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16435  
8 March 2017

Ms Carolyn McNally  
Secretary  
Department of Planning and Environment  
210 Pitt Street  
SYDNEY 2000

Attention: Peter McManus - Specialist Planning Officer

**SECTION 96(1A) MODIFICATION APPLICATION SSD 16\_7534  
WESTERN SYDNEY STADIUM 11-13 O'CONNELL STREET, PARRAMATTA**

On behalf of Venues New South Wales (VNSW), we hereby submit an application pursuant to section 96 (1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent SSD 16\_7534 relating to the Stage 1 concept approval and demolition of the Western Sydney Stadium.

This modification seeks to make an administrative correction to the site description identified in the consent and make minor amendments to the site boundary to accommodate the resurfacing of the southern commuter car park to better integrate with the Stage 2 development. The reconfiguration and resurfacing of the car park and associated landscaping works have been identified by Lendlease, the preferred contractor for the Stage 2 detailed design and the demolition and construction of the stadium, to return the site to normal following construction. No physical works are proposed under this modification, the works to the car park and associated landscaping will be delivered under the Stage 2 State Significant Development Application (SSDA).

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 96(1A) and 79C (1) of the EP&A Act. It should be read in conjunction with the Environmental Impact Statement (EIS) prepared by AECOM dated 15 July 2016 and the Preferred Project Report (PPR) prepared by AECOM dated 23 September 2016 and is accompanied by:

- Stage 1 Survey Plan prepared by Hassell (**Attachment A**); and
- Revised site plan prepared by Populous (**Attachment B**).

## **1.0 BACKGROUND**

### **1.1 Consent Proposed to be Modified**

Development Consent SSD16\_7534 was granted on 7 December 2016 by the Minister of Planning for the following components of the development

- **Concept Proposal** for the Western Sydney Stadium, including building envelopes, 500 surface car parking spaces, access, ancillary infrastructure and landscaping; and
- **Detailed works** for staged demolition and removal of the existing stadium and associated infrastructure and the Parramatta Swimming Centre.

The proposed development, consistent with the Stage 1 approval, will comprise:

- A new 30,000 seat stadium and ancillary uses;
- 500 above ground car parking spaces;
- Vehicular and pedestrian access and circulation arrangements; and
- Public domain improvements.

## 1.2 Previous Modifications to the Consent

This is the second modification applicable to the Stage 1 consent. A modification application was made pursuant to Section 96(2) of the EP&A Act in February 2017 that sought to expand the approved range of site preparation works to include piling and remediation/earthworks. The works are outlined below:

- Remediation works comprising the excavation and storage of contaminated materials and bulk excavation. Contaminated materials will be stored on site and capped below ground in accordance with the recommendations outlined in the Remedial Action Plan; and
- Piling works which will comprise the driving and drilling of concrete piles to establish foundations for the construction of a stadium located within the Stage 1 building envelope.

The modification application is currently under assessment by the Department of Planning and Environment (DPE) and is awaiting determination.

## 1.3 Consultation

Venues NSW and Lendlease met with the DPE on 21 February to discuss the proposed modification and various other aspects of the Stage 2 DA. The DPE did not raise any significant concerns with the modification. As the modification relates to a correction in the consent and minor alterations to the site boundary to facilitate the reconfiguration of a car park and associated landscaping works normally associated with the Stage 1 DA, additional community consultation for the modification has not been considered necessary.

## 1.4 Stage 2 Development Application

A detailed DA is currently being prepared for Stage 2 of the development. The Stage 2 SSDA (SSD 7534) will seek approval for the detailed design and construction of the stadium as well as supporting uses such as retail tenancies, kiosks and other complementary uses. The stadium design will be generally consistent with the envelopes approved under the Stage 1 SSDA and will include materials and design treatments consistent with the Urban Design and Public Realm Guidelines. The SSDA will include detailed public domain plans and integration works facilitated in this modification to ensure the site is returned to a finished state.

An illustration of the indicative future Stadium built form and public domain is provided at **Figure 1** below.



**Figure 1** – Indicative stadium design

Source: Populous

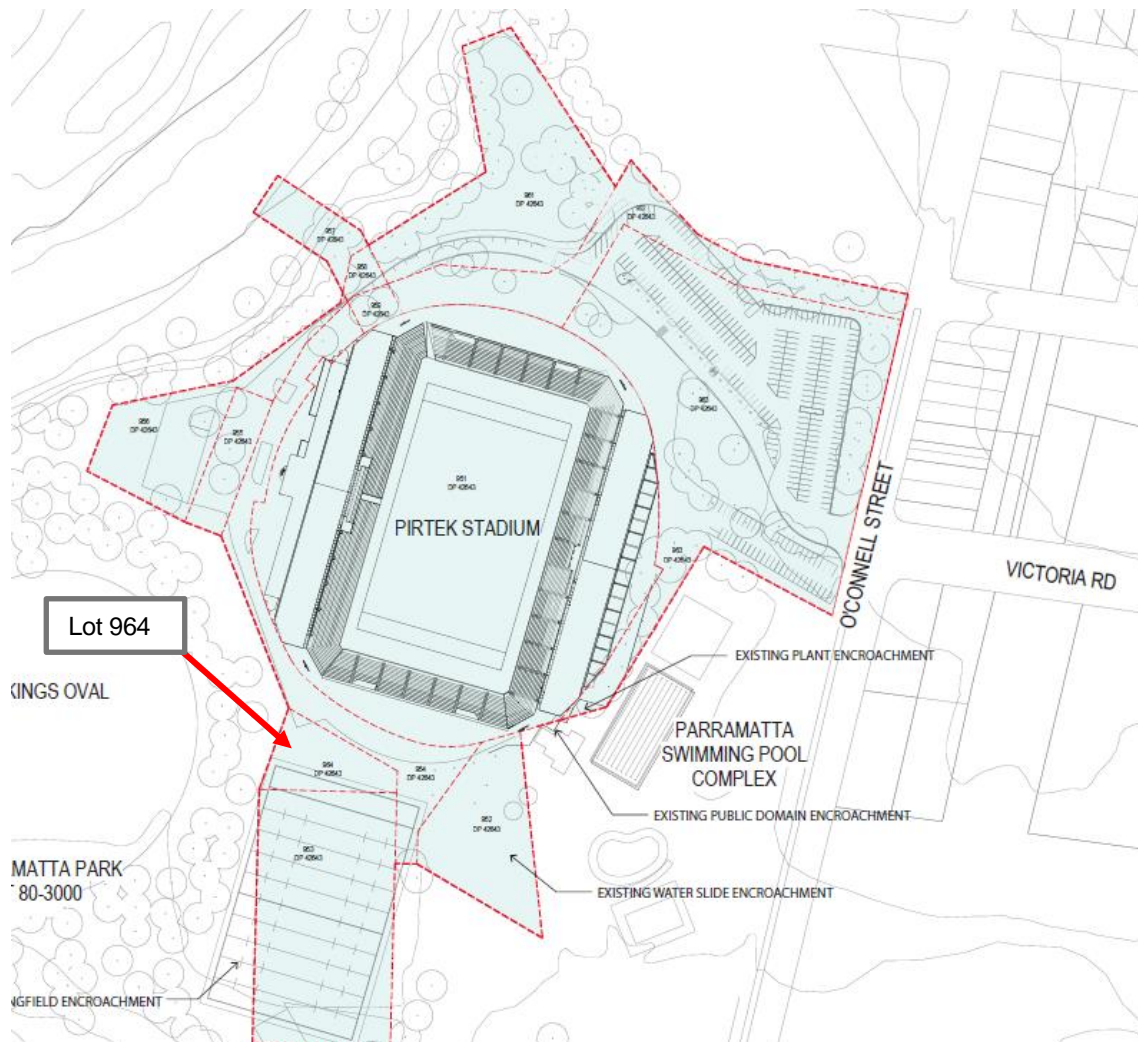
## 2.0 PROPOSED MODIFICATIONS TO CONSENT

The proposed modification seeks to make a correction in the site description to include lot 964 which has been omitted from the consent. The modification also seeks to make minor adjustments to the Stage 1 Site boundary to accommodate the resurfacing of the southern car park and associated landscape integration works proposed under the Stage 2 SSDA.

### 2.1 Correction of Site Description

The land to which the development relates is clearly identified in the site plan provided in the EIS (Section 1.2 Figure 1-3) and the Concept Proposal drawings identified in Schedule 2 (condition A.4) of the Stage 1 Consent. Notwithstanding this, the Stage 1 EIS omitted lot number 964 in DP 42643 from the description of the site and this omission has been carried through to the description of the 'Land' in the Development Consent.

Lot 964 is identified in **Figure 2** below.



**Figure 2 – Site survey plan**  
Source: Populous

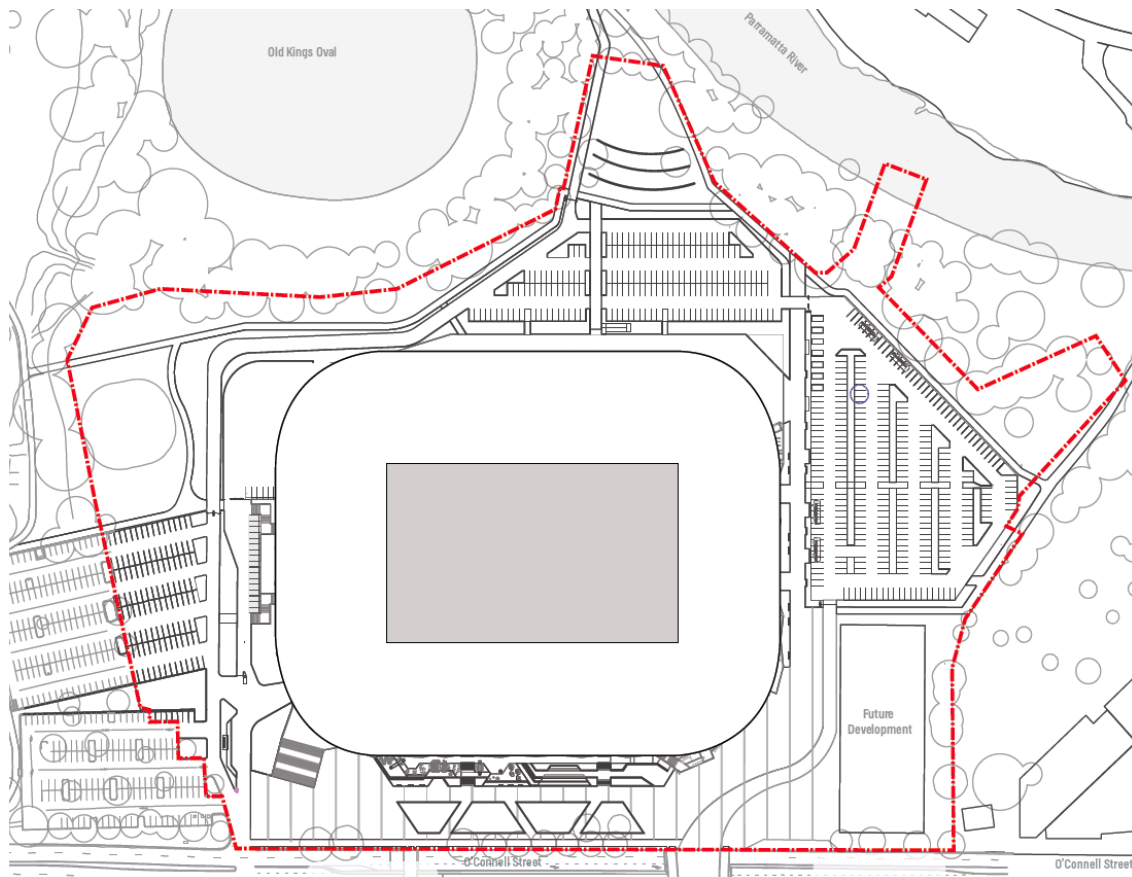
This modification seeks to correct the description of the land identified in the consent, as outlined in **Section 3.0** below.

## 2.1 Site Integration Works

The modification seeks to make amendments to the Stage 1 site boundary to facilitate the reconfiguration and resurfacing of the southern commuter car park and associated landscape integration works that have been identified as part of the detailed design undertaken for Stage 2. The amendments to the site boundary are proposed to ensure consistency between the Stage 1 and Stage 2 SSDAs and facilitate the extent of works identified in the revised site plan at **Attachment B**. The physical works enabled by this modification will be included in the Stage 2 DA with no physical works forming part of this modification.

The boundary adjustment will facilitate works to reconfigure the southern commuter car park under the Stage 2 SSDA. The reconfiguration of the southern car park has been identified as an opportunity to improve the layout and efficiency of the car parking arrangement (refer to **Figure 3** below). The reconfiguration of the car park will be supported by landscaping works to properly integrate the development with the car park to the south. The modified site boundary will also allow for the improved alignment of the car park to the north of the stadium.

No additional lots are proposed to be included in the site as a result of this modification as the adjusted site boundary lies within Crown Land lots 80-3000 (part). **Figure 3** provides an indicative stadium plan to provide context for the extent of works and amended site boundary. The details of the stadium and site arrangement are subject to the Stage 2 detailed SSDA.



**Figure 3 – Extent of works boundary**  
Source: Populous



### 3.0 MODIFICATIONS TO CONDITIONS

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

#### SCHEDULE 1

**Land** Western Sydney Stadium  
11-13 O'Connell Street, Parramatta  
(Lots 951-959 and 961-~~963 964~~ DP 42643 and Crown Land Lot 90-3000 (part)).

Reason for Amendment: To correct the description of the land consistent with the Stage 1 SSDA.

#### SCHEDULE 2

##### PART A TERMS OF CONSENT

##### A4. Development in Accordance with Plans and Documents

The Applicant shall carry out the project in accordance with the conditions of consent and generally in accordance with the:

- a) EIS, as amended by the RtS;
- b) The S96 to Development Consent dated February 6 2017; and
- c) The S96 to Development Consent dated March 3 2017; and
- d) the following drawings, except for:
  - i) any modifications which are Exempt or Complying Development; and
  - ii) otherwise provided by the conditions of this consent.

<b>Architectural (or Design) Drawings prepared by CHROFI, DesignInc, <del>and</del> Fiona Yeates Consulting Pty Ltd and Aurecon</b>		
<b>Dwg. No.</b>	<b>Name of Plan</b>	<b>Date</b>
DA 05	Structure Plan	23/09/2016
DA 06	Concept Plan	23/09/2016
DA 07	Concept Sections	23/09/2016
DA 08	Concept Evaluations	23/09/2016
DA 11	Concept Landscape Plans	23/09/2016
DA 12	Concept Landscape Plans- Sections	23/09/2016
DA 13	Precinct Plan: Urban Plaza	23/09/2016
DA 14	Precinct Plan: Urban Park	23/09/2016
DA 15	Precinct Plan: Corporate Terrance & VIP Entry Terrace	23/09/2016
DA 16	Existing Tree Plan	23/09/2016
S96 - 001	Finish Surface Overall Plan	03/02/2017
S96 - 002	Earthworks Plan Overall	03/02/2017
S96 - 003	Foundation Plan Overall	02/02/2017
<b><i>WSS - L-MP-1 - 102 0 00 - A</i></b>	<b><i>Amended Site Boundary</i></b>	<b><i>01/03/2017</i></b>

Reason for the amendment: To facilitate the resurfacing of the car park and associated landscaping works proposed under the Stage 2 SSDA.

#### 4.0 SUBSTANTIALLY THE SAME DEVELOPMENT

The power to amend a development consent is found in section 96 of the EP&A Act. Section 96 is an independent facilitative power that is separate to the grant of a development consent. Section 96(1A)(b) of the EP&A Act states that a consent authority may modify a development consent if:

- a) *it is satisfied that the proposed modification **is of minimal environmental impact**, and*
- b) *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), and*
- c) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

**(emphasis added)**

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- it relates to the correction of an error in the consent relating to the description of the land;
- it retains the same building envelope and building height for the stadium and the future development;
- it makes no changes to the approved concept proposal and as such retains the same uses, stadium capacity and GFA, car parking spaces, GFA for the future uses, public domain works, vehicular and pedestrian access points, design guidelines and public domain;
- it does not propose any physical works and as such will not result in any adverse environmental impacts;
- it will facilitate landscaping and interface works to return the site to normal;
- the environmental impacts of the modified development are in the order of the approved development.

The consent authority may be satisfied that the modified proposal represents substantially the same development for which consent was originally granted and it is apparent from the nature and scale of the modifications that there will be no significant adverse environmental impacts. The modification of development consent SSD 16\_ 7534 can therefore lawfully be approved under Section 96(1)(a) of the EP&A Act. A further assessment of any potential environmental impacts, and ultimately an evaluation of how these impacts are minimal (or negligible), is provided in **Section 5.0** below.

#### 5.0 ENVIRONMENTAL ASSESSMENT

Section 96(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”. The following assessment demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

##### 5.1 Compliance with relevant Planning Instruments and Policies

The Environmental Impact Statement (EIS) submitted with the Stage 1 State Significant Development Application (SSDA) addressed the proposed development's level of compliance against a number of relevant environmental planning instruments.

As is evident from **Section 2.0**, the proposed modifications result in a correction in the consent and the minor alteration of the Stage 1 site boundary to facilitate future works associated with the development.

The proposed modifications will therefore not alter the level of compliance of the development with the relevant planning instruments.

For completeness, **Table 1** below provides a summary overview of the proposed modified development's continued level of compliance with relevant planning instruments.

**Table 1** – Compliance with relevant environmental planning instruments

Instrument	Comments
<b>EPBC Act</b>	The EPBC Act relates to the protection of the world heritage listed Old Government House and Domain (OGHD) and the Grey Headed Flying Fox (GHFF) population. The proposed modifications do not relate to physical works and will not result in impacts that will have any additional adverse impacts on the GHFF population.
<b>TSC Act</b>	The TSC Act relates to the presence of Cumberland River Flat Eucalyptus Forest on the site. The proposed modifications do not relate to physical works and will not result in impacts that will have any additional adverse impacts on the Cumberland River Flat Eucalyptus Forest.
<b>SEPP (State &amp; Regional Development)</b>	The modified development continues to meet the threshold for State Significant Development.
<b>SEPP 55 (Remediation of Land)</b>	The remediation works proposed under MOD 1 demonstrate that the site can be made suitable for the future development. The Stage 1 Remedial Action Plan (RAP) will be amended (if required) to include additional land identified in this modification.
<b>SREP Sydney Harbour Catchment</b>	The proposed modified development does not affect the level of compliance with the key relevant matters for consideration.
<b>Parramatta LEP</b>	The proposed modified development does not affect the level of compliance with the key LEP matters for consideration.
<b>Parramatta DCP</b>	The DCP relates to sensitive view corridors to OGHD. The proposed modified development will not affect the level of compliance with the key views.

## 5.2 Section 79C(1)(b) Impact on the Environment

The EIS submitted with the original SSDA addressed the likely impacts of the development. The proposed modified development does not give rise to any material alteration to the assessment of the potential impacts considered as part of the original SSDA. Due to the minor nature of the modification the technical reports submitted with the SSDA do not require any amendments. Accordingly, the conclusions of the original assessment remain valid.

## 5.3 S.79C(1)(c) Suitability of the site for the proposed development

The site remains suitable for the proposed development for the reasons outlined in the EIS lodged with the original SSDA.

## 5.4 S.79C(1)(d) Submissions made

Any submissions made on this subject modification application will be duly considered and addressed by Lendlease.

## 5.5 S.79C(1)(e) The public interest

The proposed modifications to the approved development are considered to be in the public interest, especially given the changes will:

- facilitate the resurfacing of a car park to provide a better interface to the future development
- correct a minor error in the consent relating to the description of the land;
- facilitate the timely delivery of a new stadium providing a significant public benefit through increased capacity and amenity at sporting and entertainment events;
- not result in any changes to the approved Stadium concept and associated public benefits addressed under the Stage 1 DA;
- not result in any unacceptable environmental impacts; and
- continue to create new jobs during the construction phase.

## 6.0 CONCLUSION

The proposed modification seeks to correct an error in the description of the land and facilitate the reconfiguration of the southern car park in order to better integrate the future development of the site with the surrounding land. The proposed modifications will not materially alter the environmental impacts assessed and approved as part of the existing development consent and will facilitate the timely delivery of the stadium development.

In accordance with section 96(1A) of the EP&A Act, the Minister or his delegate may modify the consent as:

- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the modifications will not result in any significant adverse environmental impacts; and
- the development's compliance with the Stage 1 Concept Proposal and key statutory plans and controls remains consistent with the approved development.

Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or [mnorman@jbaurban.com](mailto:mnorman@jbaurban.com).

Kind Regards,



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Associate



Matthew  
Senior Planner