

***Harrington &
Gloucester Streets,
The Rocks:
Alterations to Mixed-
use Development***

State Significant
Development
Modification Assessment
(SSD 7037 MOD 2)

May 2019

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Glossary

| Abbreviation | Definition |
|-----------------|---|
| Applicant | Golden Age and Hannas The Rocks Pty Ltd |
| Application | SSD 7037 MOD 2 |
| CIV | Capital Investment Value |
| Consent | Development Consent |
| Council | City of Sydney Council |
| Department | Department of Planning and Environment |
| EIS | Environmental Impact Statement |
| EP&A Act | <i>Environmental Planning and Assessment Act 1979</i> |
| EP&A Regulation | <i>Environmental Planning and Assessment Regulation 2000</i> |
| EPI | Environmental Planning Instrument |
| ESD | Ecologically Sustainable Development |
| LEP | Local Environmental Plan |
| Minister | Minister for Planning |
| OEH | Office of Environment and Heritage |
| RMS | Roads and Maritime Services |
| RtS | Response to Submissions |
| Secretary | Secretary of the Department of Planning and Environment |
| SEPP | State Environmental Planning Policy |
| SRD SEPP | State Environmental Planning Policy (State and Regional Development) 2011 |
| SSD | State Significant Development |



Executive Summary

Golden Age and Hannas The Rocks Pty Ltd (the Applicant) seeks approval to modify a consent (SSD 7037) for a mixed-use development at 85 Harrington Street and 66-72 Gloucester Street, The Rocks.

The approved development is the demolition and construction of a part seven/part nine storey mixed-use building and a six-storey mixed-use building with basement car parking, and adaptive re-use of the Baker's Terrace State Heritage listed buildings.

The section 4.55(2) modification request seeks to make internal and external alterations, convert 2 x 1-bedroom units to 2 x 2-bedroom units and a 2-bedroom unit to a 3-bedroom unit, and provide one additional car parking space.

Engagement

The Department publicly exhibited the modification request and received seven submissions on the proposal, comprising a submission making comments from Council and six submissions making comments from government agencies. One public objection was received raising concerns about view loss, however was later withdrawn.

Council do not object to the modification, but stated the inclusion of additional louvres to the roof would be a further detracting element of the roof design, and that adequate bicycle parking should be provided. Council also requested confirmation be provided that the proposed amended units can be naturally cross ventilated.

OEH Heritage stated the changes to the Baker's Terrace will retain more significance fabric than the original proposal and supported the proposed landscaping works.

The Applicant provided additional information through a Response to Submissions (RtS) to clarify and justify the proposed amendments in relation to design, biodiversity, residential amenity, heritage and bicycle parking.

Assessment

The key assessment issues for this proposal are urban design, public domain, heritage and residential amenity.

The Department considers the approved mixed-use development would not be significantly altered, with key elements such as use, building height and form to remain unchanged. The proposed amendments would retain more heritage fabric than the original proposal and would improve the public domain. The amendments would also not reduce the quality of design or residential amenity of the approved development.

Summary

The Department has reviewed the proposed modification and assessed the merits of the application, taking into consideration advice from Council and government agencies. All environmental issues associated with the modified proposal have been suitably addressed.

The Department is satisfied the development is substantially the same development for which consent was originally granted and is in the public interest. It would provide a range of benefits to the community, including the adaptive re-use of a State-listed heritage item and improvements to the public domain.

The Department concludes the modification should be approved, subject to the recommended conditions.



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1. Introduction

This report provides an assessment of an application to modify the State significant development consent (SSD 7037) for a mixed-use development at 85 Harrington Street and 66-72 Gloucester Street, The Rocks.

The application has been lodged by Golden Age and Hannas The Rocks Pty Ltd (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and seeks to make internal and external design alterations, alterations to the dwelling mix, and alterations to access and landscaping, including removal of street trees and replacement planting.

1.1 Background

The site is known as 85 Harrington Street ('Harrington Court') and 66-68 & 70-72 Gloucester Street ('Baker's Terrace') The Rocks, within the City of Sydney local government area (LGA). Situated directly to the north of the Cahill Expressway (**Figure 1**), the site is legally described as Lot 1 DP 777033. The site is currently owned by Place Management NSW (formerly the Sydney Harbour Foreshore Authority).

The site is bound by Harrington Street to the east, Gloucester Street to the west, the Cahill Expressway to the south and the historic Cumberland Place and Steps to the north. An east-west pedestrian link, partially beneath the existing Harrington Court building, runs through the site between Harrington Street and Gloucester Street (see **Figure 2**).

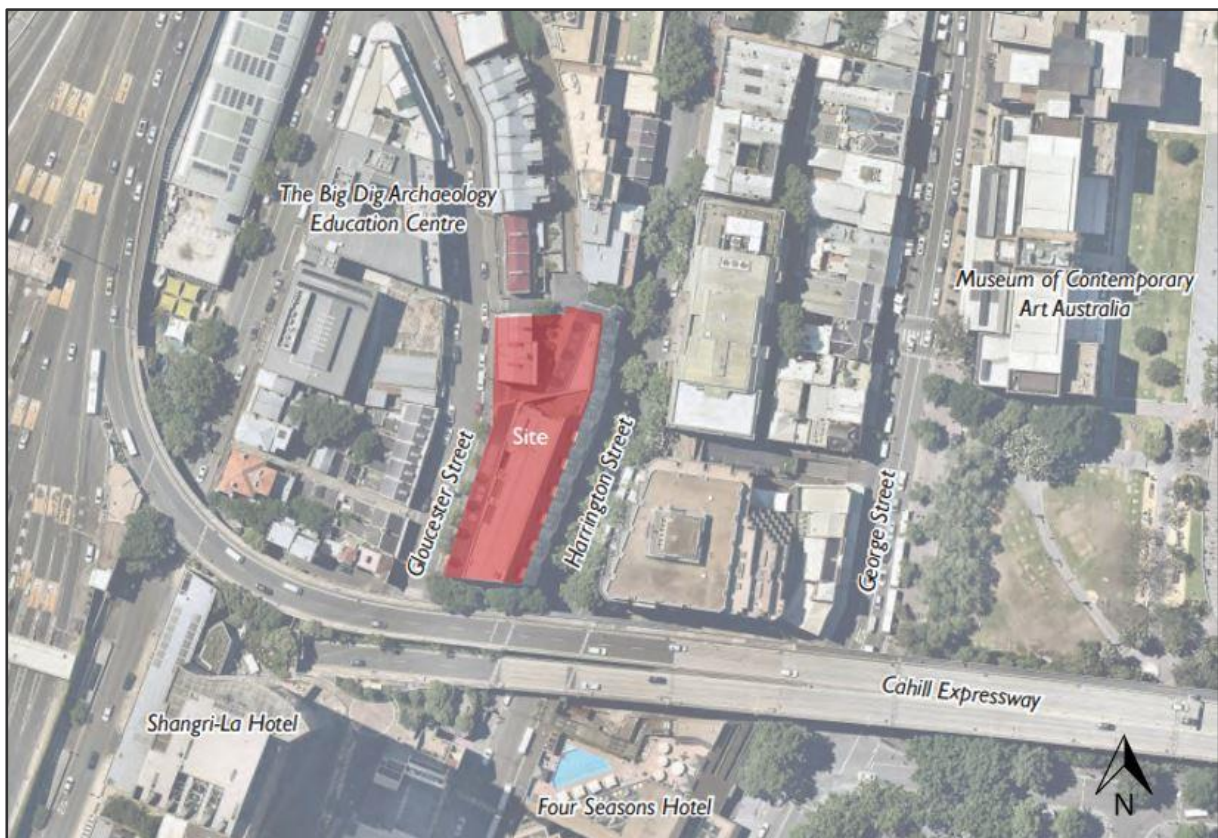


Figure 1 | Site Location (Base source: SSD 7037 Applicant's EIS)

The site has a total area of 2,110 m² and is generally rectangular in shape. The site slopes significantly from Gloucester Street to Harrington Street by approximately 10.2 m between the north-eastern corner and the north-western corner and 9.7 m between the south-western corner and south-eastern corner of the site.

Harrington Court currently comprises a five-storey commercial building constructed in the 1980s (**Figure 3**). The Baker's Terrace includes four attached terrace buildings that are listed on the State Heritage Register (**Figure 4**).

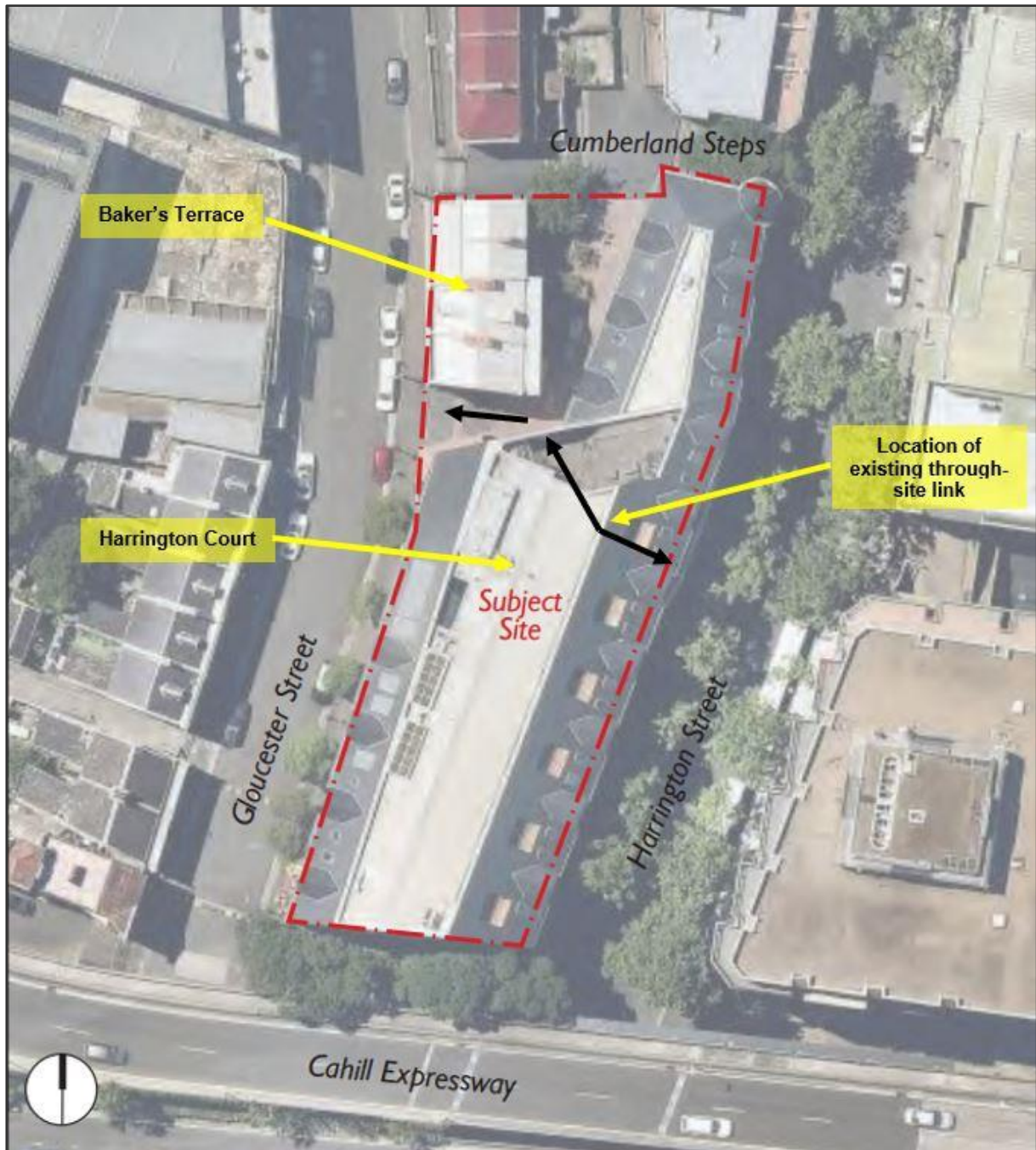


Figure 2 | Site Boundary (Base source: SSD 7037 Applicant's EIS)

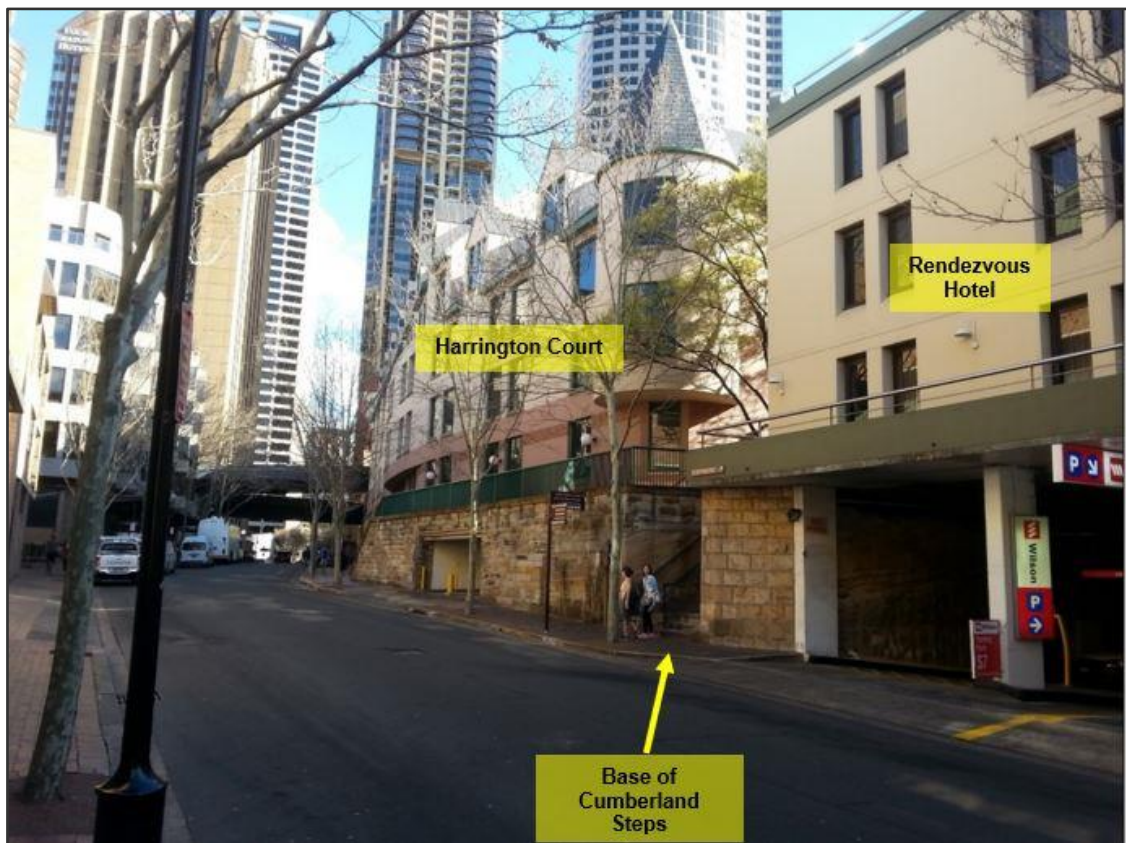


Figure 3 | Harrington Court viewed from Harrington Street looking south (Source: Department's photograph)



Figure 4 | Baker's Terrace and Harrington Court viewed from Gloucester Street looking south (Source: Department's photograph)

1.2 Approval History

On 12 January 2018, development consent was granted by the Independent Planning Commission for a mixed-use development at 85 Harrington Street and 66-72 Gloucester Street, The Rocks (SSD 7037), including:

- demolition of the existing Harrington Court commercial building
- adaptive re-use of the Baker's Terrace
- construction of part seven/part nine storey and six-storey mixed-use buildings, including:
 - o 1132 m² of commercial GFA (within Building 1)
 - o 927 m² of retail GFA (including 136 m² within Baker's Terrace)
 - o 7,249 m² of residential GFA comprising 58 residential units/ townhouses
- public domain works, including a replacement through-site link between Harrington and Gloucester Streets and new public plaza.
- two levels of basement car parking.

The layout of the approved development is shown at **Figure 5**.

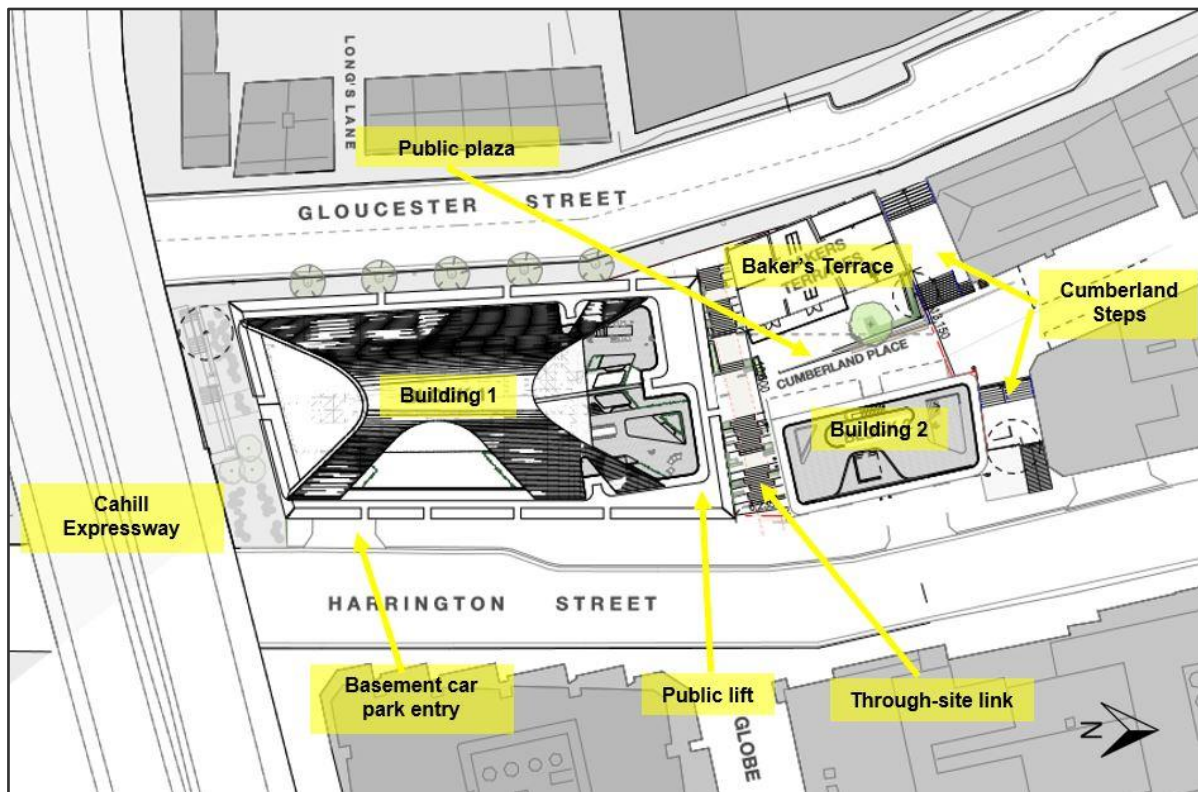


Figure 5 | Approved site layout (Source: SSD 7037)

The development consent has been modified on 1 occasion (see **Table 1**).

Table 1 | Summary of Modifications

| Mod No. | Summary of Modifications | Approval Authority | Type | Approval Date |
|---------|--|--------------------|----------|---------------|
| MOD 1 | Amendments to Conditions, including timing of Construction Certificates, changes to mechanical ventilation design, reducing the percentage of adaptable units, and insertion of a new condition relating to universal design features. | Department | 4.55(1A) | 17 July 2018 |



2. Proposed Modification

The Applicant states the proposed amendments result from design development and further understanding of the levels on site, and aim to provide more integrated equitable access to the basement, courtyard and laneway areas.

The key modifications are described further in **Table 2** below and depicted in **Section 6**, where they are assessed in relation to the key issues they are associated with.

Table 2 | Key components of proposed modifications to SSD 7037

| Aspect | Description |
|-------------------|--|
| Gross Floor Area | <p>Overall reduction of 30 m² from 9308 m² to 9278 m², comprised of:</p> <ul style="list-style-type: none">• Reduction in residential GFA of 53 m² from 7249 m² to 7196 m²• Increase in retail GFA of 21 m² from 927 m² to 948 m²• Increase in commercial GFA of 2 m² from 1132 m² to 1134 m². |
| Baker's Terrace | <p>Basement Level:</p> <ul style="list-style-type: none">• Retention of all internal structural walls• Removal of brick wall to utilise original layout• Clarification that existing doors fronting Cumberland Place will be retained• Clarification of original basement RLs. <p>Ground Floor:</p> <ul style="list-style-type: none">• Relocation of internal southern terraces stair from rear to front portion of terrace. <p>First Floor:</p> <ul style="list-style-type: none">• Conversion of study in 2-bed unit to bedroom• Relocation of stair within northern terraces further to the north• Raising of internal floor level to better align with window height. |
| Buildings 1 and 2 | <ul style="list-style-type: none">• Additional louvred opening to western side of roof to provide ventilation for plant• Conversion of 2 x 1-bed units to 2 x 2-bed units in Building 2• Amendments to layout of units fronting Gloucester Street• Internal alterations to location of stairs and common area at Penthouse level in Building 1• Extension of Building 2 Penthouse screens & glazing line to align with precast concrete frames below• Amendments to public amenities and associated entry from Gloucester St• Alterations to Harrington Street (eastern) and outer north facades• Amendment to Building 1 facade line to align with roof• Floor level adjustment to match footpath levels. |

| | |
|---------------------------------------|---|
| Landscaping/ Public Domain | <ul style="list-style-type: none"> • Provision of sculptural form encasing the access ramp, and provision of seating, planting and interpretation areas • Replacement of eight existing London Plane street trees along Harrington Street with three London Plane trees • Revised paving to interpret the alignment of Cambridge Place (formerly Cumberland Place) • Retention of the stone wall adjacent to the heritage stair on Harrington Street. |
| Basement | <ul style="list-style-type: none"> • Extension of approximately 94 m² on ground floor basement and 40 m² on basement levels 1 and 2 • Reconfiguration of basement storage, services and plant areas. |
| Car Parking | <ul style="list-style-type: none"> • Increase in approved number of spaces from 53 to 54. |
| Bicycle Parking | <ul style="list-style-type: none"> • Increase in approved number of spaces from 56 to 58. |
| Satisfaction of conditions | <ul style="list-style-type: none"> • Provision of amended plans showing a plenum on levels 2, 3, 4 and 5, as required by Condition B2(a) • Provision of amended plans showing retention of high and exceptional fabric in the Baker's Terrace, as required by Condition B2(b) • Amendments to environmental performance conditions. |



3. Strategic Context

3.1 Greater Sydney Region Plan

The Greater Sydney Region Plan (GSRP) supports a 40-year vision for a metropolis of three cities that would rebalance growth and deliver its benefits more equally and equitably to residents across Greater Sydney. The site is located in the Eastern Harbour City and more broadly encompassed within the Eastern Economic Corridor.

The modification is consistent with the GSRP as it would ensure the development can continue to:

- provide residential units in a highly accessible area, in accordance with Objective 10 – Greater Housing Supply
- promote Sydney’s heritage by upgrading an existing State heritage listed building, in accordance with Objective 13 – Environmental heritage is identified, conserved and enhanced
- provide construction and operational jobs in a connected and highly accessible area, in accordance with Objective 18 – Harbour CBD is stronger and more competitive
- provide adequate tree canopy cover, in accordance with Objective 30 – Urban tree canopy cover is increased
- provide well connected and accessible open space, in accordance with Objective 31 – Public open space is accessible, protected and enhanced.

3.2 Eastern City District Plan

The Greater Sydney Commission’s (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local council planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney. The site is located within the Eastern City District.

The modification supports the directions and objectives of the District Plan as it would ensure the development can continue to:

- provide housing with access to jobs and public transport, in accordance with Planning Priority E5 - Providing housing supply, choice and affordability with access to jobs, services and public transport
- promote Sydney’s heritage by upgrading an existing heritage listed building, in accordance with Planning Priority E6 – Creating and renewing great places and local centres, and respecting the District’s heritage
- provide for job opportunities in a connected and highly accessible area, in accordance with Planning Priority E7 – Growing a stronger and more competitive harbour central business district
- provide adequate tree canopy cover, in accordance with Planning Priority E17 – Increasing urban tree canopy cover and delivering Green Grid connections.



4. Statutory Context

4.1 Scope of Modifications

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(2) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(2) of the EP&A Act is in **Table 3**.

Table 3 | Consideration of section 4.55(2) of the EP&A Act

| Section 4.55(2) | Assessment |
|---|--|
| That the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified. | The Department considers the approved use, being a mixed-use development comprising residential, commercial and retail floorspace, would not be significantly altered. The capacity of the building and its operational aspects would remain largely unchanged. Therefore, the Department is satisfied the development is substantially the same development for which consent was originally granted. |
| That consultation has occurred with the relevant Minister, public authority or approval body and an objection has not been received. | The development does not require consultation with any other Minister, public authority or approval body. Notwithstanding, the Department has consulted the relevant government agencies and Council in relation to the modification application (refer to Section 5 of this report). |
| The application has been notified in accordance with the regulations. | The application has been notified in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> (refer to Section 5 of this report). |
| Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations. | The Department has considered the submissions received during the exhibition period (refer to Sections 5 and 6 of this report). |
| Consideration of section 4.15(1) of the EP&A Act as are of relevance to the development application and the reasons given by the consent authority for the grant of the consent that is sought to be modified. | The Department has assessed the relevant matters for consideration under section 4.15(1) of the EP&A Act. Refer to Section 6.1 of this report. |

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(2) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(2) of the EP&A Act.

4.2 Environmental Planning Instruments

The following Environmental Planning Instruments (EPIs) apply to the site:

- Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)
- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft Remediation of Land State Environmental Planning Policy (draft SEPP Remediation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)
- Draft Environment State Environmental Planning Policy (draft SEPP Environment)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65).
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP).
- Other Plans and Policies:
 - Sydney Harbour Foreshores and Waterways Area DCP 2005.

4.3 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act.

Although the Minister for Planning is the consent authority, under the Minister’s delegation dated 11 October 2017, the Director, Key Sites Assessments, may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of an objection.

4.4 Objects under the Act

The Minister or delegate must consider the objects of the EP&A act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.



5. Engagement

5.1 Department's Engagement

In accordance with clause 10 of Schedule 1 to the EP&A Act and clause 118 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), the Department exhibited the application from Thursday 24 January 2019 until Friday 8 February 2019. The application was made publicly available on the Department's website and at NSW Service Centres, and exhibited at Council.

The Department placed a public exhibition notice in the Sydney Central Courier on Wednesday 23 January 2019 and notified adjoining landholders, Council and relevant government agencies in writing.

All notification and public participation statutory obligations have been satisfied.

The Department has considered the comments raised in Council, government agencies and public submissions during the assessment of the applications (**Section 6** and **Appendix B**) and by recommended conditions in the consent at **Appendix E**.

5.2 Summary of Submissions

The Department received seven submissions on the proposal, comprising a submission making comments from Council and six submissions making comments from government agencies. One public objection was received raising concerns about view loss, however this was later withdrawn.

A link to all submissions is provided at **Appendix A**.

5.3 Key Issues - Government Agencies

The Department received six submissions from government agencies, all of which provided comments. The key issues raised are summarised in **Table 4** below.

Table 4 | Government agency submissions

Office of Environment and Heritage – Heritage Division (OEH Heritage)

OEH Heritage raised no objection and provided the following comments:

- the changes to the Baker's Terrace are internal and will retain more significant fabric than the original proposal, with the exception that the division of significant spaces is not desirable and ideally whole rooms/spaces should be used for providing amenities
- the works to Buildings 1 and 2 would not generate any further negative heritage impact than the original proposal
- the proposed landscape works between the Baker's Terrace and Building 2 are supported. Consideration should be given to how this interpretation is conveyed as part of the interpretation strategy
- the potential archaeological impacts are not addressed and an archaeological assessment must be provided prior to the commencement of works
- conditions recommended on the original scheme remain relevant, requiring wet areas to be reversible and the requirement for the Department to approve an Interpretation Plan.

Transport for NSW (TfNSW)

TfNSW raised no objection and provided the following comments:

- the conditions in the approved development requiring a Construction Pedestrian and Traffic Management Plan and the management of loading and unloading during construction remain applicable, and

documentation required to satisfy these conditions should reflect the proposed modification.

Roads and Maritime Services – Roads Division (RMS Roads)

RMS Roads raised no objection to the proposal as it is unlikely to have a significant impact on the classified road network.

Sydney Living Museums (formerly the Historic Houses Trust NSW)

Sydney Living Museums made no comments in relation to the development.

Office of Environment and Heritage (OEH Environment)

OEH Environment did not object to the application, but recommended further information be provided to the Department to determine the application would not increase the impact on biodiversity values.

Ausgrid

Ausgrid made no comments in relation to the development.

5.4 Key Issues – Council

Council key issues

Council did not object to the modification and provided the following comments:

- the provision of increased car parking should not be at the expense of providing the required bicycle parking provision
- the inclusion of additional louvres to the roof would be a further detracting element of the roof design
- confirmation should be provided that the proposed amended units can be naturally cross ventilated.

5.5 Response to Submissions

Following exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

On 12 April 2019, the Applicant provided a Response to Submissions (RtS) on the comments raised during the exhibition of the proposal. In conjunction with the RtS report, the Applicant also provided additional details to clarify and justify the proposed amendments to design, biodiversity, residential amenity, heritage and bicycle parking.

The RtS was made publicly available on the Department's website and no submissions were received.



6. Assessment

6.1 Section 4.15(1) Matters for consideration

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 5** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification. The table represents a summary for which additional information and consideration is provided for in **Section 6** and relevant appendices or other sections of this report, referenced in the table.

Table 5 | Consideration of section 4.15(1) of the EP&A Act

| Section 4.15(1) Matters for consideration | Department's assessment |
|--|--|
| (a)(i) any environmental planning instrument | The modified proposal complies with the relevant legislation as addressed in Section 4.2 and Appendix C of this report. |
| (a)(ii) any proposed instrument | The modified proposal complies with the relevant legislation as addressed in Section 4.2 and Appendix C of this report. |
| (a)(iii) any development control plan | Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD. |
| (a)(iiia) any planning agreement | Not applicable. |
| (a)(iv) the regulations | The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 12) and fees (Part 15, Division 1AA). |
| (b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality | The Department considers the development would not have adverse impacts on these matters (refer to Section 6 of this report). |
| (c) the suitability of the site for the development | The site is suitable for the development as addressed in Sections 4 and 6 of this report. |
| (d) any submissions | The Department has considered the submissions received during the exhibition period (refer to Sections 5 and 6 of this report). |
| (e) the public interest | The Department considers the modified proposal to be in the public interest as it would provide for the adaptive re-use of a State-listed heritage item and improvements to the public domain. |

The Department has considered the Applicant's modification application, the issues raised in submissions and the RtS in its assessment of the modified proposal. The Department considers the key issues associated with the proposal to be urban design, public domain, heritage and residential amenity. Other potential impacts are considered in **Section 6.6**.

6.2 Urban design

The approved development includes the construction of two new buildings, Building 1 fronting Harrington Street and Gloucester Street, and Building 2 fronting Harrington Street, and adaptive re-use works to the Baker's Terrace.

In its assessment of the approved development, the IPC stated the overall architectural design of Buildings 1 and 2, including proposed surface materials and articulation responded well and was sympathetic to the existing heritage characteristics of the immediate area surrounding the site.

This modification proposes amendments to several aspects of the development's design, including the roof, façade design, and basement. These are considered below.

With the exception of Council's comments on the proposed roof alterations, no concerns were raised by government agencies in relation to urban design. OEH Heritage stated the works to Buildings 1 and 2 would not generate any further negative heritage impact than the original proposal, and the proposal would not have an adverse impact on The Rocks Conservation Area.

6.2.1 Roof alterations

The Applicant proposes an additional louvred opening to the western side of the roof of Building 1 to provide ventilation for plant (see **Figures 6 and 7**). The portion of the roof proposed to be converted to louvres has an area of approximately 70 m².

Council stated the building is highly visible from a number of vantage points around the city and the additional louvres on the western side of the roof would be a further detracting element of the roof design, which is itself not in keeping with the character of the area. OEH Heritage stated the works to Building 1 would not generate any further negative heritage impact than the original proposal.

In its assessment of the approved development the IPC considered the roof element was acceptable in form and materials.

The Department considers the proposed amendments to the roof are acceptable because:

- the materials and design of the louvres would be consistent with the existing louvres in the approved roof, including the use of bronze coloured/aged copper
- the proposed louvres would be consistent with the form of the roof and openings on the eastern and southern sides
- there would be minimal view into the plant from surrounding vantage points.

6.2.2 Façade alterations

The Applicant proposes alterations to the Harrington Street retail facades (ground floor level) to simplify the design and improve functionality associated with the internal floor layout. This includes introducing fixed glazed shopfronts and new automated swing door entries, and integrating columns within the retail tenancies rather than within the facade wall.

Amendments to the layout of units fronting Gloucester Street aim to improve the interface of the living area with the stairs. Façade alterations to Buildings 1 and 2 generally, consisting of minor modifications to the locations and dimensions of windows, would provide greater design amenity to living rooms and encapsulate columns inserted for structural adequacy.

OEH stated the works to Buildings 1 and 2 would not generate any further negative heritage impact than the original proposal. Council did not raise any concerns in relation to the proposed façade alterations.

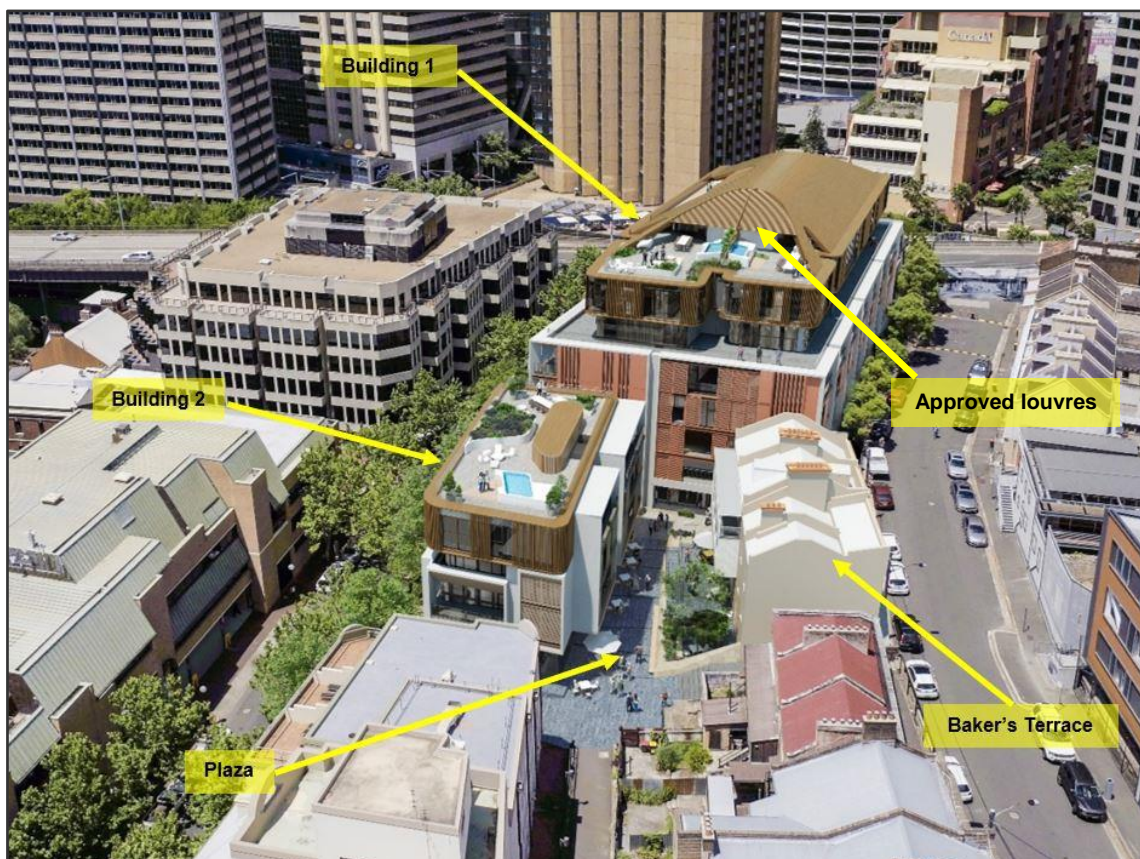


Figure 6 | Approved development photomontage showing roof looking south (Source: SSD 7037)

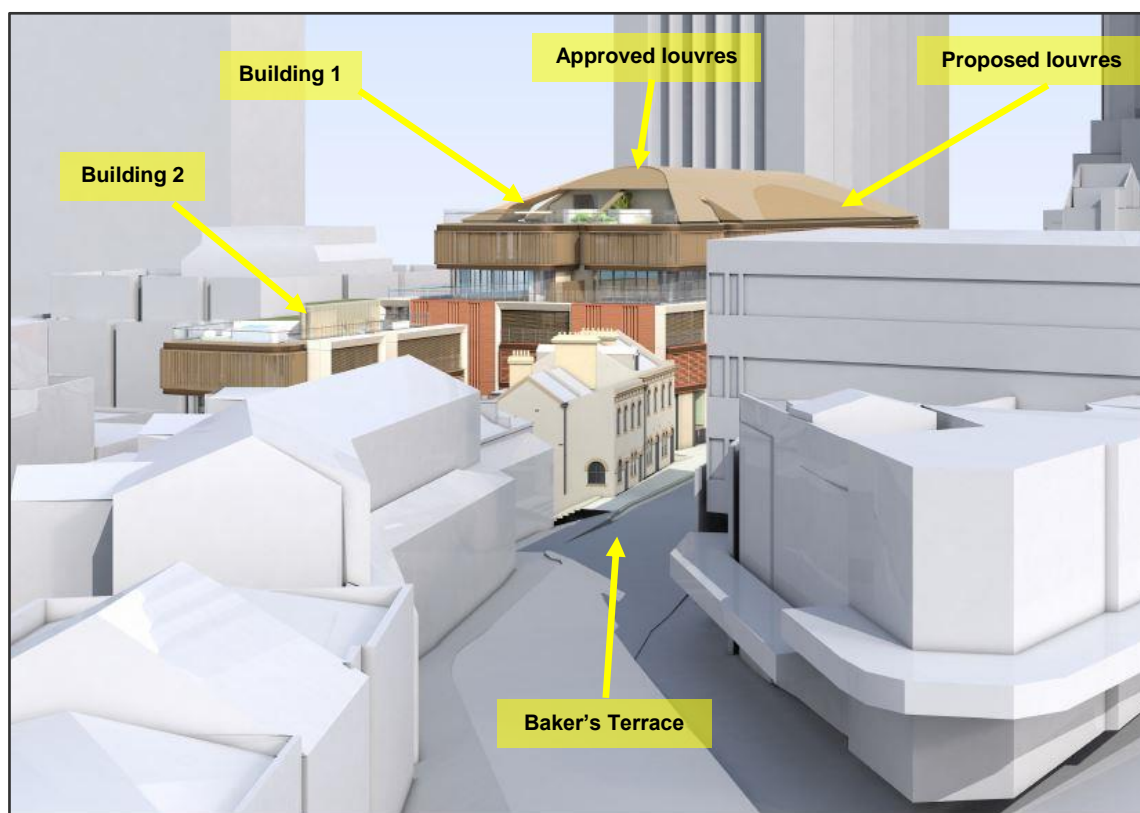


Figure 7 | Proposed development photomontage showing roof looking south-east (Source: SSD 7037)

The Department considers these amendments acceptable because:

- they will provide greater residential amenity, without changing the overall form or scale of the façade presentation, including cohesion with the heritage landscape
- they would provide improved functionality for retail spaces
- there would not be any significant changes to overlooking
- they would not alter the design quality of the development
- there would be no adverse impact on The Rocks Conservation Area.

6.3 Public domain

The approved development includes a new landscaped public plaza, amended through-site link and new public lift, and removal of one street tree on Harrington Street (to be replaced with two new street trees).

In its assessment of the approved development, the Department concluded there would be significant public domain benefits, including improvements to pedestrian connectivity.

The Applicant proposes to remove street trees and amend landscaping in the public domain. The Applicant states the proposed amendments result from design development and further understanding of the levels on site, and aim to provide more integrated equitable access to the basement, courtyard and laneway areas.

6.3.1 Tree replacement

The modification proposes the removal of an additional eight London Plane street trees along Harrington Street (**Figure 8**), and their replacement with an additional three London Plane trees. The proposed tree removal is consistent with Place Management NSW's 'Tree Masterplan – The Rocks and Circular Quay', which identifies this area as overcrowded with Plane Trees and in need of being reduced to improve the canopy and growth of the remaining trees.



Figure 8 | London Plane Trees (on left of image) proposed for removal (Source: Applicant's RtS)

Council raised no concerns with the proposed tree removal. OEH Environment recommended further information be provided to the Department to determine the application would not increase the impact on biodiversity values. The Applicant provided an ecological assessment with its RtS, which states the modification will not increase the impact on biodiversity values.

The Department considers the removal of these trees would not increase the impact of the development on biodiversity values, as they are exotic, of low abundance and biodiversity quality, located in a highly modified area, not consistent with any remnant vegetation community and would not contain significant foraging resources or habitat connectivity for threatened fauna species.

The Department considers the removal of these eight trees (and their replacement with three new trees) is acceptable because:

- the reduction in the number of trees is consistent with this Masterplan, in that it would improve canopy spacing, which would reduce overcrowding and therefore facilitate growth
- it would improve sightlines to the surrounding heritage conservation area and streetscape
- they would be replaced by three new healthier advanced trees with improved subsoil and tree root conditions, which will also result in less impacts upon the new paving
- the development would continue to provide an adequate quality of landscaping.

6.3.2 Other public domain works

The Applicant proposes to provide a new sculptural form encasing the approved access ramp, and provision of interpretation areas and additional planting areas in the courtyard to the rear of the Baker's Terrace (see comparison with approved in **Figures 9** and **10**).

The Applicant proposes the straightening of the steps in the through-site link, to appear as though carved into the sandstone escarpment, and provision of terraced seating and planted areas (see comparison with approved in **Figures 11** and **12**). The Applicant also proposes revised paving to interpret the alignment of Cambridge Place (formerly Cumberland Place) and the retention of the stone wall adjacent to the heritage stair on Harrington Street. These changes have arisen as a result of further design development and understanding of the level changes in this area.

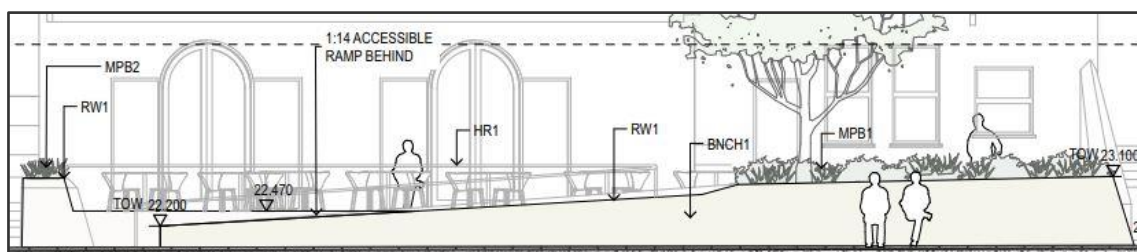


Figure 9 | Approved Cambridge Place (Source: SSD 7037 RtS)

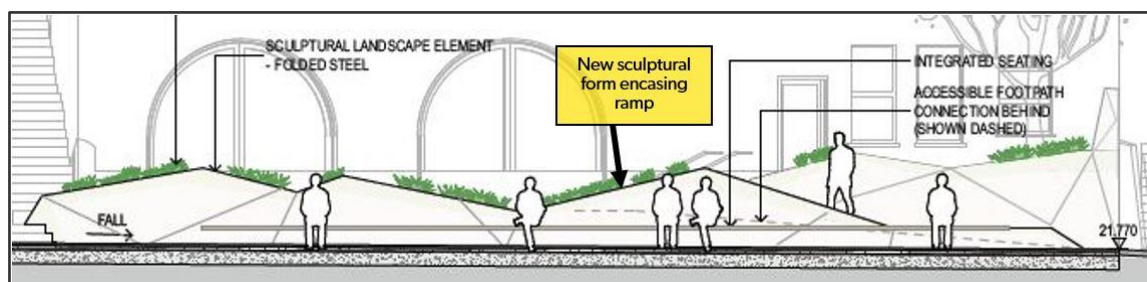


Figure 10 | Proposed Cambridge Place (Source: SSD 7037 RtS)



Figure 11 | Approved pedestrian link viewed from Harrington Street (Source: SSD 7037 RtS)



Figure 12 | Proposed pedestrian link viewed from Harrington Street (Source: SSD 7037 MOD 2)

OEH Heritage supported the amendments and stated a condition should be included requiring submission of a Heritage Interpretation Plan. The Department agrees and recommends a new condition requiring the submission of a Heritage Interpretation Plan to the Planning Secretary for approval prior to the issue of a Construction Certificate.

The Department agrees with OEH Heritage and considers the amendments acceptable because:

- the retention of the Harrington Street stone wall is a positive conservation action
- they interpret the heritage of The Rocks in a contemporary way and would provide for greater consistency with the surrounding public domain and heritage interpretation
- they would enhance the positive benefits of the approved public domain works
- they would not block views to the Baker's Terraces, impact on significant values or other fabric.

6.4 Heritage

The approved development included works to the State heritage listed Baker's Terrace. The four original terrace dwellings date from 1875 to 1882 and were amalgamated horizontally in the 1970s to create a commercial tenancy on each floor across all four terraces. Further significant internal work occurred in the 1990s.

In its assessment of the original application, the Department considered the works would not have an adverse impact on the Baker's Terrace. The IPC did not raise concerns with this conclusion.

The Applicant proposes the following amendments to the Baker's Terrace:

- relocation of internal elements on ground and first floor levels, including internal stairs, dining room and bathrooms
- raising of the internal floor level to better align with window height
- retention of all internal structural walls of high or exceptional significance and removal of an internal brick wall to utilise the original layout, in accordance with Condition B2(b)
- conversion of the northern Baker's Terrace unit from a 2-bed to a 3-bed unit.

The Applicant also proposes to correct an error relating to the Baker's Terrace doors fronting Cumberland Place. These were incorrectly shown as being modified in the approved drawings, however it was intended these would be retained as per the existing openings. This is now reflected in the current modification drawings.

The Applicant states the requirements for design changes have resulted from input from Place Management NSW heritage specialists on detailed internal configuration and layout planning.

OEH Heritage stated the works would have a positive impact on the Baker's Terrace, as the changes are internal and would retain more significant fabric than the original proposal.

6.4.1 Relocation of internal elements

The Applicant proposes to split a room containing an approved ensuite and bathroom into an ensuite and walk-in wardrobe. This is a consequence of the change in the location of the internal stair and would not result in a loss of bathrooms. OEH Heritage stated the division of significant spaces is not desirable and that ideally whole rooms should be used for providing amenities.

The Department acknowledges the unusual configuration resulting from the amalgamation of the previously commercial terraces, and considers sufficient effort has been made to retain whole spaces where possible, whilst still providing residential accommodation of a suitable standard. The Department also notes this room was previously split into two bathrooms and therefore was already approved for division. Further, noting the remainder of the amendments and that the proposed amendments would maintain more significant fabric than the approved development, the Department considers the proposed amendment acceptable.

6.4.2 Raising of internal floor levels

The front façade of the Baker's Terrace is presented to the street to match the windows aesthetically across the entire terrace, however the windows are not at the same internal height due to differences in floor levels. The Applicant proposes to raise the floor level internally through the provision of two steps and a floor frame on top of the existing structure to the front two bedrooms of the northern terraces.

The Department considers the raising of the internal floor level would be a positive improvement for the amenity of future occupiers. The Department agrees with OEH Heritage that these changes would have a minor impact, would be reversible (if required) and would therefore not impact on the significant heritage values of the terraces.

6.4.3 Retention of structural walls

Condition B2(b) requires the Applicant to submit a drawing for the Secretary's approval showing a revised Level 1 Floor Plan. This plan must detail the retention of all other fabric (basement walls) that have been assigned a significance grading of 'High' and 'Exceptional' in the basement of the Bakers Terraces as indicated in the Bakers Terrace Conservation Management Plan (CMP).

The Applicant has submitted a plan that identifies one of the basement walls shown in the CMP as being of exceptional significance for removal. The Applicant states it obtained further information (in the form of a floor plan) following the completion of the CMP that shows this wall was demolished and therefore the current wall is not original and is not of heritage significance.

The Department has reviewed the Applicant's information and considers that with the exception of this wall, the information submitted in the floor plan is consistent with the CMP for the basement level. Therefore, the Department considers the removal of this wall is acceptable as it is not of heritage significance. The Department therefore considers it appropriate to delete Condition B2(b).

6.5 Residential amenity

The Applicant proposes to alter the dwelling mix and the layout of some units, including the conversion of 2 x 1-bed units to 2 x 2-bed units in Building 2 and 1 x 2-bed to a 3-bed unit in the Baker's Terrace. No new units are proposed to be created.

The Baker's Terrace does not constitute an apartment building under the provisions of SEPP 65. However, the Department gave consideration to SEPP 65 in its assessment of the approved development as it included two new dwellings within the Baker's Terrace.

In its assessment of the approved development, the Department considered the buildings satisfy the intent of the ADG and are acceptable in terms of residential amenity. This conclusion was supported by the IPC.

The Applicant has submitted an updated design verification statement stating the modifications are consistent with the approved design, and would be consistent with the design quality principles and objectives of the Apartment Design Guide (ADG), as required by State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65). The Applicant states where these recommendations are not achieved, the inconsistency is relatively minor.

The Department has reviewed the amended units against the requirements of SEPP 65 and the ADG. The majority of the changes meet the recommendations in these documents. The variations are discussed in the following sections. The Department notes the Planning Circular 'Using the Apartment Design Guide' emphasises the ADG is not intended to be applied as a set of strict development standards and where it is not possible to satisfy the design criteria, the consent authority is to consider how, through good design, the objective can be achieved.

6.5.1 Unit mix

The Applicant proposes to convert 2 x 1-bed units to 2 x 2-bed units in Building 2 and 1 x 2-bed to a 3-bed unit in the Baker's Terrace.

The Department considers that despite the proposed unit conversions (see **Table 6**), the development would maintain an appropriate range of apartment types and size. The Department did not raise concerns regarding the unit mix in its assessment of the approved development, and the proposed amendments would not significantly alter this mix.

Table 6 | Proposed apartment mix

| Approved Development | Proposed Development |
|--|--|
| <ul style="list-style-type: none">58 residential apartments, including:<ul style="list-style-type: none">18 one-bedroom apartments (31%)24 two-bedroom apartments (41.4%)16 three-bedroom apartments (27.6%) | <ul style="list-style-type: none">58 residential apartments, including:<ul style="list-style-type: none">16 one-bedroom apartments (27.6%)25 two-bedroom apartments (43.1%)17 three-bedroom apartments (29.3%) |

6.5.2 Unit size

One of the proposed 2-bed units would fail to meet the 70 m² minimum apartment size by 1 m². The Department considers this minor inconsistency with the ADG recommendation is acceptable because:

- the Applicant has provided indicative furniture layouts to demonstrate functionality
- the unit is otherwise consistent with the ADG except for the under provision of 1 m² of POS, which is considered acceptable for the reasons specified below.

6.5.3 Private open space

The following inconsistencies with the ADG private open space recommendations would result from the proposed amendments:

- 3 x 1-bed units being 1 m² under the recommended 8 m²
- 2 x 2-bed units being 1 m² under the recommended 10 m²
- 2 x 3-bed units being 1 m² under the recommended 12 m²

The Department considers these minor inconsistencies with the ADG acceptable for the following reasons:

- the approved development provides 123 m² of communal open space on the top storey of Building 1 incorporating internal and external areas and views of the Sydney Opera House, Harbour Bridge and Sydney Harbour, to be shared between the residents of both proposed buildings and the Baker's Terrace
- the new plaza at ground level provides 485 m² of public open space, including a new through-site link which includes seating and landscaping
- both the communal and public open space will each receive more than two hours solar access in midwinter (between 9 am and 3 pm)
- the site is located within close proximity to high amenity public places and spaces within and around The Rocks which further supports the proposed level of on-site communal open space
- the units would continue to exceed the minimum apartment sizes, with the exception of the previously discussed shortfall of 1 m² by one of the 2-bed units.

6.5.4 Cross ventilation

Council requested confirmation the two proposed 2-bedroom units were consistent with cross ventilation requirements in the ADG. The Applicant has confirmed the units are compliant. The Department considers the units are compliant and therefore raises no concerns.

The Department considers the amended plans provided in accordance with Condition B2(a) showing a plenum on levels 2, 3, 4 and 5 meet the requirements of this condition, and therefore proposes to delete this condition.

6.6 Other Issues

The Department's consideration of other issues is provided at **Table 7**.

Table 7 | Summary of other issues raised

| Issue | Findings | Recommended Conditions |
|-------------------------|--|--|
| Archaeology | <ul style="list-style-type: none">• OEH Heritage stated the potential archaeological impacts have not been addressed and an archaeological assessment must be provided prior to the commencement of works.• This is consistent with the advice provided by OEH Heritage on the original application, and was incorporated in the existing conditions of consent.• The Department therefore considers no further action is necessary.• OEH Heritage also stated the conditions it recommended on the original scheme requiring wet areas to be reversible and for the Department to approve an Interpretation Plan remain relevant. The Department considers the imposition of new conditions will ensure these matters are adequately addressed. | <p>Prior to the issue of the relevant Construction Certificate:</p> <ul style="list-style-type: none">• demonstration to the satisfaction of the certifier that wet areas are reversible• submission of an Interpretation Plan for the Planning Secretary's approval. |
| Traffic and car parking | <ul style="list-style-type: none">• The approved development includes a condition requiring the submission of plans showing 53 car parking spaces, based on car parking rates in SLEP 2012.• Given the proposed conversion of 2 x 1-bed units to 2 x 2-bed units (increase of 0.4 spaces per unit), 54.1 spaces would be required under SLEP 2012.• The conversion of 1 x 2-bed unit to a 3-bed unit in the Baker's Terrace does not require the provision of additional car parking spaces, as one space was required for this unit in the approved development. This is equivalent to the rate required for a 3-bed unit.• The Applicant has submitted drawings showing 54 car parking spaces.• The Department raises no concerns as this is consistent with the rate applied to the original development and would not have an adverse impact on the surrounding road network.• No concerns were raised in relation car parking by TfNSW, RMS or Council.• The Department proposes to amend | <ul style="list-style-type: none">• Amend Condition B29 to increase the required number of car parking spaces from 53 to 54 and delete Condition B2(c) requiring the submission of drawings indicating a maximum of 53 car parking spaces. |

conditions to reflect the amendments.

| | | |
|---|---|---|
| Bicycle parking | <ul style="list-style-type: none"> • Bicycle parking is required at the rate of one space per unit under SDCP 2012. • Council stated 58 bicycle parking spaces should be provided for the 58 residential units. • The Applicant has confirmed 58 bicycle parking spaces will be provided within the individual storage space for each unit, consistent with SDCP 2012 requirements. | <ul style="list-style-type: none"> • Amend Condition B30 to reflect the required number of bicycle parking spaces (58). |
| Ecologically Sustainable Development | <ul style="list-style-type: none"> • Conditions B40 – 43 relate to the installation of water efficient fixtures and fittings in non-residential uses. • The Applicant has inserted the requirements of Conditions B40 – 43 in an updated Ecologically Sustainable Development (ESD) report, and consequently proposes to delete these conditions. • However, the report does not refer to these requirements being reviewed prior to issue of a Construction Certificate, which is a requirement of the conditions. Instead, the Applicant proposes to rely on a reference to compliance with the ESD Report in Condition E19, which requires a certifier to review the details prior to the issue of an Occupation Certificate. • The Department does not support this amendment, as it considers this should be addressed prior to construction, and can reasonably be met. This would allow for any issues identified to be addressed prior to installation of the water saving measures. • Further, the Department proposes to update Conditions B27 and E19 to refer to the latest ESD report, to ensure these works are checked prior to issue of a Construction Certificate. • The Department does not consider any other amendments to the existing conditions are necessary. | <ul style="list-style-type: none"> • Amend Conditions B27 and E19 to refer to the updated ESD report, and Conditions B21 and E11 to refer to the updated BASIX Certificates. |



7. *Evaluation*

The Department has reviewed the proposed modification and assessed the merits of the application, taking into consideration advice from Council and government agencies. All environmental issues associated with the modified proposal have been suitably addressed.

The Department considers the approved mixed-use development would not be significantly altered, with key elements such as use, building height and form to remain unchanged. The proposed amendments would retain more heritage fabric than the original proposal and would improve the public domain. The amendments would not reduce the quality of design or residential amenity of the approved development.

The Department is satisfied the development is substantially the same development for which consent was originally granted and is in the public interest. It would provide a range of benefits for the region and the State as a whole, including the adaptive re-use of a State-listed heritage item and improvements to the public domain.

The Department concludes the modification should be approved, subject to the recommended conditions.



8. Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application (SSD 7037 MOD 2) falls within the scope of section 4.55(2) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent SSD 7037
- **signs** the attached approval of the modification (**Attachment E**).

Recommended by:

Karl Fetterplace

Senior Planning Officer

Key Sites Assessments

Recommended by:

Cameron Sargent

Team Leader

Key Sites Assessments



9. Determination

The recommendation is **adopted/not adopted** by:

David McNamara

Director

Key Sites Assessments



Appendices

Appendix A – List of Documents

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
<https://www.planningportal.nsw.gov.au/major-projects/project/12216>
2. Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/12216>
3. Applicant's Response to Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/12216>

Appendix B – Community views for Draft Notice of Decision

| Issue | Consideration |
|---|---|
| <p>Urban design</p> <ul style="list-style-type: none"> The inclusion of additional louvres to the roof would be a further detracting element of the roof design. | <p>In its assessment of the approved development the IPC considered the roof element was acceptable with regard to form and materials.</p> <p>The roof form would not be altered by the proposed amendments. The materials and design of the additional louvres would be consistent with the existing louvres in the approved roof.</p> <p>No amendments to conditions are proposed, noting there is an existing condition requiring the submission of the final schedule of materials to the Planning Secretary prior to the issue of the relevant Construction Certificate.</p> |
| <p>Residential amenity</p> <ul style="list-style-type: none"> Confirmation should be provided that the proposed amended units can be naturally cross ventilated. | <p>The Applicant has confirmed the units can be naturally cross-ventilated and the Department raises no objection.</p> <p>No amendments to conditions are proposed.</p> |
| <p>Bicycle parking</p> <ul style="list-style-type: none"> The provision of increased car parking should not be at the expense of providing the required bicycle parking provision. | <p>The Applicant has confirmed 58 bicycle parking spaces will be provided in the individual storage areas for each unit. This represents one space per unit and is consistent with SDCP 2012 requirements.</p> <p>The Department proposes to amend Condition B30 to increase the required number of bicycle parking spaces from 56 to 58.</p> |

Appendix C – Consideration of Environmental Planning Instruments/Statutory Considerations

EPIs considered as part of the assessment of the modification application are:

- Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)
- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft Remediation of Land State Environmental Planning Policy (draft SEPP Remediation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)
- Draft Environment State Environmental Planning Policy (draft SEPP Environment)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP).
- Other Plans and Policies:
 - Sydney Harbour Foreshores and Waterways Area DCP 2005.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP aims to identify development that is of State significance due to its size, economic value or potential impact. The original development was deemed State significant development in accordance with clause 6 of Schedule 2 of the SRD SEPP, being development on land within the Rocks Site with a CIV in excess of \$10 million, and that did not comply with the Sydney Cove Redevelopment Authority Scheme (SCRA Scheme).

Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)

The site is located within Site XXXV-A under the provisions of the SCRA Scheme, which permits 'Commercial' and 'Residential' land uses on the site. The modification application does not involve a change of use and therefore the Department is satisfied the modified proposal is consistent with the aims and objectives of the SCRA Scheme.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant government agencies about certain development during the assessment process.

The proposal was referred to RMS and Transport for NSW (TfNSW) for comment and their comments are summarised in **Section 5** of this report. RMS raised no objection to the modification as it is unlikely to have a significant impact on the classified road network. Neither agency raised concerns regarding the ISEPP. The Department proposes to retain the conditions of consent relevant to managing the construction traffic and loading impacts, as requested by TfNSW.

The Department therefore considers the proposal to be consistent with the ISEPP.

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

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose for the proposed development.

The Department considered the potential contamination issues in the assessment of the original application and concluded the approved development was consistent with the relevant provisions of SEPP 55 and as such, the site was suitable for the proposed use. As the proposal does not involve a change of use, the Department is satisfied the modified proposal would not raise any additional issues with regards to contamination.

Draft Remediation of Land State Environmental Planning Policy (draft SEPP Remediation)

The Explanation of Intended Effect for a new Remediation of Land SEPP was exhibited until 13 April 2018. The draft Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works.

As the proposed works are not expected to result in any contamination issues, the Department considers the modification application would be consistent with the intended effect of the Remediation of Land SEPP.

State Environmental Planning Policy (Building Sustainability Index) 2004 (BASIX SEPP)

The BASIX SEPP, which commenced on 1 July 2004, aims to ensure consistency in the implementation of the BASIX scheme throughout the State by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

The Building Sustainability Index (BASIX) aims to deliver equitable, effective water and greenhouse gas reductions across the state. BASIX applies to all residential dwelling types and is part of the development application process in NSW.

The Department raises no concerns as the modification is supported by an amended BASIX Certificate assessment for each building demonstrating the requirements of the SEPP are satisfied.

State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65)

The Applicant proposes to alter the dwelling mix and the layout of some units. No new units are proposed to be created.

The Department has reviewed the amended units against SEPP 65 and the recommendations in the ADG. The majority of the changes meet these recommendations. The variations are discussed in **Section 6.5** and are considered acceptable.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)

The SHC SREP provides planning principles for development within the Sydney Harbour catchment, within which the site is located.

The Department considered the approved development was consistent with the relevant planning principles of SREP (Sydney Harbour Catchment) 2005 and does not consider the proposed amendments would affect this consistency.

Draft State Environmental Planning Policy (draft SEPP Environment)

The Explanation of Intended Effect for the Environment SEPP was exhibited until 31 January 2018. The Environment SEPP proposes to simplify the planning rules for the protection and management of the natural environment by consolidating seven existing SEPPs, including the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The relevant matters for consideration and the general provisions relating to Sydney Harbour are proposed to remain in accordance with those in the current SEPP and therefore the proposed modification would be consistent with the intended effect of the Environment SEPP.

The Sydney Harbour Foreshores and Waterway Area DCP 2005 DCP is proposed to be transitioned into one or more guidelines that would cover the current content and provide updated guidance to consent authorities based on design principles and landscape character, however these guidelines are not currently in draft form.

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

The Sydney Harbour Foreshore and Waterways Area Development Control Plan (the DCP) complements SREP 2005 and provides more detailed design parameters for development within the foreshore area of Sydney Harbour.

The Department considered the approved development was consistent with the relevant controls of this DCP and does not consider the proposed amendments would affect this consistency.

State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)

The Coastal SEPP consolidates and replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The Coastal Management SEPP gives effect to the objectives of the *Coastal Management Act 2016* (NSW) from a land use planning perspective. It defines four coastal management areas and provides assessment criteria tailored for each coastal management area. The consent authority must apply those criteria when assessing proposals for development that fall within one or more of the mapped areas.

The Coastal SEPP identifies the site as being located within the Coastal environment area and Coastal use area. Land within these areas are subject to clause 13 and 14, however as the site is located on land within the Foreshores and Waterways Area of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, clauses 13 and 14 of the Coastal SEPP do not apply.

Appendix D – Consolidated Consent

The Consolidated Consent can be found on the Department of Planning and Environment's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/project/12216>

Appendix E – Notice of Modification

The Notice of Modification can be found on the Department of Planning and Environment's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/project/12216>