



08212
3 November 2010

Mr Sam Haddad
Director General
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2000

Attention: Cameron Sargent

Dear Mr Haddad

**S75W MODIFICATION TO MAJOR PROJECT 08-0057
DARLING WALK PROJECT**

We refer to the abovementioned Project Application for the construction of two nine storey buildings at Darling Walk, Darling Harbour.

On behalf Lend Lease Development, we write to request the Minister (or his delegate) modify the Project Approval 08-0057 under section 75W of the *Environmental Planning and Assessment Act 1979* as described below. The modification relates to a minor change to the land use mix as detailed in Condition A1 of the Conditions of Approval (included at **Attachment A**).

In accordance with section 245k of the *Environmental Planning and Assessment Regulation 2000*, please find enclosed the fee of \$750 for the assessment of the request.

1.0 BACKGROUND

The Darling Walk Concept Plan (MP06-0054) was approved on 9 July 2008 and provides for a mixed use commercial, retail, cultural, recreational and entertainment development with a maximum 68,000m² Gross Floor Area (GFA) comprising:

- a maximum 5,000m² retail GFA;
- a minimum 1000m² cultural, recreational and entertainment GFA; and
- a child care centre use may be included with the commercial GFA.

The Concept Plan also approved a range of land uses which included commercial offices and associated car parking; food and beverage establishments; general retail; places of public entertainment; recreational, cultural and entertainment facilities; child care facilities; and health centres.

Subsequently the Project Application (MP 08-0057) was approved on 2 January 2010. The approved project included 67,827m² of GFA comprising:

- approximately 64,235m² GFA of commercial floorspace;
- approximately 2,592m² GFA of retail floorspace; and
- approximately 1,000m² GFA for a children's theatre.

The Project Application proposed retail tenancies fronting the pedestrian boulevard for both the north and south buildings and either commercial/retail uses in the space fronting Harbour Street. The floor space schedule for the Ground Floor submitted with the Project Application included 2,592m² GFA of retail floorspace, 1624m² GFA of retail/commercial floorspace and 748m² of storage/ancillary space associated with these tenancies. As noted above the current Project Application approval specifies GFA for retail and commercial floorspace. Excluding the Children's Theatre, the total GFA on the Ground Floor of the north and south buildings for retail and commercial uses is approximately 4,960m².

Lend Lease is currently negotiating leases with a number of prospective tenants for the ground floor retail spaces. The potential future uses may include food and beverage, fast food, cafes, a bank, newsagency and function centre. Plans which illustrate the current tenancy layout are included at **Attachment B**.

Retail uses, however, were not specifically defined in the Concept Plan or Project Application and nor were they defined in the Darling Harbour Development Plan No.1 (DHDP). However, as detailed in the Concept Plan and Project Application, the intent of the project is to activate the north-south boulevard/retail terrace and Harbour Street with a mix of retail, cafes, restaurants, outdoor dining and commercial uses. We therefore seek to clarify and provide certainty in regard to the retail and commercial uses, with retail uses to include shops, cafes, restaurants, food and beverage, and fast food outlets and commercial uses to include offices, function centres, child care centres and gyms.

It is likely that the majority of the future uses at the ground floor will include cafes, restaurants, food and beverage uses, fast foods and shops (such as newsagents) which are considered to fall into the category of "retail use", rather than "commercial use". Therefore, the proposed uses of the ground floor tenancies may exceed 2,592m² GFA for retail approved under the Project Application, yet they will be below the 5,000m² maximum approved in the Concept Plan.

Consequently approval is sought to modify the consent to allow for a mix of retail and commercial uses on the ground floor. It is therefore proposed to amend the conditions to provide a maximum of 5,000m² GFA on the ground floor for a mix of commercial and retail uses. For example if the retail floorspace were to increase there would be a subsequent reduction in floorspace used for commercial uses to ensure total GFA did not exceed 5,000m². This will provide flexibility for future ground floor uses, whilst remaining consistent with the intent of the Project Application.

The maximum GFA approved for the buildings will remain unchanged.

To ensure the amount of retail space provided also remains consistent with the Concept Plan, it is proposed to impose a new condition that limits retail uses to 5,000m² consistent with the Concept Plan approval.

2.0 PROPOSED MODIFICATION

2.1 Amendment to Consent

It is proposed to modify Condition A1 in Schedule 2 of the Conditions of Approval as set out below. As explained above the intention of the changes are to provide for flexibility in the use of the ground floor tenancies and greater certainty in the uses that fall within the retail category.

Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

Condition A1 Development Description

Development approval is granted only to carrying out the development described in detail below:

- (1) Bulk excavation, basement structure and construction of 2 x 9 storey buildings comprising ***including a total maximum GFA of 67,827m² subject to the following:***

~~a) 67,827m² GFA including:~~

~~(i) approximately 64,235m² GFA of commercial floorspace~~

~~(ii) approximately 2,592m² GFA of retail floorspace~~

~~(iii) approximately 1000m² GFA for a children's theatre~~

- a) ***a maximum 64,235m² GFA of commercial floorspace, including but not limited to offices, child care centres, gyms, functions centres and medical centres***
- b) ***a maximum 5,000m² GFA of retail and/or commercial floorspace on the ground floor. Retail uses may include but are not limited to shops, cafes, restaurants, food and beverage, and fast food outlets.***
- c) ***approximately 1000m² GFA for a children's theatre***
- b) ***d) 200 car parking spaces to serve the commercial buildings***
- e) ***e) 600 space public are parking facility***
- d) ***f) Access and egress arrangements***

(1A) In accordance with Concept Plan approval, a maximum of 5,000m² retail GFA may be provided within the overall maximum of GFA of 67,827m².

(1B) A minimum of 2,500m² of retail GFA shall be provided on the ground floor.

2.2 Justification

Condition A1 (2) of Schedule 2 of the Conditions of Approval requires that the fitout of the retail tenancies be subject to separate applications, lodged with the appropriate authority. It is likely that future fitout applications will be Part 4 applications assessed and determined by the City of Sydney Council as such applications are likely to be under \$5 million.

Given the lack of a definition for the range of "retail" uses, the proposed modification will provide greater clarity for the consent authority when assessing future tenant use and fit out applications. It will also provide greater certainty for the proponent when leasing the tenancies.

The proposed modification is consistent with the intent of the Project Application and Concept Plan and consistent with the Terms of Approval of the Concept Plan which allows for up to 5,000m² of retail. There is no change to the total GFA approved for the project, nor the approved land use. There is also no change to the bulk or scale of the approved building. It is therefore considered that the amended project has no additional environmental impacts beyond those issues considered and assessed in the approval of the original project.

3.0 CONCLUSION

- The project as proposed to be amended by this modification will be the same as the approved project, however the amendments to the wording of Condition A1 enable the flexibility to provide additional retail floorspace at the ground floor. The changes are minor modifications and considered acceptable with no environmental impacts beyond those considered in the original application.

We trust the above information is sufficient to allow a prompt assessment of the modification. Should you have any queries about this matter, please do not hesitate to contact me on 02 9956 6962 or kosborne@jbaplanning.com.au.

Yours faithfully



Kirk Osborne
Principal Planner

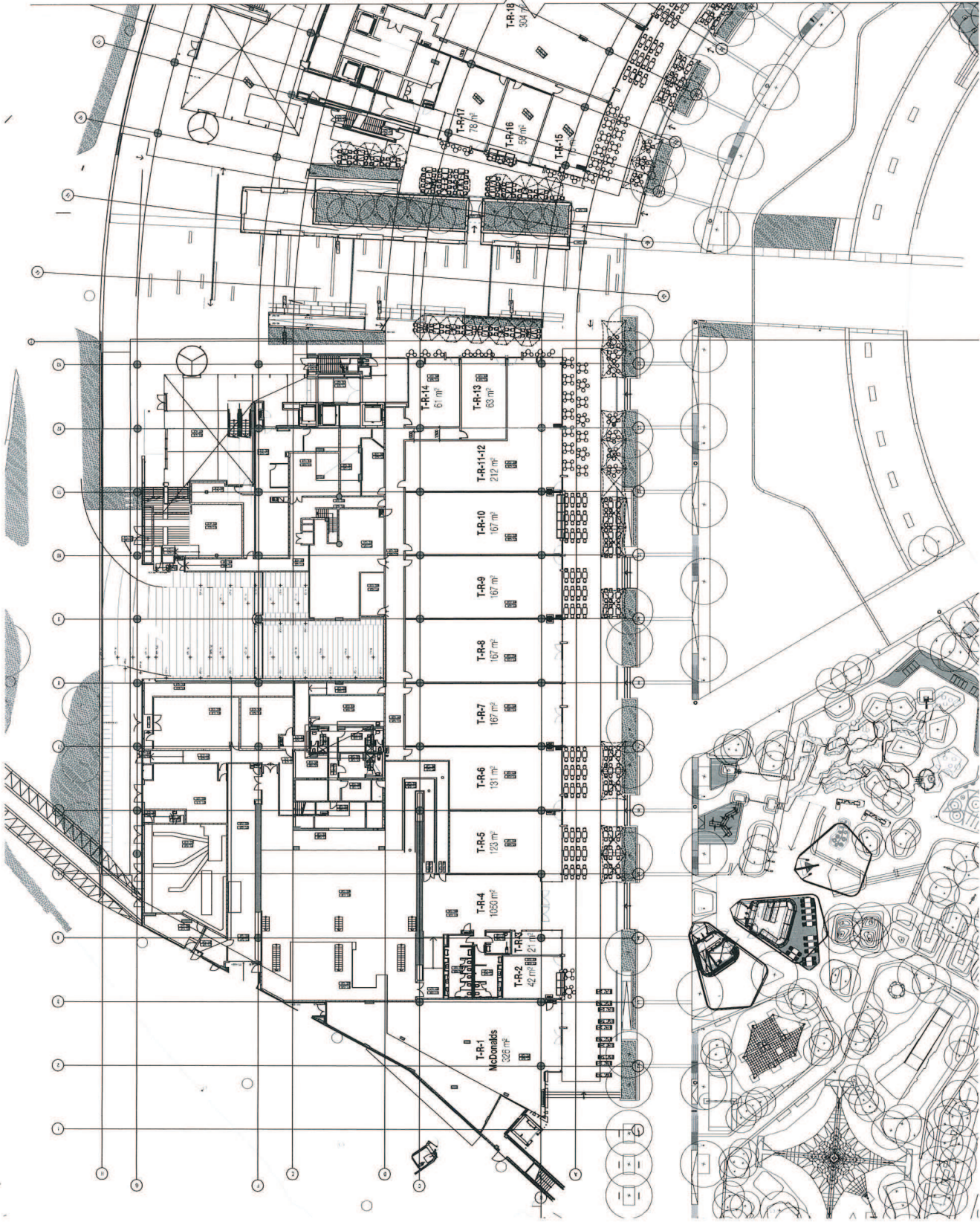
Encl. Application form and Fee
Landownership Plan
MP 08-0057 Conditions of Approval
Tenancy layout plans

Sekou
 Harbour Foreshore Authority
 This plan forms part of the Authority's
 Landowner's Consent

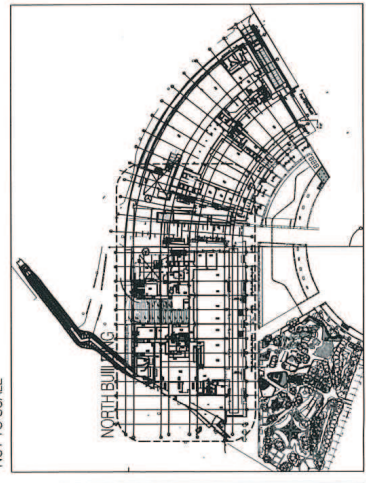
Date: **9/1/10** Officer: *[Signature]*

**THIS IS NOT DEVELOPMENT CONSENT
 OR APPROVAL TO COMMENCE WORK**

REFER TO SK002 - SOUTH BUILDING



KEY MAP
 NOT TO SCALE



In accepting and affixing this document, the architect agrees that it shall be used for the purposes of the development consent application only and shall not be used for any other purpose. The architect shall not be responsible for any errors or omissions in the information provided in this document or for any other information provided in connection with the development consent application. The architect shall not be responsible for any errors or omissions in the information provided in this document or for any other information provided in connection with the development consent application.

Rev.	No.	Date	By	CHK	Rev.	No.	Date	By	CHK
1	22/07/10	22/07/10	...	...	1	22/07/10	22/07/10	...	...
2	17/08/10	17/08/10	...	...	2	17/08/10	17/08/10	...	...
3	02/05/10	02/05/10	...	...	3	02/05/10	02/05/10	...	...

PROJECT: **DARLING WALK**
 COUNTY: **PROPOSED RETAIL DEVELOPMENT PLAN**
NORTH BUILDING

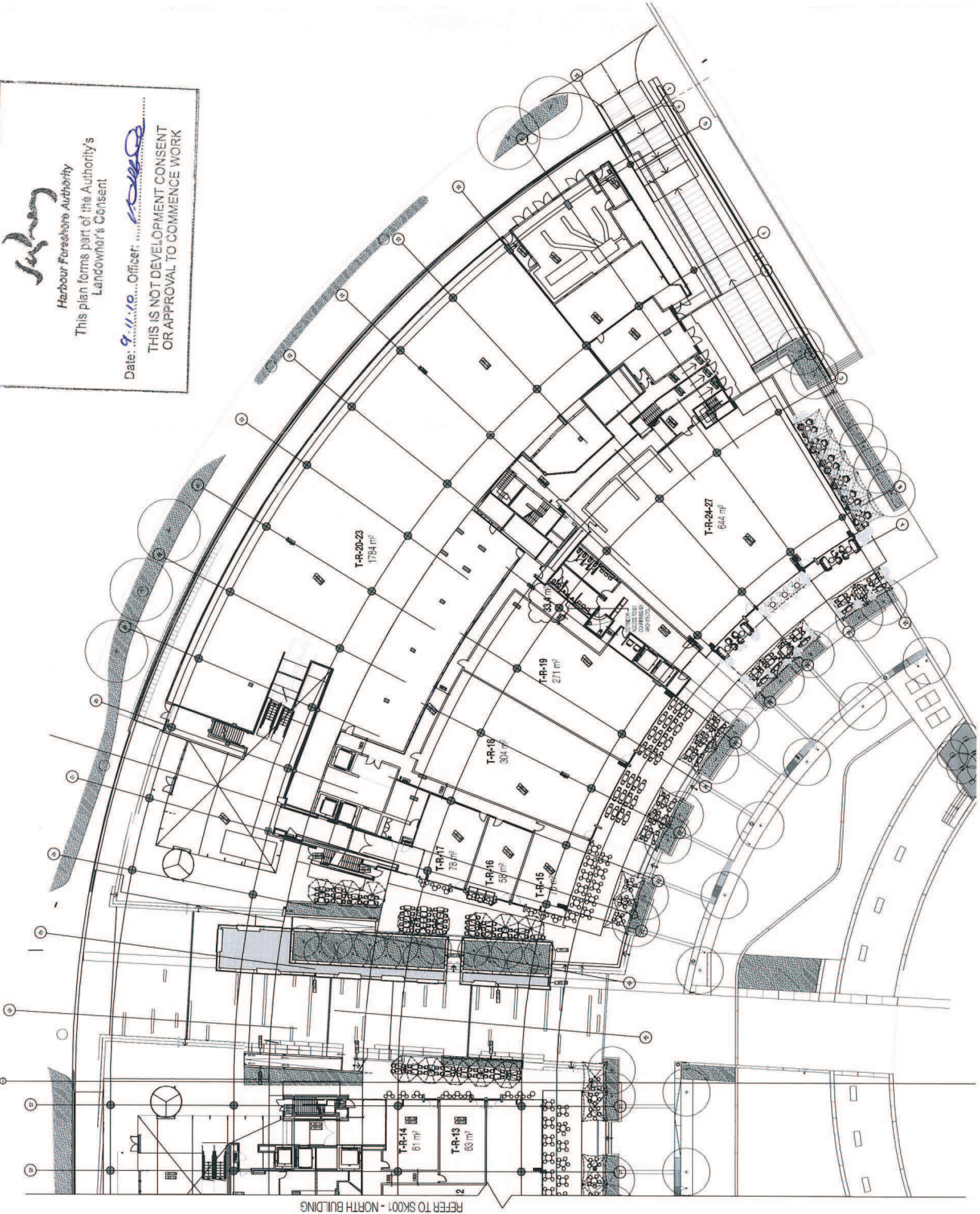
DATE: **14.05.2010** SCALE: **1:2500**
 DRAWN BY: **EW** CHECKED BY: **KS**
 PROJECT NO: **85384** SK001

DATE: **14.05.2010** SCALE: **1:2500**
 DRAWN BY: **EW** CHECKED BY: **KS**
 PROJECT NO: **85384** SK001



Seaham
 Harbour Freshwater Authority
 This plan forms part of the Authority's
 Lender's Consent

Date: 9.11.10 Officer: [Signature]
 THIS IS NOT DEVELOPMENT CONSENT
 OR APPROVAL TO COMMENCE WORK



REFER TO SK001 - NORTH BUILDING

KEY MAP
 NOT TO SCALE



Project: DARLING WALK
 Client: [Blank]
 Design: RH
 Date: 14.05.2010
 Scale: 1:250
 Sheet No: 01 A1

Project: PROPOSED RETAIL DEVELOPMENT PLAN
 Client: [Blank]
 Design: [Blank]
 Date: [Blank]
 Scale: [Blank]
 Sheet No: [Blank]

Rev. No.	Desc.	Author	By	CHK	Rev. No.	Desc.	Author	By	CHK
T	2007/10 - Complete 100% of all information to production elements	Y	2008/10 - Issue for work	EV	AS				
U	27/07/10 - Adjusted DIM. Core, ramps, walls	Y		EV	AS				
V	11/08/10 - Adjusted access corridor areas to 1000/203	Y		EV	AS				
W	03/08/10 - Adjusted structure 100% available work	Y		EV	AS				
X	20/08/10 - Adjusted structure 100% available work	Y		EV	AS				

In accepting and affixing this consent the recipient agrees that the Authority has no liability for any loss or damage suffered by the recipient in reliance on this consent. The recipient shall be responsible for any loss or damage suffered by the recipient in reliance on this consent. The recipient shall be responsible for any loss or damage suffered by the recipient in reliance on this consent. The recipient shall be responsible for any loss or damage suffered by the recipient in reliance on this consent.



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