertion of **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

AN1 Long Service Levy

Under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.35% of the total cost of the work **for each stage** and shall be paid to either the Long Service Payments Corporation or Council. Under section 109F(1) of the *Environmental*

Planning & Assessment Act 1979 this payment must be made prior to commencement of building works **for each stage**.

End of modification to MP08_0222