



URBIS

RESPONSE TO SUBMISSIONS REPORT

Intercontinental Hotel
Alterations and Additions
Modification
(SSD-7693-Mod 2)

Prepared for
MULPHA
19 April 2022

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EXECUTIVE SUMMARY

This Submissions Report has been prepared on behalf of Mulpha to address the matters raised by government agencies, Council, the community and relevant stakeholder groups during public exhibition of the proposed modification to SSD-7693 (Mod 2), which relates to the Intercontinental Hotel (115-119 Macquarie Street, Sydney) and Transport House (99-113 Macquarie Street, Sydney).

The Section 4.55(2) application to modify Concept SSD-7693 was lodged with the Department of Planning and Environment (DPE) in December 2021.

DPE issued a letter to the Applicant on 21 March 2022 requesting a response to the issues raised during the public exhibition of the application. The following specific matters were identified by DPE in their Request for Additional Information:

- Design excellence.
- Ecologically Sustainable Development (ESD).
- Impacts to the Stamford Hotel concept approval.
- Heritage concerns; and
- Further queries relating to the external terrace and bar area.

This Submissions Report outlines the proposed refinements and clarifications and responds to all concerns raised within submissions.

Overview of Submissions

The SSDA was on public exhibition between 21 January 2022 and 3 February 2022. A total of four submissions were received from NSW government agencies, Council, special interest groups and individuals, including:

- City of Sydney Council (Council).
- Heritage NSW.
- The Royal Botanic Gardens and Domain Trust (RBGDT); and
- Sir Stamford at Circular Quay (Stamford).

Since only a small number of submissions were received, this Submissions Report provides a response to each individual submission within Section 4.

Actions Taken Since Exhibition

Additional assessments have been prepared to respond to the issues raised within the submissions. These include:

- Addendum Acoustic Report prepared by Acoustic Logic.
- ESD Report prepared by Surface Design.
- Heritage Advice Letter prepared by Urbis.
- Legal Advice prepared by Addisons.
- Draft Plan of Management prepared by Mulpha.

These additional assessments confirm the adequacy of the proposal and accordingly no amendments are proposed to the siting and design of the envelope. It is acknowledged that the subsequent 'detailed design' SSD for the function centre will need to consider the recommendations of these assessments and incorporate mitigation measures into the design where required.

Updated Justification and Evaluation

The proposed modification has been assessed in accordance with section 4.55(2) and section 4.15 of the EP&A Act and are considered appropriate as summarised below:

- The proposal is of minimal environmental impact:
 - **Acoustic:** The addendum Acoustic Report (Appendix A) includes assessments of the existing Stamford condition (hotel) and its potential future condition (residential). The report finds that the detailed design and operation of the function centre can readily comply with the relevant acoustic criteria, including noise emissions to the potential future residential use at the Stamford site.
 - **Visual:** The proposed envelope is more diminutive than the previously approved Ballroom envelope has been carefully designed in terms of scale and siting to respond sympathetically to the existing building form of Transport House.
 - **Heritage:** The proposal is in keeping with the unique heritage character of the area and will not detract from nor obscure the heritage values of Transport House, the adjacent heritage items or the broader Governor's Domain & Civic Precinct.
 - **Structural:** The function centre is planned to be constructed off-site, using prefabricated/lightweight materials. Preliminary advice from TTW confirms the function centre can be accommodated without placing undue pressure on the existing Transport House building structure.
- The proposal is substantially the same development as approved:
 - The modified development comprising the temporary function centre will have a maximum RL of 43.28m (within the maximum height established by the Ballroom envelope).
 - The modified development comprising the temporary function centre will be for the purpose of a tourist related development. The proposed function centre will be functionally and physically and connected (by way of stairs) with the approved SSD development comprising the Intercontinental Hotel. The ballroom is still proposed to be carried out as a permanent structure with the proposed temporary function centre and deck, being a response to the COVID-19 pandemic.
 - No change is proposed to the approved gross floor area.
 - The design of the function centre does not affect the IPC's findings about the building envelope and its impacts, as it will be smaller than the approved building envelope.
- The proposal satisfies the applicable planning controls and policies.
- The proposal remains suitable for the site and is consistent with the B8 zone objectives; and
- The modified proposal will provide significant public benefit by allowing Mulpha to activate the Transport House rooftop space in the short-term, enabling significant reinvestment in a heritage listed building and Sydney CBD.

Having considered all relevant matters, we conclude that the proposed modification is appropriate for the site and approval is recommended, subject to appropriate conditions of consent.

1. INTRODUCTION

This Submissions Report relates to the Section 4.55(2) application to modify Concept SSD-7693, which relates to the Intercontinental Hotel (115-119 Macquarie Street, Sydney) and Transport House (99-113 Macquarie Street, Sydney) (the site). On behalf of Mulpha (the Applicant), this Submissions Report has been prepared to address the matters raised by public agencies, City of Sydney Council and the community throughout the public exhibition period.

The Section 4.55(2) application to modify Concept SSD-7693 was lodged with the Department of Planning and Environment (DPE) in December 2021 (SSD-7693-Mod-2). The SSDA was placed on public exhibition for 14 days between 21 January 2022 to 3 February 2022.

This Submissions Report has been prepared in accordance with the DPE *State Significant Development Guidelines – Preparing a Submissions Report (Appendix C) November 2021*.

1.1. EXHIBITED PROJECT

This modification application seeks consent to include a “stage” in Concept SSD-7693, reflecting a one storey building envelope above Transport House that is connected to the existing Intercontinental Hotel via a physical stair connection. It is intended for the “stage” to be time-limited to ten years. This, in turn, will allow the lodgement of a future/separate ‘detailed’ SSDA for a function centre within the Concept envelope.

1.2. SUPPORTING DOCUMENTATION

This Submissions Report is supported by the following technical reports and documentation.

Table 1 – Supporting Documentation

Appendix	Report	Prepared By
Appendix A	Addendum Acoustic Report	Acoustic Logic
Appendix B	ESD Report	Surface Design
Appendix C	Heritage Advice	Urbis
Appendix D	Legal Advice	Addisons
Appendix E	Draft Plan of Management	Mulpha

2. ANALYSIS OF SUBMISSIONS

This section provides a summary of the submissions received including a breakdown of respondent type, nature/position and number of submissions received.

2.1. BREAKDOWN OF SUBMISSIONS

The SSDA was publicly exhibited between 21 January 2022 and 3 February 2022. There was one submission received from Heritage NSW, one submission received from the City of Sydney Council and two submissions received from special interest groups and individuals (RBGDT and Stamford).

All submissions were managed by DPE, which included registering and uploading the submissions onto the 'Major Projects website' (SSD-7693-Mod-2).

A breakdown of the submissions made by group and issues raised is provided in Table 2 overleaf.

Overall, Council and the RBGDT provided comments on the project, while Heritage NSW and Stamford objected based on the submissions received.

Table 2 – Breakdown of Submissions Received

Submitter	Category of Issues Raised						
	The Project	Procedural Matters	Impacts			Justification and Evaluation of the Project	Issues Beyond the Scope of the Project
			Economic	Environmental	Social		
Public Authorities							
Heritage NSW				X			
Local Council							
City of Sydney Council				X			
Stakeholder Groups							
Royal Botanic Gardens and Domain Trust				X			
Individuals							
Sir Stamford at Circular Quay	X			X		X	
TOTAL	1			4		1	

2.2. CATEGORISING KEY ISSUES

Since only a small number of submissions were made, a response to each individual submission is included within the Response to Submissions at Section 4.

The key issues raised in the submissions include:

- Design excellence.
- Ecologically Sustainable Development (ESD).
- Impacts to the Stamford Hotel concept approval.
- Heritage concerns; and
- Further queries relating to the external terrace and bar area.

3. ACTIONS TAKEN SINCE EXHIBITION

In response to the key issues raised within the submissions, minor design refinements and clarifications have been made to the proposed development since public exhibition.

This section summarises the changes that have been made to the project since its public exhibition. It also outlines the additional assessment undertaken to respond to the concerns raised with the public agency, organisation and public submissions outlined in Section 2.

3.1. ADDITIONAL IMPACT ASSESSMENT

Additional assessments have been prepared to respond to the issues raised within the submissions. These include:

- Addendum Acoustic Report prepared by Acoustic Logic.
- ESD Report prepared by Surface Design.
- Heritage Advice Letter prepared by Urbis.
- Legal Advice prepared by Addisons.
- Draft Plan of Management prepared by Mulpha.

The findings and recommendation of the additional assessments are discussed in detail within Section 4 of this report.

4. RESPONSES TO SUBMISSIONS

Since only a small number of submissions were received during the public exhibition process, a response to each individual submission is included in Table 3.

Table 3 – Response to Submissions

Summary of Issue Raised	Response	Appendix				
NSW Department of Planning and Environment						
<p>Design Excellence</p> <p>The proposal seeks to remove the requirement of a Competitive Design Process (CDP) for Stage 1A, provide further justification into how the proposal achieves the SLEP 2012 CDP exemption criteria.</p>	<p>In accordance with clause 6.21D(2) of the Sydney LEP 2012, the consent authority could be satisfied that a competitive design process would be unreasonable or unnecessary in the circumstances or that the development satisfies each of the criteria in clause 6.21D(2) below.</p> <table border="1" data-bbox="925 691 1830 1385"> <thead> <tr> <th data-bbox="925 691 1279 794">SLEP Section 6.21D(2) Criteria</th> <th data-bbox="1279 691 1830 794">Response</th> </tr> </thead> <tbody> <tr> <td data-bbox="925 794 1279 1385">involves only alterations or additions to an existing building</td> <td data-bbox="1279 794 1830 1385"> <p>The proposed Stage 1a envelope is much more diminutive than what was previously approved and has been carefully designed in terms of scale and siting to respond sympathetically to the existing building form of Transport House.</p> <p>This more modestly scaled interim rooftop envelope has responded carefully to the existing built form of Transport House, its existing form and lift overrun, and existing height planes, to ensure it respects the significant built form of this heritage item.</p> <p>The scale of the proposal is considered to be a minor addition to the existing building.</p> </td> </tr> </tbody> </table>	SLEP Section 6.21D(2) Criteria	Response	involves only alterations or additions to an existing building	<p>The proposed Stage 1a envelope is much more diminutive than what was previously approved and has been carefully designed in terms of scale and siting to respond sympathetically to the existing building form of Transport House.</p> <p>This more modestly scaled interim rooftop envelope has responded carefully to the existing built form of Transport House, its existing form and lift overrun, and existing height planes, to ensure it respects the significant built form of this heritage item.</p> <p>The scale of the proposal is considered to be a minor addition to the existing building.</p>	N/A
SLEP Section 6.21D(2) Criteria	Response					
involves only alterations or additions to an existing building	<p>The proposed Stage 1a envelope is much more diminutive than what was previously approved and has been carefully designed in terms of scale and siting to respond sympathetically to the existing building form of Transport House.</p> <p>This more modestly scaled interim rooftop envelope has responded carefully to the existing built form of Transport House, its existing form and lift overrun, and existing height planes, to ensure it respects the significant built form of this heritage item.</p> <p>The scale of the proposal is considered to be a minor addition to the existing building.</p>					

Summary of Issue Raised	Response		Appendix
	<p>does not significantly increase the height or gross floor area of the building</p>	<p>Height: The existing parapet height of Transport House (at Macquarie Street) is RL 38.85m. The proposed rooftop function space has a maximum height of RL 43 (and well within the SLEP 2012 height control of 55m). The proposed one storey addition is setback appropriately from all boundary interfaces and does not significantly increase the height, profile or architectural language of the building.</p> <p>Gross floor area: Transport House currently accommodates 7,949sqm of GFA (and the entire site, including the IC Hotel accommodates over 40,000sqm of GFA). The proposed increase of approximately 757sqm of GFA for the temporary function centre is not considered to significantly increase the GFA of the building, or site at large.</p>	
	<p>does not have significant adverse impacts on adjoining buildings and the public domain</p>	<p>Heritage: The proposed development has been assessed to have an acceptable heritage impact on Transport House, the adjacent heritage items, the Macquarie Street Special Character Area and the broader Governor's Domain & Civic Precinct National Heritage listing. Refer to the Heritage Impact Statement prepared by Urbis on 17th December 2021 and the</p>	

Summary of Issue Raised	Response		Appendix
		<p>Heritage Advice prepared on 31 March 2022.</p> <p>Acoustic: Future development can comply with the applicable acoustic criteria. The Acoustic Report demonstrates that mitigation measures can be readily incorporated into the detailed design phase to achieve compliance. This includes noise emissions to the Stamford site under its existing (hotel) and potential future (residential) conditions. Refer to the Acoustic Report prepared by Acoustic Logic on 11 December 2021 and the Addendum Acoustic Report dated 31 March 2022.</p> <p>Visual: The proposed Stage 1a envelope is much more diminutive than what has been previously approved and has been carefully designed in terms of scale and siting to respond sympathetically to the existing building form of Transport House. The proposed building envelope does not read as a dominant element from key public domain vantage points and will have no material visual impact.</p>	
	<p>does not significantly alter any aspect of the building when viewed from public places</p>	<p>The Visual Impact Assessment submitted with SSD-7693-Mod-2 states <i>‘the visual impacts of proposed development have been assessed against the approved building massing under Concept SSD</i></p>	

Summary of Issue Raised	Response		Appendix
		<p><i>Consent 7693, and Planning Principle 'Impact on public domain views', which reveal a substantial reduction in bulk and scale of the addition above Transport House. Accordingly, there are no material view impacts of the proposal from key public vantage points identified in the VIA'.</i></p>	
	<p>It is noted that DPE advised that a design competition and/or SDRP process is not necessary for the future rooftop function area (but will remain relevant and necessary for the Ballroom application/ proposal).</p> <p>It is also noted that the City of Sydney Council in its submission dated 31 January 2022 agreed that the proposed Stage 1A function centre will not go through a formal design competition.</p>		

Summary of Issue Raised	Response	Appendix
<p>External Terrace / Bar Area</p> <p>Provide details about the proposed operations of outdoor bar area, including whether it is intended to operate independently of the proposed function centre.</p> <p>Confirm whether the external terrace is proposed to be time-limited to 10 years.</p> <p>Provide details of all structures proposed to be erected within the external terrace area.</p> <p>Provide an assessment against Schedule 3 Late night trading of the Sydney DCP 2012, including a Draft Plan of Management, prepared in accordance with these guidelines.</p>	<p>Indicative details regarding the proposed outdoor bar area are provided within a draft Plan of Management document (Appendix E), noting the area itself hasn't been designed yet (and is subject to review by GA NSW). The outdoor bar is proposed to operate in conjunction with the function centre.</p> <p>The external terrace is proposed to be time-limited to 10 years, as discussed/agreed with DPE during the pre-lodgement phase of the project and expressed through the documentation submitted as part of this application.</p> <p>Because this application relates to a Concept (envelope) SSDA modification, it does not propose any detailed building works. It is not anticipated that there will be any fixed structures on the deck. The detailed SSDA stage will determine the most appropriate location/design of any such elements with regard for heritage and visual impacts.</p> <p>Refer to the draft Plan of Management document at Appendix E. This will be updated/formalised at detailed SSDA stage.</p>	Appendix E
<p>Ecologically Sustainable Development</p> <p>Provide an updated ESD report which considers the proposed Stage 1A in order to update Condition C11.</p>	<p>An ESD Report, which considers the proposed Stage 1A is provided at Appendix B.</p>	Appendix B

Summary of Issue Raised	Response	Appendix
<p>Impacts to Stamford Hotel concept approval</p> <p>Provide a more robust assessment of the potential amenity impacts to the neighbouring Stamford Hotel site, including the proposed redevelopment of the site under the concept approval D/2017/1609 dated 12 March 2020.</p>	<p>An addendum Acoustic Report (Appendix A) has been prepared, which includes assessments against the existing condition (hotel) and the potential future condition (residential).</p> <p>In relation to the proposed redevelopment of the site for residential use under D/2017/1609, Acoustic Logic conclude:</p> <p><i>"It is concluded that, without additional mitigation, a minor level of impact is predicted at the most exposed locations in the proposed residential building based on the reference design. In the event the residential building is completed while the terrace and function room is operational, it would be feasible and reasonable to appropriately plan the residential building and to incorporate suitable façade treatments to mitigate the minor residual impacts predicted."</i></p>	<p>Appendix A</p>
<p>Heritage NSW</p>		
<p>The proposed deck, balustrade etc. were not part of the previous approval. The works are within the 20m setback imposed by the Independent Planning Commission and so may be in contravention of the previous approval. These works will have an adverse heritage impact in terms of view, setting and integrity.</p> <p>There is likelihood of further impact of associated works probable to follow, such as shade structures, lighting, seating, roof top landscaping, etc. In view of the above, the proposed deck is not supported. The drawings do not indicate the setback of the glass balustrade from the existing parapet which needs to be clear.</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>"This application seeks only consent for the inclusion of a stage in SSD – 7693 and a building envelope. Physical works do not form part of this application. The Heritage Impact Statement prepared as part of the application therefore discusses the type of works that would be facilitated by the Stage 1a application. Details of the setback of the glass balustrade or any other required ancillary structure are not finalised at this stage and consent is not sought for these elements. The plans provided with this response establish that the glass balustrade is to be approximately 2.9m set back from the façade however these details are to be determined via a separate detailed SSDA process. It is not anticipated that there will be any fixed structures on the deck, the detailed SSDA design stage will determine the most appropriate</i></p>	<p>Appendix C</p>

Summary of Issue Raised	Response	Appendix
	<p><i>location/design of any such elements with regard for heritage and visual impacts.</i></p> <p><i>This separate SSDA process will provide HNSW with an opportunity to comment on this detailed application which will include a comprehensive design package and a revised visual impact assessment which represents the final design of the proposed works (including the setbacks, materiality and form). The team is further able to commit to consultation with HNSW regarding setbacks and ancillary structures prior to the submission of the detailed SSDA.”</i></p>	
<p>The proposal describes the addition as a single storey even though the proposed height is 6.35m. It should be clarified whether the proposed envelope will comprise one or two floors.</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>“The physical addition does not form part of this application. The intention is that the proposed building envelope facilitates a single storey space, with a heightened ceiling appropriate to its use as a function space.</i></p> <p><i>Notwithstanding the number of internal floors the HIS prepared by Urbis and the Visual Impact Assessment prepared by AE Design Studio addresses the proposed presentation of the scale and finds that it is much more diminutive than what has been previously approved as a Stage 1 envelope, and has been carefully designed in terms of scale and siting to respond sympathetically to the existing building form of Transport House.</i></p>	Appendix C
<p>The addition is proposed to be a temporary structure intended to be prefabricated. The proposal should include confirmation that the works will be easily reversible. Any</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>“Given no physical works are proposed at this stage the team is not able to confirm the construction method beyond the prefabrication. As part of</i></p>	Appendix C

Summary of Issue Raised	Response	Appendix
<p>associated structural works should only be to enable a single-storey structure.</p>	<p><i>the detailed SSDA the team can commit to outlining the structural works in detail to demonstrate that they enable only a single storey structure and that any interventions are minimal and able to be easily patched/adapted to suit the future 'permanent' scheme."</i></p>	
<p>The proposed addition is described as an interim 'stage' so there is a possibility that the original approval is executed by adding another storey atop the temporary structure. There is also a risk that the original approval is not executed and the temporary structure is perpetuated. These will in effect allow bypassing of the conditions of consent. These risks as well as the 10-year time-limit should therefore be addressed through conditions of consent.</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>"There is no view at this stage regarding how the additional storey will be executed. However, it must be noted that the Conditions of Consent require a Competitive Design Process for all the future works including the original ballroom approval. This process will determine the best possible outcome for the building. If there is an opportunity to adapt the temporary structure while meeting the requirements and intended outcomes of the CDP then Urbis do not object to the principle of using the temporary structure from a heritage perspective. Any Conditions of Consent should consider the sustainable benefit of reusing part of the temporary structure if it is shown that the scheme can achieve design excellence.</i></p> <p><i>The 10 year time limit on leaving the temporary structure in place in its original form can be imposed in a Condition of Consent."</i></p>	Appendix C
<p><i>The following comments previously provided by Heritage NSW on the original development, also remain valid for the current modification and require consideration as part of the assessment of this modification proposal:</i></p> <p>The proposed addition will also have an unacceptable adverse impact on significant views to the site (as identified in the Draft CMP) from several State Heritage Register items in the vicinity, including the Royal Botanic Gardens</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>"It is not clear which part of the proposed addition is purported to have an unacceptable adverse impact of significant views. The single-story envelope is entirely within the existing approved envelope save a small extension to the south for access. Therefore, the impact of the scale is significantly reduced when compared to the original approval. A detailed design process will be undertaken to ensure that the physical works,</i></p>	Appendix C

Summary of Issue Raised	Response	Appendix
<p>and the Sydney Conservatorium of Music and Chief Secretary's Building (SHR 00766). The amended proposal will have major adverse impact on the setting and significant views around the Treasury Building, Transport House and Justice and Police Museum. The proposed setbacks are inadequate in minimising the visibility of the proposed addition. It is recommended that a 30m setback from Macquarie Street frontage be provided which will comply with the SDCP 2012 requirement.</p>	<p><i>which will be subject to a future SSD, are of design quality befitting of the location. HNSW will have the opportunity to be part of this design development process.</i></p> <p><i>It is recognised that there are elements within the 30m setback to Macquarie Street that were not envisaged by or approved in the original consent. However, Urbis does not agree that these amendments will have a major adverse impact on the setting and significant views around the Treasury Building.</i></p> <p><i>The proposed deck itself will not be visible behind the parapet so there is no potential for impacts on the setting or views as stated in the comment. The balustrade would be visible; however, it is a minor element which is likely to be glazed (this materiality can be agreed with HNSW) and which is intended to have a setback of approximately 2.9 metres from the parapet. The existing parapet would remain dominant in the streetscape. The balustrade would likely be difficult to view from the public domain on Macquarie Street and from further away would be so minor that it would not form a key focal points in views. A revised VIA can be provided during the detailed SSD process.</i></p>	
<p>The proposed roof top addition will compromise the integrity of the surrounding historic precinct and Macquarie Street streetscape of exceptional value which comprise World Heritage listed Hyde Park Barracks Convict Site, the draft National Listed Governors' Domain and Civic Precinct and a number of SHR listed sites.</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>"Urbis has recent and significant EPBC Act Pre Referral experience in this area, specifically in relation to the introduction of multi storey additions above buildings within the National Listed curtilage. Department of Agriculture, Water and Environment (DAWE) are responsible for the protection of the exceptional values associated with the precinct. The Referral Guidelines prepared in 2021 for this area by DAWE do not require referral for additions to buildings within the</i></p>	Appendix C

Summary of Issue Raised	Response	Appendix
	<p><i>curtilage. This is relevant to both buildings listed as part of the National values (which the subject site is not) and otherwise. Therefore, it cannot be assumed that there is any intention to preclude the type of development facilitated by this modification for the purpose of retaining the exceptional values of the precinct.</i></p> <p><i>The proposed rooftop addition will not compromise the integrity of the surrounding historic precinct. There are a number of similar rooftop additions to buildings within this precinct, including buildings which are listed as contributors to the National values (e.g. the rooftop addition under construction at the Department of Education Building on Bridge Street)."</i></p>	
<p>Although proposed structural loads have been reduced by the deletion of one floor from Transport House additions, it is considered that the information submitted is indicative only and future structural interventions may be required at building stage to realise the proposed development. It is therefore recommended that any approval be on the basis of deferred commencement subject to confirmation that the proposed development can be realised without any structural intrusion (impact on significant fabric) into the Transport House.</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>"The information is appropriately indicative given approval of an envelope only is sought. Confirmation that the proposed development can be realised without any structural intrusion in addition to that approved under the original SSDA can be provided at detailed SSD stage. It should be noted that a structural report was submitted with the application which does not anticipate any additional impacts to the building."</i></p>	Appendix C
<p>The Heritage Council Approvals Committee has previously considered a development application for the adjoining site (93-97 Macquarie Street, Sydney - SHR No 01912) for a proposed tower block and recommended that:</p> <p><i>the Sydney Development Control Plan 2012 planning controls be revised to support only low-scale development</i></p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>"The requirement for a revised Sydney Development Control Plan is to be discussed by others. However, it should be noted that there is already an approved envelope in this location which is of a larger scale</i></p>	Appendix C

Summary of Issue Raised	Response	Appendix
<p><i>between 89-121 Macquarie Street to protect the heritage values of this low-scale precinct. The current street wall height and existing low-scale setting of the precinct should be maintained as the dominant height for the full 30m depth of all sites fronting Macquarie Street from the Chief Secretary's Building (SHR No 00766) through to the Royal Automobile Club (SHR No 00700).</i></p> <p>It is therefore recommended that a revised Sydney Development Control Plan be sought prior to the determination of this application, in accordance with the Heritage Council's recommendation and Court's conclusion to achieve a consistent outcome across the whole block.</p>	<p><i>than that proposed under this application. The reduced impact should be appreciated."</i></p>	
City of Sydney Council		
<p>The City has reviewed the modification and notes the addition of a 'Stage 1A' aspect to the consent allowing provision for a new temporary envelope for a function centre, that would be subject to a separate detailed design application.</p> <p>It is also noted that the proposed Stage 1A envelope is notably smaller than the approved ballroom envelope and is likely to have less impacts by way of view loss, outlook, heritage significance and overshadowing.</p>	<p>Noted.</p>	<p>N/A</p>
<p>Whilst the City agrees that the proposed Stage 1A function centre will not go through a formal design competition, it is recommended that any detailed design be the subject of a careful review process with strong heritage representation. It is recommended that DPE appoint a committee that</p>	<p>As discussed and agreed with DPE, the future detailed design will be reviewed by GA NSW, who will provide comments/advice to the Applicant for incorporation/satisfaction prior to detailed SSDA lodgement.</p>	<p>N/A</p>

Summary of Issue Raised	Response	Appendix
<p>includes heritage professionals to examine and advise on the merits of the proposal. DPE must be satisfied that the committee has followed an appropriate public process for the purpose of that committee and must consider the advice on the committee in the assessment of the application.</p>	<p>In response to DPE request, the Applicant has chosen an architectural team (Cottee Parker) with a recognised track record for delivering design excellence.</p> <p>Moreover, this modification does not seek to alter the Applicant's obligation to consult with the City of Sydney and Heritage NSW prior to the lodgement of future SSDAs to ensure the proposal is appropriately designed to minimise heritage and visual/streetscape impacts (per Condition C6 of the Concept SSDA consent). Feedback received during those pre-lodgement sessions will inform the detailed design of the scheme.</p> <p>Beyond these requirements, any further 'committee' is considered both unreasonable and unnecessary in the circumstances of the development.</p>	
<p>It is recommended that the appointed project architect undertaking the detailed Stage 1A design be a skilled architect with strong heritage knowledge and that acoustic attenuation issues are thoroughly managed to ensure the function centre operates without undue impact when it becomes operational.</p>	<p>Noted. As above, the Applicant has chosen an architectural team (Cottee Parker) with a recognised track record for delivering design excellence. Urbis Heritage will provide advice on the detailed proposal, having prepared the Conservation Management Plan for the building.</p> <p>As noted elsewhere in this Submissions Report, Acoustic Logic have considered the impacts of the proposal (once operational) upon the existing (hotel) and potential future (residential) uses of Stamford.</p>	N/A
<p>Royal Botanic Gardens and Domain Trust</p>		
<p>Visual Impact</p> <p>The impact of the proposed development concept is of a temporary nature and not visually dominant against the existing city skyline.</p>	<p>Noted. The obligation of the Applicant to demonstrate 'design excellence' in accordance with Condition C2 of the Concept SSDA consent and the Sydney LEP 2012 is unchanged by this modification application.</p>	N/A

Summary of Issue Raised	Response	Appendix
<p>However, it would be visible from large areas of the Garden. The building envelope in the application suggests the form and scale of the temporary structure will have a reduced profile and be less intrusive given that it will be constructed off-site using prefabricated material.</p> <p>Nevertheless, the detailed design of the addition is equally important to ensure the successful visual integration with the existing built form in this locality.</p> <p>We request therefore that any approval for the application should be conditioned to require the detailed design to have a high standard of architectural quality that is sympathetic to their visual and spatial context.</p>		
<p>Overshadowing</p> <p>We have reviewed the application documentation in relation to overshadowing and note that the development concept in the application is fully contained within the solar access planes that apply to this locality and that the proposed building envelopes do not cast any additional shadows over the Gardens.</p> <p>However, as stated in our submission dated 26 October 2017, it is critical that this situation remains and request that any approval for the application makes this outcome an explicit requirement of any future additions.</p>	<p>Noted. No additional overshadowing is proposed. As noted by the RBGDT, the impacts of the temporary function centre would be less than the approved Ballroom.</p>	<p>N/A</p>

Summary of Issue Raised	Response	Appendix
Sir Stamford at Circular Quay (prepared by Norton Rose Fulbright)		
<p>Reported Rationale for the Modification Application</p> <p>The application seeks a very different outcome or, more accurately, an uncertain potential set of outcomes. Page 6 of the Urbis Report describes the proposed modification as involving the addition of a “stage” in the Mulpha Consent reflecting a 1 storey building envelope above Transport House that is intended to be “time-limited to ten years”.</p> <p>This proposed new envelope would allow various works to occur via the Design DA, including the construction of a function space on the rooftop of Transport House along with an outdoor bar area.</p>	<p>Refer to Addisons response at Appendix D. Copied verbatim below for completeness:</p> <p><i>The arguments that the introduction of a new temporary stage comprising the temporary function centre results in an uncertain potential set of outcomes (paragraph 9 of the NRF Letter) and multiple development outcomes (pages 6 and 7 of the Mecone Letter) are incorrect. There is no uncertainty about the development outcomes for Transport House. The concept proposals are staged and sequential, with the first stage being temporary. There is no uncertainty about the timeframe for the reasons set out in section 4 below.</i></p>	Appendix D
<p>The documents accompanying the application offer no cogent explanation as to why a “temporary” function centre with a 10 year duration (and possibly longer) is necessary in order to respond to the COVID- 19 pandemic.</p>	<p>The Australian Trade and Investment Commission states that the COVID-19 pandemic is having damaging and long-lasting impacts on tourism (https://www.tra.gov.au/covid-19-recovery).</p> <p>Addisons also state: <i>Mulpha does not assert in the Modification Application that it will take a 10 year timeframe for the international tourism market to rebound. However, given that it has operated the Intercontinental Hotel in Sydney for 18 years it has intimate knowledge of the international tourism market and expected projections for the market to return to its pre-Covid 19 pandemic levels.</i></p>	Appendix D
<p>Principles Constraining the Modification Power</p> <p>The term “modify” means “to alter without radical transformation”. In our opinion, there is a reasonable argument that the application would radically transform the</p>	<p>Refer to Addisons response at Appendix D. Copied verbatim below for completeness:</p> <p><i>We reiterate that the consent authority could be so satisfied of the jurisdictional prerequisite in section 4.55(2)(a) and that contrary to the</i></p>	Appendix D

Summary of Issue Raised	Response	Appendix
<p>Mulpha Consent. The modification application is not for substantially the same development.</p>	<p><i>NRF Letter, there is no legal impediment to the consent authority approving the Modification Application.</i></p> <p><i>No cogent reasons have been provided by Mecone or NRF as to why it is not open to the consent authority to be satisfied on substantially the same development.</i></p> <p><i>It is reasonably open for the consent authority to be satisfied that the modified concept development, both quantitatively and qualitatively, will be essentially or materially the same as that approved by the IPC and as such, will be substantially the same as that originally approved. No material or radical transformation is proposed.</i></p>	
<p>The Application is not substantially the same development</p> <p>In our view, the documents lodged by the applicant unduly emphasise quantitative considerations at the expense of fundamental qualitative differences between the proposed development and what was originally approved by the IPC. That “Stage 1A” may occupy a smaller volumetric envelope than was originally approved is not decisive, particularly if the qualitative impacts are significant.</p>	<p>Refer to Addisons response at Appendix D. Copied verbatim below for completeness:</p> <p><i>In our letter of 7 December 2021, we equally address the qualitative assessment on issues such as traffic, parking, overshadowing and noise (see paragraphs 3.2, 3.3, 3.15-3.18 of our letter).</i></p> <p><i>As we indicated in our letter of 7 December 2021 at paragraph 3.4, modifications to an approved development will result in some change, and that this does not mean that even quite extensive changes will result in the overall development becoming something other than substantially the same. It is necessary to focus on the overall approved development.</i></p>	Appendix D
<p>A single concept development application may validly propose several built form envelopes and various indicative uses for different parts of a site. However, what the legislation does not contemplate are two mutually exclusive built form envelopes over the same part of a site—in the</p>	<p>Refer to Addisons response at Appendix D. Copied verbatim below for completeness:</p> <p><i>As the Urbis Report states (section 3.2, page 7), it is proposed that a condition of consent be imposed providing that “Stage 1a, (being the Transport House Function Centre) is time limited to ten years following</i></p>	Appendix D

Summary of Issue Raised	Response	Appendix
<p>present case, for a 1 storey function centre (including an external deck) on the roof of Transport House while retaining the 3 storey envelope for a ballroom over the same spatial area. If the outcomes now proposed by the MA had been sought in concept development application SSD 7693, we submit that consent could not have been lawfully granted.</p>	<p><i>issuance of an Occupation Certificate for these works". A condition of consent limiting the period during which development may be carried out in accordance with a consent is authorised by section 4.17(1)(d) of the EP&A Act.</i></p> <p><i>There is nothing unusual in what is proposed by the temporary structure and use.</i></p> <p><i>It is noted that the City of Sydney imposed a time-limited consent on the deferred commencement development consent granted to DA D/2014/226 on 3 October 2014 in favour of Stamford for the construction and use of a temporary rooftop display apartment marketing suite on the roof of Stamford Hotel at 93-97 Macquarie Street, Sydney. In accordance with section 4.17(1)(d), condition 4 restricted the time period to 12 months from the date of the issue of the occupation certificate for the temporary display and marketing suite.</i></p> <p><i>As the Department would be aware, a development consent authorises the carrying out of the whole or part of the development approved by a development consent, but it does not compel the person who has the benefit of the development consent to carry out the development: F Lucas & Sons Limited v Darking and Horley Rural District Council (1964) 17 PQ CR QBD 111.</i></p> <p><i>There is no condition of consent that requires Mulpha to undertake the competitive design process and lodge the detailed design DA for the ballroom on the roof of Transport House within any specified timeframe. Nor is there any such time provision in the EP&A Act, where the development consent has been physically commenced which Mecone concedes has occurred (Mecone Letter, page 10).</i></p>	

Summary of Issue Raised	Response	Appendix
	<p><i>Mulpha already has a broad discretion as to when it will deliver the ballroom. This is so irrespective of the Modification Application.</i></p> <p><i>This same discretion is afforded to beneficiaries of developments consents, including concept development consents, once the consent has been physically commenced, unless there are conditions of consent limiting the time in which the development is to be carried out.</i></p>	
<p>The addition of Stage 1A could indefinitely defer the delivery of the originally approved ballroom proposal and the competitive design process that was specifically required by the IPC in granting consent. In these circumstances, it is simplistic and misleading to characterise Stage 1A and the function centre as “temporary” given the time limited period is 10 years.</p> <p>The Urbis Report and Addisons Letter give insufficient regard to the inclusion of Condition B2 in limiting how future development of the site must proceed. The MA seeks to amend the resultant Condition B2 to remove the requirement for a competitive design process for Stage 1A with no adequate justification.</p>	<p>Refer to Addisons response at Appendix D. Copied verbatim below for completeness:</p> <p><i>The proposed function centre envelope is significantly smaller than the building envelope for the approved ballroom, and importantly will be a temporary prefabricated structure which will be installed for a period of 10 years from the issue of an occupation certificate for the structure. It is appropriate that the requirement for a competitive design process be waived. Further information justifying the waiver is set out in Section 4 of Urbis’ Response to Submissions.</i></p> <p><i>We note that the City of Sydney in its submission of 21 January 2022 “agrees that the proposed Stage 1A function centre will not go through a formal design competition”.</i></p> <p><i>We agree with NRF (paragraph 24) that the design excellence provisions in Sydney LEP 2012 can apply to concept development applications that involve building envelopes only.</i></p> <p><i>Conditions B2 and B3 will continue to apply to the ballroom on the roof of Transport House such that a competitive design process must be undertaken before lodging the detailed design DA for the ballroom. No change is proposed to this.</i></p>	Appendix D

Summary of Issue Raised	Response	Appendix
<p>Further Considerations</p> <p>Any merit assessment of the application in conformity with the EP&A Act would need to fully consider the consent granted on 12 March 2020 by the Central Sydney Planning Committee to concept development application D/2017/1609 (Stamford Consent).</p>	<p>An addendum Acoustic Report (Appendix A) has been prepared, which includes assessments against the existing condition (hotel) and the potential future condition (residential). This is further outlined in the row below.</p>	<p>Appendix D</p>
<p>Sir Stamford at Circular Quay (prepared by Mecone)</p>		
<p>Acoustic Impacts</p> <p>The Acoustic Report (AR) submitted with the Modification Application, prepared by Acoustic Logic, seeks to address acoustic considerations. However, concerns are raised in relation to the robustness and accuracy of the report, particularly regarding the anticipated acoustic impacts on the neighbouring Stamford site and future residential accommodation envisaged by the Modification Application.</p> <p>The approved plans of the Stamford DA specifically indicate residential uses facing onto the common boundary with the site (3m setback), from the ground floor to level 15 (see Figure 2 below). The AR advises that “The most impacted receivers would be the future receivers on the adjacent Stamford Hotel tower site... the greatest potential impact will be to spaces on the southern façade overlooking the proposed function space.”</p> <p>Therefore, the AR findings are unclear in relation to the potential impacts on future residential uses at the Stamford Hotel site and whether the proposed Stage 1A uses,</p>	<p>An addendum Acoustic Report (Appendix A) has been prepared, which includes assessments against the existing condition (hotel) and the potential future condition (residential).</p> <p><i>Acoustic Logic state: “It is concluded that, without additional mitigation, a minor level of impact is predicted at the most exposed locations in the proposed residential building based on the reference design. In the event the residential building is completed while the terrace and function room is operational, it would be feasible and reasonable to appropriately plan the residential building and to incorporate suitable façade treatments to mitigate the minor residual impacts predicted.”</i></p>	<p>Appendix C</p>

Summary of Issue Raised	Response	Appendix
<p>particularly the outdoor deck area, would result in an acceptable acoustic outcome.</p>		
<p>New deck area</p> <p>The Modification Application seeks to introduce a new deck area in the northeast area of the Transport House rooftop. This area will be immediately adjacent to future residential uses on the adjacent Stamford Hotel site.</p> <p>However, it is unclear if this deck is to operate only as part of the function centre or have the potential to operate independently when the main function centre room is not being used. The potential noise impacts of this new deck area are discussed in section 2 above.</p> <p>The Planning Report submitted with the Modification Application advises that “The proposed external deck will not have any qualitative heritage impacts as it will not be visible from the street nor from the Botanic Gardens.” However, the accompanying Heritage Impact Statement (HIS) does not consider this proposed new deck area in its assessment, only the proposed function centre envelope.</p>	<p>Indicative details regarding the proposed outdoor bar area are provided within a draft Plan of Management document (Appendix E), noting the area itself hasn’t been designed yet (and is subject to review by GA NSW). The outdoor bar is proposed to operate in conjunction with the function centre.</p> <p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>It is not anticipated that there will be any fixed structures on the deck, the detailed SSDA design stage will determine the most appropriate location/design of any such elements with regard for heritage and visual impacts.</i></p>	<p>Appendix C and Appendix E</p>
<p>Corridor link to hotel</p> <p>It is unclear from the submitted HIS and Visual Impact Assessment (VIA) if due consideration has been given to the temporary function centre corridor link to the hotel and associated heritage or visual impacts.</p> <p>The Modification Application seeks to remove the requirement for a Competitive Design Process for the</p>	<p>Refer to Urbis Heritage response at Appendix C. Copied verbatim below for completeness:</p> <p><i>The corridor link is substantially set back from the Macquarie Street frontage. It is not likely that the link would be visible at all from the public domain east of the subject site. Even if the link was visible, it would exist in the context of existing, significantly larger development on the site and would be so set back from Macquarie Street that there is no</i></p>	<p>Appendix C</p>

Summary of Issue Raised	Response	Appendix
<p>Stage 1A component which includes this corridor link. It is unclear if due consideration has been given to the potential heritage and visual impacts of the corridor link or rather if it was inserted as an afterthought to provide physical access to Stage 1A function centre, without proper analysis of the design excellence considerations.</p>	<p><i>potential for it to dominate the views or detract from any significant fabric.</i></p>	
<p>Substantially the Same Development</p> <p>While it may be argued in this case that the quantum of changes sought between the now proposed Stages 1A and 2 are substantially the same due to the reduced scale of the envelope, the changes sought must also consider the introduction of the new stage and multiple development outcomes this presents. In this respect, the anticipated development outcomes, as modified, are not considered to be substantially the same development as those previously envisaged and will result in a radical transformation of SSD-7693 for the following reasons:</p> <p>The modification seeks to insert an entirely new stage (Stage 1A) constituting an additional separate function centre use for the Transport House rooftop as an ‘interim’ measure before its removal to undertake Stage 2 Transport House Ballroom.</p> <p>The proposed time-limited Stage 1A consent that commences “following issuance of occupation certificate” creates a large degree of uncertainty surrounding when the function centre will be delivered and the period of time the function centre structure will be atop Transport House. The</p>	<p>Refer to Addison's response at Appendix D. Copied verbatim below for completeness:</p> <p><i>The Mecone Letter states that “the relationship of the building to adjoining development will not remain generally as approved” (page 7). That, in itself, does not mean that the “substantially the same development” test is not satisfied. As we indicated in our letter of 7 December 2021 at paragraph 3.4, modifications to an approved development will result in some change, and that this does not mean that even quite extensive changes will result in the overall development becoming something other than substantially the same. It is necessary to focus on the overall approved development.</i></p> <p>It is also noted that:</p> <ul style="list-style-type: none"> ▪ The modified development comprising the temporary function centre will have a maximum RL of 43.28m (within the maximum height established by the Ballroom envelope). ▪ The modified development comprising the temporary function centre will be for the purpose of a tourist related development. The proposed function centre will be functionally and physically and connected (by way of stairs) with the approved SSD development comprising the Intercontinental Hotel. The ballroom is still proposed to be carried out 	<p>Appendix D</p>

Summary of Issue Raised	Response	Appendix
<p>proposed insertion of Stage 1A creates uncertainty in the concept consent resulting in multiple potential development outcomes with no certainty of when, or if, the final Stage 2 Ballroom outcome envisaged in the original concept consent would be achieved.</p> <p>Proposed Stage 1A, particularly the new deck area, also has the potential to significantly increase the environmental impacts of the proposal including noise and amenity (see Sections 1 – 3 above for further discussion).</p> <p>Regarding the additional Stage 1A, it is acknowledged that legal advice provided by the applicant refers to previous decisions of the Land and Environment Court that are said to support the applicant’s position. However, the current proposal differs in that it essentially seeks to allow for two different outcomes to be approved on the site, namely:</p> <p>A future ‘function centre’ use with a prefabricated structure to be installed for a period of 10-years upon issue of occupation certificate, which circumvents the competitive design process (CDP) design excellence provisions of SLEP 2012 (see section 7 below); and/or</p> <p>The originally approved Stage 2 Transport House Ballroom that is subject to a CDP and will result in the intended design excellence outcome for the site as envisaged in SLEP 2012.</p> <p>The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where</p>	<p>as a permanent structure with the proposed temporary function centre and deck, being a response to the COVID-19 pandemic.</p> <ul style="list-style-type: none"> ▪ No change is proposed to the approved gross floor area. ▪ The design of the function centre does not affect the IPC’s findings about the building envelope and its impacts, as it will be smaller than the approved building envelope. 	

Summary of Issue Raised	Response	Appendix
<p>that comparative exercise is undertaken in some type of sterile vacuum.</p>		
<p>Design Excellence</p> <p>In accordance with Clause 6.21D(1) of SLEP 2012, the proposed Transport House component of the development (SSD-9673) is required to undergo a design excellence process. This requirement is also reflected in consent conditions (B2, B3, B4) imposed on the OSSDA.</p> <p>The Modification Application seeks to amend consent condition B2 to remove the requirement to undergo a competitive design process for the proposed Stage 1A. However, the application does not address Clause 6.21D(2) with adequate supporting justification as to how “a [competitive design] process would be unreasonable or unnecessary in the circumstances” or that the development meets subclauses (2)(a), (b), (c) and (d) (each of which must be satisfied).</p>	<p>Refer to Addisons response at Appendix D. Copied verbatim below for completeness:</p> <p><i>The proposed function centre envelope is significantly smaller than the building envelope for the approved ballroom, and importantly will be a temporary prefabricated structure which will be installed for a period of 10 years from the issue of an occupation certificate for the structure. It is appropriate that the requirement for a competitive design process be waived. Further information justifying the waiver is set out in Section # of Urbis’ Response to Submissions.</i></p> <p><i>We note that the City of Sydney in its submission of 21 January 2022 “agrees that the proposed Stage 1A function centre will not go through a formal design competition”.</i></p> <p><i>We agree with NRF (paragraph 24) that the design excellence provisions in Sydney LEP 2012 can apply to concept development applications that involve building envelopes only.</i></p> <p><i>Conditions B2 and B3 will continue to apply to the ballroom on the roof of Transport House such that a competitive design process must be undertaken before lodging the detailed design DA for the ballroom. No change is proposed to this.</i></p>	<p>Appendix D</p>
<p>Time-limited consent</p> <p>Objection is raised in relation to the proposed 10-year time-limited consent period and the potential implications and uncertainty it creates in the overall concept approval.</p>	<p>The Australian Trade and Investment Commission states that the COVID-19 pandemic is having damaging and long-lasting impacts on tourism (https://www.tra.gov.au/covid-19-recovery).</p> <p>Mulpha does not assert in the Modification Application that it will take a 10 year timeframe for the international tourism market to rebound. However,</p>	<p>N/A</p>

Summary of Issue Raised	Response	Appendix
<p>The rationale for the Modification Application provided in the Planning Report included:</p> <p>“Due to the COVID-19 pandemic and its impact on the international tourism market, Mulpha have not progressed with the ballroom proposal and have instead workshopped concepts for how to viably activate the presently disused Transport House rooftop in the short to medium term.”</p> <p>The insertion of the Stage 1A function centre will indefinitely defer the ultimate permanent provision of the Stage 2 Transport House Ballroom which will be the outcome of a competitive design process (CDP).</p> <p>With Australian borders confirmed to reopen to all vaccinated travellers (including tourists) on 21 February 2022, it is unreasonable to suggest a 10-year timeframe would be required for a corresponding rebound in the international tourism market to enable progression to the Stage 2 Ballroom.</p>	<p>given that it has operated the Intercontinental Hotel in Sydney for 18 years, it has intimate knowledge of the international tourism market and expected projections for the market to return to its pre-Covid 19 pandemic levels.</p>	
<p>The proposal in the Modification Application to impose a 10-year time limit to the Stage 1A consent that commences “following issuance of occupation certificate” creates a large degree of uncertainty surrounding when the function centre will be delivered and the period of time the function centre structure will be atop Transport House.</p> <p>As the approval is for a concept envelope, it will require the lodgement and approval of a subsequent detailed design DA to enable construction of the function centre, then activation of the 10-year time period proposed. There is no</p>	<p>Refer to Addisons response at Appendix D. Copied verbatim below for completeness:</p> <p><i>As the Urbis Report states (section 3.2, page 7), it is proposed that a condition of consent be imposed providing that “Stage 1a, (being the Transport House Function Centre) is time limited to ten years following issuance of an Occupation Certificate for these works”. A condition of consent limiting the period during which development may be carried out in accordance with a consent is authorised by section 4.17(1)(d) of the EP&A Act.</i></p>	<p>Appendix D</p>

Summary of Issue Raised	Response	Appendix
<p>mechanism that would require the applicant to lodge the detailed design DA in a reasonable timeframe, and given the concept approval appears to have been activated, the consent would not lapse until the function centre OC is issued plus 10 years. At a minimum, should any consent be granted to proposed Stage 1A, the consent period should commence from the date of the consent as modified.</p> <p>Further, it is unclear with the introduction of Stage 1A, what the implications will be if the proponent cannot commercially complete subsequent Stage 2 Ballroom. Would the time-limited function centre be sought to be extended? If Stage 1A is able to avoid the SLEP 2012 requirement to undergo a CDP on the basis that it is a 'temporary' structure, how would requisite design excellence satisfaction be achieved with a CDP if the structure had already been installed?</p>	<p><i>There is nothing unusual in what is proposed by the temporary structure and use.</i></p> <p><i>It is noted that the City of Sydney imposed a time-limited consent on the deferred commencement development consent granted to DA D/2014/226 on 3 October 2014 in favour of Stamford for the construction and use of a temporary rooftop display apartment marketing suite on the roof of Stamford Hotel at 93-97 Macquarie Street, Sydney. In accordance with section 4.17(1)(d), condition 4 restricted the time period to 12 months from the date of the issue of the occupation certificate for the temporary display and marketing suite.</i></p> <p><i>As the Department would be aware, a development consent authorises the carrying out of the whole or part of the development approved by a development consent, but it does not compel the person who has the benefit of the development consent to carry out the development: F Lucas & Sons Limited v Darking and Horley Rural District Council (1964) 17 PQ CR QBD 111.</i></p> <p><i>There is no condition of consent that requires Mulpha to undertake the competitive design process and lodge the detailed design DA for the ballroom on the roof of Transport House within any specified timeframe. Nor is there any such time provision in the EP&A Act, where the development consent has been physically commenced which Mecone concedes has occurred (Mecone Letter, page 10).</i></p> <p><i>Mulpha already has a broad discretion as to when it will deliver the ballroom. This is so irrespective of the Modification Application.</i></p> <p><i>This same discretion is afforded to beneficiaries of developments consents, including concept development consents, once the consent</i></p>	

Summary of Issue Raised	Response	Appendix
	<i>has been physically commenced, unless there are conditions of consent limiting the time in which the development is to be carried out.</i>	

5. UPDATED PROJECT JUSTIFICATION

The proposed modification has been assessed in accordance with section 4.55(2) and section 4.15 of the EP&A Act and are considered appropriate as summarised below:

- The proposal is of minimal environmental impact:
 - **Acoustic:** The addendum Acoustic Report (Appendix A) includes assessments of the existing Stamford condition (hotel) and its potential future condition (residential). The report finds that the detailed design and operation of the function centre can readily comply with the relevant acoustic criteria, including noise emissions to the potential future residential use at the Stamford site.
 - **Visual:** The proposed envelope is more diminutive than the previously approved Ballroom envelope has been carefully designed in terms of scale and siting to respond sympathetically to the existing building form of Transport House.
 - **Heritage:** The proposal is in keeping with the unique heritage character of the area and will not detract from nor obscure the heritage values of Transport House, the adjacent heritage items or the broader Governor's Domain & Civic Precinct.
 - **Structural:** The function centre is planned to be constructed off-site, using prefabricated/lightweight materials. Preliminary advice from TTW confirms the function centre can be accommodated without placing undue pressure on the existing Transport House building structure.
 - **Design excellence:** DPE advised that a design competition and/or SDRP process is not necessary for the future rooftop function area (but will remain relevant and necessary for the Ballroom application/ proposal). The proposed function centre envelope is significantly smaller than the building envelope for the approved ballroom, and importantly will be a temporary prefabricated structure which will be installed for a period of 10 years from the issue of an occupation certificate for the structure. In Section 4 of this report (above), we outline how the proposal is wholly consistent with the SLEP 2012 exemption criteria listed under Section 6.21D(2).
- The proposal is substantially the same development as approved:
 - The modified development comprising the temporary function centre will have a maximum RL of 43.28m (within the maximum height established by the Ballroom envelope).
 - The modified development comprising the temporary function centre will be for the purpose of a tourist related development. The proposed function centre will be functionally and physically and connected (by way of stairs) with the approved SSD development comprising the Intercontinental Hotel. The ballroom is still proposed to be carried out as a permanent structure with the proposed temporary function centre and deck, being a response to the COVID-19 pandemic.
 - No change is proposed to the approved gross floor area.
 - The design of the function centre does not affect the IPC's findings about the building envelope and its impacts, as it will be smaller than the approved building envelope.
- The proposal satisfies the applicable planning controls and policies.
- The proposal remains suitable for the site and is consistent with the B8 zone objectives; and
- The modified proposal will provide significant public benefit by allowing Mulpha to activate the Transport House rooftop space in the short-term, enabling significant reinvestment in a heritage listed building and Sydney CBD.

Having considered all relevant matters, we conclude that the proposed modification is appropriate for the site and approval is recommended, subject to appropriate conditions of consent.

DISCLAIMER

This report is dated 19 April 2022 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Mulpha (**Instructing Party**) for the purpose of Response to Submissions Report (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

APPENDIX A

ADDENDUM ACOUSTIC REPORT

APPENDIX B

ESD REPORT

APPENDIX C

HERITAGE ADVICE

APPENDIX D

LEGAL ADVICE

APPENDIX E

DRAFT PLAN OF MANAGEMENT

