

10051 6 August 2014

Carolyn McNally Secretary Department of Planning and Environment 23-33 Bridge Street SYDNEY NSW 2000

Dear Ms. McNally

SECTION 75W MODIFICATION TO MP11_0002 (RESIDENTIAL BUILDINGS R8 & R9) BARANGAROO SOUTH

We write to you on behalf of the proponent Lend Lease, seeking an amendment to Project Approval MP11-0002 pursuant to Section 75W and Clause 12 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). MP11-0002 sought approval for Buildings R8 & R9, which sit entirely within the Lot 5 and Lot 6 of DP 876514. The land is owned by the Barangaroo Delivery Authority. The Building R8 & R9 Project Application site has an area of approximately 1,997 m².

The application seeks to modify the approved Residential Buildings R8 & R9 to reflect further design detailing, which relates predominantly to the facade interface of the retail tenancies located on the ground floor of both buildings. Other changes that are proposed as part of this modification include:

- minor changes to windows in the residential units;
- introduction of fixed awnings on the Lime Street elevation of R8;
- introduction of retractable awnings on the Lime Street elevation of R9;
- alterations to the shared open space on the roof of R9; and
- minor alterations to the photovoltaic (PV) cells on the roof of R8 and R9.

The following documents have been included in this report:

- Updated Architectural Drawings prepared by PTW Architects, FJMT and Lend Lease Design, dated various (Appendix A)
- Letter by Renzo Tonin and Associates *dated 27 May 2014* confirming the Operational and Construction Noise and Vibration Report prepared by Renzo Tonin and Associates TF854-01F02 (rev 4), *dated November 2012* (Appendix B)
- Updated landscape drawings prepared by Aspect Oculus, dated 6 June 2014 (Appendix C)
- Updated BASIX Certificate (Appendix D)

1.0 CONSENT PROPOSED TO BE MODIFIED

Project Approval MP11-0002 was granted by the Department of Planning and Environment (DP&E) on 28 June 2013 for the construction and use of Residential Buildings R8 & R9 within Barangaroo South.

This application will represent the first modification made to the MP11-0002 approval. The modifications to the approval, as described in Section 2, are of minor nature and do no give rise to any additional environmental impacts as compared to those assessed under the original project approval.

2.0 PROPOSED MODIFICATIONS TO THE DEVELOPMENT

This modification application relates to minor design refinements to the buildings, predominantly the façade interface on ground level. Other changes that are proposed as part of this modification include:

- minor changes to windows in the residential units;
- introduction of fixed awnings on the Lime Street elevation of R8;
- introduction of retractable awnings on the Lime Street elevation of R9;
- alterations to the shared open space on the roof of R9; and
- minor alterations to the photovoltaic (PV) cells on the roof of R8 and R9.

Following the approval of this modification the approved development on the Site would be (as Described in Section A1 of the consent) as follows:

Construction and use of two new residential buildings (R8 & R9), ranging in height between 7 and 11 storeys, and with a maximum GFA of 18,104 m^2 comprised of 159 apartments (82 apartments within R8 and 77 apartments within R9). 16,457 m^2 of residential floor space (8,862 m^2 within R8 and 7,595 m^2 within R9). 1,647 m^2 of retail floor space (832 m^2 within R8 and 815 m^2 within R9).

The following subheadings describe in detail the proposed changes to the approved development.

Building Design Modifications

As the design of the buildings has developed during the detailed design process, some minor changes have been introduced. The modifications proposed to the building form for Buildings R8 and R9 are described in the Table 1 below. The changes below are shown in the updated Architectural Drawings at Appendix A.

It is noted that there are some minor differences between the proposed modifications as represented in **Appendix A**, which have been signed off by the certifier as being consistent with the approved drawings as part of the construction certificate stage. Accordingly only the changes that require consent are identified in the table below.

Level	Design Change	Reason for Change
R8 Building		
Ground Floor	 Provision of a retail awnings along Lime Street; and Inclusion of a range of shopfront types for the Lime Street retail tenancies. 	 Retail driven design development.
Level 8	 Terrace extent altered; and Service exhaust enclosures added. 	 Window and door adjustments were a preferred design solution by architects FJMT; and Enclosure of the service exhaust added to allow for egress stair heat extract, which will increase occupant comfort.
Level 10 & 11	 Development of the roof design through the change in angle of the photovoltaic panels on the roof resulting in an up to 400mm increase in height. 	 Change to angle of cells allows for an increased efficiency
R9 Building		

Table 1 – List of changes per level

Level	Design Change	Reason for Change
All Levels	 Provision of an additional window to the bathroom ensuite on all above ground levels for the north east apartments. 	 Improvement to the amenity of the ensuite through increased solar access.
Ground Floor	 Provision of retractable awnings to the Lime Street retail tenancies. Inclusion of a range of shopfront types for the Lime Street retail tenancies. 	 Retail driven design development.
Level 7	 The communal roof area will be subject to the following design changes: The gazebo design adjusted; BBQ area to be altered and storage compartments added; and Removal of the landscaped green wall. 	 Response to the land owner consent condition that relates to further developing this design.
Level 8	 On the northern façade changes include: Reduction in the number of vertical fins on level 9, the fins are part of the roof design and aide privacy on the roof; A reduced glazed area to bedroom; and Precast panel replaced by powder coated aluminium panel. On the eastern façade of the apartments changes include: New bathroom windows A reduced glazed area to rooms on the roof to improve privacy from the shared roof space. Insertion of vertical privacy fins to the eastern service path On the western façade the roof awning structure has been revised from lightweight retractable to operable blades 'pergola'. 	 For the northern façade, further detailed design work in conjunction with building efficiency improvements. For the eastern façade; improvement of thermal performance, ventilation, privacy, and solar access for the northern and eastern apartment facades. For the western façade, the existing retractable roof awning structure is not considered practicable due to its performance in a windy environment. As such the proposed operable blades provide an initiative to improve design and occupant comfort.
Roof	 Development of the roof design through the change in angle of the photovoltaic panels on the roof resulting in an up to 400mm increase in height. 	Change to angle of cells allows for an increased efficiency

Modification to the PV Cells

The alterations to the PV cells, which are included within the definition of building height as they are a form of building plant, will result in an increase to the building height of approximately 400mm. While this will remain consistent with the Concept Plan for R9 and for most of R8, the height at the northern end of R8 would be approximately 400mm above the approved building height resulting in a maximum height for R8 of RL41.9.

The increase in height results in the development exceeding the maximum height limit in the Concept Plan and the development standard in the Major Development SEPP. A variation to the maximum building height is sought under Clause 20 'Exceptions to development standards' of Part 12 of Schedule 3 of Major Development SEPP.

Correction to R8 GFA

No physical increase to the approved GFA is proposed as part of this modification. However, the approved GFA plans incorrectly identified the total retail GFA within Residential Building R8 as being 807 m² when it was actually 832 m². Accordingly, this modification seeks to delete the reference to the approved incorrect GFA plans and instead rely on Condition A1 as modified below in **Table 2**.

3.0 PROPOSED MODIFICATIONS TO CONSENT

The proposed modifications to the conditions of consent for MP11-0002 are detailed below in **Table 2** with words to be inserted shown in **bold italics** and deletions are shown in **bold strikethrough**.

Table 2 – Modifications to Consent	
 Approval Condition A1 Development Description Construction and use of two new residential buildings (R8 & R9), ranging in height between 7 and 11 storeys, and with a maximum GFA of 18,079-18,104 m² comprised of 159 apartments (82 apartments within R8 And 77 apartments within R9). 16,457 m² of residential floor space (8,862m² within R8 and 7,595m² within R9). 1622 1,647m² of retail floor space (807 832 m² within R8 and 815m² within R9) 	Reason No physical increase to the approved GFA is proposed as part of this modification. However, the approved GFA plans incorrectly identified the total retail GFA within Residential Building R8 as being 807m ² when it was actually 832m ² . Accordingly, this modification seeks to delete the reference to the approved incorrect GFA plans and instead rely on Condition A1.
A2. The development will be undertaken in accordance the following documents and plans: Architectural Plans prepared by PTW Architects, Francis-Jones Morehen Thorp (fjmt), Lend Lease Design and dated 19/03/2013 and the 21/03/2013.	As described previously, the minor design changes reflect further detailing of the building façades and ground floor retail tenancies.
Architectural Plans prepared by PTW Architects, Lend Lease Design and dated 15/04/2014. (Refer to Attachment A at the end of this letter for a detailed table of the modified drawings including dates and revision numbers)	
E2. GFA and Height Certification A Registered Surveyor is to certify that the Gross Floor Area (GFA) and height of the development of Buildings R8 and R9 at the subject site approved by this major project does not exceed 9,669 9,694 m ² and RL41.5 RL41.9 and 8,410m ² and RL36 RL36.4 respectively. Details shall be provided to the Certifying Authority demonstrating compliance with this condition prior to the issue of the relevant Occupation Certificate.	The alteration to the overall GFA of R8 is explained above in A1. The Concept Plan and MD SEPP set the height limit for R8 and R9 at 41.5m.
	A height increase is required to reflect the design change to the photovoltaic panels located on the roof of building R8 and R9. The panels' height increase of 400mm results in an overall height of RL36.4 for R9 and RL41.9 for R8.
	R9 will continue to comply with the approved Concept Plan and SEPP, the northern section of R8 will require a minor variation to this development standard.
	This variation is minor and will not have any adverse environmental impacts and is therefore considered generally consistent with Concept Plan and permissible in accordance with Clause 20 of Part 12 or Schedule 3 of the MD SEPP.

4.0 PROPOSAL'S CONSISTENCY WITH EXISTING CONDITIONS

The proposed modifications remain consistent with the remaining existing conditions. **Table 3** below outlines conditions under the MP11-0002 approval that relate to this proposed modification application. Whilst not subject to change, the conditions listed below highlight that the modification is consistent with the original approval and will not give rise to any additional environmental impacts.

inipacto.	
Table 3 – Table of Consistency	
Approval Conditions	Consistency
B1 Compliance with the building code of Australia Details shall be provided to the satisfaction of the Certifying Authority, with each application for a Construction Certificate, which demonstrate that the proposal complies with the prescribed conditions of approval under clause 98 of the Environmental Planning and Assessment Regulation 2000 in relation to the requirements of the Building Code of Australia.	The design detailing and modifications will ensure that BCA compliance can be achieved for each application for a Construction Certificate.
B4 Details of awnings	
Comprehensive design details of the proposed awnings shall be submitted to the Director-General for approval prior to the issue of the relevant Construction Certificate.	
B17 Noise and vibration management sub-plan Prior to the issue of the relevant Construction Certificate, an updated Noise and Vibration Management Sub-Plan prepared by a suitably qualified person shall be submitted to the EPA for review and submitted to the Certifying Authority. The Sub-Plan must comply with Environment Protection Licence number 13336. A copy must be provided to the Director-General.	As stated in the Noise and Vibration letter by Renzo Tonin at Appendix C and described in Section 5.3, the design modifications do not affect the original assessment, findings and conclusions set out in the Operational & Construction Noise and Vibration Report and Dated 19 November 2012. As such, the relevant noise and vibration conditions will be able to be maintained as per this approval.
D4 Noise and vibration management sub plan The proponent must undertake all works in accordance with the requirements of the Noise and Vibration Management Sub-Plan approved under Condition 817. This Plan must be consistent with all of the relevant requirements of the Environment Protection Licence number 13336.	
 F6 Noise control- mechanical plant and equipment Noise associated with the use of any mechanical plant and equipment shall not give rise to any one or more of the following: (1) Transmission of an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver. (2) A sound pressure level at the boundary of any affected receiver that exceeds the background (LA90, 15 minutes) noise level by more than 5dB. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard 4S1055. 	
B25 Sustainability rating The building shall be designed to achieve a minimum 5 Star Green Star rating under Multi-Unit Residential design version 1 of the Green Building Council of Australia's Office Rating Tool. Prior to the issue of a relevant Construction Certificate, the proponent shall submit details to the Certifying Authority demonstrating compliance with this requirement.	The proposal will not alter the sustainability rating.

5.0 ENVIRONMENTAL ASSESSMENT

As described previously, the proposed modification only relates to minor design modifications. Due to the proposed changes to the windows in R9, an amended BASIX certificate has been issued and is included in this modification. The proposal does not change the findings, recommendations and conclusions of any of the following key assessment issues:

- Design Excellence
- Remediation and Contamination
- Overshadowing Impacts
- Wind
- Reflectivity
- Climate Change and Sea Level Rise
- Ecologically Sustainable Development
- Archaeology
- Operational Noise and Vibration
- Fire Safety
- Sustainability Report
- Traffic Management and Access Plan

- Infrastructure and Utilities
- Building Code of Australia (BCA) and Access
- Structural Engineering
- Geotechnical
- Waste Management
- Environmental, Construction and Site Management
- Construction Noise and Vibration Impacts
- Construction Air Quality
- Construction Traffic Management
- BCA Report
- Preliminary Fire Engineering Review

5.1 Compliance with SEPP (Major Development)

As detailed in Section 2.0, the 25m² increase in GFA to 18,104m², proposed as part of this Modification is the result of a miscalculation during the PPR stage and does not change the Project's compliance with the maximum gross floor area development standard of 18,908m².

The proposed variation to the angle of the PV cells on the roof of R8 will increase the overall building height by 400mm to 41.9m, which will result in a minor variation to the maximum building height development standard which is set by the concept plan at 41.5m. It is noted that it is not proposed to change the height of the roof level of the building itself which continues to be consistent with the maximum building height standard.

Clause 20 'Exceptions to development standards' of Part 12 of Schedule 3 of Major Development SEPP enables consent to be granted for development in the event that it contravenes a development standard imposed under the Major Development SEPP. The objectives of this clause are to enable flexibility regarding development standards and also allow for better outcomes to be achieved through this flexibility.

The relevant provisions contained within Clause 20 of Part 12 of Schedule 3 of the Major Development SEPP are addressed below.

Clause 20(3)

In accordance with Clause 20(3)(a) of Part 12 of Schedule 3 of the Major Development SEPP compliance with the development standard in this instance is considered to be unreasonable and unnecessary as:

- the alteration to the PV cells will not result in any adverse environmental impacts; and
- it will improve the efficiency of the PV cells and therefore the ESD performance of the building.

As required under Clause 20(3)(b) the contravention of the development standard is justified on environmental planning grounds. The PV cells do not significantly add to the overall bulk or scale of the building or result in any visible change in the relationship of the height of R8 within the context of the height of other approved or proposed buildings at Barangaroo South (in particular R9).

Clause 20(4)

There are no stated objectives of the maximum height development standard under the SEPP. In accordance with Clause 20(4)(a)(ii) of Part 12 of Schedule 3 of the Major Development SEPP, the alterations to the approved PV cells and subsequent height increase do not alter the consistency of the proposal with the objectives of the B4 mixed use zone as illustrated in **Table 4**. **Table 4** – Consistency with zone objectives

Relevant Objective	Comment
To provide a mixture of compatible land uses	The PV cells will improve the efficiency of the building which is a compatible land use.
To encourage a diverse and compatible range of activities through various means, including the following: (i) commercial and retail development	The alteration to the PV cells supports the on-going operation of R8.
(ii) cultural and entertainment facilities	
(iii) tourism, leisure and recreation facilities	
(iv) social, education and health services	
(v) higher density residential development	
To incorporate contemporary urban design principles in the design of new buildings and the interpretation of their relationship with the public domain	The proposed modification would have no impact on the relationship of R8 with other buildings or with the public domain.
To implement the principles of energy efficiency, travel demand management and other sustainable development practices as part of the development assessment process	The proposed modification directly supports the principals of energy efficiency.
To facilitate the conservation of heritage items	The modification directly supports the development of R8 which in turn contributes to the overall renewal of Barangaroo and conservation of identified heritage items.
To ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area.	The alterations to the PV cells will not generate any nuisance and it is not discernible from the public domain and will not result in any adverse environmental impacts to surrounding residential development. The PV cells will ensure that R8 provides efficient solar energy thereby preserving the quality of life for residents in the immediate vicinity of the site.

Clause 20(5)

The proposed variation to the maximum building height is considered minor and does not raise any state or regional environmental planning matters of significance. Compliance with the development standard in this instance would also not result in any public benefit. There is a public benefit attributable to the variation of the development standard as it will improve the performance of the PV cells, resulting in a more sustainable outcome.

Overall, the alteration to the PV cells will not result in any adverse impacts, ensuring that the variation is reasonable and acceptable.

5.2 Consistency with the Barangaroo Concept Plan (Mod 7)

Height

The alterations to the PV cells, which are included within the definition of building height as they are a form of building plant, will result in an increase to the building height of approximately 400mm. While this will remain consistent with the concept plan for R9 and for most of R8, the height at the northern end of R8 would be approximately 400mm above the approved building height resulting in a maximum height for R8 of RL41.9.

The proposed modifications would cause the building envelope at the northern end of R8 to extend beyond the Concept Plan by approximately 400mm. As discussed in Section 5.1, this variation is

minor and will not have any adverse environmental impacts and is therefore considered generally consistent with Concept Plan.

Gross Floor Area

As detailed in Section 2.0, no physical increase to the approved GFA is proposed as part of this modification. However, the approved GFA plans incorrectly identified the total retail GFA within Residential Building R8 as being 807 m^2 when it was actually 832 m^2 . This change results in an additional 25 m^2 of GFA. The additional GFA does not affect the development's consistency with the Concept Plan as summarised in **Table 5** below.

Table 5 - Compliance with Concept Plan (Mod 7) GFA Controls

Block X Concept Plan (Mod 7) Control	Approved Project	Modification 1	Block X Cumulative Total	Compliance
Maximum GFA – 18,908m ²	18,079m ²	18,104m ²	18,104m ²	Compliant
Maximum Residential GFA – 16,463 m ²	16,457m ²	16,457m ²	16,457m ²	Compliant

6.0 CONCLUSION

This Modification Application seeks to modify the Project Approval MP11-0002 to make minor design refinements to the building's façade elements and functional components. The proposal also provides further information as to the design development of the ground floor retail tenancies and their proposed interface with the public domain through the embellished design of the shopfronts.

The modifications will be consistent with the original consultant documentation lodged under MP11-0002 and as such no adverse environmental impacts will rise above and beyond those already assessed. We therefore request that the Minister or his delegate approve the Modification Application.

Should you have any queries about this matter, please do not hesitate to contact myself or Michael Rowe on 9956 6962 or hquartermain@jbaurban.com.au.

Yours sincerely,

Harry Quartermain Urban Planner

Michael Rowe Principal Planner

ATTACHMENT A

Updated Architectural Drawing List (Drawings to be deleted are shown by **bold strikethrough** and drawings to be inserted are shown by **bold italics**.

Drawing No. Architectural Plans	lssue	Name of Plan	Date
BR8AD2000050	00	Retail Façade Elevations	10/06/2014
BR8AD2000051	00	Retail Shopfront Options	10/06/2014
BR8AD3000000	10	General Arrangement Plan – PPR Ground Floor Plan	21/03/2013
	12		10/06/2014
BR8AD3010000	11	General Arrangement Plan – PPR Level 1 Floor Plan	21/03/2013
	13		04/07/2014
BR8AD3020000	06	General Arrangement Plan – PPR Level 2 Floor Plan	21/03/2013
	08		10/06/2014
BR8AD3030000	05	General Arrangement Plan – PPR Level 3 Floor Plan	21/03/2013
	07	, , , , , , , , , , , , , , , , , , ,	10/06/2014
BR8AD3040000	05	General Arrangement Plan – PPR Level 4 Floor Plan	21/03/2013
	07	, , , , , , , , , , , , , , , , , , ,	10/06/2014
BR8AD3050000	05	General Arrangement Plan – PPR Level 5 Floor Plan	21/03/2013
	07	, , , , , , , , , , , , , , , , , , ,	10/06/2014
BR8AD3060000	06	General Arrangement Plan – PPR Level 6 Floor Plan	21/03/2013
	08		10/06/2014
BR8AD3070000	06	General Arrangement Plan – PPR Level 7 Floor Plan	21/03/2013
	08	5	10/06/2014
BR8AD3080000	05	General Arrangement Plan – PPR Level 8 Floor Plan	21/03/2013
	07	5	10/06/2014
BR8AD3090000	03	General Arrangement Plan – PPR Level 9 Floor Plan	21/03/2013
	05		10/06/2014
BR8AD3100000	03	General Arrangement Plan – PPR Level 10 Floor Plan	21/03/2013
	05		10/06/2014
BR8AD3110000	03	General Arrangement Plan – PPR Level Roof Plan	21/03/2013
	05		10/06/2014
3R8AD4500001	03	Elevations East Elevation	21/03/2013
	05		10/06/2014
3R8AD4500002	03	Elevations West Elevation	21/03/2013
	05		10/06/2014
BR8AD4500003	03	Elevations North South Elevation	21/03/2013
	05		10/06/2014
BR84D5500001	02	Sections Overall Sections Sheet 1	21/03/2013
	04		10/06/2014
BR84D5500002	02	Sections Overall Sections Sheet 2	21/03/2013
	04		10/06/2014
BR84D5500003	02	Sections Overall Sections Sheet 3	21/03/2013
	03		10/06/2014
BR84D5500004	02	Sections Overall Sections Sheet 4	21/03/2013
	03		10/06/2014
AD3000000	12	Ground Floor Plan	21/03/2013
	13		10/06/2014
AD3010000	08	Level 1 Floor Plan	21/03/2013
	09		10/06/2014
AD3020000	08	Level 2 Floor Plan	21/03/2013
	09		10/06/2014
AD3030000	04	Level 3 Floor Plan	21/03/2013
	05		10/06/2014
AD3040000	04	Level 4 Floor Plan	21/03/2013

	05		10/06/2014
AD3050000	04	Level 5 Floor Plan	21/03/2013
	05		10/06/2014
AD3060000	04	Level 6 Floor Plan	21/03/2013
	05		10/06/2014
AD3070000	06	Level 7 Floor Plan	21/03/2013
	07		10/06/2014
AD3080000	06	Level 8 Floor Plan	21/03/2013
	07		10/06/2014
AD3090000	06	Roof Plan	21/03/2013
	07		10/06/2014
AD4500001	05	North Elevation	21/03/2013
	06		10/06/2014
AD4500002	05	East Elevation	21/03/2013
	06		10/06/2014
AD4500003	05	South Elevation	21/03/2013
	06		10/06/2014
AD4500004	05	West Elevation	21/03/2013
	06		10/06/2014
AD5500001	05	Section AA	19/03/2013
	06		10/06/2014
AD5500002	05	Section BB	19/03/2013
	06		10/06/2014
AD5500003	05	Section CC	19/03/2013
	06		10/06/2014
AD5500004	05	Section DD	21/03/2013
	06		10/06/2014
AD6500003	00	Retail Shopfront Design	06/06/2014
AD3100000	06	GFA Plans	28/03/2013
AD3110000	06	GFA Plans	28/03/2013
BR8-LPA-108	Ę	R8 Level 8 Plan	27/03/2013
	G		06/06/14
BR9-LPA-100	Ð	Ground Floor Plan	05/03/13
	E		06/06/14
BR9-LPA-107	Ð	R9 Level 7 Plan	25/03/13
	E		06/06/14
BR9-LPA-108	Ð	R9 Level 8 Plan	25/03/13
	E		06/06/14