



Section 96(1A) (MOD 1) to Concept Proposal (SSD_5878)



Darling Square, SICEEP

GFA Amendment

Submitted to Department of Planning and Environment
On Behalf of Lend Lease (Haymarket) Pty Ltd

October 2015 ■ 12710

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8/10/2015

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1.0 Introduction

This Environmental Impact Statement (EIS) for modification to the approved Concept Proposal at Darling Square, Sydney International, Convention, Exhibition and Entertainment Precinct (SICEEP) is submitted to the Minister for Planning in accordance with section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Concept Proposal Approval (SSD_5878) allows for a new urban neighbourhood at the southern end of the SICEEP site and includes the following key components and development parameters:

- Indicative staging of demolition and development of future development plots;
- Land uses across the site including residential and non-residential uses;
- Street and laneway layouts and pedestrian routes;
- Open spaces and through-site links;
- Six separate development plots, development plot sizes and separation, building envelopes, building separation, building depths, building alignments, and benchmarks for natural ventilation and solar access provisions;
- A maximum total gross floor area (non-residential and residential GFA);
- Above ground car parking including public car parking;
- Residential car parking rates;
- Design Guidelines to guide future development and the public domain; and
- A remediation strategy.

This report has been prepared by JBA on behalf of Lend Lease ((Haymarket) Pty Ltd (the applicant) and is based on supporting technical information appended to the report (see Table of Contents). The report describes the proposed modifications; outlines the purpose of the modifications; and provides a detailed assessment of the potential environmental impacts (having due regard to the original Director General's Requirements issued for the project on 12 March 2013).

In summary, this Section 96(1A) modification application (the Modification Application) seeks to modify the approved Concept Proposal by increasing the total maximum non-residential Gross Floor Area by 2,575m². This increase in GFA will be accommodated within the North West Plot (commercial office building and carpark) and is able to be accommodated within the approved parameter plans.

This Modification Application constitutes the first modification to the consent (MOD 1). The availability of section 96(1A) to modify Development Consent SSD_5878 is addressed in Section 7.0 below.

2.0 Background to the Original Approval

The NSW Government considers that a precinct-wide renewal and expansion of the 1980's built convention, exhibition and entertainment centre facilities at Darling Harbour is required, and is committed to Sydney reclaiming its position on centre stage for hosting world-class events with the creation of SICEEP.

Following an extensive and rigorous Expressions of Interest and Request for Proposals process, a consortium comprising Lend Lease, Capella Capital, AEG Ogden and Spotless, was selected by the NSW Government in December 2012 as the preferred proponent to transform Darling Harbour.

Key features of the Preferred Precinct Plan includes (**emphasis added**):

- Delivering world-class convention, exhibition and entertainment facilities, including:
 - Up to 40,000m² exhibition space;
 - Over 8,000m² of meeting rooms space, across 40 rooms;
 - Overall convention space capacity for more than 12,000 people;
 - A ballroom capable of accommodating 2,000 people; and
 - A premium, red-carpet entertainment facility with a capacity of 8,000 persons.
- Providing a hotel complex at the northern end of the precinct.
- **A vibrant and authentic new neighbourhood at the southern end of the precinct, now called 'Darling Square', including apartments, student accommodation, shops, cafes and restaurants;**
- Renewed and upgraded public domain that has been increased by a hectare, including an outdoor event space for up to 27,000 people at an expanded Tumbalong Park; and
- Improved pedestrian connections linking to the proposed Ultimo Pedestrian Network drawing people between Central, Chinatown and Cockle Bay Wharf as well as east-west between Ultimo/Pymont and the City.

On 21 March 2013 a critical step in realising the NSW Government's vision for the SICEEP Project was made, with the lodgement of the first two State Significant Development Applications (SSDAs) with the (now) Department of Planning and Environment. The key components of these proposals are outlined below and **Figure 1** illustrates the Precinct Plan for the SICEEP site.

2.1.1 Public Private Partnership SSD DA (SSD 12_5752)

The Public-Private Partnership (PPP) SSD DA (SSDA 1) includes the core facilities of the SICEEP Project, comprising the new, integrated and world-class convention, exhibition and entertainment facilities along with ancillary commercial premises and public domain upgrades. SSDA1 was approved on 22 August 2013, with three modifications subsequently approved on 22 February 2014, 18 July 2014, and 1 July 2015.



Figure 1 – SICEEP Precinct Plan

2.1.2 Concept Proposal (SSD 13_5878)

The Concept Proposal SSD DA (SSDA 2) establishes the vision and planning and development framework which will be the basis for the consent authority to assess detailed development proposals within the Darling Square Site. SSDA2 was approved on 5 December 2013 (SSDA2 Concept Proposal). The SSDA2 Concept Proposal approved the following key components and development parameters:

- Indicative staging of demolition and development of future development plots;
- Land uses across the site including residential and non-residential uses;
- Street and laneway layouts and pedestrian routes;
- Open spaces and through-site links;
- Six separate development plots (see **Figure 2**), development plot sizes and separation, building envelopes, building separation, building depths, building alignments, and benchmarks for natural ventilation and solar access provisions;
- A maximum total gross floor area of 197,236m² (excluding ancillary above ground parking), comprised of:
 - A maximum of 49,545m² non-residential GFA; and
 - A maximum of 147,691m² residential GFA
- Above ground car parking including public car parking;
- Residential car parking rates;
- Design Guidelines to guide future development and the public domain; and
- A remediation strategy.

For clarity, this Modification Application relates to the SSDA2 Concept Approval.



Figure 2 – Concept Proposal Development Plots

Source: *Denton Corker Marshall*

In addition to the approval of SSDA1 and SSDA2, the following approvals have been granted for various stages of the Darling Square site:

- Darling Drive (part) development plot (SSDA3 – ref: SSD_6010) for the construction and use of a residential building (student accommodation) and the provision of associated public domain works approved on 7 May 2014;
- North-West development plot (SSDA4 – ref: SSD_6013) for the construction and use of a mixed use commercial development and public car park building and associated public domain works approved on 7 May 2014;
- South-West development plot (SSDA5 – ref: SSD_6011) for the construction and use of a mixed use residential development and associated public domain works approved on 21 May 2014; and
- North-East development plot (SSDA7 – ref: SSD_6626) for the construction and use of a mixed use residential development and associated public domain works approved on 16 April 2015.

Approval was also granted on 15 June 2014 for SSDA6 (ref: SSD_6116) which includes the construction and use of the International Convention Centre (ICC) Hotel and provision of public domain works.

Table 1 below more specifically details the current status of DAs and modification applications across the SICEEP Site.

Table 1 – SICEEP DA & S96 Status

DA No	Description of Application	Status
SSDA 1	12_5752	SICEEP Core Facilities – Exhibition Centre, Convention Centre, The Theatre, Event Deck and Tumbalong Park
	MOD 1	S96(1A) – various
	MOD 2	S96(1A) – various
	MOD 3	S96(1A) – various
SSDA 2	13-5878	Darling Square Concept Proposal
	MOD 1	S96(1A) – Minor increase in non-residential GFA
SSDA 3	6010	Western Plot (Student Accommodation – Building W2)
	MOD	S96(2) – various
SSDA 4	6013	North-West Plot (Public car park/ commercial office building)
	MOD 1	S96(2) – various
	MOD 2	S96(1A) – various
SSDA 5	6011	South-West Plot (Mixed Use Residential Development)
	MOD 1	S96(1A) – various
SSDA 6	6116	ICC Hotel
	MOD 1	S96(1A) – various
SSDA 7	6626	North-East Plot (Mixed Use Residential Development)
SSDA 8	6831	ICC Hotel fit-out, façade lighting system and subdivision

2.1.3 Concept Proposal Modifications

As noted, since the Concept Proposal was approved in December 2013 there have been no modification applications submitted/approved. This modification application represents the first modification application to the SSDA2 Concept Approval.

3.0 Background to Modification Application

3.1 Development Stages Status

Since approval of the SSDA2 Concept Proposal in 2013, approvals have been granted for a number of stages across Darling Square, with development well underway across the site (refer to **Figure 3**) and the first residents expected to move in from mid-2017.



Figure 3 – Construction underway at Darling Square

3.2 Evolution of Concept Proposal and Design Quality

The SSDA2 Concept Approval and associated Design Guidelines establish the overall framework in which all subsequent development across Darling Square is required to adhere to.

These concept parameters and controls have accordingly formed the basis and design brief for each individual development stage.

In taking the concept to reality and achieving the vision for Darling Square, the proponent has appointed a diversity of high calibre and world class architects and landscape designers with extensive experience in delivering high quality urban projects. **Table 2** below provides an overview of each architect appointed to date for each individual stage, along with a representative image of the relevant plot development.

Whilst only a snapshot, it is clear from the quality and range of architects and the finished product/image that Darling Square is on track to becoming a highly accessible and innovative mixed use precinct that incorporates high quality urban design and provides for a network of streetscapes and open spaces.

Whilst acknowledging that the SSDA2 Concept Proposal included an overall maximum GFA cap, which was derived from an indicative design scheme prepared at the time, the design and delivery of individual stages within the confines of an approved envelope (parameter) is a fluid process that naturally evolves as the architects move their designs from initial concepts into final workable proposals. A quality design outcome has been amongst the key constant drivers for the project in this regard.

Table 2 – Design evolution of Concept Proposal

Stage	Use	Design Architect	Design Quality
SSDA 3 Darling Drive Plot (W2 site)	Student accommodation	Allen Jack +Cottier (AJ+C)	
SSDA 4 North-West Plot	Mixed use commercial	Woods Bagot	

Stage	Use	Design Architect	Design Quality
SSDA 5 South- West Plot	Mixed use residential	Denton Corker Marshall	
SSDA 7 North- West Plot	Mixed use residential	Tzannes Associates	

4.0 Background to the Proposed Modifications

4.1 Floor Space

As illustrated in Section 2 and 3, the staged development of Darling Square is well progressed with only three (3) buildings/stages not yet subject to detailed design out of the total of 8 buildings/stages. The remaining buildings/stages comprise the second student accommodation stage (W1) within the Darling Drive (western) Plot, together with the North Plot and South-East Plot.

At the time of preparing the SSDA2 Concept Proposal (and more specifically the indicative design scheme) there was by its very nature only a high level study undertaken to establish what theoretical development potential could occur across every stage/within each parameter plan.

It has now become clear through moving well into the detailed design phase (including a complete understanding of services and plant requirements) and by receiving pertinent feedback from agents and potential tenants that additional non-residential GFA is required to be accommodated within the North-West Plot.

4.2 Consultation

Over the course of preparing the modification application, the proponent has consulted with a number of government agencies, independent bodies, and other key stakeholders. This includes meeting with both the Department of Planning and Environment and the City of Sydney Council. The discussions gave the proponent the opportunity to provide an overview of the planned changes to the Concept Proposal along with receiving initial thoughts and feedback and identifying aspects that should be addressed as part of the S96 modification application. The comments and feedback provided have accordingly been incorporated and addressed as part of this submission (as appropriate).

The proponent has also more broadly engaged with the local community as part of preparing the modification application. Full details and feedback of the consultation process is at **Appendix A**.

5.0 Description of Proposed Modifications

The proposed modifications to the SSDA2 Concept Approval are described in this section. This Section 96(1A) application seeks the following modification to the SSDA2 Concept Approval:

- Increase in the total maximum non-residential Gross Floor Area by 2,575m².

The provision of additional non-residential floor space within the SSDA2 Concept Approval will facilitate a commercial building within the North-West Plot that meets a prospective tenant's (A-Grade) brief requirements, enabling the project to secure the type of tenant most appropriate to achieve the vision for this neighbourhood.

An additional 2, 575m² of non-residential gross floor area is therefore proposed, resulting in a revised maximum of 52,120m² of non-residential GFA. No amendment is proposed to the approved NW Plot building envelope. The additional GFA sought as part of this Modification Application will be contained completely within the approved envelope.

Floor Space Comparison Analysis

Table 3 provides a comparison overview between the original indicative design scheme submitted in support of the SSDAs Concept Proposal and the current approved/future detailed stages of the development in regard to GFA (non-residential).

Table 3 – Non-residential floor Space comparison schedule

		Original Concept Proposal / Indicative Design Scheme	Approved and Future Proposed/Indicative Attributes
		Non-residential GFA m ²	Non-residential GFA m ²
STAGE / PLOT	Darling Drive	-	-
	South West	2,000 (active uses)	2,003 (active uses)
	North West	23,000 (commercial) 16,545 (public car park) 2,000 (retail)	28,055 (commercial) ¹ 14,250 (public car park) 1,705 (active uses) ¹
	North East	2,000 (retail)	2,050 (active uses)
	South East	2,000 (retail)	1,350 (active uses)
	North	2,000 (community retail)	2,707 (community / active uses)
	Public Domain	-	-
	Total	49,545	52,120
Total Difference	+ 2,575 (5.2%)		

As evident within **Table 3**, there remains sufficient non-residential GFA available for future development plots. Accordingly, this modification continues to ensure that the vision for Darling Square as a vibrant and active mixed use precinct is achieved.

¹ Indicative split across commercial/active uses GFA to be refined in design development.

5.1 Proposed Modifications to the Approval

The above modifications necessitate amendments to the SSDA2 Concept Approval. Words proposed to be deleted are shown in ~~**bold italics strike through**~~ and words to be inserted are shown in **bold italics**.

SCHEDULE 1

Development: *Development of the Sydney Internal Convention, Exhibition and Entertainment Precinct (SICEEP) – ~~The Haymarket Darling Square~~, Concept Proposal including:*

- *Indicative staging of demolition and development of future development plots;*
- *Land uses across the site including residential and non-residential uses;*
- *Street and laneway layouts and pedestrian routes;*
- *Open spaces and through-site links;*
- *Six separate development plots, development plot sizes and separation, building envelopes, building separation, building depths, building alignments, and benchmarks for natural ventilation and solar access provisions;*
- *A maximum total gross floor area of ~~197,236m²~~ **199,811m²** (excluding ancillary above ground parking), comprised of:

 - *A maximum of ~~49,545m²~~ **52,120m²** non-residential GFA; and*
 - *A maximum of 147,691m² residential GFA**
- *Above ground car parking including public car parking;*
- *Residential car parking rates;*
- *Design Guidelines to guide future development and the public domain; and*
- *A remediation strategy.*

SCHEDULE 2 – PART A – TERMS OF APPROVAL

DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND DOCUMENTS

- A4 *The applicant shall carry out the project generally in accordance with the*
- a) *Environmental Impact Statement, as amended by the Response to Submissions **and the Section 96(1A) modification (MOD 1) by JBA dated October 2015;***
 - b) *Design Guidelines as set out in the Design Report; and*
 - c) *following drawings as set out in the table below, except for:

 - i) *any modifications which are Exempt' or Complying Development;*
 - ii) *otherwise provided by the conditions of this consent.**

MAXIMUM GROSS FLOOR AREA (GFA)

- A8 *The maximum GFA for the development shall not exceed ~~197,236m²~~ **199,811m²** excluding ancillary above ground car parking), comprised of a maximum of:*
- a) *~~49,545m²~~ **52,120m²** non-residential GFA; and*
 - b) *147,691m² residential GFA*

6.0 Strategic Justification

The original assessment accompanying the SSDA2 Concept Proposal provided a comprehensive review of the proposal's consistency with the relevant strategic policies and plans applying to the site. The underlying intent of the proposed modifications is to fulfil the vision of the original SSDA2 Concept Proposal, therefore ensuring that the findings of the original assessment are still relevant, with the proposal continuing to contribute to the achievement of a range of targets and actions established under strategic policies and plans.

Since the approval of the SSDA2 Concept Proposal, the strategic planning framework has progressed at both a state and regional level. As such, an updated assessment of the proposal against the current strategic policies and plans is provided below, with an emphasis on the appropriateness of the additional GFA and corresponding non-residential uses.

6.1 NSW 2021: A Plan to Make NSW Number One

NSW 2021: A Plan to Make NSW Number One is a long-term plan to deliver services in NSW, and sets clear priorities to guide government decision-making and resource allocation.

NSW 2021 is based around five strategies to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability, and strengthen our local environment and communities. NSW 2021 includes numerous goals that are relevant to the proposal and designed to increase the supply of housing in NSW, rebuild the economy, build more liveable centres, and enhance cultural/creative opportunities (amongst others). The proposed modification is consistent with these goals as it will:

- Create additional jobs within Global Sydney, the engine room of the Australian economy;
- Contribute towards the growth of critical industries (e.g. professional services); and
- Grow patronage on public transport and other sustainable means of transport.

Under NSW 2021, Regional Action Plans have been developed to provide more focused strategic aims to particular areas. The Darling Square site is located within the Eastern Sydney and Inner West Regional Action Plan (RAP). This is a region of 216km² incorporating the Ashfield, City of Botany Bay, Burwood, Canada Bay, Canterbury, City of Sydney, Leichardt, Marrickville, Randwick, Strathfield, Waverley and Woollahra Local Government Areas. The population is expected to increase by more than 200,000 people by 2031 and an additional 137,000 dwellings are expected to be required to house the population.

The overall Darling Square development, including the additional non-residential uses facilitated as part of this modification, will contribute to the achievement of the regional priorities as the proposal will:

- Contribute towards making Sydney the number one financial capital in Australia and a leading economic and financial capital in the Asia Pacific region; and
- Deliver urban renewal that is balanced and sustainable and is accompanied by essential local infrastructure.

6.2 A Plan for Growing Sydney

A Plan for Growing Sydney is a strategic document that sets out the NSW Government's vision for the development of the Sydney Metropolitan area for the next 20 years. The Plan anticipates that the population of Sydney will increase by 1.6 million people over the next 20 years and sets out housing targets for the Sydney region (in which Darling Square is located within) at 664,000 additional dwellings. The NSW Government has also set a target of delivering 689,000 jobs by 2031.

The Plan aims to locate new housing in places to give people a choice of housing that is more affordable and to enable them to work closer to where they live. It encourages balanced growth by stimulating housing growth in both infill and greenfield areas and aims to make the best use of transport and infrastructure, making Sydney more sustainable and efficient. In planning for balanced growth, the Plan focuses urban renewal in areas surrounding existing centres, transport hubs and corridors, green spaces, and advocates efficient use of land in infill areas. The Plan also seeks to increase the variety of housing options available to cater for different lifestyles and household sizes.

The proposed modification application directly supports a number of key goals, directions, actions and priorities established under the Plan which collectively aim to achieve the Government's vision for Sydney (as a strong global city and a great place to live).

Goal 1: A competitive economy with world class services and transport

The modification application creates new opportunities to grow Sydney CBD office space. Furthermore, the additional GFA sought in this Modification Application will create approximately 200 new jobs.

Goal 3: A great place to live with communities that are strong, healthy and well connected

The modification application:

- Supports the delivery of a precinct that builds upon Sydney's vibrant cosmopolitan culture;
- Grow Global Sydney's CBD as an international and cultural destination; and
- Matches a growing community with better access to jobs and essential social/cultural infrastructure.

Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

The modification application enables the provision of additional density within a highly suitable urban infill location and therefore takes pressure off potential impacts on the natural environment (often) associated with urban sprawl.

Central Subregion

Key priorities established under the Plan for the Central Subregion (which includes the City of Sydney LGA) that the proposed modification application will support include:

- Enhancing the Sydney CBD as Australia's premier location for employment, vibrant land uses, cultural activity, and iconic buildings/places;
- Providing capacity for long term office growth in the Sydney CBD; and
- Providing additional capacity for retail, tourism and cultural facilities.

Further, The Plan includes a specific priority for Darling Harbour in which the proposed modification application supports:

Build Darling Harbour Live to deliver the Sydney Internal Convention, Exhibition and Entertainment Precinct and increase capacity for mixed-uses including additional housing and public domain improvements.

6.3 Summary of Strategic Justification

In summary, the proposed modification to the Darling Square Concept Proposal will create an additional approximately 200+ jobs/workers.

The provision of additional jobs at Darling Square is consistent with all the relevant strategic planning documents established to guide the growth of Sydney, including the NSW 2021: A Plan to Make NSW Number One and The Plan for Growing Sydney. The proposal has significant planning merit.

7.0 Section 96(1A) of the EP&A Act, 1979

The power to amend a development consent is found in section 96 of the EP&A Act. Section 96 is an independent facilitative power that is separate to the grant of a development consent.

The statutory requirements to be satisfied for the grant of consent to modify a development consent are set out in Section 96. These depend on whether or not the modification is made under subsection (1), (1A) or (2).

This Modification Application to the SSDA2 Concept Proposal/SSD-5878 is accordingly made under Section 96(1A) of the EP&A Act.

Pursuant to Section 96(1A) of the EP&A Act, the Minister or his delegate may modify the development consent if:

- (a) *it is satisfied that the proposed modification is of **minimal environmental impact**, and*
- (b) *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), and*
- (c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

(emphasis added)

The development, as proposed to be modified, is substantially the same development as that originally approved and is of minimal environmental impact in that:

- the proposed development retains the approved public car parking/active ground level uses and commercial uses;
- it retains the same built form envelopes/parameters;
- it retains the same relationship to the public domain and surrounding development;
- the proposed development retains its focus on sustainable means of transport, with no corresponding increase in the provision of parking to serve the additional commercial floor space;
- the proposed changes considered in their totality and in the context of the scale of the overall development are of a minor nature reflective of normal development processes;
- the proposed changes result in a very minor increase (1.33%) to the amount of approved floor space;
- there is no change proposed to approved parking numbers;
- the proposed development will continue to contribute to the creation of a new lively and vibrant mixed use precinct; and
- the environmental impacts of the modified development are consistent with the environmental impacts of the approved development.

A comparison of the key components of the approved development and the proposed modified development is provided at **Table 4**. **Table 4** demonstrates that all key elements of the approved development remain, resulting in a development that clearly meets the test of being substantially the same as originally approval.

Table 4 – Consistency with approved concept proposal

Component	Approved development	Amended Proposed Development	Consistency / Substantially the Same
Envelope	<ul style="list-style-type: none"> - North Plot - North-East Plot - North-West Plot - Western (Darling Drive) Plot - South-East Plot - South-West Plot 	- No change	✓
Land use	Residential and non-residential	No change	✓
Gross Floor Area	Residential - 147,691m ² Non-residential - 49,545m ² Total – 197,236m ²	No change Non-residential – 52,120m ² (increase of 2,575m ² (5.2%)) Total – 199,811m ² (increase of 2,575m ² (1.3%))	✓
Car parking location	<ul style="list-style-type: none"> - North West, North-East, South-East and South-West Plots - At grade/above ground 	No change	✓
Non-residential car parking numbers	<ul style="list-style-type: none"> - 400 public car park spaces (North-West Plot) - 50 commercial office parking spaces (North-West Plot) 	No change	✓
Vehicular Access / Loading	<ul style="list-style-type: none"> - North-West – Exhibition Place - North-East – Harbour Street - South-East – Harbour Street - South-West – Hay Street 	No change	✓
Streets, laneways and pedestrian routes	<ul style="list-style-type: none"> - Re-aligned Darling Drive - Dicksons Lane - Little Hay Street - The Boulevard 	No change	✓

As shown above, the consent authority may be satisfied that the modified proposal represents substantially the same development for which consent was originally granted and it is apparent from the nature and limited scale of change proposed that the modification is of minimal (negligible) environmental impact. The modification of development consent SSD - 5878 can therefore lawfully be approved under Section 96(1A) of the EP&A Act. A further assessment of any potential environmental impacts, and ultimately an evaluation of how these impacts are minimal (or negligible), is provided in Section 8.0 below.

8.0 Environmental Assessment

Section 96(3) of the Act requires the consent authority to take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.

Section 79C(1) of the EP&A Act states:

“In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
- (iii) any development control plan, and*
- (iv) any matters prescribed by the regulations, that apply to the land to which the development application relates,*

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.”

8.1 Section 79C(1)(a) Planning Instruments

The Environmental Impact Statement (EIS) submitted with the original SSDA for the Darling Square Concept Proposal addressed the proposed development's level of compliance against the relevant environmental planning instruments, including:

- State Environmental Planning Policy – (State & Regional Development) 2011;
- State Environmental Planning Policy – Infrastructure 2007;
- State Environmental Planning Policy – (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy No. 55 Remediation of Land;
- Draft State Environmental Planning Policy – (Competition) 2010;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and
- Darling Harbour Development Plan No. 1 (DHDP).

The proposed modification to the SSDA2 Concept Approval is of a minor nature such that it is considered that there will be no material change to the level of compliance of the modified development with the above relevant planning instruments as articulated within the SSDA2 Concept Proposal. For completeness, **Table 5** provides a summary of how the proposed modified development will continue to comply with the relevant planning instruments.

Table 5 – Compliance with relevant environmental planning instruments

Instrument	Comments
SEPP (State & Regional Development)	The modified development continues to meet the threshold for State Significant Development.
SEPP (Infrastructure)	The provisions of the Infrastructure SEPP are more relevant to the consideration and assessment of the original SSDA in terms of requirements and referrals for development applications (i.e. not modification applications). This said, it is expected that referral of this modification application to relevant agencies and approval bodies will be undertaken. Early engagement with key agencies (such as Roads and Maritime Services and Transport for NSW) has also been undertaken by the proponent prior to lodgement of this modification application.
SEPP BASIX	The proposed modification does not relate to residential development/floor space.
SEPP 65	The proposed modification does not relate to residential development/floor space.
SEPP 55 (Remediation of Land)	The site remains suitable for the proposed development (with no fundamental change to the approved uses) subject to the implementation of remedial strategy as originally approved. The proposed modification does not alter the site's suitability; with Stage 2 SSDAs including further specific details regarding remedial works (as necessary/applicable).
Draft Competition SEPP	The proposed modified development continues to be consistent with the aims of the Draft SEPP (Competition) in that it will promote economic growth and competition within NSW.
SREP Sydney Harbour Catchment	The proposed modified development does not affect the level of compliance with the key relevant matters for consideration.
Darling Harbour Development Plan No. 1	The proposed modified development continues to support the objectives of the DHDP and retains permissible land uses as originally approved.

8.2 Section 79C(1)(b) Impact on the Environment

The EIS submitted with the original SSDA addressed the likely impacts of the development, including:

- Design Excellence
- Built Form
- Visual and View Impact
- Internal Residential Amenity
- Public Domain and Landscaping
- Overshadowing
- Wind Impact
- Transport and Accessibility
- Accessibility
- Non-Indigenous Heritage
- Archaeology
- Noise and Vibration
- Infrastructure and Utilities
- Waste
- Water Cycle Management
- Air Quality
- Geotechnical
- Contamination

- Construction Management
- Socioeconomic and Cultural Issues
- Crime Prevention through Environmental Design
- Environmental Sustainability
- Ecologically Sustainable Development
- Development Contributions
- Site Suitability
- Public Interest

The proposed modified development does not give rise to any material alteration to the assessment of the potential impacts considered as part of the original SSDA. Where relevant, the technical reports and plans addressing the above matters have been updated to provide an assessment of the modified SSDA2 Concept Proposal (refer Table of Contents). These reports indicate that in light of the minor nature of the modification to the approved development, the conclusions of the original assessment remain valid. The following matters, however, warrant further assessment and consideration.

8.2.1 Design Excellence

Design Review Panel

The role of the Design Review Panel (DRP) has continued to be an important one in the delivery of the individual stages of the SSDA2 Concept Proposal.

Each major design aspect of the Darling Square project has undergone a review by the DRP during the detailed design phase and prior to the formal lodgement of each SSDA for the individual development plots. This has ensured that the design quality of the stage has been tested and consensus reached as to its acceptability/achievement of design excellence.

In this regard, the concurrent modification to the North West Plot building, which will include the additional GFA the subject of this Modification Application, is going through a process of review by the DRP.

8.2.2 Built Form

The amended SSDA2 Concept Proposal will continue to provide a built form that is responsive to the context and characteristics of the site, including existing built form, the character of surrounding precincts, the location of the site within a transitional zone on the CBD fringe, and close proximity to public transport.

It must be noted that the proposed increase in non-residential GFA does not correspond/result in any amendment to the approved North-West building envelope/parameter plan.

It is the intention for this additional floor space sought as part of the Modification Application to be included within the approved North-West building (approved under SSD6013). A separate Modification Application to Development Consent SSD_ 6013 is being lodged concurrently and will be assessed concurrently with the subject Modification Application to the SSDA2 Concept Approval. The Modification Application to Development Consent SSD_ 6013 will more specifically detail how the additional floor space will be incorporated into the approved building envelope and the appropriateness of the proposed additional floor space within the parameter plan/building.

Massing / Density

The increase in floor space accounts for an additional 0.068:1 Floor Space Ratio (FSR), resulting in a total FSR of 5.3:1. The massing therefore remains more than appropriate given that the floor space ratio controls that apply to surrounding land under the *Sydney Local Environmental Plan 2012* has an established maximum floor space ratio control applying of up to 8:1 (base excluding accommodation floor space and design excellence bonus). With a proposed revised FSR remaining substantially below surrounding development potential, it is clear that contextually the amended SSDA2 Concept Proposal and its associated increase in GFA across Darling Square continues to provide a form and density of development that sits comfortably with existing/future context and the locational attributes of the site within Sydney's CBD. Given the above, the potential massing and density impacts are minimal.

8.2.3 Transport and Accessibility

An overall Whole of Precinct Transport and Traffic Impact Assessment (including TMAP and Road Safety Assessment) was prepared by Hyder in support of the Core Facilities SSDA and SSDA2 Concept Proposal.

Hyder have again been engaged to assess the likely impacts of the proposed modified development on the findings of the original Transport and Traffic Assessment (refer to **Appendix B**).

Traffic Generation

Since the original Whole of Precinct Transport and Traffic Impact Assessment was prepared by Hyder back in early 2013, there has been a fundamental supplement to RMS' *Guide to Traffic Generating Developments*² in the form of Technical Direction TDT 2013/04a. In short, the Technical Direction incorporates the results of a number of surveys undertaken to update trip generation and parking information for residential, office and retail land uses, amongst others.

A comparison between the vehicle trip generation rates used in the original Whole of Precinct Transport and Traffic Impact Assessment and the revised rates based on Technical Direction TDT 2013/4a is provided within **Table 6**.

Table 6 – Vehicle trip generation rates comparison

Land use	Evening peak hour vehicle trips (based on RMS' Guide to Traffic Generating Developments, 2002)	Evening peak hour vehicle trips (based RMS Technical Direction 2013/4a)
Residential	0.24 vehicle trips per hour for each unit	0.15 vehicle trips per hour for each unit
Retail	0.56 vehicle trips per hour per 10sqm GLFA	0.56 vehicle trips per hour per 10sqm GFA
Commercial	2 vehicle trips per hour per 100sqm GFA	1.2 vehicle trips per hour per 100sqm GFA

As evidenced within **Table 5**, the revised rates have decreased, with this attributed to taking into consideration the accessibility of an inner urban development site to public transport (reflecting lower vehicle trip generation trends). Accordingly, it is clear that the rates used in the original traffic modelling undertaken by Hyder for the SSDA2 Concept Proposal were conservative.

Based on the modified development Hyder have re-analysed traffic generation (refer to **Appendix B** for details) and advise that:

- There is an increase in the PM Peak hour vehicle trip generation for retail development in the order of 53 vehicle trips.
- There is a reduction in the PM Peak hour vehicle trip generation for residential development in the order of 93 vehicle trips.

² RMS's *Guide to Traffic Generating Developments* provides guidance on a number of matters related to the traffic impacts of land use developments, most notably on matters relating to traffic generation and parking.

- On balance, there is an overall reduction in the PM Peak hour vehicle trip generation in the order of 40 vehicle trips.

In light of the above, Hyder advise that the assessment undertaken and the conclusions reached previously in relation to the SSDA2 Concept Proposal remain valid and that no new traffic modelling is required to be undertaken to support of the Modification Application.

Intersection Operation

The results from the extensive traffic modelling undertaken by Hyder in support of the SSDA2 Concept Proposal revealed that the impact of the Darling Square development does not impose conditions on the intersections worse than what would have otherwise occurred through existing traffic.

Given that the modified development will result in reduced traffic generation (owing to the amendments to RMS' vehicle trip generation rates) compared to that originally modelled in support of the SSDA2 Concept Proposal, Hyder conclude that the modified development is not likely to generate adverse traffic implications in excess of what has already been assessed and considered acceptable. As such, the Modification Application will have a negligible impact in this regard.

Car Parking

The proposed modification application does not affect/change the original assumptions/provision of parking associated with the non-residential components of the Darling Square Concept Proposal. For example:

- 50 spaces remain allocated to the commercial office use within the North-West Plot;
- 400 spaces remain allocated as a public car park within the North-West Plot; and
- No car parking is specifically allocated to support retail/community uses across Darling Square.

Road Safety

Hyder advises that the proposed modified development is not expected to result in new issues relating to road safety that have not already been considered and addressed as part of the original SSDA2 Concept Proposal. As such, there is not considered to be any new impacts as a result of the Modification Application, therefore the Modification Application is negligible in this respect.

8.2.4 Infrastructure and Utilities

Hyder have undertaken an investigation of the potential impacts associated with the modified development (in terms of additional GFA/load) in terms of existing/proposed service networks within and around the precinct (refer to **Appendix C**).

The proponent (including its consultant team) has and will continue to undertake consultation wherever possible with the relevant authorities and utility providers in order to determine the existing utilities and arrangements, forecast demand, and any required upgrade works to facilitate the Darling Square development.

In summary, Hyder advises that the proposed modified development (in particular the additional GFA) is considered to have minimal impact on the existing and proposed service networks within and around the precinct.

8.2.5 Waste

A Waste Management Review of the proposed modified development has been undertaken by Waste Audit and Consultancy Services and is included at **Appendix D**.

In summary, Waste Audit and Consultancy Services advise that there will be minimal changes in waste/recyclables generation that would have minimal impact on management systems, including storage of materials prior to collection by the appointed contractors.

8.2.6 Site Suitability

The site remains suitable for the modified development for the reasons outlined in the EIS lodged with the original Concept Proposal SSDA, including:

- the site's location at the edge of the Sydney CBD and in the vicinity of existing transport, tourism and business infrastructure is a highly appropriate location for a major new mixed use residential precinct;
- the site is disconnected from the urban grain of surrounding precincts (including Chinatown) and is in need of urban renewal;
- the site is capable of being appropriately serviced to accommodate future development;
- the site has excellent access to a wide range of services and facilities that will support future occupants/users of Darling Square;
- the site provides opportunities for future residents to live and work in the CBD;
- the site is well served by public transport; and
- the site is in close proximity to high quality public open space (existing and proposed) and employment and education opportunities.

8.2.7 Public Interest

The proposed modification to the approved development is considered to be in the public interest, especially given the changes will:

- Support the creation of over 200 additional jobs, bringing the total ongoing provision of jobs across Darling Square to more than 3,000;
- Improve the visitor experience and level of activation of the ground plane;
- Attract/secure an A-grade commercial tenant within the North-West Plot, delivering on Darling Square's vision as a truly mixed use precinct; and
- Result in a material increase (over \$2 million) in the developer rights payments to the NSW Government, which reflects a more substantial contribution compared to the ordinary one percent developer contributions applied in the City of Sydney LGA.

8.2.8 Summary

Given the above assessment for each separate matter, it is clear the changes proposed in the Modification Application will have either a negligible or minimal environmental impact. Overall, the proposed modification to the SSDA2 Concept Approval does not significantly alter the findings and conclusions of the original assessment.

9.0 Conclusion

This Section 96 Modification Application seeks approval for an amendment to the SSDA2 Concept Approval, namely the provision of additional floor space.

This minor amendment is proposed in light of the ongoing development and delivery of separate stages in the SSDA2 Concept Approval. In moving well into the detailed design phase of the project (including the rationalisation of servicing and plant requirements), feedback from agents and potential tenants has been positive about the overall development, particularly in regards to the location of the site and the beneficial qualities the commercial building poses for potential A-grade commercial tenants.

The proposed modification will not alter the environmental impacts assessed and approved as part of the existing development consent, whilst delivering an enhanced built form outcome, and creating additional public benefits.

In accordance with section 96(1A) of the EP&A Act, the Minister or his delegate may modify the SSDA2 Concept Approval as the consent, as proposed to be modified, is substantially the same development as that originally approved and the resulting impacts associated with the proposed changes to the consent are no more than minimal environmental impacts. Further, compliance with the key statutory plans and controls remain generally the same as the approved development.

Due to the significant merit of the proposed modifications and the lack of any adverse environment, social and economic impacts or impacts on amenity, the modification is appropriate and supportable.