

15 October 2021

2200220

Ms Kiersten Fishburn
Secretary
Department of Planning, Industry and Environment
12 Darcy Street,
Parramatta NSW 2124

Attention: David Glasgow (Principal Planning Officer)

SECTION 4.55(1A) MODIFICATION APPLICATION COCKLE BAY PARK, 241-249 WHEAT ROAD, COCKLE BAY

This application has been prepared by Ethos Urban on behalf of DPT and DPPT Operator Pty Ltd pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 7684 relating to Cockle Bay Park, 241-249 Wheat Road, Cockle Bay (herein referred to as Cockle Bay Park).

The purpose of this modification is to amend State Significant Development Consent SSD 7684 (the Stage 1 Concept Approval) to reflect the design competition winning scheme prepared by Henning Larsen and subsequent design refinement and resolution, which have necessitated minor modifications to the approved building envelope. Whilst there are a number of modifications proposed to the approved envelope, these modifications do not substantively alter the nature of the approved project, nor do they give rise to any significant environmental impacts, with the overall volume and form of the proposed building remaining well within the approved Concept Plan parameters.

This application has been lodged concurrently with a Stage 2 State Significant Development (SSD) Development Application (DA) for the detailed design for the redevelopment of Cockle Bay Park. It should therefore be read in conjunction with the Environmental Impact Statement (EIS) prepared by Ethos Urban (and supporting documents) submitted with SSD-9978934.

This application identifies the consent, describes the proposed modifications, and provides a planning assessment of the relevant matters for consideration contained in section 4.55(1A) of the EP&A Act and is accompanied by a Building Envelope Modification Report and Plans prepared by Henning Larsen (**Attachment A**) and an Environmental Wind Assessment prepared by Arup (**Attachment B**). Further assessments consistent with the Stage 2 EIS (SSD-9978934) also accompany this statement, including:

- Overshadowing Assessment prepared by Henning Larsen and Architectus (**Attachment C**)
- Visual Impact Assessment prepared by Ethos Urban (**Attachment D**).
- Cyclist Movement Strategy prepared by Arup (**Attachment E**).

1.0 Executive Summary

This application has been prepared by Ethos Urban on behalf of DPT and DPPT Operator Pty Ltd pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 7684 relating to Cockle Bay Park, 241-249 Wheat Road, Cockle Bay (herein referred to as Cockle Bay Park).

The purpose of this modification is to amend State Significant Development Consent SSD 7684 (the Stage 1 Concept Approval) to reflect the design competition winning scheme prepared by Henning Larsen, as well as the subsequent design refinement and resolution.

The proposed modifications relate to the following:

- Minor modifications to the building envelope, including to the following areas:
 - Podium (north and south).
 - Northern Park landscape.
 - Landbridge connections.
 - Crescent Garden project integration.
 - Tower facades (east and west).
 - Pergolas.
 - Darling Park project integration.
- Modifications to project boundary to facilitate project integration with surrounding land.
- Modifications to bicycle parking rates and requirements.

In order to consider the environmental impacts of these modifications, assessment has been undertaken in respect of the overshadowing, built form and visual impacts, as well as the traffic and wind implications of the proposed building modifications. The modifications seek to reflect the detailed design proposed in the concurrent Stage 2 application for the site, which proposes a highly developed, articulated and elegant built form that embodies the design identified as having design excellence through the competitive design process undertaken.

- The consent, as proposed to be modified, is substantially the same development as that originally approved.
- The environmental impacts of the development as proposed to be modified are minimal/negligible, and are considered to be an improvement in comparison to the envelope approved in SSD 7684.
- The overall height or gross floor area of the approved development is not proposed to be modified.
- The development continues to provide for a mix of commercial and retail uses. The uses throughout the building remain unchanged.
- The development continues to comply with the maximum gross floor area outlined in the Stage 1 Concept Approval and does not seek to alter the maximum floor space outlined within this approval.
- The development does not alter the maximum tower footprint nor the maximum volumetric tower envelope utilisation of 65%, and as a consequence the modifications continue to facilitate a tower that is less bulky than would be permitted under the existing approval.
- The amendments do not fundamentally alter the general building envelope and are the result of the competitive design process expressly envisaged under conditions A14-A18 of the Stage 1 Concept Approval.
- The proposed modifications to the development result in essentially the same environmental impacts, compared to those previously assessed and mitigated in the original assessment of the Stage 1 Concept Approval.

2.0 Introduction

This application has been prepared by Ethos Urban on behalf of DPT and DPPT Operator Pty Ltd pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 7684 relating to Cockle Bay Park, 241-249 Wheat Road, Cockle Bay (herein referred to as Cockle Bay Park).

The purpose of this modification is to amend State Significant Development Consent SSD 7684 (the Stage 1 Concept Approval) to reflect the design competition winning scheme prepared by Henning Larsen--0, as well as the subsequent design refinement and resolution.

This application has been lodged concurrently with a State Significant Development (SSD) Development Application (DA) for the detailed design for the redevelopment of Cockle Bay Park. It should therefore be read in conjunction with the Environmental Impact Statement (EIS) prepared by Ethos Urban (and supporting documents) which have been submitted with this SSDA, SSD-9978934.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 4.55(1A) of the EP&A Act

2.1 Background and Consent Proposed to be Modified

SSD 7684 – Concept (Stage 1) Development Consent

State Significant Development Consent (SSD 7684) was granted by the Independent Planning Commission on 13 May 2019 for the Cockle Bay Park redevelopment in accordance with Part 4 of the EP&A Act. Specifically, approval was granted for the following:

- A concept proposal, including a commercial building envelope comprising:
 - A maximum height of RL 183.
 - A maximum gross floor area (GFA) of 89,000m², including:
 - 75,000m² commercial office GFA.
 - 14,000m² retail GFA.
 - A minimum of 6,500m² of publicly accessible open space.
 - Building controls and design guidelines.
- Stage 1 works for the demolition of:
 - Existing Cockle Bay buildings and structures.
 - The Crescent Garden to Cockle Bay Park enclosed pedestrian bridge and associated structure.
 - The former monorail station and associated structure.

The building envelope approved as part of the Concept (Stage 1) SSD application comprises a podium addressing the Darling Harbour promenade, a large expansive public open space area spanning across the Western Distributor to Sussex Street, and a tower chamfered to minimise overshadowing of surrounding key public places.

SSD 7684 is a Concept DA for the purposes of Section 4.23 of the EP&A Act. Under Section 4.24 of the EP&A Act, whilst a Concept DA remains in-force, any further detailed application in respect to the site cannot be inconsistent with the consent for the Concept DA.

Competitive Design Process

In accordance with the Design Excellence Strategy approved under the Concept DA, an Invited Architectural Design Competition was undertaken between September and December 2019. The purpose of this design competition was to select the highest quality architectural, landscape and urban design solution to inform the Stage 2 SSD DA.

The entrants invited to participate were selected due to their demonstrated ability to design high-quality and sustainable mixed-use towers and public and retail spaces. The six architectural practices and their partnerships who participated were:

- FJMT
- Grimshaw
- Henning Larsen
- UN Studio and Cox Architecture
- Wilkinson Eyre
- Woods Bagot

Henning Larsen were selected by the Jury as the winner of the design competition. The Jury concluded that Henning Larsen's scheme was the most capable of achieving design excellence, demonstrated a superior response to the design, commercial and retail objectives of the competition brief, and is capable of achieving design excellence. The Jury concluded that the qualities of the Henning Larsen scheme, most notably the public open space areas, new public domain connections, transitions between the podium and harbour edge, and the commercial office tower, were superior to the other schemes. The Jury recommended, consistent with Condition A16 of the Concept Approval, that a Design Integrity Panel be established to review and evaluate the development of the scheme addressing the target design issues as well as to ensure that the design integrity of key conceptual elements retained as they development.

The Design Integrity Panel (DIP) was established to review and evaluate the Stage 2 design as it developed, including three (3) of the Jury members, and comprising representatives of City of Sydney Council, the office of the Government Architect NSW, and experts in architecture and landscape architecture including a representative of the State Design Review Panel. In the preparation of this DA, the project team met with the DIP on eight (8) occasions ensuring the achievement of the highest standard of architectural, urban and landscape design.

Detailed (Stage 2) SSD DA

A detailed SSD DA has been prepared for the project based on the winning scheme by Henning Larsen. The SSD DA has been lodged concurrently with the Department of Planning, Industry and Environment and seeks approval for the following:

- Site preparation works not captured as part of the approved Stage 1 works but required to appropriately interface Cockle Bay Park with its context and enable the proposed redevelopment, including:
 - Tree removal across the site.
 - Minor additional areas of excavation across the site.
 - Demolition of existing built form elements not previously approved under SSD-7684, comprising:
 - Crescent Garden
 - Market Street Bridge
 - Cycle/pedestrian connection from Pymont Bridge
 - Minor internal building elements within the Darling Park precinct basement.
- Construction and use of a landbridge across the Western Distributor freeway between Darling Harbour and Darling Park, including:
 - A northern park with over 5,500m² of publicly accessible open space.
 - A southern park with over 1,000m² of publicly accessible open space.
 - Associated landscaping and access to the park from both Darling Park and Darling Harbour.

- Interface works for the Pymont Bridge, Druitt Street Bridge, and to Sussex Street and Market Street, including the construction of a new bridge connection over Sussex Street to the proposed landbridge.
- Construction and use of a new 43 level commercial building, containing:
 - 4 publicly accessible podium levels, containing 14,000m² of retail GFA
 - 35 levels of commercial office space, containing 75,000m² of commercial GFA
 - 4 levels of mechanical plant
 - A loading dock area with nine (9) loading bay spots, and back-of-house areas.
- 502 bicycle parking spaces for commercial, retail and visitor use and associated end of trip facilities within the Darling Park basement, and bicycle parking spaces within the public domain.
- Building and business identification signage zones on the building, and wayfinding signage within the public domain.
- Utilities and services infrastructure to tie into the requirements of the proposed building.
- Re-alignment, reconfiguration, and part closure of Wheat Road.

Generally, the development proposed under the detailed SSD DA aligns with the building envelope already approved under SSD 7684 and the relevant conditions of consent. However, where inconsistencies do occur between the Concept Approval and the detailed SSD DA, they have been addressed by this application, which is lodged pursuant to Section 4.24(3) and Section 4.55(1A) of the EP&A Act.

3.0 Strategic Context

The proposed modification remains consistent with the provisions of the relevant planning policies identified in both the SEARs for the Stage 1 Concept Approval (SSD 7684) and the Stage 2 development application (SSD-9978934). An assessment against the key strategic documents is provided in **Table 1** below.

Table 1 Strategic Policies

Instrument/Strategy	Comments
Strategic Plans	
Greater Sydney Region Plan – A Metropolis of Three Cities	<p>The Greater Sydney Region Plan is the overarching strategy for growing and shaping the Greater Sydney Area. The proposal is consistent with the policy directions and objectives under the Region Plan, as based on the following:</p> <ul style="list-style-type: none"> • A City Supported by Infrastructure: the proposed modification will not inhibit the proposal's overall ability to deliver jobs and public open space in proximity to major transport infrastructure, including the future CBD Metro stations. The proposal does not deliver any vehicular parking, which will encourage visitors to utilise the public transport infrastructure available. • A City for People: the proposed development has been designed in consideration of intergenerational equity and promotes sustainability, universal design and accessibility, and community integration. The delivery of extensive publicly accessible open space provides a great space for visitors to the site. The proposed modifications will not inhibit the achievement of this. • A City of Great Places: The proposed development will provide new commercial office space in the financial, cultural and services heart of NSW, as well as a significant amount of new publicly accessible open space. This will ensure future visitors are in immediate proximity to a variety of services and social infrastructure, open space and transport. The proposed building also exhibits design excellence and delivers an activated mixed-use precinct and a large amount of high quality public space. The proposed modifications will not inhibit the achievement of this. • A Well-Connected City: The proposed development will provide a mix of retail and commercial uses in proximity to major transport infrastructure, including the new Pitt Street Metro Station. In this regard, the development will help align land use planning and infrastructure planning, improving access to jobs in the heart of the CBD. This will take advantage of the substantial investment in public transport infrastructure and support the achievement of the '30 minute city'. The proposed modifications will not inhibit the achievement of this. • Jobs and Skills for the City: Delivery of additional commercial and retail floorspace will directly contribute to the long-term strength and productivity of the economy in NSW by influencing the ability to attract businesses. In this way, it will also support broader economic growth in the region, as a direct benefit of increase commercial activity. The proposal will also directly benefit job creation in the local hospitality and retail industries. The proposed modifications do not alter the achievement of this goal. • A City in its Landscape: The Stage 2 development incorporates high quality landscaping across the ground plane and podium, as well as in the various open spaces and public domain. The proposed modifications do not seek to alter any conditions or provisions relating to landscaping. • An Efficient City: The Stage 2 development has been designed to achieve the following minimum ratings: <ul style="list-style-type: none"> - A minimum 5 stars NABERS Energy rating - A minimum 4 stars NABERS Water rating - Green Star 6-star rating - Section J of the NCC 2019. <p>The proposed modification does not alter the achievement of any of these ratings.</p> • A Resilient City: The Stage 2 proposal will minimise exposure to natural hazards by ensuring it responds to overall climate adaption and resilience. The environmental initiatives implemented through the development contribute to enhanced environmental outcomes and seek to mitigate impacts related to climate change. The proposed modification does not alter any conditions relating to sustainability.

Instrument/Strategy	Comments
Eastern City District Plan	<p>The Eastern City District Plan underpins the Greater Sydney Region Plan and sets the 20-year vision for the District through 'Planning Priorities' that are linked to the Regional Plan. The proposal is consistent with a number of these priorities, as follows:</p> <ul style="list-style-type: none"> • Infrastructure and Collaboration: The '30-minute city' model is a long-term aspiration for Sydney whereby jobs, services and strategic/metropolitan centres are accessible within 30 minutes by public transport. This development is uniquely placed to contribute to the '30-minute city' model, by providing a mix of retail and commercial uses in proximity to major transport infrastructure, including the new Pitt Street Metro Station. In this regard, the development will help align land use planning and infrastructure planning, improving access to jobs in the heart of the CBD. The proposed modification will not restrict the development's ability to achieve this. • Productivity: The delivery of additional retail and commercial floorspace will directly contribute to the long-term strength and productivity of the NSW economy by attracting a variety of businesses and contributing to the commercial viability within the region. This modification does not alter the delivery of commercial floorspace as approved. • Sustainability: Various measures will be incorporated to reduce baseload energy consumption, support the use of sustainable transport options, improve the efficient use and reuse of water, and minimise waste. This will be achieved through the integration of sustainability initiatives that ensure superior environmental performance and achieve sustainability targets. This modification does not seek to alter these targets.
NSW State Priorities	<p>The priorities primarily relate to education, social policy, and governance and as such are not strongly related to or give effect to the proposed development. However, the project will have a positive impact on jobs in NSW by promoting the retail and commercial economy and stimulating the construction industry in Sydney.</p>
NSW Future Transport Strategy 2056	<p>The modification does not alter the proposal's consistency with the desire to encourage active and sustainable options and provide more seamless pedestrian experiences.</p>
Sydney's Walking Future	<p>The modification does not alter the proposal's proximity to surrounding facilities, such as services and infrastructure encourages walking over private transportation, nor does it remove or inhibit the delivery of the significant walking and cycling access ways through the site.</p>
Sydney's Cycling Future	<p>The site benefits from access to extensive local and regional bicycle networks. Further, the site will deliver over 500 bicycle parking and associated end of trip facilities to facilitate the use of cycling as a form of transport to and from the site.</p>
Sydney Development Control Plan 2012	<p>The Sydney DCP 2012 does not apply to this development for several reasons:</p> <ul style="list-style-type: none"> • Part 2, clause 11 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> makes clear that development control plans do not apply to development that is State-significant. • The site is located largely outside the boundary identified within the Sydney DCP. • The project is subject to approved site-specific Design Guidelines that provide detailed built form and controls for the Cockle Bay Park project.
Sydney City Centre Access Strategy	<p>The proposal's central location and delivery of no additional parking spaces will encourage visitors to take public transport, reducing pressure on local roads. The proposed modifications will not inhibit the achievement of this.</p>
Sustainable Sydney 2030	<p>The development has been designed to achieve the following minimum ratings:</p> <ul style="list-style-type: none"> • A minimum 5 stars NABERS Energy rating • A minimum 4 stars NABERS Water rating • Green Star 6-star rating • Section J of the NCC 2019. <p>The proposed building has also identified pathways to target a 5.5 NABERS Energy rating.</p> <p>The sustainability initiatives proposed for the Stage 2 development application will address the baseload energy consumption of the proposed development, support the use of sustainable transport options, improve the efficient use and reuse of water and minimise waste. The proposed modifications will not inhibit the achievement of this.</p>

Instrument/Strategy	Comments
Sydney Local Strategic Planning Statement	<p>The Local Strategic Planning Statement (LSPS) represents Council's 20-year vision and strategy for the LGA's future direction on infrastructure, liveability, productivity and sustainability. The LSPS implements the planning priorities and actions identified in the Greater Sydney Regional Plan and Eastern City District Plan at the local level. It is also informed by Council's platform policy, Sustainable Sydney 2030, and the draft Central Sydney Planning Strategy (discussed further below).</p> <p>The proposed Cockle Bay Park development is consistent with the LSPS's goals of productivity, liveability and sustainability. The development delivers 89,000m² of commercial and retail floorspace, contributing to the economic competitiveness of Central Sydney through the creation of jobs. The building will provide a substantial amount public open space, and will contribute to the sustainability goals outlined in the LSPS.</p> <p>The proposed modifications will not inhibit the achievement of the LSPS.</p>
Central Sydney Planning Strategy	<p>The Central Sydney Planning Strategy (CSPS) is a strategic document, accompanied by amendments to the <i>Sydney Local Environmental Plan 2012</i> and Sydney Development Control Plan 2012. The CSPS outlines the crucial role that Central Sydney plays as the economic centre of NSW, and provides an amended planning framework to support the CBD as a commercial centre.</p> <p>It is noted that Cockle Bay site is located outside the boundary of the CSPS and consequent statutory changes. Nevertheless, the proposal meets the aims of the CSPS by providing increased commercial floorspace in a strategic location, improving connection between Darling Harbour and Central Sydney. The proposal will support the delivery of high quality open space and built form and capitalises on the increased transport infrastructure in Central Sydney. The proposed modification does not alter the development's contribution to the goals of the CSPS.</p>
Legible Sydney	<p>The proposed application will ensure clear wayfinding for pedestrians and increase permeability and additional through site links from Market Street, Sussex Street and Drutt Street to Darling Harbour will further improve the amenity of the site.</p>

4.0 Proposed modifications to the consent

The proposed modifications to the development consent comprise:

- Minor modifications to the building envelope, including to the following areas:
 - Podium (north and south).
 - Northern Park landscape.
 - Landbridge connections.
 - Crescent Garden project integration.
 - Tower facades (east and west).
 - Pergolas.
 - Darling Park project integration.
- Modifications to project boundary to facilitate project integration with surrounding land.
- Modifications to bicycle parking rates and requirements.

The proposed modifications are described in further detail below.

4.1 Modifications to the development

An Envelope Modification Design Report has been prepared by Henning Larsen and is included at **Attachment A**. This report includes the rationale for each of the proposed envelope changes, as well as the proposed modified envelope plans for which consent is sought as part of this Modification Application.

4.1.1 Building Envelope

The proposed modifications pertain to minor variations to the previously approved building envelope, so as to enable the delivery of the winning Henning Larsen design scheme arising from the Design Excellence Competition. The key proposed variations to the envelope are discussed below.

Note: Whilst the following diagrams and description outline the areas shown in red as variations to the approved building envelope (shown in blue), it is important to note that the detailed building design shown in SSD-9978934 does not utilise the full maximum building envelope in all areas. Indeed, the volumetric utilisation of the approved building envelope remains well within the maximum parameters. Further detail and assessment of the detailed design of the proposed building with the approved envelope is contained within the EIS which accompanies the SSD-9978934 application.

Podium (north and south)

The building envelope at the podium levels is proposed to be modified. This includes minor, isolated increases to the levels to enable the provision of DDA compliant lifts and a ramp connection between the podium and Pymont Bridge, providing increased pedestrian and cycling amenity and public domain activation. These changes primarily arise due to the requirement to achieve suitable clearances above the Western Distributor and travel gradients to the podium and throughout the podium which are accessible and inclusive.

Further, minor refinements to the finished floor levels of the tower lobby and surrounding external spaces are required as a result of refinements to the landbridge structure over the Western Distributor.

The proposed envelope amendments to the podium are shown in **Figure 1** and **Figure 2** below. The Stage 1 approved envelope is shown in blue, with all modifications shown in red.

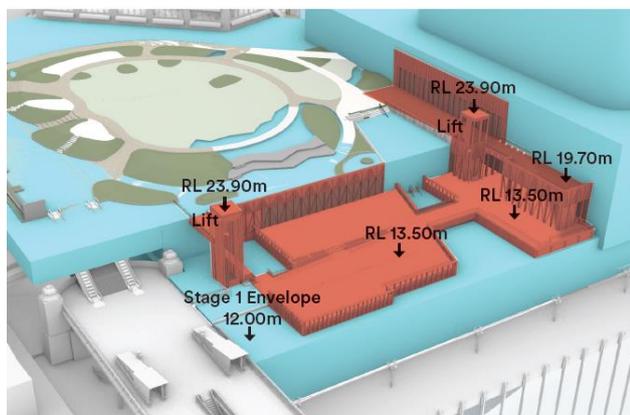


Figure 1 Detailed elements of the northern podium (as part of the concurrent Stage 2 application) that require modifications to the approved envelope
 Source: Henning Larsen

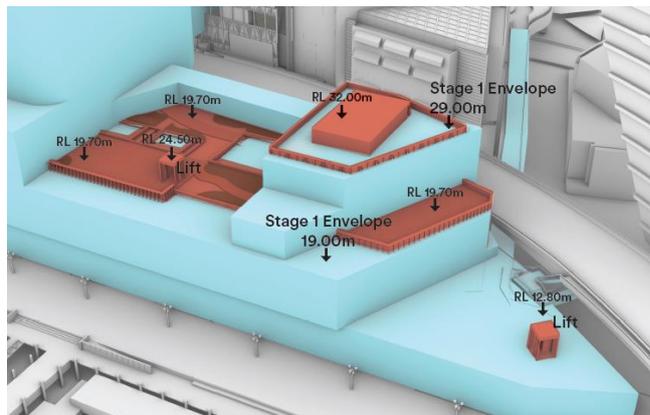


Figure 2 Detailed elements of the southern podium (as part of the concurrent Stage 2 application) that require modifications to the approved envelope
 Source: Henning Larsen

Northern Park Landscape

In order to provide sufficient soil depths for desired planting within the Northern Park, the landbridge's height in various locations is required to be increased. Further, a wall is proposed to be erected on the northern edge of the park to provide physical protection to the Western Distributor below as a requirement of TfNSW (RMS). A lift is also required to connect the landbridge to the Sussex Street plaza. These changes are shown **Figure 3** below, with the red indicating where the proposed development exceeds the current approved envelope.

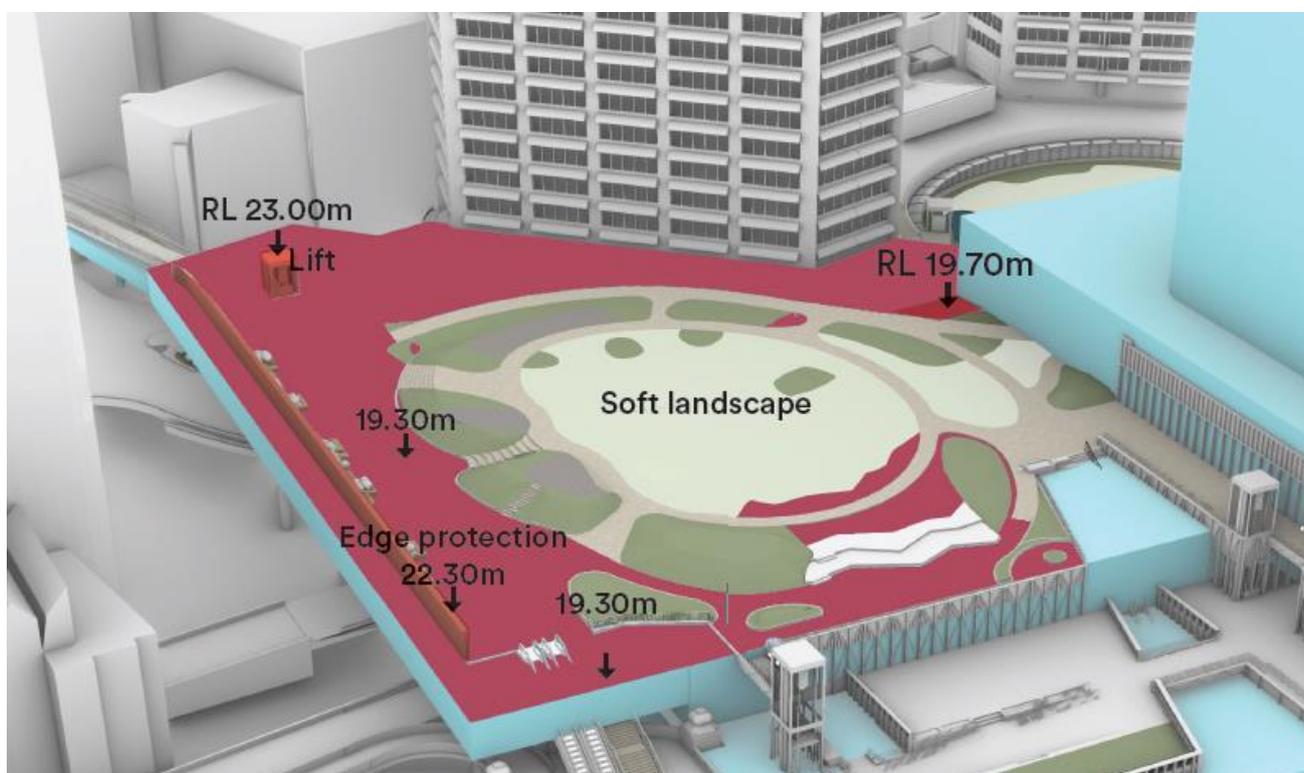


Figure 3 Detailed elements of the Northern Park (as part of the concurrent Stage 2 application) that require modifications to the approved envelope
 Source: Henning Larsen

Site access and connections

The Stage 1 Concept Approval considered how the proposed development would interface with surrounding pedestrian and cycle connections, which was referenced as a key public benefit and outcome of the approved development. However, the approved building envelope did not explicitly provide for these works to occur.

Accordingly, minor modifications are proposed to the building envelope to ensure that these improved connections can be delivered as part of the proposed development including connections to the Pymont Bridge, the new Market Street Bridge, and the new Sussex Plaza connection as discussed further below.

- Pymont Bridge** – the modified building envelope allows for stairs, escalators, and a realigned Harbour Street bicycle ramp at the interface between the landbridge and Pymont Bridge. This allows for access between Darling Harbour and Central Sydney, and have been designed to be sensitive to the heritage context of the Pymont Bridge. The proposed envelope modification relating to the Pymont Bridge connection is shown in **Figure 4**, with the approved envelope shown in blue and the proposed modifications shown in red.

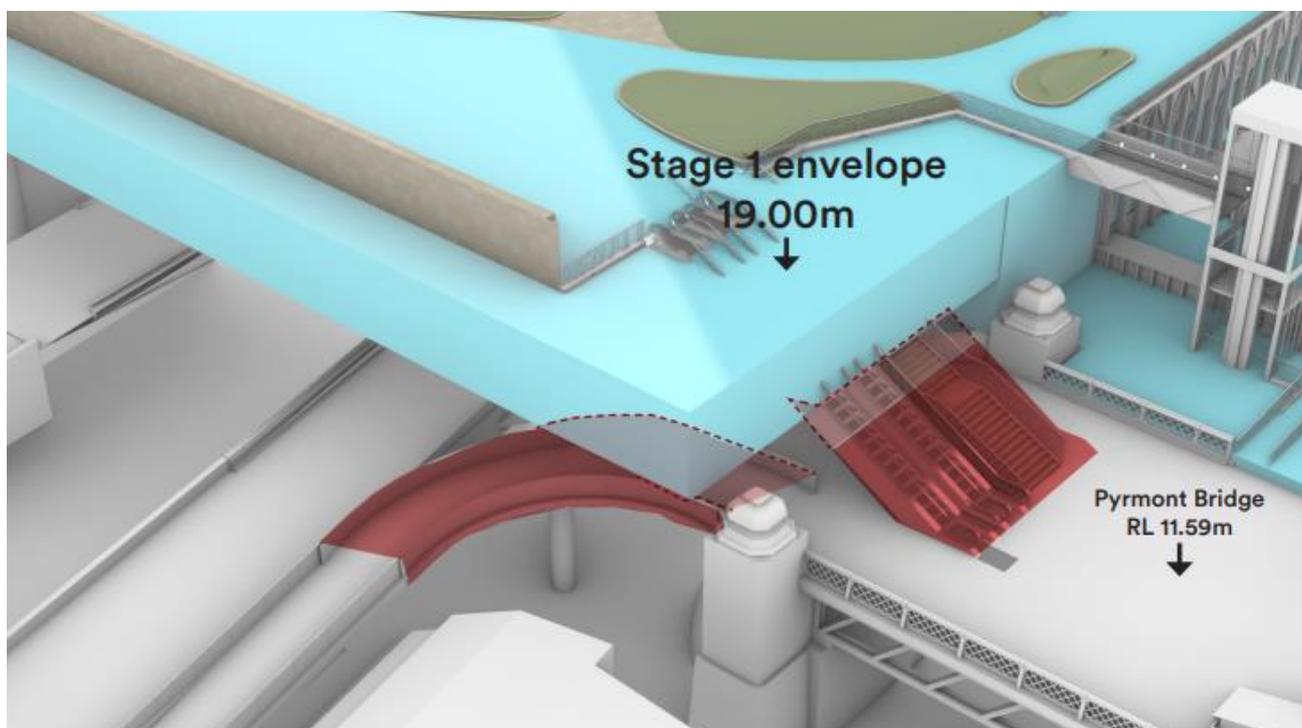


Figure 4 Detailed elements of the proposed Pymont Bridge pedestrian connection (as part of the concurrent Stage 2 application) that require modifications to the approved envelope

Source: Henning Larsen

- Market Street Bridge** – similarly, modifications to the envelope are required to explicitly include the proposed new Market Street Bridge. A new bridge connection is needed to provide a DDA compliant access ramp from Market Street to the landbridge, over Sussex Street. The bridge is required to extend further along Market Street and slope to a higher level to connect to the landbridge and allow for safe vehicular passage below. Therefore, the envelope is required to be extended by approximately seven (7) metres along Market Street as shown in **Figure 5** below.

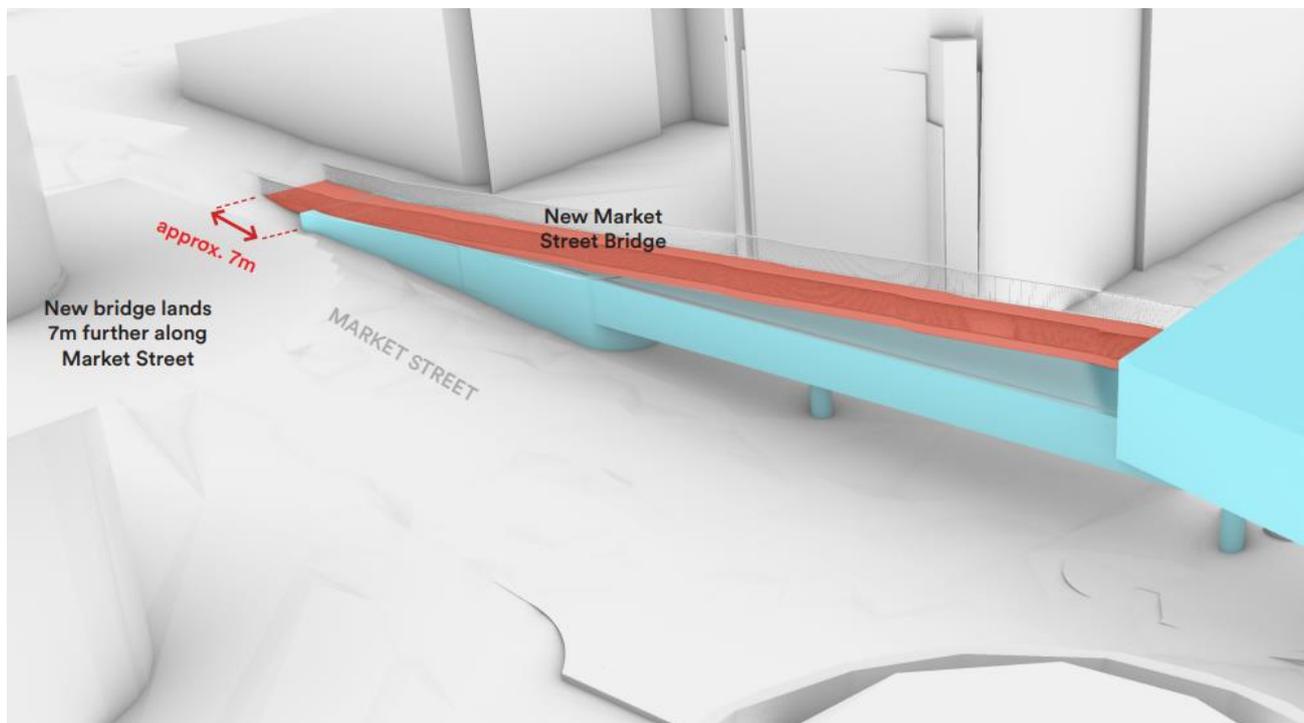
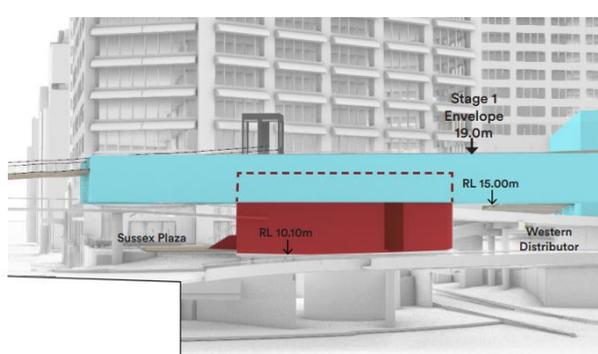


Figure 5 Detailed elements of the Market Street Link (as part of the concurrent Stage 2 application) that require modifications to the approved envelope

Source: Henning Larsen

- Sussex Plaza** – finally, it is proposed to incorporate the existing retail space at the corner of Market Street and Sussex Street as part of the building envelope. This retail space will facilitate access to the landbridge above through the provision of stairs, escalators and a lift to provide equitable access. Further, the replacement of this retail space along with new public domain areas will activate the Sussex Street frontage of the site and act as an important gateway to the precinct. The modification is shown in **Figure 6** below, with the approved envelope shown in blue and the proposed modifications shown in red.



Elevational View, looking South

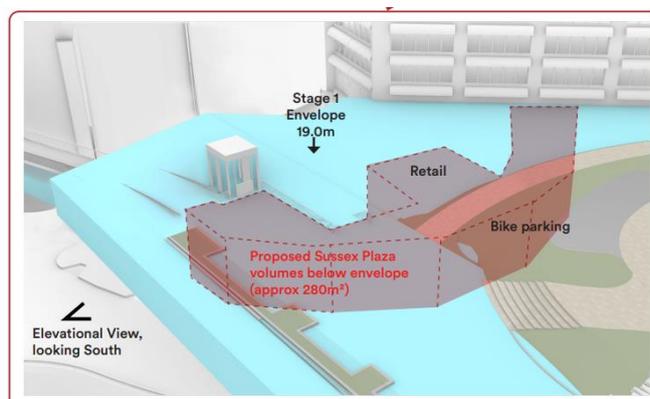


Figure 6 Detailed elements of the Sussex Plaza retail space (as part of the concurrent Stage 2 application) that require modifications to the approved envelope

Source: Henning Larsen

Crescent Garden

It is proposed to amend the building envelope to also enable it to interface with the Crescent Garden. The Stage 2 SSD DA proposes to include connections from the new tower to the Crescent Garden open space area, providing an improved relationship to the existing Darling Park precinct. In order to provide a high level of accessibility between these two areas, additional envelope volumes are required to facilitate this transition. The following will be incorporated within this additional volume as part of the Stage 2 detailed application:

- Amphitheatre stairs between the landbridge and Crescent Garden, as envisaged within the adopted Urban Design Guidelines for the site.
- Additional terracing to integrate with a proposed wellness centre.
- Lift access to both the wellness terrace and the landbridge.

The proposed modifications are shown in red in **Figure 7** below.

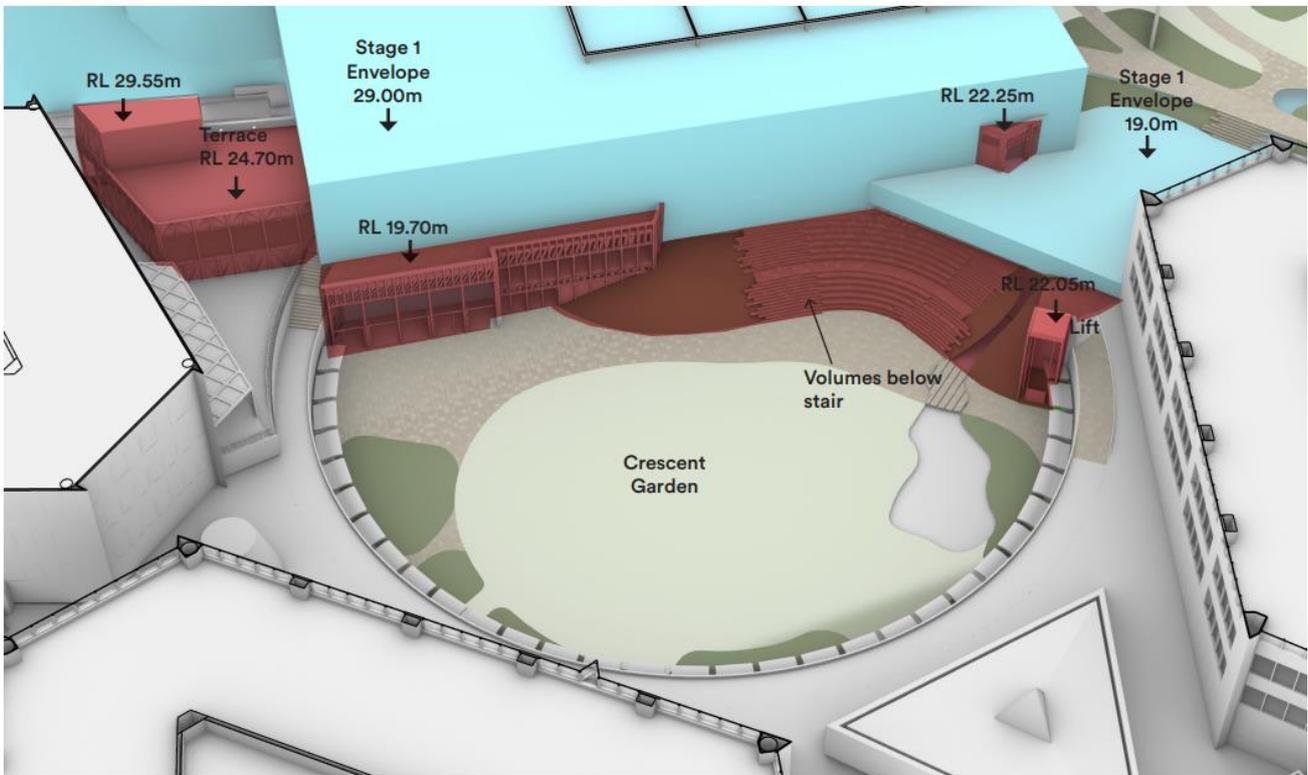


Figure 7 Detailed elements of the Crescent Garden Interface (proposed as part of the concurrent Stage 2 application) that require modifications to the approved envelope

Source: Henning Larsen

Tower – East

The eastern façade of the tower envelope is proposed to be modified to capture minor adjustments to the built form resulting from design development. The building envelope is required to be modified on the low-rise eastern façade to account for an adjusted footprint of the building to better articulate the building and optimise modulation of the façade. Further, a portion of the tower on level 4 breaches the envelope to the north-east, resulting from the raised level of the tower lobby on level 3 below. These changes are a result of architectural design development and are important in the articulation and detailing of the building.

The changes are illustrated in **Figure 8** below.

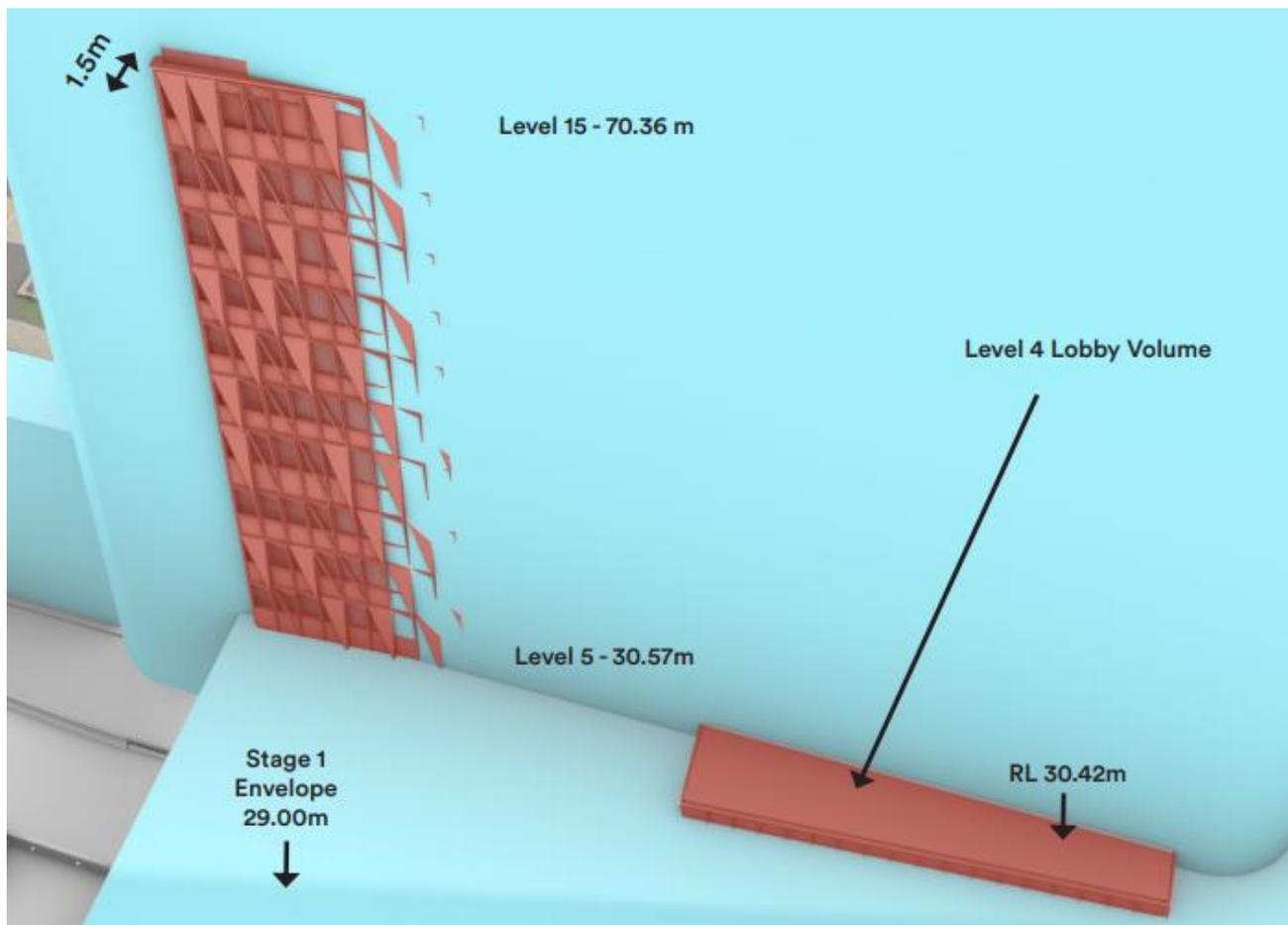


Figure 8 Detailed elements of the eastern façade (as part of the concurrent Stage 2 application) that require modifications to the approved envelope

Source: Henning Larsen

Tower – West

The western facade of the tower contains several small envelope breaches resulting from the articulation of the façade, comprising the hooded window elements that were a key aspect of the design competition-winning scheme. These façade elements are minor and do not constitute any gross floor area, and instead are proposed to improve façade performance and optimise modulation.

The proposed envelope modification is shown in red in **Figure 9** and **Figure 10** below.

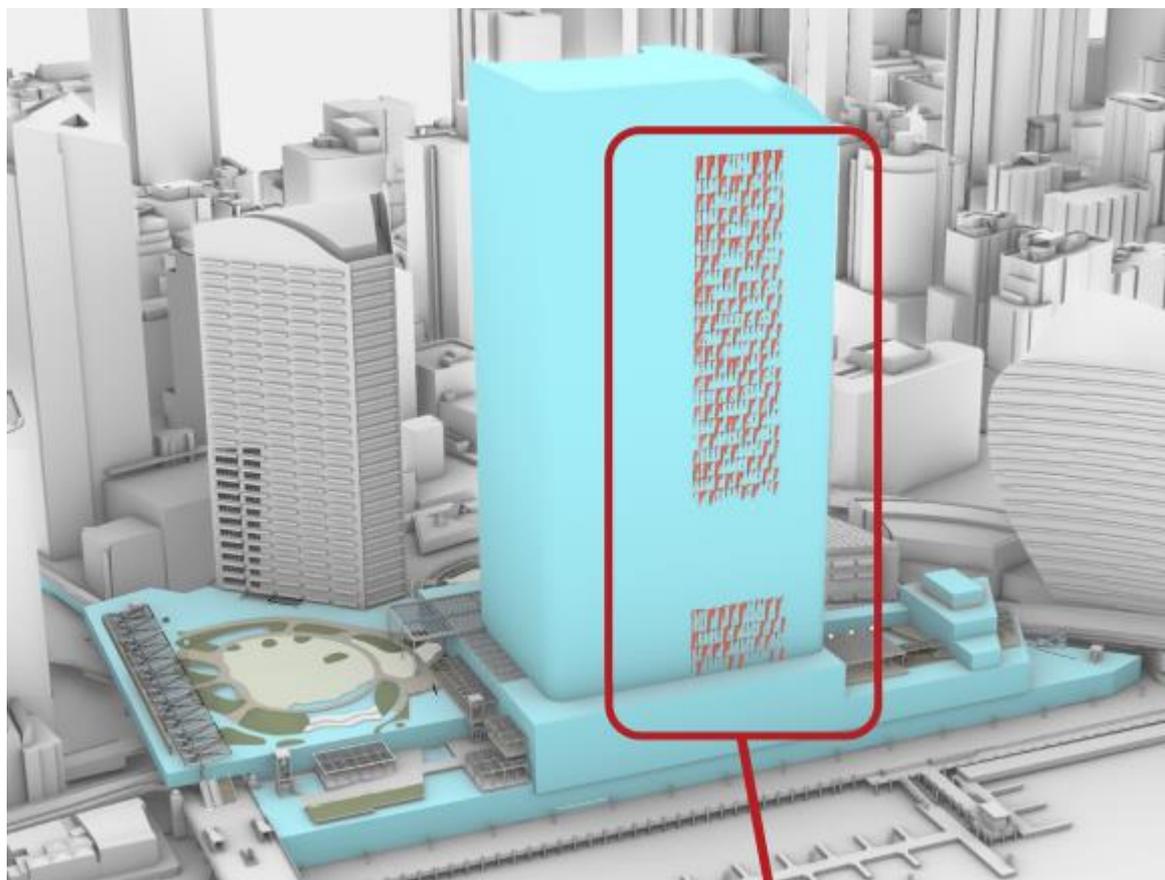
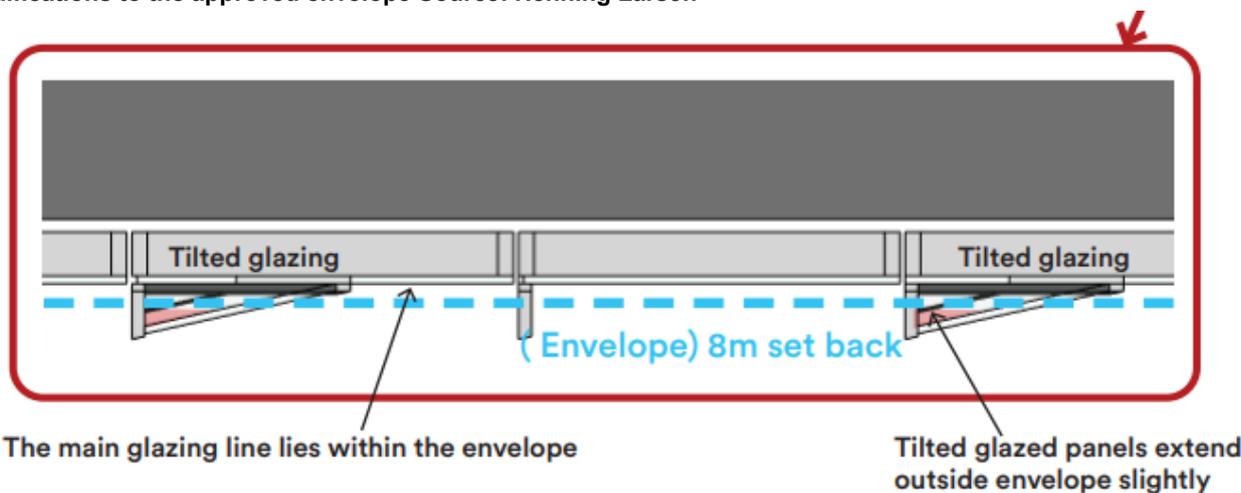


Figure 9 Detailed elements of the western facade(as part of the concurrent Stage 2 application) that require modifications to the approved envelope Source: Henning Larsen



The main glazing line lies within the envelope

Tilted glazed panels extend outside envelope slightly

Figure 10 Area of the façade detailing that breaches the envelope shown in red Source: Henning Larsen

Tower – Retail Pergolas

The envelope is also proposed to be modified in several locations in order to accommodate pergolas around the base of the building, associated with the retail podium, as well as shelter for vertical transport elements, such as escalators. As discussed further in **Section 7.5**, these pergolas are integral in improving the pedestrian comfort and experience in the public domain and retail podium.

The pergolas requiring envelope modifications are shown in **Figure 11**.

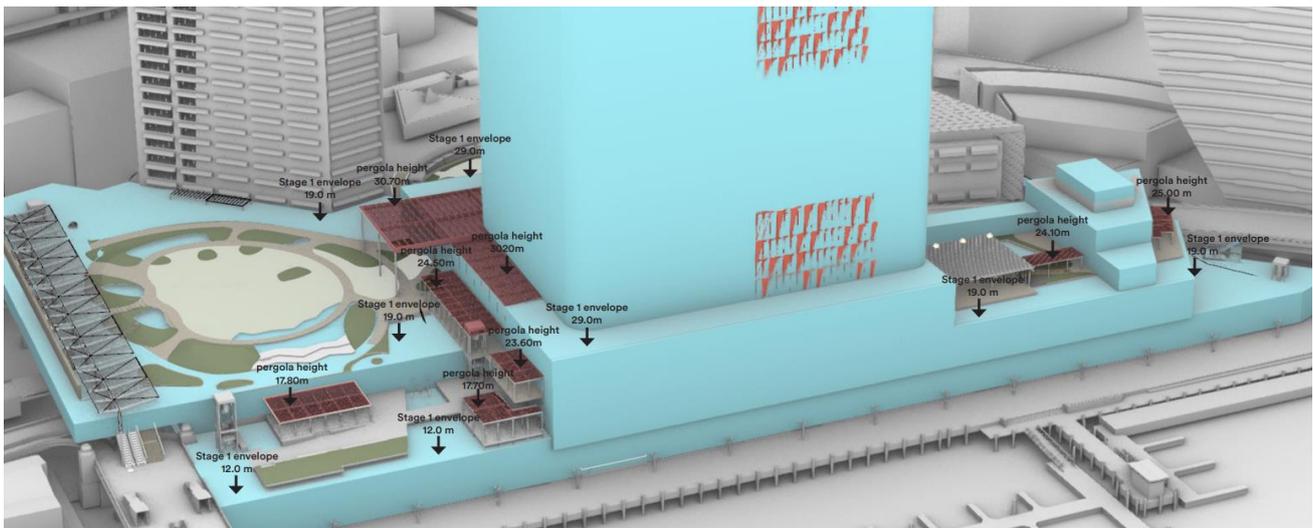


Figure 11 Detailed elements of the podium pergolas (as part of the concurrent Stage 2 application) that require modifications to the approved envelope

Source: Henning Larsen

Podium vs tower base vs tower

The stamped plans nominate areas of the building envelope that are considered to be the building’s podium, tower base, and tower. These different areas are demarcated by colours on the plans.

Through the detailed design of the proposed building, the sections of the building that would form part of these areas have changed in response to the design principles of the development as well as the need to address key interface areas that the previous approval considered, but did not specifically account for. Accordingly, the modified building envelope proposes to reallocate floors of the building defined as the podium (dark blue) to include the publicly accessible retail, lobby, and coworking spaces; the tower base (yellow) to capture the transition space between the podium and the tower; and the tower (light blue) which sits above. A new area of the building envelope is also coloured green on the amended plans to demarcate the landbridge deck and its connections and interface with key pedestrian links such the Pyrmont Bridge and the new bridge over Market Street. While these areas were considered under the Stage 1 Concept Approval, they were not explicitly captured in the building envelope plans.

This is discussed further in **Section** Error! Reference source not found..

Conclusion in respect of envelope modifications

The modifications outlined above arise from the selection of the Henning Larsen competition-winning scheme and further detailed design development, particularly in respect of the Western Distributor interface, clearance, and accessible travel gradients for the landbridge. Whilst the preceding sections identify areas where the approved envelope is varied, this should be understood in the context provided by the detailed Stage 2 SSD DA (SSD-9978934) which demonstrates that the proposed tower remains substantially smaller than the maximum approved envelope, with numerous areas where the building is within the maximum envelope. Attention is specifically drawn to the high level of compliance with the volumetric envelope controls set out under the Stage 1 Concept Approval.

4.1.2 Site boundary

Aligned with the proposed minor changes to the building envelope discussed above, this Modification Application also proposes to refine the site boundary to include those areas of the project that were always intended to interface with Cockle Bay Park, but which were not specifically identified in the approved Concept Proposal (Stage 1) plans as being within the site boundary. This includes Crescent Garden, the existing plaza area at the corner of Sussex and Market Streets, and areas of the Market Street, Druitt Street, and Pyrmont Bridges – to capture all interface works.

All land proposed to be included as part of the project boundary is owned by the former Sydney Harbour Foreshore Authority or Property NSW. The refined project boundary is shown on the architectural plans that accompany this statement.

4.1.3 Bicycle Parking

Condition C21 of the Stage 1 Concept Approval (SSD 7684) requires the Stage 2 Development Application to provide bicycle parking and end of trip facilities in accordance with the Sydney Development Control Plan 2012 bicycle parking rates and end of trip facilities design requirements.

However, this application seeks to remove the requirement to comply with the Sydney DCP rates. The concurrent Stage 2 application proposes to provide bicycle parking at a bespoke, demand drive rate that is generally aligned with Green Star requirements, as well as providing more lockers to support all forms of active transport and in-line with benchmarking undertaken for other major projects within the Sydney CBD.

This is discussed further at **Section 7.4**.

4.2 Modification to conditions

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

PART A – TERMS OF APPROVAL

Development in accordance with plans and documents

A2. The Applicant, in acting on this consent, must carry out the development:

- d) in accordance with the following drawings (as amended by the conditions of this consent):

Concept Proposal Drawings by firm Henning Larsen			
Drawing No.	Revision	Title	Date
SK-1.01 <i>CBP-HEN-DRW-ENV-1000</i>	01 <i>02</i>	Envelope Plan – Ground Level	04/07/2018 <i>13/10/2021</i>
SK-1.02 <i>CBP-HEN-DRW-ENV-1010</i>	01 <i>02</i>	Envelope Plan – Level 1	28/08/2018 <i>13/10/2021</i>
SK-1.03 <i>CBP-HEN-DRW-ENV-1020</i>	01 <i>02</i>	Envelope Plan – Level 2	28/08/2018 <i>13/10/2021</i>
SK-1.04 <i>CBP-HEN-DRW-ENV-1030</i>	01 <i>02</i>	Envelope Plan – Level 3	28/08/2018 <i>13/10/2021</i>
SK-1.05 <i>CBP-HEN-DRW-ENV-1040</i>	01 <i>02</i>	Envelope Plan – Level 4	28/08/2018 <i>13/10/2021</i>
CBP-HEN-DRW-ENV-1050	01 <i>02</i>	Envelope Plan – Level 05-08	<i>13/10/2021</i>
SK-1.06 <i>CBP-HEN-DRW-ENV-1060</i>	01 <i>02</i>	Envelope Plan – Typical Tower Level	28/08/2018 <i>13/10/2021</i>
SK-1.07 <i>CBP-HEN-DRW-ENV-1070</i>	01 <i>02</i>	Envelope Plan – Roof Plan	28/08/2018 <i>13/10/2021</i>
SK-1.10 <i>CBP-HEN-DRW-ENV-2501-aa</i>	00 <i>02</i>	Section A – Through Northern Public Open Space	04/07/2018 <i>13/10/2021</i>
SK-1.11 <i>CBP-HEN-DRW-ENV-2501-bb</i>	00 <i>02</i>	Section B – Through Tower	04/07/2018 <i>13/10/2021</i>
SK-1.12 <i>CBP-HEN-DRW-ENV-2501-cc</i>	00 <i>02</i>	Section C – Through Retail Pavilion	04/07/2018 <i>13/10/2021</i>
SK-1.13 <i>CBP-HEN-DRW-ENV-2501-dd</i>	00 <i>02</i>	Section D – Through Land Bridge	04/07/2018 <i>13/10/2021</i>

Concept Proposal Drawings by firm Henning Larsen			
SK-1.14 CBP-HEN-DRW-ENV-2501-ee	00 02	Section E – Across Deck	04/07/2018 13/10/2021
SK-1.15 CBP-HEN-DRW-ENV-2501-ff	00 02	Section F – North to South	04/07/2018 13/10/2021
SK-1.20 CBP-HEN-DRW-ENV-2501-gg	00 02	3D View Building Envelope	04/07/2018 13/10/2021
SK-1.21 CBP-HEN-DRW-ENV-2501-hh	00 02	3D View Building Envelope	04/07/2018 13/10/2021

Reason: To reflect built form modifications proposed.

Building height control

A10. The maximum building heights for the development are shown on the concept drawings listed in **Condition A2** and shall not exceed:

- Maximum tower height RL 183
- Maximum podium and tower base height RL ~~29~~ **47.61**
- Maximum deck over the Western Distributor height RL ~~19~~ **19.3**

Reason: To reflect the built form modifications

Bicycle parking and facilities

C21. Future Development Application(s) shall include bicycle parking for employees / visitors and end of trip facilities (toilets, change/locker rooms and showers) in accordance with the ~~Sydney Development Control Plan 2012 bicycle parking rates and end of trip facilities design requirements below table.~~

Delineation	No. of Bike Parking Spaces	No. Lockers	No. Showers
Commercial (75,000m ² of GFA)	423	940	42
Retail (14,000m ² of GFA)	79	118	8
General public	53	N/A	N/A
Total	555	1,058	50

Reason: To remove the requirement to comply with the Sydney Development Control Plan 2012, which does not provide an appropriate bicycle and end of trip facility outcome on the site based on demand driven analysis and benchmarking undertaken within the CBD. Instead, the condition is proposed to be modified to require the delivery of bicycle parking and end of trip facilities in line with the amount proposed under the concurrent Stage 2 SSD DA.

5.0 Statutory Context

Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the original consent.

The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. The following matters however warrant further assessment.

5.1 State Legislation

Table 2 Assessment against relevant state legislation

Legislation	Assessment
SEPP 55 – Remediation of Land	<p>Clause 7 of SEPP 55 specifies that a consent authority must not consent to the carrying out of any development on land unless it has considered whether land is contaminated and if the land is contaminated, it is satisfied that the land is/can be suitable for the proposed development.</p> <p>The proposed modification does not impact the contamination assessment as per the concurrent Stage 2 development application.</p>
SEPP 64 -Advertising and Signage	The proposed modification does not alter the signage proposed under the concurrent Stage 2 development application.
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	The Sydney Harbour REP applies to the site. The site is not zoned under the Harbour REP, however, is located within the City Foreshores Area Strategic Foreshore Site and is also within the Foreshores and Waterways area. Compliance is further discussed further below. No Land-Water Interface Works are proposed, and therefore referral to the Foreshore Committee in accordance with Schedule 2 of the Sydney Harbour REP is not required.
Darling Harbour Development Plan No.1.	The proposal is consistent with the provisions of the Darling Harbour Development Plan No. 1 (DHDP). Compliance with the DHDP is discussed in further detail below.
Sydney Local Environment Plan 2012	The Sydney LEP does not apply to the site, as the site is not located within the Sydney LEP boundary.

5.1.1 State Environmental Planning Policy (State and Regional Development) 2011

Pursuant to the SRD SEPP a project within the Darling Harbour Development Area will be SSD if it has a capital investment value (CIV) of \$10 million or more. The approved Stage 1 Concept Approval had a CIV of over \$10 million and was therefore identified as SSD and considered to be development of State and/or Regional Significance. Accordingly, this application seeks to modify this SSD approval.

With respect to the proposed modification to Condition C21, it should be noted that section 11 of the SRD SEPP is explicit that “*development control plans (whether made before or after the commencement of this Policy) do not apply to ... State significant development*”. Accordingly, the proposed modification of Condition C21 is considered to be both appropriate on merits (as set out elsewhere in this report) and necessary to be consistent with the requirements of the SRD SEPP.

5.1.2 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is identified within the following areas of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP):

- Sydney Harbour Catchment Area.
- Foreshores and Waterways Area boundary.
- City Strategic Foreshores Area.

Part 3, Division 2 within the SREP refers to matters which are to be taken into consideration by consent authorities before granting consent for development.

The modification does not alter the development’s ability to comply with the following matters for consideration:

- Biodiversity, ecology and environmental protection
- Public access to and use of foreshores and waterways
- Maintenance of a working harbour
- Interrelationship of waterways and foreshore uses

- Foreshore and waterways scenic quality
- Maintenance, protection and enhancement of views
- Boat storage facilities
- Development in the vicinity of heritage items

Further, the modification will enable the delivery of a high-quality built form that improves the ground plane and pedestrian access across the site, improving connectivity from Darling Harbour to Central Sydney and therefore delivering upon the intended goals of the SREP.

5.1.3 Darling Harbour Development Plan No. 1 (DHDP)

The DHDP is the principal planning instrument applicable to the Darling Harbour area, and more specifically the Cockle Bay Park site. It provides a broad framework for development, principally through identifying permissible uses.

The objectives of the DHDP are to encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities, and to set out those uses which are deemed permissible. The proposed development is consistent with these objectives.

The proposed modification to the concept envelope enables the delivery of a 43 storey commercial tower, retail podium, landbridge and associated open space that is commensurate with the site's CBD fringe location and its relationship with the new world class SICEEP Precinct, Harbourside development, The Ribbon (W Hotel) and Barangaroo.

The proposed modification will enable the delivery of a development that enhances the tourist, recreational, entertainment, cultural and commercial character of Darling Harbour and provides a new world-class retail and commercial building. The proposal will accommodate a mix of leisure, business and tourism uses developed to ensure that it supports and is complementary to existing precinct activity seven days a week, contributing to the activated precinct of Darling Harbour.

The proposed modification does not alter the project's compliance with the DHDP as approved in the Stage 1 Concept Proposal.

6.0 Engagement

All changes proposed as part of this application result from the detailed design process undertaken to inform the Stage 2 development application. Significant engagement and consultation has occurred in relation to this Stage 2 development including a discussion of modified development. Engagement with the following groups has been completed:

- A Citizen's Panel, which comprised 26 community participants.
- A disabilities group workshop.
- Body corporate members of surrounding residential buildings.
- Pyrmont Action Group.
- Aboriginal community through the Aboriginal Cultural Heritage Report process.
- Stakeholder groups and government agencies.

Issues raised by these groups have been addressed where possible throughout the detailed design, as discussed in the concurrent Stage 2 development application.

7.0 Assessment of Impacts

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

7.1 Built Form

The proposed modifications are largely a product of the international design competition undertaken for this project in accordance with Condition A14 of the consent. The proposed modifications have been reviewed by the Design Integrity Panel (DIP) as part of the design development and refinement process for the Stage 2 SSD DA, and the DIP has confirmed that the built form is capable of design excellence. The proposed modifications are, therefore, a necessary component of, and directly facilitate, the achievement of design excellence.

Podium

The proposed changes to the building envelope pertain to a minor increase in the overall podium height, driven primarily by the fixed clearance requirements of the Western Distributor below the landbridge, the need to provide functional floor to floor heights, and the need to provide DDA access throughout the podium and maintenance as well as access to the photovoltaic panels on the roof of the podium.

It is further emphasised that a notable proportion of the envelope modifications at the base of the proposed building relate exclusively to pergolas, which are visually recessive and might otherwise be permitted under the current building envelope exemptions included on the Stamped Plans, which enable 'garden pavilions' to step outside of the building envelope. These built form elements have been included where they relate to retail areas for completeness, however, they do not represent significant new built form areas, do not constitute GFA, and do not contribute to the bulk or scale of the building.

These envelope modifications, therefore, have a positive impact on the built form of the podium as they reflect significant detailed design undertaken with the DIP to provide an articulated podium form that is accessible, usable and responds to the unique constraints of the site. The overall relationship between the Darling Harbour promenade, the proposed landbridge, and Darling Park remains largely unchanged.

Tower

Whilst the detailed building specified in the Stage 2 SSD DA has pulled-back the façade from large areas of the Stage 1 Concept Approval envelope, some areas are required to extrude past the existing envelope footprint, including a portion of the east and west façade and the level 4 lobby volume. These areas are as a result of further detailed development and facilitate the articulation of the building facades.

Overall, these minor envelope changes will not result in any significant alteration to the built form outcome intended in the Stage 1 Concept Approval. Namely, the fundamental elements of the tower, being the maximum and average floor plate controls, the volumetric utilisation control, the maximum building height, and GFA cap, all remain the same and are complied with by the detailed Stage 2 SSD DA. Accordingly, the minor proposed alterations to the building envelope will deliver appropriate articulation and façade modulation.

Building Proportions

Through the detailed design of the proposed building, the sections of the building that would form part of the podium tower base, and tower have changed in response to the design principles of the development as well as the need to address key interface areas that the previous approval considered, but did not specifically account for. Accordingly, the modified plans identify key interface areas and resolve the proportions of the building to align with the design competition winning scheme by Henning Larsen.

The changes the areas relating to the podium, tower base, and tower are primarily as a result of the detailed design of the building transitioning upwards from the podium to the tower. The podium, tower base and tower blend seamlessly in lieu of the typical, clear delineation between podium and tower. This design principal was a key feature of the design competition winning design and was identified by the Jury as a design outcome that needed to

be retained through the design integrity process (as detailed in the Design Excellence Report accompanying the Stage 2 SSD DA), as “the skilful formal transition from the podium to the articulated tower form” and “the ‘village strategy’ of the conceptual framework characterised by fine grain elements compared with the more conventional continuous linear approach to the built form of the podium.”

The resultant transition in scale between the podium, tower base, and tower provides for a slender and highly articulated building that positively contributes to the Sydney CBD skyline. As detailed in the design report at **Appendix A**, the podium has been designed to achieve a ‘village scale’ at the Darling Harbour frontage of the site, and through the massing of the tower base and the use of pergolas, the podium is visually connected to the tower above as a gradual transition from the ‘village scale’ to the ‘city scale’. This gradual, stacked form fits well with the surrounding cityscape setting including the scale of the established line of towers along the western foreshore of Darling Harbour.

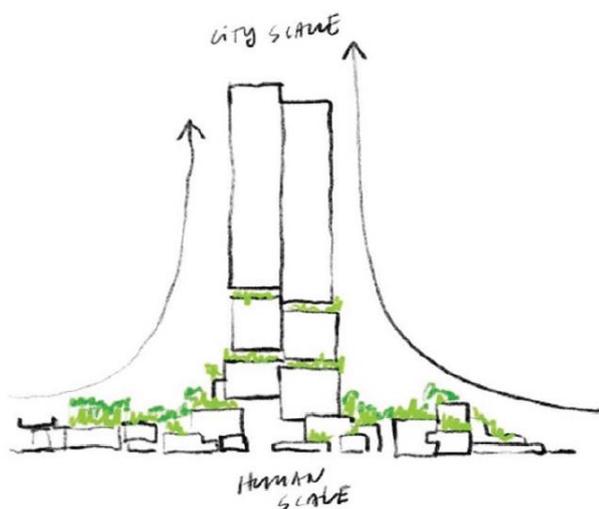


Figure 12 Relationship between the podium and the tower, via a transition in scale through the tower base
Source: Henning Larsen



Figure 13 Realisation of this relationship between the podium and tower in the concurrent Stage 2 SSD DA
Source: Henning Larsen

7.2 Overshadowing

The proposed envelope modifications are minor and the resultant built form remains compliant with the conditions of consent relating to the overshadowing of Sydney Square, Tumbalong Park, the future Town Hall Square, the Darling Harbour promenade, and the Astoria Tower. AN assessment of the overshadowing impacts of the proposed building are contained within the EIS for the concurrent Stage 2 SSD DA (SSD-9978934), and are summarised as follows:

- **Sydney Square** – the Stage 1 Concept Approval building envelope was designed to comply with the no additional overshadowing control plane for Sydney Square, which specifically informed the maximum height and chamfering of the envelope. This Modification Application does not modify the tower roof, including the chamfering of this roof line.
- **Tumbalong Park** – The modelling completed for the Stage 2 SSD DA confirms that for the built form within the building envelope, the worst effected time of year for the proposed development for Tumbalong Park is in the mornings (from 11am) of the winter solstice (21 June). During this worst affected time, the development will not result in any additional overshadowing of Tumbalong Park or the children’s playground, and the building facilitated by this modification therefore does not impact this open space.
- **Future Town Hall Square** – The built form provided within the modified building envelope also complies with the existing detailed Stage 1 Concept Approval conditions governing the overshadowing of the future Town Hall Square. No change is proposed or warranted to these controls.
- **Cockle Bay Waterfront** – Likewise, the built form provided within the modified building envelope complies with the existing Stage 1 Concept Approval conditions governing the overshadowing of the Cockle Bay waterfront and promenade. The proposed building will not result in any net increase in overshadowing to the 11.6m promenade zone during the nominated dates and times.
- **Residential solar access** – Condition C8(c) of the Stage 1 Concept Approval, as well as design control 5.8 of the endorsed Design Guidelines requires that solar access is maintained and maximised where possible to Astoria Tower. The Overshadowing Assessment completed for the Stage 2 SSD DA confirms that proposed development within the modified building envelope will not affect the Astoria Tower’s compliance with the Apartment Design Guide as the proposed building does not result in any additional overshadowing on 21 June between 9am and 3pm and as such does not affect compliance with Objective 3D-1 of the Apartment Design Guide.

Accordingly, the project will continue to comply with the conditions of consent and design guidelines with regard to overshadowing. No change is proposed or warranted to these controls, with the Stage 2 SSD DA demonstrating that the built form complies with each of these controls.

7.3 View and Visual Impact

A Visual Impact Assessment has been prepared by Ethos Urban and is included at **Attachment C**. The assessment concludes that the detailed development accommodated by the amended building envelope results in a significantly lesser visual impact when compared to the existing Stage 1 Concept Approval. The proposed modifications to the building envelope specifically are minor and result in negligible view and visual impacts, particularly when viewed in the context of the significant design development and areas of the approved building envelope that are not proposed to be built within. Assessment of the view and visual impacts of the proposed building are contained within the EIS for Detailed SSD Application SSD-9978934.

7.4 Bicycle Parking

This application seeks to remove the condition requiring the development to deliver the bicycle parking and end of trip facilities in line with the Sydney DCP. A Cyclist Movement Strategy prepared by Arup (**Attachment D**) outlines that many CBD buildings have an overprovision of bicycle parking spaces due to the DCP rates, resulting in poorer and underutilised amenities. Instead, end of trip facilities including lockers are prioritised to support people utilising other forms of active transport and those exercising at lunch, who utilise lockers and showers but not bicycle parking.

Bicycle parking and end of trip facilities (lockers, showers) will be provided for use by staff and visitors, as well as bicycle parking in the public domain for use by the public as outlined in the concurrent Stage 2 application. This modification seeks to deliver bicycle parking and end of trip facilities at a demand driven rate to better reflect the likely required amount of bicycle facilities on the site. Benchmarking has been undertaken with surrounding commercial buildings in the CBD, in order to inform the delivery to understand the required number of bicycle parking spaces, lockers and showers based on the uses of the building and surrounding infrastructure. This benchmarking shows the following, in comparison to the Sydney DCP:

- The average provision of bike spaces is 0.49% of GFA
- Assuming a population density of 1 :10sqm of NLA and an NLA to GFA ratio of 88 % (as per this development), the average bike parking provision is equivalent to a bike mode share of 5.5% , compared to the DCP mode share of 7.6 %
- The existing bike mode share for Sydney CBD has been found to be around 2.5%
- Growth in bike mode share has been fairly constant at an additional 0.05% per decade
- Reflecting the intent of the cities’ strategy to accelerate the growth of bike mode share a growth rate of 4% has been assumed for the design of this development, bringing the total mode share to 6.5 % bikes.
- Applying this mode share to the Cockle Bay Park GFA of 75 ,000 m 2 and 6 ,600 population results in a target demand of 423 commercial tenant bike space (0.58% spaces per sqm GFA).

The benchmarking also notes that many buildings, including the adjoining Darling Park facilities, have an underused bicycle rack facility, but a larger demand for lockers, and as a result, retrofits are regularly occurring to reduce the number of bike parking spaces and increase the user amenity and locker numbers to accommodate for other forms of active transport (walking and running) and exercise. Further, walk/run mode share has been found to be approximately 4%, meaning these users require access to showers and lockers rather than bicycle parking spaces.

In addition to this, the visitor bicycle parking rates are proposed to be delivered in line with the Green Star requirement and similar urban renewal projects in Sydney. Compliance with the Sydney DCP 2012 would require the provision of 235 bicycle parking spaces within the public domain, which could not be physically accommodated within the proposed open space without significantly impacting the usability of this new park. Further, it is noted that the broader precinct contains numerous spaces that precinct visitors can utilise at a range of locations including Barangaroo, Darling Quarter, King Street Wharf, Pyrmont, and more.

Table 3 below outlines the number of bicycle parking rates proposed to be delivered in the concurrent Stage 2 application, as compared to the DCP rates and Green Star rates. It is noted that the number of visitor parking spaces are shown in brackets.

Therefore, this application seeks to remove this condition, and replace the requirement to deliver bicycle parking in line with the below rates.

Table 3 Delivery of bicycle parking spaces

It is noted that the number of visitor parking spaces are shown in brackets.

Facilities	Green Star	Sydney DCP	Proposed Rates
Commercial (75,000m²)			
Bicycle spaces	461 (41)	500 (188)	423 (45)
Showers	54	50	42
Lockers	563	500	940
Retail (14,000m²)			
Bicycle spaces	88 (8)	70 (47)	79 (8)
Showers	13	7	8
Lockers	106	70	118

Source: Arup

7.5 Wind

An Environmental Wind Assessment has been prepared by Arup and is included at **Attachment E**. The changes to the podium and landbridge proposed in this application result in alterations to the approved wind conditions on the site. Specifically, modifications to the envelope are required to accommodate the addition of pergolas on the top level of the podium and throughout the landbridge, as discussed in **Section 4.0**. Previous wind tunnel testing conducted on the reference and competition winning schemes for the site showed exceedances of the safety criterion around the north-east and southern corners of the proposed tower. However, following the addition of these pergola elements in the northern and southern podium and open space areas, the wind criteria was met in all locations. Therefore, whilst the pergolas result in modifications to the envelope, they are essential elements to ensure a safe wind environment around the corners of the exposed tower. This proposed modification will, therefore, have a positive environmental impact.

8.0 Justification of Modified Project

8.1 Substantially the same development

Section 4.55(1A)(a) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that 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 (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The overall height of the tower is not proposed to be modified, including the detailed chamfered edge to the tower roof that was developed in response to overshadowing controls.
- The podium design and its relationship with the Darling Harbour promenade and Darling Park remains generally the same, noting there will be improved connectivity and interface areas facilitated through the minor proposed modifications to the building envelope.
- The public domain continues to provide significant open space in the form of parks, landscaped seating areas, and site connections between Darling Harbour, Druiitt Street, Market Street and Sussex Street. The minimum quantum of public open space in the existing conditions of consent is not proposed to be modified.
- The development continues to provide for a mix of commercial and retail uses, with the mix conditioned in the conditions of consent remaining unchanged.
- The development continues to comply with the maximum gross floor area outlined in the Stage 1 Concept Approval. The ultimate capacity of the site, therefore, will not change because of the proposed minor refinements to the building envelope demonstrating that the proposal does not represent an intensification of the site.
- The proposal does not alter the maximum or average tower footprint nor the maximum volumetric tower envelope utilisation of 65%, ensuring that the resultant built form is still slender and articulated.
- The amendments do not alter, and are largely a direct outcome of, the competitive design process expressly envisaged under conditions A14-A18 of the Stage 1 Concept Approval.
- The proposed modifications to the development result in minimal and comparable environmental impacts, when considering the original assessment of the Stage 1 Concept Approval

The proposed amendments to the Stage 1 Concept Approval are minor and will have a negligible impact on the overall development. The development, as proposed to be modified, can therefore be considered substantially the same as that originally approved.

8.2 Minimal environmental impact

Pursuant to section 4.55(1A)(a) of the EP&A Act, a consent may be modified under Section 4.55(1A) where the consent authority “*is satisfied that the proposed modification is of minimal environmental impact*”. Whilst there are a number of proposed modifications to the envelope and conditions proposed as part of this Modification Application, the test for whether an application may be treated as a (1A) is a qualitative test that requires consideration of the impact of these modifications. The consent authority may be satisfied that this Modification Application is of minimal environmental impact because:

- The proposed modifications to the approved building envelope are negligible within the context of the overall envelope approved, and will not result in any significant impacts in respect of built form, views and visual impact, overshadowing or wind.
- The proposed modifications to the building represent an improvement in terms of the provision of safe and equitable access for visitors and members of the public.
- The proposed modifications represent an improved outcome by providing additional soil depth for substantial landscape planting, whilst providing necessary protection and clearance distances for the safe and efficient operation of the Western Distributor below.
- Adequate bicycle parking will continue to be provided in accordance with the expected demand.

8.3 Reasons given for granting consent

The Independent Planning Commission determination report sets out the following reasons for granting consent for approval of the Stage 1 Concept Approval SSD 7684:

- would be consistent with the principles of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- would be consistent with the applicable Region and District Plans;
- would have reasonable and acceptable impacts on view loss and overshadowing on the Astoria Tower;
- would have reasonable and acceptable impacts on view loss and overshadowing on the Millennium Tower;
- would ensure no additional overshadowing of the proposed Town Hall Square within the time of peak utilisation and complies with Council’s existing overshadowing controls;
- would have marginal wind impacts on the area, which can be mitigated after further future assessment;
- would create social and economic benefits;
- would create a public benefit by providing additional open space and improving connectivity between Darling Harbour and the CBD;
- would not have any adverse heritage impacts;
- is consistent with the objects of the EP&A Act; and
- is in the public interest.

The proposed modifications seek to enhance amenity, functionality, and the legibility of the approved building to maintain a high standard of design excellence and therefore remain consistent with the approved intent of the development, as per SSD 7684.

9.0 Conclusion

The proposed modifications relate to the following:

- Minor modifications to the building envelope, including to the following areas:
 - Podium (north and south).
 - Northern Park landscape.
 - Landbridge connections.
 - Crescent Garden project integration.
 - Tower facades (east and west).
 - Pergolas.
 - Darling Park project integration.
- Modifications to project boundary to facilitate project integration with surrounding land.
- Modifications to bicycle parking rates and requirements.

In accordance with section 4.55(1A) of the EP&A Act, the Department may modify the consent as:

- The consent, as proposed to be modified, is substantially the same development as that originally approved.
- The environmental impacts of the development as proposed to be modified are minimal/negligible, and are consider to be an improvement in comparison to the envelope approved in SSD 7684.
- The overall height or gross floor area of the approved development is not proposed to be modified, ensuring the overall capacity of the development remains unchanged.
- The development continues to provide for a mix of commercial and retail uses. The uses throughout the building remain unchanged.
- The development does not alter the average or maximum tower footprint nor the maximum volumetric tower envelope utilisation of 65%, and as a consequence the modifications continue to facilitate a tower that is less bulky than permitted under the existing approval.
- The amendments do not alter, and are largely a direct outcome of, the competitive design process expressly envisaged under conditions A14-A18 of the Stage 1 Concept Approval.
- The proposed modifications to the development result in minimal and comparable environmental impacts, when considering the original assessment of the Stage 1 Concept Approval

In light of the above, we therefore recommend that the proposed modification is supported by the Department.

We trust that this information is sufficient to enable a prompt assessment of the proposed modifications.

Yours sincerely,



Anna Nowland
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Michael Oliver
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