

Section 4.55(1A) Modification Application

SSD 49295711 MOD 6 – Construction Hours

Harbourside Shopping Centre Redevelopment

Submitted to Department of Planning, Housing and Infrastructure
on behalf of Mirvac



Prepared by Ethos Urban, a Colliers Company.

6 June 2025 | 2210627



'Gura Bulga'

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



'Dagura Buumarri'

Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



'Gadalung Djarri'

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

In March 2025, Ethos Urban took a major step toward future growth by partnering with leading professional services firm, Colliers. While our name evolves, our commitment to delivering high-quality solutions remains unchanged—now strengthened by broader access to property and advisory services and expertise.

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6 June 2025

Version No.	Date of issue	Prepared by	Approved by
Draft	28/10/2024	YL	JD / AC
PMNSW	13/02/2025	YL	JD / AC
Final	06/06/2025	YL	JD / AC

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Attachments

Attachment	Author
A. Amended Architectural Plans	Snøhetta + Hassell
B. Acoustic Report	Acoustic Logic

1.0 Introduction

Modification Application has been prepared by Ethos Urban on behalf of Mirvac Retail Sub SPV Pty Ltd (Mircac), the applicant, pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 49295711 relating to the detailed design, construction, and operation of the new Harbourside podium and tower building.

This modification seeks consent for the following:

- extended construction hours to SSD 49295711 for certain works, subject to strict criteria and conditions of consent with the aim of expediting construction in the most time efficient manner and reducing the period of construction experienced by surrounding receivers, while mitigating any adverse impacts.
- a minor amendment to the ground floor retail back of house corridor.

This Modification 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. It has been prepared and set out in accordance with the Department of Planning, Housing, and Infrastructure (DPHI)'s *State significant development guidelines – preparing a modification report* (October 2022). It should be read in conjunction with the documentation appended to this report (refer to Table of Contents).

1.1 The applicant

The applicant for this Modification Application is Mirvac Retail Sub SPV Pty Ltd (Mircac). The applicant's details are presented in **Table 1**.

Table 1 Applicant details

Applicant	Mircac Retail Sub SPV Pty Ltd
Address	Level 28, 200 George Street, Sydney NSW 2000
ABN	34 122 863 521

1.2 Project background

Mircac acquired the Harbourside Shopping Centre site in 2013 and is currently redeveloping the site to realise its potential as a world class entertainment centre, meeting the needs of tourists and Sydneysiders alike. The redevelopment of Harbourside Shopping Centre is currently being facilitated through the State Significant Development Application (SSDA) process, via the following applications (**Table 2**).

Table 2 Summary of Harbourside SSDAs

Application	Summary of scope	Status
SSD 7874 (Harbourside Concept Approval)	Concept Approval for building envelope, GFA limits and other planning parameters, and demolition of the previously existing shopping centre.	Approved 25 June 2021.
SSD 38881729 (SSDA 1)	Bulk excavation works and construction of retaining structures.	Approved 2 March 2023.
SSD 49295711 (SSDA 2)	Detailed design, construction and operation of the new podium and tower building, including basement.	Approved 4 December 2023.
SSD 49653211 (SSDA 3)	Fitout and use of public domain spaces within the built form and surrounding public domain area.	Under assessment.

This Modification Application relates specifically to SSD 49295711 (i.e., SSDA 2), as further described below.

1.3 SSD 49295711 – consent proposed to be modified

SSD 49295711 was approved by the Minister of Planning and Public Spaces on 4 December 2023. It is described in its development consent as:

Redevelopment of former Harbourside Shopping Centre, comprising:

- *construction of a 50 storey development (RL 170) including tower, podium and basement levels for residential accommodation, office and retail;*
- *parking for cars, motorcycles, service vehicles and bicycles;*
- *provision of hard and soft landscaping and through site links;*
- *electricity and stormwater infrastructure; and*
- *consolidation and stratum subdivision of the site.*

An artist's impression of the redeveloped Harbourside site is provided in **Figure 1**.



Figure 1 Artist's impression of the redeveloped Harbourside site

Source: Snøhetta and Hassell

1.3.1 Subsequent modification applications

This Modification Application represents the fifth modification sought to SSD 49295711 since its approval (i.e., MOD 5). A summary of existing modifications to the consent is provided in **Table 3** below.

Table 3 Other modification applications to SSD 7874

Modification	Description	Determination
SSD 49295711 MOD 1	Adjustments to apartment layout on levels 9 – 45 of the residential tower, including adjustments to unit mix.	Approved 3 July 2024.
SSD 49295711 MOD 2	<ul style="list-style-type: none">Expansion of potential land uses on level 1 to include event and conference uses;Amendments to podium layout and design;Amendments to residential tower layout and design,Minor amendments to basement layout;Various amendments to building services, plant, podium rooftop and facades; andInclusion of design changes to the Bunn Street through-site link.	Approved 11 April 2025.
SSD 49295711 MOD 3	<ul style="list-style-type: none">Amendments to the timing of several conditions of consent to align construction certificate timing with the broader project delivery strategy and SSD 49653211 (SSDA 3) public domain works.A minor amendment to the extent of the Level 4 podium plant area.	Approved 12 March 2025.
SSD 49295711 MOD 4	<ul style="list-style-type: none">Amalgamation of apartments and other minor changes related to prospective purchaser requests.	Under assessment.
SSD 49295611 MOD 5	<ul style="list-style-type: none">Minor administrative amendments to various conditions of consent to enable staged occupation of the development.	Under assessment.

The scope of this modification does not overlap with MODs 4 and 5 and they can be assessed concurrently.

2.0 Strategic context

This Modification Application does not seek to change the extent of the SSD 49295711 project site.

The amendments sought comprise only amended construction hours, as well as a minimal design amendment to a ground floor back-of-house retail corridor. Therefore, the amendments do not change the project's compliance with the relevant strategic framework including the following documents:

- Greater Sydney Region Plan;
- Eastern City District Plan;
- Pymont Peninsula Place Strategy; and
- City of Sydney Local Strategic Planning Statement.

As discussed in the below section, the extended hours proposed are for certain non-disruptive works only and will be subject to strict additional criteria and monitoring to ensure that no adverse impact is generated onto surrounding receivers.

As such, the proposed modification will not generate unacceptable cumulative impacts. The extended hours are intended to expedite construction in the most time efficient manner and reducing the period of construction experienced by surrounding receivers, by permitting works which are not disruptive to surrounding receivers to occur out-of-ours. This will reduce the overall amount of time that residents in the area are impacted by construction.

3.0 Description of the modifications

This modification seeks consent for the following:

- extended construction hours to SSD 49295711 for certain works, subject to strict criteria and conditions of consent with the aim of expediting construction in the most time efficient manner and reducing the period of construction experienced by surrounding receivers, while mitigating any adverse impacts.
- a minor amendment to the ground floor retail back of house corridor.

3.1 Amendments to construction hours

Consent is sought to permit the following specific works to be undertaken outside of the current standard hours of operation approved for SSD 49295711 (**Table 4**):

Table 4 Works proposed to be subject to extended construction hours

Type of work	Extended hours proposed
Works and activities where a relevant utility service operator has advised in writing that would result in a high risk to the operation and integrity of the utility network	May now occur at any time as needed, when required to minimise potential risks and safety implications.
Concrete pours or finishing works	May now occur between 6pm – 10pm on weekdays on no more than two occasions per calendar month. This is intended only for unexpected delays, such as weather or emergency situations, to allow the pouring to be completed in one day.
Hoist and crane climbing or dismantling works, where it can be demonstrated that the work cannot be undertaken during the standard construction hours	May now occur between 8am and 5pm on Sunday for a maximum of two Sundays over the duration of the project.
Internal fit-out and services installations/commissioning	May now occur 24 hours a day, excluding Sunday and public holidays, where the works occur behind a closed façade.

The proposed amendments to construction hours are largely limited in nature to allow the project to:

- Comply with the requirements of utility service operators;
- Complete a limited number of concrete pours per month and only in the event of unexpected delays such as weather or emergency situations to ensure that the pours are completed in one day, as required to comply with the relevant standards; and
- Allow for a limited number of days (two) where crane dismantling works can be undertaken to reduce impacts on construction programme and the surrounding road network;

These amendments are aligned with the broader City of Sydney precedents to help accelerate the completion of projects behind a closed facade with minimal noise impacts.

3.2 Back-of-house retail corridor

A minor adjustment is proposed to the design of one ground floor back-of-house retail corridor. Specifically, there are minor adjustments proposed to a number of ramps, as well as the addition of a back-of-house door, to further optimise servicing to the tenancy at the southern end of the site.

The amendment is captured in the Amended Architectural Plans by Snøhetta & Hassell at **Appendix A**, an excerpt of which is provided in **Figure 2** below.

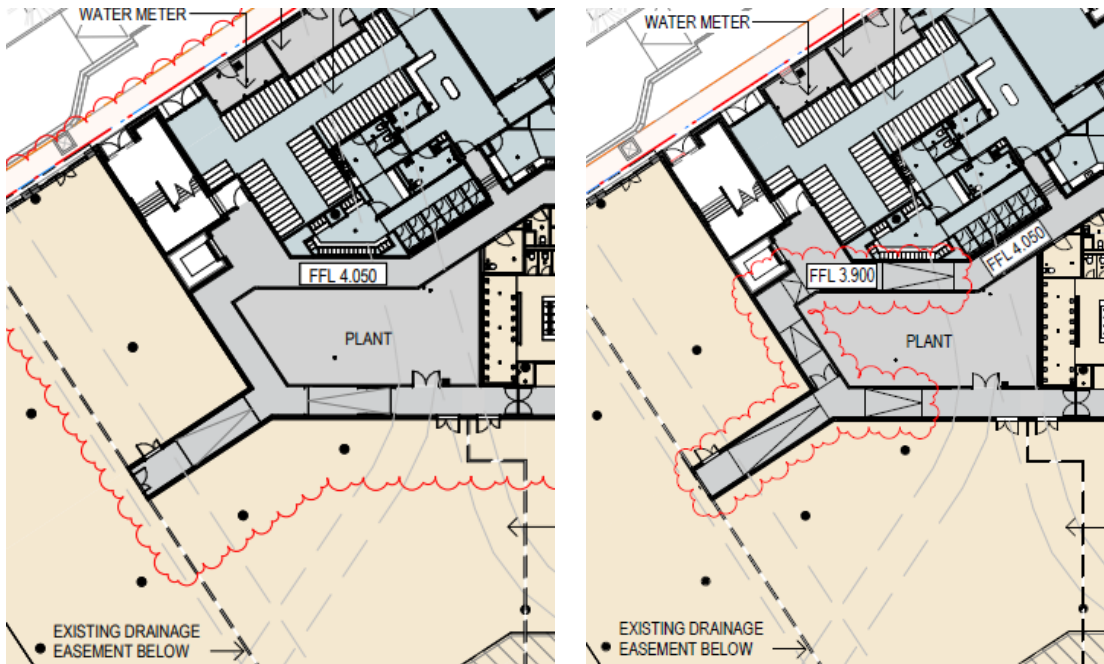


Figure 2 Back-of-house corridor adjustment; MOD 2 (left) and as proposed to be amended (right)

Source: Snøhetta & Hassell

3.3 Amendments to conditions

The proposed amendments 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**.

Condition A2

The development must 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) generally in accordance with the EIS, RtS and RRFI;
- (d) as amended by, and generally in accordance with, the following modification applications:
 - i) Section 4.55(1A) Modification Application report prepared for SSD 49295711 MOD 1 by Ethos Urban dated 22 March 2024.
 - ii) Section 4.55(1A) Modification Application – SSD 49295711 Mod 3 Harbourside Shopping Centre Redevelopment' dated 29 November 2024 and as amended by the Response to Request for Additional Information dated 3 March 2025 and email from Ethos Urban dated 7 March 2025.
 - (iii) Section 4.55(1A) Modification Application report prepared for SSD 49295711 MOD 2 by Ethos Urban dated 17 September 2024 and Response to Request for Additional Information prepared by Ethos Urban and dated 30 October 2024 and 9 January, 24 February, 20 March, 25 March and 27 March 2025;
 - (iv) in accordance with the Modification Report entitled 'Section 4.55(1A) Modification Application – SSD 49295711 Mod 4 Harbourside Shopping Centre Redevelopment' dated 23 April 2025;
 - (v) in accordance with the Modification Report entitled 'Section 4.55(1A) Modification Application – SSD 49295711 Mod 5 Harbourside Shopping Centre Redevelopment' dated 27 May 2025;
 - (vi) Section 4.55(1A) Modification Application report prepared for SSD 49295711 MOD 6 by Ethos Urban dated 6 June 2025.**
- (e) in accordance with the approved plans in the table below (except where amended by the conditions of consent):

Architectural plans prepared by Snøhetta and Hassell			
Plan No.	Rev	Name of Plan	Date
[...]			
AR-SSDA2-1100_00	EF	General Arrangement Plan – L00 Ground Plan	06/06/2024 06/02/2025
[...]			

Rationale: To facilitate the minor back-of-house design adjustment as discussed at **Section 3.2**.

Condition E3

HOURS OF CONSTRUCTION

E3. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:

- (a) between 7am and 7pm, Mondays to Fridays inclusive;
- (b) between 7am and 5pm, Saturdays; ~~and~~
- ~~(c) between 5pm and 6pm, Saturdays (internal works only).~~

No work may be carried out on Sundays or public holidays.

Rationale: To facilitate the amendments to hours of construction discussed at **Section 3.1**.

Conditions E4, E5

E4. Construction activities may be undertaken outside of the hours in Condition E3 if required:

- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
- (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.

~~E5-~~ Notification of such construction activities as referenced in ~~Condition E4~~ **this condition** must be given to affected residents before undertaking the activities or, in the event of an emergency, as soon as is practical afterwards.

E5. Construction activities may also be undertaken outside of the hours in Condition E3 as follows:

- (a) if a relevant utility service operator has advised the Applicant in writing that carrying out the works and activities would result in a high risk to the operation and integrity of the utility network.**
- (b) concrete pours or finishing works may finish after 6pm and no later than 10pm Monday to Friday on a maximum of two occasions per calendar month.**
- (c) hoist and crane climbing or dismantling between 8am and 5pm on Sunday for a maximum of two Sundays over the duration of the project where it can be demonstrated that the work cannot be undertaken during the standard construction hours in Condition E3.**
- (d) internal fit-out and services installations/commissioning up to 24 hours a day (excluding Sunday and public holidays) behind a closed façade.**

Activities permitted in this condition are subject to the following:

- (e) Should noise complaint(s) be received and the complaint(s) be confirmed as connected with this condition after being substantiated by the Department's Compliance Team, the construction work occurring during extended construction hours in Condition D5 above must cease and may not recommence until:-**
 - i. compliance with the conditions of consent has been established**
 - ii. compliance with the relevant noise management and mitigation measures identified in the Construction Noise and Vibration Management Sub-Plan (CNVMP) prepared under Condition D29 has been established; and**
 - iii. it can be satisfactorily demonstrated to the Planning Secretary that any additional management and mitigation measures, as recommended by a qualified acoustic consultant, have been fully implemented.**
- (f) The Planning Secretary may suspend the works within the extended hours under this condition if substantiated complaints are received and are not resolved to the satisfaction of the Planning Secretary.**

Rationale: To facilitate the amendments to hours of construction discussed at **Section 3.1** while facilitating appropriate criteria and consent requirements.

Condition E9

CONSTRUCTION NOISE MITIGATION

E9. The Applicant must ensure all construction vehicles (including concrete agitator trucks) do not arrive at the site or surrounding residential precincts outside of the construction hours of work outlined under Condition E3, **except when permitted under Condition E5(b)**.

Rationale: To facilitate the amendments to hours of construction discussed at **Section 3.1**.

4.0 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)”.

In this regard:

- The proposed amendments seek to extend permitted construction hours only in specific situations where the works will not result in unacceptable impacts to surrounding receivers (such as internal fit-out works).
- The design adjustment to a back-of-house retail corridor is extremely minor when considered against the overall scope and scale of the project.

Therefore, the project remains substantially the same as the development for which consent was originally granted.

5.0 Statutory context

The proposed amendments do not alter the project’s consistency with the relevant planning legislation, including the *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* or otherwise. Furthermore, the project’s consistency with the Harbourside Concept Approval (SSD 7874) remains unchanged from that as approved.

6.0 Assessment of impacts

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.

In this regard:

- The amendments do not alter the project’s consistency with any Environmental Planning Instrument, including *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021*.
- The amendments do not alter the project’s suitability for the site or it being in the public interest.
- The amended construction hours will ensure the efficient carriage of the project, expediting construction in the most time efficient manner and reducing the period of construction experienced by surrounding receivers, while mitigating any adverse impacts.

6.1 Design amendment

The minor design amendment to a ground floor back-of-house retail corridor, as discussed at **Section 3.2**, will not generate any environmental impacts worthy of consideration.

6.2 Acoustic impacts

An Acoustic Report has been prepared by Acoustic Logic at **Appendix B**. The report considers the effects of the extended hours proposed on nearby sensitive receivers as identified at **Figure 3**.



Figure 3 Identified sensitive receivers proximate to the Harbourside site

Source: Acoustic Logic

With reference to the above, and with regards to the extended construction hours specifically, the Acoustic Report confirms that compliance is anticipated with the adopted Noise Management Levels (NMLs), except in the following circumstances where they may potentially be exceeded:

- Concrete pouring and finishing works: R1 (Sofitel), R5 (Maritime Museum – noting the works are outside its operational hours), R6 (Novotel), R7 (Ibis Hotel), and R8 (50 Murray Street).
- Crane dismantling works: R1 (Sofitel), R5 (Maritime Museum), R6 (Novotel), R7 (Ibis Hotel) and R8 (50 Murray Street).
- Utilities servicing works: R1 (Sofitel), R5 (Maritime Museum – noting the works are outside its operational hours), R6 (Novotel), R7 (Ibis Hotel), and R8 (50 Murray Street), R12 (W Sydney), and R14 (Cockle Bay Park).

However, the Acoustic Report notes that it is also important to consider the following:

- Modelling scenarios present an absolute worst case load scenario for the works and assume that there is no built form or trenching providing barrier attenuation to surrounding sensitive receivers. It is anticipated that the resultant noise levels at receiving locations will be lower in practice than those predicted.
- Noise levels are generally only marginally above NMLs for the receivers listed above at worst-case receiver locations, and only above NMLs along façades facing towards the project site. Predicted external noise levels for the majority of area within the receivers listed above are below the NMLs applicable to the receiver generally.
- Further, all internal works are not anticipated to result in noise levels above NMLs at any time at any surrounding noise sensitive receivers. Hence, as the project's built form develops, it is expected that the

barrier attenuation impacting the noise emission generation from the works will increase, and hence the airborne noise impacts of the works will decrease.

- Works are scheduled for limited time periods only, noting that concrete pouring works are to be limited to two nights per month, crane dismantling works are limited to only two Sundays across the life of the project, and Utilities servicing will only occur where required for safety purposes.

Given these mitigating factors, the implementation of the ameliorative measures as provided at Section 10 of the Acoustic Report, and the limited nature of the extended hours sought, the acoustic impact of the proposed amendments are considered to be acceptable. The report concludes that *provided that the practices and recommendations in this report are implemented, the noise and vibration impacts during the extended hours works periods will be minimised.*

6.3 Reasons given for granting consent

Assessment of the proposed amendments against the reasons given for granting consent provided by the Minister of Planning within the Notice of Decision for SSD 49295711 dated 4 December 2023 is provided below in **Table 5**.

Table 5 Assessment against reasons for granting consent

Reason	Assessment
<ul style="list-style-type: none"> • The project would provide a range of benefits for the region and the State as a whole, including the provision of new residential, office and retail accommodation, publicly accessible open space, through site links and improved public domain, 916 construction jobs, 2,130 operational jobs and \$764,515,692 capital investment; • The project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Region Plan and the Eastern City District Plan as it supports the ongoing revitalisation of Darling Harbour and foster a lively and engaging city; 	No change.
<ul style="list-style-type: none"> • The impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards. • The consent authority has imposed conditions relating to built form, amenity, noise, landscaping, traffic and transport, flooding, ESD and construction impacts; 	The above demonstrates that the amendments to construction hours are to be appropriately managed to not generate unacceptable impacts onto surrounding receivers.
<ul style="list-style-type: none"> • The issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the conditions of consent. Engagement on the project is considered to be in line with <i>Undertaking Engagement Guidelines for State Significant Projects</i> (DPIE, July 2021), including the community participation objectives outlined in these guidelines; and • Weighing all relevant considerations, the project is in the public interest. 	No change.

7.0 Conclusion

This Modification Application seeks consent for the following:

- extended construction hours to SSD 49295711 for certain works, subject to strict criteria and conditions of consent with the aim of expediting construction in the most time efficient manner and reducing the period of construction experienced by surrounding receivers, while mitigating any adverse impacts.
- a minor amendment to the ground floor retail back of house corridor.

This letter has demonstrated that this Modification Application:

- Does not alter SSD 49295711's consistency with the relevant strategic context;
- Is substantially the same development as that originally approved;
- Remains consistent with the relevant statutory context at the site;
- Will not give rise to unreasonable environmental impacts; and
- Is suitable for the site and is in the public interest.

Given the above, the Department may modify the consent in accordance with Section 4.55(1A) of the EP&A Act

