



BH/MR  
10051  
26 May 2017

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

Attention: Cameron Sargent (Team Leader, Key Site Assessments)

Dear Cameron

## **SECTION 96(1A) MODIFICATION APPLICATION BUILDING R7, BARANGAROO SOUTH**

On behalf of Lendlease (Millers Point) we hereby submit an application pursuant to section 96(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent SSD 6623 relating to the construction and use of Commercial Building R7, Barangaroo South.

The modification seeks a minor amendment to Condition F3 of the development consent relating to the use of car parking spaces. Specifically, the application seeks to allow for the sharing of car parking spaces approved for Building R7 within the combined Stage 1A basement, amending the current restriction that these spaces must be used in association with the premises within Building R7. The sharing of spaces is proposed to be only on a like for like basis and only where sharing does not exceed any maximum parking limitation. This application identifies the consent and describes the proposed modification.

### **1.0 BACKGROUND**

#### **1.1 CONSENT PROPOSED TO BE MODIFIED**

Development consent SSD 6623 was granted by the Minister on 11 August 2015 for:

- Site preparation works;
- Construction of a five-storey mixed use commercial and retail building (known as R7) with a maximum GFA of 1,927m<sup>2</sup>;
- Fit-out and use of the public amenities (toilet) area on the ground floor of building R7;
- Fit-out and use of the internal amenities (toilet) area on Level 2 of Building R7;
- Treatment of the above ground basement riser to the east of building R7;
- Allocation and use of 13 car parking spaces within the basement car park for the future use(s) of building R7;
- Allocation and use of 2 bicycle parking spaces within the basement car park for the future use(s) of building R7; and
- Installation of utility services.

## 1.2 Stage 1A Basement

The Stage 1A basement at Barangaroo was approved under MP10\_0023. This Project Approval provided consent for the construction of the basement and only allocated parking spaces, infrastructure, circulation, storage and other uses on an indicative basis.

Individual project applications / development applications have then sought approval for the detailed use of components within the basement, including the number of spaces allocated to each building, in accordance with the maximum parking rates defined in the approved Concept Plan (as modified).

## 1.3 Allocation of Car Parking Spaces

Each individual building application has sought approval for a maximum number of car parking spaces. This will ultimately result in the approval of a total number of spaces that is in excess of those able to be physically provided in the basement (capacity for 725 spaces). This strategy was adopted in order to allow for a level of flexibility for the allocation of (finite) parking to individual buildings, within the allowable Concept Plan maximum prescribed rates.

**Table 1** outlines the approved number of spaces based on uses per building, as well as the allocation of spaces to each individual building (based on the approved and future subdivision). The allocation of spaces is ordinarily equal or lower than the approved maximum. Overall, it is evident that a total of 737 spaces will be approved within the Stage 1A basement, whilst only 725 are able to be physically used considering the size constraint of the basement.

As such, not all buildings have been allocated their total maximum number of spaces.

**Table 1** – Breakdown of approved and registered car parking spaces

Approved Car Parking Spaces					Allocation (including split by subdivision stage)			
Building	Commercial	Retail	Residential	Total	Stage 1 Subdivision (approved)	Stage 2 Subdivision (approved but not registered)	Future Subdivision (indicative)	Total
T1 (C3)	186	8	-	194	182		12	194
T2 (C4)	161	2	-	163	163			163
T3 (C5)	143	5	-	148	148			148
C2	10	2	-	12	-	12		12
R1	-	15	-	15	-	4		4
R7	1	12	-	13	-	12	1	13
R8/R9	-	1	172	173	172	-		172
<b>Total Approved</b>	<b>501</b>	<b>45</b>	<b>172</b>	<b>718</b>	<b>665</b>	<b>28</b>	<b>13</b>	<b>706</b>
PROPOSED FUTURE	Commercial	Retail	Residential	Total	Stage 1 Subdivision (approved)	Stage 2 Subdivision (approved but not registered)	Future Subdivision (indicative)	Total
C1	17	2	-	19	-	-	19	19*
<b>Total</b>	<b>518</b>	<b>47</b>	<b>172</b>	<b>737</b>	<b>665</b>	<b>28</b>	<b>32</b>	<b>725</b>

*\*Note: Only 19 spaces are available for Building C1 within the Stage 1A basement, therefore regardless of the final use within the building, only 19 spaces will be allocated Building C1*

Concurrent with this modification application, a separate application has been lodged to amend Development Consent SSD 6425 relating to the construction and use of Building C2. Similarly, the modification to the Building C2 development consent seeks an identical amendment of Condition F3 within that consent to allow for the sharing of car parking spaces.

No modification is required at this time to other individual separate project approvals/development consents to facilitate the strategy of sharing car parking spaces within the Stage 1A basement.

## 2.0 MODIFICATIONS TO CONSENT

The proposed modification application seeks approval for an amendment to Condition F3 in the development consent. This modification seeks to enable a 'sharing' of car parking spaces within the Stage 1A basement and not limit the use of spaces specifically to Building R7.

Condition F3 of the development consent currently restricts the use of spaces for 'the premises', meaning the spaces can only be used in association with the specific uses in Building R7. In order to facilitate the strategy of sharing parking within the Stage 1A basement, a modification to the development consent is required.

The intention of this sharing strategy is for the car parking spaces approved under development consent SSD 6623 to be used by tenants of consistent uses (i.e. commercial to commercial) in other buildings where there is capacity remaining under the individual building car parking maximum prescribed rate. In effect, the demand for spaces is being transferred within the maximum limitations of the approved Concept Plan (as modified).

Importantly, there are no physical modifications proposed to the approved development, nor is there any increase to the provision of car parking within Barangaroo South.

The proposed modification to Condition F3 is set out below. Words proposed to be deleted are shown in ~~**bold italics strike through**~~ and words to be inserted are shown in **bold italics**.

### Condition F3 - Unobstructed driveways and parking areas

*All vehicular access areas, driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the **relevant use** ~~of the premises of a building~~ **within Stage 1A**.*

## 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 approved in that:

- no physical modifications to the approved development are proposed;
- the approved uses remain unchanged;
- no change is proposed to the gross floor area or maximum height of the approved building; and
- the maximum number of car parking spaces approved is not proposed to be amended.

The proposed change is a result of varied demand for car parking spaces across the Stage 1A buildings. A number of buildings (such as Building C2 and Building R7) have an identified lack of demand for car parking, whilst others (such as Building T1) have a higher level of demand. As such, there is a desire to share car parking spaces within the Stage 1A basement across the Stage 1A building. Overall, the total number of spaces approved, and the extent of the basement, are not proposed to be amended.

#### 4.0 ENVIRONMENTAL ASSESSMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify a 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.

##### Car Parking

Overall, there is no proposal to increase the number of car parking spaces within the Stage 1A basement, rather a sharing of spaces specifically within the uses for which they have been approved in associated with. The sharing of spaces will specifically occur amongst identical uses. For instance, car parking spaces associated with commercial uses in Building R7 will be utilised by commercial tenants in other buildings where capacity is available under the maximum parking rates prescribed in the Concept Plan (as modified).

##### Traffic and Access

The modification does not seek any variation to existing entry and exit points, or access to and from the Stage 1A basement car park.

The modification will not result in any additional generation of traffic or altered traffic movements considering the same number of vehicles will be accessing the Stage 1A basement. Allowing the car parking spaces to be transferred to another commercial use where there is an identified demand is expected to reduce the demand for on-street parking surrounding the site, and will ensure the approved spaces are utilised in the operational phase of the Stage 1A development.

##### Operational Management

The operation of the spaces to be shared will generally be governed by leasing arrangements. A lease/licence will be documented for the specific spaces to be shared, ensuring that compliance is achieved with all relevant conditions of consent. Other measures which may be implemented include secure access controls systems and signage. These physical measures will ensure that there is a clear restriction/identification of spaces.

#### 5.0 CONCLUSION

The modifications proposed in this application relate to minor modifications to the approved Stage 1 basement, and allows for a more efficient and practical provision of parking considering the spaces on the site.

The proposed modification seeks to enable a 'sharing' of car parking spaces within the Stage 1A basement and not limit the use of spaces within Building R7 to the premises of the specific building. The proposal will not give rise to any additional environmental impacts, and the developments as modified will be substantially the same as those previously approved.

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

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact me on (02) 9956 6962 or [bhaskins@jbaurban.com.au](mailto:bhoskins@jbaurban.com.au).

Yours faithfully



Brendan Hoskins  
Principal Planner