

Section 4.55(1A) Modification Application

SSD 49295711 MOD 1

Harbourside Shopping Centre Redevelopment – Podium and Tower

Submitted to Department of Planning, Housing and Infrastructure
on behalf of Mirvac





'Gura Bulga'

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



'Dagura Buumarri'

Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



'Gadalung Djarri'

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

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B.	Project Mitigation Measures	Ethos Urban
C.	Amended Architectural Plans	Snøhetta and Hassell
D.	Design Report	Snøhetta and Hassell
E.	Design Verification Statement	Snøhetta and Hassell
F.	BCA Statement	Philip Chun
G.	Accessibility Statement	Philip Chun
H.	Amended BASIX Certificate	LCI

Executive Summary

This Modification Application has been prepared by Ethos Urban on behalf of Mirvac Retail Sub SPV Pty Ltd (Mircac), the applicant, pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 49295711 relating to the detailed design, construction, and operation of the new Harbourside podium and tower building.

The modification relates to adjustments to apartment layouts on levels 9 – 45 of the residential tower to improve residential amenity and following further design development and rationalisation. The modification includes adjustments to the unit mix but with no change to the total number of apartments or GFA.

Strategic Context

The proposed modification does not change the strategic context of the project.

The submitted EIS for SSD 49295711 comprehensively assessed the approved development against the relevant strategic guidelines at state, regional, and local level, including with regards to the Greater Sydney Region Plan, Eastern City District Plan, Pyrmont Peninsula Place Strategy, and City of Sydney Local Strategic Planning Statement, amongst others.

As the proposed amendments pertain to adjustments to apartment design and layout only, the project's consistency with the above documentation remains unchanged from that assessed in the EIS.

Statutory context

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed amendments represent minor adjustments to the design and layout of the residential apartments that are a very minor change when considered against the overall scope and scale of the project.
- The proposed amendments reflect further design development and coordination that typically occurs as part of the detailed design process following a development consent for projects of this scale.
- The proposed amendments do not change any land use, GFA, envelope, or any of the key parameters of the Harbourside development.
- The proposed amendments will not introduce adverse environmental impacts, or substantially alter the environmental impact of the approved development.
- The development as proposed to be amended remains consistent with the Apartment Design Guide and Design Quality Principles of the Housing SEPP.

The proposed amendments do not otherwise alter SSD 49295711's consistency with the relevant legislation and statutory framework. Consistency with the terms of the Harbourside Concept Approval (SSD 7874) remains unchanged notwithstanding this modification.

Assessment of impacts

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under section 4.55(3) the consent authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

Being only for amendments to apartment design and layout, the proposed modification is not anticipated to generate additional environmental impacts. This report demonstrates that the project remains consistent with the Building Code of Australia, accessibility standards, sustainability and BASIX, and the Housing SEPP Design Quality Principles/Apartment Design Guide.

Justification of the modified project

The project justification for SSD 49295711, and the Harbourside redevelopment more broadly, remains unchanged notwithstanding the proposed amendments, which are considered minor in the context of the project's totality. The redevelopment of Harbourside will continue to ensure that the site is able to realise its potential as a world class entertainment centre, meeting the needs of tourists and Sydneysiders alike.

1.0 Introduction

This Modification Application has been prepared by Ethos Urban on behalf of Mirvac Retail Sub SPV Pty Ltd (Mircvac), the applicant, pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 49295711 relating to the detailed design, construction, and operation of the new Harbourside podium and tower building.

The modification relates to adjustments to the apartment layouts on levels 9 – 45 of the residential tower component of the building following further design development and rationalisation, including adjustments to unit mix with no change to the total number of apartments or GFA.

This Modification Application identifies the consent, describes the proposed modifications, and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. It has been prepared and set out in accordance with the Department of Planning, Housing and Infrastructure (DPHI)'s *State significant development guidelines – preparing a modification report* (October 2022).

1.1 The applicant

The applicant for this Modification Application is Mirvac Retail Sub SPV Pty Ltd (Mircvac). The applicant's details are presented in **Table 1**.

Table 1 Applicant details

Applicant	Mircvac Retail Sub SPV Pty Ltd
Address	Level 28, 200 George Street, Sydney NSW 2000
ABN	34 122 863 521

1.2 Project background

Mircvac acquired the Harbourside Shopping Centre site in 2013 and is currently redeveloping the site to realise its potential as a world class entertainment centre, meeting the needs of tourists and Sydneysiders alike. The redevelopment of Harbourside Shopping Centre is currently being facilitated through the State Significant Development Application (SSDA) process, via the following applications (**Table 2**).

Table 2 Summary of Harbourside SSDAs

Application	Summary of scope	Status
SSD 7874 (Harbourside Concept Approval)	Concept Approval for building envelope, GFA limits and other planning parameters, and demolition of the previously existing shopping centre.	Approved 25 June 2021.
SSD 38881729 (SSDA 1)	Bulk excavation works and construction of retaining structures.	Approved 2 March 2023.
SSD 49295711 (SSDA 2)	Detailed design, construction and operation of the new podium and tower building, including basement.	Approved 4 December 2023.
SSD 49653211 (SSDA 3)	Fitout and use of public domain spaces within the built form and surrounding public domain area.	Under assessment.

This Modification Application relates specifically to SSD 49295711 (i.e., SSDA 2), as further described below.

1.3 SSD 49295711 – consent proposed to be modified

SSD 49295711 was approved by the Minister of Planning and Public Spaces on 4 December 2023. It is described in its development consent as:

Redevelopment of former Harbourside Shopping Centre, comprising:

- *construction of a 50 storey development (RL 170) including tower, podium and basement levels for residential accommodation, office and retail;*
- *parking for cars, motorcycles, service vehicles and bicycles;*
- *provision of hard and soft landscaping and through site links;*

- *electricity and stormwater infrastructure; and*
- *consolidation and stratum subdivision of the site.*

This Modification Application represents the first modification sought to SSD 49295711.

An artist's impression of the redeveloped Harbourside site is provided in **Figure 1**.



Figure 1 Artist's impression of the redeveloped Harbourside site

Source: Snøhetta and Hassell

1.4 Site overview

The proposed modification does not seek to change the extent of the project site. As discussed within the SSD 49295711 EIS, the extent of largely comprises the extent of the previous Harbourside Shopping Centre building that has since been demolished, being Lots 1-10, 12-15, 17 in DP776815 plus an area beneath the existing Darling Drive overpass at the northern end of the site for the construction of three new substations.

1.5 Analysis of alternatives

The following development scenarios were considered in the preparation of this Modification Application:

- Do nothing; or
- Amending the SSD 49295711 approval as proposed.

The proposed amendments are minor, relating only to alterations and adjustments to apartment layout, and will provide a better design at the site following further detailed design and rationalisation post approval. Therefore, there is no benefit in doing nothing (i.e., keeping the approved design), and amending the SSD 49295711 approval as consistent with this Modification Application represents the desired outcome.

2.0 Strategic context

The proposed modification does not change the strategic context of the project.

The submitted EIS for SSD 49295711 comprehensively assessed the approved development against the relevant strategic guidelines at state, regional, and local level, including with regards to the following:

- Greater Sydney Region Plan;
- Eastern City District Plan;
- Pyrmont Peninsula Place Strategy;
- City of Sydney Local Strategic Planning Statement;
- Future Transport 2056;
- Better Placed;
- Connecting with Country Framework; and
- Sustainable Sydney 2030.

As the proposed amendments pertain to adjustments to apartment design and layout only, the project's consistency with the above documentation remains unchanged from that assessed in the EIS.

3.0 Description of the modifications

The modification relates to adjustments to apartment layouts on levels 9 – 45 of the residential tower to improve residential amenity and following further design development and rationalisation. The modification includes adjustments to the unit mix with but change to the total number of apartments or GFA.

The proposed amendments will be undertaken in accordance with the Architectural Plans and accompanying Design Report prepared by Snøhetta and Hassell at **Appendix C** and **Appendix D** respectively, and are discussed in further detail in the below subsections.

3.1 Design changes to residential tower

Design amendments are proposed to improve apartment layouts and account for further design development and services/engineering coordination that has occurred post-approval. The amendments are detailed in the Architectural Plans and accompanying Design Report, and specifically comprise:

- Adjustments to the internal planning of apartments;
- Adjustments to riser sizes and locations, and integration with maintenance access doors;
- Adjustments to window sizes and locations;
- Adjustments to spandrel positions;
- Refinement of facade horizontal fin profile;
- Relocation and refinements to Silver Liveable and Adaptable apartments; and
- Conversion of 13 3-bedroom + study apartments into 4-bedroom apartments, as further described in **Section 3.2**.

The proposed design amendments are largely internal (apart from very minor and imperceptible changes to the façade expression resulting from window, spandrel and horizontal fin refinements), and do not alter the envelope and/or GFA of the approved building. The changes rationalise and improve the efficiency of the building design and represent improvements that typically occur following a development consent for a project of this size and scale.

Excerpts from the Architectural Plans showing typical amendments to floorplate layout is provided in **Figures 2 – 4** below.

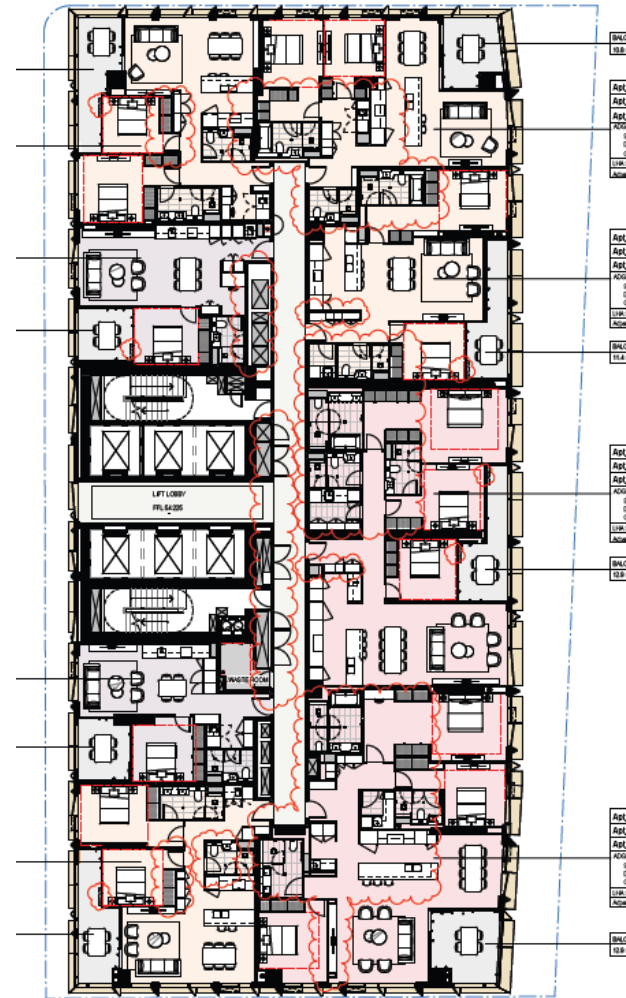
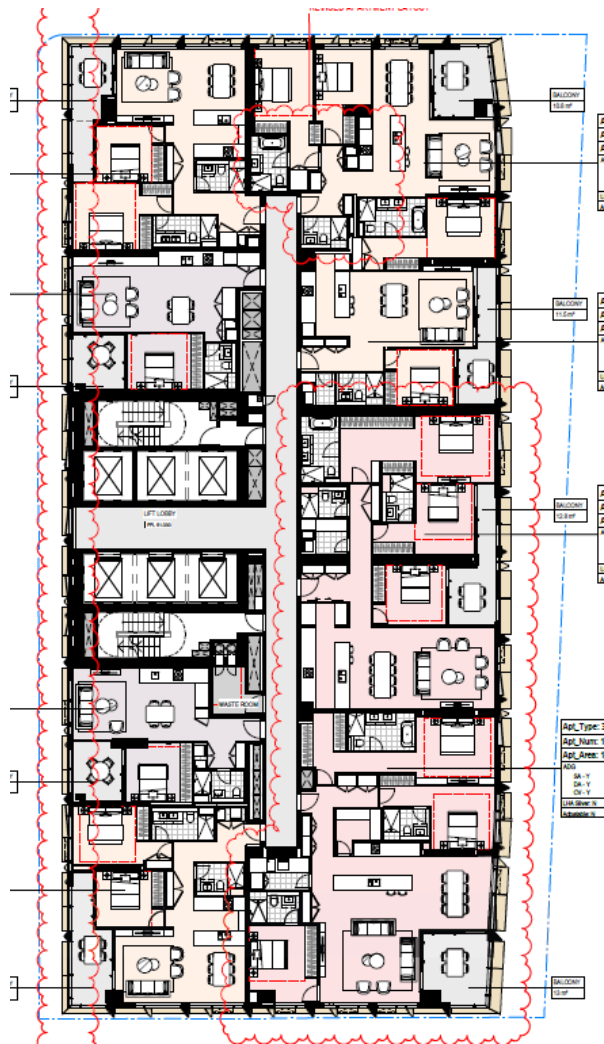


Figure 2 Typical low-rise floorplate – as approved (left) and as proposed to be amended (right) – level 14 shown

Source: Snøhetta and Hassell

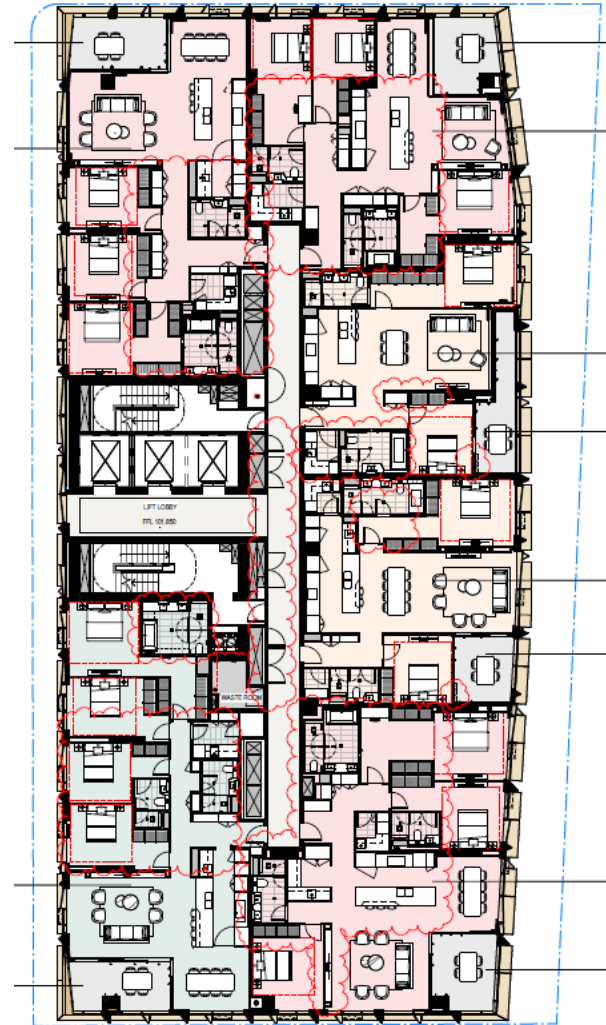
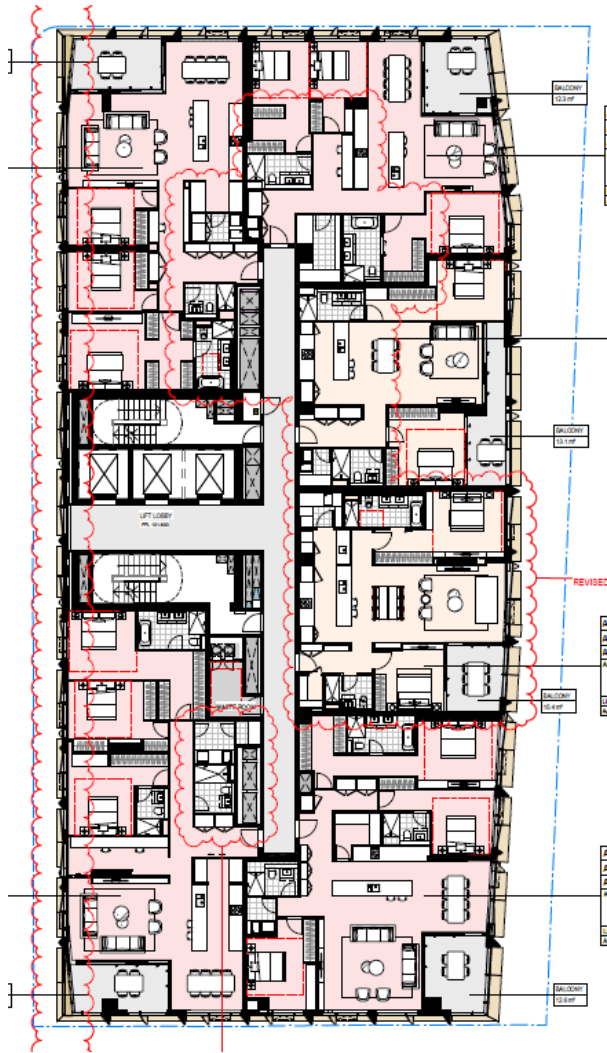


Figure 3 Typical mid-rise floorplate – as approved (left) and as proposed to be amended (right) – level 29 shown

Source: Snøhetta and Hassell

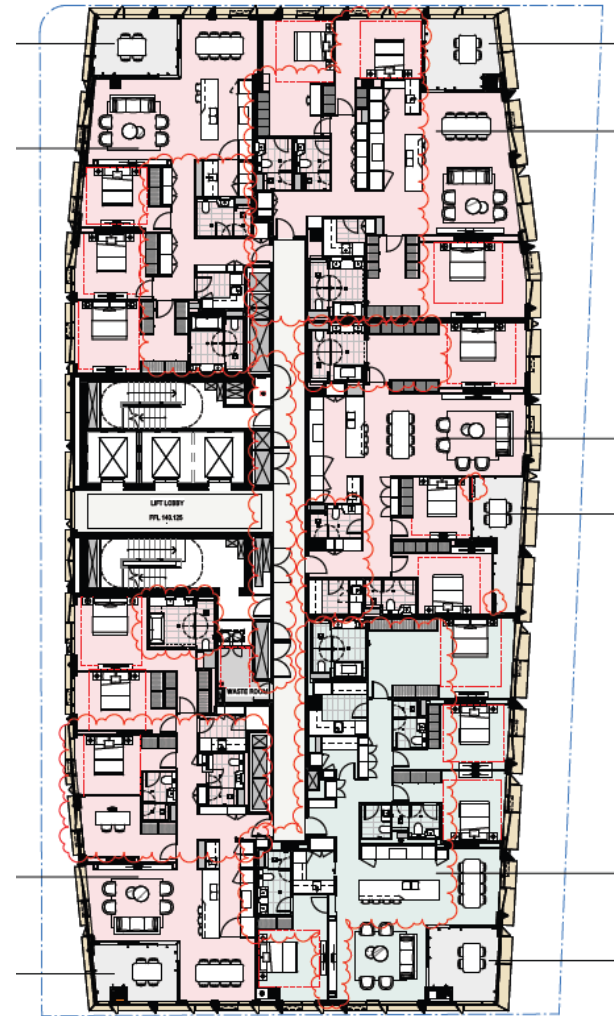
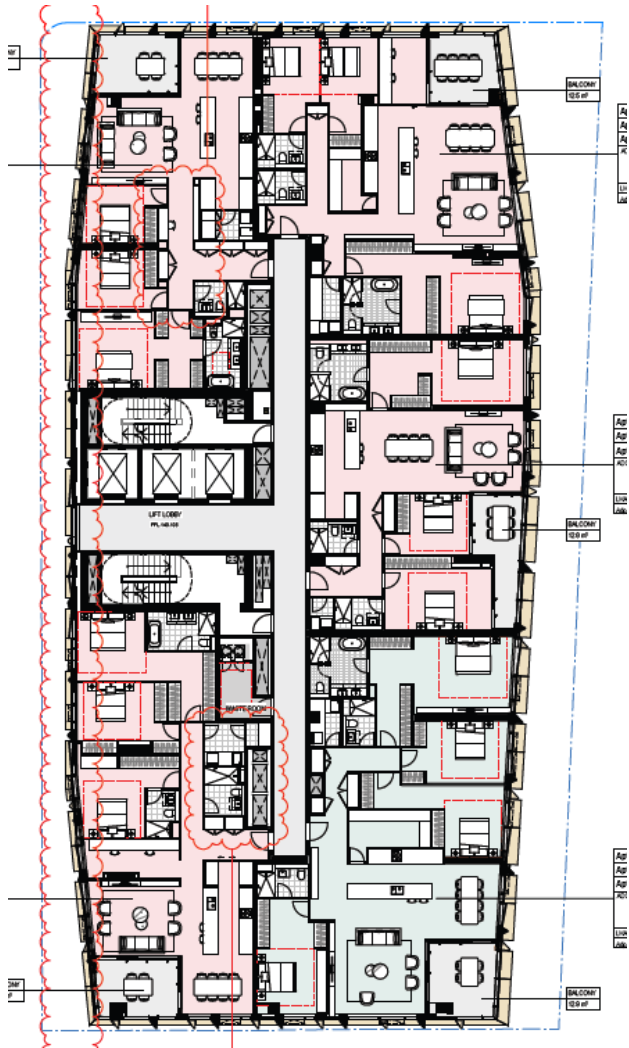


Figure 4 Typical high-rise floorplate – as approved (left) and as proposed to be amended (right) – level 42 shown

Source: Snøhetta and Hassell

3.2 Adjustments to unit mix

Adjustments are proposed to the unit mix as currently approved under SSD 49295711. Specifically, one 3-bedroom + study apartment on each floor of levels 29 – 41 (for a total of 13 levels) is to be converted into a 4-bedroom apartment. This has been made possible due to further post-approval design rationalisation and improvements in floorplate efficiency and does not change the total number of apartments (which remains at 265).

A comparison between the unit mix of the Harbourside tower as approved, and as proposed to be amended, is provided in **Table 3** below.

Table 3 Proposed adjustments to unit mix

Apartment type	As approved	As proposed	+/-
Studio	0	0	No change
1-bed	30	30	No change
2-bed	92	92	No change
3-bed	130	117	-13
4-bed	8	21	+13
Sub penthouse	3	3	No change
Penthouse	2	2	No change
Total	265	265	No change

3.3 GFA

The proposed design amendments to the residential tower do not change the total quantum of GFA for the project. The quantum of residential GFA remains unchanged at 41,992m², as does the total GFA at 42,525m².

3.4 Amendments to conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **bold strike through** and words to be inserted are shown in **bold italics**.

Condition A2

The development must only be carried out:

- (a) in compliance with the conditions of this consent;*
- (b) in accordance with all written directions of the Planning Secretary;*
- (c) generally in accordance with the EIS, RtS and RRFI;*
- (d) in accordance with the approved plans in the table below (except where amended by the conditions of consent):*

Architectural plans prepared by Snøhetta and Hassell			
Plan No.	Rev	Name of Plan	Date
AR-SSDA2-0000_00	BD	Cover Sheet	29/06/2023 22/02/2024
AR-SSDA2-0100_00	B	Site Plan	16/06/2023
[...]			
AR-SSDA2-1108_01	B	General Arrangement Plan – L08 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1109_00	BD	General Arrangement Plan – L09 - L16 L13 Plan – LR-A	29/06/2023 08/03/2024
AR-SSDA2-1109_01	BC	General Arrangement Plan – L09 Plan – LR-A	29/06/2023 22/02/2024

AR-SSDA2-1110_01	BC	General Arrangement Plan – L10 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1111_01	BC	General Arrangement Plan – L11 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1112_01	BC	General Arrangement Plan – L12 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1113_01	BC	General Arrangement Plan – L13 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1114-00	B	General Arrangement Plan – L14-L16 Plan – LR-A	08/03/2024
AR-SSDA2-1114_01	BC	General Arrangement Plan – L14 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1115_01	BC	General Arrangement Plan – L15 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1116_01	BC	General Arrangement Plan – L16 Plan – LR-A	29/06/2023 22/02/2024
AR-SSDA2-1117_00	BC	General Arrangement Plan – L17-L26 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1117_01	BD	General Arrangement Plan – L17 Plan – LR-B	29/06/2023 08/03/2024
AR-SSDA2-1118_01	BC	General Arrangement Plan – L18 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1119_01	BC	General Arrangement Plan – L19 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1120_01	BC	General Arrangement Plan – L20 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1121_01	BC	General Arrangement Plan – L21 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1122_01	BC	General Arrangement Plan – L22 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1123_01	BC	General Arrangement Plan – L23 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1124_01	BC	General Arrangement Plan – L24 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1125_01	BC	General Arrangement Plan – L25 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1126_01	BC	General Arrangement Plan – L26 Plan – LR-B	29/06/2023 22/02/2024
AR-SSDA2-1127_00	BD	General Arrangement Plan – L27 Plan Mid Plant	29/06/2023 08/03/2024
AR-SSDA2-1127_01	BC	General Arrangement Plan – L27 Plan Mid Plant	29/06/2023 22/02/2024
AR-SSDA2-1128_00	BD	General Arrangement Plan – L28 Stair Transfer	29/06/2023 08/03/2024
AR-SSDA2-1128_01	BC	General Arrangement Plan – L28 Stair Transfer	29/06/2023 22/02/2024
AR-SSDA2-1129_00	BD	General Arrangement Plan – L29-L37 Plan – MR	29/06/2023 08/03/2024
AR-SSDA2-1129_01	BC	General Arrangement Plan – L29 Plan – MR	29/06/2023 22/02/2024
AR-SSDA2-1130_01	BC	General Arrangement Plan – L30 Plan –MR	29/06/2023 22/02/2024
AR-SSDA2-1131_01	BC	General Arrangement Plan – L31 Plan –MR	29/06/2023 22/02/2024
AR-SSDA2-1132_01	BC	General Arrangement Plan – L32 Plan –MR	29/06/2023 22/02/2024
AR-SSDA2-1133_01	BC	General Arrangement Plan – L33 Plan –MR	29/06/2023 22/02/2024

AR-SSDA2-1134_01	BC	General Arrangement Plan – L34 Plan –MR	29/06/2023 22/02/2024
AR-SSDA2-1135_01	BC	General Arrangement Plan – L35 Plan –MR	29/06/2023 22/02/2024
AR-SSDA2-1136_01	BC	General Arrangement Plan – L36 Plan –MR	29/06/2023 22/02/2024
AR-SSDA2-1137_01	BC	General Arrangement Plan – L37 Plan –MR	29/06/2023 22/02/2024
AR-SSDA2-1138_00	BD	General Arrangement Plan – L38- L45 L41 Plan – HR	29/06/2023 08/03/2024
AR-SSDA2-1138_01	BC	General Arrangement Plan – L38 Plan –HR	29/06/2023 22/02/2024
AR-SSDA2-1139_01	BC	General Arrangement Plan – L39 Plan – HR	29/06/2023 22/02/2024
AR-SSDA2-1140_01	BC	General Arrangement Plan – L40 Plan – HR	29/06/2023 22/02/2024
AR-SSDA2-1141_01	BC	General Arrangement Plan – L41 Plan – HR	29/06/2023 22/02/2024
AR-SSDA2-1142_00	B	General Arrangement Plan – L42-L45 Plan – HR	08/03/2024
AR-SSDA2-1142_01	BC	General Arrangement Plan – L42 Plan – HR	29/06/2023 22/02/2024
AR-SSDA2-1143_01	BC	General Arrangement Plan – L43 Plan – HR	29/06/2023 22/02/2024
AR-SSDA2-1144_01	BC	General Arrangement Plan – L44 Plan – HR	29/06/2023 22/02/2024
AR-SSDA2-1145_01	BC	General Arrangement Plan – L45 Plan – HR	29/06/2023 22/02/2024
AR-SSDA2-1146_00	B	General Arrangement Plan – L46 Plan – Subpenthouse	29/06/2023
[...]			
AR-SSDA2-1149_01	B	General Arrangement Plan – L49 Roof Plan	29/06/2023
AR-SSDA2-1900_00	B	Adaptable Apartments	29/06/2022
AR-SSDA2-2000_00	BD	General Arrangement Plan – North Elevation	16/06/2023 08/03/2024
AR-SSDA2-2000_01	BD	General Arrangement Plan – North Elevation – Part 1	16/06/2023 08/03/2024
AR-SSDA2-2000_02	BD	General Arrangement Plan – North Elevation – Part 2	16/06/2023 08/03/2024
AR-SSDA2-2001_00	BD	General Arrangement Plan – South Elevation	16/06/2023 08/03/2024
AR-SSDA2-2001_01	BD	General Arrangement Plan – South Elevation – Part 1	16/06/2023 08/03/2024
AR-SSDA2-2001_02	BC	General Arrangement Plan – South Elevation – Part 2	16/06/2023 22/02/2024
AR-SSDA2-2002_00	BC	General Arrangement Plan – East Elevation	16/06/2023 22/02/2024
AR-SSDA2-2002_01	BD	General Arrangement Plan – East Elevation – Part 1	16/06/2023 08/03/2024
AR-SSDA2-2002_02	BD	General Arrangement Plan – East Elevation – Part 2	16/06/2023 08/03/2024
AR-SSDA2-2002_03	BD	General Arrangement Plan – East Elevation – Part 3	16/06/2023 08/03/2024
AR-SSDA2-2003_00	BD	General Arrangement Plan – West Elevation	16/06/2023 08/03/2024
AR-SSDA2-2003_01	BD	General Arrangement Plan – West Elevation – Part 1 & 2	16/06/2023 08/03/2024

AR-SSDA2-2003_02	BD	General Arrangement Plan – West Elevation – Part 3	16/06/2023 08/03/2024
AR-SSDA2-3000_00	B	Section A & B	16/06/2023
AR-SSDA2-3001_00	BD	Section C	16/06/2023 08/03/2024
AR-SSDA2-3001_01	BD	Section C – Part 1	16/06/2023 08/03/2024
AR-SSDA2-3001_02	BD	Section C – Part 2	16/06/2023 08/03/2024
AR-SSDA2-3002_00	BD	Section D	16/06/2023 08/03/2024
AR-SSDA2-3003_00	B	Section E & F	16/06/2023
[...]			
SKETCH SK_230605	A	B02 Residential Waste Layout	03/10/2023
GFA Schedule	1	GFA Schedule	28/09/2023

Rationale: To reflect the development as proposed to be modified, as captured within the Amended Architectural Plans (**Appendix C**).

4.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed amendments represent minor adjustments to apartment layout in the residential tower that are very minor changes when considered against the overall scope and scale of the project.
- The proposed amendments reflect further design development and coordination that typically occurs as part of the detailed design process following a development consent for projects of this scale.
- The proposed amendments do not change any land use, GFA, envelope, or any of the key parameters of the Harbourside development.
- The amendments to the façade are very minor and generally imperceptible.
- The proposed amendments will not introduce adverse environmental impacts, or substantially alter the environmental impact of the approved development, as demonstrated in **Section 6.0**.
- The development as proposed to be amended remains consistent with the Apartment Design Guide and the Design Quality Principles of the Housing SEPP, as demonstrated below.

5.0 Statutory context

This section provides an assessment of the proposed amendments against the relevant sections of the *Environmental Planning & Assessment Act 1979* (EP&A Act) and the relevant Environmental Planning Instruments (EPIs). It has been set out in accordance with the DPE's *State significant development guidelines – preparing a modification report* (October 2022), which identifies the categories to be used to identify the statutory requirements of a project, being that of the following:

- Power to grant approval (**Section 5.1**).
- Permissibility (**Section 5.2**).
- Other approvals (**Section 5.3**).
- Pre-conditions to exercising the power to grant approval (**Section 5.4**).
- Mandatory matters for consideration (**Section 5.5**).

5.1 Power to grant approval

SSD 49295711 was declared to be State Significant Development (SSD) by virtue of clause 2, schedule 2, chapter 2 of *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP) as the site is located within Darling Harbour and has a CIV of more than \$10 million.

The proposed amendments do not alter SSD 49295711's eligibility as SSD pursuant to the above. As the development, as proposed to be modified, is substantially the same development as that originally approved (see **Section 4.0**), the DPE as the consent authority has the power to grant consent to the modification application.

5.2 Permissibility

Chapter 3 of *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* (Eastern Precincts SEPP) is the key environmental planning instrument that applies to Darling Harbour, including the Harbourside site. Redevelopment of the site for commercial premises and residential uses is permitted under Schedule 1 of the SEPP.

The proposed modification relates to minor amendments to the design and layout of the residential tower only and does not change any land use within SSD 49295711. Therefore, the permissibility of the project remains unchanged.

5.3 Other approvals

The proposed amendments do not alter SSD 11429726's consistency with that of the following, as identified within the EIS for SSD 49295711:

- Legislation that must be applied consistently to State Significant Development under Section 4.42 of the EP&A Act; and
- Consistency with the *Environmental Protection and Biodiversity Act 1999 Act*, as the project is not a matter of National Environmental Significance.

5.4 Pre-conditions to exercising power to grant approval

The proposed amendments do not alter SSD 11429726's consistency with the following pre-conditions to exercising power to grant approval, as identified within the EIS:

- BDAR Waiver issued for the project pursuant to the *Biodiversity Conservation Act 2016*;
- Consultation and concurrence requirements of *State Environmental Planning Policy (Transport and Infrastructure) 2021*; and
- Contamination considerations pursuant to *State Environmental Planning Policy (Resilience and Hazards) 2021*.

5.5 Mandatory matters for consideration

An assessment of the relevant mandatory matters of consideration for SSD 49295711, as they relate to the proposed amendments, has been provided in the below subsections.

5.5.1 State Environmental Planning Policy (Housing) 2021

An assessment of the development as proposed to be amended against the relevant provisions of the Apartment Design Guide (ADG), as required under Chapter 4 of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), has been provided within the Design Report prepared by Snøhetta and Hassell at **Appendix D**. The report confirms that the development remains consistent with the provisions of the ADG, as further discussed at **Section 6.5** below. In addition, a Design Verification Statement has been prepared and is provided at **Appendix E**. The statement confirms that the design can achieve the Design Quality Principles contained in the Housing SEPP.

5.5.2 Environmental Planning and Assessment Regulations 2021

As required under section 29 of the *Environmental Planning and Assessment Regulations 2021* (EP&A Regs), a Design Verification Statement has been prepared by Snøhetta and Hassell at **Appendix F**. The statement confirms that the design of the development as proposed to be amended was directed by a qualified designer, defined as a person registered as an architect in accordance with the *Architects Act 1921*.

5.6 Consistency with the Harbourside Concept Approval

The proposed amendments relate to apartment design and layouts only. SSD 49295711's consistency with the Harbourside Concept Approval (SSD 7874) remains unchanged. No changes are proposed to land uses, the building envelope, GFA, building height, environmental performance, or design excellence.

6.0 Assessment of impacts

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the proposed modification is of minimal environmental impact”. Under section 4.55(3) the consent authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

Most of the assessment undertaken for SSD 49295711 remains unchanged notwithstanding the proposed amendments. This report provides an assessment of the matters which are impacted by the modifications only. The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

6.1 Built Form and Urban Design

The proposed amendments are principally related to internal design/layout changes, however there are consequential refinements to the façade as detailed within the Design Report relating to windows, spandrels and horizontal fins. These changes are considered to fall within typical design development scope and are not considered to have any impact on the design qualities of the façade or its contribution towards achieving design excellence. Critically, the changes will be imperceptible when viewed from the public domain.

6.2 Building Code of Australia

A BCA Statement has been prepared by Philip Chun at **Appendix F**. The statement confirms that the development as amended has been reviewed by an appropriately qualified Registered Certifier, and that it remains compliant, or is capable of compliance with, the relevant provisions of the BCA. The report identifies matters which require further verification but notes that these matters can be clarified and resolved at the construction certificate stage through performance solutions, as is standard industry practice, without giving rise to inconsistencies with the development consent.

6.3 Accessibility compliance

An Accessibility Statement has been prepared by Philip Chun at **Appendix G**. The reports assess the development as amended against the relevant disabled access standards, including the AS1428 series Australian Standards, BCA, *Disability Discrimination Act 1992* (DDA) and *DDA Access to Premises Standards* (including DDA Access Code). It confirms that the proposed development remains compliant, or is capable of complying, with the relevant standards subject to normal design development and assessment reviews required at construction certificate stage.

6.4 Sustainability and BASIX

An Amended BASIX Certificate has been prepared by LCI at **Appendix H** reflecting the proposed apartment reconfigurations. The amendments do not change the Ecologically Sustainable Development outcomes of the project.

6.5 Residential amenity

The Design Report prepared by Snøhetta and Hassell at **Appendix D** assesses the development as proposed to be amended against the relevant provisions of the ADG, as required under Chapter 4 of the Housing SEPP.

It is noted that, with regards to the key numerical metrics of the ADG:

- 194 out of 265 apartments (73.2%) receive more than 2 hours direct sunlight between 9am-3pm midwinter, which is unchanged from SSD 49295711 as approved and exceeds the 70% requirement of the ADG.
- 12 out of 20 of apartments on the first 9 storeys (60%) are naturally cross ventilated, which is unchanged from SSD 49295711 as approved and is consistent with the 60% requirement of the ADG. Apartments on the 10th storey and above are automatically considered cross ventilated under the ADG.

In summary, the detailed assessment against ADG criteria provided within the Design Report finds the project's consistency with the ADG to be unchanged from SSD 49295711 as currently approved.

6.6 Traffic and parking

The proposed modification does not seek any change to the approved parking allocation. Although 13 apartments have been converted from a 3-bedroom + study to a 4-bedroom layout as delineated at **Section 3.2**, this does not require any amendment to parking provision as the maximum car parking rate for 3-bedroom and 4-bedroom apartments are the same (at 1.1 spaces per apartment) under condition A17 of the Harbourside Concept Approval.

On this basis, any traffic impacts generated by the proposed additional bedrooms will be negligible.

6.7 Reasons given for granting consent

Table 4 below provides an assessment of the proposed design modifications against the reasons given for granting consent by the Minister of Planning and Public Spaces for SSD 49295711.

Table 4 *Assessment against reasons given for granting consent*

Reason	Assessment
The project would provide a range of benefits for the region and the State as a whole, including the provision of new residential, office and retail accommodation, publicly accessible open space, through site links and improved public domain, 916 construction jobs, 2,130 operational jobs and \$764,515,692 capital investment;	The development as amended continues to provide these benefits. Consistency with this outcome remains unchanged.
The project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Region Plan and the Eastern City District Plan as it supports the ongoing revitalisation of Darling Harbour and foster a lively and engaging city;	The modifications do not alter SSD 49295711's consistency with the relevant planning framework and relates only to the detailed design of residential apartments.
The impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards.	The proposed amendments do not generate additional impacts onto the community and/or the environment.
The consent authority has imposed conditions relating to built form, amenity, noise, landscaping, traffic and transport, flooding, ESD and construction impacts;	The proposed amendments do not generate additional impacts with regards to these matters.
The issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the conditions of consent. Engagement on the project is considered to be in line with Undertaking Engagement Guidelines for State Significant Projects	The proposed amendments, being only amendments to the design and layout of apartments, is not considered to warrant further community consultation as the project's impacts onto surrounding receivers do not change.

Reason	Assessment
(DPIE, July 2021), including the community participation objectives outlined in these guidelines; and	
Weighing all relevant considerations, the project is in the public interest.	The project remains in the public interest, as demonstrated below.

6.8 Site suitability and public interest

The proposed amendments result in a development that remains suitable for the site and in the public interest. The design refinements will improve residential amenity at the site. Such amendments following further design review post-approval are not unusual for a project of this size and scale and will ensure that a high-quality design will be provided to future residents and visitors.

7.0 Justification of the modified project

The modification relates to adjustments to the design and apartment layouts of levels 9 – 45 of the residential tower component of the building following further design development and rationalisation, including adjustments to unit mix with no change to the total number of apartments or GFA.

The project justification for SSD 49295711, and the Harbourside redevelopment more broadly, remains unchanged notwithstanding the proposed amendments, which are considered very minor in the context of the project's totality. Under the development as amended, the Harbourside project will continue to deliver:

- A built form that exhibits design excellence and best practice international urban design, that provides a quality visitor experience and establishes Harbourside as a distinctive destination within the revitalised context of Darling Harbour;
- high quality retail floorspace including food and beverage offerings, replacing out-of-date existing tenancies to ensure Darling Harbour continues to flourish as Sydney's premier shopping, dining, tourist and entertainment location for decades to come;
- new, sought-after commercial office floorspace to support media, arts and tech jobs desired in the Innovation Corridor at the doorstep of the Sydney CBD and Barangaroo;
- new residential space that contributes housing choice and diversity on the fringe of the Sydney CBD, allowing residents to live where they work with transit-oriented development opportunities through the Inner West Light Rail and new Pyrmont Metro station;
- Provisions for significant public open space (with fitout to be delivered under SSDA 3) including a widened Waterfront Promenade, Pyrmont Bridge Steps, and the Waterfront Garden atop the northern podium rooftop; and
- Improved connections through the site and between Pyrmont and the CBD, including via the Bunn Street Steps through site link, repairing the urban fabric and encouraging restoration of street grain and connectivity.

Therefore, in accordance with section 4.55(1A) of the EP&A Act, the consent authority may modify the consent as:

- The proposed modification is of minimal environmental impact; and
- The development as proposed to be amended is substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable assessment of the proposed modification request.

Appendix A – Project description

The proposed modification does not require amendments to the SSD 49295711 project description. The currently adopted project description (as identified in the development consent) is provided below for the consent authority's information.

Redevelopment of former Harbourside Shopping Centre, comprising:

- construction of a 50 storey development (RL 170) including tower, podium and basement levels for residential accommodation, office and retail;
- parking for cars, motorcycles, service vehicles and bicycles;
- provision of hard and soft landscaping and through site links;
- electricity and stormwater infrastructure; and
- consolidation and stratum subdivision of the site.

Appendix B – Mitigation measures table

The proposed modification does not require amendments to the SSD 49295711 mitigation measures. The currently adopted mitigation measures (as identified in the approved EIS) is provided below for the consent authority's information.

Mitigation Measures

Detailed Design

- All proposed buildings and structures are to be designed and constructed in accordance with the requirements of the National Construction Code 2022 and relevant Australian Standards.
- All proposed buildings and structures are to be designed and constructed in accordance with the relevant requirements of the Building Code of Australia (BCA).
- Where the design does not meet the prescriptive deemed-to-satisfy (DtS) provisions of the BCA as identified within the BCA Report prepared by Philip Chun (**EIS Appendix QQ**), Fire Engineering Statement prepared by Omni (**EIS Appendix RR**), or Structural Integrity Statement prepared by Enstruct (**EIS Appendix SS**), appropriate performance solutions should be documented and provided at construction certificate stage in accordance with the BCA.

Construction Management

- The Construction Environmental Management Plan (CEMP) prepared by Mirvac (**EIS Appendix L**) will be submitted to the Principal Certifying Authority prior to the commencement of construction works. Construction methodology and management of construction impacts are to be managed in accordance with the CEMP at all times.
- A detailed Construction, Pedestrian and Traffic Management Plan (CPTMP) will be submitted to the Principal Certifying Authority prior to the commencement of works, with reference to the CPTMP provided within the CEMP. Traffic and pedestrian impacts during construction are to be managed in accordance with the CPTMP.
- Hoardings are to be installed and maintained around the site in accordance with the CEMP and Place Management NSW requirements.
- Soil, water and groundwater management is to be undertaken in accordance with the CEMP.
- Temporary holding areas for excavated material within a temporary sediment fence will be provided to ensure erosion and sediment particles do not enter surrounding waterways. Stored material held in this area will be appropriately covered to ensure colluvium erosion and sedimentation will not occur;
- Ingress of water due to periods of heavy rain will be managed through on-site detention. Excess surface water is to be pumped into sediment holding tanks. These tanks are to be cleaned, and the water pumped to stormwater following cleaning and treatment in accordance with the Principal Contractor's water quality discharge procedures, Environmental Protection Authority (EPA) and Sydney Water requirements;
- Appropriate stabilised site access and/or shaker grids will be installed at site access points;
- Where required, a wheel wash bay will be implemented for all trucks leaving site. This will be regularly maintained.
- Vehicles leaving the site will be secure and cover their loads. All trucks are to be inspected prior to leaving the site (where applicable);
- The Stormwater Management Plan provided within the CEMP is to be implemented, and regularly assessed to ensure adequate controls are in place throughout the various stages of construction works.
- All roads and pedestrian footways surrounding the site will be swept to remove any debris associated with the works on the site;
- Silt fences are to be installed in appropriate locations and be designed to filter run-off (if any) leaving the site, trapping sediment and allowing filtered water to pass; and
- Discharge of site generated catchment water will be managed in accordance with the Principal Contractor's Water Quality Discharge Procedure and EPA Guidelines.
- Air quality and odour control measures will be managed and mitigated in accordance with the CEMP and the recommendations of the Air Quality Assessment prepared by JBSG provided at **EIS Appendix VV**, including diesel particulate, respirate particulate (dust) and visual monitoring.

Noise and Vibration

- Construction noise and vibration is to be managed in accordance with the recommendations of the Construction Noise and Vibration Management Plan (CNVMP) prepared by Acoustic Logic and provided at EIS Appendix C to the CEMP at **EIS Appendix L**, including with regards to monitoring throughout the construction period.
- Acoustic and vibration impacts are to be managed in accordance with the ameliorative measures and mitigation measures provided within the CNVMP to the maximum extent practicable. A maximum/stop work PPV vibration level of 15mm/s is acceptable to protect the light rail infrastructure

Mitigation Measures

- Community interaction and complaints handling processes with regards to noise and vibration shall be undertaken in accordance with the recommendations of the CNVMP.
- Noise and operation of the retail tenancies will be managed in accordance with the recommendations of the Acoustic Assessment prepared by Acoustic Logic and provided at **EIS Appendix CC**, including enclosure of rooftop plant, treatment of major exhaust fans, enclosure of plant rooms and AHUs, restricted hours of operation for the retail premises and the installation of upgraded glazing with full perimeter acoustic seals to the proposed units.
- Acoustic treatments to future buildings shall be implemented at the detailed design phase, including upgraded, laminated glazing and mechanical ventilation, shall occur in accordance with the recommendations of the Acoustic Assessment.

Contamination and Remediation

- Remediation of the site is to occur in accordance with the remediation measures, site validation requirements, and recommendations provided within the Remediation Action Plan prepared by JBS&G (**EIS Appendix Y**).
- A Construction Dewatering Management Plan (CDMP) is to be prepared with regards to anticipated dewatering activities during construction.
- A Work Health and Safety Management Plan (WHSP) is to be prepared to document the procedures to be followed to manage the risks posed to the health of the remediation workforce.
- Acid Sulfate Soils will be managed and disposed of in accordance with the Acid Sulfate Soils Management Plan prepared by JBS&G and provided at **EIS Appendix BB**.
- An unexpected finds protocol is to be implemented in accordance with the CEMP (**EIS Appendix L**).

Geotechnical Stability

- Works will be undertaken with relevance to the findings and recommendations of the Geotechnical Report provided at **EIS Appendix AA**.

Archaeology

- Archaeology impacts during bulk earthworks will be managed in accordance with the SSD 38881729 EIS.
- In the unlikely event that Aboriginal objects are encountered during the non-Aboriginal archaeological open area excavation program, work would cease in the immediate vicinity of the find and as under s89A of the NPW Act, reported to Heritage NSW.

Stormwater Impact

- Stormwater controls and management measures are to be implemented in accordance with the Erosion and Sediment Control Plan appended to the Construction Environmental Management Plan prepared by Mirvac (**EIS Appendix L**).

Flooding

- The proposal has been designed to comply with the Flood Planning Levels outlined within the Addendum Flood Impact Statement prepared by Stantec, provided at **EIS Appendix II**.

Waste Generation and Management

- Waste management during construction is to be carried out in accordance with the Construction Environmental Management Plan (CEMP) prepared by Mirvac (**EIS Appendix L**), and the Construction Waste Management Plan at EIS Appendix E of the CEMP.
- Waste management during operation, including the storage and collection of waste, is to be carried out in accordance with the Operational Waste Management Plan prepared by Waste Audit at **EIS Appendix NN**.

Event Management

- Events will be managed in accordance with the recommendations of the Event Management Plans prepared by Urbis and provided at **EIS Appendix J**, or as amended/updated as part of SSDA 3.

Public Art

- Public Art will be installed throughout the development generally in accordance with the Public Art Strategy prepared by Amanda Sharrad provided at **EIS Appendix K**, to be further developed as part of SSDA 3.

Loading Dock Management

- Management of the drop off and pick up, carpark and loading dock are to be in accordance with the Loading Dock, Basement, Arrival Management Plan prepared by PTC at **EIS Appendix U**.

Green Travel

Mitigation Measures

- The strategies outlined within the Green Travel Plan provided at **EIS Appendix W** are to be implemented where practicable, including annual updates and monitoring of sustainability targets.

Airspace

- Obstacle lighting will be installed as a warning to aircraft at night and in times of low visibility, in accordance with the recommendations of the Airspace Assessment Report prepared by Strategic Air and provided at **EIS Appendix WW**.

Wind

- Implement the recommendations of the Pedestrian Wind Environment Assessment prepared by RWDI and provided at **EIS Appendix LL**:
 - Screening of the Level 05 east terrace along the eastern edge of Level 06 or the inclusion of localised canopies within the terrace situated between the screening;
 - Extension of proposed arbour structure towards west on the Level 05 garden terrace;
 - Implementation of localised awnings and impermeable balustrades on the Level 06 northeast and northwest corner balconies; and
 - Implementation of 50% porous screening above the impermeable balustrades on the rooftop terrace northeast corner.

Reflection

- Planting will be proposed as part of SSDA 3 in accordance with the recommendations of the Reflectivity Analysis prepared by RWDI and provided at **EIS Appendix MM**.

Crime Prevention Through Environmental Design

- Implement the recommendations provided within the Crime Prevention Through Environmental Design Report prepared by Ethos Urban at **EIS Appendix OO** where practicable, including consideration of the following:
 - Maintain sightlines to and from the proposed development and the surrounds by ensuring signage and equipment do not create a significant visual obstruction;
 - A CCTV network is essential for the back of house, basement, Darling Drive arrival zone, circulation spaces and lobby areas and the overall development and its curtilage. The CCTV network is to be designed in consultation with a suitably qualified security consultant with a Class 2A licence under the Security Industry Act 1997 who can provide specific advice on the placement, installation, monitoring and maintenance of the CCTV network;
 - Maintain that building entrances and walkways remain free of clutter to ensure entry points are highly visible from the street frontages;
 - The implementation of a rapid removal policy for vandalism repair and the removal of graffiti;
 - Implementation of a Plan of Management be prepared specifically to ensure that there are standard procedures and policies in place to manage and govern the space and people within it appropriately in the event of any emergency;
 - Installation of a security door or secure electronic access (card / key-controlled entries / lifts etc.) to all private entrances of the building to prevent unauthorised individuals from entering restricted areas not intended for public use (such as within the back of house areas, or areas where there is more private residential sensitivity, as well as the loading dock); and
 - Security, management personnel and employees of the building are advised to parole / occupy the publicly accessible areas visibly and regularly to minimise opportunities for anti-social behaviour.