



Mixed Use Development, 1 Lawson Square, Redfern

Section 4.55 (1A)
Modification Assessment
(SSD 5249 MOD 7)

November 2019

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Glossary

Abbreviation	Definition
Applicant	Lawson Square Pty Ltd
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
DCP	Development Control Plan
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SSP SEPP	State Environmental Planning Policy (State Significant Precincts) 2005



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1. Background

1.1 Background

This report is an assessment of a request to modify the State significant development consent (SSD 5249) for alterations and additions to two existing 14 storey buildings to create two 18 storey mixed use buildings at 1 Lawson Square, Redfern.

The application seeks approval to amend the use of Levels 1 to 5 in Tower 1 from residential to commercial, enlarge the balconies associated with the new commercial levels and amend the ground floor layout.

The application has been lodged by Ethos Urban on behalf of Lawson Square Pty Ltd (the Applicant) pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Subject site

The site is located in the City of Sydney local government area, approximately three kilometres from the Sydney Central Business District. The site has an area of approximately 1697 sqm. The site is bound by Lawson Square to the north, Regent Street to the east, Gibbons Street to the west and Redfern Street to the south (refer to **Figure 1**).

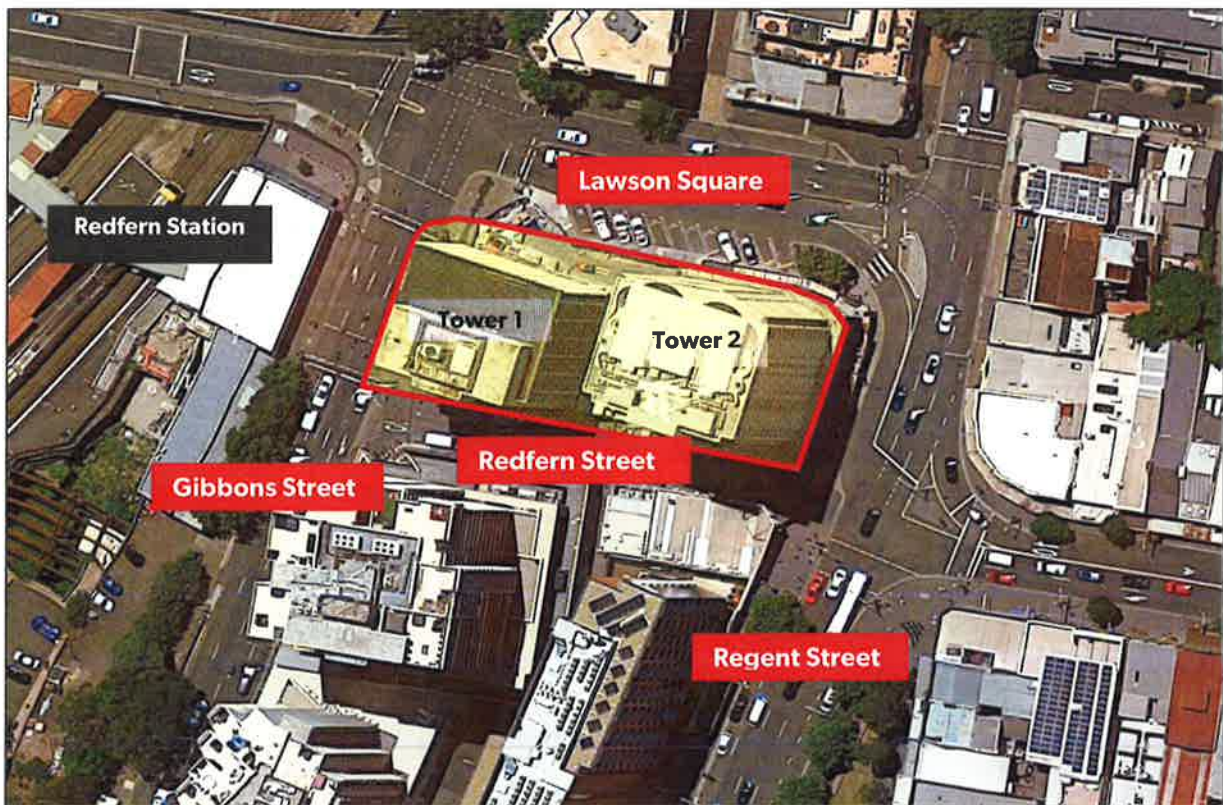


Figure 1 | Aerial view of the site and locality (Base source: Google Maps)

The site previously contained two 12 storey towers. Tower 2 has been converted to 18 storeys under this consent and is now occupied. Tower 1 is yet to be developed.

1.3 Approval History

On 18 December 2014, the Secretary, as delegate of the then Minister for Planning, granted development consent (SSD 5249) for additions and alterations to two existing 12 storey office towers to create two 18 storey

mixed use buildings with a total gross floor area (GFA) of 12,741 sqm. The original development consent comprised of:

- retail and commercial uses at the ground floor of both towers and at levels 1 – 5 of Tower One
- 156 residential apartments
- basement car and bicycle parking
- public domain works.

The approval has been subject to the following modification applications:

Table 1 – Modifications to the Development Approval

Reference	Description of Modification	Status
SSD 5249 MOD 1	Section 96(1A) modification comprising • amendments to the ground floor retail and commercial uses • relocation of commercial uses from Levels 1-5 of Tower 1 to Levels 1-4 of Tower 2 • relocation of residential uses from Levels 1-4 of Tower 2 to Levels 1-5 of Tower 1 • associated amendments to the elevations • associated amendments to the floor space mix, unit numbers and unit mix.	Approved 29/10/2015
SSD 5249 MOD 2	Section 96(1A) modification comprising: • amend building envelope, increase GFA from 12,741 sqm to 12,913 sqm, increase apartments from 156 to 162, internal and balcony reconfigurations • minor changes to the ground floor level including relocation of an existing substation, amendments to pedestrian and driveway access • addition of privacy screening between the towers.	Approved 06/04/2016
SSD 5249 MOD 3	Section 96(2) modification comprising: • conversion of Levels 3 and 4 of Tower 2 from commercial to residential use • addition of 12 apartments increasing the total number of apartments to 174 • amendments of external finishes including privacy screening, louvres and glazing.	Approved 04/08/2017
SSD 5249 MOD 4	Section 96(1A) modification comprising internal reconfigurations to both towers to increase the total number of apartments by 7 from 174 to 181 apartments and the GFA by 60 sqm to 12,973 sqm.	Approved 29/01/2018
SSD 5249 MOD 5	Section 4.55 (1A) modification comprising amendments to Tower 2 to create two roof terraces and increase the total GFA by 20 sqm to 12,993 sqm.	Approved 21/03/2018
SSD 5249 MOD 6	Section 4.55 (1A) modification comprising minor exterior amendments.	Withdrawn

As currently approved and relevant to this modification, Tower 1 includes commercial floor space at the ground floor level and residential uses above (see MOD 1). Tower 2 includes commercial at ground, level 1 and level 2 and residential uses above.



2. Proposed Modification

On 27 June 2019, the Applicant lodged a modification request (SSD 5249 MOD 7) seeking approval to:

- change the use of the floor space on Levels 1 to 5 of Tower 1 from residential use to commercial use
- enlarge balconies attached to the proposed commercial tenancies on Levels 1 to 5 of Tower 1
- revise the residential unit numbers and unit mix accordingly.

The Response to Submissions (RtS) amended the scope of the modification request to include a revised ground floor layout for Tower 1 to provide separate entries and lobbies for the commercial and residential uses.

The proposed changes are summarised in **Table 2** and illustrated in **Figures 2 to 5**.

Table 2 – Comparison of original approval, existing approval and proposed modification

Description	Original SSD Approval	Approval as currently modified	Proposal
GFA	12,741m ² : • 2,984 m ² commercial (23%) • 9,757 m ² residential (77%)	12,993m ² : • 1,936 m ² commercial (15%) • 11,057 m ² residential (85%)	12,993m ² : • 3,721 m ² commercial (29%) • 9,272 m ² residential (71%)
No of Units	156	181	151
Unit Mix (%)	Studio: 22% 1 Bedroom 43% 2 Bedroom 35% 3 Bedroom 0%	Studio 31% 1 Bedroom 35% 2 Bedroom 33% 3 Bedroom 1%	Studio 31% 1 Bedroom 35% 2 Bedroom 33% 3 Bedroom 1%

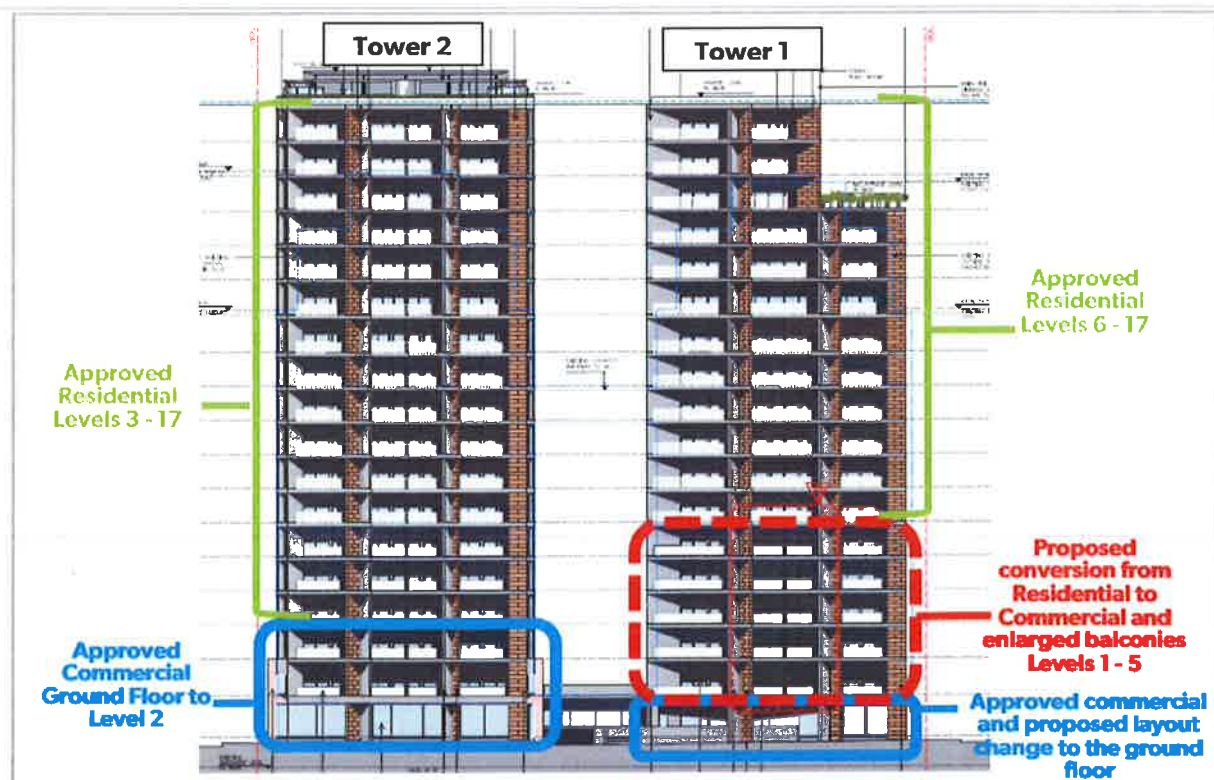


Figure 2 | Northern elevation showing proposed uses (Base source: RtS)

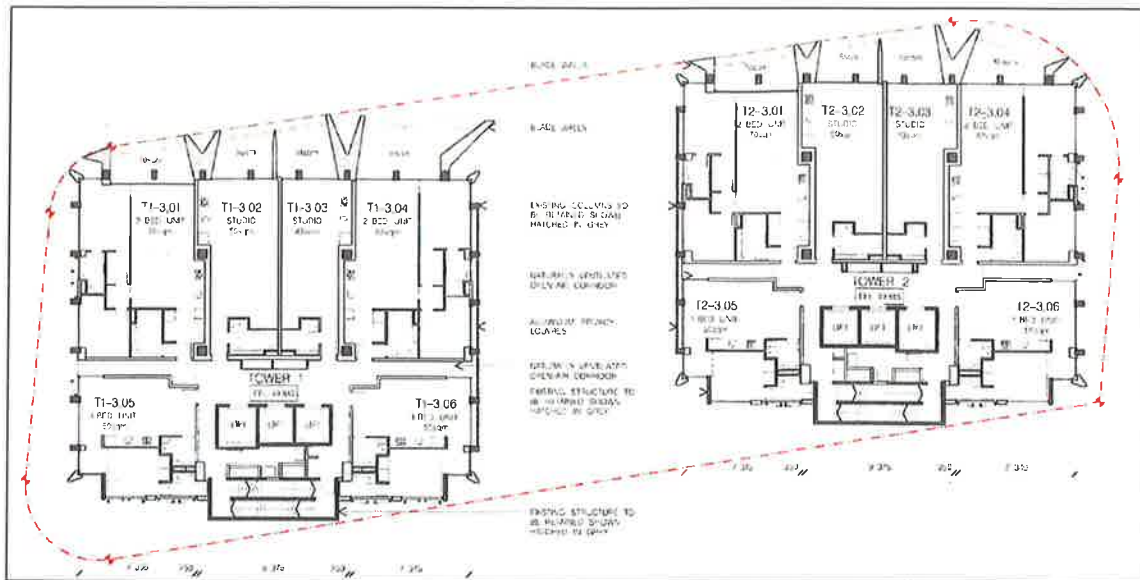


Figure 3 | Existing Level 3-5 Plans (Base source: Approved Plans MOD 4)

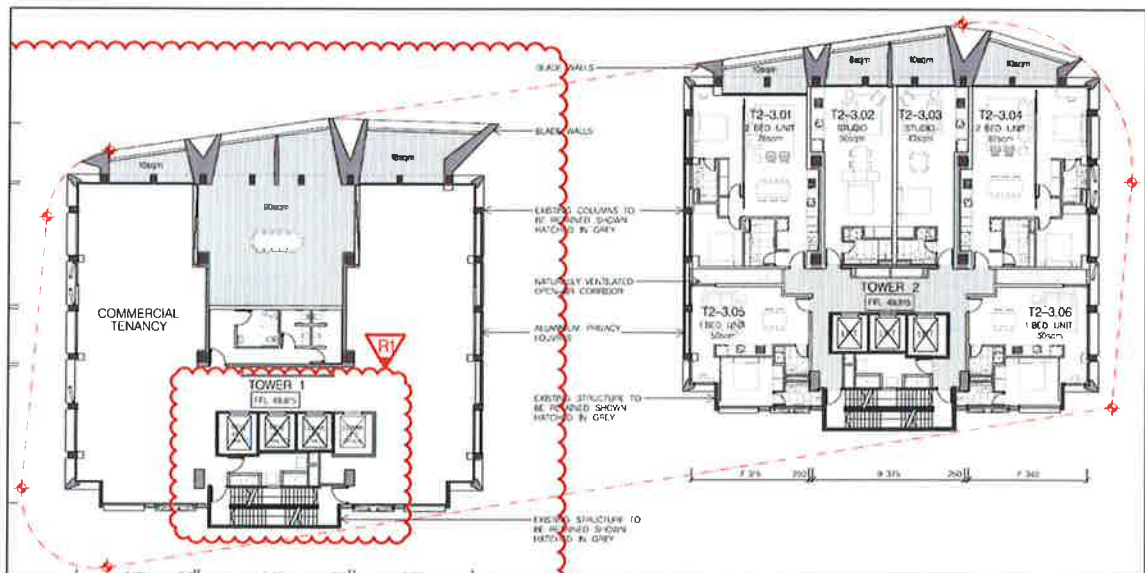


Figure 4 | Proposed Level 3-5 Plans (Base source: RtS)

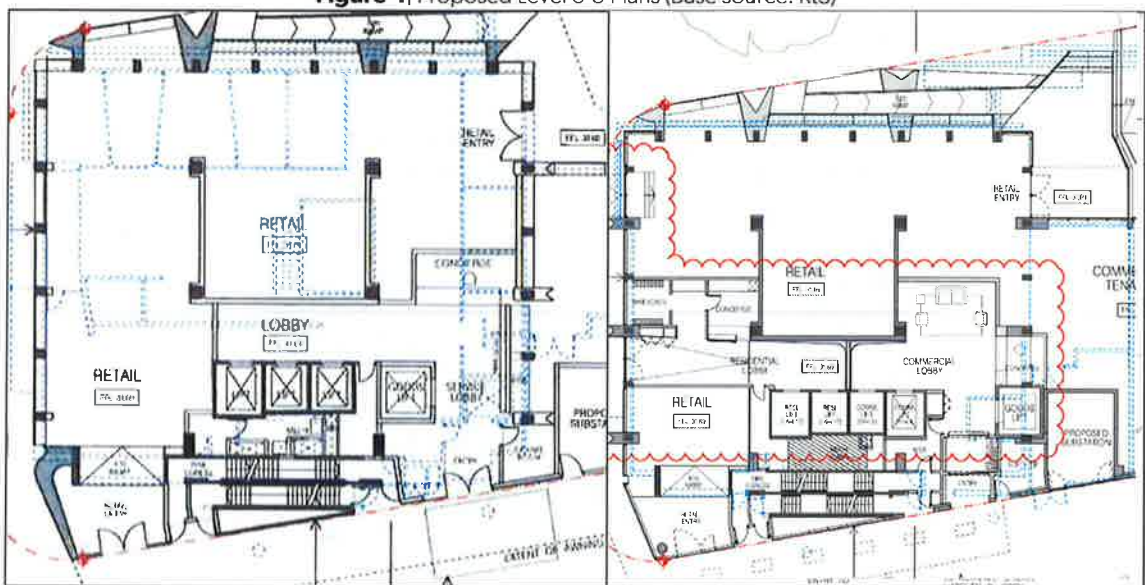


Figure 5 | Approved (left) and proposed (right) Ground Level Plan (Base source: RtS)



3. Statutory Context

3.1 Scope of Modifications

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify a SSD consent and results in minor environmental impacts. The matters for consideration under section 4.55(1A) of the EP&A Act that apply to the modification of the development consent have been considered in Table 3.

Table 3 – Section 4.55 (1A) Modification involving minimal environmental impact

Section 4.55 (1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	Section 5 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the modification is of minimal environmental impact.
b) 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	The proposed modification would re-instate commercial use of Levels 1-5 of Tower 1, which is consistent with the use for these levels as originally approved and therefore substantially the same development. The proposed changes would not result in any additional impacts on the surrounding area and would not materially change the overall character of the approved development being two 18 storey mixed use towers. On this basis, the proposal would result in development that is substantially the same as the originally approved development.
c) the application has been notified in accordance with the regulations, and	The modification has been notified in accordance with the regulations. Details of the notification are provided in Section 4 of this report.
d) any submissions made concerning the proposed modification have been considered	The Department received one submission on the proposal. The issues raised in the submissions have been considered in Section 5 of this report.

3.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy No 1 (Development Standards)
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Urban Renewal) 2010
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65).

The Department considered the original proposal against the above-mentioned EPIs in its assessment. The Department considers the modification does not result in any significant changes that would alter the conclusions made as part of the original assessment.

3.3 Approval Authority

The Minister for Planning and Public Spaces is the approval authority for the modification request. In accordance with the Minister's delegation, the request may be determined by the Director, Regional Assessments as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.



4. Engagement

4.1 Department's Engagement

The application was notified to City of Sydney (Council) from 19 July 2019 to 2 August 2019 (15 days) and was made publicly available on the Department's website during this time. A submission was received from Council. No public submissions were received.

4.2 Council's Submission

Council originally objected to the proposed modification request, due to the following:

- waste storage and collection arrangements are unclear. Conditions should be modified and added to improve waste management arrangements in accordance with Council's current guidelines for waste management
- ground floor and basement plans should be updated to reflect the need for separate entries, lobbies, waste facilities and lifts for the commercial and residential tenancies
- BASIX and NABERS reports require updating
- landscaping should be provided to the proposed commercial balconies on Levels 1 - 5
- privacy and acoustic impacts should be assessed
- additional bicycle parking and associated facilities should be provided to serve the additional commercial floor space
- developer contributions should be updated accordingly.

4.3 Response to Submissions

On 24 September 2019 the Applicant provided a RtS on the issues raised by Council (**Appendix A**).

The RtS included a revised ground floor plan as well as revised lift arrangements to provide separate entries and lobbies for the commercial and residential uses. New BASIX and NABERS assessments, as well as an updated Waste Management Plan (WMP), were also provided. No other changes were made to the proposal, although a further revision to the WMP was submitted on 24 October 2019.

The RtS and updated WMP were made publicly available on the Department's website and provided to Council.

Council advised these generally address the City's concerns, but made the following comments:

- the conditions previously recommended in relation to waste management should still be imposed
- the City strongly recommends that the proposal adopts the bicycle parking rates and requirements prescribed by Sydney Development Control Plan (DCP) 2012.

Council subsequently advised it withdrew its objection to the modification, as it considered its previous concerns were adequately addressed in the Department's assessment.



5. Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of approval for the original project (as modified)
- the submission received on the proposal and the Applicant's response (**Appendix A**)
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

Key issues are considered in **Table 4** below.

5.1 Assessment Issues

Table 4 | Summary of assessment issues

Issue	Findings	Recommendation
Change of Use	• The proposal seeks to change the use of five floors of Tower 1 from residential to commercial. Both uses are permissible on the site. • The Department considers the proposed change will assist with achieving the objectives of the 'Business Zone - mixed use' under the SSP SEPP, in particular the objective to 'encourage employment generating activities by providing a range of office, business, educational, cultural and community activities in the Zone'. • The overall nature of the approved mixed-use development will be retained, and as demonstrated below the proposed change would not result in any adverse amenity or environmental impacts. The loss of residential dwellings will be minor when compared to the originally approved development consent. • The proposal essentially re-instates the commercial use of Levels 1-5 in Tower 1 that were approved under the original SSD approval (and subsequently removed from Tower 1 in MOD 1). • On this basis the Department supports of the proposed change from residential to commercial use.	No additional conditions or amendments necessary to existing conditions.
Urban Design / External Changes	• As viewed from the public domain, the modification will result in only very minor changes to the appearance of the building. These changes include larger balconies for the commercial floors, which have been expanded internally into the building rather than expanding the building envelope (Figure 4), and minor changes to ground floor openings to reflect the separate commercial and residential entries. All other aspects of the approved facades will remain unchanged. The Department is satisfied the proposed changes are very minor and largely indiscernible, and will not result in any adverse impacts to the appearance of the building.	No additional conditions or amendments necessary to existing conditions.
Acoustic and Privacy Impacts	• Council recommended that privacy and acoustic impacts between the proposed commercial tenancies and adjacent residential units should be thoroughly assessed. • The Applicant advises that the relationship (and therefore any potential privacy or acoustic impacts) between the proposed commercial levels and adjacent residential levels is the same as that assessed and approved in the original application (SSD 5249). • The Department notes the existing approval incorporates privacy screens on the eastern façade of Tower 1 to protect the privacy of Tower 2 and limited openings on the southern façade to protect the privacy of adjoining development to the south. No changes are proposed to the eastern or southern facades of the building which face towards residential uses.	No additional conditions or amendments necessary to existing conditions.

Issue	Findings	Recommendation
Traffic and Parking	- The existing approval also requires noise mitigation, such as mechanical ventilation, glazing and acoustic windows/door seals, be provided for the residential uses due to the site's proximity to road and rail noise. No changes to these measures are proposed. - On this basis the Department is satisfied the proposed change of use would not result in any material acoustic or visual privacy impacts compared to those that were assessed and approved in the original application.	No additional conditions or amendments necessary to existing conditions.
	- No changes are proposed to existing car parking arrangements, including: 20 basement car parking spaces (18 residential and 2 car hire) approved for the development and 80 car spaces on the nearby premises at 7-9 Gibbons Street, of which no more than 52 may be allocated to commercial tenants (as required by separate approval MP08_0112 MOD 4). - The Department is satisfied the change from residential to commercial use does not result in any additional need for parking, particularly as the site is well serviced by public transport, being immediately adjacent to Redfern Station, a major transport interchange. - As there will be no change to commercial or residential parking as a result of the modification, the Department is also satisfied the proposal would not result in any material traffic impacts.	
Bicycle parking and facilities	- The existing approval requires the provision of 89 bicycle parking spaces including 60 internal spaces for residents and employees and 29 visitor spaces within the public domain. The proposal does not seek to change the number of bicycle parking spaces. - Council initially raised concerns with regard to the number of bicycle parking spaces and associated facilities and strongly recommended that the proposal adopt the bicycle parking rates prescribed by Sydney DCP 2012. On this basis, Council calculated that an additional 17 commercial bicycle spaces (12 staff and 5 visitor) as well as associated facilities (lockers and showers) would be required but subsequently accepted that five additional spaces would be adequate. Council also recommended that bicycle facilities should be designed to comply with the relevant Australian standard. - The Applicant responded that the number of bicycle parking spaces has been designed to comply with the recommendations of the NSW Planning Guidelines for Walking and Cycling, rather than Sydney DCP 2012, as this was the approach taken in the assessment of the original application (SSD 5429). - The Department notes that regardless of which method is used to calculate demand for bicycle parking, the modification would not increase the demand for additional bicycle parking on the site compared to the existing approval (as modified) because: - if Sydney DCP 2012 rates were to be applied to the proposed changes, requirements for 17 additional commercial spaces would be offset by requiring 33 less residential spaces - if calculated in accordance with the NSW Planning Guidelines for Walking and Cycling, the modification results in the same number of spaces (52 – 87) compared to the development as currently approved (52 - 86 spaces). As 89 spaces are proposed to be retained, the proposal exceeds these guidelines. - The Department also notes that existing conditions require the provision of end of trip facilities (showers and lockers) and compliance with relevant Australian Standard for bicycle parking facilities. - Council subsequently advised that it accepted this position and no longer raised an objection with bicycle parking spaces and associated facilities. - As the modification would not increase the demand for bicycle parking on the site and bicycle parking is adequately provided in accordance with the Sydney DCP 2012 and NSW Planning Guidelines for Walking and Cycling, the Department is satisfied that the existing requirements of the consent are satisfactory.	No additional conditions or amendments necessary to existing conditions.
	Council advised that it considers the existing consent and proposed modification are both unclear as to where waste will be stored and how it will be collected for	
Waste Management		No additional conditions or

Issue	Findings	Recommendation
	both the residential and commercial uses. Council raised concern that waste is likely to be collected from the street. • Council therefore recommended revisions to existing conditions and new conditions to require compliance with Councils Waste Management Guidelines 2018 including requirements for separation of waste and a WMP to be approved by Council prior to construction. • In response, the Applicant advised that the waste collection arrangement (collection from Redfern Street Laneway) was assessed and approved under SSD 5249 and the waste storage areas are shown on the existing approved plans. Further, Tower 2, which is completed and occupied is operating in accordance with the requirements of the existing consent. MOD 7 does not propose any changes to the approved waste collection arrangement and there is no need to change existing or impose new conditions in relation to waste. • The Applicant also provided a revised WMP which demonstrates that the proposed change from residential to commercial use on five floors would not materially change overall waste generation on the site and does not alter overall waste storage requirements. • The Department is satisfied that waste storage and collection requirements under the existing approval are clear and have been assessed as part of the original application (and subsequent modifications). The Department also notes that Council's submissions in respect of those previous applications did not raise concerns with the waste management arrangements. • The Department notes that the only material change is a reduction in the number of residential bins required (from 14 to 13) and an increase in the number of commercial bins (3 to 4). This change has been accounted for in the revised waste management and basement plans for bin storage. • Council subsequently advised that it accepted this position and it no longer had concerns with waste management. • The Department is satisfied the revised WMP and slight change in the bin arrangements appropriately address any waste management impacts associated with the proposal.	amendments necessary to existing conditions.
Developer Contributions	• Council's submission advised that developer contributions should be updated to reflect the proposed changes. • Conditions B8 and B9 of the consent require payment of contributions in accordance with the Redfern-Waterloo Authority Contributions Plan 2006 and the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 respectively. Contributions are calculated based on the cost of works and the quantum of additional floor space. • In this case the Applicant has advised that the proposed modifications result in no changes to overall floor space (12,993 m²) or to the cost of the development. • As such there is no requirement to modify developer contributions or conditions B8 or B9.	No additional conditions or amendments necessary to existing conditions.
Landscaping	• Council suggested a landscaping plan should be prepared for the proposed commercial balconies. • The Applicant noted that there are no controls which apply to the site which would require landscaping to commercial balconies and there is no intention to landscape the balconies. • The Department notes the existing approval does not include landscaping of any balconies, other than the communal open space at the Level 15 roof terrace. As the proposal merely seeks to enlarge already approved balconies that would be within the building envelope, are barely perceptible from the public domain, are covered without significant access to natural sunlight or rain, do not cause privacy impacts and adjoin a busy road (Lawson Square), the Department does not consider there is any reason to require the provision of landscaping to the balconies.	No additional conditions or amendments necessary to existing conditions.



6. Evaluation

The Department has assessed the proposed modification and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposal to change five levels of Tower 1 from residential use to commercial use is appropriate as:

- it would re-instate commercial use in these levels approved under the original SSD application, would not change the overall nature of the development (as two mixed use buildings), and is consistent with zone objectives to encourage employment generating activities in the locality
- it would result in minimal external changes that would not materially impact the visual appearance of the building nor impact the privacy of adjacent residences
- it would result in no adverse traffic or parking impacts, including bicycle parking impacts
- it would result in no waste management impacts or any other environmental or amenity impacts beyond those already assessed and approved for the development
- it would not affect already required developer contributions.

The Department's assessment therefore concludes the modification application is approvable, subject to the recommended conditions (outlined in **Appendix B**). This assessment report is hereby presented to the Acting Director Regional Assessments for determination.

Recommended by:

Michelle Niles
Senior Planner
Regional Assessments

Recommended by:

Silvio Falato
Team Leader
Regional Assessments



7. Determination

The recommendation is: **Adopted** by:

14/11/2019

Brendon Roberts

Acting Director

Regional Assessments

as delegate of the Minister for Planning and Public Spaces.



Appendices

Appendix A – Relevant Supporting Information

The supporting documents and supporting information to this assessment report including:

- The Modification Request
- Submissions
- Response to Submissions

can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/11351>

Appendix B– Notice of Modification

The recommended modification of the approval can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/11351>

