



**Planning &
Environment**

**STATE SIGNIFICANT DEVELOPMENT:
Section 96(1A) Modification Application**

***SICEEP, ICC Hotel fit out, external lighting and
subdivision, Sydney***

SSD 6831 MOD 1



Environmental Assessment Report
Section 96(1A) of the *Environmental Planning
and Assessment Act 1979*

July 2017

Cover Photograph: Photomontage of the ICC Hotel proposed lighting (Source: applicant's original EIS).

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NSW Government

Department of Planning & Environment

1. BACKGROUND

1.1 Introduction

This report provides an assessment of a proposed modification to a State significant development application (SSD 6831). The International Convention Centre Hotel (ICC Hotel) is located at the northern tip of the Sydney International Convention, Exhibition and Entertainment Precinct (SICEEP), Darling Harbour. The application seeks to modify a condition of consent to allow for the installation and ongoing operation of ten speakers on the level four outdoor terrace at the ICC Hotel.

The application has been lodged by Lend Lease (Haymarket) Pty Ltd pursuant to section 96 (1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

1.2 The subject site

The subject site is known as the International Convention Centre Hotel (ICC Hotel) and forms part of the SICEEP precinct. The SICEEP is a major urban renewal project to the west and south of Darling Harbour (Figure 1). The site is located within the City of Sydney local government area.

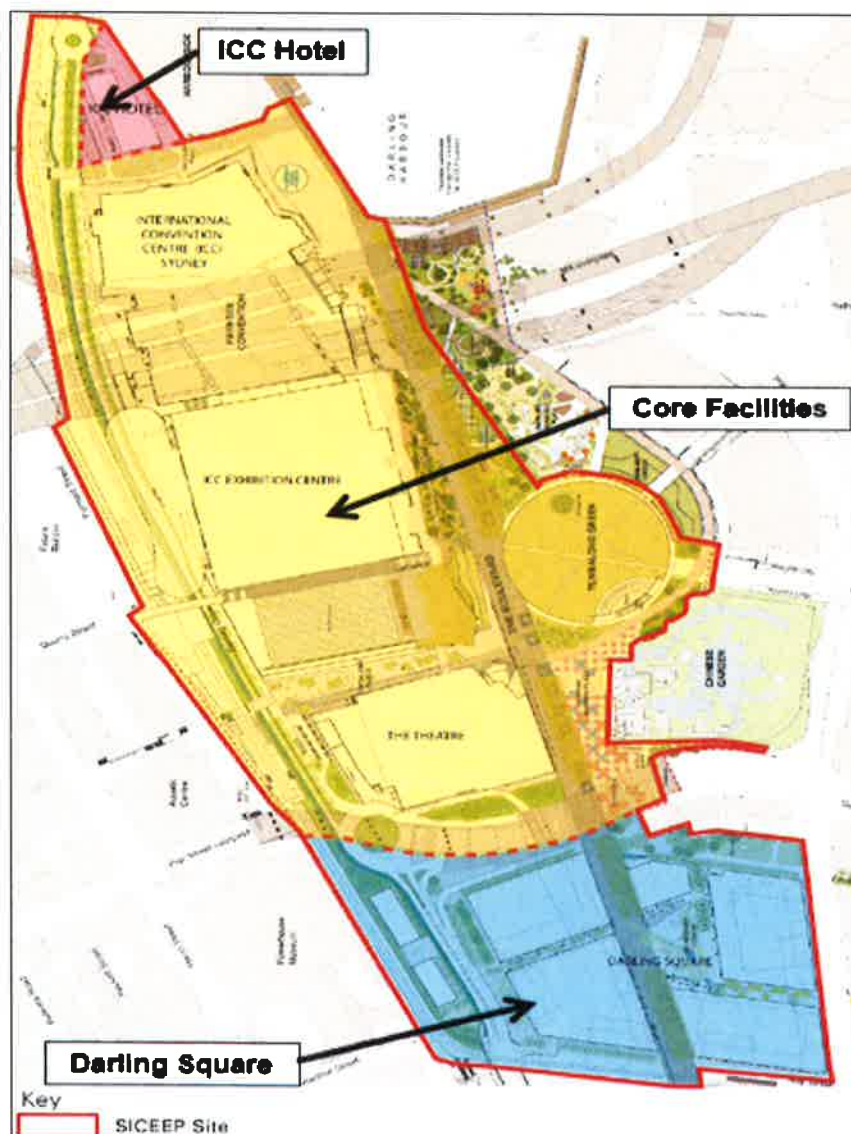


Figure 1: SICEEP master plan (Source: Applicant's EIS)

The ICC Hotel is one of three interrelated components in the masterplan for the SICEEP project, including:

- the redevelopment of the convention, exhibition and entertainment centres and redesigned Tumbalong park (referred to as the 'Core Facilities')
- a new mixed use neighbourhood (referred to as 'Darling Square')
- the new ICC Hotel.

These are connected by a new integrated public realm, with the focus being a north-south pedestrian link called The Boulevard (Figure 1).

The ICC Hotel site is located on the northern tip of the SICEEP, and has an area of approximately 3,700 m² (Figure 2).

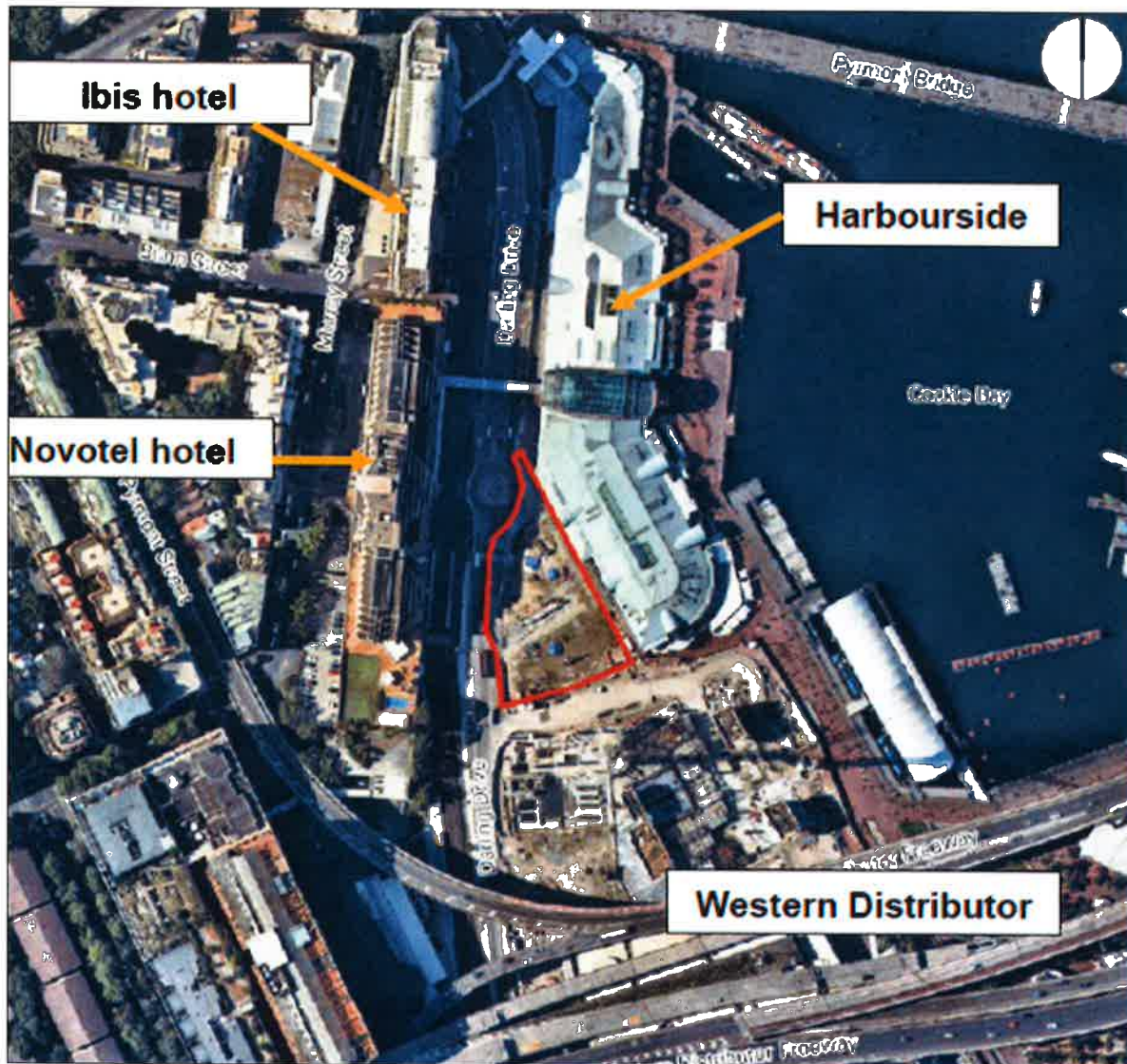


Figure 2: ICC Hotel site within the SICEEP precinct (in red)

The nearest properties to the ICC Hotel are the Novotel hotel, situated 40 metres to the west, the Harbourside Shopping Centre which adjoins the ICC Hotel directly to the north-east and the International Convention Centre 75 metres to the south.

There is a diverse mix of land uses in the surrounding area, including commercial, residential, retail, entertainment and tourist uses. Cockle Bay, with the harbour side promenade and commercial / tourist attractions, is located to the east of the site and major roads, including Darling Drive and the Western Distributor, are located to the west and south respectively.

1.4 Previous Approvals

On 15 June 2014, the Executive Director, Development Assessment Systems & Approvals, approved the State Significant Development (SSD) application for the development of the ICC Hotel and public realm improvements (SSD 6116). The approved development consists of:

- demolition of existing improvements on site and associated tree removal
- construction of a 35-storey building and basement
- provision of no more than 616 hotel keys and a maximum GFA of 37,090 m²
- hotel use including ancillary guest and visitor facilities, restaurant and ballroom (24-hours, 365 days per year)
- replacement of a one-way access road
- provision of short term and taxi/drop off car parking and coach parking
- public domain works including integration with existing / proposed works
- building identification signage zones.

Consent has been granted for one modification, including changes to external wall treatments, plant, screening devices, signage, the design of the porte-cochere and the configuration of the rooftop pool terrace.

On 16th October 2015, the Acting Executive Director, Key Sites Assessment, approved the SSD application for the subdivision and fitout of the ICC Hotel (the subject approval) including:

- the fit out of the ICC Hotel as a 5-star hotel
- installation of illuminated lighting as part of the external façade
- subdivision of the site to facilitate separate leasehold title of the hotel.

The consent provides the following operational conditions which are relevant in the assessment of the proposed modification:

- G21 states noise emitted from entertainment venues must not exceed background noise level by more than 5dB between 7 am and 12 midnight as measured from the boundary of affected residences
- G22 states noise emitted from entertainment venues must not exceed background noise level between 12 midnight and 7 am as measured from the boundary of affected residences
- G24 states noise should not be audible from any habitable room in residential uses between midnight and 7 am
- G25 states noise should not exceed background noise level by more than 3dB measured from affected commercial premises
- G30 states speakers must not be installed or operated in any outdoor areas except the porte-cochere.

2. PROPOSED PROJECT

This proposal seeks approval for the installation and operation of ten speakers on level four of the outdoor terrace, bar and pool area for use for background music (**Figure 3**).

The applicant seeks to amend Condition G30 to allow for the operation of the speakers in the outdoor terrace area. The speakers are proposed to play background music at a level of 70 dB(A) measured at two metres from the speakers.

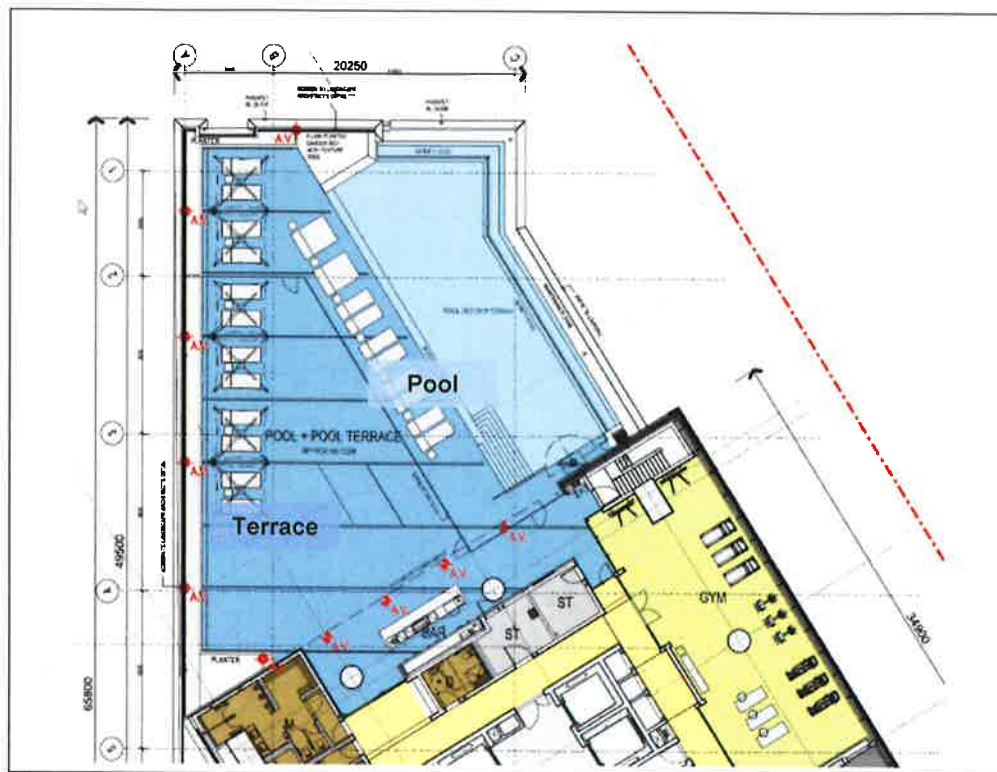


Figure 3: Podium (Level 4) showing speakers proposed (Source: Acoustic report).

3. STATUTORY CONTEXT

3.1 Modification of approval

Section 96(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of the subject application (Table 1):

Table 1: S96 (1A) considerations

Section 96(1A) matters for consideration	Comment
S96(1A) (a) that the proposed modification is of minimal environmental impact.	Section 5 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the modifications are of minimal environmental impacts.
S96(1A) (b) that the development to which the consent as modified 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 proposed modification seeks approval for minor changes and does not result in any additional impacts. It is substantially the same development as that originally approved.
S96(1a) (c) 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 4 of this report.
S96(1a) (d) Any submission made concerning the proposed modification has been considered.	The Department received no submission on the proposal.

3.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

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

The Department comprehensively assessed the original SSD application against the above EPIs. The Department has also considered the current proposal against these EPIs and is satisfied that it remains consistent with the above EPIs (**Appendix C**).

3.3 Delegation

On 16 February 2015, the Minister delegated functions to determine modifications to SSD applications to Directors who report to the Executive Director in the Planning Services Division, in cases where:

- an objection has not been received from the relevant local council
- where the proponent has not provided a political donation disclosure statement, or
- where there are no public submissions objecting to the proposal.

As City of Sydney Council (Council) did not object to the proposed modification, no public submissions objecting to the proposal were received and the Applicant has not provided a political disclosure statement, the Director, Key Sites Assessments, has delegation to determine the application.

4. CONSULTATION AND SUBMISSIONS

The Department made the proposal publicly available on its website. The Department also notified relevant State and local government authorities and local residents in writing.

The Department received no submissions in response to the notification.

5. CONSIDERATION OF PROPOSED MODIFICATION

Noise impacts

The key issue in the Department's assessment is the potential noise impacts of the use of the proposed speakers on surrounding properties, specifically the Novotel Hotel which has hotel rooms facing the terrace.

The use of speakers in outdoor areas (except the porte-cochere) is currently prohibited by Condition G30 of the original consent. The Applicant seeks to install speakers on the level four outdoor terrace to play background music to contribute to the ambience of the terrace area and align with the intended use of the development as a high amenity five-star hotel. The proposed speakers will play music 24-hours-a-day, consistent with the approved 24-hour operation of the hotel.

The Applicant has provided an acoustic report prepared by Acoustic Logic in support of the proposal which provides an assessment of the impacts of the proposal on the adjacent Novotel hotel rooms. The Acoustic report uses the noise criteria applied to residential uses in conditions G21, G22, and G25 of the consent. The Acoustic report demonstrates the proposed level of amplification (70db(A) measured at two metres from the speakers) will result in an acceptable noise level at the boundary of the Novotel Hotel (13 – 25 dB(A)) lower than the noise criteria for the site) throughout the 24-hour operation. This will continue to comply with the conditions relevant to the terrace (Conditions G21, G22 and G24) (see **Table 2**).

Table 2: Noise monitoring data demonstrating compliance (Data source: Acoustic report)

Time period	Background noise level at Novotel	Noise criteria	Noise level with proposal	Complies
Daytime 7am-6pm (Condition G21)	58 dB(A)	64 (Background + 5dB(A))	39 dB(A)	Yes
Evening 6pm-10pm (Condition G21)	59 dB(A)	64dB(A) (Background + 5 dB(A))	39 dB(A)	Yes
Night 10pm-12am (Condition G21)	52 dB(A)	57dB(A) (Background + 5 dB(A))	39 dB(A)	Yes
12am – 7am (Condition G22)	52 dB(A)	52dB(A) (Background)	39 dB(A)	Yes

The Department has reviewed the proposal, including the advice of the acoustic consultant, and notes:

- the 24-hour use of the outdoor terrace was approved by the Department in its original assessment where it was noted the space is for hotel guests and their visitors only, and resultant noise impacts will be limited and will be able to be controlled by hotel management
- the installation of speakers will contribute to the amenity of this space for hotel guests and their visitors
- the speakers will direct music inside the terrace and will only be permitted to play ambient background music, consistent with the music permitted within the speakers in the porte cochere
- the Novotel Hotel guest rooms are located approximately 40 metres away, on the western side of Harbour Street and the light rail line. The distance between the properties, the direction of the speakers internally and the acoustic consultant's recommendations will ensure that there are no unacceptable noise impacts during the day and no audible noise impacts during the night at Novotel Hotel
- although a specific assessment has not been carried out on the impact of the speakers on the Harbourside Shopping Centre, this is adequately controlled by existing Condition G25 which requires that any noise generated by the hotel does not exceed more than 3db(A) indoors any affected commercial premises.

To ensure that the noise output from the speakers achieves compliance with the conditions of consent, the Department recommends that an acoustic verification report be prepared and submitted to the Department within one month of the speakers being operational, and annually thereafter, demonstrating ongoing compliance with Conditions G21 to G25. Where compliance is not achieved, the noise output of the speakers must be reduced to a level that achieves compliance and any other recommendations of the report must be implemented.

Noting the Acoustic report applied the residential noise criteria in Conditions G21, G22 and G24 to the hotel rooms, the Department recommends these conditions be amended to clarify noise generated by the hotel, including use of the speakers, needs to be managed so as it does not impact on the amenity of both surrounding residents and hotel guests.

The installation of the speakers will not substantially alter the approved development, nor will it cause any environmental harm or nuisance to nearby residents. The Department therefore supports the installation and operation of the speakers.

6. CONCLUSION

The modification application has been assessed in accordance with the matters for consideration under section 96(1A) of the EP&A Act and the Department is satisfied that the proposal complies with all statutory and strategic provisions, subject to the recommended amendments to the conditions.

The Department's assessment concludes that the proposed modification is appropriate on the basis that it would not impact on residential amenity, nor result in any additional impacts to the surrounding area.

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

7. RECOMMENDATION

It is therefore recommended that the Director, Key Sites Assessments:

- (a) **considers** the findings and recommendations of this report;
- (b) **approves** the modification; and
- (c) **signs** the attached Instrument of Modification for SSD 6831 MOD 1.

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Key Sites Assessments

Endorsed by:

AWatson

Amy Watson
Team Leader
Key Sites Assessment

Approved by:



Ben Lusher
Director
Key Site Assessments

20/7/17

APPENDIX A CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

To satisfy the requirements of Section 79C(a)(i) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

Controls considered as part of the assessment of the proposal are:

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

COMPLIANCE WITH CONTROLS

State Environmental Planning Policy (State & Regional Development) 2011

The proposal is State significant development under Clause 2 of Schedule 2 of SEPP as the site falls within the area defined as the Darling Harbour Site and has a capital investment value in excess of \$10 million (\$160,000,000).

State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of the SEPP requires referral of applications for traffic generating development to the Roads and Maritime Services (RMS) for concurrence. The modification is minor in nature and is not considered to generate additional traffic to that already approved for the ICC Hotel (SSD 6116 and SSD 6831).

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the Foreshores and Waterways boundary under the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (Sydney Harbour REP). The Sydney Harbour REP aims to provide a clear and consistent planning framework to protect and enhance the unique attributes of the Harbour. The proposed modification is consistent with the approved ICC Hotel, and therefore is considered consistent with the planning principles outlined in the REP. The noise impact of the modification on the surrounding area is considered in **Section 5.1** of this report.

The proposed development is not of a type which requires the consideration of the Foreshores and Waterways Planning and Development Advisory Committee.

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

The DCP outlines guidelines to protect and enhance the ecological and landscape values of the harbour foreshore, and provides specific guidelines for water based, land-based and land/water interface developments. The following table assesses the proposal against the guidelines.

Issue	Guidelines	Department comment
Foreshore access	<ul style="list-style-type: none">• foreshore access is to be encouraged and wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved• most desirable are foreshore links joining public open spaces or access points	The proposed modification does not alter the foreshore access provided by the ICC Hotel.
Siting of buildings and structures	<ul style="list-style-type: none">• where there is existing native vegetation, buildings should be set back from this	The proposed modification does not alter the siting of the ICC Hotel

	<p>vegetation to avoid disturbing it</p> <ul style="list-style-type: none"> • buildings should address the waterway; • buildings should not obstruct views and vistas from public places to the waterway • buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP • where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore 	building and structures.
Built form	<ul style="list-style-type: none"> • where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting • where undeveloped ridgelines occur, buildings should not break these unless they have a backdrop of trees • while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs • walls and fences should be kept low enough to allow views of private gardens from the waterway • bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting should be observed • use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied • colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP • the cumulative visual impact of a number of built elements on a single lot should be mitigated through bands of vegetation and by articulating walls and using smaller elements; • the cumulative impact of development along the foreshore is considered having regard to preserving views of special natural features, landmarks or heritage items 	The modification does not alter the ICC Hotel built form.
Signage	<p>Signage should:</p> <ul style="list-style-type: none"> • be of minimal dimensions and consistent with the commercial or community identity of the premises • not be brightly illuminated to avoid becoming navigational hazards. Lighting of signs should be directed downward away from the 	The proposed modification does not include signage.

	<p>water</p> <ul style="list-style-type: none"> • preferably be placed on the facades of buildings, rather than on roofs or free standing • signs that intrude on the skyline should be avoided. 	
Planting	<ul style="list-style-type: none"> • appropriate species from those found in the surrounding landscape should be incorporated • endemic native species should be used in areas where native vegetation is present or has the potential to be regenerated • exotic species that have the potential to spread into surrounding bushland should be avoided • existing mature trees should be retained where possible and incorporated into the design of new developments • vegetation along ridgelines and on hillsides should be retained and supplemented with additional planting to provide a backdrop to the waterway • a landscape plan is to be submitted with any land-based development proposal showing existing and proposed changes in contours, surface and sub-surface drainage, existing trees to be retained and removed, measures to protect vegetation during construction, and proposed planting including species and common names. 	The proposed modification does not include planting.
Redevelopment sites	<p>Redevelopment proposals should:</p> <ul style="list-style-type: none"> • ensure continuous and inviting public access to the foreshore; • allow for a mix of uses to further improve the public utility and amenity of the waterfront; • provide public jetties and wharves for access to vessels where there is a demonstrated demand; • identify suitable areas that can be conserved and made available to the public; • provide public road access to the foreshore park where a park is being provided; and • be designed considering the site in the broader context of the River and the Harbour. Redevelopment sites have the potential to provide a gateway and become a waterside destination for the hinterland. 	The ICC Hotel site does not have direct foreshore access. The proposed modification does alter the uses and public access to the foreshore.

Darling Harbour Development Plan No. 1

The proposal is consistent with the objectives of the Darling Harbour Development Plan No. 1 (the Development Plan) as it facilitates the delivery of the approved tourist (hotel) facility and involves outdoor ambient music will improve the amenity of the hotel for guests and help to highlight Darling Harbour as vibrant tourist and leisure destination.

APPENDIX B RELEVANT 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. Environmental Impact Statement

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8382

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8382

3. Applicant's Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8382

APPENDIX C RECOMMENDED INSTRUMENT OF CONSENT
