

ASSESSMENT REPORT

SHERATON FOUR POINTS, 161 SUSSEX STREET, SYDNEY SSD 4972 MOD 4

1. BACKGROUND

This report provides an assessment of an application seeking approval to modify State Significant Development (SSD 4972) for the redevelopment of the Four Points by Sheraton Hotel.

The application has been lodged by GL Investment Management pursuant to section 96 (2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval for the provision of two additional levels of commercial floor space to the approved tower and other associated changes to the approved development.

2. SUBJECT SITE

The subject site is located at 161 Sussex Street and occupies the entire block bounded by Market Street, Sussex, Kind Street and the Western Distributor on the western edge of the Sydney CBD. The site has an area of 11,223m². 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 the Corn Exchange Building (173-185 Sussex Street), the Dundee Arms Hotel (173 Sussex Street), Central Warehouses (139-151 Sussex Street), and a commercial building (121-127 Sussex Street). The location and layout is illustrated in **Figure 1**.

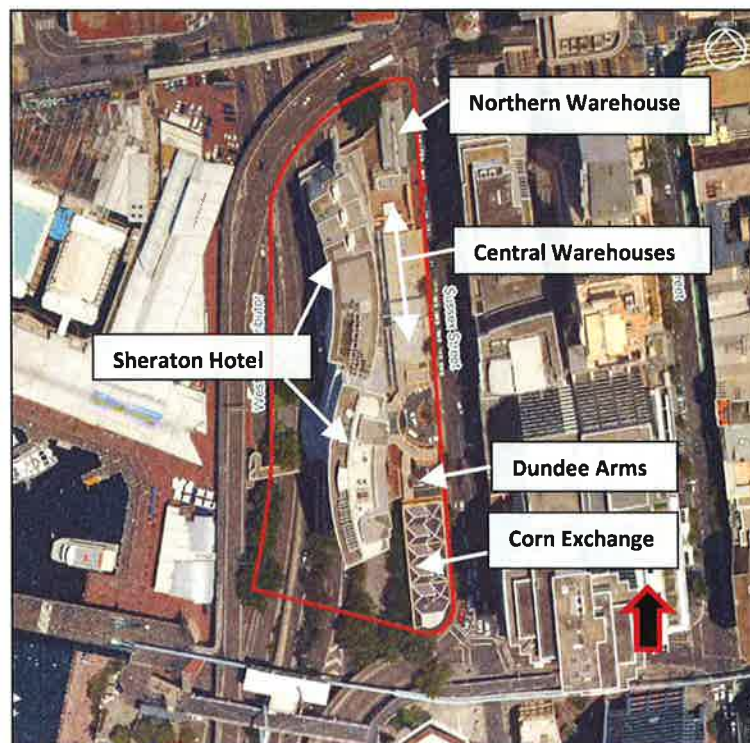


Figure 1: Site location and layout

3. APPROVAL HISTORY

On 5 August 2013, the Planning Assessment Commission (the Commission) 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 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.

The application has been modified on four occasions:

- On 19 March 2014, MOD 1 was approved by the Commission modifying condition A5 to require works-in-kind in place of development contributions;
- On 24 July 2014, MOD 2 was approved under delegation to make changes to structural columns, trusses and footings, replace an approved pre-function area with a smaller meeting room; and redesign the lift core and the commercial lobby within the approved tower.
- On 19 September 2014, MOD 3 was approved under delegation to include the Northern Warehouse building; make changes to the façade design of the tower and function buildings; make changes to the through site link, the design of the public domain along Slip Street; and changes to the Porte Cochere and Northern Courtyard entrances along Sussex Street.
- On 2 July 2015, MOD 5 was approved under delegation to add an additional (sixth) lift to the main lift core.

Two other applications have been lodged in relation to the site:

- SSD 6689 to change the use of the upper floors of the tower from commercial to residential use. Secretary's Environmental Assessment Requirements (SEARs) have been issued, however the applicant has advised that there is no longer an intention to proceed with the application; and
- SSD 7014 to construct a two story lounge, business centre and bar on the northern tower of the existing hotel. The application was lodged with the Department on 1 July 2015 and is currently on public exhibition.

4. PROPOSED MODIFICATION

On 23 March 2015, the Applicant lodged a modification application (SSD 4972 MOD 4) seeking approval to:

- provide an additional two levels of commercial floor space to the approved tower including:
 - associated increase to the gross floor area (GFA) by 1620m² to a total GFA of 62,201m²;
 - increase in the height of the tower by 12.425 metres to RL 106.025 (to top of plant);
- change the façade cladding at Level 15 from louvres to glass;
- provide 15 additional bike racks at the lower ground floor level / Slip Lane;
- provide additional end of trip facilities at Level 15; and
- reconfigure the roof level plant and the lift motor room.

The proposed modifications are depicted in **Figures 2 to 4** below.

The applicant has advised that the modification has been sought to improve the viability of the commercial floor space. Due to site constraints limiting the tower footprint, the commercial floorplate, at approximately 810m², is relatively small and well under the 1500m² usually required to be classified as A-grade commercial floorspace. In order to generate appropriate interest in the commercial tower, and to offset the limitations on the floorplate, the applicant argues there is a

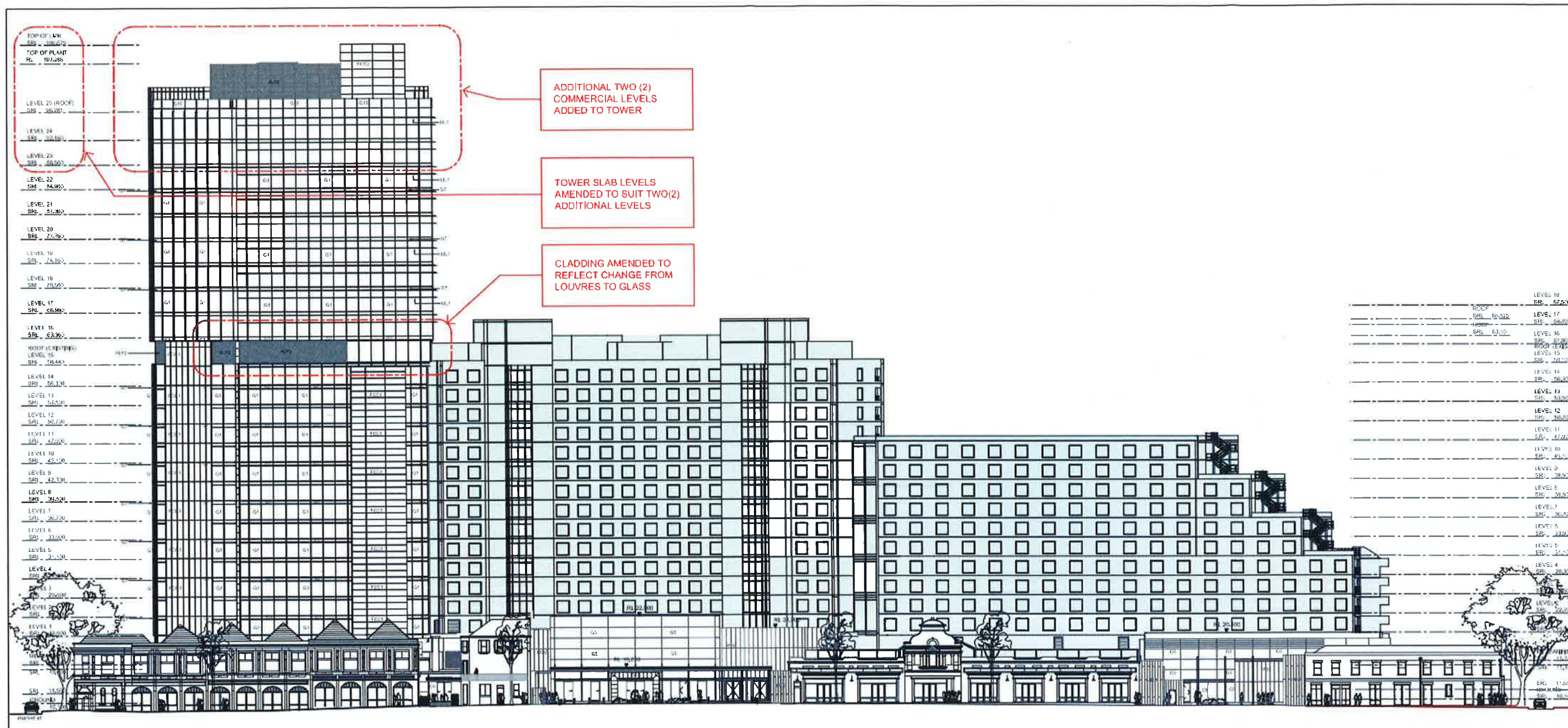


Figure 3: Proposed eastern elevation (changes in red)

5. STATUTORY CONSIDERATION

5.1 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 that seek modification approval:

Section 96(2) matters for consideration	Comment
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).	<p>In quantitative terms the proposed modifications represent a minor increase in overall floor space (equivalent to 1.5% of total GFA) and a relatively minor increase in height, (equivalent to approximately 10% additional height) to the commercial tower. In qualitative terms, the overall use remains the same, the façade treatments and overall built form remain essentially the same, and the lower levels and public domain remain the same. As such, the proposal does not result in a radical transformation of the approved building. Further, the proposed modifications would not result in any new environmental or amenity impacts.</p> <p>The Department is therefore satisfied that the proposal is substantially the same development for which consent was originally granted as the project (as modified) will remain a redevelopment of the Four Points by Sheraton Hotel.</p>
The Department has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent.	<p>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 Roads and Maritime Services (RMS) on the proposed modification and no objection was made (see Section 6.1).</p> <p>In accordance with Clause 88 of <i>State Environmental Planning Policy (Infrastructure) 2007</i> (Infrastructure SEPP), concurrence is also required from Railcorp as the proposed development is on land within zone B of an Interim Rail corridor. The Department has consulted with Railcorp. No response was provided and more than 21 days have passed since Railcorp was notified. In accordance with Clause 88 of the Infrastructure SEPP and Section 96(2) of the Act, consent may therefore be granted. The potential impacts of the proposed modified development on the future rail corridor is considered in Section 7.5 of this report.</p>
The application has been notified in accordance with the regulations	The modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 6 of this report.
Any submission made concerning the proposed modification has been considered.	The issues raised in submissions are outlined in Section 6.1 and have been considered in Section 7 of this report.
Consideration of relevant matters referred to in Section 79C(1) of the EP&A Act.	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. The proposed modification would not have any adverse environmental impacts as outlined in Section 7 .

5.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

- *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 Department undertook a comprehensive assessment of the redevelopment against the above EPIs in its original assessment. The Department's consideration of the EPIs relevant to the proposed modification is provided in **Appendix C**.

5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, in accordance with the Minister's delegation dated 16 February 2015, the Executive Director, Infrastructure and Industry Assessments may determine the application as:

- City of Sydney Council has not objected to the application;
- a political disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

6. CONSULTATION

The application was exhibited in accordance with the *Environmental Planning & Assessment Regulation 2000*. The modification request was made publicly available on the Department's website and at the Department's Information Centre and at the City of Sydney Council (Council). The Department also placed a public exhibition notice in the Sydney Morning Herald and Daily Telegraph on 22 April 2015 and notified adjoining landholders and relevant State and Local Government Authorities in writing. Seven submissions were received, including four from public authorities and three from the public, as outlined below.

6.1 Public Authority Submissions

Council does not object to the proposed modifications and made the following comments:

- the proposed modifications are acceptable from an urban design perspective;
- shadowing impacts to Darling Park are marginal and development parcels near Darling Harbour still receive adequate levels of solar access;
- any further increase in height beyond that sought by this proposal may create additional shadowing and should not be supported; and
- the proposal will not result in impacts to the heritage items as there are no significant changes to the lower levels or public domain.

Roads and Maritime Services (RMS) advises it raises no objection to the proposal.

Sydney Airport Corporation advises that a maximum height of 106.025 meters above AHD is permissible. It does not object to the proposed modification but noted that the Applicant must seek separate approval under the Airports (Protection of Airspace) Regulations 1996 to operate tall construction equipment (e.g. cranes) during construction to ensure aircraft safety.

Ausgrid did not object to the proposed modification but advised that the developer must make a formal submission to Ausgrid in order to determine the method of electricity supply.

6.2 Public Submissions

Three submissions were received from members of the public objecting to the modification. Key concerns included:

- loss of views; and
- potential impact to airflows causing air pollution.

7. ASSESSMENT

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

- Increase in height and density (**Section 7.1**)
- Urban Design and Visual impacts (**Section 7.2**);
- View impacts (**Section 7.3**); and
- Shadowing impacts (**Section 7.4**).

Other issues considered in **Section 7.5** include heritage, traffic, wind, and rail infrastructure,

7.1 Increase in Height and Density

The proposal seeks to increase the overall height of the tower by 12.4 metres and to increase GFA by 1620m². The proposed development is not within an area subject to the Sydney Local Environment Plan 2012 or Council's Development Control Plans and *Darling Harbour Development Plan No 1* (the DCP) which does apply to the site, does not contain development standards relating to height, floor space or specific controls relating to built form.

The Department has therefore undertaken a merit assessment of the proposed increase in height and density.

In assessing whether the proposed floor space and height is appropriate on the site, the Department has considered the potential amenity and environmental impacts that would arise from the proposed changes, as well its consistency with key strategic objectives.

In terms of amenity and environmental impacts, the Department has undertaken a detailed assessment of urban design, views, shadowing, traffic and heritage impacts in **Section 7.2** to **7.5** of this report. In summary, the Department's assessment of these issues concludes that the proposed increase in height and floorspace is acceptable given that:

- the only change to the built form is an increase in the height of the tower, which would not result in any adverse visual or urban design impacts (as discussed in **Section 7.2**) or heritage impacts (as discussed in **Section 7.5**);
- the proposed increase in height and density would not result in any unacceptable amenity impacts in terms of view loss impacts (as discussed in **Section 7.3**) or overshadowing impacts (as discussed in **Section 7.4**); and
- the proposed increase in floor space would not result in any unacceptable traffic impacts (as discussed in **Section 7.5**).

In terms of strategic objectives, the proposed increase in height and commercial floor space is consistent with the only relevant objective of the DCP, being to *"encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area"*.

Further, the Department also notes that the modification is consistent with *A Plan for Growing Sydney*, being the NSW Government's vision for Sydney as a strong global city and a great place to live, in particular:

- Key Direction 1.1 - to 'grow a more internationally competitive Sydney CBD'; and
- Key Action 1.1.1 - to 'create new and innovative opportunities to grow Sydney CBD office space by identifying redevelopment opportunities and increasing building heights in the right locations'.

The Department's assessment therefore concludes that the site is capable of supporting additional height and floor space and that the proposed increase in GFA and height is consistent with key strategic planning policy for the Sydney CBD as it would make a positive contribution to grow the city centre, the local economy, and employment in a location with excellent access to public transport services.

5.2 Urban Design and Visual Impacts

Height

The proposal seeks to increase the height of the building by 12.4 metres, resulting in a total height to RL 106.025, being 96 metres above Sussex Street.

The visual impact of the proposed increase in height is most apparent when viewed from the west of the site. **Figure 5** below illustrates the proposed tower as viewed from within Darling Harbour. From this vantage point, the building height can be clearly read in the context of the surrounding development, being part of an existing line of development forming the CBD edge. At other points in close proximity to the site, the change in height would not be as readily perceptible from a pedestrian level.

In terms of existing surrounding development, the Department notes that there is a wide range of building heights within the immediate vicinity of the site. This includes the Allianz Building at 2 Market Street immediately to the east of the site which has a height of RL 95.6, the Darling Park development in the block immediately to the south of the site with a tower height of RL 132, and No 1 Market Street in the block to the south-east of the site which has a height in excess of RL 135.

The proposed height increase to RL 106.025 is considered to still fit comfortably within the range of existing building heights immediately surrounding the development and would comfortably blend in with existing development in the city skyline, as can be seen below (**Figure 5**).

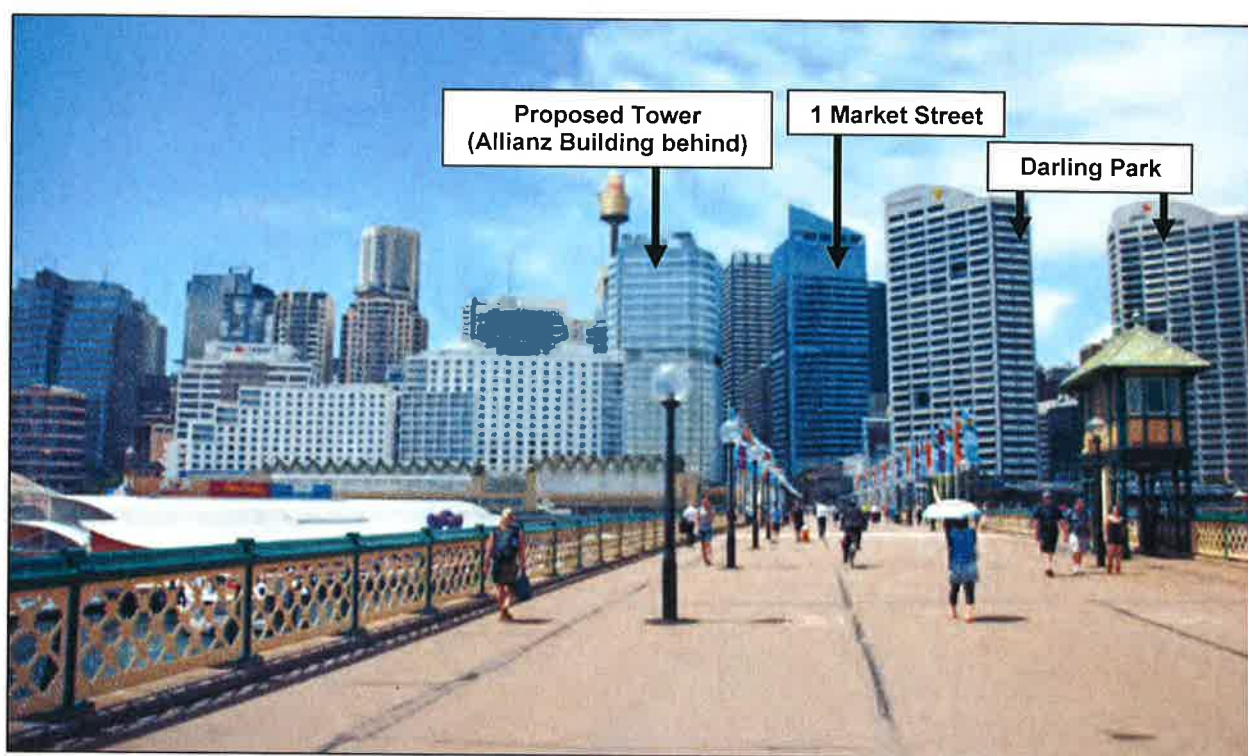


Figure 5: Proposed tower within city skyline. (Source: Applicant's Visual Impact Assessment)

Further, in terms of future surrounding development, the Department notes that adjoining sites to the east on Sussex Street could potentially be developed to a height of 88 metres (plus roof features) under the City of Sydney LEP 2012 design excellence provisions. With a façade height approximately 87.5m above Sussex Street, the proposed modified development would therefore also remain consistent with the likely height of any future surrounding development as envisaged by the current controls.

On this basis, the Department is satisfied that the proposed increase in height is acceptable.

Façade changes

The application seeks approval for a minor change to part of the façade cladding at Level 15 from louvres to glass. However, as the change affects only a small part of the northern and eastern elevations, which are not readily apparent (being partially obscured by the adjoining hotel building) the change is of no material consequence. The overall appearance of the building therefore remains the same, other than the increase in height.

5.3 View Impacts

View loss was a key concern raised in the three public submissions. In particular, concern was raised with the potential for view loss from west facing apartments at 365 Kent Street (Windsor on Kent) and from the top floor of 37-43 King Street (Savoy Building). View loss was also a key consideration in the assessment of the original application where views from two other residential buildings, being 25 Market Street (The Berkeley) and 222-228 Sussex Street (Astoria Tower), were considered as a key issue. The impacts of the proposed modification on each of these four buildings is therefore considered below. The location of these buildings is shown in **Figure 6**.



Figure 6: Location of tower (red) and surrounding buildings.

365 Kent Street (Windsor on Kent)

The primary views from this building are expansive westerly views towards Cockle Bay. These views are not affected by the tower. Views in the direction of the tower are not significant views, being peripheral views only and already substantially impacted by the approved 25 storey tower. The proposed additional two levels would not materially affect any retained views in this direction. The Department therefore considers that the proposed additional two levels to the commercial tower would not result in any unacceptable view loss impacts to west facing apartments at 365 Kent Street.

37-43 King Street (Savoy Building)

Views from the Savoy Building are predominantly to the west, towards Cockle Bay. These views would not be impacted by the proposed modification. Views in the direction of the tower (to the south-west) would be limited due to a row of intervening buildings. Even where views do exist, they would be peripheral views only and already substantially impacted by the approved 25 storey tower, which is much taller than the Savoy (which has a maximum height of 17 storeys). As such the proposed additional two levels would have no material impact on any retained views in this direction for occupants of the Savoy Building.

25 Market Street (The Berkley)

As seen in **Figure 7**, the proposed additional two levels would not result in any view impacts to dwellings at 25 Market Street, as all views from this building are already obstructed by the approved building. The proposed additional two levels would not be highly perceptible within the context of surrounding buildings which appear taller in height.

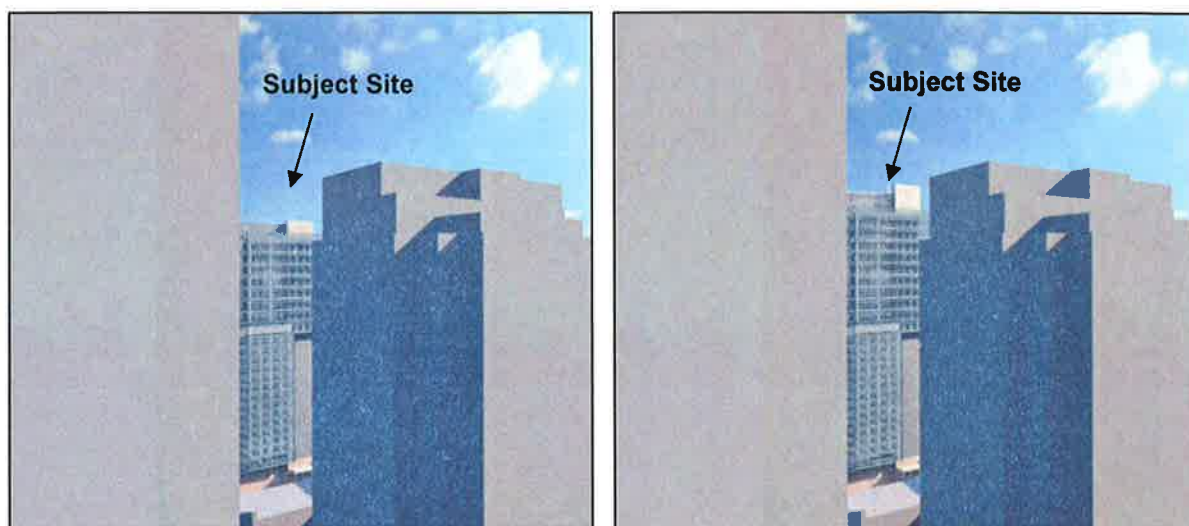


Figure 7: Views from Level 15 of the Berkeley as approved (left) and as proposed (right)

222-228 Sussex Street (Astoria Tower)

As seen in **Figures 8 and 9**, the proposed two additional levels would impact on views of the horizon line from the top most level of the Astoria Tower (Level 32). From all other levels, these views are already obstructed and view impacts would be limited to some obstruction of the sky only.

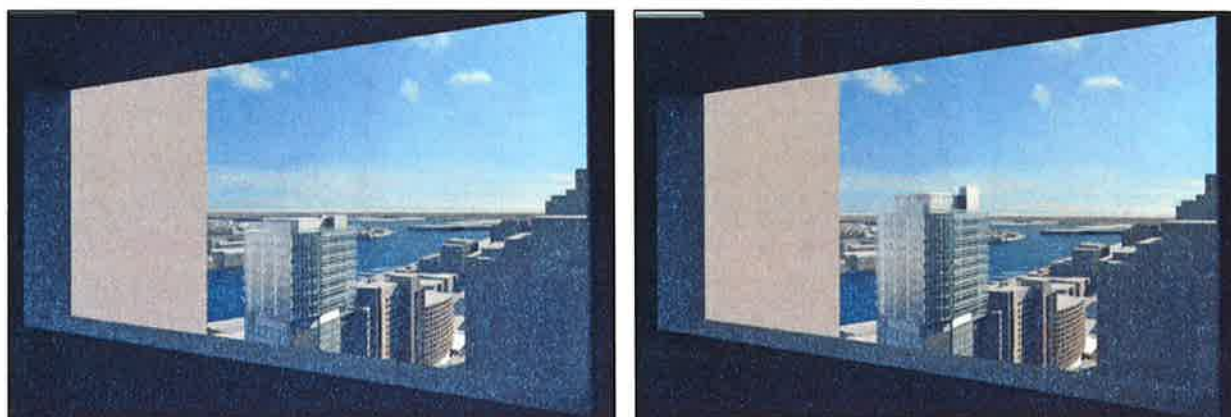


Figure 8: Views from Level 32 of the Astoria as approved (left) and as proposed (right)

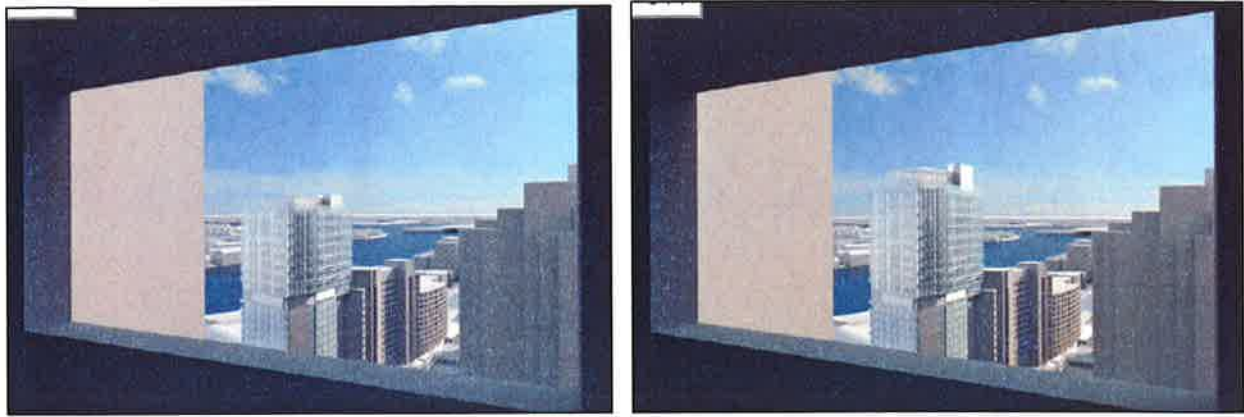


Figure 9: Views from Level 29 of the Astoria as approved (left) and as proposed (right)

The Department considers in that in the context of this high density CBD location, these view loss impacts are minor and acceptable, particularly given that the proposal does not result in any additional impacts on any retained iconic views of the water, the Harbour or landscape features, which provide the primary source of amenity from views.

Further, in its assessment of the original application, the Department noted that these primary views from the Astoria building are achieved across a side (northern) boundary and over the top of the adjoining site which is currently developed well below the maximum permitted floor space and height (**Figure 10**). A binding covenant exists on all contracts for units within the Astoria tower which permits Council to seal all windows on the northern boundary, should that site be developed in the future. Therefore there can be no reasonable expectation of view retention from the units within the Astoria tower in the long term.

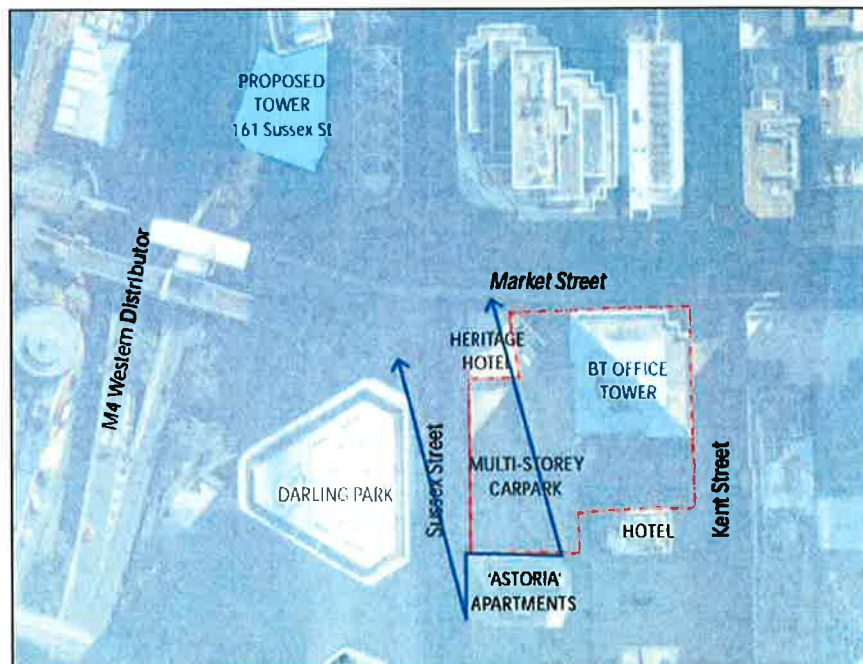


Figure 10: Location of carpark site next to Astoria which may obstruct views in the future

The Department is therefore satisfied that the proposed modification would not result in any unacceptable view sharing impacts. Any impacts to residential views are minor, generally only impacting on some existing views of the sky, and not impacting on any retained iconic, water, or district views.

5.4 Shadowing Impacts

The proposed additional height would result in some additional shadowing to residential properties and the public domain to the south of the site. These shadowing impacts are considered below.

Shadowing to Residential Premises

Shadow diagrams submitted with the application indicate that the additional height would not impact on solar access to residential premises, other than some minor impacts to the lower levels of the Astoria Tower at 222-228 Sussex Street between 2.15 pm and 3.00 pm mid-winter. Despite the additional shadowing, the affected windows would still receive in excess of 2 hours of solar access mid-winter and therefore the shadowing impacts on this building are acceptable. Further, as discussed above in **Section 5.3**, as the windows are located on the common boundary with the adjoining site, a covenant exists which permits Council to seal these windows in the future if the adjoining site is redeveloped. In that case, all solar access to the northern elevation of the building would be lost, regardless of the proposed development.

Shadowing to the Public Domain

The shadow diagrams also indicate that the proposal would have some additional shadowing impacts for nearby public domain areas including the Circular Garden and Northern Square within the Darling Park Site, and a small section of the waterfront area and waterway of Cockle Bay (locations shown in **Figure 11**). Noting there are no specific requirements for the retention of solar access to public domain areas which apply to the proposed development, the Department has considered the impact of the proposed modification to these areas on its merits.

At the Circular Garden and Cockle Bay waterfront, the additional overshadowing of the public domain is for a relatively short period of time at mid-winter and limited to a small area. Overall, good levels of solar access, (in excess of three hours to the majority of the Circular Garden and the entire waterfront area) are retained to these areas at mid-winter, despite the additional overshadowing.

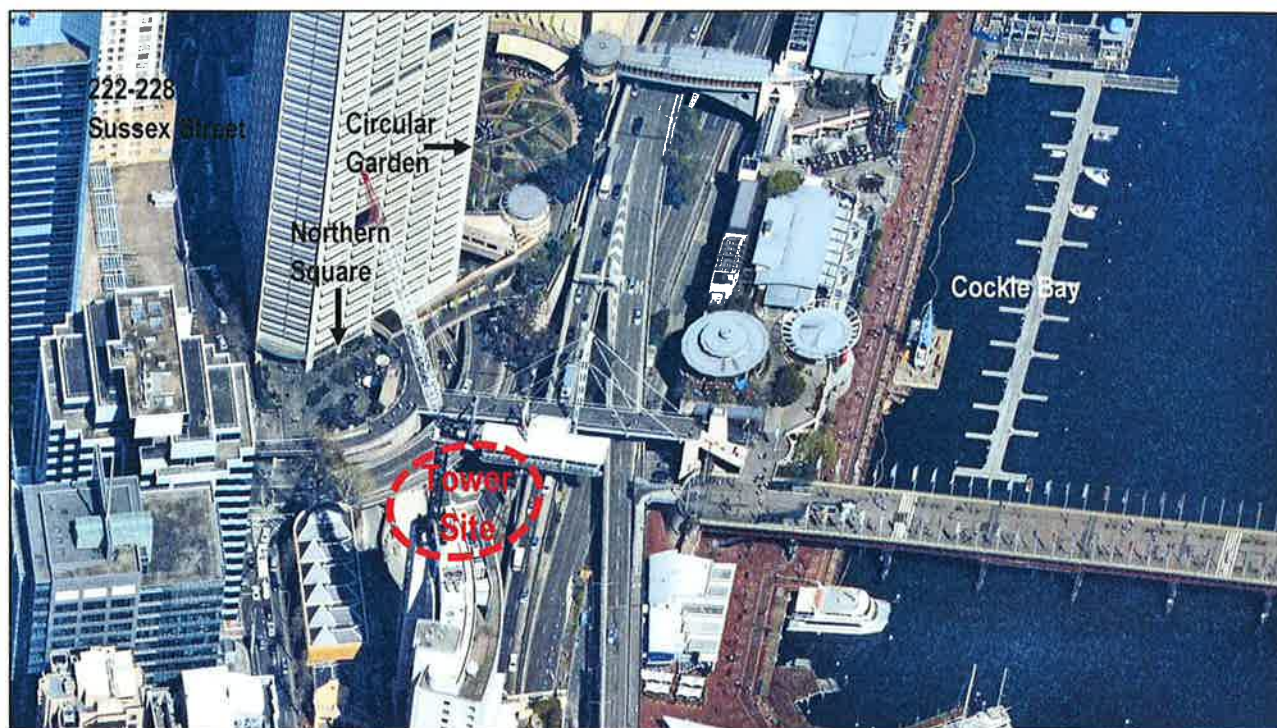


Figure 11: Aerial view of subject site and areas to the south affected by shadowing

However, the Northern Square within the Darling Park site is already significantly overshadowed by the proposed tower, with limited solar access at mid-winter. While the additional two levels would not result in further impacts to the square at mid-winter due to the length of shadows at this time of year, at other times of the year the additional height would increase the extent of overshadowing on the square. For example, at the equinox, the proposal would result in additional shadowing to parts of the square between 12.00 midday and 3.00 pm. Despite the additional shadowing impacts, the Department is satisfied that the extent of shadowing is acceptable in this case as:

- even at the worst affected time during the equinox, at least 50% of the square receives solar access;
- the square is located immediately to the south of the site and it is unreasonable to expect that the square would not be overshadowed as a result of the proposal in this CBD location; and
- the square operates more as a pedestrian circulation area and does not provide the same functions or levels of amenity as an open space area such as a park (as seen in **Figure 11**).

The Department also notes that Council considers solar access to public open spaces as a result of the modification to be acceptable.

Overall, the Department is satisfied the shadowing impacts of the proposed modification are minor and acceptable, given:

- the shadows cast generally only impact on some small areas of public domain and one residential building for limited periods; and
- the overall level of sunlight access retained is reasonable in the context of this dense urban CBD location.

7.5 Other Issues

Table 1: Assessment of Other Issues

Issue	Consideration	Recommendation
<i>Heritage</i>	<ul style="list-style-type: none"> • The subject site contains four heritage items that are listed on the State Heritage Register including: <ul style="list-style-type: none"> • the Corn Exchange; • warehouses at 139 to 156 Sussex Street; • the Dundee Arms Hotel; and • buildings, shops and warehouses at 121 to 127 Sussex Street. • The proposed two additional levels to the tower would not be readily apparent as viewed from the heritage items located at street level. • As the proposed modification does not include any other changes at the lower levels or public domain (other than the provision of 15 additional bike racks), the modification would not result in any additional impacts on the heritage fabric of the site. 	No additional conditions or amendments necessary.
<i>Parking and Traffic</i>	<ul style="list-style-type: none"> • No car parking is provided for the commercial component of the development, given the site's excellent access to public transport. The proposed additional two levels of floor space would therefore not result in any additional traffic movements or parking impacts. • Adequate additional bicycle parking and end of trip facilities are included in the application to cater for additional demand generated by the proposed floor space. 	No additional conditions or amendments necessary.
<i>Wind and air impacts</i>	<ul style="list-style-type: none"> • Public submissions raised concern about the potential for the building to obstruct airflows. • A wind impact assessment submitted with the modification found that the additional levels would not alter wind conditions at the pedestrian level in the vicinity of the site. • The Department is satisfied that no unacceptable wind or airflow impacts are likely to arise from the proposal. 	No additional conditions or amendments necessary.

<i>Issue</i>	<i>Consideration</i>	<i>Recommendation</i>
<i>Impacts on Rail Infrastructure</i>	<ul style="list-style-type: none"> • As the development is located above a future rail corridor, the Department has considered the impact of the proposed modifications on the rail corridor. • A structural engineers report submitted with the application confirms that the approved structure has been designed to cater for the additional two levels. Therefore no changes to below ground structural supports are required as part of this proposal. • No other changes are proposed below ground level as part of this application. • The Department is therefore satisfied that the proposed modification would not result in any impacts on the rail corridor. • RailCorp and Sydney Trains have not advised of any concerns with the proposed modification. 	No additional conditions or amendments necessary.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that it:

- would make a positive contribution to growing the city centre, the local economy, and employment in a location with excellent access to public transport services, consistent with DCP and strategic objectives for the locality;
- results in a development with a height and scale consistent with a range of existing built forms in the immediate vicinity of the site and future built forms expected under the controls and does not result in any unacceptable adverse visual or urban design impacts;
- retains acceptable view sharing and acceptable levels of solar access to surrounding properties and the public domain; and
- results in no additional environmental impacts in terms of heritage, traffic, wind, or rail infrastructure impacts.

Consequently, the proposal is in the public interest and it is recommended that the modification be approved subject to conditions.

9. RECOMMENDATION


It is **RECOMMENDED** that the Executive Director, Infrastructure and Industry Assessments as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 96 (2), subject to conditions; and
- **signs** the instrument of modification (**Appendix A**).

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 19/2/15

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APPENDIX A: INSTRUMENT OF MODIFICATION

The Instrument of Modification can be found on the Department's website at the following address:

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

APPENDIX B: SUPPORTING INFORMATION

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

1. Modification request

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

2. Submissions

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?
<p>2 Aim of Policy</p> <p>The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:</p> <p>(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</p> <p>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.</p>	<p>Relevant agencies have been consulted about the proposed modifications to the approved development.</p>	<p>Yes</p>
<p>88 Development within or adjacent to interim rail corridor</p> <p>This clause applies to development that is:</p> <p>(b) in the area marked "Zone B" on a rail corridors map and:</p> <p>(i) involves the penetration of ground to a depth of at least 2m below ground level (existing), or</p> <p>(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.</p> <p>(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.</p> <p>(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:</p>	<p>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). The modifications relate to a development that and has a capital investment of more than \$200,000 and is more than 10m in height. Consideration of potential impacts of the proposed modifications on the future CBD rail corridor are considered in Section 7.5 of this report.</p>	<p>Yes</p>

State Environmental Planning Policy (Infrastructure) 2007

Relevant Sections	Consideration and Comments	Complies?
(a) the consent authority has given the chief 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 would continue to provide a mixture of tourist and commercial facilities within the area. 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 does not seek consent for additional 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.	There are no proposed works to the Corn Exchange as part of this modification application.	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 5.5 of this report, it is considered that the proposed modification would have no 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 5.5 of this report, it is considered that the proposed modification would have no 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 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>	<p>Yes</p>

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
Relevant Sections	Consideration and Comments	Complies ?
2 Aims of plan (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained: (i) as an outstanding natural asset, and (ii) as a public asset of national and heritage significance, for existing and future generations, (b) to ensure a healthy, sustainable environment on land and water, (c) to achieve a high quality and ecologically sustainable urban environment, (d) to ensure a prosperous working harbour and an effective transport corridor, (e) to encourage a culturally rich and vibrant place for people, (f) to ensure accessibility to and along Sydney Harbour and its foreshores...	The development as modified would continue to be consistent with these aims.	Yes
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, does not affect 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 would 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 does not impact on access to the foreshore.	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	Yes

	impacts in relation to this section.	
<p>25 Foreshore and waterways scenic quality</p> <p>(a) the scale, form, design and siting of any building should be based on an analysis of:</p> <p>(i) the land on which it is to be erected, and</p> <p>(ii) the adjoining land, and</p> <p>(iii) the likely future character of the locality,</p> <p>(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,</p> <p>(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.</p>	<p>No substantial changes are proposed to the overall approved development's form or design, other than the increase in the height of the tower by two storeys. The visual impacts are considered in Section 5.2 and the modification is found to result in no adverse impacts to the character of the area</p>	Yes
<p>26 Maintenance, protection and enhancement of views</p> <p>(a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,</p> <p>(b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,</p> <p>(c) the cumulative impact of development on views should be minimised.</p>	<p>No unacceptable view impacts arise from the proposed modifications. Refer to discussion in Section 5.3.</p>	Yes
27 Boat Storage Facilities	N/A	N/A