

Department of Planning, Housing and Infrastructure

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Modification 10 of the Harbourside Redevelopment – Tower and Podium – Changes to Entertainment Noise

State Significant Development Modification Assessment Report (SSD-49295711-Mod-10)

March 2026





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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1 Introduction

1.1 The proposal

On 14 December 2024, Mirvac (the Applicant) was granted consent for Stage 2 of the Harbourside Redevelopment (SSD-49295711) consisting of a 45-storey residential tower and a two to five storey podium.

The modification seeks to amend the operational noise framework by limiting the existing noise levels to residences outside the Harbourside site and introducing separate noise levels for residential apartments within the Harbourside redevelopment to apply to detailed fit-out and use applications.

1.2 Project location

The subject site is located at 10 Darling Drive in the City of Sydney local government area (LGA), within the Darling Harbour Precinct (Figure 1).

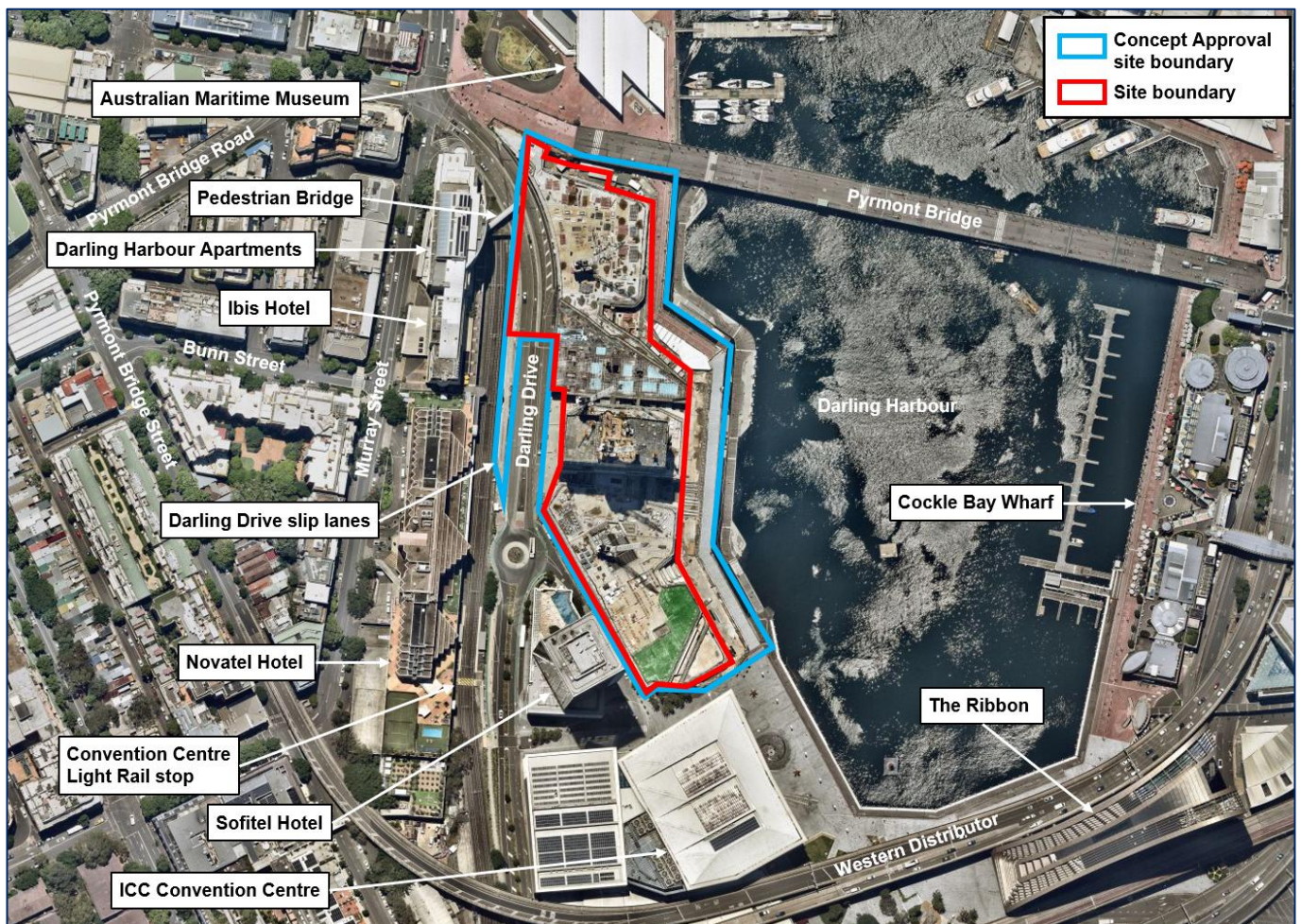


Figure 1 | Local context map (Source: Nearmap)

1.3 Approval History

1.3.1 Concept approval

On 25 June 2021, the Independent Planning Commission (IPC) approved the Harbourside Redevelopment Concept Plan (SSD-7874) for the redevelopment of the Harbourside Shopping Centre for a mix of land uses including retail, commercial, public recreation and residential. The Concept Approval has been modified four times and specifies a maximum gross floor area (GFA), building envelopes and building volume for the site.

1.3.2 Stage 2 of the Harbourside Redevelopment (SSDA2)

On 14 December 2023, consent was granted by the Deputy Secretary, as delegate of the Minister for Planning and Public Spaces, for the development of Stage 2 of the Harbourside Redevelopment (SSD-49295711).

This includes the construction of a residential and commercial tower and podium building. This SSD did not approve the fit-out or use of retail areas.

SSDA2 has been modified eight times with one modification currently under assessment, as summarised in Appendix B.

1.3.3 Related projects and works

The approval for demolition, site preparation, earthworks and all works with the public domain relate to separate SSD development consents as outlined in Table 1.

Table 1 | Overview of related approvals

Approval	Application summary	Status
SSDA1 (SSD 38881729)	Site preparation, bulk earthworks and including remediation and dewatering.	Approved 2 March 2023
SSDA3 (SSD 49653211)	All construction, fit -out and landscaping works within the public domain located within and around the tower and podium.	Approved 19 June 2025
D/2025/1021 (DA to City of Sydney Council)	First use and hours of operation for ground and level 2 retail, licensed food and beverage premises on-site	Under assessment

2 Proposed modification

2.1 Modification overview

The modification seeks to amend the operational noise framework in the development consent (Table 2) by confining the existing noise levels in Conditions G19 to G21 to sensitive receivers outside the Harbourside site and introducing separate noise levels for residential apartments within the Harbourside redevelopment.

The Applicant considers this approach would remove ambiguity in the application of the existing conditions, align the consent with the assumptions underpinning the approved acoustic assessment, including building design requirements and mitigation measures, and support retail and other uses consistent with the 24-hour cultural and entertainment role of Darling Harbour.

Table 2 | Key aspects of the modification

Project element	Original project	Modified project
Noise levels at the boundary of an affected residence (G19)	7am to 12 midnight – Background + 5dB 12 midnight – 7am – Background + 0dB	Amend the conditions so the existing noise levels apply only to only to sensitive receivers outside the Harbourside development, unless otherwise agreed under a separate application
Noise levels inside habitable rooms between 7am to 12 midnight (G20)	Despite the above, the use of the development is to be inaudible.	
Noise levels inside habitable rooms between 12 midnight to 7am (G21)	Despite the above, the use of the development is to be 10dB below the background noise level.	
Noise levels at residences in the Harbourside Tower	Captured under existing conditions above.	Insert a new condition to apply separate internal noise criteria to residential apartments within the Harbourside development.

3 Statutory context

3.1 Scope of modification and assessment pathway

Details of the legal pathway under which modification is sought and are provided in Table 3 below.

Table 3 | Permissibility and assessment pathway

Consideration	Description
Scope of modification	<p>Modification involving minimal environmental impact</p> <p>The Department has reviewed the scope of the modification and considers that it can be characterised as a modification involving minimal environmental impact as the proposal relates to clarifying the application of noise levels from entertainment uses.</p> <p>The Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.</p>
Consent Authority	<p>Minister for Planning and Public Spaces</p> <ul style="list-style-type: none">• The Minister continues to be the consent authority under section 4.5(a) of the EP&A Act and has the capacity to modify development.
Decision-maker	<p>Team Leader, Key Sites and TOD Assessments</p> <p>Under the Minister’s delegation, the Team Leader may determine the application as:</p> <ul style="list-style-type: none">• no political disclosure has been received• no submissions have been received• Council does not object to the application.

3.2 Mandatory matters for consideration

3.2.1 Matters of consideration required by the EP&A Act

In determining the modification, the consent authority must take into consideration such of the matters referred to in section 4.15(1) of the EP&A Act as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given

by the consent authority for the grant of the consent that is sought to be modified. The Department's consideration of these matters is shown in Table 4 below.

Table 4 | Matters for consideration

Matter for consideration	Department's assessment
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Section 3 and Appendix C
EP&A Regulation	Section 3 and Appendix C
Likely impacts	Section 5 – Assessment
Suitability of the site	Section 1.2 – Project Location and Section 5 – Assessment
Public submissions	Section 4 – Engagement and Section 5 – Assessment
Public interest	Section 4 – Engagement, Section 5 – Assessment and Section 6 – Evaluation

3.2.2 Objects of the EP&A Act

In determining whether or not to modify the consent, the consent authority should consider whether the modified project is consistent with the relevant objects of the EP&A Act (section 1.3) including the principles of ecologically sustainable development. Consideration of those factors is described in Appendix C.

The Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ecologically sustainable development (ESD).

3.2.3 Biodiversity development assessment report

Section 7.17(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD modifications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the authority or person determining the application is satisfied that the modification will not increase the impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017).

The Department is satisfied that the modification will not increase the impact on biodiversity values and consequently a BDAR is not required to accompany the modification application.

4 Engagement

4.1 Department’s engagement

In accordance with the EP&A Regulation, the Department made the modification application publicly available on the Department’s website on 13 February 2026 and also forwarded the application to City of Sydney Council (Council) and Place Management NSW (PMNSW) on the same date for comment.

4.2 Notification of the modification

4.2.1 Summary of advice received from government agencies

The Department received advice from Council and PMNSW on the modification report.

A summary of the agency advice is provided in Table 5. A link to the full copy of the advice is provided in Appendix C.

Table 5 | Summary of Council and agency advice

Agency	Advice summary
Council	Advised it supports the application and recommended changes to the proposed noise levels that would apply to sensitive receivers outside of the site to ‘development consent’ rather than ‘development application’ to ensure the use of any premises is undertaken in accordance with a lawful consent.
PMNSW	Did not object and did not provide any comments relevant to the assessment of the application.

5 Assessment

5.1 Operational noise

In assessing the merits of the proposal, the Department has considered the:

- modification applications and associated documents
- assessment and conditions of approval for the original application
- relevant environmental planning instruments, policies, and guidelines
- requirements of the EP&A Act and Regulation, and
- advice of Council and agencies.

Operational noise was a key issue in the assessment of the original SSD, having regard to the need to protect the amenity of surrounding sensitive receivers while supporting the mixed-use, entertainment and late-night functions of the redevelopment and broader Darling Harbour precinct. Sensitive receivers in the locality include residential apartments, and tourist and visitor accommodation surrounding the site

The modification would separate the operational noise framework so that the existing criteria in Conditions G19 to G21 apply to affected receivers outside the Harbourside development, while a new Condition G22 would apply separate internal noise criteria to apartments within the Harbourside development.

These matters are considered below.

5.1.1 Application of existing noise levels to external receivers

The Applicant seeks to amend Conditions G19 to G21 so the existing operational noise criteria apply to affected residences outside the Harbourside development. The proposed wording also provides flexibility to allow alternative noise limits to be imposed under future fit out DA's determined by Council.

Council supports the proposed approach on the basis that it would allow future fit-out applications to be assessed on their merits having regard to noise impacts. Council recommended the Applicant's proposed wording refer to "development consent" rather than "development application" to ensure the use of any premises is undertaken in accordance with a lawful development consent. PMNSW raised no concerns.

The Department has carefully considered the proposed amendments to a Conditions G19 to G21 and is satisfied they are acceptable as they would:

- remove ambiguity in the operation of the existing conditions by clarifying that Conditions G19 to G21 apply to affected receivers outside the Harbourside development
- maintain an acceptable level of acoustic amenity for surrounding residential and commercial receivers, consistent with the original approval
- allow Council appropriate flexibility in its assessment of future fit out applications

Amendments to Conditions G19 to G21 are recommended accordingly.

5.1.2 Separate noise criteria for Harbourside Residences

The Applicant proposes a new Condition G22 to apply separate internal noise criteria to residential apartments within the Harbourside development. The proposed criteria would regulate music and patron noise within those apartments and would be measured internally with windows and doors closed, as set out in Table 6.

Table 6 | Applicants proposed noise levels for Harbourside Tower apartments

Time	Noise level and location
Between 7am and 10pm	38dB(A) <small>Leq, 15 minute</small> in bedrooms
	43dB(A) <small>Leq, 15 minute</small> in living rooms
Between 10pm and 12am (midnight)	35 dB(A) <small>Leq, 15 minute</small> in bedrooms
	40 dB(A) <small>Leq, 15 minute</small> in living rooms
Between 12am (midnight) and 7am	25 dB(A) <small>Leq, 15 minute</small> in habitable spaces.

The Applicant contends that this criteria reflects the approved acoustic strategy under SSDA 2 and the alternative noise criteria envisioned by the Concept Approval. In particular, the Applicant notes the Concept Approval required an alternative internal noise criteria for apartments within the development using measurements with windows closed, and that the approved acoustic assessment identified corresponding internal criteria and façade upgrading requirements to achieve those outcomes.

Council supports the proposed condition and noted that while its usual practice would be to assess noise with the windows of affected receivers open, it acknowledges the assessment at the Harbourside Tower apartments with closed windows was considered as part of the base building design as required by the Concept Approval. PMNSW raised no concerns.

The Department has carefully considered the Applicant’s proposed condition and considers it is acceptable as it would:

- provide a replacement noise framework for apartments within the Harbourside development that is consistent with the Concept Approval and the approved acoustic assessment, which

contemplated alternative internal noise criteria for apartments within the development, including closed-window assessment and associated façade design measures

- provide a more appropriate acoustic framework for the ongoing assessment of future fit-out and use applications affecting on-site residential amenity.

The Department is therefore satisfied that the proposed internal noise criteria in Condition G22 would provide an acceptable level of acoustic amenity for future residents of the Harbourside development

6 Evaluation

The Department's assessment has considered the relevant matters and objects of the EP&A Act, advice from government agencies and Council (Section 4).

The Department's assessment concludes that the modification is acceptable as it would:

- result in minimal environmental impact and be substantially the same development as originally approved
- maintain an acceptable level of acoustic amenity for affected receivers outside the Harbourside development and provide an appropriate internal acoustic framework for apartments within the Harbourside development, while supporting the 24-hour entertainment role of Darling Harbour

On this basis, the Department considers the modification is in the public interest and should be approved, subject to conditions.

7 Recommendation

It is recommended that the **Team Leader**, as delegate of the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification
- agrees with the key reasons for approval listed in the notice of decision
- **modifies the consent** for the Harbourside – Tower and Podium (SSD 49297511-MOD 10), subject to the conditions in the attached instrument of modification.
- signs the attached instrument of modification (**Appendix D**).

Recommended by:



Thomas Piovesan
Senior Planner
Key Sites and TOD Assessments

Reviewed by:



Max Duncan
Senior Planner
Key Sites and TOD Assessments

8 Determination

The recommendation is adopted by:



David Glasgow

Team Leader

Key Sites and TOD Assessments

Glossary

Abbreviation	Definition
Council	City of Sydney Council
Department	Department of Planning, Housing and Infrastructure
EIS	Environmental impact statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental planning instrument
ESD	Ecologically sustainable development
IPC	Independent Planning Commission
LGA	Local government area
LEP	Local environmental plan
Minister	Minister for Planning and Public Spaces
Planning Systems SEPP	State Environmental Planning Policy (Planning Systems) 2021
SDCP	Sydney Development Control Plan
Secretary	Secretary of the Department of Planning, Housing and Infrastructure
SEPP	State environmental planning policy
SSD	State significant development
TfNSW	Transport for NSW

Appendices

Appendix A – List of referenced documents

The Applicant's modification, Council and government agency advice and additional information can be found on the NSW Planning Portal:

<https://www.planningportal.nsw.gov.au/major-projects/projects/modification-10-entertainment-noise>

Appendix B – Previous modifications to the consent

Previous modifications and any currently under assessment to SSD-49295711 are outlined in Table 7.

Table 7 | Summary of modifications to SSD 49295711

Mod No.	Summary	Status
MOD 1	Amend the internal layout of apartments on levels 9 to 45, amend the mix of three and four bed apartments, make minor external façade changes.	Approved 3 July 2024
MOD 2	Allow new event/conference land use within the existing office space, amendments to the basement, podium and residential tower layout and design, and changes to the façade and podium rooftop landscaping and layout.	Approved 11 April 2025
MOD 3	Stage construction certificate timings and minor amendment to the extent of Level 4 podium plant area.	Approved 12 March 2025
MOD 4	Amendment to conditions to facilitate staged occupation.	Approved 14 July 2025
MOD 5	Staged occupation certificate timings and minor amendment to conditions to facilitate occupation feasibility.	Approved 8 September 2025
MOD 6	Allow out of hours construction activities for internal fit-out works, concrete pours, utility works and crane works.	Approved 3 March 2026
MOD 7	Alterations to substations, building overhangs, and retail tenancies.	Approved 25 November 2025

Mod No.	Summary	Status
MOD 8	Amendment to built form to align with demolition of the north bridge and relocation of pedestrian lift.	Under assessment
MOD 9	Amendment to conditions to identify relevant authority for public access and easement arrangements.	Approved 9 December 2025

Appendix C – Statutory Considerations

Objects of the EP&A Act

A summary of the Department’s consideration of the relevant objects (found in section 1.3 of the EP&A Act) are provided in Table 8 below.

Table 8 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,	<ul style="list-style-type: none"> The development, as proposed to be modified would promote entertainment uses in Harbourside while managing the resources of Darling Harbour.
(b) to promote the supply, delivery and maintenance of housing, including affordable housing,	<ul style="list-style-type: none"> The State Planning Agreement between the Applicant and the Minister includes an affordable housing contribution of \$5.2 million.
(c) to promote productivity through development and management of the State and its resources,	<ul style="list-style-type: none"> The development, as proposed to be modified would facilitate the further assessment of retail premises in the Harbourside site.
(d) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<ul style="list-style-type: none"> The development, as proposed to be modified would not have any additional environmental impact above those already assessed. On 3 February 2023, the Department granted a BDAR waiver for the proposal and considers a new waiver or BDAR is not required for the modification.

Object	Consideration
(e) to promote resilience to climate change and natural disasters through adaptation, mitigation, preparedness and prevention,	<ul style="list-style-type: none"> The development, as proposed to be modified, would not result in any additional impacts above those already assessed.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	<ul style="list-style-type: none"> The development, as proposed to be modified, would not result in any additional impacts to built and or cultural heritage.
(g) to promote good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings,	<ul style="list-style-type: none"> The development, as proposed to be modified, would not result in any design, construction or maintenance impacts. The Department considers the amenity impacts of the modified noise levels is acceptable (see Section 5).
(h) to provide opportunities for participation in environmental planning and assessment,	<ul style="list-style-type: none"> The modification was referred to Council and PMNSW (Section 4) and was made available on the NSW Planning Portal.
(i) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	<ul style="list-style-type: none"> The proposal would not alter the approved ESD measures and would clarify noise levels of the development to facilitate first use and operation of retail spaces at Harbourside.
(j) to promote a proportionate and risk-based approach to environmental planning and assessment,	<ul style="list-style-type: none"> The Department has assessed the application at Section 4.
(k) to promote the orderly and economic use and development of land.	<ul style="list-style-type: none"> The development, as proposed to be modified would facilitate the orderly use of land in Darling Harbour.

A consent authority may modify the consent if it is satisfied that the proposed modification application meets the requirements of section 4.55(1A) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is included in Table 9.

Table 9 | Consideration of section 4.55 of the EP&A Act

Section 4.55(1A) Evaluation	Department's Assessment
(a) the proposed modification is of minimal or of no environmental impact	<p>Section 5 of this report provides a detailed assessment of the impacts associated with the modified development.</p> <p>The Department is satisfied that the proposed modification is of minimal environmental impact as:</p> <ul style="list-style-type: none"> • no physical changes are involved • the existing noise criteria would be clarified to apply to receivers outside the site • the proposed noise criteria for the Harbourside Tower are consistent with those considered as part of the original application.
(b) the development to which the consent as modified relates is the same or substantially the same as originally granted	<p>The proposal seeks consent for changes that do not materially impact the nature of the overall development. The modification application is considered to result in development that is substantially the same development as that originally approved.</p>
(c) the application has been notified in accordance with the Regulations	<p>See Section 4. The application was referred to Council and PMNSW and made available on the NSW Planning Portal.</p>
(d) any submissions made concerning the proposed modification has been considered.	<p>Advice from Council and PMNSW is at Section 4 and has been considered at Section 5.</p>

EP&A Regulation

The EP&A Regulation requires the Applicant to have regard to the *State Significant Development Guidelines*. The Department considers the application is consistent with the guidelines.

Environmental Planning Instruments (EPIs)

To satisfy the requirements of section 4.15(1)(a)(i) of the EP&A Act, the Department has considered the relevant SEPPs as part of its assessment. The following EPIs are relevant to the application:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021

- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65), now known as State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Building Sustainability Index: Basix) 2004
- State Environmental Planning Policy (Biodiversity and Conservation) 2021

Appendix D – Recommended instrument of modification

<https://www.planningportal.nsw.gov.au/major-projects/projects/modification-10-entertainment-noise>