

4 STATUTORY CONTEXT

4.1 MAJOR PROJECT DECLARATION

The project has a Capital Investment Value of more than \$5 million and is of a kind described in Schedule 2, being development within the area identified as Darling Harbour on Map 9 of Schedule 2 of the *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP). The project is therefore a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) applies. The opinion was formed by the Minister on 12 September 2007 and authorisation was granted for the submission of a Project Application.

4.2 PERMISSIBILITY

Darling Harbour Development Plan No 1 (DHDP) is deemed as a regional environmental plan under clause 23 of Schedule 6 of the EP&A Act. Schedule 1 of DHDP allows a mix of commercial uses including hotels as permissible development.

The proposal is consistent with the objectives of DHDP and is permissible subject to the Minister's approval.

4.3 DIRECTOR GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

The Director General's Requirements (DGRs) for the preparation of an Environmental Assessment (EA) issued on 19 September 2007 required the following key issues to be addressed:

- Architectural design and built form
- Visual impact
- Streetscape, public domain and access
- Ecologically Sustainable Development
- Traffic Impacts (Construction & Operational)
- Ecologically Sustainable Development
- Noise impacts
- Construction Impacts
- Services/infrastructure and utilities

The DGRs are in **Appendix A**

The amended EA lodged by the Proponent on 1 May 2008 satisfactorily addressed the DGRs and was deemed adequate for exhibition.

4.4 OBJECTS OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the EP&A Act, consistent with the backdrops of the objects of the EP&A Act.

The objects of the EP&A Act in section 5 are as follows:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,
- (iii) the protection, provision and co-ordination of communication and utility services,
- (iv) the provision of land for public purposes,
- (v) the provision and co-ordination of community services and facilities, and

- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
 - (vii) ecologically sustainable development, and
 - (viii) the provision and maintenance of affordable housing, and
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

The Project Application promotes the economic use of land and provides for the orderly use of the land, and ensures that the land is publicly accessible by way of through site pedestrian links. The proposal raises no issues with regard to impacts on native animals and plants.

With respect to ESD, the EP&A Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The environmental assessment of the Project Application has involved state and local government, and provided opportunities for public involvement and participation in the development of the site.

The Department has considered the Objects of the EP&A Act, including the encouragement of ESD in the assessment of the Project Application. The balancing of the application in relation to the Objects is provided in Section 5.

4.4.1 ESD Principles

There are 5 accepted ESD principles:

- (a) *decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- (b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- (c) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- (d) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- (e) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the development in relation to the ESD principles and has made the following conclusions:

- a) **Integration Principle** – The proposal will have environmental, economic and social benefits and provides a positive reactivation of an under utilised site for employment and commercial uses. The environmental impacts of the development are appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by the community and public authorities, and the proposal as recommended for approval will not compromise a particular stakeholder or hinder the opportunities of others.
- b) **Precautionary Principle** – The proposal presents no threat of serious or irreversible environmental damage to the site or the wider locality. Prior to the commencement of work additional technical plans and environmental reports will ensure that the impacts of the proposal can be successfully mitigated.
- c) **Inter-Generational Principle** – The proposal represents a sustainable redevelopment of the site. The development includes the erection of a new building and upgrade of Murray Street frontage including upgrades to pedestrian and vehicular access to reinvigorate the activation of the site for the benefit of current and future generations.

- d) **Biodiversity Principle** – Following an assessment of the proponent's EA it is concluded that there is no threat of serious or irreversible environmental damage as a result of the proposal. There are no threatened or vulnerable species or significant vegetation on the site.
- e) **Valuation Principle** – An assessment of the environmental costs and benefits of the proposal has been undertaken. This has identified appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

The proponent is committed to ESD principles and has proposed a number of design elements (see section 5.5 of this report) which for ESD opportunities. ESD is considered in the wider context of the public benefits of the proposal, and these are documented throughout the report.

4.5 SECTION 75I(2) OF THE EP&A ACT

Section 75I(2) of the EP&A Act and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director General's report is to address a number of requirements in the Director General Report. These matters and the Department's response are set out as follows:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA is located on the assessment file (attached).
Any advice provided by public authorities on the project	All advice provided by public authorities on the project application for the Minister's consideration is set out in this report.
Copy of any report of a panel constituted under Section 75G in respect of the project	No statutory independent hearing and assessment panel was undertaken in respect of this concept plan application.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Each relevant SEPP that substantially governs the carrying out of the project application is identified immediately below.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development relative to the prevailing environmental planning instrument is provided in section 4 of this report.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment of the project application is this report in its entirety. The proposal satisfies the DGRs.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in section 5 of this report.
Any aspect of the public interest that the Director General considers relevant to the project	The public interest is discussed in section 5 of this report.
The suitability of the site for the project	The site already accommodates a hotel on site and it is considered that existing site conditions are favourable for a new hotel to be established on site.
Copies of submissions received by the Director General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in section 6 of this report.

Table 2 - Section 75I(2) requirements for Director General's Report

4.6 ENVIRONMENTAL PLANNING INSTRUMENTS

4.6.1 Application of Environmental Planning Instruments to Part 3A projects

To satisfy the requirements of section 751(2)(d) and (e) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments (EPis) that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project application.

The primary instruments guiding the assessment of the proposal are:

- State Environmental Planning Policy (Major Projects) 2005
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Darling Harbour Development Plan No 1
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

4.6.2 State Environmental Planning Policy (Major Projects) 2005

As stated in section 4.1 of this report the proposal is a project to which Part 3A of the EP&A Act applies. The Major Projects SEPP does not contain additional provisions in relation to this site.

4.6.3 State Environmental Planning Policy No 55 Remediation of Land

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. No excavation of land is required for the erection of the hotel building as it will be suspended above existing steel columns. Shallow excavation will be required as a result of the Murray Street frontage works though this is limited to the footings of the concrete structure which will be encased in concrete and overlain with concrete as well as asphalt. The site has previously been excavated and disturbed as a result of the hotel development in the late 1980s and it is considered the site is suitable for its continued use as a hotel.

4.6.4 State Environmental Planning Policy (Infrastructure) 2007

The proposed development meets the aims of the Infrastructure SEPP as it allows for the efficient development of government owned land. Schedule 3 of the SEPP requires traffic generating development to be referred to the RTA. The RTA was referred a copy of the proposal but did not make a formal submission on EA.

4.6.5 Darling Harbour Development Plan No 1

The site is within the area to which Darling Harbour Development Plan No 1 applies. Residential and commercial uses including hotels are permissible in the area as identified in Schedule 1 of DHDP. The proposal is consistent with the objects of the Plan which aims to encourage the development of a variety of tourist, recreational, entertainment, cultural and commercial facilities in the Darling Harbour area. DHDP does not contain height limit, floor space ratio or set back development controls.

Development of the site is not subject to any Affordable Housing Contribution Plans or Section 94 Contribution Plans. A contribution rate is therefore not applicable to the additional GFA of the new development. In this regard, in issuing the DGRs, it was considered important to achieve some public benefit as part of the proposed development, and this was required by an improvement to pedestrian linkages from Pyrmont into Darling Harbour.

4.6.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is within the 'Foreshores and Waterways Area' defined in the SREP, and in accordance with Clause 20 of the SREP the following matters are required to be considered in the assessment of the application:

- *Clause 21 - Biodiversity, ecology and environmental protection:* The proposal is not considered to have any adverse impacts on the biodiversity or ecology of the area. Relevant matters with regard to environmental protection during construction are dealt with in the recommended conditions of approval.
- *Clause 22 - Public access to, and use of, foreshores and waterways:* The proposal will improve public access to the foreshore through improvements to existing through site linkages.
- *Clause 23 - Maintenance of a working harbour:* Not relevant to this application.
- *Clause 24 - Interrelationship of waterway and foreshore uses:* The proposal will not detrimentally affect the of waterway and foreshore uses.
- *Clause 25 - Foreshore and waterways scenic quality:* The proposed development is considered to be of an appropriate bulk and scale in the context of the locality and have not have a negative impact on the scenic quality of the foreshore and waterway.
- *Clause 26 - Maintenance, protections and enhancement of views:* The proposal will not have a detrimental impact on the surrounding views.
- *Clause 27 – Boat storage facilities:* Not relevant to this application.

Foreshores and Waterways Planning and Development Advisory Committee

The proposal is not of a type referred to in Schedule 2 of the SREP and is not required to be referred to the Foreshores and Waterways Planning and Development Advisory Committee.

Heritage provisions

The site is not the subject of any Heritage Items listed under the SREP, and is not located within the vicinity of any Heritage Items under the SREP.

4.6.7 Standard Instrument (Local Environmental Plans) Order 2006

The Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument) is only relevant to the proposal for the purposes of determining meanings or words or expressions referred to in the MP SEPP. The proponent has used the definitions in the Standard Instrument where relevant within their Environmental Assessment and the calculations for FSR and height above have been based on these definitions.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

The DGRs and following key issues were considered in the Department's assessment of the Environmental Assessment:

- Architectural Design and Built Form
- Visual
- Streetscape, Public Domain and Access
- Traffic
- Ecologically Sustainable Development
- The Public Interest

5.1 ARCHITECTURAL DESIGN & BUILT FORM

5.1.1 Architectural Design

The architectural design of the building presents a distinct, separate element that reads as a stand alone feature from the existing hotel. The 'ziggurat' form of the existing Novotel has been deliberately discarded to differentiate the two buildings from one another.

The proposed building reflects the opportunities and constraints of the site and provides a distinctive design which is compatible with the architectural expression of the existing building and complements the scale of its surrounds. This minimises its impacts in terms of its height, bulk and scale.

The following features ensure this has been achieved through contrasting palette of design characteristics including shape, form, external materials and finishes.

- 'L' shaped building which aligns with the western façade of the existing hotel and ensures the two buildings still retain a degree of symmetry with one another.
- The 'L' shape building is smaller in its bulk and scale than surrounding buildings and breaks up the 'walled in' effect that characterises the western edge of Darling Harbour.
- The shape and form of the building reduces the loads placed on the car park structure.
- New egress stairs serving levels 1 to 6 of the existing hotel and levels 1 to 3 of the proposed hotel and proposed glazed pedestrian bridge will improve access and enhance cohesiveness between the two buildings.
- External finishes which include three distinct colours of composite metal panels including blue grey, terracotta and off white which break up the façade ensuring the blank wall form of the existing hotel is not repeated.
- Metal sheet roofing is simple in its design and appears as a light weight structure.
- Mechanical plant equipment has been integrated within the roof minimising visual bulk and mitigating view loss impacts.
- "L" shaped design of the building provides privacy and amenity for the outdoor pool area by screening views of the Western Distributor to the south and residential buildings to the south-west and west.

5.1.2 Building Height, Bulk & Scale

While the proposed building is not constrained by any heights limits or density controls, its height, bulk and scale has nevertheless remained generally within the previously approved commercial building's envelope. The retention of these development controls has ensured there is a degree of consistency with what has been previously approved and what is proposed. It also demonstrates that the proposal's height, bulk and scale, is in effect, satisfactory in terms of its relative impacts on the surrounding environment.

The proposal includes a 3 storey "L" shaped linear building approximately 10.9m in height measured from the ground floor of the building. It runs southwards of the existing hotel and is of a lesser scale and bulk to its surrounding residential and commercial context which comprises 7-15 storey high rise residential buildings to the west (Allen Street) and north-west (Murray Street). These sites are covered by the City of Sydney LEP 2005 which sets height limits at 21m and 28m respectively. Hence, the proposed building is less in height and has a distinctly smaller built form, ensuring overshadowing and visual impacts to adjoining residential uses are minimal.

The 12+ storey hotels and serviced apartments to the north of the site and other high rise 10 + storey commercial buildings to the south-west are within the Darling Harbour Development Control No 1 area and thus do not have any height restrictions. The low rise building has a bulk and scale that is sympathetic to surrounding buildings and does not compete with their respective heights which avoids additional 'walling in' of Darling Harbour. It also provides for retention of views to brick warehouse buildings to the south-west of the site when viewed from Darling Harbour.

Smaller commercial buildings 3-4 storeys in height including Harbourside Shopping Centre and Sydney Convention and Exhibition Centre are located 100m east and south-east of the site. These lower scale buildings are characteristic of the buildings that line the valley floor of Darling Harbour. The location of the subject site and its relative distance away from these buildings ensures there is no conflict between these buildings, and maintains a distinctively different built form between the characteristic high rise western edge of Darling Harbour and low rise valley floor.

5.1.3 Density

The subject site is 1.109 hectares or 11,060m² in size. The floor area on site is 31,020m² GFA with a floor space ratio (FSR) of 2.8:1. The proposed building will have a GFA of 3,994m². The ground floor lobby extensions will create 356m² of additional floorspace. The proposed floor area of the site is 35,370m² with a FSR of 3.17:1. The site's large area combined with the proposed building's small scale demonstrates that additional floorspace can be accommodated on site. The DHDP does not include an FSR or other control on the density of development for this site.

5.1.4 Overshadowing

Solar analysis for midwinter between 9am and 3pm indicates that the shadow generated by the proposed building will not have any impact on residential buildings to the west and south-west of the site. No residential buildings are located immediately north or south of the site.

Shadows cast by midwinter at 9am would potentially have the greatest degree of impact, however overshadowing caused as a result of the proposed building are limited to Pymont Street, Western Distributor and commercial buildings lining Pymont Street. Assessment of overshadowing is therefore considered to not have an adverse impact upon existing levels of solar access enjoyed by surrounding residential premises.

5.2 VISUAL

The visual impacts of the building on the surrounding area are considered to be relatively minor due to surrounding high rise residential and commercial buildings that characterise the western edge of Darling Harbour.

When viewed from the eastern side of Darling Harbour, the 3 storey building will read as a low scale addition to the mass of buildings which make up the western edge of Darling Harbour. These gradually rise in height from south to north and include, Goldsbrough Mort, Novotel, Ibis and Grand Mecure buildings.

At street level the building will not appear visually obtrusive due to its setback off Murray Street. This is a result of the building being suspended above the existing car park and not having a direct street frontage. Views of the CBD and Cockle Bay at street level are currently obscured by the car park and Western Distributor, hence while the building will have a noticeable presence, visual impacts at street level will be negligible.

The proposed building will be visible from Allen Street which is situated to the south-west of the site. Allen Street runs perpendicular to the site and provides a view corridor to the CBD. Views of the CBD are partially obscured by the Western Distributor and existing Novotel Hotel. The proposal will slightly reduce views of the CBD from Allen Street, however this is considered acceptable as this loss is restricted to the lower parts of CBD buildings ensuring the CBD skyline remains visible through this view corridor.

Views obtained from residential apartments in Murray Street will also remain unaffected, as their relative position north-west of the site ensures their outlook is completely obscured by the existing Novotel building. While the porte cochere will be visible to some apartments facing the street it is considered that the upgrades to the façade and street frontage present an improvement to streetscape's aesthetic appearance.

Residential apartments in the Goldsbrough Mort building will not be affected by the proposal as their primary view lines are eastwards toward the CBD. View lines will remain available as the Novotel sits north-east of the site. Lower level apartments which enjoy panoramic views of CBD skyline will have their views slightly obscured however these will be limited to the base of buildings lining the northern section of the CBD. The extent of the impact is therefore considered minor and acceptable.

Residential apartments fronting Allan Street do not have direct views of the CBD as their primary view lines are to the south. Some apartments do have views of the CBD, however these are at an oblique angle and are obscured by high rise buildings lining Pymont and Murray Streets. View loss from these apartments will be limited to the base of some CBD buildings, with the overall CBD skyline remaining unaffected.

5.3 STREETScape, PUBLIC DOMAIN AND ACCESS

In the issuing of the DGRs it was considered important to achieve some public benefit as part of the proposed development. In this regard it was required that an improvement be achieved to the existing through site pedestrian linkings from Pymont into Darling Harbour.

While the Murray Street frontage is the hotel's entrance marker, it appears as an outdated, unappealing building element. Vehicular access into the hotel is cumbersome and restricted by the location of the reception area which sits awkwardly in the middle of the one-way car loop. High level landscaping separates the frontage from the streetscape which acts as a barrier impeding direct pedestrian movements and access.

The proposed reconfiguration of the ground floor level includes reducing the reception area's southern boundary and expanding its northern edge removing the one-way car loop. This will provide the hotel with a two way entrance which in terms of vehicular access is easier, more efficient and provides greater operational flexibility.

A new glazed frontage and entry doors at ground floor, new ribbon windows at mezzanine level, porte cochere steel framed glazed canopy and provision of low level landscaping are design elements proposed to improve the architectural appearance of the hotel, provide greater visibility into and out of the site and soften its appearance on the streetscape. It is considered this will result in an increase in ground floor activity, facilitating greater passive surveillance of the public domain (see Figure 8).



Figure 8 – Existing and proposed Murray Street frontage

Pedestrian access and circulation aims to be improved through the reduction of 4 vehicular crossings to 3, removing 7 car parking spaces, widening the pedestrian footpath, and delineating the footpath using different coloured paving, tactile indicators, markings and signage. While pedestrian access into the western parts of Darling Harbour will remain characterised by a number of discontinuities as a result of the Light Rail, Monorail and Darling Drive, proposed changes to pedestrian access across the site will promote the ground floor car park as a major pedestrian thoroughfare which increase pedestrian activity and improve natural surveillance.

The implementation of design and architectural features along Murray Street will improve the aesthetics of the site and enhance the appearance of the streetscape. The works will also assist in enhancing the interaction and interrelationship between the site and public domain which is currently disjointed.

The project therefore provides for improvements to the Murray Street frontage which will foster an enhancement of the aesthetic appearance and character of the streetscape, and improve vehicular and pedestrian access.

5.4 TRAFFIC IMPACTS & PARKING

5.4.1 Traffic Impacts

Traffic modelling undertaken by the proponent's traffic consultant analysed the traffic impacts of the development (as required by the DGRs) and shows that there will be no adverse impacts on the surrounding road network, and that no improvements to the existing road network are required.

The traffic model showed that vehicular traffic generated by the existing hotel (based on existing 525 rooms), including traffic to the car parks, other off street car parks and on-street parking is estimated at:

- AM Peak Hour – 0.11 vehicular trips per guest room
- PM Peak Hour – 0.12 vehicular trips per guest room.

The traffic model assumed that as the proposal will involve creating only an additional 96 rooms, traffic generation will increase by approximately 20% i.e. the increase in room numbers. The forecast future traffic generation as a result of the additional 96 hotel rooms is illustrated in Table 2 below.

Period	Porte Cochere traffic		Total traffic	
	vehicular trips/ guest room	vehicular trips (+ increase on existing)	vehicular trips/ guest room	vehicular trips (+ increase on existing)
AM Peak Hour	0.14	87 (+27)	0.18	112(+33)
PM Peak Hour	0.10	62 (+22)	0.15	93(+30)
Daily	1.00	621 (+96)	1.50	932 (+144)

Table 2 – Future traffic forecasts.

The traffic forecast shows that the development will generate a maximum of approximately 33 vehicles per hour on the local road network at peak periods. The impacts on three nearby intersections was analysed using a Sidra analysis. The three intersections analysed were Murray Street/Pymont Street/Allen Street, Harris Street/Allen Street and Murray Street/Pymont Bridge Street/Darling Drive.

The Murray Street/Pymont Street/Allen Street and Harris Street/Allen Street intersections operate at a level of service (LOS) 'A' and 'C' respectively. The results of the intersection analysis showed that the development will have a negligible impact on the intersections and their LOS will remain as 'A' and 'C'.

The Murray Street/Pymont Bridge Street/Darling Drive intersection currently operates close to saturation with a LOS 'D' in the PM peak period. The SIDRA analysis showed the development will have no impact on average vehicle delay or the intersection's LOS. Hence, it is considered that while the intersection does operate at saturation in the PM period, the development will nevertheless have a negligible impact on the overall operation of the intersection and it's LOS.

Construction impacts from the development were considered in the traffic impact assessment (TIA). Construction is likely to generate only a small number of truck movements as the works do not involve major earthworks or demolition. Construction materials for the building are mostly prefabricated and will be assembled on site, ensuring deliveries are limited to a small number of truck movements per day. The TIA states that the majority of these trucks movements will be outside peak periods. The Draft Statement of Commitments recommends a

Construction Traffic Management Plan be developed to mitigate the potential impacts of truck movements on the surrounding area.

Despite the concerns raised by residents about the impacts of traffic from the development on the surrounding road network, traffic modelling shows that the proposed development is not expected to create traffic conditions that would adversely impact on the surrounding locality and road network.

The Department has reviewed the traffic impact assessment and considers that it satisfactorily addresses proposed traffic generation and demonstrates the proposal will have a negligible impact on the surrounding local road network.

5.4.2 Car Parking

The Novotel hotel currently has 124 designated car parking spaces at ground floor level of the public car park which lies underneath the Novotel, Ibis and Grand Mercure Hotels. The public car park contains approximately 3000 public car parking spaces over 5 levels.

The proposal does not include any provisions for new car parking spaces to accommodate the 96 additional hotel rooms on site as the current demand for car parking is quite low as a result of the hotel's CBD location and guests arriving via taxi, coach, minibus or Light Rail. Darling Harbour Development Plan No 1 does not require the supply of additional car parking for the site.

The EA supports no additions to car parking supply due to the site's CBD location and its proximity to public transport services. This will also encourage public transport patronage. The lack of demand for car parking and site's accessible location will minimise any potential for adverse parking impacts on the site and surrounding area, and will contain adverse vehicular movements on the local road network. On-street time limited parking constraints will further reduce the attraction for guests to use spaces in surrounding streets.

5.5 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The proposal does not commit to entering into any formal Green Star rating as the Green Building Council of Australia does not currently have a Green Star environmental rating system for hotel buildings. Nevertheless, the proposal does commit to a number of sustainability targets that contribute to achieving a development that is ecologically sustainable and complies with the requirements of the BCA. Specifically these include:

- Reducing energy consumption for artificial lighting and air conditioning by providing large windows in guestrooms while minimising solar heat gains and winter heat loss through high performance glazing.
- Provide cooling and heating to rooms with an energy efficient air cooled chilled water system with individually controllable fan coil units on key tag switching.
- Energy efficient compact fluorescent light fittings throughout rooms and corridors, controlled by key tag switching.
- Minimise potable water use with water efficient fittings and dual flush toilets.
- Low VOC emission paints will be used throughout the building.
- Use of sustainably sourced timber or low formaldehyde medium density fibreboard.
- 60% of waste generated by the development will be recycled.

The project application is compliant with the objects of the EP&A Act, including the 5 accepted ESD principles, and is therefore considered to satisfactorily address ESD issues.

5.6 THE PUBLIC DOMAIN

While the site does not dedicate or contain any public domain environments, the project application has considered ways in which to improve the public domain environment adjacent to the site and the safety and

security of its users in the design of the porte cochere, pedestrian and vehicular access paths and landscaping. The proposal has considered Crime Prevention Through Environmental Design (CPTED) Principles and has design characteristics which are outlined as follows:

- The reduction of vehicular crossings from 4 to 3 reduces conflict between pedestrians walking along the footpath and vehicles accessing the site.
- Provision of low level landscaping, insertion of ribbon windows and expansion of the ground floor reception with clear glazing provides greater visibility into and out of the site which promotes greater passive surveillance of the car park and Murray Street.
- Appearance of porte cochere made clearer through use of new covering structure, revised vehicular and pedestrian layout, which improves access into and out of the site and promotes increased pedestrian activity and greater integration between the site and public domain.
- Provision of high levels of surveillance by lighting communal open space areas to avoid dark entrapment spots and provide sufficient levels of security.
- Avoidance of concealed spaces and provision of clear pedestrian paths towards entrances of the building and through the site with signage and lighting.

The proposal is considered to improve current levels of safety and security in and around the site, and enhance the integration of the site with the public domain.

5.7 SOCIAL & ECONOMIC IMPACTS

The proposal will deliver a number of important social and economic benefits, including:

Hotel accommodation – the new development will provide increased hotel accommodation for state, interstate and international travellers within close proximity to the CBD, commercial and retail centres and landmarks.

Public access– the improvements to public access will be a direct benefit to the wider community.

Streetscape – the improvements to the streetscape will have a direct benefit to the local area and community.

Jobs – new jobs will be created during the construction phase of the development as well as on-going operational jobs.

Sustainability – hotel accommodation located close to the CBD and public transport will encourage sustainable travel schemes.

The proposed development will foster better use of the site and allow Darling Harbour to continue to be an important destination, which will have positive social and economic impacts to the local and wider community.

5.8 PUBLIC INTEREST

The proposed development of the Novotel site will provide significant benefits to the community, including:

- Provision of greater hotel accommodation choice.
- Improving the pedestrian environment within and surrounding the site, and reducing pedestrian / vehicular conflict.
- Employment opportunities through the construction and on-going phase of the development.
- Activation and improvements to the streetscape.

The proposal will also result in an appropriate building form and urban design that responds appropriately with the constraints of the site and surrounding area ensuring the development will not have any adverse impacts on the amenity of surrounding residents.

Accordingly, the proposal is considered in the public interest for the above reasons.

6 CONSULTATION AND ISSUES RAISED

6.1 PUBLIC EXHIBITION DETAILS

The Project application was exhibited from 1 May 2008 to 12 June 2008 for 30 days and was published in the newspaper. The EA was made available to the public in the Sydney Harbour Foreshore Authority's office and at the City of Sydney Council's Town Hall House office.

6.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT

The Department received no submissions from public authorities, and a total 16 public submissions.

6.3 PUBLIC SUBMISSIONS

The following key issues were raised:

- *Visual* – The proposed development will affect views and will overshadow neighbouring properties.

Comment:

The proposal will have a similar impact to that of the previously approved commercial building. View impacts are restricted to residential buildings to the west (Allen Street) and south-west (Pymont Street) of the site. Residences to the north-west which have their views obscured by the existing Novotel will remain unaffected due to their orientation from the site. There are no residences south or east of the site. The views obtained from buildings in Allen and Pymont Streets are to the CBD. Allen Street runs perpendicular to the site along an east-west axis. CBD views obtained from residential apartments are obscured by existing buildings and structures including the existing hotel, its car park and Western Distributor. Lower level apartments will have their views of the CBD slightly affected, however the CBD skyline will remain. Views looking south-east to the CBD will be unaffected. Pymont Street apartments north of Allan Street will not be affected as their views are obscured by existing buildings on the eastern side of Pymont Street and Murray Street. Residential apartments south of Allan Street in the Goldsbrough building will have negligible view loss as the site is north-west and their views are to the east. As the degree of impact on residences that will experience the greatest extent of view loss is minor, it is considered that view impacts on the surrounding area are acceptable and reasonable.

The shadow diagrams prepared illustrate the extent of overshadowing caused by the proposed building. These show that overshadowing is limited to the Western Distributor and Pymont Street. Overshadowing will not be experienced by residences surrounding the site.

- *Traffic and Parking* – The proposed development will lead to increased traffic and a loss of on-street parking.

Comment:

The traffic impact assessment reveals that the proposal will not have a detrimental impact on the surrounding local road network, and would not affect the level of service of any nearby intersections. There are no provisions for additional car parking as the existing number of spaces can adequately accommodate any increase in demand, particularly as the majority of guests do not arrive by private vehicles. The hotel's CBD location and good accessibility to public transport ensures increases in private vehicular movements are kept to a minimum and traffic in the area will not significantly change. As the majority of guests arrive by taxi, minibus and coach, the demand for on-street car parking is not anticipated to be significant. Time limited on-street parking restrictions throughout the surrounding area restricts the degree to which hotel guests can utilise these spaces, therefore the unlimited restrictions in the hotel's car park will be far more attractive. For these reasons, it is considered parking in neighbouring streets will not be affected.

- *Design and Building heights* – Proposed design is out of character with the surrounding area, building heights are too high and will enclose the western side of Darling Harbour

Comment:

The 10.9m high building is not considered too high when looked at in context with the surrounding area which comprises high rise buildings. While there are no height limits set for the site, the proposal is restricted to 3 storeys to achieve a low rise built form that is sympathetic to surrounding residential properties. The design of the building is consistent with the mix of architectural styles throughout Darling Harbour and Ultimo/Pymont. Its scale and bulk is markedly smaller than the existing 12 storey hotel to achieve a site design that does not exacerbate or contribute to any further 'walling in' of the western edge of Darling Harbour.

6.4 SUBMISSIONS FROM PUBLIC AUTHORITIES

There were no submissions received from public authorities.

7 CONCLUSION

The Department has assessed the EA and considered the submissions in response to the proposal. The key issues raised in submissions relate to built form and heights, visual impacts, traffic impacts and parking. The Department is satisfied the proponent's response to the key issues in their EA and Draft Statement of Commitments will ensure there are minimal environmental impacts as a result of the proposal.

Key features of the Project Application include the redevelopment of the site for an additional hotel and streetscape improvement works along Murray Street. The public benefit of the redevelopment is highly desirable, with the provision of a new hotel, improvements to streetscape and public access, and job opportunities.

The Project Application has demonstrated general compliance with relevant environmental planning instruments and has given adequate consideration to the site's capability to accommodate this type of development. The intent of the proposal meets the objectives identified for the site in the Darling Harbour Development Plan No. 1 and complies with all relevant provisions within the MP SEPP that relate to the site.

The Department has determined that the site is suitable for the proposed development and is in the public interest. Accordingly, the Department recommends that the Project Application be approved, subject to conditions

8 RECOMMENDATION

For concept plan application:

It is recommended that the Minister:

- (A) consider the findings and recommendations of this report;
- (B) approve the Project Application, under section 75J *Environmental Planning and Assessment Act, 1979* having considered all relevant matters in accordance with (A) above; and
- (C) sign the Instrument of Approval (**TAG A**).

Prepared by:
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9 February 2009



Jason Perica
Executive Director
Strategic Sites and Urban Renewal

APPENDIX A. DIRECTOR GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Director-General's Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application number	MP 08_0017
Project	Construction of a new three storey building over the existing car park / tennis court adjoining the existing hotel providing an additional 96 rooms, new plaza entrance at Murray Street, reconfiguration of existing vehicle entrances and new port cochere, internal alterations to the existing hotel, and enhancing through site links to Darling Harbour.
Location	Accor Novotel Darling Harbour, 100 Murray Street, Darling Harbour, being Lot 318 DP 836419 - City of Sydney Local Government Area.
Proponent	Accor Asia Pacific Pty Ltd
Date issued	19 September 2007
Expiry date	19 September 2009
General Requirements	<p>The Environmental Assessment (EA) must include:</p> <ol style="list-style-type: none"> 1. an executive summary; 2. a thorough site analysis and description of the site and surrounds, including cadastre, title details, existing easements and/or encumbrances; 3. a detailed description of the proposal, its various components, and proposed uses, including relevant information on floor areas, building heights (to AHD) and separation distances; 4. details of the proposed construction staging and operation of the additional building areas, and redeveloped internal floor areas; 5. consideration of design alternatives to the project; 6. consideration of any relevant statutory and non statutory provisions, including environmental planning provisions applicable to the site and project; 7. an assessment of the environmental impacts of the project with particular focus on the key assessment requirements specified below; 8. a description of the measures that would be implemented to avoid, minimise, mitigate, offset, manage, and/or monitor the impacts of the project; 9. a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures; 10. a conclusion justifying the project, taking into consideration the environmental impacts of the proposal, the suitability of the site, and whether or not the project is in the public interest; and 11. a signed statement from the author of the Environmental Assessment certifying that the information contained in the report is not false or misleading. <p>The EA will need to be accompanied landowners' consent for the development site. A Quantity Surveyor's Certificate of Cost to verify the capital investment value of the project is also required.</p>
Key assessment requirements	The EA must include assessment of the following key issues:

1. Architectural Design and Built Form

An architectural design statement, with particular focus on the design quality of the proposal and architectural urban design principles including:

- scale, height, and building massing, with particular regard to how the building will be designed as a distinct and separate element while displaying a sense of cohesiveness and symmetry with the existing hotel building. Consideration must be given to how the proposal improves and is compatible with the architectural expression of the existing building and how the design expresses its function and use.
- Façade style, balance and presentation, including proportion of openings, treatments and materials, and other building articulation. A materials and finishes board must be produced showing all materials;
- Where practicable plant equipment should be located within basement or lower building levels to minimise the visual and acoustic impacts. Where this can not be achieved justification for roof top plant rooms is required, and is required to minimise visual bulk through the integration of roof plant, equipment and services in the building as a whole. A detailed roof top view must be included in the design package showing all roof top plant infrastructure; and
- Overshadowing and shadow diagrams identifying existing and proposed shadowing of affected properties at 9am/12pm/3pm at summer (22 December) and winter (22 June) solstice, and equinox (22 March/22 September).

2. Visual Impact

An assessment of the visual impact of the proposal on the surrounding area, with particular reference to:

- analysis of public and private views and vistas to the site from the surrounding areas;
- analysis of view corridors adjacent to the site, and in particular from Allen Street and down Murray Street;
- the extent of any impacts on identified views, vistas and view corridors particularly from residential buildings including but not limited to the Goldsborough apartments and those on the corner of Allen and Pymont Streets;
- any design considerations aimed at mitigating these impacts (if any); and
- privacy considerations.

The EA must include photomontages of the proposal when viewed generally from each elevation. Before and after photomontages of the proposal are also to be provided from any affected premises where view loss may occur, and these are to be based on accurate surveyed levels and information.

3. Streetscape, Public Domain and Access

A detailed urban design assessment of the following:

- changes and improvements to the Murray Street frontage and how this entry will interface with the public domain. Full landscaping details are to accompany the assessment;
- street frontage design and setbacks;
- reinforcement of building and street alignments;
- improvements to the activity and quality of the streetscape and public domain;
- provision and enhancement of positive physical connections and through site linkages between Pymont and Darling Harbour;
- justification of the proposed pedestrian links between Allen and Murray Streets through the site and into the monorail bridge link to Darling Harbour and why this route is the most appropriate. As a preference the pedestrian link

should be at one level and in a straight line to, where possible, offer a sight line through the site; and

- ensure access for people with disabilities.

The EA is to demonstrate how the proposed design and treatment of the public domain will maximise safety, security and public surveillance within the public areas including disabled access to the principle building entrances. Specific regard should be given to the Department of Planning's Guideline; *Crime prevention and assessment of development applications* 2001.

4. Ecologically Sustainable Development

The EA shall detail how the development will incorporate ESD principles in the design, construction and ongoing operation phases, and shall include but is not be limited to, consideration of best practice measures to improve environmental performance of the existing building and surrounds. Specific consideration of energy efficiency best practice must be made. The EA must include measures for waste minimisation during demolition, construction and operation, including reuse and recycling of materials.

5. Services/infrastructure and utilities

In consultation with relevant agencies, address the existing capacity and requirements of the development for water, electricity, waste disposal, telecommunications and gas. Details of any augmentation to services and utilities required to meet the demand generated by the proposed project.

6. Traffic Impacts (Construction and Operational)

The EA must include a Traffic Impact Assessment prepared in accordance with the RTA's publication *Guide to Traffic Generating Developments*. The assessment must include:

- details and breakdown of parking provisions and compliance with the RTA Guide;
- the anticipated change in daily and peak traffic movements likely to be generated by the proposed development;
- the impact on nearby local intersections and the surrounding road network, and the need/associated funding for upgrading or road improvement works (if required);
- an assessment of the adequacy of existing parking facilities in the vicinity to cater for any increase in parking demand;
- details on the proposed port cochere access and compliance with the requirements of relevant Australian Standards (i.e. turn paths, sight distance requirements, aisle widths), with a particular focus on minimising the potential for vehicle and pedestrian conflicts on Murray Street; and
- details of service and delivery vehicle movements, and the adequacy of the site to cater for any increase in these vehicle movements, including during construction.

7. Noise and Vibration

The EA must include an assessment of the predicted noise impacts resulting from construction and operation of the project and the measures to manage any noise impacts. The noise assessment must include an assessment of the existing noise impacts at the site and must be undertaken in accordance with Industrial Noise Policy (EPA, 1999) and Environmental Criteria for Road Traffic Noise (EPA, 1999). Details should be provided of activities and associated noise that may occur outside standard business hours, including the operation of any external plant which is to be adequately attenuated to avoid acoustic impacts on surrounding properties.

8. Employment and Enterprise

The EA must include details of the potential local employment and enterprise generation of the project and social and economic opportunities, including details of number of persons to be employed during the construction of the project and during operation (staff).

You must consult with the following parties during the preparation of the Environmental Assessment:

- City of Sydney Council;
- NSW Roads and Traffic Authority; and
- affected residents

Consultation requirements

As part of the consultation process the proposal may be referred to the Sydney Harbour Design Review Panel, or alternative independent design review for consideration, and any comments should be considered in developing the final design details of the building and should be address in the final Environmental Assessment. To arrange for the design review of the project at an appropriate stage of the design development, please contact Mr Cameron Sargent at the Sydney Harbour Foreshore Authority on 9240 8707.

Deemed refusal period

Under clause 8E(2) of the *Environmental Planning and Assessment Regulation 2000*, the applicable deemed refusal period is **60 days** from the end of the proponent's Environment Assessment period for the project.

APPENDIX B. RESPONSE TO SUBMISSIONS

A response from the Proponent to matters raised in submissions is provided below.

Issue Raised	JBA Response
Proposed development will devalue surrounding properties	Property value/price is not a consideration under the EP&A Act 1979
Proposal will affect views, light, create wind tunnelling and the overall ambience of surrounding properties	Consequential impacts of the proposed development are similar to that of a previous development which is active until 17 December 2008 approved by SHFA. Therefore, the likely impacts listed have subsequently been considered and deemed acceptable
Design isn't in character with surrounding developments; it is not aesthetically pleasing	It is difficult to nominate any one characteristic within the Darling Harbour precinct as there is such a wide variety of colours, architecture styles and materials used for a variety of buildings
Darling Harbour will have a more enclosed feeling on the western side	The proposed building is similar to that of the one already approved therefore the impacts have already been assessed. A glass link is to ameliorate any box effect
The lack of addressing the issue of parking and the loss of parking due to the proposal; traffic issues will heighten	Arup Pty Ltd's traffic assessment concluded that the local road network would be able to accommodate the minor rise in traffic and that parking can be accommodated by a combination of existing parking and off street parking
Difficult without proper assessment of the impacts to ascertain how they can be minimised	Previous consent imposed conditions that such plans and assessments be undertaken prior to the granting of a construction certificate.
Drainage and sewerage works may affect local residents	A s.73 Certificate through Sydney Water is obtained post DA release. Therefore this isn't considered at this stage
Overshadowing of adjacent residential apartment blocks	Under the Central Sydney DCP 1996 minimum of two hours on March 21 on balconies and main living areas is acceptable
Historically significant buildings shouldn't be hidden behind the proposed development	The Goldsbrough Building will still be significantly visible and the SCEC obscures the Goldsbrough building more than the proposed hotel extension
Misleading to call the proposal a three-storey hotel. The carpark should be removed or replaced with underground parking	The car park beneath the hotel is not owned by the proponent and as such this is not possible
Proposed development will make the Novotel building look off balanced when viewed from the city	The proposed development is one of two stages. Once both stages are complete the hotel will be in proportion
Removing the outdoor space with the proposed development will be unfortunate for patrons who enjoy it	The space which is a private open space will be upgraded as part of these works. There are close by large grassed areas that can be used by existing residents.
Noise, traffic and environmental pollution throughout construction phase of proposed development	The previous consent conditioned a Construction Management Plan, similar will be done again.
Not necessary to propose 96 additional temporary tourist accommodation rooms	The proposal is consistent with the Sydney Metropolitan Strategy in that it increases densities in areas close to public transport. It is not a planning consideration to determine whether there is suffice tourism accommodation provided
Loss of revenue for Goldsbrough investment owners due to oversupply of hotels in the area	Property value/price is not a consideration under the EP&A Act 1979

APPENDIX C. ENVIRONMENTAL ASSESSMENT
