

Section 4.55(1A) Modification Application

Amendment to SSD-66826207

405 Pacific Highway, 5 Falcon Street and 8 Alexander Street, Crows Nest

Submitted to the Department of Planning, Housing and Infrastructure
on behalf of Deicorp (Crows Nest) Pty Ltd

30 April 2026



Acknowledgment of Country

Gyde Consulting acknowledges and pays respect to Aboriginal and Torres Strait Islander peoples past, present, Traditional Custodians and Elders of this nation and the cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander people. We recognise the deep and ongoing connections to Country – the land, water and sky – and the memories, knowledge and diverse values of past and contemporary Aboriginal and Torres Strait communities.

Gyde is committed to learning from Aboriginal and Torres Strait Islander people in the work we do across the country.



Towards Harmony by Aboriginal Artist Adam Laws

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Report Version: Final

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Appendices

The following plans and technical reports accompany the development application. Gyde has relied on the information in these reports, prepared by professionals in their field, for the preparation of this statement of environmental effects.

Appendix	Document	Prepared by
1	Amended Architectural Plans	Turner
2	Architectural Statement	Turner
3	BASIX Report	Windtech Consultants
4	BASIX Certificate	Windtech Consultants
5	Amended Civil Drawings	Mott MacDonald
6	Land Title and ASIC	Deicorp
7	Owners Consent	Deicorp
8	BCA Capability Statement	City Plan
9	Fire Statement	Affinity Fire Engineering
10	Draft Stratum Plans	Daw & Walton Consulting Surveyors
11	Aviation Approval	Deicorp

1. Introduction

This Statement has been prepared for Deicorp (Crows Nest) Pty Ltd (the Proponent) to accompany an application under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act). The application seeks to modify State Significant Development SSD-66826207, as previously approved by the Independent Planning Commission (IPC) on 23 December 2024 and subsequently modified under prior Section 4.55 approvals.

The development relates to the site known as 405 Pacific Highway, 5 Falcon Street and 8 Alexander Street, Crows Nest, following consolidation of the original allotments. The approved description of development is as follows:

“Demolition of existing structures, early works, site remediation and construction of a 22-storey mixed-use development with infill affordable housing and a hotel comprising:

- *three storey podium (with mezzanine) with retail use and hotel accommodation (including 100 rooms and fit-out);*
- *19-storey residential tower above podium comprising 212 apartments (including 48 affordable housing apartments);*
- *communal open space at podium and roof levels;*
- *five levels of basement car parking with 230 car parking spaces;*
- *two-way vehicular access from Alexander Street; and*
- *one static, illuminated advertising sign;*
- *Associated landscaping works and stratum subdivision.”*

This modification application does not alter the fundamental nature or planning intent of the approved development. Rather, it seeks to introduce a series of design refinements and operational improvements arising from ongoing detailed design development. These changes are generally minor in nature and are directed toward improving building functionality, internal amenity, and operational efficiency across the residential, retail and hotel components.

The proposed amendments are described in detail in **Section 2** of this statement and are summarised as follows:

- A minor increase to the approved maximum building height to accommodate lift overrun and plant requirements associated with detailed design resolution.
- Amalgamation of 2 residential apartments on Level 21, reducing the total number of apartments by one (1).
- Amalgamation of 3 ground floor retail tenancies.
- Refinements to the hotel layout, including relocation of the bar/restaurant to the ground floor and the introduction of an additional hotel room.
- Minor refinements to the building materials palette and hotel façade arising from detailed design development.
- Adjustments to sewer and stormwater infrastructure.
- Increase in corridor widths across typical residential levels to improve amenity.
- Reduction in size of the internal atrium from 226m² to 180m².
- Amendment to Condition F12(b) relating to the implementation period of the Green Travel Plan.
- Amendments to the stratum plans, including relocation of Lift 4 into the hotel stratum and refinement of retail and hotel stratum interfaces at ground floor associated with tenancy amalgamation.

The modification application relies on the amended Architectural Plans prepared by Turner (**Appendix 1**), together with the supporting technical documentation identified in the Appendix Table. This report has been prepared in accordance with Part 5 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) and the *State Significant Development Guidelines – Preparing a Modification Report* issued by the then Department of Planning and Environment (now the Department of Planning, Housing and Infrastructure (DPHI)).

1.1 Site Overview

The site was previously known as 391-423 Pacific Highway, 3-15 Falcon Street and 8 Alexander Street, Crows Nest. Following consolidation of the original allotments, the site is now described as Lot 1 in Deposited Plan 1305703, known as 405 Pacific Highway, 5 Falcon Street and 8 Alexander Street, Crows Nest, within the North Sydney Local Government Area (LGA).

The site has an area of 3,200m² and is triangular in shape, with frontages to Pacific Highway to the south-west, Falcon Street to the north and Alexander Street to the east.

In accordance with the approved demolition plan in SSD-66826207, the existing site structures have been removed, as shown in **Figure 1**.



Figure 1 Aerial image of the site (Source: Nearmap)

The site is approximately 240m south-east of the Crows Nest Metro Station and 1km south-east of St Leonards Railway Station. It occupies a prominent position at the southern extent of the Crows Nest Town Centre. The surrounding locality is characterised by a mix of commercial, residential, health and education uses.

1.2 Overview of the Approved Development

On 23 December 2024, the IPC approved SSD-66826207 the redevelopment of the site for:

“Demolition of existing structures, early works, site remediation and construction of a 22-storey mixed-use development with in-fill affordable housing comprising:

- *Three storey podium (with mezzanine) with retail and commercial use;*

- *19-storey residential tower above podium comprising 188 apartments (including 48 affordable housing apartments);*
- *Communal open space at podium level;*
- *Seven levels of basement car parking with 220 car spaces;*
- *Two-way vehicular access from Alexander Street; and*
- *Associate landscaping works, consolidation of existing lots and stratum subdivision.”*

1.2.1 Mod 1 – Basement and Construction Hours

This Section 4.55(1A) application involved deletion of two basement levels (levels 6 and 7) and amendments to construction hours relating to rock hammering, sheet piling, pile driving and similar activities. This modification was approved on 22 October 2025.

1.2.2 Mod 2 – Hotel Modification

This Section 4.55(2) application involved modifications to the approved land use mix, including the deletion of commercial floorspace and a reduction in retail floorspace. The application also introduced a 100-room hotel and increased the number of residential apartments from 188 to 212. This modification was approved on 12 December 2025.

1.2.3 Mod 3 – Withdrawn

A subsequent modification application (Mod 3) was lodged but later withdrawn by the Proponent.

1.2.4 Mod 4 – Construction Hours

This Section 4.55(1A) application seeks to amend Condition D3 to extend the approved construction hours. This modification is currently under assessment.

2. Proposed Modifications

2.1 Modification Overview

The proposed modifications are summarised in **Table 1** and described in further detail in **Section 2.2** of this report. The modifications are illustrated on the amended Architectural Plans prepared by Turner (**Appendix 1**).

Table 1 Modification Summary Table – Approved vs. Proposed

Statistic	Approved	Proposed
Proposed Use	Mixed use development	No change.
Gross Floor Area (GFA)	Total 24,119m ² GFA, including: <ul style="list-style-type: none"> • 18,468m² residential: <ul style="list-style-type: none"> – 14,843m² market – 3,625m² affordable • 5,651m² non-residential GFA 	Total 24,201m ² GFA, including: <ul style="list-style-type: none"> • 18,468m² residential: <ul style="list-style-type: none"> – 14,843m² market – 3,625m² affordable • 5,733m² non-residential GFA
Maximum Height	<ul style="list-style-type: none"> • Max. lift overrun height 81.4m • Podium height 3-storeys • Provision of rooftop canopy 	<ul style="list-style-type: none"> • Max. lift overrun height 82.72m • Podium height 3-storeys • Provision of rooftop canopy
Residential Apartments	<ul style="list-style-type: none"> • 212 apartments, including: <ul style="list-style-type: none"> – 164 market apartments – 48 affordable apartments • Affordable apartments on Levels 3 to 5 and in part on 7 • 48 Affordable units, including: <ul style="list-style-type: none"> – 19x1 bedroom – 26x2 bedroom – 3x3 bedroom • 42 adaptable apartments 	<ul style="list-style-type: none"> • 211 apartments, including: <ul style="list-style-type: none"> – 163 market apartments – 48 affordable apartments • Affordable apartments on Levels 3 to 5 and in part on 7 • 48 Affordable units, including: <ul style="list-style-type: none"> – 19x1 bedroom – 26x2 bedroom – 3x3 bedroom • 42 adaptable apartments
Non-residential Uses	<ul style="list-style-type: none"> • 16 retail units at ground level 	<ul style="list-style-type: none"> • 14 retail units at ground level
Hotel Use	<ul style="list-style-type: none"> • Hotel use and fit-out (100 rooms) at mezzanine and Level 1 • Hotel operation 24 hours a day, seven days a week (24/7) • Hotel bar operation hours between 10am and midnight daily 	<ul style="list-style-type: none"> • Hotel use and fit-out (101 rooms) at mezzanine and Level 1 • Hotel operation 24 hours a day, seven days a week (24/7) • Hotel bar operation hours between 10am and midnight daily
Signage	<ul style="list-style-type: none"> • Install a static (vinyl), internally illuminated advertising sign • Sign dimensions: 30.94m x 4.48m (92.69m²) • Max. sign illumination 12.5lux • Illumination curfew 11pm to 6am daily (max. 2.5lux during curfew) • Sign consent period of 15 years 	No change.

Statistic	Approved	Proposed
Basement Levels, Parking, Layout and Service Vehicles	<ul style="list-style-type: none"> • Five basement levels • 231 car parking spaces including: <ul style="list-style-type: none"> – 223 resi / non-resi spaces – 3 car-share spaces – 4 small van bays – one (1) car wash bay 	No change.
	Bicycle facilities, including: <ul style="list-style-type: none"> • 270 bicycle spaces • no commercial EoT • 32m² retail EoT, Level B1 • 12m² hotel EoT, Level B1 	
Communal Open Space (COS)	Total of 929m ² COS provided at podium (295m ²) and roof (634m ²) levels.	Total of 974m ² COS provided at podium (295m ²) and roof (679m ²) levels.

2.2 Detailed Modifications

Approval is sought to modify the approved development by introducing a series of design refinements and operational amendments, including the amalgamation of selected residential apartments and the amalgamation of ground floor retail tenancies, adjustments to the hotel layout and capacity, minor façade and materials updates, services and infrastructure refinements, internal layout improvements, amendments to operational conditions, and a minor increase in building height associated with detailed design development. A summary of the changes is provided in **Table 2**.

Table 2 Summary of Architectural Design Modifications

Description	Design Change
Basement	
Stormwater Pump <i>Refer to drawing DA-110-003</i>	Relocation of sewer pump station and stormwater pump station within Basement Level 05.
Ground Level	
Retail Tenancies <i>Refer to drawing DA-110-008</i>	Amalgamation of 3 retail tenancies to create a single restaurant/bar tenancy.
Hotel Lobby <i>Refer to drawing DA-110-008</i>	Reduction in lobby extent and removal of stairs connecting to the mezzanine level.
Mezzanine	
Internal Layout <i>Refer to drawing DA-110-009</i>	Reconfiguration of hotel support spaces, including conversion of the front office to a kitchen and staff canteen to a multipurpose room.
Hotel Rooms <i>Refer to drawing DA-110-009</i>	Internal reconfiguration of hotel room layouts to improve functionality and amenity. Provision of 44 hotel rooms. Minor increase in GFA from 1,632m ² to 1,684m ² .
Through Site Link <i>Refer to drawing DA-110-009</i>	Removal of windows facing the through-site link and extension of the terminating wall to ensure compliance with fire rating.

Description	Design Change
Services <i>Refer to drawing DA-110-009</i>	Relocation and refinement of service risers and ducts.
Level 1	
Atrium <i>Refer to drawing DA-110-010</i>	Reduction in size of atrium from 226m ² to 180m ² .
Hotel Rooms <i>Refer to drawing DA-110-010</i>	Internal reconfiguration and adjustments of hotel room layouts, including adjustments to room footprints to improve functionality and amenity. Provision of 57 hotel rooms. Minor increase in GFA from 2,104m ² to 2,134m ² .
Services <i>Refer to drawing DA-110-010</i>	Minor adjustments to the mechanical plant room layout.
Gym <i>Refer to drawing DA-110-010</i>	Reconfiguration of the gym layout, including separation from the unisex bathroom.
Level 2 - 20	
Residential Circulation <i>Refer to drawing DA-110-003 – DA-110-200</i>	Increase in corridor widths by 250mm across typical residential levels.
Level 21	
Residential Circulation <i>Refer to drawing DA-110-210</i>	Increase in corridor widths by 250mm.
Smoke Doors <i>Refer to drawing DA-110-210</i>	Adjustments to the location of smoke doors.
Apartment <i>Refer to drawing DA-110-210</i>	Amalgamation of Units 2108 and 2109 to create a single 4-bedroom apartment.
Roof Level and Upper Roof Level	
Residential Circulation <i>Refer to drawing DA-110-220</i>	Increase in corridor widths by 250mm.
Elevations	
Rooftop Services <i>Refer to drawing DA-110-210</i>	Minor increase in height of lift overrun, plant, and plant screen associated with detailed design development.
Materials <i>Refer to drawing DA-890-001, materials and finishes tagged on elevations DA-220-101, DA-220-201, DA-220-301</i>	Minor updates to materials and finishes including paint, tiles, awning cladding, screens & louvres and brick corbelling
Façade <i>Refer to drawings DA-220-101, DA-220-201, DA-220-301</i>	Minor refinements to the hotel façade, including removal of corbel pattern detailing, and modification of the awning to a stepped profile.

Description	Design Change
Stratum Plans	
This modification also seeks amendments to the stratum plans, including relocation of Lift 4 into the hotel stratum and refinement of retail and hotel stratum interfaces at ground floor associated with tenancy amalgamation.	
Green Travel Plan	
Condition F12 places an obligation on the applicant for the submission, implementation and annual update on the Green Travel Plan. However, this responsibility must sit with the building owner, not the applicant. It is proposed to amend the condition to require that the Green Travel Plan is updated annually for two years from the issue of the final Occupation Certificate.	

2.2.1 Modifications to Conditions

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

2.2.1.1 Description of Development

Demolition of existing structures, early works, site remediation and construction of a 22-storey mixed-use development with infill affordable housing and a hotel comprising:

- three storey podium (with mezzanine) with retail use and hotel accommodation (including ~~400~~ **101** rooms and fit-out);
- 19-storey residential tower above podium comprising ~~242~~ **211** apartments (including 48 affordable housing apartments);
- communal open space at podium and roof levels;
- five levels of basement car parking with 230 car parking spaces;
- two-way vehicular access from Alexander Street; and
- one static, illuminated advertising sign;
- Associated landscaping works and stratum subdivision.

2.2.1.2 Condition A1

TERMS OF CONSENT

The development must only be carried out:

- a) in compliance with conditions of this consent;
- b) in accordance with the EIS and Amendment Report, the Applicant's response to submissions, and the Applicant's response to requests for further information as amended by the;
 - i. section 4.55 (1A) Modification Application Report for SSD 66828207-MOD 1 prepared by Deicorp Projects (Crows Nest) Pty Ltd;
 - ii. section 4.55 (2) Modification Application Report (SSD 66828207-MOD 2) and accompanying appendices prepared by Deicorp Project (Crows Nest) Pty Ltd; Response to Submissions and Amendment Report (SSD 66828207-MOD 2) and accompanying appendices prepared by Deicorp Project (Crows Nest) Pty Ltd and additional information prepared by Deicorp Project (Crows Nest) Pty Ltd; and;
- c) in accordance with the approved plans in the table below (except where modified by the conditions of this consent):

Drawing/Sheet No.	Rev	Name of Plan	Date
DA-010-030	C	Context and Analysis – Demolition Plan	21.03.24
DA-110-003	Q U	GA Plans – Basement 05	13.06.25 14.04.26
DA-110-004	S	GA Plans – Basement 04	13.06.25
DA-110-005	S	GA Plans – Basement 03	13.06.25
DA-110-006	S	GA Plans – Basement 02	13.06.25
DA-110-007	T	GA Plans – Basement 01	13.06.25
DA-110-008	P Q	GA Plans – Ground Level	13.06.25 14.04.26
DA-110-009	N O	GA Plans – Mezzanine	13.06.25 14.04.26
DA-110-010	N O	GA Plans – Level 01	13.06.25 14.04.26
DA-110-020	N Q	GA Plans – Level 02	13.06.25 14.04.26
DA-110-030	P S	GA Plans – Level 03	13.06.25 14.04.26
DA-110-040	L M	GA Plans – Level 04	13.06.25 14.04.26
DA-110-050	L M	GA Plans – Level 05	13.06.25 14.04.26
DA-110-060	L M	GA Plans – Level 06	13.06.25 14.04.26
DA-110-070	L M	GA Plans – Level 07	13.06.25 14.04.26
DA-110-080	L	GA Plans – Level 08	13.06.25
DA-110-090	L M	GA Plans – Level 09	13.06.25 14.04.26
DA-110-100	L M	GA Plans – Level 10	13.06.25 14.04.26
DA-110-110	L M	GA Plans – Level 11	13.06.25 14.04.26
DA-110-120	L M	GA Plans – Level 12	13.06.25 14.04.26
DA-110-130	L M	GA Plans – Level 13	13.06.25 14.04.26
DA-110-140	Q P	GA Plans – Level 14	13.06.25 14.04.26
DA-110-150	L	GA Plans – Level 15	13.06.25

Drawing/Sheet No.	Rev	Name of Plan	Date
	M		14.04.26
DA-110-160	⊥ M	GA Plans – Level 16	13.06.25 14.04.26
DA-110-170	⊥ M	GA Plans – Level 17	13.06.25 14.04.26
DA-110-180	⊥ M	GA Plans – Level 18	13.06.25 14.04.26
DA-110-190	⊥ M	GA Plans – Level 19	13.06.25 14.04.26
DA-110-200	⊖ M	GA Plans – Level 20	13.06.25 14.04.26
DA-110-210	⊥ P	GA Plans – Level 21	13.06.25 14.04.26
DA-110-220	⊥ P	GA Plans – Roof Level	13.06.25 14.04.26
DA-210-101	⊥ I	Context Elevations – North Elevation – Falcon Street	13.06.25 14.04.26
DA-210-201	⊥ I	Context Elevations – East Elevation – Alexander Street	13.06.25 14.04.26
DA-210-301	⊥ I	Context Elevations – South Elevation – Pacific Highway	13.06.25 14.04.26
DA-220-101	⊖ R	GA Plans – North Elevation – Falcon Street	13.06.25 14.04.26
DA-220-201	⊥ S	GA Plans – East Elevation – Alexander Street	13.06.25 14.04.26
DA-220-301	⊖ R	GA Plans – South Elevation – Pacific Highway	13.06.25 14.04.26
DA-220-401	G	GA Elevations – Internal Elevations	13.06.25
DA-310-101	⊥ O	GA Sections- Section AA	13.06.25 14.04.26
DA-310-201	⊥ N	GA Sections- Section BB	13.06.25 14.04.26
DA-310-301	⊥ O	GA Sections- Section CC	13.06.25 14.04.26
DA-320-101	D	Façade Sections – Façade Section Details 01	13.06.25
DA-320-102	E	Façade Sections – Façade Section Details 02	13.06.25
DA-320-103	E	Façade Sections – Façade Section FT01	13.06.25
DA-320-104	F	Façade Sections – Façade Section FT02	13.06.25
DA-320-105	F	Façade Sections – Façade Section FT03	13.06.25

Drawing/Sheet No.	Rev	Name of Plan	Date
DA-320-106	E	Façade Sections – External Corridor System	13.06.25
DA-320-107	C	Podium Section Details 01	13.06.25
DA-810-001	G	Adaptable Plan Layout – Adaptable/Liveable Layouts	13.06.25
DA-810-002	B	Adaptable Plan Layout – Adaptable/Liveable Layouts	13.06.25
DA-890-001	F H	Materials & Finishes Board - External	13.06.25 14.04.26
Stratum Subdivision plans prepared by Daw & Walton Consulting Surveyors			
Sheet No.	Rev	Name of Plan	Date
1	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – SITE PLAN	11.09.2025 22.04.2026
2	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – BASEMENT 3 & BELOW	11.09.2025 22.04.2026
3	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – BASEMENT 2	11.09.2025 22.04.2026
4	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – BASEMENT 1	11.09.2025 22.04.2026
5	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – GROUND FLOOR	11.09.2025 22.04.2026
6	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – MEZZANINE	11.09.2025 22.04.2026
7	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 1	11.09.2025 22.04.2026
8	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 2	11.09.2025 22.04.2026
9	46 18	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 3	11.09.2025 22.04.2026
10	46	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 4-5	11.09.2025
11	46	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 6	11.09.2025
12	46	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 7-21	11.09.2025
13	46	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 22 COMMUNAL TERRACE	11.09.2025
14	46	SUBDIVISION OF LOT 1 IN DP1305704 – UPPER ROOF AND ABOVE	11.09.2025
10	18	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 4-7	22.04.2026
11	18	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 8-28	22.04.2026
12	18	SUBDIVISION OF LOT 1 IN DP1305704 – LEVEL 29 – COMMUNAL TERRACE	22.04.2026
13	18	SUBDIVISION OF LOT 1 IN DP1305704 – UPPER ROOF AND ABOVE	22.04.2026

2.2.1.3 Condition A6A

The maximum number of guest hotel rooms permissible within the hotel / visitor accommodation is ~~400~~ **101** rooms.

2.2.1.4 Condition A9

For the purposes of controlled activities within the prescribed airspace for Sydney Airport under the Commonwealth Airports Act 1996, the Development must not exceed a maximum height of RL ~~477.9~~ **179.22** metres Australian Height Datum, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.

2.2.1.5 Condition B14

Prior to the issue of the Construction Certificate for above ground works, BASIX Certificate No. ~~4738270M_05~~ **1738270M_06** must be submitted to the Certifier with all commitments clearly shown on the Construction Certificate plans.

2.2.1.6 Condition F11

The Development must be implemented, and all BASIX commitments thereafter maintained in accordance with BASIX Certificate No. ~~4738270M_05~~ **1738270M_06** and any updated certificate issued if amendments are made.

2.2.1.7 Condition F12

Following occupation or commencement of use of the Development, ~~the Applicant~~ **Building Owner** must:

- (a) review and update the Green Travel Plan required by condition E30 annually in consultation with TfNSW; and
- (b) implement the Green Travel Plan (as updated annually) for ~~the life of the development~~ two years **from issue of the final Occupation Certificate**.

Reason: To ensure the effective management of the Green Travel Plan.

2.2.1.8 Condition F17

The triangular hard/soft landscaped area (~~226m²~~ **180m²**) located within the Central Atrium at Mezzanine Level (as shown on drawing DA-110-009 Rev ~~N~~ **O**) shall:

- (a) not be used as a publicly accessible open space, or as residential private or communal open space, or as a hotel guest amenity / open space or a place of gathering or activity of any kind at any time;
- (b) only be accessed:
 - (i) for maintenance purposes (as required); and
 - (ii) in case of emergency.

2.3 Reasons for the Modifications

This modification application seeks to introduce a series of refinements to the approved development arising from ongoing detailed design development and coordination with the appointed hotel operator.

Since the approval of the previous modifications, a hotel brand has been secured for the development. The involvement of an experienced operator has necessitated a number of design refinements to ensure the hotel component aligns with contemporary operational requirements, brand standards and customer experience expectations. These changes primarily relate to the reconfiguration of internal layouts, relocation of key functions such as the bar and restaurant to the ground floor, and optimisation of room layouts and support spaces. The result is a more efficient and functional hotel offering, including a modest increase in the number of hotel rooms.

In addition, the proposed amalgamation of select retail tenancies is intended to facilitate a more viable and attractive food and beverage offering at ground level. Similarly, the amalgamation of a limited number of residential apartments at the upper levels responds to buyer demand for a larger dwelling.

The application also includes a range of minor design refinements, including adjustments to building services, façade detailing, internal circulation and corridor widths. These changes improve the overall functionality, efficiency and amenity of the building for future occupants without altering the approved development envelope in any material way.

A minor increase in building height is proposed to accommodate lift overrun and rooftop plant requirements arising from detailed design development. The additional height results in only a negligible increase in overshadowing, as demonstrated in the submitted shadow diagrams, where incremental shadow is identified separately. The analysis confirms that the additional shadow is limited in extent, occurs primarily over surrounding streets and public domain areas, and does not materially impact adjoining residential properties or sensitive receivers. Accordingly, the proposed height increase does not give rise to any additional adverse environmental impacts beyond those already assessed and approved.

Overall, the proposed modifications represent a logical and expected evolution of the design. The development, as modified, remains substantially the same as that originally approved and continues to achieve the intended planning outcomes for the site.

2.4 Substantially the Same Development

Section 4.55(1A) of the EP&A Act permits a consent authority to modify a development consent where it is satisfied that the development, as modified, would remain substantially the same as the development originally approved.

The proposed modification satisfies this test. In particular, the amended scheme:

- Retains the approved land use mix, including residential, retail and hotel uses, with no change to the overall intent of the development.
- Maintains the approved built form and planning envelope, with only a minor increase in height to accommodate rooftop plant and lift overrun, and no material change to the overall scale, bulk or external appearance of the building.
- Preserves the essential design and operational framework of the approved development, with proposed changes limited to internal reconfiguration, tenancy consolidation, and detailed design refinements arising from coordination with the hotel operator and ongoing design development.
- Does not alter the intensity of development in any material way, with only minor adjustments to residential yield and hotel room numbers that do not change the overall character of the development.
- Does not introduce any new or materially different environmental impacts, with any incremental impacts (including overshadowing) demonstrated to be negligible and consistent with those previously assessed and approved.

On this basis, the development as modified remains substantially the same as that for which consent was originally granted. The proposed modification is therefore appropriately considered under Section 4.55(1A) of the EP&A Act.

3. Statutory Context

This section outlines the statutory context relevant to the proposed modification of SSD-66826207.

3.1 Power to Grant Consent

Section 4.55(1A) of the EP&A Act applies to modifications involving minimal environmental impact. It allows a consent authority to modify a development consent where:

- 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.*

As demonstrated in **Section 2.4**, the development, as proposed to be modified, remains substantially the same as the originally approved. The proposed changes also result in only minimal environmental impact with limited external changes, for the reasons outlined in **Section 5**.

Accordingly, the requirements of Section 4.55(1A) are satisfied, and the consent authority has the power to determine the modification application.

3.2 Permissibility

The proposed modifications do not alter the approved land use. The development remains a permissible use within the MU1 Mixed Use zone under the *North Sydney Local Environmental Plan 2013* (NSLEP 2013) and continues to align with the objectives of the zone.

3.3 Other Approvals

The proposed modification application does not relate to any ‘other approvals’.

3.4 Pre-Conditions to Exercising the Power to Grant Consent

The table below outlines the pre-conditions that must be satisfied by the consent authority before it can exercise its power to modify the development consent.

Table 3 Conditions for Exercising the Power to Grant Consent

Matter	Consideration
<i>Biodiversity Conservation Act 2016</i>	In accordance with Section 7.9 of the <i>Biodiversity Conservation Act 2016</i> (BC Act), an assessment of any State Significant proposal’s biodiversity impacts must be undertaken as part of the provision of any SSDA, including the provision of a Biodiversity Development Assessment Report (BDAR) where required. A BDAR waiver was issued for the approved SSDA. As there is no further removal of vegetation proposed as part of the modifications, no new request is required.
<i>State Environmental Planning Policy</i>	Section 2.121 of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> requires the consent authority to notify Transport for

Matter	Consideration
<i>(Transport and Infrastructure) 2021</i>	<p>NSW (TfNSW) of any development application that is classified as traffic-generating. The original SSD application was referred to TfNSW in accordance with this requirement.</p> <p>The proposed modification will not result in any adverse traffic or parking impacts. While the modification increases the number of hotel rooms by 3 (from 100 to 101), this change does not materially alter traffic generation, parking demand, or access arrangements.</p> <p>The development meets the threshold of a traffic-generating development under the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> and is located along a 'classified road'. Accordingly, referral to TfNSW is required.</p>
<i>State Environmental Planning Policy (Industry and Employment) 2021</i>	Chapter 3 of the SEPP sets out planning controls for advertising and signage. No modification to the approved signage is proposed; no further assessment is required.
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>	The Resilience and Hazards SEPP requires the consent authority to consider whether the land is contaminated and, if so, whether it is suitable (or can be made suitable) for its intended purpose. A contamination assessment was completed for the SSDA and remains valid. The proposed modifications do not change the site's suitability. Conditions of approval addressing contamination remain applicable.

3.5 Mandatory Matters for Consideration

The table below outlines the matters that the consent authority must consider when determining whether to grant consent to the modification application.

Table 4 Mandatory Matters for Consideration

Legislation	Assessment
<i>Environmental Planning & Assessment Act 1979</i>	The modified development's alignment with the objects of the EP&A Act is discussed in Section 6 .
<i>State Environmental Planning Policy (Planning Systems) 2021</i>	The <i>Planning Systems SEPP</i> identifies development that is SSD. Under this SEPP, development with an estimated development cost (EDC) of more than \$75 million is SSD. The approved SSD-66826207 confirmed an EDC of more than \$140 million and was declared SSD. This application seeks to modify that SSD approval.
<i>State Environmental Planning Policy (Housing) 2021 (Housing SEPP)</i>	The proposed modifications remain compliant with the originally approved development and subsequent assessment against the Housing SEPP. An assessment against Chapter 2 of the Housing SEPP is provided below:
15(c) Development to which division applies	
<i>(1) This division applies to development that includes residential development if—</i> <i>(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and</i>	The modified mixed use development is permitted with development consent in the MU1 Mixed Use zone under the NSLEP 2013.
<i>(b) the affordable housing component is at least 10%, and</i>	The modified proposal continues to provide 15% of the total GFA (inclusive of the bonus GFA) as affordable housing.

Legislation	Assessment
<p><i>(c) all or part of the development is carried out—</i></p> <p><i>(i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or</i></p> <p><i>(ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.</i></p>	<p>The site is in an 'accessible area' being within 240m of Crows Nest Metro Station.</p>
<p><i>(2) Affordable housing provided as part of development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division.</i></p>	<p>No other environmental planning instrument, or a planning agreement within the meaning of the EP&A Act, Division 7.1, requires affordable housing.</p>
<p>16 Affordable housing requirements for additional floor space ratio</p>	
<p><i>(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).</i></p>	<p>The applicable FSR under the NSLEP 2013 is 5.8:1, with the 30% incentive increase, the total FSR is 7.54:1.</p>
<p><i>(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—</i></p> <p><i>affordable housing component = $\frac{\text{additional floor space ratio}}{\text{(as a percentage)}} \div 2$</i></p>	<p>30% (total additional FSR) divided by 2 = 15% affordable housing.</p>
<p><i>(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).</i></p> <p><i>Example—</i></p> <p><i>Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.</i></p>	<p>The applicable building height under Clause 4.3 of the NSLEP 2013 is 58.5m, plus 2m for plant and life (Clause 4.3A), equalling a base total of 60.5m. With the 30% incentive increase, the total building height is 78.05m (76.05m +2m (under Clause 4.3A)).</p>

Legislation	Assessment
<p>(4) <i>This section does not apply to development on land for which there is no maximum permissible floor space ratio.</i></p>	<p>Not applicable.</p>
<p>19 Non-discretionary development standards – the Act, s4.15</p>	
<p>(1) <i>The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i></p> <p><i>Note—</i> <i>See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.</i></p>	<p>Noted.</p>
<p>(2) <i>The following are non-discretionary development standards in relation to the residential development to which this division applies—</i></p> <p>(a) <i>a minimum site area of 450m²,</i></p>	<p>The site is 3,200m², exceeding the minimum 450m².</p>
<p>(b) <i>a minimum landscaped area that is the lesser of—</i></p> <p>(i) <i>35m² per dwelling, or</i> (ii) <i>30% of the site area,</i></p>	<p>A total of 983m² or 30.6% of the site area is landscape, meeting this requirement.</p>
<p>(c) <i>a deep soil zone on at least 15% of the site area, where—</i></p> <p>(i) <i>each deep soil zone has minimum dimensions of 3m, and</i> (ii) <i>if practicable, at least 65% of the deep soil zone is located at the rear of the site,</i></p>	<p>Not applicable, refer to Section 19(3) below.</p>
<p>(d) <i>living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,</i></p>	<p>Not applicable, refer to Section 19(3) below.</p>
<p>(e) <i>the following number of parking spaces for dwellings used for affordable housing—</i></p> <p>(i) <i>for each dwelling containing 1 bedroom—at least 0.4 parking spaces,</i> (ii) <i>for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,</i> (iii) <i>for each dwelling containing at least 3 bedrooms— at least 1 parking space,</i></p>	<p>This modification does not change the approved car parking provisions.</p>
<p>(f) <i>the following number of parking spaces for dwellings not used for affordable housing—</i></p>	

Legislation	Assessment
<p>(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,</p> <p>(ii) for each dwelling containing 2 bedrooms—at least 1 parking space,</p> <p>(iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,</p>	
<p>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,</p>	<p>This modification does not propose any changes to the approved internal area of the apartments.</p>
<p>(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</p>	<p>Noted, Chapter 4 applies to this development. Accordingly, Subsection (2)(c) and (d) do not apply.</p>
<p>20 Design Requirements</p>	
<p>(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.</p>	<p>Not applicable, refer to Section 20(2) which identifies that Subsection (1) does not apply to development to which Chapter 4 applies.</p>
<p>(2) Subsection (1) does not apply to development to which Chapter 4 applies.</p>	<p>Noted.</p>
<p>(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—</p> <p>(a) the desirable elements of the character of the local area, or</p> <p>(b) for precincts undergoing transition—the desired future character of the precinct.</p>	<p>The granting of the original consent found the proposal was compatible with the desirable elements of the character of the local area and the precinct, which is undergoing transition. The modified design remains compatible as originally approved.</p>
<p>21 Must be used for affordable housing for at least 15 years</p>	
<p>(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development—</p> <p>(a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and</p>	<p>This was conditioned in SSD-66826207. The number of affordable units remains at 48 dwellings.</p>
<p>(b) the affordable housing component will be managed by a registered community housing provider.</p>	<p>The affordable housing component continues to be managed by St George Housing as nominated in the approved SSD application.</p>

Legislation	Assessment	
<i>(2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.</i>	Not applicable.	
22 Subdivision permitted with consent		
<i>Land on which development has been carried out under this division may be subdivided with development consent.</i>	Not applicable.	
Chapter 4 Design of Residential Apartment Development	Aside from the proposed amalgamation of the approved 2 units on Level 21, the proposal does not include material changes to the approved units. Therefore, the development remains compliant and further assessment is not required.	
NSLEP 2013	<i>Clause 2.3 Land Use Table and Zone Objectives</i>	This modification application does not seek to amend the current approved use of the site.
	<i>Clause 4.3 Height of Buildings</i>	This modification results in a minor increase to the overall height of the building refer to Section 5.1.1 of this report for further details.
	<i>Clause 4.4 Floor Space Ratio</i>	This modification results in a minor increase to the overall FSR refer to Section 5.1.2 of this report for further details.
North Sydney Development Control Plan 2023	Development control plans are not a matter for consideration in the assessment of State significant development applications. Clause 2.10 of the <i>State Environmental Planning Policy (Planning Systems) 2021</i> provides that development control plans do not apply to State significant development.	

4. Community Engagement

Given the limited scope of the proposed modifications and the absence of any additional or intensified impacts on the surrounding community, further authority or community engagement is not considered necessary. Extensive consultation with key stakeholders, relevant agencies and the community was undertaken as part of SSD-66826207. The proposed changes do not alter the nature of the development or introduce new impacts that would trigger or justify additional engagement beyond that already completed.

5. Assessment of Impacts

Section 4.55(1A) of the EP&A Act permits a consent authority to modify a development consent where it is satisfied that the proposed modification would result in minimal environmental impact. In determining a modification application, Section 4.55(3) further requires the consent authority to consider the matters relevant to the application under Section 4.15(1) of the EP&A Act, together with the reasons for the grant of the original consent.

The Environmental Impact Statement (EIS) submitted with the originally approved SSDA assessed a comprehensive range of environmental impacts associated with the proposal. Having regard to the nature and scope of the proposed modification, the assessment of minimal environmental impact for this application has focused on the following relevant matters:

- Height, Bulk and Scale;
- Materials and Finishes; and
- Overshadowing;

While the proposed modifications result in a minor numerical exceedance of the permissible floor space ratio, this arises solely from internal refinements to the non-residential component of the development and does not alter the approved building envelope, perceived bulk or external presentation of the building. Accordingly, the proposal does not introduce any new or materially different environmental impacts beyond those previously assessed and accepted. The assessment provided in the following sections addresses the relevant matters under Section 4.15(1) of the EP&A Act and demonstrates that the development, as proposed to be modified, will result in minimal environmental impact, consistent with the requirements of Section 4.55(1A).

5.1 Height, Bulk and Scale

5.1.1 Building Height

The approved building envelope remains largely unchanged, with the majority of modifications confined to internal reconfiguration and detailed design development. The proposed amendments to the external form are limited to minor adjustments to the rooftop plant, lift overrun and associated screening.

Specifically, the proposal includes:

- A minor increase in the maximum building height to accommodate lift overrun and plant requirements, consistent with detailed design resolution; and
- Minor adjustments to rooftop elements including plant height, roof levels and screening.

A Clause 4.6 variation request was approved as part of the original development consent (as subsequently modified), justifying a variation to the maximum building height under Clause 4.3 of the NSLEP 2013.

While a Clause 4.6 request is not required to accompany a modification application, this report provides an updated assessment to demonstrate that the proposed amendments remain consistent with the previously approved variation and continue to achieve the objectives of the height of buildings standard.

Extent of Variation

The approved lift overrun height of RL 177.90 is proposed to increase to RL 179.22, representing an increase of 1.32m. This corresponds to an increase in the overall maximum building height from 81.40m to 82.72m, also an increase of 1.32m, or approximately 1.62% above the approved height (**Figure 2**).

Adjustments are also proposed to the plant room and plant screen; however, these elements remain below the lift overrun and do not represent the highest point of the building.

The additional height is confined to rooftop plant and lift overrun structures and does not introduce any additional habitable floor space or changes to the approved building envelope.

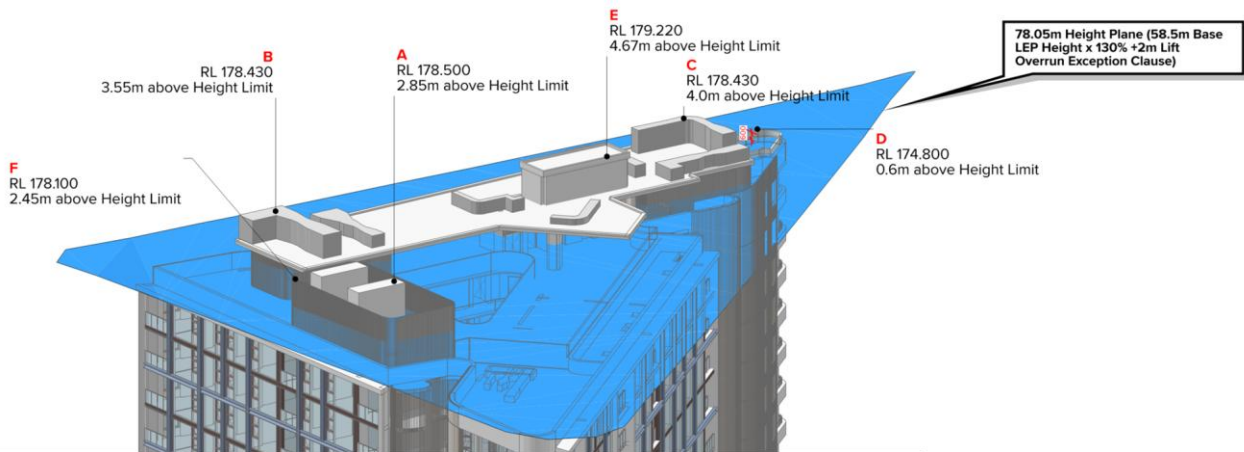


Figure 2 Extract of the Proposed Height Plane Diagram (Source: Turner)

Consistency with Objectives of Clause 4.3

Table 5 addresses the achievement of the objectives of the building height development standards provided by Clause 4.3 of the NSLEP 2013.

Table 5 Achievement of the Clause 4.3 Objectives

Objective	Response
<i>(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient</i>	The proposed modification does not alter the approved building siting or response to topography. The development continues to appropriately respond to the site's natural gradient, consistent with the approved scheme.
<i>(b) to promote the retention and, if appropriate, sharing of existing views</i>	The minor increase in height is limited to rooftop plant and lift overrun and does not materially alter the building's visual profile. No additional view impacts arise beyond those previously assessed and approved.
<i>(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development</i>	Updated shadow analysis demonstrates that any additional overshadowing resulting from the minor height increase is negligible. Incremental shadow impacts are limited in extent and occur primarily over streets and public domain areas, with no material impact on adjoining residential properties. The development continues to meet the relevant solar access provisions of the Apartment Design Guide.
<i>(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings</i>	The proposed variation is confined to rooftop plant and lift overrun and does not introduce additional overlooking or privacy impacts. The development continues to provide appropriate separation distances and maintain privacy outcomes consistent with the approved scheme.
<i>(e) to ensure compatibility between development, particularly at zone boundaries</i>	The modification does not alter the approved land use mix or building envelope in any material way. The development remains compatible with the MU1 Mixed Use zoning and the surrounding development context.
<i>(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area</i>	The proposed increase in height (1.32m or approximately 1.62%) is minor and limited to rooftop elements. The overall scale, density and character of the development remain consistent with the approved scheme and the planned urban character of the Crows Nest Town Centre.

Objective	Response
<i>(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living</i>	Not applicable. The site is zoned MU1 Mixed Use.

As demonstrated above, the objectives of Clause 4.3 continue to be achieved notwithstanding the proposed variation.

5.1.2 FSR

The maximum permissible FSR for the site under Clause 4.4 of the NSLEP 2013 is 5.8:1. The approved development benefits from the 30% in-fill affordable housing bonus under the Housing SEPP, resulting in a permissible FSR of 7.54:1.

The approved development has a GFA of 24,119m², equating to an FSR of 7.54:1, consistent with the maximum permissible bonus FSR.

Extent of Variation

The proposed modification results in a minor increase in GFA to 24,201m², equating to an FSR of 7.56:1. This represents an exceedance of 0.02:1, or approximately 0.27% above the permissible FSR.

The increase in GFA (82m²) arises from minor internal adjustments to the non-residential floor space on the mezzanine and Level 1 associated with atrium reconfiguration and detailed design refinement, including coordination with the appointed hotel operator.

Consistency with Objectives of Clause 4.4

Table 6 addresses the achievement of the objectives of the FSR development standards set out in Clause 4.4 of the NSLEP 2013.

Table 6 Achievement of Clause 4.4 Objectives

Objective	Response
<i>(a) to ensure the intensity of development is compatible with the desired future character and zone objectives for the land</i>	The proposed variation does not materially alter the intensity of development. The increase in GFA is negligible (82m ²) and does not result in any change to the approved land use mix, building envelope or operational characteristics of the development. The development remains consistent with the desired future character of the Crows Nest Town Centre and the objectives of the MU1 Mixed Use zone.
<i>(b) to limit the bulk and scale of development</i>	The minor increase in GFA does not translate to any perceivable increase in bulk or scale. The change is wholly internal, arising from a reduction in atrium space and reconfiguration of non-residential areas. There is no change to the external building envelope, massing or visual presentation of the development.

It is noted that the proposed increase in GFA is limited to minor adjustments to the non-residential component of the development, arising from internal reconfiguration associated with the hotel layout and atrium refinement.

As such, an assessment against the objective of the in-fill affordable housing provisions is not required in this instance. The in-fill provisions relate specifically to the delivery of residential and affordable housing outcomes. The proposed modification does not alter the residential component of the development, including the approved number or proportion of affordable housing dwellings.

The development therefore continues to deliver 48 affordable housing units (15% of total floor area) as previously approved, and remains fully consistent with the objective of facilitating the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

5.2 Materials and Finishes

The proposed modification includes minor refinements to the approved materials and finishes schedule, as detailed on the updated architectural drawings (DA-890-001 and elevations DA-220-101, DA-220-201 and DA-220-301).

The amendments comprise updates to selected material treatments, including paint finishes, tiles, awning cladding, screens and louvres, and brick detailing (including corbelling). These changes arise from ongoing detailed design development.

Importantly, the proposed updates do not alter the overall architectural intent, material hierarchy or visual character of the approved development. The distinction between the ground plane, podium and tower elements is retained, and the building continues to present a high-quality architectural outcome consistent with the approved design.

The amendments are minor in nature and do not result in any material change to the external appearance of the building or its relationship to the surrounding streetscape. Accordingly, the proposed material refinements are considered acceptable.

5.3 Overshadowing

Updated solar and shadow analysis has been undertaken to assess the impact of the proposed minor increase in building height associated with rooftop plant and lift overrun.

The analysis demonstrates that any additional overshadowing is limited in extent and occurs primarily during the early part of the day. Where incremental shadow is generated, it is largely confined to streets, vegetation and other public domain areas.

A small portion of additional shadow extends onto isolated residential properties during the morning period, however, these impacts are minor, transient and do not materially affect the solar access of those dwellings. By midday and into the afternoon, any additional shadow is negligible and limited to building roofs or non-sensitive surfaces (**Figure 3 - Figure 6**).

Overall, the proposed modification does not result in any material increase in overshadowing to adjoining residential development or other sensitive receivers. The development continues to achieve acceptable solar access outcomes consistent with those previously assessed and approved.



Figure 3 Additional Shadows at 9AM (Source: Turner)

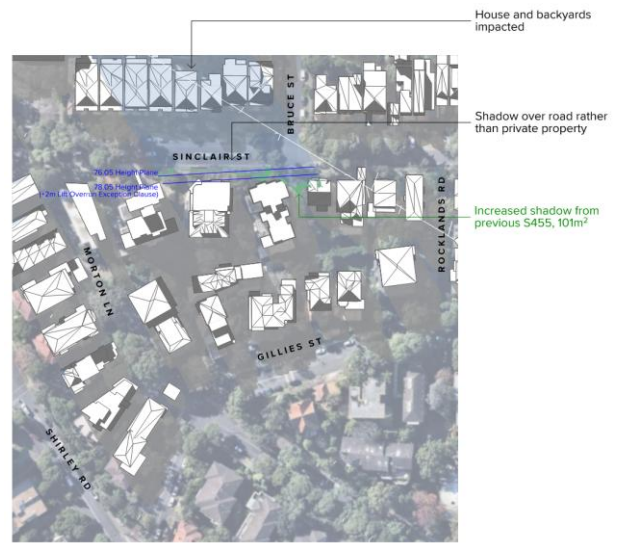


Figure 4 Additional Shadows at 10AM (Source: Turner)



Figure 5 Additional Shadows at 11AM (Source: Turner)



Figure 6 Additional Shadows at 12PM (Source: Turner)

6. Justification of the Modification

This section evaluates and justifies the proposed modification having regard to the environmental, social and economic considerations of the development and the principles of ecologically sustainable development.

The proposed modification primarily involves internal design refinements and detailed design development, including reconfiguration of hotel layouts, minor adjustments to retail tenancies, amalgamation of two residential apartments, and coordination of building services and stratum arrangements. The modifications also include minor façade and materials updates and a limited increase in building height associated with rooftop plant and lift overrun.

The majority of changes are internal in nature. The approved building envelope, overall built form and architectural intent remain largely unchanged. The minor increase in height is confined to rooftop elements and does not materially alter the external appearance of the development or its visibility from the public domain.

While the modification results in a minor numerical exceedance of the permissible FSR, this arises from internal refinements to the non-residential component of the development and does not result in any perceivable increase in bulk or scale. The change is negligible and does not alter the planning outcomes or environmental impacts of the approved development.

As such, the proposed changes are minor in nature and do not result in any adverse impacts on the surrounding area.

For all matters assessed in this Statement, the impacts of the proposed modification remain consistent with those approved under the original development consent. Specifically:

- The modified development continues to meet the relevant objects of the EP&A Act in that it:
 - Enables the orderly and efficient development of a strategically located site within the Crows Nest Town Centre;
 - Supports the delivery of a mixed-use development comprising residential, retail and hotel uses in close proximity to public transport and services;
 - Facilitates a high-quality built outcome through refinement of internal layouts and coordination with the appointed hotel operator;
 - Supports ongoing economic activity and employment generation during construction and operation;
 - Maintains outcomes consistent with ecologically sustainable development principles; and
 - Delivers a high-quality design outcome for future occupants and visitors.
- The modified development continues to satisfy the relevant statutory requirements, as outlined in this Statement, with any minor variations appropriately justified and not resulting in material impacts.
- The proposed modification is in the public interest, facilitating improved internal functionality, operational efficiency and building performance, including through coordination with the appointed hotel operator, without introducing new or increased environmental impacts.

In accordance with Section 4.55(1A) of the EP&A Act, the consent authority may modify the development consent as:

- The proposed modification will result in minimal environmental impact; and
- The development, as modified, remains substantially the same development as that for which consent was originally granted, in that it:
 - Does not change the approved land use mix or the fundamental intent of the development;
 - Does not materially alter the approved building envelope, bulk, scale or external appearance of the development; and
 - Will result in environmental impacts that are comparable to those previously assessed and accepted.

In light of the above, the proposed modification is considered appropriate and is recommended for approval.