



SG/GK
14274
20 December 2016

Ms Carolyn McNally
The Secretary
Department of Planning and Environment
PO Box 375
SYDNEY NSW 2001

Attention: Natasha Harras (Team Leader, Modification Assessments)

**S96(1A) - MODIFICATION APPLICATION - SSD 14_6673 – MOD 2
BLOCK 4N, CENTRAL PARK**

On behalf of Central Park JV No 2, we hereby submit an application pursuant to section 96(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify State Significant Development Application SSD 14_6673 relating to Block 4N, Central Park.

This S96 Application seeks approval for minor amendments to the approval in response to design development progression and to clarify planned uses within the development. No physical modifications are proposed. Specifically, the amendments include:

- minor reallocation of car parking spaces, increasing childcare staff and drop off/pick up spaces and reducing hotel (accommodation) spaces;
- clarification of publicly accessible space adjacent the Australian Hotel; and
- revised subdivision plans to reflect the final design of Block 4N.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 96(1A) and 79C(1) of the EP&A Act. It should be read in conjunction with the Environmental Impact Statement (EIS) prepared by JBA dated October 2014 (submitted with the original SSD) and is accompanied by the following information:

- Revised Architectural Plans prepared by Foster + Partners (**Attachment A**);
- Design Statement prepared by Foster + Partners (**Attachment B**);
- Traffic and Parking Statement prepared by GTA Consultants (**Attachment C**);
- Architectural Plans (Basement) prepared by Architects (**Attachment D**); and
- Draft Subdivision Plans prepared by Linker Surveying Pty Ltd (**Attachment E**).

1.0 BACKGROUND

1.1 Central Park Concept Plan

MP 06_0171, as modified in February 2009, is a Concept Plan approval applying to the Frasers Broadway (now Central Park) site which permits the construction of a mixed use precinct comprising:

- 11 development blocks;
- A maximum Gross Floor Area (GFA) of 255,500m² with minimum non-residential and maximum residential floor space mix.

- Combined basement car parks, providing car parking for Blocks 1, 4 and 8 and
- Blocks 2, 5, 9 and the Kensington Precinct;
- A new public park;
- Tri-generation and re-cycle water treatment plants;
- Retention of heritage items;
- Public domain works; and
- Contributions.

To date, a total of 12 modifications to the Concept Plan have been approved between 2007 and 2015. The modifications have primarily related to amendments of building envelopes and reallocation of floor space in response to the delivery of each block.

1.2 Block 4N SSD – Approval proposed to be modified

State Significant Development (14_6673) was granted by the Department of Planning and Environment (DPE) on 20 August 2015 for the following:

Development of the Block 4N mixed use development including:

- construction of a 18 and 19 storey building (maximum height RL 81 .50)
- construction of four levels of basement across Blocks 1 and 4N;
- retention, refurbishment and alteration of the Australian Hotel and Abercrombie Street terraces, including provision of heritage courtyard;
- Total GFA of 26,591 m2 comprising:
 - 48 residential apartments;
 - hotel use (283 hotel rooms) and ancillary guest and visitor facilities;
 - 6,417m² GFA commercial office,
 - 1,236m² GFA retail; and
 - a childcare facility (90 child capacity).
- 121 on site car parking spaces, six on-site service vehicle spaces and six on-street short term car parking spaces;
- 122 bicycle parking spaces;
- public domain works and landscaping;
- stratum subdivision; and
- business identification signage zones.

A modification (MOD 1) to the Block 4N SSD was approved by the Planning Assessment Commission (PAC) on 24 June 2016 and included the following:

- reduction of 110sqm of GFA (total of 26481sqm);
- enclosure of the outdoor terrace at ground floor (fronting Broadway);
- increase of 14 additional hotel rooms (total 297);
- reconfiguration of basement to include back of house facilities associated with the hotel; and
- minor Internal and external amendments to the building.

2.0 PROPOSED MODIFICATIONS

2.1 Overview of Proposed Modifications

The modification application relates to minor amendments of the approval arising from design development and includes:

- minor reallocation of car parking spaces, increasing childcare staff and drop off/pick up spaces and reducing hotel (accommodation) spaces;
- clarification of publicly accessible space adjacent the Australian Hotel; and
- revised subdivision plans to reflect the final design of Block 4N.

The aspects of the modification are discussed in further detail below. The application does not seek any physical amendments to Block 4N.

2.2 Clarification of Public Domain – Publicly Accessible Areas – Heritage Courtyard

The modifications proposed in this application seek to clarify the planned use of the heritage courtyards, located behind the Australian Hotel. The modification only seeks to amend the public domain plans (as part of the Block 4N SSD), with no physical modification proposed. A Design Statement has also been provided by the Project Architects, Foster + Partners, to clarify the intended use of the heritage courtyard.

The Heritage Courtyard (as shown in **Figure 1**) has always been intended to be comprised of two distinct uses; as a primary space at the rear hotel & terraces for retail, and as the main thoroughfare and circulation route to the office lobby. This delineation of use was referenced in the Foster + Partners Architectural Design Report along with the Urbis Heritage Interpretation Plan for the Block 4N SSD. However, the clarification of this courtyard use was not accurately reflected on the public domain plan (drawing PA-A4-1600 – Public Domain Plan).

As shown in the figure produced by Foster + Partners (**Attachment B**), the modification seeks to clarify the use of the Heritage Courtyard, showing the primary space at the rear of the Australian Hotel and terraces as zone of exclusive use by tenants whilst maintaining the publicly accessible thoroughway for the circulation route, providing access to the office lobby.

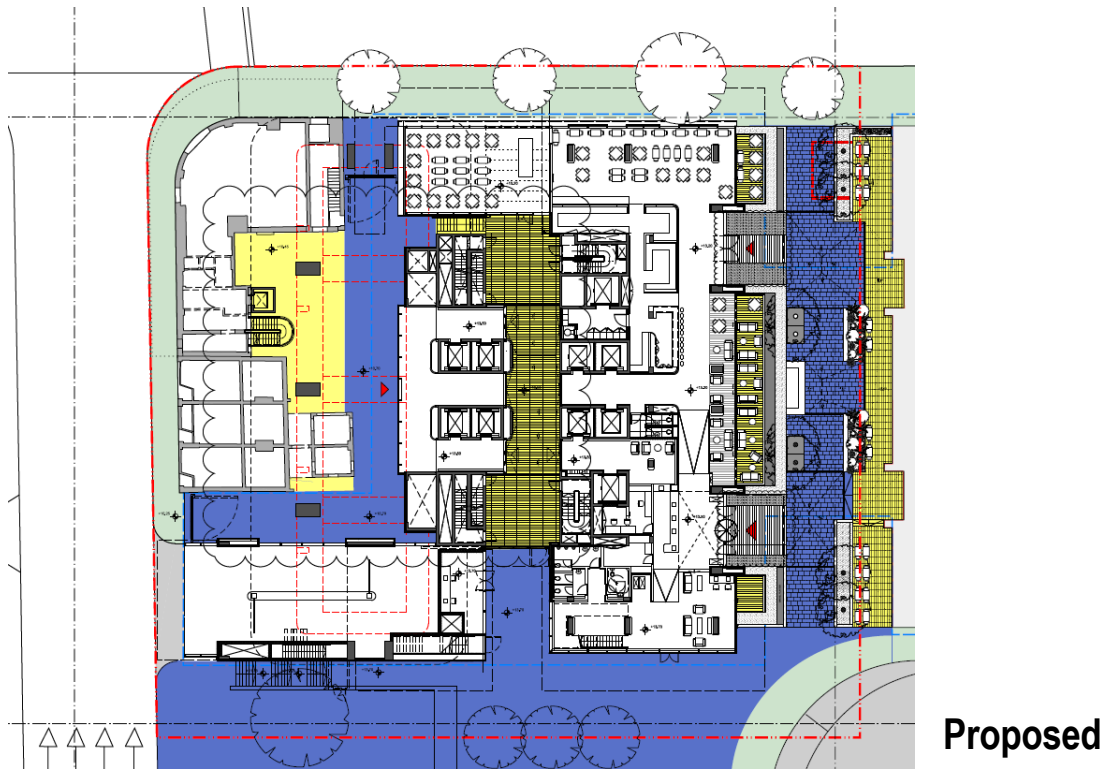
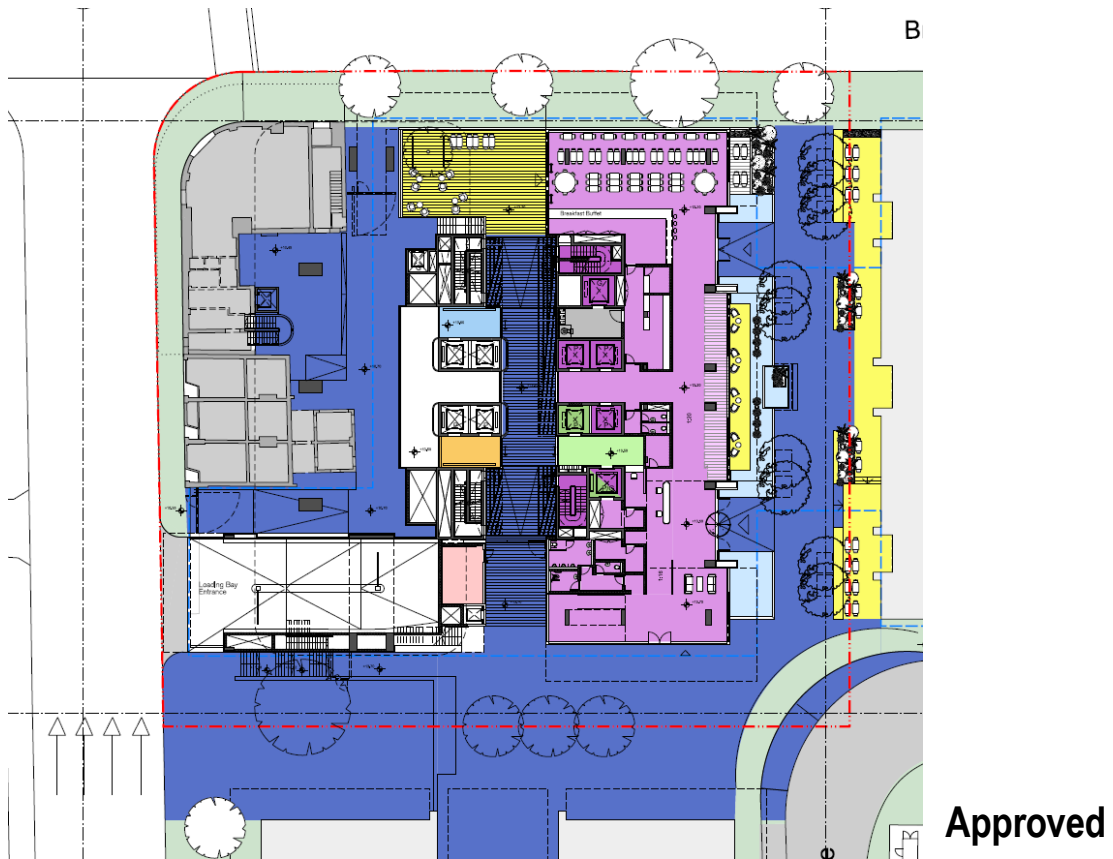


Figure 1 – Existing and proposed public domain plan (Block 4N SSD)
Source: Foster + Partners

2.3 Allocation of Car Parking

The proposal seeks to reallocate four hotel spaces to childcare spaces, located on basement Level 2. This modification amends the total childcare spaces to nine (from five) and hotel space to 50 (from 54). Refer to **Section 5.3** for further assessment

2.4 Subdivision

The proposal seeks to replace the previous subdivision plans to reflect the intended subdivision within Block 4N. These plans are provided at **Attachment D**.

3.0 CONDITIONS PROPOSED TO BE AMENDED

The proposed modifications described above necessitate amendments to the consent conditions which are identified below.

Condition A2 – Terms of Consent

A2 The Applicant shall carry out the project generally in accordance with the:

- a) State Significant Development Application SSD 6673;
- b) Environmental Impact Statement prepared by JBA Urban Planning Consultants dated October 2014;
- c) Response to Submissions report prepared by JBA Urban Planning Consultants dated March 2015;
- d) Statement of Environmental Effects prepared by JBA dated February 2016;
- e) **Statement of Environmental Effects prepared by JBA dated December 2016;**
- ~~e) f)~~ The condition of this consent; and
- ~~f) g)~~ 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 Foster + Partners			
Drawing No.	Rev	Name of Plan	Date
(Delete existing plans and replace with plans provided at Attachment A and D) - Specifically Drawing PA-A4-1600- Public Domain Plan Drawing PA-A1-1752 – Basement Level 2			

Subdivision Drawings			
Drawing No.	Rev	Name of Plan	Date
(Delete existing plans and replace with revised draft subdivision plans provided at Attachment E)			

Reason: The amendment to the proposed conditions is required to reflect the revised design, and additional Statement of Environmental Effects.

Condition B15 – Car Parking

B15 Car parking shall be provided as follows:

1. A total of 121 onsite car parking spaces, comprising:
 - a) ~~54~~ **50** hotel spaces
 - b) 34 residential car parking spaces (including seven accessible spaces);
 - c) 23 commercial tenant spaces;
 - d) five retail spaces; and
2. ~~five~~ **nine** childcare facility spaces.
3. Six on-site service vehicle spaces; and
4. Six on-street short term parking spaces.

Reason: The amendment to the proposed conditions is required to reflect the revised basement car parking allocation.

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 of the EP&A Act. This modification application to development consent SSD 14_6673 is accordingly made under Section 96(1A) of the EP&A Act.

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

- (a) *it is satisfied that the development to which the consent as modified relates is **substantially the same development** as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.*

(emphasis added)

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 modification will not alter the nature of the approved development. It does not seek to change the approved uses, substantial built form, or any other key aspects of the approved SSD development including parking. As a result, the proposed development remains substantially the same as the approved development and is of minimal environmental impact

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

- the proposed development retains the approved mixed use (commercial, retail, childcare, hotel and residential), consistent with the Central Park Concept Plan and approved SSD.
- it retains the same relationship to the public domain and surrounding development, with no physical amendments proposed;
- the approved number of car parking spaces, loading and bicycle parking space is not proposed to change, merely reallocated;
- the proposed modification does not alter the key heritage relationships, views and setting;
- The height of building and building envelope are not proposed to be amended as part of the proposed modifications; and
- the environmental impacts of the modified development are substantially the same as the approved development.

5.0 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”.

5.1 Section 79(C) Assessment

Section 96(3) of the EP&A Act states:

“In determining an application for modification of a consent under this section, the consent authority must 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 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) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), 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.”*

5.2 S.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 and 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 64 (Advertising and Signage);
- State Environmental Planning Policy No 65 (Design Quality of Residential Flat Development);
- Sydney Local Environmental Plan 2005; and
- Sydney Development Control Plan 2012.

The proposal does not involve any physical modification to the development approval, and relates to minor reallocation and clarification of public domain. The proposed modifications will therefore not alter the level of compliance of the development with the above relevant planning instruments. For completeness, **Table 4** provides a summary overview of the proposed modified development’s continued level of compliance with relevant planning instruments.

Table 4 – 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 required, given no change is proposed to the number of car parking spaces, apartments or expected traffic generation.
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.
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 64 (Advertising and Signage)	No changes are proposed to signage as part of this application.
SEPP 65 (Design Quality of Residential Flat Development)	The modification does not affect the proposals consistency with the principles of SEPP 65 and the proposals compliance with the Residential Flat Design Code/Apartment Design Guide (as it applies to relevant uses only) – particularly given no changes are proposed to the number of apartment and internal configuration of these levels.
Sydney LEP 2005	The modifications do not seek to amend the approved land uses within building, remaining consistent with the LEP 2005 City Edge zoning objectives and uses.
City of Sydney Development Control Plan 2012	The modification proposed to do not affect compliance with the guidelines within DCP 2012.

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

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

- Design Excellence
- Land Use
- Built Form and Urban Design
- Consistency with Concept Plan
- Built Form and Urban Design
- Environmental and Residential amenity
- Overshadowing and Solar Access
- Wind
- Reflectivity
- Heritage
- Childcare
- Building Code
- Accessibility
- Structural Certifications
- Crime and Public Safety
- Transport and Accessibility
- Ecologically Sustainable Development
- Acoustic Impacts
- Drainage and Flooding
- Waste Management
- Construction Management
- Contamination
- Staging
- Contributions

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.

Consistency with the Concept Plan

The modifications proposed in this application remain consistent with the provision of the Central Park Concept Plan as well as the relevant commitments. Specifically, the proposal does not alter consistency with the following:

- Land Uses;
- GFA (no change proposed as a result of this modification);
- Building Envelope (height and massing); and
- Statement of Commitments - including design excellence, and Sustainability.

Whilst the modification seeks to amend the public domain plan of the Block 4N SSD, to provide clarification around the intended use, no amendments are proposed to Concept Plan Public Domain drawing.

Public Domain

The modifications proposed in this application seek to clarify the planned use of the heritage courtyards, located behind the Australian Hotel. The modification only seeks to amend the public domain plans (as part of the Block 4N SSD), with no physical modification proposed. The modification does not affect compliance with the approved concept plan.

Car Parking

A Traffic and Parking statement has been prepared by GTA Consulting and is provided at **Attachment C**.

The report confirms that the reallocation of spaces remains compliant with the maximum parking provision for both childcare and hotel uses.

Given the prevailing transport conditions and the minor impact of the proposed change, it is considered that the reallocation of parking is appropriate and would not adversely impact the conditions within the approved Development Application.

5.4 Section 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 SSD. The proposal is considered suitable for the site as it:

- Is located within Central Park which is within the Sydney City sub-region which is nominated as a 'Global Centre';
- Will take place in a highly modified and disturbed urban environment and will not impact on biodiversity values;
- Will contribute to the enhancement of a key CBD location that is presently underutilised;
- Will accord with the principles of Ecologically Sustainable Development by contributing to the proper management, development and conservation of the artificial resources of the site;
- Is within walking distance of other services and amenities, including public transport, retail and employment opportunities offered by the CBD;
- Is in close proximity to the pedestrian and cycle facilities within Central Park; and
- Will support the provision of a high quality public domain, in particular Chippendale Green located to the east.

5.5 Section 79C(1)(d) Submissions made

Any submissions made on this subject modification application will be duly considered and addressed by Central Park JV No 2 and its experienced project team.

5.6 Section 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:

- Will promote the social and economic welfare of the community by providing an improved urban environment;
- Will provide a substantial quantum of residential accommodation within an existing urban area which has easy access to good public transport;
- Will provide residential accommodation in support of Sydney's growing economy and population;
- Will encourage patronage on public transport by being in close proximity to rail, light rail, bus and ferry services;
- Will encourage alternative modes of travel by providing bicycle parking for residents, visitors and retail patrons;
- Will provide community connections within the overall Central Park development;
- Will achieve a 5 star Green Star rating; - Pathways Approach
- Has adopted a Green Star 'Principles Led' approach has been followed, which demonstrates that the ESD initiatives implemented in this building's design are equivalent to a 5 Star Green Star development.
- Will contribute to the achievement of specific targets relating to new jobs and new dwellings;
- Will address the provision and maintenance of affordable housing by adhering to the agreement established between the Redfern Waterloo Authority and the landowner; and
- Has responded to extensive consultation undertaken with various levels of government, authorities and the community.

6.0 CONCLUSION

In accordance with section 96(1A) of the Act, the proposed modifications will have no additional environmental impact and will result in a development that will be substantially the same as the originally approved development. The proposed modifications do not raise any additional environmental planning issues.

This S96 Application seeks approval for minor amendments to the approval in response to design development progression and to clarify planned uses within the development.

In accordance with section 96(1A) of the EP&A Act, the Minister or their 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 Concept Plan and key statutory plans and controls remains consistent with the original approved SSD.

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 9956 6962 or sgouge@jbaurban.com.au

Yours faithfully



Stephen Gouge
Principal Planner