



Planning &
Environment

**STATE SIGNIFICANT DEVELOPMENT
ASSESSMENT REPORT:**

Refurbishment of the Harbour Rocks Hotel

SSD 8687



Environmental Assessment Report
Section 4.40 of the
Environmental Planning and Assessment Act 1979

June 2018

ABBREVIATIONS

Applicant	Roads and Maritime Services, or anyone else entitled to act on this consent
AS	Australian Standard
CIV	Capital Investment Value
Commission	Independent Planning Commission
Consent	Development Consent
Council	City of Sydney Council
DCP	Development Control Plan
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Authority
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
ICNP	Interim Construction Noise Policy
INP	Industrial Noise Policy
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
OEH	Office of Environment and Heritage
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for New South Wales

Cover Photograph: The Harbour Rocks Hotel (Source: Applicant's EIS)

© Crown copyright 2018

Published June 2018

NSW Department of Planning & Environment

www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, 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 upon the whole or any part of this document.

EXECUTIVE SUMMARY

This report provides an assessment of a State significant development (SSD) application lodged by TMG Argyle Pty Ltd and AMCO Argyle Pty Ltd for the refurbishment of the Harbour Rocks Hotel (SSD 8687). The site located at 34-52 Harrington Street, The Rocks, within the City of Sydney local government area (LGA).

The application seeks approval for the refurbishment of the State listed heritage item, the Harbour Rocks Hotel, including the internal reconfiguration of the ground floor/basement area, replacement of an outdoor deck, new awning and associated signage.

The proposal is SSD under clause 6 of Schedule 2 of the State and Environmental Planning Policy (State and Regional Development) 2011, as it comprises development on land at The Rocks and which does not comply with the Sydney Cove Redevelopment Authority Scheme (SCRA Scheme).

A SCRA Scheme variation is therefore being concurrently sought to enable development consent to be granted for the development. The Minister for Planning is the consent authority for the SSD application and is responsible for the making of the SCRA Scheme variation.

The application, including the SCRA Scheme variation, were concurrently exhibited between 22 February 2018 and 23 March 2018.

The Department received a total of six public authority submissions and no public submissions. The key issues raised were from the Heritage Division and the City of Sydney Council regarding heritage impacts, including the impact of the proposed outdoor deck and awning on the heritage façade of the building and two new internal openings to exceptionally significant heritage fabric.

The proposal was amended in the Response to Submissions to address the issues raised by the Heritage Division and Council regarding the potential heritage impacts. The amended proposal removed the deck's structural posts and suspended the proposed awning from the brick façade. The proposed changes aimed to reduce the visual and heritage impact of the structure on the heritage façade and streetscape and were supported by the Heritage Division and Council.

The Department has considered the merits of the proposal in accordance with relevant matters under section 4.15(1), the objects of the *Environmental Planning and Assessment Act 1979*, the principles of Ecologically Sustainable Development, the issues raised in submissions and the Applicant's RtS.

The Department considers the awning and deck have been sensitively designed to appropriately manage the heritage and visual impacts. The proposed internal works, including the proposed openings, will restore and enhance the building, promoting a greater understanding of the building's history as a warehouse.

The Department also considers the proposal will provide for functional outdoor space that will improve the commercial viability of the hotel and contribute to its ongoing adaptive reuse and appreciation.

The Department is satisfied that on balance, the proposal will facilitate the retention and ongoing use of the hotel while maintaining the heritage significance of the building and The Rocks. The impacts of the development have been appropriately managed and suitable conditions have been recommended, including heritage management and preparation of a Heritage Interpretation Plan.

The Department concludes the proposal is in the public interest and recommends that the SCRA Scheme variation be made and the application be approved, subject to conditions.

1. BACKGROUND

1.1 Introduction

This report provides an assessment of a State significant development (SSD) application lodged by TMG Argyle Pty Ltd and AMCO Argyle Pty Ltd (the Applicant) for the refurbishment of the lower ground floor and basement of the Harbour Rocks Hotel (SSD 8687).

1.2 The site

The site is located at 34-52 Harrington Street, The Rocks, Sydney. The site is rectangular, with an area of approximately 910 m². The site is legally described as Lot 11 and 14 in DP 773812.

The site comprises two State listed heritage items, the former Evans' Stores (SHR 01545) and Terraces (SHR 01611). The proposed development relates to the former Evans' Stores, known as the Harbour Rocks Hotel, as shown in **Figure 1**.



Figure 1: Harbour Rocks Hotel (Source: Applicant's EIS).

The Harbour Rocks Hotel is a three-storey brick former warehouse, comprising four distinct bays. The building is currently used as a hotel with the lower ground floor/basement used for bar/restaurant purposes and the upper floors as a hotel.

The lower ground floor is publicly accessible from Harrington Street and from the rear via Suez Canal. The rear entrance fronts Nurses Walk and comprises a 1980s elevated deck, that contains removable black, canvas umbrellas (**Figure 2**).



Figure 2: View rear of the Harbour Rocks Hotel along Nurses Walk showing external deck (Source: Applicant's photo).

1.3 Site context

The site is located within the City of Sydney Council LGA, within The Rocks heritage precinct. The site is bound by two storey terraces to the south, Harrington Street to the west, Suez Canal to the north and Nurses Walk to the east. The site is surrounded by commercial and cultural uses including (**Figure 3**):

- Sydney Harbour Bridge
- the Overseas Passenger Terminal
- Cadmans cottage
- the Museum of Contemporary Art
- Circular Quay.

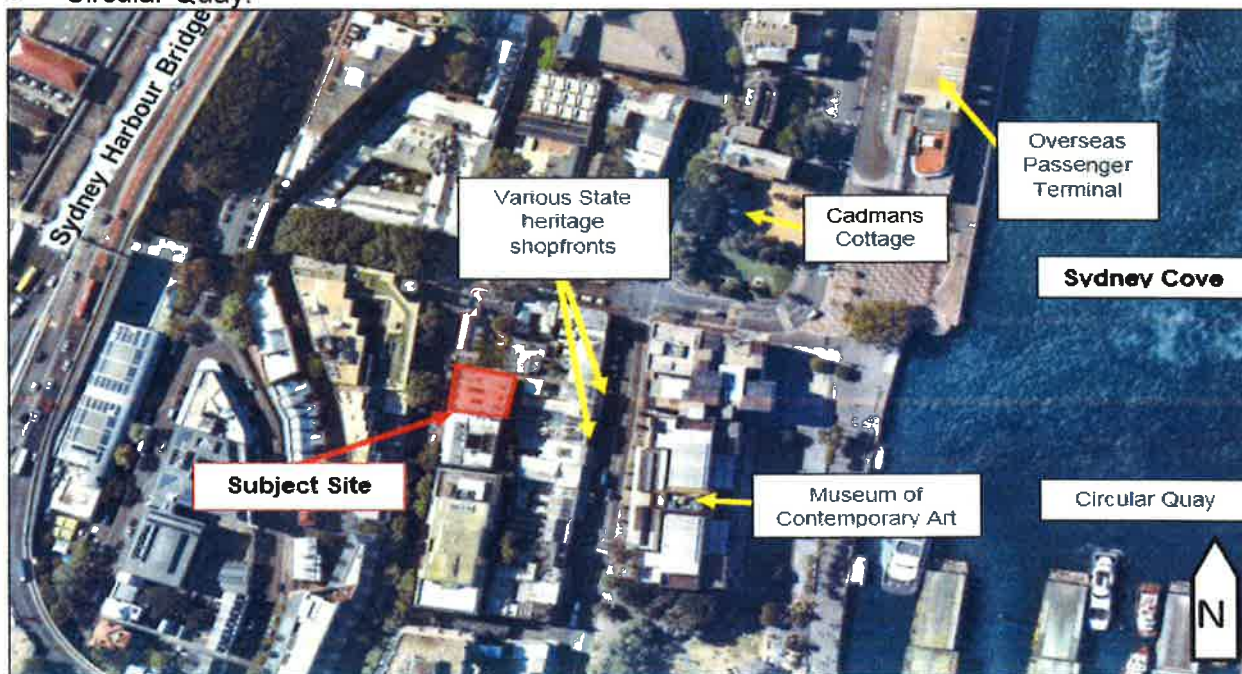


Figure 3: Site context (Source: Nearmap).

The site is also surrounded by several State listed heritage items including (**Figure 4**):

- 103 George Street, Shop and residence – Ariel Bookshop (SHR 01587)
- 105 George Street, Shop and Residence (SHR 01582)
- 107-109 George Street - Shop, Rockpool Restaurant (SHR 01590)
- 32 Harrington Street – Shop and Residence (SHR 01586)
- 45-47 Argyle Street – Gannon House and Shop (SHR 01548).



Figure 4: Heritage items located within the vicinity of the subject site (Source: Applicant's EIS).

2. DESCRIPTION OF PROPOSAL

2.1 Description of proposal

The proposed application seeks approval for the partial refurbishment of the Harbour Rocks Hotel. The proposed works include the internal reconfiguration of the ground floor/basement restaurant area and external works for the demolition and replacement of the deck and new awning.

The application was amended during the assessment process in response to comments from the Heritage Division and Council. The key components of the proposal, as refined during the assessment process are provided in **Table 1** and are shown in **Figures 5 to 7**.

Table 1: Key components of the SSD application.

Aspect	Description
Demolition	• Removal of existing timber raised walkway, stairs and balustrade. • Removal of non-heritage internal partitions and walls. • Removal of sandstone bricks to create a new opening into the existing sandstone walls between Bays 1 and 2 and Bays 3 and 4.
External works	• Addition of a new deck, balustrading and associated stairs. • Addition of a new suspended awning.
Internal works to lower ground floor/basement	• Reconfiguration of existing kitchen. • New steps in between upper and lower levels in Bays 2 and 3. • Reconfiguration of existing services including AC, ventilation, electrical, fire and hydraulic services to suit new layouts. • New bar counter in Bay 1. • New seating in Bays 1 and 2. • New "loose fit" furnishings throughout. • New stone, tile and timber floor finishes.

Aspect	Description
Signage	• Business identification signs. • Menu board signs. • Directional signage. • Relocation of an existing shingle sign. • Removal of an existing shingle sign from Nurses Walk façade.
Access	• Conversion of the existing doorway onto Suez Canal into a new accessible entrance into the premises. • Restoration of existing external doors.
Uses	• Continued use of ground floor/basement for restaurant purposes. • Change of use of Bay 4 from office to retail/takeaway space connected with the restaurant use.
Access	• Conversion of the existing doorway onto Suez Canal into a new accessible entrance into the premises. • Restoration of existing external doors.
Hours of operation	• Restaurant: 6:30 am to 10 pm. • Bar: 6:30 am to 12 midnight. • Outdoor deck: 6.30 am to 10 pm.
CIV	• \$1,125,290.
Employment	• 100 construction jobs and 119 operational jobs.



Figure 5: Photomontage of proposed view of deck and awning from Nurses Walk (Source: Applicant's RtS).

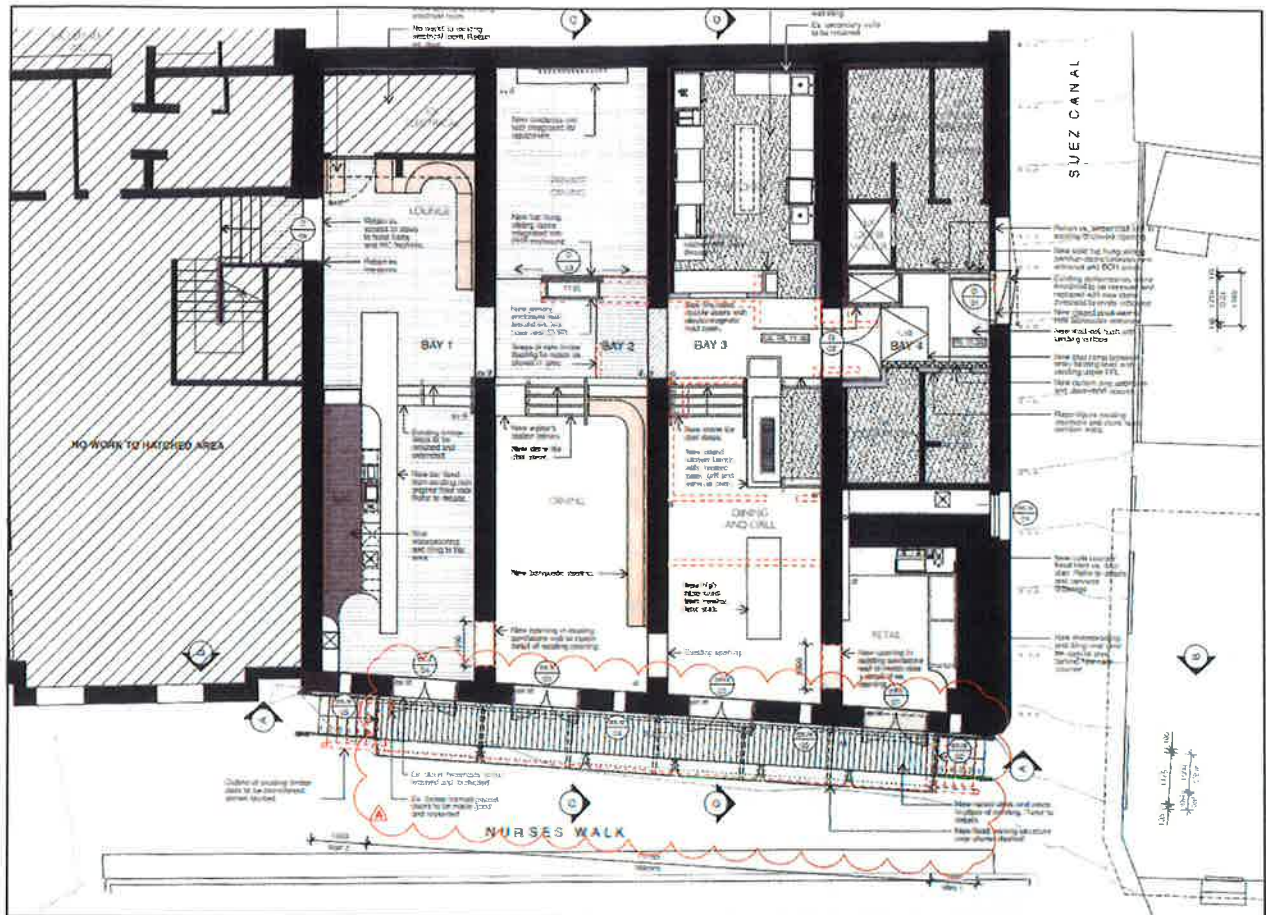


Figure 6: Proposed lower ground floor/basement plan (Source: Applicant's RtS).

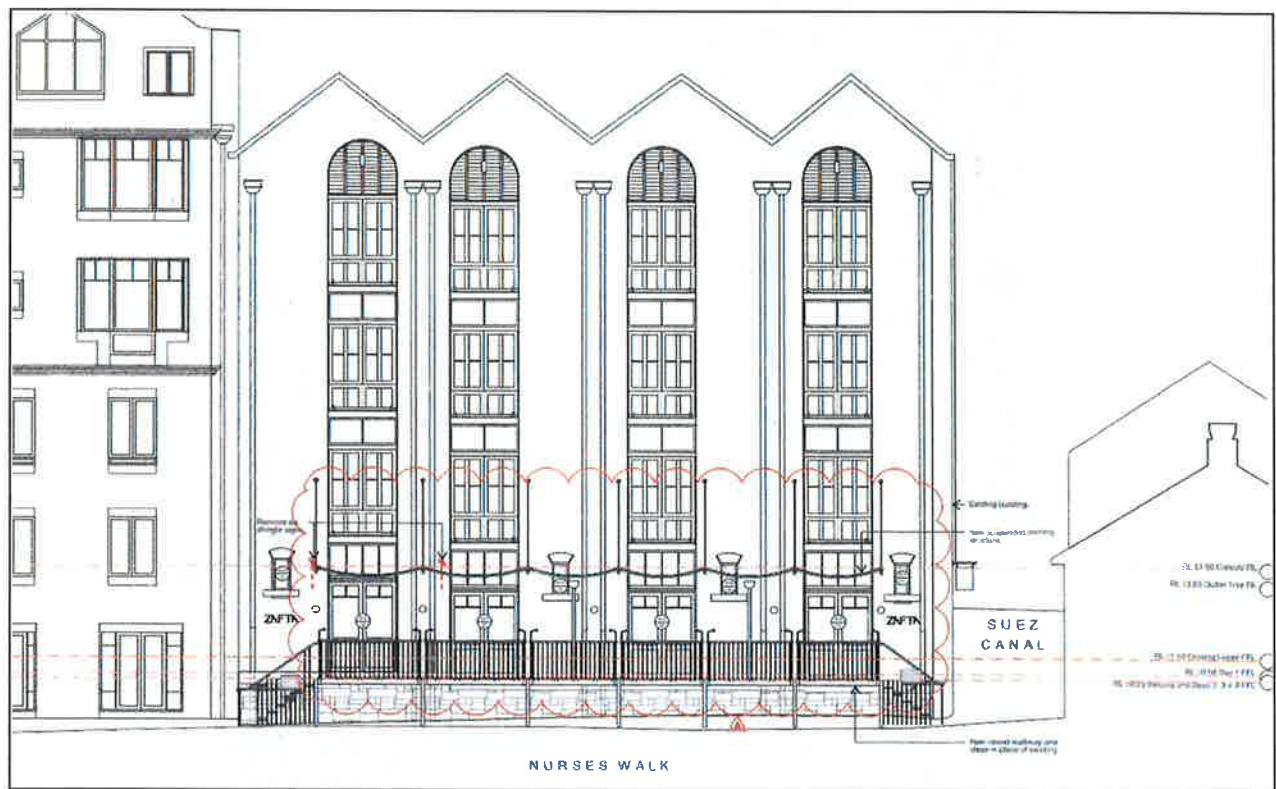


Figure 7: Proposed elevation (Source: Applicant's RtS).

The application also proposes a variation to the Sydney Cove Redevelopment Authority Scheme (SCRA Scheme) to enable development consent to be granted for the proposed awning as it is outside of the prescribed envelope. The existing and proposed SCRA Drawings are illustrated in **Figures 8 and 9**.

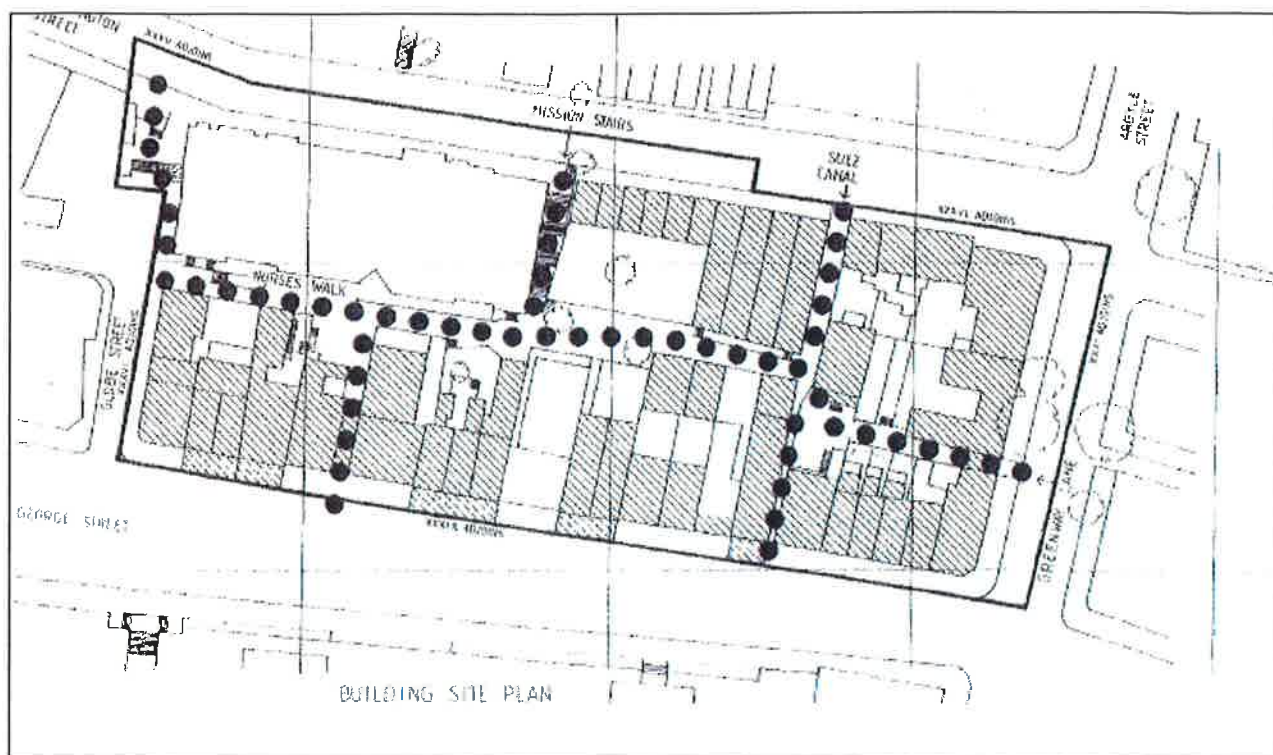


Figure 8: Existing SCRA Scheme Drawing (Source: Applicant's EIS).

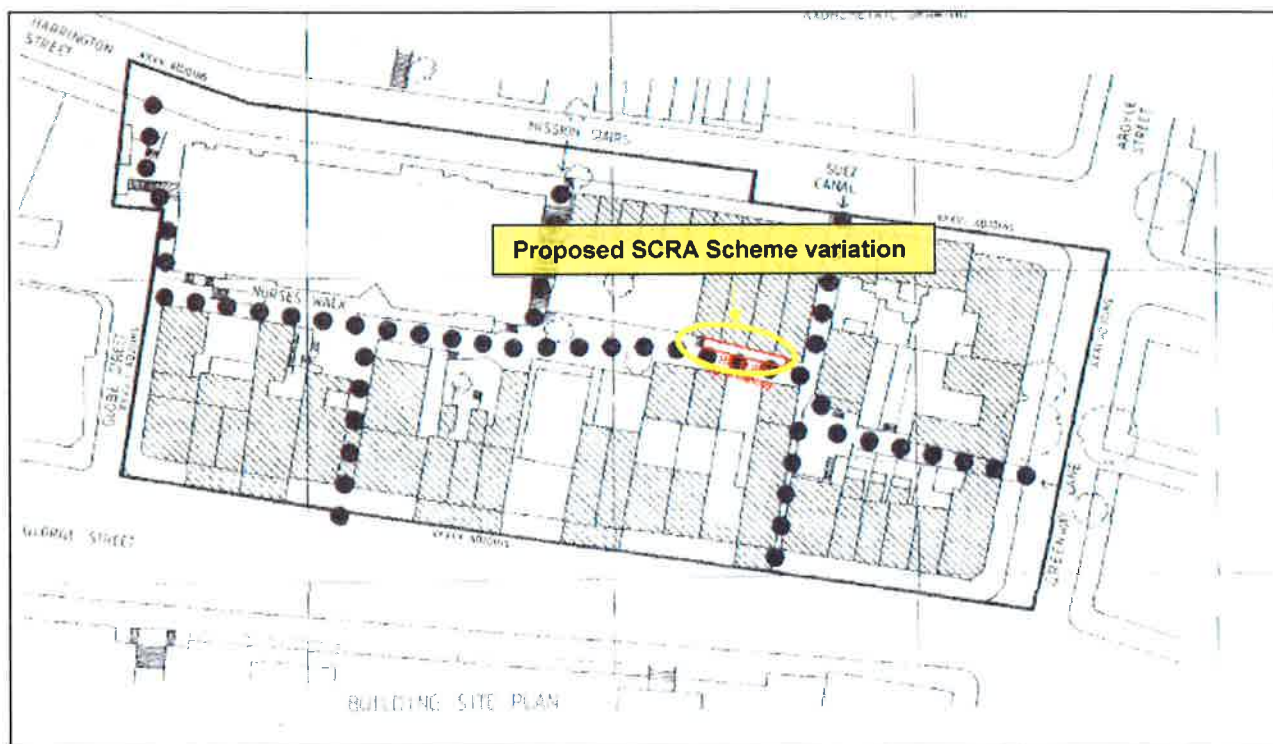


Figure 9: Proposed SCRA Scheme Drawing (Source: Applicant's EIS).

2.2 Project need and justification

Greater Sydney Region Plan

Greater Sydney Regional Plan – A Metropolis of Three Cities sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth and change for Greater Sydney. The Plan seeks to update directions and actions in *A Plan for Growing Sydney* and *Towards our Greater Sydney 2056*. The Plan includes 10 key directions to provide:

1. a city supported by infrastructure – infrastructure supporting new developments
2. a collaborative city – working together to grow a Greater Sydney
3. a city for people – celebrating diversity and putting people at the heart of planning
4. housing the city – giving people housing choices
5. a city of great places – designing places for people
6. a well-connected city – developing a more accessible and walkable city
7. jobs and skills for the city – creating conditions for a stronger economy
8. a city in its landscape – valuing green spaces and landscape
9. an efficient city – using resources wisely
10. a resilient city – adapting to a changing world.

The proposed development is located within the *Eastern Harbour City*. The proposed development supports the directions and objectives of the Plan by:

- enhancing an existing heritage listed building to improve its commercial viability
- contributing to the local identity of The Rocks within the Sydney Harbour area
- providing for 100 construction jobs and 119 operational jobs in a connected and highly accessible area.

Eastern City District Plan

The Greater Sydney's Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local council and planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The proposed development is located within the *Eastern City District Plan*. The proposal is consistent with the Plan as it will contribute to restoring and renewing a State listed heritage item to foster a culturally rich community and respect the district's heritage (Planning Priority E4 and E6) and it provides for job opportunities in the highly accessible Rocks precinct (Planning Priority E7 and E11).

City of Sydney Sustainable Sydney 2030

The City of Sydney's *Sustainable Sydney 2030* sets out the goals for a green, global and connected city. The Plan recognises the importance of sustainable economic growth and employment in Sydney.

The proposed development is consistent with the Plan, notably Strategic Direction 7: 'cultural and creative city' as it promotes the retention and ongoing use of a heritage building of State significance.

3. STATUTORY CONTEXT

3.1 State Significant Development

The proposal is State Significant Development (SSD) under section 4.36 (development declared SSD) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it comprises development on land identified as being within The Rocks and which does not comply with the SCRA Scheme under clause 6 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011.

A SCRA Scheme variation is therefore being concurrently sought to enable development consent to be granted. The Minister is the consent authority for the SSD application and is responsible for the making of the SCRA Scheme variation.

3.2 Consent authority

Determination of application

In accordance with the Minister's delegation of 11 October 2017, the Executive Director, Key Sites and Industry Assessments may determine SSD application as:

- the relevant Council has not made an objection
- there are less than 25 public submissions in the nature of objection
- a political disclosure statement has not been made.

SCRA Scheme variation

On 28 February 2016, the Minister delegated functions under clause 9 of the *Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999*, in relation to a draft variation to the SCRA Scheme, to the delegate also determining the development application in relation to which the variation was submitted.

As the Executive Director, Key Sites and Industry Assessments is determining the development application in relation to which the variation was submitted, the variation to the SCRA Scheme can also be made by the Executive Director, Key Sites and Industry Assessments.

3.3 Permissibility

The *Sydney Cove Redevelopment Authority Scheme* (SCRA Scheme) is the relevant EPI regulating development in The Rocks and prescribes building height limits, envelopes and permitted uses. Development within The Rocks area must be consistent with the relevant controls of the SCRA Scheme.

The Harbour Rocks Hotel is located within Site XXXVIII under the provisions of the SCRA Scheme and includes 'Commercial', 'Residential' and 'Special' land uses as permissible for the site. The proposal seeks to upgrade the restaurant/bar, considered a 'Commercial' use, which is permissible under the SCRA Scheme.

3.4 Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999

The *Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999* (Regulation) is the regulatory mechanism that outlines the process for amending the SCRA Scheme and the mandatory matters the Minister (or delegate) must consider whether to make a proposed variation to the SCRA Scheme.

The Regulation requires the Applicant to apply to the Minister for a variation to the approved SCRA Scheme to enable development consent to be granted to the proposed development. The application must describe the elements of the development that do not comply with the approved SCRA Scheme, set out in the reasons for the variation to the SCRA Scheme and address the matters that the Minister must consider.

The awning is outside of the building envelope nominated within the SCRA Scheme.

The Applicant has therefore concurrently applied to vary the SCRA Scheme to enable development consent to be granted to the proposed development. The proposed variation to the SCRA Scheme is considered in more detail in **Appendix C**.

3.5 Environmental Planning Instruments

Under section 4.15(1)(a)(i) and (ii) of the EP&A Act, the consent authority is required to consider any environmental planning instrument or proposed instrument that is of relevance to the development application. The following EPIs apply to the proposed development:

- Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)
- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft Remediation of Land State Environmental Planning Policy
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft Environment State Environmental Planning Policy (Environment)
- State Environmental Planning Policy (Coastal Management) 2018.

The Department's detailed consideration of the proposal against the applicable EPIs is provided in **Appendix B** and **C** of this report. The Department is satisfied the application has adequately addressed the relevant provisions and is consistent with the applicable EPIs.

3.6 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects as set out in section 1.3 of that Act. The Department has considered the proposal to be satisfactory with regard to the objects of the EP&A Act as detailed in **Table 2**.

Table 2: Consideration of the proposal against the objects of section 1.3 the EP&A Act.

Objects of section 5 of the EP&A Act	Department's assessment
(a) <i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	The proposal promotes the social and economic welfare through the improvement of a State listed heritage item. The proposed works are minor and will not result in an adverse impact on natural or other resources.
(b) <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	ESD has been addressed in Section 3.7 of this report.
(c) <i>to promote the orderly and economic use and development of land,</i>	The proposal represents the orderly and economic use of the land as it improves the accessibility and functionality of the site.
(d) <i>to promote the delivery and maintenance of affordable housing,</i>	The proposal relates to a commercial development and does not affect or involve the provision of affordable housing.
(e) <i>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	The proposed development would not have an adverse impact on the natural environment.
(f) <i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	The proposal facilitates the sustainable development of a State listed built heritage item as discussed in Section 5 of this report.
(g) <i>to promote good design and amenity of the built environment,</i>	The proposal exhibits good design and amenity as discussed in Section 5 of this report.
(h) <i>to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The proposal facilitates the maintenance and upgrade of a building.

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department has consulted with City of Sydney Council, Office of Environment and Heritage, Office of Environment and Heritage – The Heritage Division, NSW Environment and Protection Authority, Roads and Maritime Services and Transport for NSW (refer to Section 4 of this report).
(j) to provide increased opportunity for community participation in environmental planning and assessment.	Section 4 of this report provides the details of public exhibition and involvement on the proposal.

3.7 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

The Department has considered the project in relation to the ESD principles. The Precautionary and Inter-generational Equity Principles have been applied in the decision making process via a thorough and rigorous assessment of the environmental impact of the proposed development. The proposed development facilitates the ongoing adaptive reuse and preservation of a State heritage building for use of future generations and is therefore considered consistent with ESD principles.

3.8 Environmental Planning and Assessment Regulation 2000

Subject to any other reference to compliance with the EP&A Regulation cited in this report, the requirements for applications (Part 6), notification (Part 6, Division 6) and fees (Part 15, Division 1AA) have been complied with.

3.9 Secretary's Environmental Assessment Requirements

On 14 September 2017, the Department notified the Applicant of the Secretary's Environmental Assessment Requirements (SEARs) for the SSD application. The Department considers the EIS has adequately addressed compliance with the SEARs to enable the assessment and determination of the application.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from 22 February 2018 until 23 March 2018 (for 30 days). The application was exhibited on the Department's website, at Service Centre NSW and at the City of Sydney Council's office. The Department concurrently exhibited the SCRA variation during this period, at the same locations, consistent with the Regulation.

The Department placed a public exhibition notice in the *Central Sydney* on Wednesday 21 February 2018, and provided written notification to adjoining landholders and relevant State and local government authorities.

The Department received a total of six submissions from public authorities and no submissions from the general public. A summary of the issues raised in the submissions is provided at **Table 3** below and copies of the submissions are provided at **Appendix A**.

The Department has considered the comments raised in the submissions during the assessment of the application (**Section 5**) and/or by way of recommended conditions in the instrument of consent at **Appendix D**.

4.1.1 Public authority submissions

The Department received six public authority submissions, summarised in **Table 3**.

Table 3: Summary of public authority submissions to the EIS exhibition.

City of Sydney Council (Council)
Council did not object to the proposal and provided the following comments: • The two new openings in the sandstone walls between Bays 1 and 2, and 3 and 4 will impact upon exceptionally significant heritage fabric. • Provide confirmation of the proposed signage area and content. • Provide confirmation of the cooking facilities for the new kitchen, noting the inconsistencies in the EIS. • Request for a 'Category A' Plan of Management. • Recommended conditions of consider include heritage impact mitigation and noise limiters.
Office of Environment and Heritage – The Heritage Division (Heritage Division)
Heritage Division did not support the proposal for the following reasons: • The proposed metal awning would have an adverse visual impact on the views to the building from Nurses Walk and Suez Canal. The permanent structure would increase visual clutter and impact on views within The Rocks precinct and diminish its heritage values. • The proposed openings between Bays 1 and 2 and Bays 3 and 4 will result in the loss of original wall fabric assessed as having exceptional significance, inconsistent with the CMP. • More information on the heritage significance of the paving is required to support the installation of stainless steel balustrade wires to the underside of the steps.
NSW Environment Protection Authority (EPA)
EPA raised no objection to the proposed development. The proposal does not require an Environment Protection Licence under the <i>Protection of the Environment Operations Act 1997</i> .
Roads and Maritime Services (RMS)
RMS raised no objection to the proposed development as it is unlikely to have a significant impact on the classified road network.
Transport for NSW (TfNSW)
TfNSW raised no objection to the proposal subject to a condition of consent regarding a Construction, Pedestrian and Traffic Management Plan.
Office of Environment and Heritage (OEH)
OEH reviewed the <i>Biodiversity Development Assessment Report</i> (BDAR) prepared by Ecoplaning dated 28 February 2018, and considers the proposed development is not likely to have any significant impact on biodiversity values.

4.1.2 Public submissions

No public submissions were received.

4.2 Response to Submissions

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

On 18 May 2018, the Applicant provided a Response to Submissions (RtS) (**Appendix A**) on the issues raised during the exhibition of the proposal. The RtS included an amended design that proposed a suspended awning and removed the deck's outward facing structural columns.

The RtS was made publicly available on the Department's website and was referred to the relevant public authorities. An additional two submissions were received from public authorities, including Council and Heritage Division. A summary of the issues raised in the submissions is provided at **Table 4** and copies of the submissions are provided at **Appendix A**.

Table 4: Summary of public authority submissions to the RtS

Office of Environment and Heritage – The Heritage Division	
The Heritage Division noted it was consulted with prior to the lodgement of the RtS. The Heritage Division provide the following comments:	
• The amended awning will reduce the visual bulk of the addition and lessen the visual impact on views to the building from Nurses Walk and Suez Canal (within The Rocks precinct) to an acceptable level and is supported. • The two new openings into the exceptionally graded original sandstone walls between lower bays within the basement are supported. • The affected bays are separated from the main areas and have poor access and the removed stone would be carefully extracted by an experienced stonemason and would be reversible.	
The Heritage Division also recommend a range of revised conditions of approval to mitigate any impacts of the proposed development on the heritage significance of the building.	
City of Sydney Council (Council)	
• Council maintains that the proposal will intensify the existing hotel/restaurant use and result in increased patronage. • Council recommend the hours of operation consistent with Sydney DCP 2012 to minimise disruption to the recently approved neighbouring residential properties at 35-75 Harrington Street, The Rocks.	

5. ASSESSMENT

5.1 Section 4.15(1) Matters for consideration

The matters for consideration under section 4.15(1) of the EP&A Act have been addressed in **Table 5**. The table represents a summary for which additional information and consideration is provided in further sections of the report and relevant appendices, as referenced in the table.

Table 5: Section 4.15(1) Matters for consideration.

Section 4.15(1) Matters for consideration	Department's consideration
(a)(i) any environmental planning instrument	The variation to the SCRA Scheme is addressed in Appendix C . The Department's consideration of other relevant EPIs is provided in Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2, relating to Environmental Impact Statements.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has assessed the likely impacts of the development, including heritage and considers they are acceptable and/or have been appropriately managed by recommended conditions (refer to Section 5 and Appendix D of this report).
(c) the suitability of the site for the development	The site is suitable for the development (Refer to Sections 3 and 5 of this report).
(d) any submissions	the submissions received during the exhibition period have been consideration (refer to Sections 4 and 5).
(e) the public interest	The Department considers the proposal to be in the public interest for the following key reasons:

	• The proposal will restore, conserve and improve a State heritage item contributing to one of Australia's most significant heritage precincts, The Rocks Conservation Area, and Sydney's cultural ribbon. • The proposed internal layout and outdoor deck area will better accommodate the existing restaurant use and allow for greater commercial viability for the Hotel, reinforcing the site's continued adaptive reuse, preservation and appreciation. • The proposal will contribute to the public domain by providing an outward facing eating area that will activate the Nurses Walk laneway.
The likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report. (Section 7.14 of the <i>Biodiversity Conservation Act 2016</i>)	OEH and the Department consider the proposal will not have any adverse impact on biodiversity values. Refer to Section 5 of this report.

5.2 Key assessment issues

The Department has considered the EIS, the issues raised in submissions and the Applicant's RtS in its assessment of the proposal. The Department considers the key issues associated with the proposal are:

- heritage impacts (internal and external)
- operational impacts.

Each of these issues is discussed in the following sections of this report. Other issues considered during the assessment of the application and are addressed in **Section 5.5** of this report.

5.3 Heritage impacts

The proposed development includes external and internal works to the Harbour Rocks Hotel, a State listed heritage item. The site is also located within The Rocks, one of Australia's most significant heritage precincts and is surrounded by several State and local heritage items (refer to **Section 1** of this report).

The Heritage Division and Council support the application, subject to conditions of consent. These include the requirement to engage a qualified heritage consultant and qualified tradespersons with heritage experience, protection of heritage fabric during construction and an unexpected archaeological finds procedure.

The Department recommends these requirements are imposed as conditions of consent. The Department's consideration of the potential impacts of the proposed external and internal works on the heritage significance of the building is provided below.

5.3.1 External works

The proposed external works comprise a new awning, outdoor deck and balustrading to replace an existing deck, that was constructed as an add-on in the 1980s and is currently in poor condition (**Figure 2**). The existing deck is currently approved as an outdoor dining area with black canvas umbrellas and seating for 12 patrons. The deck also provides access to the hotel from Nurses Walk.

The replacement deck will be designed to accommodate an outdoor dining area for a maximum of 20 patrons that will face outward to Nurses Walk. The deck will have the same footprint as the existing deck, with the exception of a wider counter area atop the balustrading to accommodate table space for meals (**Figure 10**). A new awning supported by structural posts will be mounted about the deck, replacing the temporary black canvas umbrellas currently used.

The external works also involve the restoration of the existing external doors and the conversion of the existing doorway onto Suez Canal into a new accessible entrance. Heritage Division and Council support these works subject to a condition of consent requiring the new windows and doors to match the original material.

The Department considers these restoration works are minor upgrades required for accessible access to the restaurant for the adaptive reuse of the heritage building. These works can also be appropriately mitigated subject to conditions of consent as recommended by Council.

In regard to the awning and deck, the Heritage Division originally did not support these works, stating the proposed design would have an adverse visual and heritage impact on the views to the building from Nurses Walk and it would increase visual clutter and impact on views to the building and within The Rocks. Council raised no issues in regard to the deck and awning.

In response to these issues, the Applicant amended the design in consultation with the Heritage Division. The amended proposal removes the structural posts and suspends the awning from the existing brick masonry façade, separated 200 mm from the wall (**Figure 10 and 11**).



Figure 10: Photomontage of existing (a), originally proposed (b) and currently proposed (c) view of deck and awning from Nurses Walk (Source: Applicants RtS).

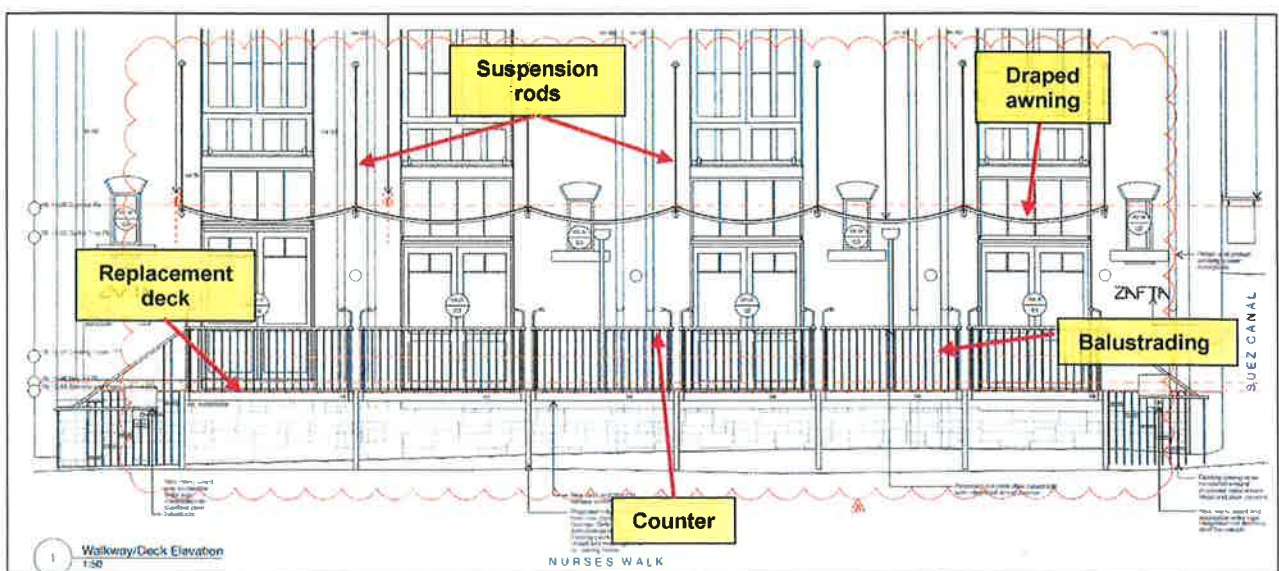


Figure 11: East elevation showing rear external work (Source: Applicant's RtS).

The amended design was accompanied by a Design Response which advised that the awning material is composed of fine stainless steel sheets that will give a light and ephemeral appearance. The 200 mm separation from the façade will provide for visual separation and will allow natural light across the building facade. The awning also forms in repeated draped sections that reduce the visual bulk of the awning and reflect the door and window arrangement of the existing building.

The Design Response also outlined consideration of alternative materials including glass and fabric. Glass was considered inappropriate as it would require substantial support structures that would result in visual dominance and would not provide adequate sun protection. A retractable fabric awning was also considered and was found to lack durability, have a solid appearance and would not provide effective rain protection.

The Heritage Division has provided its support for the amended proposal, subject to a condition of consent requiring the suspension rods to be fixed to mortar joints on the building façade and detailed appropriately to minimise impact on the brickwork.

The Department considers the revised awning, deck and balustrading provides for a light-weight, visually open structure. The suspended awning will allow for views to permeate through the structure to the building and either end of Nurses Walk. The draped sections of the awning have also been appropriately designed to align with the existing door and window pattern of the building to reflect the warehouse history.

The use of light-weight contemporary materials and the 200 mm separation of the awning from the building will also allow the structure to be read as a separate element from the heritage façade.

The Department is satisfied the proposed external works are sympathetic to the heritage significance of the building and will respond appropriately to the site. The covered deck area will provide for a functional dining space that will contribute to the commercial viability and adaptive re-use of the heritage building as a hotel. The deck layout will encourage patrons to face outward to Nurses Walk, which will contribute to the activation of the laneway and The Rocks precinct.

The Department concludes, the external works will result in an acceptable level of impact to the heritage significance of the building and Nurses Walk streetscape. The Department recommends conditions of consent in accordance with the recommendations from the Heritage Division and Council to manage and minimise the heritage impacts of the works.

5.3.2 Internal works

The lower ground floor/basement area of the Harbour Rocks Hotel currently accommodates a café/bar/restaurant that is used in connection with the hotel. Hotel guests are likely to also be patrons of the restaurant, along with those who book a table in advance and walk-ins off the street.

The proposed internal works comprise the internal reconfiguration of the lower ground floor/basement, fit-out and new openings into the existing sandstone walls as shown in **Figure 12**.

The proposal also involves the reconfiguration of the existing kitchen, exhaust and services, new steps between the upper and lower levels in Bays 2 and 3 and a new bar, seating, finishes and "loose fit" furnishings throughout (**Figure 12**). The tiled floor surface is to be replaced with hard wood and contemporary add-ons are to be removed, including brick partition walls and cladding on two original arches.

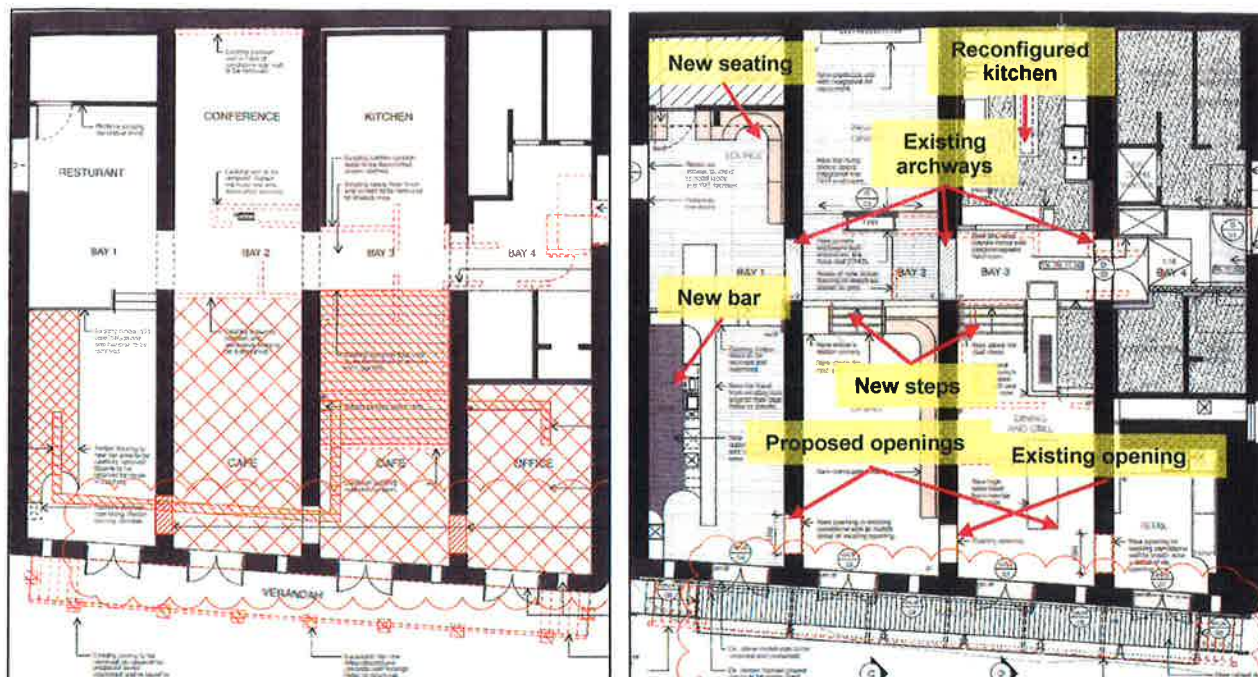


Figure 12: Demolition (left) and proposed (right) groundfloor/basement plan showing internal works (Source: Applicant's EIS).

The Heritage Division note these works will have positive impact and no major adverse impact on the heritage values of the site. The Heritage Division recommended a condition of consent requiring the installation of new services to minimise damage as much as possible and avoid the loss of heritage fabric.

Council are also supportive of these works subject to a condition requiring all new works to match the existing with regard to materials and finishes and new services to be surface mounted rather than chased-in to existing walls to minimise heritage impact.

The Department considers these works will improve the functionality of the building and facilitate its use for ongoing commercial purposes. The removal of intrusive cladding and partitions will also reveal an arcade of three archways, significant to the heritage value of the building, providing an improved heritage outcome.

In respect of the internal openings into the sandstone walls, the application proposes new openings between Bays 1 and 2 and Bays 3 and 4. These will match the existing opening between Bays 2 and 3 to provide connected access through the lower portion of the basement (**Figure 12**). The relevant Conservation Management Plan classifies these sandstone walls as being exceptionally significant with no new openings to be supported.

The Heritage Division originally did not support the proposed openings, noting there was a reasonable level of access within the basement and the proposed use should be tailored to suit the existing space without incurring any loss of exceptional fabric.

Council also notes concerns with this element, however recommended conditions of consent requiring the submission of photographic archival recordings, careful removal of the sandstone and consistency with the recommendations outlined in the *Archaeological Statement for Proposed works*.

The Applicant responded to the Heritage Division's concerns by providing further justification that the current layout is restrictive, with limited access to the lower portion of the bays. The proposed openings would improve site for commercial purposes and allow for a greater appreciation of the warehouse structure and the original configuration of the building.

The Applicant also demonstrated that the openings will be reversible with the individual sandstone blocks to be carefully removed and kept on site. The existing sandstone blocks form in a running bond pattern, therefore the uneven spaces left at the edge of the access way will be reinstated with new stone.

After reviewing this information and visiting the site, the Heritage Division noted the poor access to the affected bays and provided their support for the openings. The Heritage Division also recommended conditions of consent requiring the removal of the stone work to be recorded, labelled and stored on site and the preparation of a Heritage Interpretation Plan.

The Applicant has advised that as part of the proposed development, Place Management NSW also require a Heritage Interpretation Plan for the lower ground floor/basement area of the Harbour Rocks Hotel. The Applicant notes the Plan is currently being developed and is intended to be based on historic images of the site and will not solely rely on information plaques.

The Department notes the proposed openings contradict the suggested conservation strategies in the CMP. However, the Department considers the current layout restricts internal access and limits patrons and visitors to an individual bay. The proposed openings would improve the visual and physical connectivity of the space and allow patrons and visitors to experience the larger space as a whole, providing a greater historical understanding of the space including the connected bays and warehouse history.

The Department concludes the proposed internal works will improve the functionality of the building and enhance its heritage significance by restoring and revealing more of the heritage fabric. To ensure the heritage impact of the development is managed appropriately and the heritage significance of the space is recognised and appreciated, the Department recommends conditions of consent in accordance with the recommendations from Council and the Heritage Division, including the requirement for a Heritage Interpretation Plan to be prepared.

5.4 Operational impacts

The proposal includes an extension to the current operating hours and an increase the patron capacity of the site from 41 patrons to up to 104 patrons. The Department considers this to result in an intensification of the site and the associated impacts of this intensification including noise and hours of operation are considered below.

5.4.1 Noise

The proposed intensification of the site and use of the outdoor dining space has potential to result in noise impacts. Council has recommended a condition of consent requiring all amplification equipment to be controlled by a noise limiter set by a suitably qualified acoustic consultant.

The EIS was accompanied by an *Acoustic Assessment*, that identified the operational noise is predicted to comply with the identified project criteria at the surrounding receivers. The assessment also found that the nearby residences located on opposite side of Harrington Street are over 35 m from the Nurse's Walk façade and are screened by the hotel building. Due to the distance and acoustic screening, noise from the restaurant and deck is predicted to be less than 20 dB below background noise at these properties, well below the project criteria.

While Council has recommended a noise limiter, the Department considers this requirement is unnecessary as the proposal does not involve a change of use for entertainment purposes nor does the predicted noise levels exceed background levels. The Department is therefore satisfied that the potential noise impacts will be negligible and effectively managed by recommended conditions of consent which include:

- the noise level must not exceed the background noise level by more than 5dB between 6.30 am and 12 midnight at any affected residence

- all noise associated with the premises must not be audible within any habitable room in any residential premises after 12 midnight
- an updated Plan of Management is to be prepared and must include a detailed complaints procedure.

5.4.2 Hours of operation

The proposal includes an extension to the existing approved hours of operation. The hours of operation for the proposed lower ground floor/basement are specific to the individual uses of the area, being the restaurant, bar and outdoor deck as shown in **Table 6**. The application proposes to extend the hours of operation for an additional half an hour in the morning to the restaurant and outdoor deck and an additional two hours for the use of the outdoor deck between 8 pm and 10 pm. The application also proposes to reduce the hours of operation for the bar area by 1 hour from 1 am to 12 midnight.

Table 6: Hours of operation (all hours are for Monday to Sunday).

	Existing approved	Proposed	City of Sydney DCP	Recommended
Indoor (restaurant)	7 am – 10 pm	6.30 am – 10 pm	7 am - 1 am	6.30 am – 10 pm
Indoor (bar)	6 am – 1 am (2 am on New Year's Day)	6.30 am – 12 midnight	7 am - 1 am	6.30 am -12 midnight
Outdoor	7 am – 8 pm with a one year trial period for 8pm – 10 pm	6.30 am – 10 pm	9 am - 8 pm*	6.30 am -10 pm

* Hours from 8 pm to 10 pm are allowable with a Plan of Management.

Council recommend the Sydney DCP 2012 is used as a guide for indoor and outdoor hours of operation. Council notes there are recently approved neighbouring residential properties located to the west of the site at 35-75 Harrington Street, The Rocks.

Under the Sydney DCP 2012, the proposed development is located within the 'City Living' area and is classified as a Category B premises as it has a capacity of less than 120 patrons. Therefore, the allowable operational hours are between 7 am and 1 am indoors and 9 am and 8 pm outdoors, as shown in **Table 6**. However, in accordance with the DCP, additional hours between 8pm and 10pm are acceptable with a Plan of Management.

The Applicant has proposed hours of operation for the outdoor deck (until 10 pm) for two hours later than the City of Sydney DCP (8 pm) (**Table 6**). The Applicant has advised the proposed hours of operation are in accordance with the existing approved hours and that imposing a condition of consent requiring hours in accordance with the Sydney DCP 2012 would be a restraint of trade. The Applicant also deems the categorisation as 'City Living' is inappropriate as it does not recognise the site or locality as a nightlife and tourist destination.

The Applicant has also submitted a Plan of Management outlining the operational details for the premises, including the nomination of the restaurant manager and hotel duty manager who will manage patron behaviour and compliant handling.

The Department notes that the relevant Development Consent issued by the City of Sydney on 17 September 2014, permits the hours of operation from 7 am to 10 pm for the restaurant, 7 am to 1 am for the bar and 7 am to 8 pm for the deck area with a trial from 8 pm to 10 pm, Monday to Sunday (**Table 6**).

The Department has considered the proposed hours against the existing approved hours and the hours stipulated in the City of Sydney DCP. The proposal to open at 6.30 am is half an hour earlier and use of the outdoor deck between 8 pm and 10 pm is two hours later than the existing hours and the hours set out by the DCP (**Table 6**). However, the Department notes that the later hours are allowable with a Plan of Management, which has been provided.

The Department considers the additional hours are minor and consistent with what could reasonably be expected within The Rocks precinct as a tourist and entertainment precinct. The Department also recommends a condition of consent requiring the Plan of Management to be updated to outline the operational details for the premises, including a detailed complaints procedure and minimisation and mitigation strategies.

The Department accepts while there is an increase in patrons, the proposed hours are not unreasonable or excessive within The Rocks tourist precinct and operation of the premises will be suitably managed as indicated in the Plan of Management and conditions of consent. For these reasons, the Department concludes the proposed hours of operation for the indoor and outdoor areas acceptable, subject to conditions of consent.

5.5 Other issues

The Department's consideration of other issues is provided at **Table 7**.

Table 7: Department's assessment of other issues.

Issue	Department's consideration	Recommendation
Signage	- The proposal includes the following signage: - business identification signs located at each main entry point (the accessible entry on Suez Canal and adjacent to the stairs at either end of the deck on Nurses Walk). - menu board signs integrated into the hand rail at each end of the deck on Nurses Walk - directional signage to the new accessible entry on Suez Canal located at each end of the deck - new graphics to the existing shingle sign on Suez Canal at the corner of Nurses Walk - relocation of an existing shingle sign from the Nurses Walk façade to the Suez Canal near the corner of Harrington Street - removal of an existing shingle sign from Nurses Walk Façade - decals on the glazed doors (circle shape with 300 mm diameter). - The Heritage Division recommend signage to use existing fixing points on the building facade. New signage should be fixed to mortar joints and all signage works should be reversible. - Council requested additional information regarding the proposed signage area and content. - The Applicant clarified the decal signage will be a circle of 300 mm diameter. The signs will be for business identification purpose, however the exact detail has not been designed yet. - The Department's consideration of the proposal against SEPP 64 and <i>The Rocks Signage Policy 2013</i> is provided in Appendix B. The Department is satisfied the application adequately addresses the relevant provisions and is consistent with the applicable EPIs.	The Department recommends a condition of consent to: - require any proposed signage to use existing fixing points and mortar joints on the building façade and all signage works should be reversible. - ensure the decal signage relates to business identification purposes and does not involve the advertisements of goods and/or services.
Archaeology	- The Archaeological Statement submitted by the Applicant provides that the removal of the basement flooring and/or the excavation for the deck footing deck may expose archaeological material. - The footings are relatively small (400 mm x 400 mm x 200 mm deep), and therefore will have minimal impact.	The Department recommends a condition of consent to: require excavations or other disturbances that reveal underlying areas and/or archaeological 'relics' to be monitored by a suitably

Issue	Department's consideration	Recommendation
	The Heritage Division recommend archaeological monitoring during works and recording any findings.	qualified archaeologist. A report shall be provided to the Secretary, and to the Heritage Division.
Biodiversity	- The Applicant submitted a biodiversity development assessment report (BDAR) prepared by Ecoplaning, dated 28 February 2018. - OEH supports the findings in the BDAR and agrees the proposed development is not likely to have any significant impact on biodiversity values, as defined under the <i>Biodiversity Conservation Act 2016</i>. - The Department supports the assessment made by OEH, and agrees the proposal is not likely to have any significant impact on biodiversity.	The Department considers no additional conditions or amendments are necessary.
Construction noise	- The EIS was accompanied by an <i>Acoustic Assessment</i> that identified the construction noise associated with the development will comply with the identified project criteria at the surrounding receivers. - Due to the minor nature of the works, the Department considers the proposed construction noise can be suitably managed by conditions of consent.	The Department recommends a condition of consent requiring: - development to be constructed in accordance with the noise management levels in the <i>Interim Construction Noise Guideline</i>. - all feasible and reasonable noise mitigation measures must be implemented.
Construction, Pedestrian and Traffic Management Plan.	- TfNSW recommended a condition requiring a Construction, Pedestrian and Traffic Management Plan (CPTMP) to be prepared in consultation with the Sydney Coordination Office and Sydney Light Rail team within TfNSW. - Due to the minor nature of the works, the Department does not consider consultation is required or warranted. Although a copy of the Construction Environmental Management Plan (CEMP) which outlines construction traffic and road movements should be provided to TfNSW for their records.	The Department recommends: a copy of the CEMP is provided to TfNSW.

6. CONCLUSION

The Department has reviewed the EIS, RtS and assessed the merits of the proposal, taking into consideration advice from the public authorities, including Council and the Heritage Division. Issues raised in public submissions have been considered and all environmental issues associated with the proposal have been thoroughly addressed.

The Department is satisfied the proposal, as amended through the assessment process, would provide for the sensitive upgrade of the heritage building that will facilitate its ongoing adaptive reuse. The proposal will maintain the heritage significance of the building and its role as a State heritage item within one of Australia's most significant heritage precincts, The Rocks.

The Department has considered the impacts of the development including potential heritage impacts. The Department considers the proposal has been appropriately designed to allow for the building facade to be viewed within the adapted building, demonstrating its history as a warehouse building. The proposed works will improve the internal layout and outdoor deck area to promote the commercial viability of the Harbour Rocks Hotel, for its continued adaptive reuse, preservation and appreciation.

The Department is also satisfied the proposed development will be an appropriate outcome within the surrounding heritage context of The Rocks and therefore the proposed variation to the SCRA Scheme to accommodate the awning is supported.

The Department concludes the impacts of the development are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent.

Consequently, the Department considers the development is in the public interest and should be approved, subject to conditions.

7. RECOMMENDATION

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

- a) **considers** the recommendations of this report;
- b) **agree** to make the proposed variation to the SCRA Scheme;
- c) **grants consent** to the SSD application (SSD 8687) subject to conditions, under section 4.38(1)(a) of the EP&A Act, having considered matters in accordance with (a) above; and
- d) **signs** the attached development consent at **Appendix D**.

Prepared by: Ellen Mannix
Planning Officer
Key Sites Assessments

Endorsed by:



Cameron Sargent
Team Leader
Key Sites Assessments



Ben Lusher
Director
Key Sites Assessments

DECISION

Approved by:



Anthea Sargeant 29/6/18
Executive Director
Key Sites and Industry Assessments

APPENDIX A RELEVANT SUPPORTING INFORMATION

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

1. Environmental Impact Statement

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8687

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8687

3. Applicant's Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8687

APPENDIX B CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

To satisfy the requirements of section 4.15(a)(i) and (ii) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment. A detailed assessment of the provisions of the relevant EPIs is provided below.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP aims to identify State significant development. The Department's consideration of the proposed development against the relevant sections of the SRD SEPP is provided in **Table 1**.

Table 1: Department's consideration of the relevant sections of the SRD SEPP.

Assessment criteria	Department's consideration	Compliance
3 Aims of Policy The aims of this Policy are as follows: (a) to identify development that is State significant development,	The proposed development is identified as SSD.	Y
8 Declaration of State significant development: section 4.36 (1) Development is declared to be State significant development for the purposes of the Act if: (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and (b) the development is specified in Schedule 1 or 2.	The proposed development is permissible with development consent. The site is specified in Schedule 2.	Y
Schedule 2 State significant development — identified sites (Clause 8 (1)) 6 Development in The Rocks Development on land identified as being within The Rocks Site if: (a) it has a capital investment value of more than \$10 million, or (b) it does not comply with the approved scheme within the meaning of clause 27 of Schedule 6 to the Act.	The proposed development is within The Rocks and does not comply with the approved scheme within the meaning of clause 27 of Schedule 6 to the Act.	Y

Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)

The Harbour Rocks Hotel is located within Site XXXVIII under the provisions of the SCRA Scheme and includes 'Commercial', 'Residential' and 'Special' land uses as permissible for the site. The proposal seeks to continue the use of the site for restaurant purposes, categorised as a 'Commercial' use, permissible under the SCRA Scheme.

The application proposes to amend the SCRA Scheme. The Department's assessment of the proposed variation against the matters outlined in the *Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999* (Regulation) is provided in **Appendix C**. The Department supports the proposed variation.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The SHC SREP provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area. The proposal is consistent with the relevant Planning Principles of the SHC SREP and will not have any significant adverse impact on the Sydney Harbour Catchment as considered in **Table 2**.

Table 2: Department's consideration of SREP (Sydney Harbour Catchment) 2005

Assessment criteria		Department's assessment	Compliance
Part 1 Preliminary			
Clause 2 Aims of the Plan	This clause sets out the aims with respect to the Sydney Harbour Catchment and establishes the principles for the purpose of enabling these aims to be achieved.	The Department considers the proposal is consistent with the aims of the Plan for the following reasons: - The catchment, foreshores and waterways will not be adversely affected by the proposal. - The proposed development will sufficiently manage its impact on the natural environment subject to conditions of consent. - The proposal will improve the existing commercial use and contribute to the culture and vibrancy of the area.	Y
Clause 3 Land to which plan applies	Within the Sydney Harbour Catchment, particular provisions of this plan apply to the Foreshores and Waterways Area.	The site is located within the Foreshores and Waterways Area as identified in the zoning map.	Y
Part 2 Planning principles			
Clause 13 Sydney Harbour Catchment	Provides a set of planning principles for land within the Sydney Harbour Catchment.	The proposal is consistent with the planning principles for the Sydney Harbour Catchment for the following reasons: - The proposal is confined to previously developed land and therefore would have negligible impact on the natural environment and assets including, hydrological, ecological and geomorphological processes and water quality, - The proposed development will sufficiently manage its impact on the environment during construction subject to recommended conditions of consent. - The site cannot be viewed from the waterway or foreshore.	Y
Clause 14 Foreshores and Waterways Area	Provides a set of planning principles for land within the Foreshores and Waterways Area.	The site is located within the Foreshores and Waterways Area and is consistent with the planning principles for the following reasons: - The proposal will not have any impact of the natural assets and visual qualities of Sydney Harbour. - The proposal will not limit public access to the foreshore.	Y

Clause 15 Heritage conservation	Provides a set of planning principles for heritage conservation	The site is a State heritage listed item and is consistent with the planning principles for the following reasons: • The heritage significance of the building will be recognised and conserved. • The proposal will maintain the cultural qualities of the Foreshores and Waterways Area. • The fabric, settings, relics associated with the heritage significance of the heritage item will be protected subject to recommended conditions of consent.	Y
Part 3 Foreshores and Waterways Area			
Division 1 Development control			
Clause 16 Zones indicated on Zoning Map	• Land is zoned in accordance with the zoning map.	The site is adjacent to the waterway zoned W1 – Maritime Waters.	N/A
Clause 17 Zoning objectives	The objectives of the W1 – Maritime Waters Zone are as follows: • To give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industrial operations generally • to allow development only where it is demonstrated that it is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations • to promote equitable use of the waterway, including use by passive recreation craft.	The site is located wholly on land and has no associated uses that directly rely on the waterway. The proposal will not affect the movement of commercial shipping, public water transport and maritime industry operations.	N/A
Division 2 Matters for consideration			
Clause 20 General	• The matters referred to in Division 3 must be considered by the consent authority.	The Department has considered the relevant matters below.	Y
Clause 21 Biodiversity, ecology & environmental protection	• The consent authority must consider the matters listed in the clause in relation to biodiversity, ecology and environmental protection.	The proposal will not have any adverse impacts on the biodiversity or ecology of the area.	Y

Clause 22 Public access to, and use of, foreshores and waterways	The consent authority must consider the matters listed in this clause in relation to public access to, and use of, the foreshores and waterways.	The proposal will not impact public access, and use of, the foreshore.	Y
Clause 23 Maintenance of a working harbour	The consent authority must consider the matters listed in relation to the maintenance of a working harbour.	The proposal will not reduce the capacity of Sydney Harbour to function as a working harbour.	Y
Clause 24 Interrelationship of waterway and foreshore uses	The consent authority must consider the matters listed in this clause in relation to the interrelationship of waterway and foreshore uses.	The proposal will not have any adverse impacts on the use of the waterway.	Y
Clause 25 Foreshore and waterways scenic quality	The consent authority must consider the matters listed in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.	The proposal cannot be viewed from the waterway and therefore will not detract from the scenic quality of the foreshore and waterway.	Y
Clause 26 Maintenance, protection and enhancement of views	The consent authority must consider the matters listed in relation to the maintenance, protection and enhancement of views.	The proposal cannot be viewed from the waterway and therefore will not detract from the views to and from Sydney Harbour.	Y
Division 3 Foreshores and Waterways Planning and Development Advisory Committee			
Clause 29 Consultation required for certain development applications	A consent authority must not grant consent to a DA unless it has referred and considered the views of the Advisory Committee.	The proposal was referred to the Advisory Committee, no comments were made in relation to the proposal.	Y
Part 5 Heritage provisions			
Division 1 General			
Clause 53 Objectives	The relevant objectives of this plan in relation to heritage are: - To conserve environmental heritage - To conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items - To ensure that archaeological sites and place of Aboriginal heritage significance are conserved	The Harbour Rocks Hotel is a State heritage listed item and is consistent with the planning principles as follows: - The proposed development will allow for the conservation of the State listed heritage item existing on the site. - The proposal will conserve the heritage significance of the fabric, setting and views associated with the heritage items (refer to Section 5 of this report).	Y

Division 2 Protection of heritage items			
Clause 54 Land to which Part applies	This Part applies to an in respect of the land shown on the Heritage Map and to the heritage items identified on that map	The Harbour Rocks Hotel is not shown on the Heritage Map.	N/A
Division 4 Miscellaneous			
Clause 59 Development in vicinity of heritage items	The consent authority must assess the impact of the proposed development on the heritage significance of heritage items within the vicinity of the development.	The Department has considered the impact of the proposed development on the heritage significance of the heritage items within the vicinity of the development. Refer to Section 5 of this report.	Y

Sydney Harbour Foreshores and Waterway Area DCP 2005

The site is within the defined Foreshores and Waterways Area and is therefore subject to the controls in the DCP. The DCP includes aims and performance criteria in relation to ecological assessment, landscape assessment and design guidelines for development within the area.

The site does not contain any threatened species or their habitat. The proposal is sympathetic to the heritage significance of The Rocks Area and is consistent with the guidelines as it does not impact upon the foreshore access or views. Therefore, the Department considers the proposal is consistent with the DCP.

Draft State Environmental Planning Policy (Environment)

The Department notes the Explanation of Intended Effect for the Environment SEPP was recently exhibited until the 15 January 2018. The Environment SEPP proposes to simplify the planning rules for the protection and management of the natural environment by consolidating seven existing SEPPs, including the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The relevant matters for consideration and the general provisions relating to Sydney Harbour are proposed to remain in accordance with those in the current SEPP and therefore the proposed development would be consistent with the intended effect of the Environment SEPP.

State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP 64 applies to all signage that under an EPI can be displayed with or without development consent and is visible from any public place or public reserve.

The development proposes the following signage:

- 3 x business identification signs displaying the restaurant name, located at each main entry point, i.e. at the accessible entry on Suez Canal and adjacent to the stairs at either end of the deck on Nurses Walk.
- 2 x advertisements comprising of menu boards located at each end of the deck on Nurses Walk, integrated into an extension of the stair handrail.
- 2 x building identification signs displaying statutory directional signage to the new accessible entry on Suez Canal located at each end of the deck.
- Removal of two existing shingle signs fixed to the Nurses Walk facade.
- 1 x business identification graphics to the existing shingle sign on Suez Canal at the corner of Nurses Walk.
- Relocation of an existing shingle sign from the Nurses Walk façade to the Suez Canal near the corner of Harrington Street.
- 4 x 300mm wide circle shaped Decal signage on the new glazed door to Suez Canal and the existing glazed doors to the Nurses Walk deck.

Under clause 8 of SEPP 64, consent must not be granted for any signage application unless the proposal is consistent with the objectives of the SEPP and with the assessment criteria, which are contained in Schedule 1. The Department considers the proposal to be compatible with the desired amenity and visual character of the area, provides effective communication and is high quality design and is therefore consistent with the objectives of SEPP 64. The Department's assessment of Schedule 1 of SEPP 64 is provided in **Table 3** below.

Table 3: Department's consideration of Schedule 1 of SEPP 64.

Assessment criteria	Department's consideration	Compliance
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage provides for business identification, building identification and menu boards, compatible with the existing character of The Rocks precinct.	Y
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is consistent with the commercial/tourist theme for outdoor advertising in the area.	Y
2 Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage is located within Sydney Cove Redevelopment Area, an area with heritage significance. The proposed signage is not considered to detract from the amenity or visual quality of the heritage significance of the area for the following reasons: • The business identification signage is to comprise fine metal lettering set proud in front of the existing façade. The signage will have minimal obstruction and allows the texture of the existing masonry and timber to be read continuously behind the lettering. • The proposed decal and menu board signage is minimal and consistent with other menu board signage in The Rocks precinct. • The Heritage Division support the proposed signage subject to a condition of consent that requires signage to use existing fixing points and mortar joints on the building façade and all signage works should be reversible.	Y
3 Views and vistas		
Does the proposal obscure or compromise important views?	The proposed business identification signage and window decals are to be affixed onto the façade and will be contained within the building envelope. The proposed menu board and building identification signs are small in size and are to be affixed on the handrail of the proposed deck at eye level. The proposed shingle sign is small sized and is located within the curtilage of the building. The proposed signs will not block any views, particularly when viewed along the street from Suez Canal from the east and west. For the above reasons, the Department considers the proposed signage will not project into the skyline, reduce vistas or the viewing rights of other advertisers.	Y
Does the proposal dominate the skyline and reduce the quality of vistas?		Y
Does the proposal respect the viewing rights of other advertisers?		Y
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is relatively small sized and is appropriate for the heritage setting.	Y

Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed shingle sign will contribute to the visual interest of Suez Canal as part of The Rocks precinct. The other signage will also provide for business and building identification, contributing to the tourist setting.	Y
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal includes the removal of one shingle sign and relocation of another shingle sign, which will simplify the existing shingle sign advertising.	Y
Does the proposal screen unsightliness?	There is no unsightliness to screen.	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not protrude above the building it is affixed to.	Y
Does the proposal require ongoing vegetation management?	The proposed signage does not contain, or impact, any vegetation.	N/A
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is compatible with the scale and proportion of the building. The proposed signage is small in size and will not compete with the heritage characteristics of the building.	Y
Does the proposal respect important features of the site or building, or both?	The proposed signage adequately respects the heritage façade as addressed under clause 2 Special areas.	Y
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed materials and finishes have been specifically designed within the context of the heritage building as addressed under clause 2 Special areas.	Y
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage has not incorporated any safety devices, platforms, lighting devices, logos or the like.	N/A
7 Illumination		
Would illumination: - result in unacceptable glare? - affect safety for pedestrians, vehicles or aircraft? - detract from the amenity of any residence or other form of accommodation?	The proposed signage is to be illuminated by discreet low voltage fixtures located beneath the existing sandstone window sills above the signs on Nurses Walk and fixed from the timber cladding above the sign on Suez Canal. The discreet low voltage will not result in unacceptable glare, affect safety for pedestrians or vehicles or aircraft, or detract from the amenity of any residence.	Y
Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew?	The Department recommends a condition of consent to require external lighting to comply with <i>AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting</i> .	Y
8 Safety		
Would the proposal reduce safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will maintain the view lines from public areas to not have any adverse impacts on the safety of pedestrians.	Y
Would the proposal reduce safety for any public road?	The proposed signage will not encroach into the roadway or interfere with pedestrian or vehicular sight-lines.	Y

The Rocks Signage Policy 2013 (RSP 2013)

The RSP 2013 provides the strategic policy for the planning, design and installation of commercial and wayfinding signage in The Rocks. The aim of this policy is to provide a coordinated framework for the design, delivery and management of outdoor signage in The Rocks.

The policy contains a range of specific policies that apply to the commercial development, notably, signage is to respond and complement the heritage significance of The Rocks, be unobtrusive and reversible, and is not obscure or damage the architectural features of the building.

The proposed signage will respond to the State listed heritage item and will not obscure or damage the architectural features of the building. The Department recommends a condition of consent to require signage to be reversible and use existing fixing points on the building facade.

For these reasons, the Department considers the proposal is consistent with RSP 2013.

State Environmental Planning Policy No. 55 - Remediation of Land

SEPP 55 aims to ensure potential contamination issues are considered in the determination of a development application. SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose for the proposed development.

The development site has a history of use for commercial purposes and there is no evidence to suggest the site has been subject to any contaminating land uses. Therefore, the site is considered suitable for the continued use of the building as a commercial premise and the proposal satisfies the provisions of SEPP 55.

Draft Remediation of Land State Environmental Planning Policy

The Department notes the Explanation of Intended Effect for a new Remediation of Land SEPP was recently exhibited until 13 April 2018. The Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works. As the proposed works are not expected to result in any contamination issues, the Department considers the application would be consistent with the intended effect of the Remediation of Land SEPP.

State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)

The Coastal Management SEPP gives effect to the objectives of the *Coastal Management Act 2016* (NSW) from a land use planning perspective. It defines four coastal management areas and provides assessment criteria tailored for each coastal management area. The consent authority must apply those criteria when assessing proposals for development that fall within one or more of the mapped areas.

The Coastal SEPP identifies the site as being located within the Coastal environment area and Coastal use area. Land within these areas are subject to clause 13 and 14, however as the site is located on land within the Foreshores and Waterways Area of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, clauses 13 and 14 of the Coastal SEPP do not apply.

APPENDIX C SCRA SCHEME VARIATION

The site is located on Drawing XXXVIII of the SCRA Scheme (see **Drawing A** below).

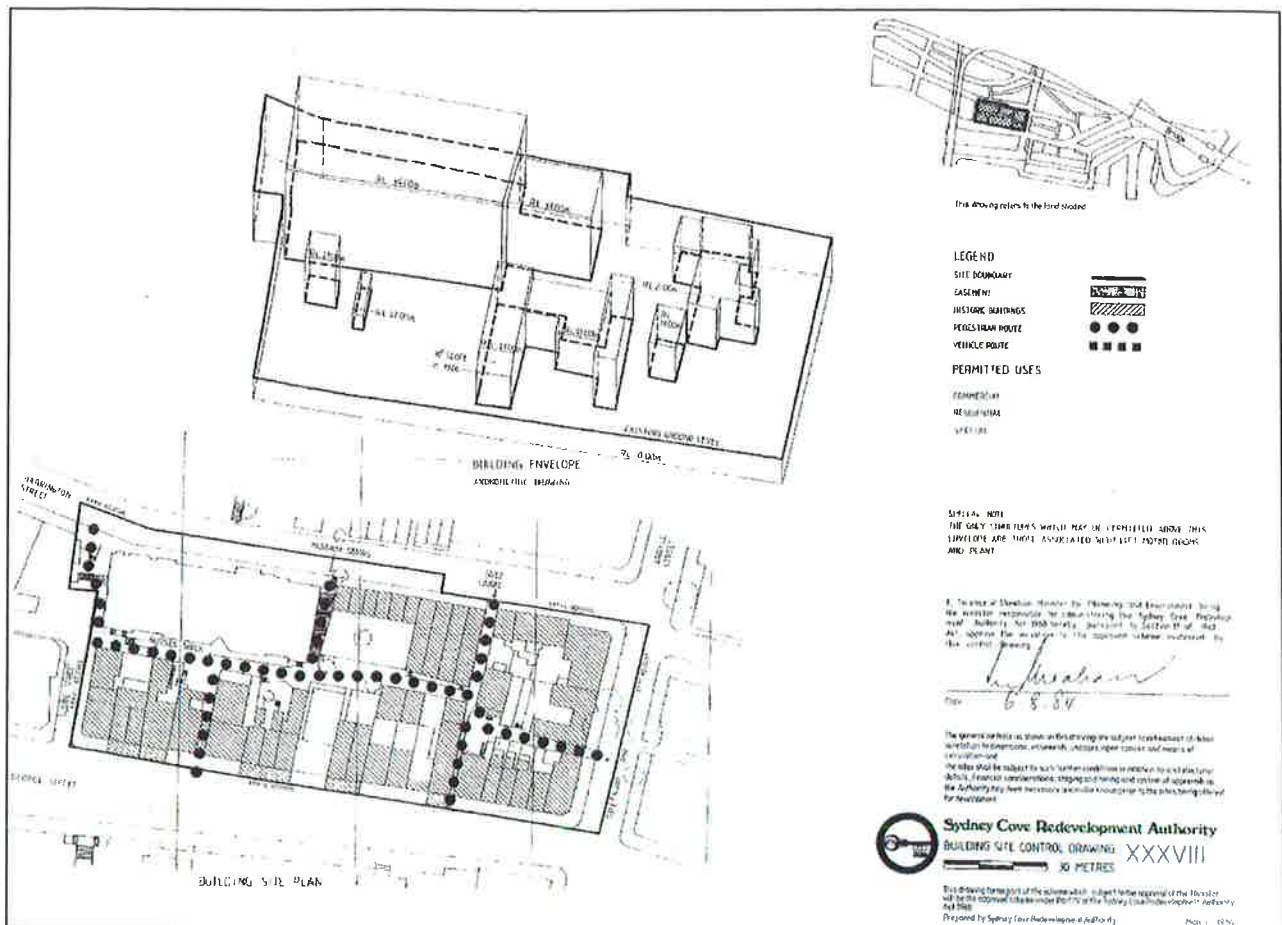
The proposed variation seeks to amend Drawing XXXVIII of the SCRA Scheme to enable development consent to be granted for an awning, which will be outside of the building envelope nominated in the SCRA Scheme (**Drawing B** below). The awning is to provide protection from sunlight and light rain to an outdoor seating area situated on a replacement deck.

The Department has undertaken the following assessment of the proposed variation of the SCRA Scheme against the matters outlined in the *Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999* (Regulation) below.

Consideration	Department's Assessment
Clause 4 – Application for variation to approved SCRA Scheme	On 20 December 2017, the Applicant applied for a variation to the approved SCRA Scheme.
Clause 5 – Decision as to preparation of draft variation	On 17 January 2018, the Secretary approved the request to prepare a draft variation to the SCRA Scheme and notified the Applicant in writing.
Clause 6 – Public notice and exhibition of draft variation	The development application and the draft variation to the approved SCRA Scheme were concurrently exhibited.
Clause 7 – Inspection of and submissions concerning the draft variation	During the exhibition period, the draft variation to the approved SCRA Scheme was publicly available for any person to inspect and make extracts of the draft variation and make a written submission concerning the draft variation.
Clause 8 – Public notice of development that is not designated or advertised development	The development application and SCRA Scheme variation were concurrently exhibited for 30 days from 22 February 2018 until 23 March 2018.
Clause 9 – Variation of approved SCRA Scheme (1) Minister is to consider all submissions (2) If after considering those submissions, the Minister is of the opinion that the draft SCRA variation, if made: (a) Will not permit development that will adversely affect: i. development on adjoining land, or ii. the heritage significance of buildings, structures or sites in the locality, or iii. the quality of public domain in the locality, and (b) Will not permit development that will have an adverse impact on the natural or built environment or an adverse social or economic impact in the locality, and	The Heritage Division originally raise issues about the proposed SCRA Scheme variation with regard to the awning. This design was subsequently amended and supported by the Heritage Division throughout the assessment process. The draft variation to the SCRA Scheme relates to a suspended awning over a replacement deck that is outside of the building envelope nominated in the SCRA Scheme. The Department considers the proposed awning will integrate with the public domain and will not adversely impact development on adjoining land or surrounding heritage items. The proposal will facilitate the use of an outdoor deck area that faces into Nurses Walk to activate and improve the public domain. The proposed works are minor and the Department is satisfied the works will not have an adverse impact on the natural or built environment or social or economic impact in the locality.

(c) Will conform with the general planning and design principles for the Sydney Cove Redevelopment Area.	The proposed awning will not result in unacceptable impacts on surrounding heritage items or views. The proposal would improve the functionality of the outdoor area to assist in conserving the State Heritage item. The proposal will also facilitate the activation of the public domain. The proposal is therefore considered to be consistent with the planning and design principles of the SCRA Scheme.
--	--

The Department is satisfied the proposal is consistent with the aims and objectives of the SCRA Scheme and recommends the Minister's delegate make the SCRA Scheme variation.



Drawing A: Current SCRA Scheme Drawing (Source: Applicant's EIS).



Drawing B: Proposed SCRA Scheme Drawing XXVII (Source: Applicant's EIS).

APPENDIX D RECOMMENDED CONDITIONS OF CONSENT

The recommended conditions of consent can be found on the Department of Planning and Environment's website as follows:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8687

