



CP/BH/AC
14506
22 December 2016

Ms Carolyn McNally
Secretary
Department of Planning and Environment
320 Pitt Street
SYDNEY 2000

Dear Ms McNally

**SECTION 96(1A) MODIFICATION APPLICATION
SICEEP, DARLING SQUARE, NORTH-EAST PLOT (SSD 6626)**

On behalf of Lendlease (Haymarket) Pty Ltd (Lendlease) 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-6626 relating to the development of the North East Plot of Darling Square which is part of the Sydney International Convention, Exhibition and Entertainment Precinct (SICEEP) at Darling Harbour, Sydney.

This modification application is a result of further design development. The amendments that approval is sought include:

- internal amendments to the podium levels, including the provision of new public amenities and additional service vehicle spaces;
- minor internal revisions to some residential apartments; and
- minor external amendments at the upper and lower levels, including refined interfaces with the public domain.

The development, as proposed to be modified, is substantially the same development as that originally approved. These minor amendments primarily relate to feedback from potential purchasers, as well as ordinary design development which would be expected in a project of the nature and scale of the approved North East Plot development.

This application identifies the consent and describes the proposed modifications and is accompanied by:

- Design Report and Amended Architectural Drawings, prepared by Tzannes (**Attachment A**);
- Amenities Plan of Management, prepared by Lendlease (**Attachment B**);
- Traffic, Transport and Accessibility Report, prepared by TTM (**Attachment C**);
- Wind Letter, prepared by CPP (**Attachment D**);
- Waste Management Plan, prepared by Waste Audit (**Attachment E**); and
- Building Code of Australia Review, prepared by McKenzie Group (**Attachment F**).

1.0 BACKGROUND

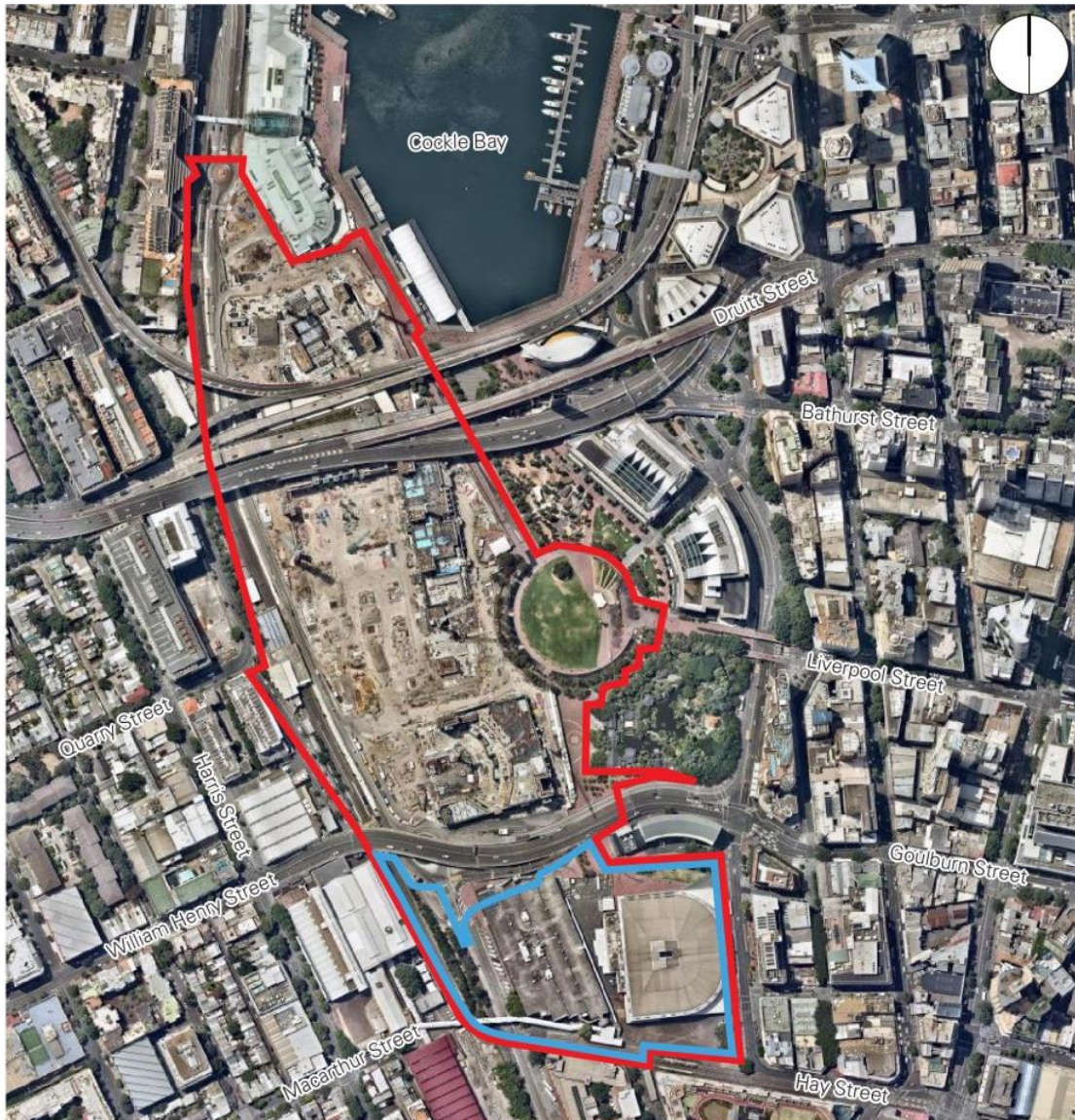
1.1 Context

The SICEEP Site is located within Darling Harbour. Darling Harbour is a 60 hectare waterfront precinct on the south-western edge of the Sydney Central Business District that provides a mix of functions including recreational, tourist, entertainment and business.

With an area of approximately 20 hectares, the SICEEP Site is generally bounded by the Light Rail Line to the west, Harbourside shopping centre and Cockle Bay to the north, Darling Quarter, the Chinese Garden and Harbour Street to the east, and Hay Street to the south (refer to **Figure 1**).

The Darling Square Site is:

- located in the south of the SICEEP Site, within the northern portion of the suburb of Haymarket;
- bounded by the Powerhouse Museum to the west, the Pier Street overpass and Little Pier Street to the north, Harbour Street to the east, and Hay Street to the south; and
- irregular in shape and occupies an area of approximately 37,701m².



■ SICEEP Site ■ Darling Square

Figure 1 – Aerial Photograph of the SICEEP Site

The Modification Application Site relates to the North East Plot and surrounds as detailed within the drawings submitted in support of Modification Application. **Figure 2** illustrates the North East Plot in the approved Concept Proposal (as modified).

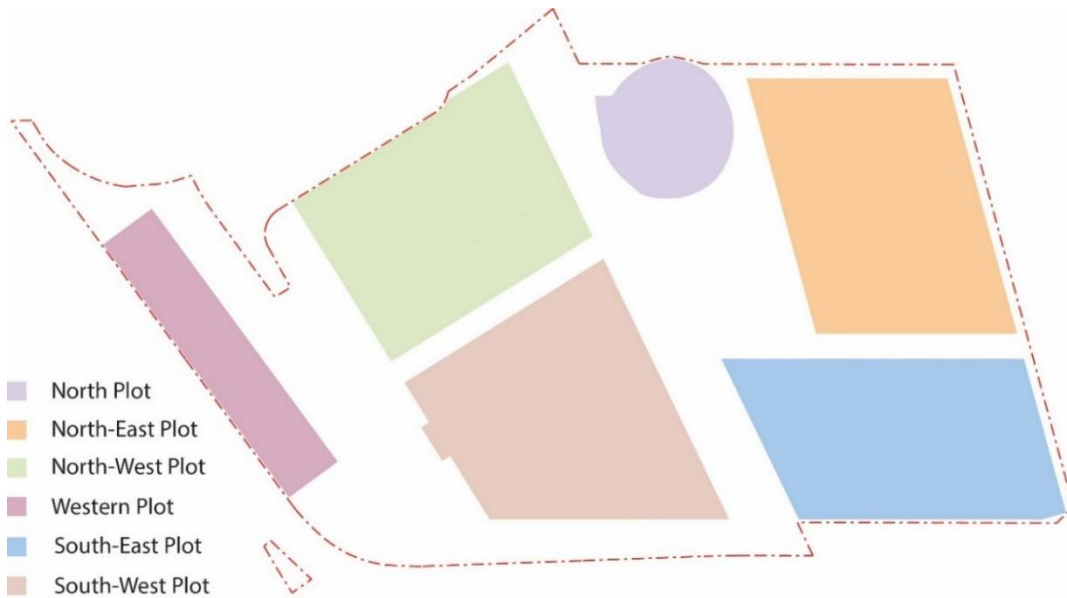


Figure 2 – Concept Proposal Development Plots (as modified)

1.2 Consent Proposed to be Modified

Development Consent SSD 6626 was granted on 16 April 2015 by the delegate of the Minister for Planning for the following components of development:

- site preparation works including demolition of existing Sydney Entertainment Centre;
- staged construction of 8 storey, 19 storey and 41 storey buildings, including a 5 storey podium, to be used for:
 - 2,050m² retail floor space at ground floor level;
 - 445 above ground car parking spaces and storage; and
 - 581 residential apartments
- various public domain improvements including:
 - provision of footpath treatment to the northern and eastern frontages and associated landscaping along the northern boundary; and
 - interim surface treatments to the southern and western frontages.

This section 96 application (the Modification Application) constitutes the first modification to the consent. This Modification Application follows the approval and current assessment of a number of SSDAs within the SICEEP site as set out in **Table 1**.

Table 1 – Status of initial SICEEP SSD DAs

DA No	Description of Application	Status
12_5752	SICEEP Core Facilities – Exhibition Centre, Convention Centre, The Theatre, Event Deck and Tumbalong Park	Approved: 22 August 2013
MOD 1	S96(1A) - various	Approved: 20 February 2014
MOD 2	S96(1A) – various	Approved: 18 July 2014
MOD 3	S96(1A) – various	Approved: 1 July 2015
13-5878	Darling Square Concept Proposal	Approved: 5 December 2013
MOD 1	S96(1A) – various	Approved: 26 November 2015
MOD 2	S96(1A) – various	Approved: 4 October 2015

DA No	Description of Application	Status
6010	Western Plot (Student Accommodation – Building W2)	Approved: 7 May 2014
MOD 1	S96(2) – various	Approved: 1 April 2016
6013	North-West Plot (Public car park/ commercial office building)	Approved: 7 May 2014
MOD 1	S96(2) – various	Approved: 20 July 2015
MOD 2	S96(1A) – various	Approved: 26 November 2015
MOD 3	S96(1A) – various	<i>Under Assessment</i>
6011	South-West Plot (Mixed Use Residential Development)	Approved: 21 May 2014
MOD 1	S96(1A) – various	Approved: 27 July 2015
6116	ICC Hotel	Approved: 15 June 2014
MOD 1	S96(1A) – various	Approved: 8 July 2015
6626	North-East Plot (Mixed Use Residential Development)	Approved: 16 April 2015
MOD 1	S96(1A) – various	Subject of this application
6831	ICC Hotel fit-out, façade lighting system and subdivision	Approved: 16 October 2015
7133	Western Plot (Student Accommodation – Building W1)	Approved: 1 April 2016
7021	<i>North Plot (Community and Retail Building and Public Open Space)</i>	<i>Under Assessment</i>
6633	South East Plot (Mixed Use Residential Development)	Approved: 16 December 2016

1.3 Consultation

As one of its key underlying processes, Lendlease has undertaken a range of engagement and consultation processes as part of the progression of the design development and to inform this modification application. Consultation has included: the Department of Planning and Environment (the Department), City of Sydney Council (Council), Place Management NSW (former Sydney Harbour Foreshore Authority) and Infrastructure NSW.

1.4 Relationship to Other Plots

The North Plot and Square

The State Significant Development Application (SSDA) for the construction and use of the North Plot and Square was publicly exhibited for a period of 47 days inclusive between 17 March 2016 and 2 May 2016 (SSD 7021). A number of submissions were received during this exhibition period raising a variety of matters for consideration. One relevant matter for consideration to the North East Plot was the loading/unloading strategy for the North Plot and Square. Place Management NSW and the Department recommended the use of loading and unloading facilities in the North East Plot rather than on-street locations to reduce the potential impacts on the public domain and pedestrian safety.

In light of these comments, the proponent held several meetings with Place Management NSW and other relevant authorities/agencies. Along with these meetings, the proponent and their expert project team refined the loading/unloading strategy to remove the majority of servicing from on-street areas to within the North East Plot. To facilitate these changes, however, a modification is now required to the North East Plot Development Consent, hence this Modification Application.

The South East Plot

During the assessment of the SSDA for the South East Plot (SSD 6633), it was identified that there may be some privacy implications between the approved North East Plot and South East Plot. To mitigate any potential privacy impacts, the Department placed Condition C3 on the South East Plot Development Consent requiring method(s) / treatment(s) to be prevent overlooking.

Specifically, Condition C3 requires:

Privacy between SE2 and NE2

C3 Prior to the issue of the relevant Construction Certificate, amended plans shall be submitted to the satisfaction of the PCA showing method(s) / treatment(s) to prevent overlooking in the following locations:

- a) from the apartments and community rooms located in the SE2 building on levels two to nine towards the bedrooms in the apartments on the south west corner of the neighbouring NE2 building within the North East Plot to the north; and*
- b) from the apartments located in the SE3 building on levels two to six towards the bedrooms in the apartments on the south east corner of the neighbouring NE1 building within the North East Plot to the north.*

The details shall be provided to the satisfaction of the PCA, with the application for the relevant Construction Certificate, which demonstrate the provision of the approved method(s) / treatments to prevent overlooking. Alternatively amended plans for the North East Plot shall be provided to the satisfaction of the PCA which addresses the above mentioned overlooking.

The proponent and their expert project team have identified that the most suitable way to mitigate any potential privacy impacts is to treat habitable windows within the approved North East Plot which are orientated towards the South East Plot. As such, screening treatments are proposed to these windows as part of this Modification Application.

2.0 PROPOSED MODIFICATIONS TO CONSENT

This Modification Application seeks approval for the following amendments:

- internal amendments to the podium levels, including the provision of new public amenities and additional service parking spaces;
- minor internal revisions to some residential apartments; and
- minor external amendments at the upper and lower levels, including refined interfaces with the public domain.

A range of other minor amendments resulting from design development, including amendments made in light of the continual design of surrounding buildings and public domain elements, are illustrated on the amended Architectural Drawings (refer to **Attachment A**). These changes are to be expected in any project, especially given the nature and scale of the approved North East Plot development.

2.1 Modifications to the Development

The changes detailed below reflect the natural evolution that occurs within the development process and particularly in the case of mixed use development where feedback is often provided by potential tenants or prospective residential buyers. The key changes to the approved development are outlined below and further in the Design Report prepared by Tzannes (refer to **Attachment A**).

External Amendments (Podium)

Minor modifications are proposed to the approved podium, comprising:

- an extension of the podium awning at the base of Building NE3;
- additional setback of the planted edges between Buildings NE1 and NE3 by 1-1.5m from the balustrade; and
- provision of a framed masonry portal to the lifts of Building NE2.

These proposed modifications are illustrated on the amended Architectural Drawings provided at **Attachment A**.

Podium Amendments (Internal)

A number of design modifications are proposed to the ground level of the North East Plot. These modifications include:

- provision of public toilets, comprising male toilets and female toilets to service users of The Square and retail visitors;
- refinement of back of house facilities for the retail tenancies and North Plot to accommodate general storage;
- addition of six (6) new service bays and corridor access to these bays to service both the North Plot and North East Plot;
- provision of additional storage cage area allocation;
- realignment of egress stair;
- relocation of fire tank;
- general refinements to internal configuration/layouts resulting from design development;
- reduction of retail Gross Floor Area (GFA) from 2,050sqm to 1,986sqm; and
- public domain and retail levels revised in accordance with the flood mitigation strategy.

Figure 3 illustrates the proposed amendments to the ground level.

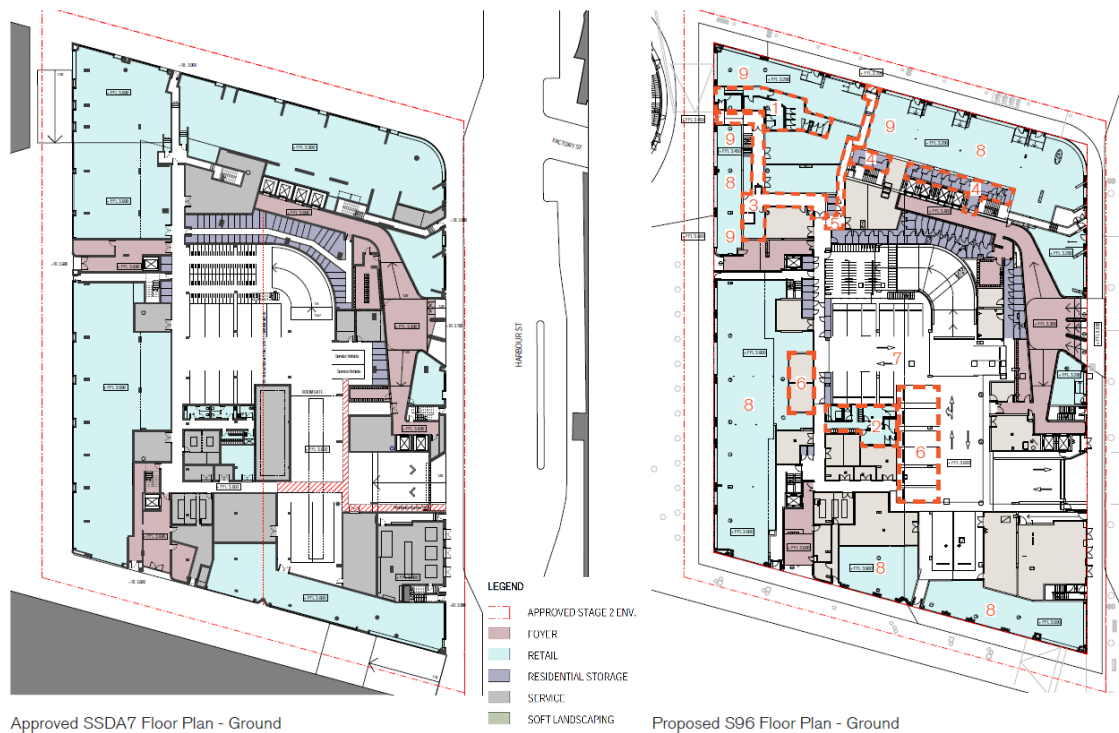


Figure 3 – Proposed ground level amendments
Source: Tzannes

On the mezzanine level, additional back of house and plant areas are proposed to be provided. Additional space for storage cages is also proposed to be provided. Figure 4 illustrates the proposed amendments to the mezzanine level.



Approved SSDA7 Floor Plan - Mezzanine

Proposed S96 Floor Plan - Mezzanine

Figure 4 – Proposed mezzanine level amendments
Source: Tzannes

External Amendments (Building NE2)

The eastern façade of Building NE2 is proposed to be amended as follows:

- replacement of redundant plant louvres with a concrete finish; and
- refinement of glazing extent to match the plant floor levels.

These proposed modifications are illustrated on the amended Architectural Drawings provided at **Attachment A**.

Internal and External Amendments (Building NE3)

Floor Plate Shift

The floor plate of Building NE3 on Levels 6 to 37 is proposed to be slightly reduced in width by 300mm on the western extent. This amendment is a result of shifting the western tower façade slightly east. This reduction also results in slight amendments to the apartment planning on levels 38-40 of Building NE3 (refer to amended Architectural Drawings at **Attachment A**).

Overall Building Height

The lift overrun on Building NE3 is proposed to be deleted in light of a different lift being specified for the building in the detailed design. The new lift type provided does not require any lift overrun, therefore the overall height of the building is reduced to RL135.36.

Apartment/Internal Refinements

On levels 34-37 of Building NE3, a number of plant rooms are proposed to be converted to study areas for the adjacent apartments. The louvres for these spaces on the façade have been replaced with glazing, reflecting the use within the building (refer to **Figure 5**). These changes result in a minor increase in residential GFA.

Furthermore, the redundant louvres to the roof plant have been replaced with opaque glass, ensuring a consistent façade glazing system and appearance. This glazing has been extended to Levels 38-40 to maintain consistency (refer to **Figure 5**). Glazing has also been extended to Levels 38-40 on the western façade to address internal planning refinements.

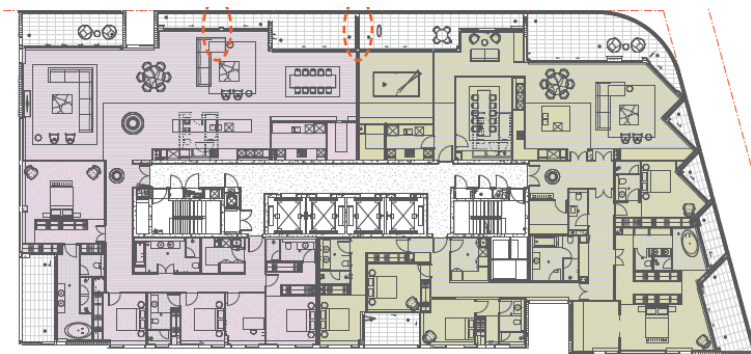


Figure 5 – Proposed Level 34-37 study changes and façade amendments
 Source: Tzannes

The approved apartments on Level 40 are proposed to be reconfigured from six (6) apartments (2 x 4 bedroom, 2 x 4 bedroom, 2 x 2 bedroom) to two (2) apartments (1 x 5 bedroom, 1 x 4 bedroom). This modification will require internal layout amendments and a slight modification to the detailing of the dividing balcony walls. **Figure 6** illustrates a comparison of the approved and proposed modified Level 40 floor plan.



Approved Level 40 Layout



Proposed Modified Level 40 Layout

Figure 6 – Comparison of proposed Level 40 Amendments
 Source: Tzannes

External Amendments (Other)

The following amendments are proposed to a variety of other external elements throughout the North East plot:

- the detailing of the lobby entrance element along Harbour Street is proposed to be refined, with the simplification of the awning at ground level and amendments to columns, brick dimensions and concrete thickness (refer to **Figure 7**);
- additional brick columns have been added to the Building NE2 ground floor elevation;
- additional brick piers and brick upstands have been added to the retail frontages along Factory Lane, Harbour Street and Little Hay, providing an enhanced interface and managing any potential flooding impacts; and
- vertical aluminium screens have been added to windows of habitable rooms along the southern façade on podium levels 1 to 5, consistent with the approach to satisfying Condition C3 of the South East Plot Development Consent.

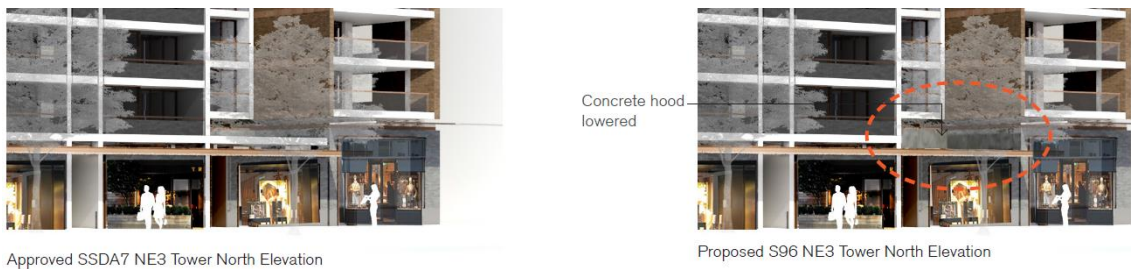


Figure 7 – Harbour Street lobby entrance element changes
 Source: Tzannes

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

SCHEDULE 1

Approved Development:

Development of Darling Square, mixed use residential development including:

- *site preparation works including demolition of existing Sydney Entertainment Centre;*
- *staged construction of 8 storey, 19 storey and 41 storey buildings, including a 5 storey podium, to be used for:*
 - ***2,050m² 1,986m²*** *retail floorspace at ground floor level;*
 - *445 above ground car parking spaces and storage; and*
 - ***584 577*** *residential apartments*
 - *various public domain improvements including*
 - *provision of footpath treatment to the northern and eastern frontages and associated landscaping along the northern boundary; and*
 - *interim surface treatments to the southern and western frontages.*

Reason for Amendment: This condition is sought to be amended to reflect the amended retail floor space and total apartment figures.

SCHEDULE 2

A ADMINISTRATIVE CONDITIONS

Development Description

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

- a) State Significant Development Application SSD 6626;*
- b) Environmental Impact Statement prepared by JBA Urban Planning Consultants Pty Ltd dated November 2014;*
- c) Response to Submissions report prepared by JBA Urban Planning Consultants Pty Ltd dated February 2015;*
- d) Section 96(1A) modification to Development Consent SSD 6626 dated December 2016;***
- ~~*e) The conditions of this consent; 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 Tzannes Associates Architecture and Urban Design			
Drawing No.	Revision	Name of Plan	Date
DHL_AD000001	E	Drawing list and context plan	24/02/15
DHL_AD000100	F	Site plan	24/10/15
DHL_AS000200	A	Demolition plan	24/10/15
DHL_AD020100	H	Floor plan ground	04/02/15 12.10.16
DHL_AD020200	F G	Floor plan NE2 mezz	24/10/15 12.10.16
DHL_AD030100	H I	Floor plan level 01	24/02/15 12.10.16
DHL_AD030200	H I	Floor plan level 02 – 04	24/02/15 12.10.16
DHL_AD030300	H I	Floor plan level 05	24/02/15 12.10.16
DHL_AD030400	H I	Floor plan level 06 – podium	24/02/15 12.10.16
DHL_AD030500	H I	Floor plan level 07	24/02/15 12.10.16
DHL_AD030600	H I	Floor plan 08 – 18	24/02/15 12.10.16
DHL_AD030700	H I	Floor plan Level 19	24/02/15 12.10.16
DHL_AD030800	H I	Floor plan level 20 – 37 33	24/02/15 12.10.16
DHL_AD030801	A	FLOOR PLAN LEVEL 34-37	12.10.16
DHL_AD030900	G H	Floor plan level 38 – 40 39	04/02/15 12.10.16
DHL_AD030901	A	FLOOR PLAN LEVEL 40	12.10.16
DHL_AD031000	G H	Floor plan level 41 – roof	04/02/15 12.10.16
DHL_AD031100	J	NE1 floor plan level 01	24/02/15
DHL_AD031400	I	NE1 floor plan level 07 – 17	24/02/15
DHL_AD031500	I	NE1 floor plan level 18 – penthouse	24/02/15
DHL_AD031600	G	NE1 floor plan level 19 – plant / roof	04/02/15
DHL_AD031700	H I	NE2 floor plan level 01 -05	24/02/15 12.10.16
DHL_AD031800	G H	NE2 floor plan level 06 –penthouse lower level	04/02/15 12.10.16
DHL_AD031900	G H	NE2 floor plan level 07 – penthouse upper level	04/02/15 12.10.16
DHL_AD032000	G	NE2 floor plan level 08 – plant	04/02/15
DHL_AD032100	H I	NE3 floor plan level 01	24/02/15 12.10.16
DHL_AD032200	H I	NE3 floor plan level 02 – 05	24/02/15 12.10.16
DHL_AD032300	H I	NE3 floor plan level 06 – podium	24/02/15 12.10.16
DHL_AD032400	H I	NE3 floor plan level 07 – 37 33	24/02/15 12.10.16
DHL_AD032401	A	NE3 FLOOR PLAN LEVEL 34-37	12.10.16
DHL_AD032500	G H	NE3 floor plan level 38 – 40 39 – penthouse option	04/02/15 12.10.16
DHL_AD032501	A	NE3 FLOOR PLAN LEVEL 40 – PENTHOUSE OPTION	12.10.16
DHL_AD032600	G H	NE3 floor plan level 41 - plant	04/02/15 12.10.16

DHL_AD041000	H /	South elevation	04/02/15 12.10.16
DHL_AD041100	H /	Elevation south NE3	04/02/15 12.10.16
DHL_AD042000	H /	West elevation	04/02/15 12.10.16
DHL_AD043000	H /	North elevation	04/02/15 12.10.16
DHL_AD044000	H /	East elevation	04/02/15 12.10.16
DHL_AD044100	H /	Elevation east NE2	04/02/15 12.10.16
DHL_AD050100	H /	Section AA	04/02/15 12.10.16
DHL_AD050200	H	Section BB	04/02/15
DHL_AD070001	C	NE1 adaptable apartment layout	24/02/15
DHL_AD070002	C	NE2 adaptable apartment layout	24/02/15

Reason for Amendment: This condition is updated to reflect the proposed design development changes and as reflected within the amended architectural drawings references to this section 96 modification application.

Car Parking

C10 Car parking on site shall be provided as follows:

- a) 445 residential car parking spaces; and
- b) **2 courier 8** service bays.

Reason for Amendment: This condition is sought to be amended to reflect the modified total number of courier service bays, provided to service both the North East and North Plots.

Bicycle Facilities

C13 Minimum bicycle parking on site shall be provided as follows:

- a) **584 577** residential storage cages within the podium;
- b) 60 residential visitor bicycle parking spaces within the podium;
- c) 10 retail (staff) bicycle parking spaces within the podium; and
- d) 10 visitor bicycle parking spaces within the public domain on site or within the Darling Square open space, within vicinity of the site.

Reason for Amendment: This condition is sought to be amended to reflect the modified total number of apartments.

C15 The layout, design and security of bicycle facilities either on-street or off-street must comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities except that:

- a) all bicycle parking for occupants of residential buildings must be **Class 1 or Class 2** bicycle facilities. Notwithstanding **Class 1 or Class 2**, bicycle lockers may also be designed to allow for stand up / hanging storage of bicycles;
- b) all bicycle parking for staff / employees of any land uses must be **Class 2** bicycle facilities, and
- c) all bicycle parking for visitors of any land uses must be **Class 3** bicycle rails.

Reason for Amendment: This condition is sought to be amended to allow for Class 1 bicycle parking spaces to be provided for occupants of the residential buildings, consistent with the surrounding Plots of Darling Square.

Waste Management

G4 Waste Management shall be undertaken in accordance with the Waste Management Plan Revision 4, prepared by Waste Audit and Consultancy Services dated 24 October 2014 **and as amended by the Waste Management Plan, prepared by Waste Audit and Consultancy Services dated October 2016.**

Reason for Amendment: This condition is sought to be amended to reference the updated Waste Management Plan provided with this Modification Application.

3.0 SUBSTANTIALLY THE SAME DEVELOPMENT

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. Section 96(1A)(b) of the EP&A Act states that a consent authority may modify a development consent if:

- 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.*

(emphasis added)

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- the proposal retains the approved car parking, retail and residential uses;
- the nature of the changes are purely design development driven and aim to support the functioning of the building and provision of high amenity to apartments;
- the external changes relate to improvements in design outcomes including the provision of weather protection and wind mitigation;
- the proposal includes only minor internal/external physical amendments which do not substantially alter the visual appearance of the building, with the building fundamentally retaining the same relationship to the public domain and surrounding development;
- no significant modification is proposed to the general building envelope of the approved building;
- the proposal results in a slight decrease in height due to the deletion of a lift overrun;
- the approved number of car spaces is to be maintained across the same extent of the building;
- the proposed changes result in a minor reduction of residential and non-residential floor space;
- the proposal will continue to contribute to the creation of a new and lively mixed use precinct; and
- there are no more than minimal environmental impacts as a result of the modified development, as detailed in **Section 4.0** of this letter.

A comparison of the key components of the approved development and the proposed modified development is provided at **Table 2**. **Table 2** demonstrates that all key elements of the approved development remain, resulting in a development that clearly meets the test of being substantially the same as originally approval.

Table 2 – Consistency with approved development

Component	Approved development (original)	Amended proposed development	Consistency / Substantially the same
Envelope	Podium and three towers: NE1, NE2 and NE3	No change	✓
Use	Mixture of retail, car parking and residential apartments.	No change	✓
Gross Floor Area	Residential: 51,602m ² Retail: 2,050m ²	Residential: 51,494m ² (-108m ²) Retail: 1,986m ² (-64m ²)	✓
Height / Storeys	RL 138.56 / 41 storeys	Removal of lift overrun reduces height to the L41 Parapet (RL 135.36) (-3.2m ²)	✓
Apartments	One bedroom: 251 Two bedroom: 308 Three + bedroom: 22 Total: 581	One bedroom: 251 Two bedroom: 306 (-2) Three + bedroom: 20 (-2) Total: 577 (-4 apartments)	✓
Overshadowing	The building shadow is not likely to create any significant overshadowing to adjoining private residences or public spaces.	No change	✓
Pedestrian Access	Public pedestrian access along all four edges of the building. Separate pedestrian access points will be provided to all residential lobbies from the public domain, whilst direct and separate pedestrian access will be provided to the retail tenancies.	No change	✓
Vehicular Access / Loading	A vehicle access point is on Harbour Street, accessing the car park, loading dock and servicing.	No change	✓
Parking			
- Car Parking	445	No change	✓
- Motorcycle Parking	-	No change	✓
- Bicycle Parking	A storage locker of sufficient size will be provided within the proposed development for each residential apartment, whilst an additional 70 visitor bicycle parking spaces will be provided on the ground level.	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 there will be no more than minimal environmental impact. The modification of development consent SSD-6626 can therefore lawfully be approved under Section 96(1A) of the EP&A Act.

4.0 ENVIRONMENTAL ASSESSMENT

Section 96(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”. The following assessment demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Compliance with relevant Planning Instruments and Policies

The Environmental Impact Statement (EIS) submitted with the original State Significant Development Application (SSDA) addressed the proposed development’s level of compliance against a number of relevant environmental planning instruments.

As is evident from **Section 3.0**, the proposed modifications involve changes that respond to detailed design development and further testing of the operational and servicing requirements of the building and

wider precinct. The proposed modifications will therefore not alter the level of compliance of the development with the relevant planning instruments.

For completeness, **Table 3** provides a summary overview of the proposed modified development's continued level of compliance with the 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.
SEPP (BASIX)	The proposed modification results in no change to the GBCA Green Star target rating of 4 star V1 and continues to be designed and delivered with the potential to achieve a 40% reduction in potable water consumption.
SEPP 55 (Remediation of Land)	The site remains suitable for the proposed development (with no change to the approved uses) subject to the implementation of Remedial Works as originally approved. The proposed modifications do not alter the site's suitability.
SEPP 64 (Advertising and Signage)	The modified development continues to meet the objectives of the SEPP and the relevant assessment criteria. No modifications are proposed to any advertising or signage element.
SEPP 65 (Design quality of Residential Apartment Development)	The modified development, including the proposed amendments to the apartment layouts and façades, continues to meet the objectives and principles of the SEPP and the objectives of the accompanying Apartment Design Guide (ADG).
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.
Darling Harbour Development Plan No. 1	The proposed modified development continues to support the objectives of the DHDP and retains the same permissible land uses as originally approved.
SREP Sydney Harbour Catchment	The proposed modified development does not affect the level of compliance with the key relevant matters for consideration.

4.2 Section 79C (1) (b) Impact on the Environment

The EIS submitted with the original SSDA addressed the likely impacts of the development. The proposed modified development does not give rise to any material alteration to the assessment of the potential impacts considered as part of the original SSDA. Where relevant, the technical reports and plans addressing the above matters have been updated to provide an assessment of the modified design (refer attached technical reports).

The consensus of these reports has been that in light of the nature of the modifications to the approved development the conclusions of the original assessment remain valid and no further assessment or mitigation measures are required. The following matters, however, warrant further assessment and consideration.

4.3 Design Excellence

The proposed amendments to the North East Plot will not have any impact on the design quality of the approved development. The proposed external changes are minimal and seek to provide a more consistent and co-ordinated façade treatment, as well as a slimmer Building NE3 tower. **Figure 8** illustrates the design quality of the proposal retained in the amended development.



Figure 8 – Design quality of the North East Plot
 Source: Tzannes

4.4 Residential Amenity

The modifications proposed to residential apartments have been made due to design development and following discussions with prospective purchasers. At the time of assessment of the original State Significant Development Application, the ADG was not finalised and only a draft ADG document and amendment to SEPP 65 was a matter for consideration. Nonetheless, the proposal continues to achieve the (now) refined design principles of SEPP 65 and the objectives of the ADG, including strict numerical consistency with the majority of the design criteria contained within the ADG.

The proposal's strict numerical consistency with two design criteria is challenged as a result of the proposed modifications. Specifically, the proposed modification to rationalise the western extent of Building NE3 (shifting the building 300mm to the east), has resulted in a number of apartments with slightly reduced balcony sizes and reduced living room widths. These different elements are addressed below and further assessment relating to residential amenity is provided in the Design Report and Amended Architectural Drawings (**Attachment A**).

Living Room Widths (Objective 4D-3)

The width of living room areas within 33 x two bedroom apartments in the north-western corner have been reduced to 3.7m as a result of the proposed 300mm shift. This minor alternative living room width for these apartments is considered acceptable given that the apartment layouts still provide for a variety of household activities to be undertaken and the needs of residents to be met.

All subject apartments are consistent with the minimum internal and external areas outlined in the ADG. Furthermore, the apartments are dual aspect and therefore are provided with high levels of natural daylight and ventilation.

The layout of spaces and rooms within the apartment is logical and conducive to a range of activities. The positioning of the balcony adjoining the main living space will also enable an extension of indoor living outside, allowing for the creation of an extended living space.

Overall, the alternative living room widths are minor and will not have any impact on the apartments achieving Objective 4D-3 of the ADG.

Balcony Sizes (Objective 4E-1)

A total of 33 balconies on the south-western corner of Building NE3 (Levels 6-39) have been reduced by approximately one square metre in size. These balconies, associated with two bedroom apartments, were originally approved at 8.7m², 1.3m² below the recommended size of the design criteria for Objective 4E-1 in the ADG. The reduction in area of these balconies by 1m² is a direct result of the shiftment of Building NE3 300mm to the east.

To preserve the internal open plan kitchen area of the subject apartments, these balconies have been slightly reduced in size. Whilst a numerical decrease, the actual loss of space on these balconies comprises a 300mm deep portion along the length of the balcony. This loss of space is not likely to be discernible to residents, and would not impact on the usability of the balcony. The depth of the balconies are provided at 2.3 metres, consistent with the recommended depth of the design criteria for Objective 4E-1 in the ADG.

The proportions, location and operability of two sides of these balconies ensures that Objective 4E-1 in the ADG is achieved for each of the subject apartments. The apartments are provided with an appropriately sized area of private open space in the form of a balcony which complements the internal layouts provided. All subject apartments are consistent with the minimum internal areas suggested in the ADG. Furthermore, the apartments are dual aspect and therefore are provided with high levels of natural daylight and ventilation. Overall, the minor reduction in sizes for these balconies is considered acceptable in the inner-city context of the proposal.

4.5 Operational Matters

An Amenities Plan of Management has been prepared by Lendlease to support the provision of accessible toilet facilities servicing retail tenancies of the North and North East Plots of the Darling Square Development (refer to **Attachment B**). Key operational requirements to service these amenities have been considered, alongside design requirements to ensure that clean, healthy, safe and accessible toilets are provided and the principles of Crime Prevention through Environmental Design (CPTED) and Ecologically Sustainable (ESD) are achieved.

4.6 Traffic, Transport and Accessibility

The amalgamation of a number of apartments on Level 40 of building NE3 has resulted in a reduction in the total number of apartments and therefore a reduction in the maximum allowable parking spaces. The current total parking provision is below the reduced maximum requirements of the approved concept proposal. Hence, there is no need to reduce the parking provision for the revised apartment mix. The car parking allocation under the current approval and the proposed amended development are outlined in **Table 4**. As identified in **Table 4**, the proposed continued provision of 445 car parking spaces is within the maximum car parking permitted for the proposal.

Table 4 – Car parking allocation under current approval and current approval

	Apartments	Maximum spaces allowed per apartment	Maximum car parking spaces allowed	Proposed Number of car parking spaces
Approved North East Plot				
1 bedroom	251	0.5	125.5	445
2 bedroom	303	1	303	
3 bedroom	27	1.5	40.5	
Total	581		469	
Proposed Amendment North East Plot				
1 bedroom	251	0.5	125.5	445
2 bedroom	301	1	301	
3 bedroom	25	1.5	37.5	
Total	577		464	

An expanded service area is proposed within the North East Plot, comprising:

- two (2) new van service bays; and
- four (4) new SRV service bays.

These new service bays are in addition to the two (2) existing bays provided within the approved design. Overall, the eight (8) service bays will be used for the loading/unloading requirements of the North East Plot and the North Plot. TTM has confirmed that there are no adverse impacts on the operations of the North East Plot as a result of the proposed modifications, including an assessment of swept paths to ensure that the location and access to these service bays is appropriate.

A copy of the Traffic, Transport and Accessibility Report prepared by TTM is provided at **Attachment C**.

4.7 Wind

CPP has reviewed the amendments proposed to the approved development and have confirmed that the findings of their initial assessment accompanying the SSDA remain valid with similar wind conditions expected to be encountered as a result of the modified development (refer to **Attachment D**).

It has been determined by CPP that the area in the immediate vicinity of the awning amendments on the podium rooftop is rated for pedestrian standing activities under the Lawson comfort criteria and passed the Lawson distress criteria. The awning extension is expected to provide additional protection to the north-east corner of the podium from downwash winds from the south quadrant. Horizontal winds from the south-west quadrant can still be expected along the podium.

4.8 Waste

Waste Audit has reviewed the amendments proposed to the approved development and have confirmed that the proposed changes to the Ground Level will not adversely impact on the operational waste management of the North East Plot (refer to **Attachment E**). The Waste Management Plan continues to operate detailing estimated waste and recycling generation, and recommended systems, for the residential and retail components of the North East and North Plots and has been developed in accordance with the City of Sydney's *Policy for Waste Minimisation in New Developments*.

4.9 Building Code of Australia

A Building Code of Australia (BCA) review has been completed by McKenzie Group and is provided at **Attachment F**. This review identified that due to the size and nature of the building, there will be alternate solutions that address non-compliances to satisfy the provisions of the BCA. Overall, McKenzie Group has confirmed that the proposal is capable of compliance with the BCA.

5.0 CONCLUSION

The proposed modifications comprise improvements to both internal and external elements of the North East Plot. A number of the proposed amendments are now sought in light of design development, whilst others have been influenced by the development of other plots within Darling Square. Overall, the amendments proposed are minor and will offer an enhanced development; contributing to both the functioning of Darling Square as a whole, and improving the residential amenity of apartments. In accordance with section 96(1A) of the EP&A Act, the Minister or his delegate may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- is substantially the same development as the development originally approved.

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 bhoskins@jbaurban.com.au.

Yours faithfully,



Brendan Hoskins
Senior Planner