

13 December 2022

2220487

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 8892218 BUILDING R4B AMENDING DA, 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 8892218 relating to Residential Building R4B, One Sydney Harbour, 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.

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 the modification to SSD 6965 (sought under a separate application). A number of physical changes are also proposed to the development approved under SSD 8892218. As such, this modification application relates to the relevant changes that are specific to SSD 8892218, including both design and administrative changes and is to be read in conjunction with the separate modification application submitted for SSD 6965. This separate modification includes design changes of a building identification signage zone at the basement entry.

The proposed modification application to SSD 8892218 seeks approval for the following amendments:

- Reconfiguration of the service bay design on Basement Level B1, resulting in the deletion of one car parking space and one storage cage.
- The reallocation of one car space from Residential Building R4A to Building R4B on Basement Level B3.
- Internal amendments to apartment UB05 on level 59 comprising kitchen reconfiguration and changes to bedrooms.
- Administrative changes to capture the amendments concurrently to SSD 6965, being the introduction of new signage at entrance to carpark.

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 Renzo Piano Building Workshop (RPBW) (**Attachment A**).
- Design Report prepared by RPBW (**Attachment B**).
- Design Verification Statement prepared by RPBW and PTW Architects, with supporting metrics table (**Attachment C**).
- Traffic Impact Statement prepared by JMT Consulting (**Attachment D**).

1.0 Background

1.1 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 38,896m², 38,602m² of which was for residential floor space and the remaining 294m² 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 six 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 5,650m² of gross floor area (GFA), maximum parking and 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 m² comprising 44,252 m² residential GFA (322 apartments) and 309 m² 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 three 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 modification application relates to SSD 8892218 and reflects the necessary amendments to the conditions of consent for Development Consent SSD 8892218. This modification application also includes specific administrative changes to the development approved under SSD 6965, for which a concurrent modification has been prepared.

SSD 8892218 has been amended on three previous occasions, as outlined in the table below. It is noted that a modification 4 ('MOD 4') may precede this application, which will deal with other separate refinements and administrative changes.

Modification	Approved	Description
Modification 1	8 April 2022	<ul style="list-style-type: none">Administrative modifications to reflect changes being sought MOD 3 to SSD 6965.
Modification 2	14 February 2022	<ul style="list-style-type: none">Reallocation of car parking spaces and storage cages within the basement between R4B and R5
Modification 3	Currently being assessment	<ul style="list-style-type: none">Amalgamation of two apartments on Level 59, reconfiguration of two skyhomes, amendments to approved facade details, minor internal reconfiguration to accommodate changes relating to the provision of utilities.

Building R4B, which is subject to this modification application, is shown in **Figure 1**.



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

Source: Lendlease

3.0 Proposed modifications to the consent

3.1 Modifications to the development

The following modifications are proposed to the approved development:

- The deletion of one car parking space and one storage cage, in response to reconfiguration of the service bay design on Basement Level B1 to accommodate a SRV bay (under separate modification to SSD 6960).
- The reallocation of one car space from Building R4A to R4B on Basement Level B3.
- Internal amendments to apartment UB05 on level 59 comprising kitchen reconfiguration and changes to bedrooms.

These modifications have been identified as necessary as a result of ongoing design development.

Service bay and parking reconfiguration

A concurrent modification to the Stage 1B development consent (SSD 6960) is proposed to amend the service vehicle dock to allow for an additional service vehicle space (a small rigid vehicle, 'SRV' bay). This results in the reduction of one car parking space and one storage cage for Building R4B on Basement Level B1. In response to this, one car space is proposed to be transferred from Building R4A to Building R4B (through a concurrent modification to SSD 6964 for Building R4A) to offset the impact of the parking. With respect to storage cages, there is ample supply for Building R4B, accordingly the reduction of one cage would not affect residential storage provisions.

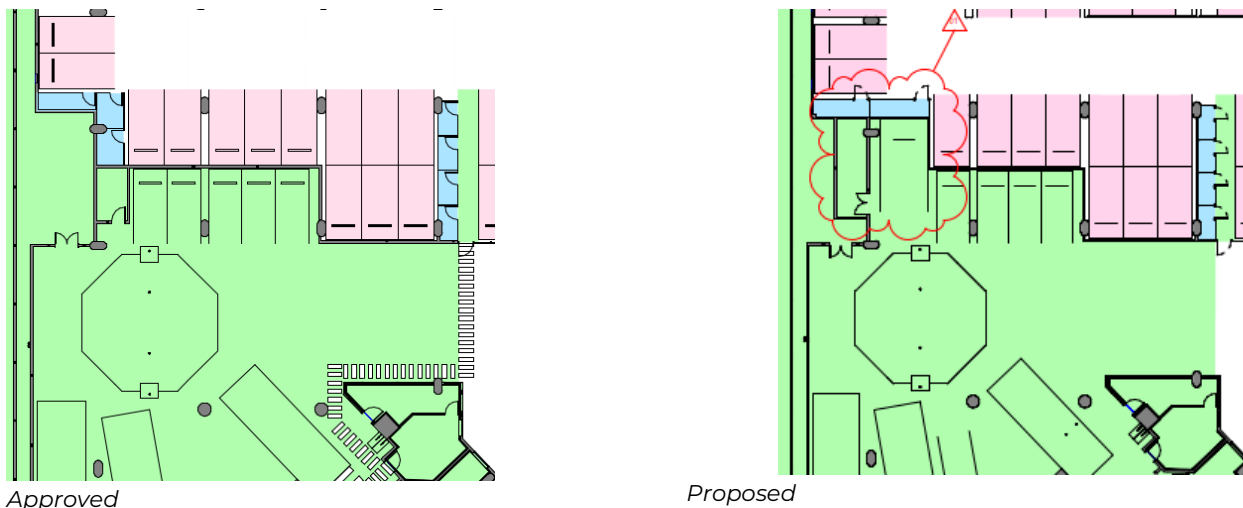


Figure 2 Proposed amendments to Basement Level B1 to accommodate the new SRV Bay

Source: LLIS

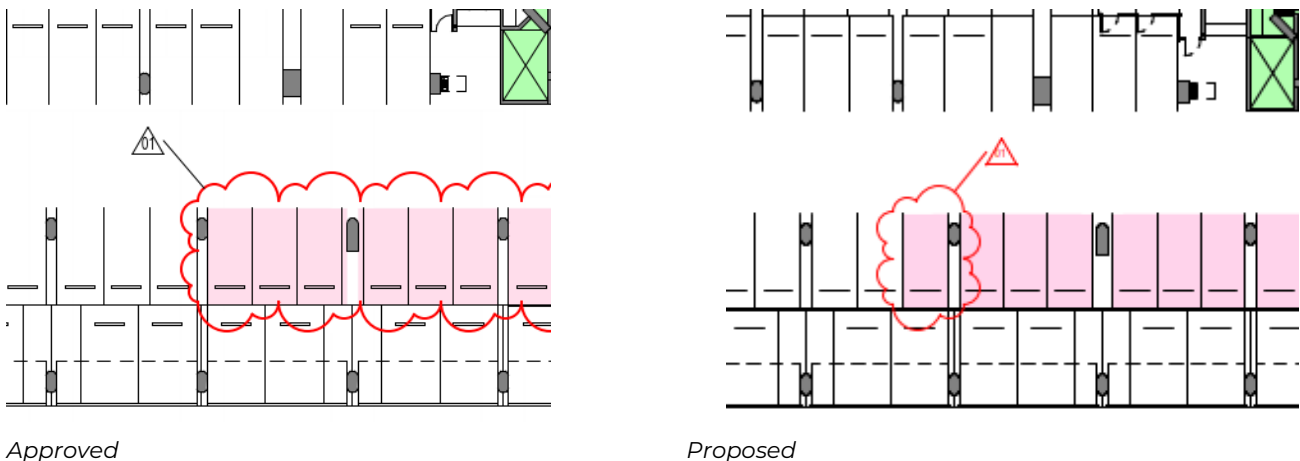


Figure 3 Proposed parking reallocation

Source: LLIS

Apartment Changes

Minor floorplan adjustments are proposed for two areas within Apartment UB-05 on level 59. The first change is to incorporate a free-standing bench within the kitchen with reconfigured cupboard arrangements. The second change is within the master bedroom, where cupboard space has been rearranged to create a walk-in wardrobe. These changes are very minor in nature and do not result in any changes to the overall gross floor area of the apartment nor affect the level of design quality and amenity offered.

The proposed changes are shown below in **Figure 2**.

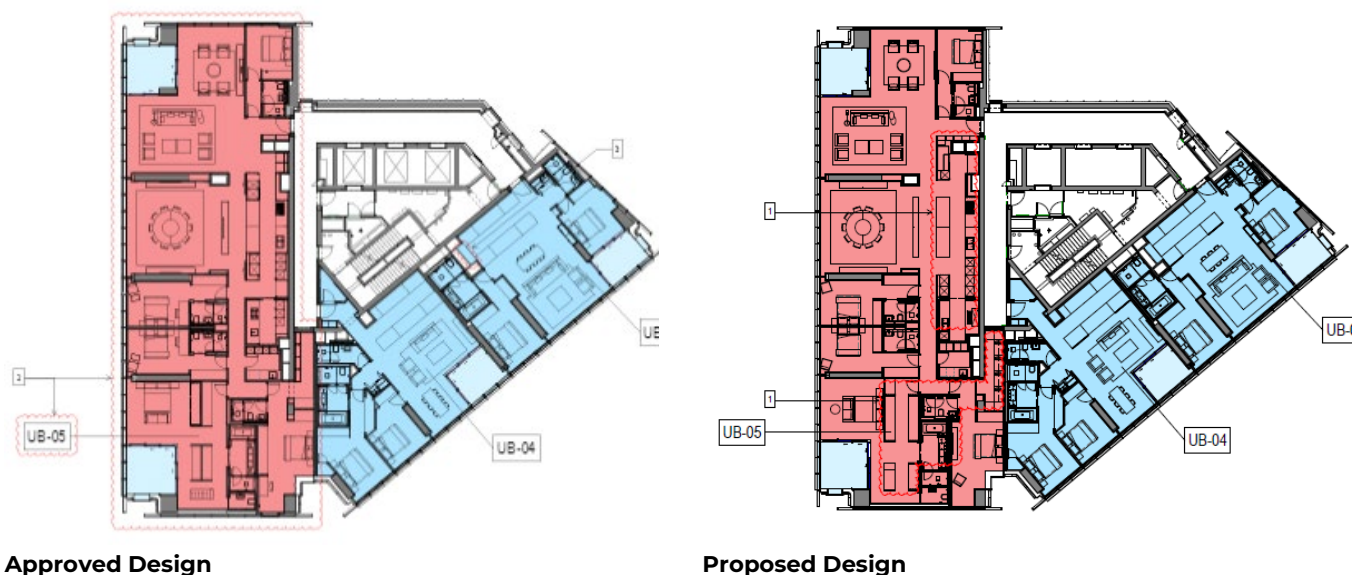


Figure 2 Proposed changes to Upper Plate Level 59 of Building R4B

Source: RPBW

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**.

A6. The development may only be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with all written directions of the Planning Secretary;
- (c) generally in accordance with the EIS as amended by the RtS;
- (d) generally in accordance with Section 4.55(1A) Modification ~~**4 5**~~ to SSD 8892218 titled 'Building R4B, One Sydney Harbour, Barangaroo South', and accompanying appendices, prepared by Ethos Urban and dated ~~**29 July 2022**~~ **21 October 2022**;
- (e) in accordance with the approved SSD 6965 drawings listed at Appendix 1 (except as may be amended by the conditions of that consent requiring compliance (refer to Condition A5 in this consent) and the conditions of this consent); and
- (f) in accordance with the following approved SSD 8892218 drawings in the table below (except as may be amended by the conditions of consent):

Architectural Drawings prepared by Renzo Piano Building Workshop and PTW Architects			
Drawing No.	Rev	Name of Drawing	Date
BR4B_ASD_PA2_1002	02 03	Setout Plan Basement Level B3	21/10/2021 06/10/2022
BR4B_ASD_PA2_1004	02 03	Setout Plan Basement Level B1	21/10/2021 06/10/2022
BR4B_ASD_PA1_2000	22 23	Plan Ground Floor Level 00	14/06/2022 06/10/2022
BR4B_ASD_PA2_3059	1 3	Plan Upper Plate Level 59	14/06/2022 06/10/2022
BR4B_ASD_PA2_9000	2 5	GFA Calculation	14/06/2022 06/10/2022

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

Appendix 1 – Drawings

The following approved drawings of SSD 6965 are modified by the consent of SSD 8892218 and this consent (SSD 8892218 MOD ~~**4 5**~~) by the deletion of drawings shown in struck through and the insertion of new drawings shown in bold and underline.

Drawings prepared by RBPW/PTW			
Drawing No.	Rev	Name of Drawing	Date
BR4B_ASD_PA2_1002	02 03	Setout Plan Basement Level B3	21/10/2021 06/10/2022
BR4B_ASD_PA2_1004	02 03	Setout Plan Basement Level B1	21/10/2021 06/10/2022
BR4B_ASD_PA1_2000	22 23	Plan Ground Floor Level 00	14/06/2022 06/10/2022
BR4B_ASD_PA2_3059	1 3	Plan Upper Plate Level 59	14/06/2022 06/10/2022
BR4B_ASD_PA2_9000	2 5	GFA Calculation	14/06/2022 06/10/2022

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

In this circumstance, the substantially the same test is applied to the amending DA SSD 8892218, which approved the design of Building R4B, with the inclusion of the works proposed under the amending DA scope. Therefore, SSD 8892218 approved the construction, fit out and use of a 68-storey mixed-use building, including:

- A total GFA of 44,561m² comprising 44,252m² residential GFA (322 apartments) and 309m² 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.
- A signage zone to accommodate future building identification signage.

As per *Vacik Pty Ltd v Penrith City Council* (2008) ‘substantially’ in the context of a modification application means “essentially or materially or having the same essence”. Furthermore, as per *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999), ‘modify’ means “to alter without radical transformation”. Therefore, when undertaking a comparison of the approved and proposed development, the modified development must be “essentially or materially” the same as the modified development. In conjunction with this, as per *Dravin Pty Ltd v Blacktown City Council* (2017), a comparison for the purposes of a modification application must include a quantitative comparison of the physical features or components of the development, as well as a qualitative assessment of the approved development and development as proposed to be modified within their respective contexts.

Considering the above principles, 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 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, therefore a good standard of design quality and amenity is still maintained.
- 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 1 provides an analysis of the proposed modifications' compliance with the relevant provisions of applicable State Environmental Planning Policies.

Table 1 State Environmental Planning Policies

Instrument	Assessment								
<i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)</i>	A Design Verification Statement has been prepared and is appended to this application at Attachment C . This statement notes that the proposed modification will not impact the development's consistency with SEPP 65 or the Apartment Design Guide, including as presented in other modifications. As shown by the supporting ADG metrics table also at Attachment C , the deletion of one storage cage will not change external storage provided for the apartments, as there is currently ample provision of storage cages in the basement and all apartments will remain to have external storage areas.								
<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 R4B.</td></tr> <tr> <td>Clause 18 – Gross Floor Area Restrictions – maximum 86,979m² (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. A GFA Calculations table is included in Attachment A.</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 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 R4B.	Clause 18 – Gross Floor Area Restrictions – maximum 86,979m ² (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. A GFA Calculations table is included in Attachment A .	Clause 19 – Design Excellence	The proposed development will continue to achieve a high standard of design excellence. No substantial 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 R4B.								
Clause 18 – Gross Floor Area Restrictions – maximum 86,979m ² (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. A GFA Calculations table is included in Attachment A .								
Clause 19 – Design Excellence	The proposed development will continue to achieve a high standard of design excellence. No substantial 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 2**. 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 2 Concept Plan (as modified) provisions

Concept Plan (as modified) Control – Block 4A (R4A and R4B)	Building R4A (not subject to this application)	Building R4B	Total	Assessment
Maximum Residential GFA – 91,816m ²	47,564m ² (no change)	44,252m ² (no change)	91,816m ²	✓
Other Uses GFA – 813m ²	438m ² (no change)	309m ² (no change)	747m ²	✓
Total GFA – 92,629m ²	48,002m ² (no change)	44,561m ² (no change)	92,563m ²	✓
Maximum height – RL 250	RL 250 – no change	RL 208.230 (no change)	-	✓
Tower Setbacks – Setbacks are generally in accordance with the Building Envelope Plan in the Concept Plan. Predominant tower mass is	No change	No change	N/A	✓

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

5.3 Residential Amenity

Building R4B will provide a high level of residential amenity in accordance with the design criteria recommended within the Apartment Design Guide (ADG), as demonstrated in the detailed Design Verification Statement at **Attachment C** and as originally approved.

The proposal's consistency with the objectives of the ADG remains unchanged from the approved development. The changes proposed are very minor and do not change the planning, layout or size of the apartments. The modifications are overall considered minor to the apartments and their focus is to enhance apartment living. With respect to the storage cage reduction, as noted earlier, there is already ample supply of storage cages accordingly the reduction by one storage cage would not affect residential storage.

5.4 Traffic

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

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 apartments or parking spaces provided in Residential Building R4B. This is demonstrated in **Table 3** below.

Table 3 Assessment of parking against 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	331	107	54	331
2b	1.2	136		136	163	
3b	2	77		77	154	
4b	2	0		0	0	
5b	2	2		2	4	
Total		322		322	375	

5.5 Reasons given 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 modifications remain consistent with these reasons for granting consent, given the minor nature of the proposed modifications. The proposed refinements will continue to deliver building outcomes of design excellence and remain consistent with the Concept Plan. Furthermore, the proposed modifications will not compromise any of the key features of the development that contributed to its approval.

6.0 Conclusion

The proposed modifications application seeks consent for the following changes:

- Reconfiguration of the service bay design on Basement Level B1, resulting in the deletion of one car parking space and one storage cage.
- The reallocation of one car space from Residential Building R4A to Building R4B on Basement Level B3.
- Internal amendments to apartment UB05 on level 59 comprising kitchen reconfiguration and changes to bedrooms.
- Administrative changes to capture the amendments concurrently to SSD 6965, being the introduction of new signage at entrance to basement carpark.

In accordance with section 4.55(1A) of the EP&A Act, Council 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, 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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