

IMAX Darling Harbour

*State Significant
Development
Modification Assessment
(SSD 7388 MOD 8)*



June 2019

© Crown Copyright, State of NSW through its Department of Planning and Environment 2018

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 (SSD 7388 MOD 8). 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 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
Department	Department of Planning 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
RMS	Roads and Maritime Services
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development



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 amend the internal layout of the IMAX cinema within The Ribbon building, including:

- reconfigure back of house facilities at ground floor level
- provide additional toilets, an equipment room and communications room on level 01 (with reduced retail GFA of 89m²)
- reconfigure and enlarge the toilets on level 02.

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

1.2 The site

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. 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).

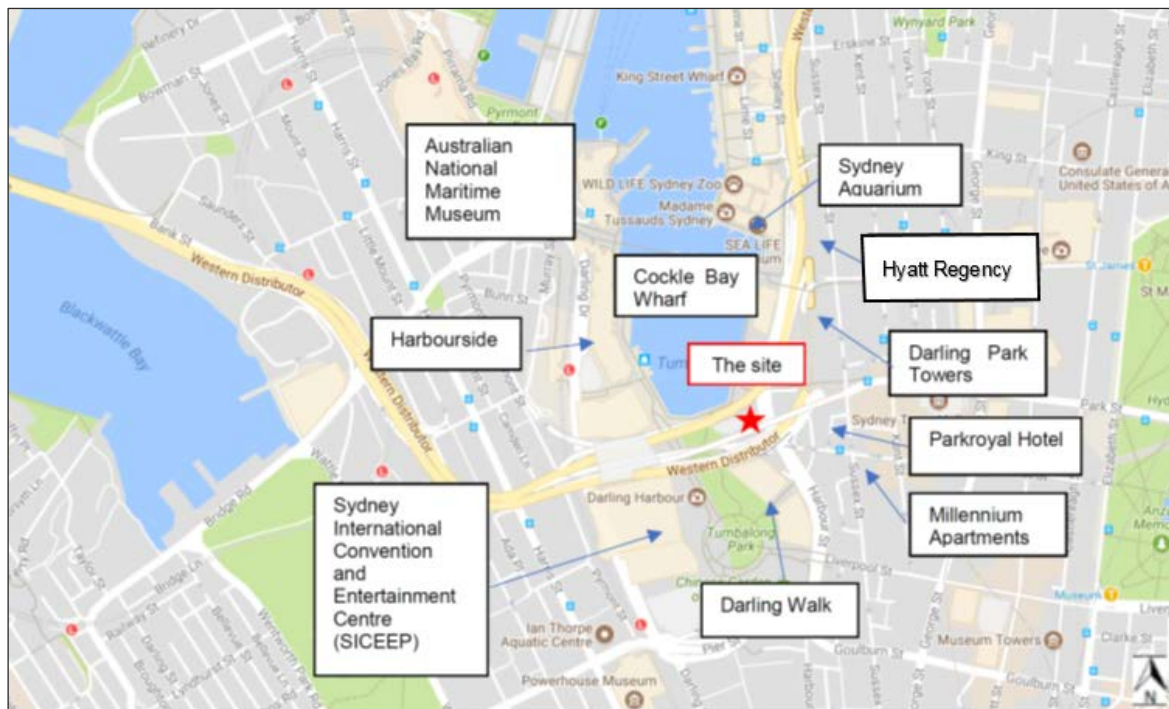


Figure 1 | Site Location (Base source: Nearmap)

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

- 4,672m² 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**).

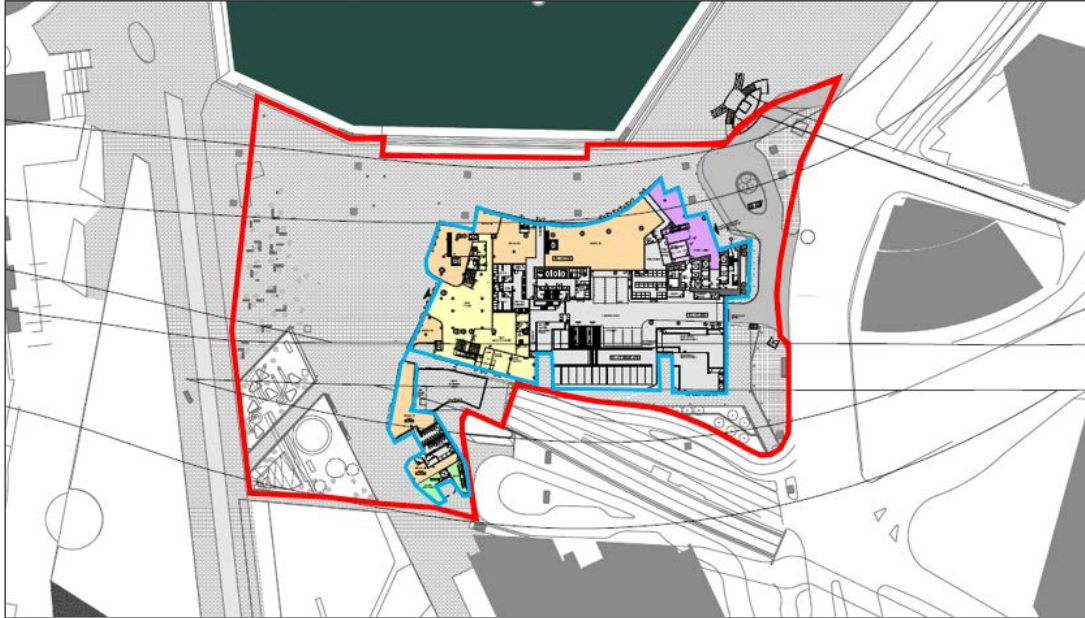


Figure 2 | Site boundary (red line) including approved building footprint of The Ribbon development (blue line) (Source: Applicant's EA)



Figure 3 | Aerial view of The Ribbon building footprint above podium level, including airspace over Harbour Street (Source: Applicant's EA)

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, 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 comprising:

- demolition of the existing IMAX building, tourist office and amenities block
- construction of a new 20 storey building and separate 2 storey building
- office, retail and entertainment use
- 86 car parking spaces within the podium levels and 332 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.

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
- 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.

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

In addition to the subject application (MOD 8), this development consent has been modified on four occasions, with two modifications (MOD 1 and MOD 2) having been withdrawn and one modification (MOD 7) under assessment (**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)	Approved on 2 November 2017
MOD 4	Modification of construction hours	Department	96 (1A)	Approved on 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 52,060m2 to 51,703 m2)	Department	96 (1A)	Approved on 10 November 2017
MOD 6	Modification to amend the tower form and fenestration, internal amendments at all levels, reduce GFA (from 51,703m2 to 50,731m2) and new signage zones	Department	4.55(2)	Approved on 19 December 2019
MOD 7	Creation of an open roof over the Level 22 pool area	Department	4.55(1A)	Under assessment

1.3.1 Other relevant applications

The Department is concurrently assessing a separate SSD application (SSD 8839) for the fit out and operation of the IMAX cinema. The cinema fit out is designed to reflect the internal layout proposed in this modification.



2. Proposed Modification

2.1 Description of proposed modification

On 15 May 2019, the Applicant lodged a modification application (SSD 7388 MOD 6) under section 4.55 (1A) of the EP&A Act seeking approval to amend the approved building.

The modification seeks internal layout changes relating to the IMAX cinema including:

- Reconfigure back of house facilities at ground floor level (**Figure 4**)
- realign the internal wall between the cinema and retail at level 1 to allow the provision of additional toilets, equipment room and communications room within the cinema, reducing level 1 retail GFA from 671 m² to 582 m² (a decrease of 89 m²) (**Figure 5**)
- general re-configuration of seating and circulation spaces on levels 2 to 4 (**Figures 6 to 8**).

No external changes are proposed.

The proposed changes align the plans with the concurrently lodged SSD 8839.



Figure 4 | Existing (left) and proposed (right) ground floor layout (Source: Applicants EA)

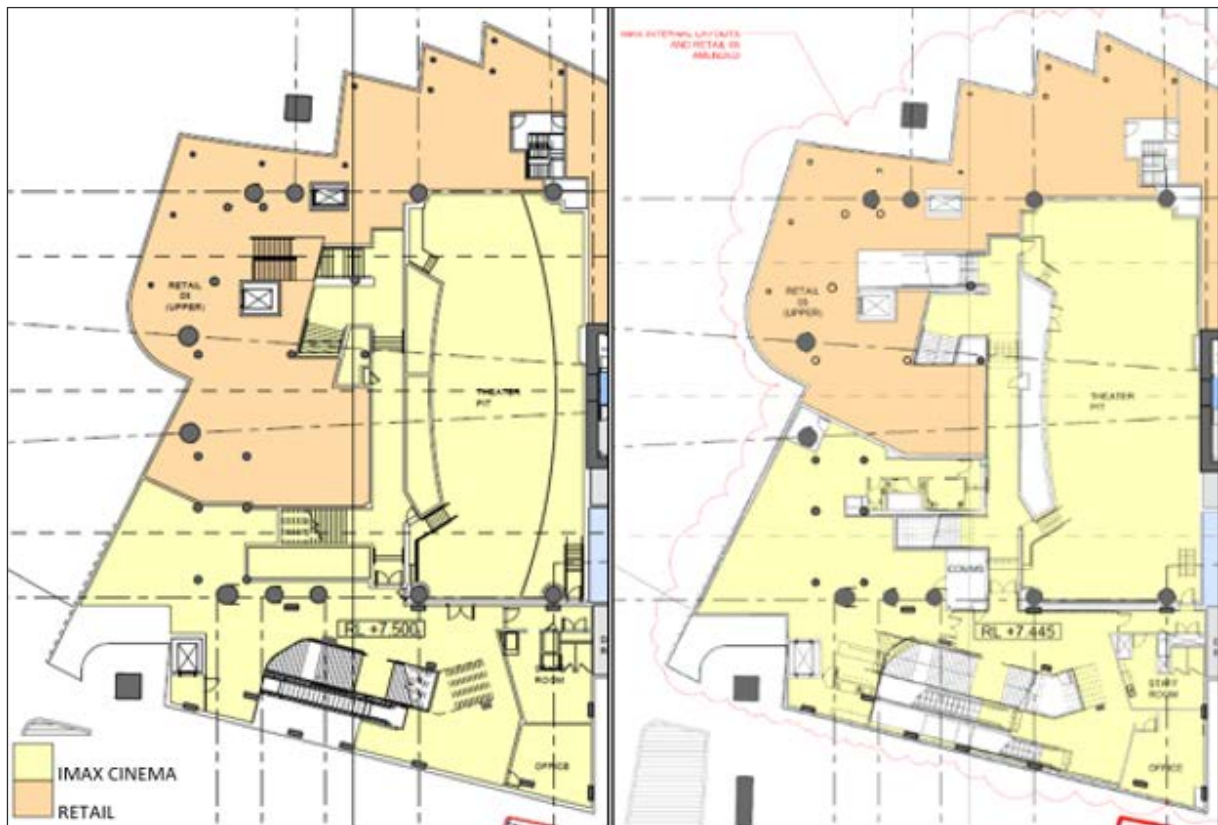


Figure 5 | Existing (left) and proposed (right) Level 1 layout (source: Applicants EA)

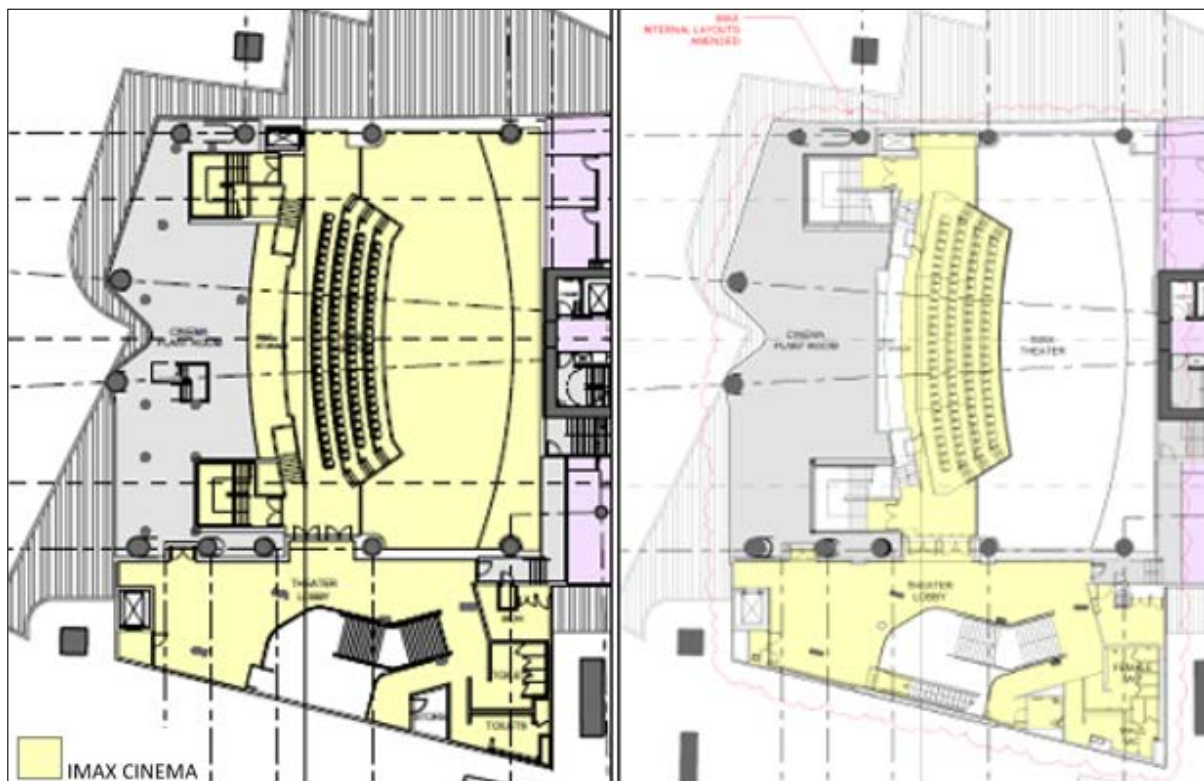


Figure 6 | Existing (left) and proposed (right) Level 2 layout (Source: Applicants EA)

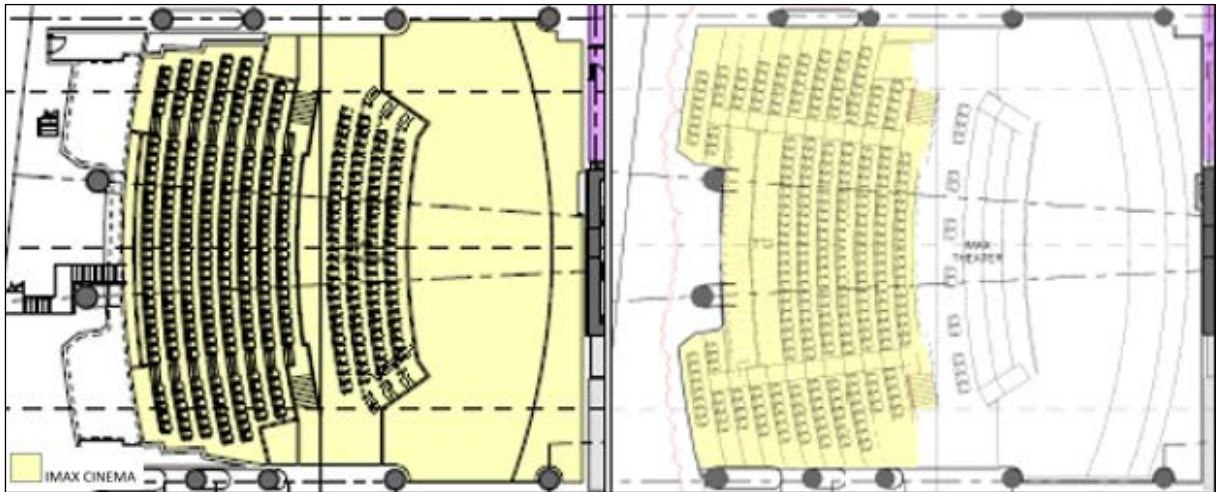


Figure 7 | Existing (left) and proposed (right) Level 3 layout (Source: Applicants EA)

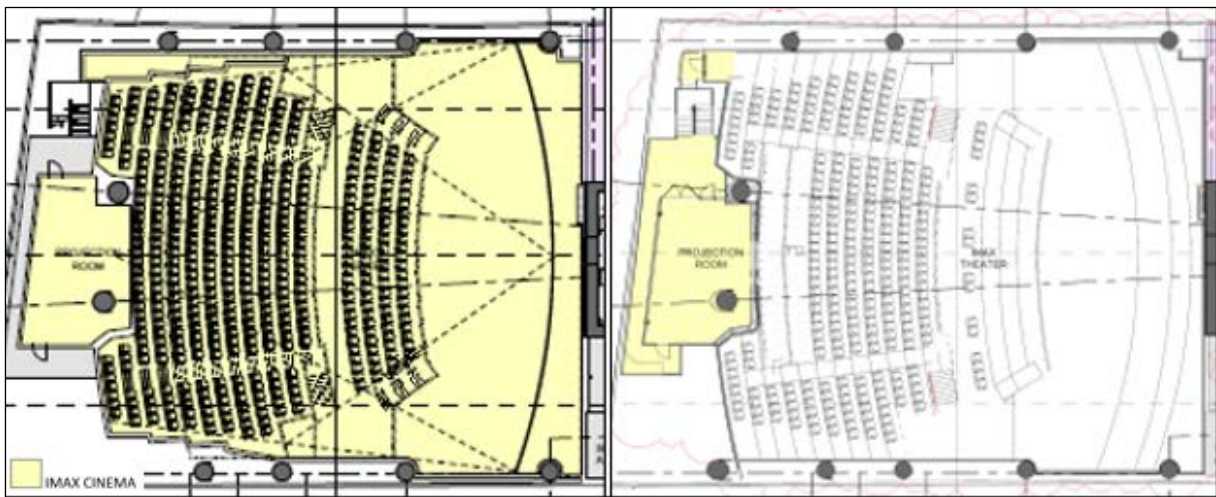


Figure 8 | Existing (left) and proposed (right) Level 4 layout (Source: Applicants EA)



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 Plan aims to integrate land use, transport links and infrastructure across the three cities, with more people having access within 30 minutes to jobs, schools, hospitals and services.

The GSC has also prepared District Plans to implement the Regional Plan through local planning and influence state agency decisions. District plans connect local planning with the longer-term metropolitan planning for Greater Sydney.

The site is located within the Eastern City District Plan.

The Department considered the original proposal was consistent with the strategic planning context for the site. The Department has considered the proposed changes and is satisfied the proposal remains consistent with the strategic planning context.

3.2 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.

The Department considered the original 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). The proposed modification is consistent with the original application and remains consistent with the strategic directions in Sustainable Sydney 2030.



4. Statutory Context

4.1 Scope of Modifications

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application. 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 as the modifications relate to internal layout changes and no external changes to the approved built form are proposed.
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 minor internal amendments to the IMAX cinema 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 did not receive any submissions on the proposal.

4.2 Consent Authority

The Minister for Planning 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 Director, Key Sites 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 no 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 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

In accordance with the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), the modification application was not required to be publicly notified or exhibited. Accordingly, the application was not notified or advertised. However, it was made publicly available on the Department's website on 17 May 2019, and was referred to Council for comment, with a request for comments by 31 May (14 days).

The Department received no public submissions and Council did not comment on the application.

5.2 Additional information

On 30 May 2019, the Department requested clarification to several inconsistencies between the architectural plans, proposed modifications and GFA.

On 4 June 2019 the Applicant provided a response to the Department's request, providing clarification of the GFA calculations and identified an inconsistency in numbering of the IMAX levels resulting in no change in the location of the projection room.

The Department did not re-notify the application as there were no changes to the proposal.



6. Assessment

The Department has considered the proposal and the Applicant's additional information in its assessment of the application.

The proposed modification relates to minor internal changes to the approved cinema layout from ground floor to level 5 and realignment of the internal wall between the cinema and retail uses at first floor level. The proposed changes are the result of detailed design work undertaken to facilitate the use and operation of the IMAX cinema.

The Department considers the key assessment issues associated with the proposal are:

- change to retail floorspace
- accessibility.

6.1 Change to retail floorspace

The realignment of the internal wall between the cinema and retail area at first floor level will result in a minor reduction in retail floorspace of 89m² and reduction of the IMAX building's total GFA (**Table 3**).

Table 3 | Comparison of approved and proposed gross floor area across the site

Use	Approved (m ²)	Proposed (m ²)	Change (m ²)
Retail	1,875	1,786	- 89
Cinema	2,300	2,300	No change
SHFA Building	365	365	No change
Serviced apartments	13,775	13,775	No change
Hotel	32,416	32,416	No change
Total	50,731	50,642	- 89

Although there are no external changes to the building, the GFA reduces due to differences in the calculation of GFA from previous applications, including the removal of back of house and storage areas from the GFA calculation (in accordance with the standard definition for calculation of GFA).

The GFA reduction equates to less than 5% of the total retail GFA of the development and will not impact upon the function or viability of the retail use or result in any additional operational impacts.

There are no other changes to the GFA for approved uses within the building as a result of the modification. The Department therefore considers the minor reduction in retail floorspace is acceptable.

6.2 Accessibility

The Applicant provided a BCA Statement prepared by Mackenzie Group, dated 2 May 2018 and an accessibility review of the proposed modification, prepared by Morris-Goding Accessibility Consulting, dated 23 March

2018. The reports confirm the amended internal layout is capable of complying with the provisions of the BCA, Disability (Access to Premises) Standard 2010, relevant Australian Standards and the Disability Discrimination Act 1992 (DDA).

The Department notes existing Condition B26 requires compliance with the recommendations of the original Disability Access Review (submitted under SSD 7388) be demonstrated prior to the issue of the relevant construction certificate. The Department recommends the condition be updated to require compliance with the Accessibility Review prepared by Morris-Goding Accessibility Consulting, dated 23 March 2018.



7. Evaluation

The Department has reviewed the Modification report, additional information and assessed the merits of the proposal.

The proposed development has demonstrated it 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's assessment concludes that the proposed modification is appropriate as it:

- is of minimal environmental impact
- would comply with the BCA, DDA, and relevant Australian Standards
- would not affect the function or viability of the approved retail floorspace.

Consequently, the Department concludes the proposal is in the public interest and should be approved, subject to conditions (**Appendix B**).



8. Recommendation

It is recommended that the Director, Key Sites Assessments as delegate of the Minister for Planning;

- **considers** the findings and recommendations of this report
- **determines** that the modification application (SSD 7388 MOD 8) 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 making the decision to grant approval to the modification
- **modify** the consent SSD 7388
- **signs** the attached Modification of Development Consent (**Appendix B**).

Recommended by:

Brendon Roberts

Team Leader

Key Sites Assessments



9. Determination

The recommendation is: **Adopted by:**

18/06/2019

David McNamara

Director

Key Sites Assessments



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.

- Statement of Environmental Effects SSD 7388 MOD 8, prepared by Ethos Urban, dated 7 May 2019
<https://www.planningportal.nsw.gov.au/major-projects/project/12646>
- Associated modifications (MOD 1 to MOD 7)

Appendix B – Modification of Development Consent

- Modification of development consent
<https://www.planningportal.nsw.gov.au/major-projects/project/12646>