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File no: 10/02851
Your Ref: A1426081

Heather Warton
Director
Metropolitan & Regional Projects North
Department of Planning & Infrastructure
23-33 Bridge Street
SYDNEY NSW 2000

Dear Ms Warton,

**S96 modification to Integrated Development Approval SHFA DA083-05-08
MARINER'S CHURCH, 100 GEORGE STREET, THE ROCKS – SHR No. 01559**

Thank you for your letter dated 16 April 2013 referring the subject application to modify development consent for DA 083-05-08 to the Heritage Branch for comment under section 96(2) of the *Environmental Planning and Assessment Act*. The following comments are provided under section 96(2)(b) of the Act:

The modifications sought are described in the *Amending Report 100 George Street, The Rocks* prepared by JBA Urban Planning Consultants, dated 13 February 2013. The following modifications are proposed:

- Remove restrictions placed on the use of the seated restaurant and dining area on Level 2 (Condition A3).
- Extend the hours of operation for the licensed pub, restaurant, bars and place of public entertainment on Level 2, Level 3 and Level 4 (Condition A4)
- Modify the wording of Condition E9 to remove requirement for both the SHFA and nominated heritage consultant to inspect the works prior to the issue of the occupation certificate and also to remove requirement for '*written confirmation to be obtained for the Foreshore Authority stating that there have been no additional fixings or works to the existing building fabric*'.

The Heritage Council of NSW, as an approval body for the application, has considered the proposed modification in accordance with the required matters for consideration under section 62 of the Heritage Act and considers that the proposed modifications to Condition A3 and A4 to be substantially the same development as the original application. The Heritage Council raises no objection to the proposed modification of condition A3 and A4 and agrees to amend the general terms of its approval to accommodate these modifications.

The wording of Condition E9 was prepared by the Department of Planning and Infrastructure. Should the Department of Planning and Infrastructure deem to modify Condition E9, any modification should be consistent with the Integrated Development Application NSW

Heritage Council General Terms of Approval issued by the Heritage Council on 7/08/2008 and the following condition of consent for application number 10/S60/014 under Section 60 of the NSW Heritage Act, 1977:

'All work shall be supervised by an appropriately qualified heritage consultant who shall ensure that the work has been carried out in accordance with the approved documentation and conditions of this approval'

The Heritage Council does not provide retrospective approval for works that exceed/vary from those approved under Section 60 of the Heritage Act. For this reason, any 'additional fixings or works to the existing building fabric are considered to be unapproved works under the NSW Heritage Act, 1977. Any action taken under the NSW Heritage Act in regards to the 9 additional works items identified by the SHFA (listed in OCP Architects letter to the SHFA dated 23 October 2013) would be separate from determination of the subject S96 application.

Should you have any queries, please contact Kate Harrison on (02) 9873 8586 or email kate.harrison@heritage.nsw.gov.au.

Yours sincerely



02/05/2013

Vince Sicari
Manager
Conservation Team
Heritage Branch
Office of Environment & Heritage
AS DELEGATE OF THE NSW HERITAGE COUNCIL