



Harbourside Redevelopment Modification 3 and Stage 2 - Tower and Podium

Modification of Concept Approval
SSD 7874 MOD 3

State significant development assessment
SSD 49295711

December 2023



Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Harbourside Redevelopment Modification and Stage 2

Subtitle: Modification of Concept Approval (SSD 7874 MOD 3) and State significant development assessment (SSD 49295711)

Cover image: *Perspective looking west across Darling Harbour towards the proposal (Source: Applicant's EIS)*

© State of New South Wales through Department of Planning and Environment 2023. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (December 2023) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Glossary

Abbreviation	Definition
ACHAR	Aboriginal Cultural Heritage Assessment
ADG	The Apartment Design Guide accompanying the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development
AFL	Agreement for Lease
Applicant	Mirvac Retail Sub SPV Pty Ltd
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC SEPP	State Environmental Planning Policy (Biodiversity and Conservation) 2021
BDAR	Biodiversity Development Assessment Report
CBD	Sydney central business district
CIV	Capital Investment Value
CNVMP	Construction Noise and Vibration Management Plan
Code	City of Sydney Construction Hours/Noise within the Central Business District Code of Practice 1992
Concept Proposal / Concept Approval	State significant development concept proposal application (SSD 7874) for the redevelopment of the site, approved 25 June 2021
Consent	Development Consent
Council	City of Sydney Council
Department	Department of Planning and Environment
DES	Design Excellence Strategy
DIP	Design Integrity Panel
DSI	Detailed Site Investigation
EHG	Environment and Heritage Group of the Department of Planning and Environment
EIS	Environmental Impact Statement
EoT	End of trip facilities
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FEAR	Future Environmental Assessment Requirement of the Concept Approval
FERP	Flood Emergency Response Plan
GANSW	Government Architect of NSW
GFA	Gross Floor Area

Abbreviation	Definition
Heritage NSW	Heritage Division of the Department of Planning and Environment
ICNG	Interim Construction Noise Guidelines
LGA	Local government area
Minister	Minister for Planning and Public Spaces
OAA	Operational Acoustic Assessment
ODH	One Darling Harbour, 50 Murray Street Darling Harbour
Planning Secretary	Planning Secretary of the Department of Planning and Environment
PMNSW	Property Management NSW
PPPS	Pymont Peninsula Place Strategy
Precincts SEPP	State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021
PS SEPP	State Environmental Planning Policy (Planning Systems) 2021
RH SEPP	State Environmental Planning Policy (Resilience and Hazards) 2021
RSA	Road Safety Audit
RRFI	Response to request for further information
RtS	Response to Submissions
SDCP	Sydney Development Control Plan 2012
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SHR	State Heritage Register
SLEP	Sydney Local Environmental Plan 2012
SSD	State significant development
TfNSW	Transport for New South Wales
TI SEPP	State Environmental Planning Policy (Transport and Infrastructure) 2021

Executive Summary

This report provides a concurrent assessment of a modification application to the Harbourside Redevelopment Concept Approval (SSD 7874 MOD 3) and a Stage 2 State significant development (SSD) application (SSD 49295711) for a mixed-use residential and commercial development at the site of the former Harbourside Shopping Centre, Darling Harbour.

The applications seek approval for:

- modifications to the Concept Approval to increase the height of the tower envelope, allow for awnings, planting and soil volumes to protrude outside the building envelope, amend the design of the Bunn Street through site link design and update the Podium Identification Plan.
- Stage 2 development consent for the construction of a 50-storey building providing for 42,525 m² of retail/office accommodation, 265 apartments and communal open space, parking, electricity and stormwater infrastructure, signage strategy and stratum subdivision.

The development is predicted to generate up to 916 construction jobs and 2,130 operational jobs, with a capital investment value of \$764,515,692.

The Applicant is Mirvac Retail Sub SPV Pty Ltd and the site is located within the City of Sydney (Council) local government area. The proposal is SSD as it comprises development within Darling Harbour with a CIV in excess of \$10 million. The Minister for Planning is the consent authority for the application.

Community engagement

The application was exhibited for a period of 28 days. In response the Department received:

- MOD application - 74 submissions, including advice from 11 government agencies, a submission from Council providing comments and 62 public submissions including 60 objections, one comment and one in support.
- SSD application - 60 submissions, including advice from 15 government agencies, a submission from Council providing comments and 44 public submissions including 40 objections, two comments and two in support

The Applicant submitted a Response to Submissions (RtS) and additional information in response to the submissions received, which:

- MOD application: clarified the proposed modifications to conditions relating to Bunn Street through site link, soil mounding, lift provision, awnings and removed the promenade awning from the modification application and amended the site boundary.
- SSD application: amended the number of apartments, internal and external layouts, basement car parking and layout, floor to ceiling heights, GFA and flooding mitigation measures.

Assessment

The Department has undertaken a detailed assessment of the proposal and has carefully considered the issues raised in submissions. The Department considers the proposal is acceptable for the following key reasons:

- it is consistent with the Greater Sydney Region Plan and the Eastern City District Plan as it supports the ongoing revitalisation of Darling Harbour and will foster a lively and engaging city

- it was selected as the winner of a design competition, exhibits design excellence and displays landmark qualities appropriate for this strategically important harbour front site
- while the Department appreciates the concerns raised about the separation of built form and public domain works into two separate applications, the Department is obliged to assess and determine SSD applications as lodged and approval of this application would not confer approval to the public domain works or permit occupation of the building until public domain works are completed
- the proposal fully complies with the height, gross floor area and setback controls applying to the site under the Concept Approval and provides an appropriate built-form relationship to the neighbouring buildings
- allowing soil mounding and a lift above the northern podium deck height (RL 12.5) would not result in adverse visual, view or heritage impacts
- subject to further design development, the amended Bunn Street through site link would achieve a high standard of design, layout and amenity for pedestrians
- landscaping throughout the site would achieve a high standard of design, subject to conditions
- it would not have adverse traffic impacts as it generates a low level of additional traffic and provides acceptable car, bicycle and service vehicle parking and facilities
- the proposal has been designed so that levels one and above are higher than any potential flooding in the 1% AEP and PMF events and residual flooding risks can be adequately addressed through the physical design of the development and establishment of appropriate operational, management and emergency shelter in place strategies
- it would not have an adverse impact on private views as the amendments to Conditions A13, C13 and C15 would only permit 800mm of soil mounding above the deck level and a lift (subject to a future DA) which would sit below the canopy level of surrounding trees
- it has been designed in accordance with ecologically sustainable development principles and would achieve a minimum 5-6 Star Green Star ratings, 3.5-5.5 NABERS ratings and 20% water reduction
- it would provide significant public benefits including public and communal open spaces, through site links, improved public domain and approximately 916 construction and 2,130 on-going operational jobs.

The Department concludes the impacts of the proposal would be acceptable and appropriately mitigated through the implementation of the recommended conditions of consent.

Based on the reasons above, the Department considers the proposal to be in the public interest and recommends the application be approved, subject to conditions.

Contents

1	Introduction	8
1.1	Introduction	8
1.2	Darling Harbour Precinct	8
1.3	The site	9
1.4	Surrounding context	11
2	Project	13
2.1	Description of development	13
2.2	Relevant planning history	20
3	Strategic context	26
3.1	Greater Sydney Region Plan and Eastern City District Plan	26
3.2	Future Transport 2056	26
3.3	City Plan 2036: LSPS and Draft Central Sydney Planning Strategy	26
3.4	Sustainable Sydney 2030	27
3.5	Pymont Peninsula Place Strategy	27
4	Statutory context	28
4.1	Scope of the modification (SSD 7874 MOD 3)	28
4.2	State Significant Development (SSD 49295711)	28
4.3	Consent Authority	28
4.4	Permissibility	28
4.5	Secretary's Environment Assessment Requirements	29
4.6	Biodiversity Development Assessment Report	29
4.7	Matters for consideration	29
5	Engagement	30
5.1	Department's engagement	30
5.2	Key issues – public authorities	30
5.3	Key issues – Council	36
5.4	Key issues - community	39
5.5	Applicant's responses to submissions	41
6	Assessment	43
6.1	Key assessment issues	43
6.2	Concept Approval modification application (SSD 7874 MOD 3)	43
6.3	Modification application other issues	48
6.4	State significant development application (SSD 49295711)	52
6.5	SSD application other issues	75
7	Evaluation	89
8	Recommendation	90
9	Determination	91

1 Introduction

1.1 Introduction

This report provides a concurrent assessment of a modification application to the Harbourside Redevelopment Concept Approval (SSD 7874 MOD 3) and a Stage 2 State significant development (SSD) application (SSD 49295711) for a mixed-used residential and commercial development at the former Harbourside Shopping Centre, Darling Harbour.

The applications seek approval for:

- modifications to the Concept Approval to increase the height of the tower envelope, allow for awnings, planting and soil volumes to protrude outside the building envelope, amend the Bunn Street through site link, event stairs, site boundaries and update the Podium Identification Plan
- Stage 2 development consent for the construction of a 50 storey building providing for 42,525 m² retail / office accommodation, 265 apartments and communal open space, car, motorcycle bicycle and service vehicle parking, electricity and stormwater infrastructure, signage strategy and stratum subdivision.

The applications have been lodged by Mirvac Retail Sub SPV Pty Ltd (the Applicant). The site is within the City of Sydney (Council) local government area (LGA).

The modification application has been lodged pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the Stage 2 SSD application is a staged application pursuant to section 4.22 of the EP&A Act being the second application made following the Stage 1 Concept Approval and early works (SSD 7874).

1.2 Darling Harbour Precinct

The Darling Harbour Precinct covers an area of 60 hectares (ha) on the western edge of the Sydney Central Business District (CBD). The Precinct extends from Paddy's Markets in the south to the Sydney Aquarium and the Maritime Museum in the north (**Figure 1**).

The Darling Harbour Precinct was redeveloped in 1988 for the Australian Bicentennial celebrations and established a premier waterfront destination, characterised by a mix of recreational, tourist, entertainment and business functions. Over the past decade, Darling Harbour has undergone further significant urban renewal, including numerous key developments like ICC Sydney (Sydney international convention, exhibition and entertainment facilities including Tumbalong Park), Darling Square, the Ribbon / IMAX and the Goods Line pedestrian link and public open spaces (**Figure 2**).

The application site is subject to the Harbourside Redevelopment Concept Approval (SSD 7874), which comprises a tower and podium building envelope for residential and commercial use and public open space and landscaping, as summarised at **Section 2.3**.

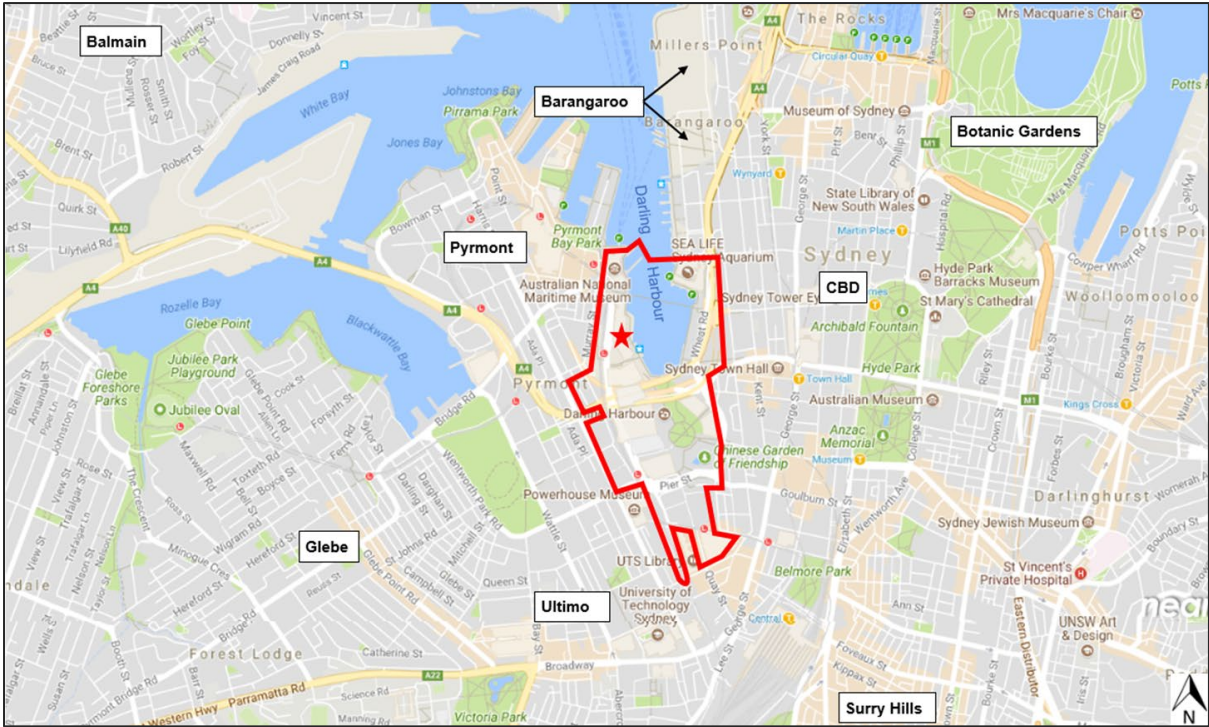


Figure 1 | Darling Harbour Precinct (outlined red) and the site (red star) (Base source: Nearmap)

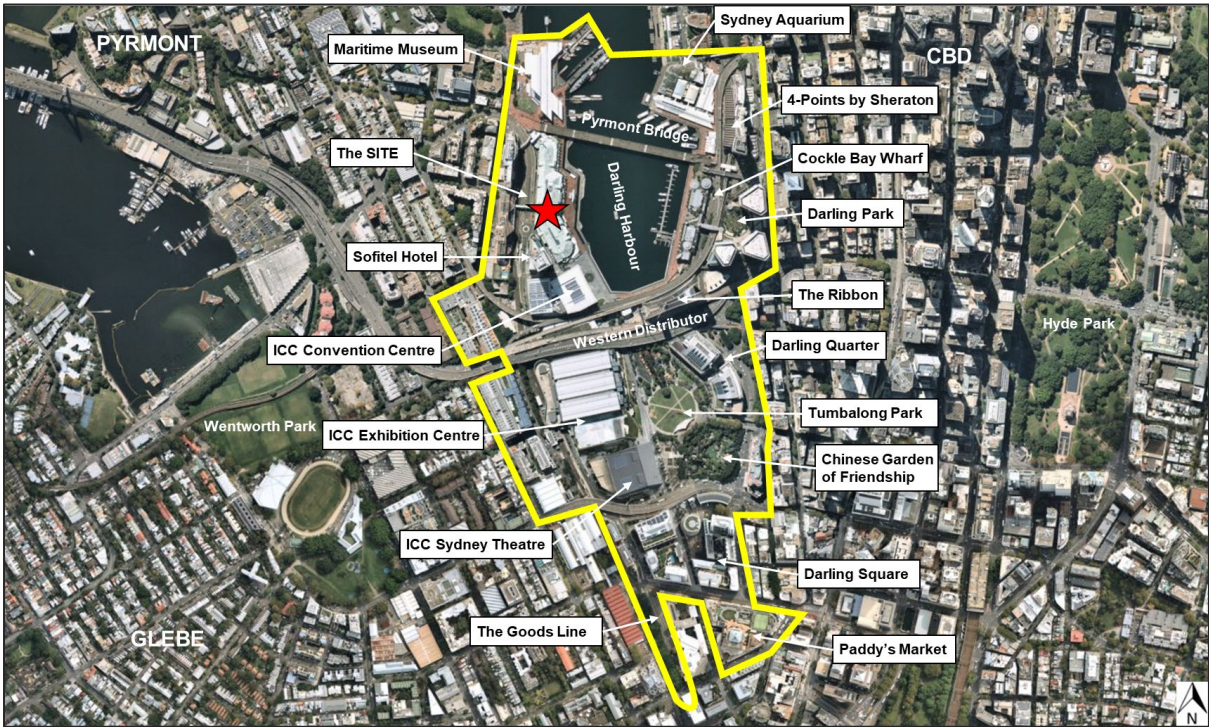


Figure 2 | The Darling Harbour Precinct (outlined yellow) including key developments within the precinct. (Base source: Nearmap)

1.3 The site

The site is located towards the north-western corner of the Darling Harbour Precinct on the south-western foreshore of Darling Harbour / Cockle Bay. The site is irregular in shape and has an area of approximately 2.05 hectares (20,500 m²) (**Figure 3**).

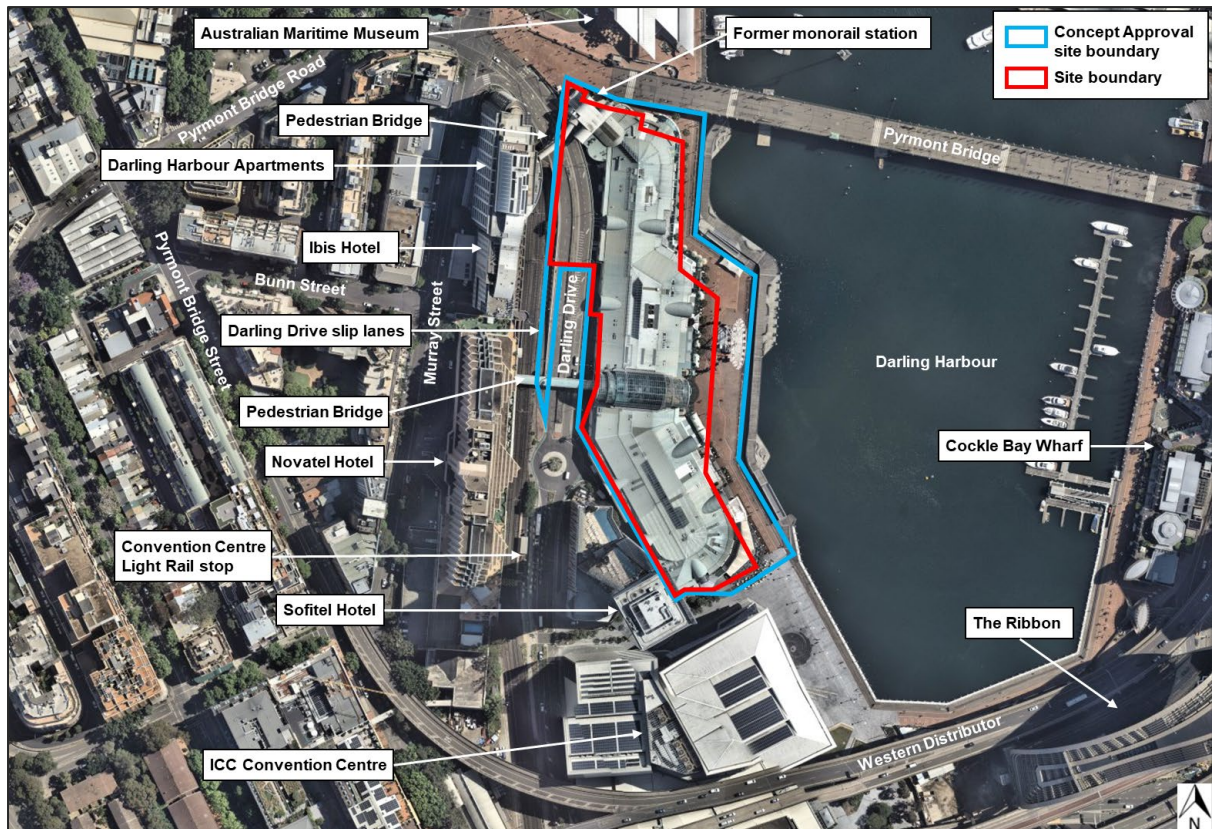


Figure 3 | Aerial view of the site and its immediate surrounds (Base source: Nearmap)

The site formerly contained the Harbourside Shopping Centre (Lots 1-10, 12-15, 17 DP 776815) and surrounding foreshore and public domain (part Lot 2015 DP 1234971, Lot 300 DP 836419) and is bound by Darling Harbour to the east, Pymont Bridge to the north, Darling Drive to the west and the ICC Sydney Precinct and public domain to the south.

The site is owned by the State Government (managed by Placemaking NSW (PMNSW)), and the Applicant has a long-term lease over the site until 2087.

The former Harbourside Shopping Centre (recently demolished) was constructed in 1988 as part of the Bicentennial Program, occupied most of the site and consisted of a three-storey retail building (approximately 20,000 m² gross lettable area (GLA)) comprising café/restaurants and retail uses. The building was linear in form with a galvanised steel roof and glazed central atrium and modelled on the “festival” marketplaces of Boston and Baltimore. An existing disused elevated monorail station is also located above the northern end of the site.

To the east of Harbourside Shopping Centre and within the site, is a paved waterfront promenade / public domain along the Darling Harbour foreshore, which connects to the underside of Pymont Bridge to the north and the ICC Sydney forecourt to the south. The waterfront public domain has an area of approximately 4,326m² and comprises a 25-29m wide forecourt area and narrower 11-15m circulation areas.

The western elevation of the former shopping centre fronted onto Darling Drive, an elevated roadway connecting Union Street from the north to the underside of the Western Distributor. The shopping centre had no onsite car parking and relied on the commercially operated carpark beneath the Novotel. Servicing and loading access and a taxi zone were provided along the western elevation of the building and accessed off a slip lane to the west of Darling Drive that loops north and beneath

Darling Drive before turning south along the western side of the site and reconnecting with Darling Drive.

The site topography has been the subject of significant alterations and as a consequence is generally flat. Landscaping is provided across the site, which consists largely of hard paved areas with very little soft landscape/vegetation.

Pedestrian access to the site is predominantly via the public domain located directly to the east of the site which is the main pedestrian connection point between the site and the remainder of the Darling Harbour precinct. A footbridge connects to the former monorail station to the residential apartment building One Darling Harbour, 50 Murray Street (ODH). Until its recent demolition a second footbridge connected the former Harbourside Shopping Centre to the Novotel Hotel car park to the west.

Existing easements and rights of way apply to the site, including easements for stormwater / drainage, saltwater conduits and electricity.

The site does not contain any heritage items listed on the State Heritage Register (SHR) or local listed heritage item under the Sydney Local Environmental Plan 2012 (SLEP). The site is above and adjacent to non-Aboriginal archaeological sites relating to the former industrial / railway use of the site, wharfs, retaining walls and associated items.

1.4 Surrounding context

The site is located within a high-density urban context on the edge of the CBD and surrounding development within the vicinity of the site varies in use, form, age and architectural design. The surrounding context is summarised below (**Figure 3**):

- the SHR listed Pyrmont Bridge, the Australian Maritime Museum, and the low/medium rise residential/mixed use suburb of Pyrmont to the north
- the 3 storey Cockle Bay wharf commercial development (which has Concept Approval for a commercial tower with a maximum height of RL 183, **Figure 18**) and Four Points by Sheraton at 25 storeys (RL93.6) to the east on the opposite side of Darling Harbour
- the 35 storey (RL 133.55) Sofitel hotel building, ICC Convention centre and public domain to the south, including the SHR listed Woodward Fountain
- the Western Distributor and the 25-storey (RL 93.5) Ribbon building including hotel, serviced apartments and an IMAX theatre to the south east
- the 17-storey ODH residential apartment building and the Novotel and Ibis hotels to the west, on the opposite side of Darling Drive
- medium rise residential and mixed use developments further to the west and south west.

The closest sensitive receiver to the site is the residential properties at ODH, approximately 40 m west of the northern end of the site (and approximately 90 m north-west of the proposed residential tower). Other nearby sensitive receivers include the Ibis and Novotel hotels, approximately 40 m west of the site and the Sofitel hotel approximately 10 m south-west of the site.

The immediate surrounding area benefits from a large stormwater infrastructure network. The public domain adjoining the site is subject to inundation of up to 1.0 m during the 1 in 100 annual exceedance probability (1% AEP) and greater than 1.5 m depth during the probable maximum flood (PMF) events.

The site is accessible to cyclists via several cycle routes including the Sydney Harbour Bridge to Anzac Bridge route and the Anzac Bridge to Prince of Wales Hospital route. There is a designated cycleway along Darling Drive between Pyrmont Bridge to the north and the University of Technology to the south. The cycleway forms part of the City of Sydney's cycle network and allows for connections to Pyrmont and ANZAC bridge to the north and west, Central Station (and beyond) to the south and Chinatown and Sydney CBD to the east.

The site is well served by public transport and is within walking distance to key connections including:

- local bus services along Harris Street approximately 500 m to the west of the site
- Convention Centre light rail stop 70 m to the west
- Town Hall Station 1.4 km and Central Station 1.7 km to the south east
- Pyrmont Bay Ferry Wharf 250 m to the north and Casino Ferry Wharf 400m to the north west.

In 2016, the Government announced the Sydney Metro West project, which aims to connect the CBD to Paramatta with a high-frequency metro rail service. On 11 December 2020, the Government confirmed Pyrmont as the location of one of the new metro stations on the Metro West line. The Metro West line is predicted to open by 2030.

2 Project

2.1 Description of development

The Concept Approval modification seeks to increase the height of the tower envelope, allow for awnings, planting and soil volumes to protrude outside the building envelope, amend the Bunn Street through site link, event stairs and site boundaries, and update the Podium Identification Plan.

The SSD application seeks approval for the construction of a 50-storey building providing for retail / office accommodation, 265 apartments and communal open space, parking, electricity and stormwater infrastructure, signage strategy and stratum subdivision.

The key components and features of the Concept Approval modification and SSD applications (as amended by the Response to Submissions (RtS) and additional information) are summarised at **Table 2** and **Table 3** shown at **Figure 4** to **Figure 8**.

Table 1 | Main components of the Concept Approval modification application

Concept Approval Modification Application (SSD 7874 MOD 3)		
Component	Concept Approval	Proposed Modification
Tower envelope height	<ul style="list-style-type: none"> Maximum tower height RL 166.96 m 	<ul style="list-style-type: none"> Increase tower envelope height by 3.05 m from RL 166.96 m to RL 170 m.
Envelope exceptions	<ul style="list-style-type: none"> Condition A11 states the development must not exceed the building envelope Condition C2 requires the development to be wholly within the building envelope 	<ul style="list-style-type: none"> Amend conditions A11 and C2 to allow for awnings to project outside the building envelope at Level 6 and above the pick-up/drop-off area.
Podium soft landscaping allowance	<ul style="list-style-type: none"> Condition A16 allows soft landscaping to protrude above the building envelope only at the northern podium. 	<ul style="list-style-type: none"> Amend condition A16 to allow soft landscaping to protrude outside the building envelope at southern and central podium locations.
Soil volume	<ul style="list-style-type: none"> Condition A13 states the finished podium deck must be no higher than RL 12.5 Condition C13 require soil volume to be incorporated within the podium structure Condition C15 requires planting to be on or within the podium. 	<ul style="list-style-type: none"> Amend conditions A13, C13 and C15 to allow soil volumes / mounding to protrude above RL 12.5 and the podium structure.
Event space	<ul style="list-style-type: none"> Condition A15 requires an event space be provided adjacent to the foreshore and linked to the Bunn Street through site link. 	<ul style="list-style-type: none"> Amend conditions A15 to remove the requirement for the event space to be linked to the Bunn Street through site link.
Bunn Street through site link	<ul style="list-style-type: none"> Condition C4 requires the Bunn Street through site link to be entirely open to the sky. 	<ul style="list-style-type: none"> Amend condition C4 to remove the requirement for the Bunn Street through site link to be open to the sky.
Podium identification	<ul style="list-style-type: none"> Attachment B shows in plan form the requirements of conditions: <ul style="list-style-type: none"> A14 – provision of a 3,500 m² public open space on the northern podium B2 – reductions to the extent of the northern podium. 	<ul style="list-style-type: none"> Amend the Podium Identification Plan to: <ul style="list-style-type: none"> incorporate the amendments to the northern podium required by conditions B2 and A14 correct inconsistencies in the identified boundary / extent of the northern podium.
Site boundary	<ul style="list-style-type: none"> Site boundary including building envelope, public domain, parts of Darling Drive and beneath Pyrmont Bridge. 	<ul style="list-style-type: none"> Expand the site boundary either side of Darling Drive and reduce the site boundary adjacent to Pyrmont Bridge.

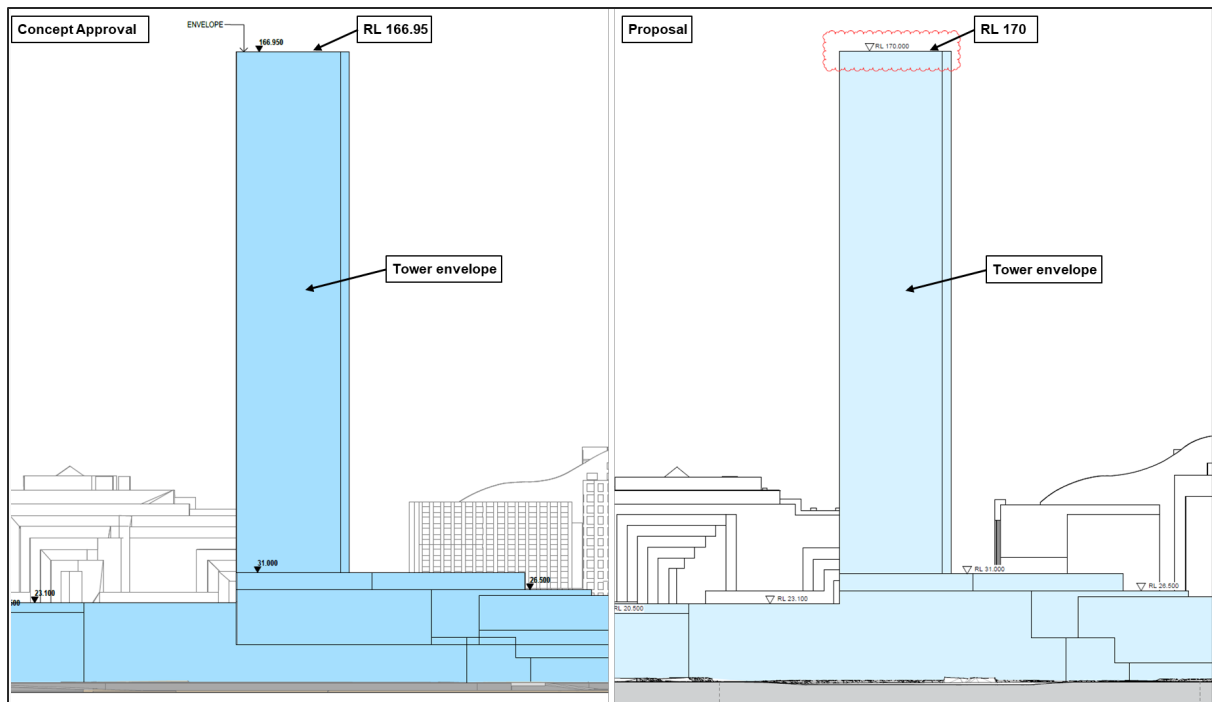


Figure 4 | Concept Approval (left) and proposed modified (right) tower building envelope (Base source: Applicant's Modification application)



Figure 5 | Landscape projections above the Concept Approval building envelope (Source: Applicant's Modification application)

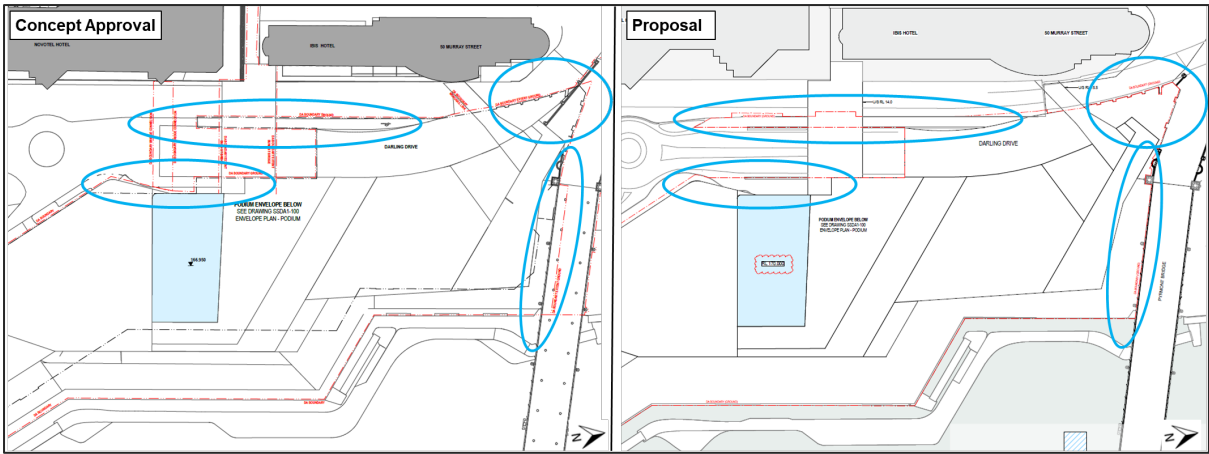


Figure 6 | Boundary adjustments (Base source: Applicant's RtS)

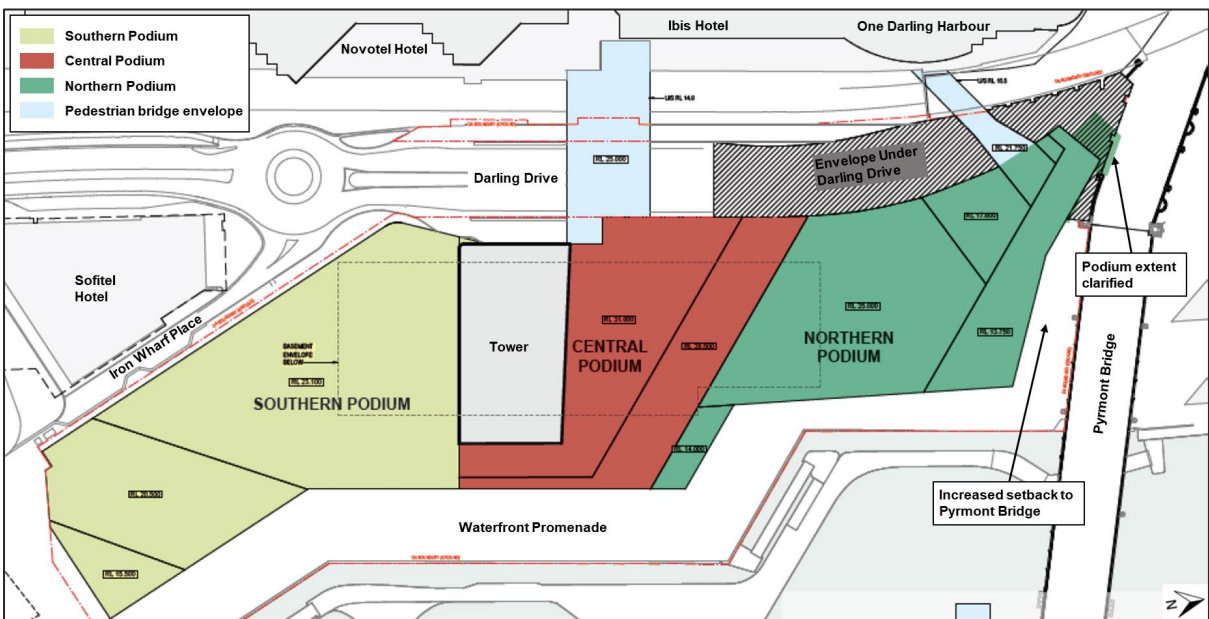


Figure 7 | Amended Podium Identification Plan (Base source: Applicant's RtS)

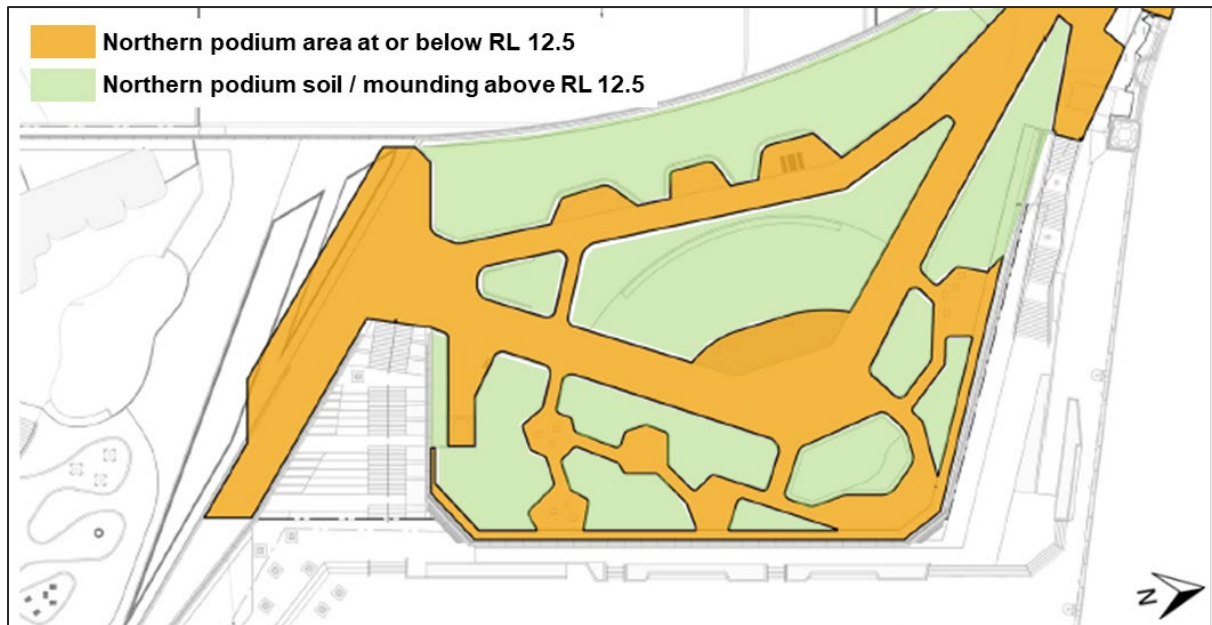


Figure 8 | Waterfront Garden / northern podium open space proposed to be below / at and above RL 12.5 (Base source: Applicant’s Modification application)

Table 2 | Main components of the SSD application

SSD Application (SSD 49295711)	
Component	Description
Site preparation	<ul style="list-style-type: none"> Excavation between 0.8 m to 2.2 m for lift pits and footings outside of the basement extent. demolition of existing buildings and general site preparation, bulk earthworks, remediation and dewatering do not form part of this application (Section 2.3.1).
Built form	<ul style="list-style-type: none"> Construction of a 50 storey tower and podium, including: <ul style="list-style-type: none"> a 45 storey residential tower (maximum RL 170 m) two to five storey non-residential podium, including: <ul style="list-style-type: none"> two storey northern podium (maximum RL 12.5 m) five storey central podium (maximum RL 31 m) four storey southern podium (maximum RL 23.1 m) four basement levels.
GFA	<p>A total of 84,517 m² GFA comprising:</p> <ul style="list-style-type: none"> 41,992 m² residential GFA. 42,525 m² non-residential GFA including: <ul style="list-style-type: none"> 9786 m² retail GFA (excluding fit-out). 32,739 m² office GFA (excluding fit-out).
Use	<ul style="list-style-type: none"> Commercial office accommodation within the podium on all levels (ground to level 4). Retail accommodation within the podium at two levels (ground and level 2). A total of 265 residential apartments within the tower (levels 6 to 48), comprising 30 x 1 bedroom (11.3%), 92 x 2 bedroom (34.7%), 130 x3 bedroom (49.1%), 13 x 4+ bedroom (4.9%) apartments. Residential amenities including pool, lounge, meeting / function rooms, cinema, gym / wellness and associated communal spaces at level 5.
Parking and service vehicles	<ul style="list-style-type: none"> Provision of 273 car parking spaces located at basement levels 2 to 4, including: <ul style="list-style-type: none"> 243 residential spaces (including 27 accessible and no visitor spaces) 30 non-residential spaces (including two accessible)

SSD Application (SSD 49295711)

	<ul style="list-style-type: none"> • Provision of 31 motorcycle spaces located across all basement levels, including 21 residential and 10 non-residential spaces. • Provision of 20 service vehicle spaces located at basement level and including: <ul style="list-style-type: none"> ○ one refuse vehicle bay (9.24 m in length) ○ nine service vehicle bays (four 8.8 m in length and five 6.4 m in length) ○ six van / courier spaces ○ four residential courier / van spaces. • Provision of three car share spaces at basement level.
	<ul style="list-style-type: none"> • The building arrival area, comprising a layby area providing for four pick-up/drop-off spaces accessed off the south-bound Darling Drive slip road does not form part of this application (Section 2.3.1).
Bicycle facilities	<ul style="list-style-type: none"> • Provision of 538 bicycle parking spaces and end of trip facilities (EoT), including: <ul style="list-style-type: none"> ○ 265 residential spaces located at basement levels 2 to 4 and 27 residential visitor bicycle parking spaces beneath Darling Drive ○ 223 commercial office employee spaces located at ground level ○ 50 retail employee spaces located at ground level ○ EoT facilities for employees (273 lockers and 28 showers) located in two separate change rooms at ground floor level fronting Darling Drive.
	<ul style="list-style-type: none"> • 116 visitor bicycle parking spaces (83 office and 33 retail) are proposed within the public domain and do not form part of this application (Section 2.3.1).
Access	<ul style="list-style-type: none"> • A vehicular access ramp to the four level basement located at ground floor level at the northern end of the site and off the eastern Darling Drive slip lane (south-bound). • Pedestrian access to the site is provided for: <ul style="list-style-type: none"> ○ retail accommodation from Darling Harbour foreshore promenade, Iron Wharf Lane, through site links and the Waterfront Garden ○ office accommodation from Iron Wharf Lane, Darling Drive slip land (east) / building arrival and secondary entrances from through site links ○ residential accommodation from Darling Drive slip land (east) / building arrival. • Pedestrian site links through the building, including two at ground floor level and one connecting the promenade to Bunn Street bridge are provided (spatially / shell only).
	<ul style="list-style-type: none"> • The fit-out / final design of the three pedestrian through site links do not form part of this application (Section 2.3.1).
Landscaping and public domain	<ul style="list-style-type: none"> • A total of 1,961 m² communal residential open space on level 5. • Provision of hard and soft landscaping on the structure, including: <ul style="list-style-type: none"> ○ green roofs on the southern and central podiums ○ paving and soft planting on outdoor commercial terraces on levels 1 to 4 ○ landscaping within the residential communal open space on level 5, including paving, landscape furniture, pool and cabana and soft planting ○ paving and soft landscaping within private terraces at level 6 and 48.
	<ul style="list-style-type: none"> • All detailed landscaping and design of public domain areas (including the Waterfront Promenade, Steps, Garden, Pyrmont Steps, Bunn Street Bridge and through site links) do not form part of this application (Section 2.3.1).
Stormwater and utilities	<ul style="list-style-type: none"> • Stormwater works within the site. • Provision of three electrical sub-stations beneath Darling Drive.
Signage	Signage Strategy including design parameters, principles and signage zones.
Subdivision	Consolidation of existing lots and subdivision of the consolidated lot into three stratum lots for the retail, office and residential components.
Jobs	916 direct (and 1,178 indirect) construction jobs and 2,130 direct (and 2,238 indirect) operational jobs.

SSD Application (SSD 49295711)

Capital investment value (CIV) | \$764,515,692

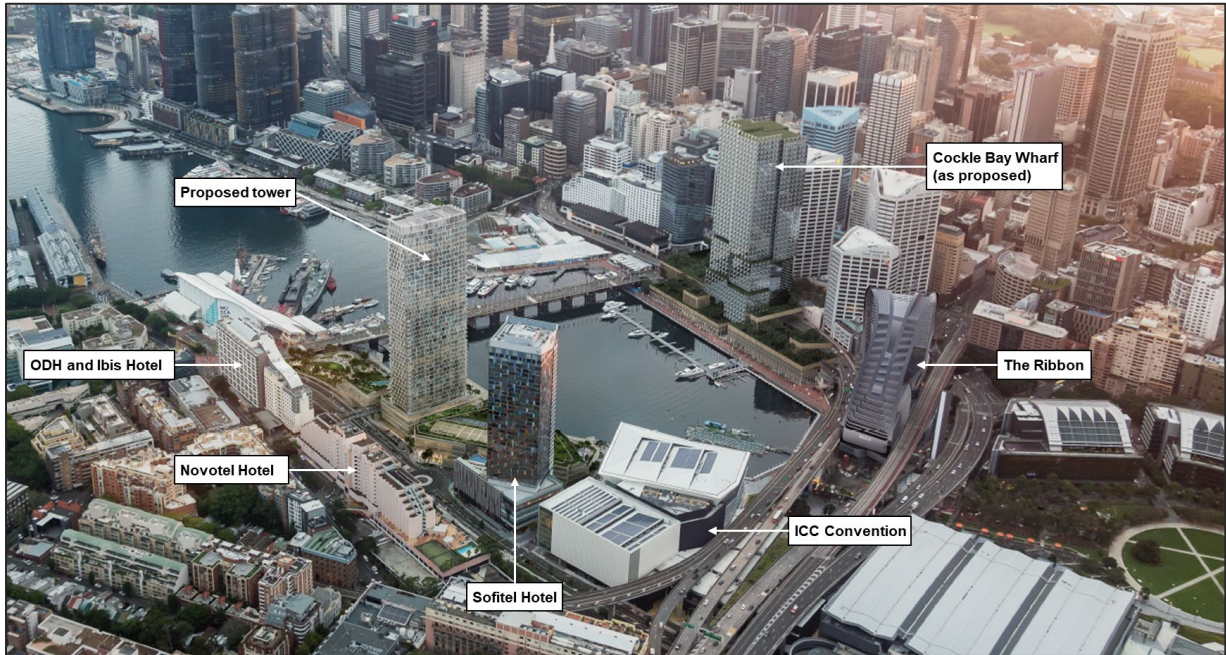


Figure 9 | High-level perspective looking north-east towards the proposed development and its surroundings (Base source: Applicant's EIS)



Figure 10 | Elevated perspective looking west towards the proposed development and its surroundings (Base source: Applicant's EIS)



Figure 11 | Elevated perspective looking south across the northern and central podium towards the tower (Base source: Applicant's EIS)



Figure 12 | Perspective looking north along the waterfront promenade towards the proposed development (Source: Applicant's EIS)



Figure 13 | Perspective looking north-east along Darling Drive towards the rear of the proposed development (Base source: Applicant's EIS)

2.2 Relevant planning history

2.2.1 Harbourside redevelopment

Harbourside redevelopment Concept Approval

On 25 June 2021, the Independent Planning Commission (the Commission) approved an SSD Concept Proposal and Stage 1 early works (SSD 7874) for the redevelopment of the Harbourside Shopping Centre site. The approval has been the subject of three modification applications and one approval, as summarised at **Table 4**.

Table 3 | Modifications to the Harbourside Concept Approval (SSD 7874)

MOD	Summary of Modification	Approved
MOD 1	Amend conditions relating to post-demolition dilapidation reporting and respite period requirements.	Withdrawn
MOD 2	Amend conditions to allow up to 30 commercial car parking spaces and amend post-demolition dilapidation reporting and respite period requirements.	26 Oct 2022
MOD 3	Increase tower building envelope height by 3.05 m to RL 170 and amend Terms of Approval including changes to awnings, landscaping, soil mounding, events, Bunn Street bridge, site boundaries and Podium Identification Plan.	Current application

The Concept Approval, as amended, provides for a tower building envelope comprising (**Figure 14** and **Figure 15**):

- a maximum height of RL 166.95 m

- a maximum GFA of 87,000 m², including 42,000 m² residential and 45,000 m² non-residential GFA
- a minimum publicly accessible open space of 3,500 m², through site links and Bunn Street bridge
- design excellence strategy, design guidelines and car parking rates.

The Stage 1 early works included demolition of the existing shopping centre, southern pedestrian link, former monorail station and removal of trees.

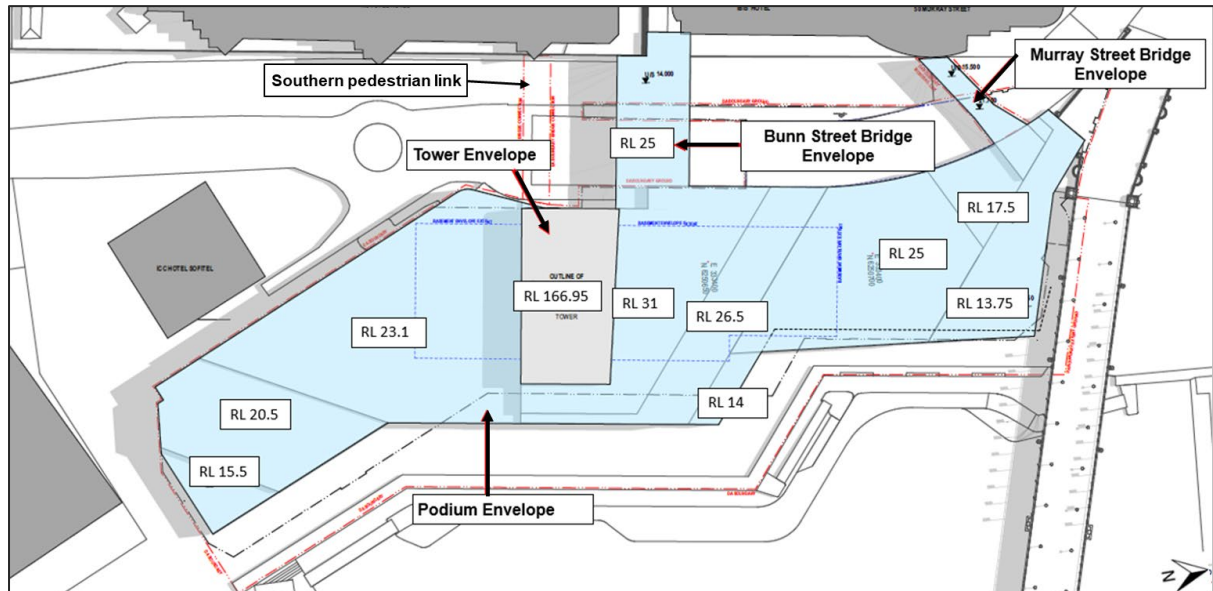


Figure 14 | Harbourside Concept Approval building envelope layout (Base source: SSD 7874)

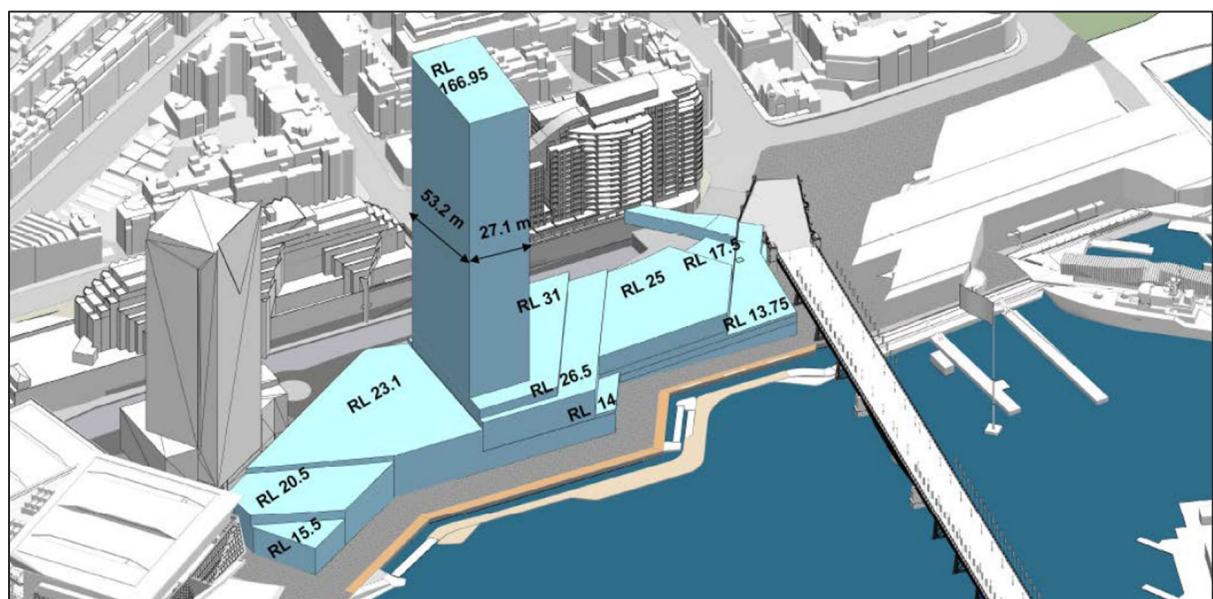


Figure 15 | Perspective view of the Harbourside Concept Approval building envelope (Base source: SSD 7874)

Harbourside site preparation and earthworks (SSDA1)

On 2 March 2023, the Department approved an SSD application for site preparation and bulk earthworks associated with the Harbourside redevelopment (SSD 38881729), including:

- demolition of the ground floor slab of the former shopping centre building
- bulk earthworks to excavate the future Harbourside redevelopment basement
- construction of retaining structures for the excavated site

- construction of the raft slab for the future residential tower core
- site remediation, validation and dewatering.

Harbourside redevelopment public domain works (SSDA3)

Following exhibition of the current application, the Applicant lodged a separate SSD application (SSD 49653211 / SSDA3) for the construction and fit-out of the public domain and associated works within and around the Harbourside tower and podium redevelopment, which is the subject of this application.

Noting the above, the Applicant has confirmed that the identified public domain works do not form part of the current SSD application (the subject of this report) and instead separately form part of SSDA3.

The SSDA3 public domain works include (**Figure 16** and **Figure 17**):

- the Waterfront Promenade, Waterfront Steps, Waterfront Garden
- Pyrmont Steps, Bunn Street Bridge and the fit-out of the three pedestrian through site links
- event spaces and retail outdoor promenade areas
- vehicle arrival including pick-up/drop-off area and all non-residential visitor bicycle spaces.

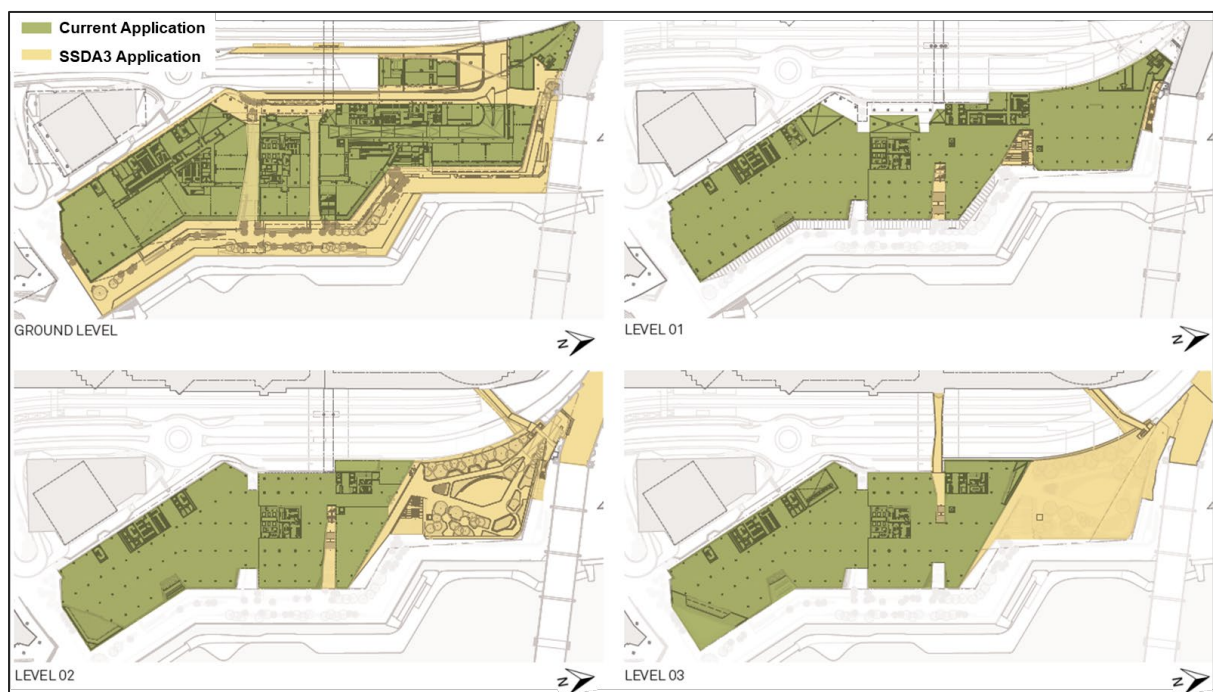


Figure 16 | Development podium layout showing the aspects of the development that form part of the current (green) and SSDA3 (yellow) applications (Base source: Applicant's EIS)

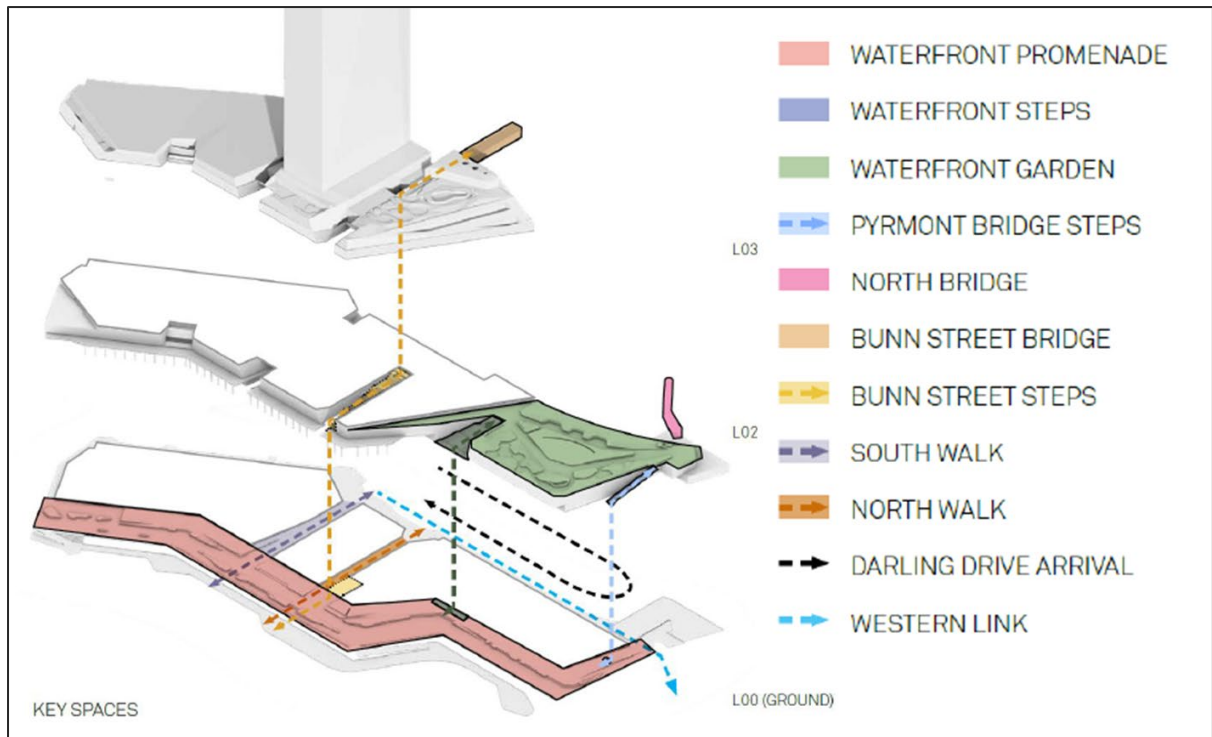


Figure 17 | Public domain works within and around the development to form part of the separate SSDA3 application (Base source: Applicant’s RtS)

2.2.2 Application scope

As discussed at **Section 2.3.1** and identified in **Table 1** and **Table 2**, demolition, site preparation and earthworks and all works within the public domain do not form part of the current SSD application. Those works form part of separate SSD applications and are therefore excluded from the current assessment.

Table 4 | Summary of site specific works that do not form part of the current SSD application.

Reference	Application summary	Status
Concept / Stage 1 Approval (SSD 7874)	Demolition of Harbourside Shopping Centre to slab level.	Approved 26 Oct 2022
SSDA1 (SSD 38881729)	Site preparation, bulk earthworks and including remediation and dewatering.	Approved 2 Mar 2023
SSDA2 (SSD 49295711)	The current SSD application (Table 3).	Current Application
SSDA3 (SSD 49653211)	All construction, fit-out and landscaping works within the public domain located within and around the tower and podium (as identified at Figure 16 and Figure 17).	Concurrent separate application

The modification application (**Table 3**) relates to the entire site, including public domain areas.

2.2.3 Cockle Bay Wharf redevelopment

Cockle Bay Wharf Concept Approval

On 13 May 2019, the Commission approved an SSD Concept Proposal and Stage 1 early works (SSD 7684) for the redevelopment of the Cockle Bay Wharf site.

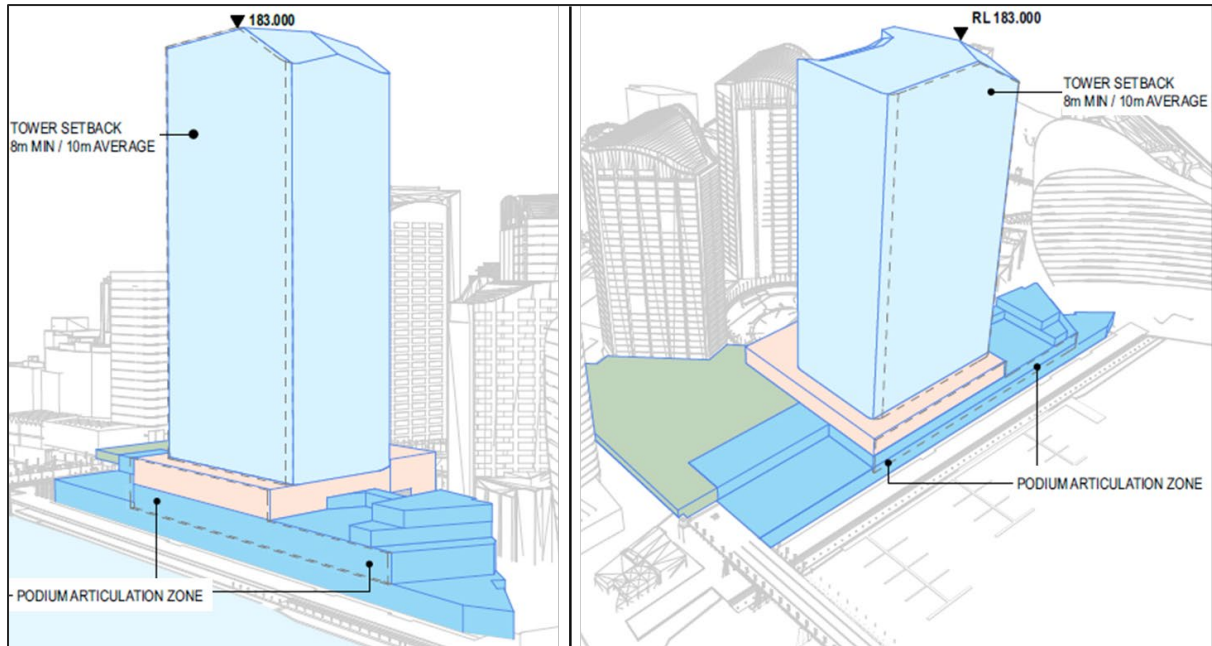


Figure 18 | Perspective views of the Concept Approval building envelope (Base source: SSD 7684)

The Concept Approval provided for a tower building envelope comprising (**Figure 18**):

- a maximum height of RL 183 m
- a maximum GFA of 89,000 m², including 75,000 m² office and 14,000 m² retail GFA
- a minimum publicly accessible open space of 6,500 m²
- building controls and design guidelines.

The Stage 1 early works included demolition of the existing Cockle Bay Wharf buildings, the enclosed pedestrian bridge linking Crescent Garden to Cockle Bay Wharf and the former monorail station.

Cockle Bay Wharf Modification and Stage 2 SSD

At the time of writing this report, the Department is assessing concurrent modification and Stage 2 SSD applications to amend the Cockle Bay Concept Approval and for the redevelopment of the Cockle Bay Wharf site (SSD 7684 MOD1 and SSD 9978934). The modification application includes amendments to facilitate the Stage 2 SSD application and the Stage 2 SSD application comprises (**Figure 19**):

- site preparation works and construction of a deck / land bridge over the Western Distributor
- construction of a 40 storey tower (RL 183 m) above a one to five storey podium providing for 89,000 m² commercial GFA
- part closure, realignment and modification of Wheat Road and creation of slip lanes
- provision of pick-up/drop-off, loading dock and bicycle parking spaces
- provision of public open spaces above the land bridge and podium and associated landscaping
- new stormwater infrastructure.

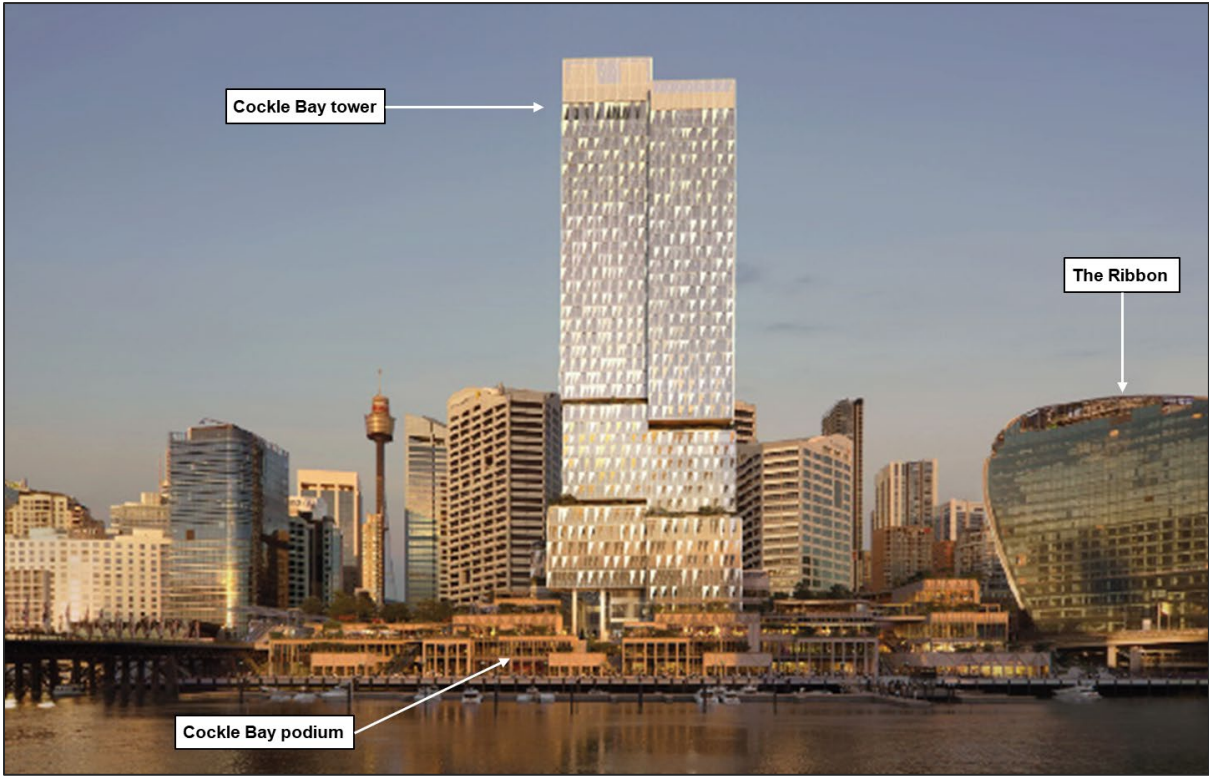


Figure 19 | Perspective of proposed Cockle Bay Wharf redevelopment (Base source: SSD 9978934)

3 Strategic context

3.1 Greater Sydney Region Plan and Eastern City District Plan

A Metropolis of Three Cities - Greater Sydney Region Plan (Region Plan) sets the vision and strategy for Greater Sydney, to be implemented at a local level through District Plans. The Region Plan outlines how Greater Sydney will be transformed into a metropolis of three cities. The site is located within the Eastern City District.

The proposal is consistent with the directions of the Region Plan and Eastern City District Plan as it will support the ongoing revitalisation of Darling Harbour, growth in jobs and a mixture of office and retail accommodation on a site with excellent access to public transport. In addition, the proposal includes significant areas of new public open space and pedestrian connections between Darling Harbour and Pyrmont to improve connectivity and help foster a lively and engaging city.

3.2 Future Transport 2056

The Future Transport Strategy 2056 is an update to the NSW Long Term Transport Master Plan 2012 and outlines a planned and coordinated set of actions to address challenges faced by the NSW transport system to support the State's economic and social performance over the next 40 years.

The proposal is consistent with the six key outcomes of the Plan as the site is located within walking distance to a number of public transport services, it will encourage active transport travel options by providing bicycle parking spaces and end of trip facilities, includes pedestrian links, restrained on-site car parking in accordance with the Concept Approval car parking rates and would encourage walking and the use of public transport through the implementation of a Green Travel Plan.

3.3 City Plan 2036: LSPS and Draft Central Sydney Planning Strategy

Council's Local Strategic Planning Statement (LSPS) sets out a 20-year vision for land use planning and Council's future directions on infrastructure, liveability, productivity and sustainability. The Draft Central Sydney Planning Strategy (CSPS) provides a strategic framework for planning policy across the CBD and establishes a 20-year growth strategy for Central Sydney. The LSPS and CSPS focus on delivering additional floorspace to accommodate employment and growth and identifies zones for high density development.

The proposal is consistent with the planning priorities of LSPS and the CSPS as it would provide 42,525 m² commercial office / retail floorspace, 265 apartments and 3,500 m² new public open space, support the innovation corridor, is located within a highly accessible part of the city, provide for a building that achieves design excellence and comprises sustainable development.

The LSPS also identifies that Pyrmont is situated at a pivotal location in the Eastern City District's Innovation Corridor and would be critical to growing business and enterprise throughout the Harbour CBD. In addition, the LSPS also aims for Pyrmont to become a gateway to the CBD and Sydney's next 'economic and jobs hub'. This commitment has been progressed within the Pyrmont Peninsula Place Strategy, discussed below.

The redevelopment of the site is subject to a State Planning Agreement between the Applicant and the Minister (executed on 12 August 2022). The agreement includes an affordable housing contribution of \$5.2 million and public art and future activation contribution of \$7 million.

3.4 Sustainable Sydney 2030

Sustainable Sydney 2030 (SS30) sets out Council's vision to make Sydney a more global, green and connected metropolis by 2030.

The proposal is consistent with the SS30 strategic directions, as it seeks to reduce greenhouse gas emissions, includes on-site renewable energy generation, low carbon materials and water and energy efficient design, is located near public transport, provides for a highly permeable site and includes new pedestrian connections.

3.5 Pyrmont Peninsula Place Strategy

The State Government's Pyrmont Peninsula Place Strategy (the PPPS) was adopted in December 2020 and creates a 20-year vision and planning framework to support the NSW Government's vision to transform the Pyrmont Peninsula while meeting the aspirations of business, industry, visitors and residents. The PPPS presents the preferred future vision, based on the provision of a Metro Station in the Peninsula to accelerate the public and private benefits of the next wave of investment.

The site is located within the Tumbalong Park sub-precinct and is identified as a key site within the precinct and peninsula (Harbourside). The proposal will support delivery of the Tumbalong Park place priorities by including residential and non-residential accommodation to create new homes and jobs, without compromising the precinct's tourist, commercial and entertainment functions and providing roof top open space, activation of Darling Drive, improved east west connections and increased site permeability.

The proposal will also support the Harbourside site-specific framework as summarised in **Appendix D**.

4 Statutory context

4.1 Scope of the modification (SSD 7874 MOD 3)

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

- would not increase the environmental impacts of the project as approved
- is substantially the same development as originally approved
- would not involve any additional significant disturbances outside the already approved disturbance areas for the project.

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 modification application should be assessed and determined under section 4.55(1A) of the EP&A Act.

4.2 State Significant Development (SSD 49295711)

The proposal is SSD under section 4.36 (development declared SSD) of the EP&A Act as the development has a CIV in excess of \$10 million and is located within the 'Darling Harbour Site', which is identified as an SSD site under clause 2 of Schedule 2 of State Environmental Planning Policy (Planning Systems) 2021 (PS SEPP).

4.3 Consent Authority

The Minister for Planning and Public Spaces (the Minister) is the consent authority under section 4.5 of the Act. In accordance with the Minister's delegation, the Executive Director, Key Sites and Regional Assessments may determine SSD applications as:

- the relevant Council has not made an objection
- there are less than 50 public submissions in the nature of objection (44 public submissions)
- a political disclosure statement has not been made.

However, in accordance with the Minister's delegation, the Deputy Secretary, Development Assessment and Systems, may determine the section 4.55(1A) application as:

- the relevant Council has not made an objection
- there are more than 50 public submissions in the nature of objection (62 public submissions)
- a political disclosure statement has not been made.

As a result, both applications will be determined by the Deputy Secretary, Development Assessment and Systems, to ensure consistency.

4.4 Permissibility

Chapter 3 of the State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 (Precincts SEPP) is the principal environmental planning instrument (EPI) that applies to the site. Clause 3.5 and Schedule 1 of the Precincts SEPP state that development including residential buildings, commercial premises, parks and gardens, shops, restaurants and utility installations may

be carried out with consent. The proposal is therefore permissible under Clause 3.5 and Schedule 1 of the Precincts SEPP.

The Department has considered the consistency of the proposal against the requirements of the Concept Approval at **Section 6.4.1** and in detail at **Appendix B**.

4.5 Secretary's Environment Assessment Requirements

On 21 October 2022, the Department notified the Applicant of the Planning Secretary's Environmental Assessment Requirements (SEARs) that apply to the proposal. The Department is satisfied that the EIS and RtS adequately address the requirements of the SEARs to enable the assessment and determination of the application.

4.6 Biodiversity Development Assessment Report

Under section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act), SSD applications are to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.

The development is located in a highly urbanised environment and the site does not contain any significant existing trees or vegetation.

On 3 February 2023, EHG determined that the proposed development would not be likely to have any significant impact on biodiversity values and that a BDAR is not required. The Department supported EHG's decision and on 7 February 2023 determined that the application is not required to be accompanied by a BDAR under section 7.9(2) BC Act.

Section 7.17(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD modifications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the authority or person determining the application is satisfied that the modification will not increase the impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017).

The Department is satisfied that the modification will not increase the impact on biodiversity values and consequently a BDAR is not required to accompany the modification application.

4.7 Matters for consideration

The following relevant matters have been taken into account in the assessment of the application:

- the matters in section 4.15(1) of the EP&A Act
- the matters in section 4.55(1A) of the EP&A Act
- relevant EPIs
- objects of the EP&A Act
- Ecological Sustainable Development (ESD)
- Environmental Planning and Assessment Regulation 2021 (EP&A Regulation).

The Department has undertaken a detailed assessment of the above matters in **Appendix B** and is satisfied the application is consistent with the relevant requirements.

5 Engagement

5.1 Department's engagement

The Department publicly exhibited the modification report and EIS of the modification and SSD application on its website from 21 February 2023 to 20 March 2023 (28 days) and surrounding landowners, Council and relevant public authorities were notified in writing. The Department also published the Applicant's RtS and additional information on its website and notified Council and relevant public authorities (**Table 5**).

The Department received a total of 74 submissions in response to the exhibition of the Modification and 60 submissions in response to the SSD EIS. A summary of the exhibition and notification is provided at **Table 5**.

A summary of the submissions and agency advice received during exhibition and subsequent notification of the RtS and RRFI is provided at **Sections 5.2 to 5.4** and a link to the submissions is provided at **Appendix A**.

The Applicant has taken steps set out in **Sections 5.5** to address issues raised in submissions. These are discussed in more detail in its:

- Response to Submissions (RtS) dated 14 August 2023
- Responses to Request for Further Information (RRFI) dated 5 and 12 October 2023.

Table 5 | Summary of public exhibition and notification of the SSD and the modification applications

Stage	Exhibition / Notification Period	MOD Submissions	SSD Submissions
EIS	21 Feb 2023 until 20 Mar 2023 (28 days)	74 submissions comprising: <ul style="list-style-type: none"> • 1 Council • 11 Public authorities • 62 public 	60 submissions comprising: <ul style="list-style-type: none"> • 1 Council • 15 Public authorities • 44 public
RtS	23 Aug 2023 until 5 Sep 2023 (14 days)	6 submissions comprising: <ul style="list-style-type: none"> • 1 Council • 5 Public authorities • no public submissions 	7 submissions comprising: <ul style="list-style-type: none"> • 1 Council • 6 Public authorities • no public submissions
RRFI	9 October 2023 until 22 October 2023 (14 days)	no submissions	3 submissions comprising: <ul style="list-style-type: none"> • 1 Council • 2 Public authorities • no public submissions

The Department has considered the comments raised by community, Council and public authorities during the assessment of the application (**Section 6**) and where appropriate has recommended conditions of consent (**Appendix F**) to minimise the impacts of the proposal.

5.2 Key issues – public authorities

Table 6 | Public authority submissions to the EIS, RtS and RRFI of the proposal

Transport for NSW (TfNSW)	
EIS	TfNSW does not object to the proposal and provided the following comments on the SSD application: <ul style="list-style-type: none"> • increase the number of loading bays to meet servicing requirements

Transport for NSW (TfNSW)

- provide swept path analysis for the largest vehicle using the loading dock
- consider the cumulative impact of construction vehicles associated with other developments in the vicinity of the site
- provide commercial / retail bicycle facilities (parking, lockers and showers) in accordance with the SDCP and confirm adequate bicycle paths are provided within the vicinity of the proposal
- prepare the green travel plan (GTP) in consultation with TfNSW
- demonstrate that the proposal does not have an adverse impact on the structural integrity, operation and safety of the light rail during construction and operational phases of the development.

TfNSW recommended conditions relating to structural integrity, operation and safety of the light rail, technical reports including dilapidation, acoustic, electrolysis, reflectivity and building foundation reports, works requirements during construction, obtain necessary insurances and Works Deed(s) with TfNSW / Sydney Light Rail Operator / Altrac, prepare a GTP, Loading and Servicing Management Plan and Construction Pedestrian and Traffic Management Plan.

TfNSW confirmed it has no comments in relation to the MOD application.

RtS TfNSW considered the SSD RtS and reiterated the conditions it recommended in response to the EIS and recommended new conditions relating to provision of bicycle facilities. TfNSW provided no comments on the MOD RtS.

Heritage NSW, Department of Planning and Environment (Heritage NSW)

EIS Heritage NSW does not object to the proposal and provided the following comments on the SSD application:

Pymont Bridge

- clarify the extent of intervention of north-west corner of the development into Pymont Bridge at ground and Level 1 and provide clear diagrams and details of the extent of works
- ensure new structural elements / surface embellishments do not visually or physically intrude on the existing bridge structure or require any structural support from it
- finishes or embellishments proposed at this location should be sympathetic to the historic character and fabric of the SHR listed place
- clarify what specific measures would be put into place to protect the significant bridge fabric during the construction phase

Non-Aboriginal archaeology

- PMNSW has delegation to manage archaeological matters below material effect and can exercise their delegation for this proposal.

Heritage NSW provided the following comments on the MOD application:

- clarify the extent of modifications resulting in encroachments and interventions into Pymont Bridge and provide clear and consistent diagrams of proposed works to heritage fabric
- ensure any interventions to the Pymont Bridge or its extended SHR listed curtilage are reduced to a minimum and provide mitigation measures to reduce any adverse impacts
- consider the historic character and fabric of the bridge and maintain the balance between the proposed development and retaining the significant values of the site
- direct impacts of the 'under Darling Drive envelope' on Pymont Bridge curtilage, significant fabric, pylons or visual setting are not acceptable
- further consider the impact of the extension of the Waterfront Garden into the SHR curtilage of the Pymont Bridge.

Transport for NSW (TfNSW)

RtS	Heritage NSW considered the RtS and confirmed it had no further comments on the SSD or MOD applications, stating the Applicant had adequately demonstrated the proposed works are visually and physically independent of the Pymont Bridge and this is a positive heritage outcome.
-----	---

Aboriginal Cultural Heritage, Heritage NSW (Heritage ACH)

EIS	Heritage ACH does not object to the proposal and stated that it agrees with the management recommendations outlined in the Applicant's Aboriginal Cultural Heritage Report (ACHAR) submitted with the SSD application and has no additional comments on the proposal.
	Heritage ACH confirmed it had no comments in relation to the MOD application.

Environment and Heritage Group, Department of Planning and Environment (EHG)

EIS	<p>EHG does not object to the proposal and provided the following comments on the SSD application:</p> <p><u>Flooding</u></p> <ul style="list-style-type: none">• update the Flooding Assessment Report (FAR) to:<ul style="list-style-type: none">○ identify flood risk and mitigation○ include a full suite of flood figures with consistent scales, orientation, colour schemes and parameter intervals (depth, velocity, hazard, flood level difference)○ include modelling of the current proposal and Public Domain SSDA3○ include an assessment of the 5% AEP event and PMF○ clarify the scale and level of detail relating to the 'Updated Drainage Network in the Tuflow Model' figure. In addition, confirm any drainage changes under the proposed conditions○ confirm the light rail tunnel is included within flood modelling and consider the impact on the light rail of raising the ground level in the vicinity of the tunnel○ comment on the inclusion of the existing overflow path through the Harbourside building○ clarify the cause of the increase in flood levels, provide a comparison between existing and proposed terrain and consider through site links○ include commentary / modelling of soil mounding in the Waterfront Park○ clarify how flood impacts have been managed / mitigated through changes to the design○ provide detail of the proposed above ground flood storage including safety implications• flood impacts on the Sofitel (up to 0.17m) are significant, update the flood modelling to reflect the proposed design and reduce/mitigate these flood impacts• clarify flood impacts to the north-east of the development, the changes in this area and address any impacts• clarify how impacts and hazards in the vicinity of the loading dock, including ground levels and drainage mitigation• basement ventilation and car park exhaust systems must be set above the PMF level• the civil drawings do not match the flood model and levels are missing for the substations• consider the site access and egress during extreme flooding conditions• consult the State Emergency Service (SES) about emergency management. <p><u>Biodiversity</u></p> <ul style="list-style-type: none">• a BDAR waiver was approved on 3 February 2023. Provide a map confirming the development footprint is consistent with the BDAR waiver.
	<p>EHG provided the following comments on the MOD application:</p> <ul style="list-style-type: none">• provide a BDAR or seek a BDAR waiver for the modification application• provide further detail of the soil mounding within the Waterfront Park.
RtS	<p>EHG considered the SSD RtS and provided the following advice:</p> <p><u>Flooding</u></p> <ul style="list-style-type: none">• update the flood model to include all relevant works / changes including to the drainage network

Transport for NSW (TfNSW)

- consider a new kerb inlet pit at the Darling Drive roundabout to address flooding in the 5% AEP
- clarify the potential increase of 0.017 m in the 1% AEP, overall absolute impact and mitigation
- consider safety of pedestrians and vehicles in the vicinity of the floor storage near the substations and provide any necessary mitigation.
- update the Flood Emergency Response Plan (FERP) to:
 - address safety considerations of the flood storage area
 - reconsider the shelter in place strategy, which is generally not supported by EHG and SES
 - run longer duration PMF events to ensure hazards and likely isolation have been estimated accurately
 - consider all available evacuation routes

Biodiversity

- the RtS does not include a map depicting the location of the BDAR waiver and confirming the development is consistent with the waiver as previously requested

EHG considered the MOD RtS and stated it does not include sufficient information to address requirements of section 7.17 of the BC Act, including whether the modification will increase impacts on biodiversity values.

RRFI

EHG considered the SSD RRFI and reiterated the following comments provided on the RtS:

- consider a new kerb inlet pit at the Darling Drive roundabout to address flooding in the 5% AEP
- consider safety of pedestrians and vehicles in the vicinity of the floor storage near the substations and provide any necessary mitigation
- shelter in place strategy is generally not supported by EHG and SES however individual applications must be assessed on their merits.

EHG provided the following additional comments:

- clarify the maximum period of predicted inundation and isolation and update information assessment locations
- update the BDAR waiver map, noting the extent of the BDAR waiver shown on the drawings is still inconsistent with Schedule 1 of EHG's BDAR waiver granted for the site.

Place Management NSW (PMNSW)

EIS

PMNSW does not object to the proposal and provided the following comments:

- PMNSW supports the Heritage Interpretation Strategy, its link to site-specific events, industry, Pyrmont Bridge and the incorporation of elements from archaeological works into interpretive initiatives. Develop site-specific interpretative installations in consultation with PMNSW
- undertake maritime archaeological investigations during all onsite excavation works, also consider Aboriginal Cultural evidence prior to historic inundation of the site
- ensure plantings on sloped roofs are viable and thrive. PMNSW supports use of native planting
- PMNSW notes the public art strategy is being developed as part of the Public Domain SSDA3
- update the traffic modelling and queuing analysis to consider traffic impacts to Darling Drive during major events (e.g. Vivid, new year's eve and other celebrations)
- PMNSW concurs with the recommendations of, and response to, the Road Safety Audit
- update the Event Management Plan to reference relevant SEPPs, PMNSW's new Outdoor Event Manual 2023 and loading information
- ensure that signage enhances the building design
- provide justification for S1 signage typology including the number of signs, photomontages of west and east podium elevations, view line analysis to Pyrmont Bridge and architectural integration.

Transport for NSW (TfNSW)

Department of Planning and Environment – Water (DPE Water)

EIS	<p>DPE Water does not object to the proposal and provided the following comments on the SSD application:</p> <ul style="list-style-type: none">confirm the maximum water take volume during the construction phase of the developmentdemonstrate adequate groundwater entitlements can be obtained for expected water takeconsider / coordinate water take analysis with the Earthworks SSD1 approvalreview previous inflow modelling which accounts for the proposed excavation modificationsprovide long-term (up to 10 years) transient state water modellingprepare a Dewatering Management Plan (DMP) and Groundwater Monitoring Plan (GMP).
	<p>DPE Water confirmed it had no comments on the MOD application.</p>
RtS	<p>DPE Water considered the SSD RtS and reiterated that the Applicant should confirm the maximum total groundwater volume take for the project, demonstrate adequate groundwater entitlements can be obtained and prepare and implement a DMP including GMP.</p>

Sydney Water

EIS	<p>Sydney Water does not object to the proposal and provided the following comments on the SSD application:</p> <ul style="list-style-type: none">the development is located within the Pyrmont Water Supply Zone and the existing water and sewer system have capacity to service the development.pumping station SP0001 has less than 4 hours emergency storage and the Applicant has entered into a separate commercial agreement with Sydney Water to complete hydraulic modelling to identify emergency storage capacity treatmentconsider Council's recycled water targets, rainwater capture and stormwater runoff reductionthe Applicant has been in discussion with Sydney Water about the proposal and has made separate applications to Sydney Water for infrastructure deviations and adjustment, a stormwater hatch and sewer extensionany potential other extensions or amplifications will be considered once a Section 73 application has been made to Sydney Water.
-----	--

State Emergency Service (SES)

EIS	<p>SES does not object to the proposal, however, raised concern that the flood information is unclear / inconsistent and is inadequate to allow for flood risks assessment of the site and made the following recommendations on the SSD and MOD applications:</p> <ul style="list-style-type: none">provide evacuation plans outlining triggers, notification, routes and impact of road closures during eventsprovide maps detailing pedestrian access and egress during PMF flooding conditionsprovide timing information for flooding including onset / overtopping of evacuation routes and flood duration timelinesdemonstrate all vehicles can safely evacuate prior to onset of flooding and the safe evacuation of the site will not restrict safe evacuation of surrounding areasupdate all flood modelling with clear and consistent scales and colours, incorporate all design modifications and flood storageconsider SES' recommended standards building design requirements and human behaviour and management requirements to minimise the increase in risk to life in flash flood environments.
	<p>SES provided the following specific comments on the SSD:</p> <ul style="list-style-type: none">further consider the impact of potential increase in flood levels, including drainage solutionsconsider flood risk associated with proposed population increase on the siteconsider flood risk impacts to back of house areas during the 1% AEP

Transport for NSW (TfNSW)

	<ul style="list-style-type: none"> clarify car park / basement exhaust and ventilation systems, which should be set above the PMF provide additional information on the duration and velocity of PMF hazard floodwater and consequential impact on evacuation shelter-in-place is not an SES endorsed flood management strategy and flood constraints are not a reason for new development being required to have refuge above PMF SES opposes strategies: <ul style="list-style-type: none"> relying on mass rescue where evacuation fails or is not implemented that transfer residual risk, in terms of emergency response activities, to SES and/or increase capability requirements of the SES including the imposition of conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management. SES provided best practice design recommendations.
	<p>SES provided the following specific comments on the MOD:</p> <ul style="list-style-type: none"> undertake a stormwater and drainage assessment considering all modifications, including increased to awning areas and majority covered through site link.
RtS	<p>SES considered the SSD and MOD RtS and provided the following comments:</p> <ul style="list-style-type: none"> SES does not support people sheltering in place in a location below the PMF height provide a refuge for people above the height of the PMF consider the potential for soil mounding to channel overland flows down the Waterfront Garden pedestrian staircase and ways to minimise this risk and flood hazard provide further information regarding the maximum period of isolation for the site amend the Flood Emergency Response in accordance with SES requirements.
RRFI	<p>SES considered the SSD RRFI and provided the following comments:</p> <ul style="list-style-type: none"> undertake modelling for longer PMF events (+6 hour duration) provide information detailing the flood risk for access routes to refuge locations on podiums above the PMF, noting that people must not be expected to enter floodwater.

Department of Infrastructure, Transport, Regional Development, Communications and Arts (DITRDCA)

EIS	<p>DITRDCA does not object to the proposal and provided the following comments on the SSD application:</p> <ul style="list-style-type: none"> the site is located within the part of the Obstacle Limitation Surface (OLS) known as the Outer Horizontal Surface with a height of 156 m Australian Height Datum (AHD) the tower (RL 170 m) penetrates the OLS (156 m) by 14 m and therefore requires a controlled activity application under the Commonwealth Airports Act 1996 and the Airports (Protection of Airspace) Regulations 1996.
-----	---

Civil Aviation Safety Authority (CASA)

EIS	<p>CASA does not object to the proposal and provided the following comments on the SSD application:</p> <ul style="list-style-type: none"> no objection subject to approval by the DITRDCA all building and crane operations that infringe the Prescribed Airspace for Sydney Airport must be referred to Sydney Airport and CASA for assessment.
RtS	<p>CASA considered the SSD and MOD applications and confirmed that the Applicant had commenced the separate referral process to Sydney Airport for assessment. CASA confirmed that it would provide advice to DITRDCA as part of that separate process.</p>

Sydney Airport

EIS	<p>Sydney Airport does not object to the SSD application and stated that the proposal is subject to assessment and determination by the DITRDCA.</p>
-----	--

Transport for NSW (TfNSW)

Air Services Australia

EIS	Air Services Australia did not object to the SSD application and stated that all development / crane operations are subject to <i>Airport (Protection of Airspace) Regulations 1996</i> assessment. In addition, temporary exceedance of the prescribed airspace may be considered by DITRDCA on a case-by-case basis.
-----	--

Environment Protection Authority (EPA)

EIS	<p>EPA does not object to the SSD application and provided the following comments:</p> <ul style="list-style-type: none">the proposal does not constitute a Scheduled Activity under Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> and does not require an environmental protection licencethe site is not regulated under the <i>Contaminated Land Management Act 1997</i> and the EPA is not the regulatory authority for the site.
	EPA stated it has no comments in relation to the modification application.

Ausgrid

EIS	Ausgrid does not object to the SSD application. It noted that there are underground cables in the vicinity of the site and recommended the Applicant consider Ausgrid's standards regarding working near cables.
-----	--

Sydney Trains

EIS	Sydney Trains does not object to the proposal and confirmed it has no comments on the SSD or modification applications.
-----	---

5.3 Key issues – Council

Table 7 | Council's submissions to the EIS and RtS

Council

EIS	<p>Council does not object to the proposal and provided the following comments on the SSD application:</p> <p><u>Public domain and landscaping</u></p> <ul style="list-style-type: none">Council does not support the exclusion of public domain elements from the applicationpublic domain should be consistent with Council's Streets Design Codeclarify how much proposed wind mitigation measures reduce wind impacts and whether the mitigation measures have been incorporated into the plansprovide mitigation to address wind impacts on the promenade and Iron Wharf Placedemonstrate the landscaping exhibits design excellence and addresses the following:<ul style="list-style-type: none">provide further detail of green roofs, including paving location, access and access safety systems, frequency of maintenance, clarify inconsistencies in soil depths, provide detail of mulch erosion, green waste removal, roof installation and overall maintenance strategyminimum tree pot size to be 75L at installationclarify the design of the Level 5 communal open space, including levels, pool fencing, wind impacts, access and maintenance and landscape/tree consistency with Sydney Landscape Codeensure landscaped areas on slab achieve minimum soil depths and volumes in accordance with Sydney Landscape Codeprovide plans confirming levels, sections, typical details and soil volume for all trees
-----	--

- consider wind impacts to trees in planters at penthouse Level 48
- provide a transplant method statement relating to the 20 existing cabbage palm trees in response to requirements of condition B7
- provide a tree protection plan relating to all trees around the site
- present the Public Art Strategy to Council's Public Art Advisory Panel, incorporate the panel's advice and submit the final public art plan for Council's approval.

Built form

- proposed canopies are shown projecting beyond the building envelope
- licenced areas and canopies should not project into / reduce the width of the promenade
- Council does not object to the shopfront-kit options, however, is concerned that future retailers may select only one shopfront type, which would diminish façade articulation
- provide detailed drawings of the shopfronts and drawings (1:20) of podium and tower façade designs, including consideration of solar shading and 3D consideration of façade corner junction details
- coordinate façade types, materials and finishes between reports and plans
- consider increasing the solidity in the podium elevations
- clarify proposed residential floor to ceiling height are 3.175 m or 3.2 m any adjustment to tower height to accommodate additional floor to ceiling height should not exceed RL 170
- consider the SDCP (section 4.2.3.11) noise criterion for residential development
- reduce the size and number of signage zones and consider the signage requirements of section 3.15 of the SDCP
- update floor levels to address the applicable flood planning levels

Heritage

- consider reinstating the modified Pymont Bridge southern wall (western approach) to its original location and relocating connecting steps outside the curtilage of the bridge
- prepare a detailed stage 2 heritage interpretation plan as part of this application
- submit final archaeological excavation reports to Council for its records

Environmental

- provide further information to predict the impact of neighbouring noise sources on future occupants
- provide a letter of Interim Advice or Section B Site Audit Statement to endorse that the remediation strategy within the Remediation Action Plan
- address the following sustainability requirements:
 - provide a NABERS commitment agreement specifying the 5.5 Star target rating
 - consider providing NABERS water rating baseline of 4.0 Star target rating
 - consider removing gas supply to food and beverage outlets
 - annotate solar panels and water tank, space requirements and system capacity on the plans
 - update BASIX certificate to include solar, energy, water efficiency annotations and include rainwater tanks
- update the physical and operational waste management strategy for the site to address Council's space, volume, access, separation and collection requirements
- assess air quality impacts on the development from the Cross City Tunnel ventilation stack and provide mitigation measures (if required).

Traffic and access

- provide accessible car parking at a rate of 1 per 20 spaces
- provide 10 motorcycle parking spaces for commercial use
- provide an additional 14 loading bays to meet the SDCP minimum requirement (30 bays)

Council

	<ul style="list-style-type: none"> • widen vehicle aisle width to allow for swept path manoeuvre of B85 and B99 vehicles • confirm residential bicycle space dimensions comply with relevant Australian Standards • provide visitor bicycle parking spaces as Class 3 design and at surface level • provide employee bicycle parking spaces as Class 2 design • update the traffic modelling to assume a nil background traffic growth assumption <p>Council provided the following comments on the MOD application:</p> <ul style="list-style-type: none"> • clarify whether the revised tower height is sufficient to accommodate residential floor to ceiling heights. Council would not support an increase in tower height above RL 170 • canopies at ground floor level should be contained within the building envelope and should not reduce the width of the publicly accessible promenade • Council raises no objection to the amendments to condition A16 to allow landscaping to project above the building envelope • Council is unable to assess Waterfront Garden landscape design feasibility without information on the soil depths, volumes, extent of mounding and viability of trees provided separation in the Public Domain SSDA3 • the podium slab design must make allowance for tree planter set-downs or alternative and soil loads, and medium and large canopy trees should not rely on mounding more than 200mm depth • submit a copy of the Podium Identification Plan architectural drawing • Council does not support the amendment of condition A14 to allow the removal of the open sky requirement for the Bunn Street through site link.
RtS	<p>Council considered the SSD and MOD RtS and provided the following combined comments:</p> <ul style="list-style-type: none"> • licenced areas and canopies should not project into / reduce the width of the promenade • occupation certificate(s) should not be issued for building works until the corresponding public domain areas (under SSDA3) have been constructed • amend the materials at the corner junctions the podium to improve aesthetic outcomes • provide quantitative noise levels for noise intrusion into apartments and clarify whether natural ventilation can occur without excessive noise intrusion • provide further information on noise impact of commercial / entertainment premises • works within the extended construction hours should be limited to quieter works • Category A construction machinery should be limited to a maximum 6 hours a day • the proposal should not rely on landscaping to address wind impacts and the awing required to mitigate wind impacts on Level 5 has not be included on the plans • consult with Council on the development of the heritage interpretation plan • confirm total proposed soil volumes • improve sustainability initiatives and targets • the signage proposal is not supported and signage provisions of the SDCP should be considered • insufficient loading bays have been provided and the loading dock management plan should be submitted to Council for approval • residential bicycle spaces should be provided as Class 1 spaces • reduce the 17 m wide vehicle crossover to a maximum of 10.6 m • update the physical and operational waste management strategy for the site to address Council's space, volume, access, separation and collection requirements.
RRFI	<p>Council considered the SSD RRFI and reiterated the following comments provided on the RtS:</p> <ul style="list-style-type: none"> • Council does not support the exclusion of public domain works from the SSD • occupation certificate(s) should not be issued for building works until the corresponding

Council

- public domain areas (under SSDA3) have been constructed
- provide quantitative noise levels for noise intrusion into apartments and clarify whether natural ventilation can occur without excessive noise intrusion
- reduce the 17 m wide vehicle crossover to a maximum of 10.6 m
- update the physical and operational waste management strategy for the site to address Council's space, volume, access, separation and collection requirements.

Council provided the following additional comments:

- confirm likely interim wind mitigation measures, duration of installation, safety/security and amenity impacts and clarification of obstructions to the public domain
- provide further soil volume and depth information to confirm landscaping viability
- any reduction in parking below the maximum should be shared between residential and residential visitor parking
- the number of loading bays is acceptable
- the residential bicycle parking within a shared room is acceptable.

5.4 Key issues - community

A total of 106 public submissions (excluding duplicate and proforma submissions) were received in response to the public exhibitions of the SSD and modification EIS'. Submissions comprised:

- SSD:** 45 submissions including 40 objections, three comments and two in support.
- MOD:** 62 submissions including 60 objections, one comment and one in support

The key issues raised in submissions are summarised in **Table 8**.

Table 8 | Public submissions raised in response to the exhibitions of the SSD and the modification applications

Key issues	Proportion of total objections	
	SSD (40)	MOD (60)
Mounding / trees have adverse amenity impacts on ODH (view loss / overshadowing)	55.8%	54.4%
Waterfront Garden is not functional open space or event area due to mounding / trees	48.1%	45.6%
Mounding / trees obscure views and sightlines to Darling Harbour and Pyrmont Bridge	44.2%	42.6%
Development / mounding should not exceed RL 12.5	36.5%	44.1%
Trees on the podium pose a hazard to property and safety	34.6%	33.8%
Mounding blocks sightlines within the park, causes a personal safety / security risk for pedestrians at night and prevents child supervision	32.7%	41.2%
Object to condition amendment to remove publicly accessibility of Waterfront Garden	28.8%	20.6%
Inadequate public consultation / community views not listened to	28.8%	16.2%
Trees would overshadow the harbour and public domain	26.9%	27.9%
Tree pits should be built into the podium to accommodate deep soil	21.2%	22.1%
Mounding and tree heights inconsistent with condition A16 test for minimal impact	19.2%	11.8%

Key issues	Proportion of total objections	
	SSD (40)	MOD (60)
Tree height is excessive / should be capped	17.3%	16.2%
All development / landscaping should remain within the building envelope	13.5%	16.2%
The Commission's decision should be final and no changes made to the proposal	13.5%	22.1%
Tower height should not be increased	13.5%	17.6%
Mounding inconsistent with condition C15(d) as soil covers 50% of open space	11.5%	7.4%
Mounding disproportionately concentrated in North Podium (none in South Podium)	11.5%	11.8%
Adverse visual impacts	9.6%	5.9%
Awnings should not encroach on the promenade	9.6%	11.8%
Adverse operational noise impacts	9.6%	8.8%
Pathways should not be included in the calculation of the 3,500sqm open space	5.8%	5.9%
Bunn Street through site connection should remain linked to Waterfront Park	5.8%	14.7%
Application should be deferred until Public Domain SSDA3 is exhibited	5.8%	1.5%
Not substantially the same development	5.8%	4.4%
Budb n Street through site connection should remain open to sky	5.8%	8.8%
Issues raised less than 5% of total		
Revised Bunn Street bridge and connection is inaccessible, outdoor retail use should stop at 6pm, inadequate public benefits and adverse increase in traffic.	<5%	<5%
Old monorail bridge should be removed (SSD only).	<5%	-
Insufficient detail in application and oversupply of residential and retail accommodation (MOD only).	-	<5%

Pyrmont Action objected to the SSD and modification applications including concerns already summarised in **Table 8** (loss of views, overshadowing, inappropriate Waterfront Garden design, IPC decision should be final, development should not exceed RL 12.5, Waterfront Garden should be publicly accessible and tower height should not be increased).

The owners of Strata Plan 49249 (ODH) submitted objections to the SSD and modification applications. Both submissions included planning assessment and supporting technical reports relating to view sharing, view loss and acoustic impacts. The submissions included concerns already summarised in **Table 8** (loss of views, overshadowing, development should not exceed RL 12.5, Waterfront Garden, construction and operational noise impacts, trees beyond envelope are inconsistent with condition A16 and awnings).

The submissions raised the following issues not previously summarised:

SSD application issues

- the deferral of public domain works to future Public Domain SSDA3 application is inappropriate as those elements will effectively be determined by the current application
- VIVA comparison assessment is hypothetical, incorrect and irrelevant
- there should be no extension beyond standard construction hours
- the acoustic report does not consider noise from retail uses and event stairs (deferred to SSDA3) and mitigation measures do not consider SDCP noise criteria
- retail activity on or directly accessible from the northern podium should be limited to 7am-6pm
- the through site link is not of a civic quality and event stairs will not be capable of hosting events
- the un-used volume of the building envelope should be excluded from the calculation of the percentage of the overall development's volumetric use of the building envelope

Modification application issues

- provide maximum height / dimensions of soil mounding and trees exceedances above the northern podium height RL 12.5
- there is no assessment of the impact of amenity impacts of separating the event stairs / Bunn Street through site link
- VIVA view impact is inconsistent with the Concept Approval, does not consider proposed awnings, soil mounding or impact of modifications sought
- impact on views from ODH would be 'severe' and overall has adverse view sharing impacts
- soil mounds may impact views from the Pyrmont Bridge western approach towards Cockle Bay
- Central Podium communal open space landscaping must remain within building envelope.

The two submissions in support of the modification and one submission in support of the SSD application provided general support for the project and stated the proposal provides an overall public benefit, would provide additional apartments and activate Darling Drive.

5.5 Applicant's responses to submissions

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

On 22 August 2023, the Applicant provided its RtS, which included additional information and justification in response to the issues raised during the public exhibition of the proposal. The RtS also includes the following key amendments to the proposal:

MOD application

- amend condition C4(c) to allow for the incorporation of a glazed roof to the Bunn Street through site link
- amend the drawings to remove reference to the inclusion of a new basement envelope.

SSD application

- reduce the number of apartments by 25 (from 290 to 265 apartments), comprising a reduction of 8 x 1 and 52 x 2-bedroom apartments and increase of 33 x 3 and 2 x 4 bedroom apartments
- reduce the maximum number of apartments per floor from nine to eight per
- amend internal layout and external treatments associated with the reduction of apartments
- amend the basement car parking provision and layout including:
 - reduce the number of residential car parking spaces by five (from 249 to 243 spaces)
 - removal all visitor car parking spaces (reduction from five to zero spaces)
 - provide four new courier / van parking bays for residential component of the development

- convert one commercial parking space into a commercial accessible parking space
- provide three car share spaces
- amend the waste storage layout
- adjust the location and design of the southern tower façade from Level 7 to the top of the tower
- setback the Level 5 communal room's eastern façade and extend the northern terrace canopy
- clarify wind mitigation measures incorporated across the site.
- amend the floor-to-floor heights at Levels 4, 5, 42 to 47 (overall tower RL height unchanged)
- amend the Level 6 awning.

On 5 and 12 October and 6 November 2023, the Applicant submitted its responses to request for further information (RRFI), which provide a further response to submissions and additional information regarding traffic and parking, wind, building design, groundwater, drainage, flooding, biodiversity and ESD, landscaping, waste, noise, signage and drawing and GFA details (**Appendix A**). The RRFI also included the following amendments to the proposal:

MOD application

- provide an awning location plan, indicating where awnings extend beyond the building envelope
- confirm the maximum depth of soil mounding above the deck height is 800 mm (RL 13.3)
- amend condition A13 and A14 to allow for the provision of a lift above deck level
- reconfigure concept site boundaries adjacent to Darling Drive and Pymont Bridge
- remove the provision of ground floor promenade awnings projecting beyond the building envelope from this application.

SSD application

- provision of residential visitor bicycle parking beneath Darling Drive
- inclusion of detailed designs of kit-shopfronts and confirmation no more than 60% of the length of the promenade to comprise a single shopfront type / design
- clarification the proposal does not seek consent for fit-out of office and retail accommodation
- clarification of proposed GFA, including 41,992 m² residential and 42,525 m² non-residential GFA, (9786 m² retail and 32,739 m² office GFA)
- confirmation of soil volumes and locations
- amend and rationalise operational waste management strategy for the development
- provide first floor level refuge for people to shelter in place above the height of the PMF
- clarification the site boundaries are consistent with the BDAR wavier site boundaries.

6 Assessment

6.1 Key assessment issues

The Department has considered the Applicant's modification and SSD applications including the EIS, RtS and additional information and the issues raised in submissions in its assessment of the proposal. The Department considers the key assessment issues associated with the proposal are:

Concept Approval modification application (SSD 7874 MOD 3)

- soil mounding and a lift above the northern podium deck height
- Bunn Street through site link.

SSD application (SSD 49295711)

- consistency with the Concept Approval and design excellence
- built form
- landscaping
- traffic and parking
- operational noise.

Each of these issues is discussed in the following sections of this report. Other issues were taken into consideration during the assessment of the modification and SSD applications and are discussed at **Section 6.3** and **6.5**.

6.2 Concept Approval modification application (SSD 7874 MOD 3)

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

- the modification application and associated documents
- the details of the Concept Approval and conditions of approval
- all submissions received on the proposal and the Applicant's RtS
- relevant EPIs, policies, guidelines and the requirements of the EP&A Act.

6.2.1 Soil mounding and lift above the northern podium deck height

In determining the Concept Approval, the Commission imposed conditions requiring the Applicant provide for a public open space above the northern podium, with a maximum deck height of RL 12.5. In particular, condition:

- A13 states that the finished northern podium deck level should be no higher than RL 12.5
- C13 requires soil volume(s) be incorporated within the podium structure
- C15 requires planting to be on or within the podium.

The modification seeks to amend conditions A13, C13 and C15 to allow landscaping soil mounding and a lift to protrude above the RL 12.5 deck level / physical podium structure.

The application includes a Visual and View Impact Assessment (VVIA), which provides perspectives of the northern podium soil mounding and lift when viewed from adjoining residential properties. The VVIA concludes that the visual and view impact of the proposed mounding is negligible (**Figure 20**).

Concerns were raised in public submissions about the proposed protrusions above the deck, in particular:

- soil mounding and associated tree planting would have adverse amenity impacts on ODH (view loss / overshadowing), obscure views to Darling Harbour and Pymont Bridge, block sightlines within the park (i.e. Personal safety / security risk and prevent child supervision) and result in an unusable public open space
- soil mounding and tree planting is inconsistent with condition A16 requirements to demonstrate minimal impact on adjoining residential properties and condition C15(d) which requires the provision of minimum of soil volumes
- soil mounding should not exceed RL 12.5, the maximum soil height should be clarified and tree pits should be built into the podium to accommodate deep soil
- mounding is disproportionately concentrated in the northern podium.

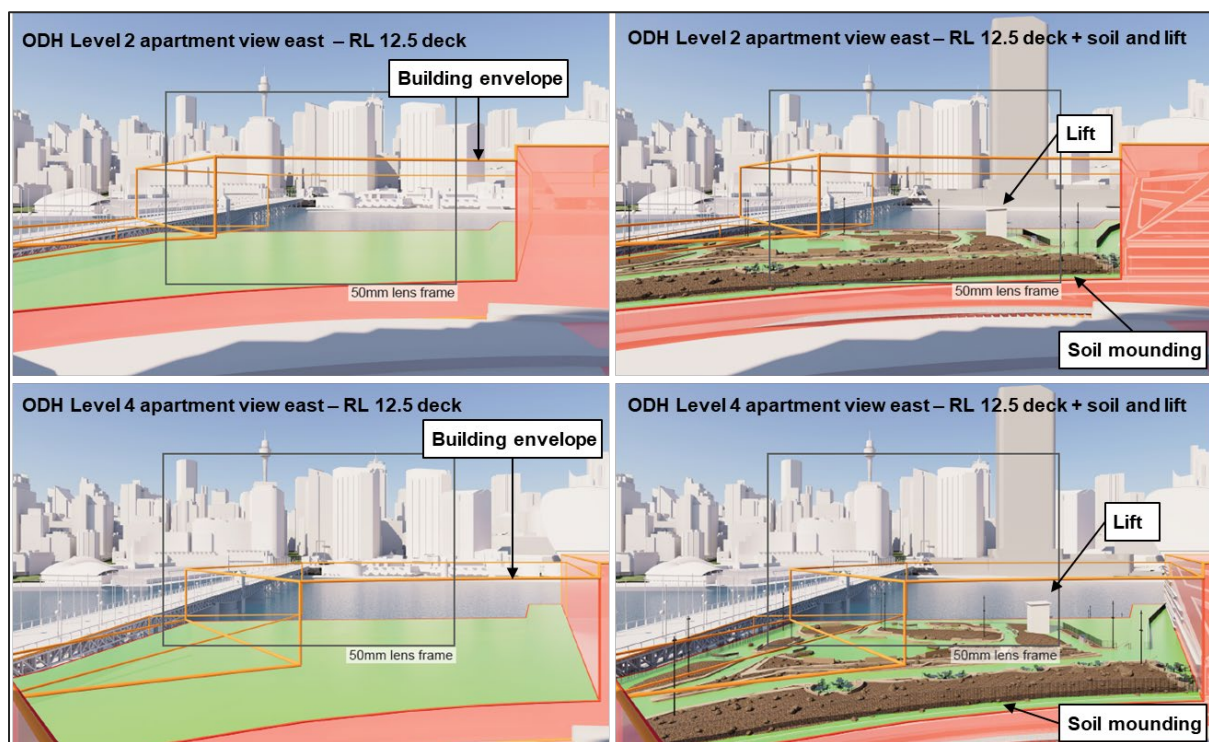


Figure 20 | Typical views (left) and proposed views with soil mounding and lift (right) from lower level apartments within ODH facing east (Base source: Applicant’s RtS)

Council raised no objection to the provision of soil mounding on the northern podium. However, it requested clarification of the proposed soil depth, volume and extent of mounding to ensure it is capable of supporting tree planting. In addition, the podium structural slab should make allowances for tree planter set downs or similar alternative(s). SES recommended the Applicant consider the potential impact of mounding on overland flows and the potential to channel flows down the Waterfront Steps. In response, the Applicant noted the detailed design of the Waterfront Garden and public domain (including soil mounding and tree planting) forms part of the separate SSDA3 application, and consideration of safety and accessibility issues relating to the height of mounding do not form part of the current application. Notwithstanding this, the Applicant stated the Waterfront Garden would be designed to ensure the proposed soil mounding will not impact public accessibility, safety or usability of the space.

The Applicant updated the VVIA and stated the proposed mounding and lift would not result in any adverse view loss or sightline impacts. In addition, the podium has been designed to include slab set down areas (Figure 21) and this will allow for a range of soil depths and volumes to be provided within and above the deck level. The Applicant confirmed that the maximum:

- mounding height above the deck would be limited to 800 mm (RL 13.3)
- lift height would be between 3 and 4 metres (subject to detailed design) and be designed to be lightweight, as translucent as possible and would sit well below the canopy level of the future surrounding trees.

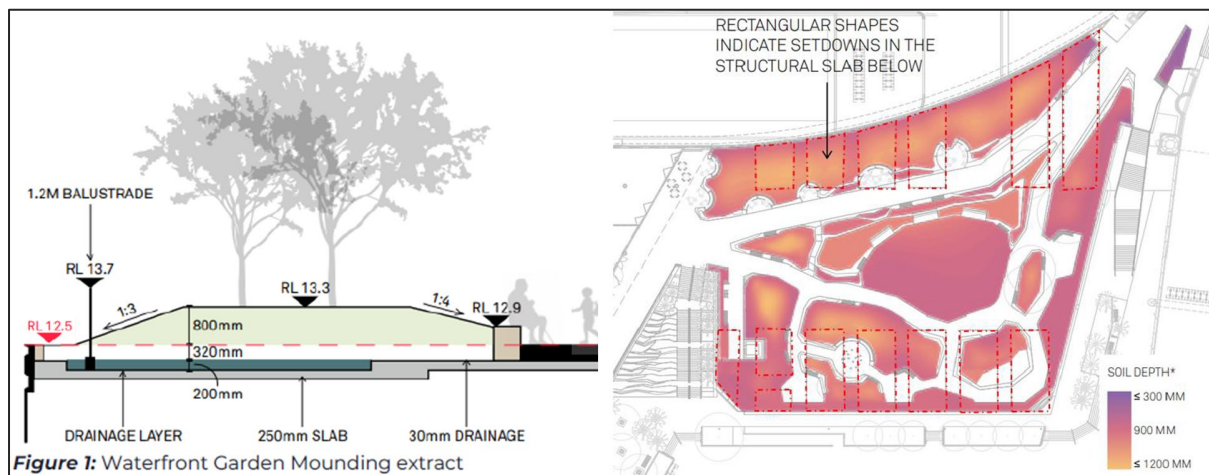


Figure 21 | Section through mounding (left) and mounding depths and slab set down areas (right) on the northern podium (Base source: Applicant’s RtS and RRFI)

The Applicant confirmed the detailed design of the Waterfront Garden would include extensive drainage and appropriate levels to direct any overland flows away from the Waterfront Steps and towards the north-east.

The Department has carefully considered the modification and the concerns raised in submissions and considers the provision of soil mounding and a lift above the deck height (RL 12.5) is acceptable as:

- the Applicant has confirmed the mounding height would be limited to maximum of 800 mm (RL 13.3) above deck level and the lift would be appropriately designed to limit visual impacts.
- set down areas have been included into the podium to provide areas for deeper soil depths (up to 1.2 m) for larger trees (**Figure 21**) and ensuring mounding does not exceed the maximum (800 mm)
- the soil mounding would support future landscaping and greater amenity in the Waterfront Garden, while the lift would provide for equitable access to the space, consistent with the vision of the concept plan approval and resulting in significant public benefits
- the VVIA has demonstrated that soil mounding and the lift would not have any noticeable impact on views and sightlines from existing adjoining residential properties to Darling Harbour or Pymont Bridge
- the detailed design and consideration of matters such as overland flows, security and usability of the Waterfront Garden form part of the assessment of the separate SSDA3 application

- the modification does not propose any amendment to condition A16 and C15 and the detailed design of the Waterfront Garden (under SSDA3) will be required to address the requirements of these conditions.

The Department notes that concerns have been raised in public submissions specifically about the impact of trees planted on the northern podium on the private views and amenity of ODH and adjoining residential properties. However, the Department notes condition A16 of the concept approval already allows for tree planting on the northern podium (subject to performance measures being met), to ensure it provides sufficient amenity for future users of the public park, while at the same time minimising visual impacts to neighbouring residents.

Further, the Department will undertake a detailed assessment of the proposed soil mounding, planting location and landscape design for the northern podium under SSDA3 to ensure the potential amenity impacts associated with these works are appropriate for the site and would minimise visual impacts as intended by Condition A16.

The Department therefore concludes the modification to allow soil mounding and a lift above the northern podium deck level (RL 12.5) is acceptable as it would provide future landscaping of and equitable access to a publicly accessible open space and would not result in any adverse visual or view impacts. The Department recommends conditions A13, C13 and C15 be amended to allow for soil mounding and a lift above deck level as proposed.

6.2.2 Bunn Street through site link

Condition C4(c) requires the Bunn Street through site link to be open to the sky for its full length.

The modification seeks approval to amend Condition C4(c) to remove the requirement for the Bunn Street through site link to be open to the sky for its full length and thereby allowing office floor levels to partially span over the link (**Figure 22**).

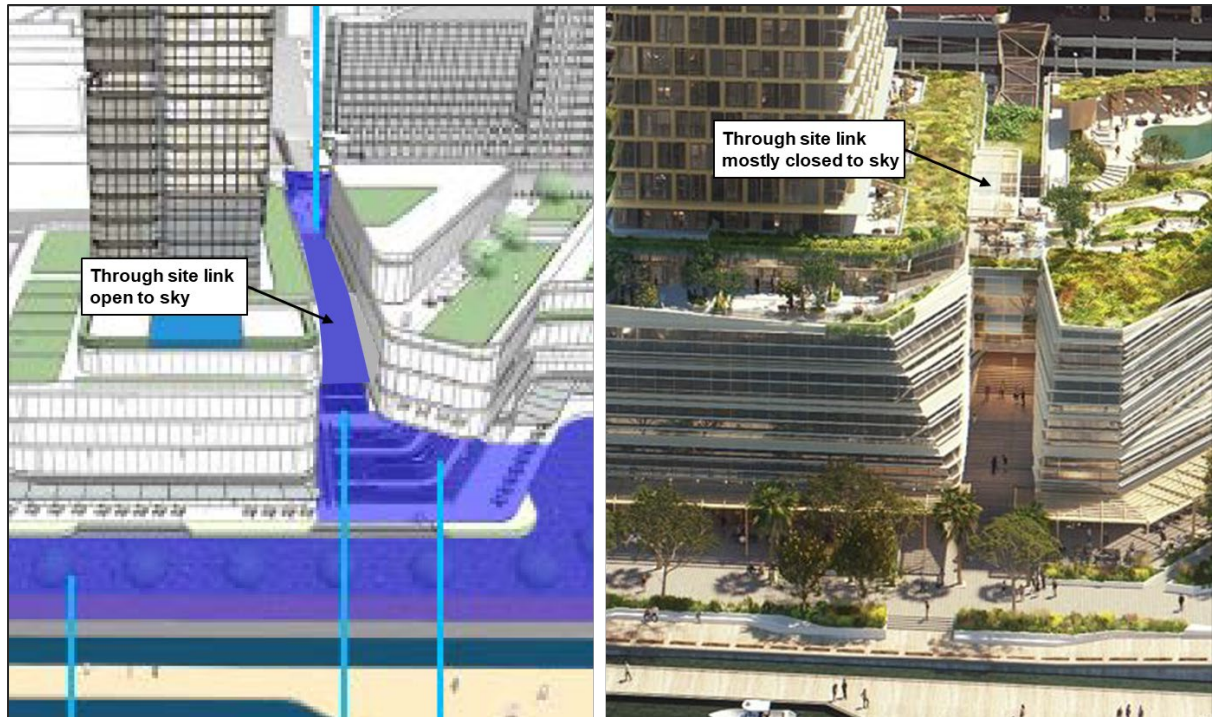


Figure 22 | Concept Approval reference scheme (left) SSD proposed through site link (right) Bunn Street through site link (Base source: SSD 7874 and Applicant's EIS)

Council stated it does not support the change to the open sky nature of the through site link without restriction. Council recommended any commercial floorplates should be bridged over the link with minimal reduction of sky and provide a minimum 2-3 storey vertical clearance beneath any bridge to preserve openness and civic quality. Council also recommended the link be appropriately activated by the office floors to ensure it is overlooked and provided with sufficient passive surveillance.

In response, the Applicant stated:

- the covering over of the Bunn Street through site link was a key component of the competition winning design and the link's podium cutaways would contribute to the refinement of the podium
- the reduction of openness increases weather protection and CCTV, lighting and views from adjoining offices would minimise safety/security risks
- the DIP has considered the detailed design of the link (proposed by the SSD) and has not requested an increase in its openness or floor to ceiling heights.

Notwithstanding the above, the Applicant suggested alternative wording for condition C4 to require the link to be open to the sky 'as much as practical'. In addition, the Applicant stated further amendments could be made to enhance the design of the link and secure the best outcome at detailed design stage.

The Department considers some level of enclosure of the link could be acceptable without having an adverse impact on the design and overall openness of the link or diminishing its intended purpose and identification as an important public through site link. Therefore, allowing a level of flexibility on this matter is reasonable. Notwithstanding, the Department agrees with Council that the change to the original design intention of an open to sky through site link should not be unrestricted. In addition, the Department notes the Applicant's proposed changes to the wording of condition C4 is open ended

and does not provide sufficient parameters to guide future designs in achieving appropriate design outcomes.

Therefore, to ensure the through site link achieves the highest standard of design and pedestrian experience, future design(s) must address the key urban design requirements that would be reasonably expected of an important public link of this kind. The Department recommends condition C4 be amended as follows:

- the wording of condition C4(c) requiring the link to be open to the sky be retained unchanged
- a new condition be added stating, notwithstanding condition C4(c), a partially covered through site link could be considered, subject to demonstrating such a link achieves a high standard of design, layout and appearance in relation to key design requirements including location, legibility, civic scale (height, width and design quality), openness, access, public art, activation, security and finishes.

The SSD application includes the detailed design of the Bunn Street through site link and the Department has considered that design against the above condition at **Section 6.4.2**.

6.3 Modification application other issues

The Department's consideration of other issues is provided at **Table 9**.

Table 9 | Department's consideration of other issues associated with the modification application

Issue	Consideration	Recommendation
Tower height	<ul style="list-style-type: none"> • The approved building envelope allows for a maximum tower height of RL 166.96 m. • The modification seeks approval to increase the tower envelope height by 3.05 m (from RL 166.96 m to RL 170 m) (Figure 4). • The Applicant has stated the amendment is necessary to ensure compliance with the National Construction Code 2022 (NCC) increased floor to ceiling height requirements and to enable the provision of the design competition winning tower development. • Concern was raised in public submissions to the increase in height. Council did not object to the increase in height and stated the maximum height must not exceed RL 170 m. • The Department considers the increase in height to be minor in nature and is acceptable as the: <ul style="list-style-type: none"> ○ PPPS sets a maximum height of RL 170 m for the site and the proposal would not exceed this maximum ○ increase is necessary to address the NCC requirements ○ increase in height is unlikely to be noticeable from a pedestrian perspective and would not result in additional noticeable overshadowing. 	The Department recommends condition A2 be amended to include the updated concept drawings.
Soft landscaping above the building envelope at southern / central podium	<ul style="list-style-type: none"> • Condition A16 allows for soft landscaping (including planting and trees) to extend above the building envelope at the northern podium where planting improves the amenity of the northern podium open space. In addition, DA(s) are required to demonstrate that any projection within this area above the building envelope will have minimal detrimental impact on views from neighbouring properties to the Pymont Bridge and the harbour. • The modification seeks approval to amend condition A16 to allow soft landscaping to also extend above the building envelope at the central and southern podium, if the current condition A16 requirements are met (Figure 5 and Figure 35). 	The Department recommends condition A16 be amended to allow soft landscaping to extend above the building envelope at the central and southern podium.

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> Concern was raised in public submissions that tree planting above the building envelope would obscure views from ODH, landscaping should remain within the building envelope, the likely tree height would fail to meet the test of condition A16 to demonstrate minimal view impact and tree height should be limited. Council confirmed it does not object to the proposed modification to condition A16. The Applicant has stated the modification would allow flexibility in landscape design across the central and southern (in addition to the northern) podium and proposes no amendment to the existing requirement that DA(s) demonstrate minimal impact. The Department notes the proposal indicatively shows trees extending above the building envelope on the central podium in the location of the Level 6 communal roof terrace (Section 6.4.3). The Department supports the modification of condition A16 as: <ul style="list-style-type: none"> it would increase planting variety and opportunities across the whole podium (rather than just on the northern podium). the requirements of condition A16 to demonstrate minimal impact have been maintained. allowing greater flexibility as proposed is likely to have a positive impact on overall visual amenity and building / podium aesthetic. As discussed at Section 6.4.3, the Department considers that the proposed podium landscaping that forms part of the SSD application is appropriate and would not have any acceptable visual or view impacts. 	
Event space / Waterfront Steps	<ul style="list-style-type: none"> Condition A15 requires the provision of a public gathering / event space adjacent to the foreshore that is linked to the Bunn Street through site link. The space must be open 24/7, include equitable access and be suitable for casual and structured gatherings / performances. The modification seeks approval to amend condition A15 to remove the requirement that the event space (Waterfront Steps) be linked to the Bunn Street through site link and both spaces be provided as separate entities. Concern was raised in public submissions that the location of the event space is not appropriate and that the Waterfront Steps should not be separated from the Bunn Street through site link. Concern was also raised about operational noise impacts on ODH. Council stated it generally supports the location of the Waterfront Steps, their openness to the sky and connection to the podium. The Department notes the Waterfront Steps are intended to be open 24/7, include lift access and capable of hosting a range of activities and events. The detailed design and operation of the steps forms part of the separate SSDA3 application. The Department considers the separation of the Waterfront Steps from the Bunn Street through site link is acceptable as the: <ul style="list-style-type: none"> Bunn Street through site link would continue to be provided and the Waterfront Steps provide a new link between the foreshore and northern podium not envisaged by the Concept Approval width, orientation and openness of the Waterfront Steps would ensure the ability to providing for a high-quality event space the Waterfront Steps are oriented away from ODH and consideration of detailed design and amenity impact would form part of the separate SSDA3 application the DIP has supported the location of the Waterfront Steps. 	The Department recommends condition A15 be amended to remove the requirement the event space be connected to the Bunn Street through site link.
Awnings	<ul style="list-style-type: none"> Condition A11 states that development must not exceed the building envelope and condition C2 states that future developments must demonstrate buildings are wholly contained within the building 	The Department recommends

Issue	Consideration	Recommendation
	<p>envelope.</p> <ul style="list-style-type: none"> • The modification seeks approval to allow the extension of awnings beyond the building envelope at Level 6 above private residential terraces and at rear ground floor level above the pick-up/drop-off (PUDO) area. The modification originally included the provision of a ground floor promenade awning. However, the RRFI confirmed this no longer forms part of this application. • The Applicant has confirmed the Level 6 awning is required to protect against potential falling objects and wind impacts and the awning above the PUDO area is to provide weather protection. • Public submissions recommended the locations and dimensions of awnings should be provided. In response the Applicant submitted an awning location plan. • The Department considers the proposed amendment to allow awnings beyond the building envelope at Level 6 and the PUDO area is minor in nature. In particular, the Department notes the awnings would be integrated into the design of the building (as shown by the SSD application), the Level 6 awning would not be highly visible from pedestrian level or the promenade and the PUDO awning would be in keeping with the use of that space. 	<p>condition A2 be amended to include the updated concept drawings.</p>
Podium identification	<ul style="list-style-type: none"> • Attachment B of the Concept Approval comprises a Podium Identification Plan, which shows in plan form the requirements of condition A14 to include a 3,500 m² publicly accessible open space and condition B2 to reduce the extent of the northern podium. • The Applicant proposes to amend the Podium Identification Plan to (Figure 7): <ul style="list-style-type: none"> ○ include the 3,500 m² public open space required by A14 ○ incorporate the condition B2 changes to the northern podium separately approved on 30 March 2022 ○ correct errors relating to Bunn Street bridge and Pymont Bridge connections. • Council recommended the Applicant provide an updated Podium Identification Plan that is drawn to scale for inclusion at Attachment B of the consent. In response the Applicant updated the plan accordingly. • The Department considers the proposed amendment to be minor and administrative in nature and is acceptable. 	<p>The Department recommends Attachment B be updated to include the amended Podium Identification Plan.</p>
Boundary adjustment	<ul style="list-style-type: none"> • The modification seeks approval to amend the Concept Approval site boundary including expansion either side of Darling Drive and including the slip road and reduction adjacent to Pymont Bridge (Figure 6). • The Applicant has stated that the boundary adjustments are the result of design development and to include additional works proposed to Darling Drive, the slip lane and PUDO area. • The Department considers the boundary adjustments are acceptable noting the incorporation of these spaces: <ul style="list-style-type: none"> ○ would facilitate the upgrade of these spaces and an appropriate interface with adjoining spaces and buildings ○ would not result in an increase in built form, height, GFA or adverse amenity or traffic impacts. • The Department considers the proposed amendment to be minor and administrative in nature and is acceptable. 	<p>The Department recommends condition A2 be amended to include the updated concept drawings.</p>

Issue	Consideration	Recommendation
Not substantially the same development	<ul style="list-style-type: none"> • Concern was raised in public submissions that the proposal is not substantially the same development as Concept Approval and therefore cannot be modified pursuant to clause 4.55(1A) of the EP&A Act. • In response the Applicant stated the modification is considered to be of minimal environmental impact and is substantially the same as the Concept Approval. • The Department considers the proposed amendments are minor and meet the test for a section 4.55(1A) modification as: <ul style="list-style-type: none"> ○ the addition of a single storey to the tower remains within the permitted height limit for the site, and the increase of 800mm for soil mounding above the approved deck level is minor and would facilitate landscaping consistent with the intent of the Concept Approval ○ the modification would not result in any significant additional overshadowing, visual, view loss or other amenity impacts compared to the original approval ○ the proposal would remain substantially the same development as originally approved. • The Department is therefore satisfied that the modification does not alter the fundamental elements of the approval to such a material degree that the modified development is no longer substantially the same development. • As discussed at Section 4.1, the modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. 	No additional conditions or amendments to existing conditions necessary.
Density of development	<ul style="list-style-type: none"> • Concern was raised in public submissions that the modification results in an oversupply of residential and retail accommodation. • The Commission considered the density of the development in determining the Concept Approval and Condition A10 establishes the maximum density of 42,000 m² residential GFA and 45,000 m² non-residential GFA. • The Department notes the modification does not seek to amend condition A10 and the SSD application proposes a development density less than the condition A10 maximum. • The Department therefore concludes the proposal would not result in an unacceptable density of development on the site. 	No additional conditions or amendments to existing conditions necessary.
Open space provision	<ul style="list-style-type: none"> • Concern was raised in public submissions that the proposal would result in a reduction in public open space, public accessibility of the Waterfront Garden would be removed and also that pathways should be excluded from the calculation of the size of the proposed Waterfront Garden. • The Department notes the modification does not seek approval to: <ul style="list-style-type: none"> ○ reduce the size of proposed public open space ○ amend the part of condition A13 which requires the provision of the Waterfront Garden as a public open space. • In addition, the Department considers the inclusion of pathways in the calculation of the size of Waterfront Garden is acceptable as the Concept Approval does not specifically exclude pathways and as pathways would form an integral part of the hard and soft landscaping of that public open space. • The Department is satisfied the modification would not result in a reduction in size or public access of public open space and the size of the space has been appropriately calculated. 	No additional conditions or amendments to existing conditions necessary.
Commission's decision	<ul style="list-style-type: none"> • Concern was raised in public submissions the Commission's decision on the Concept Approval should be final and the approval should not be modified. 	No additional conditions or

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> The Department notes the planning process allows an applicant to submit a modification application should it wish to do so. The Department has assessed the proposed modification on its merits, having regard to the impacts of the proposal and issues raised in submissions. The Department concludes the proposed modification is acceptable, as discussed within this report. 	amendments to existing conditions necessary.

6.4 State significant development application (SSD 49295711)

6.4.1 Consistency with the Concept Approval and design excellence

Consistency with the Concept Approval

The Concept Approval (SSD 7874) establishes several requirements and built form parameters to be considered in future DA(s) for the site.

As discussed in **Section 6.2**, the modification application seeks approval to amend the building envelope and the Department has recommended the modification application be approved subject to conditions. The current SSD application relies on the changes proposed in the modification application.

In light of the above, the Department considers it appropriate that this SSD application be assessed in accordance with the Department's final recommendations for the modification application. The Department has therefore assessed the development against the Concept Approval key building envelope controls (as modified by MOD3) and concludes the proposal is consistent with the controls as summarised at **Table 10**.

The Department has considered the development against all Concept Approval requirements in detail at **Appendix C**

Table 10 | Consistency of the proposal with the key Concept Approval building envelope controls

Component	Envelope Control	Proposal	Compliance	
Envelope efficiency: <ul style="list-style-type: none"> tower % use podium % use tower floorplate 	<ul style="list-style-type: none"> 80% 80% Max. 1,000 m² 	<ul style="list-style-type: none"> 79.9% 65.8% 980.8 m² 	<ul style="list-style-type: none"> - 1% - 14.2% - 19.2 m² 	Yes
GFA: <ul style="list-style-type: none"> residential non-residential 	Max. 87,000 m ² : <ul style="list-style-type: none"> Max. 42,000 m² Max. 45,000 m² 	Max. 84,517 m ² : <ul style="list-style-type: none"> Max. 41,992 m² Max. 42,525 m² 	<ul style="list-style-type: none"> - 2,483 m² - 8 m² - 2,475 m² 	Yes
Nth podium open space <ul style="list-style-type: none"> size deck level 	<ul style="list-style-type: none"> Min. 3,500 m² Max. RL 12.5 	<ul style="list-style-type: none"> 3,500 m² RL 12.5 m² 	<ul style="list-style-type: none"> same same 	Yes
Tower height	Max. RL 170 m	Max. RL 170 m	same	Yes

Component	Envelope Control	Proposal	Compliance	
Bicycle parking: <ul style="list-style-type: none"> residential non-residential visitor 	Bicycle spaces in accordance with SDCP	<ul style="list-style-type: none"> 265 spaces 272 spaces 27 resi. spaces (116 non-resi. spaces within SSDA3) 	complies complies complies	Yes
Car parking <ul style="list-style-type: none"> non-residential residential 	Maximum spaces: <ul style="list-style-type: none"> 30 non-resi. spaces 1-bed: 0.4 spaces 2-bed: 0.8 spaces; 3-bed+: 1.1 spaces; 	<ul style="list-style-type: none"> 30 non-resi. spaces 243 resi. spaces 	same complies	Yes

Public submissions considered the un-used volume of the building envelope above the RL 12.5 deck level should be excluded from the calculation of the percentage of the overall development's volumetric use of the building envelope.

The Department appreciates the concerns raised in submissions and has therefore re-calculated the volume of the building, excluding the envelope put forward by the Applicant. In this scenario, the podium would fill 71.9% of the envelope. The Department is therefore satisfied the proposed tower and podium (which incorporates the public open space recommended by the IPC) complies with the maximum envelope controls outlined in the Concept approval.

The Concept Approval includes Design Guidelines, which provide whole-of-site guidance relating generally to height, scale, setbacks, façade presentation, materials and public domain to provide a coherent vision for the redevelopment of the site and to foster design excellence.

The Department has considered the proposal against the Concept Approval Design Guidelines in detail at **Appendix C** and concludes the proposal is consistent with the Design Guidelines.

Design excellence

Clauses 6.21C and 6.21D of the SLEP and conditions A21 to A25 of the Concept Approval outline the design excellence requirements for the redevelopment of the site and require:

- preparation of a design excellence competition design brief and undertake an architectural design competition in accordance with the Concept Approval Design Excellence Strategy and the Government Architect NSW (GANSW) design excellence competition guidelines
- establish a Design Integrity Panel (DIP) to ensure design integrity in the detailed building design
- DIP review of the application prior to lodgement and retention of the DIP to oversee the project through the assessment and post approval processes.

The Application includes a Design Integrity Report (DIR), which confirms a design competition was undertaken in accordance with the Concept Approval and Design Excellence Strategy (DES) design excellence provisions. The competition included:

- the preparation of a competition brief endorsed by the GANSW and the establishment of a Competition Jury of six members
- six architectural firms were invited to participate in the design competition held over 11 weeks, commencing in September 2021

- the teams undertook an intensive design process to each prepare a design that responded to the detailed functional and urban design requirements of the brief
- the Competition Jury met in November 2021 to review the designs and on 18 November 2021 the Snøhetta and Hassell scheme was unanimously confirmed the competition winner.

The Applicant's Design Integrity Report outlines that the scheme was the winning design as it demonstrated the highest potential for achieving design excellence in line with the project brief. The Competition Jury noted that several elements of the design were critical to the success of the winning scheme including the sculptural quality of the podium and podium cutaways, greening of key elements including the roof and elevations of the podium (including the northern podium public open space), and the irregular fishing net inspired façade of the residential tower.

In accordance with the DES, the competition winning architect, has been appointed the Lead Architect and is to maintain a leadership role over design decisions until the completion of the project. In addition, a DIP has been appointed to ensure the integrity of the winning entry is maintained throughout all stages of the proposal from the development application and through construction stages. The DIP comprises members of the Competition Jury, including a GANSW and Council representative, which are tasked with reviewing the project at key milestones and providing independent expert and impartial advice.

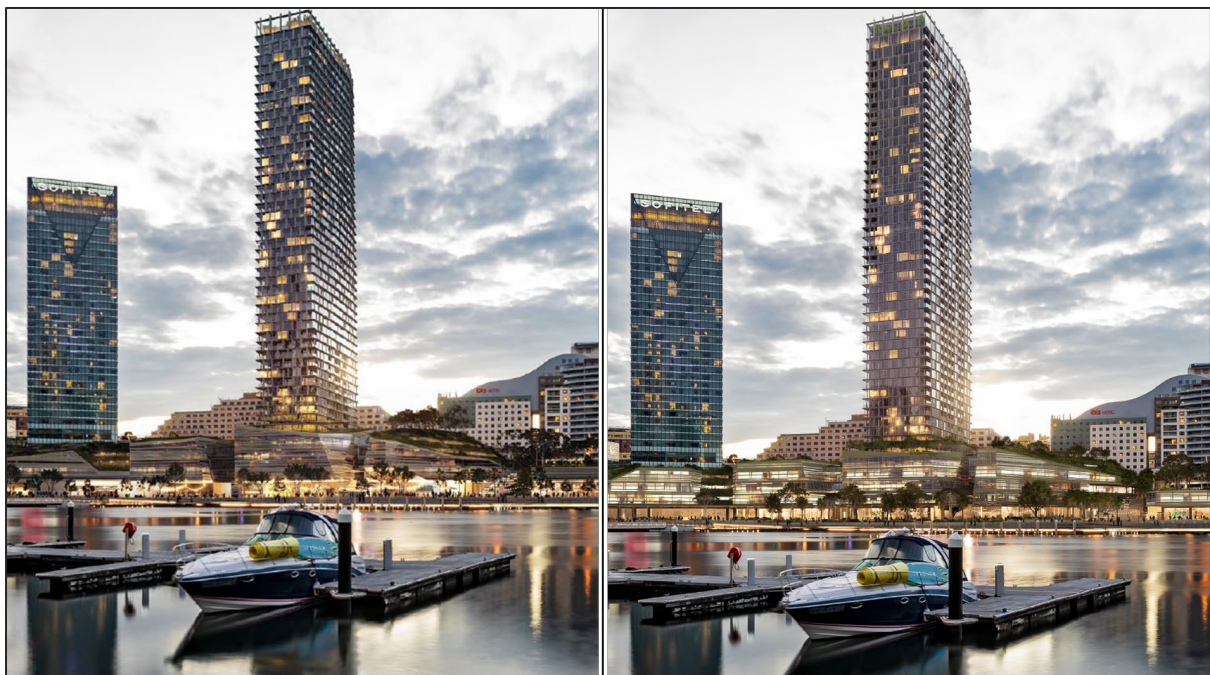


Figure 23 | Competition winning design (left) and proposed development (right) (Source: Applicants EIS)

The DIP reviewed the proposal prior to lodgement of the application. The DIP provided its endorsement of the proposal confirming design excellence would be achieved subject to further design refinement of the following aspects of the development:

- maintain high transparency in the final glass selection and to avoid dark glass
- podium corner transitions, roof parapets and transition from sloped podium roof to terraces
- integration of future signage zones into the facade and improve passive shading where possible
- optimisation of outward facing views from the commercial office while maintaining solid banding

- refinement of the ridge of the podium to achieve a 'crisp' edge condition
- resolution of the chamfering at the south-east corner of the podium
- increase the south, east and west podium façade depth to 450mm on where possible
- consider impacts on universal access, pedestrian movement and restaurant operations resulting from the design of retail kit shopfronts and the 2.5 m articulation zone.

The DIP also recommended the Applicant further resolve matters relating to the spatial arrangement of the Waterfront Boulevard, landscaping of the Waterfront Boulevard and Darling Drive and Murray Street former monorail bridge. However, the Department notes these matters relate to development within the public domain and therefore they form part of the separate SSDA3 application.

The Applicant has confirmed it would address the areas identified by the DIP as requiring further resolution and that the DIP would remain engaged throughout the process to ensure design excellence is achieved. Council did not provide comments on design excellence or integrity.

The Department has assessed the proposal against the matters set out in clauses 6.21C and 6.21D of the SLEP in detail at **Appendix B**, and concludes the proposal meets the objectives of those clauses as a design competition was held and as the proposal achieves the highest standard of architectural, urban and landscape design.

The Department considers, subject to the ongoing involvement of the DIP, the development will achieve design excellence and maintain design integrity. The Department recommends conditions requiring the:

- DIP be maintained throughout the design / construction of the development and to review the development at critical stages (prior to construction, any modifications and occupation)
- resolution of post approval design matters raised by the DIP (above) and the Planning Secretary's determination of materials and Bunn Street through site link (**Section 6.4.2**)
- Lead Architect be maintained throughout the life of the project.

6.4.2 Built form

The proposal seeks approval for the construction of a tower and podium to provide for residential, office and retail accommodation, as summarised at **Section 2**. The Department considers the key assessment issues to be building height and scale, design and materials, Bunn Street through site link, retail kit shopfronts, wind impacts and private views. These matters are considered in the following sections.

Building Height and scale

Concern was raised in public submissions about the height and visual impact of the tower.

The Application includes a VVIA, which provides perspectives of the proposed development when viewed from key public vantage points (**Figure 24 to Figure 27**). The VVIA contends the height and scale of the building is appropriate within its context and has acceptable visual impacts noting the building is wholly contained within the approved tower and podium building envelope.



Figure 24 | Existing (left) and proposed (right) view west across Darling Harbour towards the development (Source: Applicant's RtS)



Figure 25 | Existing (left) and proposed (right) view west across Pyrmont Bridge towards the development (Source: Applicant's RtS)



Figure 26 | Existing (left) and proposed (right) view north-west across Tumbalong Park towards the development (Source: Applicant's RtS)



Figure 27 | Existing (left), proposed (right) distant view south-east from Pyrmont Bay Park towards the development (Source: Applicant's RtS)

The Department acknowledges the tower would be highly visible from close and distance views around the site. However, the Department considers the height, bulk and scale of the development is appropriate for the site, as:

- it complies with the maximum height, GFA and building envelope requirements of the Concept Approval (**Section 6.4.1** and **Appendix C**) and aligns with the PPPS desired built form which envisages a tower up to RL 170 in this location
- it is the result of a design competition and has been endorsed by the DIP as achieving design excellence, subject to design development and on-going review by the DIP (**Section 6.4.1**)
- the tower is consistent with the prevailing and emerging character within this part of Darling Harbour of tall buildings located close to the foreshore that frame the public realm and Cockle Bay
- the tower complements and provides for an acceptable built form relationship to existing tall developments nearby, reduces the isolation of the Sofitel tower and creates a cohesive skyline along the western side of this part of Darling Harbour
- the varied podium height responds appropriately to the site's varied context and provides for an intimate and relatable scale of development along the foreshore
- it would not have an adverse heritage impact on Pyrmont Bridge or other nearby heritage items
- it would not have adverse overshadowing, view, privacy, noise or wind impact (**Section 6.5**).

The Department therefore concludes the proposed building height and scale is acceptable as it complies with the Concept Approval controls for the site and is consistent with the desired future character of development in this location. Further the development provides for an appropriate built form relationship to existing developments and would not have adverse amenity impacts.

Design and materials

The proposal includes the construction of a 50 storey development comprising a 45 storey residential tower and 2-5 storey podium with ground floor level retail and office accommodation on upper levels.



Figure 28 | Perspective looking west towards the podium and tower (Source: Applicant's EIS)

The podium is divided into the southern, central and northern podium, with the tower located above the central podium. The three parts of the podium are articulated and have a sculptural quality resulting from indentations, cut-outs and the strong horizontal emphasis of windows framed by long solid banding. This deliberate design approach has drawn from the local environment and seeks to mimic the natural gullies, escarpment and rock formations originally found in the area. The roofs of the podium have been landscaped including green roofs, communal and public open spaces. The

podium provides for a highly permeable and accessible development fronting the foreshore and incorporating three publicly accessible through site links and stairs / lifts up to public open spaces. Materials comprise stone, glass reinforced concrete, wood and glazing generally employing warm / earthy colour tones.

The tower is elegant and simple in its design, generally being rectangular in shape with an off-set / slightly randomised grid of windows and balconies and incorporating subtle shifts / warping of its longest facades to add additional visual interest. The tower crown caps the development by expanding the grid from lower levels and is highly transparent. The tower façade comprises a glazed curtain wall system incorporating horizontal / vertical fins and shading elements and glazed balcony balustrades. The colour tone of materials changes from warm sandstone to cool grey progressing up the tower.

The DIP supports the overall design of the development, subject to the resolution of the outstanding detailed design matters it has identified (**Section 6.4.1**). It recommended the Applicant continue to consult with it throughout the detailed design stage(s) of the project to resolve these matters.

Council raised concern that materials do not wrap around the podium corner junctions and reduce the sculptural quality of the design. Council recommended amendments to avoid the need for a joint at the corners (**Figure 29**). In response, the Applicant confirmed it would not object to a condition requiring the resolution of podium corner junction material treatment prior to the issue of a construction certificate.

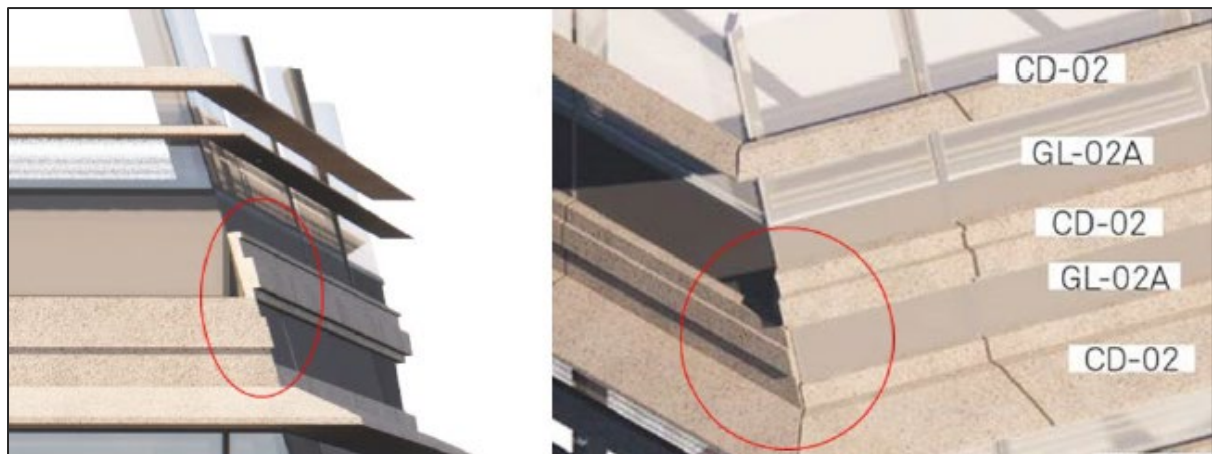


Figure 29 | Typical podium corner junction material interface (Source: Council's submission)

The Department considers the proposal presents a unique design that would create a high quality building and achieves design excellence (as discussed in **Section 6.4.1**). In particular, the Department considers the architectural design approach is highly cohesive, and the overall design and appearance of the building comprises a sophisticated architectural composition.

To ensure that the building achieves the highest standard of design and appearance and maintains its design integrity, the Department recommends conditions requiring:

- the submission of the final schedule of materials and a materials sample board
- the refinement of materials and design of the corners of the podium
- resolution of the DIP's outstanding detailed design matters.

The Department therefore concludes the proposed tower has been appropriately designed to respond

positively to the site and its context, exhibits innovation in design and sustainability and will deliver a high-quality building.

Bunn Street through site link

Condition C4 requires the podium provide for a direct through site link, open to the sky between the foreshore and the new Bunn Street bridge. As discussed at **Section 6.2.2**, the Department has supported an amendment to condition C4 to allow partial enclosure of the through site link, subject to certain design criteria being met.

The SSD application includes a Bunn Street through site link connecting the foreshore and Bunn Street bridge via a large public staircase and lift. Due to the location of office levels above the link, the majority of the length of the link is covered / not open to the sky (**Figure 22** and **Figure 30**).

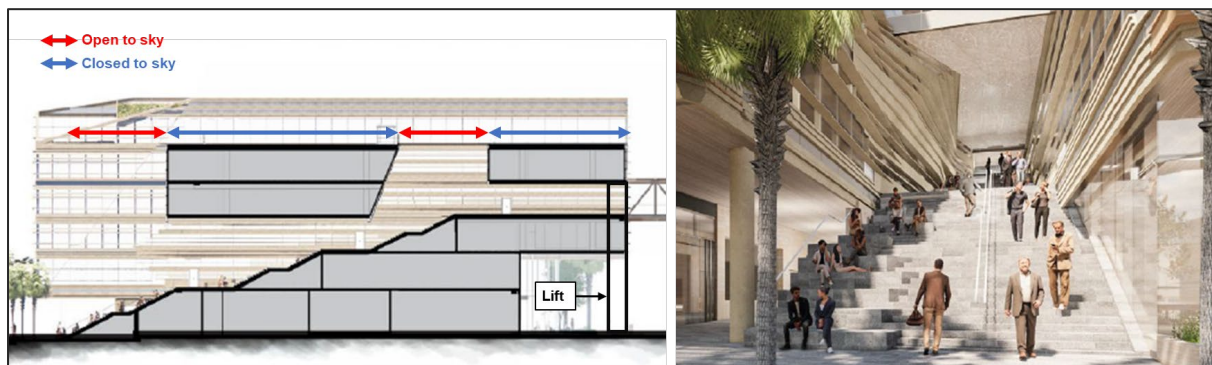


Figure 30 | Proposed open and covered components of the Bunn Street through site link (Base source: Applicant's Modification application)

Concern was raised in public submissions that the through site link was not sufficiently civic in nature and should remain open to the sky. Council did not provide specific design comments on the link in response to the SSD application. However, the Department notes Council reviewed the detailed design of the link as part of its response to the modification application and considers these comments are equally applicable to the SSD. In this regard, Council recommended if the commercial floorplates are bridged over the link, they should have minimal reduction to open sky and allow for 2-3 storeys vertical clearance beneath floorplates. In addition, the link should have a civic quality, be activated and safe / secure.

The Department recommended the Applicant amend the Bunn Street through site link design to increase the percentage of the link that is open to the sky, increase floor to ceiling height at pinch-points, ensure equitable access and consider the safety and security of the space.

The DIP indicated that there may be opportunities for public art within the link to ensure sufficient light and activation at night when adjacent to inactive commercial facades. The DIP welcomed the design development of the link and its integration with connections and overall design.

In response, the Applicant reiterated its comments provided in response to the amendment of condition C4 of the modification application that the link was a key component of the competition winning design, is supported by the DIP, provides for increased weather protection and includes CCTV and lighting to address security.

The Applicant stated no amendments are proposed to the design of the link as part of this application. However, it agreed further amendments could be made to the link to further enhance the link design

and recommended a draft condition requiring the design of the link be amended in consultation with the DIP to provide for improved urban design outcomes.

The Department considers the Bunn Street link can be appropriately modified to include links between the buildings. However, the Department appreciates the concerns raised in submissions and considers the through site link requires further design refinements to achieve an acceptable outcome for this important element of the podium. In particular, the link needs to be readily identifiable as a public through site link, be of a sufficient height and scale to provide a civic quality, provide for clear universal / equitable access and appropriately address potential safety and security concerns. The link also needs to fully address the amended condition C4 design requirements related to location, legibility, civic scale (height, width and design quality), openness, access, public art, activation, safety/security and finishes.

The Department therefore recommends a condition requiring the link be amended in consultation with the DIP and demonstrates the link shall:

- be legible as a publicly accessible through site link and have strong civic qualities, particularly relating to its height, scale and width along the full length of the link
- have an internal height appropriate to its function and supporting high-quality pedestrian amenity
- be open to the sky, however, floorplates may partly bridge over the link provided bridged components:
 - do not adversely reduce the openness of the link and visibility of sky within the link
 - do not adversely reduce the civic quality / nature of the link, its legibility as a publicly accessible through site link and the provision of clear sightlines through the link
 - provide for a minimum vertical height clearance beneath any bridge of 2-3 storeys for an appropriate distance measured from the waterfront promenade building entrance to ensure the link feels sufficiently open, internally spacious and civic in scale and character;
 - ensure the majority of the link remains open to the sky
 - are primarily designed for circulation/connectivity between the north and south floorplates to minimise bulk and retain openness.
 - are designed to be light-weight in appearance and / or highly transparent
- ensure the destinations of the link (i.e. foreshore / Bunn Street bridge) are easily understood / identifiable to pedestrians when standing at the opposite entrance to the link
- provide direct, convenient and equitable access
- include opportunity for the incorporation / integration of public art and/or heritage interpretation
- include design, layout and other measures to support activation, overlooking / passive surveillance and appropriate safety and security measures to provide for a safe environmental
- provide for high quality materials and finishes.

The Department concludes the provision of the Bunn Street through site link is acceptable subject to the Applicant preparing a revised design in accordance with the requirements of the above condition and the review of the design by the DIP.

Retail kit shopfronts

The proposal includes a 10 different kit shopfront designs / options that could be installed to the retail units located along the waterfront promenade, the north and south ground level through site links and at the northern and southern ends of the podium (**Figure 31**).

Council recommended that the Applicant provide detailed shopfront designs options and that the Applicant ensure a variety of shopfronts are installed within the podium elevations. The DIP requested the Applicant ensure universal access is provided for each shopfront option.

In response the Applicant provided detailed shopfront designs, confirmed shopfront locations and that the use of a single shopfront design would be limited to no more than 60% of the length of the promenade and 50% of the north and south through site links.

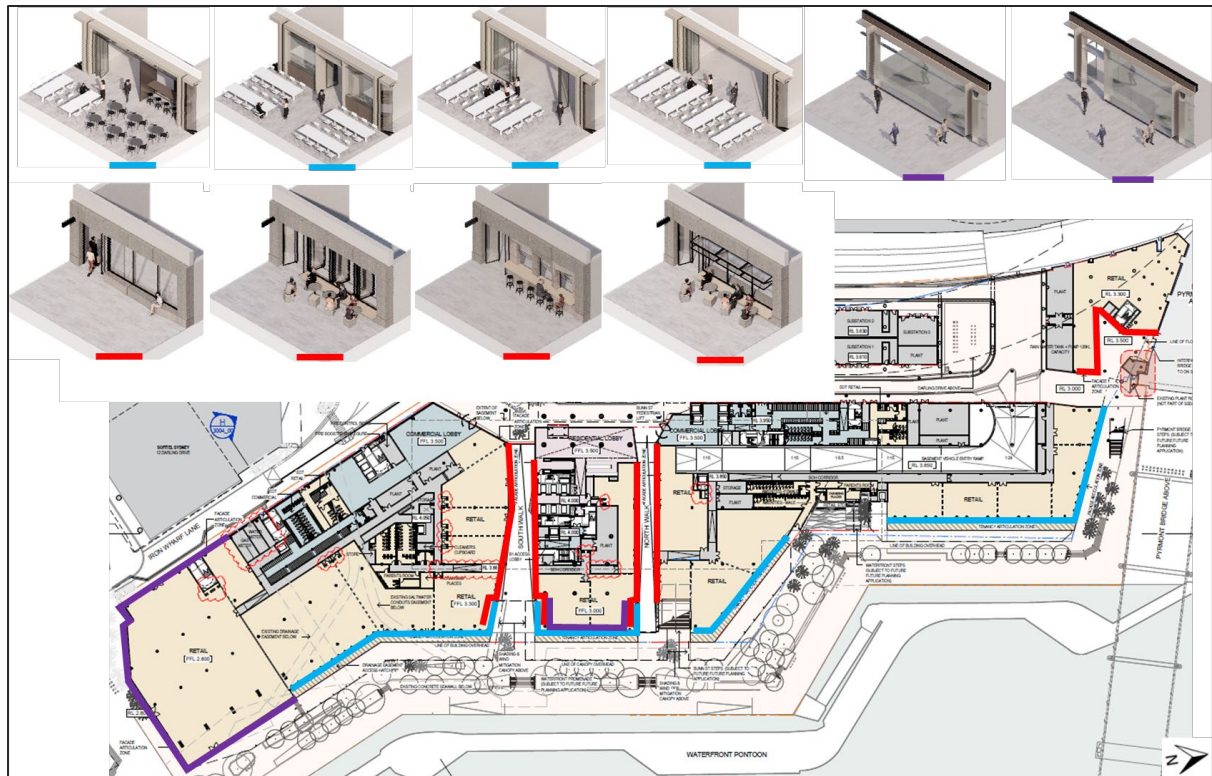


Figure 31 | Shopfront options (top) and locations (bottom) (Base source: Applicant’s RRFI)

The Department notes that retail fit-out does not form part of this application and the selection (from the options above) and installation of shopfronts would be undertaken by future occupants of the retail units. The Department supports the provision of shopfront kit options as:

- they are likely to cater for a range of needs, varied designs are available at different locations around the podium and the designs would complement each other and the design of the podium
- the Applicant has committed to ensure there is not a proliferation of one single shopfront type.

The Department has recommended a condition requiring the shopfronts provide for universal access and that the proliferation of one single shopfront design is avoided in accordance with the Applicant’s suggested percentage-split limitations.

Wind impacts

The application includes a Pedestrian Wind Environmental Assessment (PWEA), comprising a desktop study and wind tunnel assessment, to determine the existing and likely wind conditions affecting the areas within and around the development. The PWEA assessment concludes that wind comfort and safety levels are generally met and acceptable. However, it notes (**Figure 32**):

- uncomfortable wind conditions were identified at the Level 5 and 6 residential terraces and the Bunn Street bridge

- wind safety exceedances occur at the Level 5 and 6 residential terraces and around the site at the Bunn Street bridge, ODH Murray Street corner, promenade and adjacent to the Sofitel Hotel.

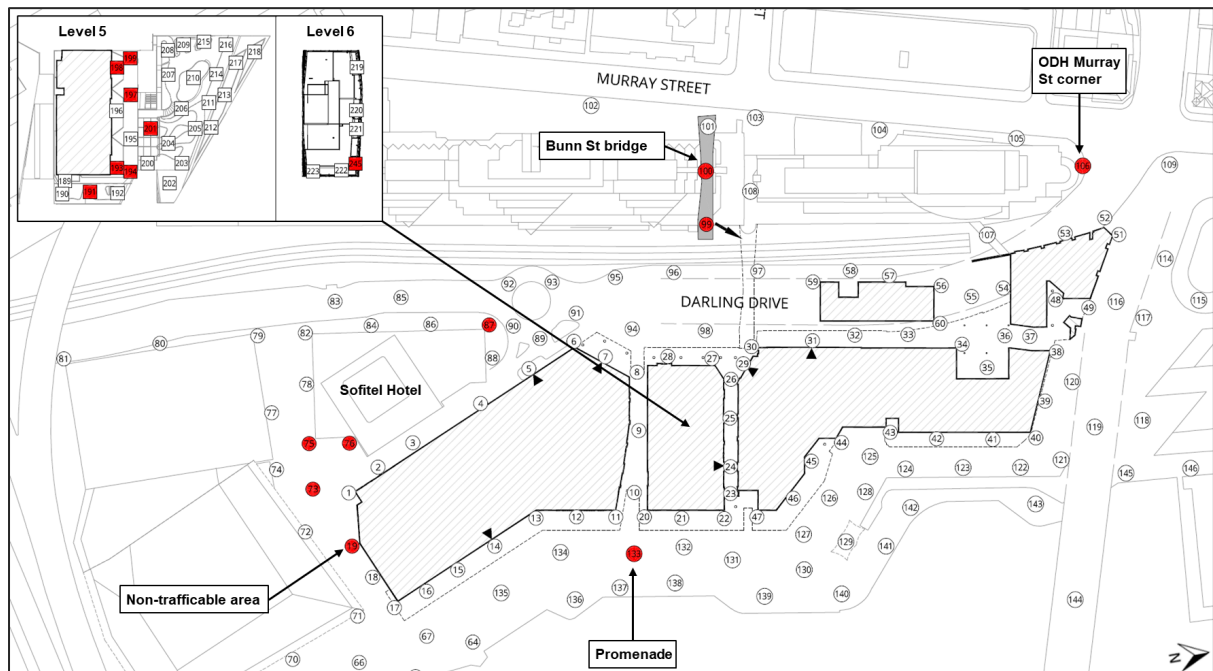


Figure 32 | Points where the 24m/s wind safety criteria is exceeded (Base source: Applicant's EIS)

The PWEA recommends mitigation measures including localised physical canopies and screening together with soft landscaping within the residential communal open spaces and the installation of awnings and screens coupled with extensive tree planting within the public domain.

Council initially raised concern that the PWEA mitigation measures did not confirm the extent of the reduction of wind impacts and that mitigation measures should rely on physical rather than soft planting measures. Council recommended the PWEA provide further mitigation measures to address wind impacts within the public domain.

Wind impact within the development

The Applicant updated the PWEA and confirmed the impact on wind mitigation measure on the identified wind impacts (**Figure 33**). In addition, the PWEA confirmed the Level 5 and 6 terraces remain susceptible to discomfort and wind safety issues due to their exposure to prevailing winds. Consequently, the PWEA recommended the design of these spaces be further refined, include additional measures such as corner screening or awning extensions and that further wind tunnel testing being undertaken to ensure additional mitigation measures adequately address wind comfort / safety conditions.

The Department notes the residential terraces are located at the base of the tower, are susceptible to accelerating winds and therefore in this context some wind impacts would be unavoidable. Notwithstanding this, the Department notes this impact is localised to the area at the immediate base of the tower and the broader communal terrace is generally unaffected. In addition, the proposed wind mitigation measures would improve the wind environment within the residential terraces. The Department agrees with the PWEA recommendation that further refinement of the design of the affected areas is necessary and supports the examination of mitigation measures via wind tunnel tests. The Department agrees with Council that soft landscaping should not be the sole method to

address wind impacts. However, the Department notes, when coupled with physical measures, soft landscaping has an additional positive impact on ameliorating wind impacts.

The Department therefore recommends a condition requiring the Applicant further refine the design of the Level 5 and 6 residential terraces and undertake further wind tunnel testing to ensure the wind impacts are reduced as much as possible.

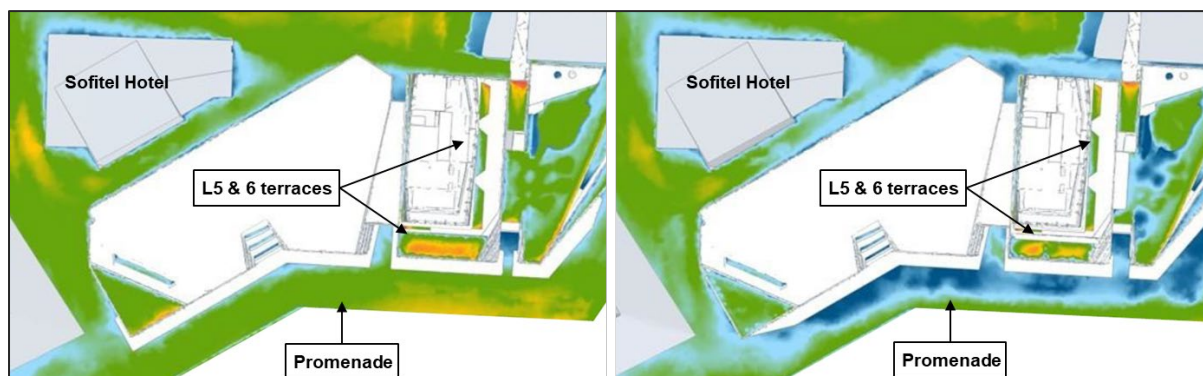


Figure 33 | Wind comfort levels for the development without mitigation (left) within mitigation and established planting (right) (Base source: Applicant's EIS)

Wind impact within the public domain

The PWEA stated that impacts within the public domain can be addressed by mitigation measures, noting in particular that wind impacts to the (**Figure 33**):

- promenade would be addressed via awnings, canopies, screening and planting
- Sofitel Hotel occur during the existing and proposed scenarios and impacts would be reduced through the installation of screening within non-trafficable areas and soft landscaping
- Bunn Street bridge would be addressed by solid and perforated screening to the structure
- Murray Street corner of ODH occur during the existing and proposed scenarios and the minor change will not significantly alter the wind conditions in this location.

The Department notes that all of the above areas are located outside the application site boundary and works within these areas form part of the separate SSDA3 application. Notwithstanding this, the Department acknowledges that the tower development causes wind impacts in these areas and it is therefore appropriate to consider this impact, in-principle, as part of this application.

The Department concludes that the PWEA has demonstrated that wind impacts within the public domain can be managed and / or mitigated, subject to further detailed consideration, design and testing. To ensure the surrounding wind environment is acceptable, for future occupants / users of the development, the Department recommends a condition requiring any wind mitigation measures within the public domain (approved under the SSDA3) be installed prior to the first occupation of the development.

Private view loss resulting from the tower and podium built form

Concern was raised in public submissions that the height and scale of the podium and tower development would result in private view loss to adjoining residential properties, and particularly to apartments within ODH.

The impact of the development on existing private views was a key consideration of the Department's assessment and Commission's determination of the Concept Approval. The Department's assessment considered the view impact of the building envelopes on adjoining properties using the principles established by Tenacity Consulting Vs Warringah [2004] NSWLEC 140.

The Department concluded view loss impacts to the affected properties would range from minor to severe. However, the Department concluded this is reasonable as affected views are a result of the uncharacteristic low-rise nature of the existing site and given the site's location, the interruption of existing views that are currently unimpeded by any development is inevitable and reasonable in this context.

The Commission amended the Concept Approval requiring the northern podium be no higher than RL 12.5, which it noted would improve amenity and protect a wide range of views from adjoining residential apartments.

Department is satisfied the podium and tower built form would not have any adverse impact on views from adjoining residential properties, beyond what has already been considered acceptable via the Concept Approval, as:

- the development is contained wholly within the Concept Approval building envelope
- the northern podium deck height is RL 12.5 and additional soil mounding would not have an adverse impact on views as discussed at **Section 6.2.1**
- the building mass does not fill more than 80% of the building envelope consistent with the requirements of condition C1 of the Concept Approval.

6.4.3 Landscaping

Separation of public domain works

Public domain works do not form part of this application and are being considered separately under SSDA3, as summarised at **Section 2.1**.

Concern was raised in public submissions that the separation of the public domain works is inappropriate as those elements would be effectively determined as part of the current application. In addition, the proposal should be postponed until the separate SSDA3 application had been lodged and exhibited.

Council does not support the separation of the public domain works. However, stated that in the event that separation is supported, a condition should be imposed ensuring that occupation certificates for the various parts of the tower / podium built form are not issued until the related public domain works (under SSDA3) are completed.

The DIP stated that it is essential that the current application and the separate SSDA3 application be considered concurrently.

In response, the Applicant lodged the separate SSDA3 public domain works application in July 2023. The Applicant confirmed it would not object to a condition requiring the linking of the occupation of the tower / podium to the provision of related SSDA3 public domain works.

The Department notes and the SSDA3 application was exhibited from 31 August 2023 until 4 October 2023. The Department is currently assessing that application.

The Department has considered the relevant parts of the proposal within **Section 6** of this report and has clearly identified the public domain components that are excluded from consideration. In addition, where a planning consideration overlaps both the current and separate SSDA3 applications the Department has given it due regard in its assessment. The Department is therefore satisfied that the determination of this application would not confer approval to public domain works that do not form part of this application.

The Department is satisfied that the assessment and determination of the current application can proceed in advance of the determination of the SSDA3 application, subject to recommended conditions set out in **Section 6**. The Department has also recommended a condition ensuring the occupation of the tower / podium is linked to the provision of the related SSDA3 public domain works.

Green roof, communal and private garden landscaping

The proposal includes extensive landscaping works across the various roof levels of the proposal, including flat and sloping green roofs at the southern end of the podium and communal and private terraces at the central part of the podium. As discussed at **Section 2.1**, the Waterfront Garden at the northern end of the podium and all public domain works do not form part of this application and are being considered separately under SSDA3.

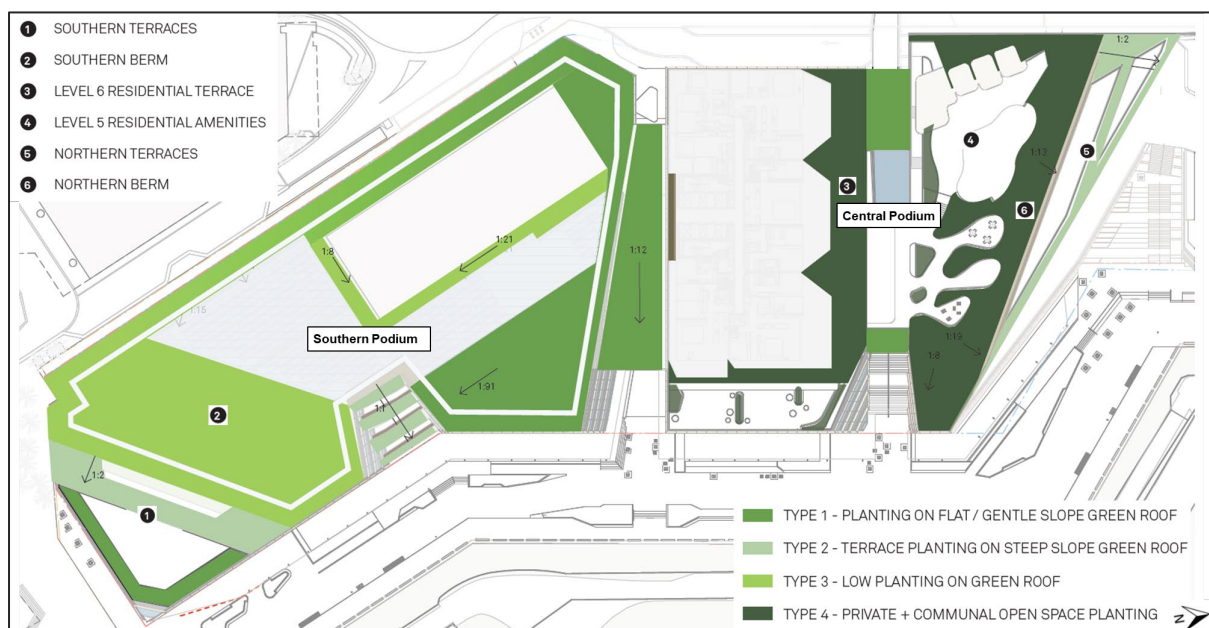


Figure 34 | On-building landscaping locations and types (Base source: Applicant's RtS)

Council did not object to the proposed design and layout of the green roofs, communal and private gardens in principle. However, it initially recommended that additional information be provided on the detailed viability, access, maintenance and soil depths of green roofs, the Level 5 terrace's consistency with the Sydney Landscape Code and safety of planting at penthouse level.

In response, the Applicant provided updated information to clarify the design, use and maintenance of the green roofs, communal open space and penthouse landscaping and provided a soil volume plan. Council reiterated that insufficient detail has been provided regarding soil depths, noted soil volumes may be insufficient and therefore recommended a condition requiring additional information and detail confirming the viability of the landscaping proposal including sections and typical details. Council also recommended a condition addressing general landscaping and maintenance requirements.

The Department considers the success and viability of the landscaping works on the building including green roofs, communal and private gardens is essential to the overall achievement of design excellence. While the Department is satisfied the landscaping is well considered and supports the general design and layout, it agrees with Council that the additional detail is required to confirm the viability and appropriateness of the landscaping and recommends conditions accordingly.

Planting extending above the building envelope (central podium)

Condition A16 of the Concept Approval (as amended, **Section 6.3**) allows for soft landscaping to extend above the building envelope where planting improves amenity and impacts have minimal impact on views from neighbouring properties to the Pyrmont Bridge and Darling Harbour (A16 Test).

Concern was raised in public submissions that the proposed Level 5 (central podium) communal open space tree planting that extends above the building envelope is contrary to the Condition A16.

In response the Applicant updated the VVIA and concluded that the proposed tree planting would have minimal impact on views from adjoining properties (**Figure 35**).



Figure 35 | Location of planting beyond the building envelope at the Level 5 communal garden within the central podium (Base source: Applicant's RtS)

The Department acknowledges that planting would extend beyond the building envelope at the Level 5 communal garden. However, the Department considers this planting would not result in adverse impacts on neighbouring views from ODH towards Pyrmont Bridge or the harbour, as shown at **Figure 35**. The Department also considers that the proposed planting would significantly improve the amenity of the open space by providing shade and increasing the variety of views and experience for users.

The Department concludes the proposal is consistent with the requirements of the Condition A16 and is therefore acceptable in this regard.

6.4.4 Traffic and parking

The application includes a Traffic Impact Assessment (TIA), which considers the existing and proposed vehicular and pedestrian conditions, car and coach parking, servicing facilities and potential traffic impacts on the surrounding area.

The Department considers the key assessment issues to be:

- traffic generation and impact
- service vehicle facilities

- vehicle parking
- bicycle facilities
- pick-up/drop off.

Traffic generation and impact

The former Harbourside Shopping Centre has been demolished, the site is currently vacant and does not generate any vehicle trips. The TIA has considered the likely traffic generation associated with the proposal and states during the AM / PM peak hour periods the:

- commercial and residential accommodation would generate up to 67 AM and 60 PM trips
- PUDO area would generate up to 30 AM and 30 PM trips
- loading and service vehicle facilities would generate up to 7 AM and 7 PM trips.

The TIA confirms the predicted additional AM and PM trips would not materially affect the function or safety of the surrounding road network. The TIA considered the existing performance of nearby intersections and the potential impact of the proposal on those intersections in the future (5 and 10 year scenarios). Based on its traffic modelling analysis, the TIA noted, although there would be some increases in vehicle queue lengths at Darling Drive intersections, the impact was negligible / minor in nature and would not noticeably reduce intersection performance or increase average delay.

The application includes a concept green travel plan (GTP), which provides a high-level consideration of what a detailed GTP for the development should consider and address. The Applicant has stated site-specific GTP measures would maximise operational sustainable modes of transport and reduce private car dependency. The TIA also undertook a Road Safety Audit (RSA), which included recommendations for minor improvements to surrounding road and cycle infrastructure and signage to improve road safety.

Concern was raised in public submissions that the proposal would result in additional traffic impacts. No concerns were raised by TfNSW or Council about traffic generation. TfNSW recommended that the Applicant prepare the GTP in consultation with TfNSW, in accordance with its GTP requirements and that TfNSW approve the final GTP prior to occupation of the development. PMNSW confirmed it supports the RSA recommendations.

The Department acknowledges the development may cumulatively generate up to a maximum of 97 new private and service vehicle peak hour trips. However, the Department considers these trips are unlikely to have an adverse impact on the road network or intersection performance due to their low number, dispersal throughout the local road network. The Department also notes Council and TfNSW raised no concerns about traffic generation.

The Department supports the Applicant's commitment to implement sustainable transport measures through a GTP and recommends a condition requiring the preparation, implementation and ongoing review of a GTP in accordance with TfNSW's requirements. The Department also supports the implementation of the RSA recommendations to ensure the safe and efficient operation of the cycleway along Darling Drive.

Subject to the recommended conditions, the Department is satisfied the proposal would not result in any adverse traffic impacts.

Service vehicle facilities

The SDCP recommends the development provide for a total of 30 on-site service vehicle loading / unloading spaces. At the time of the lodgement of the application the TfNSW Urban Freight Forecasting Model recommended the provision of 25 on-site service vehicle loading/unloading spaces. However, following the submissions of the RtS the model was updated and now recommends the provision of 20 spaces.

Following amendment of the design, the proposal includes 20 vehicle loading / unloading spaces located at basement levels. The basement is accessed via a vehicular entrance off the Darling Drive slip lane (**Figure 36**).

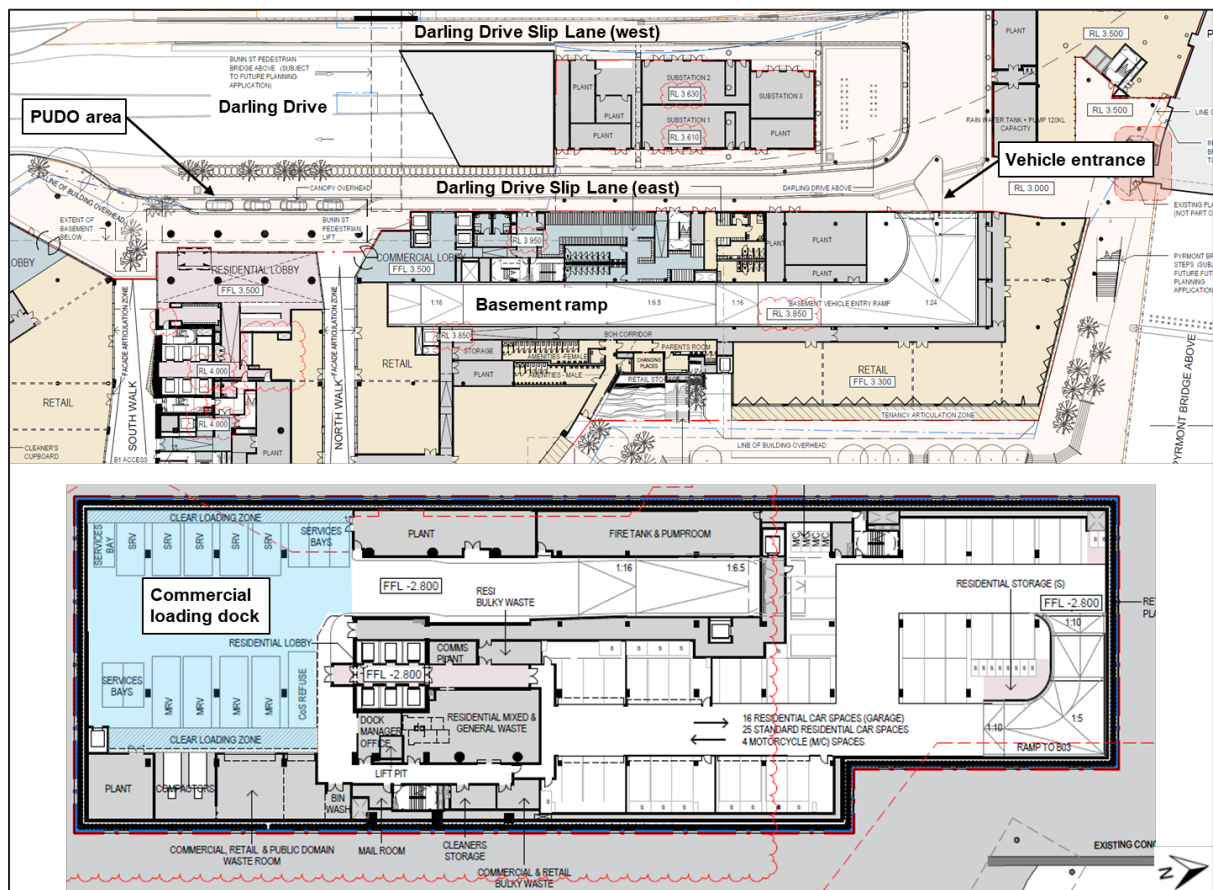


Figure 36 | Vehicle entrance and basement level service vehicle facilities (Base source: Applicant's RtS and RRFI)

Based on a conservative assessment of the loading dock demand of existing comparable commercial developments, the TIA predicts the proposal would generate demand for up to 78 loading / service deliveries on a typical day.

To address the identified servicing demand, in addition to the provision of loading/unloading spaces, the application includes a preliminary Loading Dock Management Plan (LDMP). The LDMP indicates that service vehicle facilities would generally be available 6am to 10pm for periods limited to 20 minutes. A vehicle booking system will be implemented and managed by a loading dock master / team to ensure smooth operation of the facility.

The TIA states the implementation of LDMP would provide capacity for approximately 540 x 20 minute time slots, which would easily accommodate the predicted daily service vehicle demand.

Council and TfNSW initially recommended that the development include additional loading/unloading spaces to ensure sufficient capacity is provided on-site for the servicing needs of the development. TfNSW requested confirmation that there is adequate space allowing for largest vehicle manoeuvres. Council recommended the vehicle entrance width (17 m) be reduced to the minimum required for a 10.6 m length vehicle (6 m).

In response, the Applicant increased the number of service vehicle spaces from 16 to 20 spaces, comprising 16 spaces for the commercial uses at basement level 2 and four spaces for residential use at basement levels 3 and 4. In addition, swept path was provided demonstrating the largest vehicle can appropriately manoeuvre within the site. The Applicant stated the proposed 17 m width of the vehicle entrance / crossover is necessary to allow safe two-way traffic movements and to accommodate the maximum size of service vehicles and Council waste trucks.

Council reiterated its concern about the width of the vehicle entrance and Council and TfNSW requested the final LDMP be submitted for approval.

The Department considers the proposed servicing arrangements are acceptable as:

- all servicing would be undertaken on-site, managed by a dock master and includes appropriate mitigation measures to manage servicing
- the number of loading / unloading spaces is based on the predicted demand and is consistent with TfNSW's revised Urban Freight Forecasting Model
- the preparation and implementation of a final LDMP would address operational impacts associated with servicing and ensure servicing facilities operate efficiently and effectively.

The Department notes the vehicle entrance / crossover (17m) is wider than Council's recommended width (6m). However, the entrance is located on a tight corner and this limits manoeuvrability, there is a reduced risk of vehicle / pedestrian conflicts as the crossover includes a pedestrian refuge and it is located in an area with very low pedestrian footfall. Notwithstanding, the Department considers the Applicant should undertake further analysis of the design to confirm whether it is possible to further reduce the width of the entrance / crossover.

Overall, the Department's assessment concludes the proposed servicing arrangements are acceptable and recommends conditions requiring the:

- the provision of a minimum of 20 service vehicle loading / unloading spaces and preparation and implementation of the LDMP,
- signage confirming the use of the loading / unloading spaces are for service vehicles only
- the vehicle entrance includes appropriate signage and a movement alarm to alert pedestrians when vehicles are entering / leaving the site
- the Applicant undertake an assessment to ascertain whether the width of the entrance / crossover can be further rationalised / reduced in consultation with Council.

Vehicle parking

Condition A17 and the Design Guidelines set out residential, commercial and visitor car parking rates for the development. The SDCP includes rates for accessible and motorcycle parking.

The proposal includes the provision of 243 residential and 30 commercial on-site car parking spaces located at Basement Levels 2-4, as summarised at **Table 12**. The spaces would be accessed from

the Darling Drive slip lane. The TIA confirms that provision would be made for electric vehicle charging facilities in the basement residential and commercial parking.

Council recommended the number of commercial accessible car parking spaces be increased to two and a minimum of 10 commercial motorcycle spaces be provided. The Applicant agreed to this change and amended the proposal accordingly.

Table 11 | Comparison of the Concept Approval, SDCP and proposed (as amended) vehicle parking

Type of parking	Concept Approval	SDCP	Proposal	Complies
<ul style="list-style-type: none"> Resident Accessible (included in resident parking) Residential visitor 	Max. 243	Min. 27	243 27	Yes
<ul style="list-style-type: none"> Commercial Accessible (included in commercial parking) 	Max. 30	Min. 2	30 2	Yes
Motorcycle		Min. 23	31	Yes
Car share		Spaces are in addition to maximum resident parking	3	Yes

As part of the Applicant's RtS all visitor car parking spaces were removed from the development. The Applicant justified the removal stating the site is located close to public transport and alternative public parking facilities and Condition A17 sets out a maximum visitor parking provision, rather than a minimum. Council stated any reduction in car parking below the recommended maximum should be proportional between residential and residential visitor parking.

The Department considers the car parking provision for the site is acceptable as:

- the parking provision complies with the applicable Concept Approval and SDCP maximum rates
- the removal of visitor parking is acceptable noting:
 - the site's excellent access to public transport
 - the GTP will include mechanisms to further encourage access by modes other than private car
 - condition A17 sets a maximum rather than a minimum parking requirement
- the surrounding streets include car parking restrictions, which prevent long-term car parking
- the development would only generate moderate vehicle movements with very little impact on the surrounding road network, as discussed in the preceding section.

The Department recommends conditions requiring the car and motorcycle parking be provided in accordance with the maximum numbers and tenures noted at **Table 12**.

The Department notes the ESD Report confirms provision will be made for electric vehicles (EVs) including installation of infrastructure for EV charging to all car parking spaces to allow residents to add chargers as needed and at least 20% of commercial spaces to be EV ready at day one. The Department supports this provision and recommends a condition accordingly. The Department recommends a condition securing the above commitments and also requiring 50% of commercial parking spaces capable of supporting electric vehicle charging and all car share bays to be EV ready from day one.

Bicycle facilities

Condition C40 requires bicycle parking facilities be provided in accordance with the SDCP. Condition C41 requires the submission of a Bicycle Strategy considering the safety and design of facilities and that facilities align with PMNSW's strategy for Darling Harbour. Conditions C42 and C43 require the Applicant to consider improvements to cycleway connections and upgrade of the Darling Drive cycleway.

The application provides for bicycle parking for residents at basement Level 1, residential visitor parking located beneath Darling Drive and bicycle parking and end of trip facilities for employees at ground floor level. Office and retail visitor parking would be located within the public domain (and therefore forms part of the separate SSDA3 application).

The application also includes a bicycle strategy responding to condition C41 requirements. The proposed final bicycle facilities are summarised at **Table 13**.

Table 12 | Comparison of the SDCP and the proposed bicycle parking and end of trip facilities

Bicycle facility	SDCP requirement	Proposal	Compliance
Residential spaces	265	265	Yes
Residential visitor spaces	27	27	
Office spaces	223	223	Yes
Office visitor spaces	83	83 (SSDA3)	
Retail spaces	50	50	Yes
Retail visitor spaces	33	33 (SSDA3)	
End of trip facilities	278 lockers 28 showers	278 28	Yes

The TIA includes potential upgrades to cycleway connections within and around the development. These would be further investigated and addressed as part of the separate SSDA3.

TfNSW recommended bicycle facilities be provided in accordance with the SDCP. Council initially recommended the residential bicycle spaces should be provided as Class 1 (secure locker) rather than Class 2 (shared facility).

In response, the Applicant confirmed the bicycle parking is consistent with the SDCP requirements. In addition, the residential bicycle parking is located within a shared room with secure walls, accessed via a swipe-card security control, consistent with other comparable residential developments. Council confirmed it now supports the provision of Class 2 shared residential bicycle storage.

The Department considers the proposed bicycle parking and end of trip facilities are acceptable as:

- the number of spaces and end of trip facilities are consistent with the SDCP
- the location and design of the bicycle spaces / storage areas are safe, secure and convenient
- the following aspects will be considered as part of the assessment of the SSDA3 application:
 - the design and location of office / retail visitor parking within the public domain, including any management and mitigation measures
 - potential improvement and / or upgrade of cycleways.

The Department's assessment therefore concludes the proposed bicycle facilities are acceptable and recommends conditions requiring that the number of spaces be provided in accordance with the proposal and relevant Australian Standards.

Pick-up/drop-off area

Condition C37 of the Concept approval requires future applications to demonstrate that the PUDO area has adequate capacity and does not result in queuing on Darling Drive.

A PUDO area is shown on the western side of the development, adjacent to the two through site links and residential lobby and comprises four parking bays accessed off the Darling Drive slip lane. The TIA states the PUDO area:

- is expected to predominantly be used by residents, retail visitors and commercial staff, noting there is no significant event venue in the development
- would generate up to 30 vehicles during peak hour. However, assuming a 2 minute vehicle dwell time the PUDO area has capacity to accommodate 90 vehicles per hour
- would include signposted parking limits (2-5 minutes) to regulate vehicle use.

The Department notes the PUDO area is located within the public domain outside the site boundary and therefore forms part of the separate SSDA3 application. Notwithstanding this, based on the information provided, the Department notes that the PUDO is likely to have sufficient capacity to serve the development and would not result in any adverse queuing onto Darling Drive.

The final design of the PUDO area, including any management and mitigation measures will be considered in further detail as part of the assessment of the separate SSDA3 application.

6.4.5 Operational noise

Conditions C18 to C20 and C31 of the Concept Approval set out the following operational noise requirements to manage noise impacts and protect the operation of the entertainment precinct:

- assess noise impacts, consider alternative noise criteria (including closed windows) to maximise retail use / events and minimise noise to residents and provide mitigation measures
- protect the amenity of sensitive land uses and the function of 24-hour noise generating uses
- adequately separate apartments from retail uses and events to minimise noise disturbance
- alert future residents that some amenity impacts are likely due to the site being located within an entertainment precinct.

The application includes an Operational Acoustic Assessment (OAA), which assessed the potential operational noise impacts and includes recommendations to minimise any impacts.

Nearby sensitive receivers include the ODH residential apartments and Novatel and Ibis Hotels opposite Darling Drive and the light rail network located to the west, the Sofitel Hotel and ICC Sydney to the south and the Maritime Museum to the north (**Figure 37**).

The OAA identified operational noise sources would primarily arise from the use of retail outdoor spaces, road traffic noise and mechanical plant. The OAA undertook noise monitoring to determine the existing background and ambient noise levels and establish the following project noise trigger levels (PNTL) at the nearest sensitive receivers during 7am and 6pm (day) and 6pm and 10pm (evening) and after 10pm (night), in accordance with the Noise Policy for Industry:

- 58dB(A) day, 48dB(A) evening and 43dB(A) night periods for residential receivers
- 63dB(A) day, 53dB(A) evening and 48dB(A) night periods for hotel receivers
- 63dB(A) when in use for ICC Sydney and Maritime Museum.

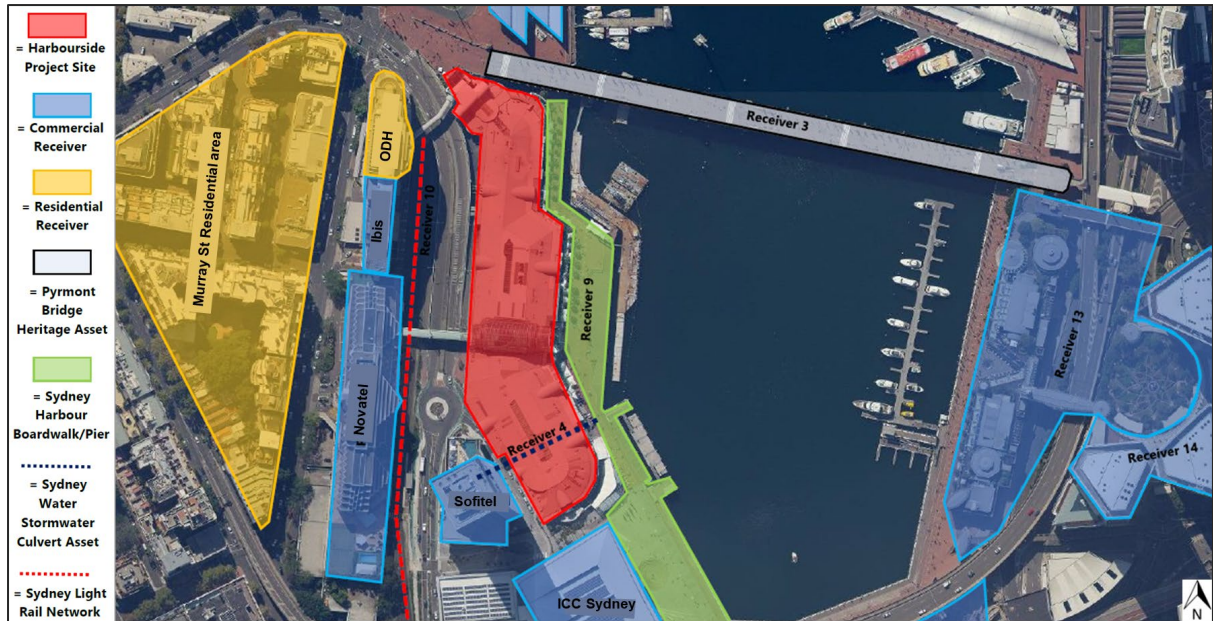


Figure 37 | Nearby residential and non-residential receivers (Base source: Applicant's EIS)

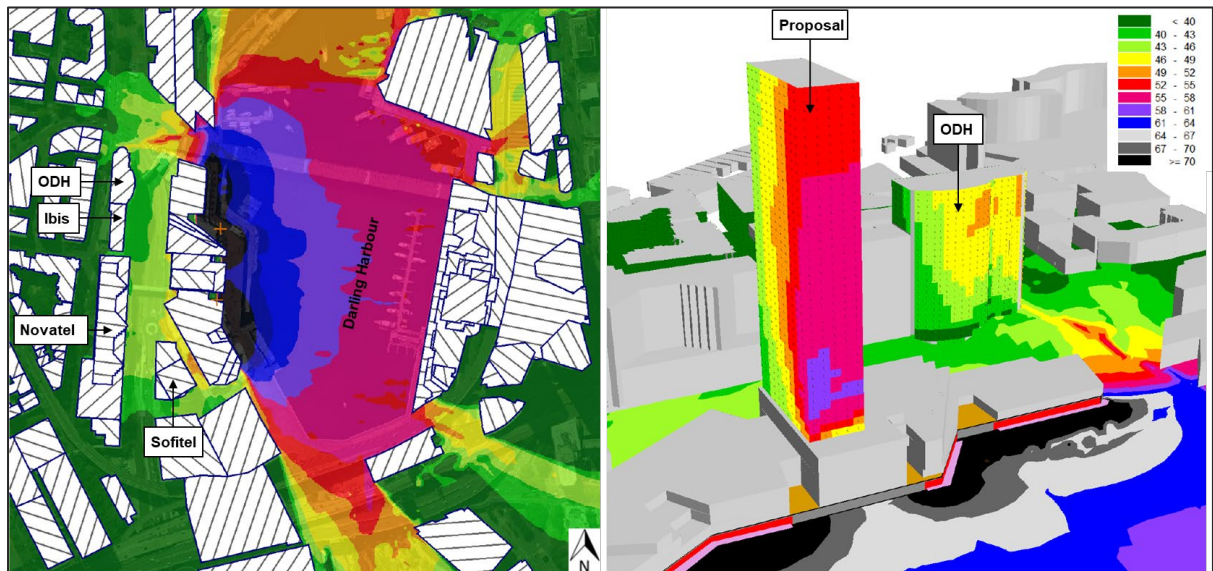


Figure 38 | Predicated food and beverage operational noise (Base source: Applicant's EIS)

The OAA considered the identified operational noise sources and concluded (**Figure 38**):

- the operation of future retail would be subject to separate future applications. However:
 - noise would be largely directed east, away from sensitive receivers
 - predicted maximum noise from retail use (patron, music and mechanical plant) at nearby residential receivers would be below the PNTLs
 - operational noise could be further managed via screens, limiting music / patrons in outdoor areas and other management controls, if required
- apartments within the proposed tower are likely to experience noise levels up to 61dB(A) and therefore exceed recommended PNTLs. To address this upgraded glazing with full perimeter seals are recommended to meet PNTLs with windows closed

- the number of retail tenancies and associated heavy vehicle movements have reduced when compared to the former Harbourside Shopping Centre and this is predicted to result in a comparative reduction in road traffic noise
- specifications and locations of the mechanical plant is not yet known. However, it is expected to comply with relevant PNTLs, subject to appropriate installation, enclosure, insulation, attenuation and maintenance.

The Applicant has confirmed that the contracts of sale of apartments will include provisions to address the condition C31 requirement that future residents are alerted to location of the site within, and potential amenity impact of, Darling Harbour as an entertainment precinct.

Concern was raised in public submissions that the operation of the retail units, Level 5 communal open space and Waterfront Garden event stairs would have adverse noise impacts on apartments within ODH. In addition, the proposal does not consider the relevant noise criteria.

Council recommended the OAA consider the noise requirements of the SDCP rather than the Development Near Rail Corridors and Busy Roads – Interim Guideline (DNRCBR) and how future apartments would achieve natural ventilation without excessive noise intrusion.

In response, the Applicant stated the DNRCBR includes the relevant criteria for the site, the noise levels adopted in the OAA are either equivalent or below those detailed in the SDCP and compliance with the adopted acoustic criteria also ensures compliance with the SDCP. In addition, given the current / future noise levels at the site from transportation, entertainment and other uses, it is appropriate to acoustically treat the façade such that internal noise levels are achieved with windows closed and an alternative source of ventilation is provided. Importantly this does not impact the ability of future residents to open their windows / doors and naturally ventilate their apartments.

The Applicant updated the OAA, which confirmed the use, operation and management of the Waterfront Garden and event stairs form part of the separate SSDA3 application and do not form part of the proposal. In addition, the use of those spaces is not predicted to substantially increase the level of noise experienced at neighbouring properties. Regarding the Level 5 communal open space area, the OAA stated that noise from residential development is not generally governed by noise criteria / guidelines. However, noise from the space would be limited to passive and communal gatherings of residents from the building and managed by the strata committee / building management.

Council considered the response and reiterated its concerns. Notwithstanding this, Council recommended operational noise conditions relating to the use of non-residential uses and mechanical plant.

The Department has carefully considered the application, concerns raised in submissions and the Applicant's responses. The Department acknowledges that the proposal would generate noise from its operation. However, the Department considers the operational noise generated by the development would not have an unreasonable impact on surrounding noise sensitive receivers and can be sufficiently managed and / or mitigated, noting:

- the OAA has demonstrated that noise impacts at nearby receivers would be below the PNTLs
- the proposal would not result in adverse additional road noise and mechanical plant can be designed to meet PNTLs.
- the proposal is consistent with the condition C19 requirement to consider closed windows as a method to address noise impacts and protect the operation of noise generating uses. In addition,

windows / and doors would be openable should residents choose to naturally ventilate their apartments

- the Applicant has committed to alerting future occupants about the potential for amenity impacts associated with the operation of the Darling Harbour precinct
- the SDCP technically does not apply to the site and use of the DNRCBR is therefore acceptable. In addition, the OAA noise levels are either equivalent or below those detailed in the SDCP
- the fit-out, operation and management of retail tenancies will for part of future DA(s) and the public domain operation and any mitigation measures form part of SSDA3.

Notwithstanding the above, the Department has recommended conditions to further manage and mitigate potential operational noise impacts, including requirements for the Applicant to:

- ensure the operation of the retail units and mechanical plant does not exceed relevant operational noise levels
- submit a Level 5 communal open space Operational Management Plan to ensure the use of that space is appropriately managed to prevent excessive noise
- ensure contracts of sale include provisions alerting future residents about potential amenity impacts associated with the operation of the Darling Harbour precinct.

6.5 SSD application other issues

The Department’s consideration of other issues is provided at **Table 14**.

Table 13 | Department’s consideration of other issues associated with the SSD application

Issue	Consideration	Recommendation								
Flooding and drainage	<ul style="list-style-type: none"> • The proposed development site experiences flooding from overland flows. • The application includes a Flood Impact Assessment (FIA), which assessed the existing and predicted flood conditions (summarised below) and recommended a shelter in place (SiP) strategy during PMF events: 	The Department has recommended conditions requiring the preparation and implementation of flood mitigation measures in consultation with EHG and a FEMP in consultation with EHG and SES.								
	<table border="1"> <thead> <tr> <th>Existing flood conditions</th> <th>Predicted flood conditions</th> </tr> </thead> <tbody> <tr> <td>In the 1% AEP event the site and adjoining roads are largely flood free. However, depths of 0.6 m occur at the north-western corner of the site and 0.4 m adjacent to the Sofitel</td> <td>1% AEP event flood impacts to the north-western corner of the site reduce to 0.48 m and there would be no change adjacent to the Sofitel</td> </tr> <tr> <td>In the PMF event Darling Drive is shown to be completely flooded reaching 1.6 m at the north-west corner of the site</td> <td>PMF event Darling Drive continues to be flooded, however to a lesser extent of 1.13 m at the north-west corner of the site. New flooding impacts occur along the through site links (0.44 m) and adjacent to substations (0.25 m)</td> </tr> <tr> <td>1% AEP flood hazard (depth and velocity of floodwaters) level H3 (unsafe for vehicles, children and the elderly), PMF flood hazard level H3 to H5 (unsafe for vehicles and people. Buildings require special engineering design and construction)</td> <td>1% AEP flood hazard level H1 (generally safe for people, vehicles and buildings) to H2 (unsafe for small vehicles), PMF flood hazard level H2 to H3.</td> </tr> </tbody> </table>		Existing flood conditions	Predicted flood conditions	In the 1% AEP event the site and adjoining roads are largely flood free. However, depths of 0.6 m occur at the north-western corner of the site and 0.4 m adjacent to the Sofitel	1% AEP event flood impacts to the north-western corner of the site reduce to 0.48 m and there would be no change adjacent to the Sofitel	In the PMF event Darling Drive is shown to be completely flooded reaching 1.6 m at the north-west corner of the site	PMF event Darling Drive continues to be flooded, however to a lesser extent of 1.13 m at the north-west corner of the site. New flooding impacts occur along the through site links (0.44 m) and adjacent to substations (0.25 m)	1% AEP flood hazard (depth and velocity of floodwaters) level H3 (unsafe for vehicles, children and the elderly), PMF flood hazard level H3 to H5 (unsafe for vehicles and people. Buildings require special engineering design and construction)	1% AEP flood hazard level H1 (generally safe for people, vehicles and buildings) to H2 (unsafe for small vehicles), PMF flood hazard level H2 to H3.
	Existing flood conditions		Predicted flood conditions							
	In the 1% AEP event the site and adjoining roads are largely flood free. However, depths of 0.6 m occur at the north-western corner of the site and 0.4 m adjacent to the Sofitel		1% AEP event flood impacts to the north-western corner of the site reduce to 0.48 m and there would be no change adjacent to the Sofitel							
In the PMF event Darling Drive is shown to be completely flooded reaching 1.6 m at the north-west corner of the site	PMF event Darling Drive continues to be flooded, however to a lesser extent of 1.13 m at the north-west corner of the site. New flooding impacts occur along the through site links (0.44 m) and adjacent to substations (0.25 m)									
1% AEP flood hazard (depth and velocity of floodwaters) level H3 (unsafe for vehicles, children and the elderly), PMF flood hazard level H3 to H5 (unsafe for vehicles and people. Buildings require special engineering design and construction)	1% AEP flood hazard level H1 (generally safe for people, vehicles and buildings) to H2 (unsafe for small vehicles), PMF flood hazard level H2 to H3.									

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> • The FIA includes flood planning levels (FPL) for ground floor uses and the basement consistent with Council's FPL requirements. • The application includes a Stormwater Management Report (SMR), which details drainage layout, erosion/stormwater control measures, stormwater infrastructure, trench drains, sealed pits, surface inlet pits, and kerb inlet pits. The plans indicate that stormwater infrastructure on the site would connect with future infrastructure provided as part of the separate SSDA3 application. • EHG raised concerns about the flooding impacts adjacent to the development and recommended mitigation measures including new kerb inlet pits at the roundabout and bollards, fencing and signage adjacent to the substations. • EHG and SES initially raised concern about the safety impact of SiP and SES recommended the Applicant provide a refuge for people above the height of the PMF and provide further information regarding the maximum period of isolation for the site. SES recommended the Flood Emergency Response be amended in accordance with its requirements. • In response the Applicant amended the FIA proposal to include a refuge at first floor level above the height of the PMF for all occupants / patrons of ground floor retail units. In addition, the FIA confirmed that once at first floor level there would be multiple flood-free routes away from the site via Pymont during the PMF. • The Applicant stated that it would not object to a condition requiring necessary EHG flood mitigation measures be implemented. • The Department acknowledges the site as existing and proposed would be susceptible to flooding during a range of flood events. However, the Department concludes the proposed flooding impacts can be adequately managed and mitigated as: <ul style="list-style-type: none"> ◦ the proposal generally results in a reduction in flood impacts compared to the existing conditions ◦ new spaces susceptible to flooding can be adequately managed subject to implementation of mitigation measures ◦ the SiP strategy has been amended to provide for refuge above the height of the PMF and given the nature and location of the site, SiP is the only feasible option ◦ the Applicant has agreed to prepare the final Flood Emergency Response Plan (FEMP), including SiP strategy in consultation with SES ◦ the building has been designed to address relevant FPL. <p>The Department considers the proposal is capable of providing for an acceptable stormwater and drainage system for the site and recommends the final design and connections be coordinated with the separate SSDA3 infrastructure design(s).</p>	
Fit-out	<ul style="list-style-type: none"> • The proposal includes office and retail accommodation. The plans also indicate the potential for outdoor dining areas at the podium and promenade levels. • Concern was raised in public submissions about the potential noise and operational amenity impacts of the retail 	The Department has recommended a condition confirming that fit-out and operation (where relevant) of the office and retail

Issue	Consideration	Recommendation
	<p>accommodation on the surrounding area and that the hours of operation of retail units should be limited.</p> <ul style="list-style-type: none"> The Applicant confirmed separate future DA(s) would be submitted to Council for the fit-out of office and retail accommodation and the promenade outdoor dining areas form part of the concurrent SSDA3 application. Noting the Applicant has confirmed fit-out would form part of future DA(s), the Department considers that the assessment of amenity impact and imposition of any necessary management conditions is best reserved for consideration as part of future fit-out DA(s). The Department has recommended a condition confirming fit-out of the office and fit-out and operation of the retail accommodation and any outdoor dining areas does not form part of this application. 	<p>accommodation, and any outdoor dining areas do not form part of this application.</p>
<p>Future residential amenity</p>	<ul style="list-style-type: none"> Condition C17 of the Concept Approval requires future DA(s) consider the relevant requirements of the ADG. The Department has considered the proposal against the objectives of SEPP 65 and the requirements of the ADG in detail at Appendix B. The Department concludes the proposal generally complies with the key ADG requirements. Notwithstanding, the Department notes the proposal includes minor non-compliances with ADG amenity standards relating to building depth, lift capacity, communal open space, deep soil areas, and open plan habitable rooms. The Applicant stated the proposed apartments generally comply with ADG recommended residential standards and would provide for a high standard of internal residential amenity. The Department has considered the inconsistencies with the ADG below. The proposed tower has an overall depth of 24 m, which is 6 m deeper than the ADG recommended maximum of 18m. The Department considers this is acceptable as the building is contained within the approved building envelope and all apartments achieve an appropriate internal layout, solar access and ventilation. Further, communal corridors are not unreasonably long. The proposal includes six lifts resulting in a ratio of 44 apartments for each lift, which is 4 more apartments than the ADG recommended target of 40. The Department considers the provision of six lifts is acceptable as the likely wait time is not excessive and the communal areas / lobby are spacious and naturally ventilated and therefore achieve a high standard of layout and amenity. The proposal provides 2,085 m² communal open space equalling 14% of the site, which is 11% less than the ADG recommended target of 25%. The Department considers this inconsistency to be acceptable noting the site adjoins Darling Harbour and includes extensive areas of public open space and through site links. The proposal does not include any deep soil area (noting the ADG does not count on-building planting as deep soil areas), which is less than the ADG recommended target of 7%. The 	<p>No additional conditions or amendments are necessary.</p>

Issue	Consideration	Recommendation
	<p>Department considers the absence of ADG defined deep soil areas is acceptable in this instance, as the site is within a dense city centre, the development adjoins extensive open space and will provides extensive landscaping including tree planting within the site and the rooftop communal and public areas.</p> <ul style="list-style-type: none"> • The Department notes 73 open plan living rooms (all north-facing and some corner apartments) have depths marginally greater than the ADG recommended 8 m maximum. However, the Department considers this is acceptable as the rooms would all have access to adequate natural light and ventilation. • Overall, the Department considers the development generally meets the ADG amenity standards and the non-compliances relating to building depth, lift capacity, communal open space, deep soil areas, and open plan habitable rooms are minor and acceptable. The Department concludes the proposal achieves a high standard of residential amenity. 	
Signage	<ul style="list-style-type: none"> • The proposal includes a signage strategy which sets out design parameters and principles for the future installation of signage at the site. The strategy also includes podium signage zones for large tenant façade signage, building and car park entry signage, retail tenancy signage, amenity signage and glazing graphics. • Council raised concern the extent of the proposed large tenant façade signage on the east / west podium elevations is excessive in number (12) and size (1.8m x 11m). PMNSW recommended the Applicant further justify the number and architectural integration of the large tenant façade signage. • In response the Applicant reduced the number of tenant façade signage zones by four, from 12 to eight zones and stated detailed signage designs within the signage zones would be submitted under separate future DA(s). • Council and PMNSW did not provide a submission in response to the Applicant's changes. • The Department notes the proposed signage strategy includes a significant number of signage zones and types. In addition, the signage strategy within the public domain is proposed under the separate SSDA3 application. • The Department considers the provision of signage on the building is acceptable in principle. However, the Department is concerned the proposal provides insufficient detail to undertake a detailed assessment and determination of the zones as the proposal has not: <ul style="list-style-type: none"> ○ adequately justified the number, location and size of the signage zones ○ considered the integration of signage into the architectural design of the building ○ detailed the likely visual and illumination impacts. • The Department therefore recommends that the Applicant further develop the signage strategy in consultation with PMNSW and Council to ensure the number, location, size, illumination and integration of signage zones is acceptable and appropriate for the development. Any future development applications for signage would be assessed by Council. 	<p>The Department recommends a condition requiring the Applicant revise the Signage Strategy in consultation with PMNSW and Council to ensure it is appropriate for the development.</p>

Issue	Consideration	Recommendation															
Construction noise	<ul style="list-style-type: none"> • The closest receivers to the site include ODH, the Novatel, Sofitel and Ibis hotels, Maritime Museum and ICC Sydney (Figure 37). • The City of Sydney Construction Hours/Noise within the Central Business District Code of Practice 1992 (the Code) applies to the site and recommends: <ul style="list-style-type: none"> ◦ construction hours of 7am-7pm Monday to Friday, 7am-5pm Saturday and no work Sunday or public holidays ◦ construction noise management levels (NML) be limited during the construction hours to background: <ul style="list-style-type: none"> - +5 dB(A) 7am to 8am Monday to Saturday - +10 dB(A) 8am to 7pm Monday and to 5pm Saturday - +3 dB(A) after 5pm Saturday • The Interim Construction Noise Guideline 2009 (ICNG) recommends the NML for hotel / commercial premises be limited to 70 dB during the standard construction hours. In addition, the ICNG notes that impacts above 75 dB represent a point where sensitive receivers may be 'highly noise affected' and additional mitigation is warranted. • Condition C53(b) requires future DAs include a Construction Noise Vibration Impact Assessment (CNVIA). • The application was accompanied by a CNVIA. The CNVIA confirmed an approximate construction phase of three years and requested an extension to the Code construction hours by 1 hour on Saturday (i.e. 7am-6pm). • The CNVIA predicts the construction has the potential to exceed the NMLs as follows: <table border="1" data-bbox="440 1128 1110 1335" style="margin-left: 20px;"> <thead> <tr> <th>Receiver</th> <th>NML (dB)</th> <th>Prediction (dB)</th> </tr> </thead> <tbody> <tr> <td>ODH</td> <td>58-63</td> <td><40-70</td> </tr> <tr> <td>Novatel / Sofitel / Ibis</td> <td>61-66</td> <td><40-74</td> </tr> <tr> <td>ICC Sydney</td> <td>61-67</td> <td><40-70</td> </tr> <tr> <td>Maritime Museum</td> <td>58-63</td> <td><40-66</td> </tr> </tbody> </table> • The CNVIA recommends the following mitigation measures for the predicted exceedances: <ul style="list-style-type: none"> ◦ monthly notification of neighbours of noise generating works ◦ high noise work respite periods including delay the start of such works by 1 hour in the morning and 1 hour at midday ◦ no vehicle or plant idling and select low noise equipment ◦ vehicles to arrive / depart during construction hours ◦ use non-tonal reversing alarms and building shell as barrier ◦ avoid compounding noisy activities near receivers ◦ implement worker induction and noise reduction procedures. • Concerns were raised in public submissions about construction noise impacts and that there should be no extension to construction hours. Council recommended high noise generating works / equipment be limited to 6 hours a day. Council did not object to the extension of Saturday construction hours by 1 hour, subject to only quieter works being undertaken and the Code +3dB(A) criteria not being exceeded. • The Department has considered the findings of the CNVIA and considers some noise exceedances to surrounding properties during construction would be unavoidable, given the dense urban nature of the immediate surrounding area. 	Receiver	NML (dB)	Prediction (dB)	ODH	58-63	<40-70	Novatel / Sofitel / Ibis	61-66	<40-74	ICC Sydney	61-67	<40-70	Maritime Museum	58-63	<40-66	<p>The Department recommends conditions requiring the implementation of the Applicant's and Department's construction noise mitigation measures, preparation of a CVNMP and implementation of the construction hours (as amended).</p>
Receiver	NML (dB)	Prediction (dB)															
ODH	58-63	<40-70															
Novatel / Sofitel / Ibis	61-66	<40-74															
ICC Sydney	61-67	<40-70															
Maritime Museum	58-63	<40-66															

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> • The Department notes the most significant noise impact (up to 74 dB) would be temporary and the CNVIA does not predict the works would exceed the ICNG 75 dB highly noise affected level for the closest sensitive receivers. Notwithstanding this, the Department acknowledges that the works would likely exceed the NMLs and therefore considers the following noise mitigation measures, in addition to the CNVIA measures, are also necessary to mitigate impacts: <ul style="list-style-type: none"> ◦ prepare and implement a CNVMP ◦ carry out work in accordance with the Code ◦ amend respite periods so that they are consistent with the approved respite periods of SSDA1 ◦ limit work to quieter works between 5pm-6pm Saturday ◦ no noise to be 'offensive noise' as defined by the POEO Act. • Based on the above assessment, the Department is satisfied construction works can be appropriately managed to minimise disruption to nearby amenity. 	
Groundwater	<ul style="list-style-type: none"> • The Application includes a Geotechnical Investigation Report (GIR), which was updated by the RtS, and considers groundwater impacts including dewatering and water-take. • The GIR confirm the proposed four level basement carpark would extend approximately 14.5 m below ground level and when complete would be fully tanked. In addition, dewatering will be required during construction and the development is predicted to result in a maximum water-take of 107 megalitres (ML) in the first year and reduce to a negligible level once tanked. • DPE Water requested the Applicant clarify how long it would take to tank the basement (as this will impact the likely amount of dewatering required), ensure sufficient groundwater entitlement is held in a Water Access Licence (WAL), update the Dewatering Management Plan (DMP) and include a Groundwater Monitoring Plan (GMP) • The Applicant stated that approval has already been granted for dewatering the site under condition C55 of SSDA1 for excavation and site preparation works. The Applicant confirmed it has no objection to the imposition of condition(s) requiring submission of additional dewatering details, testing and assessment. • The Department notes consent has already been granted for dewatering associated with SSDA1 up to 107 ML a year and the application does not propose any change to the magnitude of dewatering. However, the Department agrees with DPE Water that the time taken to tank the basement will dictate the full extent of dewatering and therefore it is appropriate the Applicant update the DMP. • The Department is satisfied the proposal's impact on groundwater can be managed subject to conditions requiring the preparation and implementation of a DMP in consultation with DPE Water, the development obtain a WAL and any necessary approval(s) to discharge to the Council's stormwater / sewer system(s). 	The Department has recommended conditions requiring the preparation and implementation of the PWM, ongoing water monitoring, obtain a WAL and approval of discharge to the stormwater / sewer system(s).
Contamination	<ul style="list-style-type: none"> • Condition 50 of the Concept Approval requires future DAs undertake a detailed assessment of potential site contamination. • The Department considered site contamination and necessary remediation and validation of the site as part of its assessment of the approved SSDA1 application for site preparation and bulk 	The Department has recommended conditions requiring the implementation of the RAP

Issue	Consideration	Recommendation
	<p>earthworks (Section 2.3.1). In determining the SSDA1 application, the Department concluded the site can be made suitable for its intended use subject to the preparation of a Validation Report to verify remedial works were completed in accordance with the approved Remediation Action Plan (RAP) and the preparation and implementation of appropriate management plans relating to acid sulfate soils, construction environmental management and work health and safety.</p> <ul style="list-style-type: none"> The proposal includes additional minor excavation relating to the provision of lift pits, establishment of slab and trenches for services installation. These new works have the potential to uncover contamination within these areas not covered by the SSDA1 approval. The Application includes a RAP, which updates the SSDA1 RAP and replicates its findings and recommendations. The application includes an Interim Auditors Advice, which confirms that remediation works in accordance with the RAP would ensure that the site can be made suitable for its intended use. The Department notes the site would be largely remediated as part of the requirements of the separate SSDA1 consent and the minor additional works associated with the current application would also be able to be remediated to ensure the site can be made suitable for its intended use. 	<p>remediation strategy, preparation of recommended environmental management plans and a Validation Report.</p>
<p>Other Construction impacts</p>	<ul style="list-style-type: none"> In addition to potential construction noise, the proposed works may have other construction impacts in terms of traffic, waste, air quality, dilapidation, infrastructure impacts, soil and erosion and the like. Condition C53 requires future DAs consider the above construction impacts. The Application includes a Construction Environmental Management Plan (CEMP), which considers layout, site management, soil/water management, waste, sustainability, traffic, air quality, hazards, impact on light rail and overall impacts of construction and suggests processes and mitigation measures. TfNSW has recommended conditions requiring the Applicant prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) and to protect and minimise disruption to the light rail network The Department notes the site is located within an established dense CBD environment and has limited access and in this context, it is likely that some construction impacts would be unavoidable. However, the Department considers impacts can be kept within acceptable parameters subject to the construction occurring in accordance with the hours of construction and works being undertaken in accordance with standard practices for development sites within urban areas. The Department has recommended the preparation of a detailed CEMP to address the likely environmental impacts arising during construction phase. In addition, the Department considers TfNSW's recommended conditions are necessary and would contribute to ensuring construction impacts are appropriately managed and mitigated. The Department concludes subject to the implementation of the construction noise mitigation measures (discussed previously) and the CEMP and its associated management plans, 	<p>The Department has recommended conditions requiring the implementation of the CEMP, its associated construction management plans and to protect and minimise disruption to the light rail network.</p>

Issue	Consideration	Recommendation
	<p>construction impacts can be appropriately managed and mitigated in accordance with standard practice for development sites in urban areas.</p>	
Operational waste	<ul style="list-style-type: none"> • The application includes a draft Waste Management Plan (WMP), which sets out the waste facility requirements, locations and management. • Council raised concern that the proposal did not provide for appropriate operational waste collection facilities and management in accordance with Council's requirements and the development should be future-proofed / designed to accommodate a 10.6 m long collection vehicle in accordance with Council's draft SDCP. • In response, the Applicant amended the waste storage areas, collection arrangements and frequency and clarified retail waste management. The Applicant stated the loading dock and ramped access have been designed to accommodate a 9.24 m long collection vehicle consistent with the current SDCP requirement. • Council reiterated its concerns that inadequate space is provided for waste storage and 10.6 m will be Council's future standard truck fleet size and therefore the proposed should be designed to accommodate the increased truck size. Council recommended standard waste management conditions. • The Department notes, subject to minor amendments to waste management in accordance with Council's conditions, the site would be able to accommodate the operational waste needs of the development and operational waste can be appropriately managed and impacts mitigated. • The Department notes the development has been designed to accommodate a 9.24 m long collection vehicle and does not recommend the proposal be amended to accommodate a 10.6 m long vehicle as: <ul style="list-style-type: none"> ○ the current design is consistent with the requirements of the currently adopted SDCP ○ until Council's draft SDCP is adopted, it has little statutory weight and may be subject to change. In this context it would be unreasonable to require the development to be amended to accommodate draft requirements. 	<p>The Department recommends a condition requiring the final WMP be prepared in consultation with, and endorsed by, Council.</p>
Reflectivity	<ul style="list-style-type: none"> • Condition C7 of the Concept Approval requires future DAs include a reflectivity analysis demonstrating that the building facades do not result in unacceptable glare. • The SDCP recommends an upper limit for glazing reflectance value of 20% and Council recommended a condition limiting reflectivity accordingly. • The application includes a Reflectivity Report, which concludes the proposal would not result in unacceptable glare impacts with the exception of the glazed north facing component of Levels 2 to 4 of podium, which may result in some glare (above the SDCP 	<p>The Department recommends a condition requiring the development achieve a specular reflectivity that does not in exceed the SDRP 20% maximum and mitigation measures be provided to further reduce glare</p>

Issue	Consideration	Recommendation
	<p>threshold of 500 cd/m²) to Darling Drive (south-bound) during the morning at March, April and October.</p> <ul style="list-style-type: none"> In response to a request by the Department to reduce potential glare impacts the Applicant provided an updated assessment. The assessment concluded the glare was infrequent, would be reduced by landscaping within the northern podium (SSDA3) and could be further reduced through detailed design development of the façade. The Department is satisfied the development would generally not result in unacceptable glare. However, the Department considers glare impacts to drivers using Darling Drive should be reduced via permanent structural mitigation measures rather than relying on landscaping and recommends a condition accordingly. 	<p>to drivers using Darling Drive.</p>
Sustainability	<ul style="list-style-type: none"> Conditions C32 and C33 of the Concept Approval require future DAs demonstrate how the principles of ecological sustainable design (ESD) have been incorporated into the design of buildings. In addition, it requires the development achieve a minimum 5 to 6 Star Green Star Design and As Built ratings, 3.5 to 5.5 NABERS ratings, 20% water reduction and endeavour to achieve stretch 6 star targets for residential and retail components. The Applicant has confirmed it has applied ESD principles to the proposal and the proposal would achieve the minimum Green Star, NABERS and water reduction targets. Following the recent increase in strictness of Green Star rankings, it will no longer be not possible to meet the condition C33 stretch targets. Council recommended the Applicant improve NABERS passive design and energy efficiency, expand rainwater reuse, consider maximising renewable energy use, consider 20% embodied carbon reduction and confirm the Green Building Council of Australia (GBCA) supports the proposed split of green star targets by land use (retail, residential, office). In response, the Applicant stated the proposal will meet Green Star Energy Use 'credit achievement' level equivalent to 5.5 Star +25% NABERS, the tower roof is too small to increase rainwater capture and re-use, grid resilience strategies are being explored for the commercial component, 10% embodied carbon reduction (for retail) was relevant at the time of registration and the GBCA has approved the split of star rating by land use. The Department has considered ESD in detail at Appendix B and concludes the proposal has appropriately incorporated ESD principles into its design. The Department notes the change in Green Star ratings mean it would be difficult to meet the stretch targets under the new regime. The Department notes the proposal is consistent with the sustainability requirements of the Concept Approval and includes appropriate sustainability initiatives and design features. The Department concludes the proposal is acceptable and recommends a condition requiring the development achieve the minimum sustainability targets. 	<p>The Department has recommended a condition requiring the proposal achieve minimum sustainability targets.</p>
Utilities	<ul style="list-style-type: none"> The Application includes the provision of: <ul style="list-style-type: none"> electricity infrastructure, including the installation of three electrical sub-stations beneath Darling Drive 	<p>The Department has recommended conditions requiring the Applicant</p>

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> ○ water and sewerage connections and adjustments. • Ausgrid did not provide specific comments on the proposed substations and recommended the Applicant consult Ausgrid guidelines for working near existing underground cables. • Sydney Water stated the water and sewerage network generally has sufficient capacity to service the development. However, the relevant sewerage pumping station has no capacity for future growth. Sydney Water confirmed the Applicant has already lodged applications for adjustments and augmentation of existing infrastructure and recommended the Applicant submit a Section 73 Application. • The Applicant noted Ausgrid’s and Sydney Water’s comments and committed to ongoing consultation with agencies as required. • The Department has considered the information provided, and: <ul style="list-style-type: none"> ○ is satisfied that the development is capable of providing the required utilities and services to the site ○ substations would be designed to meet acceptable standards, subject to the Applicant consulting with Ausgrid ○ adequate water and sewer infrastructure would be provided, subject to the Applicant consulting with Sydney Water. 	<p>consult with relevant utility providers prior to construction of utilities and all utilities are available prior to operation.</p>
Airspace	<ul style="list-style-type: none"> • The Applicant is required to obtain separate approval from DITRDC for any ‘controlled activities’ being any part of the building, including any construction cranes, that penetrate the OLS. • Sydney Airport, Air Services Australia and CASA recommended the Applicant obtain DITRDC approval for any OLS impacts. The Applicant has confirmed it has commenced the necessary controlled activity approval process. • The Department is satisfied airspace impacts can be managed subject to DITRDC approval. 	<p>The Department has recommended conditions requiring the Applicant obtain DITRDC approval for any controlled activity.</p>
Heritage	<ul style="list-style-type: none"> • Condition C26 of the Concept Approval requires future DAs consider heritage impacts and provide any necessary mitigation. • The application includes a Heritage Impact Statement (HIS), which concludes the proposal would not have any adverse heritage impacts and would provide new opportunities for Pyrmont Bridge and Darling Harbour to be viewed, appreciated and interpreted. • Heritage NSW initially raised concern that the proposal includes interventions into Pyrmont Bridge, which may damage heritage fabric. In response the Applicant amended the application to reduce the extent of built form adjacent to Pyrmont Bridge. Heritage NSW reviewed the amendment and confirmed adequate separation is provided to Pyrmont Bridge. • Council initially recommended the Applicant consider reinstating formerly demolished Pyrmont Bridge southern wall at the western approach. The Applicant did not support the reinstatement of the wall as it would compromise the provision of equitable access to the site and diminish the value and significance of Pyrmont Bridge. Council did not provide further comments on this matter. • The Department notes as the development is contained wholly within the building envelope and it would not have any direct or 	<p>No additional conditions or amendments are necessary.</p>

Issue	Consideration	Recommendation
	<p>indirect impacts on nearby heritage items. Further, the Department agrees the reinstatement of the Pyrmont Bridge southern wall is not necessary and would have undesirable outcomes.</p>	
Heritage interpretation	<ul style="list-style-type: none"> • Condition C27 of the Concept Approval requires future DAs prepare a Heritage Interpretation Strategy. • The Application includes a draft Heritage Interpretation Strategy (the Strategy), which sets out the aims, framework, design principles and main themes of the heritage interpretation and is the precursor to the future Heritage Interpretation Plan (HIP). The Strategy also nominates indicative locations where heritage interpretation could be explored, which are largely located within the SSDA3 public domain. • Council raised concern the Strategy is conceptual in nature and insufficiently developed. Council recommended the Applicant develop the Strategy in consultation with Council. Heritage NSW did not provide comment on the Strategy. • The Department notes the Strategy is in draft form and is not a final HIP. In this context, the Department is satisfied that the Strategy provides a strong basis for the development of a HIP and notes the Applicant is committed to co-ordinating the heritage interpretation response with SSDA3. • The Department has therefore recommended a condition requiring the Applicant to prepare and implement a HIP coordinated with SSDA3. • The Department notes PMNSW is the relevant heritage authority for the site and therefore recommends the HIP be prepared in consultation with PMNSW. 	<p>The Department has recommended a condition requiring the final HIP be prepared and implemented in consultation with PMNSW and coordinated with SSDA3.</p>
Aboriginal Archaeology	<ul style="list-style-type: none"> • Condition C28 of the Concept Approval requires future DAs consider archaeological impacts provided necessary mitigation. • Bulk earthworks / excavation for the four level basement and site preparation works have been separately approved under SSDA1. The proposal includes additional minor excavations relating to lift pits and footings outside of the approved basement excavation. • The application includes an Aboriginal Cultural Heritage Assessment Report (ACHAR). The ACHAR concluded there is a low to nil potential for intact natural soil profiles to be encountered (noting the above), resulting in a low to no potential for in-situ Aboriginal archaeological deposits. • Notwithstanding this, the ACHAR notes that if any deposits are found within the new disturbance areas, they may have potential for moderate to high social, historical, and scientific significance. The ACHAR therefore recommends an Unexpected Finds Procedure (UFP) be enacted for all works. • Heritage ACH confirmed it agrees with the ACHAR assessment and recommended UFP. 	<p>The Department has recommended a condition requiring the implementation of an Aboriginal archaeology UFP.</p>
Non-Aboriginal Archaeology	<ul style="list-style-type: none"> • The application includes a Heritage Impact Statement (HIS), Final Test Excavation report, and an update/Addendum to the approved Archaeological Research Design (ARD) (approved as part of SSDA1 for bulk excavation). 	<p>The Department has recommended conditions requiring the development be carried out in</p>

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> • The HIS concludes there is minor potential for disturbance of archaeology associate with the piling and construction of lift pits outside the approved basement excavation and recommends works be carried out in accordance with the recommendations of the updated Archaeological Research Design (ARD). • Heritage NSW stated key impacts to archaeological resources would occur as part of SSDA1 excavation works. However, additional impacts from the piling and the construction of lift pits and services are anticipated. Noting the archaeology is unlikely to be State significant, matters are delegated to PMNSW. • The Department recommends a condition that works be undertaken in accordance with the recommendations of the updated ARD. 	<p>accordance with the recommendations of the updated Archaeological Research Design (ARD) and compliance with an Unexpected Finds Procedure (UFP).</p>
Subdivision	<ul style="list-style-type: none"> • The proposal includes a two staged consolidation and stratum subdivision of the site to enable the creation of retail, office and residential components of the building. <ul style="list-style-type: none"> ◦ Stage 1 - consolidation of lots 1-10, 12-15, 17 in DP776815 ◦ Stage 2 - stratum subdivision of the consolidated lot into Lot 1 Retail, Lot 2 Office and Lot 3 Residential. • Council raised no objections to the proposed subdivision and provided recommended standard subdivision conditions. • The Department does not object to the proposed consolidation and stratum subdivision of the site in accordance with the proposed development and recommends Council's conditions accordingly. 	<p>The Department has recommended conditions relating to stratum subdivision of the site.</p>
Affordable workplaces	<ul style="list-style-type: none"> • The PPPS and condition C22 of the Concept Approval requires future DAs to explore opportunities to provide for affordable workspace for creative industries. • The Applicant confirmed it is in the process of exploring the provision of affordable workspaces within the development and intends to produce a Workspace Strategy Report (WSR), which will confirm opportunities for the provision of affordable workspaces. • The Department supports the provision of affordable workspace(s) as part of the development and recommends the preparation and implementation of the WSR. 	<p>The Department recommends a condition requiring the preparation and implementation of the WSR.</p>
Northern podium lift	<ul style="list-style-type: none"> • The proposal seeks approval for a lift within the northern podium connecting the ground floor foreshore promenade to the deck level of Waterfront Garden. The application includes plans showing: <ul style="list-style-type: none"> ◦ the location of the lift through the northern podium ◦ an indicative lift enclosure at the Waterfront Garden level providing access to the future park. • The Department considers the provision of a lift between the foreshore and Waterfront Garden is acceptable in principle. However, the Department considers that insufficient detail has been provided to allow for a detailed assessment of the proposed visual impact, design, height and architectural integration of the lift. 	<p>The Department recommends a condition confirming no consent is granted for the northern podium lift above RL12.5 deck level.</p>

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> The Department therefore recommends a condition stating that no approval is granted for the proposed northern podium lift above RL12.5 deck level. The design of the lift would be able to be considered as part of the separate SSDA3 application. 	
Public benefits	<ul style="list-style-type: none"> Condition A6 requires the application include a contribution of \$5.2 million towards affordable housing. Concern was raised in public submissions that the proposal does not include sufficient public benefits. Council recommended a condition requiring the Applicant pay a special infrastructure contribution (SIC) in accordance with the <i>Environmental Planning and Assessment (Special Infrastructure Contribution – Pyrmont Peninsula Metro) Determination 2022</i> (Metro SIC). The overall development includes significant physical public benefits, including 3,500 m² public open space, 10,200 m² public domain area, space for events and gatherings, increased waterfront promenade, Bunn Street bridge and through site links, public art and heritage interpretation. The Department recommends a condition restricting the occupation of the tower/podium development until these elements have been delivered. In addition, to the above, the Applicant has entered into a State Planning Agreement (SPA). The SPA was executed on 12 August 2022 and excluded the application of local or SIC contributions and instead requires the following contributions: <ul style="list-style-type: none"> \$5.2 million affordable housing contribution \$7 million art and future activation contribution The Metro SIC does not apply as agreed by the SPA and the Department is satisfied the proposal provides for sufficient public benefits in accordance with the Concept Approval and appropriate contributions towards affordable housing, art and activation in accordance with the SPA. 	The Department recommends a condition requiring contributions be provided in accordance with the executed SPA.
Public consultation	<ul style="list-style-type: none"> Concern was raised in public submissions that that insufficient public consultation was undertaken and the views of the public were not considered. The Applicant has confirmed it consulted with key stakeholders prior to the lodgement of the: <ul style="list-style-type: none"> application including the ODH Strata Committee, Pyrmont Action Group, residents within 500 m of the site and government agencies prior to the lodgement of the application. Consultation activities included email correspondence, group meetings via webinar, two community information sessions, letterbox drop (9,209 addresses) 1800 phone line, project website and FAQ information RtS, including ongoing publication of monthly newsletter updates, works notifications, monitoring of the 1800 number and email enquiries and an on-site meeting with ODH Strata Committee. The Department exhibited the EIS for 28 days in accordance with statutory requirements of the EP&A Act (Section 5). It also made the Applicant's RtS and additional information publicly available 	No additional conditions or amendments are necessary.

Issue	Consideration	Recommendation
	<p>and has considered all submissions received in its assessment (Section 6).</p> <ul style="list-style-type: none"> The Department considers, given the public exhibition period and subsequent public availability of all documentation, the community has had sufficient opportunity to comment on the proposal. 	
Short-term rental	<ul style="list-style-type: none"> Council recommended subdivision conditions which would prevent future occupants being able to use / rent residential apartments for short-term accommodation. The Department notes the use of a dwelling within Greater Sydney region for non-hosted short-term rental accommodation (no longer than 180 days per year) is exempt development pursuant to clause 112 of the Housing SEPP. The Department therefore does not support the imposition of Council's recommended condition. 	No additional conditions or amendments are necessary.

7 Evaluation

The Department has reviewed the EIS, RtS and additional information and assessed the merits of the proposal, taking into consideration advice from public authorities, Council and issues raised in public submissions.

The Department considers the proposal is acceptable as:

- it is consistent with the Greater Sydney Region Plan and the Eastern City District Plan as it supports the ongoing revitalisation of Darling Harbour and will foster a lively and engaging city
- it was selected as the winner of a design competition, exhibits design excellence and displays landmark qualities appropriate for this strategically important harbour front site
- while the Department appreciates the concerns raised about the separation of built form and public domain works into two separate applications, the Department is obliged to assess and determine SSD applications as lodged and approval of this application would not confer approval to the public domain works or permit occupation of the building until public domain works are completed
- the proposal fully complies with the height, gross floor area and setback controls applying to the site under the Concept Approval and provides an appropriate built-form relationship to the neighbouring buildings
- allowing soil mounding and a lift above the northern podium deck height (RL 12.5) would not result in adverse visual, view or heritage impacts
- subject to further design development, the amended Bunn Street through site link would achieve a high standard of design, layout and amenity for pedestrians
- landscaping throughout the site would achieve a high standard of design, subject to conditions
- it would not have adverse traffic impacts as it generates a low level of additional traffic and provides acceptable car, bicycle and service vehicle parking and facilities
- the proposal has been designed so that levels one and above are higher than any potential flooding in the 1% AEP and PMF events and residual flooding risks can be adequately addressed through the physical design of the development and establishment of appropriate operational, management and emergency shelter in place strategies
- it would not have an adverse impact on private views as the amendments to Conditions A13, C13 and C15 would only permit 800mm of soil mounding above the deck level and an appropriately designed lift (subject to a future DA) which would sit below the canopy level of surrounding trees
- it has been designed in accordance with ecologically sustainable development principles and would achieve a minimum 5-6 Star Green Star ratings, 3.5-5.5 NABERS ratings and 20% water reduction
- it would provide significant public benefits including public and communal open spaces, through site links, improved public domain and approximately 916 construction and 2,130 on-going operational jobs.

The Department's assessment therefore concludes the proposal is in the public interest and is approvable subject to conditions (**Appendix F**).

8 Recommendation

It is recommended that the Executive Director, Key Sites and Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of the Harbourside Redevelopment modification and Stage 2 applications (SSD 7874 MOD 3 and SSD 49295711)
- **signs** the attached modification instrument, development consent and recommended conditions of consent (**Appendix F**).

Recommended by:



Anthony Witherdin
Director
Key Sites Assessments

Recommended by:



Anthea Sargeant
Executive Director
Key Sites and Regional Assessments

9 Determination

The recommendation is **Adopted** by:

A handwritten signature in black ink, appearing to read 'David Gainsford', written in a cursive style.

4 December 2023

David Gainsford

Deputy Secretary Development Assessment and systems

Appendices

Appendix A – List of Documents and Relevant Supporting Information

Supporting documents and information to this assessment report can be found on the Department’s website (**Table 15**), including:

1. the EIS’, submissions, RtS’ and additional information relating to the SSD and MOD applications
2. other relevant applications including the Concept Approval, SSDA1 and SSDA3 applications.

Table 14 | Supporting documents and information to the assessment report

Reference	Application summary	Status
SSD Application (SSD 49295711)	https://www.planningportal.nsw.gov.au/major-projects/projects/harbourside-shopping-centre-redevelopment-podium-and-tower	Current application
MOD Application (SSD 7874 MOD 3)	https://www.planningportal.nsw.gov.au/major-projects/projects/harbourside-shopping-centre-redevelopment-modification-3-amend-tower-height-and-podium	Current application
Concept Approval (SSD 7874)	https://www.planningportal.nsw.gov.au/major-projects/projects/harbourside-shopping-centre-redevelopment	Approved 26 Oct 2022
SSDA1 (SSD 38881729)	https://www.planningportal.nsw.gov.au/major-projects/projects/harbourside-bulk-excavation-works	Approved 2 Mar 2023
SSDA3 (SSD 49653211)	https://www.planningportal.nsw.gov.au/major-projects/projects/harbourside-bridges-and-public-domain	Concurrent application

Appendix B – Statutory considerations

The following statutory considerations have been taken into account within the following sections of this Appendix:

- objects of the EP&A Act
- the matters in sections 4.15(1) and 4.55(1A) of the EP&A Act
- Ecological Sustainable Development (ESD)
- Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)
- relevant EPIs.

B1 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects as set out in section 1.3 the Act. The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent / approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment, the objects should be considered to the extent they are relevant.

The Department has considered the proposal to be satisfactory with regard to the objects of the EP&A Act as detailed in **Table 16**.

Table 15 | Consideration of the proposal against the objects of section 1.3 the EP&A Act

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	<p>The proposal will promote social welfare through the creation of new public open space, improved pedestrian connectivity between Darling Harbour and Pyrmont. The State Planning Agreement includes a contribution of 5.2 million towards affordable housing and \$7 million towards public art and future activation.</p> <p>The proposal will promote economic welfare including the creation of 916 direct construction and 2,130 direct operational jobs within a highly accessible site for transport and urban services.</p> <p>The proposal would not result in any adverse impacts on the State's natural or other resources and include extensive landscaping and native tree planting.</p>
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal has integrated ESD principles as discussed in Appendix B, Section B3 .
(c) to promote the orderly and economic use and development of land,	The proposal involves the orderly and economic use of land through the efficient development of an existing urban site that is in close proximity to existing services and public transport. The development of the site will provide economic benefits through job creation.

Objects of the EP&A Act	Consideration
	The proposed land uses are permissible and the form of the development has regard to the planning controls that apply to the site. The merits of the proposal are considered in Section 6 .
(d) to promote the delivery and maintenance of affordable housing,	The State Planning Agreement in place between the Applicant and the Minister includes an affordable housing contribution of \$5.2 million.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<p>The proposal, comprising mixed use development on an existing developed urban site, will have negligible impacts on the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.</p> <p>On 3 February 2023, the Department determined that the development would not have any significant impact on biodiversity values and that a BDAR is not required (Section 4.6).</p>
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	<p>The development has been appropriately designed to respect existing heritage significance of nearby and adjoining heritage items. The Department concludes the development's heritage impact is acceptable subject to conditions Section 6.5.</p> <p>The Department has recommended conditions relating to the management of Aboriginal cultural heritage values and non-Aboriginal archaeology during the construction phase of the development Section 6.5.</p>
(g) to promote good design and amenity of the built environment,	The Department concludes the proposal exhibits design excellence as discussed at Section 6.4.1 and a high standard of design and amenity as discussed at Section 6.4.2 .
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The application was accompanied by Building Code of Australia (BCA), Access and Structural Integrity reports that conclude the development has been designed to be accessible and inclusive and is capable to complying with the building requirements of the relevant sections of the Act.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposed development as outlined in Section 5 , which included consultation with Council and other public authorities and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal as outlined in Section 5 , which included notifying adjoining landowners and displaying the proposal on the Department's website. The Department has considered all issues raised in submissions as part of its assessment.

B2 Sections 4.15(1) and 4.55(1A) matters for consideration

Section 4.15(1) matters for consideration

The matters for consideration under section 4.15(1) that apply to SSD in accordance with section 4.40 of the EP&A Act have been addressed in **Table 17**.

Table 16 | Section 4.15(1) Matters for Consideration

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPIs is provided below, at Section 6 and Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the PS SEPP, development control plans do not apply to SSD. Notwithstanding, consideration has been given to the relevant controls under the SDCP and the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 at Appendix B .
(a)(iia) any planning agreement	The State Planning Agreement includes a contribution of 5.2 million towards affordable housing and \$7 million towards public art and future activation.
(a)(iv) the regulations Refer Division 8 of the EP&A Regulation	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 relating to EIS.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The impacts of the proposal have appropriately mitigated or conditioned as addressed in Section 6 .
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Section 6 .
(d) any submissions	Consideration has been given to the submissions received during the exhibition of the proposal as summarised at Section 3 and considered at Section 6 .
(e) the public interest	The proposal is in the public interest as discussed at Section 6 of this report.

Section 4.55(1A) matters for consideration

The matters for consideration under section 4.55(1A) of the EP&A Act are addressed in **Table 18**.

Table 17 | Consideration of 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	The Department has assessed the potential impacts associated with the modification at Section 6.2 .

Section 4.55(1A) Evaluation	Consideration
	The Department concludes the proposal would have minimal environmental impacts as the modification result in only minor changes to the building envelope and would not result in 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 the 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 Concept Approval, including its use and overall design, remain unchanged.
(c) the application has been notified in accordance with the regulations, and	The modification application has been notified in accordance with the clause 10 of schedule 1 of the EP&A Act and clause 118 of the EP&A Regulation. Details of the notification are provided in Section 5 of this report.
(d) any submission made concerning the proposed modification has been considered.	Submissions made concerning the modification application are summarised at Section 5 . The Department has considered all submissions at Section 6 of this report.

B3 Ecologically sustainable development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

Condition 32 of the Concept Approval requires developments achieve minimum sustainability targets including 5.5 star NABERS Energy for offices, 3.5 star NABERS Water for offices, 20% water reduction for retail, between 5 to 6 star Green Star rating for residential, commercial and retail. Condition 33 requires developments also consider stretch targets of 6 star Green Star rating for retail and residential uses.

Council recommended the Applicant clarify its proposed NABERS and Green Star targets and recommended the ESD measures and sustainability targets should be secured via conditions.

The proposed development meets or exceeds the recommended ESD sustainability targets and is committed to achieving, as a minimum, the following:

- 6 Star Green Star Buildings v1 rating for commercial office
- 5 Star Green Star Buildings v1 rating for retail
- 5 Star Green Star Buildings v1 rating for residential
- 5.5-star NABERS Energy for offices
- 4.5-star NABERS Water for offices
- 20% water reduction per m² for retail.

- NatHERS minimum 7 Star average rating for residential
- BASIX compliance, minimum 41% Water and 25% Energy for residential

The development includes the following key ESD initiatives and sustainability measures:

- solar control shading devices for reduction of solar heat gain and occupant glare
- high performance glazing / building envelope to minimise energy use
- high visible light transmittance glazing for daylight penetration and high-quality external views
- development to be all-electric including electric heat pumps for heating and domestic hot water generation and induction cooking
- retail food and beverage outlets designed to allow for all-electric cooking in the future
- on-site renewable energy generation through rooftop solar photovoltaic array estimated capacity of 130kWe dedicated to the commercial office and 40kWe dedicated to the residential strata.
- 100% renewable electricity purchase for commercial base building for a period of at least 5 years equivalent to be “net zero energy” in operation
- energy efficient air conditioning systems including
 - Commercial: high efficiency water cooled chiller plant, heat pump hot water plant, low resistance air & water circuits with the use of high efficiency fans, pumps and variable speed drives, and variable air volume to optimise airflows for space needs
 - Retail: provision of efficient water-cooled condenser water system for connection of future tenant air-conditioning equipment
 - Residential: high efficiency water cooled DX units connected to condenser water system
- provision of energy and water efficient appliances to residential apartments
- use of efficient LED light fixtures throughout and efficient lighting layout and occupant responsive controls for optimum energy use
- use of water efficient fixtures and fittings throughout to minimise water demand
- rainwater capture and reuse for the commercial office to reduce potable water consumption of amenities and landscaping
- green roof space for occupant connection to nature and minimisation of heat island effect
- utilisation of drought tolerant indigenous planting
- 10-20% Reduction in Embodied Carbon
- building materials with low embodied carbon and low environmental impacts
- maximise use of responsibly manufactured products / materials for building structure, envelope, services and finishes that are third party environmentally certified
- minimum 90% of demolition and construction waste diverted from landfill
- target WELL Gold (Core) rating for the Commercial Office
- infrastructure for EV charging to all car parking spaces to allow residents to add chargers as needed and at least 20% of commercial spaces EV ready at day one
- stormwater quality and flow management to all areas within the development footprint.

The Department has considered the project in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision making process by a thorough assessment of the environmental impacts of the development. The conservation principle has been applied through the provision of new landscaping around, on and within the development and the valuation principle has been applied through the efficient use of the site, application of sustainability measures and creation of significant new employment opportunities. The proposed development is consistent with ESD principles as described in the Applicant’s EIS, which has been prepared in accordance with the requirements of Schedule 2 of the EP&A Regulation.

The Department has recommended conditions requiring the implementation of ESD measures and minimum sustainability targets.

Subject to the above conditions, the proposed development would be consistent with ESD principles and the Department is satisfied the future detailed development is capable of encouraging ESD, in accordance with the objects of the EP&A Act.

B4 Environmental Planning and Assessment Regulation 2021

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with.

B5 Environmental Planning Instruments (EPIs)

To satisfy the requirements of Section 4.15(a)(i) of the Act, this report includes references to the provisions of the EPIs that govern the carrying out of the proposal and have been taken into consideration in the Department's environmental assessment.

The EPIs that have been considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (Planning Systems) 2021 (PS SEPP)
- State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 (Precincts SEPP)
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP)
- State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP)
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP)
- State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 (BASIX)
- State Environmental Planning Policy (Sustainable Buildings) 2022 (SB SEPP)
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) and its accompanying Apartment Design Guide (ADG)
- other relevant plans, policies or guidance.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2 State and Regional Development

Chapter 2 of the PS SEPP aims to identify SSD State significant infrastructure and regionally significant development and is relevant to this proposal. The proposal is SSD as summarised at **Table 19**.

Table 18 | PS SEPP compliance table

Relevant Sections	Department's consideration	Complies
<p>2.1 Aims of Policy</p> <p>The aims of this Policy are as follows:</p> <p>(a) to identify development that is State significant development,</p>	The proposed development is identified as SSD (Section 4.1).	Yes
<p>2.6 Declaration of SSD: section 4.36</p> <p>(1) Development is declared to be State significant development for the purposes of the Act if:</p>	The proposed development is permissible with development consent.	Yes

Relevant Sections	Department's consideration	Complies
<p>(a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and</p> <p>(b) the development is specified in Schedule 1 or 2.</p>	The development is specified in Schedule 2 of the PS SEPP.	
<p>Schedule 2 SSD - identified sites</p> <p>2 Development on specified sites</p> <p>Development that has a capital investment value of more than \$10 million on land identified as being within any of the following sites on the State Significant Development Sites Map:</p> <p>(b) Darling Harbour Site</p>	The development is within the identified Darling Harbour Site and has a CIV in excess of \$10 million.	Yes

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021

Chapter 3 Darling Harbour

Chapter 3 of the Precincts SEPP relates specifically to Darling Harbour and is the principal EPI which applies to the site. The requirements of Chapter 3 of the Precincts SEPP are considered in

Table 20.

Table 19 | Consideration of the relevant provisions of Chapter 3 of the Precincts SEPP

Relevant provisions	Department's consideration	Compliance
<p>3.2 Objects</p> <p>(b) to encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area</p> <p>(c) to make provision with respect to controlling development within that area.</p>	The proposed development provides a mixed-use development. The proposed development is permissible with consent.	Yes
<p>3.5 Permit required for certain development</p> <p>Development:</p> <p>(a) for the purposes of tourist, recreational, entertainment, cultural or commercial facilities (other than facilities used for pawnbroking or other forms of moneylending)...</p> <p>(c) for the purpose of beautifying the landscape</p> <p>(d) for any purpose specified in Schedule 1</p> <p>Schedule 1 includes:</p> <p><i>... commercial premises, parks and gardens, residential buildings, restaurants, shops, utility installations ...</i></p>	The proposed development uses are permissible with consent.	Yes

Relevant provisions	Department's consideration	Compliance
3.7 Permits required for renovation and demolition (1) The renovation or demolition of a building or work may not be carried out except with a permit being obtained therefore.	The proposed excavation works for lift pits and footings are permissible with consent.	Yes

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Chapter 2 of the TI SEPP is relevant to this proposal and identifies matters to be considered in the assessment of development adjacent to particular types of infrastructure development and providing for consultation with relevant public authorities about certain development during the assessment process.

The Department has consulted with and considered the comments from the relevant public authorities (**Section 5**). Consideration of the relevant clauses of the TI SEPP is provided in **Table 21**. The Department has included suitable conditions in the recommended conditions of consent at **Appendix F**.

Table 20 | TI SEPP compliance table

Relevant clauses	Department's consideration	Complies
2.98 Development adjacent to rail corridors	The site is located in proximity to the CBDRL corridor. Clause 2.98 requires the consent authority to notify the rail authority about the proposal. The Department consulted TfNSW and its response is summarised at Section 5 . The Department has recommended TfNSW's recommended conditions relating to the protection of the CBDRL.	Yes
2.48 Development likely to affect an electricity transmission or distribution network	The proposal includes the removal of an existing electrical sub-station and provision of three new sub-stations. Clause 2.48 requires the consent authority to notify the relevant utility authority about the proposal. The Department consulted Ausgrid and its response is summarised at Section 5 . The Department has recommended conditions requiring the Applicant to consult with utility providers regarding any necessary service connections and infrastructure augmentations (Section 6.5).	Yes
2.122 Development in or adjacent to road corridors and road reservations	The development constitutes traffic generating development as it would provide for a commercial building with a GFA greater than 10,000 m ² . Clause 2.122 requires consultation and the concurrence of TfNSW about the proposal. The Department consulted TfNSW and its response is summarised at Section 5 . The Department has recommended conditions in response to TfNSW comments (Section 6.4.4).	Yes

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Chapter 4 of the RH SEPP is relevant to this proposal and aims to provide a State-wide planning approach to the remediation of contaminated land, reduce risk of harm to human health and the environment and ensure that potential contamination issues are considered in the determination of a development applications.

The Department considered site contamination and necessary remediation and validation of the site as part of its assessment of the separate SSDA1 application for site preparation and bulk earthworks (**Section 2.3.1**). In determining the SSDA1 application, the Department concluded the site can be made suitable for its intended use subject to the preparation of a Validation Report to verify remedial works were completed in accordance with the approved RAP and the preparation and implementation of appropriate management plans relating to acid sulfate soils, construction environmental management and work health and safety.

The proposal includes additional minor excavation (relating to the provision of lift pits, establishment of slab and trenches for services installation). These new works have the potential to uncover contamination within these areas not covered by the SSDA1 approval. The Application includes a RAP, which updates the SSDA1 RAP and replicates its findings and recommendations. The application includes an Interim Auditors Advice, which confirms that remediation works in accordance with the RAP would ensure that the site can be made suitable for its intended use.

The Department notes the site would be largely remediated as part of the requirements of the separate SSDA1 consent and the minor additional works associated with the current application would also be able to be remediated to ensure the site can be made suitable for its intended use. The Department has recommended conditions requiring the implementation of the RAP remediation strategy, preparation of recommended environmental management plans and a Validation Report.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of the BC SEPP is relevant to this proposal and aims to protect the biodiversity value of trees and other vegetation in non-rural areas of the State and the amenity of non-rural areas through this preservation.

The site contains very little soft landscaping / vegetation. The proposal includes the removal of all existing vegetation and provision of replacement landscaping including trees. The Department has considered landscaping impacts at **Section 6.4.3** and concludes the proposed removal of what little vegetation there is on the site is significantly offset and justified by the proposed replacement landscaping and trees.

The Department concluded the site would not result in any adverse biodiversity impacts and a BDAR is not required, as discussed at **Section 4.6**.

Chapter 6 Water Catchments

Chapter 6 of the BC SEPP is relevant to this proposal and provides principles for development within the Sydney Harbour catchment. The site is identified as being located within the Sydney Harbour Catchment Area, Foreshore & Waterways Area and City Strategic Foreshore, as defined by Chapter 6 of the BC SEPP.

The Department has considered the relevant BC SEPP provisions at **Table 22**.

Table 21 | Consideration of the relevant provisions of Chapter 6 of the BC SEPP

Provision	Department's consideration	Complies
Part 6.2 Development in regulated catchments		
6.6 Water quality and quantity	<p>The proposed development is considered to have a neutral impact on water quality entering Darling Harbour and the impact on natural waterbody flow has been minimised. In addition, it would:</p> <ul style="list-style-type: none"> - not increase stormwater run-off from the site compared to the existing situation - incorporate appropriate stormwater infrastructure - not impact the water table (dewatering addressed under SSD1) or groundwater - not have an adverse cumulative impact on Darling Harbour. 	Yes
6.7 Aquatic ecology	<p>The proposal does not include the clearing of riparian vegetation, would not have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation and would minimise erosion and sedimentation.</p> <p>The proposal is not a controlled activity, does not have an impact on wetlands and does not require additional mitigation to ensure the protection of Darling Harbour.</p>	Yes
6.8 Flooding	<p>The site does not constitute an ecosystem that benefits from periodic flooding. Flooding impact, management and mitigation has been considered at Section 6.5.</p>	Yes
6.9 Recreational and public areas	<p>The proposal would have positive impact on the recreational use of the land. In addition, it would maintain and improve access to the foreshore, new publicly accessible points of access have been designed to be stable and safe and ongoing public access is safeguarded.</p>	Yes
6.10 Total catchment management	<p>The proposal is not expected to have an adverse environmental impact on Darling Harbour or in LGAs adjacent to the site.</p>	Yes
Part 6.3 Foreshores and Waterways Area		
6.28 General		
(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—		
<p>(a) whether the development is consistent with—</p> <ul style="list-style-type: none"> (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good, (ii) the public good has precedence over the private good, (iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests, 	<p>The proposed development is in the public interest of Sydney Harbour as a public resource. It will deliver employment-generating and residential floorspace as part of the ongoing revitalisation and redevelopment of Darling Harbour.</p> <p>The proposed development improves public access to the waterfront foreshore.</p>	Yes
<p>(b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,</p>	<p>The proposed development does not directly impact upon equitable usage of the Foreshores and Waterway Area. The overall development supports improved access, enjoyment, and use of the foreshore</p>	Yes

Provision	Department's consideration	Complies
(c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,	The proposed development will not have an adverse impact on the Foreshores and Waterways Area, including any commercial or recreational uses within the area.	Yes
(e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,	The proposed development does not promote nor detract from water-dependent land uses.	Yes
(f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,	Flooding impact, management and mitigation has been considered at Section 6.5 . The Department concludes the proposal would not result in adverse flood impacts.	Yes
(g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,	There are no identified natural intertidal foreshore areas, natural landforms and/or native vegetation at the Harbourside site. The proposed development will not adversely impact any terrestrial or aquatic species. BDAR is not required, as discussed at Section 4.6 .	Yes
(h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.	There are no watercourses, wetlands, riparian lands, or remnant vegetation in need of protection or rehabilitation at the Harbourside site.	Yes
(2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—		
(a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,	The proposed development does not relate to 'working waterfront' land and would not result in the loss of any 'working harbour' uses.	Yes
(d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,	Traffic impact, management and mitigation is discussed at Section 6.4.4 . The Department concludes the proposal would not result in adverse traffic impacts.	Yes
(e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from— (i) the Foreshores and Waterways Area, (ii) public places, landmarks and heritage items.	The proposal would include public access to the site and create a new public open space overlooking Darling Harbour.	Yes
Part 6.4 Heritage conservation in Sydney Harbour		
6.52 Heritage development	The proposal would not have an adverse impact on heritage items or archaeology, as discussed at Sections 6.5 .	Yes
6.53 Requirement for heritage development		Yes
6.54 Aboriginal places of heritage significance		Yes
6.55 Archaeological sites		Yes
6.57 Conservation incentives	The application includes a draft Heritage Interpretation Strategy, as discussed at Section 6.5 .	Yes

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

SEPP BASIX encourages sustainable residential development across NSW by setting targets that measure the efficiency of buildings in relation to water, energy and thermal comfort. SEPP BASIX requires all new dwellings meet sustainable targets of a 25% reduction in energy use (building size dependent) and 40% reduction in potable water.

The application includes a BASIX report for the building demonstrating satisfactory compliance with BASIX targets. The BASIX scores of the building are:

- Thermal Comfort – Pass
- Water – 48%
- Energy – 25%.

The Department has recommended a condition of consent requiring the development to be constructed in accordance with the BASIX report (certificate reference: 1329072M_03).

State Environmental Planning Policy (Sustainable Buildings) 2022

The new SB SEPP encourages the design and delivery of more sustainable buildings across NSW. It sets increased sustainability standards for residential and non-residential development and starts the process of measuring and reporting on the embodied emissions of construction materials.

The SB SEPP will commence on 1 October 2023 and includes savings and transitional provisions which confirm that the SB SEPP does not apply to applications lodged before the commencement date. As the application was lodged prior to 1 October 2023 the SB SEPP does not apply.

State Environmental Planning Policy No. 65 – Residential Apartment Development (including Apartment Design Guide)

SEPP 65 seeks to improve the design quality of residential developments and encourage innovative design. The Department has assessed the proposal against the SEPP 65 aims / objectives at **Table 23**.

The ADG is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments. The Department has assessed the proposal against the requirements of the ADG at **Table 24**.

Table 22 | Consideration of the aims and objectives of SEPP 65

SEPP 65 Principle	Department's Response
1. Context and Neighbourhood Character	The Department has considered the height, scale and design of the development at Section 6.4.2 and concludes the proposal responds to the existing and future context of the site and surrounding area and maintains adequate levels of amenity for existing neighbouring properties.
2. Built Form and Scale	The height and scale of the development is consistent with the Concept Approval building envelope, appropriate in this location and context and is of a similar height and scale as the other approved developments within Darling Harbour. The development is considered to achieve design excellence as discussed in Section 6.4.1 . The development would have an appropriate relationship with nearby heritage items. The publicly accessible open space and through site links would be spacious

SEPP 65 Principle	Department's Response
	yet proportionate to the size of the development and would create a highly permeable development.
3. Density	The development is compatible with the evolving Darling Harbour character. The density of the development has strategic merit, is consistent with the Concept Approval and the proposal has demonstrated that it would not have adverse built form, traffic, amenity or heritage impacts (Section 6.4).
4. Sustainability	The development has been designed in accordance with ESD principles and the Department has recommended conditions requiring the development achieve appropriate sustainability targets (Appendix B, Section B5).
5. Landscape	The public domain elements within and around the development would form part of the separate SSDA3. All other landscaping components forming part of this application would comprise high quality hard and soft landscaping. Podium and rooftop communal gardens have been provided for the future occupants of the tower. The Department considers the landscaping achieves a high standard of design and forms an integral part of the development (Section 6.4.3).
6. Amenity	The proposal generally complies with the requirements of SEPP 65 and the ADG (Table 24). The proposal has demonstrated that the development would achieve satisfactory residential amenity, including satisfactory levels of internal layout amenity, solar access, natural ventilation and privacy. Minor non-compliances with the ADG recommended standards are considered justified (Section 6.5).
7. Safety	The application includes a CPTED Report and mitigation measures and the development would provide for passive and active surveillance of the surrounding area. The Department has recommended a condition requiring the implementation of the CPTED Report mitigation measures.
8. Housing Diversity and Social Interaction	The development will improve housing supply and choice and provides for a mix of apartment types to cater for a range of households. The provision of new housing will aid in the creation of a mixed and balanced community. The Applicant has entered into a State Planning Agreement including a contribution of \$5.2 million towards affordable housing and \$7 million towards public art.
9. Architectural Expression	The development includes appropriate building articulation, modulation and setbacks to complement the desired character for the site and surrounding area. The palette of materials and finishes would appropriately articulate the building form. The architectural details respond appropriately to the site's opportunities and constraints and would provide for a visually interesting contemporary building (Section 6.4.2). The development is considered to achieve design excellence as discussed in Section 6.4.1 .

The ADG sets out guidelines for residential apartment development to ensure apartments are appropriately designed, achieve an appropriate level of residential amenity and have acceptable impacts. An assessment of the proposal against the ADG best practice design principles is provided at **Table 24**.

Table 23 | Assessment of the proposal against the ADG requirements

ADG – Relevant Criteria	Proposal	Complies
2E Building Depth		
<ul style="list-style-type: none"> • Use a range of building depth of 12-18m from glass line to glass line • Where greater depths are proposed demonstrate layouts can achieve acceptable amenity 	<ul style="list-style-type: none"> • Building depth of approximately 24 m • The application has demonstrated that a high level of internal and external amenity would be provided. 	<p>No (red) Refer to Section 6.5</p>
3B Orientation		
<ul style="list-style-type: none"> • Building type/layouts respond to streetscape, optimising solar access • Overshadowing of neighbouring properties is minimised 	<ul style="list-style-type: none"> • The tower is oriented in accordance with the building envelope. Solar access has been maximised noting the dominant façade faces north, narrower facades face east and west. The lift core and reduced number of apartments face south. • Overshadowing is minimised. 	<p>Yes</p>
3C Public Domain Interface		
<ul style="list-style-type: none"> • Transition between public/private without compromising security • Amenity of public domain is retained and enhanced 	<ul style="list-style-type: none"> • Active frontage is provided at ground level, retail entrances, residential lobbies and vehicle entrances are easily identifiable. • Public domain forms part of future SSDA3. All other on-building landscaping is of a high quality. 	<p>Yes</p>
3D Communal and Public Open Space		
<ul style="list-style-type: none"> • minimum 25% of the site • minimum 50% direct sunlight to principal usable part of the communal open space for a minimum of 2 hours in mid-winter 	<ul style="list-style-type: none"> • A total of 2,085 m² residential communal open space is provided, which comprises 14% of the total site area and 49% of the residential component of the site. • The communal open space receives direct sunlight in mid-winter for more than 2 hours. 	<p>No (red) Refer to Section 6.5</p>
3E Deep Soil Zones		
<ul style="list-style-type: none"> • For sites greater than 1,500sqm a minimum of 7% to 15% of the site should provide for deep soil zone(s) 	<ul style="list-style-type: none"> • The proposal includes no deep soil areas as defined by the ADG, noting the ADG excludes soil volume on roof areas in deep soil calculation(s). 	<p>No (red) Refer to Section 6.5</p>

ADG – Relevant Criteria	Proposal	Complies												
3F Visual Privacy														
<ul style="list-style-type: none"> Minimum building separation distance: <table border="1" data-bbox="204 371 762 663"> <thead> <tr> <th>Height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<ul style="list-style-type: none"> The tower is located approximately 90 m away from ODH, the closest neighbouring residential building. 	Yes
Height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
3G Pedestrian Access to Entries														
<ul style="list-style-type: none"> Building entries and pedestrian access connects to and addresses the public domain Access, entries and pathways are accessible and easy to identify Large sites provide pedestrian links for access to streets and connection to destinations 	<ul style="list-style-type: none"> Entries are well located, designed and easily identifiable. Access, entries and pathways are accessible. The development includes through-site links and bridges providing for a permeable and well-connected development. 	Yes												
3H Vehicle Access														
<ul style="list-style-type: none"> Vehicle access points are to be designed to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes. 	<ul style="list-style-type: none"> Vehicle and pedestrian entrances are separated and identifiable. Vehicle access is provided with appropriate sight lines off Darling Drive East slip lane. The carpark entries are well designed. 	Yes												
3J Bicycle and Car Parking														
<ul style="list-style-type: none"> Minimum parking requirement as set out in the Guide to Traffic Generating Developments or local Council requirement, whichever is the less Parking is available for other modes of transport Car parking design access is safe and secure Visual and environmental impacts of underground, at grade or above ground car parking are minimised 	<ul style="list-style-type: none"> 538 bicycle parking spaces are provided for staff and residents. Visitor parking will be located within the public domain and forms part of the separate SSDA3 application. 243 car parking spaces are provided in accordance with the Concept Approval (condition A17) requirements. Car parking is provided wholly within the basement levels. 	Yes												
4A Solar and Daylight Access														
<ul style="list-style-type: none"> Minimum of 70% of apartments' living rooms and private open spaces receive 2hrs direct sunlight between 9am-3pm in mid-winter in the Sydney Metropolitan Area Maximum of 15% of apartments have no direct sunlight between 9am-3pm in mid-winter Shading and glare control is provided 	<ul style="list-style-type: none"> 194 of 265 apartments (73.2%) receive 2 hours of direct sunlight during mid-winter. 30 of 265 apartments (11.3%) receive no direct sunlight in mid-winter. Balconies and architectural features provide passive solar protection to apartments. 	Yes												
4B Natural Ventilation														
<ul style="list-style-type: none"> At least 60% of apartments are cross ventilated in the first nine storeys (apartments 10 storeys 	<ul style="list-style-type: none"> Up to 9 storeys, 12 of the 20 apartments (60%) achieve natural cross ventilation. 	Yes												

ADG – Relevant Criteria	Proposal	Complies
<p>or greater are deemed to be cross ventilated)</p> <ul style="list-style-type: none"> Overall depth of a cross-over or cross-through apartment does not exceed 18m 		
4C Ceiling Heights		
<ul style="list-style-type: none"> Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> Habitable rooms 2.7m Non-habitable rooms 2.4m 	<ul style="list-style-type: none"> Proposed minimum habitable ceiling heights and non-habitable ceiling heights comply with, or exceed, the ADG recommended minimums. 	Yes
4D Apartment Size and Layout		
<ul style="list-style-type: none"> Minimum apartment sizes <ul style="list-style-type: none"> Studio 35sqm 1 bedroom 50 m² 2 bedroom 70 m² 3 bedroom 90 m² Every habitable room must have a window in an external wall with a total glass area of not less than 10% of the floor area. Daylight and air may not be borrowed from other rooms Habitable room depths are limited to 2.5 x the ceiling height In open plan layouts the maximum habitable room depth is 8m from a window Master bedroom have a minimum area of 10 m² and other bedrooms have 9 m Bedrooms have a minimum dimension of 3 m (excluding wardrobes) Living rooms have a minimum width of: <ul style="list-style-type: none"> 3.6 m for studio and one bed 4 m for 2 and 3 bed The width of cross-over or cross-through apartments are at least 4 m internally. 	<ul style="list-style-type: none"> The proposed apartments sizes include: <ul style="list-style-type: none"> 1 bedroom – 51 to 57 m² 2 bedroom – 85 to 123 m² 3 bedroom – 141 to 184 m² Each habitable room includes a window. All habitable room depths are less than 2.5 x ceiling height 73 apartments have open plan rooms with depths greater than 8m from a window All main bedrooms are greater than 10m² and secondary bedrooms are greater than 9m² All bedrooms exceed the 3m dimension requirement All living rooms exceed the minimum width requirements No cross-over / through apartments proposed 	No (red) Refer to Section 6.5
4E Private Open Space and Balconies		
<ul style="list-style-type: none"> Primary balconies are provided to all apartments providing for: <ul style="list-style-type: none"> 1 bedroom min area 8m² min depth 2m 2 bedroom min area 10m² min depth 2m 3 bedroom min area 12m² min depth 2.5m For apartments at ground floor level or similar, private open space must have a minimum area of 15sqm and depth of 3sqm Private open space and primary balconies are integrated into and contribute to the architectural form and detail of the building Primary open space and balconies maximises safety 	<ul style="list-style-type: none"> Balconies are provided to all apartments, including: <ul style="list-style-type: none"> 1 bedroom – 8.1m² – 8.4m² 2 bedroom – 10.2m² – 13.1 m² 3+ bedroom – 12.3m² - 72.9m² There are no ground level apartments. However, podium apartments are provided with 15.9m² - 92m² terraces. All balconies are integrated into the architectural form/detail of the building. Balcony design avoids opportunities for climbing and falls. 	Yes
4F Common Circulation and Spaces		
<ul style="list-style-type: none"> Maximum number of apartments off a circulation core is eight – where this cannot be achieved, no more than 12 apartments should be provided off a single circulation core. For buildings 10 storeys and over, the maximum 	<ul style="list-style-type: none"> Maximum number of apartments on a floor off a single circulation core is eight. The proposal includes six lifts, three for lower levels and three express lifts for upper levels. The apartments ratio is 44 	No (red) Refer to Section 6.5

ADG – Relevant Criteria	Proposal	Complies
<p>number of apartments sharing a single lift is 40</p> <ul style="list-style-type: none"> Natural ventilation is provided to all common circulation spaces where possible Common circulation spaces provide for interaction between residents Longer corridors are articulated 	<p>per lift.</p> <ul style="list-style-type: none"> The communal corridors have access to a south facing window for natural light and ventilation. Communal corridors and the ground floor lobby are appropriately sized. No unreasonably long corridors are proposed. 	
4G Storage		
<ul style="list-style-type: none"> The following storage is required (with at least 50% located within the apartment): <ul style="list-style-type: none"> Studio apartments 4m³ 1 bedroom apartments 6 m³ 2 bedroom apartments 8 m³ 3 bedroom apartments 10 m³ 	<ul style="list-style-type: none"> All apartments meet or exceed the minimum storage requirements. 	Yes
4H Acoustic Privacy and 4J Noise and Pollution		
<ul style="list-style-type: none"> Noise transfer is minimised through the siting of buildings and building layout and minimises external noise and pollution. Noise impacts are mitigated through internal apartment layout and acoustic treatments. 	<ul style="list-style-type: none"> Apartments are appropriately laid out to prevent noise transfer and would meet noise / acoustic requirements. 	Yes
4K Apartment Mix		
<ul style="list-style-type: none"> Provision of a range of apartment types and sizes Apartment mix is distributed to suitable locations within the building. 	<ul style="list-style-type: none"> The proposal includes a range of apartments sizes, including: <ul style="list-style-type: none"> 30 x 1 bed apartments (11.3%) 92 x 2 bed apartments (34.7%) 130 x 3 bed apartments (49.1%) 13 x 4+ bed apartments (4.9%) 	Yes
4L Ground Floor Apartments		
<ul style="list-style-type: none"> Street frontage activity is maximised where ground floor apartments are located Design of ground floor apartments delivers amenity and safety for residents 	<ul style="list-style-type: none"> The development does not include any ground floor apartments 	N/A
4M Facades		
<ul style="list-style-type: none"> Building facades provide visual interest along the street while respecting the character of the local area Building functions are expressed by the facade 	<ul style="list-style-type: none"> The development is of a high standard of design and appearance and achieves design excellence (Section 6.4.1). The building design has been appropriately expressed to indicate a residential development. 	Yes
4N Roof Design		
<ul style="list-style-type: none"> Roof treatments are integrated into the building design and positively respond to the street Opportunities to use roof space for accommodation and open space is maximised Roof design includes sustainability features 	<ul style="list-style-type: none"> The tower includes an open architectural roof treatment that extends and terminates the architectural treatment below. The tower roof includes garden spaces for penthouse apartments. Solar panels are included above plant enclosures. 	Yes

ADG – Relevant Criteria	Proposal	Complies
4O Landscape Design and 4P Planting on Structures		
<ul style="list-style-type: none"> • Landscape design is viable and sustainable • Landscape design contributes to streetscape and amenity • Appropriate soil profiles are provided and plant growth is maximised (selection/maintenance) • Plant growth is optimised with appropriate selection and maintenance • Building design includes opportunity for planting on structure 	<ul style="list-style-type: none"> • The site includes extensive landscaping, which would be viable and sustainable and contribute to the roofscape, streetscape and overall amenity. • The proposed planting species list has prioritised native plants. • The podium design has maximised extensive on-structure planting opportunities. 	Yes
4Q Universal Design		
<ul style="list-style-type: none"> • 20% of apartments meet the Universal Design Guidelines. • A variety of apartments with adaptable designs are provided • Apartment layouts are flexible and accommodate a range of lifestyle needs 	<ul style="list-style-type: none"> • 53 (20%) apartments meet the Universal Design criteria. • 27 (10%) apartments are adaptable. • Apartment layouts are regular in shape and flexible to accommodate a range of lifestyles. 	Yes
4R Adaptive Reuse		
<ul style="list-style-type: none"> • New additions to existing buildings are to contemporary and complementary • Adapted buildings are to provide residential amenity while not precluding future adaptive reuse. 	<ul style="list-style-type: none"> • The development does not include adaptive reuse. 	N/A
4S Mixed Use		
<ul style="list-style-type: none"> • Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement • Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents 	<ul style="list-style-type: none"> • The proposal includes non-residential uses at ground and podium level and residential uses within the tower. The proposal activates the public domain. • The residential component is separated from the non-residential components. The residential communal open space is in a secure and private location. 	Yes
4T Awning and Signage		
<ul style="list-style-type: none"> • Awnings are well located and complement and integrate with the building • Signage responds to the context and design streetscape character 	<ul style="list-style-type: none"> • Awnings at upper levels have been incorporated into the design of the building. • Any awnings projecting over the public domain will be subject to the separate SSDA3. Weather protection would be provided to residential and vehicular entrances. • Signage will be designed to respond to the development and its context subject to the Signage Strategy (Section 6.5). 	Yes
4U Energy Efficiency		
<ul style="list-style-type: none"> • Development incorporates passive environmental and solar design • Adequate natural ventilation minimises the need for mechanical ventilation 	<ul style="list-style-type: none"> • The development has been designed in accordance with ESD principles and the Department has recommended conditions requiring the development achieve appropriate sustainability targets 	Yes

ADG – Relevant Criteria	Proposal	Complies
	(Appendix B, Section B5).	
4V Water Management and Conservation		
<ul style="list-style-type: none"> • Potable water use is minimised • Urban stormwater is treated on site before being discharged to receiving waters • Flood management systems are integrated into the site design 	<ul style="list-style-type: none"> • The Department has considered flooding and drainage at Section 6.5 and concludes, subject to conditions, the flooding and drainage impacts can be managed and/or mitigated. 	Yes
4W Waste Management		
<ul style="list-style-type: none"> • Waste storage facilities are designed to minimise impacts on streetscape, building entry and residential amenity • Domestic waste is minimised by providing safe and convenient source separation and recycling 	<ul style="list-style-type: none"> • The Department has considered operational waste at Section 6.5 and has an operational waste management condition. 	Yes
4X Building Maintenance		
<ul style="list-style-type: none"> • Building design detail provides protection from weathering • Systems and access enable ease of maintenance • Material selection reduced ongoing maintenance cost 	<ul style="list-style-type: none"> • The building has been appropriately designed to allow ease of maintenance. • The materials are robust. 	Yes

Other Policies

In accordance with clause 2.10 of the PS SEPP, Development Control Plans do not apply to SSD. Notwithstanding this, the following DCP provides appropriate guidance for the redevelopment of the site and is considered below.

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

The Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (SHFW DCP) applies to sites within the Foreshores and Waterways Area as identified in the BC SEPP (formerly the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005). The SHFW DCP outlines guidelines to protect and enhance the ecological and landscape values of the harbour foreshore, and provides specific guidelines for water based, land-based and land/water interface developments. The relevant guidelines of the SHFW DCP are considered at **Table 25**.

Table 24 | Consideration of relevant SHFW DCP guidelines

Issue	Guidelines	Department consideration
Foreshore access	<ul style="list-style-type: none"> • Foreshore access is to be encouraged and wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved • most desirable are foreshore links joining public open spaces or access points 	The proposal maintains and improves public access along the waterfront.
Siting of buildings and	<ul style="list-style-type: none"> • where there is existing native vegetation, buildings should be set back from this vegetation 	The proposed building addresses the waterway and is sited to

Issue	Guidelines	Department consideration
structures	<p>to avoid disturbing it</p> <ul style="list-style-type: none"> • buildings should address the waterway; • buildings should not obstruct views and vistas from public places to the waterway • buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP • where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore 	<p>maintain similar public views from the surrounding area.</p>
Built form	<ul style="list-style-type: none"> • where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting • where undeveloped ridgelines occur, buildings should not break these unless they have a backdrop of trees • while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs • walls and fences should be kept low enough to allow views of private gardens from the waterway • bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting should be observed • use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied • colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP • the cumulative visual impact of a number of built elements on a single lot should be mitigated through bands of vegetation and by articulating walls and using smaller elements; • the cumulative impact of development along the foreshore is considered having regard to preserving views of special natural features, landmarks or heritage items 	<p>The scale of the development is similar to other existing developments along the eastern Darling Harbour foreshore, is consistent with the PPPS maximum height, achieves design excellence and makes a positive contribution to Darling Harbour.</p> <p>The development is consistent with the Concept Approval, which concluded the site is well suited to accommodate higher density and a tall building being located within an existing tourist and entertainment precinct.</p> <p>The proposal will complement and support the revitalisation and modernisation of Darling Harbour. Further discussion on built form and visual impacts is within Section 6.4.2.</p> <p>The proposal is not considered to have an adverse impact on the heritage listed Pyrmont Bridge. The separation between the site and the Bridge allows for the immediate setting of the Bridge to be protected.</p>

Issue	Guidelines	Department consideration
Planting	<ul style="list-style-type: none"> • appropriate species from those found in the surrounding landscape should be incorporated • endemic native species should be used in areas where native vegetation is present or has the potential to be regenerated • exotic species that have the potential to spread into surrounding bushland should be avoided • existing mature trees should be retained where possible and incorporated into the design of new developments • vegetation along ridgelines and on hillsides should be retained and supplemented with additional planting to provide a backdrop to the waterway • a landscape plan is to be submitted with any land-based development proposal showing existing and proposed changes in contours, surface and sub-surface drainage, existing trees to be retained and removed, measures to protect vegetation during construction, and proposed planting including species and common names. 	<p>The separate SSDA3 application includes the provision of new publicly accessible open space, which would include appropriate and extensive landscaping. The development includes high quality landscaping within the site, as discussed at Section 6.4.3.</p>
Redevelopment sites	<p>Redevelopment proposals should:</p> <ul style="list-style-type: none"> • ensure continuous and inviting public access to the foreshore; • allow for a mix of uses to further improve the public utility and amenity of the waterfront; • provide public jetties and wharves for access to vessels where there is a demonstrated demand; • identify suitable areas that can be conserved and made available to the public; • provide public road access to the foreshore park where a park is being provided; and • be designed considering the site in the broader context of the River and the Harbour. <p>Redevelopment sites have the potential to provide a gateway and become a waterside destination for the hinterland.</p>	<p>The proposal will maintain and improve public access to the foreshore and pedestrian circulation and connectivity around the waterfront.</p>

Appendix C – Concept Approval and Design Guidelines

C1 – Concept Approval

An assessment of the proposal against the Concept Approval requirements (as amended, refer to **Section 6.2**) is provided in **Table 26**.

Table 25 | Department’s consideration of the relevant Concept Approval requirements

Condition	Department’s consideration	Complies
Schedule 2 - Part A - Terms of Approval		
Planning Agreement Affordable Housing		
<p>A6. Prior to the determination of the first Future Development Application, the Applicant or its successor must enter into a Planning Agreement and /or other legally binding agreement to the satisfaction of the Planning Secretary securing the provision of \$5,200,000.00 to a Registered Community Housing provider for affordable housing.</p> <p>A7. Any Planning agreement must be prepared in accordance with Division 7.1 of Part 7 of the EP&A Act.</p>	<p>A State Planning Agreement between the Minister, Mirvac Retail Sub SPV Pty Limited and Mirvac Projects Pty Ltd was executed on 12 August 2022.</p>	Yes
Gross Floor Area control		
<p>A10 The maximum achievable gross floor area (GFA) for the development is 87,000 m², comprising:</p> <p>(a) 42,000 m² residential GFA</p> <p>(b) 45,000 m² non-residential GFA.</p> <p>The maximum GFA can only be achieved subject to demonstration of:</p> <p>(i) compliance with the conditions of this concept approval</p> <p>(ii) design excellence</p> <p>(iii) consistency with the Design Guidelines (as amended by Condition B1)</p> <p>(iv) being wholly contained within the approved building envelope.</p>	<p>The proposal provides for maximum:</p> <p>a) 41,992 m² residential GFA</p> <p>b) 42,525 m² non-residential GFA.</p> <p>The development:</p> <p>(i) complies with the conditions of the Concept Approval</p> <p>(ii) achieves design excellence (Section 6.4.1)</p> <p>(iii) is consistent with the Design Guidelines (Appendix Table 27)</p> <p>(iv) is wholly contained within the building envelope (Section 6.4.1).</p>	Yes
Building Envelope Control		
<p>A11 The maximum building envelope for the development must not exceed the building envelope shown on the concept proposal envelope drawings listed in Condition A2.</p>	<p>The development is wholly contained within the building envelope (Section 6.4.1).</p>	Yes
Building Height Control		
<p>A12 The maximum building heights for the development must not exceed those shown on the envelope drawings listed in Condition A2.</p>	<p>The maximum height of the building does not exceed the building envelope height (RL 170) (Section 6.4.1).</p>	Yes

Condition	Department's consideration	Complies
<p>Open Space Control</p> <p>A13. A minimum of 3,500m² of contiguous public open space must be provided above the Northern Podium:</p> <ul style="list-style-type: none"> (i) with a finished deck level no higher than RL 12.5 to ensure the height of the Northern Podium finished deck level does not obstruct the sight line from the Pymont Bridge western approach to the eastern Cockle Bay foreshore and protects the heritage features of Pymont Bridge; (ii) must be provided in one single accessible level, providing for equitable access and to optimise public utilisation and activation of the public open space; and (iii) directly accessible from the western approach to the heritage listed Pymont Bridge to afford equitable access and improved public amenity. 	<p>The proposal includes 3,500 m² contiguous public open space. The space will:</p> <ul style="list-style-type: none"> (i) have a RL 12.5 finished deck level (ii) comprise a single accessible level (iii) including access from the western approach to Pymont Bridge. 	Yes
<p><u>A13A Notwithstanding condition A13, landscape soil mounding and a lift providing equitable access may project above the finished deck level (RL 12.5), provided:</u></p> <ul style="list-style-type: none"> (a) <u>any soil mounding does not exceed a maximum height of 800 mm (RL 13.3) above deck level; and</u> (b) <u>the lift enclosure above deck level is demonstrated to be of an appropriate height, bulk and scale, architectural integration and is designed to be light weight and transparent in appearance.</u> 	<p>The landscaping of the 3,500 m² public open space will be subject to the separate SSDA3.</p> <p>Soil mounding would not exceed 800mm above deck level (RL 13.3) and the lift above deck level will be subject to a separate future DA</p>	Yes
<p>A14. The calculation of the 3,500 m² publicly accessible open space:</p> <ul style="list-style-type: none"> (a) may include, terraces, hard and soft landscaping and any lift associated with publicly accessible open space (b) must exclude retail tenancies and associated outdoor seating/dining areas 	<p>The landscaping of the 3,500 m² public open space will be subject to the separate SSDA3.</p> <p>The calculation of the space does not include retail tenancies or outdoor seating/dining areas.</p>	Yes
<p>A15. In addition to the publicly accessible open space referred to in Condition A13 and A14, an additional area of onsite open space must be provided for gathering/events adjacent to the foreshore and link to the Bunn Street through site link. This space must be accessible 24 hours-a-day, 7 days-a-week, provide equitable access (including to people with disabilities and similar requirements) and be suited to both casual public use and more structured gatherings and performance events (e.g. pop up cinema, theatre, music)</p>	<p>The detailed design and landscaping of the Waterfront Stairs will be subject to the separate SSDA3.</p> <p>The Waterfront Stairs will provide a space for gathering and events.</p>	Yes
<p>Northern Podium Soft Landscaping</p> <p>A16. Soft landscaping (including planting and trees) may extend above the building envelope where these components are within and relate specifically to improving the amenity of the publicly accessible open space above the Northern Podium (Attachment B). Future Development Application(s) must demonstrate</p>	<p>The design and layout of landscaping of the public open space and public domain will be subject to the separate SSDA3.</p> <p>The Application includes a VVIA, which considers the visual or view impacts of the indicative public open space landscape design.</p> <p>The Department has considered visual</p>	Yes

Condition	Department's consideration	Complies
that any projection within this area above the building envelope will have minimal detrimental impact on views from neighbouring properties to the Pyrmont Bridge and harbour.	and view impacts at Sections 6.2.1 and 6.4.3 .	
<p>Car parking control</p> <p>A17. The maximum number of on-site car parking spaces must be in accordance with the following rates:</p> <p><u>Residential spaces</u></p> <ul style="list-style-type: none"> • For each 1-bed dwelling: 0.4 spaces; • For each 2-bed dwelling: 0.8 spaces; • For each 3-bed+ dwelling: 1.1 spaces; <p><u>Visitor spaces</u></p> <ul style="list-style-type: none"> • For dwellings 1 to 30: 0.167 spaces; • For dwellings 30 to 70: 0.1 spaces; • For dwelling 70+: 0.05 spaces. 	The development complies with the Concept Approval car parking rates, as summarised at Section 6.4.4 .	Yes
A18. Resident car parking spaces may be used for the purposes of providing parking for residents of the building only and not for any other purpose.	Car parking spaces are not designated for any other purpose than their intended use.	Yes
A19. Visitor car parking spaces must be used for the purposes of providing parking for visitors to the residential building only and not for any other purpose.		Yes
A20. No more than 30 car parking spaces are permitted for non-residential uses.	The development includes 30 non-residential car parking spaces.	Yes
<p>Design Excellence</p> <p>A21. Prior to the lodgement of any Future Development Application(s), the detailed design of the development must be subject to a Design Excellence Competition (Competition) carried out in accordance with the Design Excellence Strategy prepared by Ethos Urban, dated 8 February 2021.</p>	An architectural design competition has been undertaken, as discussed at Section 6.4.1 .	Yes
A22. Prior to the commencement of any Competition (Condition A21), a Competitive Design Brief (CDB) prepared in consultation with the Government Architect NSW, must be submitted to and approved by the Secretary. The CDB must be generally in accordance with the Government Architect's Design Excellence Competition Guidelines and include the membership of the jury, specific assessment criteria against which the submissions will be judged, complying with the requirements of this consent, built form controls and design guidelines. At least two members of the jury, excluding the GANSW representative, should be selected from the NSW SDRP panel pool.	A Competitive Design Brief was prepared in consultation with the GANSW and approved by the Secretary prior to the commencement of the Design Competition.	Yes
A23. A Design Integrity Panel (DIP) must be established by the Applicant prior to the lodgement of any Future Development Application(s). The DIP must comprise at least three of the members of the Competition jury selected in consultation with the Government Architect NSW and in accordance with the Government Architect's Design Excellence	A DIP was established for the project in accordance with the requirements of this condition.	Yes

Condition	Department's consideration	Complies
Competition Guidelines (being one nominee from each of the Applicant, Government Architect and local authority).		
A24. Prior to the establishment of the DIP (Condition A23) a detailed DIP Terms of Reference must be prepared in consultation with the Government Architect NSW and submitted for approval to the Planning Secretary, clearly outlining: <ul style="list-style-type: none"> (a) the role of the DIP to review and advise on the detailed building design to ensure the achievement of design excellence, complying with the requirements of this consent, built form controls and design guidelines (as endorsed by the Planning Secretary) (b) that the DIP will review and provide advice prior to the lodgement of any Future Development Application(s), and be retained during the assessment and post approval stages (c) governance arrangements, including meeting frequency, secretariat functions, dispute resolution and deliverables. 	The DIP Terms of Reference were approved on 18 March 2022 in accordance with the requirements of this condition.	Yes
A25. The detailed design must be presented to the DIP prior to the lodgement of a Future Development Application(s).	The application was presented to the DIP 10 times prior to lodgement.	Yes

Schedule 2 - Part B - Modifications to the Concept Proposal

<p>Design Guidelines</p> <p>B1. The Applicant must revise the Harbourside Urban Design and Public Domain Guidelines Rev 3, prepared by fjmt and dated 7 October 2020, as set out in Attachment A. The revised Design Guidelines must be submitted to and approved by the Planning Secretary prior to the lodgement of the first Future Development Application.</p>	<p>On 25 January 2022, the Department approved revised Design Guidelines titled 'Harbourside Public Domain and Urban Design Guidelines, Rev 04', prepared by FJMT and dated 1 August 2021.</p> <p>The Design Guidelines are considered at Table 27.</p>	Yes
<p>Amendments to the Concept Proposal</p> <p>B2. Prior to the lodgement of the first development application, revised concept proposal drawings must be submitted to and approved by the Planning Secretary that include the following amendments:</p> <ul style="list-style-type: none"> (a) an increased set back of at least 15 m from the north eastern corner of the podium to the nearest point of Pyrmont Bridge, with the northern edge of the podium angled appropriately to facilitate the connection to the Pyrmont Bridge landing in order to: <ul style="list-style-type: none"> (i) further reduce the impact of the development on views of the western landing of Pyrmont Bridge; and (ii) ensure that the heritage value of Pyrmont Bridge can be appreciated from the public domain. (b) An increased setback between the Northern Podium and the western abutment wall sufficient to protect the material and visual heritage value(s) of Pyrmont Bridge. 	<p>On 30 March 2022, the Department approved revised Concept Proposal drawings responding to this condition.</p>	Yes

Condition	Department's consideration	Complies												
Schedule 2 – Part C – Future Environmental Assessment Requirements														
<p>Building design</p> <p>C1. Future Development Application(s) shall demonstrate consistency with:</p> <ul style="list-style-type: none"> (a) the revised Harbourside Urban Design and Public Domain Guidelines, as endorsed by the Planning Secretary (Condition B1) (b) the advice of the Design Integrity Panel (Condition A23) (c) the following built form controls <table border="1" data-bbox="209 629 802 831"> <thead> <tr> <th>Built Form Control</th> <th>Control</th> </tr> </thead> <tbody> <tr> <td colspan="2">The Tower</td> </tr> <tr> <td>Max. tower floor plate</td> <td>1000m² GFA*</td> </tr> <tr> <td>Max. volumetric tower envelope utilisation</td> <td>80%</td> </tr> <tr> <td colspan="2">The Podium</td> </tr> <tr> <td>Max. volumetric podium envelope utilisation</td> <td>80%</td> </tr> </tbody> </table> <p>* Excluding balconies and/or wind-affected balconies per Clause 4.5A of Sydney LEP 2012</p>	Built Form Control	Control	The Tower		Max. tower floor plate	1000m ² GFA*	Max. volumetric tower envelope utilisation	80%	The Podium		Max. volumetric podium envelope utilisation	80%	<p>The application has demonstrated consistency with:</p> <ul style="list-style-type: none"> (a) the Design Guidelines, as summarised at Table 27 (b) the advice of the DIP, as considered at Section 6.4.1. (c) the built form controls, as summarised at Section 6.4.2. 	Yes
Built Form Control	Control													
The Tower														
Max. tower floor plate	1000m ² GFA*													
Max. volumetric tower envelope utilisation	80%													
The Podium														
Max. volumetric podium envelope utilisation	80%													
<p>C2. Future development applications must demonstrate that the buildings are wholly contained within the building envelopes consistent with the plans listed in Condition A2, as modified by the conditions of this consent.</p>	<p>The building is wholly contained within the building envelope, as summarised at Section 6.4.1.</p>	Yes												
<p>C3. Building height and gross floor area (including the exclusion from GFA of wind-affected balconies) is to be measured in accordance with the definitions contained within the Sydney Local Environmental Plan 2012.</p>	<p>Building height and GFA have been measured in accordance with the definitions contained within the SLEP.</p>	Yes												
<p>C4. Future Development Application(s) must demonstrate that the design of the podium:</p> <ul style="list-style-type: none"> (a) provides improved east west connections and permeability between the foreshore and Pyrmont (b) delivers a safe and activated streetscape interface on all boundaries (c) provides for a direct through-site open to the sky pedestrian connection(s) between the foreshore and the new Bunn Street bridge (d) provides direct civic-quality open to the sky pedestrian connection(s) from the foreshore adjacent to Pyrmont Bridge to the Pyrmont Bridge approach (e) is articulated and modulated to break down massing and bulk (f) provides for equitable access to all publicly accessible through site links, terraces and podiums 	<p>The podium design is consistent with the requirements of condition C4:</p> <ul style="list-style-type: none"> (a) east west connections are provided and ensure permeability between Cockle Bay and Pyrmont (b) streetscapes are activated and safe noting retail tenancies face the waterfront and commercial / residential lobbies face Darling Drive (c) a Bunn Street through site link is proposed connecting the foreshore with the new Bunn Street Bridge. The Department has recommended the design of the link be amended in consultation with the DIP (Section 6.2.2) (d) the Pyrmont Bridge Steps form part of the separate SSDA3 application. However, the steps are capable of being open to the sky and connect the foreshore with the Pyrmont Bridge approach. (e) the podium built form is articulated and modulated and achieves a high standard of design 	Yes												

Condition	Department's consideration	Complies
	(f) the through site links, terraces and podiums provide for equitable access.	
<u>C4A Notwithstanding condition C4(c), a Bunn Street through site link design that is partially covered / not entirely open to sky could be considered, subject to future development application(s) demonstrating such a link achieves a high standard of design, layout and appearance in relation to key design requirements including location, legibility, civic scale (height, width and design quality), openness, access, public art, activation, safety / security and finishes).</u>	A Bunn Street through site link is proposed connecting the foreshore with the new Bunn Street Bridge. The link includes partially covered sections. Department has recommended the design of the link be amended in consultation with the DIP (Section 6.2.2)	Yes
C5. Future Development Application(s) must demonstrate that the design of the proposed podium is sympathetic in aspect and final form to Pymont Bridge including colours and materiality.	The design of the podium is separated from and sympathetic to Pymont Bridge, maintains the visual link of the bridge to its context and provides for an improved interface.	Yes
C6. Future Developmental Application(s) must demonstrate the detailed design of the Northern Podium retains the visual link of Pymont Bridge in its context with Darling Harbour when viewed from the west. The final design must resolve and improve the interface between Pymont Bridge and the site and sensitively manage the relationship between the new development and the extant bridge approach based on the SHR listed values.	The development does not result in an adverse heritage impact, as discussed at Section 6.5 .	Yes
C7. Future Development Application(s) must include a Reflectivity Analysis demonstrating that the external treatments, materials and finishes of the development do not cause adverse or excessive glare.	The application includes a Reflectivity Analysis, which demonstrates the development would result in minor glare. However, the Department concludes this can be managed / mitigated subject to condition, as discussed at Section 6.5 .	Yes
C8. Future Development Application(s) must include an Access Report demonstrating that the development achieves an appropriate degree of accessibility.	The application includes an Access Report, which demonstrates that the development achieves an appropriate degree of accessibility.	Yes
C9. Future Development Application(s) must include specifications and details of all external facing materials, demonstrating the proposed colour, texture, jointing and method of fixing.	The application includes a digital 'materials board', which provides details of all materials. The Department has recommended a condition requiring the Applicant submit the final schedule of materials including samples.	Yes
C10. Future Development Application(s) must include a retail design and activation strategy addressing the interface between retail tenancies and the foreshore public domain, Darling Drive and Iron Wharf Place. The strategy must include objectives, design parameters and/or other measures to ensure future retail spaces make a positive contribution to the character of the building, the Darling Harbour foreshore, Darling Drive and Iron Wharf Place.	The application includes a Retail Design and Activation Strategy. The design and layout of the development ensures that activation of surrounding streets and spaces has been maximised. The Department has recommended conditions relating to retail shopfronts, as discussed at Section 6.4.2 .	Yes
Open Space and Public Domain		
C11. Future Development Application(s) must include an Open Space, Public Domain and Landscape	The design of public domain, including public open space, will be subject to	N/A

Condition	Department's consideration	Complies
<p>Report including the design and treatment of all areas of open space, public domain and landscaping and the relationship of these spaces with existing and proposed buildings, spaces, structures, connections and Darling Harbour.</p>	<p>the separate SSDA3. Notwithstanding this, the application includes indicative design of these spaces.</p> <p>The application includes landscape design and plans for all other proposed landscaped areas within the site.</p> <p>The Department concludes the landscaping would achieve a high standard of design, subject to conditions, as discussed at Section 6.4.3.</p>	<p>Yes</p>
<p>C12. Future Development Application(s) must demonstrate how the proposal improves and enhances the events and gathering capacity of the public domain.</p>	<p>The design of public domain, including public open space and event space, will be subject to the separate SSDA3.</p>	<p>N/A</p>
<p>C13. Future Development Application(s) must confirm method(s) / arrangement(s) to ensure open space (Condition A13) is publicly accessible 24 hours-a-day 7 days-a-week and demonstrate:</p> <ul style="list-style-type: none"> (a) an appropriately designed, civic quality transition above the Northern Podium including direct external access from Pymont Bridge and the Harbour foreshore; (b) comprehensive activation of the space including locating potential complementary uses, such as retail, community or other active uses within the podium, near to the public open space supported by the Competitive Design Brief (c) the provision of deep soil planting zones incorporated within and above the structure of the podium deck; and (d) how community consultation has informed the design and operation of the publicly accessible open space. 	<p>Public domain, including public open space and management, will be subject to the separate SSDA3.</p> <p>The application has demonstrated how soil and deep soil areas will be accommodated on the structure to facilitate the future public domain and open spaces, as discussed at Section 6.2.1.</p>	<p>N/A</p>
<p>C14. Future Development Application(s) must demonstrate that the Northern Podium publicly accessible open space has a sympathetic and complementary built form relationship to the interface with Pymont Bridge</p>	<p>Public domain, including Waterfront Garden and Pymont Bridge Steps, will be subject to the separate SSDA3.</p> <p>Notwithstanding this, these spaces have been located to have a sympathetic relationship to Pymont Bridge.</p>	<p>Yes</p>
<p>C15. Future Development Application(s) must ensure the landscaping design is informed by an ecologist and:</p> <ul style="list-style-type: none"> (a) provides new plantings (including plantings on, above or within podiums) consisting of a mix of local native provenance trees, shrubs and groundcover species from the vegetation community that once occurred in this locality (rather than plant exotic species or non-local natives). (b) seeks to maximise urban tree canopy cover and incorporates advanced and established trees. (c) includes medium to large canopy trees within the foreshore public domain area 	<p>The application seeks consent for landscaping to green roofs, podium outdoor areas and within the residents' communal outdoor garden only. The design of public domain, including public open space, will be subject to the separate SSDA3.</p> <p>The Application makes allowances for appropriate soil volumes (to be implemented under SSDA3) to facilitate medium to tall trees (Section 6.2.1).</p> <p>The Department has considered view impacts at Section 6.4.2.</p> <p>The transplant of the 20 Cabbage Palms form part of the separate</p>	<p>Yes</p>

Condition	Department's consideration	Complies
<ul style="list-style-type: none"> (d) incorporates minimum appropriate soil volumes and depth within and above the structure of the podiums for taller trees and shrubs to improve biodiversity and habitat creation, enhance outlook from the west and allow views through canopy (e) seeks to minimise impacts to surrounding building views from the west while maximising planting and activation opportunities above the podium (f) explores opportunities to incorporate the existing 20 Cabbage Tree Palms in the detailed landscaping design. (g) includes details of landscape maintenance. 	<p>SSDA3.</p> <p>The proposal includes a landscape maintenance strategy.</p> <p>The Department concludes landscaping is acceptable subject to conditions, as discussed at Section 6.4.3.</p>	
<p>C16. Future development application(s) must demonstrate consideration of the GANSW's draft Connecting with Country Framework.</p>	<p>The design and landscape report submitted with the application considers the GANSW's Connecting with Country Framework</p>	<p>Yes</p>
Future Residential Amenity		
<p>C17. Future development application(s) relating to residential use must demonstrate a high level of residential amenity in accordance with the relevant requirements of the State Environmental Planning Policy 65 – Residential Apartment Development and the residential guidelines within the associated Apartment Design Guide.</p>	<p>The proposal has been considered against the requirements of SEPP 65 and accompanying ADG (Appendix B).</p> <p>The Department concludes the proposal complies with the ADG and minor inconsistencies are justified, as discussed at Section 6.5. The apartments would achieve a high standard of amenity.</p>	<p>Yes</p>
Entertainment Precinct Protection		
<p>C18. Future Development Application(s) must demonstrate that apartments within the proposal are adequately separated from lower floor active uses and events within the public domain to minimise the likelihood of noise disturbance.</p>	<p>The residential apartments are separated from ground floor retail uses by four levels of commercial office and a single level of communal facilities.</p> <p>The OAA submitted with the application demonstrates that adequate separation has been provided to not generate adverse acoustic impacts.</p>	<p>Yes</p>
<p>C19. Future Development Application(s) must be accompanied by a Noise and Vibration Impact Assessment (NVIA) that identifies and provides a quantitative assessment of the main noise generating sources and activities during operation. The NVIA must include:</p> <ul style="list-style-type: none"> (a) an alternative noise criterion for future apartments within the development utilising internal noise measurements with windows closed and designed to maximise the usage of the retail tenancies and events in the public domain without resulting in excessive impact on new and existing residents. (b) details of any mitigation measures to ensure the amenity of sensitive land uses, and the function and 24-hour operation of noise generating uses are protected during the operation of the development. 	<p>The application includes an OAA, which addresses the requirements of this condition.</p> <p>The Department has considered operational noise impacts at Section 6.4.5 and concludes the identified impacts can be appropriately managed or mitigated and the development would not result in adverse on or off-site operational noise impacts subject to conditions.</p>	<p>Yes</p>

Condition	Department's consideration	Complies
(c) noise management and mitigation strategies for commercial uses which restricts hours of operation as a last resort.		
C20. Future Development Application(s) must demonstrate that the proposed apartments include sufficient acoustic attenuation to enable compliance with the alternative noise criteria.		Yes
<p>Land Use</p> <p>C21. Future Development Application(s) must demonstrate how the proposed non-residential land use mix aligns with the Tumbalong Park Place Priorities and Harbourside Key Site Framework within the Pymont Peninsula Place Strategy.</p>	<p>The EIS includes consideration of the proposed land-uses and their alignment with the Pymont Peninsula Place Strategy.</p> <p>The Department has considered the Pymont Peninsula Place Strategy at Appendix D.</p>	Yes
C22. Future Development Application(s) must explore opportunities to provide for affordable workspace for creative industries including performance and rehearsal spaces, cultural uses, start-ups and researchers, maker and producer spaces to support the Innovation Corridor.	<p>The Applicant has confirmed it is exploring opportunities for the inclusion of affordable workspace.</p> <p>The Applicant has committed to preparing a Strategy Report and opportunities to embed affordable workplaces for creative and other tech-aligned industries, as discussed at Section 6.5.</p>	Yes
<p>Social Impacts and Infrastructure Requirements</p> <p>C23. Future development applications must include a Social Impact Assessment (SIA) that considers social impacts of the proposal, including cumulative impacts of the development in context with other existing/approved large developments within Darling Harbour and Pymont. The SIA must investigate any potential need for additional community or social services or other infrastructure arising from the development.</p>	<p>The application includes a SIA, which responds to the requirements of this condition. The SIA concludes that although there would be a negative social impact during construction the long-term impact would be positive. In addition, the proposal includes significant public benefits including a contribution towards affordable housing, public art and public open space and public domain.</p>	Yes
<p>Solar Access</p> <p>C24. Future development application(s) must include a Solar Access Impact Assessment (SAIA), including shadow studies and diagrams showing the likely overshadowing impact of the development on the public domain, surrounding existing open spaces and neighbouring developments. This assessment must include the cumulative impacts of all existing and approved development surrounding the site.</p> <p>The SAIA must demonstrate that:</p> <p>(a) the tower and podium have been designed to minimise the impact of overshadowing on the public domain, surrounding open spaces and neighbouring developments; and</p> <p>(b) the tower and podium siting and profile have been designed to optimise solar access to the public domain foreshore and Woodward Fountain during the winter lunch time period between 12.00pm and 2.00pm.</p>	<p>The application includes a solar analysis, which concludes the overshadowing impacts are acceptable and consistent with what was deemed acceptable under the Concept Approval.</p>	Yes
Public and Private Views	The application includes a VVIA, which has considered impacts on	Yes

Condition	Department's consideration	Complies
<p>C25. Future Development Application(s) must include a Visual and View Loss Assessment, which assesses public and private view impacts and demonstrates how consideration has been given to minimising such impacts. Any proposed hard and soft landscaping, including trees, above the podium should be considered in the view assessment to minimise impact to surrounding buildings views and maximise planting and activation opportunities in areas of lower impact.</p>	<p>public and private views. The VVIA concludes the development achieves an appropriate balance between the protection of views and the realisation of the development and its associated benefits.</p> <p>The Department has considered public and private view impacts at Section 6.2.1, 6.4.2 and 6.4.3.</p>	
<p>Heritage</p> <p>C26. Future Development Application(s) must include a detailed Heritage Impact Assessment, which considers and seeks to mitigate the heritage impact of the development including any visual impacts on Pymont Bridge.</p>	<p>The application includes a HIA, which concludes the proposed development would not have an adverse impact on the significance of relevant heritage items, including the Pymont Bridge and Woodward Fountain.</p> <p>The Department has considered heritage impacts at Section 6.5.</p>	Yes
<p>C27. Future Development Application(s) must include a Heritage Interpretation Strategy informed by the results of the archaeological fieldwork / investigations (Condition C28)</p>	<p>The application includes a HIS, which identifies opportunities for the proposed development to develop heritage interpretation experiences that will protect, enhance, and interpret Darling Harbour's natural and cultural heritage.</p> <p>Specific interpretative content will be prepared during the construction certificate stage, with the HIS forming the provisional basis for its development and installation.</p> <p>The Department has considered heritage interpretation at Section 6.5.</p>	Yes
<p>Archaeology</p> <p>C28. Future Development Application(s) must be informed by Historical, Maritime and Aboriginal Archaeology testing and demonstrate how the results of such testing have been used to minimise impacts to State Significant archaeological resources. The results of the archaeological testing must be documented in a report which outlines opportunities for conservation in situ as a preference, development and interpretation. The testing is to be undertaken in accordance with the following:</p> <p>(a) The Applicant must nominate a suitably qualified and experienced historical archaeologist to manage the historical archaeology program for test excavation in accordance with its conditions. This person must fulfil the Heritage Council's Excavation Director Criteria 2019 for test excavation of State significant archaeological relics. Details of the nominated person and their ability to demonstrate against the Criteria must be supplied to the Heritage Council (or its delegate) for comment and to the Planning Secretary for approval prior to the commencement of the testing program.</p>	<p>The application includes an Archaeological Assessment, Marine Archaeological Assessment and ACHAR.</p> <p>The reports conclude the potential for archaeological impact of any-kind are negligible noting consent for all earthworks (with the exception of minor excavation for lift pits) was approved under SSDA1.</p> <p>The Department has considered archaeology at Section 6.5.</p>	Yes

Condition	Department's consideration	Complies
<p>(b) An Archaeological Research Design and Excavation Methodology must be prepared in accordance with Heritage NSW guidelines and in consultation with Heritage NSW and submitted to the Planning Secretary for approval prior to the commencement of the testing program</p> <p>(c) A final excavation report must be prepared within 12 months of the completion of the archaeological test excavation. It should include details of any significant artefacts recovered, where they are located and details of their ongoing conservation and protection in perpetuity by the landowner. The Excavation report must respond to any research questions and reassess the significance of the site and its archaeological potential for State significant archaeology with recommendations of future design of SSD Stage 2. Copies of the final excavation report must be provided to Heritage NSW, Council's locals studies unit and the Planning Secretary.</p> <p>(d) The Applicant must engage a suitably qualified and experience maritime archaeologist, with understanding of the effects of dredging and reclamation processes on former submerged maritime infrastructure sites, to prepare a maritime archaeological assessment for the project within 6 months of the date of consent. The assessment must be used to inform the testing and detailed design of the Stage 2 SSDA and must include the following:</p> <ul style="list-style-type: none"> (i) remote sensing and/or driver surveys of the seabed under any piled areas that currently form waterfront or paved areas of the prosed development. (ii) any geotechnical and borelog information should be considered in this assessment and the maritime assessment should be used to better inform the testing program 		
<p>Public Art</p> <p>C29. Future Development Application(s) must include a Public Art Strategy (PAS) for the inclusion of public art within the development. The PAS must be prepared in consultation with Council and PMNSW.</p>	<p>The design of public domain, public open space including public art, will be subject to the separate SSDA3.</p> <p>The application includes an indicative PAS demonstrating how public art is likely to be incorporated into the SSDA3 public domain and open spaces.</p>	Yes
<p>Events in Darling Harbour Precinct</p> <p>C30. Future Development Application(s) must include an Events Management Plan (EMP) prepared in consultation with PMNSW, which considers site access, management and mitigation measures during major events held within the broader Darling Harbour precinct.</p>	<p>The design of public domain, public open space and including event spaces, will be subject to the separate SSDA3.</p> <p>The application includes an indicative EMP, which provides a high level consideration of site access and management and mitigation</p>	Yes

Condition	Department's consideration	Complies
	measures. It identifies four separate event spaces within the SSDA3 public domain areas of the development.	
<p>C31. Future Development Application(s) must include details of strategies and/or mechanisms which can be secured through the development consent or other legal agreement to make purchasers and occupiers of future residential apartments and non-residential tenancies aware that the development is in a vibrant entertainment and recreation precinct that is subject to many cultural and community events that may result in significant noise, light emissions, vibration and temporary changes to access arrangements over multiple 24 hour cycles throughout the year.</p>	<p>The applicant has confirmed that the contracts of sale for all proposed residential properties are to include provisions where the purchaser is made aware of the nature of the surrounding area and its use, vibrancy and potential event noise and traffic implications.</p> <p>As discussed at Section 6.4.5, the Department has recommended a condition requiring the applicant to implement its above commitment.</p>	Yes
<p>Environmental Performance</p> <p>C32. Future Development Application(s) must demonstrate the incorporation of Ecological Sustainable Development principles in the design, construction and ongoing operation phases of the development, including the following minimum environmental standards:</p> <ul style="list-style-type: none"> (a) 5-Star Green Star Design & As Built v1.3 for retail; (b) 6-Star Green Star Design & As Built v1.3 for commercial; (c) 5-Star Green Star Design & As Built v1.3 for the residential tower; (d) 5.5-Star NABERS Energy for Offices; (e) 3.5-Star NABERS Water for Offices; and (f) 20% water reduction per sqm for retail. 	<p>The application includes an ESD report, which confirms the development has been designed in accordance with ESD principles and seeks to meet or exceed sustainability targets consistent with the requirements of condition C32.</p> <p>The Applicant has stated that following the recent update to the Green Star ratings calculations and increase of sustainability requirements for each star rating, it will not be possible to meet the 'stretch targets'.</p> <p>The Department has considered ESD at Appendix B, Section B3.</p>	Yes
<p>C33. Future Development Application(s) must consider improvements to the minimum environmental standards (Condition C30) and endeavoured to achieve the following stretch environmental standards:</p> <ul style="list-style-type: none"> (a) 6-Star Green Star Design & As Built v1.3 for retail (b) 6-Star Green Star Design & As Built v1.3 for the residential tower. 		Yes
<p>Traffic and Transport</p> <p>C34. Future development application(s) must be accompanied by a Traffic Impact Assessment (TIA) that assesses the traffic, transport and pedestrian impacts on the road and footpath networks and nearby intersection capacity. The TIA must also address:</p> <ul style="list-style-type: none"> (a) traffic generation impacts and any necessary road infrastructure upgrades to adjoining and nearby roads and intersections (b) vehicle and pedestrian safety within and around the site (c) loading / unloading, servicing, coach, pick-up/drop-off arrangements 	<p>The application includes a TIA that addresses the requirements of this condition.</p> <p>The Department has considered traffic impacts at Section 6.4.4.</p>	Yes

Condition	Department's consideration	Complies
<ul style="list-style-type: none"> (d) on-site car parking provision consistent with Condition A17, location, access and operation (e) the impact of the removal of any existing on-street car parking spaces (f) pedestrian and bicycle infrastructure and facilities and any necessary upgrades 		
C35. Future Development Application(s) must include a green travel plan, wayfinding strategies and travel access guides to assist with increasing the mode share of walking and cycling.	The application includes a GTP and a consideration of trip mode share to encourage sustainable modes of transport as discussed at Section 6.4.4 .	Yes
C36. Future Development Application(s) must include a Road Safety Audit for the cycleway/ drop off area on Darling Drive, in accordance with Austroads Guide to Road Safety Part 6: Managing Road Safety Audits and Austroads Guide to Road Safety Part 6A: Implementing Road Safety Audits prepared by an independent TfNSW accredited road safety auditor. Based on the results of the road safety audit, the Applicant must review the design drawings and implement safety measures if required, in consultation with TfNSW.	The application includes an RSA, which addresses the requirements of this condition. The Department has recommended a condition requiring the RSA recommendations be implemented.	Yes
C37. Future Development Application(s) must include queuing analysis and/ or traffic modelling to demonstrate the drop off area has adequate capacity and propose mitigation measures to ensure queuing on Darling Drive does not occur to the satisfaction of TfNSW.	The TIA has addressed the requirements of this condition. The Department has considered traffic generation and the PUDO at Section 6.4.4 .	Yes
C38. Future Development Application (s) must include draft management plans for Drop-off and Pick-up Zone, and Carpark and Loading Dock to manage vehicles accessing the site.	The application includes a Loading Dock, Basement and Arrival Management Plan, which addresses the requirements of this condition.	Yes
C39. Future Development Application(s) must include pedestrian modelling of the pedestrian network immediately surrounding the development, including all approved permanent and temporary structures, in consultation with TfNSW and PMNSW, to demonstrate adequate capacity for pedestrian movements is provided with the proposed development.	The application includes a Pedestrian Modelling Assessment, which confirms adequate capacity for pedestrian movements has been provided, including with regards to the new Waterfront Promenade, and pedestrian bridges. The design of public domain, including public open space, will be subject to the separate SSDA3, further analysis of pedestrian impact would be undertaken as part of that application.	Yes
<p>Bicycle Parking and Facilities</p> <p>C40. Future Development Application(s) must include bicycle parking for employees / visitors and end of trip facilities (toilets, change/locker rooms and showers) in accordance with the Sydney Development Control Plan 2012 bicycle parking rates and end of trip facilities design requirements.</p>	Bicycle parking has been provided in accordance with SDCP requirements (Section 6.4.4). All office / retail visitor bicycle parking is proposed within the public domain and is therefore subject to the separate SSDA3.	Yes
<p>C41. Future development Applications(s) must include a Bicycle Strategy demonstrating:</p> <ul style="list-style-type: none"> (a) how the safe and efficient movement of cyclists is managed around the site 	The TIA includes a Bicycle Strategy, which responds to the requirements of this condition. Bicycle infrastructure is within the public domain and is therefore subject	Yes

Condition	Department's consideration	Complies
(b) the design and location of any proposed bicycle parking infrastructure (c) alignment with PMNSW's bicycle strategy for Darling Harbour	to the separate SSDA3.	
C42. Future Development Application(s) must, in consultation with Council, PMNSW and TfNSW, explore opportunities to improve cycleway connections within and around the development.	The TIA includes recommended potential upgrades to cycleway connections within and around the development. These would be further investigated and addressed as part of the separate SSDA3.	Yes
C43. Future Development Application(s) must, in consultation with Council, PMNSW and TfNSW, explore and implement feasible opportunities to upgrade the Darling Drive Cycleway within the constraints of the existing carriageway, between Murray Street/Union Street intersection (major cycleway) to the roundabout adjacent the site.		Yes
Wind Assessment C44. Future Development Application(s) must include a Wind Impact Assessment, including wind tunnel testing, which assesses the existing and proposed wind environment, demonstrates spaces within and around the site are suitable for their intended purpose and includes mitigation measures to address adverse wind conditions, where necessary.	The application includes a PWEA, which concludes that there would be some instances where the resulting wind environment at podium level would be challenging and recommends mitigation measures to ensure spaces are suitable for their intended use. The Department has considered wind impacts at Section 6.4.2 . Wind mitigation measures within the public domain would be further investigated and addressed as part of the separate SSDA3.	Yes
Crime Prevention Through Environmental Design C45. Future Development Application(s) must include a Crime Prevention Through Environmental Design Report (CPTED) including method(s) / treatment(s) to ensure that all spaces and places within and around the development are safe and secure and the opportunity for crime has been minimised in accordance with CPTED principles.	The application includes a CPTED Report, which recommended mitigation measures to ensure the development minimises opportunities for crime. The Department has recommended the development incorporate the CPTED Report mitigation measures.	Yes
Servicing Requirements C46. Future Development application(s) must provide a detailed analysis of the servicing requirements for the residential and non-residential floorspace to ensure adequate servicing provision for the development.	The TIA and Loading Dock, Basement and Arrival Management Plan consider the servicing requirements for the various uses within the development and concludes the proposed loading/unloading facilities are adequate for the development. The Department has considered servicing requirements at Section 6.4.4 .	Yes
Waste C47. Future Development Applications must include a Waste Management Plan to address storage, collection, and management of waste and recycling within the development.	The application includes a Waste Management Plan, which sets out the physical and operational waste management strategy for the development. The Department has considered operational waste at Section 6.5 .	Yes

Condition	Department's consideration	Complies
<p>Utilities</p> <p>C48. Future Development Application(s) must include a Utility Services Infrastructure Assessment (USIA) which addresses the existing capacity and any augmentation requirements of the development for the provision of utilities, including staging of infrastructure. The USIA must be prepared in consultation with relevant agencies and service providers.</p>	<p>The application includes a USIA, which confirms the development would require new connections, augmentations and alterations to existing services.</p> <p>The Department has considered utilities impacts at Section 6.5.</p>	Yes
<p>Hydrology</p> <p>C49. Future Development Application(s) must consider potential flooding, stormwater, climate change/sea level rise and water quality impacts and management.</p>	<p>The application includes a Flood Statement and Stormwater Management Report, which conclude the development would not result in any unacceptable flood or stormwater impacts.</p> <p>The Department has considered flooding and stormwater impacts at Section 6.5.</p>	Yes
<p>Contamination</p> <p>C50. Future Development Application(s) must include a Detailed Environment Site Investigation (DESI) and, as necessary, a Remedial Action Plan reviewed and approved by a site auditor accredited under the Contamination Land Management Act 1997.</p>	<p>Site preparation works, including excavation and remediation formed part of SSDA1.</p> <p>The proposal includes minor additional excavation works to accommodate lift pits and other structural components. The Application includes Interim Site Auditors Advice confirming that the SSDA1 RAP remains relevant to the proposal and subject to the implementation of its recommendations the site would be suitable for the proposed development.</p> <p>The Department has considered contamination and remediation at Section 6.5 and Appendix B.</p>	Yes
<p>Construction</p> <p>C51. Future Development Application(s) must include a draft Construction Pedestrian and Traffic Management Plan in consultation TfNSW and the Sydney Light Rail Operator.</p> <p>C52. The Applicant must consult with Sydney Trains to ensure no damage is done to the 33kV High Voltage cable and to comply with safety and design requirement during the preparation of the Stage 2 development application.</p>	<p>The application includes a draft CPTMP, which confirms TfNSW and Sydney Trains were involved with the separate CPTMP prepared for the earthwork's application SSD1 and that CPTMP forms the basis for the document prepared for this application.</p> <p>The CPTMP confirms works would be appropriately monitored to ensure no damage occurs to high voltage cables. The Department has considered construction impacts and management at Section 6.5</p>	Yes
<p>C53. All future development application(s) must provide an analysis and assessment of the impacts of construction and include:</p> <p>(a) Construction Pedestrian and Traffic Management Plan (CPTMP), prepared in consultation with Transport for NSW and the</p>	<p>The application includes all of the construction management plans required by condition C53.</p>	Yes

Condition	Department's consideration	Complies
<p>Sydney Light rail Operator. The CPTMP must detail vehicles routes, numbers of trucks, hours of operation, access arrangements and traffic control measures and cumulative construction impacts (i.e. arising from concurrent construction activity)</p> <p>(b) Construction Noise and Vibration Impact Assessments that identifies and provides a quantitative assessment of the main noise generating sources and activities during construction. Details are to be provided outlining any to mitigation measures ensure the amenity of adjoining sensitive land uses, including but not limited to the National Maritime Museum, is protected throughout the construction period(s)</p> <p>(c) Community Consultation and Engagement Plans</p> <p>(d) Construction Waste Management Plan</p> <p>(e) Air Quality Management Plan</p> <p>(f) Water Quality Impact Assessments and an Erosion and Sediment Control Plan (including water discharge and dewatering considerations)</p> <p>(g) Geotechnical and Structural Investigation Report</p> <p>(h) Acid Sulphate Soil Assessment and Management Plan</p> <p>(i) Sediment and Erosion Management Plan.</p>		

C2 – Concept Approval Design Guidelines

On 25 January 2022, the Department approved amended Design Guidelines titled 'Harbourside Public Domain and Urban Design Guidelines, Rev 04', prepared by FJMT and dated 1 August 2021, which were submitted by the Applicant in accordance with the requirements of Concept Approval modification B1.

The Design Guidelines are intended to inform the detailed design of development within the Concept Approval site. The Design Guidelines provide guidance on a range of matters including urban design and built form, architecture, open space and public domain, amenity, car parking and sustainability.

Condition C1(a) of the Concept Approval requires future development applications demonstrate consistency with the requirements of the Design Guidelines. The Department has considered the proposal against the Design Guidelines at **Table 27**.

Table 26 | Consideration of the proposal against the Design Guidelines

Design Guideline Principle	Department's consideration	Complies
1.4 Context and Design Excellence		
<p>The design shall:</p> <ul style="list-style-type: none"> Integrate with the surrounding context by providing a mixed of uses that complement the surrounding uses and reinforce the role of Darling Harbour as a major public entertainment, tourism and leisure precinct. 	<p>The development is wholly contained within the Concept Approval building envelope, integrates appropriately with its surroundings and includes non-residential uses complementary to Darling Harbour.</p>	Yes

Design Guideline Principle	Department's consideration	Complies
<ul style="list-style-type: none"> • Use appropriate building height, alignment, form, and massing. • Respect the heritage significance of the Pymont Bridge. • Promote view sharing. • Provide a new landmark at Darling Harbour and enriching the ground plane and skyline. • Engage with people at the ground plane. • Create strong public pedestrian connections. • Provide public domain spaces that can accommodate activation through temporary events and programme activities. • Protect solar access to Darling Harbour foreshore public domain. 	<p>The development would not result in adverse heritage, view, or solar access impacts.</p> <p>The development achieves design excellence and provides for improved site permeability, activation, interaction and engagement with the public domain.</p>	
1.5 Public Realm and Place Making		
<p>Create a place for people that:</p> <ul style="list-style-type: none"> • Provides an activated space that functions during day and night time economies. • Provides public domain spaces that can accommodate activation through temporary events and programme activities. • Provide mixed uses that allow for a variety of retail visitors, commercial tenants and residents. 	<p>The proposed uses and design/layout of the podium would foster the night-time economy.</p> <p>The development includes public open spaces capable of accommodating events. Extensive non-residential accommodation is provided within the podium.</p>	Yes
2.1 Urban Structure - Appreciating the Context		
<p>Provide:</p> <ul style="list-style-type: none"> • A mix of uses that support the surrounding uses and reinforce the role of Darling Harbour as a major public entertainment, tourism and leisure precinct. • Architecture commensurate with the revitalised transformation of Darling Harbour. • A safe pedestrian friendly environment that taps into the existing surrounding road, pedestrian and cycle pathways. 	<p>The mix of retail and commercial uses would support the role of Darling Harbour.</p> <p>The design of the development achieves design excellence.</p> <p>The development has been designed in accordance with CPTED principles.</p>	Yes
2.2 and 2.3 Urban Structure – Connections and Transport		
<ul style="list-style-type: none"> • Maintain the pedestrian dominance of Darling Harbour. • Provide a widened promenade along the waterfront, and a widened set of stairs adjacent to Pymont Bridge. • Provide east / west connections that link Darling Harbour to Pymont, including a new pedestrian bridge from Bunn Street Pymont. • Maintain the existing bridge at the northern end of the site from ODH. • Provide an environment with clear separation between Front of House areas and Back of House areas. 	<p>The development has been designed to maintain pedestrian dominance of Darling Harbour.</p> <p>The design of the promenade and Pymont Steps form part of the separate SSDA3 application.</p> <p>East/west connections are provided, the existing bridge to ODH is retained, a public connection from Darling Harbour to Bunn Street is established and equitable access is provided to all levels.</p> <p>There is clear separation between front and back of house areas.</p> <p>Connections and easy access is provided to nearby public and active transport options.</p>	Yes

Design Guideline Principle	Department's consideration	Complies
<ul style="list-style-type: none"> Provide a public connection and a direct link from the Bunn Street Bridge to the waterfront promenade. Provide equitable access provisions for changes in levels. Provide connections and easy access to: <ul style="list-style-type: none"> Harbourside Light Right Station. Buses in Pyrmont. Future Pyrmont Metro Station. Ferries in Darling Harbour (proposed new ferry wharf at Cockle Bay Wharf). Nearby cycle ways and walking paths. Provide wayfinding to direct and encourage public transport usage. 		

3.1 and 3.2 Form and Massing – Overview and setbacks

Provide: <ul style="list-style-type: none"> Future built form shall only be contained within the approved Stage 1 DA envelope as shown below The tower should be appropriately distanced from the ICC Hotel Consideration shall be given to the integration between the retail/commercial podium and the residential tower to ensure a seamless transition The Gross floor area (GFA) shall not exceed that approved in the Stage 1 DA Consideration shall be given to achieving variety in the shape of the built form by implementing articulations and fenestrations The retail shall provide a variety of enclosed and unenclosed spaces Ensure appropriate distances are maintained between towers to create a skyline of well spaced towers for the west side of Cockle Bay. 	The development is wholly contained within the Concept Approval building envelope and does not exceed the maximum GFA. Appropriate separation distances are provided to adjoining properties / developments. The tower and podium design are cohesive, fully integrated and provide for a high standard of design including articulation. The retail accommodation is varied in its size and design.	Yes
---	---	-----

3.3 Form and Massing – Tower Form and Design

Development shall demonstrate consistency with the following built form controls: <table border="1" data-bbox="204 1608 746 1751"> <thead> <tr> <th>Built Form Control</th> <th>Max. Control</th> </tr> </thead> <tbody> <tr> <td>Maximum volumetric tower envelope utilisation</td> <td>80%</td> </tr> <tr> <td>Maximum volumetric podium envelope utilisation</td> <td>80%</td> </tr> </tbody> </table> The design of the podium and tower shall: <ul style="list-style-type: none"> Provide an architectural solution that achieves design excellence and elevates the quality of built form and urban design within the immediate and broader precinct. Adopt measures, in particular for the podium design, that articulate its northern, eastern and southern tower elevations, reducing its visual bulk and minimising view impacts on 	Built Form Control	Max. Control	Maximum volumetric tower envelope utilisation	80%	Maximum volumetric podium envelope utilisation	80%	The development utilises 79.9% of the volume of the building envelope. The development achieves design excellence and the maximisation of GFA has not adversely impacted the overall design. The podium design is articulated and ensures its bulk and scale is minimised. The tower floor plate has a maximum area of 981 m ² .	Yes
Built Form Control	Max. Control							
Maximum volumetric tower envelope utilisation	80%							
Maximum volumetric podium envelope utilisation	80%							

Design Guideline Principle	Department's consideration	Complies
<p>surrounding private development and the public domain.</p> <ul style="list-style-type: none"> • Ensure that maximising GFA within the envelope is balanced with the imperative to develop and realise a building form that is proportionally elegant, and incorporates highly considered facade articulation and modulation • The size of the tower floor plate above podium level shall not exceed 1,000m² Gross Floor Area. 		
4.1 Public Realm – Thriving Public Realm		
<p>The following established planning controls and strategies shall apply:</p> <ul style="list-style-type: none"> • Sustainable Sydney 2030 • Sydney Streets Design Code and Sydney Street Technical Specification • SHFA'S Darling Harbour Public Domain Manual 2015 • NSW Planning Guidelines for Walking & Cycling • No reduction in the existing area of public realm • Public Domain concepts documented in the Aspect Studios Stage 1 SSDA report. <p>Mirvac to commit and fund a minimum area of 10,200m² of public domain works in kind, including:</p> <ul style="list-style-type: none"> • 4,800m² of Waterfront Boulevard • 3,500m² above the Northern Podium • Event steps (or equivalent onsite public domain gathering and events area adjacent to the foreshore) • Central through site link • Bunn St pedestrian bridge • New paving to Pymont bridge • Upgrade of northern pedestrian bridge (or improved equivalent connection) • Ribbon Stairs or equivalent connection from the foreshore at the northern end of the site linking the foreshore to the Pymont Bridge approach. 	<p>The Applicant has considered the relevant planning controls.</p> <p>The public open space is consistent with the space standards and design standards of this Principle. The detailed design of the public domain, including the open spaces, will form part of the separate SSDA3.</p>	Yes
4.2 Public Realm – Activation		
<ul style="list-style-type: none"> • Ensure there are rich day and night experiences • Allow for a diverse range of events and overlays • Provide large gathering spaces and intimate areas for diversity • Balance the event spaces with recreational spaces and circulation spaces • Ensure high-quality activation along the western edge including new drop offs for 	<p>The design responds to the activation controls through a diverse and deliberate mix of retail offerings to activate specific public spaces.</p> <p>Public spaces are framed by active uses and movement paths are specifically arranged around gathering spaces and spaces for temporary activations.</p>	Yes

Design Guideline Principle	Department's consideration	Complies
Commercial, Retail, and Residential components along existing Darling Drive <ul style="list-style-type: none"> • Spaces are to be designed for 24/7 access. 	The detailed design and operation of the public domain, including the open spaces, will form part of the separate SSDA3.	
4.3 and 4.4 Public Realm – Safety and Security and Accessibility		
<ul style="list-style-type: none"> • Build in safety • Focus on natural surveillance • Follow secure by design principles • CCTV • AS1428 Disability Discrimination Act • Equitable access for change in levels. 	The design provides mitigation strategies, appropriate lighting, clear sight lines, natural surveillance and avoids dark corners and adverse recesses wherever possible. Equitable access is provided.	Yes
4.5 and 4.6 Public Realm – Landscaping and Wayfinding		
<ul style="list-style-type: none"> • Use native plants where possible • Implement sustainable landscaping practices • Provide areas of shade and areas with access to sun • Provide a variety of open space type • Signage • Clear access paths and pedestrian routes • Material treatment. 	The landscape design for private and communal spaces prioritises native planting and sustainable landscape practices. A variety of spaces are created with access to sun and shade and for active and passive play/enjoyment. The Department has recommended the Signage Strategy be further developed in consultation with PMNSW.	Yes
4.7 and 4.8 Public Realm –Street Furniture, Art and Lighting and Waterfront Edge Treatment		
<ul style="list-style-type: none"> • AS1428 Disability Discrimination Act • Provide a consistent palette of quality street furniture both within the Harbourside development, and with consideration of existing adjacent developments • Provide a variety of seating types and locations • Final street furniture, art, and lighting subject to detailed design and agreement between the proponent and Place Management NSW • Lighting, timber elements that can double as seating and a barrier. 	The detailed design and operation of the public domain, including the open spaces, will form part of the separate SSDA3.	Yes
4.9 Public Realm – Materials		
<ul style="list-style-type: none"> • Longevity, durability and flexibility shall be considered in the choice of materials • Provide generous feelings of light and air throughout the development • Use materials that connect the building to its surrounds • Provide diversity in the elevations through articulation of the facade • Ensure material diversity between tower and podium. 	The proposed palette of materials provides for a high standard of development. The detailed design and operation of the public domain, including the open spaces, will form part of the separate SSDA3.	Yes
6.1 Residential Amenity and Planning		

Design Guideline Principle	Department's consideration	Complies
<ul style="list-style-type: none"> The maximum building height, and volume is controlled by the envelope approved in the Stage 1 SSDA Consider SEPP 65 – Apartment Design Guidelines Provide an appropriate mix of apartment sizes Incorporate screening where appropriate to address solar or privacy impacts Incorporating appropriate glazing to assist with limiting reflectivity Acknowledge the orientation of the site Consider the need to balance acoustic privacy and natural ventilation. 	<p>The development is wholly contained within the Concept Approval building envelope. ADG requirements have been considered. The Department concludes the minor exceedances are acceptable (Section 6.5).</p> <p>The development includes an appropriate mix of apartments, addresses solar, privacy and noise impacts, limits reflectivity and allows for natural ventilation.</p>	Yes
7.1 Carparking		
<ul style="list-style-type: none"> Carparking on site to be provided for residential use only The loading dock is to be clearly separated from the carpark for safety Adequate minimum clearances are to be provided Car parking rates to be in accordance with /City of Sydney LEP 2012 'Category B'. 	<p>Car parking is provided for residential uses. 30 non-residential spaces are provided in accordance with condition A20 of the Concept Approval.</p> <p>The Loading dock is provided in a specific basement and adequate minimum clearances are provided.</p> <p>Car parking is provided in accordance with the Concept Approval rates, which are in accordance with the SLEP.</p>	Yes
8.1 Sustainability		
<p>Development is to be designed to achieve the following ESD targets:</p> <ul style="list-style-type: none"> 5-Star Green Star Design & As Built v1.3 for retail; 6-Star Green Star Design & As Built v1.3 for commercial; 5-Star Green Star Design & As Built v1.3 for the residential tower; 5.5-Star NABERS Energy for Offices; 3.5-Star NABERS Water for Offices; and 20% water reduction per sqm for retail. <p>Development is to explore and implement measures to strive to achieve the following stretch ESD standards:</p> <ul style="list-style-type: none"> 6-Star Green Star Design & As Built v1.3 for retail 6-Star Green Star Design & As Built v1.3 for the residential tower. 	<p>The development has been designed in accordance with ESD principles.</p> <p>The development meets or exceeds the sustainability targets. However, does not achieve the stretch targets due to the amendment of the Green Star Design & As Built tool (Appendix B, Section B3).</p>	Yes

Appendix D – Pyrmont Peninsula Place Strategy

Condition C21 of the Concept Approval requires future development applications demonstrate how the proposed non-residential land use mix aligns with the Tumbalong Park Place Priorities and Harbourside Key Site Framework within the PPPS. The Department has considered the proposal against the Design Guidelines at **Table 28**.

Table 27 | Summary of the proposal's consistency with site specific requirements of the PPPS

PPPS requirement	Department's consideration
Tumbalong Park place priorities	
3. Create new space for jobs in tourism and entertainment and supporting services, such as shops, restaurants, cafes and bars and transport, to create smaller activity areas.	The proposal includes 10,000 m ² of retail floorspace that will support tourism and entertainment at Harbourside.
4. Address potential impacts of 24-hour economy activities on amenity, including noise, safety, traffic and transport, amongst others.	Events management forms part of the separate SSDA3 application. Appropriate management and mitigation will ensure the 24-hour economy is protected and would also not have an adverse impact on amenity.
5. Provide new commercial space to cater for jobs in industries aligning with the Innovation Corridor.	The proposal includes 32,739 m ² commercial office floorspace.
6. Providing residential development, including affordable housing, without compromising the attractiveness of Tumbalong Park for tourism, visitor and 24-hour economy uses, cultural, creative, entertainment and some commercial uses.	The development includes 265 residential apartments as part of a mixed used development. The Applicant has entered into a State Planning Agreement for the payment of \$5.2 million towards affordable housing.
7. Transition building heights from higher areas to the waterfront and open space so taller buildings are located to respect privacy, public space, such as the waterfront promenade, Pyrmont Bridge and Tumbalong Park, views, heritage items and existing buildings.	The development is contained wholly within the Concept Approval building envelopes and provides for an appropriate built form transition to adjoining buildings and spaces.
8. Encourage green building facades and rooftop gardens in new development.	The development includes extensive landscaping across the podium roofs, within the public domain, public open spaces and communal and private open spaces.
9. Create publicly accessible, privately-owned space, such as multi-purpose courts on rooftops or in podiums or viewing platforms that showcase Sydney Harbour.	The proposal includes the creation of 3,500 m ² public open space on the roof of the northern podium.
10. Investigate the provision of social infrastructure, such as communal meeting rooms and spaces, work-based child care services, ground level creative and cultural spaces for participation, production and exhibition and improve the experience of public spaces with public art installations.	The proposal includes the provision of extensive areas of public domain and public open space (detailed design and operation subject to future SSDA3). The SPA includes a contribution of \$7 million for public art and the application includes an indicative PAS demonstrating how public art is likely to be incorporated into the SSDA3 public domain and open spaces.
11. Investigate a multi-utility hub that provides integrated car parking, energy production, water recycling and/or waste collection.	Not applicable to the development site.

PPPS requirement	Department's consideration
12. Create attractive, safe and easy-to-use streets based on Movement and Place principles, particularly in the area behind the ICC.	Not applicable to the development site.
13. Showcase the history and heritage of Darling Harbour and foreshore, including Aboriginal, and working and maritime history, in any new development.	The development has been designed in accordance with the Connecting with Country principles. In addition, the application includes a Heritage Interpretation Strategy and the Applicant has entered into a State Planning Agreement for the payment of a \$7 million contribution towards public art.
14. Improve walking and cycling connections, permeability, and wayfinding throughout the Peninsula and to public spaces.	The proposed development will improve pedestrian legibility, walkability, and permeability across the site.
15. Improve east-west active transport connections from Tumbalong Park into the Peninsula and up to Harris Street by addressing the barriers of light rail and back-of-house areas on Darling Drive.	New through-site links are created to connect to the foreshore to Bunn Street and Darling Drive, which will significantly improve pedestrian connectivity.
16. Extend the Goods Line north from Pyrmont Street and Murray Street to connect with the Union Street cycleway and facilitate an active transport loop around the Peninsula.	Not applicable to the development site.
17. Use space to foster and encourage collaboration between companies, start-ups, researchers, creative and knowledge workers.	The proposal includes 32,739 m ² commercial office floorspace, which would support job creation across a range of industry sectors. The Applicant has committed to preparing a Strategy Report and opportunities to embed affordable workplaces for creative and other tech-aligned industries, as discussed at Section 6.5 .
18. Create informal outdoor recreational facilities for young people, students, workers and culturally diverse residents, such as skate-friendly public domain treatments and seating and tables with access to power and Wi-Fi for study.	The proposal includes the creation of 3,500 m ² public open space above the roof of the northern podium together with new public domain around and through the development. The detailed design of these spaces will be subject to the separate SSDA3.
19. Investigate a new urban plaza connecting Allen Street to the Light Rail and Convention Centre.	Not applicable to the development site.
20. Provide a new inclusive play space for children near the Murray Street active transport route, which may include climbing elements, playful public art and pavement treatments to encourage jumping.	Not applicable to the development site.

Harbourside site-specific opportunities and considerations

Opportunities for additional public benefits

Deliver excellence in public open space outcomes by providing publicly accessible open space on rooftop areas and indoor space in podiums that could include indoor recreation infrastructure, viewing platforms, meeting rooms, or other space to support the Innovation Corridor.	A total of 3,500 m ² public open spaces is provided above the northern podium adjacent to Pyrmont Bridge. Space for events and gatherings is provided within the site adjacent the waterfront promenade. The detailed design of these spaces will be subject to the separate SSDA3.
Improve and enhance east-west connections from Harris Street to the waterfront through large sites.	New through-site links are created to connect to the foreshore to Bunn Street and Darling Drive. Overall, the development significantly increased site permeability.

PPPS requirement	Department's consideration
<p>Improve and enhance the events and gathering capacity of the public domain in the Tumbalong Park sub-precinct as a global tourism destination.</p>	<p>The Concept Approval established the widening of the waterfront promenade. The detailed design of the promenade will form part of separate public domain SSDA3.</p> <p>Area is provided for events and gatherings within the site adjacent the waterfront promenade.</p>
<p>Deliver safe, activated and inviting streetscape interface on all boundaries, including proposed 'back of house' or service areas on Darling Drive that promote east-west connectivity from Harris Street to the waterfront.</p>	<p>Residential, commercial and retail vehicle access is from Darling Drive.</p> <p>The podium provides for a non-residential interface with the immediate surrounding public domain and Darling Harbour providing activation of all frontages.</p>
<p>Deliver an appropriate built form outcome to Pyrmont Bridge.</p>	<p>The northern podium is appropriately set back from Pyrmont Bridge and lower / equal to the bridge deck in accordance with the Concept Approval requirements. This design approach ensures an acceptable built form relationship with the bridge.</p>

Special considerations for master planning

<p>Protect solar access to the harbour foreshore public domain.</p>	<p>The development is contained wholly within the Concept Approval building envelopes and as-such protects solar access to the harbour foreshore public domain throughout the morning period of the winter solstice and restricts significant overshadowing to after 1pm.</p> <p>The proposal also results in a significant area of new on-site publicly accessible open space benefiting for year-round solar access.</p> <p>The overshadowing analysis submitted with the application demonstrates buildings have been designed to minimise overshadowing.</p>
<p>Prioritisation of the delivery of employment, entertainment and tourism floorspace.</p>	<p>The proposal prioritises non-residential floorspace capable of supporting employment, entertainment and tourism uses, which make up 50.8% of the proposed GFA.</p>
<p>Maximum tower height RL 170</p>	<p>Maximum tower envelope height of RL 170.</p>

Peninsula wide additional public benefit opportunities expected from all Key Sites

<p>Deliver in whole or in part one or more of the big moves.</p> <ul style="list-style-type: none"> • Big Move 1 – <i>A world class harbour foreshore walk</i> • Big Move 2 - <i>A vibrant 24 hour cultural and entertainment destination</i> • Big Move 4 - <i>Low carbon, high performance precinct</i> • Big Move 5 - <i>More, and better activated public space</i> 	<ul style="list-style-type: none"> • Big Move 1 – The proposal will celebrate the cultural heritage of the foreshore through provision of an improved promenade and permeable building envelope and heritage interpretation (Actions 2 and 3) • Big Move 2 – The proposal includes space for events and non-residential floorspace providing opportunities for entertainment, event and cultural space and a diversity of night-time experiences (Actions 5 and 6) • Big Move 4 – The proposal provides appropriately restrained parking in accordance with the Concept Approval parking rates. Staff, residential and visitor bicycle parking and end of trip facilities are also provided to contribute to a low carbon high performance precinct. • The development has been designed in accordance with ESD principles and includes appropriate sustainability initiatives, measures and targets.
---	---

PPPS requirement	Department's consideration
	<ul style="list-style-type: none"> Big Move 5 – The proposal includes the provision of 3,500 m² public open space above the northern podium and extensive on-structure landscaping. The proposal appropriately activates and provides a civic transition between spaces and the wider public domain. Space is provided for events and gatherings within the site adjacent to the waterfront promenade.
Bring forward unfunded, or precinct scale, infrastructure beyond the growth infrastructure requirements necessary to support the development of the particular key site.	<p>Public domain forms part of the separate SSDA3 application. Landscaping and public domain works across the site will benefit the entire precinct.</p> <p>Public domain and open space will be accessible 24/7 including over 3,500m² of new on-site public open space.</p>
Connect and activate the public domain through new active transport connections through large sites (ie. site permeability and wayfinding), reinstate views to the harbour and deliver superior street and place activation beyond the standard requirement for all development to activate the street	The proposal includes new through site pedestrian links and improved foreshore access from the western approach of Pyrmont Bridge, on-site bicycle facilities and provision of 3,500m ² of on-site public open space adjacent to the public domain which offer public views to the harbour and accommodate events and activation.
Provide opportunities for affordable workspace for creative industries including performance and rehearsal spaces, cultural uses, start-ups and researchers, maker and producer spaces to support the Innovation Corridor.	<p>The proposed non-residential floorspace provides opportunities to provide for a variety of uses and to support the innovation corridor.</p> <p>The Applicant has committed to preparing a Strategy Report and opportunities to embed affordable workplaces for creative and other tech-aligned industries, as discussed at Section 6.5.</p>

Appendix E – Summary of Department’s Consideration of Public Submissions

A summary of the Department’s consideration of the issues raised in submissions is provided at **Table 29**.

Table 28 | Department’s consideration of key issues raised in public submissions

Issue raised	Department’s consideration
<p>Landscaping:</p> <ul style="list-style-type: none"> • mounding • planting beyond building envelope • separation of public domain works 	<p>Assessment</p> <ul style="list-style-type: none"> • The application includes a VVIA which concludes the proposed soil mounding on the northern podium and soft planting on the central podium would not result in any adverse view loss impacts. • The Applicant stated the separation of the built form and public domain works into two applications is acceptable and the relevant planning issues can be addressed as part of each application. The Applicant lodged the SSDA3 application in July 2023 so that it could be considered alongside with the current built form application. • After careful consideration the Department concluded allowing the provision of soil mounding above the northern podium deck height is acceptable, subject to appropriate limitations. In particular, the Department noted the mounding would not result in any adverse view loss impacts and the detailed landscape design of the Waterfront Garden would form part of the separate SSDA3 application. • The Department concluded the separation of built form and public domain works into two separate applications is acceptable and approval of this application would not confer approval to the SSDA3 public domain works. In addition, where a planning consideration overlaps both the current and separate SSDA3 applications the Department has given it due regard in its assessment. <p>Conditions</p> <ul style="list-style-type: none"> • Soil mounding height be limited to 800mm (RL 13.3) above deck height • Provide further details on the proposed landscaping design, layout and maintenance
<p>Built form:</p> <ul style="list-style-type: none"> • height and scale • private view loss 	<p>Assessment</p> <ul style="list-style-type: none"> • The application includes a VVIA which concludes the height and scale of the development is appropriate within its setting and has acceptable visual and view impacts. • The Department acknowledges the tower would be highly visible from close and distance views around the site. However, the Department concluded the built form is appropriate for the site, as: <ul style="list-style-type: none"> ○ it complies with the maximum height, GFA and building envelope requirements of the Concept Approval and aligns with the PPPS ○ it is the result of design competition and has been endorsed by the DIP ○ it would not have adverse heritage or amenity impacts ○ view loss impacts are consistent with the Concept Approval. • The Department is satisfied the podium and tower built form would not result in view impacts beyond what has already been considered acceptable via the Concept Approval, as the: <ul style="list-style-type: none"> ○ built form is contained wholly within the Concept Approval building envelope ○ building mass does not fill 100% of the building envelope consistent with the requirements of the Concept Approval. <p>Conditions</p> <ul style="list-style-type: none"> • Submission of the final schedule of materials. • Refinement of the design of the podium in consultation with the DIP. • Resolution of the DIP’s outstanding detailed design matters.

Issue raised	Department's consideration
Operational noise impact	<p>Assessment</p> <ul style="list-style-type: none"> • The application includes a OAA that indicates: <ul style="list-style-type: none"> ○ noise would be largely directed east, away from sensitive receivers and predicted maximum noise from retail use (patron, music and mechanical plant) at nearby residential receivers would be below the PNTLs ○ instillation of upgraded glazing would address noise impacts to proposed apartments within the tower ○ road and mechanical plant noise can be managed and mitigated. • The Applicant provided further information throughout the assessment of the application including updating documents to clarify predicted likely impacts. • After careful consideration of the site and proposed development, the Department considers the operational noise generated by the development would not have an unreasonable impact on surrounding noise sensitive receivers and can be sufficiently managed and / or mitigated, noting: <ul style="list-style-type: none"> ○ operational noise impacts to nearby residential properties would be below the PNTLs and road and mechanical plant noise can be managed / mitigated ○ the fit-out, operation and management of retail tenancies will form part of future DA(s) and the public domain operation and any mitigation measures form part of SSDA3. • After careful consideration of the site and proposed development, the Department considers the operational noise generated by the development would not have an unreasonable impact on surrounding noise sensitive receivers and can be sufficiently managed and / or mitigated, noting: <p>Conditions</p> <ul style="list-style-type: none"> • ensure operation noise does not exceed relevant operational noise levels. • prepare and implement a Level 5 communal open space Operational Management Plan.
Adverse traffic impact	<p>Assessment</p> <ul style="list-style-type: none"> • The application includes a TIA that concludes that the development would not result in significant traffic generation or affect the operation of the surrounding road network or intersections. • The TIA undertook an RSA that recommends minor improvements to surrounding road and cycle infrastructure and signage to improve road safety. The TIA also recommends the preparation and implementation of a GTP. • Due to the low level of traffic generation, the Department concluded the development would not result in significant traffic impacts. <p>Conditions</p> <ul style="list-style-type: none"> • Implementation of the RSA recommendations. <p>Preparation and implementation of a GTP.</p>
Public benefits	<p>Assessment</p> <ul style="list-style-type: none"> • The overall development includes significant physical public benefits, including public and communal open spaces, through site links improved public domain and approximately 916 construction and 2,130 on-going operational jobs. • In addition, to the above, the Applicant has entered into a SPA, which requires the Applicant pay a \$5.2 million affordable housing contribution and a \$7 million art and future activation contribution. • The Department is satisfied the proposal provides for sufficient public benefits in accordance with the Concept Approval and appropriate contributions towards affordable housing, art and activation in accordance with the SPA. <p>Conditions</p>

Issue raised	Department's consideration
	<ul style="list-style-type: none"><li data-bbox="399 250 1340 306">• Undertake the development in accordance with the SPA.

Appendix F – Recommended Instruments of Modification and Consent

The recommended instruments of modification and consent can be found on the Department's website, link provided below:

SSD 7874 MOD3

- <https://www.planningportal.nsw.gov.au/major-projects/projects/harbourside-modification-3-amend-tower-height-and-podium>

SSD 49295711

- <https://www.planningportal.nsw.gov.au/major-projects/projects/harbourside-shopping-centre-redevelopment-podium-and-tower>