

13 December 2022

2220485

Mr Michael Cassel  
Secretary  
Department of Planning and Environment  
12 Darcy Street,  
PARRAMATTA NSW 2150

Dear Mr Cassel,

## **SECTION 4.55(1A) MODIFICATION APPLICATION – SSD 6964 BUILDING R4A, ONE SYDNEY HARBOUR, BARANGAROO SOUTH**

This modification application has been prepared by Ethos Urban on behalf of Lendlease (Millers Point) Pty Ltd (Lendlease), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 6964 relating to Residential Building R4A, One Sydney Harbour, Barangaroo South (the site).

The proposed modification relates to a number of changes to the internal design and layout of the allocated basement levels of Residential Building R4A in Barangaroo South. The changes proposed do not involve an increase in the overall amount of car parking.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by:

- Amended Architectural Plans prepared by Lendlease Integrated Solutions (LLIS) (**Attachment A**).
- Design Verification Statement prepared by Renzo Piano Building Workshop (RPBW) and PTW Architects with supporting ADG metrics table (**Attachment B**).
- Traffic Impact Statement prepared by JMT Consulting (**Attachment C**).
- BCA Report prepared by Steve Watson and Partners (**Attachment D**).

## **1.0 Background**

SSD 6964 provides consent for the development of Residential Building R4A at One Sydney Harbour, Barangaroo South. This includes the construction and use of the tower for retail and residential purposes, as well as the fit out and use of the basement. The construction of the basement extent, however, is contained within a separate consent, being SSD 6960. As the basement spans beneath R4A, R4B and R5, this SSD 6960 provides approval for the construction of this entire basement, with each individual building consent providing approval for the use of the relevant portions of the basement.

Therefore, as the basement changes outlined in this application relate to the allocation of parking spaces and the fit out and uses for each of the spaces, the modification is to be undertaken to SSD 6964, the Building R4A consent.

## 2.0 Consent proposed to be modified

Development consent SSD 6964 was granted by the NSW Minister for Planning on 7 September 2017 for a 72-storey mixed use building with 327 residential units and retail floor space at ground level. This included a total gross floor area (GFA) of 48,004m<sup>2</sup>, 47,564m<sup>2</sup> of which was approved for residential floor space, and the remaining 440m<sup>2</sup> was approved for retail floor space. The original consent also approved public domain works, fit-out and use of the basement, a link bridge connecting to Building R4B and associated building identification signage.

The development consent has since been modified on five occasions. The modifications to the consent are summarised below in **Table 1**. Another modification application is currently being prepared, which will precede this application.

This modification application therefore represents the seventh amendment to the development consent.

**Table 1** Summary of modifications to SSD 6964

Modification	Approved	Description
Modification 1	7 February 2020	<ul style="list-style-type: none"><li>• Reduction in the number of apartments from 327 to 317</li><li>• Revised dwelling mix and associated internal layout refinement</li><li>• Façade and landscaping alterations</li><li>• Addition of 13 residential car parking spaces and removal of 1 retail car parking space.</li><li>• Amendments to total GFA and retail GFA.</li></ul>
Modification 2	18 September 202	Amendments to the building façade and link bridge, podium lift/stair configuration and landscaping, ground level water feature and lobby, level 20 and 47 louvre design and plant rooms, and redistribution of GFA.
Modification 3	11 February 2021	Reduction in the number of apartments from 317 to 315, amendments to the façade, roof layout, BMU, basement carparking and entrance signage zones.
Modification 4	8 April 2022	Transfer of the approved Strada to the Building R4B development consent, changes to landscaping, entry vestibule design, signage zone, apartment layout and deletion of obstacle light conditions
Modification 5	14 February 2022	Reallocation of carparking spaces and associated storage cages within the Stage 1B basement between Building R4A and R5.
Modification 6	Currently being prepared.	Minor retail façade alterations at the Ground Floor, as well as changes to other conditions of consent.

Building R4A, which is subject to this modification application, is shown in **Figure 1** below.



**Figure 1: Building R4A (and R4B adjacent) currently under construction**

Source: Lendlease

## 3.0 Proposed modifications to the consent

The proposed modifications to the development are described below and illustrated in the Architectural Plans prepared by Lendlease Integrated Solutions and provided at **Attachment A**.

### 3.1 Modifications to the development

The following modifications are proposed to the approved development:

- Reallocation of one car parking space from Residential Building R4A to Building R4B.
- Physical works to the approved basement fit out, including:
  - Reconfiguration of one strata storage cage adjacent to the B1 loading dock.
  - Provision of additional retail basement amenities.
  - Amendment of a retail storage room on Basement Level B1 into two separate storerooms, both allocated to retail use.
  - Amendment of a retail storage room on Basement Level B1 to be allocated to Residential R4A as residential storage.
  - Amendment to an area of retail storage on Basement Level B1, as a result of water treatment room change.

These are discussed in further detail below. The proposed changes are shown in **Figures 2 to 3**.

#### Reallocation of parking spaces

This modification application seeks to reallocate one parking space from Building R4A to Building R4B on Basement Level B3.

This reallocation is as a result of design development due to the reconfiguration of the loading dock and associated impact to Building R4B parking spaces (under separate modification applications), and the design and accessibility of parking spaces for each respective building.

It is noted that this reallocation will result in the reduction of the maximum car spaces allocated to Building R4A by one (1) car space.

#### Physical Basement Works

Other minor physical changes are proposed to the Building R4A basement area as described below:

- Reconfiguration of one strata storage cage adjacent to the Basement Level B1 loading dock. This storage cage will be a general storage area.
- Provision of additional retail amenities on Basement Level B1. These amenities will be allocated for future retail tenancies that would be in the retail areas of the building.
- Amendment of a retail storage room on Basement Level B1 into two separate storerooms, both allocated to retail use. These storerooms will be allocated for future retail tenancies that would be in the retail areas of the building.
- Amendment of a retail storage room on Basement Level B1, to be reallocated as residential storage. With the above creation of the two retail storerooms, a current retail storeroom will be reallocated to become a general residential storage room.
- Amendment to an area of retail storage on Basement Level B1, as a result of the water treatment room change (being sought as part of a separate modification to basement).

These changes are as a result of ongoing design development, and it is noted that there is no change to gross floor area or the general use of the basement.



**Approved Design**



**Proposed Design – Parking reallocation(to R4B)**

**Figure 2 Proposed changes to R4A Basement Level B3**

Source: LLIS



**Approved Design**



**Proposed Design - Strata storage cage, retail amenities, retail storage areas and division, and reallocation of retail storage to residential storage.**

**Figure 3 Proposed changes to R4A Basement Level B1**

Source: LLIS

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

### APPROVED DEVELOPMENT

Construction, use and fitout of a 72-storey (RL 250) mixed-use building, including:

- a total GFA of 48,002 m2 comprising 47,564 m2 residential GFA (315 apartments) and 438 m2 retail GFA;
- public domain works including pedestrian Strada;
- fit-out and use of the Stage 1B basement car park including ~~375~~ **374**-allocated parking spaces;
- demolition of interim basement elements; and
- signage zones to accommodate future building identification signage.

Reason: To reflect the correct development description with respect to parking, because of the proposed modification

### TERMS OF CONSENT

A2 The Applicant, in acting on this consent, must carry out the development:

- a) in compliance with the conditions of this consent;
- b) in accordance with all written directions of the Secretary;
- c) generally in accordance with:
  - i) the State Significant Development Application SSD 6964; Environmental Impact Statement prepared by JBA Urban Planning Consultants Pty Ltd dated September 2016; the Response to Submissions report prepared by JBA Urban Planning Consultants Pty Ltd dated February 2017; and further information package, prepared by JBA Urban Planning Consultants dated 5 May 2017;
  - ii) Section 4.55(2) Modification 1 to SSD 6964: Building R4A One Sydney Harbour, Barangaroo South, Sydney Application, and accompanying appendices, prepared by Ethos Urban dated 16 October 2019; Response to Submissions: SSD 6964 MOD 1: Building R4A One Sydney Harbour, Barangaroo South, Sydney and accompanying appendices, prepared by Ethos Urban dated 2 December 2019; the additional information: SSD\_6964 MOD 1 prepared by Ethos Urban dated 3 December 2019;
  - iii) Section 4.55(1A) Modification 2 to SSD 6964 titled 'Building R4A One Sydney Harbour, Barangaroo South, Sydney' Application and accompanying appendices, prepared by Ethos Urban and dated 17 July 2020 and letter titled 'Response to Request for Additional Information' and attachments prepared by Lendlease and dated 11 September 2020;
  - iv) Section 4.55(1A) Modification 3 to SSD 6964 titled 'Building R4A One Sydney Harbour, Barangaroo South, Sydney' and accompanying appendices, prepared by Ethos Urban and dated 7 December 2020; The Response to Request for Information updated letter response: SSD 6964 - Building R4A – Modification (MOD 3) prepared by Lendlease dated 22 December 2020;
  - v) Section 4.55 (1A) Modification 4 to SSD 6964 titled 'Building R4A – One Sydney Harbour, Barangaroo South' and accompanying appendices, prepared by Ethos Urban dated 1 December 2021; Response to Submissions and accompanying appendices prepared by Ethos Urban dated 18 February 2022; the additional information provided by Lendlease on 24 February 2022 and 24 March 2022;
  - vi) Section 4.55(1A) Modification 5 to SSD 6964 titled 'Building R4A, One Sydney Harbour, Barangaroo South' and accompanying appendices, prepared by Ethos Urban dated 23 November 2021; Responses to Request for Additional Information prepared by Lendlease dated 19 January 2022 and 7 February 2022; the additional information prepared by Lendlease dated 31 January 2022; and
  - vii) Section 4.55(1A) Modification 6 to SSD 6965 titled 'Building R4A One Sydney Harbour, Barangaroo South, Sydney' and accompanying appendices, prepared by Ethos Urban and dated 29 September 2022; ~~and~~
  - viii) **Section 4.55(1A) Modification 7 to SSD 6964 titled 'Building R4A One Sydney Harbour, Barangaroo South, Sydney' and accompanying appendices, prepared by Ethos Urban and dated XXXX 2022;**  
**and**
- d) In accordance with the following approved drawings in the table below:

<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
BR4A_ASD_PA1_1002	<b>22 23</b>	Setout Plan Basement Level B3	<b>21/10/2021-6/10/2022</b>
BR4A_ASD_PA1_1004	<b>21 22</b>	Setout Plan Basement Level B1	<b>21/10/2021-6/10/2022</b>

Reason: The ensure the architectural drawings reflect the development, as proposed to be modified.

#### **NUMBER OF CAR PARKING SPACES**

*B22 The maximum number of car parking spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.*

<i>Car parking allocation</i>	<i>Number</i>
<i>Residential</i>	<b>375 374</b>
<i>Retail</i>	0

Reason: To reflect the correct maximum residential car parking allocation, because of the proposed modification.

## **4.0 Substantially the same development**

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *"it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)"*.

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

- The proposed modifications do not alter the key components of the approved development, which will remain as a mixed-use building comprised of residential and retail uses and associated basement parking.
- The proposed modifications do result in a car parking increase beyond that already approved, rather a car parking reduction.
- The proposed modifications relate to design refinements to fit out components of the basement.
- The proposed modifications continue to achieve a high standard of design excellence, and do not propose any changes to the approved crystal form adopted for the family of One Sydney Harbour buildings.
- No change is proposed to the approved maximum building height or GFA.
- The proposed physical amendments do not impact upon the building's compliance with SEPP 65 or the Apartment Design Guide, with ADG metrics remaining.
- The modified development will not give rise to any additional environmental impacts beyond those that were considered and deemed acceptable in the original Development Consent.

## **5.0 Environmental assessment**

Section 4.55(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"*. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

## 5.1 State Environmental Planning Policies

**Table 2** provides an analysis of the proposed modifications' compliance with the relevant provisions of applicable State Environmental Planning Policies.

**Table 2 State Environmental Planning Policies**

Instrument	Assessment								
<i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)</i>	The proposed modifications will not impact the approved development's consistency with SEPP 65 or the Apartment Design Guide. It is noted that no changes to the apartments are sought as part of this modification. A Design Verification Statement and supporting ADG metrics table have been prepared (refer <b>Attachment B</b> ) which confirms that the storage changes proposed will not affect compliance with SEPP 65 and the ADG.								
<i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i>	<p>The Barangaroo site is listed as a State Significant Site under Appendix 5 of the Eastern Harbour SEPP. The following is an assessment of the proposal's compliance with the Eastern Harbour SEPP.</p> <table> <tr> <td>Clause 8 – Zone B4 Mixed Use</td><td>The proposed development is a form of shop top housing, comprising ground level retail with residential uses above, and is permissible and consistent with the objectives of the B4 Mixed Use zone. No change to the approved use is proposed.</td></tr> <tr> <td>Clause 17 – Height of Buildings (maximum RL 250)</td><td>The proposed modification does not seek to alter the approved height of Building R4A.</td></tr> <tr> <td>Clause 18 – Gross Floor Area Restrictions – maximum 86,979m<sup>2</sup> (across Building R4A and R4B)</td><td>No changes to the total GFA of the building are proposed as part of this application. Therefore, the total GFA of R4A and R4B remains consistent with the maximum GFA restriction Block 4A.</td></tr> <tr> <td>Clause 19 – Design Excellence</td><td>The proposed development will continue to achieve a high standard of design excellence. No substantial external physical amendments are proposed to the building, and therefore, no changes are expected to the approved overall design excellence.</td></tr> </table>	Clause 8 – Zone B4 Mixed Use	The proposed development is a form of shop top housing, comprising ground level retail with residential uses above, and is permissible and consistent with the objectives of the B4 Mixed Use zone. No change to the approved use is proposed.	Clause 17 – Height of Buildings (maximum RL 250)	The proposed modification does not seek to alter the approved height of Building R4A.	Clause 18 – Gross Floor Area Restrictions – maximum 86,979m <sup>2</sup> (across Building R4A and R4B)	No changes to the total GFA of the building are proposed as part of this application. Therefore, the total GFA of R4A and R4B remains consistent with the maximum GFA restriction Block 4A.	Clause 19 – Design Excellence	The proposed development will continue to achieve a high standard of design excellence. No substantial external physical amendments are proposed to the building, and therefore, no changes are expected to the approved overall design excellence.
Clause 8 – Zone B4 Mixed Use	The proposed development is a form of shop top housing, comprising ground level retail with residential uses above, and is permissible and consistent with the objectives of the B4 Mixed Use zone. No change to the approved use is proposed.								
Clause 17 – Height of Buildings (maximum RL 250)	The proposed modification does not seek to alter the approved height of Building R4A.								
Clause 18 – Gross Floor Area Restrictions – maximum 86,979m <sup>2</sup> (across Building R4A and R4B)	No changes to the total GFA of the building are proposed as part of this application. Therefore, the total GFA of R4A and R4B remains consistent with the maximum GFA restriction Block 4A.								
Clause 19 – Design Excellence	The proposed development will continue to achieve a high standard of design excellence. No substantial external physical amendments are proposed to the building, and therefore, no changes are expected to the approved overall design excellence.								

## 5.2 Barangaroo Concept Plan

An assessment of the proposed modifications against the Concept Plan (as modified) is provided in **Table 3**. It is noted that the proposed modification does not seek any amendment to the total height of building, setbacks or gross floor area outlined within the Concept Plan. The assessment demonstrates that the proposed development is generally consistent with the approved Concept Plan (as modified).

**Table 3 Concept Plan (as modified) provisions**

Concept Plan (as modified) Control – Block 4A (R4A and R4B)	Building R4A	Building R4B (not subject to this application)	Total	Assessment
Maximum Residential GFA – 91,816m <sup>2</sup>	47,564m <sup>2</sup> (no change)	44,252m <sup>2</sup>	91,816m <sup>2</sup>	✓
Other Uses GFA – 813m <sup>2</sup>	438m <sup>2</sup> (no change)	309m <sup>2</sup>	747m <sup>2</sup>	✓
Total GFA – 92,629m <sup>2</sup>	48,002m <sup>2</sup> (no change)	44,561m <sup>2</sup>	92,563m <sup>2</sup>	✓
Maximum height – RL 250	RL 250 – no change	-	-	✓
Tower Setbacks – Setbacks are generally in accordance with the Building Envelope Plan in the Concept Plan. Predominant tower mass is	No change	-	N/A	✓

Concept Plan (as modified) Control – Block 4A (R4A and R4B)	Building R4A	Building R4B (not subject to this application)	Total	Assessment
set back from Globe Street by a minimum of 2 metres				

### 5.3 Traffic

A Traffic Statement has been prepared by JMT Consulting (JMT) and is appended to this application at **Attachment C**. This report assesses the impacts of the proposed modification on the surrounding road network and the parking arrangements of the building.

The report notes that the proposed modification will not have any impact on the operation of the surrounding transport network, nor differ from the findings of the original traffic study undertaken for the site, given that the proposal does not involve a change to the number of approved apartments and the change to parking spaces provided in Residential Building R4A. is a small reduction. **Table 4** below outlines the amount of parking spaces provided as compared to the Barangaroo Concept Plan, as well as the amount approved.

**Table 4 Amount of parking permissible as per the Barangaroo Concept Plan**

Apartment Type	Barangaroo Concept Plan parking rates (spaces / unit)	Currently Approved Scheme		Proposed Modification		
		No of apartments	No of parking spaces	No of apartments	Maximum no of parking spaces under the Concept Plan	No of Parking Spaces
1b	0.5	107	375	107	54	374
2b	1.2	104		104	125	
3b	2	64		64	138	
4b	2	38		38	76	
5b	2	2		2	4	
<b>Total</b>		<b>315</b>		<b>315</b>	<b>387</b>	

### 5.4 BCA Compliance

A BCA Report has been prepared by Steve Watson and Partners, and is appended to this application at **Attachment D**. This report states that the proposed modification to Building R4A has been reviewed against the Deemed to Satisfy provisions of the BCA, and notes that the modifications are consistent with the previous assessments of BCA compliance undertaken and is capable of complying with the requirements of the BCA.

### 5.5 Reasons given for granting consent

The Planning Assessment Commission (now Independent Planning Commission) determination report sets out the following reasons for granting consent for approval of SSD 6964 (which has subsequently been modified in line with these reasons):

- The development will deliver building outcomes of design excellence.
- The development is consistent with the Concept Plan.
- The development would provide a range of benefits for the region and the State by helping grow a stronger and more competitive CBD.
- The impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level.
- The development is in the public interest.

The proposed modifications remain the development consistent with these reasons for granting consent. The modifications are design refinements that would enhance amenity and building design outcomes, to maintain a high standard of design excellence and the development consistent with the Concept Plan and other relevant plans and policies.

## 6.0 Conclusion

The proposed modifications application seeks consent for the following changes to Building R4A:

- Reallocation of one car parking space from Residential Building R4A to Building R4B.
- Physical works to the approved basement fit out, including:
  - Reconfiguration of one strata storage cage adjacent to the B1 loading dock.
  - Provision of additional retail basement amenities.
  - Amendment of a retail storage room on Basement Level B1 into two separate storerooms, both allocated to retail use.
  - Amendment of a retail storage room on Basement Level B1 to be allocated to Residential R4A as residential storage.
  - Increase in an area of retail storage on Basement Level B1, as a result of the water treatment room change (being sought as a part of a separate modification to basement).
  - Amendment to an area of retail storage on Basement Level B1, as a result of water treatment room change (being sought as a part of a separate modification to basement).
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In accordance with section 4.55(1A) of the EP&A Act, the Department may modify the consent as:

- The consent, as proposed to be modified, is substantially the same development as that originally approved.
- The proposed modifications are considered minor design refinements and will not have any substantial environmental impacts, as supported by this report and other technical reports submitted with the modification application.
- The modifications comply with the Barangaroo Concept Plan and relevant State Environmental Planning Policies.

We trust that this information is sufficient to enable assessment of the proposed modification request. If you have any further questions on the above matter, please do not hesitate to contact us.

Yours sincerely,



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