

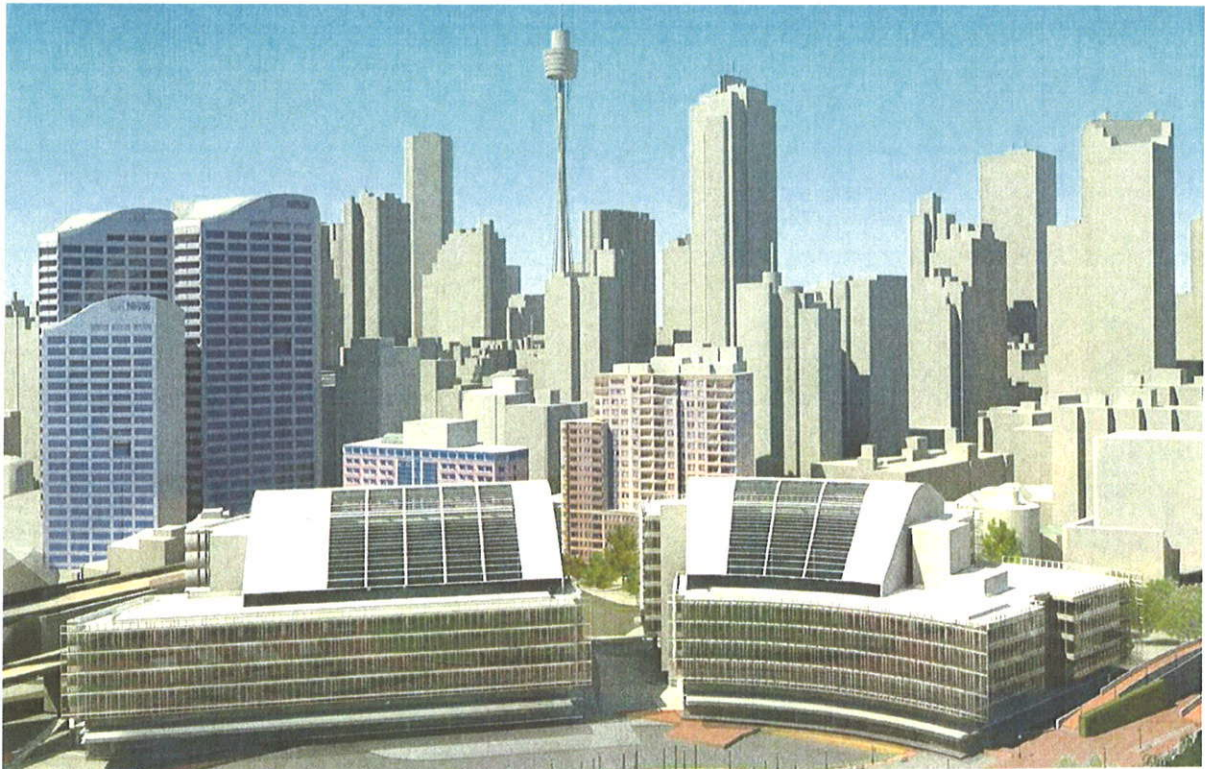


NSW GOVERNMENT
Department of Planning

**MAJOR PROJECT ASSESSMENT
CONSTRUCTION OF TWO 9
STOREY BUILDINGS AND
BASEMENT CAR PARKING FOR
DARLING WALK REDEVELOPMENT
Darling Harbour, Sydney
Proposed by SYDNEY HARBOUR
FORESHORE AUTHORITY,
MP08_0057**

Director-General's Environmental
Assessment Report
Section 75I of the
*Environmental Planning and Assessment
Act 1979*

December 2008



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EXECUTIVE SUMMARY

This is a report on a Project Application seeking approval to redevelop Darling Walk (the former Sega World complex) at Darling Harbour in accordance with the Concept Plan Approval (MP-06-0057).

On 9 July 2008 a Concept Plan (MP_06_0054) was approved by the Minister for Planning and allowed for:

- A mixed use commercial, retail, cultural, recreational and entertainment development involving a maximum of 68,000m² of Gross Floor Area (GFA) subject to the following:
 - A maximum of 5,000m² GFA of retail floor space
 - A minimum of 1,000m² GFA for cultural, recreational and entertainment uses
 - A child care centre use may be included in the commercial GFA
- maximum building heights and envelopes within 2 development blocks, separated from each other by a 20 metre wide 'view corridor' as identified in *Drawing DW 005 of Appendix C* of the Environmental Assessment
- maximum of 200 basement car parking spaces to serve the commercial GFA
- maximum of 600 basement car parking spaces as a separate public car parking facility
- public domain reconfigurations and improvements

The site is owned by the Sydney Foreshore Authority (SHFA) (with owners consent granted by the RTA for lodgment of the application for the parcels of land adjoining the Site) and is located within the Darling Harbour precinct on the western edge of the Sydney CBD and on the eastern side of Darling Harbour, adjacent to the western side of Harbour Street. The site has a total area covering approximately 32,900m².

Proposal (MP_08_0057)

On 18 August 2008, JBA Planning on behalf of Lend Lease Development submitted to the Director General a request for the redevelopment of Darling Walk at Darling Harbour including bulk excavation, basement structure and construction of two 9 storey buildings comprising:

- 67,827m² GFA including:
 - 64,235m² GFA of commercial floorspace
 - 2,592m² GFA of retail floorspace
 - 1,000 m² GFA for a kids theatre
- 200 car parking spaces to serve the commercial buildings
- 600 space public car parking facility
- Access and egress arrangements
- Associated bulk excavation

The Capital Investment Value (CIV) of the proposal is \$259,233,681 and the proposal will create **600** full time equivalent construction jobs and **3,300** full time equivalent operational jobs.

Permissibility

The project is a Major Project under *State Environmental Planning Policy (Major Projects) 2005* being schedule 2 of the MP SEPP which identifies "specific sites" to which Part 3A of the EP & A Act applies. Clause 10 of Schedule 2 identifies the area known as a Sydney Harbour Foreshore Site located within Darling Harbour (Map 9) as a site to which Part 3A applies. The opinion was formed by the Director-General as delegate for the Minister on 19 April 2006.

Public Exhibition

The proposal was exhibited for a 31 day period from 24 September to 24 October 2008. The Department received 5 submissions from public authorities and 9 public submissions. Key issues included:

- View impacts
- building height and built form
- traffic
- construction noise and dust on surrounding properties

Preferred Project Report (PPR)

On 25 November 2008, the proponent submitted a response to submissions and a Preferred Project Report to address issues raised by the Department and other public authorities. Revisions to the project included:

Design changes to reduce the size of the roof form in height and width:

- The design of the north building architectural roof feature is lowered by 0.8m and shortened by 8.25mm at the north end and 3.0m at the southern end
- the south building architectural roof feature is also lowered by 0.8m and shortened at the north by 4.15m at the Harbour frontage and 2.8m at the Tumbalong Park frontage

Design changes to the northern façade:

- The proposed glazing treatment to the northern façade of the northern building is to be amended to include about 50% glazed section
- additional anti-glare blades will be added to reduce potential glare impact to drivers on the Western Distributor
- in accordance with the recommendations within the Reflectivity Report, prepared by Arup for the Project Application, mitigation measures will be incorporated to ensure that luminance does not exceed the limit of 500Cd/m²

Design changes to the layout of the car park:

- The layout of both the tenant and public car parks have been amended to include specified parking areas for motorcycles and to remove the 'reverse into and angled spaces'.
- amendments have also been made in response to the Accessibility Analysis undertaken by Morris-Goding and recommendations from Masson Wilson Twiney.

The PPR also provided additional analysis in relation to view impacts, and additional traffic modelling has also been undertaken by the proponent at the request of the RTA.

Assessment Outcomes

This report concludes that the development is well designed and provides an appropriate interface with Harbour Street and Tumbalong Park.

It will activate and rejuvenate the Darling Walk site and provide employment opportunities through the various proposed land uses. Darling Walk will support Darling Harbour's ongoing growth and enables the expansion of South Darling Harbour and connection between Ultimo/Pymont and southern area of the CBD/Haymarket. The location of uses will maximise public transport patronage and encourage walking and cycling, and will retain and enhance the precinct's role as a safe and family oriented location within a pedestrianised environment.

The use of sustainable design solutions and assessment of the indoor environmental quality during the design stage of the project will also ensure a healthy and enjoyable office environment for the approximately 3,300 workers of the buildings will be delivered.

Public Interest / Public Benefit

It is expected that the proposed development will have some impact on the locality in terms of views and traffic generation however, on balance the proposal will provide significant benefits to the community, including:

- Activation and rejuvenation of the Darling Walk site.
- increased employment opportunities through the additional 600 full time construction and 3,300 operational jobs generated through the development.
- improved public domain areas, including engagement between the private and public realms (to be provided through the completion of the public domain works).
- improved pedestrian connectivity and accessibility between the site and interface with the CBD to the east and Darling Harbour to the west.

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1 THE SITE

1.1 Site context and location

Darling Walk is located within the Darling Harbour precinct on the western edge of Sydney Central Business District. The site includes 38 parcels of land and has an area of approximately 32,900m². The site is owned by the Sydney Harbour Foreshore Authority, with owners consent granted by the RTA for lodgment of the application for the parcels of land adjoining the Site.

The western distributor is located adjacent to the northern boundary of the site, the Chinese gardens are located immediately to the south, Tumbalong Park is to the west and Harbour Street and the western edge of the CBD (including some residential buildings) is to the east the site.

The closest Railways station is Town Hall located approximately 400 metres north-east of the site, Central Station is approximately 800 metres to the south-east. (See **Figure 1 – Site Location**)

1.2 Existing site features

The Darling Walk site is currently vacant, with the previous Sega World building, food and retail outlets, outback centre and McDonalds recently demolished.

The main road frontage of the site is approximately 200 metres long and faces onto Harbour Street at the section that links Bathurst Street to the north and Liverpool street to the south. Vehicular access to the site is from three points from the east which comprise ingress for northbound traffic off Harbour Street, to the north of Liverpool Street, a traffic signal controlled egress at the Harbour Street / Day Street intersection and ingress just north of the controlled egress.

There are two key pedestrian bridges to the site from the CBD. The Bathurst Street pedestrian bridge at the northern end of the site is the main link to the CBD and Town Hall Railway Station. A second bridge, known as the Liverpool Street pedestrian bridge, is at the southern end of the site and is the secondary connection that links Darling Walk/Darling Harbour South to the southern CBD.

1.3 Surrounding development

Darling Walk is part of the Darling Harbour precinct which contains a range of entertainment, cultural and exhibition venues on the western edge of the CBD. These venues include Sydney Entertainment Centre, Sydney Convention and Exhibition Centre, the IMAX cinema, and numerous harbour side bars and restaurants.

Directly to the south of the site is The Chinese Garden of Friendship, to the west the site adjoins Tumbalong Park, a large multi-purpose green space used for community events and performances. To the east, on the opposite side of Harbour Street, are a number of buildings ranging from 4 to 19 storey's in height and containing a mix of uses including residential units, a hotel, and commercial office space. The north the site is a pedestrian connection (between the site and western distributor) that links the city to Darling Harbour and Pyrmont beyond. Also to the north of the site are the Palm Grove amphitheatre, an event space which has recently been upgraded, and the IMAX cinema.



Figure 1: Site Location

2 BACKGROUND

2.1 Current Project Application chronology

- On 18 August 2008, JBA Planning on behalf of Lend Lease Development submitted to the Director General a request for the redevelopment of Darling Walk at Darling Harbour including bulk excavation, basement structure and construction of two 9 storey buildings
- The EA lodged by the proponent on 18 August 2008 was deemed inadequate for exhibition by the Department on 9 September 2008 as documentation regarding certain aspects of the proposal was deemed incomplete or was absent from the EA
- The amended EA was then deemed adequate by the Department for exhibition on 15 September 2008
- on 24 September to 24 October 2008, the project application was referred to public agencies and placed on public exhibition
- on 25 November 2008, a PPR was submitted by the proponent to address issues raised by the Department and public authorities, and to provide a response to the public submissions

2.2 Concept Plan MP 06_0054

The Minister for Planning approved the Darling Walk Concept Plan Concept Plan (MP 06_0054) on 9 July 2008. The Concept Plan Approval allowed for:

- A mixed use commercial, retail, cultural, recreational and entertainment development involving a maximum of 68,000m² of Gross Floor Area (GFA) subject to the following:
 - A maximum of 5,000m² GFA of retail floor space
 - A Minimum of 1,000m² GFA for cultural, recreational and entertainment uses
 - A child care centre use may be included in the commercial GFA
- maximum building heights and envelopes within 2 development blocks, separated from each other by a 20 metre wide 'view corridor' as identified in *Drawing DW 005 of Appendix C* of the Environmental Assessment
- maximum of 200 basement car parking spaces to serve the commercial GFA
- maximum of 600 basement car parking spaces as a separate public car parking facility
- public domain reconfigurations and improvements

The Capital Investment Value of the Approved Concept Plan was \$280 Million with up to 3,300 full time operational jobs.

The Concept Plan Approval also permitted the demolition of works associated with the project without any further environmental assessment required including the demolition of the existing SEGA World building and associated structures and closure of the pedestrian bridge access which links the main Bathurst Street footbridge to Level 1 of the existing building.

A copy of the original approval is at **Appendix A** and a copy of the original report is at **Appendix B**.

Other relevant approvals

On 14 October 2008 DA 122-08-08 was approved by the Sydney Harbour Foreshore Authority (SHFA) (under delegation from the Minister within Part 4 of the EP&A Act), which allowed for the diversion of the James Street stormwater drainage culvert and associated works at Darling Walk. This was consistent with the Concept Plan Approval.

On 1 December 2008 DA 133-08-08 was approved by the Minister for Planning under Part 4 of the EP&A Act (assessed by SHFA), for the remediation of contamination at the Darling

Walk site, the removal of Acid Sulphate Soils within the area to be excavated and the installation of a piling/ shoring system around the perimeter of the proposed in-ground basement to facilitate the remediation works. This was consistent with the Concept Plan Approval.

3 DESCRIPTION OF PROJECT APPLICATION (MP_08_0057)

3.1 The Proposed Development

The proposal includes bulk excavation, basement structure and construction of 2 x 9 storey buildings comprising:

Land Use and Floor Space

Two buildings of a total GFA of 67,827m² including:

- 64,235m² GFA of commercial floorspace
- 2,592m² GFA of retail floorspace
- 1,000 m² GFA for a children's theatre

Building Heights

The maximum heights of the buildings excluding plant and architectural roof features are:

- 37.3m fronting Harbour Street
- 26.2m fronting Tumbalong Park
- The maximum height of the buildings including plant and architectural roof features is 46.0m.

Car Parking

4 levels of basement carparking consisting of:

- 200 car parking spaces to serve the commercial buildings (uppermost basement level)
- 600 space public car parking facility (remaining 3 basement levels)
- Access and egress arrangements

External Materials and Finishes

The building is to be constructed of structured reinforced concrete and steel with an external façade comprising glass, lightweight cladding and timber.

A copy of the submission is attached at **Appendix C**

The CIV of the proposal is \$259,233,681 and the proposal will create **600** full time equivalent construction jobs and **3,300** full time equivalent operational jobs.

3.2 Preferred Project Report and response to submissions

The proponent was provided with copies of all the submissions and requested to respond to the submissions in accordance with Section 75H of the Act. On 25 November 2008, the proponent submitted a response to the submissions and a revised Statement of Commitments. (See **Appendix D**).

Revisions to the project included:

Design changes to reduce the size of the roof form in height and width:

- The design of the north building architectural roof feature is lowered by 0.8m and shortened by 8.25m at the north end and 3.0m at the southern end
- the south building architectural roof feature is also lowered by 800mm and shortened at the north by 4.15m at the Harbour frontage and 2.80m at the Tumbalong Park frontage

Design changes to the northern façade:

- The proposed glazing treatment to the northern façade of the northern building is to be amended to include about 50% glazed section
- additional anti-glare blades will be added to reduce potential glare impact to drivers on the Western Distributor
- in accordance with the recommendations within the Reflectivity Report, prepared by Arup for the Project Application, mitigation measures will be incorporated to ensure that luminance does not exceed the limit of 500Cd/m²

Design changes to the layout of the car park:

- The layout of both the tenant and public car parks have been amended to include specified parking areas for motorcycles and to remove the 'reverse into and angled spaces'.
- amendments have also been made in response to the Accessibility Analysis undertaken by Morris-Goding and recommendations from Masson Wilson Twiney.

The PPR also provided additional analysis in relation to view impacts, and included a view analysis for the Harbour Gardens apartments.

Additional traffic modelling has also been undertaken by the proponent at the request of the RTA in relation to the carpark exit points and their relationship with the Harbour Street intersection.

4 STATUTORY CONTEXT

4.1 Minister's power to approve

The Director-General as delegate for the Minister for Planning formed the opinion on 19 April 2006 that the proposal is a Major Project under *State Environmental Planning Policy (Major Projects) 2005*. It has a capital investment value in excess of \$5 million and is located within a specified site of Schedule 2 of SEPP 2005, being Darling Harbour (Map 9).

The Department has exhibited the Environmental Assessment (EA) in accordance with section 75H (3) of the *Environmental Planning and Assessment Act 1979*, as detailed in this report. Therefore, the Department has met its legal obligations and the Minister has the power to determine this project.

4.2 Director-General's Environmental Assessment Requirements (DGR's)

On 08 March 2007 the Director General issued environmental assessment requirements for the Concept Plan (DGR's) pursuant to 75F of the Act. The DGR's required the following key issues to be addressed:

- Built Form and Urban Design
- Public domain/pedestrians
- Site Suitability
- Traffic, Access and Parking
- Amenity
- Public services and Infrastructure
- Stormwater
- Sustainability

The DGR's are contained in **Appendix E**. The EA lodged by the proponent on 18 August 2008 was deemed inadequate for exhibition by the Department on 9 September 2008. The amended EA was then deemed adequate for exhibition by the Department on 15 September 2008.

4.3 Objects of the Environmental Planning and Assessment Act 1979 (EP&A Act)

The objects provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, consistent with the objects of the Act.

The objects of the Act in section 5 are as follows:

- (a) *To encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities,*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats,*
 - (vii) *ecologically sustainable development,*
 - (viii) *the provision and maintenance of affordable housing,*
- (b) *To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *To provide increased opportunity for public involvement and participation in environmental planning and assessment.*

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (iv), (v) and (vii) are significant factors informing the determination of the application. The proposal does not raise significant issues with regards to (iii), (vi) and (viii).

The Department has considered the Objects of the Act in the assessment of the project application.

4.4 Ecologically Sustainable Development Principles (ESD)

There are five accepted ESD principles:

- (a) *decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- (b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- (c) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- (d) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- (e) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the development in relation to the ESD principles and has made the following conclusions:

- (a) **Integration Principle** – The proposal has positive social and economic impacts supporting the revitalisation of Darling Harbour as a long-term visitor destination and employment generating use. The development also encourages the sustainable use of existing facilities within the Darling Harbour locality such as transport, entertainment and sporting facilities located in proximity to the site and does not adversely impact on the environment.
- (b) **Precautionary Principle** – There is no threat of serious or irreversible environmental damage as a result of the proposal. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. No significant climate change risks are identified as a result of this proposal, however additional protection is to be incorporated as part of the development such as:
 - A flood evacuation plan based on the PMF
 - flood compatibility building material will be specified for the ground level and underground premises to prevent and minimise flood damage in the future
 - a higher freeboard has been adopted for the basement entries for the development
- (c) **Inter-Generational Principle** – The proposed development represents a sustainable use of a site, utilises existing infrastructure within the Darling Harbour locality and contributes to the vibrancy of the area for the benefit of future generations.
- (d) **Biodiversity Principle** – The proposal does not impact upon biological diversity or ecological integrity. The development site has been previously developed and has a low level of environmental sensitivity.
- (e) **Valuation Principle** – The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

An ESD report has been prepared which proposes a number of strategies to meet a 5 star ABGR design rating and target a 6 star Green Star rating in design.

The Green Star rating will be seeking to achieve:

- High indoor environmental quality through the use of enhanced fresh air; effective glare and thermal comfort assessment during the design stage and well designed acoustic environment and local exhausts for pollution associated with photocopiers e.t.c.
- energy and water efficiency
- use of sustainable and/or recycled materials
- stormwater recycling inclusive of rainwater harvesting to provide non-potable water for the adjacent public domain water irrigation and water features
- a blackwater system for toilet flushing, irrigation and cooling tower consumption and to reduce flow to the sewer
- a co-generation plant incorporating absorption chiller
- glazing and blinds designed to suit the individual orientation of each of the building facades
- the provision of bicycle parking
- general minimising of waste and water use

Flooding impacts have been further assessed, and is not considered to be a constraint to the development subject to the adoption of suitable floor levels, basement entry crest levels, unobstructed overland flow paths through the site and an appropriate freeboard.

The recommendations of the Darling Walk flood study, dated June 2008 and submitted with the EA are therefore recommended to be adopted in the conditions of approval for the project application.

4.5 Section 75i (2) of the Act

Section 75i (2) of the Act and Clause 8B of the Environmental Planning and Assessment Regulation 2000 requires the Director-General's report to address a number of matters as follows:

Section 75i(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA and PPR forms part of the Director Generals Report and is located on the attached assessment file
Any advice provided by public authorities on the project	All advice provided by public authorities on the project application for the Minister's consideration is set out in this report.
Copy of any report of a panel constituted under Section 75G in respect of the project	No statutory independent hearing and assessment panel was undertaken in respect of this concept plan application.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Each relevant SEPP that substantially governs the carrying out of the project application is identified immediately below.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development relative to the prevailing environmental planning instrument is provided in this report.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The project application adequately complies with the DGR's.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in this report.
The suitability of the site for the project	The objectives for the site under the DHDP permits uses as proposed in this Project Application.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in this report.

4.6 Environmental Planning Instruments (EPI's)

Application of EPI's to Part 3A projects

To satisfy the requirements of section 75i(2)(d) and (e) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project. An assessment of compliance with the relevant EPI's is provided immediately below.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (Major Projects) 2005
- Darling Harbour Development Plan No.1
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Other planning controls to be considered in the assessment of the proposal are:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 (Remediation of Land)

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R(1) Part 3A of the Act, however the DGR's require the proponent to address the relevant provisions.

Notwithstanding, there are no numerical controls applicable to the site under the DHDP and Sydney Harbour Catchment SREP 2005.

4.6.1 State Environmental Planning Policy (Major Projects) 2005

The project is a Major Project under *State Environmental Planning Policy (Major Projects) 2005* being Schedule 2 of the MP SEPP which identifies "specified sites" to which Part 3A of the EP & A Act applies.

Clause 10 of Schedule 2 identifies the area known as a Sydney Harbour Foreshore Site located within Darling Harbour (Map 9) as a site to which Part 3A applies. The opinion was formed by the Director-General as delegate for the Minister on 19 April 2006.

The site is located within Map 9 – Darling Harbour, and has a CIV of more than \$5 million and therefore Part 3A of the Act applies.

4.6.2 Darling Harbour Development Plan No.1

The proposal is consistent with the objectives for the site as it encourages uses that will provide for tourist, educational, recreational, entertainment, cultural and commercial facilities.

4.6.3 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is consistent with the principles for the area in that it will regenerate and activate an underused site, provide for increased public access to a harbour site, enhance the diverse range of uses at Darling Harbour for existing and future generations, and will achieve a high quality and ecologically sustainable development on the site through its architectural design. The proposal will provide a vibrant place for people, enabling the use of an improved public domain environment and access to a variety of uses.

The proposed development will not adversely affect the natural assets of Sydney Harbour and is generally consistent with the considerations and objectives of the REP.

4.6.4 State Environmental Planning Policy (Infrastructure) 2007

The proposed development meets the aims of the Infrastructure SEPP as it allows for the efficient redevelopment of surplus government owned land. Schedule 3 of the SEPP requires traffic generating development to be referred to the RTA. The proposal was considered by the Sydney Regional Traffic Committee which raised matters relating to signposting, entry and exits, carparking, mobile storage facilities, public utility adjustments, road works, construction zones, alterations to the traffic signals and design requirements.

The majority of the above matters have been addressed by the proponent in the PPR and discussed in detail further in this report.

Additional traffic modelling has also been undertaken by the proponent at the request of the RTA, who are now satisfied with the proposal. A specific condition is recommended to require matters in relation to the detailed traffic management measures and entrance/exit to and circulation within the McDonalds drive through to be addressed by the proponent in consultation with the RTA.

4.6.5 State Environmental Planning Policy No. 55 – Remediation of Land

A Preliminary Environmental Site Assessment of the existing built up part of the Darling Walk site was commissioned in April 2007 (Stage 1). The assessment recommended the preparation of an acid sulphate soil management plan, and further investigation following the demolition of the building for levels of benzo (a) pyrene and nickel, including additional boreholes across the whole site to meet minimum sampling density. Modifications to the Concept Plan will include these recommendations.

A detailed site investigation (Stage 2) has been completed for the project application which indicated elevated concentrations of contaminants exist, however appear to be localised and the site can be made suitable for the proposed building and public domain works.

A remedial action plan (REP) has been prepared, which addresses the site hotspots and any potential impacted material that may be encountered during the excavation of the site. It also includes procedures for identification, classification and management of materials for on-site retention / reuse or off-site disposal. It is concluded that the site can be made suitable for the proposed development, provided the identified contamination hotspots are remediated/managed in accordance with the remedial action plan.

An Acid Sulphate Soils Management Plan (ASSMP) has also been prepared which provides strategies to ensure that the potential acid sulphate soils material is removed and treated in an appropriate manner and leachate water from the acid sulphate soils material will also be managed and treated to ensure no acid is released into the environment.

On 1 December 2008 DA 133-08-08 was approved by the Minister for Planning under Part 4 of the EP&A Act, for the remediation of contamination at the Darling Walk site, the removal of Acid Sulphate Soils within the area to be excavated and the installation of a piling/ shoring system around the perimeter of the proposed in-ground basement to facilitate the remediation works.

Based on the approval of DA 133-08-08 and recommendations of the REP and ASSMP it is considered that the site can be made suitable for the proposed development and thus satisfactorily meet the requirements of SEPP 55.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

In addition to the EPIs and planning policies addressed above, key issues raised in the submissions and/or identified during the Departments assessment of the Director Generals Environmental Assessment Requirements (DGRs) include:

- Consistency with the Concept Plan
- Height of the Architectural Roof Feature and View Impacts
- Built Form and Urban Design
- Traffic and Access
- Public Domain and timing

5.1 Consistency with Concept Plan (MP 06_0054)

5.1.1 Gross Floor Area (GFA) and Land Uses

The Concept Plan approval was for a principally commercial office development with complimentary retail and associated uses servicing future employees to the precinct. In this respect the Concept Plan Approval allowed for a mixed use commercial, retail, cultural, recreational and entertainment development with a maximum total site GFA of 68,000m² (See **Table 1**). This total GFA was inclusive of a maximum of 5,000m² GFA of retail floor space and a minimum of 1,000m² GFA for cultural, recreational and entertainment uses. A child care centre use may also be included in the commercial GFA component, and a maximum of 200 basement carparking spaces to service the commercial GFA and a maximum of 600 basement carparking spaces as a separate car parking facility was permissible.

The application complies with the Concept Plan as demonstrated Table 1.

Component	Concept Plan Control	Project Application	Compliance
GFA	Maximum 68,000m ²	67,827m ²	Yes
Commercial		64,232m ²	Yes
Retail	Maximum 5,000m ²	2,592m ²	Yes
Cultural	Minimum 1,000m ²	1,000m ²	Yes
Parking	200 tenant	200 tenant	Yes
	600 public	600 public	Yes

Table 1: GFA and Uses Compliance Table

The application is therefore consistent with the terms of approval in relation to GFA and Uses.

5.1.2 Integration of Bathurst Street Footbridge

The integration of the Bathurst Street footbridge into the development site is an important component of the Concept Plan Approval to facilitate the safe and efficient movement of pedestrians and workers accessing/leaving the site, public domain area or greater Darling Harbour area.

The PPR provides a diagrammatic plan of the bridge augmentation, as well as some design principles to be incorporated into the design of the bridge such as:

- A new canopy over the length of the bridge to protect pedestrians from sun and rain, promote safe and convenient movement between Day Street, Darling Walk and Tumbalong Park.
- The bridge refinements to be a lightweight structure and the western section of the footbridge be realigned to integrate into the new development
- the provision of a lift and new stairs on the western side of Harbour Street

The detailed design of the above improvements will be provided in the Public Domain Project Application, as detailed in the Statement of Commitments of the current application.

A condition has been included however to ensure that the pedestrian linkage into the site has been provided prior to occupation of the buildings or carpark.

5.1.3 Ground Floor Activation

Activation of the ground floor generally by retail uses was also stipulated in the Concept Plan terms of approval, in particular the frontages to Tumbalong Park, between the buildings (into the view corridor / public domain area) and to Harbour Street.

Retail activation dominates the ground floor of the application, with the frontage to Tumbalong Park, frontages separating the buildings and Harbour Street frontage of the southern building being predominately retail.

The application is therefore consistent with the terms of approval in relation to ground floor activation.

5.1.4 Width of View Corridor between Buildings

The minimum separation between the two building forms, and therefore view corridor provided in the application is approximately 23.6 metres, which is in excess of the minimum 20 metres as required in the Concept Plan (See **Table 2**).

Component	Concept Plan Control	Project Application	Compliance
View Corridor	20m	23.6m	Yes

Table 2: View Corridor Compliance Table

The application is therefore consistent with the terms of approval in relation to the width of the view corridor between the buildings.

5.1.5 Darling Walk Illustrative Massing, Height and Setbacks – Drawing No. 005

Drawing Number 005 of the Concept Plan Approval stipulates the height and setbacks that are permissible for the application (See **Figure 2**).

Heights

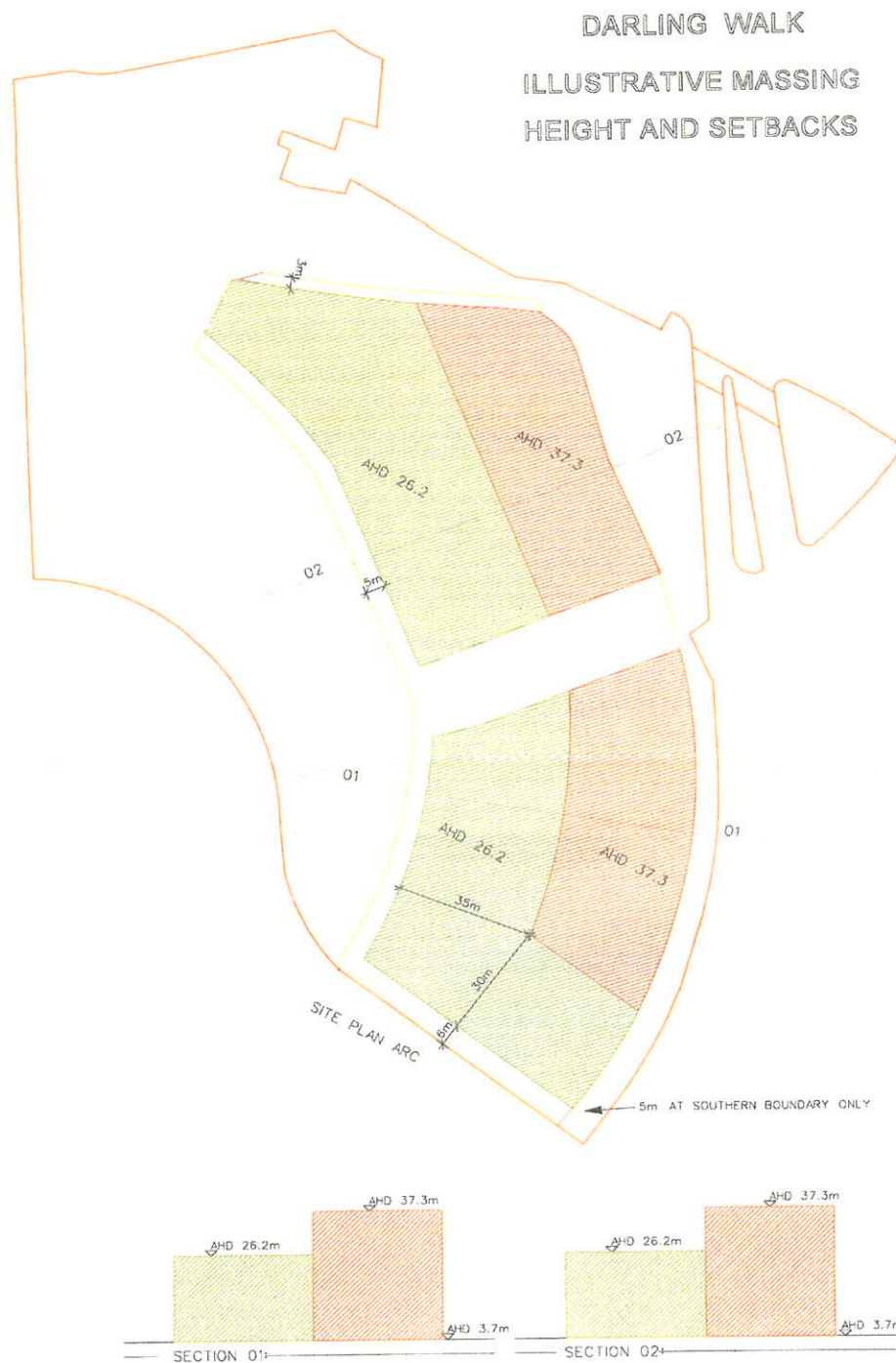
The maximum building heights and envelopes of the two buildings as stipulated in Figure 2 are 37.3 metres AHD fronting Harbour Street stepping down to 26.2 metres AHD fronting Tumbalong Park, measured to the ceiling of the uppermost habitable floor.

The application is consistent with this providing a height of 37.3 metres to the ceiling of the uppermost habitable floor fronting Harbour Street, and a height of 26.2 metres to the ceiling of the uppermost habitable floor fronting Tumbalong Park (See **Table 3**).

Component	Concept Plan Control	Project Application	Compliance
Heights	37.3m	37.3m	Yes
	26.2m	26.2m	Yes

Table 3: Building Heights

The application is therefore consistent with the terms of approval in relation to the heights of the ceilings of the uppermost habitable floors.



— DENOTES SITE PLAN
— DENOTES DEVELOPMENT FOOTPRINT

Plan Reference Number DW 005

RYGATE & COMPANY PTY. LTD.
P.W. RYGATE & WEST (Est. 1893)
CONSULTING SURVEYORS
5TH DECEMBER 2007 - OPT A

Figure 2: DW 005 – Illustrative Massing, Height and Setbacks

Setbacks

The setbacks of the development are generally consistent with the Concept Plan Approval, and the overshadowing analysis concludes that any additional shadow impacts over and above the Concept Plan Approval are minor.

5.2 Height of the architectural roof feature and view impacts

The height of the roof feature and impacts on the views of the surrounding properties is a key issue for consideration.

The impacts on views were assessed with the Concept Plan, however this analysis concentrated on the height plane of 37.3m, with no analysis of the impacts resulting from any roof form.

In the PPR the proponent has provided additional analysis of the impact of the roof forms on the Millennium Towers, with additional analysis undertaken for Harbour Gardens which was not provided during the assessment of the Concept Plan.

Assessment

The heights approved in the Concept Plan are to the ceiling of the uppermost habitable floor, however this excluded plant, lift overruns, architectural roof forms, parapets, communication devices and landscaped elements. Architectural roof features and the like are permitted above the maximum height if they are considered to contribute to the articulation of the rooftop.

The roof form as proposed in the application exceeds the maximum heights stipulated in the Concept Plan Approval by 8.7m, with the height of the roof as proposed in the PPR being 46.0 metres (reduced from 46.8m in response to the submissions).

The impact this formation has on the views enjoyed by surrounding residents therefore needs to be considered.

The NSW Land and Environment Court case *Tenacity Consulting v Warringah Council* established Planning Principles for the consideration and assessment of view impacts, view loss and view sharing with view sharing defined as follows:

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment.

In considering whether or not view sharing is reasonable, the following criteria were adopted:

- What views are affected (i.e. whether or not they are iconic views, water views, obscured etc)
- from what part of the property are the views obtained
- the extent of the impact, and
- the reasonableness of the proposal which is causing the impact

In this regard, an assessment of the impact of the proposal upon views from the Millennium Towers in accordance with these principles is as follows:

Views which are affected

In this case the views that are affected are considered local and district views from Millennium Towers and Harbour Gardens.

From what part of the property are the views obtained

The views from the Millennium Towers to the east of the site are obtained from the western facing windows, and balconies.

The views from the Harbour Gardens are obtained from the northern facing units and balconies.

The extent of the impact

The visual analysis report submitted with the PPR demonstrates that when compared to the view study of the approved Concept Plan, the direct and oblique views to the centre of Tumbalong Park are only different with respect to the Millennium Towers residential building (See **Table 4**).

Apartment Complex	Total dwellings affected	Total dwellings affected	Total dwellings affected
	Concept Plan (excludes roof impact)	EA Proposal (including roof impact)	Revised EA Proposal (including roof impact)
Crown Plaza	93	93	93
Millennium Towers	45	57	56
Emporio	18	18	18

Table 4: View Impacts compared to the Concept Plan Approval

The net effect (total number of effected dwellings) of the impact to Millennium Towers is detailed in table 5. The amendments made to the size of the architectural roof feature in the PPR has resulted in the reduction of the total number of view loss by 1 dwelling.

Millennium Towers view Impact	Total Number of Dwellings	Total Number of View Loss	Total Number of View Gain	Net View Loss	Improvements to Views (relative to Concept Plan)
Concept Plan (excludes roof impact)	45	33	12	21	-
EA Proposal (including roof impact)	57	39	18	21	18
Revised EA Proposal (including roof impact)	56	38	18	20	20

Table 5: View Impacts to Millennium Towers

The visual analysis undertaken for the Harbour Garden apartments also shows that when compared to the approved Concept Plan minor view loss towards Darling Harbour may occur.

Overall, with the inclusion of the architectural roof forms and garden terraces the visual appearance of the buildings, and therefore views from above will be greatly improved when compared to the Concept Plan Approval.

The reasonableness of the proposal which is causing the impact (i.e. whether the development complies with existing planning controls and/or whether a better design could alleviate view impacts)

The height of the ceiling of the uppermost habitable floor in the application is consistent with the Concept Plan Approval.

As a response to the submissions however the proponent has made the following amendments to the architectural roof feature, which is permissible above the heights stipulated in the Concept Plan Approval provided it contributes to the articulation of the rooftop:

- The north building roof has been lowered by 0.8m, with the north end of this component shortened by 8.25m and southern end by 3m.
- the south building roof has also been lowered by 0.8m, the north end of this component shortened by 4.15m at the Harbour Street frontage and 2.8m at the Tumbalong Park frontage.

These amendments ensure the impacts of the architectural roof feature are reduced and reasonable view sharing can be achieved.

Summary

The proponents view analysis concluded that view impacts resulting from the architectural roof feature may exist to apartments in the Millennium Towers (whilst some apartments may also experience view gain) and Harbour Gardens apartments.

Modifications made to reduce the size of the architectural roof feature in the PPR will however reduce any resulting view impacts, and given the roof form incorporates all of the roof plant and equipment, the visual appearance of the buildings, and therefore views from above will be greatly improved.

Given the curved roof is well designed and integrates with the stepped profile of the building forms, whilst providing an attractive solution to the screening of the roof plant and equipment, the roof formation is considered acceptable.

In addition the proposal will result in a considerable improvement to public views from Darling Harbour back to the Sydney CBD.

5.1 Built Form and Urban Design

The built form and urban design quality of the buildings is a key issue for consideration.

Assessment

The proposed development is a distinctive office building of exceptional design and construction quality (See **Figure 3, 4 and 5**).

The buildings are well designed and generally follow the alignment of Harbour Street, providing a modulated built form stepping down to Tumbalong Park. This ensures an appropriate transition between the edge of the CBD and Darling Harbour will be achieved.

The vaulted roof is also a key design feature in ensuring the buildings maintain the stepped formation from Harbour Street, whilst providing an attractive design and screening for the associated plant and equipment. The roof form will also provide light into the building, whilst also controlling heat penetration and glare reflection through the use UV restricting glass through the façade and the roof down into the atrium.

The development will significantly activate the Harbour Street and Tumbalong Park frontages and provides an appropriate urban design outcome for the area.

The lower roof terrace is also to be planted with grass and trees, which will provide amenity for the tenants whilst softening the edges for those overlooking the building.

The building will also deliver a best practice of sustainability that will reduce energy and water consumption whilst increasing access to natural light and ventilation.

Summary

The proposed built form, including massing and height, is a response to the CBD environment to the east and the pedestrian environment of Tumbalong Park and Darling Harbour to the west/north-west and is considered acceptable in its surrounding context.

The building is well designed and provides an appropriate interface with Harbour Street and Tumbalong Park, and through the use of sustainable design solutions and assessment of the indoor environmental quality during the design stage of the project, a healthy and enjoyable office environment for the approximately 3,300 workers of the buildings will be delivered.

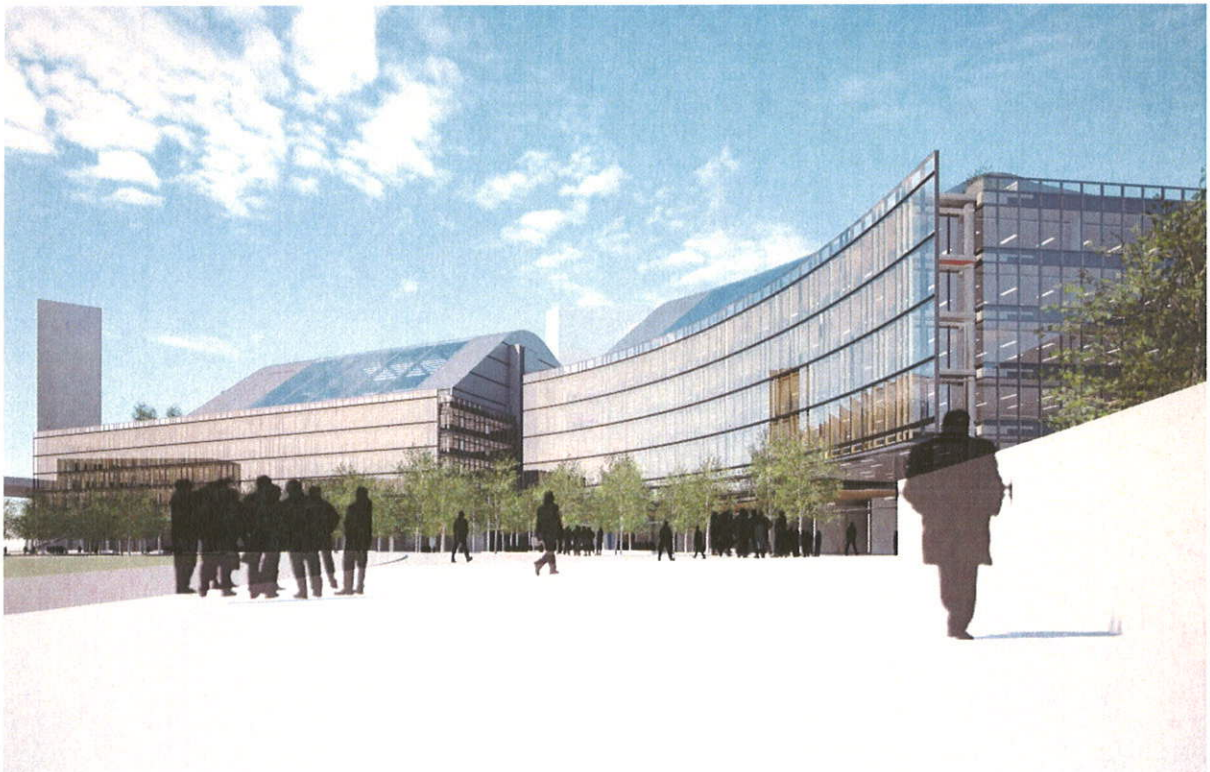


Figure 3: Photomontage of building design – western view (from Darling Harbour)