

6 June 2016

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Dear Natasha

[Section 96\(1a\) amendment to SSD 14 6387 at 1 Burroway Road, Wentworth Point](#)

This submission has been prepared as supporting documentation for an application made pursuant to Section 96(1a) of the Environmental Planning and Assessment Act 1979 to modify Development Consent SSD 6387 for the construction of three 8-storey residential buildings above ground floor retail/commercial podiums and a three level basement structure and associated public domain works at 1 Burroway Road, Wentworth Point.

The application seeks consent to provide a canopy structure over the central open air plaza area in order to provide weather protection, as well as the addition of a small café at the southern end of the central open air plaza.

1.0 [Site Description](#)

The site comprises a portion of Lot 1 in DP 859608 and is known as 1 Burroway Road, Wentworth Point. The site is located on the northern side of Burroway Road at the junction of Hill Road.

The site is currently in the ownership of the Sydney Olympic Park Authority and contains the Sydney Olympic Park Ferry Wharf, an internal loop road which provides access to the ferry terminal, a small car park, as well as a large grassed area adjacent to Burroway Road which occupies the majority of the site and is bordered by a line of trees along each side.

The current site will be subdivided by the Sydney Olympic Park Authority to create the development site, which is approximately the location of the existing large grassed area. The notional site is rectangular in shape and has an area of 10,430 square metres. The south-western boundary of the site adjacent to Burroway Road is approximately 100 metres in length and the site is currently relatively level.

2.0 [Background](#)

On 1 December 2014, the Secretary of the Department of Planning and Environment granted approval for State Significant Development Application 6387 for the construction of three 8-storey residential buildings above ground floor retail/commercial podiums and a three level basement structure and associated public domain works at 1 Burroway Road, Wentworth Point.

The development specifically involves the erection of a two ground level commercial podiums, above three common basement levels, which are separated by a central open air plaza. The larger western podium contains a small supermarket and speciality retail stores, above which are two residential buildings. The smaller eastern podium also contains speciality retail stores as well as a cafe, above which is located one residential building.

The two lower basement levels provide parking for residents, whilst the upper basement level provides parking for retail customers.

The three residential buildings which rise above the podium level are crafted as three thin blades along a north-south axis. As each building rises it begins to step back from the northern boundary which provides relief when viewed from the River and generates a high level of modulation and articulation to the buildings which take on a sculptural form.

The development also involves the construction of the public domain surrounding the site comprising a new road parallel to the Parramatta River between the proposed development and the existing ferry wharf, and also a new service street along the south-eastern boundary of the site.

The proposal has been subsequently amended several times for a range of minor amendments to the development and apartment layouts.

3.0 Proposed Modifications

3.1 New canopy

The proposal seeks to amend the approved development to provide a canopy structure above the central open air plaza area to provide weather protection for patrons and also the public. The existing awnings along both sides of the plaza are to be increased in height from 2.5 metres to 3.5 metres and the new canopy will sit above and extend of the awnings on either side. This arrangement provides for complete weather protection however also allows for the free movement of air within the plaza area.



Figure 1: Proposed new canopy facing north



Figure 2: Proposed new canopy facing south

3.2 New cafe

The proposal seeks to amend the approved development to provide a new 50 square metres café at the southern end of the open air plaza. The café has been designed with a chamfered eastern side to ensure that the visual connection from Burroway Road through the site remains, and will provide for additional activation of the through site link.

4.0 Statutory Planning Framework

4.1 Section 96(1A)

Section 96(1A) of the Environmental Planning and Assessment Act 1979 empowers Council to modify a development consent, as follows:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) 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), and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) 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.*

In accordance with section 96(1A)(a) the proposed modification is considered to result in only a minor environmental impact for the following reasons:

- The application results in only minor material changes to the approved development when considered within the context of the overall approved development as a result of design refinement to the development and retains the fundamental components of the approved layout and spatial characteristics of the development.
- The overall configuration of the development is unchanged and the proposed amendments will provide improvements to the amenity of the open air plaza through the site.
- The modification will not result in any impact on the amenity of the adjoining properties or the locality generally beyond that which has already been approved.
- The amendments are such that they do not require any further detailed consideration of built form or further analysis of the development.

For these reasons the development is considered to be of minimal environmental impact and can therefore be considered under section 96(1A) of the Environmental Planning and Assessment Act 1979.

4.2 Environmental Planning Instruments

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979 in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The Environmental Impact Statement submitted with the original State Significant Development application addressed the proposed development's level of compliance against the relevant planning instruments, including:

- NSW 2021
- Draft Metropolitan Strategy for Sydney 2031
- Draft West Central Subregional Strategy
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Major Development) 2005
- Sydney Regional Environmental Plan – Sydney Harbour Catchment 2005
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Olympic Park Masterplan 2030
- Sydney Olympic Park Wentworth Point Precinct Masterplan 2030
- Sydney Olympic Park Access Guidelines 2011
- Sydney Olympic Park Major Event Impact Assessment Guidelines
- Sydney Olympic Park Urban Elements Design Manual
- Sydney Olympic Park Environmental Guidelines
- Sydney Olympic Park Stormwater and Water Sensitive Urban Design Policy

The proposed modifications do not affect the proposed development's level of compliance with the majority of the relevant planning instruments. The relevant matters are considered below:

4.3 State Environmental Planning Policy (Major Development) 2005

4.3.1 Building Height

The SEPP provides a maximum height for the site 30 metres. The proposed amendments do not result in any change to the approved height of the development.

4.3.2 Floor Space Ratio

The SEPP suggests a maximum floor space ratio (FSR) for the site of 2.25:1. The originally approved development marginally exceeded the FSR control with a density 2.63:1 and a gross floor area of 27,447 square metres. The proposal was subsequently amended via a Section 96 application to reduce the gross floor area of the development by 175 square metres to a gross floor area of 27,272 square metres and an FSR of 2.615:1.

The proposed 50 square metre café will result in a minor increase in the gross floor area to 27,322 square metres and an FSR of 2.62:1 which remains lower than the originally approved gross floor area of the development. Accordingly, the proposed density is within the environmental capacity of the site which has previously been considered to be acceptable by the Department.

4.3.3 Remaining Provisions

The subject proposal is only for minor design amendments to the approved development and does not require any further consideration against the remaining provisions of the SEPP beyond those which were considered in the assessment of the original development application.

4.4 Sydney Olympic Park Masterplan 2030 and the Sydney Olympic Park Wentworth Point Precinct Masterplan 2030

A new master plan for the site was approved in 2011 and is known as the Wentworth Point Precinct Masterplan 2030. The Wentworth Point Precinct Masterplan 2030 provides that the general controls in Part 3 and 4 of the overall Sydney Olympic Park Masterplan 2030 apply to the site where relevant and the Wentworth Point Precinct Masterplan 2030 provides specific controls for the site in relation to land uses, FSR, number of storeys, vehicular and pedestrian access to site, through-site links, and setbacks.

The Masterplan contains provisions in relation to the following matters:

- Access and Parking
- Site Configuration
- Floor Space Ratio control
- Land Use control
- Building Height control
- Building Zone and Setback controls
- Event Controls (Vehicle Entry)
- Public Domain Controls

The proposed amendments are only for minor design amendments to the approved development as a result of a design refinement process and do not generate the need for any further consideration against the above matters contained within the Masterplan beyond those which were considered in the assessment of the original development application. The proposal retains the through-site link as required by the Masterplan and whilst the café is located within the through site link it has nonetheless been designed with a chamfered edge to ensure that a visual connection through the site remains and it is considered to provide an improvement to the through-site link by increasing activation at the southern end of this space.

5.0 Environmental Assessment

The EIS submitted with the original SSD addressed the following Environmental Assessment matters:

- Built Form and Urban Design including height, bulk and scale as well as design quality
- Environmental Amenity including overshadowing, solar access, acoustic impacts, visual privacy and view loss, and wind impacts
- Ecologically Sustainable Development
- Noise and Vibration
- Transport and Accessibility
- Major Events
- Utilities
- Contributions
- Biodiversity
- Flooding
- Drainage and Stormwater Overland Flow Paths and Site Levels
- Water Quality
- Servicing and Waste
- Sediment, Erosion and Dust Measures
- Environmental Risk Assessment

The proposed modifications retain the fundamental elements and character of the approved development which was informed by the detailed specialist technical reports. The proposed refinements to the approved development are of a minor nature such that the findings, and conclusions of the specialist reports remain relevant to the amended proposal and do not necessitate any further specialist reports.

Overall, the proposed modifications are considered to provide an improved outcome in comparison to the approved development as the modified development achieves:

- improved amenity for patrons and the public using the through site link with significantly improved weather protection which allows the use of the space in inclement weather; and
- improved resolution and activation to the southern end of the through site link with the introduction of a café to increase activity within the space.

The proposed amendments do not alter the conclusions reached in relation to the above environmental assessment matters for the approved development.

6.0 Conclusion

The application seeks to modify Development Consent SSD 6387 to provide a canopy structure over the central open air plaza area in order to provide weather protection, as well as the addition of a small café at the southern end of the central open air plaza.

The amended proposal retains the fundamental components of the approved layout and spatial characteristics of the development. The amended proposal results in a minor increase to the gross floor area, however, the gross floor area remains less than that which was originally approved for the development. The amended proposal achieves an improvement to the amenity of the through site link.

As detailed in this submission the proposed modifications may be made by the consent authority in accordance with Section 96(1A) of the Environmental Planning and Assessment Act 1979 as the proposed amendments are of minimal environmental impact, do not radically transform the proposal or alter the overarching fundamental characteristics of the original approval, and so the amended proposal is appropriately categorised as being “substantially the same” as the approved development.

The proposed amendments remain consistent with the aims and objectives of the relevant environmental planning instruments and policies and will not result in any adverse impacts on the amenity of the locality. Accordingly, the proposed amendments are considered acceptable and therefore warrant approval.

If you have any questions regarding the proposed amendment please do not hesitate to contact me on 0410 452 371.

Yours faithfully



Aaron Sutherland

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