



AA/SM/MR
17101
8 September 2017

Carolyn McNally
Secretary
Department of Planning and Environment
Level 22, 320 Pitt Street
SYDNEY NSW 2000

Dear Ms McNally,

**SECTION 96(1A) MODIFICATION APPLICATION - SSD 6513
BUILDING R1, BARANGAROO SOUTH**

On behalf of Lendlease (Millers Point) Pty Ltd, we hereby submit an application pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') to modify State Significant Development Application ('SSDA') SSD 6513 relating to Building R1, Barangaroo South ('the site').

The modification (Modification 3) seeks changes to the ground floor outdoor dining area in response to design development and liquor licensing requirements, and the introduction of integrated signage zones within the revised ground floor design. These amendments do not impact on the built form, scale or aesthetics of the development and will not affect access from the public domain. The development, as proposed to be modified, will remain substantially the same as approved.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in Section 96(1A) and Section 79C of the EP&A Act. It should be read in conjunction with the Environmental Impact Statement (EIS) prepared by JBA dated 14 August 2015. The application is additionally accompanied by:

- Architectural Plans prepared by Collins and Turners (**Attachment A**); and
- Acoustic Statement prepared by The Acoustic Group (**Attachment B**).

1.0 CONSENT PROPOSED TO BE MODIFIED

SSD 6513 was lodged with the Department of Planning and Environment ('the Department') in October 2014. Prior to the determination of SSD 6513, the Proponent submitted an amended application in August 2015. The amended SSDA specifically provided for the fitout and use of Building R1 as a pub, in accordance with the definition under the *Standard Instrument Local Environmental Plan*.

Development consent for SSD 6513 was granted on 25 August 2016, specifically for the following components of development:

- site preparation works;
- construction and fit-out of a three-storey food and drink premises (pub) building (known as Building R1) with a maximum GFA of 804m²;

- allocation and use of 15 car parking spaces within the basement car park for the future use(s) of building R1;
- use of 1 bicycle parking space within the adjacent public domain for the future use(s) of building R1;
- landscaping works; and
- installation of utility services.

A separate Section 96(1A) Modification Application (Modification 1) was lodged with the Department on 12 May 2017 to SSD 6513 which proposes the addition of retractable awnings for solar protection. Modification 1 was approved 28 July 2017.

An additional Section 96(1A) Modification Application (Modification 2) was lodged with the Department on 1 June 2017 to SSD 6513 which proposed minor design amendments at ground level and at the rooftop/plant room. Modification 2 was approved on 7 July 2017.

Separately, Complying Development Certificate (CDC) 17/124029-1 in relation to Building R1 was issued 20 March 2017 and granted consent for the installation of polycarbonate works at roof level to provide weather protection and the installation of a structural steel platform at mezzanine level.

2.0 PROPOSED MODIFICATIONS TO DEVELOPMENT CONSENT

As detailed in the Architectural Plans prepared by Collins and Turner and provided at **Attachment A**, this modification proposes changes to the ground floor outdoor dining area of Building R1 and includes the following:

2.1 Planter Boxes

The approved planter boxes are proposed to be refined to demarcate the ground floor outdoor dining area of Building R1, from the adjoining public domain. This will clearly delineate the licensed premises and extent of the licenced area, in accordance with liquor licensing and management requirements, and reduce overflow into the public domain.

The amended planter boxes will be folded metal and will include:

- A planter box with a height of 900mm to be positioned to delineate the northern licensed outdoor dining area;
- A planter box with a height of 900mm to be positioned to delineate the south eastern licensed outdoor dining area; and
- The introduction of planter boxes to fill the space between approved planter boxes on the western façade.

The planter boxes will contain integrated seating and landscaping with a materiality consistent with the existing design. The outdoor seating will align with the outdoor areas of the above levels of the building. The patron capacity of the outdoor areas will remain unchanged.

2.2 Signage Zones

A total of six (6) signage zones are proposed to be integrated within the refined ground level design and layout. The zones will be positioned above entry doors and against the proposed ground floor steel planter boxes surrounding the building. Specifically:

- A signage zone with dimensions of 1200mm x 600mm is proposed over the entry door on the north-east corner of building façade;

- A signage zone with dimensions of 2000mm x 600mm is proposed on the exterior of the steel planter box on the northern façade adjacent to the entry door;
- A signage zone with dimensions of 2000mm x 600mm is proposed on the exterior of the steel planter box on the southern façade; and
- A signage zone with dimensions of 2000mm x 600mm is proposed on the exterior of the steel planter box on the western façade.

2.3 Additional Design and Layout Changes

Additional minor design and layout changes to the ground floor outdoor dining of Building R1 are proposed. These include:

- Alteration of ground floor handrails to match existing public domain handrails;
- Change of operable to fixed window glazing for the northern façade;
- The relocation of the water metre to the eastern garden bed;
- Revised external table lighting and seating configuration; and
- Redistribution of external ground floor seating, including provision of an additional zone on the south eastern corner of the building.

2.4 Modifications to the Conditions

This modification proposes additional amendments to the conditions of development consent SSD 6513, which are identified below. Words proposed to be deleted are shown in **~~bold-strike through~~** and words to be inserted are shown in ***bold italics***.

A2 DEVELOPMENT IN ACCORDANCE WITH PLANS AND DOCUMENTATION

The development will be undertaken in accordance the following documents and plans:

Environmental Impact Statement entitled 'Building R1 (SSD 6513-2014), Barangaroo South' and accompanying appendices, prepared by JBA Urban Planning Consultants Pty Ltd and dated October 2014; and 'Section 96(1A) Modification Application – SSD 6513' and associated attachments prepared by JBA Urban Planning Consultants and dated 12 May 2017; and 'Section 96(1A) Modification Application – SSD 6513' and associated attachments prepared by JBA Urban Planning Consultants and dated 1 June 2017; and 'Section 96(1A) Modification Application – SSD 6513' and associated attachments prepared by JBA Urban Planning Consultants and dated 23 August 2017'			
Amended Application and Response to Submissions report entitled 'Amended Application and Response to Submissions, Building R1, Barangaroo South (SSD 6513)' and accompanying appendices, prepared by JBA Urban Planning Consultants Pty Ltd and dated 14 August 2015			
Amended Application RTS consisting of emailed Response to Submissions dated 3 December 2016 and Building R1 Barangaroo South Updated Operational Acoustic Report dated 6 June 2016			
Remedial Action Plans entitled Overarching Remedial Action Plan for the Barangaroo Project Site, Sydney, prepared by Environmental Resources Management Australia and dated June 2010, and Amended Remedial Action Plan Barangaroo ORWS Area, prepared by AECOM Australia Pty Ltd and dated July 2011			
Architectural Plans prepared by Collins and Turner			
Drawing No.	Revision	Name of Plan	Date
BR1-ASK-12-04-05	E	Site Locality Plan	17/07/2015
BR1-ASK-12-00-00	AD AG	Ground Floor Plan	18/05/17 22/08/2017
BR1-ASK-12-01-00	U	Level 1 Plan	17/07/2015
BR1-ASK-12-02-00	U	Level 2 Plan	17/07/2015
BR1-ASK-12-03-00	K	Roof Canopy Plan	27/07/2015
BR1-ASK-12-04-00	N	Plant Room Roof Plan	18/05/17
BR1-ASK-13-00-00	B E	Ground Level Fitout Plan	27/07/2015 22/08/2017
BR1-ASK-13-01-00	A	Level 1 Fitout Plan	29/06/2015
BR1-ASK-13-02-00	A	Level 2 Fitout Plan	29/06/2015
BR1-ASK-12-00-11	Y AB	Section (East-West)	18/05/17 20/07/2017
BR1-ASK-12-00-12	R U	Section (North-South)	18/05/17 22/08/2017

BR1-ASK-12-00-21	W Y	Elevation East	18/05/17 22/08/2017
BR1-ASK-12-00-22	T X	Elevation North	18/05/17 22/08/2017
BR1-ASK-12-00-23	R U	Elevation South	18/05/17 25/07/2017
BR1-ASK-12-00-24	P U	Elevation West	18/05/17 22/08/2017
BR1-ASK-12-00-50	F	Materials Schedule	25/03/2015
Basement Car Park Plans prepared by Lend Lease Design			
Drawing No.	Revision	Name of Plan	Date
BR1_ASK_PA1_0001	01	Basement Level 1	01/09/2014
BR1_ASK_PA1_0002	01	Basement Level 2	01/09/2014
BR1_ASK_PA1_0003	01	Basement Level 3	01/09/2014
BR1_ASK_PA1_0101	01	Cross Section 1-1	01/09/2014
BR1_ASK_PA1_0102	01	Longitudinal Section 2-2	01/09/2014
Solar Protection Awning Location Plans prepared by H&E Architects			
Drawing No.	Revision	Name of Plan	Date
AD1020	02	Level 1 Solar Protection Awning Locations	20/04/2017
AD1030	02	Level 2 Solar Protection Awning Locations	20/04/2017
AD3100	02	Cross Section Solar Protection Awning Locations	20/04/2017

Rationale: This proposed modification reflects the updated referencing of the amended Architectural Plans which illustrate the design amendments sought (refer to **Attachment A**).

3.0 SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96(1A) 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 the consent was originally granted and before that consent as originally granted was modified (if at all)”*. The development, as proposed to be modified, is substantially the same development as that originally proposed in that:

- the approved gross floor area and maximum height of the building will not be altered;
- the approved use remains unchanged;
- the ground plane changes do not alter the building footprint or tenancy area at ground level;
- the patron capacity, licensing and dining plan of the restaurant and pub are retained as approved;
- the refinement to the ground level enabled the integration of tenant identification signage into the approved design rather than a separately conceived element;
- the ground level modifications are minor in nature and will not alter or impede public access; and
- the modifications do not give rise to any new or different potential environmental impacts compared to the approved development in terms of the relevant matters under Section 79(C) of the EP&A Act.

4.0 PLANNING ASSESSMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. The following assessment demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 State Environmental Planning Policy (State Significant Precincts) 2005

As the proposed design modifications do not alter the approved use of Building R1, the development remains permissible with consent under the applicable *B4 Mixed Use* zoning.

It is also acknowledged that Building R1 will remain consistent with the objectives of the *B4 Mixed Use* zone in that development will continue to contribute towards a precinct of diverse and compatible land uses. The modifications do not alter the consistency of the approved development with the maximum height and gross floor area provisions of the SEPP.

4.2 State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP 64 applies to all signage that can be displayed with or without development consent and is visible from any public place or public reserve, except as otherwise provided in that policy. The Architectural Plans (**Appendix A**) identify zones for signage which illustrate the indicative location and size of future signage.

The detailed design of the signage, including the exact content, materiality and details of illumination, will be subject to separate development consent.

Notwithstanding, the signage zones are consistent with the objectives of SEPP 64 and satisfies the criteria specified in Schedule 1 of SEPP 64 as outlined in **Table 1** below:

Table 1 – Assessment of the proposal against assessment criteria set out at Schedule 1 of SEPP 64

Assessment Criteria	Comments	Compliance
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The provision of signage zones and their location is consistent with the desired future character for buildings within the Barangaroo site. The proposed signage will be consistent in look and feel with other high-quality signage proposed within the Barangaroo South precinct.	Y
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?		Y
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The signage zones will ensure future signage does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage area, natural or other conservation areas, open space areas, waterways, rural landscapes, or residential areas. The compatibility of the proposed signage is consistent with the planning principles contained within the <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> below.	Y
Does the proposal obscure or compromise important views?	The proposed signage zones are positioned to ensure any future signage will not detract and or obscure any important views or vistas.	Y
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage zones are located on the ground floor of building R1 and will not dominate the skyline or reduce the quality of vistas.	Y
Does the proposal respect the viewing rights of other advertisers?	The proposed signage zones will not impact on the viewing rights of any advertisers.	Y
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, form and proportion of the signage zones is minimal, and will ensure any future signage will not be unobtrusive to the surrounding built form, and appropriate for the setting.	Y
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage zones have been carefully integrated into the design of the outdoor dining area, being wall-mounted and integrated within the proposed planter boxes.	Y
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	N/A	N/A
Does the proposal screen unsightliness?	N/A	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage zones do not protrude above buildings, structures or tree canopies in the area or locality.	Y

Assessment Criteria	Comments	Compliance
Does the proposal require ongoing vegetation management?	The proposed signage zones will not require vegetation management.	Y
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The positioning, size and scale of the signage zones will ensure any future signage is integrated with the characteristics of the outdoor dining area and Building R1.	Y
Does the proposal respect important features of the site or building, or both?	The proposed signage zones are respectful of, and will not distract from, the design of Building R1.	Y
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage zones will ensure all future signage is strategically positioned to ensure a cohesive integration with the outdoor dining area, and overall design of Building R1.	Y
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	N/A	N/A
Would illumination result in unacceptable glare?	N/A	N/A
Would illumination affect safety for pedestrians, vehicles or aircraft?	N/A	N/A
Would illumination detract from the amenity of any residence or other form of accommodation?	N/A	N/A
Can the intensity of the illumination be adjusted, if necessary?	N/A	N/A
Is the illumination subject to a curfew?	N/A	N/A
Would the proposal reduce the safety for any public road?	The signage zones have been positioned to ensure any future signage relating to Building R1 does not adversely impact or reduce the safety of any public roads.	Y
Would the proposal reduce the safety for pedestrians or bicyclists?	The signage zones have been positioned to ensure any future signage relating to Building R1 does not adversely impact or reduce the safety of pedestrians or bicyclists.	Y
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage zones have been positioned to ensure any future signage relating to Building R1 does not obscure sightlines from public areas.	Y

4.3 Barangaroo Concept Plan (MP06_0162 Modification 8)

Clause 3B(2)(d) of Schedule 6A under the EP&A Act prohibits the consent authority from granting consent for development unless it is satisfied that the development is generally consistent with the terms of an approved Concept Plan, in this case being the approved Barangaroo Concept Plan (as modified).

Given that the proposed modifications under this application do not seek to alter the built form or land use of Building R1, the development remains consistent with the Terms of Approval of the Barangaroo Concept Plan (as modified).

An assessment of the proposed design modifications against the 'Barangaroo South Built Form and Urban Design Controls', as approved under the Barangaroo Concept Plan (as modified), is provided at **Table 2** below.

Table 2 – Assessment against the Barangaroo South Urban Design Controls

Control	Comment
Control 3: Building Articulation <u>Objectives:</u> <ul style="list-style-type: none"> To establish an articulated, well-proportioned building mass. <u>Standard:</u> <ul style="list-style-type: none"> To reduce the impact of the buildings mass, the envelope and floor plates are to be horizontally and/or vertically articulated, in particular at upper levels. Building Form is to express sustainability features such as for example access to natural light, ventilation and solar shading. 	The design modifications do not propose any alteration to the approved envelope of Building R1. The development will remain appropriately proportioned and articulated.
Control 5: Ground Floor Permeability and Accessibility of Public Realm <u>Objectives:</u> <ul style="list-style-type: none"> To provide permeability and accessibility through Barangaroo South. <u>Standard:</u> <ul style="list-style-type: none"> Public access around the Block is to be maintained on all edges. To provide one north to south and four east to west primary connections. 	The refinements to the planter boxes will not impact on the permeability or accessibility through Barangaroo South. It is specifically noted that the Concept Plan only requires public access around the edges of the block and not through the block.
Control 8: Active Frontages <u>Objectives:</u> <ul style="list-style-type: none"> Ensure an activated domain at street level with access to shops, lobbies, etc. Ensure that Ground Floor retail uses activate the waterfront. At least 70% of the ground floor frontages to the pedestrian waterfront shall comprise retail or entertainment uses, open to the public to activate the adjoining foreshore pedestrian promenade <u>Standard:</u> <ul style="list-style-type: none"> Building entrances to internal areas such as residential lobbies, exit ways and service areas or loading docks shall be considered as part of the 70% active requirement. Building service areas, parking entrances and loading docks will not be located on the promenade with the majority of servicing occurring from the basement. 	The modifications will not detract from the approved activated frontage of Building R1. Planter boxes proposed to demarcate the licensed premises of Building R1 are architecturally treated and are of a size which does not interfere with the public domain. The redistribution of the outdoor seating to include a new area on the south eastern corner of R1 will activate a previously un-activated frontage of the building occupied by services and achieve a higher level of performance against the 70% activation standard.

Overall, the proposed design modifications are minor. Importantly, Building R1 will remain consistent with the Barangaroo South Built Form and Urban Design Controls with respect to building mass, location, and permeability and accessibility.

4.4 Acoustic

An Acoustic Statement has been prepared by The Acoustic Group and is provided at **Attachment B**. The statement details the modifications proposed will not generate adverse acoustic impacts to surrounding sensitive receivers, inconsistent with the acoustic assessment prepared and approved under the original consent of Building R1.

5.0 CONCLUSION

This modification application seeks to make a number of layout and design amendments to the ground floor outdoor dining area of Building R1, Barangaroo South as approved under State Significant Development Application SSD 6513. These amendments now sought are a result of design development and liquor licencing requirements which can be expected in any substantial project.

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

- the proposed modifications are minor in nature;
- the proposed modifications are of a minimal environmental impact; and
- the proposed modification is substantially the same as the development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification. Should you have any queries in relation to the above, please do not hesitate to contact me on 9409 4971 or aantoniazzi@jbaurban.com.au.

Yours faithfully,



Arcangelo Antoniazzi
Urban Planner



Samantha Miller
Senior Planner