

28 February 2019

218740

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

Attention: David McNamara (Director, Key Sites Assessments)

Dear David,

SECTION 4.55(1A) MODIFICATION APPLICATION LITTLE HAY STREET, NORTH EAST PLOT, DARLING SQUARE

This application has been prepared by Ethos Urban on behalf of Lendlease (Haymarket) Pty Ltd (the proponent), pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify State Significant Development Consent SSD 6626 relating to the development of the North East Plot in Darling Square, which is part of the Sydney International Convention, Exhibition and Entertainment Precinct (SICEEP) at Darling Harbour, Sydney. The modification relates to the installation of public art in Little Hay Street.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 4.55(1A) of the EP&A Act. This application is accompanied by:

- Artwork Plans prepared by Brendan Van Hek (**Attachment A**);
- Public Art Statement prepared by Brendan Van Hek (**Attachment B**);
- Lighting Assessment prepared by DJCoalition (**Attachment C**);
- Engineering Plans prepared by Event Engineering (**Attachment D**); and
- Maintenance Schedule prepared by Lendlease (**Attachment E**).

1.0 Background

1.1 Context

Darling Square occupies the southern section of the Sydney International Convention Exhibition and Entertainment Precinct (SICEEP), between Pier Street to the North, Hay Street to the South, the Powerhouse Museum to the West and Harbour Street to the East.

Darling Square comprises six plots, including: North Plot, North East Plot, North West Plot, Western Plot, South East Plot, and South West Plot.

This modification application specifically relates to the North East Plot. Buildings on the North East Plot are currently under construction, with completion due in 2019. The North East Plot in the context of Darling Square is illustrated in **Figure 1**.

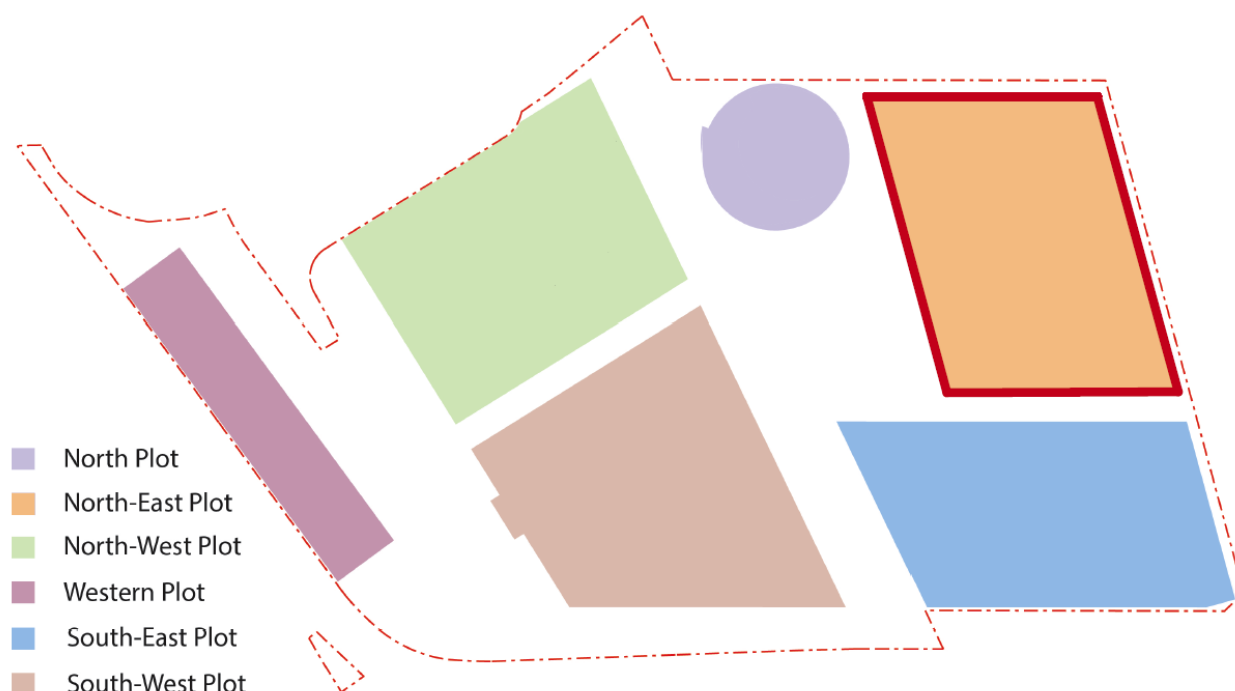


Figure 1 North East Plot within Darling Square

Source: Ethos Urban

1.2 Consent Proposed to be Modified

The North East Plot Development Consent SSD 6626 (SSD 6626) was granted on 16 April 2015 by the Department of Planning and Environment (DPE) as delegate of the Minister for Planning for the following development:

- Site preparation works including demolition of existing Sydney Entertainment Centre;
- Staged construction of 8 storey, 19 storey and 41 storey buildings, including a 5 storey podium, to be used for:
 - 2,050m² retail floor space at ground floor level;
 - 445 above ground car parking spaces and storage; and
 - 581 residential apartments
- Various public domain improvements including:
 - Provision of footpath treatment to the northern and eastern frontages and associated landscaping along the northern boundary; and
 - Interim surface treatments to the southern and western frontages.

A modification to SSD 6626 was approved by the Department of Planning on 21 April 2017, which included:

- Reduction in the number of apartments from 581 to 577 residential apartments and the retail floor space from 2,050m² to 1,986m²;
- Internal amendments to the podium levels, including new public amenities, revised back of house facilities, and additional service parking spaces and storage cages;
- Provision of servicing facilities, bicycle parking and end of trip facilities for the North Plot and Square;
- Minor revisions to some residential apartments; and
- Minor external amendments at the upper and lower levels, including refined interfaces with the public domain.

1.3 Interface with SSD 6633

The Darling Square Precinct has been designated into separate plots to assist in the development approvals process. The boundary between the North East Plot and the South East Plot lies within the centre of Little Hay Street. Therefore, the proposed modifications to Little Hay Street affect two adjacent development consents as shown in **Figure 2** below.

This distinction is between the two plots is generally midway along Little Hay Street between the North East Plot and South East Plot. A concurrent modification application to the South East Plot (SSD 6633 MOD 2) is to be submitted to the Department of Planning and Environment (DPE), with the proposed changes to Little Hay Street intended to be considered holistically across the two applications.

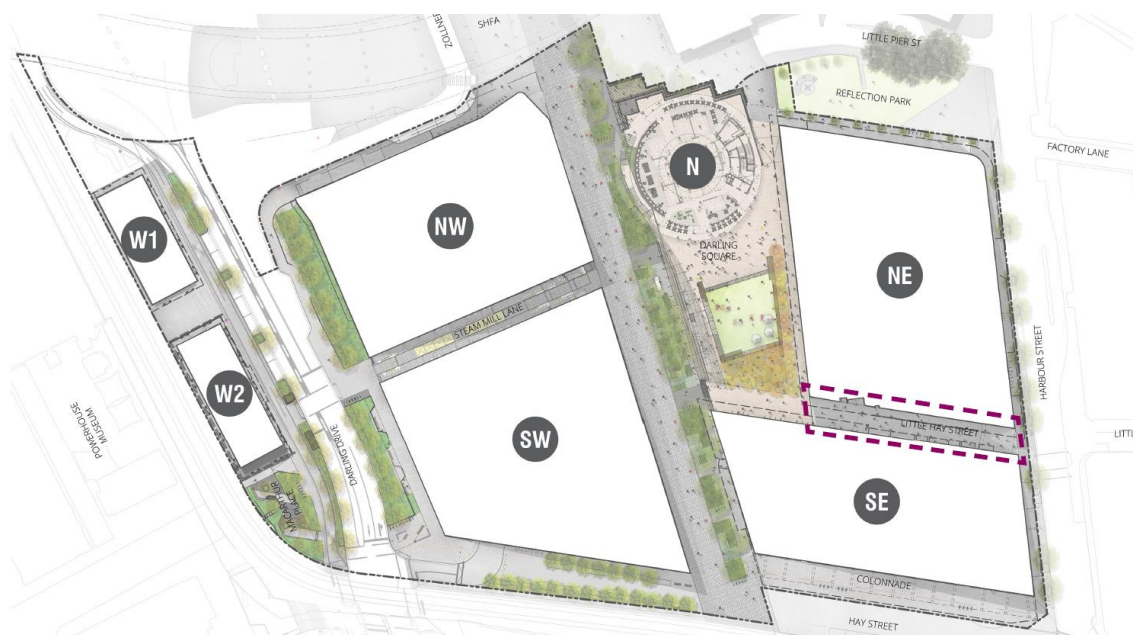


Figure 2 Proposed location of artwork at the interface of the North East Plot and South East Plot

Source: Lendlease Design

This approach is consistent with planning approval obtained for the installation of public art in Steam Mill Lane, which required concurrent modifications to the North West Plot and South West Plot.

1.4 Consultation

Lendlease (Haymarket) has undertaken consultation with the owner of the site, Place Management NSW as part of the progression of the design development to inform this modification as outlined in the Artist Selection.

On 28 February 2019, Lendlease (Haymarket) met with David McNamara (Director, Key Sites Assessments) of the DPE to provide a briefing on the project and to advise of impending lodgement.

1.5 Artist Selection

To select an artist for the installation along Little Hay Street, a competitive process was undertaken and facilitated by Studio Elicio. Prior to the competition a short list of artists was established, based on the input and briefing from heritage and lighting consultants and the Lendlease Retail and Residential teams. The shortlisted artists were:

- Louise Zhang;
- Peter Tyndall;
- Peta Kruger;

- Brendan Van Hek;
- Julie Rrap; and
- Fiona Hall.

A brief for the art competition was developed by Studio Elicio, with the shortlisted artists invited to respond. The winning entry of Brendan Van Hek was selected by an art review panel consisting of members from Lendlease and Place Management NSW.

2.0 Proposed Modifications to Consent

2.1 Modifications to the Development

Installation of Public Art in Little Hay Street

An integrated series of neon light-based art is proposed to be installed in Little Hay Street. The installation includes seventeen (17) wall-mounted artworks along the façade of the North East Plot and South East Plot, and one artwork suspended above Little Hay Street via catenary wiring (refer to **Figure 2**). Further details of the proposed artwork are provided in **Table 1** and the Artwork Plans included at **Attachment A**.

As detailed in the Public Art Statement prepared by Brendan Van Hek (**Attachment B**) the proposed installation is based on an ongoing series of works by the artist that use recycled neon collected from signage. The recycled neon is upscaled into large elements that can be assembled into compositions to respond to the scale and layout of the street. The installation has been influenced by the signage and bright lights of the city and the streetscape vibrancy of Chinatown. In this regard, it aims to communicate the social and ‘lived’ history of Sydney.

The wall-mounted pieces will be either fixed directly to the facade or fixed via a banner hang method to the slab edge. The central ‘Catenary Piece’ (Artwork C1), which will be hung between of the North East Plot and South East Plot, will be fixed by catenary wiring bolted to the facade of each building. The Engineering Plans prepared by Event Engineering (refer to **Attachment D**) provide additional information on the proposed method for installation.



Figure 3 Proposed wall-mounted and catenary public art installation along Little Hay Street

Source: Brendan Van Hek

Table 1 Specification for proposed artwork in Little Hay Street

	Type	Location	Max. Height	Max. Width
North East Plot	Artwork C1*	Centre of Little Hay Street, suspended 5m (RL 8.90) above FFL by catenary wiring.	4,000mm (diameter)	4,000mm (diameter)
	Artwork W1, W3	Artwork W1 is mounted to the façade at the western entrance of Little Hay Street, approximately 5m (RL 8.90) above ground plane. Artwork W3 is mounted to the façade at the eastern entrance to Little Hay Street, approximately 5m (RL 8.90) above ground plane.	2,000mm	500mm
	Artwork 5	Mounted to the ground floor façade, between shopfronts and behind the façade line. Artwork 5 will be a minimum height of 2.7m above the ground floor.	1,000mm	300mm
	Artwork 6	Mounted to the ground floor façade, between shopfronts and behind the façade line. Artwork 6 will be a minimum height of 2.7m above the ground floor.	550mm	300mm
	Artwork 7	Mounted to the ground floor façade, between shopfronts and behind the façade line. Artwork 7 will be a minimum height of 2.7m above the ground floor.	300mm	300mm
	Artwork 8	Mounted to the ground floor façade, between shopfronts and behind the façade line. Artwork 8 will be a minimum height of 2.7m above the ground floor.	550mm	300mm
	Artwork 9	Mounted to the ground floor façade, between shopfronts and behind the façade line. Artwork 9 will be a minimum height of 2.7m above the ground floor.	1000mm (each)	250mm (each)
	Artwork 10	Mounted to the ground floor façade, between shopfronts and behind the façade line. Artwork 10 will be a minimum height of 2.7m above the ground floor.	550mm	300mm
	Artwork 11	Mounted to the ground floor façade, between shopfronts and behind the façade line. Artwork 11 will be a minimum height of 2.7m above the ground floor.	300mm	300mm
	Artwork 12	Mounted to the ground floor façade, spanning the corner of Little Hay Street and Harbour Street. Artwork 12 will be a minimum height of 2.7m above the ground floor.	600mm	1,200mm
South East Plot	Artwork C1*	Centre of Little Hay Street, suspended 5m (RL 8.90) above FFL by catenary wiring.	4,000mm	4,000mm
	Artwork W2	Artwork W2 is mounted to the façade at the eastern entrance to Little Hay Street, approximately 10m (RL 14.00) above ground plane.	2,000mm	500mm
	Artwork 13	Mounted to the ground floor façade, near the corner of Little Hay Street and Harbour Street. Located approximately 2.7m above FFL.	1,500mm	2,000mm
	Artwork 14, 15, 16, 17, 18	Mounted behind the ground floor façade, within an existing recess in the façade.	1,000mm	300mm

*Note: Artwork C1 traverses the site boundary between the North East and South East Plot and is therefore replicated twice in this table whilst only representing one artwork.



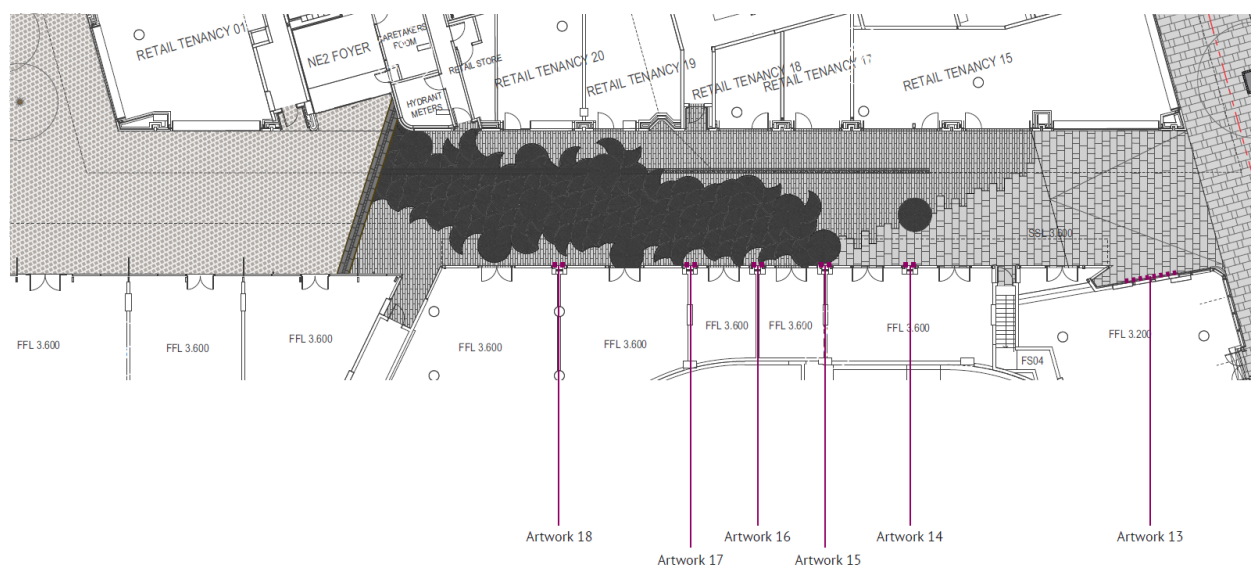


Figure 4 Proposed artwork in Little Hay Street

Source: Brendan Van Hek

2.2 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions 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***.

SCHEDULE 2

Development Description

A3 The Applicant shall carry out the project generally in accordance with the:

- a) State Significant Development Application SSS 6626;
- b) Environmental Impact Statement prepared by JBA Urban Planning Consultants Pty Ltd dated November 2014;
- c) Response to Submissions report prepared by JBA Urban Planning Consultants Pty Ltd dated February 2015;
- d) The Section 96(1A) modification application SSD 6626, prepared by JBA Urban Planning Consultants, dated 22 December 2016;
- e) ***The Section 4.55(1A) modification application SSD 6626, prepared by Ethos Urban, dated 28 February 2019;***
- f) The conditions of this consent; and
- g) The following drawings, except for:
 - i. any modifications which are Exempt or Complying Development;
 - ii. otherwise provided by the conditions of this consent

Architectural Drawings prepared by Brendan Van Hek			
Drawing No.	Revision	Name of Plan	Date
LHS-NEP-001	A	Precinct Plan	30/10/18
LHS-NEP-002	B	Catenary, General Arrangement – Little Hay Street	30/01/19
LHS-NEP-003	B	Catenary, NEP Elevation	30/01/19
LHS-NEP-004	C	Catenary, Little Hay Street Section	30/01/19
LHS-NEP-005	B	Ground Plane, General Arrangement – Little Hay Street	22/01/19
LHS-NEP-006	B	Ground Plane, NEP Elevation	30/01/19
LHS-NEP-007	A	Ground Plane, NEP Section	22/01/19
LHS-NEP-008	B	Ground Plane, NEP Elevation	30/01/19
LHS-NEP-009	A	Ground Plane, NEP Section	22/01/19
LHS-NEP-010	A	Ground Plane, Artwork Construction Detail	22/01/19
LHS-NEP-011	A	Artwork Content / Character Suite	30/10/18

3.0 Substantially the Same Development

Section 4.55(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:

- the modification relates only to the installation of public art and will not substantially alter the nature of the approved development;
- the proposed changes will not result in any modification to the established building envelope and will improve the amenity and visual appeal of the public domain for residents and visitors; and
- the public benefits provided by the development remain unchanged and the proposal will continue to contribute to the creation of a lively and vibrant mixed use precinct.

4.0 Environmental Assessment

Section 4.55(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*”. Under Section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in Section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under Section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Compliance with relevant Planning Instruments and Policies

The Environmental Impact Statement (EIS) submitted with the original State Significant Development Application (SSDA) addressed the proposed development’s level of compliance against a number of relevant environmental planning instruments.

Table 2 provides a summary overview of the proposed modified development's continued compliance with the relevant planning instruments.

Table 2 Compliance with relevant environmental planning instruments

Instrument	Comments
SEPP (State & Regional Development)	The modified development continues to meet the threshold for State Significant Development.
SEPP (Infrastructure)	<p>The provisions of the Infrastructure SEPP apply more during the consideration and assessment of the original SSDA in terms of requirements and referrals for development applications (i.e. not modification applications).</p> <p>Further referral of this modification application to relevant agencies and approval bodies is not considered necessary, given the minor nature of the changes.</p>
SEPP (Exempt and Complying Development Codes)	<p>The installation and display of any outdoor sculpture or other form of freestanding artwork is exempt development under Subdivision 39 of the Codes SEPP. However, the development standards associated with the installation of the artwork specify that it must not be more than 6m in height. Whilst no singular element of the proposed artwork exceeds 6m, development consent is sought under this application considering the numerous elements and location of the proposed artworks which are being installed in excess of 6m above the ground level.</p> <p>Notwithstanding the 6 metre development standard, it is also noted that the site is located on land mapped as 'Foreshore Area' under <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i>. Subdivision 39 notes that the exempt provisions do not apply to Foreshore Land. A Foreshore Building Line cannot be clearly identified for the site. The site is located some distance from the shore of Darling Harbour, however, to avoid doubt it is considered that the exempt provisions would not apply.</p>
SEPP 55 (Remediation of Land)	The site remains suitable for the proposed development and the proposed modifications do not alter the site's suitability.
SEPP 65 (Design Quality of Residential Apartment Development)	The modified development continues to meet the objectives of the SEPP and the relevant assessment criteria. No modifications to any residential apartments are proposed.
SREP Sydney Harbour Catchment	The proposed modified development does not affect the level of compliance with the relevant matters of consideration.
Darling Harbour Development Plan No. 1	The proposed modified development continues to support the objectives of the DHDP (delivering a mixed-use component to support a precinct containing world class convention, exhibition and entertainment facilities) and retains the same permissible land uses as originally approved.
SEPP 64 Advertising and Signage	The modified development continues to meet the objectives of the SEPP and the relevant assessment criteria. No changes to approved signage are proposed under this modification.

4.2 Section 4.15(1)(b) Impact on the Environment

Public Domain

The installation of public art along Little Hay Street will promote the amenity and activation of the laneway throughout the day and night. The shapes, colours and complexity of the unique art pieces will enhance the visual appeal of the Little Hay Street and compliment surrounding retail signage. In addition, the proposed artworks will not impede pedestrian travel along Little Hay Street, with all artworks located either 2.7m above the path or behind the existing façade and enclosed in a Perspex box, to avoid interaction with pedestrians.

Lighting

A Lighting Assessment has been prepared by DJCoalition and is included at **Attachment C**. The assessment considered the potential impact of the art installation lighting on nearby residential dwellings, particularly north-

facing apartments in the podium of the South East Plot and south-facing apartments in the podium of the North East Plot. The Lighting Assessment concludes:

“the installation complies with recommended maximum values as stated on AS 4282 as long as the installation is switched off during curfewed hours”

In accordance with the recommendations of DJCoalition, the proposed art installation will be switched off between 11pm and 6am. This will ensure that the proposed installation does not result in any unacceptable impact on surrounding development. It is recommended that these hours constitute a Post Occupation Condition under Part G of the consent.

5.0 Conclusion

This Section 4.55 (1A) modification application seeks to facilitate the installation of public art along Little Hay Street, Darling Square. The proposed modification will not alter the environmental impacts assessed and approved as part of the existing development consent. Further, the installation of public artwork will provide visual appeal and enhance the quality of the public domain.

In accordance with Section 4.55(1A) of the EP&A Act, the Minister or his delegate 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 assessment and approval 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 CPatfield@ethosurban.com.au.

Yours sincerely,



Thomas Atkinson
Junior Urbanist
+61 2 9956 6962
TAtkinson@ethosurban.com



Chris Patfield
Senior Urbanist
+61 2 9956 6962
CPatfield@ethosurban.com