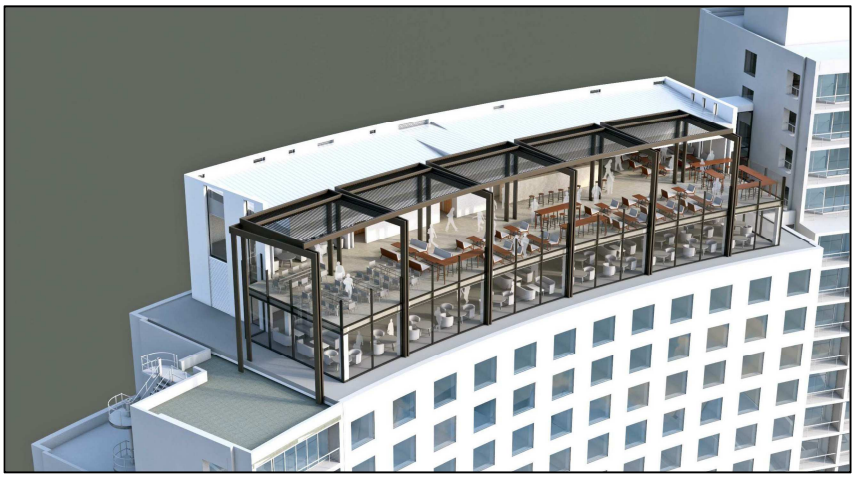
STATE SIGNIFICANT DEVELOPMENT ASSESSMENT REPORT:

Proposed Executive Lounge and Bar at the Four Points by Sheraton Hotel 161 Sussex Street, Sydney

SSD 7014



Secretary's Environmental Assessment Report
Section 89H of the
Environmental Planning and Assessment Act 1979

November 2015

ABBREVIATIONS

Applicant	GL Investment Co Pty Ltd ATF GL No.1 Trust, or any other person or persons who rely on this consent to carry out the development that is subject to this consent
CIV	Capital Investment Value
Department	Department of Planning & Environment
EIS	Environmental Impact Statement prepared by JBA Planning dated July 2015
the Act	*Environmental Planning and Assessment Act 1979*
the Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
Minister	Minister for Planning
PAC	Planning Assessment Commission
RtS	Response to Submissions Statement prepared by JBA Planning dated 14 October 2015
Secretary	Secretary of the Department of Planning and Environment, or her delegate
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development

Cover Photograph: Photo montage of proposed executive lounge and bar above the existing northern tower

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EXECUTIVE SUMMARY

This report assesses a State significant development application (SSD 7014) lodged under Part 4, Division 4.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). GL Investment Co Pty Ltd ATF GL No.1 Trust (the Applicant) seeks approval for a new two storey executive lounge and rooftop bar above the northern tower of the Four Points by Sheraton Hotel, Darling Harbour.

The proposal is State significant development under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is development with a capital investment value of more than $10 million on land within the Darling Harbour pursuant to Clause (b) of Schedule 2 *of State Environmental Planning Policy (State and Regional Development) 2011*. The Minister for Planning is the consent authority.

The Environmental Impact Statement (EIS) was exhibited from Thursday 16 July 2015 to Friday 14 August 2015 (30 days). The Department received 37 public submissions and six submissions from public authorities including the City of Sydney Council. The key issues raised in submissions include view loss, noise impacts and social impacts from the proposed lounge and bar.

The Department considered all relevant matters under Section 79C and the objects of the EP&A Act, together with the principles of Ecologically Sustainable Development, in its assessment. The key issues are built form, view impacts, operation, heritage and developer contributions.

The Department's assessment concludes that the proposal is well integrated into the existing built form and is consistent with the height and stepped form character of the building. The proposed increase in height of the northern tower by 8.9 metres remains below the maximum height of the existing central tower, and significantly below the LEP height of 80 metres set by SLEP 2012 for adjoining sites to the east. The proposed materials and finishes complement the existing building, whilst the glazed finish on the western elevation stands out as a modern sympathetic and subservient addition to the building, particularly when viewed from Darling Harbour.

The Department has also assessed the likely impact of the proposal on views from nearby residential buildings including the Windsor on Kent building (365 Kent Street) and Trafalgar building (361-363 Kent Street) located to the east of the site. While the proposal will impact on views currently enjoyed from apartments in these buildings, the Department is satisfied that the proposal is reasonable and the impacts are acceptable in the context of the site's location in a high density city urban environment. The Department further notes that the potential redevelopment of the Melbourne Institute of Technology (MIT) building, located between the site and the residential apartments, would interrupt views from west facing apartments up to level 17. The Department notes that apartments above level 17 will generally retain partial to full views and that the impacts of the proposal are therefore acceptable.

The Department is satisfied that the proposal will not result in any adverse noise impacts to nearby residents, subject to the appropriate management and operation required through recommended conditions. Further, the proposal will be subject to a separate liquor licensing process.

The proposal will not visually affect the existing views to heritage items and the heritage character or significance of the buildings. In addition, the Department considers it appropriate to levy cash contributions amounting to 1% of the total development cost, payable to the Sydney Harbour Foreshore Authority (SHFA). The contributions will assist SHFA in the provision of public infrastructure upgrades.

The Department concludes that the proposal is generally consistent with strategic planning objectives of *A Plan for Growing Sydney* and the Council's *Sustainable Sydney 2030* plan. On balance, it is considered that the project is in the public interest and the Department recommends that the Planning Assessment Commission approves the application, subject to conditions.

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1 BACKGROUND

1.1 Introduction

This report assesses a State significant development application (SSD 7014) lodged under Part 4, Division 4.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). GL Investment Co Pty Ltd ATF GL No.1 Trust (the Applicant) seeks approval for a new two storey executive lounge and rooftop bar above the northern tower of the Four Points by Sheraton Hotel.

1.2 Site Location and Context

The site is located at 161 Sussex Street, Sydney in the City of Sydney Local Government Area (**Figure 1**). It occupies the entire block between King Street and Market Street on the western side of the Sydney central business district (CBD) adjacent to the Western Distributor roadway, overlooking Darling Harbour. The site has an area of 11,223m².

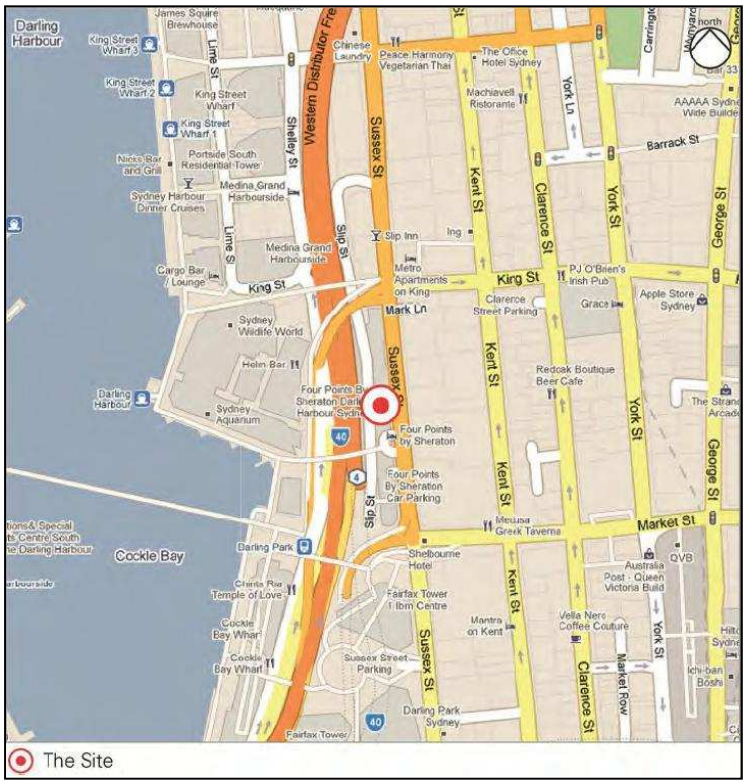


Figure 1: Site location

The site comprises a mix of uses including hotel, commercial offices, retail and restaurant uses. Existing buildings on the site include the Four Points by Sheraton Hotel, which extends over Slip Street and the Western Distributor, and four State heritage listed buildings including the Corn Exchange Building (173-185 Sussex Street), the Dundee Arms Hotel (173 Sussex Street), Central Warehouses (139-151 Sussex Street), and a commercial building (121-127 Sussex Street) (**Figure 2**). The Corn Exchange Building is also listed on the Sydney Harbour Foreshore Authority (SHFA) Section 170 register.

The Four Points by Sheraton Hotel is a 16 storey building comprising 630 hotel rooms, reception area, restaurant, bar, conference rooms, fitness centre and day spa. A lounge bar and outdoor roof garden is located on level 11. The hotel building also incorporates former sandstone warehouses on the north eastern part of the site accommodating shops and a restaurant. The existing hotel is currently being refurbished and when complete the room capacity will be 696 rooms. The hotel building has a stepped form from 10 storeys (above the warehouses) on the northern side to 16 storeys in the south.

A new 27 storey commercial/hotel tower, approved pursuant to SSD 4972 (see **Section 1.4**), is also currently under construction on the south of the site. Once complete, this will provide an additional 231 rooms (**Figure 2** and **3**).

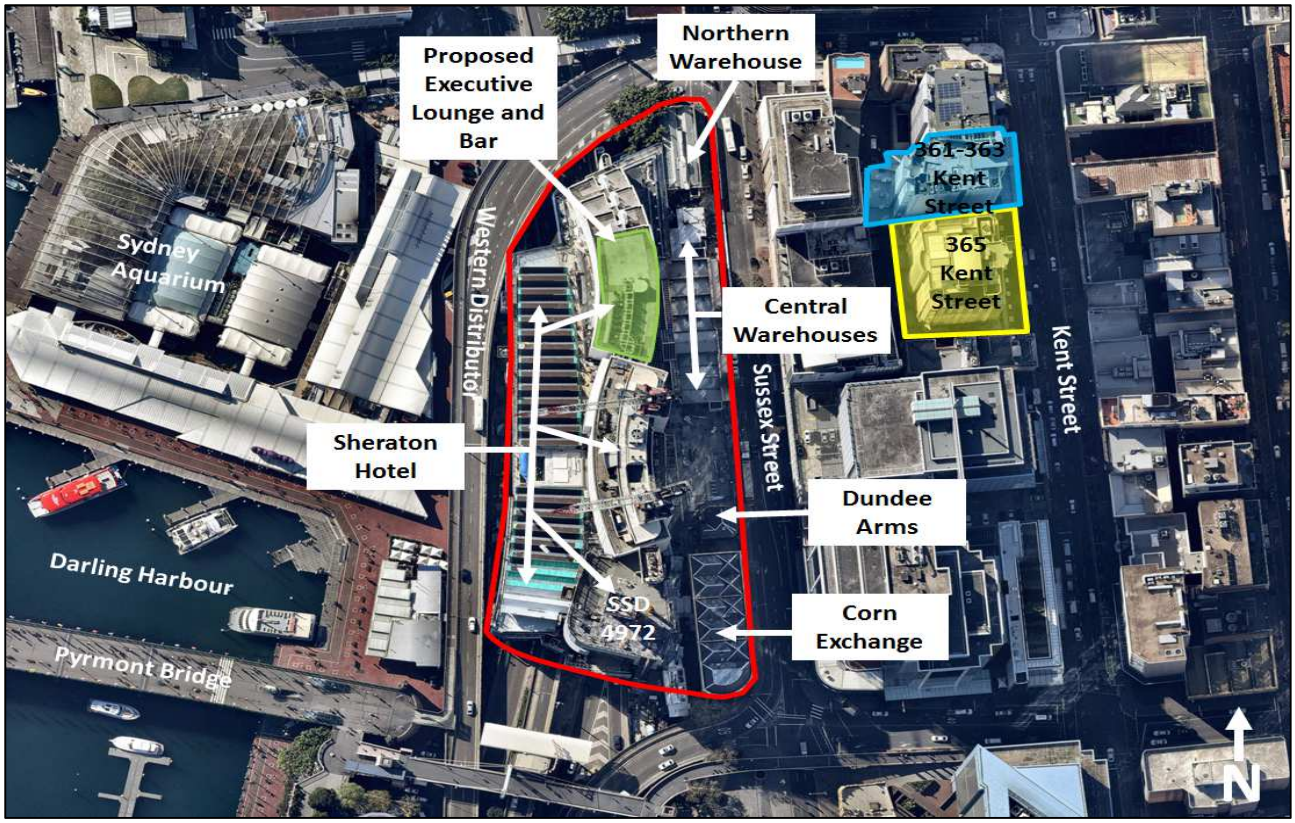


Figure 2: Site location and layout

Figure 3: Photomontage of the Sheraton Hotel including the approved commercial/hotel tower and additions at the podium facing Darling Harbour (currently under construction) as viewed from Pyrmont Bridge

1.3 Surrounding Development

The site and surrounding area forms part of the western edge of the Sydney CBD and is characterised by a mix of uses including commercial, retail, tourism, entertainment and residential development as well as significant road infrastructure. The site is within walking distance of the CBD's major commercial, entertainment and shopping districts including the Queen Victoria Building, Pitt Street Mall, Chinatown and Darling Harbour. The surrounding area is summarised as follows:

- to the west of the site there are low rise buildings (including the Sydney Aquarium, Pier 26/Helm bar, and part of the Darling Harbour precinct), the Western Distributor and the elevated roadway of the King Street overpass. Because of the low rise nature of existing buildings to the west, the site has panoramic views over Pyrmont Bridge, Cockle Bay, Darling Harbour and to the west of Sydney including ANZAC bridge;
- to the east are commercial office uses, parking stations and residential towers at 361-363 Kent Street known as 'Trafalgar building' (27 storeys) and 365 Kent Street known as 'Windsor on Kent building' (27 storeys) which have views to Darling Harbour over the subject site (**Figure 2**);
- directly to the north of the site is the Slip Inn Hotel. Further to the north along Sussex Street are serviced apartments and commercial office uses. To the northwest is the King Street Wharf precinct with tourist, entertainment, commercial, residential and serviced apartment uses and a ferry terminal. Further north is the Barangaroo development precinct; and
- immediately to the south of the site is the pedestrian access over Sussex Street to Darling Harbour and Pyrmont Bridge. Further south on Sussex Street is the Shelbourne Hotel and Darling Park commercial office buildings. Further to the south west of the site is the Darling Harbour precinct and Sydney International Convention Exhibition and Entertainment Precinct.

1.4 Previous Approvals

On 5 August 2013, the Planning Assessment Commission (the Commission) approved SSD 4972 for the redevelopment of the Four Points by Sheraton Hotel including:

- construction of a 25 storey tower, providing an additional 231 hotel rooms, approximately 5,775m^2 of commercial floor space and approximately 4,810m^2 of convention, exhibition and function space;
- extension of the existing podium space to provide new convention and exhibition space;
- external and internal demolition works;
- upgrades to the porte cochere, building entries on Sussex Street, the hotel lobby and reception areas and other internal alterations;
- public domain works on Slip Street; and
- realignment of an existing pedestrian link through the site.

A number of subsequent modifications have also been approved including:

- MOD 1: Modifications to alter the payment of development contributions by the applicant from the City of Sydney Council to SHFA;
- MOD 2: the addition of five new structural columns beneath the approved conference and function space and changes to the structural columns, trusses and footings under the new tower; the replacement of the approved pre-function area in the building's north-west corner with a smaller meeting room; and the rationalisation and redesign of the lift core and the commercial lobby within the approved tower; and
- MOD 3: modification to make various internal and external design modifications to the approved development;
- MOD 4: modification to allow an additional two levels of commercial floor space (27 storeys total) and other minor amendments; and
- MOD 5: modification to allow an additional lift to the existing building structure and associated external changes to the eastern façade.

The Department also received an application to change the use of the upper floors of the tower from commercial to residential use (SSD 6689). The Department issued Secretary's Environmental Assessment Requirements (SEARs) on 10 November 2014, however the Applicant has advised that it no longer intends to proceed with the application.

2 PROPOSED DEVELOPMENT

2.1 Project Description

The proposal seeks to construct and operate an executive lounge and public bar on the rooftop of the northern tower, with associated amenities and plant (**Figures 4-7**). This will replace the existing lounge bar and outdoor roof garden on level 11.

The capital investment value of the development is $11.985 million. The key components of the proposal are detailed in **Table 1.**

Table 1: Key Components of Development (as clarified in the EIS and RtS)

Aspect	Description
Height	Construction of two additional storeys above the northern tower, increasing height of the tower (above the warehouses) from 10 to 12 storeys (RL 56.87m to top of roof).
Operation	Level 11 Lounge: • maximum capacity of 200 persons; and • lounge for premium guests only with limited food and beverage services. Level 12 Rooftop bar and outdoor deck: • maximum capacity of 200 persons; • publically accessible and to service hotel guests; and • amplified background music. Hours of Operation: • 24 hours 7 days. Security: • CCTV surveillance; • duress alarms at all cash points; • security staff during peak hours; and • staff training.
Gross Floor Area	Total 13,095m^2 GFA (additional 927m^2).

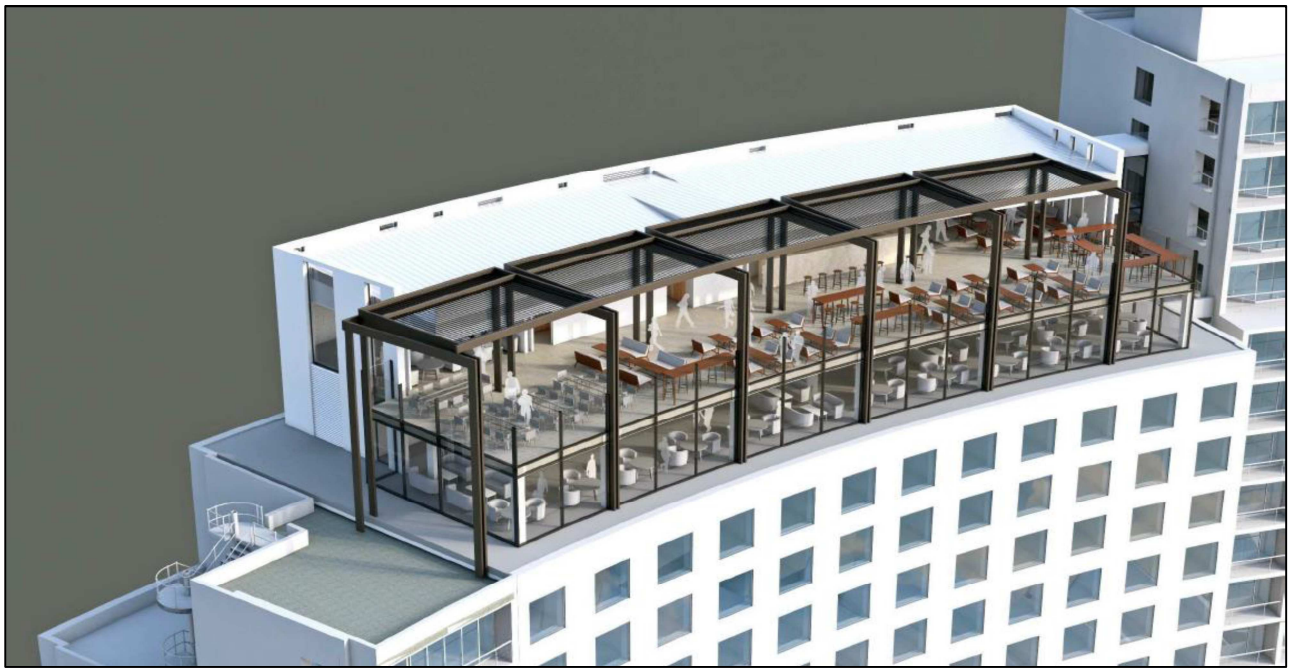


Figure 4: Photomontage of proposal above the northern tower

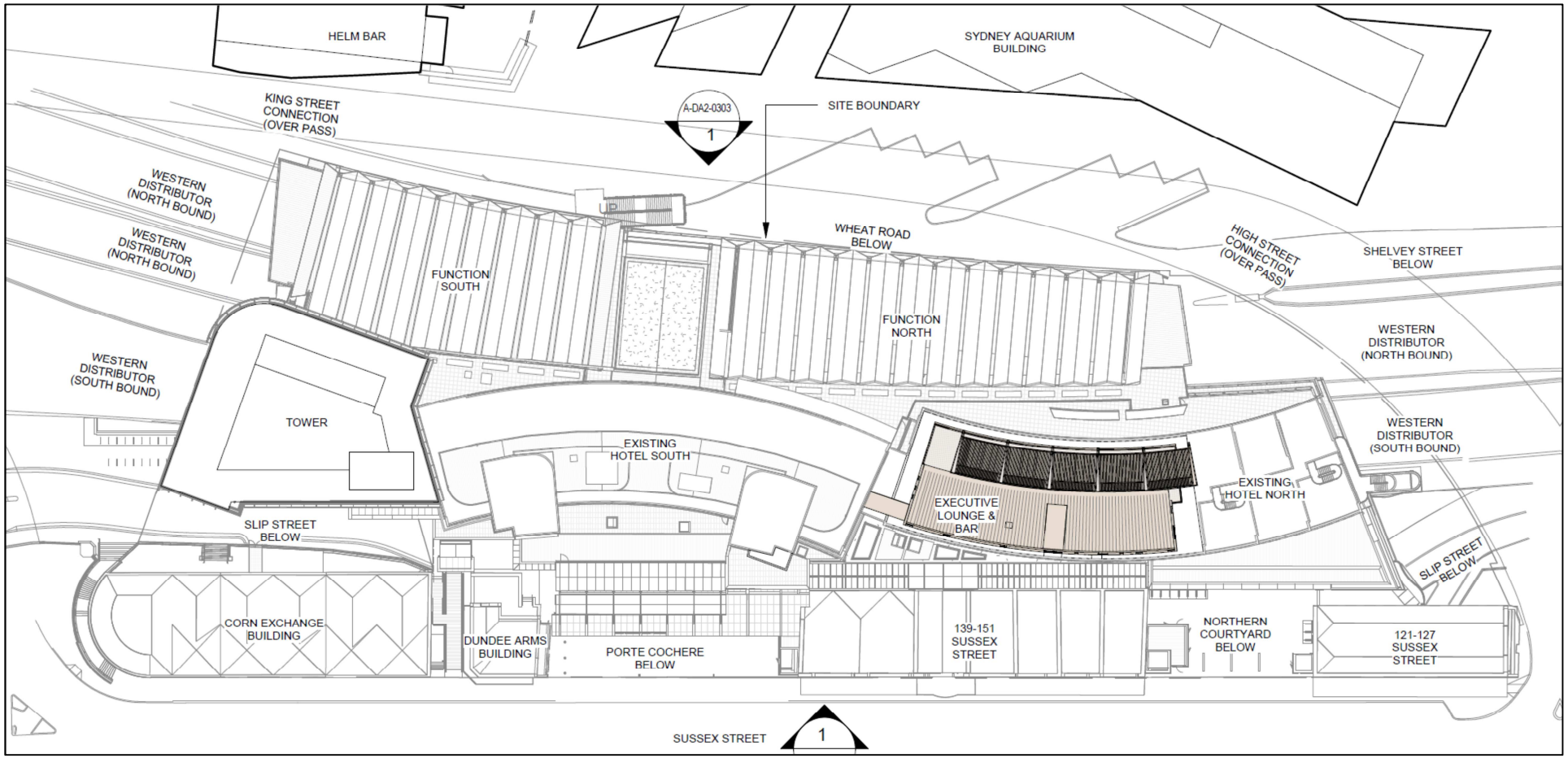


Figure 5: Site plan of proposal above the northern tower

Figures 6 and 7: Level 11 and 12 floor plan layouts

2.2 Project Need and Justification

A Plan for Growing Sydney

A Plan for Growing Sydney is a strategic document that guides the development of the Sydney Metropolitan area for the next 20 years. The Plan seeks to promote Sydney's arts and culture, tourism and entertainment industries, and provide capacity for additional mixed use development in the Sydney CBD for tourism, retail, arts, culture and services.

The proposal is consistent with the objectives of the Plan as it will assist in attracting additional patrons and support the growth of tourism in this part of the Sydney CBD and Darling Harbour.

Visitor Economy Industry Action Plan

The *Visitor Economy Industry Action Plan* (the Action Plan) establishes key actions to revitalise tourism and event industries to double visitor expenditure by 2020. Key actions identified by the Action Plan include:

- supporting and encouraging private investment in accommodation facilities; and
- encouraging and facilitating investment in new visitor accommodation that matches market needs.

The proposal supports the Action Plan through private investment of a new executive lounge and bar facility within an existing hotel which will assist in the revitalisation of the hotel and visitor accommodation within the CBD and tourist district of Sydney.

Sustainable Sydney 2030

Sustainable Sydney 2030 prepared by the City of Sydney Council highlighted the need for more visitor accommodation in Sydney. It identifies the State significant clusters of employment within the local government area in tourism and supporting industries (retail, accommodation, food and beverage, transport) that are vital to delivering the visitor experience. The City of Sydney Council's *Visitor Accommodation Monitor* (May 2011) reported that whilst growth in hotel rooms has remained relatively flat, or even declined in recent years, demand for accommodation is increasing. It reported that the occupancy rate reached its highest ever rate of 85.5% in December 2010 indicating a need to invest in additional hotel infrastructure. The proposed development supports the overall expansion and refurbishment of the Four Points hotel by providing enhanced guest and visitor facilities to support tourist and visitor accommodation in Sydney.

3 STATUTORY CONTEXT

3.1 State significant development

The proposal is State significant development under Part 4 of the EP&A Act because it is development with a capital investment value of more than $10 million and located on land within Darling Harbour pursuant to Clause (b) of Schedule 2 of *State Environmental Planning Policy (State and Regional Development) 2011*. Therefore the Minister for Planning is the consent authority.

3.2 Delegations

On 14 September 2011, the Minister delegated functions to determine all SSD applications to the Commission in cases where an objection has been received by the relevant local Council, where the proponent has provided a political donation disclosure statement, or where there are more than 25 public submissions in the nature of objections.

Council do not object to the proposal and a political donation has not been disclosed in relation to the application. However, as more than 25 public submissions objecting to the proposed development have been received, the application is referred to the Commission for determination.

3.3 Permissibility

The application seeks approval for development ancillary to the use of the existing hotel and is permissible under the *Darling Harbour Development Plan No.1*. From 1 July 2009 this plan is taken to be a State Environmental Planning Policy (in accordance with Section 120 of Schedule 6 to the EP&A Act).

3.4 Environmental Planning Instruments

Under Section 79C of the EP&A Act, the Secretary's assessment report is required to include a copy of, or reference to, the provisions of any SEPP and Environmental Planning Instruments (EPIs) that substantially governs the carrying out of the project and that have been taken into consideration in the assessment of the project. Applicable EPIs include:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *Darling Harbour Development Plan No.1;* and
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

The Department's consideration of relevant SEPPs and EPIs is provided in **Appendix C**. The proposal is generally consistent with the relevant provisions of the abovementioned EPIs.

3.5 Objects of the EP&A Act

Decision-makers are required to consider the objects of the EP&A Act when making decisions under the Act. These objects are detailed in Section 5 of the Act, and include:

(a) to encourage:
- *(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- *(ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- *(iii) the protection, provision and co-ordination of communication and utility services,*
- *(iv) the provision of land for public purposes,*
- *(v) the provision and co-ordination of community services and facilities, and*
- *(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- *(vii) ecologically sustainable development, and*
- *(viii) the provision and maintenance of affordable housing, and*

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

The proposal complies with the objects EP&A Act including (a)(i), (ii), (iv) (vii), (b) and (c) as the proposal:

- conserves natural resources through efficient use of existing land within the Sydney CBD;
- contributes to the local and State economy by supporting the growth of jobs,
- provides facilities that contribute to the State's tourism economy;
- provides a publically accessible bar with views over Darling Harbour and Cockle Bay;
- has been designed to comply with the ESD principles as discussed below; and
- involves public involvement and participation as discussed in **Section 4.1**.

3.6 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration

of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

(a) the precautionary principle,
(b) inter-generational equity,
(c) conservation of biological diversity and ecological integrity, and
(d) improved valuation, pricing and incentive mechanisms.

The Applicant has considered and addressed the ESD principles as they relate to the proposal. The proposal incorporates ESD principles in the design, construction and ongoing operation of the development. The Department has assessed the proposed development in relation to the ESD principles and has made the following conclusions:

- **Precautionary Principle** - the site has been appropriately planned for development and will not result in any serious or irreversible environmental damage.
- **Inter-Generational Equity** - the proposal will not have adverse impacts on the environment and will allow the wider enjoyment of the Darling Harbour precinct.
- **Biodiversity Principle** - the site is located in a highly urbanised area and already built up above an existing building and will not affect biodiversity.
- **Valuation Principle** – the proposal includes a number of energy reducing measures which reduce the overall costs associated with the ongoing operation of the development.

Having considered the objects of the EP&A Act, including the encouragement of ESD in its assessment of the application, the Department is satisfied that the proposal encourages ESD.

3.7 Environmental Assessment Requirements

Section 4 of the EIS addresses compliance with the Secretary's Environmental Assessment Requirements. These matters have been addressed in the EIS sufficiently to enable an adequate consideration and assessment of the proposal for determination purposes.

4 CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under Section 89F(1)(a) of the EP&A Act, the Secretary is required to exhibit the EIS for at least 30 days. The Department publicly exhibited the EIS from Thursday 16 July 2015 until Friday 14 August 2015 (30 days) on its website, at its offices at Bridge Street and at the City of Sydney Council's office. The Department also advertised the public exhibition in the Sydney Morning Herald, the Daily Telegraph and the Sydney Central Courier on Wednesday 15 July 2015 and notified surrounding landholders and relevant State and local government authorities in writing.

The Department received six submissions from five public authorities. 37 public submissions were received objecting to the development.

A link to the submissions may be viewed at **Appendix B**. A summary of the issues raised in submissions is provided below.

4.2 Public Authority Submissions

Six submissions were received from five public authorities in response to the proposal. The issues raised by public authorities are summarised in the **Table 2** below and are considered in **Section 5** and/or by way of recommended conditions in the instrument of consent at **Appendix D**.

Table 2: Summary of public authority submissions

City of Sydney (Council)	
EIS	Council recommended conditions of consent including compliance with the *Liquor Act 2007*, developer contributions, operational conditions to minimise amenity impacts and submission of physical and electronic models in accordance with Council requirements.
RtS	Council commented that the proposed bar maybe inconsistent with the *Liquor Act 2007* with regard to Section 47i "Liquor Freeze Laws". The Department should carefully review the existing license and extent of the existing licenced area. Further, the Department should impose conditions in regards to noise management.
NSW Heritage Council	
EIS	The NSW Heritage Council raised no objection to the proposal noting that the proposal will not increase the overall scale of development in the immediate vicinity or have an adverse impact on the existing views and setting of the four heritage listed items and any known archaeological resources.
Transport for NSW (TfNSW)	
EIS	TfNSW raised no concerns with the proposal.
Sydney Airport	
EIS	Sydney Airport raised no concerns with the proposal and comment that approval for operation of construction equipment should be obtained prior to any construction.
Sydney Water	
EIS	Sydney Water recommended standard conditions of consent.

4.3 Public Submissions

The Department received 37 public submissions objecting to the development. The majority of submissions were received from adjoining landowners and residents of the Windsor on Kent building at 365 Kent Street and the Trafalgar building at 361-363 Kent Street.

The key issues raised in public submissions are summarised in **Table 3**.

Table 3: Summary of issues raised in public submissions

Issue	Percentage
View loss	78%
Adverse noise impacts from operation	54%
Loss in property value	46%
Adverse social impacts from alcohol	35%
Proposal is not in the public interest	24%
Proposal is overdevelopment of site	24%
Adverse noise impacts during construction	19%
Poor urban design	16%
Loss of sunlight to nearby apartments	11%
Noise impact assessment is inaccurate	11%

The Department has considered the issues raised in public submissions in its assessment of the application (**Section 5**).

4.4 Response to Submissions

The Applicant's Response to Submissions (RtS) (see **Appendix A**) considered all submissions received during the public exhibition and issues raised by the Department.

5 ASSESSMENT

The Department considers the key environmental issues for the project to be:

- built form and urban design;
- view impacts;
- operation;
- heritage; and
- developer contributions.

5.1 Built Form and Urban Design

The Four Points by Sheraton Hotel has a generally stepped built form. The northern tower has a height of ten storeys above the podium/warehouses stepping up to 16 storeys in the centre, with the more recent 27 storey commercial/hotel tower (approved via SSD 4972) currently under construction to the south of the site (**Figure 3**).

The proposal seeks to construct a new two storey executive lounge and rooftop bar above the tenth storey of the northern tower of the existing hotel (**Figure 8**). The proposal will increase the height of the northern tower by 8.9 metres to a maximum height of RL 56.87 AHD metres. The proposal seeks to provide an additional 928m^2 GFA increasing the total GFA across the site from 12,167m^2 to 13,095m^2. The materials and finishes proposed seek to integrate the new addition into the existing northern tower maintaining the same off white colour at the eastern façade and a glazed finish at the western façade (**Figure 4**).

In assessing whether the proposed built form and additional floor space is appropriate on the site, the Department has considered the potential amenity impacts (see **Sections 5.2**, **5.3** and **5.5**), as well its consistency with key strategic objectives (see **Section 2.2**).

The *Darling Harbour Development Plan No 1* does not prescribe height controls for the site. However, the Department notes the *Sydney Local Environmental Plan 2012* (SLEP 2012)

prescribes an 80 metre height limit for the adjoining sites to the east which provides an appropriate point of comparison for heights allowable in the surrounding context of the area.

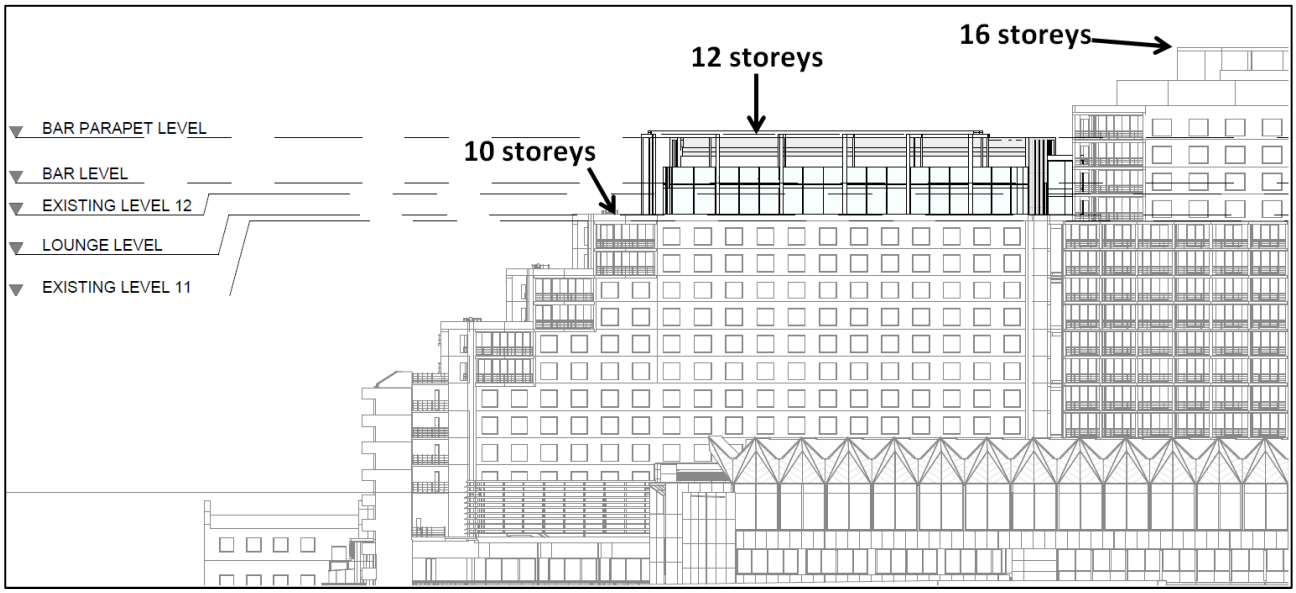


Figure 8: Extract of western elevation showing proposed two storey executive lounge and rooftop bar (outlined in blue)

The proposal reduces the height differentiation between the northern and central tower by 8.9 metres but remains 8.8 metres below the existing height of the central tower. Further, the proposed addition remains significantly (33.6 metres) below the prescribed 80 metre height set by SLEP 2012 for adjoining sites to the east. The Department considers that the proposed addition is modest in nature and further enhances the stepped form of the building whilst reducing the visual prominence of the existing ziggurat stepping treatment at the northern tower by providing a more coherent height transition between the northern tower and the central tower (**Figure 8**).

Further, the proposed materials and finishes to the east complement the white finish of existing building and retain the urban character of the building, whilst the glazed lounge and bar overlooks Darling Harbour to the west and provides a modern sympathetic and subservient addition to the building.

The Department considers that the built form of the proposed addition is acceptable for the following reasons:

- the scale of the proposed addition is consistent with the height, width and stepped form of the building and reduces the visual prominence of the existing ziggurat stepping treatment at the northern tower;
- the proposed materials and finishes complement the existing building, whilst the glazed finish stands out as a modern sympathetic and subservient addition, particularly when viewed from Darling Harbour;
- the proposed bar and lounge support investment in hotel accommodation, which supports the objectives of key strategic plans including *A Plan for Growing Sydney* and *Sustainable Sydney 2030*;
- as discussed in **Section 5.2**, the view impacts to some apartments at the mid levels of the Trafalgar and Windsor on Kent buildings are considered acceptable; and
- the additional overshadowing as a result of the proposal is considered acceptable as it is restricted to a small portion of the Sydney Aquarium and public domain at Darling Harbour between 9am to 10:30am during the winter solstice.

Overall the Department is satisfied that the proposed built form and urban design is an appropriate contextual fit to the existing and approved built form for the site.

5.2 View Impacts

78% of public submissions raised concerns in relation to the loss of views/outlook as a result of the proposal. These submissions are predominately from residents and landowners of 361-363 Kent Street (known as the Trafalgar building) and 365 Kent Street (known as the Windsor on Kent building).

The EIS includes a Visual Impact Assessment report prepared by GMU Urban Design and Architecture. The report details the impact of the proposed development on key public and private views, including those from the Trafalgar and Windsor buildings, the Astoria building (222-228 Sussex Street) and the Rex building (355 Kent Street) (**Figure 9**). The RtS included an addendum to the Visual Impact Assessment report which further considered the view impacts from apartments which raised an issue with view loss during the exhibition (Trafalgar and Windsor buildings).

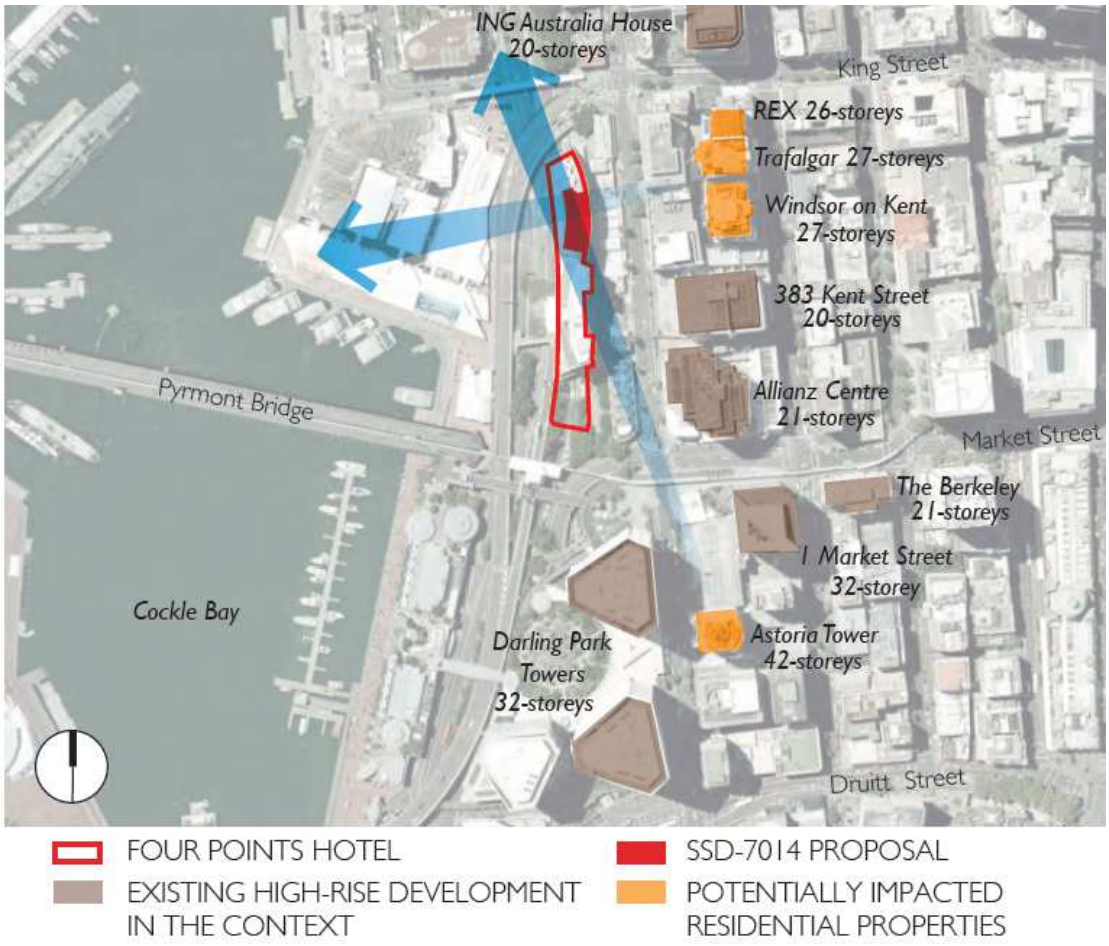


Figure 9: Map showing nearby residential buildings ponteially affected by the proposed development

The Department notes the most significant view impacts are to the Trafalgar and Windsor buildings. The Department therefore wrote to individual apartment owners/occupiers who made submissions in relation to view impacts and offered to inspect their properties to understand the potential view loss and outlook impacts. The Department was granted access to:

- 3 apartments on the western façade of the Trafalgar building between levels 17 and 24; and
- 12 apartments on the western façade of the Windsor building between levels 13 and 19.

In order to ascertain whether or not the proposed view sharing impacts are reasonable the Department has followed the four-step assessment in accordance with the principles established by Tenacity Consulting Vs Warringah [2004] NSWLEC 140. The steps/principles adopted in the decision are:

1. assess what views are affected and the qualitative value of those views;

2. consider from what part of the property the views are obtained;
3. assess the extent of the impact (from 'negligible' to 'devastating'); and
4. assess the reasonableness of the proposal that is causing the impact.

An assessment of potential view impacts on apartments within the Trafalgar and Windsor buildings in accordance with the Tenacity principles is outlined below.

365 Kent Street – Windsor on Kent building (steps 1 to 3)

The Windsor building is located to the east of the subject site and contains apartments located between levels 2 and 27. The general apartment layout at each level is shown in **Figure 10**.

Due to the orientation of the tower, apartments with a western aspect have partial views/outlooks at lower levels (Level 10-14) and 180 degree views/outlooks at upper levels (level 15 and above) over the roof of the subject site towards Darling Harbour, Cockle Bay, NSW Maritime Museum, Pyrmont Bridge and Anzac Bridge for some apartments.

With regards to steps 1 and 2, the Visual Impact Assessment identifies the following views when standing at the balcony at westerly apartments:

- Levels 1-9: no views are affected as they are already interrupted by 154 Sussex Street;
- Levels 10-18: central and north western apartments have medium to high value views including partially interrupted views of the Anzac Bridge pylons and partial district views over the roof of the northern tower of the Four Points hotel. Some apartments between level 15-18 also have high value partial views of Cockle Bay and Pyrmont Bridge, the Maritime Museum. The south western apartments from levels 10-14 have no views as they are interrupted by 160-166; Sussex Street;
- Levels 19-23: all westerly apartments within the tower have high value partial views of Cockle Bay water, Maritime Museum, Pyrmont Bridge, Anzac Bridge and the wider district; and.
- Levels 24 and above: no views are affected as it sits well above the proposal (**Figure 10**).

With regards to step 3, the Department has considered the view impacts of the proposal on these apartments based on the site inspections and the Visual Impact Assessment (**Figure 10**). This is summarised below:

- Levels 1-9: no impact as no significant views are affected;
- Levels 10-18: moderate view impacts for central and north western apartments as partial iconic views of Anzac Bridge and wider district views will be lost at lower levels as a result of the development. Apartments between levels 15-18 will have moderate view loss to Cockle Bay, Pyrmont Bridge and Maritime Museum views as a result of the development. However, partial views to the northern part of Cockle Bay, Maritime Museum and wider district will remain. No impact for south western apartments from levels 10-14 as no views are affected;
- Levels 19-23: moderate to minor view impacts for all westerly apartments with some partial views to Pyrmont Bridge and Cockle Bay being interrupted as a result of the development. However, partial views of Cockle Bay and Pyrmont Bridge views are retained and all other views remain unaffected; and
- Level 24 and above: no impact on views and high value views will remain uninterrupted (**Figure 10**).

361-363 Kent Street – Trafalgar building (steps 1 to 3)

The Trafalgar building is located to the north east of the subject site and contains apartments located between levels 2 and 27. The general internal layout of apartments at each level are shown in **Figure 11**. Due to the internal layout and orientation of the tower and apartments, only three of four apartments with a western aspect have views/outlooks over the roof of the hotel. Some of these apartments have views over Darling Harbour, Cockle Bay, NSW Maritime Museum, Pyrmont Bridge and Anzac Bridge and beyond.

With regards to steps 1 and 2, the Visual Impact Assessment details the current views from standing at the balcony at westerly apartments, which are summarised below:

- Levels 1-10: apartments do not hold any significant views as they are interrupted by 152 Sussex Street and 154 Sussex Street;
- Levels 11-15: the south western corner apartments have low value interrupted views of Pyrmont Bridge and Cockle Bay water. All other apartments at these levels have no significant views as they are interrupted by 152 Sussex Street and 154 Sussex Street; and
- Levels 16-20: all westerly apartments have high value partially interrupted views of Pyrmont Bridge, Cockle Bay Water, NSW Maritime Museum, and Anzac Bridge.
- Levels 21 and above: all westerly have high value views of Pyrmont Bridge, Cockle Bay Water, NSW Maritime Museum, Anzac Bridge, and the wider district.

The Department has considered the view impacts on these westerly apartments based on the site inspections and the Visual Impact Assessment, as summarised below:

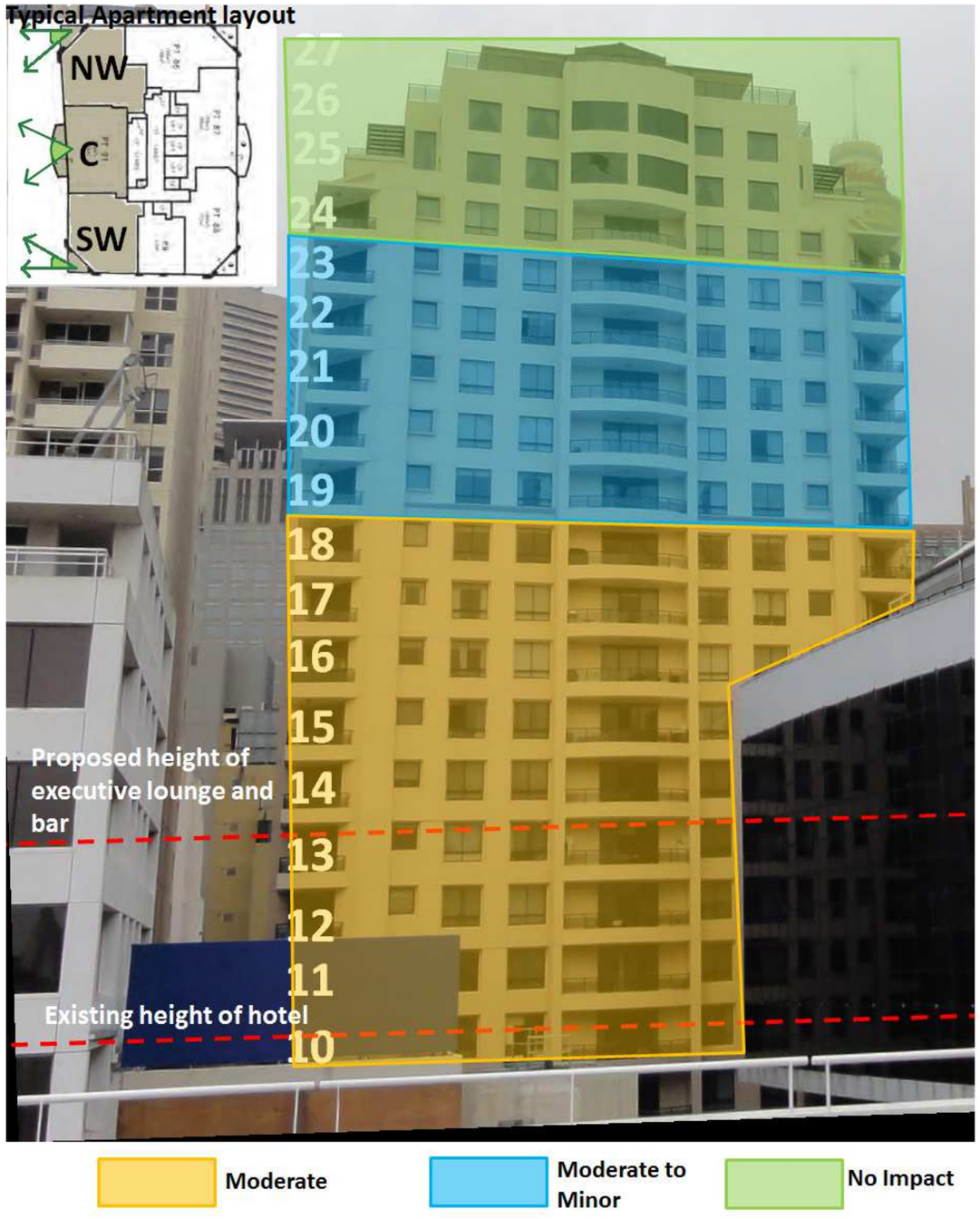
- Levels 1-10: no impact as no views are affected;
- Levels 11-15: negligible view impacts as no significant views are currently available as they are either interrupted by 152 Sussex Street and 154 Sussex Street or the existing Four Points hotel;
- Levels 16-20: moderate view impacts as some partially interrupted views of Cockle Bay and Pyrmont Bridge will be lost as a result of the development. However, views of Anzac Bridge and wider district views are unaffected;
- Levels 21 and above: minor to negligible view impacts noting nearly all high value views will remain.

Reasonableness of Proposal

The fourth step of the Tenacity planning principle is to assess the reasonableness of the proposal that is causing the impact. The Department notes that the impacts on views do not arise as a result of a non-compliance with the planning controls. The *Darling Harbour Development Plan No 1* contains no height of floor space controls for the site. The Department notes that the proposal is below the existing maximum height of the central tower, and also significantly below the LEP height limit of 80 metres which applies to immediately adjoining sites to the east of the site.

With a complying proposal, the Tenacity planning principles require that the question should be asked whether a more skillful design could provide the Applicant with the same development potential and amenity, and reduce the impact on the views of neighbours. The Department notes that the final design was further refined by reducing the height of the outdoor pergola by 1 metre to reduce the view impacts from the Windsor and Trafalgar buildings. With the exception of locating the bar and lounge within the existing footprint, the Department considers that there are limited further design options available to maintain existing views from the Windsor and Trafalgar buildings.

The Department also notes that existing views from west facing apartments of the Windsor and Trafalgar buildings are available over the roof of the subject site due to the low rise nature of the existing 8 storey Melbourne Institute of Technology (MIT) building located between the Windsor building and subject site at 154 Sussex Street. The Department notes that if the MIT building was redeveloped in accordance with the SLEP 2012 controls, it could potentially accommodate a 14 storey building which would interrupt views from west facing apartments up to level 17 within the Windsor and Trafalgar buildings (**Figure 12**).



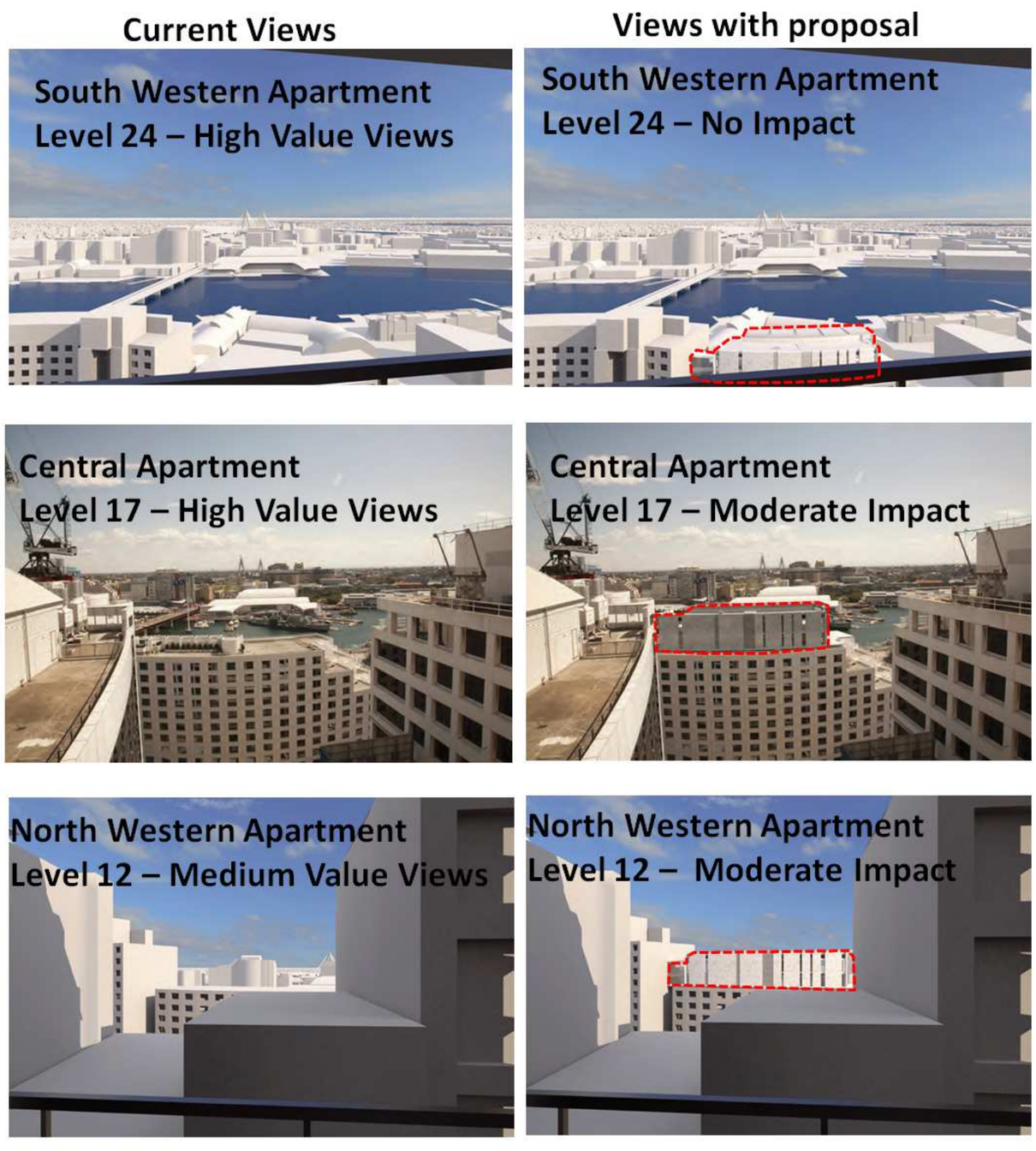


Figure 10: Summary of view impacts to the Windsor building including general layout of western aspect apartments and current and future views with the proposal outlined in red

Figure 11: Summary of view impacts to the Windsor building including general layout of western aspect apartments and current and future views with the proposal outlined in red

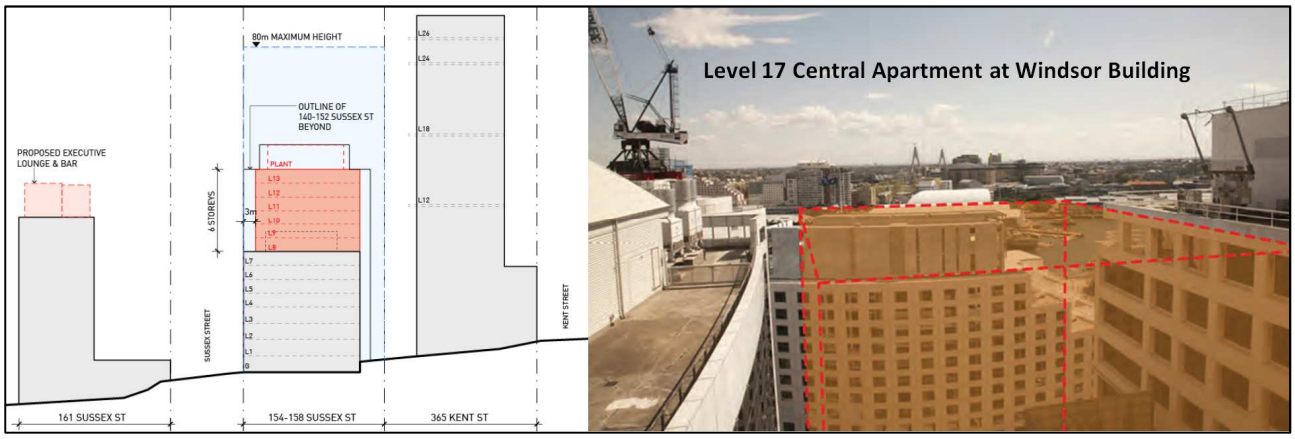


Figure 12: View from Level 17 apartments at both Windsor (right) building showing potential developable maximum building envelope at 154 Sussex Street

The Department considers that, despite a number of mid level apartments being adversely impacted within the Windsor and Trafalgar buildings, the overall view impacts are reasonable when considered against the view sharing principles established by the Tenacity principles and are acceptable for the following reasons:

- the proposal is reasonable noting that there are no height controls for the site and the proposal is below the existing maximum height of the central tower, and LEP height of 80 metres set by SLEP 2012 for adjoining sites to the east;
- the proposal maintains partial view corridors to the west for higher level apartments generally above level 17 of the Windsor and Trafalgar buildings, in keeping with view sharing principles; and
- although the proposal has a greater impact on views from apartments below level 17 of the Windsor and Trafalgar buildings, these views are available due to the low rise nature of the MIT building (154 Sussex Street) which could be potentially developed to 14 storeys, blocking the westerly views currently available to these apartments;
- the site is located within a high density city urban environment where retention of full views over private property is not sustainable.

Noting the above, the Department considers that despite some view impacts the proposed development is reasonable for the site.

5.3 Operation

The proposal seeks to build over the existing level 11 lounge bar and outdoor roof garden to construct and operate an executive lounge and bar (24 hours a day 7 days a week) at the Four Points hotel. The proposal seeks:

- an executive lounge at level 11 for up to 200 hotel guests of the Four Points hotel serving food and beverages including buffet breakfast, tea, coffee, evening snacks and alcoholic beverages. The area will be accessed by key card by hotel guests only and includes an area for guests under 18 years of age;
- a bar with outdoor deck at level 12 for up to 200 people, being primarily for hotel guests but also publically accessible. The space includes an outdoor deck fronting Darling Harbour; and
- amplified background music will be played but no live or DJ music is proposed.

The key issues associated with the operation are:

- hours of operation;
- noise impacts; and
- social impacts.

Hours of operation

The proposal seeks 24 hour 7 days a week operation for both the executive lounge (level 11) and bar including the outdoor deck area (level 12).

Public submissions have raised concern that the 24 hour operation is inappropriate due to potential adverse noise and social impacts from alcohol consumption.

The Department notes that the proposal is located within an existing hotel and the operating hours are consistent with the existing hotel operation and the liquor licence currently approved for the hotel. This license allows 24 hour service of alcohol for function rooms and the level 11 lounge and outdoor roof garden. The site is also located within Darling Harbour, which is an important tourist and leisure destination in this part of the Sydney CBD.

A draft plan of management was submitted with the RtS which sets out future management practices in place for staff and security to ensure satisfactory operation including patron and noise management. A condition is recommended requiring approval of the final plan of management by the Department.

The Department considers that the proposed hours of operation are acceptable for the following reasons:

- the hours of operation are consistent with the existing hotel operating hours and the site is located within the Darling Harbour tourist precinct;
- the level 12 bar will be used by hotel guests and public access is via the ground floor lobby where access will be monitored and managed by the hotel operator;
- the level 11 executive lounge is restricted to hotel guests only;
- as discussed hereafter, the Department is satisfied that there will be no adverse noise impacts at nearby sensitive receivers subject to recommended conditions;
- a condition of consent is recommended to ensure that noise from the venue cannot be heard at any neighbouring property between midnight and 7am;
- a condition of consent will require the plan of management to ensure satisfactory operation; and
- the proposal will be the subject of a separate liquor licensing process.

Noise impacts

The proposal is supported by a noise impact assessment report prepared by Acoustic Studio. The report includes an assessment of the potential noise sources associated with the proposal. This includes operational noise from patrons, use of amplified music and mechanical plant to nearby sensitive residential receivers, including 55 Shelly Street (100 metres to the north west), 355-365 Kent Street (70 metres to the east, north east), and 18 King Street (85 metres to the north east) (**Figure 13**).

54% of public submissions raised concerns with the adequacy of the noise impact assessment and the potential for the proposed bar to have adverse noise impacts, particularly from loud music and patrons.

The Applicant contends that the proposal will not have adverse noise impacts on adjoining properties noting that:

- level 11 is enclosed and will be acoustically treated to prevent noise breakout;
- level 12 is predominately orientated to the west which faces onto Darling Harbour and Cockle Bay;
- amplified music will be limited to background music, with no live or DJ music being proposed;
- the noise impact assessment report has been prepared in accordance with relevant noise policy, including the *Protection of the Environmental Operations Act 1997*, City of Sydney standard conditions of consent, Office of Liquor, Gaming and Racing Octave band noise criteria and the *NSW industrial noise policy*. The report concludes that the proposal will comply

with all relevant noise criteria at nearby sensitive residential receivers subject to appropriate operation and management;

- full time staff, security and CCTV surveillance will monitor patron behaviour and noise to ensure it is kept to an acceptable level and any noisy patrons will be ejected from the premises. Further, noise levels will be maintained at acceptable levels to ensure the amenity of the adjacent balcony suite rooms on the northern tower are not compromised (**Figure 14**).

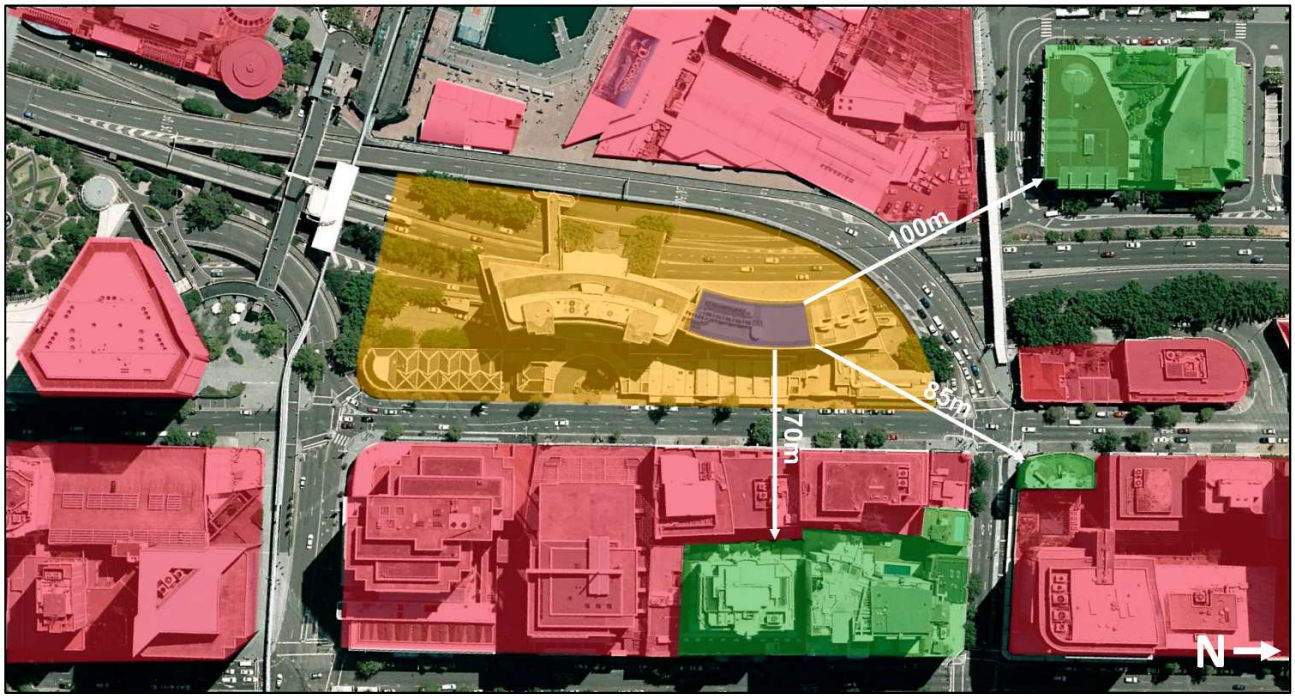


Figure 13: Extract from noise impact assessment showing the proposed development in purple and nearby sensitive sites in green

Figure 14: Photomontage of proposal highlighted in orange (includes other approved developments to date currently under construction) with adjoining balcony suites highlighted in green.

The Department has considered the above and considers that the proposal is unlikely to cause adverse noise impacts on nearby sensitive receivers for the following reasons:

- The proposal has been designed to minimise noise impacts to nearby sensitive receivers by:
  - orientating enclosed back of house facilities and plant along the eastern side of the building to screen noise from the proposal;
  - acoustically treating level 11 to prevent noise breakout; and
  - directing the bar and outdoor deck towards the western side where there are no sensitive receivers.
- Any noise generated between midnight and 7am must not be audible in the habitable room of any adjoining residences to ensure that residential amenity is maintained. A condition of consent is recommended.
- Any amplified music will be limited to background music only and will be required to comply with noise levels recommended by Council to ensure compliance with the NSW Industrial Noise Policy and other relevant guidelines. Conditions of consent have been recommended accordingly.
- Measures are in place under the draft plan of management to ensure acoustic levels are kept to an acceptable level, including staff and security being trained to control and manage patrons to ensure any intoxicated and/or unruly noisy patrons are appropriately managed or ejected from the premises in an appropriate manner. A condition is recommended requiring approval of the final plan of management by the Department.
- The Department notes that the Four Points hotel will be compelled to carefully manage noise from the bar and lounge given the close proximity to existing hotel guests located in the adjoining balcony suite rooms within the northern tower (**Figure 14**).
- The Department recommends a condition requiring a complaints register to be established to record any future noise complaints associated with the operation and approaches taken to address the noise complaints.

The Department is satisfied that the proposal will not result in any adverse noise impacts to nearby residents, and recommends the imposition of on-going operational conditions to ensure that noise levels are maintained at acceptable levels at all times of operation

Social Impacts

35% of public submissions raised concern with the proposed bar noting adverse social impacts associated with alcohol consumption, including violence and anti-social behaviour. Further submissions raised concern at the high number of bars in the vicinity of the site and the proposal being contrary to liquor freeze and lock out laws. Council also comment that the proposed bar is potentially inconsistent with the 'Liquor Freeze Laws'.

As discussed in **Section 3.3**, the proposed executive lounge and bar use is ancillary to the hotel and is a permissible use for the site. It is noted that the hotel currently serves alcohol in its bars and at the outdoor roof garden. In addition, the Department notes that the site is exempt from Liquor Freeze Laws pursuant to Clause 79(2) of the *Liquor Regulation 2008* which exempts tourist accommodation establishments (other than a club) or a licensed restaurant within the CBD.

The proposed hours of operation are consistent with the liquor licence currently approved for the hotel which allows 24 hour service of alcohol for function rooms and the level 11 lounge and outdoor roof garden. Notwithstanding, the operator will be required to obtain a liquor license from the Office of Gaming, Liquor and Racing (OLGR) for serving alcohol at the executive lounge and bar. The licensing process involves a separate community consultation process and OLGR will further consider the associated social impacts and mitigation measures in place to prevent potential adverse social impacts on the wider community as a result of the proposal.

The Department also notes that hotel staff will carefully monitor future patrons accessing the level 12 bar, and staff and security will be trained to control and manage patrons to ensure any

intoxicated and/or unruly noisy patrons are managed and ejected from the premises in an appropriate manner.

The Department is therefore satisfied that the proposed development is consistent with the hotel function and current lounge bar and outdoor rooftop garden. Further, measures are in place to appropriately manage and mitigate intoxicated patrons. The wider social impacts associated with liquor licensing will be considered by the OLGR in its consideration of a license for serving liquor at the proposal.

5.4 Developer Contributions

The proposed development does not propose any significant public infrastructure or service improvements, or result in any significant improvements to accessibility, open space or other public benefits.

The Department notes that the subject land is not within any developer contributions plan. Notwithstanding, the Minister has statutory power to require contributions under Sections 94A and 94B of the EP&A Act 1979. In exercising this power, the Minister or his delegate must be satisfied that any contributions are reasonable in the circumstances.

Consistent with the Department's recent assessment and the determination of the more substantial 27 storey tower at the southern end of the hotel, the Department considers it appropriate to levy cash contributions amounting to 1% of the total development cost payable to the Sydney Harbour Foreshore Authority (SHFA). This is same contribution levy applied to adjacent comparable development in the city centre. The contributions will assist SHFA in the provision of public infrastructure upgrades. The Applicant is supportive of this.

Council have requested that the 1% levy should be payable to Council as if Section 61 of the *City of Sydney Act 1988* applied to the proposed increase in floor space and demand for infrastructure.

The Department notes that Section 61 of this Act does not apply to the site as the subject site is located on SHFA land. The Department considers that the proposed development forms part of the wider redevelopment/refurbishment of the Four Points hotel, and consistent with the PAC's determination of SSD 4972 MOD 1, any contribution levied should be payable to SHFA towards the provision of public infrastructure upgrades and maintenance. Accordingly the Department has recommended a condition of approval that the Applicant pay a contribution of $119,580 to SHFA prior to the issue of an occupation certificate.

5.5 Other

Issue	Department's Assessment
Heritage	The site comprises a number of state heritage items including: • the Corn Exchange; • Dundee Arm Hotel; • the Central Warehouses (former); and • the Northern Warehouses (former shops/warehouses). A number of heritage items within the vicinity of the site include Pyrmont Bridge, Shelbourne Hotel and the Cockle Bay Archaeological precinct. The EIS is supported by a Statement of Heritage Impact prepared by City Plan Heritage which concludes that the proposal will not have an impact on the principle views of the existing heritage items given the building separation of greater than 10 levels. Further, the proposal does not impact on the relevant Conservation Management Plans for the heritage items. NSW Heritage Council also note that the proposal will not adversely impact on the existing heritage items or any known archaeology resources. The Department notes that the proposal is a two storey addition to the upper roof levels of

	the northern tower and located ten storeys above the four heritage items and will not visually affect the existing views to the heritage items and heritage character or significance of the buildings.
Construction Noise	19% of submissions raised concern that the current construction noise from the Four Points hotel redevelopment and expansion is excessive and the proposal will further exacerbate the problem. Specifically, submissions noted the current construction hours beginning before 6am and operating into late hours and on weekends, and the excessive noise emitted from the construction crane. The matter has been referred to the Department's compliance team to investigate. With regards to the proposal and potential for additional construction noise, the Department has recommended a number of conditions to ensure construction acoustic impacts are appropriately mitigated. These include: • Council's standard construction hours of 7am to 7pm Mondays to Fridays inclusive, 7am to 5pm Saturdays and no work on Sundays and public holidays; • submission of a detailed construction noise and vibration management plan prior to issue of a construction certificate; • stringent construction noise and vibration management conditions during construction in accordance with best practice; • requirement to notify nearby residents (including 361-363 Kent Street, and 365 Kent Street) to proposed works and include a 24 hour contact; • the establishment of a complaints register for construction and noise related issues prior to commencement of works. All complaints are to be responded to and actioned within 48 hours. A copy of the register shall be made available to the Department at all times and shall be forwarded to the Department's compliance team every six months for record. Subject to compliance with the recommended conditions, the Department is satisfied the proposal will not have any adverse construction noise impacts.
Property Values	46% of public submissions raised concern with the potential for the development to affect adjoining residential developments property values. The impact of property values is not a valid planning consideration. Notwithstanding, the Department's assessment has revealed that the proposal is suitable for the subject site, permissible and consistent with *A Plan for Growing Sydney*. Further, the proposal is a modest addition to the existing northern tower of the Four Points hotel, and in keeping with the existing stepped form character. The view impacts are considered acceptable for the development, as discussed in **Section 5.2**.

6 CONCLUSION AND RECOMMENDATION

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions and is satisfied that the impacts have been satisfactorily addressed within the Applicant's EIS, RtS and Department's recommended conditions.

The Department's assessment concludes that the proposed built form and urban design is an appropriate contextual fit to the existing and approved built form for the site. The proposed addition is consistent with the height and stepped form character of the building, and provides an easier height transition to the central tower whilst reducing the visual prominence of the existing ziggurat stepping treatment at the northern tower. Further, the proposed materials and finishes complement the existing building, whilst standing out as a modern sympathetic and subservient addition, particularly when viewed from Darling Harbour.

The Department has also assessed the likely impact of the proposal on views from nearby residential buildings including the Windsor on Kent and Trafalgar buildings. The Department's assessment concludes that the view impacts caused by the proposal are reasonable noting:

- the proposed increase in height remains 8.8 metres below the existing maximum height of the existing central tower, and significantly below the LEP height of 80 metres set by SLEP 2012 for adjoining sites to the east;
- the proposal allows for partial to full retention of views from apartments above level 17 which is consistent with view sharing principles; and
- although the proposal will moderately affect views from apartments below level 17, the expectation to retain these views over private property is unreasonable, in particular noting that the views would be affected by any future redevelopment of the MIT building located between the site and the affected residential properties.

The Department is satisfied that the proposal will not result in any adverse noise impacts to nearby residents, subject to the appropriate management and operation as proposed, and recommended conditions. Further, the proposal is subject of a separate liquor licensing process that will further consider wider social impacts associated with alcohol servicing in the Sydney central business district.

The Department concludes that the proposal is generally consistent with strategic planning objectives of *A Plan for Growing Sydney* and the Council's *Sustainable Sydney 2030* plan as it will assist in revitalising tourism and private investment in hotel infrastructure.

Subject to the recommended conditions, the Department concludes that the proposal is in the public interest.

It is recommended that the Planning Assessment Commission as delegate of the Minister:
(a) consider all relevant matters under Section 79C of the *Environmental Planning and Assessment Act 1979*, including those contained in the findings and recommendations of this report and appended documentation;
(b) grant consent to the development application, subject to conditions, under section 89E of the *Environmental Planning and Assessment Act 1979*; and
(c) **sign** the attached development consent (**Appendix D**).

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APPENDIX A ENVIRONMENTAL IMPACT STATEMENT AND RESPONSE TO SUBMISSIONS

See the Department's website at
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7014

APPENDIX B SUBMISSIONS

See the Department's website at
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7014

APPENDIX C CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

Relevant EPIs :

- State Environmental Planning Policy (State and Regional Development) 2011;
- Darling Harbour Development Plan No 1; and
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

State Environmental Planning Policy (State and Regional Development) 2011		
Relevant Sections	**Consideration and Comments**	**Complies?**
3 Aims of Policy The aims of this Policy are as follows: (a) to identify development that is State significant development,	The proposed development is identified as SSD	Yes
8 Declaration of State significant development: section 89C (1) Development is declared to be State significant development for the purposes of the Act if: (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and (b) the development is specified in Schedule 1 or 2.	The proposed development is not permissible without consent as a result of the Darling Harbour Development Plan 1 and is specified in Schedule 2	Yes
Schedule 2 State significant development—identified sites (Clause 8 (1)) **2 Development on specified sites** Development that has a capital investment value of more than $10 million on land identified as being within any of the following sites on the State Significant Development Sites Map:... (b) Darling Harbour Site,	The proposed development is on the identified Darling Harbour Site and has a capital investment value of $148m	Yes

Darling Harbour Development Plan No 1		
Relevant Sections	**Consideration and Comments**	**Complies?**
3 Objects (b) to encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area (c) to make provision with respect to controlling development within that area.	The proposed development provides an executive lounge and bar within the exiting Four Points Hotel. The proposed development is permissible with consent.	Yes

6 Permit required for certain development Development: (a) for the purposes of tourist, educational, recreational, entertainment, cultural or commercial facilities (other than facilities used for pawnbroking or other forms of moneylending)…[or] (d) for any purpose specified in Schedule 1… [includes commercial premises, convention centres; hotels; places of assembly; recreation facilities; refreshment rooms; shops…] …may not be carried out except with a permit being obtained therefore	The proposed development uses are permissible with consent.	Yes
8 Permits required for renovation and demolition (1) The renovation or demolition of a building or work may not be carried out except with a permit being obtained therefore	The proposed renovations and demolitions are permissible with consent.	Yes

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
Relevant Sections	**Consideration and Comments**	**Complies?**
2 Aims of plan (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained: (i) as an outstanding natural asset, and (ii) as a public asset of national and heritage significance, for existing and future generations, (b) to ensure a healthy, sustainable environment on land and water, (c) to achieve a high quality and ecologically sustainable urban environment, (d) to ensure a prosperous working harbour and an effective transport corridor, (e) to encourage a culturally rich and vibrant place for people, (f) to ensure accessibility to and along Sydney Harbour and its foreshores...	The proposed development is considered to be consistent with the aims. It is considered that the proposed development maintains public access to the foreshore, does not give rise to adverse impacts on the scenic quality of the waterway or foreshore area and contributes to a culturally rich and vibrant place for people to enjoy views of the foreshore.	Yes
14 Foreshores and Waterways Area (a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores, (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation... (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores...	The proposed development is considered to be consistent with the planning principles. It is considered that the proposed development does not detract from the natural assets and unique environmental qualities of Sydney Harbour, maintains public access to the foreshore, and does not give rise to adverse impacts on the unique visual qualities of Sydney Harbour.	Yes

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
Relevant Sections	**Consideration and Comments**	**Complies?**
21 Biodiversity, ecology and environment protection	The proposed development is considered to have a neutral or beneficial effect on the quality of water entering the waterways, and no impacts on species, aquatic vegetation and wetlands.	Yes
22 Public access to, and use of, foreshores and waterways	The proposed development does not affect public access to foreshores and waterways.	Yes
23 Maintenance of a working harbour	It is considered that the proposed development, being sited some distance back from the foreshore, does not give rise to any adverse impacts in relation to this section.	Yes
24 Interrelationship of waterway and foreshore uses	It is considered that the proposed development, being sited some distance back from the foreshore, does not give rise to any adverse impacts in relation to this section.	Yes
25 Foreshore and waterways scenic quality (a) the scale, form, design and siting of any building should be based on an analysis of: (i) the land on which it is to be erected, and (ii) the adjoining land, and (iii) the likely future character of the locality, (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries, (c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.	The proposed development is considered to be in keeping with its locality and its likely future character in terms of scale, form, design and siting. It is considered that the proposed development does not give rise to any adverse impacts on the unique visual qualities of Sydney Harbour. The proposed development does not impact on water based development.	Yes
26 Maintenance, protection and enhancement of views (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour, (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items, (c) the cumulative impact of development on views should be minimised.	The proposed development is considered not to give rise to any significant adverse impacts on the views to and from Sydney Harbour, from public places, landmarks or heritage items. While there are impacts on some private views from nearby buildings, these are considered to be acceptable on balance taking into account the location of these sites in relation to the foreshore, and the proposed development's fit with the form of the central business district and existing building.	Yes
27 Boat storage facilities	It is considered that the proposed development, being sited some distance back from the foreshore, does not give rise to any adverse impacts in relation to this section.	Yes

APPENDIX D RECOMMENDED CONDITIONS OF APPROVAL