



DH/BH/AC
13176
5 May 2015

Ms Carolyn McNally
Secretary
Department of Planning and Environment
33 Bridge Street
SYDNEY NSW 2000

Attention: Ben Lusher

Dear Ms McNally

**SECTION 96(1A) MODIFICATION APPLICATION SSD-6011
SICEEP, DARLING SQUARE, SOUTH-WEST PLOT**

On behalf of Lend Lease (Haymarket) 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-6011 relating to the development of the South-West Plot of Darling Square which is part of the Sydney International Convention, Exhibition and Entertainment Precinct (SICEEP) at Darling Harbour, Sydney.

Since receiving the development consent, Lend Lease has undertaken further design development and is now seeking a modification to the approved scheme. Such design development changes are to be expected as Lend Lease prepares to commence construction works and given the nature and scale of this once in a generation project.

Fundamentally, the resulting changes are of minimal environmental impact and result in development that is substantially the same as originally approved. The changes do not affect the delivery of a key mixed-use component of Darling Square that will contribute to the success of a vibrant and diverse community.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in sections 96(1A) and 79C(1) of the EP&A Act.

It should be read in conjunction with the Environmental Impact Statement (EIS) dated 31 May 2013, together with the Response to Submissions (RTS) dated 28 February 2014 (both prepared by JBA) and is accompanied by:

- Supplementary Architectural Design Report and amended Architectural Drawings, prepared by Denton Corker Marshall (**Attachment A**);
- Amended Public Domain Report & Drawings, prepared by ASPECT (**Attachment B**);
- Amended Podium Landscape Plan, prepared by Sturt Noble (**Attachment C**);
- Sustainability Report (Addendum), prepared by Lend Lease (**Attachment D**);
- Design Review Panel Minutes – April 2015 (**Attachment E**);
- Amended Bulk Earthworks Plan, prepared by Hyder (**Attachment F**);
- BCA Report (Addendum), prepared by Philip Chun (**Attachment G**); and

- Wind and Solar Reflectivity Assessment (Addendum), prepared by CPP (**Attachment H**).

1.0 CONSENT PROPOSED TO BE MODIFIED

1.1 Consent proposed to be modified

Development Consent SSD-6011 (SSDA 5) was granted on 21 May 2014 by the delegate of the Minister for Planning for the following components of development:

- site preparation works including staged demolition of existing structures, tree removal and site remediation as required;
- staged construction of 8 storey, 25 storey and 40 storey residential buildings including a 5 storey podium, to be used for:
 - non-residential uses on ground and first floor levels;
 - above ground car parking and storage; and
 - residential apartments;
- various public domain improvements including construction of part of the Boulevard, east-west pedestrian laneway, new lift and stair connecting to the Macarthur Street elevated pedestrian footbridge and other associated landscaping;
- provision of a vehicle access point at Hay Street and drop-off facility on Darling Drive; and
- provision of signage zones.

This section 96 application (the Modification Application) constitutes the first modification to the consent. At the time of writing demolition and infrastructure site enabling works has commenced in preparation for construction on site. This Modification Application follows the approval and current assessment of a number of State Significant Development Applications (SSDAs) within the SICEEP site, including:

- SSDA1 which secured approval for the core convention, exhibition and entertainment facilities of the SICEEP Project;
- SSDA2, a staged application that established a Concept Proposal for a new mixed use neighbourhood at Darling Harbour known as Darling Square;
- SSDA3, SSDA4, and SSDA5 which related to three detailed proposals for use of the development plots within Darling Square;
- SSDA 6 which secured approval for the construction of the ICC Hotel; and
- SSDA7 which secured approval for the construction and use of a mixed use development on the North-East Plot of Darling Square.

2.0 OVERVIEW OF PROPOSED MODIFICATIONS

Design development changes and amendments to enhance the amenity of apartments are proposed to the South West Plot mixed use buildings. These changes seek to ensure that the highest level of amenity is achieved for residents and visitors to the precinct. They generally relate to minor amendments to windows, balconies, privacy screens, canopies, balustrades and materials selection.

Minor realignments to finished levels are also proposed for some ground level commercial tenancies and one additional apartment is proposed at Level 14 of Building SW3 in lieu of a redundant plant room. A number of amendments are also proposed to Dickson's Lane comprising the removal of fixed furniture, removal of stairs and the regrading of ramps. An amendment to Condition C36 is proposed to allow for a variety of waterproofing methods rather than tanking.

The changes essentially reflect the natural evolution that occurs within the development process as the construction documentation is worked up and original assumptions about the functionality of the building designs are tested. These design development changes are to be expected in any project, especially given the nature and scale of the approved South-West Plot development.

The complete inventory of design amendments have been detailed in the Amended Architectural Drawings and Public Domain Report & Drawings (refer to **Attachments A and B**). An overview of the key modifications is provided within **Table 1** below.

Table 1 – Proposed modifications

Component	Summary of key design development changes
Reduction of canopy to Building SW2	The street level canopy to The Boulevard/Public Square has been reduced along the length of Building SW2. A dedicated canopy remains to the Building SW2 Lobby providing weather protection.
Amended balcony / window and solid wall elements in podium	The design has been updated to better reflect the internal planning.
SW2 window relocation and size adjustment	The design has been updated to better reflect the internal planning and provide greater privacy and increased natural light.
Terrace / canopy added to Podium Level 5 Apartment	An additional terrace has been provided to the corner two-bedroom apartment on the Building SW1 podium level 5.
Canopies provided to Podium Level 5 Apartments	Fixed canopies have been added to the Building SW3 podium level 5 apartments to provide weather protection and improve privacy.
Podium landscape amendments	The podium landscape design has been further developed to include: <ul style="list-style-type: none"> ▪ Increased planting to provide screening. ▪ The pool canopy has been redesigned. ▪ A full height sculptural vine green wall has been added to the west elevation of the Building SW2 These amendments are illustrated on the Amended Podium Landscape Plan (refer to Attachment C).
Building SW2 Podium lift lobby window removed	The design has been amended to accommodate an increase in the service riser requirements, resulting in the removal of the window to the Building SW2 Lift Lobby.
Collapsible balustrades to Building SW1 and Building SW3 rooftops	Collapsible balustrades have been added to the Building SW1 and Building SW3 rooftop in order to facilitate safe access for maintenance.
Balcony privacy screens amended to full-height	The privacy screens on Building SW1 and Building SW3 have increased in height from 1800mm to full height to enhance privacy and shelter from wind.
Full height privacy screens added to Building SW1 and Building SW3 balconies	Full height transparent screens added to Building SW1 and Building SW3 corner balconies to increase shelter from wind.
One bedroom apartment added to Level 14 of Building SW3	Reconfiguration of the air conditioning plant within the building has resulted in redundancy of the mid-level plant room, allowing an additional one bedroom apartment to be included at this level.
Window sizes decreased in Building SW3 from levels 37 – 39	Oversized windows have been decreased in size to facilitate improved internal planning and usability of the spaces (i.e. for furniture selection/location).
Building SW3 feature colour stripe amended	The yellow stripe on the side of Building SW3 has been strengthened by removing the horizontal grey banding.
Timber battens amended to aluminium battens (Building SW2)	Secondary timber batten features have been replaced due to maintenance implications.
Window Design amended (Building SW1)	The window design has been amended to be double-hung windows with an additional transom to increased natural ventilation into the apartments to comply with NatHERS requirements.
Level amendment to the ground floor tenancy at the corner of Darling Drive and Hay Street	The ground floor tenancy has been changed from RL 3.6 to RL 3.05 to provide an enhanced internal environment.
Building SW3 lobby updated with relocated mailroom	The main entry lobby of Building SW3 at ground level has been redesigned, including the relocation of the mailroom to the Boulevard.
Building SW1 lobby levels amended	The Building SW1 lobby levels have been amended to match the level of Dickson's Lane and the internal car park.

Component	Summary of key design development changes
Ground level corner façade line amended	The façade line of the ground level tenancy at the corner of The Boulevard and Dickson's Lane has been relocated to align the building interface with the public realm replacing the outdoor terrace.
Mezzanine balcony removed	The mezzanine balcony associated with the ground level tenancy on the corner of The Boulevard and Dickson's Lane has been removed.
Dickson's Lane amended	Fixed furniture has been removed to provide greater flexibility to the space. Revised ramping at the eastern and western thresholds of Dickson's Lane has enabled the deletion of one stair and will enhance the pedestrian experience.

3.0 MODIFICATIONS TO CONDITIONS

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

SCHEDULE 2

A ADMINISTRATIVE AND DEVELOPMENT CONTRIBUTIONS CONDITIONS

Development Description

CONDITION A3 - *The applicant shall carry out the project generally in accordance with the:*

- a) *State Significant Development Application SSD 6011;*
- b) *Environmental impact Statement prepared by JBA Urban Planning Consultants Pty Ltd, dated May 2013;*
- c) *Response to Submissions report prepared by JBA Urban Planning Consultants Pty Ltd, dated February 2014;*
- d) *The conditions of this consent;*
- e) ***The S96(1A) modification to Development Consent SSD-6011 dated 5 May 2015;***
and
- f) *The following drawings, except for:*
 - (i) *any modifications which are Exempt or Complying Development;*
 - (ii) *otherwise provided by the conditions of this consent.*

Architectural (or Design) Drawings prepared by Denton Corker Marshall			
Drawing No.	Revision	Name of Plan	Date
SK-001	P5	EXISTING SITE AND DEMOLITION PLAN	31/01/2014
SK-002	P8	SITE PLAN – PROPOSED	27/02/2014
SK-011	P9 P10	GROUND PLAN	27/02/2014 13/04/2015
SK-012	P8 P9	LEVEL 01 PLAN	11/02/2014 13/04/2015
SK-013	P9 P10	LEVEL 02 PLAN	11/02/2014 13/04/2015
SK-019	P9 P10	LEVEL 03 PLAN	31/01/2014 13/04/2015
SK-020	P9 P10	LEVEL 04 PLAN	31/01/2014 13/04/2015
SK-014	P8 P9	PODIUM ROOF PLAN	31/01/2014 13/04/2015
SK-015	P8 P9	TYPICAL TOWER PLAN	31/01/2014 13/04/2015
SK-016	P8 P9	ROOF PLAN	31/01/2014 13/04/2015

SK-040	P8 P9	SW1 TYPICAL PODIUM PLAN – LEVELS 01-04	11/02/2014 13/04/2015
SK-041	P9 P10	SW1 PODIUM ROOF PLAN – LEVEL 05	31/01/2014 13/04/2015
SK-050	P11 P12	SW1 LOWER TOWER PLAN – LEVELS 06-19	31/01/2014 13/04/2015
SK-051	P9 P10	SW1 UPPER TOWER PLAN – LEVELS 20-23	31/01/2014 13/04/2015
SK-053	P11 P12	SW1 UPPER TOWER PLAN – LEVEL 24	31/01/2014 13/04/2015
SK-042	P9 P10	SW2 TYPICAL PODIUM PLAN – LEVELS 02-04	31/01/2014 13/04/2015
SK-043	P9 P10	SW2 PODIUM PLAN – LEVEL 05	31/01/2014 13/04/2015
SK-052	P9 P10	SW2 TYPICAL PODIUM PLAN – LEVELS 06-07	31/01/2014 13/04/2015
SK-044	P10 P11	SW3 TYPICAL PODIUM PLAN – LEVELS 01-04	31/01/2014 13/04/2015
SK-045	P9 P10	SW3 PODIUM ROOF PLAN – LEVEL 5	31/01/2014 13/04/2015
SK-054	P10 P11	SW3 TYPICAL TOWER PLAN LEVELS 06-36	31/01/2014 13/04/2015
SK-055	P10 P11	SW3 UPPER TOWER PLAN LEVELS 37-39	31/01/2014 13/04/2015
SK-101	P9 P10	NORTH ELEVATION	31/01/2014 13/04/2015
SK-102	P10 P11	SOUTH ELEVATION	24/03/2014 13/04/2015
SK-103	P8 P9	EAST ELEVATION	31/01/2014 13/04/2015
SK-104	P8 P9	WEST ELEVATION	11/02/2014 13/04/2015
SK-111	P8 P9	NORTH PODIUM ELEVATION	31/01/2014 13/04/2015
SK-112	P9 P10	SOUTH PODIUM ELEVATION	11/02/2014 13/04/2015
SK-113	P8 P9	EAST PODIUM ELEVATION	31/01/2014 13/04/2015
SK-114	P9 P10	WEST PODIUM ELEVATION	11/02/2014 13/04/2015
SK-201	P6 P7	SECTION AA	31/01/2014 13/04/2015
SK-202	P6 P7	SECTION BB	05/09/2013 13/04/2015
SK-203	P7 P8	SECTION CC	31/01/2014 13/04/2015
SK-204	P7 P8	SECTION DD	31/01/2014 13/04/2015
SK-205	P6 P7	SECTION EE	31/01/2014 13/04/2015
SK-211	P6 P7	PUBLIC REALM INTERFACE SECTION 1 – THE BOULEVARD	13/09/2013 13/04/2015
SK-212	P7	PUBLIC REALM INTERFACE SECTION 2 – HAY STREET	16/09/2013
SK-213	P6 P7	PUBLIC REALM INTERFACE SECTION 3 – DARLING DRIVE BOULEVARD	13/09/2013 13/04/2015
SK-214	P7	PUBLIC REALM INTERFACE SECTION 4 – DICKSON'S LANE	13/09/2013
SK-227	P5	PODIUM – BAY STUDY EAST FACE	31/01/2014
SK-228	P5	PODIUM – BAY STUDY CARPARK NORTH FACE	31/01/2014
SK-220	P5 P6	SW1 – BAY STUDY NORTH BALCONIES	31/01/2014 13/04/2015
SK-221	P5	SW1 – BAY STUDY END WALLS	31/01/2014
SK-222	P6	SW1 – BAY STUDY SOUTH FACE	31/01/2014

SK-229	P3 P4	SW1 – BAY STUDY PROJECTING BAYS	11/02/2014 13/04/2015
SK-226	P5 P6	SW2 – BAY STUDY EAST FACE	31/01/2014 13/04/2015
SK-223	P6 P7	SW3 – BAY STUDY NORTH FACADE	11/02/2014 13/04/2015
SK-224	P5 P6	SW3 – BAY STUDY END WALLS	31/01/2014 13/04/2015
SK-225	P6 P7	SW3 – BAY STUDY SOUTH FACE	31/01/2014 13/04/2015
SK-120	P8 P9	MATERIALS SCHEDULE	24/03/2014 13/04/2015
Landscape Drawings prepared by Sturt Associates			
Drawing No.	Revision	Name of Plan	Date
DA-1308-01	E	LANDSCAPE PLAN	09 SEP 2013
DA-1308-04	D	LANDSCAPE SECTIONS	09 SEP 2013
DA-1308-05	B	PLANT SCHEDULE	13 MAY 2013
Landscape Drawings prepared by Hassell Limited & ASPECT Studios			
Drawing No.	Revision	Name of Plan	Date
L001	G A	DRAWING LIST AND DRAWING LAYOUT	27.01.14 APRIL 2015
L101	G	TREE REMOVAL PLAN	13.01.14
L201	H A	SCOPE OF WORKS PLAN GENERAL ARRANGEMENT	27.01.14 APRIL 2015
L202	H	DICKSON'S LANE PLAN	27.01.14
L210	H	PAVING PLAN	27.01.14
L211	H	PLANTING PLAN	27.01.14
L212	H	URBAN ELEMENTS PLAN	27.01.14
L301	H	SECTIONAL ELEVATIONS	27.01.14
L302	H	SECTIONAL ELEVATIONS	27.01.14
Civil Drawings prepared by Hyder Consulting Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
PP-CI-3001	05	COVER SHEET AND DRAWING LIST	18/02/2014
PP-CI-3101	05	SITE PREPARATION PLAN	18/02/2014
PP-CI-3151	03 08	EXCAVATION PLAN BULK EARTHWORKS PLAN	18/02/2014 12/03/2015
PP-CI-3152	02	BULK EARTHWORKS PLAN	18/02/2014
PP-CI-3201	05	SEDIMENT AND EROSION CONTROL PLAN	18/02/2014
PP-CI-3301	05	CIVIL WORKS AND STORMWATER PLAN	18/02/2014
PP-CI-3305	02	STORMWATER DRAINAGE LONGITUDINAL SECTIONS SHEET1	18/02/2014
PP-CI-3306	02	STORMWATER DRAINAGE LONGITUDINAL SECTIONS SHEET2	18/02/2014
PP-CI-3351	04	FOOTPATH LONGITUDINAL SECTION BOULEVARD MF01	18/02/2014
PP-CI-3401	06	COMBINED SERVICES PLAN	18/02/2014
PP-CI-3901	03	TURNING PATHS LOADING DOCK PLAN	18/02/2014
SKCPD095	07	HAY STREET SHARED ZONE PATH	27/02/2014
SKCPD096	03	SOUTH WEST BUILDING	27/02/2014

Reason for Amendment: This condition is updated to reflect the proposed design development changes as reflected within amended architectural drawings, public domain/ landscape drawings and civil engineering drawings and references this s96 modification application.

C PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Groundwater and water quality

Condition C36 Prior to issue of the relevant Construction Certificate, details are to be submitted to the PCA for approval demonstrating that all areas of the building below the standing groundwater level are ~~tanked~~ waterproofed.

Reason for Amendment: This condition is requested to be amended to allow for different waterproofing methods to be adopted rather than tanking. The only portion of the building which is expected to be below the water table is the foundations, piles etc. It is expected these elements will be waterproofed using materials such as Calcite and different waterproofing construction techniques.

4.0 SECTION 96 OF THE EP&A ACT, 1979

The power to amend a development consent is found in section 96 of the EP&A Act. Section 96 is an independent facilitative power that is separate to the grant of a development consent.

The statutory requirements to be satisfied for the grant of consent to modify a development consent are set out in Section 96. These depend on whether or not the modification is made under subsection (1), (1A) or (2).

This modification application to development consent SSD – 6011 is accordingly made under Section 96(1A) of the EP&A Act, as the modification is of minimal environmental impact environmental.

Pursuant to Section 96(1A) of the EP&A Act, the Minister or his delegate may modify development consent if (our emphasis added):

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

Section 96(3) of the Act requires the consent authority to take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

The proposed modifications will not substantially alter the essence of the approved development and will result in no more than minimal/negligible environmental impact for the following reasons:

- the proposed development maintains the approved land uses and retains the same built form envelope;
- the proposed changes fundamentally retain the same relationship to the public domain and surrounding development;
- the proposed changes, considered in their totality and in the context of the scale of the overall development, are of a considerably minor nature;

- the proposed changes result in a minor increase to the amount of approved residential floor space;
- the proposed changes result in one additional apartment, constituting an increase of 0.2% of apartments;
- the proposed development will continue to contribute to the creation of a new lively and vibrant mixed use precinct;
- the environmental impacts of the modified development are in the order as the approved development; and
- changes to the external appearance of the approved development are not significant and are generally consistent with the Concept Proposal envelope, continuing to deliver a building of a high design quality.

A comparison of the key components of the approved development and the proposed modified development is provided at **Table 2**. This table demonstrates that all key elements of the approved development remain resulting in a development which is substantially the same as originally approved.

Table 2 – Comparison between the approved scheme and proposed modification

Item	Approved SSDA 5	Proposed Section 96 Scheme	Change
Gross Floor Area			
▪ Residential	44,760m ²	44,812m ²	+52m ²
▪ Non-residential	1,870m ²	2,003m ²	+113m ²
Number of Apartments	538	539	+1
Total Building Storeys	40	40	No change
Height and Levels			
▪ Podium	RL 25.205	RL 25.205	No change
▪ SW1			
– Parapet	RL 85.125	RL 85.125	No change
– Rooftop plant enclosure	RL 88.875	RL 88.875	No change
▪ SW2			
– Parapet	RL 20.100	RL 20.100	No change
– Rooftop plant enclosure	RL 33.550	RL 33.550	No change
▪ SW3			
– Parapet	RL 131.625	RL 131.625	No change
– Rooftop plant enclosure	RL 137.175	RL 137.175	No change
Parking & Storage			
▪ Cars	399	399	No change
▪ Bicycle			
– Visitor	350	350	No change
– Non-residential	64	64	No change
Sustainability	GBCA Green Star target 4 star Design & As-Built	GBCA Green Star target 4 star Design & As-Built	No change

As shown above, the consent authority may be satisfied that the modified proposal represents substantially the same development for which consent was originally granted and it is apparent from the nature and scale of modifications that there will be minimal environmental impact. The modification of development consent SSD-6011 can therefore lawfully be approved under Section 96(1A) of the EP&A Act.

5.0 ENVIRONMENTAL ASSESSMENT

Section 96(3) of the Act requires the consent authority to take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

Section 79C(1) of the EP&A Act states:

“In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
- (iii) any development control plan, and*
- (iv) any matters prescribed by the regulations, that apply to the land to which the development application relates,*

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.”

5.1 Section 79C(1)(a) Planning Instruments

The Environmental Impact Statement (EIS) submitted with the original SSDA addressed the proposed development’s level of compliance against relevant environmental planning instruments, including:

- State Environmental Planning Policy – (State & Regional Development) 2011;
- State Environmental Planning Policy – Infrastructure 2007;
- State Environmental Planning Policy – (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy No. 55 Remediation of Land;
- State Environmental Planning Policy No.65 Design Quality of Residential Flat Development;
- Draft State Environmental Planning Policy – (Competition) 2010;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and
- Darling Harbour Development Plan No. 1.

As is evident from **Table 1**, the proposed modifications involve minor internal and external changes that respond to the design development stage of the project. The proposed modifications will therefore not alter the level of compliance of the development with the above relevant planning instruments. For completeness, **Table 3** provides a summary overview of the proposed modified development’s continued level of compliance with relevant planning instruments.

Table 3 – Compliance with relevant environmental planning instruments

Instrument	Comments
SEPP (State & Regional Development)	The modified development continues to meet the threshold for State Significant Development.
SEPP (Infrastructure)	The provisions of the Infrastructure SEPP apply more during the consideration and assessment of the original SSDA in terms of requirements and referrals for development applications (i.e. not modification applications). Further referral of this modification application to relevant agencies and approval bodies is not considered necessary, given the minor nature of the changes.

Instrument	Comments
SEPP (BASIX)	The proposed development continues to achieve a 4 Star Design and As-Built Green Star rating under the Green Star Multi-Unit Residential v1 tool. The initiatives proposed will enable the minimum NSW sustainability performance requirements set by BASIX to be continued to be met. Amended BASIX Certificates are provided at Attachment D .
SEPP 55 (Remediation of Land)	The site remains suitable for the proposed development subject to the implementation of Remedial Works as originally approved. The proposed modifications do not alter the site's suitability.
SEPP 65 (Design Quality of Residential Flat Development)	The modified development, including minor changes to windows and walls of some apartments, continues to meet the objectives of the SEPP and the relevant assessment criteria.
Draft Competition SEPP	The proposed modified development continues to be consistent with the aims of the Draft SEPP (Competition) in that it will promote economic growth and competition within NSW.
SREP Sydney Harbour Catchment	The proposed modified development does not affect the level of compliance with the key relevant matter for consideration.
Darling Harbour Development Plan No. 1	The proposed modified development continues to support the objectives of the DHDP (delivering a mixed-use component to support a precinct containing world class convention, exhibition and entertainment facilities) and retains the same permissible land uses as originally approved.

5.2 S.79C(1)(b) Impact on the Environment

The EIS submitted with the original SSDA addressed the likely impacts of the development, including:

- Design Excellence
- Built Form and Urban Design
- Internal Residential Amenity
- Visual and View Impact
- Public Domain and Landscaping
- Tree Removal
- Transport and Accessibility
- Accessibility
- Non-Indigenous Heritage
- Archaeology
- Noise and Vibration
- Infrastructure and Utilities
- Operational Waste Management
- Water Cycle Management
- Air Quality
- Reflectivity
- Geotechnical
- Contamination
- Wind Impact
- Building Code of Australia
- Environmental Sustainability
- Social and Economic Impacts
- Crime and Public Safety
- Environmental and Construction Management
- Ecologically Sustainable Development

The proposed modification does not give rise to any material alteration to the assessment of the potential impacts considered as part of the original SSDA. The following matters however warrant further assessment and consideration.

Design Excellence

The design development of the project has retained the authorship and leadership of Denton Corker Marshall. This ensures that the overall design quality and integrity of the project remains at the forefront. The proposed amendments have been reviewed by the Design Review Panel (DRP) and no specific concerns were noted. Minutes of the April 2015 DRP meeting are provided at **Attachment E**.

Built Form and Urban Design

A supplementary Architectural Design Report and amended Architectural Drawings, prepared by Denton Corker Marshall are provided at **Attachment A**. These documents provide details and the design rationale for the proposed modifications. As evidenced in the amended Architectural Drawings, the podium and towers retain their approved overall form, identity, design quality and aesthetic, and functionality.

The minor amendments are largely related to detailed design elements and seek to ensure the proposal is functional and provides the highest amenity for future building users. There is no material impact on the built form relationship and urban design of the South West plot or the broader precinct.

Public Domain

The proposed amendments relate to Dickson's Lane and the remainder of the public domain will remain unchanged. The proposed modifications involve the removal of fixed furniture and low walls/planters to create a clear and open space for pedestrians to move more easily and for future tenancy operators to have the flexibility of mobile furniture. In addition, the stairs and ramp have been revised at both the eastern and western ends of Dickson's Lane to improve access to Darling Drive and The Boulevard.

Earthworks

Minor alterations to the extent of earthworks are necessary due to the realigned levels of Dickson's Lane; the minor changes to the ground floor; and the commercial tenancy internal levels (refer to amended Bulk Earthworks Plan at **Attachment F**). The amended earthworks extent is considerably minor and therefore does not require any additional assessment as the conclusions of the original assessment remain valid.

Building Code of Australia

Philip Chun & Associates have reviewed the proposed modified development from a BCA perspective. The addendum BCA Statement at **Attachment G** confirms that the conclusions of the original BCA Assessment Report remain unchanged, and the modified design remains capable of complying with the requirements of the relevant sections of the BCA.

Wind & Solar Reflectivity Impact

The proposed modifications to the South-West Plot have been considered by Cermak Peterka Peterson (CPP) (refer to **Attachment H**). CPP has confirmed that the amendments are of a minor nature and do not alter the conclusions of the original report on wind and reflectivity which were prepared in support of the SSDA.

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

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

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

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

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

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

- improve the delivery of efficient housing supply through providing an additional apartment in redundant plant space;
- improving natural daylight access, ventilation and privacy to a number of apartments which ensures a considerably high level of amenity for a greater range of apartments in Sydney's housing market;
- provide an enhanced visitor experience through the improvement of Dickson's Lane
- continue to support Sydney's development as a compact and well-connected city;
- continue to contribute to repairing the urban fabric of this part of the City restoring street grain and connectivity; and
- continue to create new jobs during the construction phase.

6.0 CONCLUSION

This Section 96 application seeks to facilitate amendments in order to respond to design development and ensure that the highest level of amenity is achieved for residents and visitors to the precinct. The proposed modifications will not alter the environmental impacts assessed and approved as part of the existing development consent and will offer an enhanced building design and enhanced public domain.

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

- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the modifications result in an overall improvement to the building's urban design response; and
- the building's compliance with the Stage 1 Concept Proposal and key statutory plans and controls remains generally the same as the approved development.

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

Yours faithfully



Alexis Cella
Associate