



13460  
30 July 2014

Ms Caroline McNally  
Secretary  
Department of Planning & Environment  
23-33 Bridge Street  
SYDNEY NSW 2000

Attention: Ben Lusher

Dear Ms McNally

**SSD 4972 - SECTION 96 APPLICATION NO 3 (MODIFICATION 3)  
FOUR POINTS BY SHERATON, 161 SUSSEX STREET, SYDNEY**

On behalf of GL Investment Co Pty Ltd, the proponent for the above development, we are responding to the matters raised in the Department's letter of 8 July 2014 (and subsequent emails of 9 and 21 July 2014), as well as the issues raised in the submissions in response to the exhibition of the above modification (MOD 3).

At the same time, GL Investments is seeking to make minor changes to the development by way of amendments to two of the conditions of approval dated 5 August 2013, as amended by the Planning Assessment Commission on 19 March 2014. See section 2 below.

This Response to Submissions (RTS) is also includes a further small change to the design of the hotel's porte cochere submitted as part of MOD 3 (see Section 3).

**1.0 RESPONSE TO SUBMISSIONS**

The comments from the following agencies are noted and do not require a response:

- Sydney Harbour Foreshore Authority (SHFA);
- Office of Environment and Heritage;
- Ausgrid;
- Sydney Trains.

**1.1 Department of Planning & Environment**

**Clarification on the changes that would result in additional floor space and reduction in number of rooms**

The changes set out in this Modification result in an increase of 284 sqm in floor area over the approved scheme bringing the new floor area to 60,581 sqm. This takes into account the reduction of 367 sqm in floor area that occurred as a result of Modification 2 and also an error in the previous calculations which omitted to include the extensions to the hotel gym on Level 1 which added 90sqm to the total GFA.

For clarification, the changes are as follows:

- Approved scheme: total floor area - 60,297 sqm;
- MOD 2 reduction: total floor area - 59,930 sqm (reduction of 367 sqm);
- MOD 3 increase: total floor area - 60,581 sqm (increase of 284 sqm over the approved scheme).

The floor area associated with the existing Northern Warehouse - 850sqm – was not included in the original floor space calculations, and was therefore not included in the above figures.

The additional 284 sqm of floor area is attributed to the following amendments:

- Ground Level (170 sqm)
  - escalators, circulation to the north, and wet areas incorporated into the Northern Courtyard area;
  - glazed link from northern kitchen to Northern Warehouse added.
- Mezzanine Level (259 sqm)
  - escalators, circulation to the north, and wet areas incorporated into the Northern Courtyard area;
  - back-of-house service corridor added above hotel lobby.
- Level 1 - Tower (124.5 sqm)
  - north-west triangular void between tower and podium to west in-filled with back-of-house areas;
  - envelope for hotel gym extended.
- Levels 2 and 3 - Tower (69 sqm)
  - north-west triangular void between tower and podium to west in-filled with back-of-house areas;
  - footprint on south east corner extended as a result of 3rd commercial lift.
- Levels 4 to 23 – Tower (28.5 sqm)
  - footprint on south east corner extended as a result of 3rd commercial lift.

The reduction in room numbers resulted from the requirement for additional back-of-house space for the hotel which has been displaced in the approved scheme with the placement of new convention space on the Mezzanine level, and not relocated elsewhere. Level 1 of the hotel tower is now proposed to accommodate hotel administration and back-of-house functions. The footprint / floor area of each tower level remains unchanged other than the minor changes identified above. The changes to room numbers are set out below.

	Original DA	MOD 3
No. rooms - Level 1	11	0
No. rooms - Level 2	11	12
No. rooms - Level 3	11	12
No. rooms - Levels 4 -14	18 x 11= 198	18 x 11= 198
<b>TOTAL</b>	<b>231</b>	<b>222</b>

#### **Provision of the alternative solutions to fire safety**

The attached report prepared by Defire sets out the proposed alternative solutions to fire safety in response to the proposed modification (see **Attachment A**). Defire confirms that the alternative solutions do not require any amendments to the design as proposed in both MOD 2 and MOD 3 and that the modified development can comply with the fire safety performance requirements of BCA 2013.

#### **1.2 Department of Primary Industry and NSW Office of Water (NOW)**

NOW has requested that the supplementary groundwater report (referred to in the EIS for the approved development) be provided for NOW's appraisal once completed. The report has been forwarded to NOW for review and information in accordance with the agency's request

The 'Geotechnical Investigation Report' prepared by Consulting Earth Scientist dated 29 May 2012 (Annexure L of the EIS) commented and recommended as follows with respect to Ground Water and Ground Water monitoring:

##### **5.2 PRELIMINARY GROUNDWATER ASSESSMENT**

*The results of the groundwater observations carried out in the boreholes during the fieldwork indicate that groundwater is likely to be encountered at shallow depths, - 0.70m AHD to 0.85m AHD. It should be noted that groundwater levels vary over time especially after periods of heavy rain and due to tidal influences. A more detailed assessment of groundwater levels and fluctuations will be provided following completion of a period of groundwater monitoring. The results of this groundwater monitoring will be provided in a supplementary groundwater monitoring report. (our emphasis).*

The proponent has now conducted additional monitoring of the groundwater on the site. These tests were carried out by Coffey Geotechnics Pty Ltd who also assessed the influences of the tide and rainwater on the groundwater at the site. The results indicate that:

- groundwater levels were monitored over a two week period in one borehole;
- the water level was relatively consistent at approximately RL 2.0m AHD and was not influenced by tide levels which generally fluctuate between RL 0.8m AHD and -0.8m AHD; and
- rainfall (on 17 September 2013) made little difference to the monitored groundwater levels.

Coffey has further indicated that no further monitoring is required. .

#### **1.3 City of Sydney**

##### **Further information about the proposed use of the former Tony Roma's for all day dining**

The City of Sydney has sought further information on the operational parameters of the temporary dining area in the Northern Warehouse building.

As a result of the extension and reconfiguration of the hotel public areas, the existing all-day dining restaurant and lobby bar will be relocated to a new area being constructed at ground floor level over the Western Distributor. In order to provide ongoing food and beverage services to hotel guests during construction it is intended to temporarily relocate the restaurant and bar service functions to the existing Northern Warehouse building which was formerly the Tony Romas restaurant.

Under the approved scheme the existing NWB restaurant kitchen and patron toilets, together with the other faux heritage elements in the northern courtyard, are demolished. MOD 3 includes a new kitchen which is integrated into the main hotel structure and which provides a functional solution sensitively located in relation to the Northern Warehouse heritage structure. The kitchen and the eating area in the Northern Warehouse are connected via a glazed link which has a minimal interface with the heritage façade of the Northern Warehouse building (see further detail in Section 1.4 below).

On completion of the new kitchen together with minor works to the Northern Warehouse building, also included in MOD 3, the hotel will transfer its food and beverage operation, including all-day-dining, into the new kitchen and the Northern Warehouse building. Since the permanent restaurant and lobby bar will be one of the last components of the refurbished building to be completed, it is proposed to maintain the hotel food and beverage operation in the Northern Warehouse building for the duration of construction, estimated at approximately 18 months.

The Northern Warehouse dining area – both indoors and outdoors - has the capacity for up to 156 patrons.

The hours of operation are proposed to be as for the current restaurant and lobby bar in the hotel, as listed below:

- Food Service
  - Breakfast: Monday – Saturday 6.00am–10.30am, Sundays 6.00am–11.00am;
  - Lunch: Monday – Sunday 12.00noon–3.00pm;
  - Dinner: Monday – Sunday 6.00pm –10.30pm.
- Bar Service
  - The hotel license allows for 24 hour trade and there are no age restrictions (accompanied by responsible adult). Standard restrictions around Christmas and Easter trading apply.
  - The existing bar area provides service at hours determined by the hotel in response to hotel guest requirements.
  - Note that it is intended that the bar area identified on Level 1 of the Northern Warehouse building will provide a bar service to dining guests and, unlike the Dundee Arms, is not designed as a bar destination, hence its remote location on Level 1.

In relation to the service of alcohol and liquor license, GL Investment Co Pty Ltd currently has an application before the NSW Office of Liquor Gaming and Racing to extend the hotel's existing license area to incorporate the Northern Warehouse Building. A copy of the current liquor license is attached for reference (see **Attachment B**).

An assessment under the Late Night Trading Management provisions of Sydney DCP 2012 is not considered necessary or relevant to this modification: the use is a (temporary) relocation of an existing operation within the existing Four Points at Sheraton Hotel, and the hours of operation for the proposed Level 1 bar in the Northern Warehouse building will not extend beyond those in the current license. It is further noted that DCPs do not apply to SSD, and in this instance requiring an assessment of an existing ongoing well-established operation would seem unnecessary and unreasonable. Moreover, the proposed outdoor area for spill over dining (which would accommodate only 16 people) is essentially within the enclosed northern courtyard and not in any public area such as a footpath.

**Clarification on the legibility and integration of the modified through site link**

The City of Sydney considers that due to the proposed amendments the through site link is no longer legible and does not connect with the public domain, and that the DGRs for the approved development are not satisfied by the proposed amendment.

The proponent met with CoS officers on 24 July 2014 in relation, amongst other matters, to the City's submission in response to MOD 3. The proponent clarified that the through site link complies with the DGRs which required that a through site link be provided. The through site link was reviewed and it was noted that the link is now a dedicated thoroughfare and not shared with hotel circulation as in the approved scheme where hotel lobby cross-overs existed.

With reference to legibility at street level – the attached graphic (**Attachment C**) was tabled which indicates a bold 'Darling Harbour' graphic text on the entry doors immediately opposite the link. CoS advised they were satisfied that this proposal met the intent of the DGR's.

#### **Clarification regarding changes to paving treatment on Slip Street**

The City was of the view that the proposed changes to the paving treatment on Slip Street will reduce the quality of the public domain and does not support the changes.

At the above (24 July 2014) meeting, the proposed public domain drawings and the heritage interpretation developed by Deuce Design for Slip Street were tabled. The need to have the heritage pathway and footprint details read against a more neutral background was explained, and hence the change from pavers to bitumen for the body of the road. In addition, conflicts with the numerous service pits in the roadway would occur if the whole street was paved as originally proposed. The CoS agreed that the design proposal and the revised heritage interpretation strategy (involving bitumen and feature granite) provided a better design outcome.

#### **1.4 Heritage Office**

The comments from the Heritage Office are supportive of the modifications detailed in MOD 3. However, the Office appears to be of the view that the new glazed link between the hotel and the Northern Warehouse would be unlikely to impact heritage values only if it is removable.

The purpose of the fully glazed link is to connect the Northern Warehouse Building to the proposed kitchen. The connection is via an existing door opening in the western façade of the Northern Warehouse building which is defined by a timber door frame. The proposed link interfaces with the timber door frame and surrounds with a fabricated steel portal.

The glazed link has been designed as a minimal, lightweight element with the steel portal interfacing at the junction with the existing opening in the façade of the Northern Warehouse building. The structure of the link is independent of the heritage building with a box gutter located to accommodate minimal flashing elements which connect around the inside face of the existing heritage opening. With the removal of the link the connections would therefore be able to be removed with minimal impact on the heritage fabric of the Northern Warehouse. Drawings demonstrating this detail are attached (see **Attachment D**).

#### **1.5 Transport for NSW**

##### **Clarification is sought on the location for taxis to wait and pick up customers.**

As is current practice, taxis will pick-up and drop-off in the porte cochere, and wait at the existing taxi rank on Sussex Street.

##### **Clarification is sought on how, in relation to pedestrian safety, buses would be managed in the hotel bus and coach facility.**

The tourist coach parking/ drop-off area under the hotel is an existing facility. Its operation is not intended to change from current arrangements. The facility is slightly reconfigured because of the relocation of the new lift, but three bays remain the same and the fourth is slightly narrower but has the same in length as the current. Accordingly, pedestrian safety does not change in relation to the approved arrangements. It should be further noted that the coach drop off area on Slip Street is under the hotel, on what is essentially a service road, and in a location that has negligible (if any) pedestrian activity. Sussex Street and the steps near the Corn Exchange being the usual route for pedestrians to access Slip Street.

##### **Provision for 14.5 metre buses is required**

The tourist coach parking/ drop-off area is an existing hotel facility and its operation is not intended to change from current arrangements.

The bus bays are on hotel property and all coach arrivals and departures are scheduled, coordinated and managed by the hotel. Likewise, pedestrian movements during drop-off and pick-up are managed by the hotel. Parking arrangements for any 14.5 metre coaches would be coordinated between the coach operator and the hotel.

#### **Requirement for Class 2 bicycle parking, not Class 3 as proposed**

The comment from TfNSW does not explain why Class 3 bicycle storage is unsuitable in the proposed location and in the specific circumstances of the development.

In line with the substantial improvements to the public domain area on Slip Street proposed under MOD 3, the approved Class 2 bicycle storage facilities are to be replaced with Class 3 bicycle rails to accommodate 52 bicycles for workers in the commercial part of the tower. This arrangement is consistent with the Public Domain Plan for the area, which was the subject of detailed consultation with the City of Sydney and SHFA in accordance with the conditions of approval for the development. Class 3 storage is considered the most appropriate response to the overall 'look and feel' of the area and to space constraints within a CBD location.

Of particular relevance is the fact that the area is in a business district, it will be well-lit and subject to passive public surveillance, and will also be under continuous CCTV surveillance. Accordingly the proposed Class 3 storage meets the Austroads objective for continuous surveillance. In fact, it noted that Class 2 bicycle storage is considered suitable where continuous surveillance is not available - which is not the case in this instance.

#### **Reiteration of comments in Roads and Maritime Services (RMS) letter of 8 November 2012**

It is noted that the issues raised by RMS in November 2012 in response to the EIS for SSD4972 were all addressed by the proponent in the Response to Submissions for the EIS, that the response was assessed by the then Department of Planning and Infrastructure and the SSD determined by the PAC, and that RMS's requirements in the November 2012 letter were translated into conditions of approval for the development.

No further comment is considered necessary.

## **2.0 AMENDMENT TO CONDITIONS OF APPROVAL**

### **2.1 Condition A5**

#### **Background**

The proponent is seeking to amend Condition A5 to align the submission to SHFA of the required Public Domain Plan prior to the commencement of public domain works, rather than with above ground works, and to allow for the public domain works to be completed before the final occupation certificate for the tower building is issued.

Under the current construction program it is intended that an above ground construction certificate (CC) will be issued by mid-September 2014. The proponent is preparing the Public Domain Plan in consultation with SHFA, but both are of the view that the timeframe set by Condition A5 (second paragraph) for the submission of the Plan to SHFA for approval does not allow sufficient time to provide a considered solution and response to the proposed public domain works to Darling Harbour. If the Public Domain Plan was to be the trigger for the issue of the above ground CC, the commencement of works would be delayed while both parties work to achieve an optimal design for the public spaces incorporated in the Plan. Alternatively, and equally undesirable, less than optimal solutions could eventuate (with further amendments necessary) as a result of undue haste to satisfy a CC requirement.

GL Developments and SHFA consider it in the best interests of the public, who will ultimately use the new spaces, that the design not be rushed, and that adequate time be allowed to enable the design of world class spaces which tie in with the SHFA master plan for Darling Harbour.

Accordingly, it is proposed that the Condition A5 be amended so that the Public Domain Plan be submitted and approved prior to the issue of the CC for any public domain works (this includes the works to be undertaken elsewhere on the site that are separate to those the subject of the Condition A5 Development Contributions).

SHFA has indicated that the proposed amendment is acceptable and will comment further in its formal response to this RTS.

In addition, an amendment is proposed to the wording of the final paragraph of Condition A5 to remove ambiguity and to relate completion of the Public Domain works to the completion and occupation or use of the new hotel tower.

It is intended that the Four Points at Sheraton Hotel continues to operate and trade throughout construction, including in the areas the subject of the development, and therefore Interim Occupation Certificates (OC) will need to be issued as areas in the existing hotel become available for use. This staged certification process is critical in enabling the construction works to proceed and for the existing hotel to continue to operate. The current wording of Condition A5 requires that the works under the Public Domain Plan be completed with any OC – that is, the first one. Given that several OCs will be issued and that this will occur early on to enable the occupation of different parts of the hotel building (such as the convention spaces), it would be unreasonable, unrealistic and not possible for the public domain works to be completed to tie in with this.

Accordingly, it is proposed that the condition be amended so that the works are required to be completed prior to the issue of the final OC for the hotel tower or before the use of the tower commences. In this way the public domain works are not tied to the existing hotel (with its interim OCs), but more appropriately to the completion and use of the tower building.

#### Proposed amendment

The proposed amendments to Condition A5 as modified on 19 March 2014 by the PAC is set out below. Words proposed to be deleted are shown in ~~bold strike-through~~ and words to be inserted are shown in ***bold italics***.

#### Development Contributions

##### A5 Precinct Improvement Works

The applicant shall undertake precinct improvement works-in-kind to the public domain at Darling Harbour to the value of \$1,485,000 and generally in accordance with the Public Domain Improvements Plan submitted by SHFA dated March 2014 contained in Schedule 3. The amount of \$1,485,000 is subject to annual indexation from 5 August 2013 in accordance with CPI.

The scope of public domain improvement works-in-kind shall be included in a Public Domain Plan prepared by an architect, urban designer or landscape architect. The plan shall be submitted to SHFA for approval prior to the issue of a Construction Certificate for ~~above-ground~~ ***the public domain*** works.

The scope of works-in-kind cannot include any works approved or required to be carried out by any other condition of this approval, and shall only include permanent public domain works, not construction works associated with the hotel redevelopment or access arrangements during construction.

The public domain improvement works shall be completed in accordance with the SHFA approved Public Domain Plan before ~~any~~ the ***final*** Occupation Certificate is issued in respect of the ~~development~~ ***tower building*** or before the use of the ***tower building*** commences, whichever is the earlier.

## 2.2 Condition H5

#### Background

The proponent is seeking to amend Condition H5 to enable for noise to be measured at the nearest sensitive receiver (that is, residential building) rather than at the site boundary. The technical justification for this modification is set out by Acoustic Studio in the attached report (refer to **Attachment E**). The proposed amendment would bring condition H5 in line with standard practice for developments within the City of Sydney, in particular, and in NSW in general.



The City of Sydney's Standard Conditions of Development Consent and the NSW Industrial Noise Policy both require that noise be monitored at the boundary of the affected residential receiver as opposed to the subject site boundary. Specifically, Standard Condition 62 from the City of Sydney requires noise to be '*assessed at the boundary of any affected residence*'. Likewise, the Industrial Noise Policy (INP) Intrusiveness Criterion requires monitoring to be '*assessed at the most-affected point on or within the residential property boundary*'.

Given that the subject site is located within the City of Sydney and surrounded by roads, commercial buildings and a motorway, it is considered appropriate that noise be measured and mitigated only to the extent it affects sensitive receivers – such as residential buildings.

#### **Proposed amendment**

The proposed amendment to Condition H5 of the approval dated 5 August 2013 (as modified on 19 March 2014) is set out below. Words proposed to be deleted are shown in ~~**bold strike through**~~ and words to be inserted are shown in ***bold italics***.

#### **Noise Control – Plant and Machinery**

H5 Noise associated with the operation of any plant, machinery or other equipment on the Subject Site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of ~~the Subject Site~~ ***any affected residence***.

### **3.0 CHANGES TO THE DESIGN OF THE PORTE COCHERE**

MOD 3 included changes to the design of the porte cochere. Subsequent to this, and as a result of design development, a further change is proposed with the introduction of a solid bay to replace the glass bay on the northern side of the porte cochere adjacent to the guest lift lobby and the bell desk. The proposed change was discussed with the CoS at the officer meeting referred to in Section 1.3 above, and was supported.

This amendment addresses the following design issues:

- Circulation space around the existing guest lift lobby: congestion in this space is reduced by clearly delineating the hotel entry and guest lobby egress with the introduction of solid cladding at the interface with the guest lift lobby - which in turn relates directly to the bell desk.
- Views of the hotel entry from Sussex Street: the provision of a solid bay in the porte cochere provides a clear architectural expression and symmetrical/ centralised hotel entry when viewed from Sussex Street.

The change also acts to concentrate the double height glass volume at the guest lobby instead of at the lift lobby.

The following drawings have been amended to reflect the modified design and replace the drawings with the same number lodged with MOD 3 (see **Attachment F**).

- A-DA-004 – Rev F
- A-DA-201 – Rev P
- A-DA-202 – Rev P
- A-DA-203 – Rev Q
- A-DA-204 – Rev P
- A-DA-302 – Rev L
- A-DA-312 – Rev E.



We trust that the information detailed in this letter is sufficient to enable the Department of finalise the assessment of MOD 3. Should you have any queries about this matter, please do not hesitate to contact Jennie Buchanan at JBA on 9956 6962 or [jbuchanan@jbaurban.com.au](mailto:jbuchanan@jbaurban.com.au), or Jenny Watt from GL Investment Co on [jenny@mandlinvestments.com.sg](mailto:jenny@mandlinvestments.com.sg) or 0413586555.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Vivienne Goldschmidt', with a stylized flourish at the end.

Vivienne Goldschmidt  
*Associate*

Attachment A: Fire safety alternative solutions report  
Attachment B: Current Liquor License  
Attachment C: Through site link signage  
Attachment D: Glazed link drawings  
Attachment E: Acoustic advice  
Attachment F: Revised drawings