



IMAX Darling Harbour

*State Significant
Development
Modification Assessment
(SSD 7388 MOD 7)*



July 2019

© Crown Copyright, State of NSW through its Department of Planning, Industry and Environment 2019

Cover photo

Perspective view looking southwest from Darling Harbour (Source: Applicant's Environmental Assessment)

Disclaimer

While every reasonable effort has been made to ensure this document is correct at time of printing, the State of NSW, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance or upon the whole or any part of this document.

Copyright notice

In keeping with the NSW Government's commitment to encourage the availability of information, you are welcome to reproduce the material that appears in The IMAX Darling Harbour Modification Assessment Report. This material is licensed under the Creative Commons Attribution 4.0 International (CC BY 4.0). You are required to comply with the terms of CC BY 4.0 and the requirements of the Department of Planning, Industry and Environment. More information can be found at: <http://www.planning.nsw.gov.au/Copyright-and-Disclaimer>.



Glossary

Abbreviation	Definition
BCA	Building Code of Australia
Consent	Development Consent
Council	City of Sydney Council
CCT	Cross City Tunnel
Department	Department of Planning, Industry and Environment
EA	Environmental Assessment
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
TCCT	Transurban Cross City Tunnel
TfNSW	Transport for NSW
Transport for NSW (RMS)	Transport for NSW (Roads and Maritime Services)



1. Introduction

1.1 Preamble

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

The modification application seeks approval to create an open roof above the level 22 and 23 swimming pool and bar area of The Ribbon hotel.

The application has been lodged by Grocon, Darling Harbour (the Applicant) pursuant to clause 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Background

The site, known as 31 Wheat Road, Darling Harbour previously contained the former IMAX theatre building, a tourist information centre and public amenities. These buildings have now been demolished and the approved Ribbon building is under construction. The site is located at the southern end of Darling Harbour between the two-elevated east-west roadways of the Western Distributor. It 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 (**Figure 1**).

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

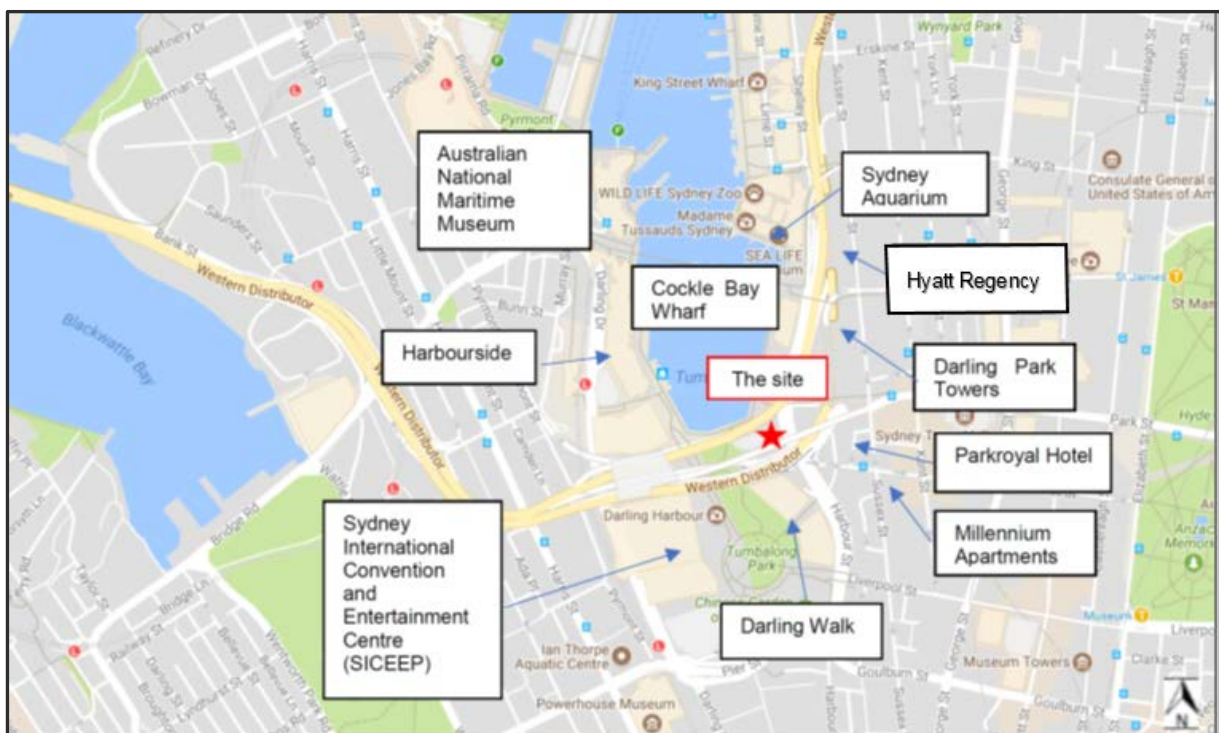


Figure 1 | Site Location (base source: Nearmap)

The site has a total area of 10,885 m² and comprises:

- 4,672 m² accommodating the approved development called The Ribbon (blue line in **Figure 2**)

- a “zone of influence” which includes the surrounding public domain and landscaping works associated with The Ribbon development (red line in **Figure 2**)
- air space over Harbour Street (red line in **Figure 3**).



Figure 2 | Site boundary (red line) including approved building footprint of The Ribbon development (blue line)
(source: Applicant’s architectural drawings)

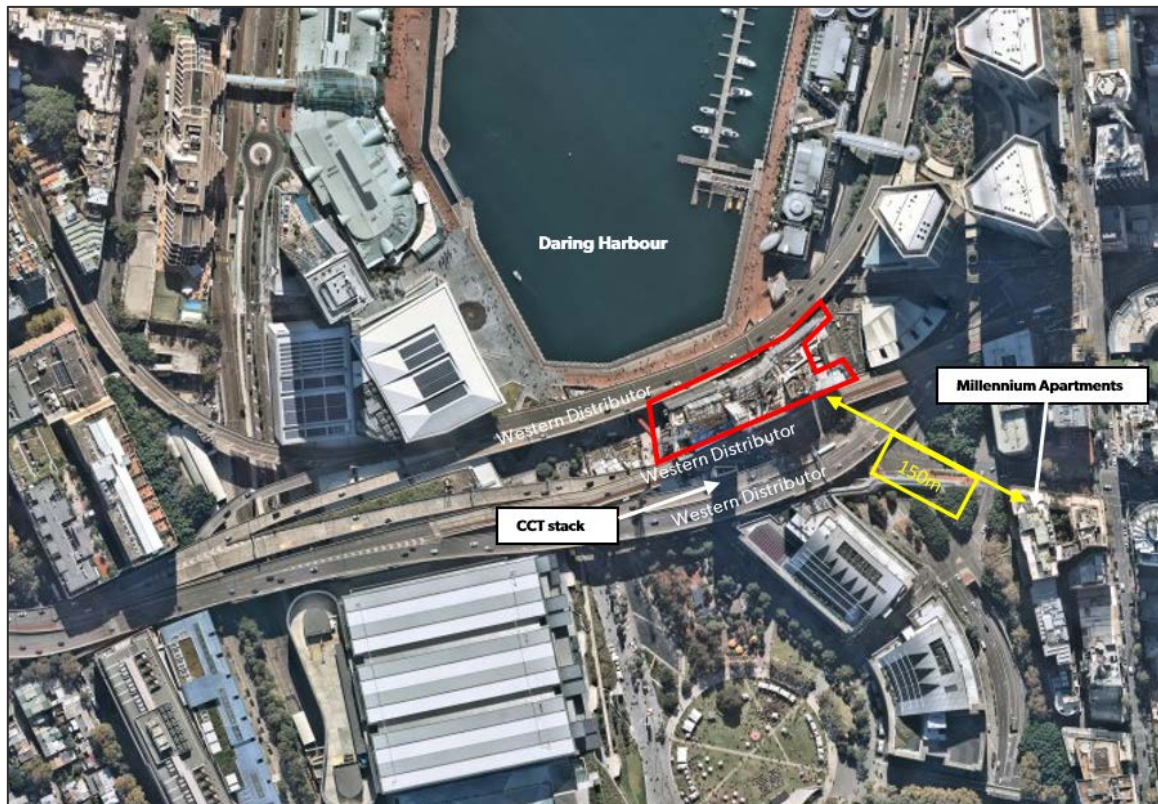


Figure 3 | Aerial view of The Ribbon building footprint above podium level, including airspace over Harbour Street (Base source: Nearmap)

The surrounding area contains a diverse mix of commercial, residential, retail, entertainment and tourist uses. To the north-west and south-west is the International Convention Centre (ICC) Sydney. To the north-west is Harbourside Shopping Centre, to the north-east Cockle Bay Wharf complex and to the south Darling Walk/Quarter. To the east lies the Sydney Central Business District (CBD), Parkroyal Hotel, Millennium Towers residential building and Darling Park commercial buildings (**Figure 1**).

1.3 Approval History

On 16 June 2014, the former Planning Assessment Commission (Commission) granted development consent (SSD 5397) for 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.

On 28 June 2016, the Commission granted development consent for a further SSD application (SSD 7388) at the site for a mixed-use hotel / retail development comprising demolition of the existing IMAX building, tourist office and amenities block, construction of a new 25-storey building and separate 2-storey building for hotel, serviced apartments, retail and entertainment uses.

The Applicant is currently constructing the building pursuant to the second development consent (SSD 7388).

In addition to the subject application (MOD 7), the development consent has been modified on six occasions, with two modifications (MOD 1 and MOD 2) withdrawn (**Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Modification to the staging of construction	N/A	96 (1A)	Withdrawn
MOD 2	Modification to the staging of construction	N/A	96 (1A)	Withdrawn
MOD 3	Internal and external amendments to the building at podium level, increase GFA (from 54,725m ² to 52,060m ²), reduce the eastern footpath width and modify bicycle parking.	Department	96 (2)	2 November 2017
MOD 4	Modification of construction hours	Department	96 (1A)	9 November 2017
MOD 5	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 ² to 51,703 m ²)	Department	96 (1A)	10 November 2017
MOD 6	Modification to amend the tower form and glazing fenestration, internal amendments at all levels, reduce GFA from 51,703m ² to 50,731m ² (-972m ²) and new signage zones	Department	4.55(2)	19 December 2019
MOD 8	Modification to amend the internal layout of the approved IMAX cinema. Reduce retail GFA on level 1 from 671m ² to 582m ² (-89m ²)	Department	4.55(1A)	18 June 2019

1.3.1 Other relevant applications

On 28 February 2019 the Executive Director, Key Sites and Industry Assessments approved an SSD application (SSD 8838) for the fit out and operation of the hotel and serviced apartment components of the building. This application approved 24-hour operation of the hotel.

The Department is concurrently assessing a separate SSD application (SSD 8839) for the fit out and operation of the IMAX cinema.



2. Proposed Modification

2.1 Description of proposed modification

On 31 January 2019, the Applicant lodged a modification application (SSD 7388 MOD 7) seeking to amend the approved building under section 4.55 (1A) of the EP&A Act. The modification seeks to:

- create an open roof over the level 22 and 23 pool and bar area (**Figures 4 and 7**) including installation of internal Nitrogen Dioxide (NO₂) monitoring equipment and alarm system (**Figures 5 and 6**).
- allow the use of balconies, terraces and operable windows above a height of 60m above ground level (Condition B30)
- allow operable roof louvres to be opened outside of scheduled maintenance and repairs (Condition F2).

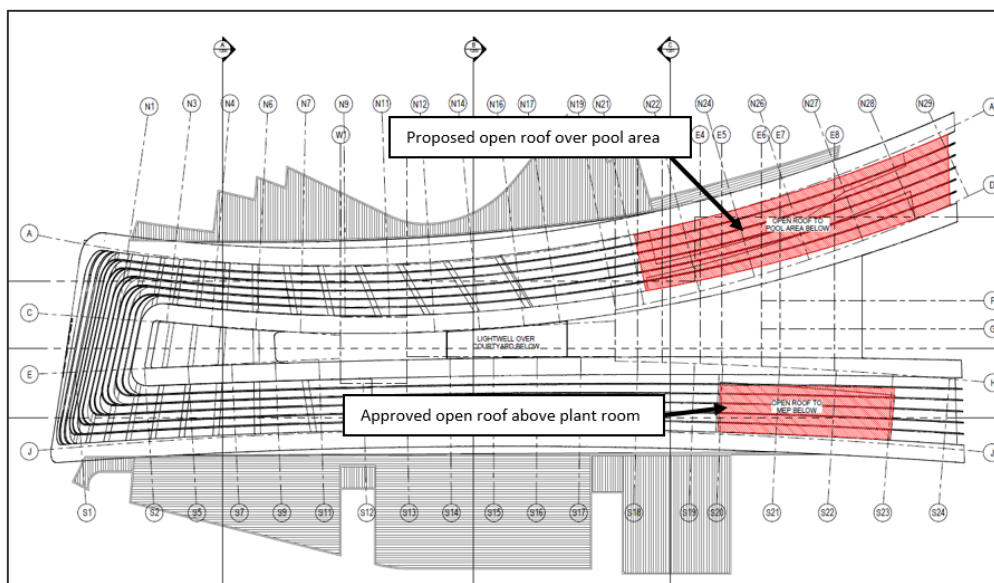


Figure 4 | Roof plan showing proposed open roof area above level 22 pool area (Base source: Applicant's Architectural drawings).

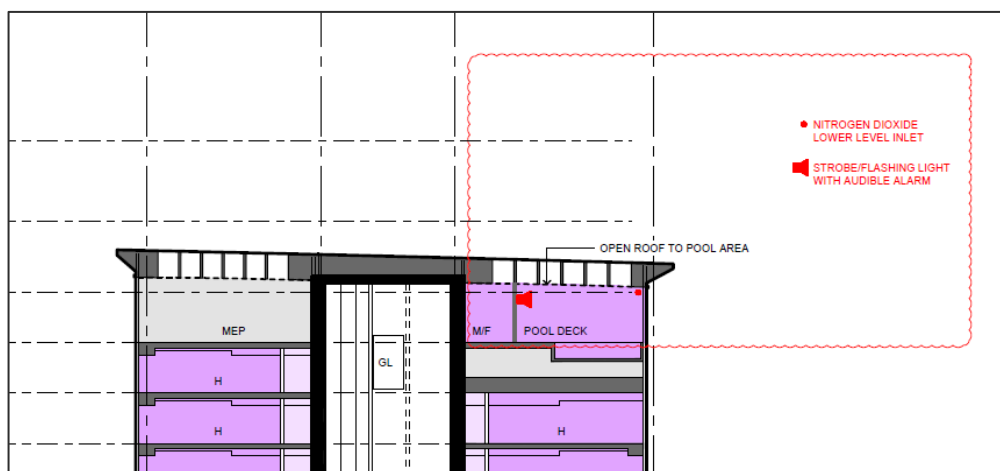


Figure 5 | Section showing proposed open roof area above the level 22 and 23 pool and bar area and location of NO₂ monitors and alarm (Source: Applicant's Architectural drawings).

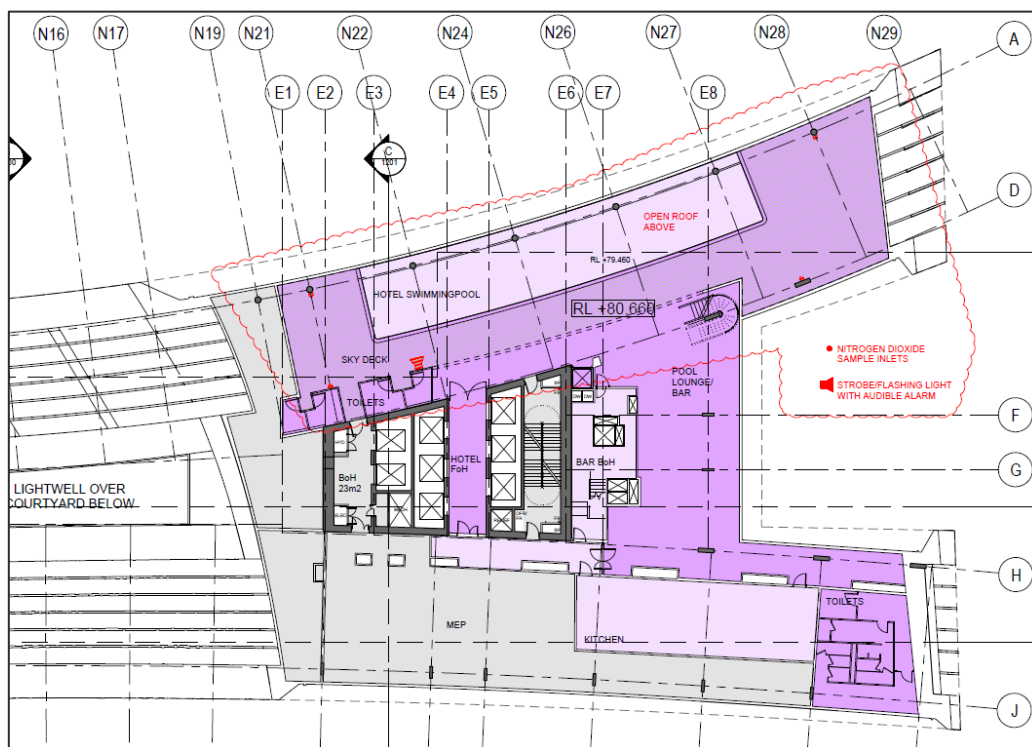


Figure 6 | Level 22 plan showing location of NO₂ monitors and alarm (Source: Applicant's Architectural drawings).

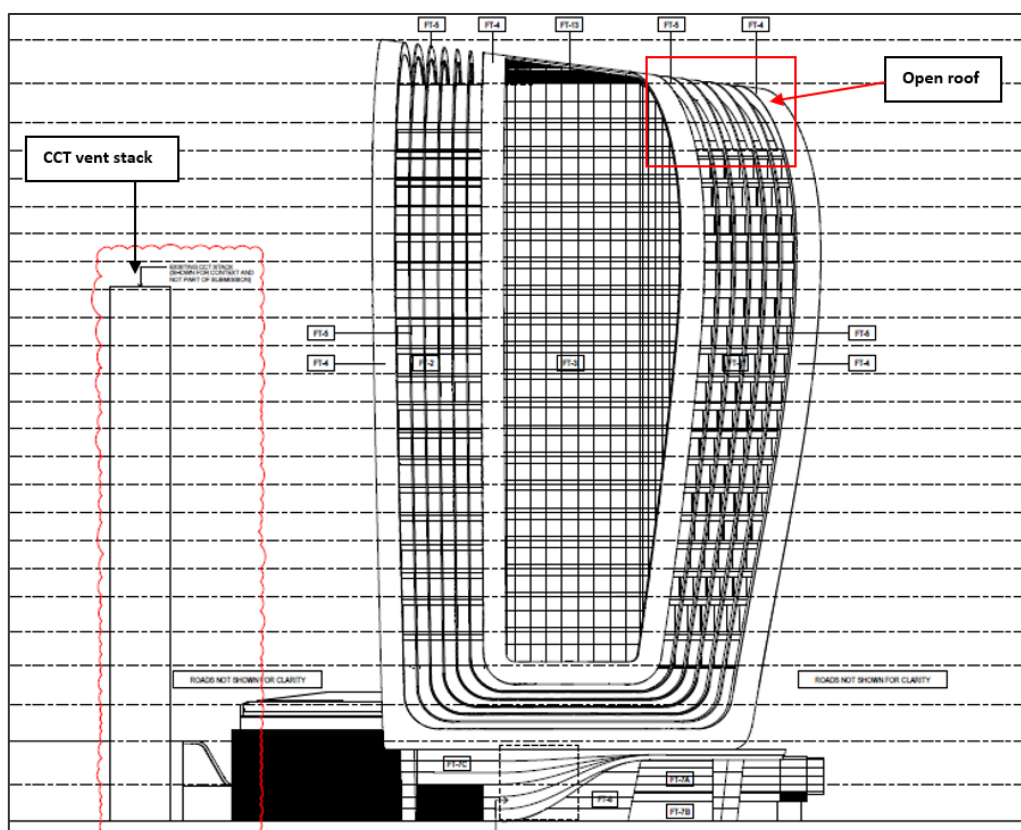


Figure 7 | Proposed north elevation showing open roof and location of Cross City Tunnel (CCT) vent stack (Base source: Applicant's Architectural drawings).



3. Strategic Context

3.1 Greater Sydney Regional Plan and Eastern District City Plan

The Greater Sydney Commission (GSC) has prepared The Greater Sydney Region Plan to provide a 40-year vision for a metropolis of three cities; an Eastern Harbour City, the Western Parkland City and the Central River City, that will rebalance growth and deliver its benefits more equally and equitably to residents across Greater Sydney.

The Department considered the original proposal to be consistent with the Region Plan, as it supports productivity through growth in jobs within the Harbour CBD. Due to the minor nature of the proposed modifications the Department considers the proposal to remain consistent with the Region Plan.

The Precinct is located within the Eastern City District area and is consistent with the objectives of the Eastern City District Plan. The Department considered the original proposal will contribute to a stronger and more competitive Harbour CBD (Planning Priority E7), deliver integrated land use and transport planning and a '30-minute city' (Planning Priority E10) and grow investment, business opportunities and jobs within the Harbour CBD (Planning Priority E11). Due to its minor nature, the proposed modification is considered to remain consistent with the District Plan.

3.3 Sustainable Sydney 2030

Sustainable Sydney 2030 sets out City of Sydney's vision to make Sydney a more global, green and connected metropolis by 2030.

In its original assessment, the Department considered the proposal would contribute to the strategic directions in Sustainable Sydney 2030, as it will deliver a growth in jobs and enhance tourism infrastructure assets and the branding of the city (Strategic Direction 1). Due to its minor nature, the proposed modification is considered to remain consistent with the strategic directions in Sustainable Sydney 2030.

3.4 Visitor Economy Industry Action Plan

The Visitor Economy Industry Action Plan 2030 (VEIAP) seeks to more than triple 2009 expenditure by 2030. The Plan identifies six focus areas aimed at growing the NSW visitor economy beyond 2020. The key focus areas relevant to the proposed modification identified in the VEIAP include:

- support, bolster and encourage the visitor economy (Focus 5)
- make opportunities to support growth (Focus 6).

The proposal supports the VEIAP through private investment in a unique 6-star hotel development which will support the revitalisation of the hotel and overnight visitor accommodation within the Harbour CBD and tourist district of Sydney.



4. Statutory Context

4.1 Scope of Modifications

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

- would not increase the environmental impacts of the project as approved
- is substantially the same development as originally approved
- would not involve any further disturbance outside the project approved disturbance areas.

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. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged. The matters for consideration under section 4.55(1A) of the EP&A Act that apply to the modification have been considered in **Table 2**.

Table 2 | Consideration of proposed modification against Section 4.55(1A) of the EP&A Act

Section 4.55(1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	Section 6.1 of this report provides an assessment of the impacts associated with the modification application. The Department is satisfied that the proposed modification will have minimal environmental impacts.
b) that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The modification application seeks to amend the approved building to introduce an open section of roof above the level 22 and 23 pool area, and therefore results in development that is substantially the same as the originally approved development.
c) the application has been notified in accordance with the regulations, and	The modification application has been notified in accordance with the EP&A Regulations. Details of the notification are provided in Section 5.1 of this report.
d) any submission made concerning the proposed modification has been considered.	The Department received one submission on the proposal, summarised in Section 5 and the issues raised in the submission have been considered in Section 6.1 of this report.

4.2 Consent Authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5 (a) of the Act.

The Minister's delegate as consent authority

However, under the Minister's delegation dated 11 October 2017, the Executive Director, Key Sites and Industry Assessments may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made

- there are less than 25 public submissions in the nature of objections.

4.3 Environmental Planning Instruments

The following environmental planning instruments (EPIs) are relevant to the application:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Darling Harbour Development Plan No. 1.

The Department undertook a comprehensive assessment of the development against the above-mentioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the modification remains consistent with these EPIs.

4.4 Objects of the EP&A 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.



5. Engagement

5.1 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 s4.55(1A) SSD applications. Accordingly, the modification application was not exhibited. However, it was made publicly available on the Department's website on 30 January 2019, and referred to City of Sydney Council and relevant government agencies, including:

- Transport for NSW (RMS) (formerly Roads and Maritime Services)
- Transport for NSW (TfNSW)
- Environmental Protection Agency (EPA)
- Property NSW
- Sydney Aviation Corp Ltd
- Sydney Observatory
- Government Architect (GA) NSW.

5.2 Summary of Submissions

The Department received submissions from TfNSW and Transport for NSW (RMS).

One public submission was received.

Council advised they had no comment.

A link to the submissions may be viewed at **Appendix A**.

5.3 Key Issues – Government Agencies

Table 3 | Government agency advice

TfNSW

TfNSW did not object to the proposal and advised that the Construction Pedestrian and Traffic Management plan approved under SSD 7388 should be updated to reflect the revised proposal.

Transport for NSW (RMS)

Transport for NSW (RMS) did not object to the proposal and provided comments in relation to:

- Condition B30 should not be amended to allow the use of operable windows and balconies above 60 m, due to the proximity of the site to the Western Distributor
- clarification regarding the pollutant measurements within the Air Quality Assessment
- the plan of management for the pool area references NO_x rather than NO₂
- the action levels in the proposed plan of management and the air quality report should be clarified to ensure both are based on total ambient concentrations of NO₂.

Transport for NSW (RMS) also raised concerns on behalf of the operator of the Cross-City Tunnel, Transurban (TCCT) who sought the following clarifications:

- rationale for the location of the proposed air quality sensors

- additional detail of management procedures including the protocol for reopening the pool area following closure
- supervisory personal should be present during pool opening hours
- instrument calibration records for air quality sensors should be made available on a quarterly basis to TCCT
- TCCT cannot be held responsible for impacts resulting from compromised air quality at the hotel resulting from and accidents or emergencies within the tunnel
- TCCT would not accept any liability for impacts to the hotel or hotel customers.

5.4 Key Issues – Council and Community

5.4.1 Council - key issues

Council advised that it would not be providing comments on the modification.

5.4.2 Community Issues

One submission was received from the community raising concerns in relation to:

- noise resulting from parties, music and the air quality warning system
- 24-hour licensing
- lighting impacts
- curfew for pool use after 10pm.

5.5 Response to Submissions

Following the exhibition of the modification application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in submissions.

On 15 April 2019, the Applicant provided a Response to Submissions (RtS) and additional information on 15 May 2019 (**Appendix A**) which provided clarification and justification on the issues raised during the exhibition, including construction management, noise impacts, air quality, and management and operation of the pool area. In response to concerns raised by Transport for NSW (RMS), the Applicant withdrew the request to delete Condition B30 and suggested rewording of the condition to enable provision of the open roof only.

The RtS was made publicly available on the Department's website and referred to Council and relevant government agencies. Further advice was received from TfNSW and Transport for NSW (RMS). A summary of the issues raised in the submissions is provided at **Table 4** and copies of the submissions may be viewed at **Appendix A**. No public submissions were received.

Table 4 | Government agencies response to the RtS

TfNSW

TfNSW considered the RtS and confirmed it had no further comment.

Transport for NSW (RMS)

Transport for NSW (RMS) considered the RtS and confirmed their concerns in relation to Condition B30 and the air quality assessment had been addressed. Transport for NSW (RMS) advised further that TCCT remained concerned about the impact of the modification to its tunnel operations during emergencies.



6. Assessment

Due to the proximity of the development to the Cross-City Tunnel (CCT) ventilation stack and residential properties to the south, the proposal has the potential to result in environmental impacts to both hotel guests and nearby residents. The Department considers the main assessment issues relate to:

- air quality impacts
- noise impacts.

These issues are discussed in the following sections of this report. Other issues taken into consideration during the assessment are discussed at **Section 6.3**.

6.1 Air Quality Impacts

Air quality was a key consideration in the Department's original assessment due to the proximity of the development to the CCT ventilation stack (located 10 m to the south of the site). The air quality assessment of risk for the site is based on the NSW Environmental Protection Agency (EPA) impact assessment criteria of 246 $\mu\text{g}/\text{m}^3$ for 1-hour average NO_2 . Based on this target and considering the existing background NO_2 of 96 $\mu\text{g}/\text{m}^3$ the prescribed air quality goal at the site is 150 $\mu\text{g}/\text{m}^3$, expressed as a 1-hour maximum.

Condition 274 of the CCT approval requires any development near the ventilation stacks to undertake an Air Quality Assessment (AQA) of potential impacts from the stack plume. The condition provides for two levels of assessment as follows:

- Level 1 – a high level screening assessment (as undertaken in support of the project approval)
- Level 2 – if the building is found to be affected by the stack plume on the basis of the Level 1 assessment, a more advanced Level 2 assessment is required. A variety of models and modelling techniques may be used such as Computational Fluid Dynamics (CFD).

The Level 1 AQA submitted with the project approval identified adverse air quality impacts 60 m above ground level. The Applicant contended that as no openings were proposed or envisioned above 60 m at the time, a Level 2 assessment was not undertaken and the recommended restrictions to openings above 60 m (Conditions B30 and F2) were accepted.

An open roof was proposed as part of SSD 7388 MOD 6. This modification application was supported by a level 2 AQA which used CFD modelling of the CCT ventilation stack. This assessment concluded that air quality impacts above 60 m were acceptable, however TCCT objected on the basis that the open roof could result in unacceptable air quality impacts as:

- the AQA did not adequately account for real-world traffic data including traffic flow, composition, speed or emissions, ventilation system operating parameters, or the stack exhaust temperature
- the likely air quality impacts in an emergency such as a car fire, which would result in large amount of emissions in a short space of time.

As the Applicant was unable to obtain real world traffic and emissions data (held by TCCT) the open roof was withdrawn from the modification.

6.1.1 Current Modification

The current modification application is supported by an updated AQA prepared by ERM consultants. The report includes:

- a review of operational data provided by TCCT
- a comparison of the additional data with assumptions of the previous AQA provided in support of SSD 7388 MOD 6
- the results of dispersion modelling from the CCT ventilation stack.

Based on the updated real-world modelling provided by TCCT, the report identifies that the NO₂ estimate rates are between five to nine times lower than those previously modelled. Based on peak emissions rates, the maximum NO₂ concentrations at the level 22 and 23 pool area are predicted to be significantly below the NSW EPA impact assessment criteria. The report concludes that the use of the open-air pool area would be safe under normal operating conditions and the risk of exceeding the NSW EPA air quality criteria associated with the operation of the pool area is minor.

TCCT raised concerns regarding the impact of the modification to its tunnel operations during an emergency, particularly that TCCT would not be held responsible for impacts to hotel operations or management of hotel patrons resulting from incidents within the CCT affecting air quality.

To ensure the safe operation of the pool area during both normal circumstances and in the event of an incident within the CCT, the Applicant proposes to install NO₂ monitoring equipment within the level 22 and 23 pool area which will inform the monitoring/alarm protocol proposed in the AQA (**Table 5**).

Table 5 | NO₂ warning and alarm protocol recommended in the AQA

NO ₂ concentration above the NSW EPA criteria (260 ug/m ³)	Response
15 minutes	• warning text and email sent to pool area supervisory management.
30 minutes	• warning alarm (strobe) and text/mail sent to pool area supervisory management – to advise patrons to be ready to vacate.
1 Hour	• warning alarm (strobe + audible) advising patrons to evacuate the pool wet deck immediately.

In addition, the Applicant provided a plan of management which includes air quality safety measures for the pool area as follows:

- evacuation procedures in accordance with the recommendations of the AQA (**Table 5**)
- a reoccupation threshold set at NO₂ < 200 ug/m³ over a rolling 1-hour period
- the continuous operation, maintenance and calibration of the NO₂ monitoring equipment
- clearly displayed evacuation signage located within the pool area
- training of the hotel operator and staff to ensure safe egress of patrons during an evacuation, including periodic simulated evacuation procedures.

The Department has carefully considered the Applicant's justification and comments raised in submissions and considers the air quality impacts of the proposal are acceptable as:

- the updated AQA, based on real world data demonstrates the air quality safety of the open roof area during normal operation
- the safety measures proposed in the AQA and plan of management, including NO₂ monitoring and evacuation procedures, are considered sufficient to ensure patron safety in the event of an air quality emergency
- the Department recommends conditions securing:

- o the adoption of the NO₂ monitoring, safety and evacuation protocols identified in the AQA and plan of management
- o instrument calibration records for air quality sensors to be made available on a quarterly basis to TCCT as requested.

The Department is satisfied that the proposed monitoring, evacuation and reoccupation protocols, place the responsibility of air quality safety and management with the hotel operator and are not reliant on TCCT in the event of an incident within the CCT.

The Department notes further that Condition E2 of the fit out approval (SSD 8838) requires the submission of a detailed operational management plan for the hotel (prepared in consultation with Council and NSW police) for the approval of the Secretary prior to occupation of the building. The management plan will be informed by the conditions attached to this modification.

Subject to the above conditions, the Department considers the air quality impacts of the proposed open roof are acceptable.

6.2 Noise Impacts

Concerns were raised in public submissions regarding noise impacts resulting from use of the open roof area, particularly from patrons, amplified music and the air quality warning system.

The fit out and operation of the hotel was approved under SSD 8838 and approved 24-hour operation of the hotel including the level 22 and 23 pool and bar area. Conditions F2 to F8 of the approval restrict operational noise levels at the nearest residential receiver to Background +5dBA from 7am to midnight and Background +0dBA from midnight to 7am.

The modification is supported by a revised Noise Impact Assessment (NIA) prepared by Acoustic Logic dated 15 May 2019, which considers the noise impacts to the nearest sensitive residential receiver (Millennium Towers). The subsequent noise levels are summarised in **Table 6**.

Table 6 | Noise limits at Millennium Towers (SSD 8838)

Time	Existing background noise level dB(A) _{L10}	Operational noise limits imposed by SSD 8838 dB(A) _{L10}	Compliant Noise level dB(A) _{L10}
7:00 am to 6:00 pm	64	+5	69
6:00 pm to 10:00 pm	62	+5	67
10:00 pm to 12:00 am	58	+5	63
12:00 am to 7:00 am	58	+0	58

The NIA recommends the following restrictions to ensure compliance with the existing operational noise conditions of the fit out approval (SSD 8838):

- any speakers are to be installed within a covered area
- patron numbers are to be limited to the following:
 - o between 7am and 12 am: up to 300 patrons within the rooftop area at any one time
 - o between 12 am and 7am: up to 200 patrons within the rooftop area at any one time.
- noise levels from speakers are to be limited to the following sound pressure levels:
 - o between 7am and 12am: 80 dB(A) L10 sound pressure level when measured at 3 m distance from speakers

- o Between 12 am and 7am: 65 dB(A) L10 sound pressure level when measured at 3 m distance from speakers.

In addition to the above measures the modification is supported by a plan of management which proposes the following restrictions:

- closure of the pool and bar area to non-hotel guests after midnight
- onsite management and supervision of the pool and bar area by hotel staff
- requirements for quiet behavior during out of hours access to be developed in the detailed plan of management (required under Condition E2 of SSD 8838).

The Department has carefully considered the concerns raised in public submissions and the Applicant's response and considers the noise impacts are acceptable as:

- the restrictions to patron numbers and speaker sound pressure limits proposed in the NIA will ensure that noise from use of the pool area and/or amplified music is capable of complying with the relevant noise criteria
- access to the pool and bar area will be restricted to hotel guests after midnight
- air quality safety breaches triggering the alarm system are most likely to occur in the case of rare events within the CCT, therefore noise disturbance from the alarm system is likely to be very infrequent
- the operation of the hotel is subject to existing conditions of the hotel fitout approval (Conditions F2 to F8), which stipulate maximum noise limits at the nearest residential receivers.
- the pool area will be licensed and therefore also required to conform with noise limits for licensed venues imposed by the Office of Liquor Gaming and Racing (OLGR), being background +5dBA from 7:00 am to 12:00 am and background +0dBA from 12:00 am to 7:00 am measured at nearest residential receivers
- the Department recommends conditions securing the following:
 - o use of the open roof area to be restricted to hotel guests after midnight
 - o patron numbers using the open roof area to be restricted in accordance with the NIA recommendations
 - o sound pressure limits for speakers within the pool area in accordance with the NIA recommendations.

6.3 Other Issues

Table 7 | Department's assessment of other issues

Issue	Consideration	Recommended Condition
Light disturbance	• Concerns were raised in public submissions regarding light disturbance from the 24 hour use of the swimming pool. • The Department notes that 24-hour operation of the hotel was approved under SSD 8838 and that the proposed open roof will not affect the transmission of internal light from within the development. • The Department notes further that the swimming pool area is located on the opposite (northern) side of the building away from residential receivers to the south.	No additional conditions or amendments to existing conditions necessary.
Licencing	• Concerns were raised in public submission regarding the licensing of the level 22 and 23 pool and bar area. • The Department notes that licensing is regulated under separate legislation. • The Department notes further that Condition E2 of SSD 8838, for the fit out and operation of the hotel, requires a detailed plan of management to be submitted for all licensed areas.	No additional conditions or amendments to existing conditions necessary.

Building
appearance

- The open roof sits below the external vertical louvres of the building shell and will not impact the external appearance of the building.

No additional conditions or amendments to existing conditions necessary.



7. Evaluation

The Department has reviewed the Modification Report, RtS and additional information, and assessed the merits of the proposal, in consideration with the submissions received from government agencies and the public.

The Applicant has demonstrated the proposal remains consistent with the objects of the EP&A Act and the State's strategic planning objectives for the site as set out in the Greater Sydney Region Plan and Eastern City District Plan.

The Department considers the proposed changes are minor in the context of the original development consent. The supporting NIA and AQA confirm that the noise and air quality impacts resulting from the open roof are acceptable and able to comply with relevant standards.

The Department is satisfied the impacts of the proposal can be adequately addressed through the existing conditions of the original development consent and the additional conditions as identified in the report.

The Department's assessment concludes that the proposed modification is appropriate as it:

- is of minimal environmental impact
- would not result in adverse air quality impacts
- would not result in adverse noise impacts.

Consequently, the Department considers the modification application is in the public interest and should be approved, subject to the recommended changes to the existing conditions (**Appendix B**).



8. Recommendation

It is recommended that the Executive Director, Compliance Key Sites and Industry, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the modification application (SSD 7388 MOD 7) falls within the scope 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 approving the modification
- **modifies** the consent SSD 7388
- **signs** the attached Modification of Development Consent (**Appendix B**).

Recommended by:

Emily Dickson

A/ Team Leader
Key Sites Assessments

Recommended by:

David McNamara

Director
Key Sites Assessments



9. *Determination*

The recommendation is: **Adopted by:**

Anthea Sargeant

Executive Director

Compliance Industry and Key Sites



Appendices

Appendix A – Relevant supporting information

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

1. Modification Application
<https://www.planningportal.nsw.gov.au/major-projects/project/11046>
2. Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/11046>
3. Proponent's Response to Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/11046>
4. Supplementary Information and amendments.
<https://www.planningportal.nsw.gov.au/major-projects/project/11046>
5. Associated modifications (MOD 1 to MOD 8)

Appendix B – Modification of Development Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/11046>

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

Executive Director
Compliance Industry and Key Sites

Sydney

2019

SCHEDULE 1

Development consent: SSD 7388 granted by the Planning Assessment Commission on 28 June 2016

For the following:

IMAX redevelopment, including:

- demolition 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 ground level
- realignment of Wheat Road
- upgrade to the surrounding public domain including a new playground and relocation of heritage items
- installation of a City Screen and signage zones.

Applicant: Grocon (Darling Harbour) Developments Pty Ltd

Consent Authority: Minister for Planning and Public Spaces

The Land: 31 Wheat Road, Darling Harbour (including airspace over Harbour Street)

Lots 401, 402, 403, 404 and 405 DP 862501, Lot 800, 801 and 805 DP 1164281, Lot 2, 4 and 9 DP 1048307, Lot 60, 64 and 65 DP 1009964, Lot 11 DP 1125890, Lot 210 and 217 DP 1130038, Lot 8 DP 1048307 and Lot 1010 DP 1147364

Modification: SSD 7388 MOD 7: creation of an open roof above the level 22 and 23 swimming pool and bar area.

SCHEDULE 2

The consent (SSD 7388) is modified as follows:

- (a) Schedule 2 Part A – Administrative and Development Contribution Conditions, Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

A2 The Applicant shall carry out the project generally in accordance with the:

- a) Environmental Impact Statement (EIS) prepared by JBA Urban Planning Consultants Pty Ltd, dated December 2015;
- b) Response to Submissions (RtS) and Amendments to Proposed Development prepared by JBA Urban Planning Consultants Pty Ltd, dated March 2016;
- c) Additional information submitted subsequent to the RtS;
- d) Plan of Management dated 26 April 2016;
- e) following drawings as set out in the table below, except for:
 - i) any modifications which are Exempt or Complying Development;
 - ii) otherwise provided by the conditions of this consent.
- f) Section 96(2) modification application (SSD 7388 MOD 3), prepared by JBA Urban Planning and dated 8 June 2016, as amended by Response to Submissions prepared by Ethos Urban and dated 24 August 2017.
- g) Section 96(1A) modification application (SSD 7388 MOD 4), prepared by JBA Urban Planning and dated 28 June 2017, as amended by Response to Submissions prepared by Ethos Urban and dated 28 August 2017 and updated on 21 September 2017.
- h) Section 96(1A) modification application (SSD 7388 MOD 5), prepared by JBA Urban Planning and dated 31 August 2017, as amended by email and attachments from Ethos Urban and dated 26 October 2017
- i) Section 4.55(2) modification application (SSD 7388 MOD 6), prepared by Ethos Urban and dated 6 April 2018, as amended by Response to Submissions prepared by Ethos Urban and dated 23 August 2018
- j) Section 4.55(1A) modification application (SSD 7388 MOD 8), prepared by Ethos Urban and dated 7 May 2019, and additional information, prepared by Ethos Urban and dated 4 June 2019.
- k) Section 4.55(1A) modification application (SSD 7388 MOD 7), prepared by Ethos Urban and dated 13 December 2018, and additional information, prepared by Ethos Urban and dated 1 April 2019 and 31 May 2019**

Architectural (or Design) Drawings prepared by Hassell			
Drawing No.	Revision	Name of Plan	Date
ARC-HSL-DD-1052	S	GFA Area Schedule	10.04.19
ARC-HSL-DD-1060	G	Draft Lease Plan	12.04.18
ARC-HSL-DD-1078	L	Lease Line Relationship Plans – Sheet 1	05.04.18
ARC-HSL-DD-1079	H	Lease Line Relationship Plans – Sheet 2	26.03.18
ARC-HSL-DD-1079.1	G	Lease Line Relationship Plans – Sheet 3	26.03.18
ARC-HSL-DD-1080	H	Demolition Plan	30.03.16
ARC-HSL-DD-1090	N	Lower Site Plan	05.04.18
ARC-HSL-DD-1091	H	Upper Site Plan	10.8.18
ARC-HSL-DD-1100	S	GA Plans – Ground Floor	10.04.19

ARC-HSL-DD-1101	Q	GA Plans – Podium L01	10.04.19
ARC-HSL-DD-1102	O	GA Plans – Podium L02	10.04.19
ARC-HSL-DD-1103	M	GA Plans – Podium L03	10.04.19
ARC-HSL-DD-1104	M	GA Plans – Podium L04	10.04.19
ARC-HSL-DD-1105	M	GA Plans – Hotel and Serviced Apartments L05 and L06	10.04.19
ARC-HSL-DD-1106	K1	GA Plans – Hotel and Serviced Apartments L07 and L08	12.06.18
ARC-HSL-DD-1107	J1	GA Plans – Hotel and Serviced Apartments L09 and L10	12.06.18
ARC-HSL-DD-1108	J1	GA Plans – Hotel and Serviced Apartments L11 and L12	12.06.18
ARC-HSL-DD-1109	J1	GA Plans – Hotel and Serviced Apartments L13 and L14	12.06.18
ARC-HSL-DD-1110	J1	GA Plans – Hotel and Serviced Apartments L15 and L16	12.06.18
ARC-HSL-DD-1111	J1	GA Plans – Hotel and Serviced Apartments L17 and L18	12.06.18
ARC-HSL-DD-1112	J1	GA Plans – Hotel and Serviced Apartments L19 and L20	12.06.18
ARC-HSL-DD-1112.1	F1 <u>H</u>	GA Plans – Hotel L21 and L22	12.06.18 <u>27.03.19</u>
ARC-HSL-DD-1112.2	G <u>I</u>	GA Plans – Hotel L23 and L24	10.08.18 <u>27.03.19</u>
ARC-HSL-DD-1113	L <u>N</u>	GA Plans – Roof	10.08.18 <u>27.03.19</u>
ARC-HSL-DD-1130	C	Building 2 GA Plans	19.02.16
ARC-HSL-DD-1150	M	GA Elevations – Sheet 1	12.06.18
ARC-HSL-DD-1151	J1 <u>L</u>	GA Elevations – Sheet 2	12.06.18 <u>27.03.19</u>
ARC-HSL-DD-1152	L <u>N</u>	GA Elevations – Sheet 3	12.06.18 <u>27.03.19</u>
ARC-HSL-DD-1153	L <u>N</u>	GA Elevations – Sheet 4	12.06.18 <u>27.03.19</u>
ARC-HSL-DD-1154	E	GA Elevations – Building 2	21.03.16
ARC-HSL-DD-1200	L1	GA Sections – Sheet 1	12.06.18
ARC-HSL-DD-1201	M <u>O</u>	GA Sections – Sheet 2	10.08.18 <u>27.03.19</u>
ARC-HSL-DD-1202	M1	GA Sections – Sheet 3	12.06.18
ARC-HSL-DD-1203	M1	GA Sections – Sheet 4	12.06.18
ARC-HSL-DD-1204	M1 <u>O</u>	GA Sections – Sheet 5	12.06.18 <u>27.03.19</u>
ARC-HSL-DD-1350	E	Section Details	23.10.17
ARC-HSL-DD-1930	F	Materials and Finishes Palette	23.10.17
ARC-HSL-DD-1950	F	Artist's Impression 1	23.10.17

ARC-HSL-DD-1951	F	Artist's Impression 1	23.10.17
ARC-HSL-DD-1952	F	Artist's Impression 1	23.10.17
ARC-HSL-DD-005.1	D	Schedule of Accommodation Hotel Rooms	23.10.17
ARC-HSL-DD-005.2	D	Schedule of Accommodation Serviced Apartments and Retail	23.10.17
SK-029	F	Loading Bay: Refuse Areas	05.04.18
SK-030	G	Refuse Areas Detail	05.04.18
Public Domain / Landscape Drawings prepared by Aspect Studios			
Drawing No.	Revision	Name of Plan	Date
12023-LDA01	G	Public Domain Context Plan	05.05.16
12023-LDA04	G	Playground Detail Plan	05.05.16
12023-LDA06	G	Public Domain Planting Plan	05.05.16
12023-S96 01	A	Public Domain Plan	May 2017
12023-S96 02	A	Public Domain Sections	May 2017
12023-S96 03	A	Eastern Public Domain Detail Plan	May 2017
12023-S96 04	A	Allocated Bike Parking	May 2017
SK530		Eastern Pedestrian Clear Widths	26.03.18
RMS Clearance Diagrams prepared by Hassell			
Drawing No.	Revision	Name of Plan	Date
ARC-HSL-DD1070	L	Ground Floor Proposed Clearances to RMS Roadway Structures	05.04.18
ARC-HSL-DD1071	G	Podium Level Proposed Clearances to RMS Roadway Structures	26.03.18
ARC-HSL-DD1072	F	Hotel Level Proposed Clearances to RMS Roadway Structures	26.03.18
ARC-HSL-DD1073	H	Proposed Clearances to RMS Roadway Structures	26.03.18
ARC-HSL-DD1074	F	Temporary Construction Screen Clearances to RMS Roadway Structures	26.03.18
ARC-HSL-DA1075	H	Temporary Construction Screen Clearances to RMS Roadway Structures	26.03.18
ARC-HSL-DD1076	F	Upper Hotel Levels Cantilever over RMS Roadway	26.03.18
ARC-HSL-DD1077	F	Proposed Cantilever over RMS Roadway	23.10.17
Signage Zone Plans prepared by Hassell			
Drawing No.	Revision	Name of Plan	Date
	G	Signage Matrix	12.10.17
SK026.1	B	Signage Types & Locations South Elevation	18.09.17
SK026.2	B	Signage Types & Locations East Elevation	18.09.17
SK026.3	B	Signage Types & Locations West Elevation	18.09.17
SK026.4	B	Signage Types & Locations North Elevation	18.09.17
SK026.5	E	Signage Types & Locations Building 2 Elevations	18.04.16

General Building Envelope Materials and Finishes Plans prepared by Hassell			
Drawing No.	Revision	Name of Plan	Date
	C	General Building Envelope Materials & Matrix	23.10.17
SK027.1	A	Materials and Finishes View from North-West	23.10.17
SK027.2	A	Materials and Finishes View from South-West	23.10.17
SK027.3	A	Materials and Finishes View from South-East	23.10.17
SK027.4	C1	Materials and Finishes View from North	20.10.2017

- b) Schedule 2 Part B – Prior to issue of Construction Certificate, Condition B26 is amended by the insertion of the **bold and underlined** words as follows:

Air Quality

B30 No balconies, terraces or operable windows shall be incorporated within the building above a height of 60 metres above ground level **except for the open roof above Levels 22 and 23**

- c) Schedule 2 Part F – Post occupation, Condition F2 is deleted by the **bold and struckout** words/numbers as follows:

Operable roof louvres

F2 ~~The operable roof louvres are to remain closed at all times with the exception of when building maintenance units are required to access the building for maintenance and repairs.~~

- d) Schedule 2 Part F – Post Occupation, Condition F9(1) is added by the insertion of the **bold and underlined** words/numbers as follows:

F9 (1) All speakers within the level 22 and 23 swimming pool and bar area are to be located within covered areas and limited to the following maximum sound pressure levels:

(a) Between 7am and Midnight: 80 dB(A) L10 when measured at 3m distance from speakers

(b) Between Midnight and 7am: 65 dB(A) L10 when measured at 3m distance from speakers.

- e) Schedule 2 Part F – Post Occupation, Condition F12 is added by the insertion of the **bold and underlined** words/numbers as follows:

Use of the level 22 and 23 swimming pool and bar area

F12 Use of the level 22 and 23 swimming pool and bar area is restricted to hotel guests only after midnight and total patron numbers restricted as follows:

(a) Between 7am and midnight: not exceeding 300 patrons at any one time.

(b) Between midnight and 7am: not exceeding 200 patrons at any one time.

- f) Schedule 2 Part F – Post Occupation, Condition F13 is added by the insertion of the **bold and underlined** words/numbers as follows:

F13 Noise levels at levels 22 and 23 shall be managed in accordance with the recommendations of the Noise Impact assessment prepared by Acoustic Logic and dated 15 May 2019.

- g) Schedule 2 Part F – Post Occupation, Condition F14 is added by the insertion of the **bold and underlined** words/numbers as follows:

F14 Air Quality monitoring, safety and evacuation procedures are to be undertaken in accordance with the recommendations of the Air Quality Assessment prepared by ERM and dated 3 September 2018, the letter from ERM dated 25 March 2019, and the Ribbon Hotel Plan of Management Revision 6 dated March 2019.

- h) Schedule 2 Part F – Post Occupation, Condition F15 is added by the insertion of the **bold and underlined** words/numbers as follows:

F15 Instrument calibration records from the air quality monitoring equipment located at levels 22 and 23 are to be made available to the operator of the Cross-City Tunnel on request, on a quarterly basis.

End of modification
(SSD 7388 MOD 7)