



AP/JM
15160
7 December 2015

Minister for Planning and Environment
NSW Department of Planning and Environment
23-33 Bridge Street
SYDNEY NSW 2000

Dear Sir

**SSD 5249 – 2012 - LAWSON SQUARE - SECTION 96(1A) MODIFICATION APPLICATION
1 LAWSON SQUARE, REDFERN**

On behalf of Lawson Square Pty Ltd, 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) 5249 -2012 relating to 1 Lawson Square, Redfern.

The proposed modifications relates to the following amendments:

- Adjustments to the building envelope to retain the existing floorplate;
- Amendments to the articulation and materiality on the building facades;
- Minor increase to the total units;
- Revised substation location;
- Amendments to the driveway and entrances; and
- Retention of the existing building levels.

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 of the EP&A Act. It is accompanied by:

- Amended Architectural Plans (**Attachment A**);
- Design Verification Statement (**Attachment B**);
- Amended Acoustic and Vibration Assessment(**Attachment C**);
- BASIX Certificates (**Attachment D**);
- Heritage Impact Assessment (**Attachment E**);
- Structural Analysis (**Attachment F**);
- BCA Report (**Attachment G**); and
- Access Report (**Attachment H**).

1.0 CONSENT PROPOSED TO BE MODIFIED

Development consent SSD 5429 was granted by the NSW Minister for Planning on 18 December 2015 for the Lawson Square Development. The development consent approved the following development:

“Additions and alterations to the two existing 12 storey office towers to create an 18 storey mixed use development comprising:

- *Retail and commercial uses at the ground floor of both towers and at levels 1-5 of the western tower;*
- *156 residential units;*
- *Basement car and bicycle parking; and*
- *Public domain works”*

A Section 96 (1A) modification was approved by the NSW Department of Planning and Environment (DPE) under delegated authority on 29 October 2015 for the following:

- Relocation of the commercial tenancy to Tower 2 (eastern tower);
- Conversion of Levels 1 to 5 in Tower 1 (western tower) to residential;
- Modification of the elevation to reflect the change in uses;
- Relocation of the ground floor retail from Tower 2 to Tower 1; and
- Revised unit numbers and mix.

2.0 PROPOSED MODIFICATIONS TO CONSENT

The proposed modifications to the development consent comprise the following:

- Adjustments to the building envelope and levels to retain the existing floorplate;
- Amendments to the articulation and materiality on the building facades;
- Minor increase to the total units;
- Modifications to the substation chambers; and
- Amendments to the driveway and entrances.

The proposed modifications are described in more detail below.

2.1 Modifications to the Development

The architects Candalepas Associates and Wendy Lewin have continued to refine the architectural design to improve the development’s sustainability, articulation and materiality. Therefore, the design has continued to evolve post approval which has resulted in a variety of interrelated changes that are described below.

Retention of the existing building envelopes and floor levels

Further analysis post approval has indicated that the existing structure is suitable for re-use. Therefore, the approved building envelopes have been reduced at the south, east and west to generally reflect the existing building structure. The proposed modifications to the northern façade result in some balconies projecting beyond the approved building envelope and minor relocation of the road encroachments.

The proposed modifications include the retention of the existing building levels. This has resulted in amendments to the pedestrian access and the driveway.

Modifications to the building facades

Northern elevations

The façade materiality is proposed to be amended to remove the screening and introduce a palette of marble, glass reinforced concrete, metal balustrading, glass, and off form concrete.

Southern elevations

The southern elevations are proposed to remove the screening to increase the façade articulation and increase the materiality and number of openings to the façade.

Eastern and western elevations

The materials have been revised to remove the blockwork screens to expose the façade articulation, openings and palette of materials.

Modifications to the total units and gross floor area

The unit number is proposed to increase by six (6) to a total of 162. The gross floor area is proposed to reduce by 5sqm to a total of 12,736sqm.

Modifications to the substation chambers

The existing substation is proposed to be replaced with dual substation chambers located adjacent to Redfern Street Lane.

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

Development Description

A3 The Applicant shall carry out the project generally in accordance with the;

- a) Environmental Impact Statement (EIS) prepared by SJB Planning, dated February 2013;
- b) Response to Submissions (RtS) dated 12 September 2013 prepared by SJB Planning and Revised RtS dated 14 April 2014 prepared by SJB Planning;
- c) ***As amended by the Section 96(1A) Modification prepared by JBA dated 11 September 2015 4 7 December 2015 and***
- d) following drawings as set out in the table below, except for:
 - i) any modifications which are Exempt or Complying Development;
 - ii) otherwise provided by the conditions of this consent.

Architectural Drawings prepared by Candalepas Associates & Wendy Lewin			
Drawing No.	Issue	Name of Plan	Date
S96 – 1101	A C	Site Plan	11.09.2015 04.12.2015
S96 – 1102	A-C	Basement & Ground Floor Plan	11.09.2015 04.12.2015
S96 – 1103	B C	Level 1 & Typical Level 2 – 4 Plans	12.10.2015 04.12.2015
S96 - 1104	A C	Typical Level 5 – 14 & Level 15 Plans Typical Level 5 - 11 & Level 12 Plans	11.09.2015 04.12.2015
S96 - 1105	A C	Typical Levels 16 – 17 & Roof Plans Typical Levels 13 - 14 & Level 15 Plans	11.09.2015 04.12.2015
S96 – 1106	C	Typical Level 16 – 17 & Roof Plans	04.12.2015
S96 - 1201	A-C	Sections – Sheet 1	11.09.2015 04.12.2015
S96 - 1202	A-C	Sections – Sheet 2	11.09.2015 04.12.2015
S96 - 1301	A C	Elevations – Sheet 1	11.09.2015 04.12.2015
S96 - 1302	A C	Elevations – Sheet 2	11.09.2015 04.12.2015
S96 - 1303	B C	Elevations – Sheet 3	11.09.2015 04.12.2015
S96 - 1304	B-C	Elevations – Sheet 4	11.09.2015 04.12.2015
S96 - 1401	A C	Area Calculations	11.09.2015

Design Changes

B2 ~~Prior to the issue of the relevant Construction Certificate, amended plans and documentation are required to be submitted to an approved by the Secretary to the Department of Planning and Environment. Plans shall include:~~

- a) ~~Modifications to the southern façade of Tower 1 to improve articulation and visual interest. Modifications may include the incorporation of a wider palette of materials and finishes, incorporation of façade elements potentially including obscure glazing or external decorative screening, and further articulation or stepping of the façade consistent with the internal floor plan.~~
- b) ~~Modifications to the southern façade of Tower 2 incorporating vertical wind mitigation devices such as vertical sliding louvres or perpendicular louvres as recommended by the Wind Impact Assessment.~~
- c) ~~Provision of additional glazing at the ground floor level on the northern and southern facades. In this regard it is noted that there are opportunities for increased glazing to the café on the southern façade and improved glazing and activation along the entire length of the northern façade.~~

3.0 SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96(2) 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 onus is on the applicant to satisfy the consent authority that the modified development will be substantially the same (*Seaforth Services Pty Limited v Byron Shire Council (No.2)* (1991) 72 LGRA 44). The following principles apply when determining whether a development as modified will be “substantially the same development”:

1. The meaning of “modify” is to alter without radical transformation;
2. The term “substantially” in this context means “essentially or materially or having the same essence”;
3. The assessment involves a comparison between the development as approved originally and the development as proposed to be modified. One does not compare the development as modified with what exists currently on the site, or the development as last modified (if applicable);
4. To assess whether a consent as modified will be substantially the same requires a comparison of before and after situations. Differences may involve differences of the result or outcome, as well as differences of the process of implementation (i.e., the way in which the development is carried out);
5. The consent authority is required to undertake both a qualitative and quantitative comparison of the whole development as consented to and the whole development to which the consent as modified relates. In other words, the consent authority must compare the physical features or components of the development as currently approved and modified, **and** appreciate the **qualitative** differences between the approved and modified developments, including the context in which the original application was approved;
6. The consent authority also needs to consider whether the proposed modifications will generate any additional impacts, and whether the proposed modifications relate to “material or essential features” of the development as originally approved.

Consideration of the principles as they relate to SSD 5249

The table below sets out the essential elements of the approved development and the modifications that are currently being considered.

Table 1 – Key changes to the approved development.

Description	Approved SSD 5429	MOD 2	Variation
Summary	Alterations and additions to existing 12 storey office towers to create an 18 storey (plus plant) mixed use development	Alterations and additions to existing 12 storey office towers to create an 18 storey (plus plant) mixed use development	No change
Gross floor area	12,741m ²	12,736m ²	- 5m ² (negligible change)
FSR	7.51:1	7.51:1	No change
Height	19 storeys (including plant)	19 storeys (including plant)	No change
Dwellings	156	162	+ 6 dwellings (negligible change)
Unit Mix			
▪ Studio	▪ 22%	22%	No change
▪ 1 bedroom	▪ 43%	43%	
▪ 2 bedroom	▪ 35%	35%	

Parking	On-site parking for 20 cars and 53 bicycle spaces.	On-site parking for 20 cars and 53 bicycle spaces.	No change
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The development as proposed to be modified is ‘substantially the same development’ for the following reasons:

1. The buildings still remain as significant mixed use towers adjoining Redfern station.
2. The changes to the materials on the facades are noticeable, however high quality materials are continued to be used and this element of the approved development is not radically transformed.
3. The envelopes of the buildings have reduced. The buildings are no closer to each other or the adjoining building.
4. There is no significant change to the ground plan in terms of use or design changes.
5. There are no changes to parking rates or provisions.
6. The key view sharing features of the approved design on Tower 1 are being retained.

The potential environmental impacts individually and cumulatively, are minor and will have minimal impacts beyond those considered during the assessment of SSD 5249 -2012.

4.0 PLANNING ASSESSMENT

Section 96(1A) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in Section 79C (1) as they are of relevance to the development the subject of the application. The Environmental Impact Statement prepared by SJB (February 2013) and the subsequent Response to Submissions considered during the assessment of SSD 5249-2012 addressed the following environmental impacts:

- Compliance with statutory plans;
- Built form and urban design;
- Height, bulk and scale;
- Design excellence;
- BASIX;
- Ecologically sustainable development;
- Residential amenity
- Acoustic and Vibration impacts;
- Noise impacts;
- Social impacts;
- Transport, parking and accessibility;
- Visual and view impacts;
- Heritage;
- Safety and security;
- BCA compliance;
- Wind impacts;
- Operational management;
- Rail interaction;
- Stormwater management; and

- Site contamination.

The Secretary's Assessment report for SSD 5249-2012 identified the following key assessment issues:

- Built form and urban design;
- Impacts on surrounding development;
- Traffic and parking, including bicycle parking;
- Public domain; and
- Residential amenity

The following discussion demonstrates that the proposed modifications do not compromise the merits of the existing approval or provide any significant additional environmental impacts.

4.1 Compliance with statutory plans

The proposed modifications to the approval do not affect the developments compliance with the relevant environmental planning instruments. This is summarised in Table 2 below:

Table 2 – Compliance with the relevant statutory planning instruments

Instrument	Comment
State Environmental Planning Policy (State and Regional Development) 2011	The proposed modifications do not alter the developments consistency with the relevant provisions of the SEPP.
State Environmental Planning Policy (Major Development) (2005)	The proposed modifications do not alter the developments consistency with the relevant provisions of the SEPP.
State Environmental Planning Policy 65 (Design Quality of Residential Flat Development)	The proposed modifications do not alter the developments consistency with the relevant provisions of the SEPP. A design statement has been prepared in support of the modifications (refer to Attachment B).
State Environmental Planning Policy (Infrastructure) 2007	The proposed modifications do not alter the developments consistency with the relevant provisions of the SEPP.
State Environmental Planning Policy (Urban Renewal) 2010	The proposed modifications do not alter the developments consistency with the relevant provisions of the SEPP.
State Environmental Planning Policy (BASIX) 2004	The proposed modifications do not alter the developments consistency with the relevant provisions of the SEPP. Confirmation that the BASIX requirements are met has been prepared in support of the modifications (refer to Attachment D).
State Environmental Planning Policy 55 (Remediation of Land)	A Phase 1 Site Assessment was submitted within SSD 5249 which concluded that the site is suitable for the proposed development under the assumption that waste management may be required to address potential contamination from past fill being placed on the site. This modification will not alter the findings of the Phase 1 Site Assessment.

4.2 Built Form and Urban Design

Height, bulk and built form visual impacts

The proposed modifications will not create any additional impacts for the following reasons:

- No changes are proposed to the approved height in metres or height in storeys;
- No changes to the approved FSR;
- The building envelopes for both Tower 1 and 2 have been reduced to become generally consistent with the existing envelopes. This modification increases the slender appearance of

the two towers which will further improve the perception of bulk and scale when viewed from the surrounding streets.

- The proposed revisions to building facades result in highly articulated facades which reduce the apparent bulk and provide an appropriate scale for a mixed use development in the existing and future context.
- The proposed reduction in bulk to the southern façade will open up views through the towers and improve view sharing for residents to the south.

Façade treatments

The façade treatments have undergone further review during the design development. With regard to the materials, Candalepas & Associates state that:

“The proposed development has been carefully considered with respect to the surrounding built environment. Materials such as marble, glass, off-form concrete, and glass reinforced concrete (GRC) echo the colours of the surrounding city area. The materials are considered appropriate for the local climate, while ensuring a high aesthetic standard. The proposed palette will provide a precedent for future high density multi residential developments in the area.”

Northern facades

The proposed modifications seek to alter the materiality on the northern facades. The facades remain highly articulated and retain the attached balconies. The strong vertical expression is maintained as is the undulating form. The architectural treatment is of a high quality which maintains the visual interest appropriate for a landmark site. Additional glazing has been included on the ground floor frontage to improve the developments relationship with public domain.

Eastern and western facades

The proposed modifications seek to remove the blockwork edge to the facades to expose the windows to the apartments and rectilinear geometry of the architecture. The proposed modifications are considered to soften the developments relationship to its surrounds. The rhythm and modulation of the facades will create additional visual interest.

Southern facades

The southern facades have been modified to address the requirements of Condition B2 of the development consent. The facades have been stepped to reflect the apartment layouts and provide wind mitigation. They are highly articulated and modulated to provide relief and visual interest and additional glazing at ground.

Summary

The proposed modifications to the approved building facades are considered to maintain or improve the level of articulation and modulation to the development. Furthermore, the proposed modifications have been assessed to have no adverse impact on the heritage items and heritage conservation areas in the surrounding vicinity (refer to **Attachment E**). The proposed modifications are considered to satisfy the requirements of Condition B2 (a) and (b) and it is proposed that the conditions be deleted.

Street level interface

The proposed modifications will increase activity to the northern facades through the provision of additional glazing at the ground plane. The proposed modifications to the façade will reinforce this location as the primary address to the site. The southern façade has been modified to reflect the proposal to maintain the existing floor levels and revised substation location. The proposed modifications to the southern façade will retain the approved glazing. There proposed modification will result in a net increase to the approved glazing at the ground plane and is considered to satisfy the requirements of Condition B2 (c) and it is proposed that the condition is deleted.

Design Excellence

The proposed modifications do not alter the fundamental design elements of the approved development with regard to the overall built form, architectural design and detail. The collaborative process undertaken prior to the lodgement of SSD 5249 has continued post approval and has informed the proposed modifications.

4.3 Impacts on Surrounding Development

Solar access

There will be no change to the overshadowing impacts considered during the assessment of SSD 5249-2012.

Privacy

The modifications to the southern façade will not create any additional privacy impacts. The building envelopes have been reduced which has increased the separation between the proposal and the apartments to the south. This results in a separation distance of between 17 – 18m to 157 Redfern Street. The proposed variation to the 18m minimum requirement is minor and considered appropriate noting the window openings on the southern façade are generally minor and set at a sill height of 1200mm up to Level 12 and a sill height of 1600mm above Level 12. The southern façade has been designed to prevent direct overlooking between apartments.

View impacts

The proposed modifications will not create any additional view impacts beyond those considered during the assessment of SSD 5249-2012.

4.4 Traffic and Parking

The proposed modification to vehicle driveway are minor and have been designed to meet the relevant Australian Standards. There are no material changes to the following:

- Parking numbers;
- Servicing;
- Traffic generation;
- Bicycle parking and facilities

4.5 Public domain

The proposed modifications include the provision of accessibility ramps to the entrances to the buildings. These have been provided in accordance with the relevant Australian Standards and are located within the site boundary.

4.6 Residential Amenity

No changes are proposed to the following elements approved under SSD 5249-2012:

- Communal open space;
- Storage;
- Wind mitigation measures;

A Design Verification Statement has been prepared by Candalepas Associates and is submitted with the modification application. The proposal as modified is consistent with the relevant requirements of the Apartment Design Guide. The matters are discussed below:

- Building depth – The proposed modifications to the building envelopes will reduce the approved building depth.
- Building separation – the proposed modifications to the building envelopes will increase the approved building separation. The windows on the internal facades are elevated and the proposed changes will not result in any impacts to internal privacy.

- Solar access and natural ventilation – the proposed modifications do not alter the proposal's compliance with the minimum requirements.
- Apartment size – The proposed modifications result in a proportion of 49sqm 1 bedroom apartments. This equates to a 2% variation to the minimum apartment area. The variation is negligible and is considered to be appropriate given the inner city location immediately adjacent to high frequency public transport. The apartments meet the minimum requirements for solar access and natural ventilation.
- Apartment mix - The proposed modification proposes no changes to the overall unit mix.

4.7 Encroachment over Road Reserve

The proposed modifications result in the relocation of the minor projections into the public domain. The proposed relocation of the projections are considered to be appropriate as they:

- Will not project over any part of the roadway controlled by the RMS;
- Will not have any additional impacts beyond any impacts considered by the DPE during the assessment of SSD 5249; and
- Are integral to the building and façade design.

4.8 Heritage

The proposed modifications have been assessed to have no adverse impact on the heritage items and heritage conservation areas in the surrounding vicinity (refer to **Attachment E**).

4.9 Road and Railway Acoustic Impacts

Implementing the recommendations of the Operational Noise and Vibration Assessment submitted with SSD 4249-2012 (as per condition B44) will mitigate any potential impacts to the changes in the building façade material. An amended assessment is submitted as **Attachment C**.

4.10 Railway Interaction

A structural analysis of the proposed modifications has been prepared and submitted as **Attachment F**. The analysis confirms that the proposed changes would adversely affect any of the conclusions drawn in Arup "Rail Interaction Report" dated 7 December 2012.

4.11 BCA Compliance and Accessibility

The proposed modifications have been assessed against the requirements of the BCA and the relevant access legislation and guidelines (refer **Attachments G and H**). The assessment concludes that the proposed modifications are able to comply with the relevant requirements.

5.0 CONCLUSION

The proposed modifications to SSD 5249-2012 are the result of the further design development post approval and will enable the site to accommodate the most suitable outcomes for both residential and commercial components, whilst meeting all the relevant legislation.

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

- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the assessment of the likely environmental impacts demonstrates that the proposed modifications will not have any adverse impacts beyond those considered during the assessment of SSD 5249-2012; and
- the proposed modifications do not alter the developments compliance with the relevant statutory instruments.

In light of the above, we therefore recommend that the proposed modification is supported by the Minister for Planning.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact me on 02 9956 6962 or jmurray@jbaurban.com.au.

Yours faithfully

A handwritten signature in grey ink, appearing to read 'Jim Murray', with a long horizontal flourish extending to the right.

Jim Murray
Principal Planner