



# IMAX Darling Harbour Modification 11

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Amendments to bicycle parking  
State Significant Development Modification Assessment  
(SSD 7388 MOD 11)

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Title: **IMAX Darling Harbour Modification 11**

Subtitle: Amendments to bicycle parking

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# Glossary

| Abbreviation               | Definition                                                                |
|----------------------------|---------------------------------------------------------------------------|
| <b>Applicant</b>           | Greaton Development                                                       |
| <b>Consent</b>             | Development consent                                                       |
| <b>Council</b>             | City of Sydney Council                                                    |
| <b>Department</b>          | Department of Planning, Industry and Environment                          |
| <b>EP&amp;A Act</b>        | <i>Environmental Planning and Assessment Act 1979</i>                     |
| <b>EP&amp;A Regulation</b> | <i>Environmental Planning and Assessment Regulation 2000</i>              |
| <b>EPI</b>                 | Environmental Planning Instrument                                         |
| <b>GFA</b>                 | Gross Floor Area                                                          |
| <b>Minister</b>            | Minister for Planning and Public Spaces                                   |
| <b>Planning Secretary</b>  | Secretary of the Department of Planning, Industry and Environment         |
| <b>PMNSW</b>               | Placemaking NSW, Department of Planning, Industry and Environment         |
| <b>SEPP</b>                | State Environmental Planning Policy                                       |
| <b>SRD SEPP</b>            | State Environmental Planning Policy (State and Regional Development) 2011 |
| <b>SSD</b>                 | State Significant Development                                             |

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# 1 Introduction

This report is an assessment of an application to modify the State Significant development approval (SSD 7388) granted for the redevelopment of the IMAX and public domain at 31 Wheat Road, Darling Harbour.

The modification application has been lodged by Greateon Development (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Applicant seeks to relocate 56 visitor bicycle spaces in the surrounding public domain, consistent with Placemaking NSW's (PMNSW) draft Darling Harbour Cycling Strategy.

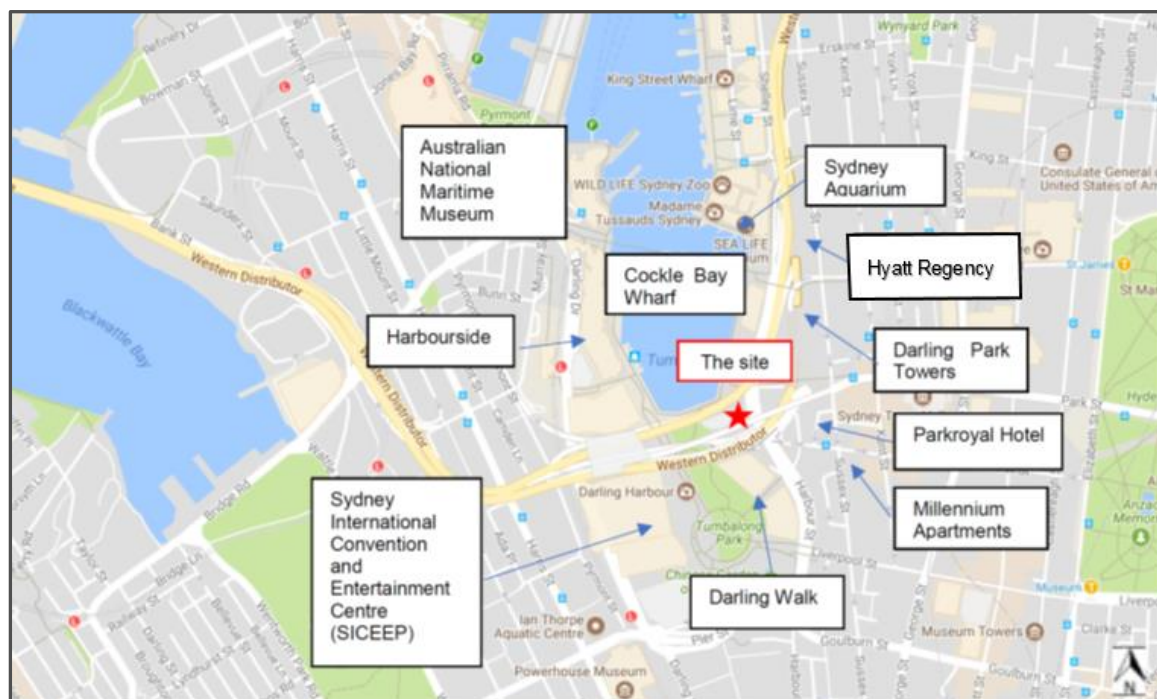
## 1.1 Background

The site is known as 31 Wheat Road, Darling Harbour and has an area of 10,885 m<sup>2</sup>. The site is located at the southern end of Darling Harbour between the two-elevated east-west roadways of the Western Distributor.

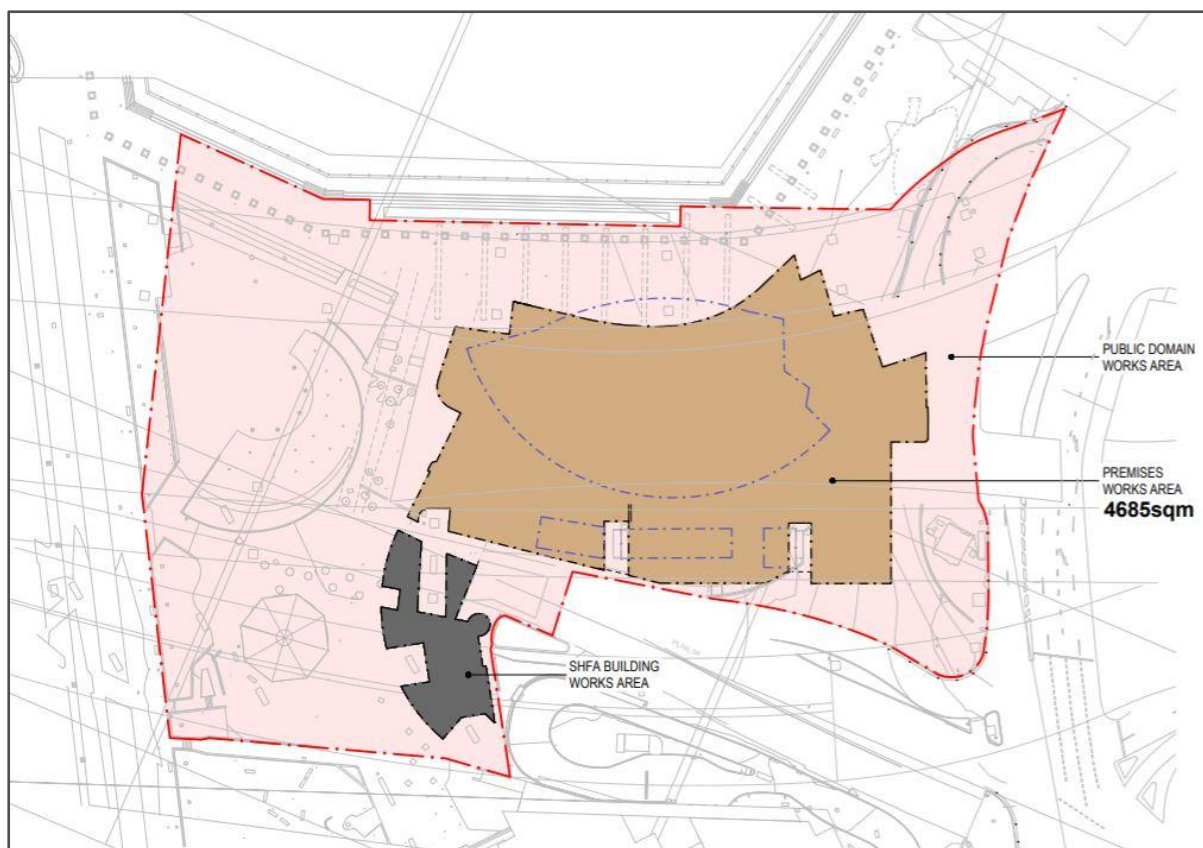
The site adjoins the Darling Harbour public domain to the north and west, Darling Quarter public domain to the south, and fronts Harbour Street and Wheat Road to the east.

The surrounding area contains a diverse mix of commercial, residential, retail, entertainment and tourist uses including the International Convention Centre (ICC) Sydney, Harbourside Shopping Centre, Cockle Bay Wharf and Darling Walk/Quarter (**Figure 1**).

The site is located within the City of Sydney local government area (LGA).



**Figure 1 | Site Location** (Base source: Nearmap)



**Figure 2 |** Site boundary including public domain works area (red line) and building footprints (Source: Applicant's architectural drawings)

## 1.2 Approval history

### SSD 7388 and Modifications

On 16 June 2016, the Planning Assessment Commission (the Commission) granted Development Consent to SSD 7388 for the redevelopment of the IMAX building (**Figure 2**), including:

- development of the existing IMAX building, tourist office and amenities block
- construction of a new 25-storey building and separate 2-storey building
- hotel, serviced apartments, retail and entertainment uses
- 170 car parking spaces within the podium and 239 bicycle spaces at the ground level
- realignment of Wheat Road
- upgrade of the surrounding public domain including a new playground and relocation of heritage items
- installation of a City Screen and signage zones.

The number of bicycle spaces was reduced from 239 to 208 spaces in MOD 3, including 176 spaces to be provided in the public domain.

The consent has been modified on eight occasions and one other modification is currently under assessment, as set out in **Table 1**. Three modification applications have been withdrawn.

**Table 1 | Summary of Modifications**

| Mod No.       | Summary of Modifications                                                                                                                                                                                   | Status                        |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| <b>MOD 1</b>  | Modification to the staging of construction                                                                                                                                                                | Withdrawn                     |
| <b>MOD 2</b>  | Modification to the staging of construction                                                                                                                                                                | Withdrawn                     |
| <b>MOD 3</b>  | Internal and external amendments to the building at podium level, increase GFA (from 54,725m <sup>2</sup> to 52,060m <sup>2</sup> ), reduce the eastern footpath width and modify bicycle parking.         | Approved<br>2 November 2017   |
| <b>MOD 4</b>  | Modification of construction hours                                                                                                                                                                         | Approved<br>9 November 2017   |
| <b>MOD 5</b>  | Modification to reduce the number of serviced apartments (from 159 to 143), increase hotel rooms (from 402 to 450) and reduce GFA (from 52,060m <sup>2</sup> to 51,703 m <sup>2</sup> )                    | Approved<br>10 November 2017  |
| <b>MOD 6</b>  | Modification to amend the tower form and glazing fenestration, internal amendments at all levels, reduce GFA from 51,703m <sup>2</sup> to 50,731m <sup>2</sup> (-972m <sup>2</sup> ) and new signage zones | Approved<br>19 December 2019  |
| <b>MOD 7</b>  | Modification to create an open roof above the level 21 and 22 pool and bar area and allow use of balconies and operable louvres above 60m                                                                  | Approved<br>12 September 2019 |
| <b>MOD 8</b>  | Modification to amend the internal layout of the approved IMAX cinema. Reduce retail GFA on level 1 from 671m <sup>2</sup> to 582m <sup>2</sup> (-89m <sup>2</sup> )                                       | Approved<br>18 June 2019      |
| <b>MOD 9</b>  | Modification to construction hours                                                                                                                                                                         | Withdrawn                     |
| <b>MOD 10</b> | Modification to amend the layout design and shape of the Property NSW building and public domain, widen Wheat Road adjacent to eastern forecourt and increase of 35 m <sup>2</sup> GFA                     | Approved<br>30 April 2020     |
| <b>MOD 12</b> | Replacement of City Screen and amendments to signage zones                                                                                                                                                 | Approved<br>14 May 2021       |
| <b>MOD 13</b> | Design amendments, including to retail tenancies and wet areas                                                                                                                                             | Under Assessment              |

### Other applications on the site

Three other applications have been made on the site as set out in **Table 2**. None of these approvals are affected by or relevant to the proposed modification.

**Table 2 | Summary of other applications**

| Application     | Development Description                                                                                                                                                                                                                            | Approval Date                                          |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| <b>SSD 5397</b> | A mixed-use office / commercial development for demolition of the existing IMAX building, tourist office and amenities block and construction of a new 20 storey building and separate 2 storey building for office, retail and entertainment use. | Approved 16 June 2014. Not implemented and now lapsed. |
| <b>SSD 8838</b> | Fit out and operation of the hotel and serviced apartments within The Ribbon building.                                                                                                                                                             | 28 February 2019                                       |
| <b>SSD 8839</b> | Fit out and operation of the IMAX cinema within The Ribbon building.                                                                                                                                                                               | 12 September 2019                                      |

## 2 Proposed modification

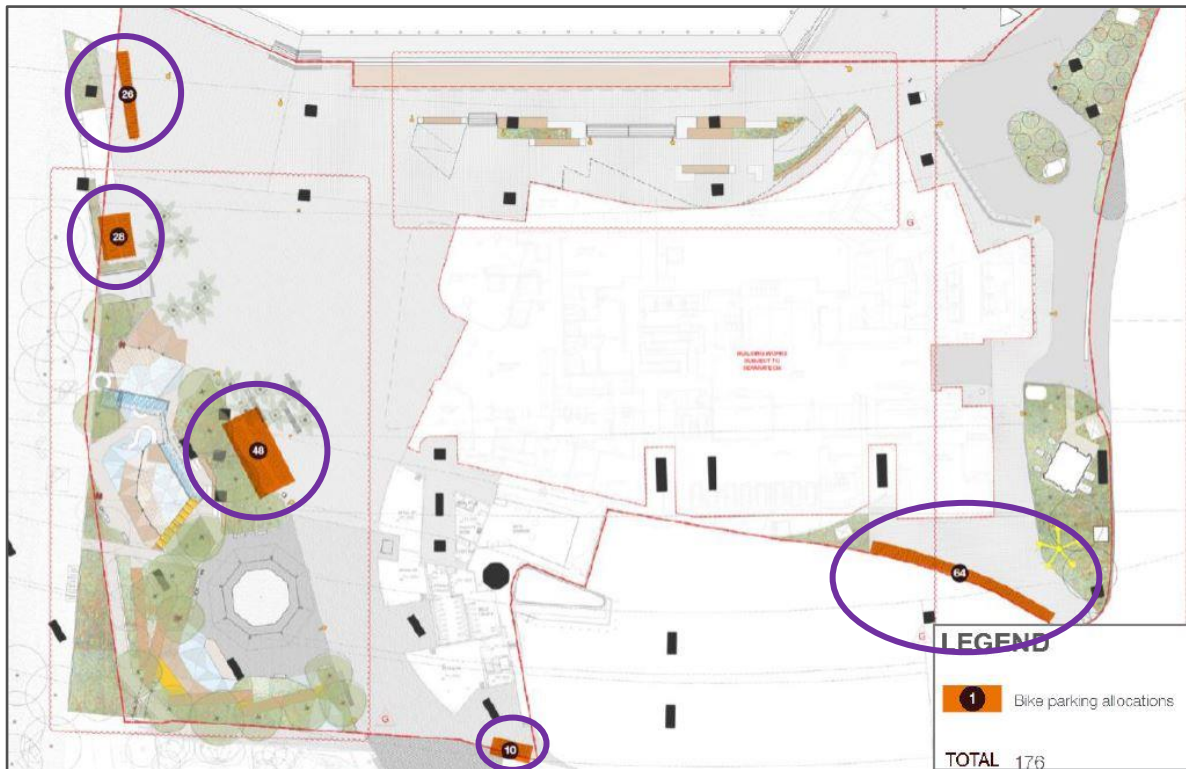
The Applicant seeks approval to amend Condition B10 to relocate 56 visitor bicycle parking spaces on site which would reduce the total number of spaces on site from 176 to 120. The remaining 120 spaces would principally be located within the same locations in the public domain areas of the site, although 46 spaces would be redistributed within the south-west portion of the site (**Figure 3**).

The 56 bicycle parking spaces would be installed by PMNSW in the surrounding public domain (outside the subject site), in accordance with the draft Darling Harbour Cycling Strategy (draft Strategy).

No amendment is proposed to the requirement in Condition B10 for a minimum of 32 bicycle parking spaces within the ground floor level of the podium.

The Applicant contends the modification is justified on the following grounds:

- it is consistent with the draft Darling Harbour Cycling Strategy and in the public interest
- it would not preclude the development's ability to achieve a 5 Green Star Rating
- the development would remain substantially the same as that approved
- it would not alter the consistency of the development with any Environmental Planning Instrument
- it is minor considering the overall size and scale of the development.



**Figure 3 |** 176 approved (top) and 120 proposed (bottom) bicycle parking locations on site (circled purple) (Base source: Public Domain Plan)

## 3 Statutory context

### 3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification involving minimal environmental impacts as it:

- would not increase the environmental impacts of the project as approved
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. An assessment against the requirements of section 4.55(1A) of the EP&A Act is provided in **Appendix B**.

### 3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority under section 4.5(a) of the EP&A Act. However, in accordance with the Minister's delegation, the Team Leader, Key Sites Assessments, may determine this application as:

- a political disclosure statement has not been made
- there are no public submissions (other than a Council) in the nature of objections
- Council has not made a submission by way of objection.

### 3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(1A) of the EP&A Act, including environmental planning instruments or proposed instruments
- EP&A regulation
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts
- suitability of the site
- any submissions
- the public interest
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 5** and **Appendix B**.

## 4 Engagement

### 4.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact.

Accordingly, the application was not notified or advertised. However, the Department made the application publicly available on its website on 3 March 2021, and referred it to City of Sydney Council (Council) for comment.

Council stated that the provision of some of the visitor bicycle parking spaces in the broader precinct as part of a coordinated plan, with 120 spaces remaining within the site, will likely result in a better outcome that makes bicycle parking more accessible to a wider range of visitors.

The Department has also consulted with PMNSW, which has committed to delivering the 56 spaces within 18 months of the finalisation of its draft Strategy.

No public submissions were received.

### 4.2 Additional information

The Applicant provided additional information on 22 April 2021, advising that PMNSW's draft Strategy accommodates the reduction of visitor bicycle parking to 120 spaces and it is expected to be finalised in June/July 2021.

The Applicant provided further additional information on 25 May 2021, stating that it has accepted PMNSW's commitment to install 56 bicycle parking spaces within 18 months in accordance with the recommendations contained in the final endorsed Strategy.

## 5 Assessment

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

- the modification application and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of approval for the original application (as modified)
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act and Regulation
- all submissions received on the proposal.

The proposal seeks to reduce the number of visitor bicycle parking spaces on site from 176 to 120. These spaces would be offset by the provision of 56 bicycle parking spaces in the surrounding public domain (outside the subject site) as part of PMNSW's draft Strategy.

The remaining 120 spaces would principally be located within the same locations on site, however 46 spaces would be redistributed within the south-west portion of the site.

The Department has consulted with PMNSW, which supports the proposed modification and has committed to installing 56 bicycle parking spaces within 18 months of the finalisation of the draft Strategy. The Applicant confirmed it accepts PMNSW's commitment.

The Department has assessed the merits of the proposal and is satisfied it is acceptable as:

- an adequate amount of bicycle parking spaces would continue to be provided in the surrounding public domain and would be more accessible to a wider range of visitors, rather than concentrated in the subject development
- the 56 relocated spaces would be provided in accordance with PMNSW's draft Strategy
- Council advised it would result in a better bicycle parking outcome
- a minimum of 32 bicycle parking spaces within the ground floor level of the podium would be retained.

The Department supports PMNSW's commitment to install the spaces, however considers it is the Applicant's obligation as the developer of the site.

The Department therefore recommends amending Condition B10 to ensure the 56 bicycle parking spaces are provided by the Applicant off site within the public domain (in consultation with PMNSW) in accordance with the recommendations contained in the final endorsed Strategy.

The Department recommends the spaces be provided in a timely manner (within 18 months of the determination of MOD 11), with location details to be provided to the Planning Secretary within two weeks of their installation.

The Department therefore concludes the proposed amendments are acceptable, subject to the recommended amended conditions.

## 6 Evaluation

The Department has reviewed the modification application and all additional information, including comments from Council and the relevant government agencies, and assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act.

The Department is satisfied the proposed modification is acceptable as:

- it would ensure an adequate amount of bicycle parking continues to be provided in the surrounding public domain that is more accessible to a wider range of visitors and in accordance with the Darling Harbour Cycling Strategy
- Council and PMNSW support the changes
- it would not result in any additional impacts beyond those already assessed and approved
- it would remain substantially the same development.

Consequently, the Department considers the modification is in the public interest and should be approved, subject to the recommended modified conditions of consent.

## 7 Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 7388 MOD 11 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent SSD 7388
- **signs** the attached approval of the modification (**Appendix C**).

**Recommended by:**

A handwritten signature in blue ink, appearing to read 'KF', is positioned above the name Karl Fetterplace.

**Karl Fetterplace**

Senior Planning Officer

Key Sites Assessments

## 8 Determination

The recommendation is **adopted / not adopted** by:

A handwritten signature in blue ink, appearing to read 'CS', is positioned above the name Cameron Sargent.

**Cameron Sargent**

Team Leader

Key Sites Assessments

(as delegate of the Minister for Planning and Public Spaces)

28/5/2021

# Appendices

## Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department's website as follows:

1. Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41361>

2. Submissions on Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41361>

3. Applicant's Additional Information

<https://www.planningportal.nsw.gov.au/major-projects/project/41361>

## Appendix B – Statutory considerations

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

**Table 1 |** Consideration of section 4.55(1A) of the EP&A Act

| Section 4.55(1A)                                                                                                                                                                                                       | Assessment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The proposed modification is of minimal environmental impact                                                                                                                                                           | The potential environmental impacts arising from the proposed modification are minor in nature ( <b>Section 5</b> ).                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| The development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified. | <p>The development, as proposed to be modified, is substantially the same development as that originally approved in that:</p> <ul style="list-style-type: none"> <li>adequate bicycle parking would continue to be provided</li> <li>it would not result in any change to the use of the site, or intensity of the use</li> <li>the proposed modifications are minor in the context of the scale of the development</li> <li>the anticipated environmental impacts arising from the proposed modifications are consistent with those of the approved development.</li> </ul> |
| The application has been notified in accordance with the regulations.                                                                                                                                                  | The application is not required to be notified in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation) ( <b>Section 4</b> ).                                                                                                                                                                                                                                                                                                                                                                                                    |
| Any submission made concerning the proposed modification has been considered.                                                                                                                                          | All submissions received are summarised in <b>Section 4</b> and the issues raised have been considered in <b>Section 5</b> of this report.                                                                                                                                                                                                                                                                                                                                                                                                                                    |

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 2** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification.

**Table 2 |** Consideration of the matters listed under Section 4.15(1) of the EP&A Act

| Section 4.15(1) Matters for consideration    | The Department's assessment                                                                                                                                                                                                                                           |
|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a)(i) any environmental planning instrument | The proposed modification is consistent with the relevant Environmental Planning Instruments (EPIs) as addressed below.                                                                                                                                               |
| (a)(ii) any proposed instrument              | The proposed modification is consistent with the relevant proposed EPIs as addressed below.                                                                                                                                                                           |
| (a)(iii) any development control plan        | Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.                                                                                                                                                                                |
| (a)(iiia) any planning agreement             | Not applicable.                                                                                                                                                                                                                                                       |
| (a)(iv) the regulations                      | The application satisfactorily meets the relevant requirements of the EP&A Regulation 2000, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) ( <b>Section 4</b> ). |

|                                                                                                                                                                         |                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| (b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, | The likely impacts of the modification are acceptable and have been appropriately addressed ( <b>Section 5</b> ).                          |
| (c) the suitability of the site for the development                                                                                                                     | The site is suitable for the development ( <b>Section 5</b> ).                                                                             |
| (d) any submissions                                                                                                                                                     | All submissions received are summarised in <b>Section 4</b> and the issues raised have been considered in <b>Section 5</b> of this report. |
| (e) the public interest                                                                                                                                                 | The proposed modification is in the public interest.                                                                                       |
| Reasons given by the consent authority for the grant of the consent that is sought to be modified                                                                       | The Department has considered the reasons given by the consent authority for the grant of the consent ( <b>Section 5</b> ).                |

## Environmental Planning Instruments

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Advertising and Signage) (SEPP 64)
- State Environmental Planning Policy No. 55 – Remediation of Land
- Draft State Environmental Planning Policy for the Remediation of Land
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Draft State Environmental Planning Policy (Environment)
- Darling Harbour Development Plan No. 1.

The Department undertook a comprehensive assessment of the proposal against relevant EPIs in its original assessment. Due to the minor nature of the modification application, the Department is satisfied the application remains consistent with EPIs.

## Objects of the Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

## **Appendix C – Notice of modification**

The Notice of Modification can be found at the Department's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/project/41361>