



14210
17 September 2014

Ms Caroline McNally
Secretary
Department of Planning & Environment
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Ben Lusher

Dear Ms McNally

161 SUSSEX STREET - REQUEST FOR THE SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

We are writing on behalf of GL Investment Co, the owners of the Four Points by Sheraton Hotel at 161 Sussex Street, Sydney (the site) and the proponent of the development the subject of this letter. The proponent is proposing to change the use of the upper floors of the recently approved hotel and commercial tower on the Four Points site at Darling Harbour to residential via a new (amending) development application.

The hotel is within the Darling Harbour precinct, which is identified as a State Significant Site in Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. As the proposed development will have a capital investment value of more than \$10 million it is declared to be State Significant Development (SSD) for the purposes of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The purpose of this letter is therefore to request the Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the proposed development. To support the request for the SEARs this letter provides an overview of the proposed development, sets out the statutory context, and identifies the key likely environmental and planning issues associated with the proposal.

This request for the SEARs and the proposed development relates only to the upper eight (8) levels and roof plant of the currently approved 25 level tower and, as described below, fits entirely within the approved envelope.

1.0 THE SITE

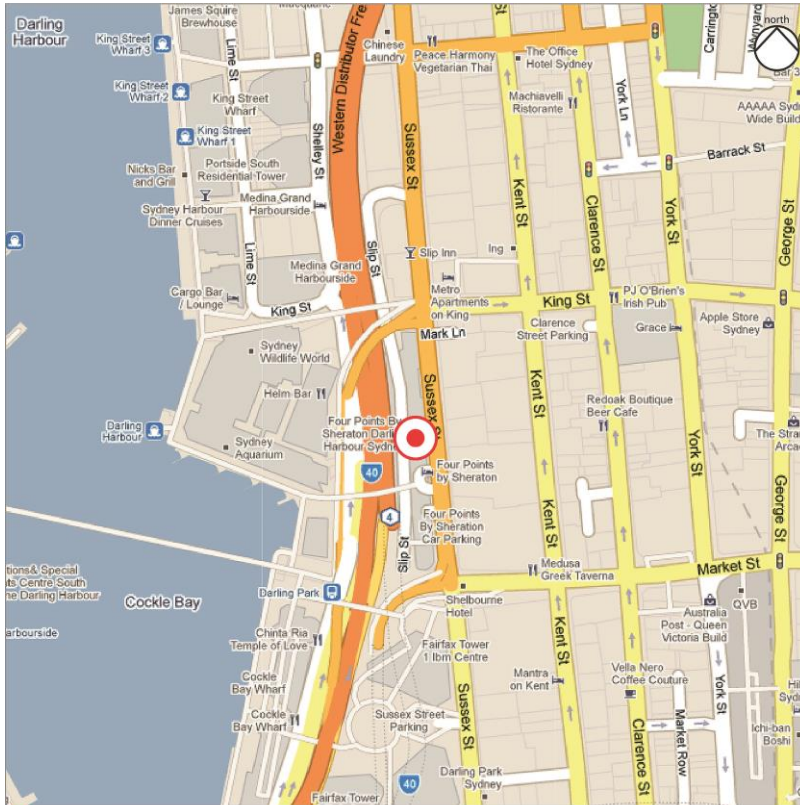
The Four Points by Sheraton is a four star hotel is located at 161 Sussex Street, Sydney on the western edge of the Sydney CBD, overlooking Darling Harbour (see **Figure 1**). The site sits within the boundary of lands controlled by the Sydney Harbour Foreshore Authority (SHFA) and is subject to a 99 year lease with the Authority which expires in 2087.

The overall site comprises Lots 101 and 102 in DP 1009697, has an area of 11,223 m², and fronts Sussex Street. Current buildings on the site include:

- 16 storey hotel building comprising, amongst other things, 630 hotel rooms, reception and dining areas, conference and functions spaces and the like. The site incorporates former sandstone warehouses used till recently for retail and restaurant purposes.

- The Dundee Arms Hotel building (Heritage listed), a licensed premises; and
- The Corn Exchange Building, currently used as office space.

The current hotel building is built over Slip Street and the outdoor dining area, gardens and pedestrian bridge are built out over the Western Distributor. The Dundee Arms Hotel and Corn Exchange are standalone buildings and not connected to the hotel tower building.



○ The Site
Figure 1: Site Location

2.0 APPROVALS AND MODIFICATIONS

2.1 Approved development

On 5 August 2013 the Planning Assessment Commission (PAC) granted development consent under State Significant Development (SSD-4972) for the redevelopment of the Four Points by Sheraton Hotel, including:

- Construction of a 25 storey tower, comprising 231 hotel rooms and approximately 5,775m² of commercial floor space and approximately 4,810 m² of convention, exhibition and function space;
- Extension of the existing podium space to provide new convention and exhibition space;
- External and internal demolition works;
- Upgrades to the port cochere, building entries on Sussex Street, the hotel lobby and reception areas and other internal alterations;
- Public domain works on Slip Street; and
- Realignment of an existing pedestrian link through the site.

Detailed design is underway and site preparation and early and enabling works commenced in June.

Subsequent to the above approval, there have been two modifications to the development.

Firstly, the PAC as delegate for the Minister for Planning and Infrastructure, granted consent on 19 March 2014 under section 96.1(A) of the EP&A Act to an application to modify condition A5 of the conditions of consent in relation to the payment of development contributions (Modification 1). In accordance with the approved modification, the proponent is required to undertake precinct improvements works to the public domain at Darling Harbour to the value of \$1.485M.

Secondly, a further modification under section 96(1)(A) of the EP&A Act was approved under delegation on 24 July 2014 for the following minor changes to the development (Modification 2):

- Reduction in the convention, exhibition and function GFA of 300sqm from approximately 4,810sqm to 4,510sqm;
- Changes to the structural columns, trusses and footings beneath the approved tower and approved convention/function area;
- Deletion of the pre-function area located at the northern end of the building and its replacement with a smaller meeting room; and
- Redesign of lift core and commercial lobby areas within the approved tower.

2.2 Modification

A further application to modify the development, known as Modification 3, was lodged with DP&E in May 2014. It has completed public exhibition and is under assessment. This modification seeks, in accordance with section 96(2) of the Act, numerous small changes to the design of the building – the need for which has arisen as a result of detailed design and operational exigencies. In summary, they cover modifications to the approved tower; function spaces; the existing hotel lobby; the through site link; the public domain on Slip Street; the entrances on Sussex Street; and the façade. In addition, there are various internal alterations, and changes to the Northern Warehouse introduced into the development.

In general, most of the above modifications are independent of the (amending) DA for a change of use, the subject of this request.

3.0 PROPOSED PROJECT

As illustrated in the attached drawing prepared by Cox Richardson, GL Development Co is seeking to convert the upper seven (7) commercial levels and part of Level 16 (currently plant room) of the approved tower to residential apartments. Because the required floor-to-ceiling height of residential buildings is less than that for commercial development, the redesign will result in eight (8) floors plus part of Level 16 of residential (from and including Level 16 up).

The development application will seek approval for:

- approximately 64 new apartments;
- eight (8) full levels plus one part level of residential development;
- approximately 7300sqm of residential GFA;
- changes to the façade of the approved tower to incorporate operable windows and balconies/wintergardens;
- changes to the provision of bicycle parking and post-trip amenities for workers in the commercial floors;
- increased waste storage area on the lower ground level on Slip Street;
- new kitchen exhaust plant room on the existing hotel south tower roof;

- new building plant within the existing plant room on Level 16 and the roof (to be confirmed); and
- stratum subdivision of the site to create two separate titles (residential component and hotel component).

The proposal relates only to that part of the building above Level 15 (mid plant level and above). In essence, the proposed amending DA will differ little from the development approved under SSD-4972 as modified and as proposed to be modified. In particular:

- The approved tower envelope, including height, remains the same.
- There is no increase in overshadowing and in view impacts.
- Lifts, the building foyers/ entrances and pedestrian access will accord with the proposals in Modifications 2 and 3.
- There will be no parking on site and traffic generation is likely to be unaffected.
- Works unrelated to the tower and in the public domain (excluding bike parking) do not change beyond that dealt with under Modifications 2 and 3.
- The building structure will be much the same as that with the commercial floors.
- Construction staging and methodology including the methodology for construction over the Western Distributor remains unaffected. Construction impacts will not increase.
- Hotel operations will remain the same.

The need to convert the approximate 5,775sqm of approved commercial floor space has arisen directly from a recognised change in market conditions that has emerged since the original expansion of the Four Points site was considered and planned. With the development of Barangaroo, and subsequently and to a lesser extent SICEEP, market demand for office floor space on the fringes of the City has changed.

Specifically, the outlook for Sydney CBD white collar jobs growth is considered to be relatively subdued, and the aggregate demand for office space in the Sydney CBD has weakened, leading to low growth in effective rentals. At the same time, there have been major additions to office space, led by projects at the Barangaroo precinct, and the indications are that the future need for commercial floor space in the Sydney CBD will be adequately catered for by the projects already well in the pipeline.

The change of use of the floor space is an appropriate response to market conditions (and well-documented demand for residential space) and provides an alternative that is entirely compatible with the hotel use on the rest of the site, in general, and the in the lower floors of the tower in particular.

4.0 RELEVANT LEGISLATION AND PLANNING INSTRUMENTS

The following legislation and planning instruments are relevant to the proposed development:

- Environmental Planning and Assessment Act 1979;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development
- Darling Harbour Development Plan No.1;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

4.1 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) establishes the assessment framework for State Significant Development. Under Section 89D of the EP&A Act the Minister for Planning is the consent authority for State Significant Development. Section 78A(8A) requires that a development application for SSD is to be accompanied by an EIS.

4.2 State and Regional Development SEPP 2011

The State and Regional Development SEPP identifies development which is declared to be State Significant. The site is within the Darling Harbour precinct, which is identified as a State Significant Site in Schedule 2 of the SEPP. Development on a specified site with a capital investment value of more than \$10 million is declared to be State Significant Development for the purposes of the *Environmental Planning and Assessment Act 1979*.

The proposed development has a Capital Investment Value in the order of \$50 million and is therefore State Significant Development.

4.3 SEPP 65 – Design Quality of Residential Flat Development (SEPP 65)

SEPP 65 aims to improve the design quality of residential flat development in NSW and establishes a series of design principles to be incorporated into residential flat buildings. Amongst other things, the SEPP requires that in determining a development application for residential flat development, the consent authority is to take into consideration the design quality of the development when evaluated in accordance with the design quality principles, and the Rules of Thumb in the *Residential Flat Design Code* (RFDC).

The EIS will incorporate a full assessment in accordance with SEPP 65 and the RFDC.

4.4 Darling Harbour Development Plan No.1

The principal environmental planning instrument applying to the site is the Darling Harbour Development Plan No.1 (DHDP). Since 1 July 2009 this plan is taken to be a State environmental planning policy (see clause 120 of Schedule 6 to the EP&A Act). Under Clause 6(d) and Schedule 1 of the DHDP development for 'residential buildings' may be carried out with a permit (development consent). The proposed use is therefore permissible.

4.5 Sydney Harbour REP

The site falls within the Sydney Harbour Catchment and therefore Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Harbour REP) applies to the site. The site is specifically within the Foreshores and Waterways area defined in the Harbour REP. The Harbour REP contains a set of matters for consideration "*that are to be taken into account by consent authorities before granting consent under Part 4 of the Act*". The matters of consideration relate to:

- Biodiversity, ecology and environmental protection;
- Public access to, and use of, foreshores and waterways;
- Maintenance of a working harbour;
- Interrelationship of waterway and foreshore uses;
- Foreshore and waterway scenic quality;
- Maintenance protection and enhancement of views; and
- Boat storage facilities.

The proposal will not impact any of the above matters.

5.0 OVERVIEW OF LIKELY ENVIRONMENTAL AND PLANNING ISSUES

Based on our preliminary assessment, the following are the key issues that will need to be considered as part of the future application:

- Residential amenity in terms of solar access, natural ventilation and wind;
- Universal access;
- Safety issues associated with residential uses over the Western Distributor;
- Façade treatments and reflectivity; and
- Strategic land use issues associated with the proposed change of use.

These are elaborated below.

5.1 Residential amenity

The EIS will address the Rules of Thumb in the RFDC and the requirements of SEPP 65. It is expected that the proposal will be able to comply with the requirements of these documents and will provide a high level of residential amenity in terms of solar access, natural ventilation, apartment size and the like. In addition:

- To ensure an appropriate level of amenity in relation to the use of balconies and wintergardens, a wind impact assessment will be undertaken.
- An accessibility assessment will be prepared to ensure compliance with universal access requirements.
- The sustainability credentials of the proposal will be addressed in an ESD report.
- Noise impacts on residents will be assessed in accordance with relevant State noise policies.

5.2 Development over the Western Distributor

The structural and construction issues associated with building over a motorway were addressed in the approved SSD. None of these matters have changed or will be affected by the proposed new residential use.

However, while still meeting the requirements of SEPP 65 and the RFDC in relation to natural ventilation (with the provision of operable windows, balconies and wintergardens), in accordance with Roads and Maritime Services requirements, the design will need to protect, and ensure the safety of, drivers on the Western Distributor. The EIS will address this issue.

As above, the EIS will also assess impacts of motorway (and other) noise on residents in accordance with relevant State noise policies.

5.3 Façade materials and reflectivity

As stated above, the building envelope of the approved development will not change. However, as the upper levels of the tower will now incorporate windows and balconies the visual appearance of the upper levels of the façade will change. As a consequence the rest of the façade may need modification. Accordingly:

- the EIS will address façade materials, treatments and finishes, and include images of the revised façade; and
- a reflectivity analysis will be undertaken.

5.4 Strategic land use

A Strategic Land Use study will accompany the EIS and address the proposed change of use from commercial to residential and changes in the market for commercial development in the Sydney CBD.

5.5 Matters requiring no further assessment

A number of environmental impacts and planning issues, which would usually be considered as part of a development application of this nature, were addressed as part of the approved development for the overall site. These matters will not be affected by the change of use and modifications to the upper levels of the tower. Accordingly, the following issues do not require any further assessment as part of the future SSD application:

- Heritage
- Contamination and geotechnical conditions
- Traffic, transport and access
- Overshadowing and impacts on views
- Arboriculture
- Impacts on reserved rail corridor
- Construction impacts and management
- Crime prevention and safety.

6.0 CONSULTATION

The proponent will consult with the City of Sydney, Roads and Maritime Services, and the Sydney Harbour Foreshore Authority in relation to the proposed change of use (and in the case of the latter, as landowner). This will be undertaken as part of developing the proposal and prior to lodging the SSD application.

Given the relatively minor nature of the proposed changes and previous consultation undertaken with other government authorities and agencies, further consultation is not considered necessary with the Office of Environment and Heritage, Transport for NSW, and the like.

7.0 CONCLUSION

The proposed incorporation of residential uses within the Four Point by Sheraton will increase the supply of high density housing in the Sydney and meet demand for apartments in the CBD. The proposal is compatible with, and complements, the hotel uses on the site and incoming residents will be well served with the public facilities of Darling Harbour, as well as the other offerings coming on line as a result of the SICEEP development.

The approximately 64 new apartments will be close to employment opportunities, public transport, retail facilities, a broad selection of leisure, food and entertainment offerings, and tertiary education facilities. Residents would have little or no need for private vehicles and no parking is proposed.

Other than the matters identified in this letter, there are very few environmental assessment issues associated with the proposed change of use, and none that cannot be addressed.

We trust that the information detailed in this letter is sufficient to enable the Secretary to issue the Environmental Assessment Requirements for the preparation of the EIS. Should you have any queries about this matter, please do not hesitate to contact me on 9409 4944 or jbuchanan@jbaurban.com.au.

Yours faithfully



Jennie Buchanan
Associate

Enc: Concept drawings prepared by Cox Richardson