

30 January 2026

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Kiersten Fishburn
Planning Secretary
Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy St
Parramatta NSW 2150

Section 4.55(1A) Modification Application – SSD 49295711 MOD 10 Harbourside Shopping Centre Redevelopment – Amendments to Acoustic Conditions

This Modification Application has been prepared by Colliers Urban Planning on behalf of Mirvac Retail Sub SPV Pty Ltd (the Proponent) and is submitted to the Department of Planning, Housing, and Infrastructure (DPHI) 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.

This modification seeks amendments to various conditions of consent with regards to acoustic noise levels to align with the approved Acoustic Assessment for the project, remove ambiguity, and provide a reasonable balance between minimising noise impacts to residential receivers and permitting retail operation that is consistent with Darling Harbour's status as Sydney's vibrant 24-hour cultural and entertainment destination.

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).

This application should be read in conjunction with the:

- Acoustic Statement, dated 10 December 2025, prepared by Acoustic Logic (**Attachment A**);
- Supplementary Acoustic Assessment, dated 18 December 2025, prepared by Acoustic Logic (**Attachment B**); and
- Retail Masterplan Noise Impact Assessment, prepared by Acoustic Logic (**Attachment C**).

1.0 Background

1.1 The proponent

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's 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 mixed-use development, meeting the needs of tourists and Sydneysiders alike. The redevelopment of Harbourside Shopping Centre has been approved 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.	Approved 19 June 2025.

This Modification Application relates specifically to SSD 49295711 (also known as 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 for the detailed design, construction and operation of the new podium and tower Harbourside building, including basement. 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.*

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

SSD 49295711 included a number of conditions, including in relation to imposing conditions that establish operational noise criteria for the approved non-residential uses. The specific conditions relating to operational noise are G19 – G21. For context, these particular conditions were informed by recommendations made by the City of Sydney Council to DPHI. Despite Mirvac making representations at the time to DPHI opposing these recommended conditions – they were adopted without any amendments and included within the final development consent. The key concerns raised at the time by Mirvac to DPHI was that the noise criteria being proposed by Council were in fact inconsistent with the approach proposed in the Acoustic Report submitted in support of the SSD application.

As Mirvac moves closer to completing the project it is progressing with signing up tenants for the circa 10,000sqm of retail GFA across the precinct.

Condition A6 of the SSD 49295711 consent (as modified under MOD 2) provides that:

A6. This consent does not approve the following:

(a) the detailed fit-out and operation of the retail premises;

(b) the detailed fit-out of office accommodation;

(c) the detailed fit-out and operation of the event and conference use on level one;

(d) the level 1 operable façade on the northeast and eastern elevations;

(e) licenced areas or outdoor dining areas;

[...] (emphasis added.)

In light of condition A6 and to ensure for a streamlined approach to delivering the retail precinct, Mirvac has progressed with preparing and submitting a Development Application to the City of Sydney ([D/2025/1021](#)) for the use and operation of all retail food and beverage tenancies across the precinct. As this DA has progressed it has become clear that the conditions G19 – G21 are unworkable and present a barrier to the assessment and approval of retail tenant DA – to the detriment of the project and overall vision for Harbourside as a 24/7 vibrant and mixed-use lifestyle precinct. Accordingly, this subject modification application (mod 10) is being progressed.

1.3.1 Subsequent modifications

This Modification Application represents the tenth modification sought to SSD 49295711 since its approval (i.e., MOD 10). A summary of existing modifications to the consent is provided in **Table 3** below.

Table 3 Other modifications to SSD 49295711

Mod	Type	Description	Status
SSD 49295711 MOD 1	4.55(1A)	Adjustments to apartment layout on levels 9 – 45 of the residential tower, including adjustments to unit mix.	Approved 3 July 2024.
SSD 49295711 MOD 2	4.55(2)	<ul style="list-style-type: none"> Expansion of potential land uses on level 1 to include event and conference uses; Amendments to podium layout and design; Amendments to residential tower layout and design, Minor amendments to basement layout; Various amendments to building services, plant, podium rooftop and facades; and Inclusion of design changes to the Bunn Street through-site link. 	Approved 11 April 2025.
SSD 49295711 MOD 3	4.55(1A)	<ul style="list-style-type: none"> Amendments to the timing of several conditions of consent to align construction certificate timing with the broader project delivery strategy and SSD 49653211 (SSDA 3) public domain works. A minor amendment to the extent of the Level 4 podium plant area. 	Approved 12 March 2025.
SSD 49295711 MOD 4	4.55(1A)	Amalgamation of apartments and other minor changes related to prospective purchaser requests.	Approved 14 July 2025.
SSD 49295711 MOD 5	4.55(1A)	Minor administrative amendments to various conditions of consent to enable staged occupation of the development.	Approved 8 September 2025.
SSD 49295711 MOD 6	4.55(1A)	<ul style="list-style-type: none"> Amendments to extend construction hours for certain works, subject to strict criteria and conditions of consent with the aim of expediting construction in the most time efficient manner and reducing the period of construction experienced by surrounding receivers, while mitigating any adverse impacts. A minor amendment to the ground floor retail back of house corridor. 	Under assessment.
SSD 49295711 MOD 7	4.55(1A)	<ul style="list-style-type: none"> Installation of a new substation beneath Darling Drive; Installation of fire protection hoods to approved substations beneath Darling Drive; 	Approved 25 November 2025.

Mod	Type	Description	Status
		<ul style="list-style-type: none"> Addition of horizontal façade projection above the northern commercial tenancy Ground Level entrance and Level 2 commercial entrance; and Reconfiguration of retail tenancies fronting the Waterfront Garden. 	
SSD 49295711 MOD 8	4.55(1A)	<ul style="list-style-type: none"> Amendments to the built form to align with the demolition of the North Bridge under SSD 7874 MOD 6; and Relocation of the pedestrian lift connecting the Waterfront Garden to the Waterfront Promenade to improve connectivity. 	Under assessment.
SSD 49295711 MOD 9	4.55(1A)	<ul style="list-style-type: none"> Minor amendments to various conditions of consent to replace Council with Place Management NSW (PMNSW) as the relevant authority for public access and easement arrangements. 	Approved 9 December 2025.

The scope of this application does not overlap with the other modifications still being assessed (MOD 6 and MOD 8) and they can be assessed concurrently.

2.0 Strategic context

This Modification Application does not seek to change the extent of the SSD 49295711 project site.

The proposed amendments seek to strike an appropriate balance between minimising noise impacts to residential receivers and permitting retail operation that is consistent with Darling Harbour's status as Sydney's vibrant 24-hour cultural and entertainment destination.

The Eastern City District Plan identifies Darling Harbour as a *thriving night-time centre*, with *entertainment, cultural, tourist and conference assets* currently existing and to be provided in the future. The site is more broadly part of the Harbour CBD identified under the plan. The vision for the Harbour CBD as a cultural, entertainment and tourism centre is as follows:

Harbour CBD has major entertainment precincts such as Darling Harbour. Cultural, entertainment, arts and leisure activities must continue to be provided to build a more diverse and competitive offering in these sectors. The Harbour CBD's attractiveness is further reinforced by night-time activities, from popular food precincts, clubs, venues and small bars to lifestyle activities like cinemas and 24-hour gyms.

Protecting and diversifying the night-time economy in appropriate locations is an essential component of the CBD's growth.

The Pyrmont Peninsula Place Strategy sets out a vision for Pyrmont to:

be a place buzzing with activity, attractions, restaurants, cafes, bars and retail – all contributing to a vibrant 24-hour economy within walking distance of the CBD that attracts new residents, workers, visitors and investors.

This is also being pursued at the local government level by the City of Sydney, who's night-time economy strategy encourages 24-hour trading in the city centre to provide more diverse night-time options that will help build more connected and resilient communities, a more inclusive nightlife, improved safety and reduced crime. The City of

Sydney have also exhibited a discussion paper proposing new Special Entertainment Precincts, where Darling Harbour is identified and the Harbourside site mapped as a Late Night Management Precinct.

The proposed amendments are therefore consistent with the clear strategic direction of Darling Harbour as Sydney's premier, vibrant 24-hour cultural and entertainment destination. The existing conditions G19, G20 and G21 of the consent are presently unworkable in that they:

- are inconsistent with the acoustic strategy developed for the Harbourside to date (including under the Acoustic Assessment by Acoustic Logic approved under SSDA 2 – **refer conditions C27 and F39 – extracts below**);

COMPLIANCE WITH ACOUSTIC ASSESSMENT

C27. Prior to the issue of the first Construction Certificate for above ground works, the Applicant must submit evidence to the Certifier demonstrating that the design of the development has incorporated all performance parameters, requirements, engineering assumptions and recommendations contained in the report titled '*SSSA Acoustic Assessment Revision 3*', prepared Acoustic Logic Pty Ltd and dated 31 October 2022.

OPERATIONAL NOISE

F39. Prior to the issue of the first Occupation Certificate for Stage 1, Stage 2 and Stage 3, the Applicant must submit evidence to the Certifier that the noise mitigation recommendations in the report titled '*Harbourside SSDA Acoustic Assessment Revision 3*' prepared by Acoustic Logic and dated 31 October 2022 (as amended by conditions of this consent) have been incorporated into the design for that stage to ensure the development will not exceed the recommended operational noise levels identified in the Acoustic Assessment.

- are ambiguous whether they would apply to only residents external the site, or also to the new Harbourside residential tower; and
- are a barrier to the City of Sydney being able to assess and approve detailed local DAs for the fit-out and operation of retail tenancies.

Further discussion and detailed justification is provided in **Section 3.0** below.

3.0 Proposed modifications to the consent

This modification seeks amendments to various conditions of consent with regards to acoustic noise levels to align with the Acoustic Assessment submitted with SSDA 2 and ultimately approved for the project (as referenced in conditions C27 and F39), remove ambiguity, and provide a reasonable balance between minimising noise impacts to residential receivers and permitting retail operation that is consistent with Darling Harbour's status as Sydney's vibrant 24-hour cultural and entertainment destination.

Specifically, amendments are proposed to the wording of conditions A2, G19, G20, and G21, and a new condition (G22) is also proposed to be inserted.

3.1 Modifications to conditions

Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in **bold italics**. The amendments to conditions effectively seek to reflect the proposed approach and noise criteria set out within the Acoustic Assessment prepared in support of SSDA 2.

Condition A2

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) As amended by, and generally in accordance with, the following modification applications:*

[...]

(viii) Section 4.55(1A) Modification Application report prepared for SSD 49295711 MOD 10 by Colliers Urban Planning dated 12 December 2025.

(e) in accordance with the approved plans in the table below (except where amended by the conditions of consent):

[...]

Condition G19

G19. *The $L_{Aeq, 15 \text{ minute}}$ noise level emitted from the use must not exceed **(unless otherwise agreed to under a separate Development Application)** the background noise level ($L_{A90, 15 \text{ minute}}$) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive):*

- (a) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence **outside of the Harbourside development.***
- (b) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence **outside of the Harbourside development.***

Condition G20

G20. *Despite compliance with Condition G19(a), the $L_{Aeq, 15 \text{ minute}}$ noise level from the use **(outside of the Harbourside Development)** must not exceed **(unless otherwise agreed to under a separate Development Application)** the greater of the following levels between 7am and 12 midnight inside any habitable room of a residential accommodation or tourist and visitor accommodation, or at any time in an affected commercial premises:*

- (a) the existing internal $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive). Or,*
- (b) if the $L_{Z90, 15 \text{ minute}}$ background level is below the hearing threshold curve (T_f - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (L_p) of the T_f curve in that octave band must become that octave's $L_{Zeq 15 \text{ minute}}$ noise criteria level.*

Condition G21

*G21. Despite Condition G19(b), the $L_{A1\ 15\ \text{minute}}$ noise level from the use **(outside of the Harbourside Development)** must not exceed **(unless otherwise agreed to under a separate Development Application)** the greater of the following sound pressure levels inside any habitable room between 12 midnight and 7am inside any habitable room of an affected residential accommodation or tourist and visitor accommodation:*

(a) the existing internal $L_{A90, 15\ \text{minute}}$ (from external sources excluding the use) minus 10 dB in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) inside a habitable room of an affected residential accommodation or tourist and visitor accommodation. Or,

(b) if the $L_{Z90, 15\ \text{minute}}$ minus 10 dB level is below the hearing threshold curve (T_f - Table 1 of ISO 226: 2003) in an above octave band, the lowest audible sound level (L_p) of the T_f curve in that octave band must become that octave's $L_{Z1\ 15\ \text{minute}}$ noise criteria level.

Condition G22 (new condition)

G22. Noise levels to residential apartments within the Harbourside Development from music and patron noise is not to exceed the following levels:

(a) Between the hours of 7am and 10pm:

(i) 38dB(A) $L_{eq, 15\ \text{minute}}$ in bedrooms

(ii) 43dB(A) $L_{eq, 15\ \text{minute}}$ in living rooms

(b) Between the hours of 10pm and 12am (midnight)

(i) 35 dB(A) $L_{eq, 15\ \text{minute}}$ in bedrooms

(ii) 40 dB(A) $L_{eq, 15\ \text{minute}}$ in living rooms

(c) Between 12am (midnight) and 7am

(i) 25 dB(A) $L_{eq, 15\ \text{minute}}$ in habitable spaces.

The above levels are to be measured internally with windows and doors closed.

3.2 Justification

Detailed justification to support the above change to conditions has been provided within the Acoustic Statement prepared by Acoustic Logic (**Attachment A**). **Attachment B** also includes an assessment of the existing conditions and the implications to the approved retail operations if compliance is required. Critically, if the conditions as approved remain it will have the following restrictions on the operations of retail uses:

- No outdoor dining on the Waterfront Promenade or Level 2 tenancies after 10pm permitted.
- Level 2 tenancies must have their façade closed at all times.
- Some Waterfront Promenade tenancies must close their façade at 10pm.

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, as it only relates to operational conditions of consent which are considered minor when considered against the overall scope and scale of the project. The modification does not alter the built form, approved use, internal building layout, building height, or floor space of any land use approved under SSD 49295711.

5.0 Statutory context

5.1 Consistency with environmental planning instruments

The proposed amendments do not alter the project’s consistency with the relevant planning legislation, including the *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* or otherwise.

5.2 Consistency with the Harbourside Concept Approval

The Harbourside Concept Approval (SSD 7874) sets out certain acoustic requirements for protection of Darling Harbour as a 24-hour cultural and entertainment destination. Specifically, conditions C18, C19 and C20 of the Harbourside Concept Approval provide as follows:

C18. Future Development Application(s) must demonstrate that apartments within the proposal are adequately separated from lower floor active uses and events within the public domain to minimise the likelihood of noise disturbance.

C19. Future Development Application(s) must be accompanied by a Noise and Vibration Impact Assessment (NVIA) that identifies and provides a quantitative assessment of the main noise generating sources and activities during operation. The NVIA must include:

- (a) an alternative noise criterion for future apartments within the development utilising internal noise measurements with windows closed and designed to maximise the usage of the retail tenancies and events in the public domain without resulting in excessive impact on new and existing residents.*
- (b) details of any mitigation measures to ensure the amenity of sensitive land uses, and the function and 24-hour operation of noise generating uses are protected during the operation of the development.*
- (c) noise management and mitigation strategies for commercial uses which restricts hours of operation as a last resort.*

C20. Future Development Application(s) must demonstrate that the proposed apartments include sufficient acoustic attenuation to enable compliance with the alternative noise criteria.

Also of note is condition C31, which provides as follows:

C31. Future Development Application(s) must include details of strategies and/or mechanisms which can be secured through the development consent or other legal agreement to make purchasers and occupiers of future residential apartments and non-residential tenancies aware that the development is in a vibrant entertainment and recreation precinct that is subject to many cultural and community events that may result in significant

noise, light emissions, vibration and temporary changes to access arrangements over multiple 24 hour cycles throughout the year.

The proposed amendments do not give rise to any of the above conditions of the Harbourside Concept Approval. It is evident from these conditions (in particular C19 and C31) that it was always the intent for apartments within the Harbourside residential tower to be subject to project-specific acoustic criteria in recognition of their location within a vibrant entertainment precinct, and that future residents on site would understand and may be specifically attracted to such a location. This has been formalised in the form of the new proposed Condition G22 to SSD 49295711.

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.

The following assessment considers the relevant matters under section 4.15(1) with regards to the proposed amendments sought.

6.1 Acoustic impacts

The proposed changes are administrative in nature and seek to reinforce noise expectations and requirements as originally proposed within the Acoustic Report prepared by Acoustic Logic submitted in support of SSDA 2 and ultimately approved within SSD 49295711 (refer to conditions C27 and F39). Acoustic modelling undertaken as part of D/2025/1021 (refer to **Attachment B and Attachment C**) reveals that the existing conditions (in particular G20) impose significant operational constraints on retail tenants, including that no outdoor activities associated with the retail tenancies are able to take place after 10pm.

Rather than seek to specifically amend the noise criteria conditions through this modification application, the changes seek to leave open the ability for Mirvac and Council to negotiate and agree separate site-specific noise controls for the project – noting that the City holds responsibility for approving future tenant fit-out and operations.

6.2 Reasons given for granting consent

Assessment of the proposed amendments against the reasons given for granting consent provided by the Minister of Planning within the Notice of Decision for SSD 49295711 dated 4 December 2023 is provided below in **Table 4**.

Table 4 Assessment against reasons for granting consent

Reason	Assessment
<ul style="list-style-type: none">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 project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Region	No change.

Reason	Assessment
<p>Plan and the Eastern City District Plan as it supports the ongoing revitalisation of Darling Harbour and foster a lively and engaging city;</p> <ul style="list-style-type: none">• 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 consent authority has imposed conditions relating to built form, amenity, noise, landscaping, traffic and transport, flooding, ESD and construction impacts;	<p>This report demonstrates that the proposed amendments to acoustic conditions strike a suitable balance between minimising noise impacts to residential receivers and permitting retail operation that is consistent with Darling Harbour's status as Sydney's vibrant 24-hour cultural and entertainment destination, and thereby will not result in unreasonable environmental acoustic impacts.</p>
<ul style="list-style-type: none">• 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 <i>Undertaking Engagement Guidelines for State Significant Projects</i> (DPIE, July 2021), including the community participation objectives outlined in these guidelines; and• Weighing all relevant considerations, the project is in the public interest.	<p>No change.</p>

7.0 Conclusion

This modification seeks administrative amendments to various conditions of consent in order to ensure an acoustic framework is in place to support Harbourside as a vibrant mixed-use lifestyle precinct.

This letter has demonstrated that this Modification Application:

- Does not alter SSD 49295711's consistency with the relevant strategic context;
- Is substantially the same development as that originally approved;
- Remains consistent with the relevant statutory context at the site;
- Will not give rise to unreasonable environmental impacts; and
- Is suitable for the site and is in the public interest.

Given the above, the Department may modify the consent in accordance with Section 4.55(1A) of the EP&A Act.

Sincerely,



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