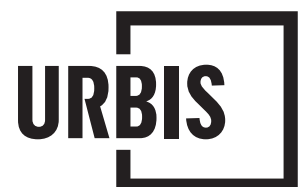




VOLUME 1 SECTION 96(2) MODIFICATION

WANDA SYDNEY PROJECT STAGE 1 SSD

PREPARED ON BEHALF OF
WANDA GROUP
OCTOBER 2016



URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Director	Tim Blythe
Senior Consultant	Ashleigh Ryan
Consultant	Jocelyn McDowall
Project Code	Stage 1 S96
Report Number	Final

TABLE OF CONTENTS

Executive Summary	i
1. Introduction	1
1.1. Overview	1
1.2. The Site	1
1.3. Background	2
1.4. Planning Framework	2
2. Competitive Design Alternatives Process	3
3. Proposed Modification	4
3.1. Overview	4
3.2. Numeric Overview of Proposed Changes	5
3.3. Amendments to the Conditions of Consent	6
3.4. Drawing References	7
4. Section 96(2) Assessment	8
4.1. Substantially the Same Development	8
4.2. Concurrent Approvals	9
4.2.1. Airports Act 1996 (Commonwealth)	9
4.2.2. Heritage Act 1977 (NSW)	9
4.2.3. Water Management Act 2000 (NSW)	10
4.3. Notification and Submissions	10
5. Strategic Planning Context	11
6. Key Planning Considerations	12
6.1. Distribution of Built Form and Floor Space	12
6.1.1. Design Excellence Process	12
6.1.2. Floor Space Ratio	12
6.2. Setbacks and Building Separation	13
6.3. Shadow Impacts	15
6.4. Visual and View Impacts	15
6.5. Residential Amenity	17
6.6. Wind Impact	17
6.7. Heritage	18
6.8. Construction	18
6.9. Environmental Risk Assessment	18
7. Section 79C Assessment	19
7.1. Environmental Planning Instruments	19
7.1.1. State Environmental Planning Policies (SEPPs)	19
7.1.2. Sydney Local Environmental Plan 2012	21
7.1.3. Draft Sydney Local Environmental Plan	22
7.2. Sydney Development Control Plan 2012	22
7.3. Voluntary Planning Agreement (VPA)	23
7.1. Regulations	23
7.2. Likely Impacts of the Development	23
7.3. Suitability of the site	23
7.4. Submissions	24
7.5. Public Interest	24
8. Conclusion	25
Disclaimer	28

Appendix A	Instrument of Section 23 Delegation
Appendix B	Instrument of Determination and Approved Plans
Appendix C	Copy of Application to CASA For Intrusion Into Prescribed Airspace
Appendix D	Heritage Impact Statement
Appendix E	Wind Assessment
Appendix F	Design Integrity Statement

FIGURES:

Figure 1 – Proposed building envelopes – Site plan (Source: Crone)	4
Figure 2 – Massing form comparison (Source: Crone)	5
Figure 3 – Building form evolution (Source: Crone)	12
Figure 4 – View of proposed building envelopes from Harbour Bridge, looking south (Source: Crone)	14
Figure 5 – Negligible view impacts from Marriott Hotel (Source: Crone)	16
Figure 6 – Minor view impacts from 200 George Street (Source: Crone)	16
Figure 7 – Minor view impacts from Lend Lease Circular Quay Tower (Source: Crone)	17

PICTURES:

Picture 1 – Massing envelope changes proposed, NE View	5
Picture 2 – Massing envelope changes proposed, SW view	5
Picture 3 – View from Marriott Hotel RL 70	16
Picture 4 – View from 200 George Street RL 90	16
Picture 5 – View from 200 George Street RL 60	16
Picture 6 – View from LLCQT RL 90	17
Picture 7 – View from LLCQT RL 120	17

TABLES:

Table 1 – Summary of concurrent applications	1
Table 2 – Site Description	1
Table 3 – Numeric Overview of Approved and Proposed Development	5
Table 4 – Conditions of Consent	6
Table 5 – Drawing reference of the proposed changes	7
Table 6 – Consideration of the proposed modification against relevant strategic plans	11
Table 8 – Floor Space Area Summary	13
Table 6 – Assessment of the proposed modifications against relevant SEPPs	19

EXECUTIVE SUMMARY

PROPOSED MODIFICATION

This application seeks consent for modifications to approved building envelopes and conditions of consent issued for a Stage 1 State Significant Development (SSD) Development Application (DA) relating to the redevelopment of 1 Alfred Street, 19-31 Pitt Street, and 31A Pitt Street, Sydney (the site).

On the 10 December 2015 the Central Sydney Planning Committee (CSPC) granted deferred commencement consent to D/2015/1049 for:

“State Significant Development – Stage 1 application for building envelopes and proposes uses for two mixed use buildings (Tower A and Tower B) above six levels of basement car park”

Pursuant to Condition 10 of this Stage 1 SSD DA, a Competitive Design Alternatives Process was undertaken for the design of Tower B, the public domain, and integrated basement across the site in accordance with the Design Excellence Strategy and the Competitive Design Alternatives Process Brief prepared as endorsed by Council on 22 March 2016.

The Selection Panel recommended that the scheme presented by Kengo Kuma and Associates (KKA) and Crone was capable of achieving design excellence and is to be retained by the proponent. The winning scheme did however introduce some non-compliances with certain aspects of the approved Stage 1 building envelope including northern boundary setbacks and setbacks to Tower A.

As such, this application seeks to make the following modifications to the Stage 1 SSD DA that support a concurrent detailed development application for Tower B:

- Condition 1 – It is proposed to make changes to the wording of this condition to accurately reflect the content of the draft VPA and relocate this condition into Part B of the consent.
- Condition 2 – It is proposed to change the approved building envelopes including:

Tower B

- Shifting the tower 5.1m to the north;
- Increasing tower setback to the southern boundary to 9m;
- Reducing podium massing at Pitt Street;
- Realigning the podium form to reflect the geometry of the winning scheme;

Tower A

- Making minor revisions to the building envelope to capture proposed awnings; and
- Provide an additional 100mm on the underside of the cantilever tower.
- Condition 5 – Revise this condition to introduce a small amount of flexibility for future design development of the pixel façade.
- Condition 9 – Remove condition due to the provision of additional communal facilities within Tower A (subject to a separate application).

PLANNING ASSESSMENT

- **The proposal satisfies the applicable local and state planning controls** – The proposal has been demonstrated to achieve a high level of compliance with the objective of the relevant planning controls. Where variations are proposed, the report demonstrates that the objectives and intent of the numeric provisions have been met and compliance is therefore achieved.
- **The proposal will offer a high standard of amenity** – The proposed development is capable of providing future residents and guests with a high standard of internal and external amenity. The

proposed envelopes are capable of achieving the design quality outcomes sought from SEPP 65 and the Apartment Design Guide (ADG). The building envelopes are representative of the winning schemes of competitive design processes held across the site and allow for the achievement of design excellence within the development.

- **The proposal has limited potential impacts** – The proposed modifications to the approved building envelopes are minor in nature; however do offer environmental benefits to the site and surrounding development, including maintenance of Pitt Street tower setbacks, increasing southern setbacks, minor impacts to the view corridors between Tower A and Tower B, and provision of generous public domain areas at ground level.
- **The proposal is in the public interest** – The proposal will make a positive contribution to Circular Quay and the Sydney CBD, by providing an appropriate mix of land uses, including high-end residential and a world class hotel, that are commensurate with Sydney's global status, and notably the prestigious character at Circular Quay.
- **The proposal is substantially the same development** – The consideration of the “substantially the same development” test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme is substantially the same as that originally approved.

RECOMMENDATION

In summary the proposed concept plan, as modified, is considered to be substantially the same development as was approved under the original Stage 1 SSD DA (D/2015/1049), as amended.

As demonstrated within this report and the attached documentation, the modified concept is considered to be acceptable under the relevant considerations of Section 79C of the EP&A Act and the proposed modifications to the building envelopes result in a better planning outcome for the site. It is therefore recommended that approval be granted to the proposed modifications.

1. INTRODUCTION

1.1. OVERVIEW

This Report has been prepared by Urbis on behalf of the Wanda Group (Wanda) to accompany an application under Section 96(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify D/2015/1049, as amended.

The purpose of this modification to the Stage 1 State Significant Development (SSD) Development Application (DA) is to make amendments to the approved building envelopes across the site to reflect the proposed Kengo Kuma and Associates (KKA) and Crone winning design for Tower B, make minor changes to the building envelope of Tower A, and make housekeeping amendments to other conditions of consent.

This application is lodged concurrently with a Stage 2 SSD DA for the detailed design of Tower B, integrated basement and public domain, a Section 96 application to the detailed design of Tower A (D/2015/882), and a separate Stage 2 SSD DA for the demolition of structures on site, as outlined in Table 1 below.

Table 1 – Summary of concurrent applications

Application	Summary of Proposal
Stage 1 SSD DA Section 96(2)	Minor envelope amendments to reflect design changes made as a result of the Competitive Design Alternatives Process.
Tower B (Hotel) Stage 2 SSD DA	Detailed consent for demolition of basement structures, and construction of an integrated basement, Tower B, and public domain works associated with Tower B.
Demolition Stage 2 SSD DA	Detailed consent for demolition of all structures on site (to ground level slab only) to facilitate the timely delivery of development.
Tower A (Mixed Use) Amending DA Section 96	Detailed consent for Tower A including additional two storeys, minor internal amendments, inclusion of a communal pool area, and public domain works associated with Tower A (to be consistent with the Tower B public domain approval).

This application is supported by various technical reports provided within the Appendices of this report (A-F), and a **Volume of Plans** which is provided under a separate cover.

1.2. THE SITE

This modification application applies to the 1 Alfred Street, 19-31 Pitt Street, and 31A Pitt Street, Sydney (the site). Following the determination of the Stage 1 SSD DA applying to the site, a plan of consolidation was lodged with the NSW LPI to consolidate the former four allotments of the site. Since the finalisation of this plan, the site is now legally described as Lot 8 in Deposited Plan (DP) 1224258. The four former allotments that comprised the site area are outlined in Table 2 below, and any reference to those allotments are now to be read as Lot 8 in DP 1224258.

Table 2 – Site description

Site	Site Address	Former Legal Description	Site Area
'Goldfields House'	1 Alfred Street, Sydney	Lot 1 DP217877 & Lot 1 DP220830	2,686sqm
'Fairfax House'	19-31 Pitt Street, Sydney	Lot 1 DP537286	916.5sqm
'The Rugby Club' and Rugby Lane reserve	31A Pitt Street, Sydney	Lot 180 DP606866	437.5sqm

Site	Site Address	Former Legal Description	Site Area
		Total Site Area	4,040sqm

1.3. BACKGROUND

As the delegated consent authority, the Central Sydney Planning Committee (CSPC) granted deferred commencement development consent on 10 December 2015 for:

“State Significant Development – Stage 1 application for building envelopes and proposes uses for two mixed use buildings (Tower A and Tower B) above six levels of basement car park”.

This consent was subsequently amended by a separate Section 96 modification application, approved by the CSPC on 11 August 2016, for amendments to the maximum height of Tower A to RL 200 (194m).

For the purpose of referencing the different towers proposed and previously approved across this site, the approved development to date comprises:

- Tower A – mixed use building, including residential apartments and retail space with a maximum allowable height of RL200 on the western side of the site; and
- Tower B – world class hotel, with ground floor active uses and underground basement for both tower A and B, with a maximum allowable height of RL112.5 on the eastern side of the site.

The CPSC granted approval for the detailed design of Tower A within D/2015/882, specifically for:

“Stage 2 development application for the construction of a new mixed use building (Tower A) of 57 storeys, including residential apartments, retail space and landscaping improvements”.

This detailed DA (D/2015/882) amended the previously approved consent relating to the site (D/2010/2029) by marginally expanding the Tower A footprint and excising Tower B and the basement from the development consent. Kerry Hill Architects (KHA) who were named the winning scheme by the design jury of a competitive process undertaken to inform the original DA across the site (D/2010/2029) have been retained to continue as the lead design architect for the development of Tower A.

1.4. PLANNING FRAMEWORK

As the proposed hotel (i.e. tourist related purpose) component of the Stage 1 SSD DA exceeds \$100 million capital investment value (CIV), the development is defined as SSD under clause 13.2 of Schedule 1 of *State Environmental Planning Policy (State and Regional Development) 2011* (SEPP SRD). As such, the Minister is the consent authority for development application(s) for the project pursuant to Section 89D(1) of the EP&A Act.

Notwithstanding the above, a request was made to the Minister of Planning and the Secretary of the Department of Planning and Environment on 5 June 2015 pursuant to Section 23 of the EP&A Act to provide for the delegation of:

- The consent authority function for SSD on the site to the CSPC; and
- The development application functions for SSD applications on the site to the City of Sydney Council.

The instruments of Section 23 Delegation of the consent authority function for the application was issued by the Minister for Planning on 4 August 2015 and by the Secretary of the Department of Planning and Environment on 10 August 2015 (refer **Appendix A**). As such, this Section 96(2) modification application to the Stage 1 SSD DA is lodged for assessment and determination by the City of Sydney and CSPC respectively.

As the development is classified as SSD under the SEPP SRD, the development is not classified as ‘Integrated Development’ as outlined in Section 89J and Section 91 of the EP&A Act 1979.

2. COMPETITIVE DESIGN ALTERNATIVES PROCESS

A Competitive Design Alternatives Process was completed for Tower B in early 2016 in accordance with Condition 10 of the Stage 1 SSD consent (D/2015/1049). The competitive process was undertaken in accordance with the Design Excellence Strategy for the site and the Competitive Design Alternatives Process Brief prepared by Urbis and endorsed by Council on 22 March 2016.

The purpose of the Competitive Design Alternatives Process was to select a high quality architectural, urban design and landscape design solution for the development of Tower B. Competitors were required to prepare three components to enable the redevelopment of the site, including:

- Detailed design of Tower B for a world class hotel and ground floor active uses;
- Design for the public domain surrounding Tower B, integrated with the previous approved public domain (D/2010/2029 and D/2015/882) surrounding Tower A at 1 Alfred Street; and
- Design for an integrated basement servicing both Tower A and Tower B across the whole site within the envelope approved in the Stage 1 SSD DA (D/2015/1049).

The Competitive Design Alternatives Process involved six competitors, including three international competitors, comprising:

- BVN;
- Woods Bagot;
- PTW Architects;
- Kerry Hill Architects;
- Atelier Jean Nouvel; and
- Kengo Kuma and Associates and Crone

The Selection Panel assessed each competition scheme against the Competitive Design Alternatives Brief to select the highest quality architectural and urban design approach for the development. Following a thorough assessment of each scheme, the Selection Panel concluded that one scheme presented the most successful response to the Competitive Design Alternatives Brief and was declared the winner of the Competitive Design Alternatives Process.

The Selection Panel recommended that the scheme presented by Kengo Kuma and Associates (KKA) and Crone as capable of achieving design excellence and to be retained by the proponent. Key aspects of the winning scheme included a 'pixel' façade and building massing, high quality integration with the public domain, an iconic building form, and maximisation of building outlook. Each of these matters has been addressed by the applicant and the Lead Design Architect in preparation of the lodgement of this application and the concurrent relevant Stage 2 SSD DA.

3. PROPOSED MODIFICATION

3.1. OVERVIEW

This application proposed to amend the approved Stage 1 SSD DA that applies to the site (D/2015/1049, as amended) in the following ways:

- Condition 1 – It is proposed to make changes to the wording of this condition to accurately reflect the content of the draft VPA and relocate this condition into Part B of the consent.
- Condition 2 – It is proposed to change the approved building envelopes by:

Tower B

- Shifting the tower 5.1m to the north;
- Increasing tower setback to the southern boundary to 9m;
- Reducing podium massing at Pitt Street;
- Realigning the podium form to reflect the geometry of the winning scheme;

Tower A

- Making minor revisions to the building envelope to capture proposed awnings; and
- Provide an additional 100mm on the underside of the cantilever tower.
- Condition 5 – Revise this condition to introduce a small amount of flexibility for future design development of the pixel façade.
- Condition 9 – Remove condition due to the provision of additional communal facilities within Tower A (subject to a separate application).

The proposed modifications to the building envelopes are illustrated in the figures below.

Figure 1 – Proposed building envelopes – Site plan (Source: Crone)

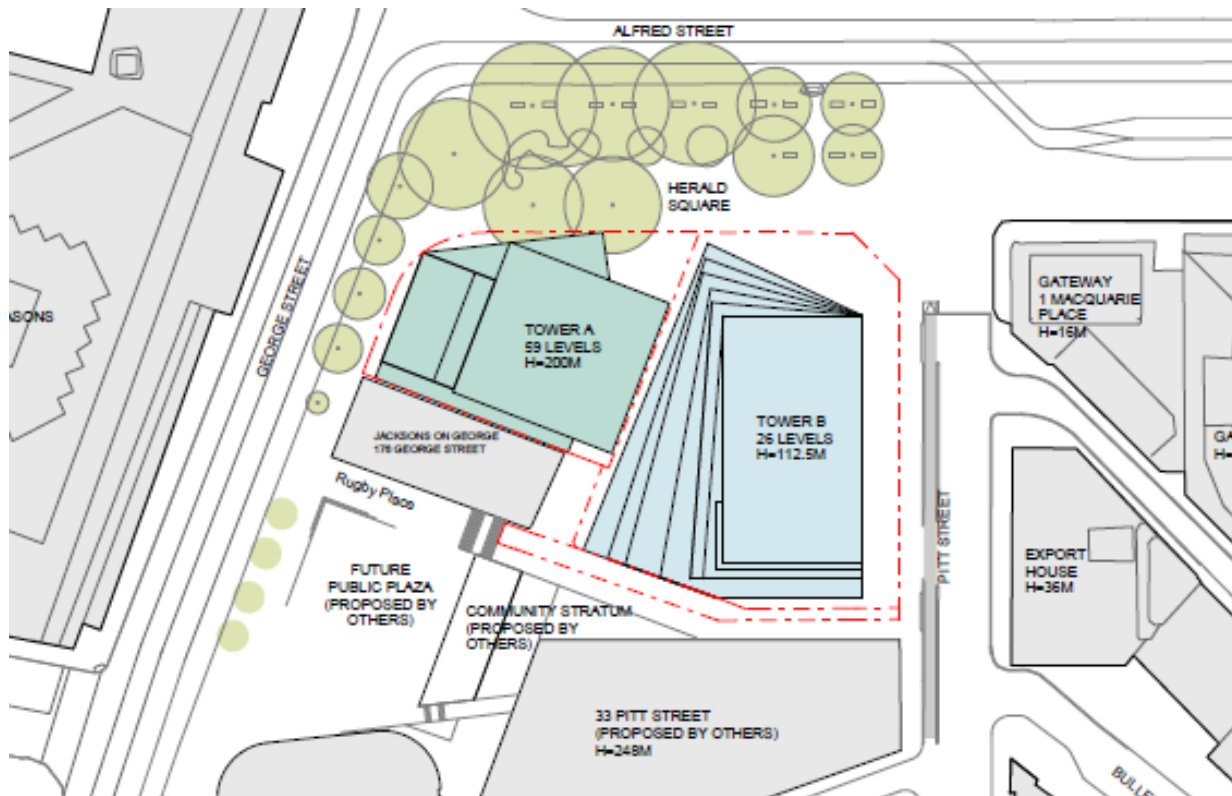
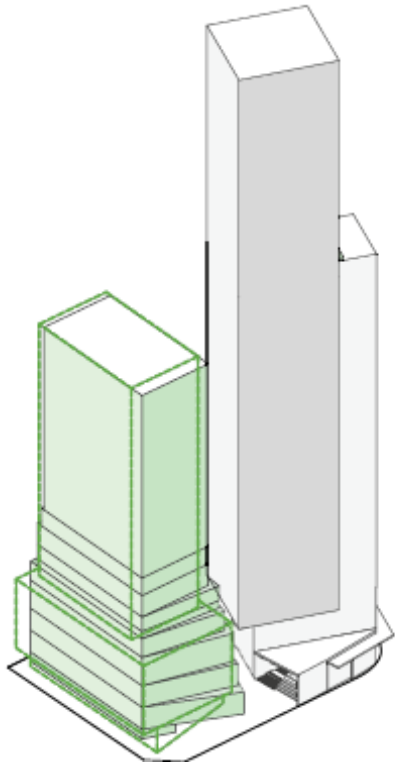
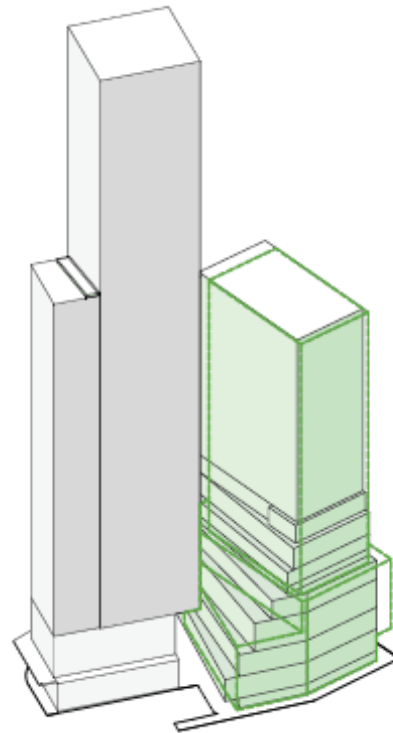


Figure 2 – Massing form comparison (Source: Crone)



Picture 1 – Massing envelope changes proposed, NE View



Picture 2 – Massing envelope changes proposed, SW view

3.2. NUMERIC OVERVIEW OF PROPOSED CHANGES

A summary of the key numeric descriptors of the approved and proposed modified development is provided at Table 3 below.

Table 3 – Numeric overview of approved and proposed development

	Previously Approved Indicative Scheme		Proposed		Change	
	Tower A	Tower B	Tower A	Tower B	Tower A	Tower B
Building Height	194 metres RL 200	110 metres RL 112.5	194 metres RL 200	110 metres RL 112.5	NIL	NIL
Number of Storeys	61	27	61	28	NIL	+1
Number of Hotel Keys and Units	190	179	190	182	NIL	+3
Gross Floor Area (GFA)						
<i>GFA Residential</i>	36,467sqm	N/A	38,178sqm	N/A	+1,711sqm	N/A
<i>GFA Retail</i>	473sqm	475sqm	422sqm	336sqm	-51sqm	-139sqm
<i>GFA Hotel</i>	N/A	20,494sqm	N/A	18,783sqm	N/A	-1,711sqm
GFA Total	57,909sqm		57,719sqm		-190sqm	

3.3. AMENDMENTS TO THE CONDITIONS OF CONSENT

The following conditions of consent will be required to be amended by the modification:

Table 4 – Conditions of consent

Condition	Reason for Amendment
Part A – Deferred Commencement Conditions	
1. Voluntary Planning Agreement	<p>It is proposed to amend subsections (b) and (c) within Condition 1 to reflect the agreed contents of the VPA, specifically:</p> <p>(b) The payment of the monetary contribution must be provided to Council in accordance with the VPA;</p> <p>(c) The guarantee must be provided to Council in accordance with the VPA as executed at the time of execution; and</p> <p>Specifically no monetary contribution is being provided to the Council under the VPA, and further the details of the VPA state that guarantees are to be provided prior to construction certificates being issued, rather than at execution of the VPA. Whilst the intention of this condition is not to be inconsistent with the VPA, minor wording changes are requested to avoid misunderstanding in the future.</p> <p>Further, due to the wording of subsection (d) and its implications of the capability of Council to determine any subsequent Stage 2 DAs relating to the site, it is further proposed to amend this condition to be located within Part B – Conditions of Consent within the development consent.</p>
Part B – Conditions of Consent	
2. Approved Development	It is proposed to amend the approved plans in accordance with the Architectural Plans at Volume of Plans and as outlined in the following section.
5. Stage 2 to be contained within approved envelope	<p>To avoid the need for unnecessary Section 96 applications to this development consent, it is proposed to introduce the following small degree of flexibility to this consent, which is consistent with other major development within Central Sydney, specifically to:</p> <p><i>The detailed Stage 2 design for Tower A and Tower B, including services, must be contained within the building footprint and envelope approved as part of this consent and comply with relevant planning controls. Any projection beyond the building envelope must be fully justified through the competitive design and Stage 2 Development Application.</i></p>
9. Communal Facilities and Common Open Space	As the concurrent Section 96(2) application to D/2015/882 seeks to introduce an additional pool and communal facilities within Tower A for residents of that tower, it is proposed to remove this condition. As outlined within the concurrent Section 96 application to D/2015/882, the revised residential amenities will provide ample opportunities for passive and active recreation on the site for the future residents of Tower A.

3.4. DRAWING REFERENCES

To assist in explaining the changes to the development, Table 5 below provides an overview of building envelope plans sought to be approved as part of this modification application.

Table 5 – Drawing reference of the proposed changes

Drawing Number	Architect	Date
S9601/A Massing Envelope Site Plan	Crone	28.10.16
S9602/A Massing Envelope Basement 4-6	Crone	28.10.16
S9603/A Massing Envelope Basement 3	Crone	28.10.16
S9604/A Massing Envelope Basement 2	Crone	28.10.16
S9605/A Massing Envelope Basement 1	Crone	28.10.16
S9606/A Massing Envelope Tower A LG	Crone	28.10.16
S9607/A Massing Envelope Ground	Crone	28.10.16
S9608/A Massing Envelope Level GM	Crone	28.10.16
S9609/A Massing Envelope Level 1-2	Crone	28.10.16
S9610 Massing Envelope Level 3-3M	Crone	28.10.16
S9611/A Massing Envelope Level 4	Crone	28.10.16
S9612/A Massing Envelope Level 5	Crone	28.10.16
S9613/A Massing Envelope Level 6	Crone	28.10.16
S9614/A Massing Envelope Level 7-8	Crone	28.10.16
S9615/A Massing Envelope Level 9-10	Crone	28.10.16
S9616/A Massing Envelope Level 11-26	Crone	28.10.16
S9617/A Massing Envelope Tower A L27-38	Crone	28.10.16
S9618/A Massing Envelope Tower A L39	Crone	28.10.16
S9619/A Massing Envelope Tower A L40-59	Crone	28.10.16
S9620/A Massing Envelope Roof Plan	Crone	28.10.16
S9650/A Massing Envelope North Elevation	Crone	28.10.16
S9651/A Massing Envelope West Elevation	Crone	28.10.16
S9652/A Massing Envelope South Elevation	Crone	28.10.16
S9653/A Massing Envelope East Elevation	Crone	28.10.16

4. SECTION 96(2) ASSESSMENT

This application is made pursuant to Section 96(2) of the EP&A Act, which relevantly states:

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

*(a) it is satisfied 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 (if at all), and*

*(b) it has **consulted with the relevant Minister, public authority or approval body** (within the meaning of Division 5) 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, and*

*(c) it has **notified the application** in accordance with:*

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

*(d) it has **considered any submissions** made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be”.*

4.1. SUBSTANTIALLY THE SAME DEVELOPMENT

The NSW Land and Environment Court has established several precedents as to what may be considered as being “substantially the same development”, and what should be factored into the consideration of this threshold test.

The consideration of this test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme should be “essentially or materially” the same as that originally approved.

The proposed modifications to the Tower A building envelope are negligible and reflect only detailed design development including the illustration of canopies and awnings and a 100mm extension to the underside of the white tower form. These changes proposed to the building envelope clearly represent substantially the same development as that approved.

The proposed modifications to the Tower B building envelope reflect the building design of the winning competition scheme that was undertaken for the site. The winning scheme introduced some non-compliance to the building envelope by proposing to shift the tower to the north, resulting in increased separation between the tower and the adjacent property to the south however also marginally reducing the building separation to Tower A. The scheme also makes modifications to the basement and lower level geometry of the building which requires projections to the building envelope at north and western elevation. These changes to the proposed geometry however still represent substantially the same development as that approved as:

- The total gross floor area proposed to be provided within the tower envelope is commensurate with that originally approved.
- The proposed land uses within the tower are the same as that originally approved.
- The proposed envelope maintains the maximum building height of that originally approved.
- The proposal increases setbacks to adjacent properties and Pitt Street.

- The proposal results in negligible environmental impacts in addition to those considered and assessed under the original application.
- The proposal does not adversely impact the environmental risk assessment that was prepared and submitted with the original application.

Further, the proposed housekeeping amendments to conditions are minor and make negligible impact on the overall built form and development proposed. As such, the development as proposed to be amended can be considered substantially the same as that originally approved.

4.2. CONCURRENT APPROVALS

The Stage 1 SSD DA was not classified as Integrated Development pursuant to Section 89J of the EP&A Act. Despite this exemption from the integrated development approvals, in addition to the EP&A Act, the following acts were considered relevant to the development and warranted concurrence:

- Airports Act 1996 (Commonwealth);
 - Referral to Sydney Airport Corporation Limited (SACL)
- *Heritage Act 1977*; and
 - Referral to NSW Heritage Council
- *Water Management Act 2000*.
 - Referral to Sydney Water Corporation

An assessment of the proposed modifications and the consistency with each of these Acts is outlined in the following sections. In addition to these Acts, the Stage 1 SSD DA was referred to the following public authorities external to the City of Sydney throughout the assessment of the application:

- NSW EPA
- Ausgrid
- NSW Office of Environment and Heritage
- NSW Department of Primary Industries
- Transport for NSW
- Sydney Trains
- Sydney Water Corporation
- Sydney Airports
- Sydney Harbour Foreshore Authority
- NSW Department of Planning and Environment

4.2.1. Airports Act 1996 (Commonwealth)

The construction of the approved development on site would result in a penetration of Sydney Airport's Limitation or Operations Surface. The changes proposed as part of this Section 96(2) modification application do not however impact the Sydney Airport's Limitation or Operations Surface that was previously considered as part of D/2051/1049, as amended. For the purpose of clarity, an application to the Sydney Airport Corporation Ltd confirming that no change is sought is provided at **Appendix C**.

4.2.2. Heritage Act 1977 (NSW)

The Stage 1 SSD DA does not constitute Integrated Development pursuant to Section 89J of the EP&A Act 1979 however approval under the *Heritage Act 1977* would otherwise be required for a development application lodged on the site pursuant to Section 91A(2) of the EP&A Act 1979.

The state heritage listed Tank Stream runs underground, parallel and adjacent to, the eastern boundary of the site. The location of the Tank Stream varies between 110mm and 175mm from the boundary and is

located approximately 1 metre from the existing basement level wall, however the site is effected by the 3m exclusion zone of the Tank Stream. The proposed basement building envelope is located within this zone.

The location of the basement envelope has been designed to reflect the existing basement walls, however the proximity of future excavations to the heritage listed Tank Stream will be detailed when selecting suitable excavation methods as outlined in detail within the Stage 2 SSD DA for the construction of Tower B and the basement lodged concurrently with this application.

The proposed amendments to the building envelopes will have a negligible impact on other heritage items located in proximity of the site as outlined within the Heritage Impact Statement at **Appendix D**.

4.2.3. Water Management Act 2000 (NSW)

The Stage 1 SSD DA does not constitute Integrated Development pursuant to Section 89J of the EP&A Act 1979. Consultation with the NSW Office of Water was nonetheless undertaken during the preparation of D/2015/1049, as approval under the *Water Management Act 2000* would otherwise be required for a DA lodged on the site pursuant to Section 91A(2) of the EP&A Act 1979.

The proposed amendments to the subsurface building envelopes are minor and are proposed as a reflection of the existing basement walls. As such, we do not anticipate that any changes to the Sydney Water Conditions issued as part of D/2015/1049 will be required to be amended as a result of the proposal. Detailed consideration of the proposal against the *Water Management Act 2000* is undertaken as part of the relevant Stage 2 SSD DA for the site.

4.3. NOTIFICATION AND SUBMISSIONS

We acknowledge that notification of the proposed amendment is required. The City of Sydney will need to undertake this in accordance with Schedule 1 of the Sydney Development Control Plan 2012. Once notified, any submissions received in respect of the notification will need to be considered in the assessment of the proposal by the City of Sydney.

5. STRATEGIC PLANNING CONTEXT

The following table provides an overview of the consistency of the proposed modifications with the relevant strategic plans. As outlined below, the concept plan as proposed to be amended remains consistent with the strategic planning objectives for the site and locality.

Table 6 – Consideration of the proposed modification against relevant strategic plans

Strategy	Comment
NSW 2021 – A Plan to Make NSW Number One	The proposed modifications to the approved concept plan do not impact the consistency the proposal has the NSW 2021 State Plan.
A Plan for Growing Sydney 2031	The proposed modifications to the approved concept plan do not impact the consistency the proposal has with the various objectives and directions of the A Plan for Growing Sydney 2031.
NSW Long Term Master Transport Plan	The proposed modifications to the approved concept plan do no impact the proposal's consistency with the NSW Long Term Master Transport Plan.
Sydney's Cycling Future	The proposed modifications to the approved concept plan do no impact the proposal's consistency with Sydney's Cycling Future, notably as the proposed building envelope maintains the possibility of the City of Sydney's proposed cycle lane on Pitt Street.
Sydney's Walking Future	The proposed modifications to the approved concept plan do no impact the proposal's consistency with Sydney's Walking Future, notably as the proposal still retains significant new through-site links and improved pedestrian permeability through the site.
Sydney 2030 Strategy	The proposal maintains its consistency with the Sydney 2030 Strategy despite the proposed modifications to the building envelopes.
Sydney City Centre Access Strategy	The proposed modifications to the approved concept plan do not impact the proposal's consistency with the SCCAS, notably the proposal will not adversely impact the approved CSELR at George Street or Pitt Street cycleway.
Draft Visitor Accommodation Action Plan 2014	Despite the proposed modifications to the approved building envelopes, the proposal retains a world-class hotel on the site and maintains consistency with the Draft Visitor Accommodation Action Plan 2014.
Draft Central Sydney Planning Strategy	<p>The draft structure plans highlights the sites location on the perimeter a high density zone, the new Circular Quay square, the increased pedestrian priority along Pitt Street, and George Street, as well as a public domain spine extending along George Street.</p> <p>The site is identified by the Strategy as a known 'commercial to residential' conversion since 2012; as such the proposed controls are relatively consistent with existing controls and approved uses. The proposed development as amended will assist in promoting design excellence, establishing an integrated public domain for existing and proposed public spaces in proximity to the site and establishing the site as a place for people. The mix of hotel, retail and residential accommodation uses will assist in establishing a resilient and diverse economy for the broader city, whilst responding to the site's context.</p>

6. KEY PLANNING CONSIDERATIONS

This Section provides an assessment on the key planning considerations relevant to the development as proposed to be modified.

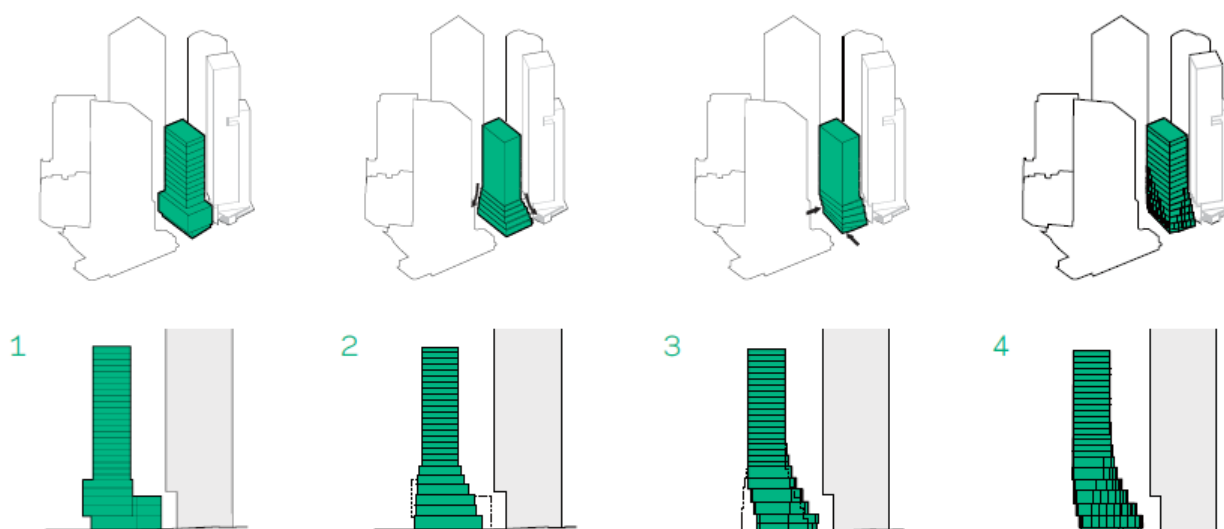
6.1. DISTRIBUTION OF BUILT FORM AND FLOOR SPACE

6.1.1. Design Excellence Process

As part of the Competitive Design Alternatives Process held for the site, competitors were required to submit building forms for Tower B that achieved the same or improved built form and public domain outcomes as the 2009 design competition and 2013 approval (D/2010/2029).

The evolution of the proposed Tower B form as described by KKA and Crone is illustrated in Figure 3 below. Three key moves were undertaken to 'massage' the previously approved building envelope to improve the built form and public domain outcome from the Stage 1 SSD DA and the previously approved development on the site. Key moves included readjusting the Wanda program, shifting the volume to provide cantilevers and zones for the various uses of the building, and adding nuance to the lower level building form to interact with the public domain and the canopy of Tower A.

Figure 3 – Building form evolution (Source: Crone)



The Selection Panel found that the KKA and Crone scheme most successfully provided a distinctive landmark development for the site, which enhances the surrounding public domain. As outlined within the Architectural Design Report within the **Volume of Plans**, the design of the Tower B building envelope has sought to match the clarity and architectural lines of Tower A at the upper levels, consistent with the previously approved tower for the site. The design of Tower B however proposes a more active and intricate ground plane through the 'pixel' concept that twists away from Tower A towards the harbour, presenting the same alignment as the adjacent tower facing key landmarks.

The proposed building envelopes being sought by this modification application are consistent with the building forms presented by the winning scheme of the Competitive Design Alternatives Process.

6.1.2. Floor Space Ratio

Based on the proposed uses across the site, the maximum potential FSR allowable on the site (located in Area 1) under SLEP 2012 is 14.287:1 (57,719sqm GFA). The proposal seeks to comply with this maximum FSR.

The maximum FSR is determined by a permitted base FSR of 8:1 for the site plus between 6:1 to 4.5:1 Accommodation floor space for the 'Hotel or Motel Accommodation', 'Retail Premises', and 'Residential Accommodation', which the site is eligible for in Area 1. A further addition of up to 10% has been allowed given each of the proposed towers across the site have been subject to a competitive design process. As

the proposal will rely on FSR above the 'base' control 8:1, the applicant will be required to purchase heritage floor space in subsequent Stage 2 development applications.

The following table sets out the proposed FSR for the site.

Table 7 – Floor space area summary

TOTAL SITE AREA (SQM)		4,040sqm	
PROPOSED AREAS			
	Proposed GFA (sqm)	FSR (:1)	Proportion GFA (%)
Base Floor Space	N/A	8	N/A
Retail/ Residential Accommodation Floor Space	38,936	4.5	67.46%
Hotel Accommodation Floor Space	18,783	6	32.54%
Total GFA Proposed	57,719.00	sqm	
Total FSR Proposed	14.29	:1	
FSR CONTROLS			
Total FSR	12.99	:1	
Total FSR incl Design Excellence	14.29	:1	
Maximum GFA for site	57,719.26	sqm	
PROPOSED DIFFERENCE	-0.26	sqm	
	-0.0001	:1	

6.2. SETBACKS AND BUILDING SEPARATION

The proposed building envelopes include changes to the approved building setbacks and building separation on the site and between adjacent properties. In summary, the proposal includes the following setbacks and building separation:

- Tower A Setbacks
 - No change to building setbacks proposed
- Tower B Setbacks
 - 6m ground level setback to Pitt Street
 - 6m upper level setback to Pitt Street
 - Approximately 10m ground level setback to Herald Square
 - Approximately 13m upper level setback to Herald Square
 - 3.6m ground level setback to southern boundary
 - 9m upper tower setback to southern boundary
- Tower Separation

- Building separation between Tower A and Tower B varies between 5.3m and 17.1m at the podium/ lower levels
- Building separation between Tower A and Tower B varies between 8.8m and 19.2m at the tower
- Approximately 6.8m ground level separation between Tower B and tower at 33-35 Pitt Street
- Approximately 12.2m tower separation between Tower B and tower at 33-35 Pitt Street

As outlined above, the proposed building envelope amendments provide improved separation between Tower B and the adjacent property to the south of the site which is proposed for a major redevelopment. This increase in building separation marginally improves view corridors and sunlight to that property (refer Section 6.4) and reduces the perception of ‘tower crowding’ from properties to the south. As outlined within Section 6.3 the proposed changes to building setbacks and separation results in a negligible impact on the amenity of public places, including the proposed new public plaza on George Street.

The proposed setbacks on Pitt Street allow for a functional porte cochère whilst maintaining a direct pedestrian footpath along Pitt Street and providing an active frontage including a hotel lobby at the north eastern corner of the site (encouraged as part of the Competitive Design Alternatives Process). The proposed setback at Alfred Street creates opportunities for outdoor dining and active frontages and is also proposed with a ground level inversion gesturing towards the Tower A angled northern façade.

The proposal does however reduce the building separation between the towers on the site from a minimum 10.4m to a minimum 8.8m (-1.6m). As outlined in the following sections, the reduction in building separation will have a negligible impact on solar access to public places and view corridors to surrounding buildings. Further, as illustrated within Figure 4 below, the proposed building envelopes retain a building separation that ensures the two towers are read as two distinct forms and does not adversely increase the perception of ‘tower crowding’.

Figure 4 – View of proposed building envelopes from Harbour Bridge, looking south (Source: Crone)



6.3. SHADOW IMPACTS

Detailed shadow analysis of winter and summer solstices has been conducted by KKA and Crone, and is included in the Architectural Design Report within the **Volume of Plans**. The analysis demonstrates that the proposed modifications result in only minor additional overshadowing on surrounding properties.

The shadow diagrams demonstrate that on the winter solstice the additional shadow caused by the increase in the building envelope at 10:00am effects the Rugby Place plaza to the south of the site to only a very minor extent. The modified building envelope does not impact the solar access at the Cove Apartments, the nearest residential building to the southwest of site. At noon and 2:00pm the increase in shadow of the proposed development will have a marginal impact on the rooftop of commercial properties to the south of the site, and a marginal impact on the Suncorp Building.

The proposed amended building envelope results in negligible additional overshadowing on the laneway at 10:00am, with a maximum of 0.001% during winter solstice, 0.04% at 10:00am in April and August, and 0.002% increase in overshadowing from 11:20am to 12:00pm, to the proposed George Street Public Plaza.

As the site is largely surrounded by commercial land uses, the minor additional shadow impacts of the proposed building envelopes will not adversely impact any sensitive receivers. Notably, the proposal does not result in any increase of overshadowing to Macquarie Place or other significant public places between the hours of 10:00am and 2:00pm during the relevant sun access control times.

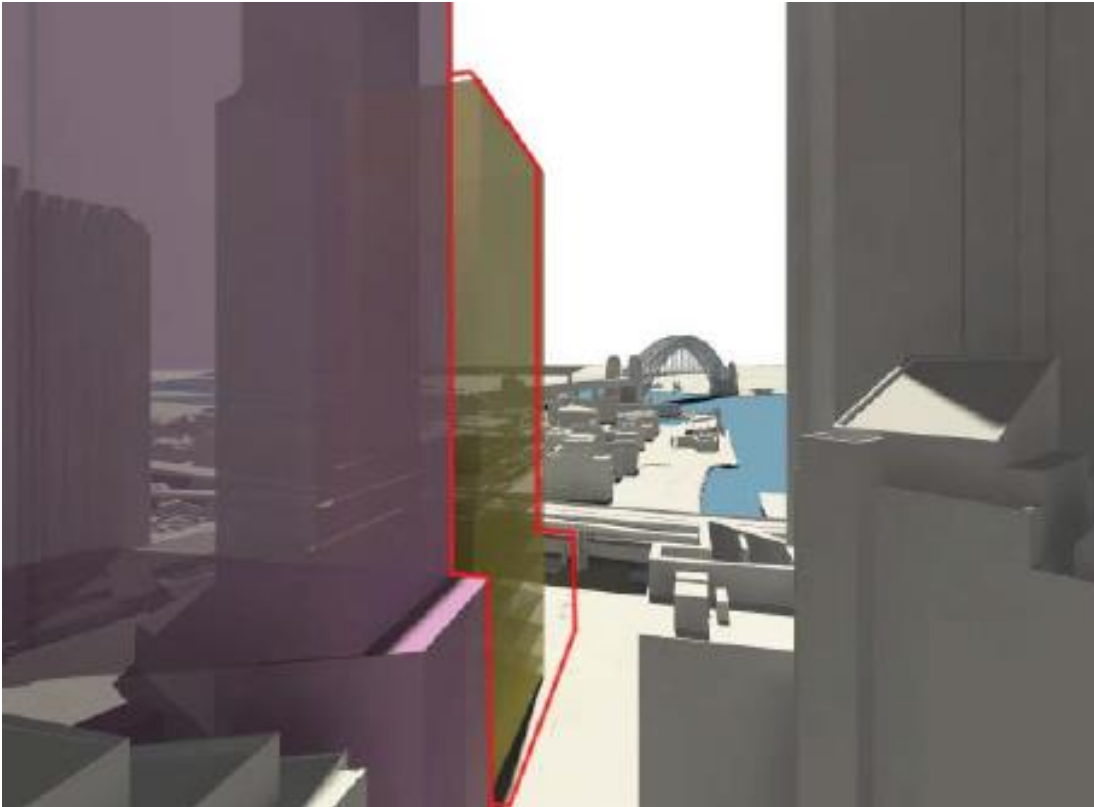
In view of the above, we conclude that the proposed amendments will not cause any unreasonable overshadowing impacts.

6.4. VISUAL AND VIEW IMPACTS

The proposed modifications to the building envelopes do not result in a significant visual or view impact to and from public places and from surrounding properties. Specifically:

- Due to the location of the proposal on Alfred Street, the proposed building envelopes have a high level of visibility from Sydney Harbour and will make a significant contribution to the Sydney skyline, notably when viewed from the north. Each tower proposed however retains its appearance as a slender form as viewed along the Sydney CBD skyline.
- The proposal will be visible from Sydney's most iconic landmarks, including the Sydney Opera House and the Sydney Harbour Bridge. The views of the proposal from the Opera House forecourt, will be seen in context of the Gateway Building, and as such will not be read as visually intrusive or dominant within the skyline. The views of the proposal from the Sydney Harbour Bridge (south) will be from a significant distance (over 700m), and as such the building envelopes will be read on the context of the wider city skyline.
- The proposal as viewed from Pitt Street looking north will be read in the context of the Lend Lease proposal at 33-35 Pitt Street and/or the existing development. Tower B is setback 6m from Pitt Street providing an opening out of views towards Sydney Harbour.
- As illustrated within the visual impact images provided below (and as expanded within the **Volume of Plans**), the proposal will not have any impact on significant view corridors from the Cove Apartments or Grosvenor Place.
- As further illustrated in the **Volume of Plans**, the proposal will have negligible impacts to view corridors from the Marriott Hotel.

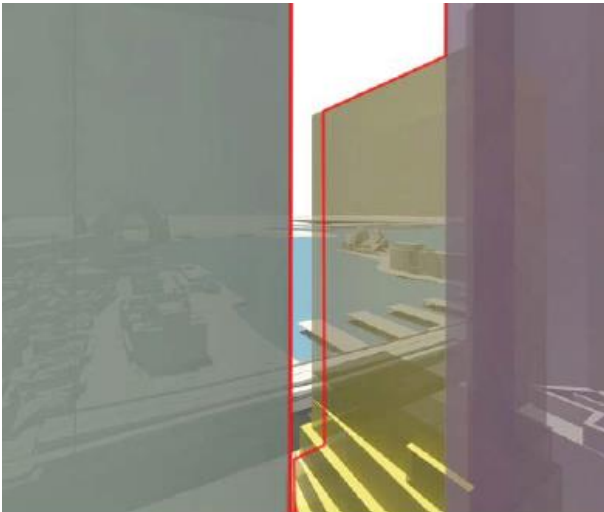
Figure 5 – Negligible view impacts from Marriott Hotel (Source: Crone)



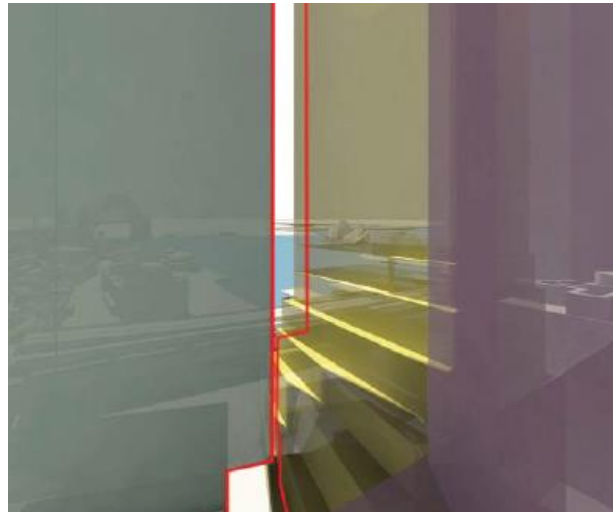
Picture 3 – View from Marriott Hotel RL 70

- Minor impacts to view corridors compared to the previously approved Stage 1 building envelopes are anticipated to the 200 George Street commercial tower, however the projections to the building envelopes are not only minor, but are also do not significantly impact iconic or significant vistas as illustrated in the figures below and the **Volume of Plans**.

Figure 6 – Minor view impacts from 200 George Street (Source: Crone)



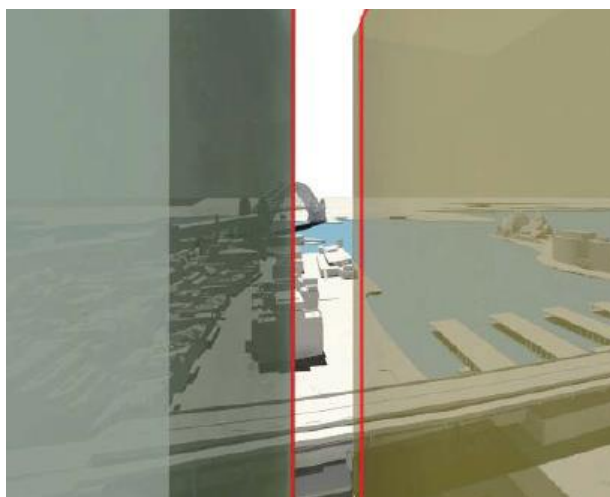
Picture 4 – View from 200 George Street RL 90



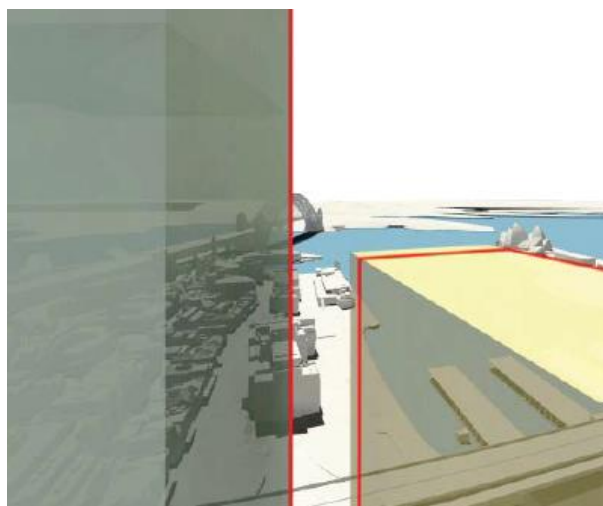
Picture 5 – View from 200 George Street RL 60

- Minor impacts to view corridors are anticipated to the proposed building envelope at the Lend Lease Circular Quay Tower site. Minor improvements to view corridors down Pitt Street are anticipated at the lower levels of the tower, whereas very minor adverse impacts are anticipated at the building separation between Tower A and Tower B.

Figure 7 – Minor view impacts from Lend Lease Circular Quay Tower (Source: Crone)



Picture 6 – View from LLCQT RL 90



Picture 7 – View from LLCQT RL 120

As detailed above, the proposed building envelopes as amended do not unduly impact upon any important public or private views. The proposed building envelope sits within the skyline as two slender forms, and is proposed as a maximum height commensurate with other visible towers at Circular Quay.

Whilst the proposal includes minor obstruction to views towards Circular Quay to neighbouring commercial buildings, this impact affects only a minor proportion of that commercial development, does not adversely impact views towards key iconic items, and is considered reasonable in the context of the public benefit created as a result of the proposal.

6.5. RESIDENTIAL AMENITY

The proposal includes a minimum building separation between Tower A and Tower B of 12m at ground level, 5.3m at the mezzanine level, and 8.8m at the tower levels. Whilst the tower separation proposed on the site is less than that recommended by the Apartment Design Guide, the internal layout and façade design of Tower B can be designed to ensure an appropriate interface between the towers. This is illustrated within the Indicative Plans prepared by Crone within the **Volume of Plans**, and as further demonstrated in the concurrent Stage 2 SSD DA for Tower B.

The proposed Tower B envelope does not adversely impact on the ability for the concurrent Tower A modification to offer a high standard of amenity that achieves the design quality outcomes sought from SEPP 65 and the Apartment Design Guide. The proposed modification maintains high amenity outcomes for residents in terms of views, privacy, solar access, natural lighting and natural ventilation. Moreover, the eastern-most residential units of Tower A have been orientated towards the north or the south to ensure that windows and views are not reliant upon the eastern frontage towards Tower B. In addition, the findings of the Wind Assessment prepared by CPP (refer to **Appendix E**); demonstrate that the reduced building separation will not result in a significant adverse impact on the amenity of residents, hotel patrons or pedestrians.

Overall it is considered that the proposed building envelope has given appropriate consideration to the amenity of residences within Tower A and any impacts to those residences can be mitigated through the Stage 2 SSD DA detailed design.

6.6. WIND IMPACT

A Wind Assessment Report has been prepared by CPP for the entire site and is included at **Appendix E**. This assessment has been informed by wind tunnel testing and uses the Lawson (1990) criteria to determine the useability of 26 locations within and surrounding both Tower A and Tower B and the proposed public domain. It is to be noted that the wind tunnel test is performed without planned trees or plantings to provide worst case assessment.

Further, this Wind Assessment Report has not sought to model the proposed Lend Lease Circular Quay Tower to the south of the site, as the final dimensions of this tower are not currently known. Providing a wind tunnel test for both proposed developments will be required by the future DA supporting the Lend Lease Circular Quay Tower.

The key findings from the CPP assessment are that:

- Due to the location of the site overlooking Circular Quay, the site is consequently exposed to prevailing winds from the north.
- Whilst the revised building envelopes will slightly redistribute winds on the site, the wind conditions anticipated by the development are similar to the existing condition.
- Most locations around the site passed the relevant distress criteria with the minor exception of a few locations exposed to the prevailing winds from the north-east.
- Locations within the northern forecourt of Tower B will require local screening to achieve a sitting criterion (currently suitable for pedestrian walking and standing).
- In the centre of the through-site link screening will be required to achieve comfortable pedestrian walking criteria (as opposed to a business walking criteria). Landscaping is proposed in this location which is likely to improve the pedestrian comfort level, and further it is expected that the inclusion of the proposed Lend Lease Circular Quay tower to the south of the site together with the open plaza at 182 George Street will provide a slight improvement of the wind conditions at this location. It is reiterated that this exposed section of the city is already windy and changing the massing on the city fringe will redistribute flows down various north-south streets.
- The wind conditions of the proposed seating area north of Tower A are identified as appropriate for pedestrian sitting.

In summary, the wind environment around the proposed building envelopes is commensurate with the existing development and despite the changes proposed to the building envelopes is generally satisfactory for the proposed pedestrian walking activities within and around the site.

6.7. HERITAGE

Due to the site's proximity to a number of heritage items, and the potential impact on archaeological relics on and adjoining the site, a Heritage Impact Statement (HIS) has been prepared by Urbis and is included at **Appendix D**. As outlined in that HIS, the proposal will not result in an adverse impact on any heritage items surrounding the site.

The proposed basement envelope does affect the 3m exclusion zone of the Tank Stream; however the location of the basement envelope has been designed to reflect the existing basement walls. The proximity of future excavations to the heritage listed Tank Stream will be detailed when selecting suitable excavation methods as outlined in detail within the Stage 2 SSD DA for the construction of Tower B and the basement lodged concurrently with this application.

6.8. CONSTRUCTION

This modification to the previously approved Stage 1 SSD DA is seeking development consent for a concept proposal only. Despite this it is noted that the proposed basement envelope has increased towards the southern and eastern site boundaries.

Whilst the actual detail of the basement construction is to be provided within the relevant Stage 2 SSD DA, based on historical information on the existing basement walls it has been determined that some works may be required to be undertaken within the new basement zone to enable appropriate construction and stability of the existing basement walls. As such, the inclusion of these areas within the basement envelopes is considered appropriate. Technical aspects of the construction of the basement walls and structural stability of surrounding buildings and structures are to be appropriately addressed within a Stage 2 SSD DA.

6.9. ENVIRONMENTAL RISK ASSESSMENT

The SEARs require an environmental risk analysis to identify potential environmental impacts associated with the proposal. The proposed amendments do not change the conclusions of the Environmental Risk Assessment provided within the original Environmental Impact Assessment submitted with D/2015/1049.

7. SECTION 79C ASSESSMENT

This original application was lodged in accordance with Section 83B of the EP&A Act, which provides for staged development applications. Development consent set out a concept proposal for the development of the site, with detailed proposals for separate parts of the site to be the subject of subsequent development applications.

The proposed modification maintains the approved development's consistency with the Objects of the EP&A Act.

7.1. ENVIRONMENTAL PLANNING INSTRUMENTS

This Section further provides an assessment of the application in accordance with Section 79C(1)(a) of the EP&A Act and the SEARs. The following instruments, draft instruments, planning agreements, regulations, and plans that apply to the site are addressed within this Section:

- *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation 2000);
- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy 55 – Remediation of Land* (SEPP 55);
- *State Environmental Planning Policy (Infrastructure) 2007*;
- *State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (including updated Apartment Design Guideline)*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX)*;
- *Sydney Regional Environmental Plan – Sydney Harbour Catchment (2005)*; and
- *Sydney Local Environmental Plan 2012 (SLEP)*.

7.1.1. State Environmental Planning Policies (SEPPs)

An assessment of the proposed modifications to the concept plan against the relevant SEPPs is provided in the table below.

Table 8 – Assessment of the proposed modifications against relevant SEPPs

SEPP	Comment
State Environmental Planning Policy (State and Regional Development) 2011 (SEPP SRD)	<p>Clause 8(1) of SEPP SRD provides that the development specified in Schedule 1 of the SEPP SRD is SSD. Clause 13(2) of Schedule 1 provides for the following:</p> <p>13 Cultural, recreation and tourist facilities</p> <p><i>(2) Development for other tourist related purposes (but not including any commercial premises, residential accommodation and serviced apartments whether separate or ancillary to the tourist related component) that:</i></p> <p><i>(a) has a capital investment value of more than \$100 million, or</i></p> <p>The proposed modification does not seek to alter the approved development's ability to meet the criteria listed in Clause 13(2) of Schedule 1 as it includes:</p> <ul style="list-style-type: none"> ▪ Development for tourist related purposes; and ▪ The development for that purpose will have a Capital Investment Value (CIV) of more than \$100 million.

SEPP	Comment
	Under Section 89D of the EP&A Act, the Minister for Planning is the consent authority for SSD. Delegation was issued by the Minister on 9 July 2015 for the original development application and any modifications to be delegated to the City of Sydney and is included at Appendix A . As such, this modification remains a SSD, but will be assessed by the City of Sydney and determined by the CSPC.
State Environmental Planning Policy No.55 Remediation of Land (SEPP 55)	SEPP 55 requires the consent authority to take into consideration contamination and remediation of land in determining development applications. The proposed modifications will not impact on the ability to ensure the site is suitable for the approved uses.
State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)	The aim of ISEPP is to facilitate the effective delivery of infrastructure across NSW by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure such as classified roads and prescribing consultation requirements for certain development. Clause 88 of ISEPP applies to development in the area marked as “Zone B” and involves the penetration of the ground to a depth greater than 2m below ground level (existing). A portion of the site is impacted by the CBD Rail Link (Zone B – Tunnel) and as such the future Stage 2 SSD DA for the construction of the basement will require referral to the rail authority. The proposed modifications to the approved basement envelope are minor and will not adversely impact the CBD Rail Link, as demonstrated in the relevant Stage 2 SSD DA.
State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)	The proposed building envelopes and preliminary indicative layouts of the residential floors of Tower A are generally consistent with the provisions of SEPP 65 and the Apartment Design Guide. This is addressed separately in Section 6.5 and is addressed in further detail at the relevant detailed Development Application.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	A BASIX Certificate will be required to be completed for the detailed Development Application for Tower A.
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP SHC)	The proposed modifications are consistent with the relevant Planning Principals of the Sydney Harbour Catchment SEPP and will not have any significant impact on the visual catchment and visual qualities of Sydney Harbour. The site is located in proximity to the State heritage listed Ferry Wharves located at Alfred Street, Circular Quay. This application must therefore consider the impact of the proposed development on the heritage significance of these wharves. The proposed modifications maintain the maximum building heights approved and predominant building massing. As outlined within the Heritage Impact Statement at Appendix D , the modifications will not adversely impact heritage items in vicinity of the site.

7.1.2. Sydney Local Environmental Plan 2012

Sydney Local Environmental Plan 2012 (SLEP 2012) is the primary planning instrument applying to the site. The key provisions relating to this modification are outlined within this Section.

- **Land Use and Zoning** – The site is zoned ‘B8 Metropolitan Centre’ under SLEP 2012 and the proposed land uses are permissible with consent on the site. The proposal maintains consistency with the B8 Metropolitan Centre zone objectives as the proposal will enhance the role of tourist premises in the Sydney CBD and contribute to the distinct diversity and character of the locality.
- **Clause 4.3 Height of Buildings** – The proposal does not propose any change to the maximum height of towers approved across the site.
- **Clause 4.4 Floor Space Ratio** – The indicative plans supporting this application within the Volume of Plans demonstrate that the proposed building envelopes can accommodate the following floor space:
 - Tower A Residential and Retail GFA: 38,600sqm
 - Tower B Retail GFA: 336sqm
 - Tower B Hotel GFA: 18,783sqm

As FSR is attributable within a proportionate rate for mixed use development, based on the proposed uses, the maximum potential FSR allowable on the site under SLEP 2012 is 14.287:1 (57,719sqm GFA). The proposed indicative scheme is capable of complying with this maximum FSR across the site.

- **Clause 5.10 Heritage Conservation** – As outlined in the Heritage Impact Statement provided at **Appendix D**, the proposal will not adversely impact any heritage items surrounding the site.
- **Clause 6.16 Tall Buildings in Central Sydney** – As outlined within Section 6 of this report, the proposal is consistent with the objectives of this clause as each building will have an elevation visible from a public place, will provide for appropriate amenity to occupants of neighbouring buildings and the ground floors are capable of providing active frontages.
- **Clause 6.19 Overshadowing of certain public places** – As outlined within Section 6.3 of this report and as illustrated within the **Volume of Plans**, the proposal will not adversely impact upon the solar access of Macquarie Place in the specified times.
- **Clause 6.21 Design Excellence** – This proposed modification application is entirely consistent with this clause as the proposed amendments are predominantly as a result of the design development occurring through a Competitive Design Alternatives Process undertaken in accordance with Clause 6.21 of the SLEP 2012 and the City of Sydney Competitive Design Policy.
- **Clause 6.25 APDG Block** – The proposal does not propose any changes to the maximum building height or floor plate of Tower A proposed across the site. The alignment of public domain areas proposed to be dedicated to the City of Sydney are proposed to be modified within the draft VPA for the site to reflect the revised building envelope, however the amount of land to be dedicated to Council for the purposes of through-site links, laneways and roads is to be retained.
- **Clause 7.1-7.9 Car Parking** – As illustrated in the indicative plans, the envelope of the proposed basement can accommodate the maximum number of car parking spaces for the proposed development. The final number of car parking spaces will be determined within the relevant Stage 2 DA.
- **Clause 7.15 Flood Planning** – The proposed modifications to the building envelopes will not have a significant impact on flood levels. Detailed impacts will be addressed within the relevant Stage 2 DA.
- **Clause 7.16 Airspace Operations** – Whilst no changes are proposed to the maximum height or floor plates above the Sydney Airport Limitation or Operations surface, as consent has been issued for building envelopes on the site that penetrate the Limitation or Operations Surface up to RL 200, an application to CASA to intrusion into the airspace surface is included at **Appendix C**.
- **Clause 7.20 Development Requiring a Development Control Plan** – Development which will result in a building taller than 55 metres in Central Sydney is subject to this requirement under the Clause. The originally Stage 1 SSD DA for the site satisfies the general requirements for a development control plan. Any impacts associated with the proposal modifications to the Stage 1 SSD DA are considered within this application.

7.1.3. Draft Sydney Local Environmental Plan

The revisions to the proposed development do not impact the consistency of the proposed development with any draft environmental planning instruments as outlined within the original Stage 1 SSD DA. Since the lodgement of the Stage 1 SSD DA, draft Amendments to the SLEP 2012 have been proposed for the APDG Block and specifically the Lend Lease Circular Quay Tower site located immediately to the south of the site.

The proposed modifications to the approved building envelopes does not impact the proposal's capacity to be consistent with the relevant APDG Block provisions of the LEP as amended by this draft environmental planning instrument.

7.2. SYDNEY DEVELOPMENT CONTROL PLAN 2012

Whilst it is acknowledged that the Sydney Development Control Plan 2012 (SDCP) does not apply to this application pursuant to Clause 11 of the *State Environmental Planning Policy (State and Regional Development) 2011* it is noted that the proposed amendments have given consideration to the application of the relevant provisions of the SDCP 2012, specifically as outlined below.

Circular Quay Special Character Area

The proposed modifications do not alter the overall development's ability to respond to the principles of the Circular Quay Special Character Area as the proposal:

- Makes marginal changes to the approved public domain and maintains the key principles of the public domain areas across the site, including an enlarged plaza at Herald Square, through-site link, and introduction of additional laneways across the site and precinct.
- The proposal will address the significant heritage values of Circular Quay within the design of the public domain, the materiality of the tower and the protection of the Tank Stream, as illustrated within the relevant Stage 2 SSD DA.
- Whilst the proposal does not conform to typical podium and tower design, the proposed form does respect the urban character and scale of Circular Quay by proposing consistent tower setbacks to Pitt Street (6m), proposes ground levels parallel to Rugby Place, George Street, and the through-site link, and provides an angled ground level setback at Alfred Street to replicate the dimensions of the approved Tower A envelope.

Streets, lanes and through-site links

The proposed modifications to the building envelopes continue to provide for new streets, lanes, and through-site links on the site, and are consistent with the SDCP 2012 including creating opportunities for outdoor dining along Alfred Street, bridging the level change between George and Pitt Streets through a gentle slope and terracing at Tower A, and providing laneway alignments with clear sight-lines.

The proposed vehicular access is retained from Pitt Street however is located towards the southern site boundary as a result of design evolution occurring during the competitive design process. This driveway location not only provides for a continuous frontage at the corner of Pitt and Alfred Streets, however also ensures that the arrival experience from Reiby Place, as proposed to be North West bound, is not undermined.

Street Frontage Heights, Setbacks, Building Design

The proposed setbacks and street frontage heights balance the functional requirements of the site, protect the amenity of surrounding properties and enhance the public domain as:

- The proposed Tower A building envelope maintains the ground level setbacks defined by the form of the approved development.
- Tower A has a 2.86 metre setback to the southern boundary, a relatively insignificant non-compliance with the 2.9 metre control.
- Tower A maintains an 8.55 metre setback to the 185m tower form from George Street, consistent with the 8 metre front setback control.
- The Tower A building massing is generally maintained, which presents as a slender tower form.

- The length of Tower B (39.9m) is increased to 36.27% of the total height of the building, being generally consistent with the SDCP 2012 control for the maximum width of an elevation.
- The Tower B northern tower elevation is parallel to the site boundary and Alfred Street, and exceeds the 8m setback to Herald Square provided in the SDCP 2012.
- The proposed Tower B setbacks depart from the site specific provisions of the SDCP 2012 in the following ways:
 - The proposal exceeds the required minimum setback from Tower B to Rugby Place.
 - The proposal maintains the previously approved 6m tower setback to Pitt Street.
 - The Pitt Street ground level setback is not built to the street alignment to allow for the provision of a porte cochère. This porte cochère however allows for pedestrian access to be continuous along Pitt Street as illustrated within the indicative plans within the **Volume of Plans**.
 - By setting back the ground plane from the proposed building located at the northern end of Pitt Street opens up views towards the north and improves daylight access to Pitt Street compared to a typical podium and street wall form.
- The lower levels of the towers fronting Alfred Street specifically seek to address the pedestrian scale environment at George Street and Herald Square.

7.3. VOLUNTARY PLANNING AGREEMENT (VPA)

In association with D/2010/2029 the former land owner of 1 Alfred Street, Sydney, Valad Commercial Management Limited, entered into a Voluntary Planning Agreement (VPA) with the City of Sydney Council. This VPA was proposed to be amended as part of the Stage 1 SSD DA (D/2015/1049) to include additional contributions to the City of Sydney Council.

In accordance with Condition 1 of the Stage 1 SSD DA a draft VPA has been prepared by Wanda and is submitted concurrently with this Section 96(2) modification application. The draft VPA provides for the same total land dedication as proposed within the D/2015/1049 for the purposes of recreation, lanes, and streets, however the ground level alignment of these areas are proposed to be marginally amended to reflect the revised building envelopes contained within this application. The draft VPA includes the same provision of public art contribution as proposed within D/2015/1049.

7.1. REGULATIONS

Section 78A(8A) of the EP&A Act 1979 required that the original development application for the SSD be accompanied by an EIS prepared by or on behalf of the applicant in the form prescribed by the regulations. Schedule 2 of the EP&A Regulation 2000 provides that environmental assessment requirements will be issued by the Secretary with respect to the EIS. The EIS for the original development application was prepared to address the requirement of Schedule 2 of the EP&A Regulation 2000 and the SEARs. Prior to lodgement of this Section 96 modification, the applicant confirmed with the Department of Planning and Environment that revised SEARs were not required as a result of the proposed amendments.

7.2. LIKELY IMPACTS OF THE DEVELOPMENT

Notwithstanding the proposed amendments, the development as proposed to be modified maintains or generally improves the relationship of the approved development to surrounding properties. The likely environmental impacts of the proposed development are considered within Section 6 of this report.

7.3. SUITABILITY OF THE SITE

Key considerations in the assessment of the site's suitability include:

- The proposed development is permissible in the B8 Metropolitan Centre zone of the SLEP 2012, and the site is zoned specifically to accommodate the mix of uses proposed;

- The subject site is located in a primary tourist and commercial area in the Sydney CBD and as such the proposed uses are highly appropriate for the locality. Notably, the proposed site and surrounding locality will benefit from additional visitor accommodation within the precinct;
- The proposal further supports the Sydney CBD as Australia's primary 'global city' and will promote international investment and visitation to the primary tourist and commercial core of the city;
- The site benefits from an exceptional frontage and aspect towards Sydney Harbour. The proposed development has sought to maximise the site's aspect and physical characteristics to the benefit of future residents and visitors of the site, Circular Quay and Sydney CBD generally;
- The site is not significantly burdened by heritage or other environmental constraints;
- The proposed scale of the development can be accommodated on the site without perversely impacting the neighbouring properties in terms of solar access and view sharing. Notably the additional floor area proposed compared to that originally approved will not result in any additional overshadowing of key public areas such as Macquarie Place.
- The site is capable of providing substantial public domain works including a north-south through-site link and a portion of an east west lane. The provision of this land and works enables the increased height and scale of development permissible in the planning controls and as illustrated within the previous approvals on the site.

7.4. SUBMISSIONS

We acknowledge that notification of the proposed amendment is required. The City of Sydney will need to notify the application in accordance with Schedule 1 of the Sydney Development Control Plan 2012. Once notified, any submissions received in respect of the notification will need to be considered in the assessment of the proposal by the City of Sydney.

7.5. PUBLIC INTEREST

The proposed modifications to the approved development are considered to be in the public interest as:

- The proposed amendment to the Tower B geometry aligns with the winning scheme of the competitive design processes, enhancing the architectural articulation of the approved building envelope;
- The proposed building envelopes reflect winning schemes that has demonstrated to a high calibre selection panel that design excellence can be achieved on the site;
- The proposed distribution of floor space across the site has been undertaken in response to the surrounding development, and potential impacts on the legibility and permeability of the street block. Due to the approved height of Tower A, additional floor space throughout this building will result in fewer impacts than providing floor space within the lower levels of Tower A or Tower B within the approved building envelopes. The distribution of floor space to Tower A allows for greater architectural articulation within the Tower B building envelope; and
- The proposal provides minor amendments that reduce the perceived podium mass from the Pitt Street streetscape.

8. CONCLUSION

The proposed modifications to the approved building envelopes and conditions of consent contained within D/2015/1049 reflect the built form and geometry of the Tower B and basement resulting from the Competitive Design Alternatives Process for the site and minor housekeeping amendments. In summary the development is proposed to be modified:

- **The proposal satisfies the applicable local and state planning controls** – The proposal has been demonstrated to achieve a high level of compliance with the relevant planning controls. Where variations are proposed, the report demonstrates that the objectives and intent of the numeric provisions have been met and compliance is therefore achieved.
- **The proposal will offer a high standard of amenity** – The proposed development is capable of providing future residents and guests with a high standard of internal and external amenity. The proposed envelopes are capable of achieving the design quality outcomes sought from SEPP 65 and the Apartment Design Guide (ADG). The building envelopes are representative of the winning schemes of competitive design processes held across the site and allow for the achievement of design excellence across the site.
- **The proposal has limited potential impacts** – The proposed modifications to the approved building envelopes are minor in nature; however do offer environmental benefits to the site and surrounding development, including maintenance of Pitt Street setbacks, increasing southern setbacks, minor impacts to the view corridors between Tower A and Tower B, and provision of generous public domain areas at ground level.
- **The proposal is in the public interest** – The proposal will make a positive contribution to Circular Quay and the Sydney CBD, by providing an appropriate mix of land uses, including high-end residential and a world class hotel, that are commensurate with Sydney's global status, and notably the prestigious character at Circular Quay.
- **The proposal is substantially the same development** – The consideration of the “substantially the same development” test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme is substantially the same as that originally approved.

As demonstrated within this report and the attached documentation, the modified scheme is considered to be acceptable under the relevant considerations of Section 79C of the EP&A Act and the proposed modifications to the building envelopes result in a better planning outcome for the site. It is therefore recommended that approval be granted to the proposed modifications.

DISCLAIMER

This report is dated 28 October 2016 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd's (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Wanda Group (**Instructing Party**) for the purpose of Section 96 (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

APPENDIX A INSTRUMENT OF SECTION 23 DELEGATION

APPENDIX B INSTRUMENT OF DETERMINATION AND APPROVED PLANS

APPENDIX C COPY OF APPLICATION TO CASA FOR INTRUSION INTO PRESCRIBED AIRSPACE

APPENDIX D

HERITAGE IMPACT STATEMENT

APPENDIX E WIND ASSESSMENT

APPENDIX F

DESIGN INTEGRITY STATEMENT



BRISBANE

Level 7, 123 Albert Street
Brisbane QLD 4000
Australia
T +61 7 3007 3800

GOLD COAST

45 Nerang Street,
Southport QLD 4215
Australia
T +61 7 5600 4900

MELBOURNE

Level 12, 120 Collins Street
Melbourne VIC 3000
Australia
T +61 3 8663 4888

PERTH

Level 14, The Quadrant
1 William Street
Perth WA 6000
Australia
T +61 8 9346 0500

SYDNEY

Tower 2, Level 23, Darling Park
201 Sussex Street
Sydney NSW 2000
Australia
T +61 2 8233 9900

CISTRI – SINGAPORE

An Urbis Australia company
12 Marina View, Asia Square
Tower 2, #21 – 01
Singapore 018961
T +65 6653 3424
W cistri.com