



Four Points by Sheraton Hotel Expansion Modification 7

Wheat Road Layout
State Significant Development Modification Assessment
(SSD 4972 MOD 7)

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Glossary

Abbreviation	Definition
Applicant	GL InvestmentCo Pty Ltd ATF GL No.1 Trust
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RMS	Roads and Maritime Services, TfNSW
RTS	Response to Submissions
SDCP	Sydney Development Control Plan 2012
SEARs	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
PMNSW	Place Management NSW
SEPP	State Environmental Planning Policy
SHFA	Sydney Harbour Foreshore Authority
SSD	State Significant Development
TfNSW	Transport for NSW

Contents

1	Introduction	1
1.1	Subject site.....	1
1.2	Approval history.....	2
2	Proposed modification	5
2.1	Modification	5
2.2	Applicant’s Justification	8
3	Statutory context	9
3.1	Scope of modifications	9
3.2	Consent authority	9
3.3	Environmental Planning Instruments (EPIs)	10
4	Engagement	11
4.1	Department’s engagement.....	11
4.2	Public Authority Submissions.....	11
4.3	Public Submissions	12
4.4	Response to submissions	12
5	Assessment	13
5.1	Access and traffic safety	13
6.3	Other issues	14
7	Evaluation	16
8	Recommendation	17
9	Determination	18
	Appendices	19
	Appendix A – Relevant Supporting Information.....	19
	Appendix B – Modification of Development Consent	19

1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (Department) assessment of a request to modify the State significant development (SSD) approval (SSD 4972) for the expansion of the Four Points by Sheraton Hotel (now Hyatt Regency). The site is located at 161 Sussex Street, Darling Harbour.

The request seeks approval to retain Wheat Road, including bus parking and the through-site link stair connection, in its current configuration.

The modification application was lodged by GL InvestmentCo Pty Ltd ATF GL No.1 Trust (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Subject site

The site is located at 161 Sussex Street, Sydney on the western side of the Sydney central business district (CBD) overlooking Darling Harbour, in the City of Sydney local government area. The site occupies the entire block between King Street and Market Street. The existing buildings on the site include the hotel, which extends over Slip Street and the Western Distributor, and four State heritage listed buildings including a Commercial Building, Central Warehouses, the Dundee Arms Hotel and the Corn Exchange Building (**Figure 1**).

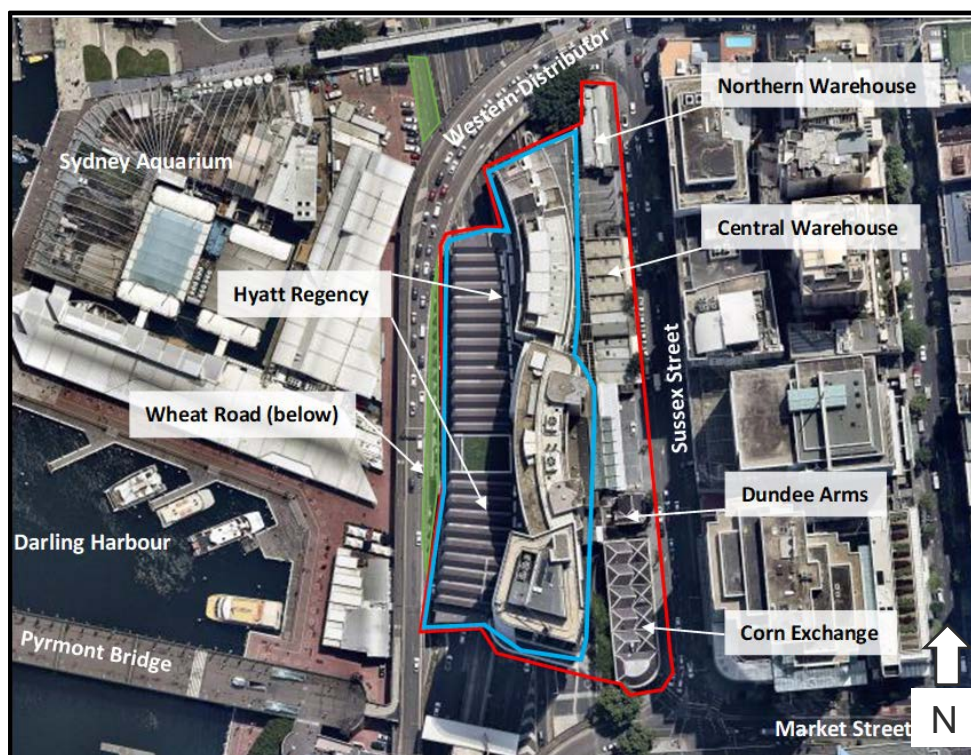


Figure 1 | Map of the site (red), the hotel (blue) and Wheat Road (green) (Base source: Nearmap)

The site is bounded by Sussex Street to the east, the Western Distributor to the north and west beneath the building, Wheat Road to the west and Market Street to the south.

The site contains a mix of uses including hotel, retail, restaurant uses and commercial offices and comprises part 12, 16 and 27 storey tower buildings. The expansion works have been completed.

The surrounding area is characterised by a variety of development types and land-uses, including commercial, retail, tourism, entertainment, residential developments and significant road infrastructure.

The site is located within the boundary of Darling Harbour, a precinct controlled and managed by Place Management NSW, Property NSW (PMNSW) (formerly Sydney Harbour Foreshore Authority (SHFA)).

The modification application relates to Wheat Road and the surrounding public domain area connected to the west of the site near Darling Harbour. Wheat Road is a one-way northbound State road located beneath the Western Distributor (**Figure 2**).



Figure 2 | Current (proposed) layout of Wheat Road as viewed looking south (Source: Google Maps)

1.2 Approval history

On 5 August 2013, the then Planning Assessment Commission granted approval (SSD 4972) for the expansion of the Four Points by Sheraton Hotel comprising:

- construction of a 25 storey tower, comprising 231 hotel rooms and approximately 5,775m² of commercial floorspace and approximately 4,810m² of convention, exhibition and function space;
- extension of the existing podium space to provide new convention, exhibition and function space;
- external and internal demolition works;
- upgrades to the Porte Cochere, building entries on Sussex Street, the hotel lobby and reception areas and other internal alterations;
- public domain works on Slip Street; and
- realignment of an existing pedestrian link through the site.

In addition to this modification, the consent has been previously modified on five occasions, as summarised in **Table 1**.

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Changes to the payment of development contributions	Planning Assessment Commission	96(1A)	Approved on 19 March 2014
MOD 2	Changes to structural columns, trusses and footings, replacement of a pre-function area with a smaller meeting room, and changes to the commercial lobby and lift core	Department	96(1A)	Approved on 24 July 2014
MOD 3	Various internal and external modifications	Department	96(2)	Approved on 19 September 2014
MOD 4	Provision of an additional two levels of commercial floor space to the approved tower and other associated changes	Department	96(1A)	Approved on 19 August 2015
MOD 5	Installation of a new lift to the existing building structure resulting in a minor change to the external façade of the building	Department	96(1A)	Approved on 2 July 2015
MOD 6	Re-construction of Wheat Road to return the area, including bus parking and through-site link stair connection to its pre-development configuration	-	96(1A)	Withdrawn

The Wheat Road area has been subject to precinct improvement works as per terms of the approval. Relevant to this modification request, the development consent includes Condition A5 which requires the Applicant to undertake precinct improvement works-in-kind to the value of \$1,485,000 to the public domain at Darling Harbour. The works were to be in accordance with a Public Domain Plan approved by then SHFA, now PMNSW. The approved Public Domain Plan was based around retaining Wheat Road in its temporary layout created to facilitate the development (described further below) and added improvements to the area such as line marking, paving, parking and landscaping.

Wheat Road Background

The Department notes the current layout of Wheat Road was not approved under the development consent (SSD 4972). The current layout was given approval by SHFA as a temporary realignment of Wheat Road and associated bus parking bays and stairs.

A summary of the Wheat Road layout history is provided below:

- In July 2013, SHFA granted the Applicant a temporary realignment of Wheat Road to facilitate construction works for the Hotel expansion. This layout was designed in consultation with SHFA

and rearranged the bus parking bays to parallel parks due to SHFA's concerns about reversing buses. A long-term solution based on the temporary layout was also provided at SHFA's request. In September 2013 Wheat Road was relocated in accordance with the temporary layout.

- In March 2014, Mod 1 was approved to change the requirement of the Applicant to pay section 7.11 contributions to Council and instead undertake works-in-kind in the immediate area as required in agreement with SHFA.
- In 2015, a further agreement with SHFA lead to additional improvements such as line marking, paving and landscaping to Wheat Road. RMS agreed to the improvements and SHFA approved a public domain plan in 2016. The public domain works were completed in August 2016 (**Figure 6**).
- In March 2017, Mod 6 was submitted to re-configure Wheat Road to its pre-development configuration. TfNSW and RMS did not support Mod 6 based on safety concerns and the application was subsequently withdrawn.

2 Proposed modification

2.1 Modification

The modification request (SSD 4972 MOD 7) seeks approval to retain Wheat Road in its current configuration which was originally developed as a temporary arrangement to facilitate the construction of the Hotel redevelopment.

Key differences of the current (proposed) configuration from the original pre-development layout include:

- bus parking bay configuration changed from 45 degree angle parks to parallel parks, which decreased the number of bus parking spaces from 9 to 7 spaces
- the through site link stair connection between the Hotel and Darling Harbour relocated from the western side of Wheat Road to the eastern side with a raised pedestrian crossing (**Figure 3**).

The Response to Submissions (RtS) and additional information confirmed that the modification also seeks approval to incorporate additional land as the proposed layout extends the footprint on the western side of the site.

A comparison of the proposed and original Wheat Road layout is shown in **Figures 4 and 5**.



Figure 3 | Proposed Wheat Road layout as viewed looking north (Source: Google Maps)

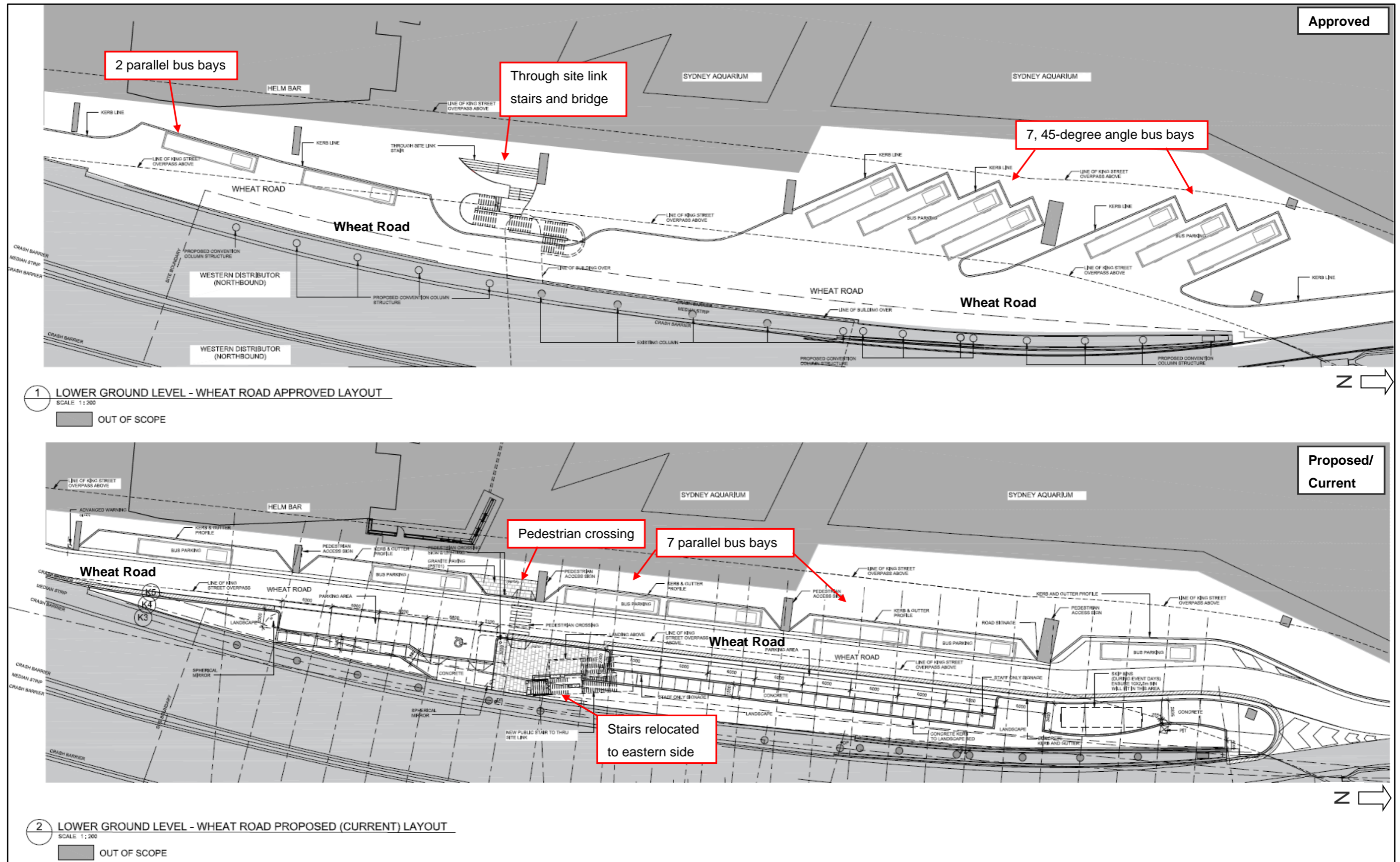


Figure 4 | Wheat Road Layout – Approved (top) and Proposed (bottom) (Source: Modification Application)

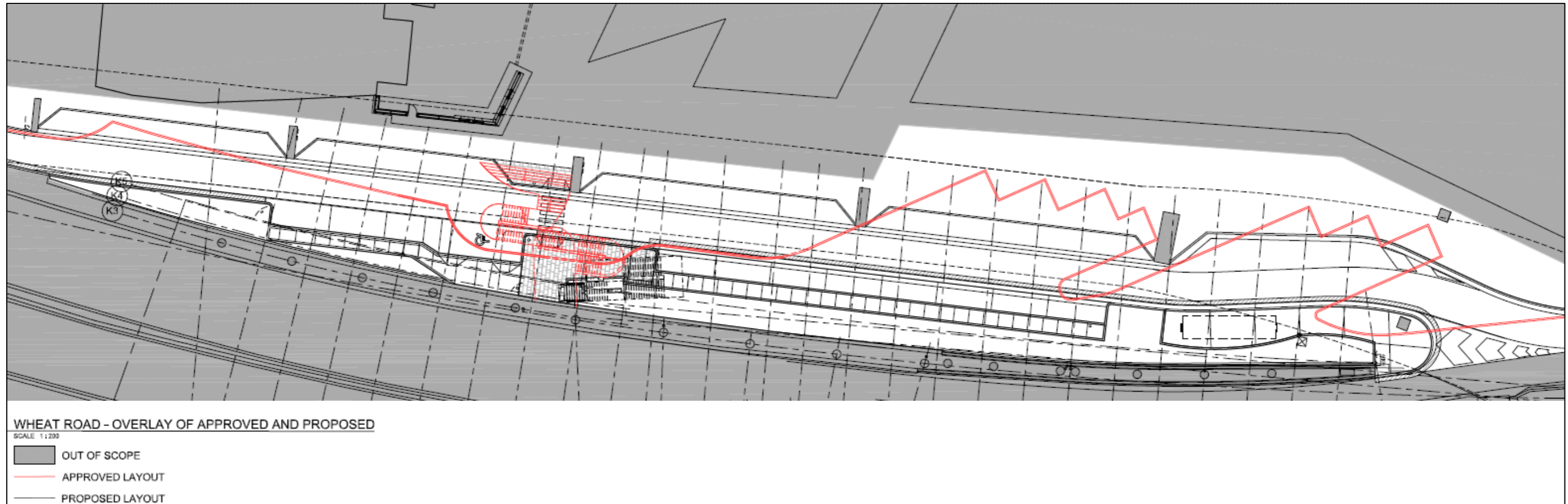


Figure 5 | Overlay of approved (red) and proposed (grey) Wheat Road layout (Source: Modification Application)

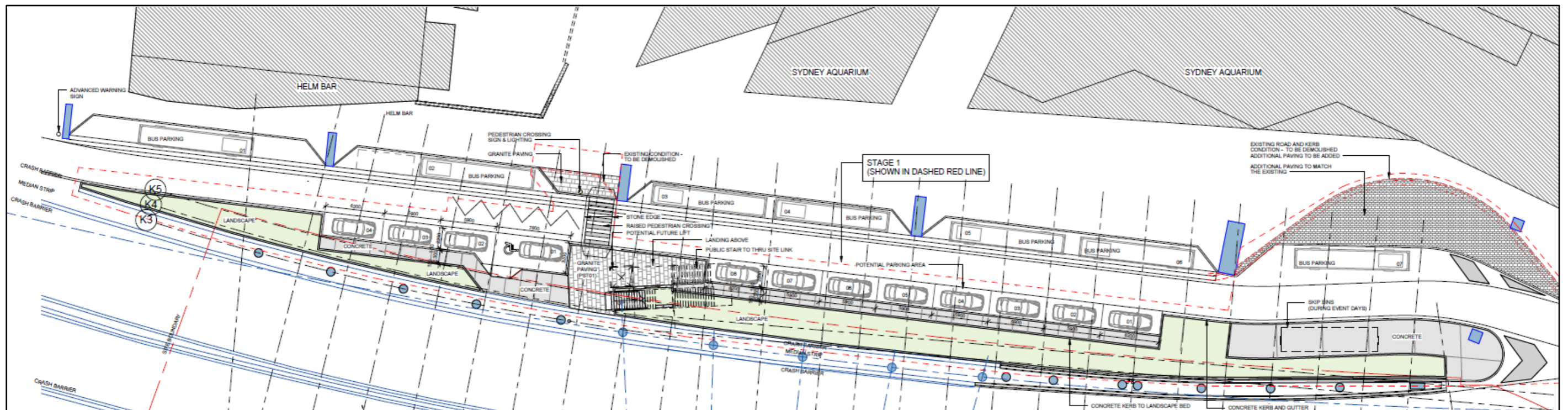


Figure 6 | Proposed Wheat Road layout and public domain (Source: Modification Application)

2.2 Applicant's Justification

The Applicant contends that the proposed Wheat Road layout improves pedestrian safety and traffic circulation by eliminating the requirement for buses to reverse when leaving the bus parking bays.

The Applicant states that the proposed layout has been in place and operating effectively and safely for the last four years.

3 Statutory context

3.1 Scope of modifications

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application and results in minor environmental impacts.

The matters for consideration under section 4.55(1A) of the EP&A Act that apply to the modification of the approval have been considered in **Table 2**.

Table 2 | Section 4.55(1A) modification involving minimal environmental impact

Section 4.55(1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	Section 5 of this report provides an assessment of the impacts associated with the proposed changes. The Department is satisfied that the proposed modification will have minimal environmental impacts, as the changes legitimise an existing road layout.
b) 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), and	The Department is satisfied that the proposed modifications are substantially the same development as originally approved, as vehicular access and parking for cars and buses using the hotel will continue to be provided.
c) the application has been notified in accordance with the regulations, and	The modification application has been notified in accordance with the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). Details of the notification are provided in Section 4 of this report.
d) any submissions made concerning the proposed modification have been considered	The Department received five submissions on the proposal, including three public authority and two public submissions. The issues raised in submissions are considered in Section 5 of this report.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application. However, the Director, Regional Assessments, may determine the application under delegation, dated 9 March 2020 as:

- a political donation disclosure statement has not been made

- less than 10 public submissions were received objecting to the proposal.

3.3 Environmental Planning Instruments (EPIs)

The following EPIs are relevant to the development:

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- Darling Harbour Development Plan No 1
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The Department has considered the proposed modification against the above EPIs in its original assessment and previous modifications. The Department is satisfied the proposed modification remains consistent with the EPIs.

4 Engagement

4.1 Department's engagement

The Department notified the modification request for 14 days between 7 February 2019 and 21 February 2019. The request was made publicly available on the Department's website and notified to City of Sydney Council (Council), Transport for NSW (TfNSW), former Roads and Maritime Services (RMS), Sydney Trains, Property NSW and adjoining landholders.

The Department received a total of five submissions, comprising three public authority submissions and two public objections. A summary of the submissions is provided below, and a link to all the submissions is provided in **Appendix A**.

4.2 Public Authority Submissions

The issues raised by the public authorities are summarised below.

City of Sydney Council (Council)

Council did not object to the proposal and provided the following comments:

- the footpath levels on the Cockle Bay side of the road have a considerable slope from kerb across to the rear of Helm Bar and the Sydney Aquarium
- the previous Wheat Road configuration and public domain is preferred due to the improved pedestrian/tourist connection from the hotel to Darling Harbour, larger footpath on the Cockle Bay side for tour groups to gather and more bus spaces.

Transport for NSW (Roads and Maritime Service) (TfNSW(RMS))

Former RMS advised it raises no objections to the proposal.

Transport for NSW (TfNSW)

TfNSW did not object to the proposal and provided the following comments and recommendations:

- notes that the modification would provide less coach parking spaces than the approved layout and that there is high demand for coach parking within the CBD
- requests the Applicant consult with the TfNSW and BusNSW Sydney Coordination Office prior to preparation of a response to submissions and consider any advice provided
- the design should be amended if recommended to provide more parking bays and address any safety issues.

4.3 Public Submissions

The Department received two public objections to the modification request. The submissions were submitted by the same author who wrote one submission as an individual and another under a company name (Pier 26 P/L) representing an adjacent business (Helm Bar).

Key concerns included the need for landowner's consent from Pier 26 Pty Ltd and the modification being lodged for an improper purpose. However, the Department has been advised that a deed has since been signed between Pier 26 Pty Ltd and Place Management NSW in which Pier 26 no longer object to the modification and no longer wish for Wheat Road to return to its previous layout.

4.4 Response to submissions

On 13 May 2020, the Applicant provided a Response to Submissions (RtS) to address the issues raised during the notification period (**Appendix A**). As part of the RtS, the Applicant provided additional information in relation to further engagement with TfNSW and provided a lighting assessment.

The Department made the RtS publicly available on its website and notified Council and TfNSW of the RtS who both provided submissions (**Appendix A**).

Council reiterated its previous comments and added that the previously approved layout is preferable as it provides a larger area for people to congregate while practicing social distancing.

TfNSW advised it had no further comments.

5 Assessment

In assessing the merits of the proposed modification, the Department has considered the:

- modification request and associated documents (**Appendix A**)
- original Environmental Assessment (EA) and conditions of consent, as modified
- submissions received and the Applicant's response to submissions
- relevant EPIs, policies and guidelines
- requirements of the EP&A Act.

The Department considers the key issue associated with the proposed modification is the safety of the Wheat Road layout both to road users and pedestrians. The Department's assessment of other issues is set out in **Section 5.2**.

5.1 Pedestrian and road user safety

The proposal seeks approval to retain Wheat Road in its current layout which was developed as a temporary arrangement to facilitate the construction of the hotel redevelopment. The Applicant contends that the modification improves pedestrian safety and traffic circulation as it removes the need for buses to reverse.

The Department recognises that the current layout was originally designed in consultation with the then SHFA, RMS, and adjoining stakeholder. PMNSW (former SHFA) and TfNSW(RMS) did not object to retaining this layout on a permanent basis.

The Department acknowledges the area surrounding Wheat Road down to Darling Harbour can be a heavily pedestrianised area as it has a mix of tourist, entertainment and dining uses. In response to the Department's request, the Applicant provided a Traffic Safety Review of the proposed Wheat Road configuration from a traffic consultant (Taylor Thomson Whitting (TTW)). The review concluded that the design is operating safely, and its retention is considered justifiable. It also states that there are no design changes considered critical to ensure safe operation. The Review does however suggest two optional adjustments to improve safe operation and three maintenance items generally related to convex mirrors and adjusting the height of existing speed signs to increase sight distance for drivers.

TfNSW did not object to the proposal and recommended the Applicant consult with TfNSW and BusNSW before the RtS is prepared to consider the number of coach parking bays and amend the design if recommended. The Applicant met with TfNSW to discuss the proposal and committed to carrying out the Traffic Safety Review recommended works and installing lighting at or near the pedestrian access sign.

The Applicant in its RtS agreed, and proposed to implement the suggestions of the Traffic Safety Review and of TfNSW. The RtS included a lighting level assessment from JDG Consulting for the Wheat Road pedestrian crossing. The assessment concluded that the existing lighting does not provide the required illumination level to achieve compliance for this crossing and recommends installation of a flood light directed to the centre of the crossing. The Applicant has agreed to undertake these works. TfNSW reviewed the RtS and advised it had no further comments.

The Department recommends a condition (Condition A11) to secure the delivery of the lighting upgrade and Traffic Safety Review works.

The Department has reviewed the proposed layout, having regard to comments from agencies, and considers it acceptable as:

- while there is a reduction in the number of bus parking bays, it responds to safety impediments identified by PMNSW and TfNSW by eliminating reversing bus movements
- it formalises and builds upon a current layout which was subject to previous consultation with RMS and PMNSW
- it has been reviewed by a traffic consultant who concluded the parking area is operating safely
- the Applicant proposes to carry out various upgrades in terms of lighting and signage which will increase pedestrian safety and signage visibility for drivers
- it continues to provide improved pedestrian access from the Hotel to Darling Harbour.

Overall, the Department’s assessment concludes that the proposal is reasonable and recommends that the modification be approved, subject to conditions.

5.2 Other issues

Issue	Discussion	Recommended Condition
<p>Public Domain Area</p>	<ul style="list-style-type: none"> • Council’s submission stated that it prefers the previous public domain design around Wheat Road as it provided more space for tour groups and upgraded pedestrian connections between the hotel and Darling Harbour. • The Applicant noted in the RtS that the design preferred by Council is the pre-development layout, however the Applicant has since carried out precinct improvement works-in-kind in accordance with Condition A5. The current public domain design was created in conjunction with PMNSW as the manager of this land and approved by PMNSW. • The Department generally concurs with the views of the Applicant and is satisfied that given the current layout represents PMNSW’s (former SHFA’s) preferred public domain vision, the public domain area is acceptable. • The Department considers the modification continues to ensure the approved public benefits such as a new pedestrian through site link from the hotel to Darling Harbour are retained. 	<p>No additional conditions or amendments necessary.</p>

**Impact to
Helm Bar
Lease Area**

- Pier 26 Pty Ltd originally objected to the proposal and raised concern as it impacts on an area of their lease with Place Management NSW.
- The Department was advised that following discussions between the Applicant, PMNSW and Helm Bar (Pier 26), a deed was entered into between PMNSW and Pier 26 involving the adjustment of Pier 26's leaseable area to resolve the issues raised.
- As a result of the deed, Pier 26 no longer object to the modification application. The Department considers this issue is now resolved and notes that PMNSW has since provided landowners consent for the additional land that was previously leased by Pier 26.

No additional conditions or amendments necessary.

6 Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate as it:

- complies with the relevant statutory provisions and remains consistent with relevant EPIs
- is substantially the same development as originally approved, and does not result in adverse environmental impacts
- is acceptable from an access and traffic safety perspective as confirmed by a traffic consultant
- provides improvements and upgrades to the pedestrian crossing lighting and signage to ensure safe pedestrian access
- is in accordance with the approved public domain plan that was approved by SHFA

Consequently, the Department is satisfied that the modification request should be approved, subject to conditions.

7 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 4972 MOD 7 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent (SSD 4972)
- **signs** the attached Modification of Development Consent (**Appendix B**).

Recommended by:



Lawren Drummond
Planning Officer
Regional Assessments

Recommended by:



Silvio Falato
Team Leader
Regional Assessments

8 Determination

The recommendation is **Adopted by:**

Keiran Thomas

Director

Regional Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Relevant Supporting Information

1. Modification request

<https://www.planningportal.nsw.gov.au/major-projects/project/12261>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/12261>

3. Response to submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/12261>

Appendix B – Modification of Development Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/12261>