

22 December 2022

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Mr Michael Cassel
Secretary
Department of Planning and Environment
12 Darcy Street,
PARRAMATTA NSW 2150

Dear Mr Cassel,

SECTION 4.55(1A) MODIFICATION APPLICATION – SSD 11564741 STAGE 1B (STAGE 5) SUBDIVISION, BARANGAROO SOUTH

This modification application has been prepared by Ethos Urban on behalf of Lendlease (Millers Point) Pty Ltd (Lendlease), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 11564741 relating to the stratum subdivision of Stage 1B (Stage 5) at Barangaroo South (the site).

The proposed modification relates to a number of amendments to the approved Stratum lot boundaries, in response to further refinements to the proposed staged subdivision of the site. In addition, it seeks a minor amendment to the wording of Condition 14 to reflect correct condition referencing.

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 Amended Stratum Plans prepared by Geostrata (**Attachment A**).

1.0 Consent proposed to be modified

Development consent SSD 11564741 was granted by the Executive Director, Key Sites and Regional Assessment under delegation from the Minister for Planning and Public Spaces on 2 March 2022 for the staged stratum subdivision of Lot 500 in Barangaroo South into nine allotments to support Buildings R4A, R4B and R5 (including basement areas), a substation and public domain areas. No physical works were proposed and the consent provides for staged subdivision.

This modification application represents the first amendment to the development consent.

2.0 Proposed modifications to the consent

2.1 Modifications to the development

The following table (**Table 1**) outlines the principal modifications proposed to the approved development in this application.

These modifications are necessary in order to accurately reflect internal layout changes. These are as a result of ongoing design development as sought under separate modification applications to the Basement (SSD 6960 – MOD 5), Stage Building R4A (SSD 6964 MOD 7) and Building R4B (SSD 6965 MOD 7/Amending SSD 8892218 MOD 5). In addition, they also reflect components of the current Building R5 and Building R4B.

In addition, a minor amendment is proposed to Condition A14 to correct an error in the condition referencing, as discussed further below.

Table 1 Proposed modifications (note the explanatory plans used to describe)

Lot number / location		
Stratum lot boundaries between Lot 605 and Lot 607 (in addition, 601 and 602, 601 and 603 as discussed below).	To reflect the proposed changes on Basement Level B0 being wall alignment, loading dock, storage and retail amenities (sought under separate modification application to Stage 1B Basement and Building R4A).	
Stratum lot boundaries between Lot 601 and 602	To reflect the proposed changes on Basement Level B1 regarding storage and amenities areas (sought under separate modification applications to Building R4A).	
Stratum lot boundaries between Lots 601 and 603	To reflect the proposed changes on Basement Level B1 regarding loading dock and storage areas (sought under separate modification applications to Stage 1B Basement, and Buildings R4A and R4B).	
Stratum lot boundaries between Lots 605 and 607.	To reflect reallocation of car parking spaces on Basement Level B1 within Building R5 lots (parking areas approved under Building R5).	

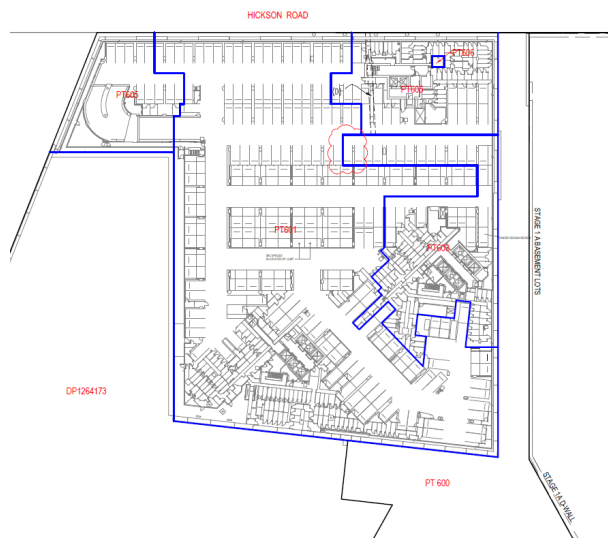
Lot number / location

Stratum lot boundaries between Lots 605 and 606

To reflect retail amenities on Basement Level B1 (area approved under Building R5).

Stratum lot boundaries between Lots 601 and 603

To reflect the proposed changes on Basement Level B3 with respect to parking (sought under separate modification applications to Building R4B).



Stratum lot boundaries between Lots 603 and 605

To reflect a proposed minor change to residential storage cage shape on Basement Level B4.



Stratum lot boundaries between Lots 603 and 604

To reflect retail amenities on ground level of R4B (area approved under Building R4B).



Stratum lot boundaries between Lots 605 and 606

To reflect areas on the ground floor of R5 being booster cupboard and gas meter room (approved under Building R5).

Amendment to Condition A14

In addition to the amendments proposed in Table 1 above, it is proposed to amend the wording of Condition 14 to remove an error in the condition referencing. The wording of Condition A14 is below:

STAGE VARIATIONS

A14. The scope, order and extent of works within each stage detailed in Condition ~~A15~~ A13 above may be varied due to market conditions, servicing constraints and the requirements of the conditions of approval.

The progressive release of lots within each stage may occur subject to separate Subdivision Certificates.

The reference to Condition A15 in the consent should read as Condition A13, as this condition details the proposed stages of subdivision. Accordingly, the modification seeks to modify this condition to correct such.

2.2 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 italics strike through**~~ and words to be inserted are shown in **bold italics**.

TERMS OF CONSENT

A2 The development may only be carried out:

- a) in compliance with the conditions of this consent;
- b) in accordance with all written directions of the Planning Secretary;
- c) in accordance with the EIS and RtS;
- d) **in accordance with Section 4.55(1A) Modification 1 to SSD 11564741 titled 'Stage 1B (Stage 5) Subdivision, Barangaroo South' and accompanying appendices, prepared by Ethos Urban and dated 21 December 2022.**
- e) in accordance with the management and mitigation measures;

Architectural (or Design) Drawings prepared by GeoStrata			
Sheet Number	Revision	Name of Plan	Date
Sheet 1 of 12 sheets	03	Plan of Proposed Subdivision Level 1 – Location Plan	5/12/2019
Sheet 2 of 12 sheets	03 04	Plan of Proposed Subdivision Basement Level 4	5/12/2019
Sheet 3 of 12 sheets	03 04	Plan of Proposed Subdivision Basement Level 3	5/12/2019
Sheet 5 of 12 sheets	03 04	Plan of Proposed Subdivision Basement Level 1	5/12/2019
Sheet 6 of 12 sheets	03 04	Plan of Proposed Subdivision Basement Level 0	5/12/2019
Sheet 7 of 12 sheets	03 04	Plan of Proposed Subdivision OSH – R4A, R4B, R5 Buildings	5/12/2019
Sheet 8 of 12 sheets	03	Plan of Proposed Subdivision OSH – R4A, R4B, R5 Buildings	5/12/2019
Sheet 9 of 12 sheets	03	Plan of Proposed Subdivision OSH – R4A, R4B, R5 Buildings	5/12/2019
Sheet 10 of 12 sheets	03	Plan of Proposed Subdivision OSH – R4A, R4B, R5 Buildings	5/12/2019
Sheet 11 of 12 sheets	03	Plan of Proposed Subdivision OSH – R4A, R4B, R5 Buildings	5/12/2019
Sheet 12 of 12 sheets	03	Plan of Proposed Subdivision OSH – R4A, R4B, R5 Buildings	5/12/2019

Reason: The ensure the stratum plans are modified to reflect the correct development.

STAGE VARIATIONS

A14. The scope, order and extent of works within each stage detailed in Condition ~~A15~~ **A13** above may be varied due to market conditions, servicing constraints and the requirements of the conditions of approval.

The progressive release of lots within each stage may occur subject to separate Subdivision Certificates.

Reason: To ensure correct condition referencing in the development consent.

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 stratum modifications do not involve any physical works and will not alter the key components of the approved development being the staged subdivision of land and buildings at Barangaroo.
- The proposed stratum modifications accurately reflect minor changes to the internal and functions layout of Basement Levels BO, B1, B3 and B4 (including those sought under current separate modification applications) and the Ground Floor of Buildings R4B and R5.
- The proposed modifications continue to support the achievement of a high standard of design excellence, and do not propose any changes to the approved crystal form adopted for the family of One Sydney Harbour buildings or related public domain.
- No change is proposed to the approved maximum building height or GFA of buildings and structures related to the staged stratum subdivision.
- The modified development will not give rise to any additional environmental impacts beyond those that were considered and deemed acceptable in the original Development Consent.

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 and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 State Environmental Planning Policies

Table 1 provides an analysis of the proposed modifications' compliance with the relevant provisions of applicable State Environmental Planning Policies.

Table 2 State Environmental Planning Policies

Instrument	Assessment	
<i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i>	The Barangaroo site is listed as a State Significant Site under Appendix 5 of the Eastern Harbour SEPP. The following is an assessment of the proposal's compliance with the Eastern Harbour SEPP	
	Clause 8 – Zone B4 Mixed Use	The proposed development is both a form of shop top housing (R4A, R4B R5 buildings and power substation) and form of community facilities (public domain), and are permissible and consistent with the objectives of the B4 Mixed Use zone. No change to the approved uses is proposed.
	Clause 16 – Subdivision (Building Management Statements)	A Building Management Statement was provided with the original planning application. The development consent requires that a final Building Management Statement (Condition B10) be prepared prior to actual subdivision. The modification does not seek to alter this requirement, and the final Building Management Statement will reflect outcomes of this modification.
	Clause 17 – Height of Buildings (maximum RL 250)	The proposed modification does not seek to alter the approved height of any of the buildings in Barangaroo South.
	Clause 18 – Gross Floor Area Restrictions – maximum 86,979m ² (across Building R4A and R4B)	No changes to the total GFA of the building are proposed as part of this application. Therefore, the total GFA of R4A R4B and R5 remain consistent with the maximum GFA restriction Block 4A.
	Clause 19 – Design Excellence	The proposed development will continue to achieve (support) a high standard of design excellence. No physical amendments are proposed to the buildings, and therefore, no changes are expected to the approved overall design excellence.

4.2 Barangaroo Concept Plan

An assessment of the proposed modifications against the Concept Plan (as modified) is provided in **Table 2**. It is noted that the proposed modification does not seek any amendment to the total height of building, setbacks or gross floor area outlined within the Concept Plan. The assessment demonstrates that the proposed development is generally consistent with the approved Concept Plan (as modified).

Table 3 Concept Plan (as modified) provisions

Concept Plan (as modified) Control – Block 4A and 4B (R4A and R4B and R5)	Building R4A (not subject to this application)	Building R4B (not subject to this application)	Building R5 (not subject to this application)	Stage 1B Basement	Total	Assessment
Maximum Residential GFA – 112,453m ²	47,564m ² (no change)	44,252m ² (no change)	20,636.9m ² (no change)	0m ²	112,452.9m ²	✓
Other Uses GFA – 1,684m ²	438m ² (no change)	309m ² (no change)	788.1m ² (no change)	92.8m ²	1,627.9m ²	✓
Total GFA – 114,137m ²	48,002m ² (no change)	44,561m ² (no change)	21,425m ² (no change)	92.8m ²	114,080.8m ²	✓
Maximum height – RL 250	RL 250 – no change	RL 208.230 – no change	RL 107 (no change)	N/A	-	✓
Tower Setbacks	No change	No change	No change	NA	N/A	✓

4.3 Reasons given for granting consent

The key reasons for granting consent to the SSD development application are as follows:

- The project would provide a range of benefits for the region and the State as a whole, as it is consistent the Barangaroo Concept Plan which provides for the regeneration of the former dilapidated waterfront site, extensive new areas of public open space, new housing including key worker housing, public art, community uses, employment opportunities and flooding drainage infrastructure
- The project is permissible with development consent
- There will be no impacts on the community or the environment
- The issues raised by the community during the consultation and in the submissions have been considered and adequately addressed
- Weighing all relevant considerations, the project is in the public interest

The proposed stratum modifications remain consistent with these reasons for granting consent.

The proposed modifications will accurately reflect the internal layout of the Basement Levels B0, B1, B2, B3 and B4 and the Ground Floor of Buildings R4B and R5.

5.0 Conclusion

The proposed modification application seeks consent for the following changes to the stratum subdivision:

- Amendment of the Stratum lot boundaries between Lots 605 and 607, Lots 601 and 603 and Lots 601 and 602 to reflect the proposed changes on Basement Level B0 (wall alignment, loading dock, storage and retail amenities sought under separate modification applications to Stage 1B Basement and Building R4A).
- Amendment of the Stratum lot boundaries between Lots 601 and 602 to reflect the proposed changes on Basement Level B1 (storage and retail amenities areas sought under separate modification application to Building R4A).
- Amendment of the Stratum lot boundaries between Lots 601 and 603 to reflect the proposed changes on Basement Level B1 (loading dock and storage areas sought under separate modification applications to the Stage 1B Basement, Buildings R4A and R4B).
- Amendment of the Stratum lot boundaries between Lots 605 and 607 to reflect reallocation of car parking spaces on Basement Level B1 for within Building R5 lots (parking approved under Building R5).
- Amendment of the Stratum lot boundaries between 605 and 606 to reflect changes on Basement Level B1 for retail amenities (area approved under Building R5).
- Amendment of the Stratum lot boundaries between Lots 601 and 603 to reflect the proposed changes on Basement Level B3 (parking sought under separate modification applications to Building R4B).
- Amendment of the Stratum lot boundaries between Lots 603 and 605 to reflect proposed changes on Basement Level B4 to an approved storage cage.
- Amendment of the Stratum lot boundaries between Lots 603 and 604 on the Ground Floor of Building R4B for retail amenities (area approved under Building R4B).
- Amendment of the Stratum lot boundaries between Lots 605 and 606 on the Ground Floor of Building R5 to reflect ground floor areas of Building R5 (booster cupboard and gas meter room approved under Building R5).
- Amendment to the wording of Condition A14 'Stage Variations' to reflect correct condition referencing.

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

- The consent, as proposed to be modified, is substantially the same development as that originally approved.
- The proposed modifications are considered minor. They are within the boundaries of the approved stratum subdivision reflecting the buildings (and basements) of One Sydney Harbour (R4 R4B and R5), and will not have any substantial environmental impacts, as outlined within this report.
- The modifications comply with the Barangaroo Concept Plan and relevant State Environmental Planning Policies.

We trust that this information is sufficient to enable assessment of the proposed modification request. If you have any further questions on the above matter, please do not hesitate to contact us.

Yours sincerely,



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