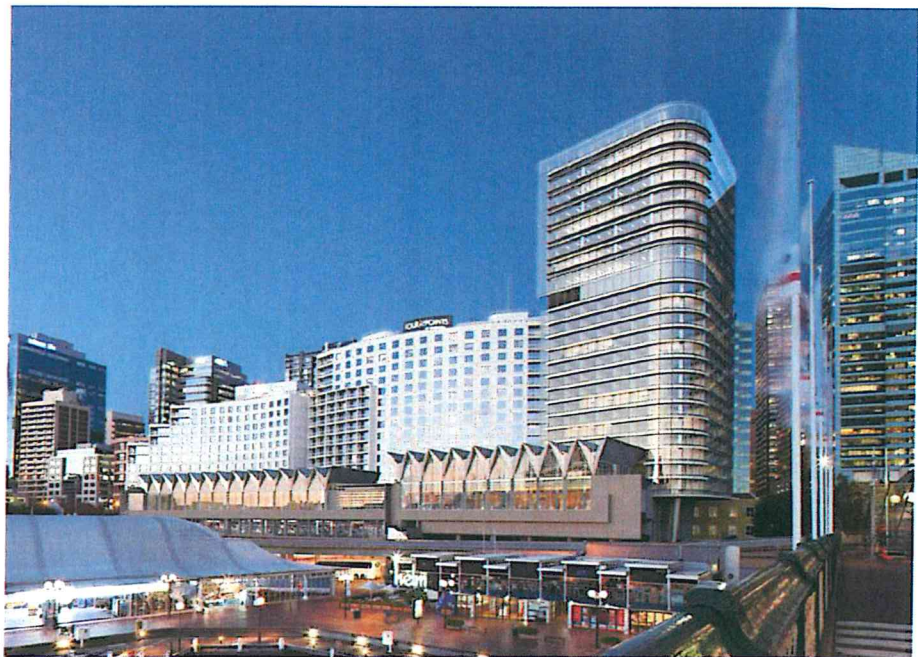




**SECTION 96(2) MODIFICATION APPLICATION
ASSESSMENT REPORT
Four Points by Sheraton Hotel Redevelopment
161 Sussex Street, Sydney
(SSD 4972 MOD 3)**



Secretary's
Environmental Assessment Report
Modification of consent under section 96(2) of the
Environmental Planning and Assessment Act, 1979

September 2014

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Cover Photograph: Proposed modified tower and function building design
by Cox Richardson (Source: Applicant's EIS)

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1. INTRODUCTION

This report provides an assessment of a section 96(2) modification application (MOD 3), lodged by GL Investments Management Pty Ltd (the Applicant), seeking to modify development consent (SSD 4972) for the Four Points by Sheraton Hotel redevelopment.

The application seeks to make various internal and external changes to the approved development in particular, changes to the design of the tower and the function of the building facades, inclusion of the Northern Warehouse Building, design changes to the site entrances, amendments to the through-site link and minor amendments to the design of the public domain along Slip Street.

The proposed modifications are described in detail in **Section 2** of this report.

1.1 Site and locality

The site is located at 161 Sussex Street and occupies the entire block between King Street and Market Street on the western side of the CBD adjacent to the Western Distributor, overlooking Darling Harbour. The site has an area of 11,223 m² fronting Sussex Street.

Existing buildings on the site include the Four Points by Sheraton Hotel, which extends over Slip Street and the Western Distributor, and four State heritage listed buildings including a Commercial Building (121-127 Sussex Street), Central Warehouses (139-151 Sussex Street), the Dundee Arms Hotel (173 Sussex Street) and the Corn Exchange Building (173-185 Sussex Street). The site's location and layout is illustrated in **Figure 1**.

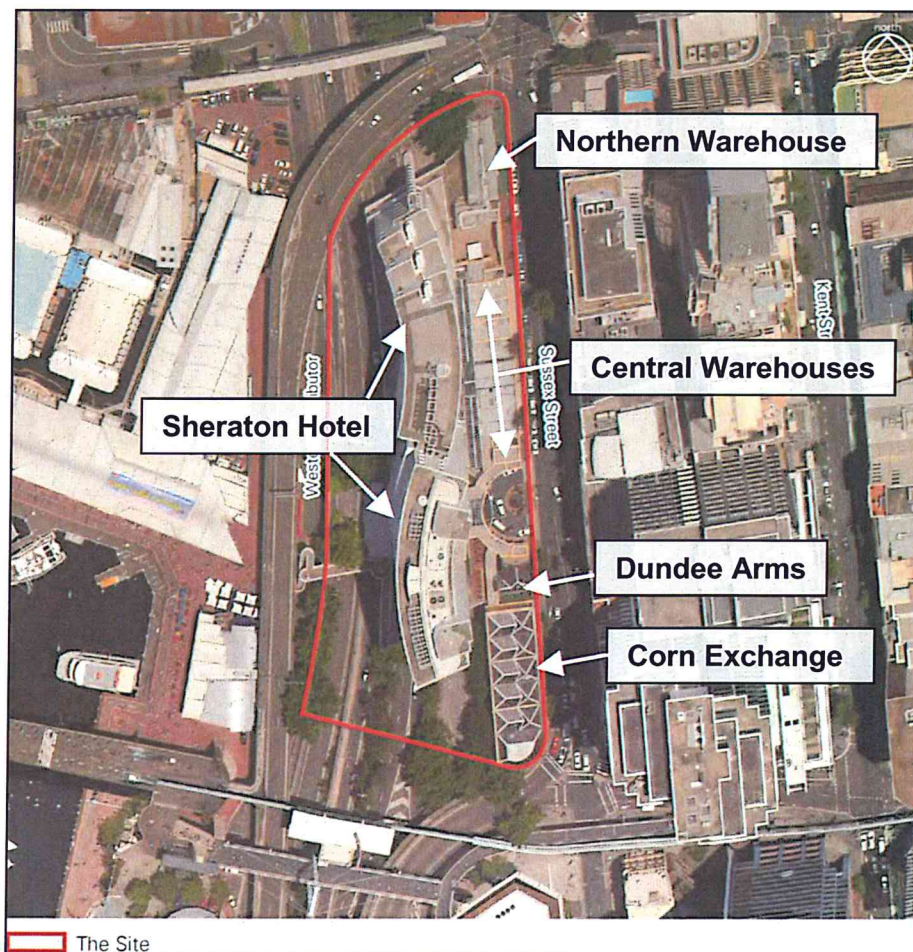


Figure 1: Site location and layout

1.2 Background to Development Consent

On 5 August 2013, the Planning Assessment Commission (PAC) approved SSD 4972 for the redevelopment of the Four Points by Sheraton Hotel including:

- construction of a 25-storey tower, comprising 231 hotel rooms, approximately 5,775m² of commercial floor space and approximately 4,810m² of convention, exhibition and function space;
- extension of the existing podium space to provide new convention and exhibition space;
- external and internal demolition works;
- upgrades to the Porte Cochere, building entries on Sussex Street, the hotel lobby and reception areas and other internal alterations;
- public domain works on Slip Street; and
- realignment of an existing pedestrian link through the site.

On 19 March 2014, the PAC approved SSD 4972 MOD 1 (MOD 1) which deleted the existing Condition A5 requiring the payment of \$1,485,000 as a development contribution to City of Sydney Council (Council). This was replaced with a new Condition A5 requiring works-in-kind to the same value within the Darling Harbour public domain.

On 24 July 2014, the Director, Industry, Key Sites and Social Projects approved SSD 4972 MOD 2 (MOD 2) to permit:

- the addition of five new structural columns beneath the approved conference and function space;
- changes to the structural columns, trusses and footings under the new tower;
- the replacement of the approved pre-function area in the building's north-west corner with a smaller meeting room; and
- the rationalisation and redesign of the lift core and the commercial lobby within the approved tower.

The Applicant has recently identified that a number of internal and external alterations to the approved development are required to reflect ongoing design development and to meet the operational needs of the hotel operator.

2. PROPOSED MODIFICATION

2.1 Modification Description

On 2 May 2014, GL Investments Management Pty Ltd (the Applicant) lodged an application under section 96(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify SSD 4972. The proposed modification, hereafter referred to as MOD 3, seeks approval for the following modifications to the approved development:

- increase to the total building gross floor area (GFA) by 284m² to a total of 60,581m²;
- increase the height of the convention and function building by 300mm (**Figure 2**);
- reduce the number of hotel rooms by 9 from 231 to 222;
- changes to the design of the tower building façade (**Figure 2** and **Figure 5**);
- changes to the design of the function building façade (**Figure 2** and **Figure 6**);
- extension of the Corn Exchange basement by 15m² to accommodate an extended electricity substation to service the development;
- include the Northern Warehouse Building (850m²) as part of the development, and its conversion to a new all-day dining area to serve guests during construction (**Figure 3**);
- various internal changes to the existing hotel, convention and function building, Corn Exchange, Northern Warehouse and tower building;

- changes to the design of the Porte Cochere and Northern Courtyard entrances along Sussex Street and the Wharf Lane Bridge (**Figure 4** and **Figure 7**);
- changes to the design of the public domain along Slip Street;
- changes to the through site link (**Figure 3** and **Figure 8**); and
- minor amendment to the footprint of the approved tower to accommodate a third commercial lift to the east.

On 30 July 2014, the Applicant lodged a Response to Submissions report (RTS) for the proposed modification which also seeks approval for the following additional modifications to the approved development:

- amendment to Condition A5 to change the timing for submission of a Public Domain Plan to the Sydney Harbour Foreshore Authority (SHFA) for public domain works at Darling Harbour and the timing for completion of these works;
- amendment to Condition H5 to enable noise from the premises to be measured at the boundary of the nearest affected residence; and
- a further change to the design of the Porte Cochere to introduce a solid bay to clearly delineate the hotel entry and guest lobby egress (**Figure 7**).

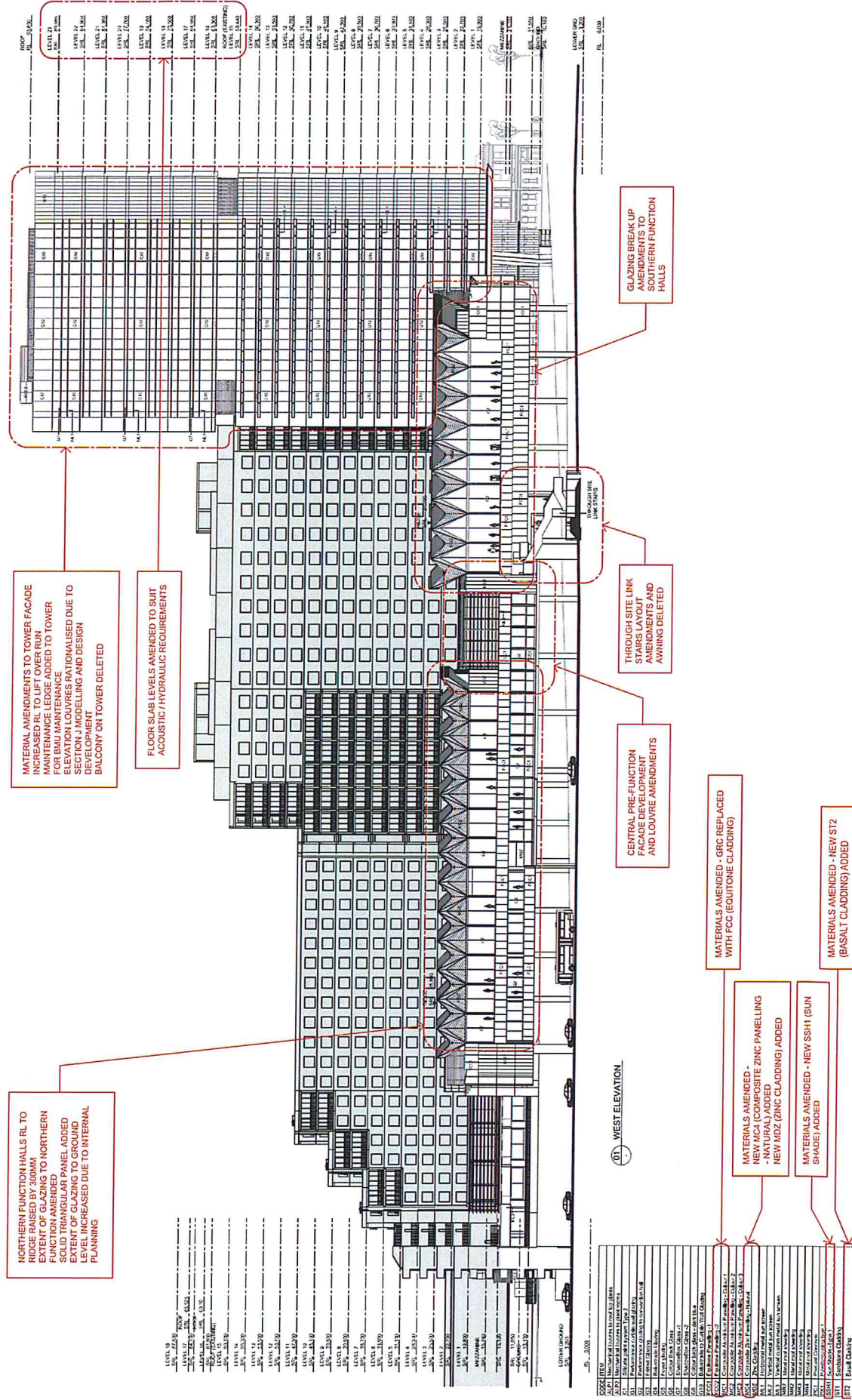
The major components of the proposed modification are summarised above and described in full at Appendix E. This report assesses the Applicant's preferred proposal as put forward in the RTS.

A comparison of the approved and proposed elevations and floor plans is provided in **Figures 2** to **4** below.

2.2 Justification

The Applicant has advised the Department that:

- external changes are generally cosmetic in nature, providing a series of architectural solutions to result in an overall improved design outcome responding to the city context of the site;
- internal changes would not result in any new environmental or amenity impacts on surrounding receptors including residents; and
- the modification is required to meet the operational needs of the hotel operator.



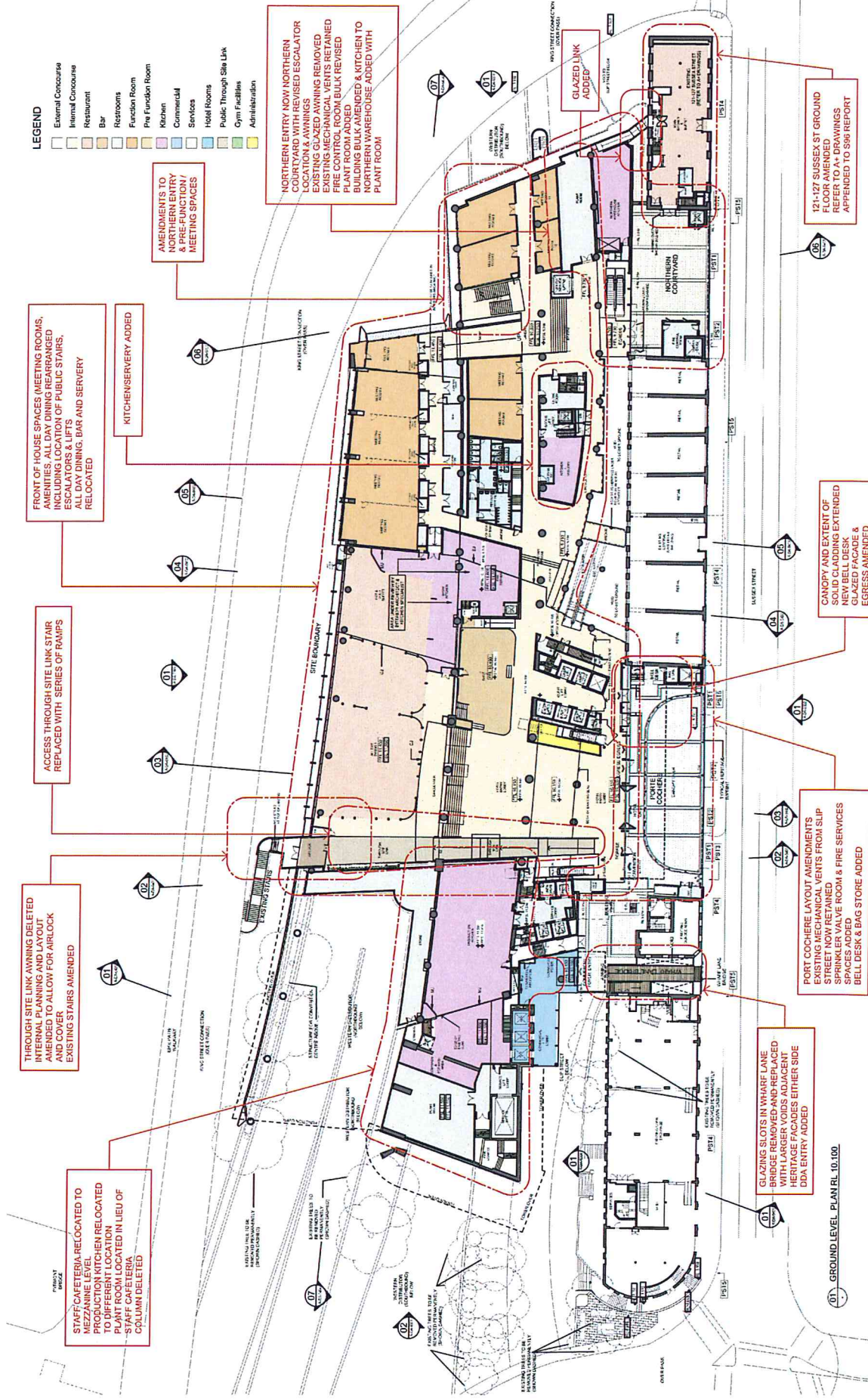


Figure 3: Proposed ground level floor plan (changes in red)

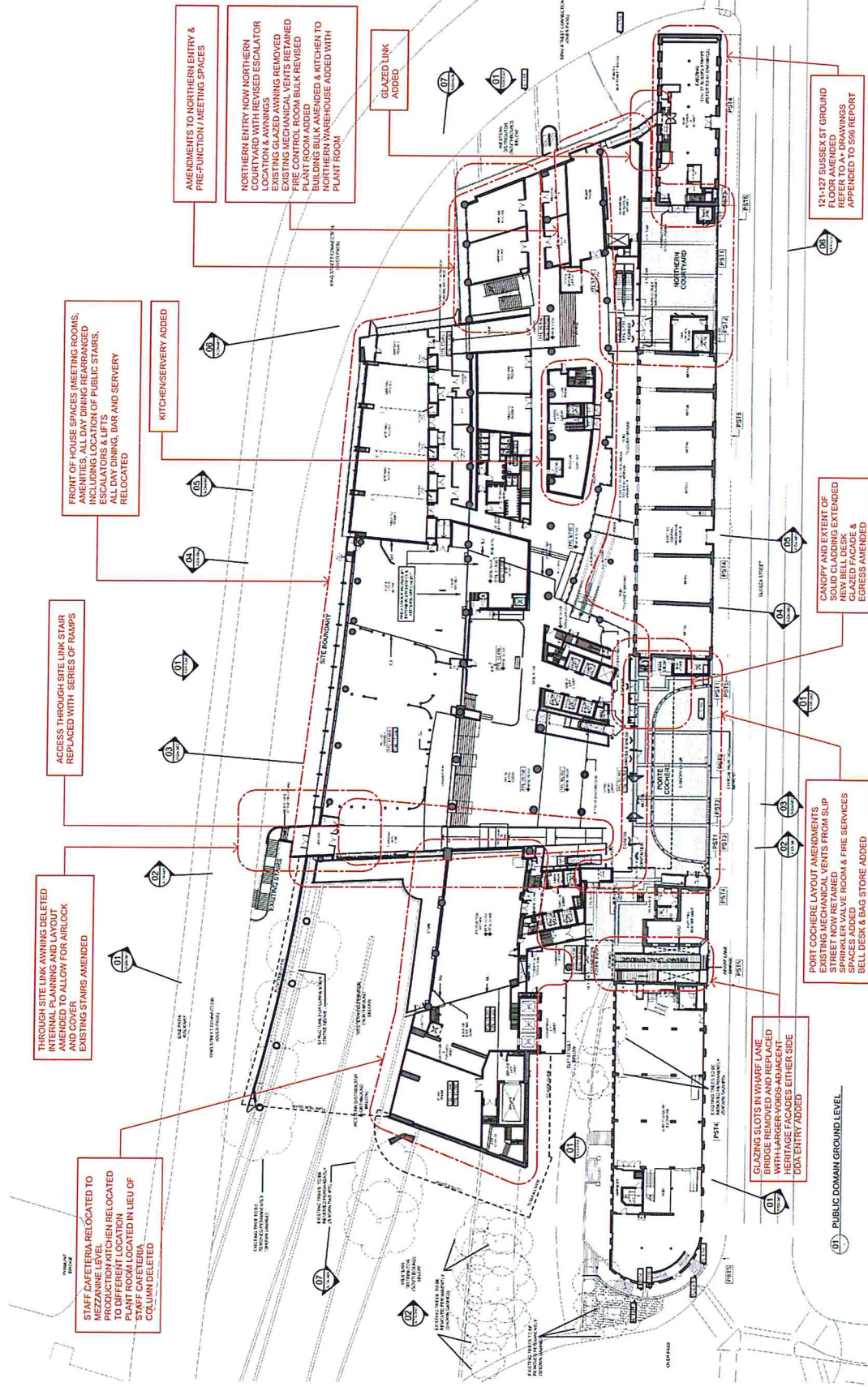


Figure 4: Proposed ground level public domain plan (changes in red)

3. STATUTORY CONTEXT

3.1 Modification of Approval

Section 96(2) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications which seek modifications to approvals:

1. *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 proposal is substantially the same development for which consent was originally granted as the project (as modified) will essentially remain a redevelopment of the Four Points by Sheraton Hotel.

More specifically, the proposed modifications involve a series of internal and external changes that are generally cosmetic in nature and continue to achieve design excellence for Darling Harbour consistent with the approved development. Further, the proposed modifications would not result in any new environmental or amenity impacts and would not materially change the height, bulk or scale of the approved development.

2. *That it has consulted with the relevant Minister, public authority or approval body for required integrated approvals and an objection has not been received.*

While the approved development was not integrated development (due to it being State Significant Development), a consent under section 138 of the *Road Act 1993* was still required pursuant to section 89K of the EP&A Act. The Department has consulted Transport for NSW (TfNSW) on the proposed modification and no objection was made (see **Section 4**).

3. *It has notified the application in accordance with the regulations.*

Refer to **Section 4** of this report.

4. *It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Refer to **Section 4.1** and **Section 5** of this report.

5. *It has considered the matters referred to in section 79C (1) of the EP&A Act as are of relevance to the development the subject of the application.*

The Department has considered all relevant matters for consideration under section 79C(1) of the EP&A Act in its assessment of the proposal provided in this report.

3.2 Environmental Planning Instruments

Under section 79C of the EP&A Act, the consent authority is required to take into account the relevant provisions of any State Environmental Planning Policy or Environmental Planning Instrument (EPI) that applies to the carrying out of the proposal. The following EPIs apply to the carrying out of the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Infrastructure);*
- *Darling Harbour Development Plan No. 1;*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and*

- *State Environmental Planning Policy No 55 - Remediation of Land.*

The proposed development complies with the relevant requirements and standards within these EPIs. The Department's consideration of the relevant EPIs is provided in **Appendix C**.

3.3 Permissibility

The development is permissible with consent and the subject modification does not give rise to any permissibility issues.

3.4 Delegation

Under the instrument of delegation dated 27 February 2014, the Minister for Planning's function to determine applications under section 96(2) of the EP&A Act has been delegated to the Executive Director, Development Assessment Systems and Approvals where:

- the relevant local council has not made an objection; and
- a political disclosure form has not been made; and
- there are less than 25 public submissions in the nature of objections.

As council did not object, a political donation has not been made, and no public submissions were received, the Executive Director may determine the modification request under delegated authority.

4. CONSULTATION

The application was notified in accordance with the Environmental Planning & Assessment Regulation 2000. The modification request and the RTS were made available on the Department's website and referred to the Council and the relevant public authorities for comment. These submissions are summarised in **Table 1** below.

4.1 Public Authorities

Table 1: Agency submissions on the proposed modification

Agency	Summary of Issues
City of Sydney Council	
Exhibition	<p>Council did not object to the proposed modification but raised concerns regarding:</p> <ul style="list-style-type: none"> • the need for the use of the Northern Warehouse Building to be assessed in accordance with Council's <i>Late Night Trading Premises Development Control Plan 2007</i>; • the need for the through-site link to seamlessly integrate with Porte Cochere and public domain; and • a reduction in the quality of the public domain on Slip Street via the deletion of paving and replacement with asphalt. <p>Council also acknowledged a number of positive aspects of the proposed modification such as:</p> <ul style="list-style-type: none"> • the deletion of stairs at the through-site link and replacement with accessible ramps; • a more refined building entry and Porte Cochere area; and • a reduction in the extent of works around the former Dundee Arms Hotel with rationalised awnings and bridge structure.
Response to Submissions	Upon review of the RTS, Council advised that it is satisfied with the response provided and raised no further issues.
Transport for NSW	
Exhibition	Transport for NSW (TfNSW) did not object to the proposed modification but raised concerns regarding:

Agency	Summary of Issues
	<ul style="list-style-type: none"> the pick-up location for taxis and hire cars; pedestrian safety management at the hotel coach and bus facility; the hotel coach and bus facility accommodating a 12.5 metre (m) bus rather than a 14.5m bus; and the need for Class 2 not Class 3 bicycles facilities to be provided for hotel employees.
Response to Submissions	Upon review of the RTS, TfNSW advised that it has no further issues.
Office of Environment and Heritage (Heritage Branch)	
Exhibition	<p>The Heritage Branch was generally supportive of the proposed modification. The Heritage Branch reiterated its main concern with the original development was that the height and massing of the approved tower building would have an adverse impact on the setting of the Corn Exchange.</p> <p>The Heritage Branch noted that the proposed modification does not alleviate this impact and made a number of comments specific to the changes proposed as part of this application. These comments are discussed in detail in Section 5.2.</p>
Response to Submissions	Upon review of the RTS, the Heritage Branch advised that it has no further issues.
Sydney Trains	
	Sydney Trains did not object to the proposed modification or raise any issues of concern. Sydney Trains noted the proposed modification would not affect the viability of the future CBD rail link.
Sydney Airport Corporation	
	Sydney Airport Corporation did not object to the proposed modification but noted that the Applicant must seek separate under the Airports (Protection of Airspace) Regulations 1996 to operate tall construction equipment (e.g. cranes) during construction to ensure aircraft safety.
NSW Office of Water	
	The NSW Office of Water did not object to the proposed modification and did not raise any issues of concern noting that the modified development would remain the same as the approved development in relation to geotechnical and groundwater conditions.
Ausgrid	
	<p>Ausgrid did not object to the proposed modification or raise any issues of concern noting that:</p> <ul style="list-style-type: none"> the development would be substantially the same development; and the approved building footprint would not change.
Sydney Harbour Foreshore Authority (SHFA)	
	SHFA did not object to the proposed modification or raise any issues of concern.
Office of Environment and Heritage	
	The OEH advised that it did not wish to comment on the proposed modification.

4.2 Public Submissions

No public submissions were received.

5. CONSIDERATION OF PROPOSED MODIFICATION

The Department considers the key issues for the proposed modification are:

- built form and urban design (**Section 5.1**);
- public domain impacts (**Section 5.2**); and
- heritage (**Section 5.3**).

All other issues are considered to be minor and are assessed in **Section 5.4** of this report.

5.1 Built Form and Urban Design

The key changes proposed that may impact on the overall built form and urban design of the development relate to the approved tower building and convention and function building. The potential impacts of these changes are discussed in detail below.

5.1.1 Built Form

The proposed modification would not increase the overall height of the approved tower building. A minor change to the footprint of the tower building is proposed to accommodate a third commercial lift to the east, however, this is not expected to result in any additional visual impacts to nearby sensitive receivers. The total gross floor area (GFA) of approved buildings would increase by 284m² to a total of 60,581m² predominantly due to the inclusion of a new service corridor on the mezzanine level above the Porte Cochere connecting the existing service shaft to the newly proposed back-of-house areas. This represents a minor 0.47% increase in GFA which is negligible.

Given the above, the Department is satisfied that the proposed modification would not materially change the built form of the approved development in terms of height, bulk and scale and would not result in increased amenity impacts on nearby sensitive receivers.

5.1.2 Urban Design

Tower Building

The approved tower building had a predominately glazed façade with a combination of vertical metal sun screens, composite aluminium panelling and glass fibre-reinforced concrete (GRC) cladding.

The key changes to the external design of the approved tower building involve amendments to the materials and sunshade treatments used on the tower's external façade (**Figure 5**), specifically:

- use of Equitone panelling instead of GRC cladding on the north, south and east elevations;
- reorientation of the approved metal sunshade devices from vertical to horizontal. This change principally relates to the southern and western elevations;
- replacement of composite aluminium panelling with Equitone panelling along the eastern and northern elevations;
- replacement of performance wall glass with 'balustrade to curtain wall glazing' where commercial balconies are deleted; and
- minor adjustments (between -0.83m and 0.17m) to the floor to floor heights between Levels 15 to 23 which do not affect the overall height of the building.



Figure 5: Approved (left) versus proposed (right) tower design

The proposed changes aim to simplify the façade detail and make it more elegant in appearance. The façade design continues to exhibit a combination of glazing and sunshade treatments consistent with the approved design.

Detailed modelling undertaken since the development was approved revealed that the approved vertical louvre arrangement was not the optimum sun shading arrangement for the tower. Therefore, vertical sun screens are proposed to be replaced with horizontal screens at more regular intervals to improve the shading arrangement of the tower. The use of horizontal screens on the western and southern elevations would also better break up the vertical mass of the tower via the creation of uniform horizontal banding across the structure. In addition, the replacement of GRC cladding with solid basalt stone on the lower ground facades would better integrate with the character of the adjacent heritage-listed Corn Exchange Building.

Advice on reflectivity impacts prepared by AECOM and attached at Appendix F of the SEE also confirms that the modified tower façade would have lower reflectivity than the approved development and would satisfy the relevant reflectivity criteria in Condition C2 of the development consent.

Council supported the use of horizontal screens on the tower façade which would allow the use of genuine curved glass on the south-west corner of the building thereby resulting in a better design outcome.

The Department supports with the Applicant's position that the proposed design changes essentially involve the replacement of approved external treatment materials with similar type materials that have a positive effect on the tower building's overall visual appearance (**Figure 5**). The Department considers that the proposed modification results in an overall design improvement

to the approved tower building, in particular resulting in a more refined design that achieves design excellence for Darling Harbour and reduces reflectivity impacts.

Convention and Function Building (Podium)

The key changes to the external design of the approved convention and function building include:

- changes to the extent and location of glazing on the western façade;
- use of zinc cladding along the western façade to offset the glazing and emphasise the 'sawtooth roof' design;
- use of Equitone panelling instead of GRC cladding;
- a minor change to the design and treatment of the building parapet along the 'sawtooth roof';
- revisions to the design of the central pre-function façade including the louvres, materials and roof design; and
- a 300mm increase to the height of the 'sawtooth roof' ridgeline on the northern function hall from Rating Level (RL) 25.50 to RL25.80 and to the southern function hall from RL27.40 to RL27.70.

These changes are illustrated in **Figure 6** below.

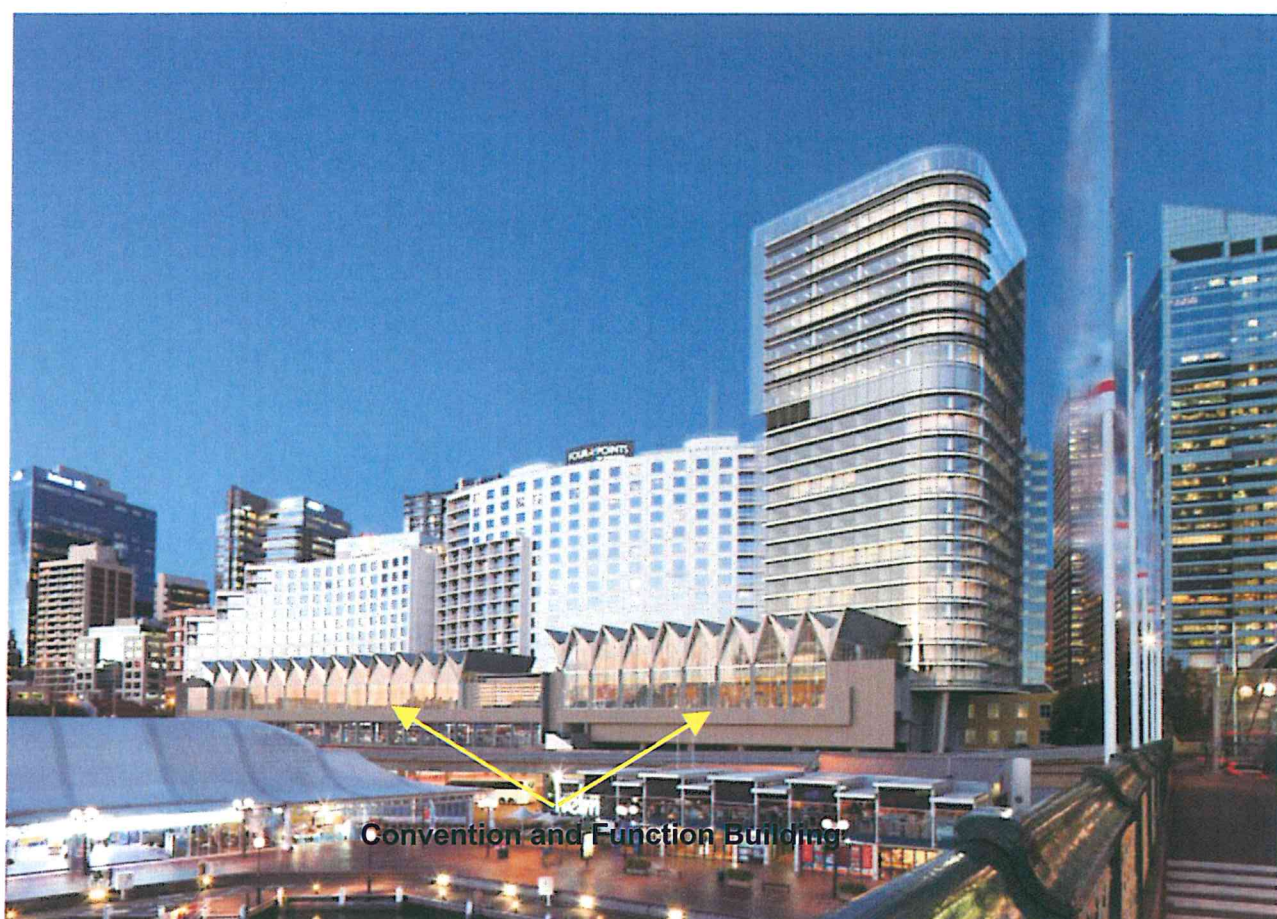


Figure 6: Proposed convention and function building design

Similar to the tower building, the proposed changes aim to simplify the façade detail, enhancing the horizontal appearance of the structure and make it more elegant in appearance.

Most notably, the 'sawtooth design' of the roof of the northern and southern halls has been enhanced by slightly increasing the roof height. This allows the creation of deeper spandrels which

cast a darker horizontal shadow across the western façade, giving detail and texture to the structure and better integrating it with the adjoining Western Distributor.

Material changes to the detailed design of the convention and function building also enhance the appearance of the building. In particular, the use of additional glazing creates a more transparent façade that allows a greater level of natural light to penetrate the building. This design better integrates with the public domain at Darling Harbour and the façade design of the new tower building.

Façade maintenance has also been considered in the revised design of the convention and function building. Recesses in the revised façade have been included to conceal building maintenance units and allow façade cleaning and maintenance to be conducted in a safe manner without the need to close the Western Distributor.

Advice on reflectivity effects prepared by AECOM and attached at Appendix F of the SEE also confirms that the modified function façade would also have lower reflectivity than the approved development and would satisfy the relevant reflectivity criteria in Condition C2 of the development consent.

Council did not raise any concerns in relation to the proposed changes to the external design of the approved convention and function building.

The Department has reviewed the proposed changes to the convention and function building in detail and is satisfied that they would result in an improved design outcome. This is because the design would better integrate with motorway infrastructure, the new tower building and the public domain at Darling Harbour. Further, the Department considers the changes better respond to the needs of the hotel operator by allowing building maintenance to be conducted safely and more easily.

5.2 Public Domain Impacts

The proposed modification involves a number of changes to the design of the approved development along Sussex Street and Slip Street which have the potential to impact on the quality of the public domain. Key proposed changes include:

- amendments to the design of the Porte Cochere awning and lobby entrance façade;
- conversion of the Northern Courtyard to an outdoor seating area and replacement of the existing awning over the courtyard;
- amendments to the design of the through-site link to replace stairs with ramps and establish a new dining area overlooking the link;
- minor design amendments mainly for heritage interpretation to the Wharf Lane Bridge; and
- amendments to the approved road treatment and type of bike parking facilities at Slip Street.

The Applicant also proposes to amend Condition A5 of the development consent to change the timing for submission of a Public Domain Plan to SHFA for public domain works at Darling Harbour and the timing for completion of these works.

The potential impacts of these proposed changes are discussed in detail below.

5.2.1 Sussex Street Entrances

Porte Cochere

Key changes proposed to the design of the approved Porte Cochere on Sussex Street include minor changes to the glazed building awning and increasing the height of the lobby entrance façade to from 3m to 12m including a glazed frontage.

The proposed changes to the Porte Cochere are illustrated in **Figure 7**.



Figure 7: Approved (left) versus proposed (right) Porte Cochere design

Following the detailed design of the development in consultation with the hotel operator, it was determined that a dedicated service corridor was required on the mezzanine level above the Porte Cochere to connect the existing service shaft to the newly proposed back-of-house areas. This has been incorporated into the revised design of the Porte Cochere (**Figure 7**) resulting in the need to increase its height (as above).

The amended Porte Cochere maximises the use of zinc cladding and glazing to replace aluminium composite panelling (**Figure 7**). The Applicant considers this represents a superior design outcome that is modern, elegant and sits in greater harmony with existing heritage buildings along Sussex Street. The revised design also provides a more open entrance with clear lines of sight from Sussex Street to Darling Harbour.

The views of the Applicant are supported by Council who considered that the revised design of the Porte Cochere and building entry were more refined and represented a positive aspect of the modification. The Heritage Branch also considered that the revised design of the Porte Cochere would be simpler and better integrated with the existing character of the adjacent Dundee Arms Hotel.

In the RTS, the Applicant also submitted a further minor design change to the Porte Cochere to introduce a solid bay to clearly delineate the hotel entry and guest lobby egress. Council has advised the Department that it has no issues of concern with the additional change.

The Department is satisfied that proposed changes to the Porte Cochere would result in a superior design outcome with positive impacts on the public domain along Sussex Street, better integrating with its heritage character (**Section 5.3**) and helping to meet the operational requirements of the hotel operator.

Northern Courtyard

Changes proposed to the Northern Courtyard entrance on Sussex Street include:

- conversion of the Northern Courtyard to a new outdoor seating area to service a new all day-dining area proposed for Northern Warehouse (**Section 5.3.2**); and
- replacement of the awning in this area with a new double height glass structure that matches the proposed design of the Porte Cochere.

The proposed modification also includes the reinstatement of exhaust shafts along Sussex Street previously approved for removal as part of the original development.

The Applicant considers that the proposed changes to the Northern Courtyard entry would activate the streetscape along Sussex Street through its use for all-day-dining. Further, the changes would present a unified design presence along Sussex Street by ensuring the new double height glass structure proposed for the Northern Courtyard matches the revised design of the Porte Cochere.

The Heritage Branch considered that the removal of awnings over the Northern Courtyard would improve exposure of the Northern Warehouse. Council did not raise any issues of concern in relation to the proposed changes to the Northern Courtyard.

Noting the above, the Department is satisfied that revised design of the Northern Courtyard would result in positive impacts on the public domain along Sussex Street, activating the streetscape, improving exposure of heritage items (**Section 5.3**) and helping to meet the operational requirements of the hotel operator.

Through-site Link

The key changes proposed to the through-site link include:

- replacing the existing stairs connecting Wheat Road to provide more direct access;
- increasing the landing space at the top of the stairs adjacent to the hotel entrance;
- removing stairs within the approved through-site link walkway and replacing them with a series of ramps to provide equitable access; and
- converting some ground level meeting rooms to a new dining area overlooking the through-site link (**Figure 8**).

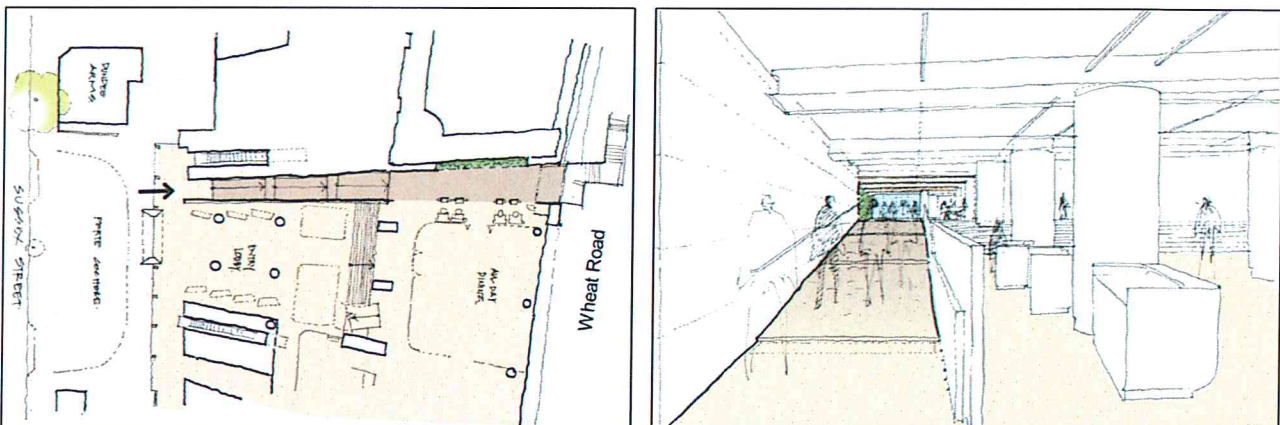


Figure 8: Proposed revised design of the through-site link from above (left) and from the hotel foyer (right)

The approved through-site link incorporated stairs and a lift to enable public access through the site over the Western Distributor, down stairs to Wheat Road and Darling Harbour.

Since development consent was granted, further consultation with Roads and Maritime Services (RMS) has identified that the inclusion of a lift and escalator pit over the Western Distributor is not feasible as the minimum overhead motorway clearances cannot be achieved.

To overcome this, the Applicant has revised the design of the through-site link to provide a series of ramps. The Applicant considers that the revised link design provides more equitable access (e.g. for person in wheelchairs) within the building through the use of ramps. The Applicant also considers that the revised design opens up the western entrance of the link to provide improved public access and clearer lines of sight from Sussex Street through to Darling Harbour.

Council considered that the revised through-site link should extend to the eastern exterior of the building in order to seamlessly integrate the public domain on Sussex Street with the Porte Cochere.

The Applicant met with Council on site during the preparation of its RTS and clarified that the through-site link is now a dedicated public thoroughfare which is not shared with the hotel lobby as in the approved scheme. In the RTS, the Applicant has also committed to installing large graphic text reading 'Darling Harbour' on the doors immediately opposite the link to ensure legibility and integration with the public domain on Sussex Street.

Council has since reviewed the RTS and advised the Department that it is satisfied with the response provided.

The Department is satisfied that the revised design of the through-site link is acceptable as it responds to impediments identified by RMS with the approved design and would provide an improved and dedicated public access through the site between Sussex Street and Darling Harbour.

5.2.2 Wharf Lane Bridge and Slip Street

Wharf Lane Bridge

A number of design amendments mainly in relation to heritage interpretation are proposed to the approved Wharf Lane Bridge (**Figure 3** and **Figure 4**). These include amending the bridge to allow secondary ramp access to the Corn Exchange, replacing glazing slots with larger voids to increase visibility of the facades of the Corn Exchange and Dundee Arms Hotel and installation heritage ground inlays and balustrade structure display panels.

The Heritage Branch supported the replacing glazing slots with larger voids on the Wharf Lane Bridge as it would increase appreciation of the heritage facades of the Corn Exchange and Dundee Arms Hotel (**Section 5.3**).

Having regard to the views of the Heritage Branch, and considering the proposed changes are designed to improve heritage interpretation, the Department is supportive of this aspect of the proposed modification.

Slip Street

The proposed modification also includes a series of minor changes to the public domain along Slip Street. Key changes proposed include:

- replacement of a fully paved road treatment with a combination of bitumen and cobblestone pavers along Slip Street on the lower ground level at the rear of the Corn Exchange; and
- replacement of the approved Class 2 bicycle facilities with Class 3 bicycle rails for staff and employees to accommodate 52 bicycle spaces for commercial use in accordance with Condition C8 of the development consent.

Council did not initially support the replacement of pavement with bitumen on Slip Street as it believed it would result in a reduction in the quality of the public domain. To address Council's concerns, the Applicant met with Council on site during the preparation of its RTS to explain the proposed changes in detail.

The Applicant considers that this change is appropriate because bitumen is a more suitable material to withstand the impacts of trucks using Slip Street, as well as the high number of service pits located on this street. Further, bitumen would provide a neutral background to offset the colour of cobblestone pavers which would be used to identify the location of historic heritage pathways.

Council has since advised the Department that it no longer has concerns regarding this aspect of the proposed modification.

TfNSW considered that Class 2 bicycle facilities should be provided for staff and employees not Class 3. Class 2 facilities are locked compounds with communal key access while Class 3 facilities consist of a bicycle frame where wheels can be locked.

While Class 3 facilities are less secure, the Applicant noted in the RTS that the proposed location of the facilities is adequately illuminated and would be subject to good passive public and continuous CCTV surveillance. The Applicant also considers that the Class 3 facilities are better suited to the overall design of the area and space constraints within the CBD location of the site.

The Department generally concurs with the views of the Applicant and is satisfied that given the facilities would be under constant surveillance, Class 3 facilities would be appropriate in this instance. Upon review on the RTS, TfNSW did not raise any further concerns.

Overall, the Department considers that the proposed changes to the Wharf Lane Bridge and Slip Street public domain are essentially design enhancements that have been developed in response to existing conditions of consent or to improve heritage interpretation of the historic use of the site. The Department therefore considers the proposed changes to be acceptable.

5.2.3 Darling Harbour Public Domain Improvement Works (Condition A5)

The Applicant proposes an amendment to Condition A5 to change the timing for submission of a Public Domain Plan to the Sydney Harbour Foreshore Authority (SHFA) for public domain works at Darling Harbour and the timing for completion of these works. The proposed amendments to Condition A5 are set out below.

Condition A5 – Development Contributions

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 prepared 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.*

It is proposed that the Public Domain Plan would now be submitted to SHFA prior to the issue of a construction certificate for the public domain works rather than above ground works for the broader development. It is also proposed that these works would be completed prior to the issue of the final occupation certificate (OC) for the tower building rather than any OC for the broader development. SHFA has advised the Department that it supports the proposed changes to Condition A5.

The Department has reviewed the proposed changes to Condition A5 in consultation with SHFA (who raised no objection) and is satisfied that they are appropriate. This is because the changes would allow for a more considered and improved design outcome for the public domain at Darling

Harbour and ensure the existing hotel can continue to operate while it is being redeveloped. Further, the proposed changes would also ensure the public domain works at Darling Harbour are completed prior to the use of the new tower building which continues to capture the original intent of Condition A5. The changes are therefore supported by the Department.

5.3 Heritage

The subject site contains four heritage items that are listed on the State Heritage Register including:

- the Corn Exchange;
- Former Warehouses (139 to 156 Sussex Street);
- Buildings, shops and warehouses including the Northern Warehouse (121 to 127 Sussex Street); and
- the Dundee Arms Hotel.

The proposed modification involves works which have the potential to impact on the heritage value of three of these items including:

- the Corn Exchange (**Section 5.3.1**);
- the Northern Warehouse (121 to 127 Sussex Street – **Section 5.3.2**); and
- the Dundee Arms Hotel (**Section 5.3.3**).

As such, the SEE contains a Heritage Impact Statement (HIS) prepared by City Plan Heritage (Appendix E). The potential heritage impacts of the proposed modification are discussed in detail below.

5.3.1 Corn Exchange

The basement of the Corn Exchange would be extended by 15m² to accommodate an extended electricity substation and engineering offices needed to service the development.

Proposed works to the Corn Exchange would predominantly occur within the fabric of the western boundary of the lower ground floor. The exterior wall of the switch room on the lower ground (basement) level would be extended but would be rendered and painted to match the existing wall.

The HIS concludes that the proposed modification would have a negligible impact on the heritage values of the Corn Exchange as it seeks works to the fabric of structures ranked as having 'little' heritage value in the relevant Conservation Management Plan prepared as part of the approved development.

The Heritage Branch noted that the extension to the Corn Exchange basement would occur at the rear of the building and would have limited visibility for the public. Further, it was noted that the extension would not impact on the existing brickwork, wrought iron columns or girders of the Corn Exchange and the basement area is already highly modified.

The Heritage Branch also noted that the removal of glazing slots at the Wharf Lane Bridge (**Section 5.2**) and replacement with larger voids would improve visibility of the heritage façade of the Corn Exchange.

The Department is satisfied that the proposed changes are acceptable as they would result in negligible impacts to the heritage values of the Corn Exchange. Further, the Department notes the views of the Heritage Branch that that proposed changes to the Wharf Lane Bridge would improve exposure of the Corn Exchange.

5.3.2 Fit-out of the Northern Warehouse Building

The existing dining area in the hotel would be relocated as part of the approved development. In order to provide on-going food and beverage service to hotel guests during construction, it is proposed that the Northern Warehouse (former Tony Roma restaurant) on Sussex Street would be converted to an all-day dining area for temporary use by guests and visitors.

Specific works proposed for the fit-out of the Northern Warehouse include:

- demolition of internal walls associated with the previous tenancy;
- internal fit-out of the building including new washrooms, accessible toilet and internal stair;
- construction of a new dedicated kitchen at the northern end of the existing hotel building to serve the needs of the all-day dining area; and
- construction of a new glazed link between the Northern Warehouse and the proposed hotel kitchen to provide a weather proof connection between the two zones.

The Heritage Branch noted that as the Northern Warehouse is already highly modified internally, the changes would have no impact to the external façade and the removal of awnings over the adjacent Northern Courtyard would improve exposure of the Northern Warehouse. The Heritage Branch also considered that the construction of the new glazed link connecting the hotel to the Northern Warehouse would be unlikely to impact its heritage values provided it is removable.

In the RTS, the Applicant provided detailed design drawings confirming that the new glazed link connection would be independent of the heritage building and could be removed with minimal impact to the heritage fabric of the warehouse. Upon review of the RTS, the Heritage Branch raised no further issues with this aspect of the proposed modification.

The Department is satisfied that the proposed changes to the Northern Warehouse are acceptable. This is because the changes would only impact the fabric of internal structures ranked as having 'little' heritage value and the building is already highly modified internally. Further, the Department notes the views of the Heritage Branch that the proposed changes to the Northern Courtyard would improve exposure of the Northern Warehouse.

5.3.3 Dundee Arms Hotel (former)

Proposed changes to the Porte Cochere (**Section 5.2** and **Figure 10**) have the potential to indirectly impact on the heritage setting of Sussex Street, in particular the Dundee Arms Hotel.

As noted earlier, Council considered that the refined design of the Porte Cochere and reduction in the extent of works (e.g. awnings) around the Dundee Arms Hotel represented a positive aspect of the modification (**Section 5.2**).

The Heritage Branch considered that while the Dundee Arms Hotel is already over dominated by approved buildings, the proposed modification is acceptable given:

- it would result in the removal of faux heritage structures (colonnades and arches) which would improve the setting of heritage items located along Sussex Street;
- the revised design of the Porte Cochere would be simpler and better integrated with the existing character of the adjacent Dundee Arms Hotel; and
- the removal of glazing slots at the Wharf Lane Bridge (**Section 5.2**) and replacement with larger voids would improve visibility of the heritage façade of the Dundee Arms Hotel.

The Department supports the views of Council and the Heritage Branch and is satisfied that the revised design of the Porte Cochere would better integrate with the existing character of the Dundee Arms Hotel. Further, the Department considers that the removal of faux heritage structures

at the Porte Cochere would improve visibility of the northern façade of the Dundee Arms Hotel and southern façade of the Central Warehouse when viewed from Sussex Street.

5.4 Other Issues

5.4.1 Temporary Use of the Northern Warehouse Building

While Council supported the proposed use of the Northern Warehouse for all-day dining during construction (**Section 5.3.2**), Council considered the SEE lacked basic information regarding hours of operation, patron capacity and management. In this regard, Council considered the Applicant should assess the use in accordance with Council's *Late Night Trading Premises Development Control Plan 2007*.

In the RTS, the Applicant clarified that the Northern Warehouse has capacity for approximately 156 patrons and would be temporarily used for a period of approximately 18 to 24 months during construction. The Applicant also confirmed that the management and hours of operation of the Northern Warehouse dining and bar area (Level 1) would be the same as the existing established hotel restaurant and bar. The Applicant therefore considered that an assessment in accordance with Council's DCP to be unnecessary.

Upon review of the RTS, Council advised that it was satisfied with the response provided and raised no further issues.

The Department has reviewed the RTS and is satisfied that Council's concerns have been addressed. Notwithstanding this, the Department has recommended conditions limiting:

- the use of the Northern Warehouse as a dining area for the duration of construction works or 24 months (whichever is lesser);
- the hours of operation of the Northern Warehouse consistent with the existing hotel restaurant and bar; and
- service of alcohol and liquor to hotel guests only after 10.30pm to ensure the establishment does not become a late night public bar destination with associated social and amenity issues.

5.4.2 Measurement of Noise from the Premises (Condition H5)

The Applicant proposes an amendment to Condition H5 of the development consent to enable operational noise from the premises from plant and machinery to be measured at the boundary of the any affected residence rather than the boundary of the subject site.

The proposed modification is consistent with Council's standard equivalent condition and the EPA's *Industrial Noise Policy* which require operational noise to be monitored and assessed at the boundary or point within the boundary of any affected residence.

The RTS includes an acoustic assessment undertaken by Acoustic Studio which supports the proposed modification, confirms that it is appropriate and that the modified facility is expected to comply with the noise criteria in the consent. Further, Council did not raise any issues of concern with the proposed change.

The Department has reviewed the proposed change in consultation with its noise specialist and is satisfied that it is acceptable. The change is therefore supported.

5.4.3 Internal Changes

In addition to those internal changes proposed to the Corn Exchange and Northern Warehouse Building discussed in **Section 5.2** above, the Applicant also proposes various internal changes to the existing hotel, approved function and tower buildings. Key changes include:

- rearranging the ground level hotel lobby within the existing hotel;
- rearranging the hotel kitchens and serveries and meeting rooms and function spaces; and
- changing the delineation between the front of house and back of house zones within the hotel.

Council did not raise any issues of concern in relation to the proposed internal changes. The Department acknowledges that the proposed changes are internal only and would not result in any change to the height, bulk, scale and external appearance of the approved development. As such, the changes would not result in any additional visual impacts on nearby sensitive receivers.

5.4.4 Construction Impacts

The proposed modification essentially involves detailed design changes to key components of the approved development that do not give rise to any additional construction impacts. This includes potential impacts nearby on road and rail infrastructure such as the Western Distributor and the future Sydney Central Business District (CBD) rail link corridor (which the site sits above).

TfNSW (including Sydney Trains) have reviewed the proposed modification and did not raise any issues of concern regarding potential impacts on the Western Distributor or the viability of the future Sydney CBD rail link corridor.

The Department is satisfied that construction impacts would not increase relative to the approved development and can be managed in accordance with existing conditions of consent. Key existing conditions include the requirement for the Applicant to prepare a comprehensive Construction Environmental Management Plan for the development including accompanying noise, erosion and sediment, acid sulphate soils, traffic and waste management sub-plans.

Existing conditions also require the Applicant to submit detailed design drawings and geotechnical reports for support structures associated with the development to the RMS for assessment, prior to issue of any construction certificate. This would ensure the impact of the modified development on the stability of the Western Distributor and the future CBD rail link corridor are assessed by and comply with the relevant requirements of RMS, prior to construction.

5.4.5 Car Parking

The Department considers that the minor increase in GFA (284m²) would not give rise to any additional parking impacts. Further, the Department is satisfied that public parking provided in nearby buildings and good access to public transport would ensure that the modified development does not adversely impact on the safety and capacity of the surrounding road network.

6. CONCLUSION

The modification application has been assessed in accordance with the matters for consideration under section 96 (2) and 79C of the EP&A Act, and all relevant environmental planning instruments, and is considered to comply with all relevant items, subject to conditions.

The Department supports the proposed modification because it would:

- not result in any new environmental or amenity impacts on surrounding receptors including residents;
- result in external changes that are generally cosmetic in nature and would not change the overall height, bulk and scale of approved buildings;
- result in an overall improved design outcome for approved buildings that achieves design excellence for Darling Harbour and is consistent with approved development;
- result in positive impacts on the public domain along Slip Street and Sussex Street, activating the streetscapes and complementing existing heritage character;

- respond to the operational needs and requirements of the hotel operator; and
- be adequately mitigated by new and existing conditions of consent during construction and operation.

It is therefore recommended that the modification application be approved.

7. RECOMMENDATION

It is recommended that the Executive Director, Development Assessment Systems and Approvals:

- consider** the findings and recommendations of this report;
- approve** the modification under delegated authority, subject to condition; and
- sign** the attached Instrument of Modification for SSD-4972 MOD 3.

Prepared by: Andrew Hartcher

Endorsed by:



sl9/14

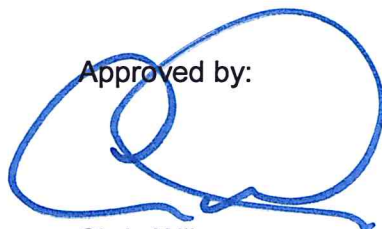
Cameron Sargent
Team Leader
Industry, Key Sites and Social Projects

Endorsed by:



Ben Lusher
A/Director
Industry, Key Sites and Social Projects

Approved by:



19.9.14

Chris Wilson
Executive Director
Development Assessment Systems and Approvals

APPENDIX A MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6517

APPENDIX B SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6517

APPENDIX C CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

The following Environmental Planning Instruments apply to the carrying out of the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy (Infrastructure) 2007*;
- *Darling Harbour Development Plan No. 1*;
- *State Environmental Planning Policy No 55—Remediation of Land*; and
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

State Environmental Planning Policy (State and Regional Development) 2011

The original proposal was determined to be an SSD in accordance with section 89C of the Environmental Planning and Assessment Act 1979 (EP&A Act) because it is development with a capital investment value (CIV) in excess of \$10 million under Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011.

State Environmental Planning Policy (Infrastructure) 2007

Relevant Sections	Consideration and Comments	Complies?
2 Aim of Policy The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by: (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.	Relevant agencies have been consulted about the proposed modifications to the approved development.	Yes
88 Development within or adjacent to interim rail corridor This clause applies to development that is: (b) in the area marked "Zone B" on a rail corridors map and: (i) involves the penetration of ground to a depth of at least 2m below ground level (existing), or (ii) has a capital investment value of more than \$200,000 and involves the erection of a structure that is 10 or more metres high or an increase in the height of a structure so that it is more than 10m. (4) Except as provided by subclause (6), consent must not be granted to development to which this clause applies without the concurrence of the chief executive officer of the relevant rail authority. (6) The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the relevant rail authority if: (a) the consent authority has given the chief	The proposed modifications to the development is on land within zone B of the Interim Rail corridor CBD Rail Link & CBD Metro (Map 6 of 90 and has a capital investment of more than \$200,000 and its more than 10m in height. Consideration of potential impacts of the proposed modified development on the future CBD rail corridor are considered in Section 5.4.4 of this report.	Yes

State Environmental Planning Policy (Infrastructure) 2007

Relevant Sections	Consideration and Comments	Complies?
executive officer notice of the development application, and (b) 21 days have passed since that notice was given and the chief executive officer has not granted or refused to grant concurrence.		

Darling Harbour Development Plan No 1

Relevant Sections	Consideration and Comments	Complies?
3 Objects (b) to encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area (c) to make provision with respect to controlling development within that area.	The amended proposal will continue to provide a mixture of tourist and commercial facilities within the area as no changes are proposed to the mix of land uses within the development. The proposed modified development is permissible with consent.	Yes
6 Permit required for certain development Development: (a) for the purposes of tourist, educational, recreational, entertainment, cultural or commercial facilities (other than facilities used for pawnbroking or other forms of moneylending)...[or] (d) for any purpose specified in Schedule 1... [includes commercial premises, convention centres; hotels; places of assembly; recreation facilities; refreshment rooms; shops...] ...may not be carried out except with a permit being obtained therefore	No changes are proposed the approved uses within the development.	Yes
8 Permits required for renovation and demolition (1) The renovation or demolition of a building or work may not be carried out except with a permit being obtained.	The proposed modification seeks consent for demolition works.	Yes
9 Development etc of the Corn Exchange (4) The Authority shall not grant a permit that would allow the Corn Exchange to be demolished, damaged or despoiled. (5) In determining an application for a permit for the development, conservation or renovation of the Corn Exchange, the Authority shall ensure that the heritage value of the Corn Exchange is maintained.	Proposed works to the Corn Exchange are to the fabric of structures ranked as having 'little' heritage value. As concluded in Section 5.3.1 of this report, the proposed modification would have a negligible impact on the heritage values of the Corn Exchange.	Yes

<p>10 Development etc of buildings on the same street frontage as the Corn Exchange</p> <p>[on] Lot 1, DP 775101, other than the Corn Exchange... the Authority:</p> <p>(a) shall ensure that the heritage value of the Corn Exchange is maintained, and</p> <p>(b) shall ensure that:</p> <p>(i) a sufficient number of the buildings situated on the land are retained, and</p> <p>(ii) any infill development is carried out on the street frontage, so as to maintain the coherence of the streetscape.</p>	<p>As discussed in Section 5.3 of this report, it is considered that the proposed modification would have a negligible impact on the heritage values of the Corn Exchange.</p>	<p>Yes</p>
<p>11 Other development in the vicinity of the Corn Exchange</p> <p>[on] land (other than Lot 1, DP 775101) in the vicinity of the Corn Exchange... the Authority shall take into consideration the effect of the proposed development, renovation or demolition on the heritage value of the Corn Exchange.</p>	<p>As discussed in Section 5.3 of this report, it is considered that the proposed modification would have a negligible impact on the heritage values of the Corn Exchange.</p>	<p>Yes</p>

State Environmental Planning Policy No 55 - Remediation of Land

Relevant Sections	Consideration and Comments	Complies?
<p>The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land and to promote the remediation of contaminated land by specifying when consent is required for remediation.</p> <p>Clause 7(1) of SEPP 55 provides that a consent authority must not consent to the carrying out of any development on land unless:</p> <p>(a) It has considered whether the land is contaminated.</p> <p>(b) If the land is contaminated, be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.</p> <p>(c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, be satisfied that the land will be remediated before the land is used for that purpose.</p> <p>Clause 7(2) requires a consent authority, when considering an application for consent to carry out development that would involve a change of use on land, to consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p>The Preliminary Environment Site Assessment (PESA) submitted with the original application identified that the "soil results reported no contaminants present at concentrations exceeding the [site assessment criteria] (guidelines for commercial and industrial use)".</p> <p>As no changes are proposed to the location of the development the Department considers the findings of the PESA still relevant.</p>	Yes

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Relevant Sections	Consideration and Comments	Complies?
<p>2 Aims of plan</p> <p>(a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained:</p> <p>(i) as an outstanding natural asset, and</p> <p>(ii) as a public asset of national and heritage significance, for existing and future generations,</p> <p>(b) to ensure a healthy, sustainable environment on land and water,</p> <p>(c) to achieve a high quality and ecologically sustainable urban environment,</p> <p>(d) to ensure a prosperous working harbour and an effective transport corridor,</p> <p>(e) to encourage a culturally rich and vibrant place for people,</p> <p>(f) to ensure accessibility to and along</p>	<p>The development as modified will continue to be consistent with these aims.</p>	Yes

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
Relevant Sections	Consideration and Comments	Complies?
Sydney Harbour and its foreshores...		
14 Foreshores and Waterways Area (a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores, (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation... (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores...	The proposed modified development does not detract from the natural assets and unique environmental qualities of Sydney Harbour, maintains and improves access to the foreshore, and does not give rise to adverse impacts on the unique visual qualities of Sydney Harbour.	Yes
21 Biodiversity, ecology and environment protection	The modified development will have no impact on the quality of water entering the waterways, species, aquatic vegetation or wetlands.	Yes
22 Public access to, and use of, foreshores and waterways	The proposed modification includes changes to the approved public through-site link. The Department is satisfied that the proposed changes to the through-site link would improve public access between Sussex Street and Darling Harbour (Section 5.2.1). It is also noted that the development as modified does not adversely impact on watercourses or riparian lands or vegetation, and has minimal impact on sediments.	Yes
23 Maintenance of a working harbour	N/A	N/A
24 Interrelationship of waterway and foreshore uses	The proposed modified development, being sited some distance back from the foreshore, does not give rise to any adverse impacts in relation to this section.	Yes
25 Foreshore and waterways scenic quality (a) the scale, form, design and siting of any building should be based on an analysis of: (i) the land on which it is to be erected, and (ii) the adjoining land, and (iii) the likely future character of the locality, (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores	No substantial changes are proposed to the approved development's scale, form or design. The development as modified does not on impact water based development.	Yes

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
Relevant Sections	Consideration and Comments	Complies?
and tributaries, (c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.		
26 Maintenance, protection and enhancement of views (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour, (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items, (c) the cumulative impact of development on views should be minimised.	No changes are proposed to the height or overall bulk of the development.	Yes
27 Boat Storage Facilities	N/A	N/A

APPENDIX D MODIFYING INSTRUMENT

APPENDIX E STATEMENT OF ENVIRONMENTAL EFFECTS AND RESPONSE TO SUBMISSIONS REPORT

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6517