

10 August 2022

2220057

Mr Michael Cassel  
Planning Secretary  
Department of Planning and Environment  
12 Darcy St, Parramatta  
NSW 2150

Dear Mr Cassel,

## **SECTION 4.55(1A) MODIFICATION APPLICATION**

This modification application has been prepared by Ethos Urban on behalf of Lendlease (Millers Point) Pty Ltd, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 6965 relating to Building R4B Barangaroo South (the site).

Building R4B is subject to two development consents that are integrated together, comprising the base consent (SSD 6965) and a secondary consent resulting from an amending DA process, known as SSD 8892218 and provides for the overall 68 storey development. This modification application relates to a number of design changes to the façade details and the garden and pool terrace on Level 02 of Building R4B, which are specific to SSD 6965.

To ensure that SSD 6965 aligns properly with SSD 8892218, several administrative modifications to SSD 8892218 are also required to correctly reference and capture the modifications sought under this modification to SSD 6965. A number of physical changes are also proposed to the development approved under SSD 8892218. As such, a separate modification to SSD 8892218 has been submitted under a separate application and is to be read in conjunction with this modification application.

The proposed modification application to SSD 6965 seeks approval for the following amendments:

- Refinements to the ground floor façade details and access points.
- Amendments to the Level 02 pool terrace fencing and terrace garden.

This application identifies the consent, describes the proposed modifications, and provides a planning assessment of the relevant matters for consideration contained in section 4.55(1A) of the EP&A Act. The modification application is accompanied by the following attachments:

- Architectural drawings prepared by PTW (**Attachment A**).
- Design Report prepared by Renzo Piano Building Workshop (RPBW) (**Attachment B**).

It is noted that the attached reports relate to both the modification to SSD 6965 and the modification to SSD 8892218, and therefore illustrate all changes captured across both respective modification applications.

# 1.0 Background

## 1.1 Design Process

Building R4B is the second tallest of three residential towers in Barangaroo South, sitting between Building R4A and R5. The form of these three residential towers was designed by Renzo Piano Building Workshop (RPBW), which won an architectural design competition for the buildings in 2014. RPBW conceived the three towers as 'crystals' and utilised a unique triangular shape for each tower, paired with highly transparent glass façades and associated detailing of the façade.

RPBW's design responds within the design parameters of the Barangaroo Built Form Masterplan by Robert Stirk and Partners, approved under the Barangaroo Concept Plan (as modified), whilst also capturing the natural and organic crystal formation in the architectural form. As the design has developed and been modified, the crystalline vision that informed the architecture has remained prominent in the design and continues to guide all modifications to Building R4B.

## 1.2 SSD 6965 and SSD 8892218

Building R4B was initially approved under development consent SSD 6965, granted by the Planning Assessment Commission on the 7 September 2017. Under SSD 6965, Building R4B comprised a 60-storey mixed use building, with 297 residential apartments and retail floor space at ground level. This included a total gross floor area (GFA) of 38,896m<sup>2</sup>, 38,602m<sup>2</sup> of which was for residential floor space and the remaining 294m<sup>2</sup> was for retail floor space.

Consent was also provided for associated building public domain works, roof of the proposed Strada, fit-out and use of basement and associated building identification signage.

Development Consent SSD 6965 has been subsequently modified on four occasions under section 4.55 of the EP&A Act.

Development Consent SSD 6965 and the development approved under that consent were also amended more recently via amending development consent SSD-8892218 which was determined on 26 March 2021. SSD-8892218 included approval for alterations and additions to the approved Building R4B, including the construction of eight additional storeys and 5,650m<sup>2</sup> of gross floor area (GFA), amongst other items to result in the overall 68 storey development. SSD 8892218 amends SSD 6965 by way of conditions of consent.

Development Consent SSD-8892218 specifically approved the following development, and incorporates the approved development of SSD 6965:

*Alterations and additions to Building R4B (SSD 6965) to provide for the construction, fit out and use of a 68-storey mixed-use building, including:*

- a total GFA of 44,561 m<sup>2</sup> comprising 44,252 m<sup>2</sup> residential GFA (322 apartments) and 309 m<sup>2</sup> retail GFA;
- public domain works;
- fit-out and use of the Stage 1B basement car park for Building R4B, including 331 allocated parking spaces;
- demolition of interim basement elements; and
- a signage zone to accommodate future building identification signage.

Development Consent SSD 8892218 has been subsequently modified on two occasions under section 4.55 of the EP&A Act.

Due to the relationship between SSD 8892218 and SSD 6965, any changes specific to the Development Consent SSD 6965 must be in turn captured in Development Consent SSD 8892218 via a concurrent modification.

## 2.0 Consent proposed to be modified

This application seeks to amend SSD 6965 to capture the built form changes relating to the development approved under Development Consent SSD 6965. This constitutes the fifth modification application to SSD 6965.

A concurrent modification to SSD 8892218 reflecting the necessary amendments to the conditions of consent for Development Consent SSD 8892218 is also under assessment. This separate modification application also includes specific changes to the development approved under SSD 8892218, being the amalgamation of two apartments on Level 59, reconfiguration of Penthouse and Skyhome layouts on Level 64-65 and amendments to the approved façade details.

## 3.0 Proposed modifications to the consent

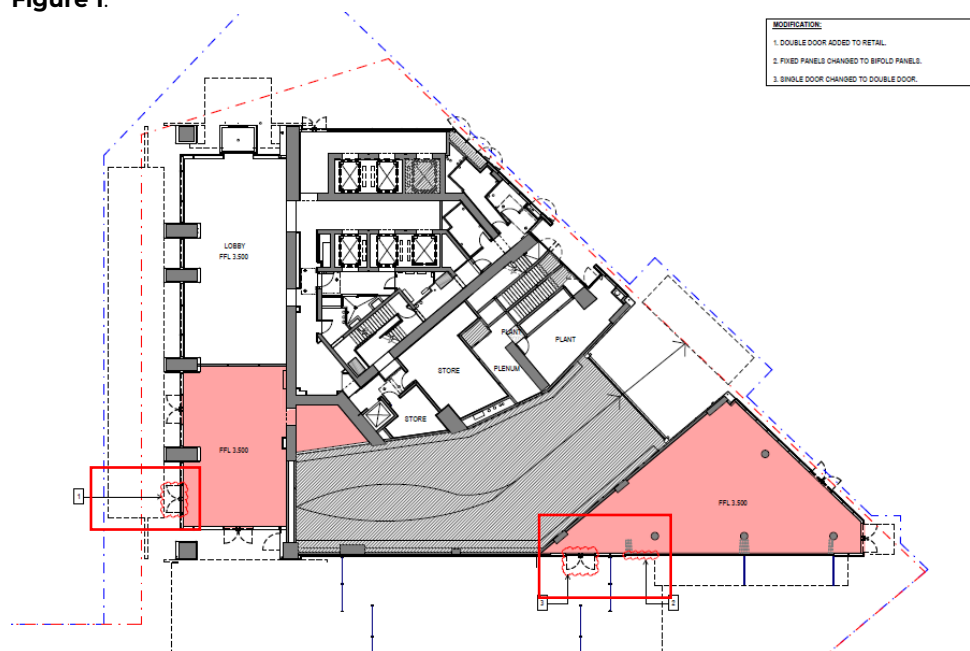
This modification application seeks consent for the following amendments:

- Refinements to the ground floor façade details and access points, including:
  - Additional double door facing Hickson Park on the ground floor north-eastern frontage.
  - Alteration of a single door to double door on the ground floor eastern frontage.
  - Change of fixed panels to bifold doors on the ground floor eastern frontage.
- Amendments to the Level 02 pool terrace fencing and garden, including:
  - Revised design of the pool fence and gate arrangement.
  - Revised materiality of the terraced garden beds.
  - Replacement of a double door with single door.

The proposed modifications are illustrated on the Architectural Drawings prepared by PTW (**Attachment A**) and described in further detail in the Design Report prepared by RPBW (refer to **Attachment B**). A summary of the modifications is outlined below.

### Façade Amendments

Minor changes are proposed to the ground floor retail doors. These changes are proposed to assist with increasing the activation of the ground floor, enhancing public safety and civic amenity. The proposed façade changes are shown in **Figure 1**.

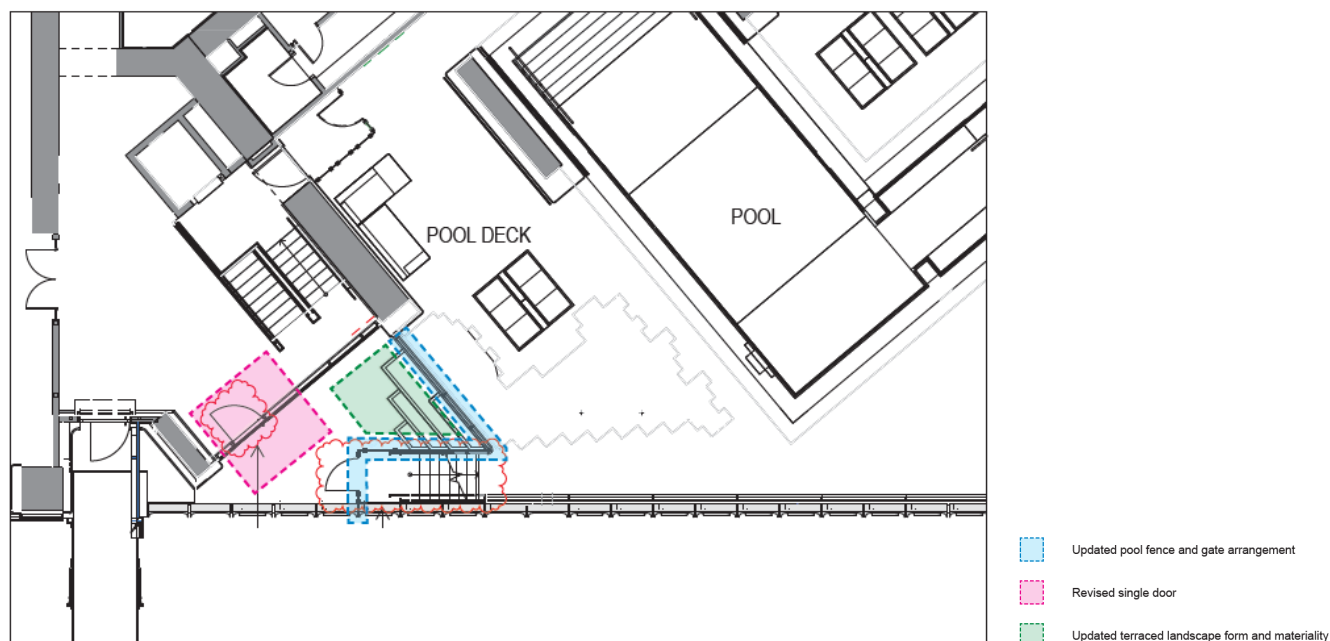


**Figure 1** Proposed ground floor amendments

Source: RPBW + PTW

## Amendments to Level 02

In order to comply with AS 1926.1-2012 'Safety barriers for swimming pools', it was deemed necessary to relocate the swimming pool enclosure gate to the lower external terrace above the Strada. The relocation of the gate has also provided an opportunity to reconsider the materiality of the terraced garden beds, with the approved steel planter boxes proposed to be replaced with concrete blockwork walls faced with the same travertine that is used extensively on the external terraces. The proposed design changes are shown in **Figure 2**.



**Figure 2** Proposed terrace amendments

Source: RPBW

## Gross Floor Area Calculation

Adjustments to the Gross Floor Area Calculation schedule are proposed, as outlined in the drawing set in **Section 3.1** below. As noted at the Response to Submissions phase for the original Amending SSD application, a GFA contingency was applied to Levels 48 and above. Building R4B is now under construction, with associated detailed construction documentation being completed. A re-measurement of the plans and recalculated GFA for respective levels has therefore been undertaken, including the updated Skyhome / Penthouse design as presented in this application. This is reflected on the amended Gross Floor Area calculation plan submitted with this application. As shown on that plan, there is no change to the current total approved GFA.

## 3.1 Modification 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**.

### SCHEDULE 2 – TERMS OF CONSENT

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

*k) the following drawings*

Architectural Drawings prepare by Renzo Piano Building Workshop and PTW Architects			
Drawing No.	Rev	Name of Drawing	Date
BR4B_ASD_PA1_0002	19 21	SITE PLAN	03/05/2019 14 June 2022

# Architectural Drawings prepare by Renzo Piano Building Workshop and PTW Architects

BR4B _ASD_ PA2_ 0005	<b>20 1</b>	THERMAL PERFORMANCE ASSESSMENT	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA1_ 2000	<b>20 22</b>	PLAN GROUND FLOOR LEVEL 00	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA1_ 2002	<b>20 22</b>	PLAN PODIUM LEVEL P2	<b>03/05/2019</b> 14 June 2022
BR4B _ASD_ PA2_ 4001	<b>20 3</b>	ELEVATION NORTH-EAST (PARK)	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA2_ 4002	<b>20 2</b>	ELEVATION WEST (BARANGAROO AVE)	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA2_ 4003	<b>20 3</b>	ELEVATION SOUTH-EAST (LIFT LOBBY)	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA2_ 4004	<b>20 3</b>	ELEVATION SOUTH (WATERMANS QUAY)	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA1_ 4005	<b>20-22</b>	NORTH-EAST ENLARGED ELEVATION (PARK) – LOW <b>RISE</b>	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA2_ 4007	<b>20 2</b>	NORTH-EAST ENLARGED ELEVATION (PARK) – HIGH <b>RISE</b>	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA1_ 4008	<b>20-21</b>	WEST ENLARGED ELEVATION (BARANGAROO AVE) – LOW <b>RISE</b>	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA2_ 4010	<b>19 2</b>	WEST ENLARGED ELEVATION (BARANGAROO AVE) – HIGH <b>RISE</b>	<b>19/06/2020</b> 14 June 2022
BR4B _ASD_ PA2_ 5001	<b>19 2</b>	OVERALL SECTION AA	<b>03/05/2019</b> 14 June 2022
BR4B _ASD_ PA2_ 5002	<b>19 2</b>	OVERALL SECTION BB	<b>03/05/2019</b> 14 June 2022
BR4B _ASD_ PA2_ 9000	<b>20 2</b>	GFA CALCULATION	<b>19/06/2020</b> 14 June 2022

**Reason:** To ensure the conditions of consent references the revised architectural drawings which include the proposed modifications

## 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 consent was originally granted and before that consent as originally granted was modified (if at all)”.

The amending DA (SSD 8892218) is the most recent amendment to Building R4B and results in the overall 68 storey development. However, this modification application relates to the specific physical components of development first approved under SSD 6965. Therefore, the substantially the same test is applied only to the development originally approved under SSD 6965.

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

- The proposed modifications are minor and relate to refinements in response to design development, to enhance the amenity of the ground plane and Level 02 terrace.
- The proposed modifications do not alter the key components of the approved development, being a mixed-use building comprised of residential and retail uses.
- The proposed modifications continue to achieve a high standard of design excellence.
- The changes to the façade and layout are minor and will not result in additional environmental impacts.

## 5.0 Planning 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 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)”.

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

The proposed modification is assessed against the relevant State Environmental Planning Policies at **Table 1**.

**Table 1** Assessment against relevant SEPPs

Instrument	Assessment				
<i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i>	This application does not seek any changes to the residential apartments of the building, and therefore, no changes to the approved SEPP 65 compliance.				
<i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i>	<div>The Barangaroo site is listed as a State Significant Site under Appendix 5 Eastern Harbour SEPP. The following is an assessment of the proposal's compliance with the Eastern Harbour SEPP.</div> <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 maximum RL to the top of Building R4B, including the glazed roof feature is RL 233.485.</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 maximum RL to the top of Building R4B, including the glazed roof feature is RL 233.485.
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 maximum RL to the top of Building R4B, including the glazed roof feature is RL 233.485.				

Instrument	Assessment
	This application does not seek to make any changes to the approved maximum height.
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. The modifications are led by the architects Renzo Piano Building Workshop and are well considered, as outlined within the Design Report prepared by them at <b>Attachment B</b> .

## 5.2 Barangaroo Concept Plan

An assessment of the proposed modifications against the Concept Plan (as modified) is provided **Table 2**. It is noted that the proposed modification does not seek any amendment of 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) and Built Form and Urban Design Controls (refer to **Table 3**).

**Table 2 Concept Plan (Mod 11) - Numerical Overview**

Concept Plan (Mod 11) Control – Block 4A (Building R4A and R4B)	Building R4A (not subject to this application)	Building R4B	Total	Assessment
Maximum Residential GFA – 91,816 m <sup>2</sup>	47,564m <sup>2</sup> (no change)	44,252m <sup>2</sup> (no change)	91,816m <sup>2</sup>	✓
Other Uses GFA – 813m <sup>2</sup>	438m <sup>2</sup>	309m <sup>2</sup> (no change)	747m <sup>2</sup>	✓
Total GFA 92,629m <sup>2</sup>	48,002m <sup>2</sup>	44,561m <sup>2</sup> (no change)	92,563m <sup>2</sup>	✓
Maximum height	-	RL 208.230 (no change)	-	✓
Tower Setbacks	-	No changes	N/A	✓

**Table 3 Concept Plan (as modified) - Built Form and Urban Design Controls (select)**

Concept Plan (as modified) Block 4A	Building R4B	Assessment
Control 5 Ground Floor Permeability and Accessibility of Public Realm – Objectives and Standard		
To provide permeability and accessibility through Barangaroo South	The proposed changes support permeability and accessibility through Barangaroo South. The changing of door sizes and types will encourage the use of the Building R4B ground floor retail and more widely contribute to accessibility in Barangaroo South.	Consistent
Public access around the Block is to be maintained on all edges.	The minor proposed changes to the building façade will enhance public access around the edges of R4B block.	Consistent
Ground floor retail and residential lobbies should consider a relationship to the northern parkland public space	The minor changes consider the relationship of the ground level of Building R4B to the northern parkland (Hickson Park). The changes will increase accessibility to Hickson Park by adding a double door to the retail space fronting Hickson Park.	Consistent
Consider lobby street address on Barangaroo Avenue for tower R4a,	The minor changes to the ground floor do not encroach on the lobby frontage of Building R4B to Hickson Road.	Consistent

Concept Plan (as modified) Block 4A	Building R4B	Assessment
Watermans Quay for tower R4b and Hickson Road for tower R5 off the plaza.		
Control 7 Facades - Objectives and Standard		
To ensure the architectural quality of the facades.	The proposed changes to the various elements of the building's façade will not reduce the previously approved architectural quality of the façade.	Consistent
To ensure the façade contributes to the building's articulation and mass.	The minor changes to the façade will continue to achieve a high level of articulation to reduce any perception of building mass	Consistent
Depth and layering of facades is to be achieved through relief and protrusions.	The minor changes to the façade incorporate relief and protrusions to create depth and layering.	Consistent
Control 8 Active Street fronts		
To ensure an activated public domain at street level.	The proposed changes maintain access to, and support, an activated public domain. The proposed changes to the ground level façade enhance public access to Building R4B by widening doorways.	Consistent
At least 60% of the Ground Level is to be active on the primary Street Wall facades.		

### 5.3 Reasons for granting consent

The key reasons for granting consent to the SSD development application are as follows:

- The project would provide a range of benefits for the region and the State as a whole, as it is consistent with the Barangaroo Concept Plan which provides for the regeneration of the former dilapidated waterfront site, extensive new areas of public open space, key worker housing, public art, community uses, employment opportunities and flooding draining infrastructure.
- The project will provide additional residential density with excellent access to public transport, including a planned high frequency Metro and is conveniently located to shops, services and the CBD.
- The project is permissible with development consent and is consistent with NSW Government policies including the Region Plan and Eastern City District Plan, as it will aid in the delivery of the housing target of 157,500 homes in the Eastern City between 2016 and 2036 and provides for construction and operational jobs.
- The impacts on the community and the environment, including traffic and car parking, construction and heritage can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards.
- The issues raised by the community during consultation and in submissions have been considered and adequately addressed. The project would not result in view loss, overshadowing, wind or privacy impacts beyond what has already been determined to be acceptable as part of the approval of the original Building R4B development (SSD 6965).
- Weighing all relevant considerations, the project is in the public interest

The proposed design modifications remain consistent with these reasons for granting consent. The proposed refinements seek to enhance amenity and design outcomes to maintain a high standard of design excellence and remain consistent with the Concept Plan.



## 6.0 Conclusion

This proposed modification application seeks consent for the following design changes:

- Refinements to the ground floor façade details and access points.
- Amendments to the Level 02 pool terrace fencing and terrace garden.

Due to the relationship of SSD 6965 and SSD 8892218 to the delivery of Building R4B, a concurrent modification to SSD 8892218 has been submitted and this modification application should be read in conjunction with that application.

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 minor and will not have any substantial environmental impacts.
- The modifications comply with the Barangaroo Concept Plan and relevant State Environmental Planning Policies.
- The modifications result in greater residential amenity and more balanced, refined design in the building.

In light of the above, we recommend that the proposed modification is supported. We trust that this information is sufficient to enable a prompt assessment of the proposed modifications.

Yours sincerely,



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