

State Significant Development Section 96(1A) Modification No. 2



One Carrington Street, Sydney (SSD 5824)

Transport Interchange, Commercial and Retail Development

Submitted to Department of Planning and Environment
On Behalf of Sovereign Wynyard Centre Pty Limited

August 2016 ■ 12721

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| A | Draft Plans of Subdivision |
| | <i>RPS</i> |
| B | Draft Building Management Statement |
| | <i>King & Wood Mallesons</i> |

1.0 Introduction

This report is submitted to the Department of Planning and Environment pursuant to section 96(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify State Significant Development (SSD) 5824 relating to a Transport Interchange, Commercial and Retail Development at One Carrington Street, Sydney (SSD 5824).

The proposed modifications include the stratum subdivision of lots which currently form the land on which the One Carrington proposal is located.

The Section 96 Modification has been prepared by JBA on behalf of Sovereign Wynyard Centre Pty Limited or its nominee Brookfield, and is based on the Draft Subdivision Plans prepared by RPS (see **Appendix A**).

This report describes the site, its environs, the proposed development, and provides an assessment of the environmental impacts and identifies the steps to be taken to protect or lessen the potential impacts on the environment.

1.1 Background

1.1.1 The Concept Plan

On 3 April 2012, the Planning Assessment Commission, as delegate of the Minister for Planning and Infrastructure, granted Concept Approval to MP 09_0076 for Thakral Holding's 'CityOne development', comprising the upgrade of the eastern access ways to Wynyard Station, and retail and commercial development.

The Concept Plan has been modified on two occasions, with the most recent Concept Plan (Mod 2) application being approved on 25 September 2015.

The Concept Plan (as modified) provides for:

- upgrade of the eastern access ways to Wynyard Station including retail areas and concourse layout;
- indicative building envelope to a maximum height to RL159.7 AHD on the land between Carrington Street and George Street;
- use of the site for a mixed use development including commercial offices, business premises, shops, general retail food and drink premises, health/medical centre, public amenities, transport facilities; and tenant car parking;
- development of former Shell House and 285-287 George Street including refurbishments for the purpose of commercial and retail use.

1.1.2 State Significant Development 5824

In accordance with the Concept Approval, a SSD application for the upgrade of the eastern access ways to Wynyard Station and a retail and commercial development known as One Carrington Street was approved on 25 September 2015.

The SSD DA provides for:

- demolition of The Menzies Hotel, 301 George Street and eastern access ways to Wynyard Station, development above Wynyard Lane and partial demolition of Shell House and 285-287 George Street;

- upgrade of the eastern access ways to Wynyard Station including provision of a new Transit Hall, through site link, retail areas and concourse layout;
- construction and use of a 27 storey commercial building on the land between Carrington Street and George Street;
- construction of a retail / commercial loading dock and two levels of basement comprising 89 tenant car spaces and end of trip facilities;
- refurbishment of 285-287 George Street and Shell House for commercial and retail uses;
- signage zones; and
- public domain upgrades surrounding the site.

A S96(1A) (Modification No. 1) was submitted to the DPE and seeks to modify the SSD 5824 consent by way of further design refinements. That S96(1A) is currently under assessment.

This S96(1A) (Modification No. 2) seeks to modify the SSD 5824 consent to allow for stratum subdivision.

1.2 Background to the Modification

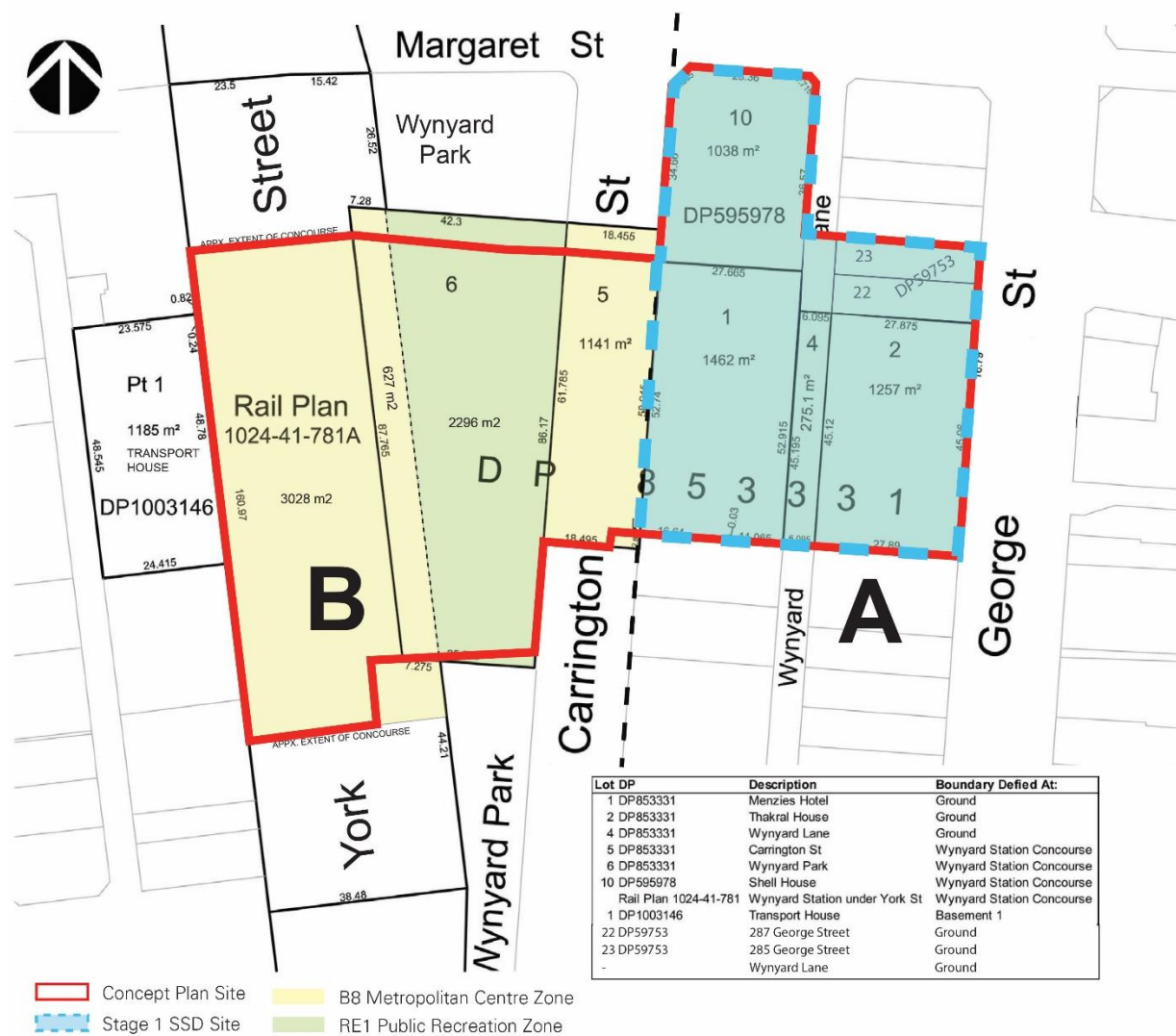
As part of the Delivery Agreement between Transport for NSW (TfNSW), RailCorp and the proponent, a subdivision plan (Clause 22) is to be prepared and approved which subdivides the Transit Hall and other land to create:

- The Office Lot;
- The Retail Lot;
- The Transit Hall Lot;
- The Road Lot;
- The Shell House Lot; and
- The 285 George Street Lot.

These are further described below in **Section 3**.

2.0 Site Description

The site comprises 301 George Street, the Menzies Hotel, Shell House, stratum above and below Wynyard Lane, and 285-287 George Street and has a site area of 4,452m². A plan illustrating each allotment is shown in **Figure 1**. These allotments vary in their substratum and air-rights across the site. The also includes part of the airspace above Wynyard Lane that does not currently form part of a stratum.



3.0 Proposed Modifications

This application seeks approval to modify the approved development to include the following development:

- Consolidation of existing lots on the site;
- Stratum subdivision and boundary re-alignment to create the following lots, allowing for suitable ownership and management rights:
 - Lot 11 (Shell House);
 - Lot 12 (Commercial Lot);
 - Lot 13 (Retail Lot);
 - Lot 14 (Transit Hall Lot);
 - Lot 15 (285 George Street); and
 - Lot 16 (Road Lot), with an upper limit of the road boundary being 4.3m above the sloping road plane.

The proposed lots are limited in height and depth as indicated on the subdivision plans (as indicated by part references 'pt.').

Subdivision drawings illustrating the proposed development are included at **Appendix A**.

3.1.1 Description of proposed lots

There are six lots proposed as part of this subdivision application. The location of these lots in relation to building levels are provided in **Table 1** below.

Table 1 – Location of proposed lots in regards to vertical levels

Level of site	Lot 11	Lot 12	Lot 13	Lot 14	Lot 15	Lot 16
Basement and below	Y	Y	Y		Y	Y
Hunter	Y	Y	Y		Y	Y
Concourse	Y	Y	Y	Y	Y	Y
George Street	Y	Y	Y	Y	Y	
Wynyard Lane	Y	Y	Y	Y	Y	
Carrington Street	Y	Y	Y	Y	Y	Y
Upper Ground	Y	Y	Y	Y	Y	Y
Mezzanine to Level 6	Y	Y			Y	Y
Level 7 and above	Y	Y			Y	Y

3.1.2 Easements

Each lot will have easements registered as appropriate. **Table 2** provides a summary of the specific easements as they apply to each level.

Table 2 – Location of easements across lots and levels

Easement	Basement and below	Hunter Connection	Concourse	George Street	Wynyard Lane	Carrington Street	Upper Ground	Mezzanine to Level 6	Level 7 and above
A: Vehicular Access	PT. 12: Commercial Lot	PT. 12: Commercial Lot	PT. 12: Commercial Lot	PT. 12: Commercial Lot	PT. 12: Commercial Lot				
B: Use and access goods lift		PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot				
C (proposed): Pedestrian access		PT13: Retail Lot							
D: Use and access shuttle lifts		PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot		
F: Vehicular access				PT. 12: Commercial Lot	PT. 12: Commercial Lot				
G: Use and access loading dock				PT. 12: Commercial Lot	PT. 12: Commercial Lot				
H: Light and air and maintenance								PT. 15: 285 George	PT. 15: 285 George
K: Light and air and maintenance 2.5 wide									PT. 11: Shell Hous
L: Support and shelter		External (Carrington Street)							
M: Pedestrian access				PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot	PT. 13: Retail Lot		
N: Maintenance		External (Carrington Street)							

3.1.3 Management of Subdivided Lots

A draft Building Management Statement (BMS) (see **Appendix B**) has been prepared to address the management of each lot within the site post-construction of the development. The Statement identifies responsibilities for the Transit Hall and the retail spaces in regards to repair and maintenance, cleaning (including garbage removal) and modifications, amongst other requirements.

The BMS gives effect to the offer from Brookfield to manage the Transit Hall in perpetuity in regards to repairs and maintenance which formed part of the Voluntary Planning Agreement that accompanied the approved DA.

The BMS is currently in draft form and will be finalised with agreement from all parties prior to registration.

3.1.4 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions. Specifically, the description of the approved development in Schedule 1 and the list of approved plans and documents in Condition A2 will need to be updated to reflect the proposed modification.

4.0 Substantially the Same Development

Section 96(1A)(b) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The Concept Approval MP 9_0076 required that prior to the determination of any future application pursuant to the Concept Plan that the proponent provide evidence of entering into a Voluntary Planning Agreement (VPA) for the provision of the Transit Hall, which forms part of the key public benefits delivered by the development.

In addition, the Concept Plan Statement of Commitments required the proponent to enter into a Delivery Agreement with Transport for NSW. Under the Delivery Agreement the parties are required to undertake subdivision of the development to enable the delivery of approved public benefit.

The proposed modification to include stratum subdivision as part of the approved development is substantially the same development as that originally approved, as the subdivision of the lots was always contemplated as part of the delivery of the public benefit required under the Concept Approval and proposed as part of the approved DA.

Further it is noted that the modification will not result in any physical changes to the approved development and the potential environmental impacts individually and cumulatively, are considered minor and will have no significant impacts beyond those considered during the assessment of SSD 5824.

5.0 Environmental Assessment

This section considers the planning issues relevant to the proposed modifications and contains our assessment of the environmental impacts of those proposed changes to the original development approval.

Section 96(3) of the EP&A Act requires a consent authority to take into consideration the matters referred to in Section 79C(1) that are of relevance to the development the subject of the application. The EIS submitted within the original SSD 5824 application addressed the environmental impacts identified in the Secretary's Environmental Assessment Requirements.

The planning assessment of the proposed modified development remains unchanged with respect to the above matters, however the following matters require further assessment.

5.1 Consistency with Statutory and Strategic Plans

The SSD5824 demonstrated that the proposed development will comply with / is consistent with the relevant strategies, environmental planning instruments, and Concept Plan as determined in the DGRs. This section 96 modification will not result in a non-compliance or inconsistency with any of the below strategies, policies or guidelines:

- NSW 2021
- Metropolitan Plan for Sydney 2036
- A Plan for Growing Sydney
- NSW Long Term Transport Master Plan
- The Sydney City Draft Sub-Regional Strategy
- Sustainable Sydney 2030
- City of Sydney Competitive Design Policy
- Development Near Rail Corridors and Busy Roads-Interim Guideline
- NSW Bike Plan 2010
- Cycle Strategy and Action Plan 2007-2017
- Heritage Council Guidelines Assessing the Significance of Archaeological Sites and Relics
- Crime Prevention Through Environmental Design principles

Furthermore, the proposed modifications will not result in any inconsistencies with the following legislation and environmental planning instruments as they apply to the approved development:

- *Environmental Planning and Assessment Act 1979*
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy (SEPP) 55 – Remediation of Land
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development) 2011
- Sydney Local Environmental Plan 2012
- Sydney Development Control Plan 2012

5.2 Consistency with Approved Concept Plan

The Concept Plan Approval and Concept Plan Modification (MP 9_0076 Mod 2) establishes the vision and planning framework to assess the detailed design of the future development on the site.

The proposed development as proposed to be modified remains consistent with the Terms of Approval and Modifications set out in Schedules 2 and 3 of the Concept Plan. Importantly the modification to include stratum subdivision will set up the ownership and management arrangements for the provision of the upgraded eastern access ways to Wynyard, a mixed use development between George and Carrington Streets, and adaptive reuse of the former Shell House and 285 George Street.

The modifications proposed as part of this section 96 application do not change the overall development's consistency with the approved Concept Plan Statement of Commitments. The modification will facilitate the delivery of the subdivision as required under the Delivery Agreement which was required under the Statement of Commitments.

5.3 Easements for Access and Maintenance

As detailed in Section 3.1.2, the proposed development ensures suitable easements are applied to the proposed lots to ensure that maintenance and public access is provided through the relevant parts of the site in perpetuity.

5.4 Infrastructure and Servicing Provision

No additional physical works are proposed as part of the modification. All infrastructure and servicing provision for the future development within the lots is provided under the approved development with easements proposed for the services where appropriate.

5.5 Public Interest

The subdivision proposed as part of this application is in the public interest, as it will facilitate the future ownership and management of the approved development including the provision of the Transit Hall and concourses into the Wynyard Railway Station in accordance with the Project Delivery Agreement between Brookfield and Transport for NSW.

6.0 Conclusion

The proposed modification to include stratum subdivision will facilitate the future ownership and management arrangements of the One Carrington development. The modification importantly provides the formal framework for the delivery of the public benefit that formed part of the approved DA.

The proposed modification is substantially the same development as that originally approved, as the subdivision of the lots was always contemplated as part of the delivery of the public benefit required under the Concept Approval and proposed as part of the approved DA.

The proposed changes will not result in any new or additional environmental impact outside of those already assessed and approved in the original SSD 5824 application.

The modified development remains consistent with the approved Concept Plan and relevant statutory and strategic plans and policies that apply to the site.

In accordance with Section 96(1A) of the EP&A Act, the Department may modify the consent as:

- the proposed changes are of minimal environmental impact; and
- the consent as proposed to be modified, is substantially the same development as development for which the consent was granted.

Given the merits described above, and significant public benefits proposed, it is requested that the application be approved.