

Pier 26 Pty Ltd

t/a Helm Bar

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Double Bay NSW 2028

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Attention: Department of Planning & Environment NSW Government

**Subject: Notification of Modification Request – Four Points by Sheraton Hotel Expansion
(SSD 4972 MOD 7)**

Dear Sir/Madam,

**Please find attached preliminary submission for above, with a more fulsome submission
by 7th March 2019 to follow.**

I would ask for a confirmation email acknowledging receipt of my submission.

Yours Sincerely,



Peter W. Wadsworth

Managing Director

Pier 26 Pty Ltd

office@estcoasthotels.com.au

Preliminary Submission of Pier 26 Pty Limited (“**Pier 26**”)
in relation to
the application lodged by GL InvestmentCo Pty Limited (submitted by Ms Jennifer Watt)
for modification of SSD 4972, Four Points by Sheraton Hotel Expansion, dated 29 November
2018 (“**the Mod 7 Application**”)

Introductory comments

1. Pier 26 submits that:
 - i. the Department of Planning and Environment (the “**Department**”) should not consider and determine the Mod 7 Application as lodged; and
 - ii. if the Department does consider the Mod 7 Application, it should be rejected.
2. Pier 26 makes the following submissions as preliminary submissions relying upon the assurance given by Department on 15 February 2019¹ that Pier 26 will be entitled to lodge further and more fulsome submissions by 7 March 2019. For reasons elaborated below, Pier 26’s position is also that it should in fact have longer than the proposed 7 March 2019 date to make its submissions.
3. Pier 26 does propose to make further fulsome submissions expanding upon these preliminary submissions by 7 March 2019. These further submissions will (amongst other matters) include legal submissions as to the status of the Mod 7 Application, the lack of standing of GL InvestmentCo Pty Limited (the “**Applicant**”) to make the Mod 7 Application, as currently framed, and the prejudice and severe interference with Pier 26’s legal rights should this Mod 7 Application proceed.

¹ Email from Anthony Witherdin, Director, Regional Assessments, Department of Planning and Environment to Scott Baxter sent 15 February 2019 at 12:58pm.

Some background information

4. Notification of the Mod 7 Application request was only given to Pier 26 on 7 February 2012.
5. No explanation has been provided as to why notification was not provided before this date, noting the Mod 7 Application had been lodged on 29 November 2018, some 77 days earlier. The delay in making known the existence of this Mod 7 Application had prejudiced Pier 26 in being able to gather together information that may assist it with its submissions. It has made a request to the Department pursuant to the *Government Information (Public Access) Act* 2009 (NSW). Pier 26 reserves all rights to supplement its submissions once the GIPA request has been answered in full.

Summary matters for consideration

6. It is noted that the Applicant in the Mod 7 Application states that its purpose is to “*seeks endorsement to retain Wheat Road in its current configuration which was developed as a temporary arrangement to facilitate redevelopment of the hotel*” (emphasis added).
7. For the reasons that are elaborated upon below (and which will be the subject of the submissions to follow) it is submitted the Mod 7 Application has been lodged for an improper purpose and is one not consistent with the purposes under the *Environmental Planning and Assessment Act* 1979 (NSW) (“**the Act**”).
8. The Mod 7 Application identifies that its purpose is to seek some “endorsement” from the Department for Wheat Road to remain permanently where it currently located, which, as admitted by the Applicant, was always only to be a temporary arrangement, in order to facilitate the construction of its hotel.
9. Wheat Road is not on land owned by the Applicant.

10. The Mod 7 Application (by its terms) is not dealing with any construction works to be undertaken relating to its hotel development (which would normally be the proper subject of any modification application), but rather to receive some Department “endorsement” to enable the proponent to avoid its contractual obligations to the extent possible,
11. The Applicant has no standing to seek any so called “endorsement” through the device of an application to modify its development application SDD4972 lodged in 2013 relating to the construction of its hotel.

No consent from Pier 26

12. The first point of contention is that the Applicant should not lodge a development application (or a modification of a development application) as it affects another person’s land to which it is not an owner.
13. The *Act* is clear. Any application affecting land not owned by the Applicant should not be made without the owner’s consent.
14. In the present situation, the relevant “owner” to whom consent has to be sought is Pier 26.
15. Pier 26 holds the benefit of an almost 86-year lease (with 68 and a half years still to run) from the Crown over that parcel of land upon which part of Wheat Road is presently (and temporally) located; that is Lot 601 in DP1009796 (“**Pier 26’s Leasehold Land**”). This gives Pier 26 rights akin to freehold, e.g. it is required to pay all rates and land taxes.
16. Pier 26 was not asked to provide any consent, nor has it provided any consent, or authorised in any way, the lodgement of the Mod 7 Application; and in the absence of having done so, the Mod 7 Application has to be rejected.
17. Pier 26 foreshadows that the Applicant may seek to argue that Pier 26’s consent is not needed as the “landholder” of the land is the statutory body, Place Management

NSW, formerly the Sydney Harbour Foreshore Authority or SHFA (“**Place Management**”). Such an argument (should it be put forward) has to be rejected:

- i. Place Management stands in the shoes of the Crown and the land in question is “Crown land”;
 - ii. Pier 26 as the Leaseholder of the Crown land is the “owner” from whom consent is required (see definition of “owner” in *Local Government Act* 1993 (NSW));
 - iii. Pier 26’s interest in the Leasehold Land is akin to a freehold interest and from any legal or practical point of view is the “owner”;
 - iv. On any view, Pier 26 is a long-term leaseholder and its consent should have to be obtained.
18. Further the consent, in any event presently obtained from Place Management is not and cannot be a consent given relating to Pier 26’s Leasehold Land.
19. Place Management separately holds land that is also affected by the Mod 7 Application where Wheat Road is also presently located (Lot 601 in DP1009796) (“**the Surrounding Land**”). To the extent Place Management provided any consent to the Mod 7 Application, that consent is and can only be construed as limited to the Mod 7 Application as it affects this Surrounding Land (i.e. Lot 2015 of DP1234971).
20. The above is clearly apparent because under the terms of the 85-year and 3 months lease that Pier 26 holds from Place Management, Place Management is precluded from acting in a way which would:

... dedicate land or transfer, grant or create any easement privilege or other right to any other person which shall substantially derogate from the enjoyment of rights conferred on the Lessee by this Lease without the Lessee’s consent...

21. Any action taken by Place Management to affect or derogate rights of the Pier 26 over Pier 26's Leasehold Land will put it in breach of that 85-year lease. The Department cannot and should not interpret the letter of consent that the Applicant obtained from Place Management as being a consent given by Place Management expressly directed to Pier 26's Leasehold Land; and certainly, it should not do so without Place Management expressly stating in writing that this was its intention.
22. Further if the Department was to act on any such consent, so as to treat it as a consent provided in support of Mod 7 Application as it affects Pier 26's Leasehold Land, the Department itself will be contributing to the breach of the lease by Place Management, giving Pier 26 legal rights over it. Further, and perhaps it should also be noted, that should the Department also determine the Mod 7 Application favourable to the Applicant, that may be tantamount to it inducing a breach of the Licence Agreement, giving Pier 26 further legal rights against the Department.
23. Accordingly, the first contention of Pier 26 is that the Department cannot proceed to determine and certainly not favourably the Mod 7 Application without the express consent of Pier 26 to do so; and the Mod 7 Application should not be allowed to proceed absent that consent.

The modification is not properly one under s 4.55(1A) of the Act

24. The second contention concerns the terms of the application itself.
25. The Mod 7 Application is stated as being submitted pursuant to sec 4.55(1A) of the *Act*. Under that provision, a modification application may not be consented to unless the consent authority is satisfied that the proposed modification is of minimal environmental impact and that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.
26. The proposed modification does not meet these conditions. By the Applicant's own admission (in correspondence submitted to the Department with the Application), the original SDD 4972 development application was silent as to any relocation of

Wheat Road at all – and what occurred was that Wheat Road was relocated only as a temporary arrangement to facilitate the construction of the hotel.

27. No part of the original SDD 4972 involved any relocation of Wheat Road to its present location on any basis let alone on a permanent basis; and there was no Environmental Impact Statement provided relevant to any relocation of it at all. The proposed modification is deficient even on that ground.
28. Any permanent relocation of Wheat Road to its current location, including to a location which involves it “running over” Pier 26’s Leasehold Land, is and will be a substantial deviation from the original development application. That is because it affects third party rights (including that of Pier 26), which were not considered or entertained at all at the time of the original approval of SSD 4972.
29. A permanent road through Pier 26’s Leasehold Land (and indeed has already been found by a court of law in litigation between Pier 26 and the Applicant) will substantially derogate from Pier 26’s rights on its Leasehold Land.
30. The above is clearly apparent in any event. One only has to consider what would have occurred if the original application SSD 4972 had sought development approval for the permanent relocation of Wheat Road across Pier 26’s Leasehold Land. That development application could not have been (or would not have been) consented to without prior consultation with Pier 26 as to the derogation of its legal rights; secondly without amendments being made to its 85-year lease (with still 68 years to run) and compensation to Pier 26, amongst other matters.
31. Accordingly, the Department should not (and could not) be satisfied of the matters described in s 4.55(1A).

Misleading and misconceived nature of the Mod 7 Application

32. A third contention also concerns the purpose behind the application.

33. It appears the Mod 7 Application proceeds on some assumption (which is misconceived) that Wheat Road, as it is presently temporarily located, will if permanently located continue to be used as a means of access and egress for public traffic. That cannot and will not be the position.
34. No approval or consent has been given by Pier 26 for any use of its land for purposes other than its own purposes; and as was found in the recent Court proceedings between Pier 26 and the Applicant, Wheat Road as it is presently and temporarily configured has not been dedicated as a public road, nor can it be without Pier 26's consent.
35. Wheat Road is only in its current location by reason of a licence agreement between the Applicant (and another) and Pier 26 – which was a temporary arrangement and clearly expressed to be so. As far as Pier 26 is aware the purpose for which Wheat Road came to be located (i.e. to facilitate the Applicant with construction of its hotel) has now ended. It seems to be assumed by the Applicant that if Wheat Road is “endorsed” by the Department to remain where it is permanently, that, contrary to Pier 26's rights, it will continue to be used as some “public road”, although it is not one. That assumption is wrong, and that assumption having been made by the Applicant makes the Mod 7 Application flawed. For example, all statements made in the Mod 7 Application about “pedestrian safety” and “traffic circulation” are erroneous.
36. Accordingly, the impact of Wheat Road remaining in its current configuration as a permanent arrangement will not provide any ongoing public thoroughfare for traffic, as Pier 26 is entitled and can exercise rights to restore that land back for its own personal use and quiet enjoyment.
37. Further, no easement has been granted over the Pier 26 leasehold land to allow the road to remain in place for use by others, nor could it be without compensation to Pier 26.

38. Accordingly, the Applicant's intentions behind the Mod 7 Application need to be seen for what they are. A method to involve the Department interfering in the legal relations between the Applicant and Pier 26.
39. It is Pier 26's strong submission that the Mod 7 Application has nothing to do with the Applicant seeking to "maintain use" of Wheat Road, but rather is an attempt to have the Department make a decision that creates an impediment to Pier 26 enforcing its legal rights under the licence agreement, which requires the Applicant to restore Wheat Road off Pier 26's Leasehold Land and/or otherwise compensate it for failure to do so. The Mod 7 Application is misleading in not being open about that being the Applicant's intention.
40. It is strongly submitted that the Department should not become a "pawn" in the "chess game" the Applicant is playing to manoeuvre advantages for itself.

Other matters

41. Pier 26 has also has a series of particular concerns also with the Mod 7 Application and the processes by which it has come about. These will also be addressed in the fuller submissions to the Department. Whilst some have been noted in the comments above, these concerns, in summary include the following.

First

42. A first key concern, as noted above, is the lack of notice of the Mod 7 Application given to Pier 26. More significantly this concern arises because until Pier 26 was contacted by a representative of the Department on 7 February 2019, it had been represented to it that the Applicant was pursuing a modification application that had been lodged with the Department on 17 March 2017 that was consistent with its contractual obligations to move Wheat Road off Pier 26's Leasehold Land. That Mod 7 Application (the "**Mod 6 Application**") sought development approval to move Wheat Road from its present temporary location.

43. The apparent change by the Applicant in no longer proceeding with the Mod 6 Application and now bringing the present Mod 7 Application, in Pier 26's submission, places a heavy duty on the Department to properly inquire why there has been this change and to properly ensure that the present Mod 7 Application is being brought for a proper purpose, and is not part of some device to provide the Applicant with grounds to avoid its contractual obligations to Pier 26; and will not have the effect of doing so.
44. Relevant to this submission, the Department should note the correspondence which was submitted by the Applicant and the other stakeholders at the time of the Mod 6 Application.
45. Attached and marked "A" is a copy of the Applicant's letter dated 17 March 2017 when it submitted the Mod 6 Application.
46. The Mod 6 Application was submitted on 17 March 2017 by the Applicant. On 7 June 2017, Pier 26 made a submission in support of the application "... *in that it seeks to restore Wheat Road to its original position outside of the Land* [i.e. Pier 26's Land] *as contemplated by the Licence* [contract between Pier 26 and GL whereby GL and another entity were obliged to move Wheat Road off Pier 26's Land]".
47. Attached and marked "B" is a copy of Pier 26's submission provided in support of the Mod 6 Application dated 7 June 2017.
48. Pier 26 received no update as to the status of the Mod 6 Application and, until 7 February 2019, had believed it to be still undergoing assessment by the Department and was pending a determination.
49. As noted above, Pier 26 first became aware of the present Mod 7 Application on 7 February 2019 when contacted by a representative of the Department. Having now reviewed the papers lodged with the Department by the Applicant in support, it appears that the Applicant lodged this Mod 7 Application only on 29 November 2018. Attached and marked "C" is a copy of the Applicant's letter dated 29 November 2018.

50. Pier 26 has sought information as to what occurred with the Mod 6 Application as part of its GIPA request and requested access to the Department file. It maintains that the Department should expeditiously provide that information to it, as that information has potential to be substantially relevant as to whether the current Mod 7 Application is one that should, or can, be entertained by the Department.

Second

51. In the correspondence which was submitted by the Applicant with this Mod 7 Application, it suggested that there had been consultation with “stakeholders”. To the extent the Applicant is purporting to suggest that there was consultation with Pier 26 as to the lodgement or need for this Mod 7 Application, that is rejected. There has been no consultation or discussion with Pier 26 and, as stated above, Pier 26 has not authorised or in any way consented to the lodgement of this Mod 7 Application or to the withdrawal of the Mod 6 Application.
52. There are clear legal obligations under contract, as to what the Applicant has to do with Wheat Road.
53. The admissions made by the Applicant as to its legal obligations, with the submission of the Mod 6 Application, are matters that cannot be ignored by the Department when considering the present Mod 7 Application. In the letter of 17 March 2017 (Annexure A) it was stated:

... Helm Bar are now demanding return of their lease area, the subject of the license agreement with GL. Accordingly, GL has no option but to return Wheat Road to its original condition in order to comply with our legal obligations under the license agreement. (emphasis added)

54. As stated above, it is submitted that the Department should not interfere in contractual relations between private parties. It certainly cannot entertain any determination of the Mod 7 Application ignoring the contractual obligations on the Applicant for it to relocate Wheat Road off Pier 26’s Leasehold Land and providing some “endorsement” to the Applicant to breach its contractual obligations to Pier 26.

Third

55. As stated above, the issue of the relevance of the apparent consent that Place Management has to be seen in context. As stated earlier, it is not the relevant party to provide consent to this Mod 7 Application as it affects Pier 26's Leasehold Land. It's so-called "consent" cannot be interpreted as doing so. At best, it can be a consent in relation to only the "Surrounding Land". The terms of the consent provided also show a complete lack of understanding on the part of Place Management as to what the Mod 7 Application is proposing. Those consent terms suggest Place Management is approving construction works to be undertaken, which clearly is not what the Mod 7 Application is proposing to occur. The Department should not assume that any consent provided by Place Management has been provided on any informed understanding.
56. The following documents are drawn to the Department's attention. Attached and marked "**D**" is a copy of Place Management's letter dated 19 December 2018.
57. Also among the papers which Pier 26 has accessed relevant to the Mod 7 Application is the completed "*Application to Modify a Development Consent*". This is signed by Jennifer Watt on behalf of the Applicant on 29 November 2018. Place Management purports to sign as "*lessee(s)*", which is clearly incorrect.
58. Further, and in addition to the matters already canvassed above, to the extent that Place Management purported to sign as the "*lessee(s)*" in respect of the Pier 26's Leasehold Land, then the action is invalid and of no effect. It was Pier 26's signature which was required, and which was not obtained. In further support of the submissions already made above, the Mod 7 Application has therefore not even been validly lodged with the Department. It is incomplete and unable to be determined accordingly.

Concluding comments

59. Pier 26 submits that for the reasons set out above and in the submissions to follow by 7 March 2019, the Department should not entertain the Mod 7 Application, and if it does, it should reject it.

60. Pier 26 submits that what has to be addressed when considering the configuration of Wheat Road are the contractual rights and obligations between the relevant parties, that is, between Pier 26 and Place Management under the 85-year lease, being akin to conferring Pier 26 with freehold interest over the subject land; and between Pier 26 and the Applicant under the Licence Agreement. What has to occur when considering the configuration of Wheat Road and whether it remains or changes, is something that has to be discussed between the relevant parties in the context of their contractual rights and obligations. This is not something that the Department should override or ignore and it will fall into serious error should it do so.
61. What Pier 26 submits should occur is that the relevant parties should be meeting (and indeed Pier 26 is in the process of trying to organise such a meeting) so the complexities of Wheat Road and whether it can or should remain in place and on what terms can be discussed. It is submitted therefore that the appropriate course for the Department is:
- a) to not entertain the Mod 7 Application and if it is to entertain it immediately reject it, or alternatively,
 - b) to defer any consideration of the Mod 7 Application pending whether any consensus position can be put to it from all the relevant parties, being Pier 26, Place Management and the Applicant.
62. Further submissions will follow.

Signed:



Peter W. Wadsworth

Managing Director

Pier 26 Pty Limited

Dated:

21st FEBRUARY, 2019.



17 March 2017

Ms Carolyn McNally
Secretary
23-33 Bridge Street
Sydney NSW 2000

Attention: Ms Natasha Harras, Team Leader Modification Assessments

Dear Ms McNally,

**SECTION 96(1A) MODIFICATION APPLICATION - STATE SIGNIFICANT DEVELOPMENT
APPLICATION NO. SSD-4972 - 161 SUSSEX STREET, SYDNEY**

GL Investment Co Pty Ltd GL No 1 Trust, hereby submit this application pursuant to section 96(1A) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify State Significant Development Consent SSD-4972 relating to the redevelopment of the 161 Sussex Street development involving the construction of a 27 storey tower, comprising 231 hotel rooms and approximately 7,000m² of commercial floor space and approximately 4,810m² of convention, exhibition and function space.

This modification relates to the reconstruction of Wheat Road to return the area, including bus parking and through site link stair connection between the hotel and Darling Harbor, to the pre-development configuration included in the original development application documentation referred to above.

The current configuration was developed as a temporary arrangement to facilitate construction of the 161 Sussex Street development and was to be in place for the period of construction only. The design of these temporary works, developed in consultation with SHFA and adjoining stakeholders, improved pedestrian safety and traffic circulation by eliminating the requirement for buses to reverse when leaving the bus parking area.

In order to achieve the temporary arrangement GL entered into a license agreement with Helm Bar to utilize approximately 153m² of Helm Bar lease area (not utilized by Helm Bar as it was wholly located within the public domain), within the relocated roadway. Refer attached plan ZC-A-SK-131 showing location of the lease area in question relative to the current arrangement.

Due to the success of the temporary arrangement, considerable funds were also expended with the introduction of new soft landscaping, paving and service vehicle parking on the eastern side of Wheat Road.

Unexpectedly, Helm Bar are now demanding return of their lease area, the subject of the license agreement with GL. Accordingly, GL has no option but to return Wheat Road to its original condition in order to comply with our legal obligations under the license agreement.

It is considered by the land owner (Property NSW formerly SHFA) and our planning consultants JBA, that due to the considerable time elapsed since the temporary arrangement was put in place (2014), a S96 modification is now required to return the area to its original condition.

This Section 96(1A) application identifies the consent and describes the proposed modifications and is accompanied by:

- A signed and completed Section 96 application form;

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- Amended Architectural Plan prepared by Cox Richardson Architects (**Attachment B**).
- Helm Bar licensed area plan (**attachment C**)

CONSENT PROPOSED TO BE MODIFIED

State Significant Development Consent SSD-4972 was granted by the Planning Assessment Commission on 5th August 2013 for the construction of a 25 storey tower comprising 231 hotel rooms and approximately 5,775m² of commercial floor space and circa 4,810m² of convention, exhibition and function space.

Since that approval there have been five modifications approved by the Department.

PROPOSED MODIFICATIONS TO CONSENT

The proposed modification to the development consent comprises the reconstruction of Wheat Road from its current arrangement to the arrangement existing prior to the commencement of 161 Sussex Street construction works, and as shown on the attached plan.

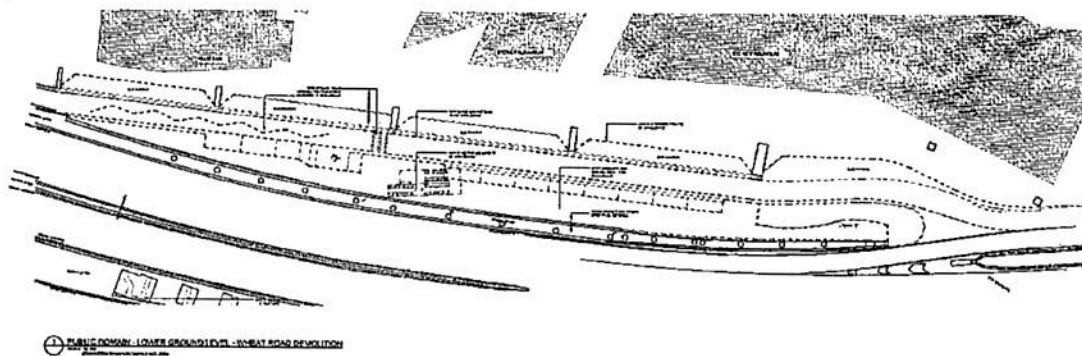


Figure 1 – Proposed extent of demolition

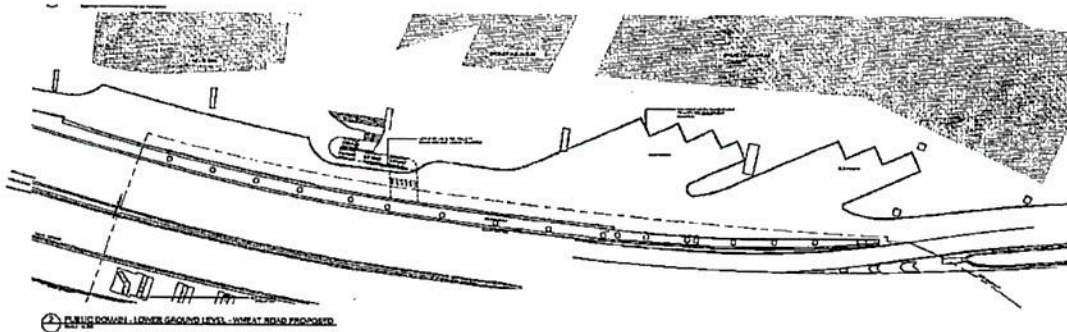


Figure 2 – Proposed relocated roadway, stair and kerbs

SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96(1A) 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 the 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 it:

- retains the same mix of land uses as the approved development;
- does not result in any significant amendment to the approved building works;
- does not substantially change the built form outcome;
- does not significantly affect the appearance of the building;

- continues to provide the numerous approved public benefits including a new pedestrian through link; and
- will not result in any adverse impacts to surrounding developments or land uses.

For the above reasons, the consent authority may be satisfied that the modified proposal represents substantially the same as the development for which consent was originally granted.

ENVIRONMENTAL ASSESSMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if "it is satisfied that the proposed modification is of minimal environmental impact".

While the current Wheat Road arrangement provides a superior outcome for the public domain in the vicinity of Wheat Road adjacent to the 161 development, the reinstatement of Wheat road to its predevelopment configuration is consistent with the development approval.

CONCLUSION

This S96 application seeks approval for the reinstatement of Wheat Road to the configuration identified in the development application i.e. the pre-existing condition. This change, in the context of the overall development will not alter the environmental impacts assessed and approved as part of the existing development consent.

In accordance with section 96(1A) of the EP&A Act, the Department may modify the consent as the proposed modifications are:

- of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

Should you have any queries about this matter, please do not hesitate to contact me on (02) 9228 0350 or jenny@mandlinvestments.com.sg

Yours faithfully



Jenny Watt

"B."

Pier 26 Pty Ltd, Double Bay NSW, made the following submission on the project:

SSD 4972 MOD 6 - Modification to Development Consent (Four Points By Sheraton Hotel Expansion)

Supports this project

7 June 2017

Jane Flanagan
Acting Team Leader, Modification Assessments
Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Dear Jane
Submission: Pier 26 Pty Ltd
Re: Section 96(1A) Modification Application - State Significant Development
Application No. SSD-4972 - 161 Sussex Street, Sydney

We refer to the various documents comprising application no. SSD-4972 (Application).

Pier 26 Pty Ltd (Pier 26) is the Lessee of all that land in lot 601 in deposited plan 1009796 (Land) subject to the terms of registered lease 9002012. Pier 26 is a party to the License Agreement with GL Investment Co Pty Ltd (Licence) whereby, subject to the terms of the Licence, Pier 26 allowed GL to temporarily use the Land to affect the building works in SSD-4972.

In the Application, Pier 26 is referred to as 'Helm Bar' which is its trading name. Pier 26 makes the following submission in relation to the Application:

1. Pier 26 supports the Application in that it seeks to restore Wheat Road to its original position outside of the Land as contemplated by the Licence;
2. Pier 26 objects to many of the factual assertions set out in the Application.
3. Pier 26 draws your attention to development application D/2016/557 with City Of Sydney in relation to the construction of an acoustic wall on the Land that should be taken into account in approving the Application.

Yours faithfully
Peter Wadsworth
Director



"C".

29 November 2018

The Director of Planning
Department of Planning and Environment
23-33 Bridge Street
Sydney NSW 2000

Attention: Anthony Witherden

Dear Sir

**SECTION 4.55(1A) APPLICATION - STATE SIGNIFICANT DEVELOPMENT APPLICATION NO. SSD-4972 -
161 SUSSEX STREET, SYDNEY**

GL Investment Co Pty Ltd ATF No 1 Trust submit this application pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify State Significant Development Consent SSD-4972. The consent for SSD-4972 was granted by the Planning Assessment Commission on 5th August 2013. Since that approval there have been five modifications approved by the Department. The works, completed in 2016, comprised the construction of a new 27 storey tower accommodating 222 new hotel rooms and approximately 7,000m² of commercial floor space, approximately 4,810m² of convention, exhibition and function space and refurbishment of the hotel public areas.

This application seeks endorsement to retain Wheat Road in its current configuration which was developed to facilitate construction of the redevelopment in consultation with SHFA, RMS and adjoining stakeholders. The arrangement improved pedestrian safety and traffic circulation by eliminating the requirement for buses to reverse when leaving the bus parking area.

This Section 4.55(1A) application is accompanied by:

- A signed Application to Modify a Development form;
- Architectural Plan prepared by Cox Richardson Architects reflecting the as-built arrangement.

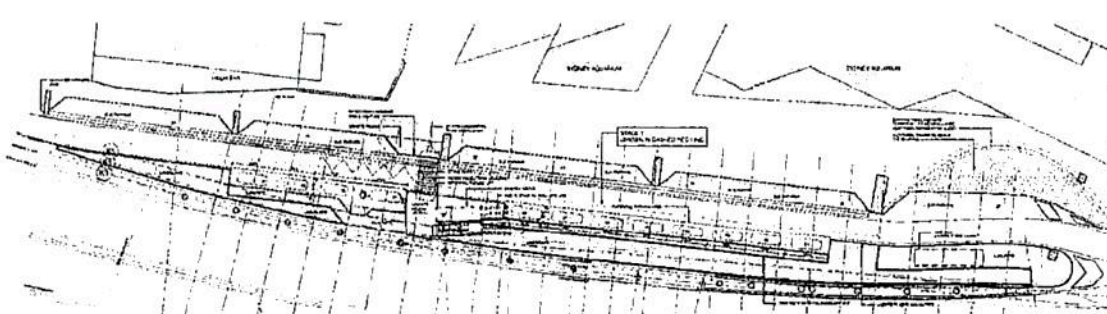


Figure 1 – Wheat Road existing condition

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

- retains the same mix of land uses as the approved development;
- does not result in any significant amendment to the approved building works;
- does not substantially change the built form outcome;
- does not significantly affect the appearance of the building;
- continues to provide the numerous approved public benefits including a new pedestrian through link; and
- will not result in any adverse impacts to surrounding developments or land uses.

As stated above this Section 4.55(1A) application seeks approval to retain Wheat Road in its existing arrangement. In the context of the overall development this will not alter the environmental impacts assessed and approved as part of the existing development consent.

Should you have any queries about this matter, please do not hesitate to contact me on 0413 586555 or jenny@mandlinvestments.com.sg

Yours faithfully

Jennifer Watt
Development Manager
GL Investment Management



**Property
NSW**

"D."

Place Management NSW

Level 4, 66 Harrington Street, Sydney NSW 2000

PO Box N408, Grosvenor Place NSW 1220

Tel 02 9240 8500 | www.property.nsw.gov.au

19 December 2018

Ms Jennifer Watt
GL InvestmentCo Pty Limited
Suite 1501
14 Martin Place
SYDNEY NSW 2000

Dear Ms Watt

**Re: Application to Modify a Development Consent
– Reference Number LOC 10429
Address: 161 Sussex Street, Sydney**

We refer to your request for landowner's consent for the following:

- **Modification to retain the current configuration of Wheat Road, Darling Harbour**

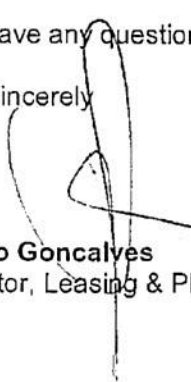
Place Management NSW has considered the application and based on the information provided, grants landowner's consent to lodge your application with the appropriate consent authorities.

Please note that landowner's consent does **not** constitute statutory approval for the proposed works. Approval from the relevant consent authorities is required prior to the commencement of works.

Note: Before any works commence Place Management NSW must be notified.

If you have any questions, please contact Michelle King on 02 9240 8806.

Yours sincerely


Antonio Goncalves
A/Director, Leasing & Place Management

The legal entity name Sydney Harbour Foreshore Authority (SHFA) has now changed to Place Management NSW. The change is in name only, our ABN remains the same and all existing legal documents in place are unaffected. You will, however, see Place Management NSW on all new legal documents going forward. Place Management NSW will continue to use the Property NSW brand.