

**STATE SIGNIFICANT DEVELOPMENT:  
Section 96(1A) Modification  
Amend Archaeology Requirements; Hart St Facade  
157 – 163 Cleveland Street, Redfern  
SSD-4949-2011 MOD 3**



Director General's  
Environmental Assessment Report  
Section 96(1A) of the  
Environmental Planning and Assessment Act, 1979

**January 2013**

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Cover photo: photomontage of northwest elevation (Source: Applicant's EIS)

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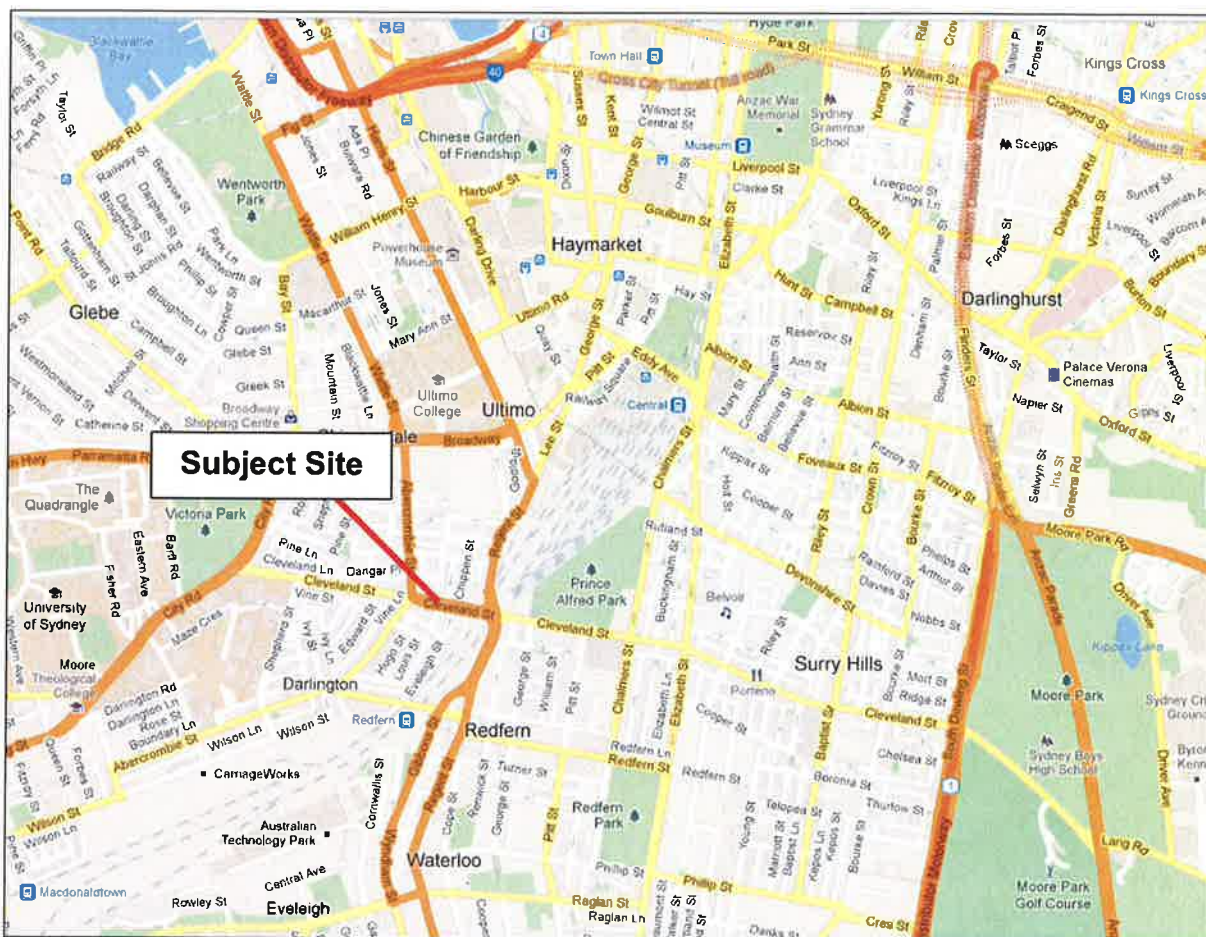
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## 1. INTRODUCTION

This application seeks to modify development consent SSD-4949-2011 under Section 96(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act) to amend condition D2 (b). Condition D2 (b) requires the provision of an alternative archaeological investigation strategy. The proposed modification also seeks partial demolition and reinstatement of an original section of the Hart Street elevation.

### 1.1 Site and Locality

The site known as 157-163 Cleveland Street, Redfern, fronts Cleveland Street and is bounded by Abercrombie Street to the west, Hart Street to the east and Hudson Street to the south. The site is located south-west of the Sydney Central Business District, within short walking distance of both Redfern and Central Railway Stations. The site is within close proximity to several tertiary educational establishments including Sydney University, University of Technology Sydney and Notre Dame University. The site location is shown in **Figure 1** below.



**Figure 1: Site Location (Source: Google Maps)**

The site has an area of 3,360m<sup>2</sup> and occupies the whole street block. It has a 77 metre frontage to Cleveland Street and a fall of approximately 2.4 metres from west to east. The whole of the site was previously occupied by existing buildings, consisting of a warehouse building on the eastern part of the site. The majority of buildings associated with the site have since been demolished in preparation for construction. However, the façade to the warehouse building (originally two factories) along Hart Street has been retained. The subject site is illustrated in **Figure 2**.



Assessment of the original project application (SSD 4949 – 2011) identified a highly intact historical archaeological resource on site. On this basis, a number of conditions to address any potential Aboriginal and European Archaeology on site during the construction process were imposed on the project approval.



Figure 2: Subject Site (source: [www.nearmap.com](http://www.nearmap.com) dated 8 Jan 2013)

## 1.2 Background

On 16 May 2012, the Director General of the Department of Planning and Infrastructure, as delegate for the Minister for Planning and Infrastructure approved Development Application No. SSD-4949-2011 for the redevelopment of the site for student accommodation. The Development Application included:

- Construction of part 2 and part 5 storey building and partial retention of existing facades to Cleveland and Hart Streets;
- Total GFA of 10,080 m<sup>2</sup>;
- Total of 404 bedrooms with capacity for up to 461 students;
- Provision of communal facilities including reception/lobby, administration room, meeting room, internet/study area, TV/games room, laundry room and communal kitchen;
- Landscaped central courtyard; and
- Site identification signs to Cleveland Street and Hudson Street.

## 1.3 Previous Modifications

On 9 August 2012, the A/Director, Metropolitan and Regional Projects South approved a Modification Application (SSD-4949-2011 MOD 1) to amend Condition A4 to defer the requirement to pay the Section 94F Affordable Housing contributions prior to the Occupation Certificate being obtained.

On 19 October 2012, the Director, Metropolitan and Regional Projects South approved a Modification Application (SSD-4949-2011 MOD 2) to amend Conditions E4 and D9 relating to green star rating and hours of work; amendments to Conditions B3 related to additional details for external signage to Cleveland and Hudson Streets, materials and finishes and a new condition A7 relating to external signage.

## 2. PROPOSED MODIFICATION

On 26 November 2012, Urbanest Pty Ltd lodged a modification application under Section 96 (1A) of the Act to modify SSD-4949-2011. The proposed modification seeks to modify consent condition D2 (b) relating to the need to Aboriginal & European Archaeology as follows:

### **D2 Aboriginal & European Archaeology**

- b) Should ~~initial~~ archaeological testing at the site ~~in the areas of the underground tank, stormwater drain, façade footings and lift wells~~ reveal a substantial and intact **profile, a program of sample trenching shall** ~~archaeological resource, a full salvage excavation must be undertaken in areas indicated on the archaeological zoning map as being of medium and above significance~~ **that will be most impacted by the redevelopment. This work shall provide a broad profile map of the underlying stratigraphy. It shall be recorded and interpreted with reference to the historical analysis of this site.**

On 10 December 2012, the Proponent submitted an addendum to the Section 96 Application, requesting the partial demolition and reconstruction of the original Hart Street elevation. The entire Hart Street elevation is to currently be retained under the existing consent. The modification will require the imposition of new conditions requiring the salvage and re-use bricks in the re-construction and to ensure re-construction is designed, documented and supervised by an appropriately qualified heritage architect.

## 3. STATUTORY CONTEXT

### 3.1 Modification of Approval

Section 96(1A) of the Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications which seek modifications to approvals:

*That the proposed modification is of minimal environmental impact.*

The Department is satisfied that the proposed modifications will have minimal environmental impacts. Relevant environmental impacts are considered in Section 5 of this report.

*That the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).*

The proposed amendment seeks to amend conditions imposed on the Development Consent issued for the original development. The proposed modification does not result in any additional adverse impacts on the surrounding locality. On this basis, should the proposed modification be approved it will result in a development that is substantially the same to that which was originally approved.

*It has notified the application in accordance with the regulations.*

The Development Application was notified in accordance with the Regulations. Details of the notification are provided in Section 4 of this report.

*It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.* Submissions were received from City of Sydney Council, the NSW Office of Environment and Heritage and the NSW Heritage Council. No public submissions were received. Issues raised in the submissions are discussed in **Sections 4 and 5** of this report.

### **3.2 Environmental Planning Instruments**

#### **State Environmental Planning Policy (State & Regional Development) 2011**

The original project approval was State Significant Development under Clause 2 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011 as the site falls within the area defined as the Redfern-Waterloo site and has a capital investment value in excess of \$10 million.

#### **State Environmental Planning Policy (Major Development) 2005**

The site is zoned Business Zone- Mixed Use by the State Environmental Planning Policy (Major Development) 2005 (Major Development SEPP). The approved student accommodation use is permissible within the zone.

### **3.3 Delegation**

The original application was determined under the delegation of the Minister of Planning and Infrastructure; therefore, the Minister remains the consent authority for any subsequent applications to modify the consent. Under the instrument of delegation dated 14 September 2011, The Minister delegated his functions under Section 96 (1A) of the Act to the Directors in the Major Projects Assessment Division where:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

It is noted that:

- City of Sydney Council does not object to the proposal;
- no reportable political donation has been declared in relation to the original application or any subsequent modification request; and
- no public submissions were received.

In accordance with the Minister's delegation, the Director, Metropolitan & Regional Projects South may determine this project under delegated authority.

## **4. CONSULTATION**

The application was notified in accordance with the Environmental Planning & Assessment Regulation 2000. The modification request was made available on the Department's website and referred to the City of Sydney Council, the Office of Environment and Heritage and the NSW Heritage Council for comment. Due to the nature of the proposed modification, the modification request was not exhibited by any other means.

#### City of Sydney Council

On 5 October 2012, the City of Sydney Council advised that the proposed alternative archaeological strategy is acceptable. Further, that no objection is raised to reconstruct the section of the Hart Street warehouse subject to conditions to salvage and re use the original bricks. An assessment of these impacts is included in **Section 5** of this report.



### NSW Office of Environment and Heritage

The NSW Office of Environment and Heritage raise no objection subject to an amendment of the last sentence to the condition as follows: *'it shall be recorded and interpreted with reference to the historical and Aboriginal analysis of the site'*.

The Applicant advised that they agree to the suggested changes by the NSW Office of Environment and Heritage to condition D2(b). Therefore, it is recommended that the suggested changes be incorporated in condition D2(b) should the modification be approved.

### NSW Heritage Council

On the 30 January 2013, the NSW Heritage Council advised that no issue is raised with the proposed alternative archaeological investigation strategy for the site. In this regard, the NSW Heritage Council seeks to reiterate their original advice stated in the letter issued to the proponent dated 23 October 2012. A copy of the original letter of advice is in **Appendix D**.

### Public Submissions

No public submissions were received in relation to the modification request.

## **5. CONSIDERATION OF PROPOSED MODIFICATIONS**

### **5.1 Aboriginal & European Archaeology**

The modification seeks approval to modify Condition D2(b) which requires full salvage excavation to be undertaken on site should a substantial and intact profile of medium / high significance be found during initial archaeological testing.

The Applicant's heritage consultant (Wendy Thorp) advises that results of the initial archaeological investigations reveal that the site contains an intact and substantial archaeological profile of high local significance that extends in time to at least the 1820s. In accordance with the terms of Condition D2(b) a full salvage excavation (to retrieve all information on the site) is therefore required. However, a full salvage excavation would require excavation of approximately 80% of the archaeological profile from the site.

The Applicant's heritage consultant has recommended that to mitigate the loss of information involved with substantial removal of an in situ archaeological profile through salvage excavation, that an alternate archaeological solution be adopted. This alternative solution seeks to preserve the majority of the archaeological profile in situ ahead of any further excavation associated with the current archaeological programme (salvage excavation). In summary the alternative archaeological programme addresses preserves the majority of the archaeological on site.

The alternate strategy recommended by the heritage consultant addresses all the issues related to the loss of information on the site while preserving the majority of the archaeological profile within the site. In particular:

- Initial archaeological testing indicates an intact archaeological profile exists within the site that extends in time to at least the 1820;
- There is nothing to be gained by additional testing when the integrity of the archaeological profile, impacted by excavation for construction demonstrate the profile is intact over the majority of the site;
- The impact from construction piles has a localised impact on integrity of the archaeological profile across the zones of high-medium significance;
- Impact of the salvage archaeological excavation (as required by the DGR's) will retrieve all information on the site but removes 80% of all deposits within the site. This method has a greater impact on the preservation or conservation of this profile than construction works;

- Loss of information provided by the archaeological profile caused by the excavations required for construction needs to be addressed even if the impact of the salvage excavation is determined to be inappropriate; and
- A strategy that reverts to using only those areas to be impacted by the construction works will not address the issue of information retrieval because of limitations caused by the sample size, extension in time, and safety issues to access the information.

The heritage consultant acknowledges a sampling program will not provide the comprehensive scope of information that a full salvage excavation would provide. However, it is anticipated it will provide a more detailed knowledge of the use and formation of the site that is now known with the advantage of preserving the majority of the archaeological profile in situ.

Further, prior to making this application, the Applicant met with the Heritage Council of NSW to seek a variation to the proposed archaeological requirements. On 23 October 2012, the Heritage Council provided a response to the Applicant advising that while this strategy has not been adopted for sites with similar archaeological potential, the proposed strategy is acceptable in this instance. Specifically, given that if it is found to be successful it may serve as a model for other similar archaeological sites in the future. A copy of the Heritage Council's correspondence was submitted with the modification application and is included in **Appendix D**.

Upon consideration of the application, the NSW Office of Environment and Heritage raise no objection subject to an amendment of the last sentence to the condition as follows: *'it shall be recorded and interpreted with reference to the historical and Aboriginal analysis of the site'*. In response, the Applicant advises they agree to the suggested changes.

On 14 January 2013, the Department sought a formal response from the NSW Heritage Council to the proposal. On 30 January 2013, the NSW Heritage Council advised that no additional issues are raised with the proposed alternative archaeological investigation strategy for the site. In this respect, the original advice issued to the proponent in the NSW Heritage Council's letter dated 23 October 2013 remains unchanged. A copy of the NSW Heritage Council's letter providing detailed advice, dated 23 October, is in **Appendix D**.

City of Sydney Council advise that the proposed alternative archaeological strategy is acceptable and may offer an improvement on the original strategy given that it seeks to retain more of the archaeological resource on site in its original profile.

Upon review, subject to minor amendments to the Applicant's proposed modified Condition D2(b), in accordance with NSW Office of Environment and Heritage comments, the Department supports the proposed modification.

## **5.2 Demolition and reinstatement of the Hart Street facade**

The modification also seeks to demolish a section of the Hart Street warehouse wall to enable designed louvre screen elements to be introduced (**Figures 3 and 4**). The intention is to reconstruct the particular wall section using existing bricks to match original. The proponent advises that unless the existing wall is demolished and reinstated, extensive structural modifications of the section of panel and footings are required.



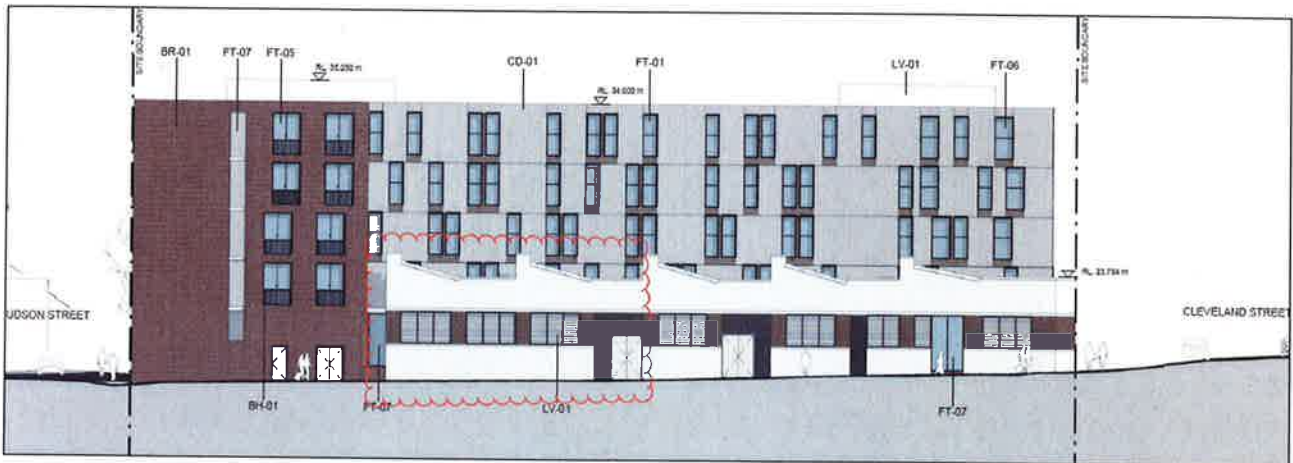


Figure 3: Section of Hart Street warehouse wall to be demolished and reinstated in context of approved elevation.

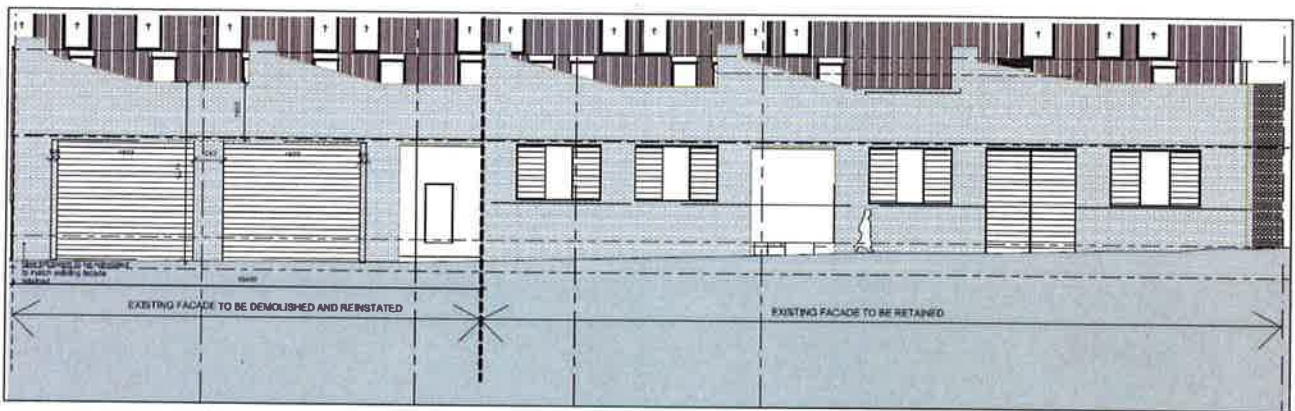


Figure 4: Designed louver screens with the section of wall to be demolished and reinstated in context of the existing façade.

City of Sydney Council advise that the proposed reconstruction of the Hart Street warehouse wall is acceptable subject to conditions to ensure that existing bricks are salvaged during demolition, cleaned and used in the re-construction. They also requested that the re-construction is designed, documented and supervised by an appropriately qualified heritage architect. In particular, Council advise that the brick set out, mortar composition and mortar detailing should match the adjacent retained fabric. The Department notes the Applicant agrees to the recommendations made by Council.

Conditions recommended by Council are sufficient to ensure materials and finishes are appropriate, noting that the reuse of existing bricks will provide an acceptable visual outcome, consistent with the existing façade treatment. Having regard to this, the Department is satisfied the impacts to the detailed design of the Hart Street façade can be minimised and therefore supports the modifications sought. Appropriate conditions of approval are therefore recommended.

## 6. CONCLUSION

The Department considers that the proposed modification is consistent with the originally approved project application (SSD-4949-2011). The amendments to the proposed modified Condition D2(b) provide the Applicant with flexibility to vary the standard approach to excavation of sites with similar archaeological potential, in an attempt to minimise the impact of excavation.

In relation to the proposed demolition and reconstruction of the Hart Street warehouse elevation, the Department is satisfied that subject to conditions, the heritage significance of the street elevation will not be adversely impacted upon.

The modification application has been assessed in accordance with the matters for consideration under section 96(1A) and 79C of the EP&A Act, and all relevant environmental planning instruments, and is considered to comply with all relevant items, subject to conditions.

It is recommended that the modification application be approved, subject to conditions, as recommended by the Department.

## 7. RECOMMENDATION

It is recommended that the Director, Metropolitan & Regional Projects South:

- (a) **Consider** the findings and recommendations of this report;
- (b) **Approve** the modification under delegated authority, subject to conditions; and
- (c) **Sign** the attached Instrument of Modification for SSD-4949-2011 MOD 3.

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## **APPENDIX A      MODIFICATION REQUEST**

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See the Department's website at:

<http://majorprojects.planning.nsw.gov.au>



## **APPENDIX B      SUBMISSIONS**

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See the Department's website at:

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## **APPENDIX C      RECOMMENDED MODIFYING INSTRUMENT**

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