

24 June 2016

## NSW Planning Assessment Commission Determination Report

### Modification to Central Park Concept Approval (MP 06\_0171 MOD 12) and Modification to Mixed Use Development – Block 4N (SSD 6673 MOD 1)

#### 1. INTRODUCTION

Central Park JV (the Proponent) has submitted two concurrent applications to seek approval to modify the Central Park Concept Plan (MP 06\_0171 MOD 12) pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A), and the State Significant Development (SSD) approval for Block 4N (SSD 6637 MOD 1) pursuant to Section 96(1A) of the EP&A Act.

Central Park is located to the south-west of the Sydney Central Business District (CBD) and is broadly bounded by Abercrombie Street to the west, Regent Street to the east, Broadway to the north and Kensington Street to the south. The site is located within the City of Sydney local government area (LGA).

#### 2. SITE HISTORY

##### Central Park Concept Plan:

On 9 February 2007, the Minister for Planning approved a Concept Plan (MP 06\_0171) for the redevelopment of the site for a mixed use residential, commercial and retail precinct. Since its original approval the Concept Plan has been modified on eleven occasions. The current Concept Approval, as modified allows for the following development:

- a) Maximum 255,550m<sup>2</sup> of Gross Floor Area (GFA) – including a maximum 195,985m<sup>2</sup> of residential, and a minimum 59,515m<sup>2</sup> of non-residential;
- b) New park (6,000m<sup>2</sup>) and open space areas;
- c) Contribution of \$32 million for the provision of affordable housing within the locality; and
- d) Retention of 33 heritage items associated with the former brewery and its adaptive reuse of existing buildings.

##### Block 4N – SSD 6673:

On 20 August 2015, SSD 6673 was approved under delegation for the construction of an 18-19 storey mixed used development on Block 4N which included the following components:

- a) Total GFA of 26,591m<sup>2</sup> – consisting of 6,417m<sup>2</sup> commercial office space, 1,236m<sup>2</sup> retail space and 812m<sup>2</sup> childcare facility;
- b) 283 hotel rooms;
- c) 48 residential apartments;
- d) Four levels of basement car parking;
- e) Retention and refurbishment of the Australian Hotel and Abercrombie Street terraces;
- f) Public domain works;
- g) Signage zones; and
- h) Stratum subdivision.

### **3. PROPOSED MODIFICATIONS**

#### MP 06 0171 MOD 12 (Central Park Concept Plan):

The proposal seeks the following modifications to the Central Park Concept Plan:

- a) Change Central Park Avenue and Chippendale Way from a publicly accessible private road to public roads dedicated to Council;
- b) Change Park Lane from a publicly accessible (vehicle and pedestrian) private road to a private road with public pedestrian access only;
- c) Change O'Connor Street footpath from being publicly accessible private footpath to a public footpath dedicated to Council;
- d) Change the area around Block 4B (Brewery buildings) from being publicly accessible open space to private land not accessible to the general public, but open to patrons of any businesses that occupy the site; and
- e) Relocation of 102m<sup>2</sup> of permissible non-residential GFA from Block 4N to Block 4B.

#### SSD 6673 MOD 1 (Block 4N):

The proposal seeks the following primary modifications to Block 4N:

- a) Enclosure of the ground floor terrace which addresses Broadway;
- b) Deletion of the sunshade located on the roof;
- c) Permitting internal fitout of the hotel without requiring separate consent;
- d) Amending Environmental Performance compliance requirements for the development; and
- e) Internal changes including:
  - Deletion of the indoor pool;
  - Deletion of retail areas;
  - Addition of 14 hotel rooms, small gym and office areas.

It is noted that the additional advertising zones which were originally proposed as part of the modification have been subsequently withdrawn by the Proponent, and Condition A6 has been amended to confirm this.

### **4. DELEGATION TO THE COMMISSION**

The modification applications were referred to the Commission for determination under the terms of the Ministerial delegation dated 14 September 2011 as the City of Sydney objects to aspects of the proposed modifications to Block 4N. These particular modification applications were received in the Commission on 02 June 2016.

The Commission panel appointed to determine the applications comprised Mr David Johnson (Chair) and Ms Abigail Goldberg.

### **5. DEPARTMENT'S ASSESSMENT REPORT**

The Department of Planning and Environment (Department) has assessed the modifications and its Assessment Report identified the following key issues:

#### Central Park Concept Plan Approval Modification:

- a) Changes to ownership and public / private accessibility to roads and footpaths;
- b) Removal of publically accessible open space within the brewery building and surrounding areas; and
- c) Reallocation of floor space between Block 4N and 4B.

The Department's Assessment Report recommends approval subject to conditions. In summary, the Department is satisfied that the changes proposed to the Concept Plan Approval are appropriate on the basis that:

- a) *The public domain would retain good levels of accessibility and permeability through the site; and*
- b) *The reallocation of GFA across the site does not alter the overall maximum GFA or result in any changes to building envelopes.*

Block 4N SSD Application:

- a) Consistency with Concept Approval;
- b) Enclosure of outdoor terrace;
- c) Heritage impacts on the Australian Hotel;
- d) Addition signage;
- e) External and roof design changes;
- f) Additional hotel rooms;
- g) Modifications to residential apartments;
- h) Modification to basement; and
- i) Amendment to Conditions of Consent.

The Department's Assessment Report recommends approval subject to conditions. In summary, the Department is satisfied that the changes proposed to the SSD Block 4N Approval are appropriate on the basis that:

- a) *The proposed enclosure of the terrace would improve the utility and amenity of the space, without any unacceptable street activation, visual or heritage impacts; and*
- b) *The changes to Block 4N are acceptable in terms of the provision of office space, function rooms and communal facilities to appropriately service the hotel component of the development.*

## **6. MEETINGS & SITE VISIT**

The Commission met with the City of Sydney (Council) on 15 June 2016 (see **Appendix 1**). At this meeting Council advised that it objected to some components of the development, and the nature of these objections were discussed, including possible options and alternative options.

The Commission met with the Proponent on 17 June 2016 (see **Appendix 2**). The project was discussed, and potential concerns were raised by the Commission. The Commission requested additional information be provided, which was submitted by the Proponent on 22 June 2016.

No written submissions regarding these modifications were received by the Department, and consequently no public meeting was conducted.

## **7. COMMISSION'S CONSIDERATION**

The following key areas were identified by the Commission for further consideration:

- Amendment of Condition F8 (SSD);
- Enclosure of the terrace;
- Removal of the tree from terrace; and
- Replacement of the water feature with plantings along the pedestrian thoroughfare.

### **7.1 Amendment to Condition F8:**

Concerns were raised with the Commission regarding the proposed amendment to Condition F8 which allows Block 4N to “achieve the principles” of a 5 star design rating. Specifically the concerns related to the enforceability of the Condition and the potential for the development to be marketed as a 5 star development when it may not be, and that this would be misleading and not in the public interest.

Additional comments were sought from the Proponent in this regard which confirmed that the amendment was required as Block 4N was not able to be rated in accordance with the standard rating tools of the Green Building Council of Australia as the building did not achieve the minimum floor space requirements for either residential, office or retail use. Furthermore, that the amendment to Condition F8 was consistent with Concept Approval for the overall Central Park site. The Department was requested to provide additional comments on this matter and has confirmed the suitability of the approach taken.

The proponent provided further confirmation that the building was not being marketed as a 5 star building.

The Commission is satisfied with the Department’s assessment that the amendment to Condition F8 is appropriate.

### **7.2 Enclosure of terrace:**

Concerns were raised with the Commission regarding the enclosure of the terrace and the potential impact from loss of street activation and visual permeability through the site from the public realm.

The enclosure was discussed in further detail with the Proponent and it was established that the enclosure of the terrace was necessitated through both a need to increase the usable floor area of the hotel restaurant and to increase the amenity of the terrace area which was likely to be subject to significant crosswinds and downdrafts created by the building. It was also felt that as a result the space would be underutilised, especially during inclement weather.

The Commission has given consideration to the potential impacts of the terrace enclosure, and the Proponent has provided a commitment to install glazing with the minimal amount of tinting required to achieve compliance with Section J of the Building Code of Australia (energy efficiency requirements).

In light of this, the Commission is satisfied that the enclosure of the terrace will not detract from the activation of the terrace area with Broadway, but rather has greater potential to increase the activation through the use of lightly tinted glazing and increased occupation of the area due to the improved amenity. The light glazing and sawtooth roof design over the terrace permits views to the undercroft of the western tower on Block 4N from the public realm.

The Commission, through the adoption of the Proponent’s commitments is satisfied with the Departments assessment that the enclosure of the terrace is satisfactory.

### **7.3 Removal of tree from terrace:**

Concerns were raised with the Commission regarding the removal of the proposed tree within the terrace area and the loss of visual relief of the building from along Broadway and within the site. It is noted that the tree in question is not existing within the site, but is proposed to be planted as part of the project.

The removal was discussed in further detail with the Proponent and it was established that the retention of the tree was impractical with the enclosure of the terrace.

The Commission has given consideration to the removal of the tree in isolation to the potential enclosure of the terrace and is satisfied with the Departments assessment that the removal of the tree is acceptable.

### **7.4 Replacement of water feature with plantings along pedestrian thoroughfare:**

Concerns were raised with the Commission regarding the loss of the water feature which is proposed to be replaced with plantings along the pedestrian thoroughfare, and the subsequent loss of interaction and activation between the public and private realm interface due to the height and density of the plantings.

The replacement of the water feature was discussed in greater detail with the Proponent. It was established that the proposed amendments were as a result of existing experiences with other water features within the Central Park precinct which have proven to have high maintenance requirements, and potential safety concerns for pedestrian traffic as the design proposed a water level which was slightly lower than the finished surface level.

The design of the planter boxes and types of plantings were also discussed in greater detail with the Proponent. It was established that the overall design intent of the plantings was the creation of a more intimate atmosphere for hotel users, and this was sought to be created by providing a greater level of separation and privacy between the two interfaces through the use of screen plantings. Subsequently, the Proponent has provided a commitment to ensure that plantings have a maximum height not exceeding 1200mm – 1300mm, and that any trees have a minimum canopy height of 2000mm to permit visual surveillance and unobstructed views between the public and private realms.

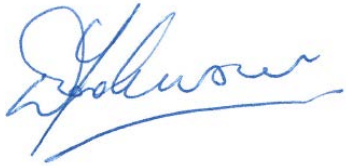
The Commission has given consideration to the potential impacts of the replacement of the water feature, and the Proponent's commitment to the design and specification to plantings within the pedestrian thoroughfare. The proposal is considered an appropriate outcome as it maintains separation between both private and public spaces, while providing a space which is open enough to ensure sufficient visual permeability throughout both these spaces.

The Commission, through the adoption of the Proponent's amended commitments is satisfied with the Department's assessment that the replacement of the water feature is satisfactory.

## **8. COMMISSION'S DETERMINATION**

The Commission has carefully considered all the information available to it including the Secretary's Environmental Assessment Report and associated documents, agency submissions, and issues raised during the meetings. The Commission accepts the Department's advice that the modifications sought are within the scope of Section 75W and 96(1A) of the *Environmental Planning and Assessment Act 1979* and can be determined.

After careful deliberation, the Commission is satisfied that the proposed modifications are unlikely to have a detrimental impact on the locality, site occupants or the general public and that the modifications are an acceptable outcome. Consequently, the Commission has approved the modifications subject to the amendment of terms and conditions of approval.

A handwritten signature in blue ink, appearing to read "D. Johnson".

**David Johnson**  
**Commission Member (Chair)**

A handwritten signature in black ink, appearing to read "Abigail Goldberg".

**Abigail Goldberg**  
**Commission Member**

**APPENDIX 1**  
**City of Sydney (Council) Meeting**

<b>This meeting is part of the determination process</b>		
<b>Meeting notes taken by:</b> David Koppers	<b>Date:</b> 15JUN16	<b>Time:</b> 09:48
<b>Project:</b> Central Park - MP 06_0171 MOD 12 and SSD 6673 MOD 1		
<b>Meeting place:</b> Planning Assessment Commission Offices – 301 George Street		
<b>Attendees:</b> Commission Members: David Johnson (Chair), Abigail Goldberg Commission Secretariat: David Koppers City of Sydney: Chris Ashworth (Senior Planner), Allison Cronin (Urban Designer), Emma Brooks (Landscape Assessment Officer)		
<b>The purpose of the meeting:</b> Discuss any concerns City of Sydney (Council) has with the project.		
<b>Meeting Notes:</b>		
<u>Introduction</u>		
<ul style="list-style-type: none"> <li>Brief introduction by the Chair about the Commission’s role in relation to the project.</li> <li>Council was requested to outline their concerns and the discussion surrounding these concerns is summarised below.</li> </ul>		
<b>COUNCIL CONCERNS:</b>		
<u>Enclosure of terrace:</u>		
<ul style="list-style-type: none"> <li>Enclosure of terrace detracts from visual links into the site for pedestrians from Broadway. Also reduces passive surveillance opportunities, compromises street activation. Potential use of dark glazing could make the building seem “heavier” at ground level, and further reduce visual permeability.</li> <li>Council is seeking to understand what are the objectives/reasons for the enclosure?</li> <li>Potential options to alleviate impact may include the use of a lighter, transparent glazing which permits the area to still appear open and provide surveillance opportunities, as long as window shading such as blinds do not replace the dark glazing.</li> </ul>		
<u>Removal of tree from terrace:</u>		
<ul style="list-style-type: none"> <li>Retention of tree and open terrace provides visual relief from both within the site and public domain. Provides a sense of green for pedestrians. Good size tree in good soil depth.</li> <li>Council is seeking to understand what are the objectives/reasons for the enclosure which requires the removal of the tree?</li> <li>Potential options may include a partially enclosed roof space to enable the tree to be retained.</li> </ul>		
<u>Removal of water feature from pedestrian thoroughfare:</u>		
<ul style="list-style-type: none"> <li>Water feature replaced with some additional plantings and outdoor seating.</li> <li>Important public thoroughfare over private land. Selection of plantings to replace water has not improved or increased public access within the site. Should promote better interaction between public and private interface. Water creates a low connection and boundary between public and private. Does not define as a visual barrier between the two. Significant plantings already exist, but not water. Water can ameliorate urban noise.</li> <li>Council is seeking to understand what are the objectives/reasons for the removal of the water feature?</li> <li>Potential options may include use of lower planting boxes and plant species to reduce the distinction and physical separation between the public and private realm and provide surveillance opportunities. Planter boxes which pedestrians can sit on can serve a dual purpose.</li> </ul>		

Transfer of gross floor area:

- No objection to the transfer, however further clarification is sought that the transfer of GFA would require a new DA or MOD and that Council would be provided the opportunity to comment on any such application.

Advertising signage:

- Confirmed that this has been withdrawn by the Proponent and Condition A6 confirms that no additional signage has been approved.

**COMMISSION QUESTIONS:**

Environmental performance:

- Commission sought clarification if Council was aware of the proposed amendments to Condition F8. Further clarification is sought on why this change was proposed and what the impact would be.

Car parking:

- Commission sought clarification if Council has any concerns that the increase in hotel rooms did not result in any commentary on the car parking demand for the proposal.
- Council clarified that their controls stipulated maximum car parking rates and sought to actively reduce the amount of car parking being provided.

**Outcomes/Agreed Actions:**

- The Commission Secretariat would liaise with Council on the following:
  - a) Potential guidelines regarding standards/specifications for the plantings which are proposed to replace the water feature should the Commission consider supporting the amendment.
  - b) Potential guidelines regarding standards/specifications for the type of glazing to be utilised for the enclosed terrace should the Commission consider supporting the amendment.
  - c) Seek further clarification from a Council expert on the proposed amendment to Condition F8 and its potential impact.
- The Commission indicated it would further consider, and may seek further advice from the Department on the following:
  - a) The implications on the proposed amendments to Condition F8.
  - b) That the reallocation of the GFA would require a new DA or MOD and that Council would be provided the opportunity to comment of any such application.

**Meeting closed: 10:45**



**APPENDIX 2**  
**Site Visit and Proponent Meeting**

<b>This meeting is part of the determination process</b>		
<b>Meeting note taken by</b> David Koppers	<b>Date:</b> 17JUN16	<b>Time:</b> 10:30
<b>Project:</b> Central Park - MP 06_0171 MOD 12 and SSD 6673 MOD 1		
<b>Meeting place:</b> Planning Assessment Commission – 301 George Street		
<b>Attendees:</b> Commission Members: David Johnson (Chair), Abigail Goldberg Commission Secretariat: David Koppers (Senior Planning Officer), Megan Webb (Team Leader) Proponent: Stephen Gouge (Principle Planner – JBA), Mick Caddey (Project Director – Frasers Property Australia), Michael Goldrick (Development Director - Frasers Property Australia)		
<b>The purpose of the meeting:</b> Discuss the project modifications and address any concerns of the Commission with the Proponent.		
<b>Meeting Notes:</b>		
<u>Introduction</u>		
<ul style="list-style-type: none"> <li>• Brief introduction by the Chair the Commission’s role in relation to the project.</li> <li>• Outlined the main items that the Commission had potential concerns about and had also been raised by City of Sydney, being:             <ul style="list-style-type: none"> <li>a) Enclosure of the terrace;</li> <li>b) Removal of the tree located within the terrace;</li> <li>c) Removal of the water feature from the public thoroughfare; and</li> <li>d) Proposed amendment to Condition F8 (SSD 6673 MOD 1).</li> </ul> </li> </ul>		
<u>Condition F8:</u>		
<ul style="list-style-type: none"> <li>• Requested by Proponent to achieve consistency with Condition B41 of the Concept Approval (MP 06_0171).</li> <li>• Condition B41 allows for buildings which are not eligible for a Green Rating, are to be consistent with the principles of a 5 star design rating.</li> <li>• Project was not eligible for rating Green Building Council of Australia due to the mixed use nature of the development.</li> <li>• Green Star Custom Rating tool was not available when the development was first lodged.</li> <li>• Building is rated using the Green Star - Design &amp; As Built tool, and marketed accordingly to the results – not registered as a 5 star development.</li> </ul>		
<u>Enclosure of terrace:</u>		
<ul style="list-style-type: none"> <li>• Terrace was originally included to give more “breathing space” to the heritage listed Australian Hotel.</li> <li>• Operator of the Hotel (SSD 6673) required additional floor space for the ground floor dining area.</li> <li>• Further design review of the terrace area showed amenity impacts on the terrace occupants relating to noise from Broadway, overshadowing from the UTS building (particularly in winter), wind speed through the terrace area and downdrafts from the building (particularly during bad weather).</li> <li>• Roof over terrace utilises a sawtooth design with alternating glazed panels which permits views to the undercroft of the western tower on Block 4N from street level through the roof space.</li> <li>• Attempted to balance usability with activation, while maintaining visual permeability.</li> <li>• Transparency is important to ensure space / street activation.</li> <li>• Proposing to utilise minimal tinting, however any glazing must meet performance requirement of Section J – BCA which may require some minor tint.</li> </ul>		

- Louvers do not extend lower than 3200mm from Finished Floor Level – will not impact on visual permeability.
- Design intention of development was to effectively screen the Central Park development from Broadway and Abercrombie but provide excellent pedestrian permeability from these areas through the site.

Removal of tree from terrace:

- Original placement of tree was to add visual relief and as a wind break.
- Removal of tree is required to achieve the enclosure of the terrace area for better overall amenity to the space, and to expand internal space for the hotel operator.
- Not practical to try and retain tree within enclosure.
- Existing and proposed street trees along Broadway will assist in providing visual relief to the development.

Removal of water feature from pedestrian thoroughfare:

- Central Park has a number of water features within the overall site and have high maintenance requirements in this location.
- Experience has shown that water features flush with the pavers creates a potential safety issue.
- Water allowed separation of the hotel and pedestrian pathway but does not provide for any privacy / intimacy for hotel users.
- Plantings permit a greater level of visual separation between the private and public space.
- Concerns raised to Proponent that the height of the planters and vegetation is too high and creates too much of a visual barrier. Want to activate the space through visual permeability.
- Discussed the types of plantings located in the roadways and their suitability in this location. It was explained that they are a different concept as they are dealing with traffic movements.
- Walkway planters are high to allow for appropriate soil depth.
- Potential options to finesse the design to allow a separation of the private / public space, whilst still achieving a more private / intimate environment for hotel users but achieving the openness of the original design.

**Outcomes/Agreed Actions:**

- Proponent to provide written clarification of the following matters:
  - a) That Condition F8 (SSD 6673) is amended to ensure consistency with Condition B41.
  - b) Commitment that glazing to the terrace will incorporate the minimum required tinting to achieve compliance with Section J – BCA.
  - c) Review the design of the landscape treatment to the private / public interface along the pedestrian thoroughfare.

**Meeting closed: 11:30**