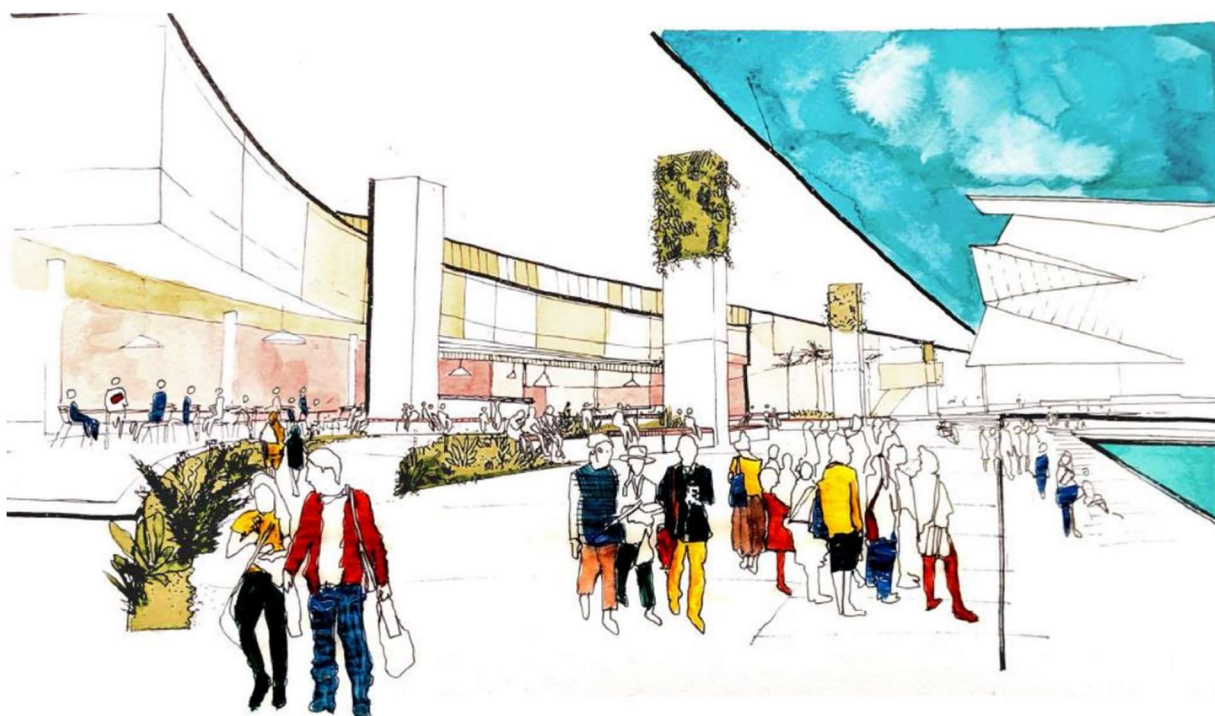




IMAX Darling Harbour Modification 14

Amendments to Ground & First Floors
State Significant Development Modification Assessment
(SSD 7388 MOD 14)

December 2021



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Cover image: Artist Perspective of proposed public domain (Source: MOD 10 application report)

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia 2016
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
GFA	Gross Floor Area
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
PMNSW	Place Management NSW
RFI	Request for additional Information
RMS	Roads and Maritime Services, TfNSW
SEARs	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SLEP	Standard Instrument - Principal Local Environmental Plan
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW

1 Introduction

This report provides an assessment of an application to modify the State significant development (SSD 7388) consent for the redevelopment of the IMAX building (also known as “The Ribbon”) at 31 Wheat Road, Sydney.

The modification application seeks approval to reconfigure the ground and first floors of The Ribbon building, a minor increase in gross floor area (GFA) and amend outdated conditions of consent.

The request was lodged on 27 October 2021 by Tianlong Ribbon Property Unit Trust (Greateon) (the **Applicant**) pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The site is known as 31 Wheat Road, Darling Harbour. It has an area of 10,885m² and is located at the southern end of Darling Harbour between two elevated east-west roadways of the Western Distributor. The site is located within the City of Sydney Local Government Area (LGA).

The site adjoins the Darling Harbour public domain to the north and west, Darling Quarter public domain to the south and fronts Harbour Street and Wheat Road to the east.

The surrounding area contains a diverse mix of commercial, residential, retail, entertainment and tourist uses including the International Convention Centre Sydney, Harbourside Shopping Centre, Cockle Bay Wharf and Darling Walk / Quarter (**Figure 1**).

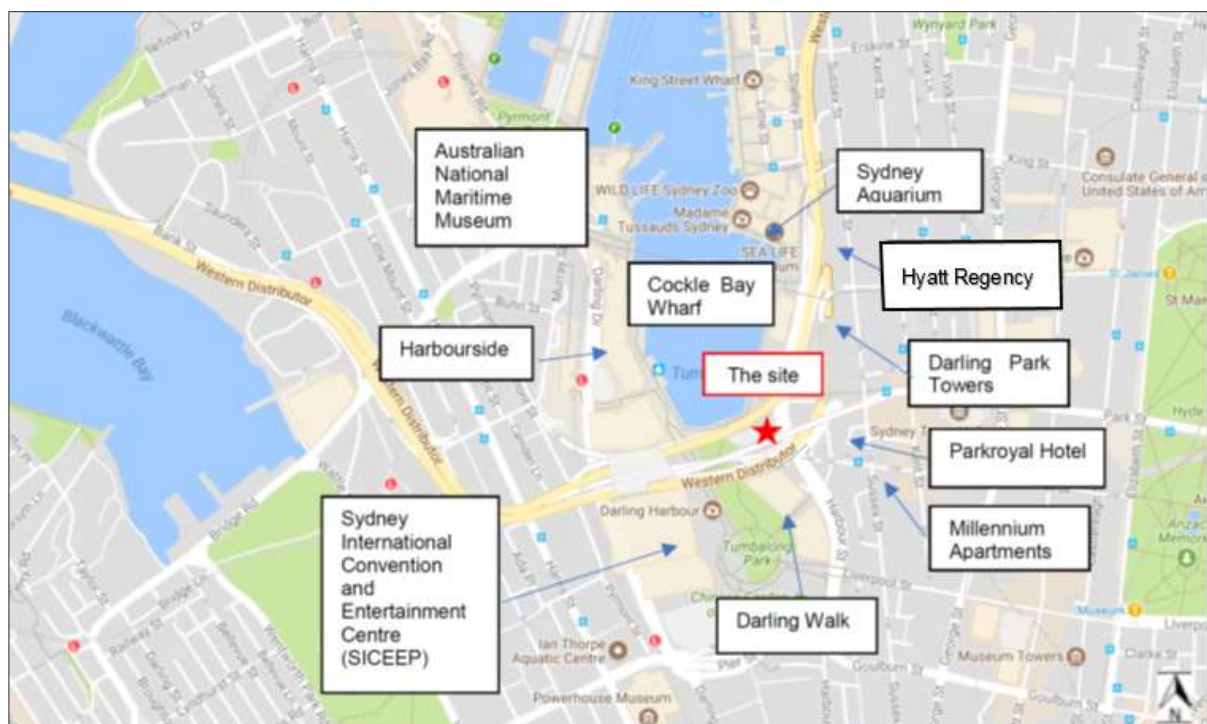


Figure 1 | Site Location (Base image source: Nearmap)

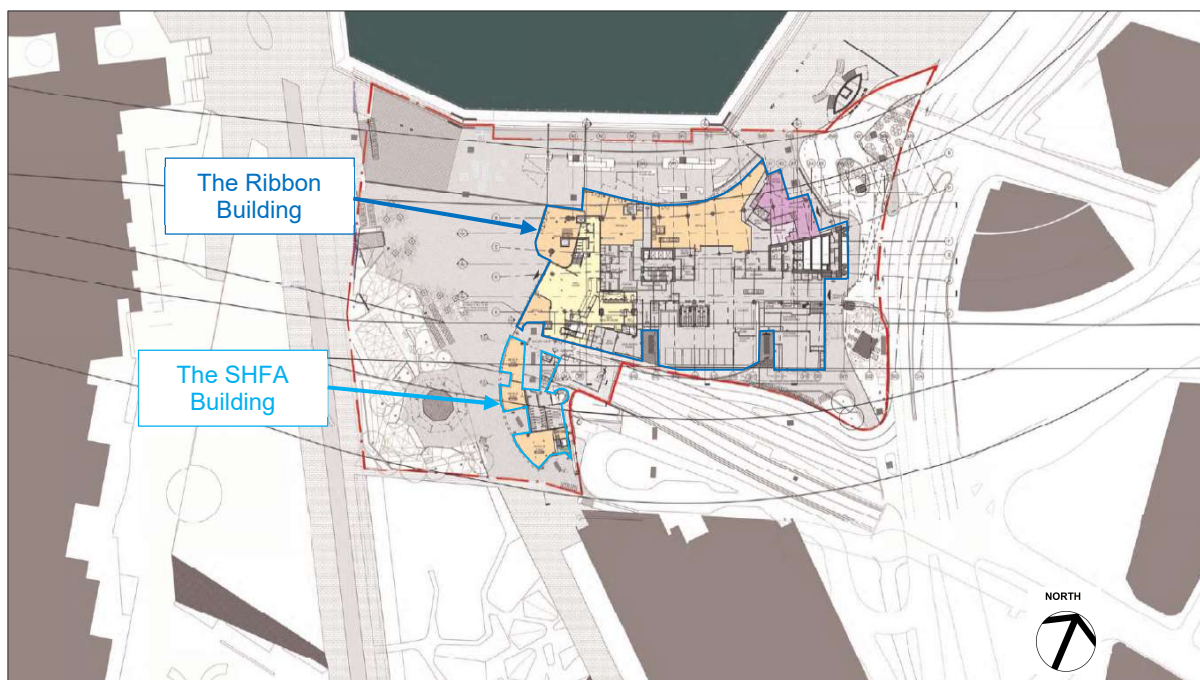


Figure 2 | Site Boundary and The Ribbon (Base image source: Mod 10 stamped plans)

1.2 Approval history

SSD 7388 and modifications

On 16 June 2016, the then Planning Assessment Commission (the Commission) granted Development Consent to SSD 7388 for the redevelopment of the IMAX building.

The development consent has been modified thirteen times as summarised in **Appendix C**. The development as modified (**Figure 2**) comprises:

- demolition of the existing IMAX building, tourist office and amenities block
- construction of a new 25-storey building and separate 2-storey building
- hotel, serviced apartments, retail and entertainment uses
- 170 car parking spaces within the podium and 208 bicycle spaces at the ground level
- realignment of Wheat Road
- upgrade of the surrounding public domain including a new playground and relocation of heritage items
- installation of a City Screen and signage zones.

The development is currently under construction.

Other applications on the site

Three other applications apply to the site as set out in **Table 1**. SSD 8838 and SSD 8839 have not been modified.

Table 1 | Summary of Other Applications

MOD No.	Summary of Modifications	Status	Approval Date
SSD 5397	A mixed-use office / commercial development for demolition of the existing IMAX building, tourist office and amenities block and construction of a new 20 storey building and separate 2 storey building for office, retail and entertainment use	Approved. Not implemented and now lapsed	16 June 2014
SSD 8838	Fit out and operation of the hotel and serviced apartments within The Ribbon building	Approved	28 February 2019
SSD 8839	Fit out and operation of the IMAX cinema within The Ribbon building	Approved	12 September 2019

2 Proposed modification

The modification application seeks approval to reconfigure ground and first floors of The Ribbon building (Error! Reference source not found.), a minor increase in GFA and amend outdated conditions of consent (**Table 2**). No changes are proposed to:

- the layout of the approved SHFA building and IMAX within The Ribbon
- the public domain and landscape upgrades
- overall building height and envelope.

The Applicant contends the modification will rationalise design and improve operational efficiency for The Ribbon and align the GFA calculations with the standard GFA definition for the overall development.

A link to the modification application documents is provided in **Appendix A**.

Table 2 | Proposed modifications to SSD 7388

Aspect	Description of modifications
Ground Floor	<ul style="list-style-type: none"> • Remove the fire stair and an ATM room next to Retail Tenancy 03 after a review of the approved design, which releases the floorspace to retail tenancies • Reconfigure a back-of-house corridor to provide service and loading access to the Retail Tenancies 04 and 05, which leads to the installation of new double doors to the retail waste room and deletion of the smoke lobby and revised entry to the bicycle parking room • Change the doors along the façade of Retail Tenancies 02-06 to operable glazing • Add a new stormwater filter room • Create a new staircase near the site's southern boundary for Ausgrid to access Vault O beneath the Western Distributor (Figure 3)
Podium Level 1	<ul style="list-style-type: none"> • Remove the fire stair mentioned above • Relocate the partition wall between Retail Tenancies 02 and 05 (Figure 4)
GFA	<ul style="list-style-type: none"> • Increase total GFA of the development by 968m² after realigning the GFA calculation with the GFA definition in <i>Standard Instrument – Principal Local Environmental Plan (SLEP)</i>
Conditions of consent	<ul style="list-style-type: none"> • Remove outdated conditions B61 (relating to the preparation of a methodology for the disassembly and relocation of the Carousel and Organ) and C16 (relating to the archival recording of the Carousel and Organ before the relocation) • Amend Condition E21 regarding the relocation of the Carousel and Organ • Amend Condition E18 to remove the unnecessary requirement of monitoring and expanding visitor bicycle parking spaces within the public domain

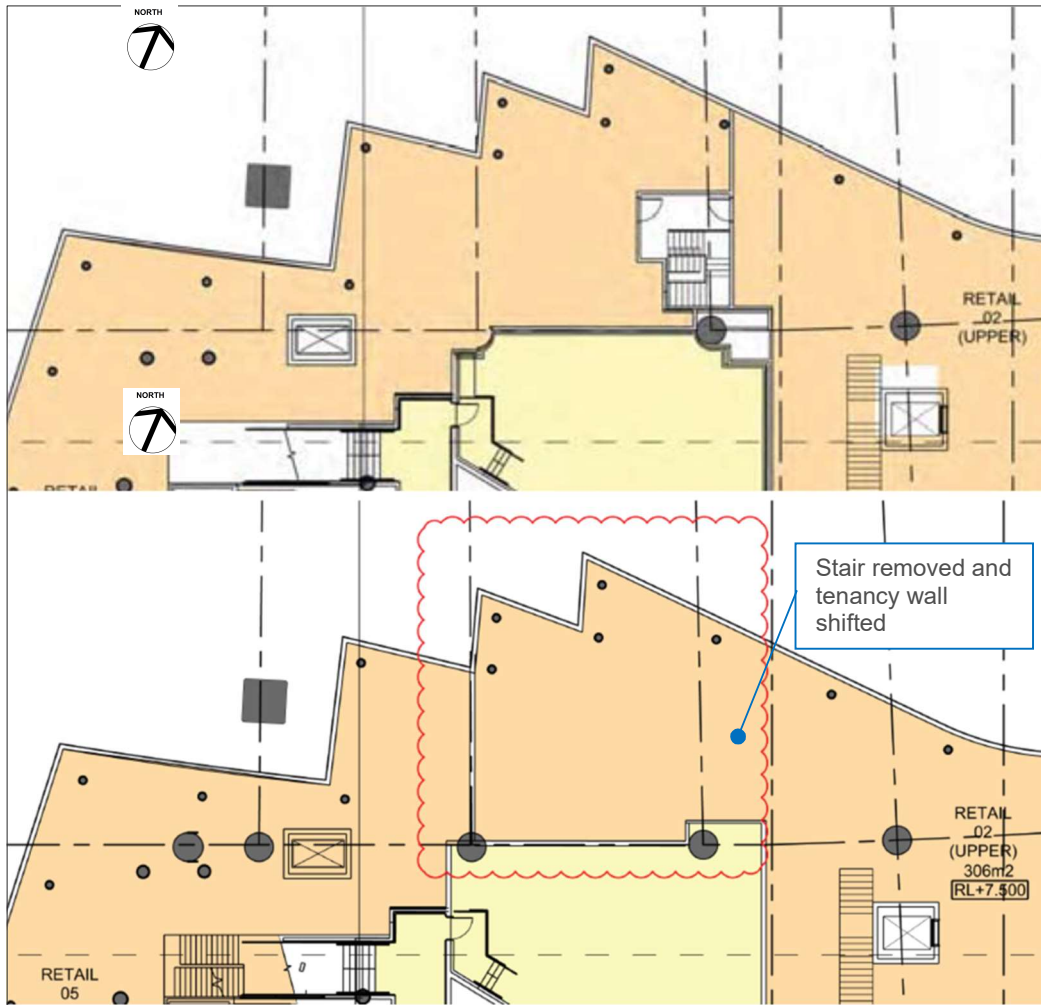


Figure 4 | Comparison of the approved (top) and proposed (bottom) Podium Level 1 (indicating the changes to the fire stair and partition wall)

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved
- is substantially the same development as originally approved
- would not disturb any areas outside the site.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) 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(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, the Team Leader, Key Sites Assessments, may determine the application as:

- a political disclosure statement has not been made
- there are no public submissions in the nature of objections
- Council does not object.

3.3 Mandatory matters for consideration

The following are mandatory matters for consideration:

- Section 4.55(1A) of the EP&A Act, including any environmental planning instruments or proposed instruments
- any planning agreements
- EP&A regulation
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts
- suitability of the site
- any submissions
- the public interest
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 5** and **Appendix B**.

4 Engagement

4.1 Department's engagement

The Department made the modification application available on its website and referred it to the City of Sydney Council (**Council**), Transport for NSW (**TfNSW**), Place Management NSW (**PMNSW**), and Ausgrid.

4.2 Summary of submissions

The Department received advice from TfNSW and Ausgrid as summarised below. Council and PMNSW advised they have no comments.

TfNSW did not object and recommended two conditions in relation to access to TfNSW assets and Road Occupancy Licence (ROL).

Ausgrid advised that it is working directly with the builder regarding the design and construction of the new stair access.

A link to the submissions is provided in **Appendix A**.

No submissions were received from the public.

5 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Impact Statement and conditions of approval for the original application (as modified)
- all submissions received on the proposal and the Applicant's additional information
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department has assessed the potential impacts associated with the proposal in **Table 3**.

Table 3 | Assessment of proposed changes

Issue	Findings	Recommendations
Internal ground/first floor changes	<ul style="list-style-type: none"> • The proposal seeks to remove the fire stair on the ground floor and first floor, relocate a partition wall between Retail Tenancies 05 and 02 on the first floor, and reconfigure the service corridor on the ground floor. • The Applicant advised the fire stair is redundant and provided a Fire Statement which concludes there are no significant issues that would affect the building layout and a performance based fire engineering solution can be used to demonstrate compliance with Building Code of Australia 2016 (BCA) without major changes to the current design. • Council does not object to these proposed changes. • The Department has considered the proposed internal changes and notes: <ul style="list-style-type: none"> ○ the revised layout does not alter the approved building footprint and the layout of IMAX and hotel areas ○ the reconfiguration of the corridor and associated changes will improve the service access for Retail Tenancies 03 and 04 and the traffic flow to the waste room and bicycle parking room ○ one fire-safe exit would be provided for each retail tenancy (05 and 02) from the first to ground floor after the removal of fire stair • the Applicant's Fire Statement concludes that the design is capable of achieving BCA compliance through performance based solutions • The Department is satisfied that existing condition B27 requires structural drawings complying with BCA to be submitted to the satisfaction of the Certifying Authority and condition E16 requires a fire safety certificate to be obtained before the issue of the relevant Occupation Certificate, which 	Update Condition A2 to reflect the amended plans

Issue	Findings	Recommendations
	<p>will ensure the proposed works comply with the BCA.</p> <ul style="list-style-type: none"> The Department therefore supports the proposed internal changes. 	
Creation of Ausgrid access staircase	<ul style="list-style-type: none"> The proposal seeks to create a staircase for Ausgrid on the ground floor. Neither Council, TfNSW nor Ausgrid object to this change. Ausgrid advised it is working with the builder on the specific engineering design of the proposed staircase. The Department considers the staircase is acceptable as: <ul style="list-style-type: none"> the proposed staircase is within the fenced off 'Secure Area' and the public will not have access to the area it would not result in any adverse impacts on traffic and public safety. 	Update Condition A2 to reflect the amended plans
Other design changes	<ul style="list-style-type: none"> The proposal includes other minor changes, including replacing the doors of Retail Tenancies 02-06 with operable glazing, removing an ATM room, adding a new stormwater filter room, and reallocating floorspace use from serviced apartments to hotel. The Department considers the design changes are appropriate as: <ul style="list-style-type: none"> the operable glazing will align with that of the SHFA building on the ground floor, forming a consistent appearance and improving streetscape activation removing an ATM room, adding a new stormwater filter room and reallocating floorspace uses are the result of a further design review, which will assist with improving the building's function. No adverse impacts are anticipated. 	Update Condition A2 to reflect the amended plans
GFA increase	<ul style="list-style-type: none"> The proposal seeks to increase the GFA of the development by 968 m². The increase is a result of the internal changes assessed above and reviewing the GFA calculation method for the development to align with the SLEP. This results in additional storage, housekeeping and corridor areas being captured in the site's total GFA. Council provided no comment on the proposed change. The Department considers the increase is acceptable as: <ul style="list-style-type: none"> the increase in GFA from the calculation alignment is negligible on each level and does not increase the extent of the building as approved the GFA increase is minor (1.91%) in the context of the overall development and is not 	Update Condition A2 to reflect the amended plans

Issue	Findings	Recommendations
<p>Condition B61, C16, E21</p>	<p>expected to result in any traffic, amenity or other impacts on the surrounding area.</p> <ul style="list-style-type: none"> The proposal seeks to delete Conditions B61 and C16 and amend Condition E21 relating to the previously proposed dismantling and relocation of the State heritage listed Carousel and Organ within the public domain. The Applicant contends these conditions should be amended/deleted given the Carousel will be retained in its existing location. Council did not object to this change. The Department has reviewed the public domain plans approved as part of MOD 10 and notes the Carousel is retained in its existing location. The Department therefore supports the deletion of Conditions B61 and C16 which relate to the disassembly, relocation and archival recording of the Carousel and Organ. The Department also supports the amendment of Condition E21 to reflect that the Carousel and Organ will be retained rather than relocated. The Department also recommends that a new limit of consent be imposed to reflect that no approval is granted for the relocation of the heritage items. 	<p>Add a new Condition A5A limits of the consent, delete Condition B61 and C16, and update Condition E21 to reflect the retention of the Carousel and Organ</p>
<p>Condition E18</p>	<ul style="list-style-type: none"> The proposal seeks to amend Condition E18 by deleting the requirement to monitor the future demand for bicycle parking. The Applicant contends this is no longer required as visitor bicycle parking is provided within surrounding public domain, outside of the site boundary. Council and PMNSW did not object to the change. The Department notes that Condition B10 of the original consent required 56 visitor bicycle parking spaces within the public domain with the ability to expend the area to accommodate 100 spaces, if required in the future. Condition E18 included a monitoring requirement within the Green Travel Plan in relation to the future demand for visitor bicycle parking in the public domain. MOD 11 removed the requirement for the potential expansion of the visitor bicycle parking in the public domain on the basis that PMNSW had prepared a Darling Harbour Cycling Strategy which will provide bicycle parking throughout Darling Harbour. The Department therefore supports the proposed amendment to Condition E18, on the basis that there is no requirement for expansion of bicycle parking within the site. 	<p>Update Condition E18 to remove the requirement of monitoring and expanding visitor bicycle parking spaces</p>
<p>TfNSW asset management & ROL</p>	<ul style="list-style-type: none"> TfNSW recommended two conditions in their submission requesting the access to the TfNSW assets to be maintained and ROL to be obtained 	<p>No conditions necessary</p>

Issue	Findings	Recommendations
	<p>for any works that may impact on traffic flows during construction.</p> <ul style="list-style-type: none"> • The Department notes existing condition B40 requires clearances from the Western Distributor structures are provided to allow access for TfNSW. Existing conditions B52 and D29 require obtaining a ROL for any activity likely to impact the efficiency of the road network before construction and during operation. • The Department considers these existing conditions would ensure TfNSW assets are protected and additional approvals are obtained for the project. 	
Administrative change to development description	<ul style="list-style-type: none"> • The Department has reviewed the description of the development and recommends it is updated to reflect: <ul style="list-style-type: none"> ○ the retention of the heritage items ○ the bicycle parking numbers approved in MOD 11 ○ the replacement of the City Screen with static LED screen approved as part of MOD 12. 	<p>Amend the development description to reflect the retention of heritage items, the approved bicycle spaces and the approved static LED sign</p>

6 Evaluation

The Department has reviewed the proposed modification and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposal is acceptable as:

- the changes to the ground and first floor layouts would not result in any additional environmental impact over the approved development and will improve building function and public domain activation
- it complies with the relevant statutory provisions and remains consistent with the relevant EPIs and the strategic planning context
- it is substantially the same development as the approved development and would not result in any adverse environmental impacts.

Consequently, the Department considers the modification is in the public interest and should be approved, subject to the recommended modified conditions of consent.

7 Recommendation

It is recommended that the Team Leader, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 7388 MOD 14 falls within the scope of section 4.55(1A) 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 approve the modification
- **modify** the consent SSD 7388
- **signs** the attached approval of the modification (**Appendix D**).

Recommended by:



Jennie Yuan
Planning Officer
Key Sites Assessments

Recommended by:



14.12.2021

Thomas Piovesan
Senior Planning Officer
Key Sites Assessments

8 Determination

The recommendation is **Adopted / Not adopted** by:

A handwritten signature in black ink, appearing to read 'AWatson'.

15 December 2021

Amy Watson

Team Leader

Key Sites Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Major Project's website as follows:

- Modification report
- Submissions
- Response to RFI

<https://www.planningportal.nsw.gov.au/major-projects/project/42786>

Appendix B – Statutory considerations

Matters for Consideration under Section 4.55(1A)

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(1A) of the EP&A Act. The matters for consideration under section 4.55(1A) of the EP&A Act that apply to the modification have been considered in **Table 4**.

Table 4 | Consideration of proposed modification against Section 4.55(1A) of the EP&A Act

Section 4.55(1A) Evaluation	Consideration
(a) that the proposed modification is of minimal environmental impact, and	Section 5 of this report provides an assessment of the impacts associated with the modification application. The Department is satisfied that the proposed modification will have minimal environmental impacts as the modification seeks minor internal and external changes to the building and streamlined conditions of consent and would not result in any additional adverse visual, heritage or amenity impacts.
(b) that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The Department is satisfied the proposed modification is substantially the same development as the key components of the development, including its use and overall design, remain unchanged.
(c) the application has been notified in accordance with the regulations, and	The modification application did not require notification in accordance with the EP&A Regulations. Details of the Department's engagement are provided in Section 4 of this report.
(d) any submission made concerning the proposed modification has been considered.	All submissions received are summarised in Section 4 and no issues were raised.

Matters for Consideration under Section 4.15(1)

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.

Table 5 | Consideration of proposed modification against Section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for Consideration	Assessment
(a)(i) any environmental planning instrument	The proposed modification would not change any approved uses of the development and remains consistent with the relevant Environmental Planning Instruments (EPIs) as addressed below, including Darling Harbour Development Plan No.1.
(a)(ii) any proposed instrument	The proposed modification is consistent with the relevant Draft Environmental Planning Instruments (EPIs) as addressed below.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.
(a)(iia) any planning agreement	Not applicable
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> , including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) (refer to Section 4).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts for the locality.	The likely impacts of the proposed modification are acceptable and have been appropriately addressed (refer to Section 5 of this report).
(c) the suitability of the site for the development	The suitability of the site was considered in the Department's original assessment and the modification does not alter its suitability.
(d) any submissions	The Department has considered the submissions received (refer to Section 4 and 5 of this report).
(e) the public interest	The Department considers the proposed modification to be in the public interest.

Section 4.15(1) Matters for Consideration	Assessment
Reasons given by the consent authority for the grant of the consent	The Department has considered the reasons given by the consent authority for the grant of the consent and the modification does not affect these reasons.

Environmental Planning Instruments

The following environmental planning instruments (EPIs) are relevant to the application:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy (Remediation of Land) (SEPP 55)
- Draft State Environmental Planning Policy (Remediation of Land)
- State Environmental Planning Policy (Advertising and Signage) (SEPP 64)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft State Environmental Planning Policy (Environment)
- Darling Harbour Development Plan No. 1.

The Department undertook a comprehensive assessment of the development against the applicable above-mentioned EPIs in its original assessment and subsequent modification assessments. The Department has considered the above EPIs and is satisfied the modification does not result in any inconsistency with these EPIs.

Appendix C – Approval history of modifications

The development approval (SSD 7388) has been modified on thirteen occasions, as summarised in Table 6.

Table 6 | Summary of Modifications to SSD 7388

MOD No	Summary of Modifications	Status	Approval Date
MOD 1	Modification to staging of construction	Withdrawn	N/A
MOD 2	Modification to staging of construction	Withdrawn	N/A
MOD 3	Internal and external amendments to the building at podium level, increase GFA, reduce eastern footpath width and modify bicycle parking	Approved	2 November 2017
MOD 4	Modification of construction hours	Approved	9 November 2017
MOD 5	Modification to reduce the number of serviced apartments (from 159 to 143), increase hotel rooms (from 402 to 450) and reduce GFA (from 52,060m ² to 51,703 m ²)	Approved	10 November 2017
MOD 6	Modification to amend the tower form and glazing fenestration, internal amendments at all levels, reduce GFA from 51,703m ² to 50,731m ² and new signage zones	Approved	19 December 2019
MOD 7	Modification to create an open roof above the level 21 and 22 pool and bar area and allow use of balconies and operable louvres above 60m	Approved	12 September 2019
MOD 8	Modification to amend the internal layout of the approved IMAX cinema. Reduce retail GFA on Level 1 from 671m ² to 582m ²	Approved	18 June 2019
MOD 9	Modification of construction hours	Withdrawn	N/A
MOD 10	Amendments to the design and shape of the Property NSW building; amend the public domain layout and design; widening of Wheat road; increase GFA by 35m ² ; minor amendments to two approved signage zones	Approved	30 April 2020
MOD 11	Reduction in the number of visitor bicycle parking spaces from 176 to 120 spaces	Approved	28 May 2021
MOD 12	Changes to the City Screen and associated signage zones and conditions	Approved	14 May 2021
MOD 13	Amendments to the layout and design of the Property NSW building and the location of three approved signage zones	Approved	11 June 2021

Appendix D – Notice of modification

<https://www.planningportal.nsw.gov.au/major-projects/project/42786>