

Our Ref: 15756  
Council Ref: SSDA 7317 MOD 13

21 August 2018

15756

Carolyn McNally  
Secretary  
Department of Planning & Environment  
GPO Box 39, Sydney, NSW 2001

Attention: Brendon Roberts

Dear Brendon

## **SSDA 7317 – MOD 13 - SECTION 4.55(1A) MODIFICATION APPLICATION BUILDING 1, AUSTRALIAN TECHNOLOGY PARK, EVELEIGH**

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 7317 which relates to the development of a commercial campus at the Australian Technology Park, Eveleigh.

The purpose of this modification request is to seek approval for an extension of the external terrace area at the Lower Ground Level of Building 1.

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 revised Architectural Plans, (**Attachment A**) and a statement, both prepared by fjmt, that certifies that the revised design of the child care facility meets all relevant requirements, standards and regulations etc (**Attachment B**).

### **1.0 Consent proposed to be modified**

Development consent (SSD 7317) was granted by the Planning Assessment Commission on 20 December 2016 for a Commercial campus at the Australian Technology Park, including:

- site preparation works, site clearance, excavation and remediation;
- construction of three mixed use buildings with a total gross floor area (GFA) of 107,427m<sup>2</sup> comprising:
  - Building 1 for commercial/ office, retail and child care uses (GFA of 46,830m<sup>2</sup>/ height of nine storeys);
  - Building 2 for commercial/ office and retail uses (GFA of 56,686m<sup>2</sup>/ height of seven storeys);
  - Building 3 for retail, gym, child care, community office and commercial uses (GFA of 3,911m<sup>2</sup>/ height of four storeys).
- car and bicycle parking;
- landscaping, road and public domain works; and
- building identification signage zones.

## 1.1 Previous Modification Applications

Since the original approval, there have been several applications seeking to modify the original development. These include:

- Modification 1 – which sought changes Condition B53 (as noted in Section 1.1). This modification was approved on 26 June 2017.
- Modification 2 – which sought changes to signage zones on Building 1, lower ground floor layout reconfiguration of Building 2 and amendments to Conditions B4 and B8. This modification was approved on 22 August 2017;
- Modification 3 – which sought amendments to the design of Building 3 (the community building) which included an increase to the overall GFA of Building 3 by 406 m<sup>2</sup>. This modification was approved on 1 December 2017;
- Modification 4 – which sought approval for the placement of mechanical exhausts, flues, vents and photovoltaics on top of the roof of Building 1 and amendments to the wording of Condition A14. This modification was approved on 20 October 2017;
- Modification 5 – which sought approval for the construction of a concrete base structure beneath Locomotive Street to house a travelator that will connect Bay 4 of the Locomotive Workshop to the lower ground floor of Building 2. This modification application was approved on 29 June 2018.
- Modification 6 – which seeks amendments to the internal configuration of the Lower Ground Floor and Upper Ground Floor levels of Building 2, the provision of new doorways into the Upper Ground Floor level retail tenancies and minor amendments to façade materials and signage zones. This modification was lodged with the Department on 3 April 2018.
- Modification 7 – which seeks minor amendments to Building 1 in relation to the façade materials and the addition of a signage zone, plant, louvres and an awning. This modification application was approved on 17 July 2018.
- Modification 8 – which seeks a modification to the approved bicycle parking and storage lockers within Building 1 and Building 2 of the ATP precinct. This modification was lodged with the Department on 8 May 2018.
- Modification 9 – which seeks approval for minor amendments to Building 1, including the use of the Level 1 terrace as trafficable space for the building's commercial tenants, use of the Level 7 breakout area / terrace as trafficable space for the building's commercial tenants and minor alterations to the approved entrance doors. This application was lodged on 21 August 2018.
- Modification 10 – which seeks approval for minor design amendments to Building 3 in response to future tenant requirements. The application was lodged on 1 June 2018.
- Modification 11 – which seeks approval for minor word changes to various conditions within the Instrument of Approval. This application was lodged on 3 July 2018.
- Modification 12 – which seeks approval for amendments to the approved Landscape Masterplan, Public Domain signage and the introduction of two new conditions. The application was lodged on 13 July 2018.

## 2.0 Proposed modifications to the consent

### 1.1 Modifications to the development

The central zone of the child care external area slab and footings at the Lower Ground Level of Building 1 have been built 300mm off the southern site boundary, instead of on the site boundary. This results in an undersupply of unencumbered outdoor space area for the childcare centre as 7m<sup>2</sup> per child required under the Education and Care Services National Regulations 2011.

In total 630m<sup>2</sup> of unencumbered outdoor space is required for the 90 space child care facility, therefore as indicated on the revised Architectural Plans (**Attachment A**), the proposed modification to the development consent involves the extension of the eastern external area associated with the child care centre. Specifically, the proposed amendment results in an extension of the outdoor terrace by 4.3m to a position where the child care fence is setback 2.5m from the eastern site boundary line. It is noted that the approved plans show a setback of 6.65m.

### 1.2 Modifications to conditions

The proposed modification described in Section 2.1 necessitates an amendment to Condition A2. Words proposed to be deleted are shown in ~~**bold strike through**~~ and words to be inserted are shown in ***bold italics***.

#### A2 Terms of Consent

Drawing No.	Rev	Name of Plan	Date
<del>Fjmt-AR-DWG-1100L</del>	<del>DA5</del>	<del>Lower Ground GA Plan</del>	<del>03.04.18</del>
<i>fjmt-AR-DWG-1100L</i>	<i>DA6</i>	<i>Lower Ground GA Plan</i>	<i>26.06.18</i>
<del>Fjmt-AR-11050</del>	<del>DA9</del>	<del>Elevations – South &amp; East</del>	<del>06.02.18</del>
<i>fjmt-AR-DWG 11050</i>	<i>DA11</i>	<i>Elevations – South &amp; East</i>	<i>26.06.18</i>

#### Justification

The changes to the development as detailed and justified in Section 2.1 have necessitated the changes to the plans

## 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:

- The proposed amendments do not seek to modify the approved use or maximum building envelopes;
- The modified development generally retains the same design and development parameters as approved;
- The proposed modification does not seek to extend the external area beyond the internal child care centre building line;
- The environmental impacts of the modified development remain substantially the same as the approved development as outlined below; and
- The proposed modifications do not give rise to any new matters/ areas of non-compliance and minimal environmental impact.

## 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. The EIS submitted with the original State Significant Development Application addressed the following environmental impacts:

- Consistency with relevant legislation, Strategic and Statutory Plans;
- Built form and design quality;
- Public Domain and urban design;
- Transport, traffic and access;
- Aboriginal and European heritage;
- Accessibility;
- Noise and vibration;
- Civil infrastructure and utilities;
- Railway infrastructure;
- Operational waste management;
- Geotechnical implications;
- Contamination;
- Wind impacts;
- Reflectivity;
- BCA and Fire Safety;
- Social and economic impact;
- Crime prevention and public safety;
- Environmental and construction management;
- Ecologically sustainable development;
- Development contributions;
- Site suitability; and
- Public interest

The planning assessment of the proposed modified development generally remains unchanged with respect to the above matters. However, the following assessment considers matters that warrant further assessment under section 4.55 (1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

## 4.1 Consistency with relevant legislation, Strategic and Statutory Plans

### 4.1.1 State Environmental planning Policy (State Significant Precincts) 2005

The Site is located within the Redfern-Waterloo Authority 'specified site' and therefore *State Environmental Planning Policy (State Significant Precincts) 2005* (SSP) is the principal planning instrument relating to the ATP precinct. With the exception of other State Environmental Planning Policies, all other environmental planning instruments do not apply to the site (such as the Sydney LEP 2012).

This application does not propose any substantial changes to the approved building envelope or land use. Furthermore, given floorspace is being provided that has not been physically built, the proposed amendment does not result in any amendment to the approved GFA for the building. Therefore, the proposed modification to Building 1 does not alter the original assessment of the development.

Furthermore, the Architects firm certify (**Attachment B**) that the revised design of the child care facility is consistent with all relevant requirements, standards and regulations, etc as highlighted in the Co-AP design Certificate of Design that was submitted with the original application.

## 4.2 Built Form

The built form of the modified development generally retains the key parameters of the approved building envelope, and only seeks to extend the Lower Ground Floor terrace by 4.3m. The terrace will not extend past the eastern wall of the child care centre and continue to be setback back from the site boundary as originally proposed. The proposed modifications will therefore not impact the high quality built form of Building 1.

## 5.0 Conclusion

The proposed modification seeks approval for minor external amendments to Building 1 comprising an extension to the outdoor space provided for the child care centre. The design changes necessitate amendments to the plan schedule in Condition A2.

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

- the proposed modification does not alter the approved GFA of Building 1;
- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

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

Yours sincerely,



**Claire Burdett**  
Associate Director  
02 9956 6962  
cburdett@ethosurban.com