



Blackfriars Precinct Research Building Stage 2 Modification 1

Subdivision of site into two lots
State Significant Development Modification Assessment
(SSD-9571-Mod-1)

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Title: Blackfriars Precinct Research Building Stage 2

Subtitle: Subdivision of site into two lots

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
CIV	Capital Investment Value
Council	City of Sydney
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group, DPIE
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
SEARs	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development

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1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of an application to modify the State significant development (**SSD**) consent for the Blackfriars Precinct Research Building, at the University of Technology Sydney.

The modification application seeks approval for subdivision of the subject site into two lots.

The application has been lodged on 10 December 2020 by Urbanac on behalf of The University of Technology Sydney (the Applicant) pursuant to section 4.55(1) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

1.1 Background

The UTS City Campus comprises three precincts – Haymarket, Broadway and Blackfriars, which are all located on the southern edge of the Sydney CBD within the City of Sydney LGA. The Blackfriars Precinct has an area of approximately 6,043sqm and is bound by the University of Notre Dame Australia (UNDA) to the north and east, a residential flat building to the south-east (13-21 Abercrombie Street), Blackfriars Street to the south and Buckland Street to the west (**Figure 1**).

The site currently contains (**Figure 2**):

- a single storey weatherboard building, previously used for a childcare centre, and a single storey demountable building in the northern portion of the site within the footprint of the approved new building.
- three heritage significant two storey brick buildings located centrally and on the south-eastern portion of the site comprising the former Girl's School building (CB22), former Boy's School building (CB25) and the former Headmaster's residence (CB27). These buildings are used by the Applicant for teaching space, research space and accommodation for academics.
- the UTS Blackfriars Childcare Centre in the south-western portion of the precinct, which is a single storey building and associated outdoor areas constructed in 2017.

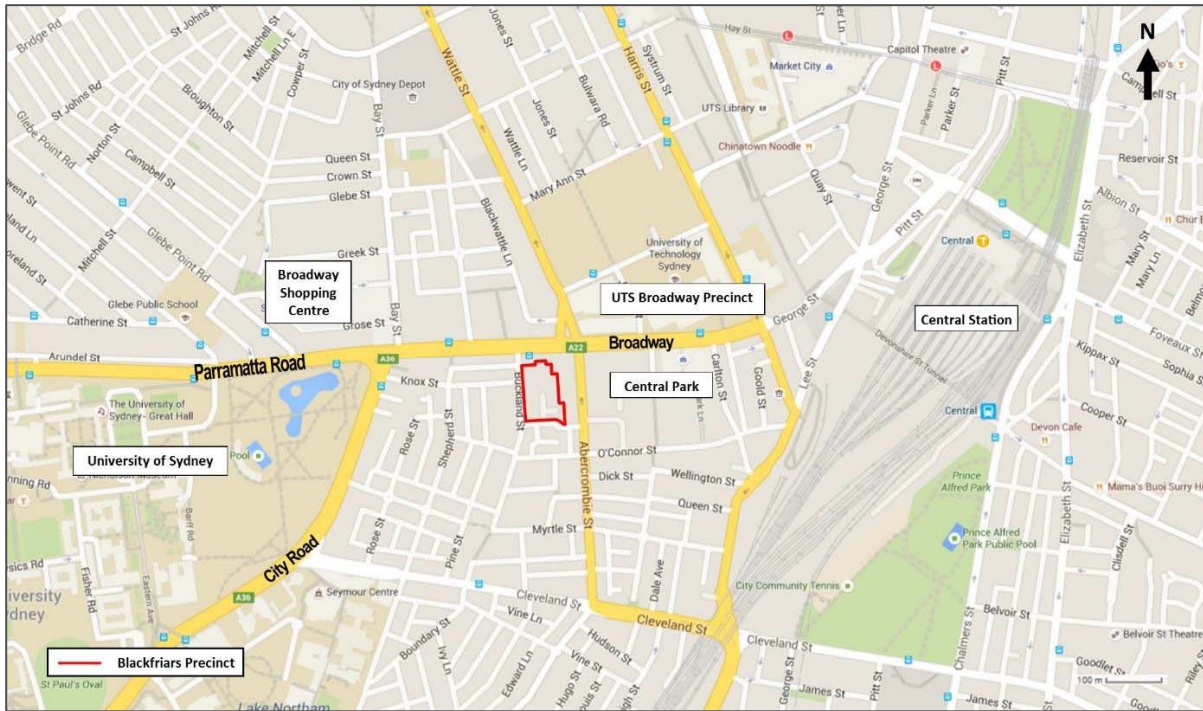


Figure 1 | Regional Context Map (Source: SSD-9571 Assessment Report)



Figure 2 | Blackfriars Precinct (Source: SSD-9571 Assessment Report)

The subject site currently comprises 35 separate lots (including Lot 1 in DP832799, Lots 10-16, 18-20, 22-25 Sec 3 in DP466, Lots 1-14 Sec 4 in DP466, Lots 9-12 Sec 5 in DP466, Lot 221 in DP133367, Lot 1 in DP724081, and Lot 1 in DP122324) (**Figure 3**).

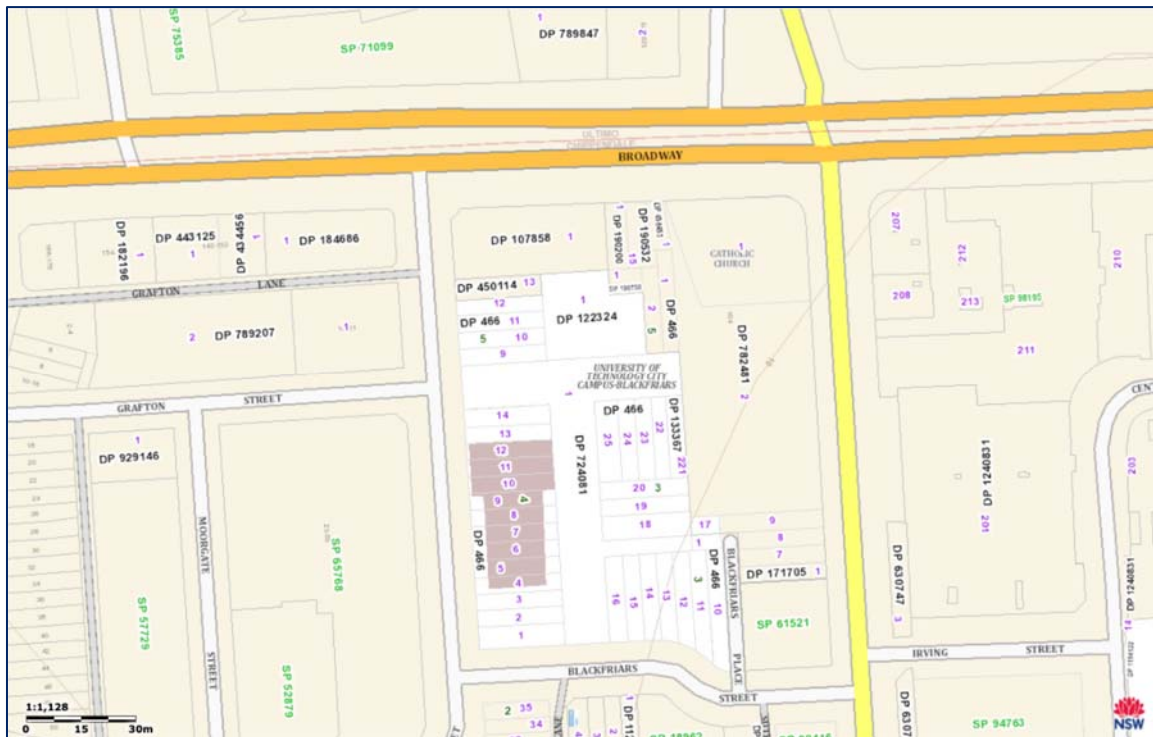


Figure 3 | Blackfriars Precinct lot configuration (white shading) (Source: Modification Report)

The existing consent contains a condition requiring the site to be consolidated into one lot prior to commencement of operation of the Research Building. This modification seeks to amend the consent to subdivide the site into two lots (rather than consolidate into one lot), with one lot corresponding to the childcare use with a street frontage to Blackfriars Street and a second lot comprising the remainder of the Blackfriars site with a frontage to Buckland Street.

1.2 Approval history

On 11 April 2017, approval was granted for a concept proposal (SSD-6746) for the staged development of the UTS Blackfriars Precinct Research Building, comprising:

- a five storey building envelope for education, commercial and ancillary retail floorspace.
- maximum RL 30.77 to plant.
- basement levels.
- maximum Gross Floor Area of 6,000sqm.

SSD-6746 was subsequently modified on 26 July 2019, to: amend the building envelope to accommodate the design competition winning scheme including; modify the setback to Buckland Street; modify solar access performance criteria; allow for additional tree removal and replacement planting; amend the timing for required lot consolidation to prior to commencement of operation.

On 14 July 2020, development consent was granted by the Executive Director, Regions, Industry and Key Sites for the development of the UTS Blackfriars Precinct Research Building Stage 2 (SSD-9571), including:

- site preparation works including demolition of existing buildings, excavation, removal of trees and remediation.
- construction of a five storey building (RL30.77) and basements providing for 6,000sqm

of educational and commercial floor space.

- conservation works and retention/amendment of palisade fence.
- landscaping and public domain works including public art.
- 44 bicycle parking spaces and end of trip facilities.
- two building identification signs.

Construction works are yet to commence.

Condition D36 of SSD-9571 currently requires consolidation of all lots comprising the subject site into one lot and registered with NSW Land and Registry Services prior to commencement of operation.

2 Proposed modification

The subject modification seek approval to re-subdivide the Blackfriars site from 35 separate lots into two lots by the inclusion of a subdivision plan in the condition A2 plan table and modification of condition D36, which currently requires consolidation of the site into one lot (**Figure 4**).

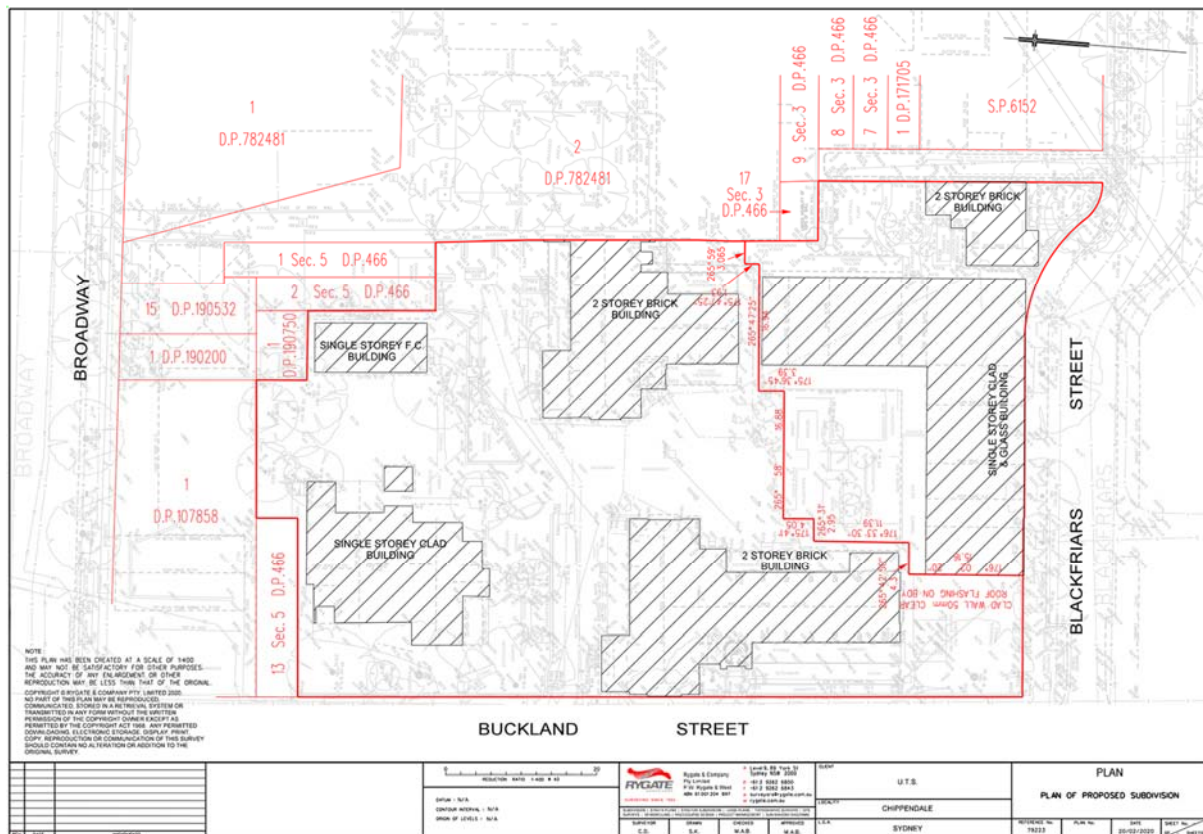


Figure 4 | Plan of proposed two lot subdivision (Source: Modification Report)

The plan of subdivision proposes one lot corresponding to the existing childcare use with a street frontage to Blackfriars Street and a second lot comprising the remainder of the Blackfriars site with a frontage to Buckland Street. The Applicant has detailed that the proposed lots reflect the existing operational situation, where the UTS Childcare Centre and the adjacent Childcare Administration Office are separated from the remainder of the functions within the Blackfriars Precinct. This is a typical arrangement for childcare uses, arising out of the regulatory environment around child safety and protection. UTS is seeking to subdivide the land in order to provide for the potential future sale of the childcare centre (should the opportunity arise).

No changes to the uses or built form as approved in SSD-9571 are proposed.

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved.
- is substantially the same development as originally approved.
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

Minister's delegate as consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2020, the Director, Social and Infrastructure Assessments may determine the application.

3.3 Mandatory matters for consideration

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD-9571. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

The Department has considered the findings and recommendations in the Department's Assessment Report for SSD-9571, including the key reasons for granting consent outlined in the Notice of Decision. The Department is satisfied that the key reasons for the granting of consent continues to be applicable to the development, as modified.

4 Engagement

4.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact applications. Accordingly, the application was not notified or advertised. However, it was made publicly available on the Department's website on 14 December 2020, and was referred to the City of Sydney (Council) for comment.

4.2 Summary of submissions

The Department received a submission from Council on 22 December 2020. Whilst Council raised no objection to the subdivision of the site into two lots, it stated that development consent would need to be obtained for the new lot layout (rather than simply modifying the consolidation condition to allow for two lots). Consolidation into two lots would be acceptable if the common boundary between the two lots followed existing boundaries of old lots. This is not the case with this application as the common boundary between the two lots is new and follows existing physical features.

4.3 Response to submissions

The Applicant submitted a response to Council's submission on 2 February 2021. The response clarified that the modification was in fact seeking a two lot subdivision to form part of the SSD development consent, rather than a lot consolidation, which is why a draft plan of subdivision was submitted with the original modification application.

The Department is satisfied that the existing consent can be modified to include subdivision, with the plan of subdivision included as part of the approved plan set.

5 Assessment

The existing consent contains a condition requiring the site to be consolidated into one lot (from 35 lots) prior to commencement of operation of the Research Building. This modification seeks to amend the consent to re-subdivide the site into two lots (rather than consolidate into one lot), with one lot corresponding to the existing childcare use with a street frontage to Blackfriars Street and a second lot comprising the remainder of the Blackfriars site with a frontage to Buckland Street.

No changes to the approved building form of the Research Building development are proposed and the approved uses will remain the same. The Applicant has stated that the childcare centre requires its own separate lot to enable its future sale, should the University desire to do so (noting that there are no plans to sell at present). The two lots will reflect the existing operational arrangements currently occurring on site. There will be no environmental impacts as a consequence of the proposed subdivision.

Regarding easements and services, the proposed lots are not currently encumbered by any easements, however the Applicant has detailed that a caveat has been placed on the titles by Ausgrid that requires the creation of two easements in relation to its substation at the east of the site when the lots are created (one for the services and one for access). These easements are shown in draft plan of subdivision and affect only the northern (university) lot. Two other easements are required as a result of the modification, also over the northern lot, in favour of the southern (childcare) lot, through the service courtyard of the northern lot to Buckland Street to maintain the existing arrangements for fire egress and rubbish bin servicing.

All other services are proposed to be decoupled, and with each lot having its own direct street access, no other easements have been identified as being needed. The UTS Blackfriars De-Coupling Infrastructure Services Report, prepared by Integral and provided with the modification application, details the proposed decoupling.

Regarding fire safety considerations, the Applicant has provided a BCA Report prepared by AED Group BCA/Certifiers, which detailed that all of the existing openings that will be within three metres of the new boundary are already within six metres of adjacent heritage buildings CB22 and CB25 on the same site and therefore are already required to have fire protection in accordance with clause C3.4 of the BCA (noting that cl. C3.4 requires that any openings in the external walls of a building are required to be protected to achieve a Fire Resistance Level if there are located within six metres from another non-class 10 building (i.e. non-habitable) on the same allotment).

The BCA report has identified a fire engineered performance solution to the protection of these openings was certified as part of the childcare centre construction in 2015 and is still current. It has recommended this should be updated to reflect the proposed subdivision; however it is considered unlikely this would result in any physical works. There is no operational change required to current fire egress arrangements for either lot. The only egress pathway that would cross the proposed boundary between lots is from the childcare through the central courtyard space of what will become the adjacent lot through to Buckland Street and this will be protected by easement as detailed above. In this regard, the Applicant has provided a draft 88B instrument for the right of access, which is reflected on the draft plan of subdivision, which will protect the fire agrees arrangements in perpetuity.

A Heritage Impact Statement has also been provided that confirms that no adverse heritage impacts will occur as a consequence of the proposed modification.

The Department notes that the concept approval (SSD-6746) requires lot consolidation prior to the commencement of operation. Section 4.24(2) of the EP&A Act requires that any further development application in respect of a site cannot be inconsistent with the consent for the concept proposal for the development of the site. The purpose of SSD-6746 was primarily to establish a building envelope for the new research building at the northern part of the site, rather than facilitate the establishment of the childcare centre in the southern portion of the site, which at the time had just been granted consent by Council.

While the concept development application covered the entire Blackfriars Campus, no works or changes of any kind were proposed in relation to the land occupied by the new centre, which was and remains operationally separate. It is considered that it was not the intent of the concept approval to require consolidation of the childcare centre and the remainder of the site, but instead to consolidate the parts of the site where university related development was proposed. It is therefore considered that the proposed modification to SSD-9571 would not cause the consent to be inconsistent with the concept approval.

The Department therefore raises no objection to the inclusion of a two lot subdivision in the existing SSD consent and recommends that the proposed plan of subdivision be included in the approved set of plans. It is also recommended that existing condition D36 be deleted and a number of new standard subdivision conditions be included in the consent. A condition is also recommended requiring the existing Fire Engineered Performance Solution Report (prepared for the childcare centre in 2015) to be updated to reflect the proposed new lot boundaries and any additional required protection works to be undertaken.

6 Evaluation

The Department has reviewed the submitted documentation and assessed the merits of the proposal. All environmental issues associated with the proposal have been thoroughly addressed.

The proposed modification is consistent with the objects of the EP&A Act, applicable EPIs and is consistent with the broader project which aims to improve education services to the Sydney Metropolitan region.

The development as modified would be substantially the same as that originally approved and would deliver a significant public benefit through the continued provision of improved education and research facilities in the area.

The Department considers the development as modified continues to be in the public interest and the modification application should be approved.

7 Recommendation

It is recommended that the Director, Social and Infrastructure Assessments, as delegate of the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report.
- determines that the application SSD-9571-Mod-1 falls within the scope of section 4.55(1A) of the EP&A Act.
- forms the opinion under section 7.17(2)(c) of the Biodiversity Conservation Act 2016 that a biodiversity assessment report is not required to be submitted with this application as the modification will not increase the impact on biodiversity values of the site.
- accepts and adopts all of the findings and recommendations in this report as the reasons for making the decision to approve the modification.
- modify the consent SSD-9571.
- signs the attached approval of the modification (**Appendix B**).

Recommended by:



Caleb Ball
Planner
Social and Infrastructure Assessments

Recommended by:



David Gibson
Team Leader
Social Infrastructure

8 Determination

The recommendation is **adopted** by:



10 April 2021

Karen Harragon

Director

Social and Infrastructure Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

<https://www.planningportal.nsw.gov.au/major-projects/project/40841>

Appendix B – Modification report

<https://www.planningportal.nsw.gov.au/major-projects/project/40841>

Appendix C – Instrument of modification

<https://www.planningportal.nsw.gov.au/major-projects/project/40841>