

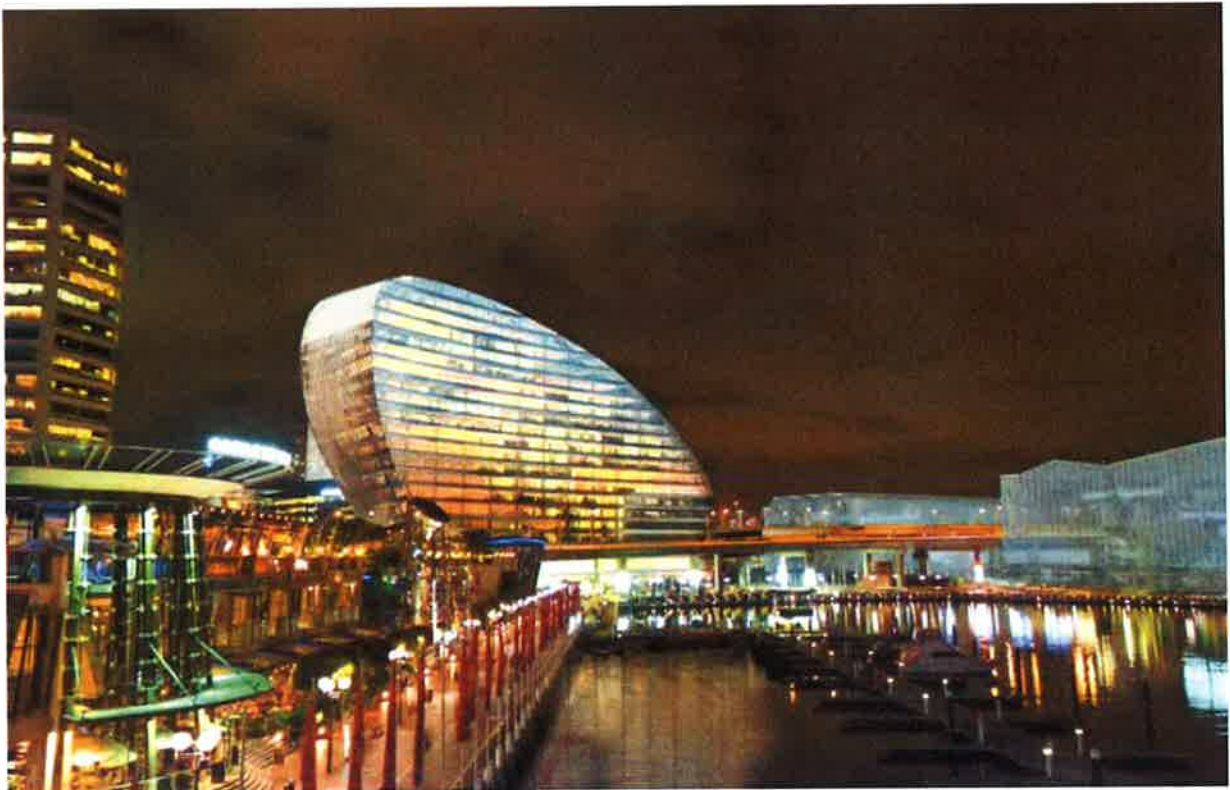


Planning &
Infrastructure

ASSESSMENT REPORT:

***State Significant Development Application
Redevelopment of the IMAX building and
surrounding public domain, Darling Harbour***

(SSD 5397)



Director General's
Environmental Assessment Report
Section 79C of the
Environmental Planning and Assessment Act 1979

April 2014

ABBREVIATIONS

Applicant	Grocon (Darling Harbour Ltd), or any other person or persons who rely on this consent to carry out the development that is subject to this consent
CIV	Capital Investment Value
Consent	This development consent
Agency	Planning & Infrastructure
DGRs	Director General's environmental assessment requirements
Director General	Director General of Planning & Infrastructure
EIS	Environmental Impact Statement titled 'Environmental Impact Statement State Significant Development (SSD 5700-2012)', prepared by JBA Planning Consultants Pty Ltd, dated September 2013
the Act	<i>Environmental Planning and Assessment Act 1979</i>
the Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
Minister	Minister for Planning & Infrastructure
PAC	Planning Assessment Commission
RtS	Response to Submissions dated 31 January 2014.
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development

Cover Photograph: Photomontage of proposal by night from Cockle Bay (Source: Applicant's Response to Submissions)

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EXECUTIVE SUMMARY

This is an assessment report for a State Significant Development (SSD) Application, seeking consent for the redevelopment of the existing IMAX site in Darling Harbour. The applicant is Grocon Pty Ltd.

The proposal, as described in the Environmental Impact Statement (EIS), seeks consent for demolition of the existing IMAX building, tourist office and amenities block, and construction of a new 20 storey building and a separate 2 storey building accommodating office, retail and entertainment uses. The proposal also involves upgrades to the surrounding public domain including new playground area. The project has a Capital Investment Value of \$269,400,000.

The site is located within the City of Sydney Local Government Area, however is owned by the Sydney Harbour Foreshore Authority (SFHA) and is subject to the provisions of the Darling Harbour Development Plan No. 1. The proposed uses are permissible on the site. The site forms part of the broader Darling Harbour Precinct which will be subject to a significant transformation and revitalisation including the recently approved Sydney International Convention, Exhibition, and Entertainment Precinct.

The EIS was publicly exhibited from Wednesday 11 September 2013 to Monday 28 October 2013. Planning & Infrastructure (the agency) received 243 submissions from the public (239 objecting to the development and 4 supporting the development) and 9 submissions from public authorities. Key issues raised in submissions were height, view loss, overshadowing and the public domain.

The applicant submitted a Response to Submissions which provided additional information to address the concerns raised during exhibition of the proposal and a number of minor amendments.

The key issues considered in the assessment include built form and view loss impacts. The agency considers that the proposed height, scale and bulk of the building has responded in a unique way to the constraints of the site, the surrounding built context and the changing character of Darling Harbour. The agency considers the design and architectural finish of the building is of a high standard and will result in a building which achieves design excellence and a potentially iconic landmark status.

The proposal will impact on views from private residential and commercial properties over Darling Harbour. However, the agency notes that the affected views are largely over the existing IMAX site, which is uncharacteristically low rise given its CBD location. Further, views to the west and south west are unaffected by the proposal. The interruption of a portion of existing views that are currently unimpeded by any development is inevitable and reasonable in this context. On this basis, the proposals impacts on view loss are considered to be reasonable and acceptable.

The applicant has provided an analysis of view loss impacts which indicates that the proposal would have an impact on surrounding properties including the Millennium Towers and Emporio Apartments and the PARKROYAL Hotel. The agency has considered alternate development options to reduce this impact, however it was demonstrated that the benefits are not significant, and when considered against the issues such as the architectural integrity of the building, that changes are not warranted. The agency therefore considers that the view impacts, in the context of the scale and significance of this proposal, are acceptable.

The agency has also considered the public domain, transport, heritage and stormwater aspects of the proposal and is satisfied that the impacts have been satisfactorily addressed within the Application's EIS, RtS and the agency's recommended conditions.

The agency considers that the proposal will have a number of significant positive economic, social and environmental impacts and, in conjunction with the SICEEP development will see the revitalisation of the Darling Harbour precinct.

The proposal will deliver a range of positive strategic benefits including:

- the development of an iconic landmark building which will complement the revitalisation of Darling Harbour in association with the recently approved convention, exhibition and entertainment facilities;
- a significant boost to local employment by creating up to 4,000 ongoing jobs on the western fringe of the CBD;
- the support and strengthening of Darling Harbour as a tourist attraction; and
- the enhancement of the public domain by improving its functionality and creating seamless connections to adjacent sites.

The agency considers that the proposal is in the public interest and recommends that the Planning Assessment Commission approve the application subject to conditions.

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1. BACKGROUND

The State Significant Development (SSD) Application at 31 Wheat Road, Darling Harbour seeks approval to demolish the existing IMAX building, tourist information centre and amenities block and construct new 20 storey and 2 storey buildings for office, retail and entertainment uses, new parking, and upgrades to the surrounding public domain.

The Site

The site is located in Darling Harbour, at the southern end of Cockle Bay. The site is occupied by the existing IMAX theatre building, a tourist information centre and public amenities. The site has a lease area of 4,672m², which accommodates the proposed building footprint only. The site has a 'zone of influence' of 10,885m², which includes the surrounding public domain and landscaping works. The site also includes airspace over Harbour Street (**Figure 1**).

The Darling Harbour precinct is undergoing significant renewal, with notable developments including the Darling Walk development to the south and the recently approved Sydney International Convention, Exhibition and Entertainment Precinct (SICEEP) to the south and west (**Figure 2**).

SICEEP involves the demolition of the existing convention and entertainment centres and will include new international standard convention, exhibition and entertainment facilities, a hotel, residential development and extensive public domain upgrades including the expansion of Tumbalong Park.

To the north of the site, the eastern and western waterfronts of Cockle Bay are characterised by a mix of retail, recreational, tourist and entertainment functions including restaurants, cafes and bars along Cockle Bay Wharf, Sydney Aquarium, Sydney Wildlife World, Harbourside Shopping Centre and the Australian National Maritime Museum, and (**Figure 3**)



Figure 1: Aerial photo of the site showing the total zone of influence site area in red and the approximate tower building footprint in yellow (Base Image Source: Nearmap, 2014)



Figure 2: Site location and context (Base Image Source: Google Maps, 2014)



Figure 3: Recreational, tourist and entertainment features of Darling Harbour

2. PROPOSED PROJECT

2.1 Project Description (as exhibited)

The proposal, as exhibited in the Environmental Impact Statement (EIS), seeks approval for:

- demolition of the existing IMAX building, tourist, office and amenities block;
- construction of a new 20 storey building and a separate 2 storey building accommodating office, retail and entertainment uses;
- car parking spaces located within the podium levels and bicycle parking spaces at ground level;
- upgrades to the surrounding public domain including new playground area; and
- signage zones and display screen on the new building.

2.2 Response to Submissions

Following the public exhibition of the EIS, the applicant submitted a Response to Submissions (RtS) responding to public and agency submissions received during the exhibition, as well as issues raised by the agency.

The RtS proposes minor amendments to the building footprints including realignment of the eastern and western ground level facades, modification to the 2 storey building and the Wheat Road access to the drop off area and loading dock. The development as outlined in the RtS is detailed in **Table 1** below.

Table 1: Key Components of Development

Aspect	Description
Development Summary	Demolition of the existing IMAX building, tourist office and amenities block and construction of a 20 storey building for office, retail and entertainment purposes and a 2 storey building for Sydney Harbour Foreshore Authority (SHFA) purposes
Gross Floor Area	Total GFA of 74,731m ² comprising: <ul style="list-style-type: none"> • 64,651m² commercial office floor space; • 2,713m² retail floor space; • 2,156m² function floor space; • 1,973 gym floor space; and • 3,211m² IMAX floor space.
Maximum Height	Maximum RL of 93.5m AHD.
Vehicle, bicycle and motorcycle Parking	<ul style="list-style-type: none"> • 86 car parking spaces within a stacked arrangement in the podium of the building, operated by a valet; • secure parking for 332 bicycles at the ground level (within the building); and • 5 motorcycle spaces.
Vehicular access	<ul style="list-style-type: none"> • New driveway access for the car stacker and loading areas of the development from Harbour Street; • Realignment of Wheat Road to provide separate access to a new drop off/pick up zone; and • Exit from the car park, loading areas and drop off/pick up zone via Wheat Road.
Public Domain/Landscaping	<ul style="list-style-type: none"> • New paving to the area surrounding the building within the 'zone of influence'; • New entry and street address off Wheat Road; • Expansion of the Darling Quarter playground; • Relocation of the Carousel and Organ; • Relocation and upgrade of Palm Grove; • New landscaping and relocation of the Jay Flowers sculpture to the east of the building; and • Installation of a City Screen and creation of outdoor event space.

Aspect	Description
Signage zones	<ul style="list-style-type: none"> Signage zones of approximately 18 m wide x 5 m high on the north and south elevations of the buildings for the purposes of building identification signage.

Images of the proposal are shown in **Figures 4, 5, 6 and 7.**

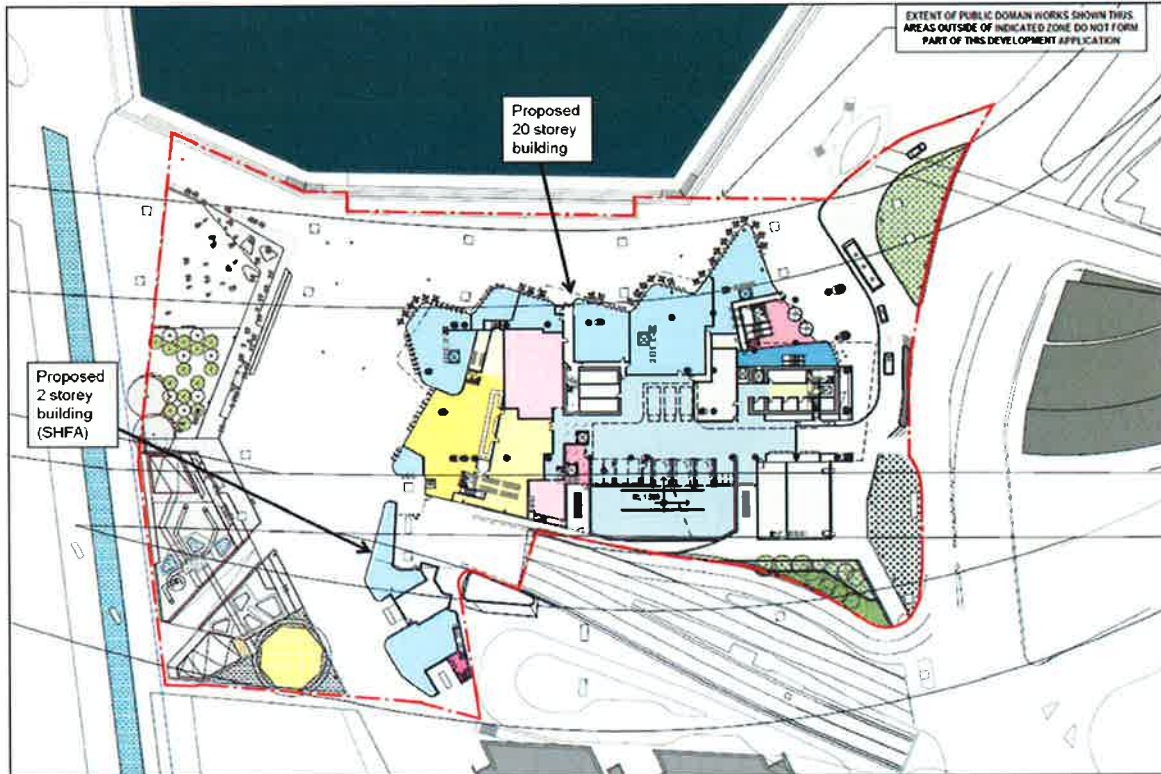


Figure 4: Proposed Site Plan (Source: Applicant's RtS)

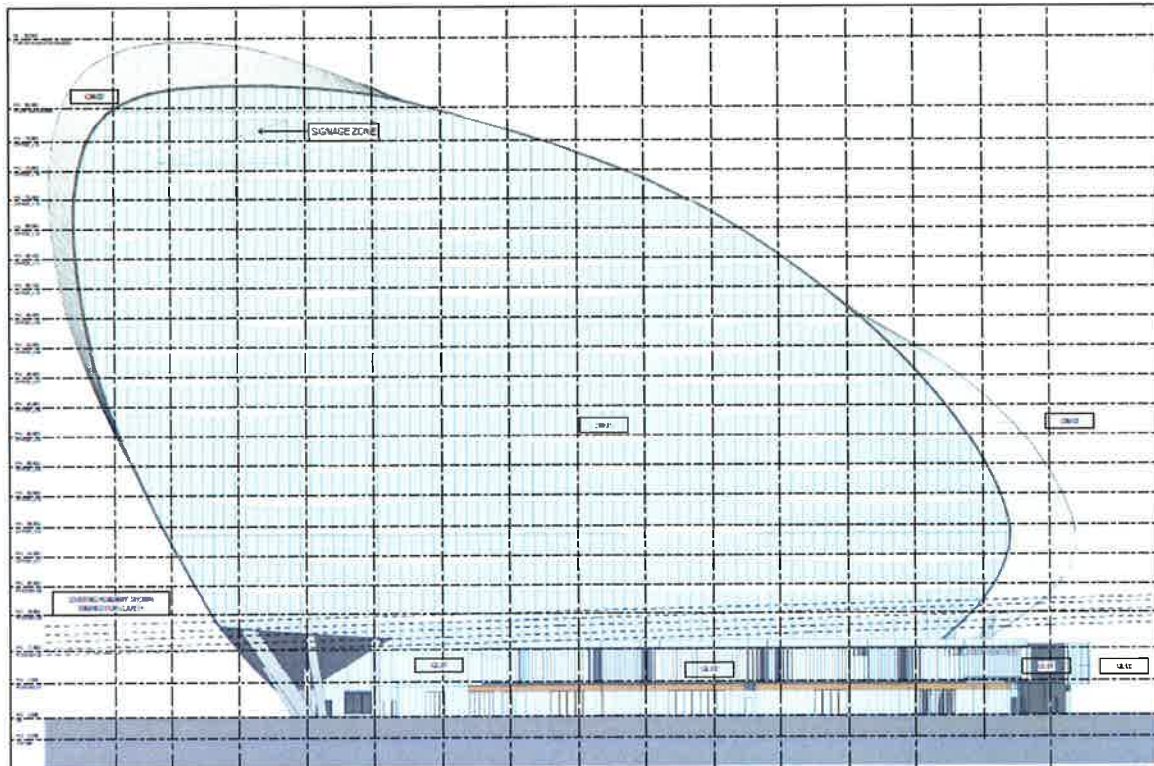


Figure 5: Proposed North Elevation (Source: Applicant's EIS)

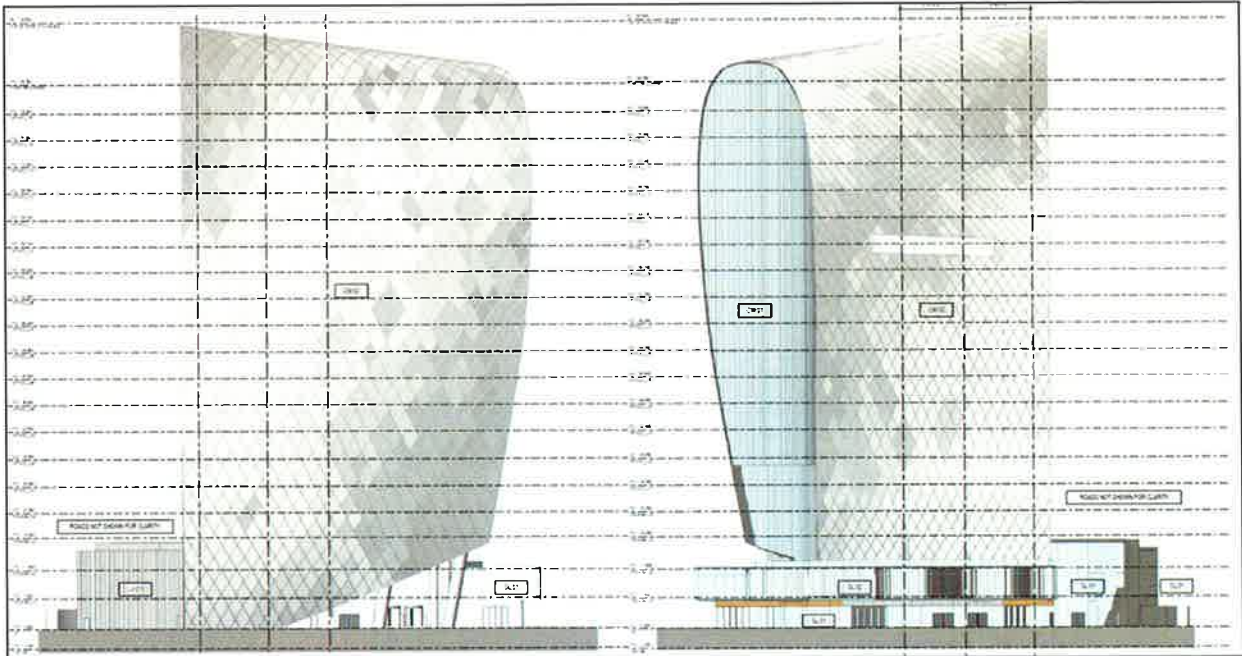


Figure 6: Proposed East (left) and West (right) elevations (Source: Applicant's RtS)



Figure 7: Photomontage of the proposal from the north in the context of the approved International Convention Centre (ICC) and proposed ICC Hotel (Source: Applicant's RtS)

2.3 Project Need and Justification

NSW 2021

NSW 2021 is a ten year plan to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability and strengthen the local environment and communities. The Eastern Sydney and Inner West Regional Action Plan sits under NSW 2021 to identify how the goals and targets of NSW 2021 will be delivered in Sydney.

The proposed high quality office floor space will assist in attracting and maintaining economic investment in Sydney consistent with the goals of NSW 2021. The site is well connected to public transport, consistent with the goals of encouraging job growth in centres and increasing the share of commuter trips made by public transport. The improvements to the public domain and provision of bicycle parking and facilities within the development also support the target to increase walking and cycling.

The new IMAX facilities, retail, function space and public domain upgrades will also complement the adjacent SICEEP, reinvigorating Darling Harbour as Sydney's premier entertainment and event hub. This is consistent with goal of improving the performance of the NSW economy by promoting Sydney as a tourism and events destination.

Draft Metropolitan Strategy for Sydney 2031

The Draft Metropolitan Strategy for Sydney to 2031 is a strategic document that guides the development of the Sydney Metropolitan area towards 2031. The Draft Metropolitan Strategy sets out housing and employment targets for the Sydney region at 545,000 additional dwellings, and 625,000 new jobs, by 2031. The Strategy further refines Sydney wide targets for the Central Sydney sub-region for an additional 138,000 dwellings and an additional 230,000 jobs by 2031.

The proposal provides 64,651m² of premium grade office floor space within a large floor plate building and is estimated to provide up to 4,000 ongoing jobs. The development has excellent access to rail and bus transport and services and facilities. The proposal is therefore considered to be consistent with the objectives of the Draft Metropolitan Strategy for Sydney 2031.

Draft Sydney City Subregional Strategy 2031

The site falls within the area defined by the Draft Sydney City Subregional Strategy. The Draft Subregional Strategy will be updated when the Metropolitan Strategy is finalised. The proposal is considered consistent with the Draft Subregional Strategy as it:

- redevelops the existing IMAX building and public domain which will assist in the revitalisation of Darling Harbour with modern buildings and spaces;
- makes a significant contribution to the employment targets for Central Sydney, with up to 4,000 ongoing jobs;
- will strengthen Darling Harbour as a tourist attraction, with a new IMAX theatre, retail uses and employees which will patronise and activate the precinct during the week; and
- has excellent accessibility to public transport, facilities and services;

3. STATUTORY CONTEXT

3.1. State Significant Development

Under Clause 2, Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011 (State & Regional Development SEPP), any development within the Darling Harbour site, with a capital investment value (CIV) in excess of \$10 million is State Significant Development.

As the proposal is for development with a CIV of \$269,400,400 on a site within the Darling Harbour site, the Minister for Planning & Infrastructure is the consent authority.

3.2. Determination Under Delegation

The Minister has delegated his functions to determine SSD applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority and in cases where:

- the Council has made an objection; and/or
- there are 25 or more public submissions objecting to the proposal; and/or
- a political disclosure statement has been made in relation to the application.

In this regard, the application is being referred to the PAC for determination as 239 public submissions have been received objecting to the proposal and City of Sydney Council has objected to an aspect of the proposal.

3.3. Permissibility

The site is subject to the provisions of the Darling Harbour Development Plan No.1. From 1 July 2009, this plan is taken to be a State Environmental Planning Policy. The proposed office, retail and entertainment uses are permissible with consent on the site under the Development Plan.

3.4. Environmental Planning Instruments

Under Section 79C of the Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any any environmental planning instruments (EPI) that substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The agency's consideration of relevant EPIs (including SEPPS) is provided in **Appendix C**. The proposal is considered to be consistent with the requirements of the EPIs.

3.5. Objects of the EP&A Act

Decision-makers are required to consider the objects of the Act when making decisions under the Act. These objects are detailed in Section 5 of the Act, and include:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposal is consistent with the above objects, particularly (a)(i), (ii) and (vii) as it contributes to the enhancement of the social and economic welfare of the community; promotes the orderly and economic use of the site and includes measures to deliver an ecologically sustainable development (**Section 3.6**).

3.6. Ecologically Sustainable Development

The Act adopts the definition of Ecologically Sustainable Development (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:

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

The agency has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Precautionary Principle** – The proposal for office, tourist and retail uses will complement the neighbouring developments and contribute to the revitalisation of the Darling Harbour precinct. The proposal will not result in any serious or irreversible environmental damage.
- **Inter-Generational Equity** - The applicant has proposed to design the buildings to target a 6 Star Green Star standard, and achieve a minimum 5 star rating, which will minimise its energy intake and environmental impacts for the benefit of future generations.
- **Biodiversity Principle** – The subject site has been extensively developed for some time and is occupied by built structures and impermeable surfaces. This site has low environmental sensitivity and the project would not disturb any flora or fauna. The proposal involves the retention/relocation of existing palm trees and new landscaping.
- **Valuation Principle** – The cost of infrastructure and measures to ensure an appropriate level of environmental performance have been incorporated into the cost of the development on the site.

3.7. Environmental Planning and Assessment Regulation 2000

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

3.8. Director General's Requirements

Sections 3 and 4 of the EIS address compliance with the Director General's Requirements. These matters have been addressed in the EIS sufficiently to enable an adequate consideration and assessment of the proposal for determination purposes.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

Under Section 89F(1)(a) of the Act, the Director General is required to make the EIS of a State Significant Development application publicly available for at least 30 days. The agency exhibited the EIS from Wednesday 11 September 2013 until Monday 28 October 2013 (48 days) on the agency's website, and at Planning & Infrastructure offices at 23-33 Bridge Street, Sydney and the City of Sydney Council Offices, Sydney. The agency also advertised the public exhibition in the Sydney Morning Herald and the Central Courier on Wednesday 11 September 2013 and notified landholders and relevant State and local government authorities in writing.

The agency received 252 submissions during the exhibition of the EIS comprising 9 submissions from public authorities and 243 submissions from the general public and special interest groups.

A further four submissions were received from public authorities in response to the RtS.

Copies of submissions may be viewed at **Appendix B**. A summary of the issues raised in submissions is provided below.

4.2. Public Authority Submissions

Nine (9) submissions were received from public authorities in response to the exhibition of the EIS. An additional four (4) submissions were received from public authorities in response to the RtS.

City of Sydney Council

Council provided a submission in general support of the proposal, however, requested that further consideration be given to the following key issues:

- pedestrian accessibility and legibility throughout the site, Darling Harbour and links to Town Hall station, including:
 - sight lines through the site to the new SICEEP facilities;

- maintaining pedestrian access around the Harbour frontage of the building;
- the adequacy of existing footpaths and intersections along Bathurst Street and DrUITT Street to cope with additional pedestrian traffic;
- connections with the Bathurst Street pedestrian bridge; and
- treatment of the public domain along Harbour Street for pedestrian and vehicle movements;
- view loss impacts to residences to the south of the site;
- the cumulative traffic impacts of the proposal and the Barangaroo development;
- increasing the bicycle parking and provision of alternate bicycle access to the bicycle parking spaces;
- opportunities to increase in tree canopy cover (Council does not support the removal of the existing palm trees and any loss of canopy cover);
- the impacts of the outdoor screen and event space on pedestrian circulation and vehicular safety;
- the proposed works to Wheat Road and maintenance of drop off and set down spaces;
- impacts on heritage items within the wider locality and the Sewage Pumping Station (SPS) No. 12; and
- archaeological impacts.

Council made a submission in response to the RtS, including recommended conditions of consent. Council maintained key concerns in relation to the encroachments of the proposal outside of the existing building footprint in the north-east and north-west corners. Council objected to the extent to which the building encroaches into the public domain in these locations. Council also recommended that conditions be imposed on a range of matters including public domain, car parking and heritage.

Sydney Harbour Foreshore Authority (SHFA)

SHFA raised no objections to the proposal and has advised that it is particularly interested in the following issues:

- crane use;
- public safety;
- pedestrian and vehicular traffic flows; and
- event functionality.

Roads and Maritime Services (RMS)

RMS raised no objections to the proposal subject to recommended conditions in relation to the protection and access to the Western Distributor infrastructure, site access and construction traffic management and safety on/near adjacent roads. Appropriate conditions have been recommended.

Heritage Council

The Heritage Division, on behalf of the Heritage Council, raised concern that the height and footprint of the proposal will alter the current visual setting of the state heritage significant Pyrmont Bridge. The Heritage Division also recommended that an Archaeological Assessment be undertaken prior to determination of the application to enable any conditions to be imposed to mitigate any impacts. Conditions were also recommended in relation to the relocation of the heritage listed Carousel and SPS No 12.

The Heritage Division reviewed the RtS and restated its previous comments on the impacts of the visual setting of the Pyrmont Bridge and the recommendation for an Archaeological Assessment be undertaken prior to determination of the application. Notwithstanding, the Heritage Division provided recommended conditions of consent in relation to the relocation of the Carousel and Organ, conservation of the SPS No. 12, requirements for a Section 140 permit and archaeological impacts.

Sydney Water

Sydney Water advised that the proposal is in close proximity to Sydney Water stormwater assets. Additional information was requested to enable an assessment of both the impacts on these assets and impacts of local flooding. Sydney Water requested the submission of a Stormwater Impact Report be submitted for its further consideration.

Sydney Water also advised that there is sufficient water and wastewater capacity to accommodate the proposed development.

Sydney Water reviewed the RtS and provided recommended conditions of consent in relation to protection of the stormwater assets and possible deviation around the building. Conditions were also provided in relation to flood management.

Transport for NSW (TfNSW)

TfNSW raised concerns regarding:

- the operation of the car stacker and potential queuing of vehicles onto Harbour Street;
- conflicts between the loading bays and vehicles entering the car park;
- the performance of the intersection of Sussex, Erskine and Shelly Streets;
- adequacy of existing pedestrian crossing facilities from the CBD to the site; and
- capacity for pedestrians at the revolving doors at the building entry.

TfNSW reviewed the RtS and provided recommended conditions of consent in relation to the car stacker operation, traffic safety, Harbour Street operation and pedestrian management.

RailCorp

RailCorp raised no objections to the proposal subject to recommended conditions requiring investigation on any RailCorp services within the site and relocation/protection as necessary.

Ausgrid

Ausgrid raised no objections to the proposal subject to recommended conditions to protect Ausgrid's infrastructure. Appropriate conditions have been recommended.

Environment Protection Authority (EPA)

The EPA advised that the construction and operation of the development should comply with relevant noise guidelines.

4.3. Public Submissions

243 submissions were received from the public in response to exhibition of the proposal. Of these submissions, 239 (98%) objected to the proposal and, 4 (2%) supported the proposal.

One public submission was received in response to the RtS.

Objections

Of the objections, 217 were form letters and 22 were individual submissions, including objections from the following organisations and special interest groups:

- Darling Park Management;
- Anson City Developments Pty Ltd;
- PARKROYAL Hotel;
- Meriton Property Group;
- Commonwealth Bank of Australia; and
- Owner's Corporation of Millennium Towers (petition of objection containing 184 submissions)

The key issues raised in public objections are listed in **Table 2**.

Table 2: Summary of Issues Raised in Public Submissions

Issue	Proportion of submissions (%)
The bulk of the eastern portion of the building and overhang over Harbour Street	89
View loss	86
Dominance of height at the waterfront	85
Inadequate consideration of impacts on nearby residential buildings	83
Height	83
Traffic congestion	82
Detrimental impacts on lifestyle	80
Loss of day light	79
Traffic noise and pollution	78
Reduction in property values	76
Impact on rental values and tenants	63

Other key issues raised in a smaller proportion of submissions include:

- inconsistency with the Darling Harbour "Valley Floor" concept;
- inconsistent with planning controls for adjacent sites;
- perceived lack of need for additional office floor space in Darling Harbour given its primary function as a tourist precinct,
- overshadowing of the public domain, including the Darling Quarter playground
- reflectivity, glare and potential illuminated signage;
- overcrowding of Town Hall Station;
- visual impacts of the above ground parking;
- inconsistency with City of Sydney's vision to lower the road decks of the Western Distributer;
- visual distraction for motorists along the Western Distributer and Harbour Street;
- impacts on the adjacent Central Sydney substation;
- impacts on the operation of Cockle Bay Wharf facilities, particularly deliveries via Wheat Street;
- safety concerns regarding the proximity to the Ausgrid substation;
- reduction in pedestrian connectivity;
- noise impacts; and
- incorrect site description.

Support

One letter of support was received from a resident and the remaining three of the letters of support were made by the following organisations:

- Darling Harbour Business Association;
- Australian National Maritime Museum; and
- Merlin Entertainments.

Key comments provided in support of the proposal included:

- cohesion with the SICEEP redevelopment;
- revitalisation of the public domain;
- the proposed playground will complement the Darling Quarter playground and enhance the "family offering" in Darling Harbour;
- improved pedestrian connections;
- the additional working population will support local business;
- IMAX will continue to be an attraction in Darling Harbour;
- commitment to sustainability;

- the high standard and innovative design; and
- development within the CBD reducing the need for urban sprawl.

The agency has fully considered the issues raised in submissions in its assessment of the proposal (See **Section 5** and **Appendix C**).

4.4. Applicant's Response to Submissions

On 3 February 2014, JBA Planning, on behalf of the applicant submitted a RtS (**Appendix A**) which resulted in refinements to the development as outlined in **Section 2.2**. The agency is satisfied that the issues raised in submissions have been addressed through the RtS, this report and the recommended conditions of consent.

5. ASSESSMENT

Table 3 identifies the matters for consideration under Section 79C of the EP&A Act that apply to State significant development. Additional information and consideration is provided in further sections of the report and the relevant appendices or the EIS.

Table 3: Section 79C(1) Matters for Consideration

Section 79C(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies - see Appendix C
(a)(ii) any proposed instrument	Not applicable
(a)(iii) any development control plan	Not applicable*
(a)(iiia) any planning agreement	Not applicable
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The development application satisfactorily meets the relevant requirements of the Regulation, including the procedures relating to Development Applications (Part 6 of the Regulations), public participation procedures for State Significant Developments and Schedule 2 of the Regulation relating to environmental impact statements.
(a)(v) any coastal zone management plan	Not applicable
(b) the likely impacts of that development	Appropriately mitigated or conditioned - refer to Section 5 of this report.
(c) the suitability of the site for the development	Suitable as discussed in Sections 3 and 5 of this report.
(d) any submissions	Refer to Sections 4 and 5 of this report.
(e) the public interest	Refer to Section 5 of this report.
Biodiversity values except if: (a) On biodiversity certified land (b) Biobanking Statement exists	Not applicable

* Under clause 11 of the SRD SEPP, development control plans do not apply to state significant development. Notwithstanding, consideration of relevant controls has been given in Appendix C.

5.1. Key Assessment Issues

The agency considers the key environmental issues for the proposal to be:

- built form;
- amenity impacts to surrounding properties and open space;
- public domain and pedestrian connectivity;
- transport, traffic and servicing;
- heritage; and
- stormwater and flooding.

Each of these issues is discussed in the following sections of this report. **Section 5.7** of the report discusses other issues that were taken into consideration during the assessment of the application.

5.2. Built form

5.2.1 Height, scale and bulk

A critical consideration for the proposed built form relates to the height, scale and bulk of the development and its relationship to the immediate as well as wider context. The agency notes that a large percentage of public submissions received during the exhibition (85%) raised concerns in relation to the impact of height, scale and bulk of the proposed building.

The proposal is for the erection of a 20 storey building that will rise, in part, 15 storeys above the Western Distributor together with a separate two storey building that jointly provide for over 74,000m² of office, retail and entertainment uses. The proposed development's form has a

distinctly organic shape and is located at the southern end of the Cockle Bay on a narrow site situated between the elevated roadways of the Western Distributor.

The proposed form of the main building is unique and asymmetrical, with the bulk of the building height and mass situated to the east and a cascading height falling down to the west. The roof form has been designed as a sweeping curved structure which is intended to be interpreted as a twisted ribbon in the landscape (refer to **Figure 8**).

The building has a maximum height of 90.6 metres (RL 93.5m AHD) in the east and overhangs Harbour Street by up to 18.5 metres (the overhang is discussed at **Section 5.2.3**). The agency notes that there are no height or built form controls for the site within the Darling Harbour Development Plan No.1.

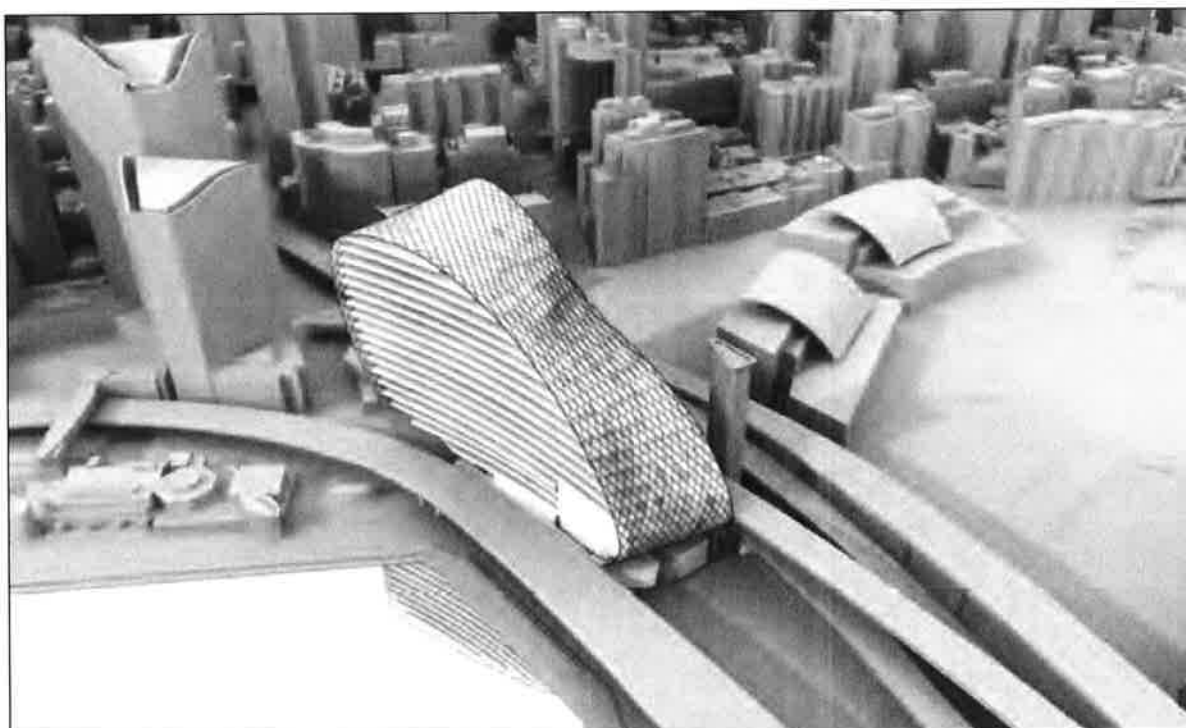


Figure 8: Massing image of the proposed height, scale and bulk of the proposal (Source: Hassell Urban Design Report)

In order to thoroughly assess the appropriateness of the height, scale and bulk of the proposal, the agency has carefully considered the surrounding built form context. The Darling Harbour precinct, which is informally characterised by a notional valley floor urban form (refer to **Figure 9**), is currently undergoing a period of dynamic renewal and urban rejuvenation, which is being led by the redevelopments resulting from the SICEEP projects. The Darling Harbour valley floor consists of central open green/play spaces adjoined by Cockle Bay to the north and low rise buildings such as the Sydney Entertainment Centre to the south, Convention and Exhibition Centres to the west and Darling Quarter to the east. However, the agency notes that following the recent approval of SICEEP developments, the character of the Darling Harbour valley floor has begun a period of transformation, which will include the provision of larger buildings closer to the central open space and Cockle Bay and these buildings will more strongly frame those spaces.

The Sydney CBD is located immediately to the east of the site and comprises a wide variety of buildings of varied heights, scales and designs. The agency notes that CBD buildings generally reduce in scale the closer they are to Darling Harbour. The transitional approach to building scale is reinforced in the immediate context by the Darling Park Towers, which step down from RL140 to RL 98 (refer to **Figure 9**).

Accordingly, the agency notes that the proposed height, scale and bulk of the building could be argued as contrasting with the lower scale character of the Darling Harbour precinct and therefore being visually quite dominant. However, the massing and form has responded in a unique and potentially iconic way to the constraints of the site and the surrounding built context. The agency notes that the organic shape of the building roof together with the distribution of mass to the east provides for a building structure which transitions from its highest point in the east down towards the Darling Harbour valley floor in the west. This is illustrated in **Figure 9**.

This unique design approach assists the proposal to appropriately integrate into its city fringe location and appropriately and sympathetically continue the transition in heights between the CBD and Darling Harbour. In addition, due to the location of the proposed building and its slightly bowed/concave northern facade, the proposal would provide a defined termination to the south eastern corner of Cockle Bay without compromising the established Darling Harbour valley floor character. The lower levels of the proposal would activate the public domain (further discussion of this is provided at **Section 5.4**).

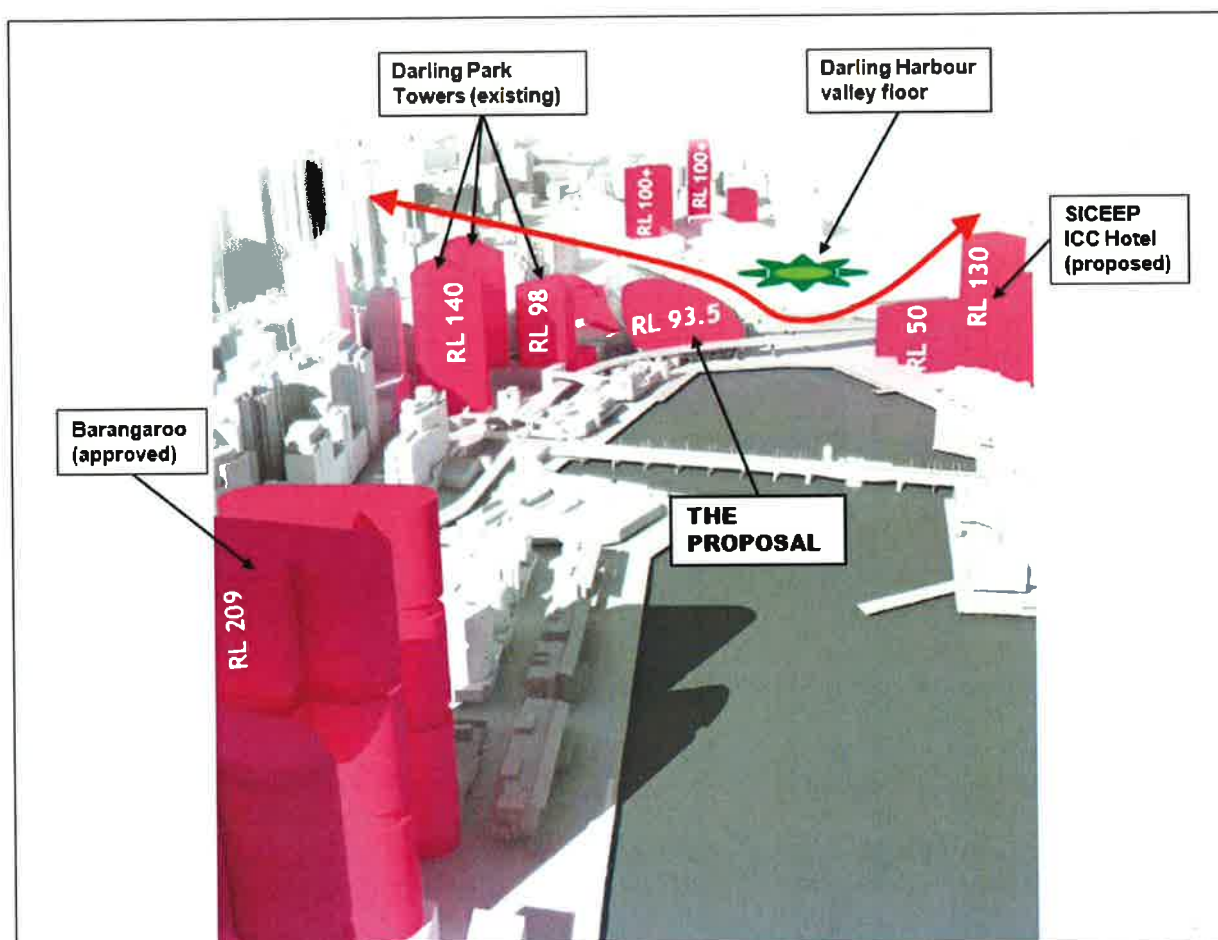


Figure 9: The surrounding existing (and proposed) built context and the transition of building heights between the CBD and the Darling Harbour valley floor (Base source: Hassell Urban Design Report)

The agency also notes that the form of the building and its twisted roof design ensures that sufficient solar access is provided to the neighbouring Darling Quarter playground and Tumbalong Park (refer to **Figure 10**). Further discussion on overshadowing is provided at **Section 5.3.2**.

It is also the agency's view that the existing elevated roadways have a significant visual impact on the immediate surrounding area. In this regard, the distinct landmark quality of the proposal would diminish the prominence of the Western Distributor elevated roadways which would have a positive impact on the visual character of the precinct (refer to **Figure 11**).



Figure 10: View north of the proposed building form and roof design resulting in a transition of building height and bulk down toward the Darling Harbour valley floor (Source: Hassell Urban Design Report)

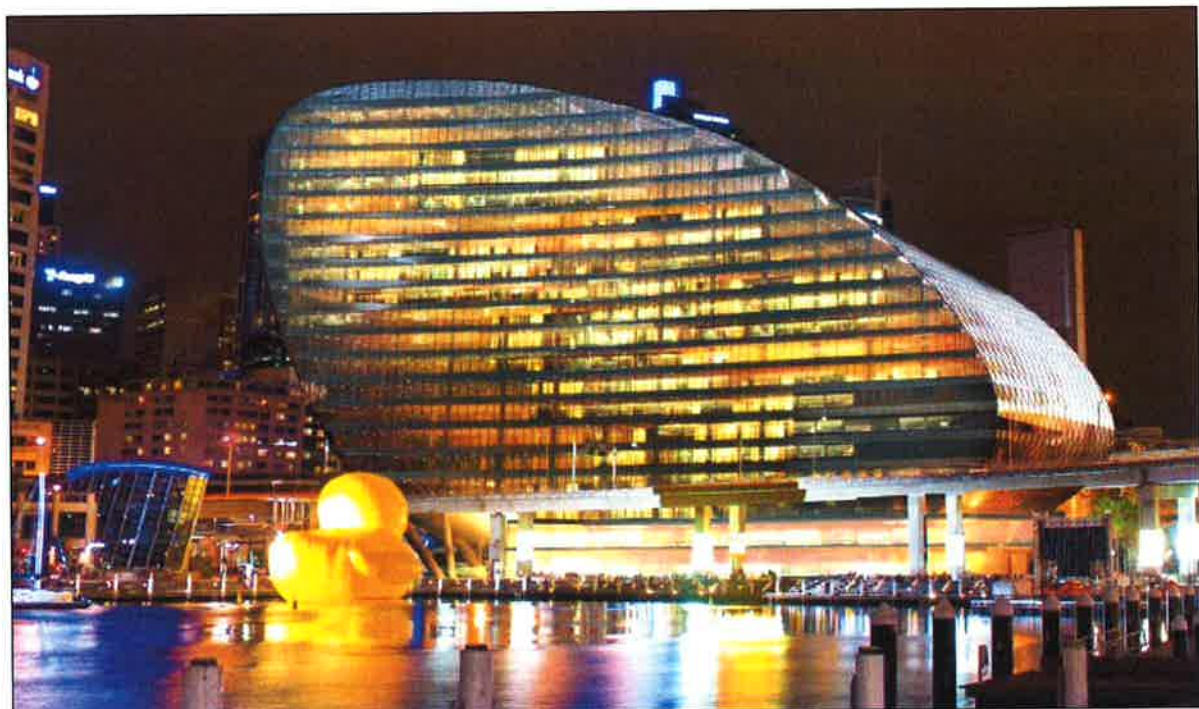


Figure 11: The proposed building would diminish the prominence of the Western Distributor (Source: Hassell Urban Design Report)

The agency also notes that Council stated that the building is a strong and distinctive proposal and that the character and dramatic shape of the building would result in an iconic and easily recognisable building. Accordingly, Council has raised no objections to the height of the proposal.

On the basis of the above factors, the agency considers the height, scale and bulk of the building is appropriate. The bulk and scale is also considered to be acceptable in terms of visual and scenic impacts and amenity impacts as discussed in Sections 5.2.4 and 5.3.

5.2.2 Architectural design quality

The architectural design quality of the proposed building is considered to be another critical element of the built form. The existing IMAX building is to be demolished and replaced with a new building that will have its own detailed architectural identity and expression.

The applicant states that the abstracted ribbon roof form is a key design element of the building by rolling up, over and around the building. It is intended to be identifiable and distinguish the proposed building as a landmark in Darling Harbour.

The agency notes that the building façade has been divided into two distinct parts, the lower ground and first floor public domain interface and the office element above (a discussion of the how the building interacts with the public domain is provided at **Section 5.4**). At lower levels the façade consists of an undulating glazed form, which flows behind the pylons beneath the Western Distributor. The office component above (north and south elevations) is proposed to be clear glass within a high performance, triple glazed curtain wall system with louvered blinds. The façade framing would be white aluminium. The eastern and western elevation and the roof would comprise white glass insulated glazing with varying degrees of transparency within a triangulated grid-shell frame (refer to **Figure 12**).



Figure 12: The northern and eastern elevations and roof as seen from the Western Distributor (Source: Hassell Urban Design Report)

The agency considers the architectural finish of the building is of a high standard. The use of a triangulated grid shell frame for the 'ribbon' element of the building, coupled with the unique form of the roof will ensure the building achieves design excellence. Overall the agency considers that the combination of the unique massing form and architectural design quality provides an iconic development of landmark quality in an area characterised by buildings of quality and distinct character.

The constraints of the site preclude basement servicing. Therefore, servicing and car parking is provided at ground and podium levels 1 and 2 on the southern side of the building beneath the west-bound ramps of the Western Distributor. The agency notes that concern has been raised, in public submissions, about the appearance of this above ground car parking.

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The agency notes that the southern elevation would not be readily visible at the lower levels, given the prominence of the Western Distributor overpasses and off ramps which provide a service amenity. In addition the eastern edge of the site, adjacent to Harbour Street, currently provides a service function and does not have a particular recreation or amenity purpose. Given that this location is the least visually sensitive location on the site, it is the agency's view that the proposed internal location for servicing and car parking is the most appropriate for the site.

In terms of measures to improve the appearance of the above ground parking, it is noted that the narrowness of site, between the two Western Distributor overpasses, limits the ability to screen this space by wrapping the elevation all the way around to provide an active frontage. The lower levels of the southern and eastern elevations containing the car parking and plant would be externally clad in powdercoated metal louvers and that this would provide an appropriate external finish.

5.2.3 Overhang over Harbour Street

The building has a maximum height of 90.6 metres (RL 93.5m AHD) in the east and due to its design and the transfer of mass it overhangs Harbour Street by up to 18.5 metres (refer to **Figure 13**). The agency notes that the majority of submissions received during the exhibition (89%) raised concerns in relation to the impact of the overhang (both visual and amenity). Although Council did not object about the height and scale of the building, it did raise concerns about the building's overhang of Harbour Street.

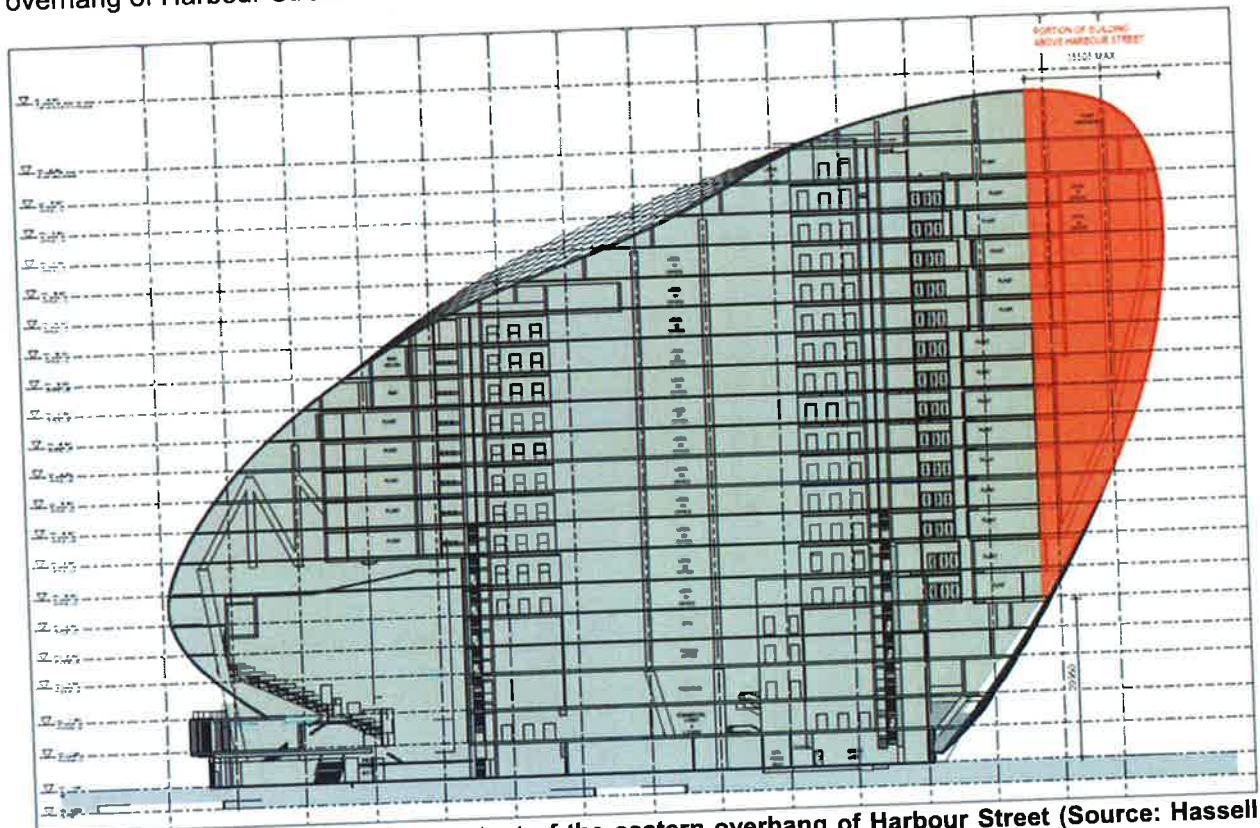


Figure 13: Section indicated the extent of the eastern overhang of Harbour Street (Source: Hassell Urban Design Report)

The applicant has stated that the shape and sculptural appearance of the building has been designed to respond to:

- the elevated roadways which tightly constrain the site and constrict the built form between them;
- the need to minimise overshadowing of the Darling Quarter playground space to the south; and
- the transition of heights within the vicinity of the site as they step down to Darling Harbour.

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IMAX Redevelopment

The agency notes that the site's unique location between two elevated roadways results in an uncommon situation for a building at the city fringe whereby it would not adjoin or be immediately nearby other buildings which define a strong street building line. The agency considers that this streetscape relationship allows for flexibility in terms of establishment of a projection/overhang. The agency also considers that the proposed overhang forms an integral part of the overall architectural composition and form of the building. As previously noted, the building has iconic and landmark qualities. It is the agency's view that if the overhang were removed or reduced, this could adversely affect the overall appearance of the building and jeopardise its achievement of design excellence.

The building begins to overhanging Harbour Street approximately 20 metres above ground level. The agency does not consider that the proposed overhang at this height would have an adverse impact on traffic and pedestrian safety and a discussion of traffic and transportation issues is provided at **Section 5.5**.



Figure 14: View of the overhang of Harbour Street (Source: applicant's RtS)

Overall the agency considers that the proposed overhang forms an integral part of the architectural composition of the building and the cantilever and swept façade elements are critical to the achievement of the iconic design aesthetic of the proposal. The absence of a defined building line in this location ensures that the overhang and the building on the whole may stand alone as a unique and identifiable landmark. Furthermore, the overhang would not result in any traffic or pedestrian safety issues.

5.2.4 Visual and scenic impacts

The agency notes that significant concerns were raised in public submissions regarding the visual and scenic impacts of the proposed building. The applicant has submitted a Public Domain Visual Impact Assessment (PDVIA) including an assessment of impacts from key vantage points in the public domain. The PDVIA includes computer generated photomontages of key ground level public domain views. The photomontages show the proposed building in context with the existing surroundings, together with (approved and proposed) future SICEEP developments to the south west of the site. The PDVIA has also provided images of public domain views at close quarters as well as distant views from streets surrounding the site.

The Darling Harbour Development Plan No.1 does not contain controls or guidance relating to the impact on public domain views. However, the agency notes that the City of Sydney DCP (which applies to the land adjoining the site) contains provisions on public views. The DCP requires that buildings do not impede views from the public domain to highly utilised public places, parks, Sydney Harbour and heritage buildings. It also requires that developments are to improve public views by using buildings to frame views.

The agency notes, given the site's location at the northern end of the Darling Harbour valley floor and between the elevated roads of the Western Distributor that:

- the proposed development is likely to be highly visible from surrounding roads, particularly the Western Distributor, Druitt Street and Harbour Street;
- the proposed development is likely to be highly visible from nearby open spaces and pedestrian thoroughfares, particularly Tumbalong Park, Pyrmont Bridge and the Darling Harbour foreshore; and
- a variety of mid/long distance views to the site will also be possible from East Balmain and the Pyrmont peninsula to the north.

The potential visual impacts associated with the proposal have been considered from the above mentioned vantage points.

View from surrounding roads: Western Distributor, Druitt and Harbour Streets

At present the view eastward along the Western Distributor towards the site includes elevated roadways, the existing IMAX building and cross city tunnel ventilation stack in the foreground and the city skyline (which comprises the varied heights, forms and designs of CBD skyscrapers) forms the mid-distance backdrop to this view (refer to **Figure 15**). The agency notes that due to the prominence and variety of buildings within the city skyline, the city skyline forms the dominant element of this view. When compared to the present situation, the agency notes that the view eastward will be subject of moderate alteration. The proposed new building and its distinctive form would form a strong element within the view. However, the agency considers the city skyline would remain the dominant feature. The approved Sydney Convention and Exhibition Centres will rise above the sides of the Western Distributor and also frame the view as identified in **Figure 15**.

The agency has also considered reflectivity of the proposal in **Section 5.8**.



Figure 15: Existing (left) and proposed (right) view east along the Western Distributor (source: applicant's RfS)

The current view west along Druitt Street is dominated at ground level by road and pedestrian installations, framed on either side by tall buildings, which create a viewing corridor (refer to **Figure 16**). The existing IMAX building and the elevated roads of the Western Distributor are visible in the mid-distance and the top of the Goldsbrough Mort building in Pyrmont is visible in the distance. The agency notes that the western view would be significantly altered by the location, height and form of the proposed development. The distant views of the Goldsbrough Mort building would be obscured as would the central aspects of sky views.

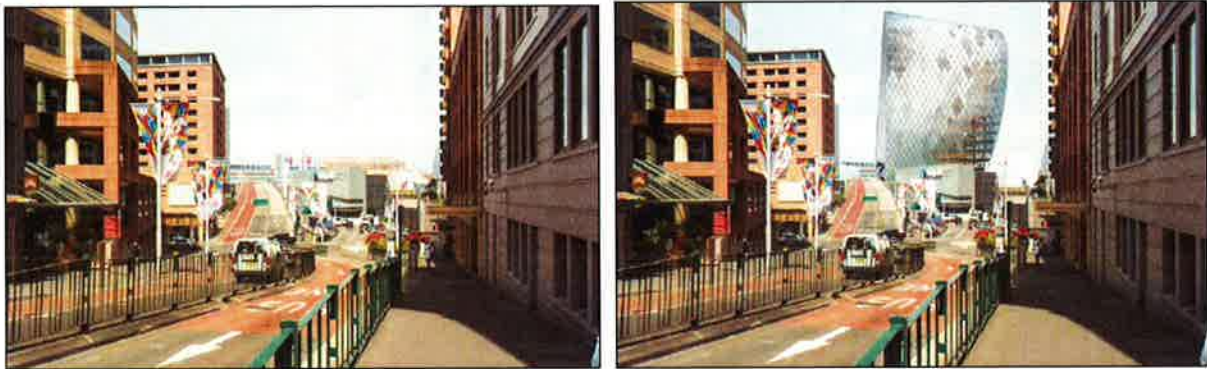


Figure 16: Existing (left) and proposed (right) view west along the Druitt Street (source: applicant's RtS)

The existing view north along Harbour Street comprises a broad roadway crossed by pedestrian overpasses (refer to **Figure 17**). The Darling Quarter development frames the western side of this view and tree planting and tall residential buildings frame the east. Once past the Darling Quarter development the view is dominated by the large intersection and varied heights of the elevated roadways of the Western Distributor and its on/off ramps. The IMAX building sits conspicuously between the elevated roads of the Western Distributor and the view north would be significantly altered by the height, form and projection of the proposed building and the central sky views would be obscured. However, the agency considers that the building provides a strong visual landmark within an area dominated by the elevated roads and on/off ramps of the Western Distributor.



Figure 17: Existing (left) and proposed (right) view north along Harbour Street (source: applicant's RtS)

The agency considers that the proposed development would have a positive impact on the view experienced along the Western Distributor and would contribute to the broader city skyline view. Although the alteration of the view along Druitt street is significant, the resulting iconic design and appearance of the eastern façade of the proposed building would form an interesting marker within the view corridor. The agency notes that the proposed development would overhang Harbour Street and occupy a significant portion of the sky in the northwards view.

Overall the agency considers the impact of the development on the views from surrounding roads to be positive and acceptable.

View from open spaces and pedestrian thoroughfares

As existing the view east along the pedestrian thoroughfare at the southern end of Cockle Bay is dominated by the Western Distributor flyover and its concrete support structure to the south (refer to **Figure 18**). The existing IMAX building is visible, however, due to the subdued architectural treatment at its lower levels it is not readily identifiable or a dominant feature. The view to the north east and north comprises ground level water and boat moorings with the city skyline beyond. The agency notes that the view to the east would be moderately altered. The lower levels of the proposal would have a strong visual and architectural identity and would activate the pedestrian

thoroughfare. The swept façade of the upper levels of the proposal would be visible above the Western Distributor overpasses.

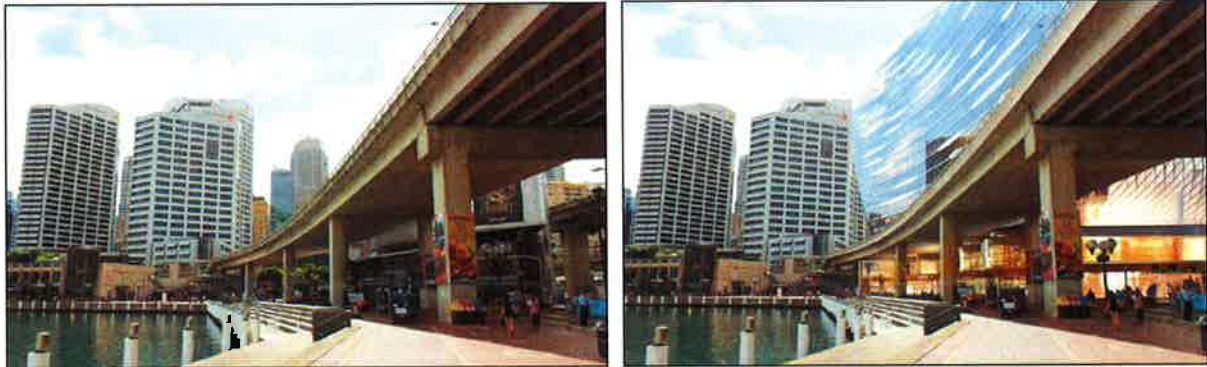


Figure 18: Existing (left) and proposed (right) view east along Cockle Bay pedestrian interface (source: applicant's RtS)

Given the size and location of Tumbalong Park the agency notes that views are possible in all directions. The existing view north east from Tumbalong Park is framed by the Darling Quarter development and the Western Distributor (refer to **Figure 19**). The cross city tunnel ventilation (CCVT) stack also features prominently in this view. The city skyline forms a mid-distance backdrop to the east and buildings step down in height from the CBD to Tumbalong Park. The agency considers that this view would be moderately altered by the proposal, which would further enclose the park to the north east. It also notes that the proposed form of the building would step down from east to west such that its height would be lower than the CCVT stack.



Figure 19: Existing (left) and proposed (right) view north east from Tumbalong Park (source: applicant's RtS)

At present the view south east from the western end of Pyrmont Bridge is dominated at close to mid-distance by water and boat moorings, the existing IMAX, the Western Distributor and the city skyline (refer to **Figure 20**). Further to the south is The Peak apartment tower which marks the end of the Darling Harbour precinct and valley floor. This view would be significantly altered by the proposed building, which would obscure a section of the city skyline view and provide a termination point to the south eastern end of Cockle Bay. The approved towers of the SICEEP southern Haymarket precinct would add further markers to the end of the valley floor and the approved SICEEP Convention Centre would frame the western side of Cockle Bay. The SICEEP ICC Hotel is proposed further to the west.



Figure 20: Existing (left) and proposed (right) view south east from the western end of Pyrmont Bridge (source: applicant's RtS)

The agency considers that the proposed development would have a positive impact on the view experienced from open spaces and pedestrian thoroughfares. Although the alteration of the views out of Tumbalong Park and from the western end of Pyrmont Bridge are significant, the proposal's high standard of architectural design would contribute an appropriate visual aesthetic to the existing view experience. The agency considers the building's sculpted form and downward graduation of height provides an interesting step between the Darling Harbour valley floor and the tall buildings within the CBD and this unique design approach will enhance the existing views. It is the agency's view that the moderate alteration of the view east at the southern end of Cockle Bay would be beneficial and in particular the changes would provide a strong identity to the pedestrianised area.

Overall the agency considers the impact of the development on the views from open spaces and pedestrian thoroughfares to be positive and acceptable.

View from mid/long distances to the north

There are a variety of long distance views south across the Harbour to the site and the agency considers the view from Pyrmont Wharf and East Balmain, Illoura Reserve provide an appropriate representation of these views (refer to **Figures 21 and 22**). Existing views comprise broad Harbour water views that are terminated by the city skyline and its varied building heights, forms and designs in the distance. The agency considers that the proposal would have a minor impact on this view. At these distances the proposal would blend and contribute to the existing city skyline and overall would have a neutral impact on the view from Pyrmont Wharf and Illoura Reserve.



Figure 21: Existing (left) and proposed (right) view south from Pyrmont Wharf (source: applicant's RtS)



Figure 22: Existing (left) and proposed (right) view south from East Balmain Illoura Reserve (source: applicant's RtS)

5.2.5 Conclusion

The agency considers that the height, scale and bulk and form of the building is an appropriate and acceptable response to the constraints of the site and surrounding built context. The architectural design quality of the building is of a high standard and the building would have a distinct landmark quality. The proposed development achieves design excellence and would positively contribute to the renewal of Darling Harbour.

In addition, the agency considers that in the context of the site's unique location between the elevated roadways of the Western Distributor the proposed projection/overhang over Harbour Street is acceptable.

The agency acknowledges that the proposal would have a noticeable visual presence at both close quarters and distant views. However, the agency considers that the visual impact of the proposal is positive and would form an iconic component of the urban regeneration of the precinct.

Overall the agency considers that the proposed built form of the proposal results in a high quality building of iconic and landmark qualities and achieves design excellence. Further, the proposal will complement the tourist/leisure character of Darling Harbour.

5.3. Amenity impacts to surrounding properties and open space

The majority of public submissions received during the exhibition raised concern in relation to potential impact on existing residential amenity. In particular these concerns relate to:

- private view loss; and
- loss of daylight/overshadowing.

The agency has considered these issues in detail below.

5.3.1 Impact on private views

The majority of public submissions submitted (86%) were from hotel/residential apartment owners and/or occupiers located to the south east of the site regarding view impacts. The agency notes that the existing hotel and residential apartments on the southern side of the site currently enjoy a range of views of Darling Harbour and Pyrmont district views (and beyond) above the existing 6 storey scale IMAX building on the site. The proposal would result in a significant increase the height and scale of the existing building on the site and would therefore have an impact on views across the site.

The applicant provided a Visual Impact Assessment (VIA). The VIA provides a comprehensive analysis of the view impacts of the proposed development, characterising the view loss at the affected premises to the south east. It takes into account the height and orientation of the existing buildings, their location and available view corridors down streets and/or across the top of other foreground development towards Darling Harbour and beyond.

The VIA includes a number of properties to the south east of the site within its analysis. The following three properties would be most affected by the development (refer to **Figure 23**):

- PARKROYAL Hotel;
- Millennium Towers; and
- Emporio Apartments.

The agency notes that Council raised concern that a view loss assessment should be carried out for private residences to the south of the site and that the agency should assess view loss against the *Tenacity* planning principles.

As part of its assessment, the agency undertook inspections of a number of properties to properly understand the existing views from these properties and also to verify the accuracy of the applicant's VIA. In order to ascertain whether or not the proposed view sharing impacts are reasonable the agency has followed a four-step assessment in accordance with the principles established by Tenacity Consulting Vs Warringah [2004] NSWLEC 140. The steps/principles adopted in the decision are:

1. Assess what views are affected and the qualitative value of those views.
2. Consider from what part of the property the views are obtained.
3. Assess the extent of the impact (Tenacity principles establish a spectrum from 'negligible' to 'devastating').
4. Assess the reasonableness of the proposal that is causing the impact.



Figure 23: Aerial view of the site and the three nearby properties most affected by the proposal (Base source: Nearmap)

An assessment of potential view impacts in accordance with the Tenacity principles is outlined below.

PARKROYAL Hotel (steps 1 to 3)

The PARKROYAL is a 12 storey hotel building located approximately 120 metres east of the site. The hotel contains reception, banquet hall and a coffee shop from ground to third floor levels and hotel rooms within the 9 levels above. The PARKROYAL raised concerns in relation to view impacts in its submission. The agency was granted access to hotel rooms and ancillary spaces within the hotel to inspect the potential view loss and outlook impacts.

Due to the orientation of the hotel, hotel rooms with a west aspect have views across the subject site and it is these rooms which the agency considers to be most affected by the proposed development.

Level 5 / 6th floor

In relation to view loss from level 5 / 6th floor, the agency notes the following:

- The westerly views of hotel rooms currently look over the elevated roads of the Western Distributor and existing IMAX building in the foreground and the taller buildings of Pyrmont in the distance. Views to the south west are obscured by the Darling Quarter development. Views to the north west, beyond the site and Western Distributor, consist of Darling Harbour water glimpses and foreshore developments and glimpses of Pyrmont Bridge.
- The development would significantly reduce this view and narrow the possible viewing corridor. The agency notes that water views would be largely obscured for hotel rooms located centrally within the building, however, small elements of water views would be retained at the northern and southern end. Views of Pyrmont Bridge would be unaffected.

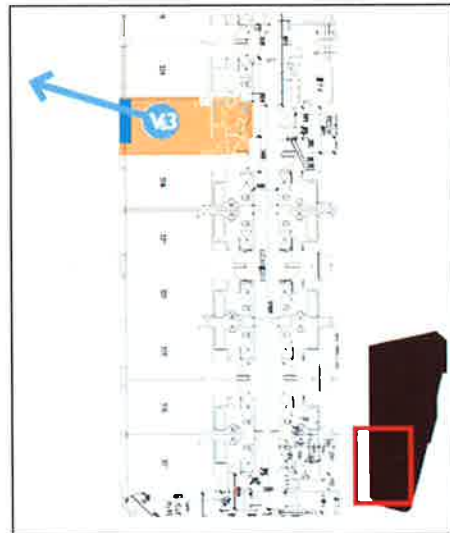


Figure 24: Existing (left) and proposed (right) north west view from hotel room located on Level 5 at the centre of the PARKROYAL Hotel building (view V3) (source: applicant's RtS)

Level 9 / 10th floor (club room)

In relation to view loss from level 9 / 10th floor, the agency notes the following:

- Similar to lower levels, the westerly views of the club room currently look over the elevated roads of the Western Distributor and existing IMAX building in the foreground and Pyrmont district views beyond. Views to the south west remain generally obscured by the Darling Quarter development. Views to the north west consist of more expansive Darling Harbour water views and foreshore developments and clear views of Pyrmont Bridge.
- The development would moderately reduce this view and narrow the possible viewing corridor. Water views would be partly obscured and views of Pyrmont Bridge would be unaffected.

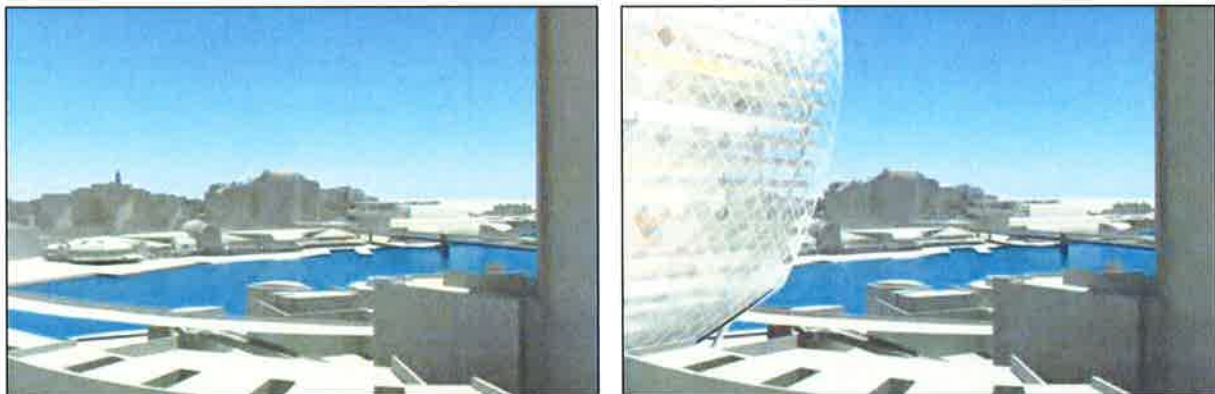
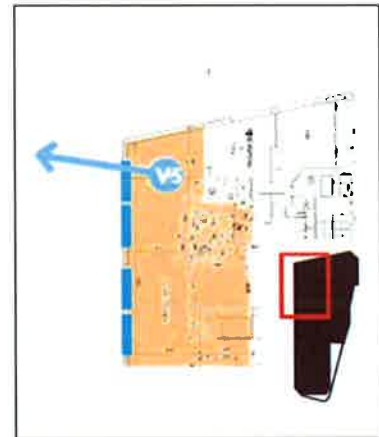


Figure 25 Existing (left) and proposed (right) north west view from hotel room located on Level 9 in the central portion of the PARKROYAL Hotel building (view V3) (source: applicant's RtS)

Summary

The agency notes, with respect of the impact on the PARKROYAL Hotel, that view losses would range from moderate to significant depending on the location of the room and level on which it is situated. The most significant impacts would be experienced by the centrally located rooms on the lower levels.

Millennium Towers (steps 1 to 3)

The Millennium Towers building is a 20 storey residential building located approximately 200 metres south east of the site. The building comprises a 6 storey residential podium with two residential tower elements above. Residents of the Millennium Towers building raised concerns in relation to view impacts in their submissions. The agency was granted access to apartments located within the building, including both the eastern and western arms of the tower element to inspect the potential view loss and outlook impacts.

Due to the orientation of the building, apartments located at the northern end of the north western elevation of the western tower have views across the subject site and it is these apartments which the agency considers to be most affected by the proposed development.

The agency notes that west facing apartments within the Millennium Towers building currently experience views/outlook from north west to south west and at upper levels this broad view is unobstructed (refer to **Figure 26**).



Figure 26: Panoramic views from level 11 unit 240 (bottom) and level 19 unit 320 (top) of Millennium Towers building

Level 6

In relation to view loss from the apartments on level 6, the agency notes the following:

- Views to the north west currently comprise Harbour Street and Bathurst Street intersection and the elevated roads of the Western Distributor / existing IMAX in the foreground. The mid-distance water views are virtually entirely obscured, while glimpses of Pyrmont Bridge are possible with Pyrmont district views beyond. The agency considers that the nature of this aspect is one of outlook rather than a view of significance. Notwithstanding this, the agency notes that this outlook would be significantly reduced by the proposed development.
- Views to the west are partly obscured by the two buildings of the Darling Quarter development although some apartments have views through the gap between these buildings towards Tumbalong Park and Pyrmont district views beyond. A view corridor exists to the south west along Harbour Street, which includes mid and long distance views of Haymarket. The proposal would have no impact on these views.

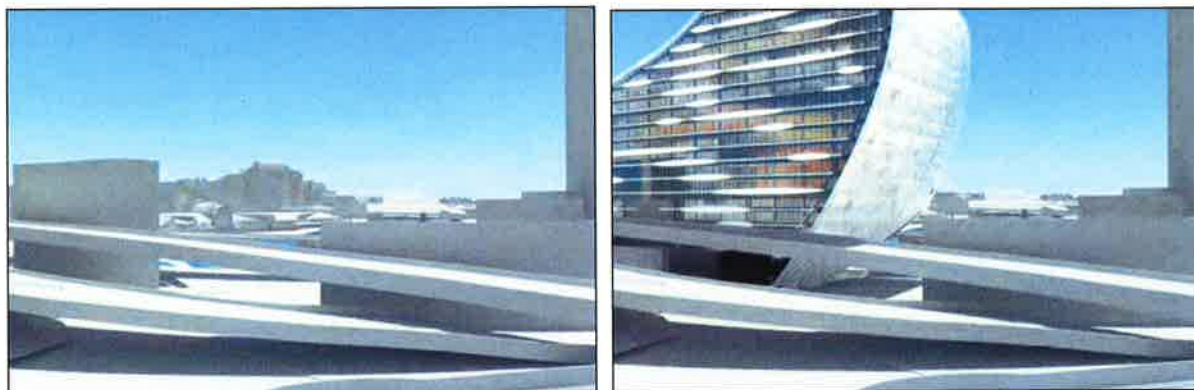


Figure 27: Existing (left) and proposed (right) north west view from the corner apartment at level 6 of the Millennium Towers building (view V1) (source: applicant's RtS)

Level 20

In relation to view loss from the apartments at level 20, the agency notes the following:

- Views to the north west currently comprise the Harbour Street and Bathurst Street intersection and the elevated roads of the Western Distributor / existing IMAX in the foreground, mid-distance Darling Harbour water views (including Pyrmont Bridge), Pyrmont district views beyond (including ANZAC Bridge) and distant horizon views. This view will be significantly reduced by the proposed development and the agency notes that approximately half of the Darling Harbour water views would be obscured. Views of ANZAC Bridge and Pyrmont Bridge would be retained.
- Views to the west and south west are possible over the roofs of Darling Quarter development and include the exhibition and convention centre facilities, Tumbalong Park and Pyrmont and Haymarket district views. The proposal would have no impact on these views.

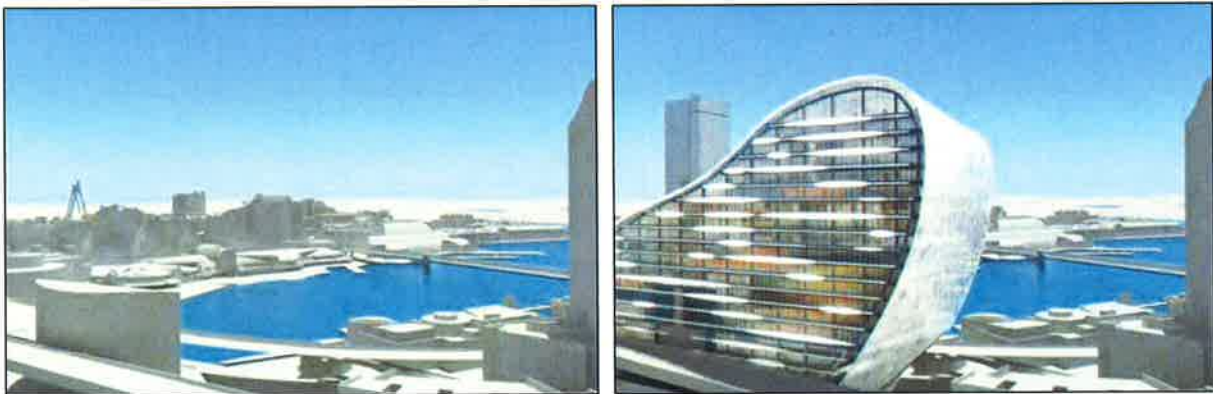
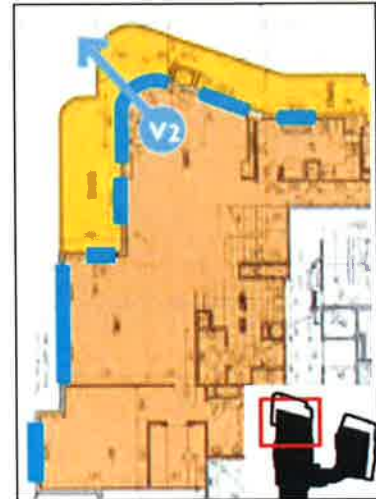


Figure 28: Existing (left) and proposed (right) north west view from the corner apartment at level 20 of the Millennium Towers building (view V2) (source: applicant's RtS)

Summary

View losses for apartments in the Millennium Towers building would range from minor to significant depending on the location of the apartment and level on which it is situated. The most significant impacts would be experienced by apartments at lower levels at the north western corner of the building. The agency also notes that alternative views exist and that the proposed development would not have an impact on these views.

Emporio Apartments (steps 1 to 3)

The Emporio Apartments building is a 20 storey residential building located approximately 300 metres south east of the site. The agency wrote to submitters within the Emporio Apartments offering to inspect the views from apartments, but did not receive any responses. The agency, therefore did not visit the Emporio Apartments.

Due to the orientation of the building, apartments located at the north western corner of the tower have views across the subject site and it is these apartments which the agency considers to be most affected by the proposed development.

Level 6

In relation to view loss from the apartments on level 6, the agency notes the following:

- A view corridor exists along Harbour Street and allows for north westerly views, which is framed by buildings to either side of the road. The view comprises Harbour Street in the foreground and mid-distance, the Western Distributor/IMAX beyond this and minor glimpses of Darling Harbour water and foreshore land interface views in the distance. This view will be significantly reduced by the proposed development and the agency notes that the glimpses of Darling Harbour water views will be obscured.
- Views to the west are largely obscured by the Darling Quarter development. Views to the south west include Sydney Entertainment Centre and the Chinese Garden of Friendship and Pyrmont district views beyond. The proposal would have no impact on these views.

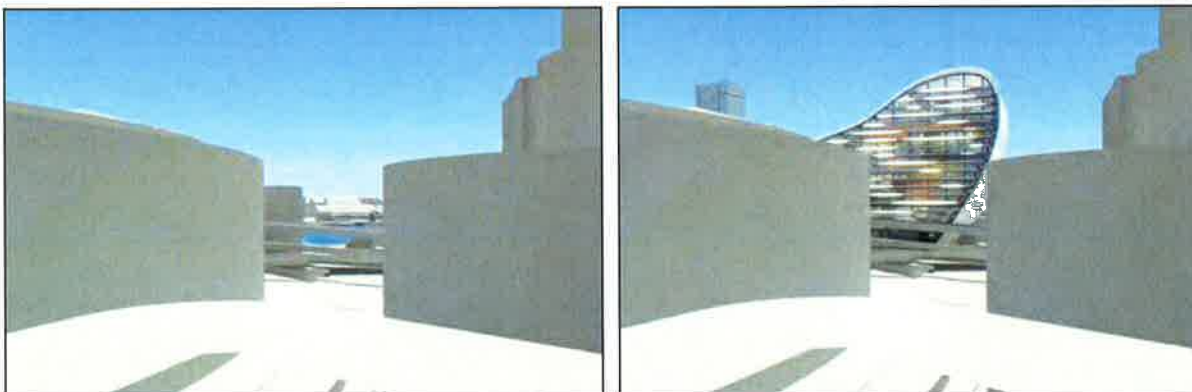
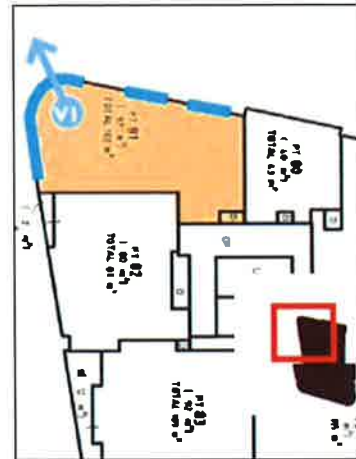


Figure 29: Existing (left) and proposed (right) north west view from the corner apartment at level 6 of the Emporio Apartments building (view V1) (source: applicant's Rts)

Level 12

In relation to view loss from the apartments on level 12, the agency notes the following:

- Views to the north west comprise Harbour Street and the Darling Quarter development in the foreground and mid-distance, the Western Distributor/IMAX beyond this and Darling Harbour water and foreshore land interface views in the distance (including Pyrmont Bridge). This view will be moderately reduced by the proposed development and the agency notes that approximately a third of the water view and half the view of Pyrmont Bridge would be obscured.
- Views to the west and south west are possible over the roofs of Darling Quarter development and include the tops of the exhibition and convention centre facilities, ANZAC Bridge, Pyrmont and Haymarket district views. The proposal would have no impact on these views.



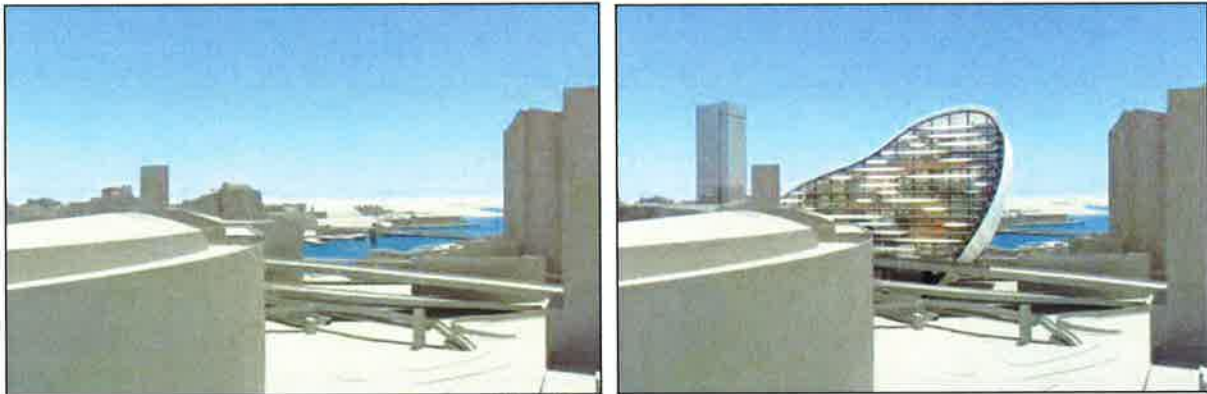


Figure 30: Existing (left) and proposed (right) north west view from the corner apartment at level 12 of the Emporio Apartments building (view V2) (source: applicant's RtS)

Summary

The agency notes, with respect of the impact on the Emporio Apartments building that view losses would be moderate to significant. The agency also notes that alternative views to the west and south-west are enjoyed from apartments in the building and that the proposed development would not have an impact on these views.

Alternative approaches to building form

The applicant provided a discussion on alternative approaches to the building form which were considered in the RtS. These alternatives include:

- relocating the building further westward; and
- increasing the taper of the lower levels of the eastern overhang.

The agency requested that the applicant further explore these options, particularly in the interest of determining whether improvements could be made to view impacts. The applicant has provided additional information, which examines the impact of the above changes against the two most affected apartments (209 and 329) within the Millennium Towers building.

Relocating the building further westward

The applicant has confirmed that if the building was moved 5 metres to the west there would be a corresponding 5 metre increase in water views for the Millennium Towers apartments (approximately 10% increase). However, the applicant notes the following negative impacts:

- the current proposal does not result in any overshadowing of the Darling Quarter children's playground at 1pm. Moving the building would result in overshadowing of 350m² of the playground;
- an overall 9% reduction (approximately 200m²) of public domain to the west of the site and reduction of the pedestrian linkage between Darling Harbour and SICEEP and Darling Quarter to the south (approximately 16% width reduction);
- subsurface constraints (Harbour sea wall, existing promenade structure and piles, large storm water culverts and roadway piers and structures) severely limit the building location, structural frame and cores; and
- reduction in the net lettable area of the building, reduction in the number of IMAX cinema seats, escalation of construction costs due to structural implications and design requirements.

Increasing the taper of the lower levels of the eastern overhang

The applicant has confirmed that if sharper tapering of the lower levels of the building were undertaken there would be an increase in water views for the Millennium Towers apartments of approximately 25%. However, the applicant notes the following negative impacts:

- this alteration results in a significant compromise in the aesthetic of the building;
- the alteration is not structurally viable and would also result in a significant loss of floor space;

- due to structural constraints of the building (see above) the eastern lift core is located at the springing point of the eastern cantilever. Providing a sharper taper would require the deletion of the eastern lift core, which would result in some floors not being served by a lift;
- the reduction in net lettable floor area, increased construction costs and structural complexities and design requirements would render the project commercially unviable; and
- the site constraints imposed by the adjoining roadways are absolute and the only means to regain the required floor area would be to increase the height of the building or change the shape adding area to the western end of the floorplates. These changes would further impact on Darling Harbour in terms of overshadowing and loss of public domain.

Reasonableness of proposal (Tenacity step 4)

The fourth step of the Tenacity planning principles is to assess the reasonableness of the proposal that is causing the impact. The agency notes that there are no planning controls that regulate built form including massing and height which apply to the site under the Darling Harbour Development Plan No.1. In the absence of planning controls the Department has taken into account the height of buildings in the surrounding area as a guide to the suitability of building height.

Whilst the Sydney DCP 2012 does not apply to the site, the controls provide a reference with respect to the consideration of view impact in and near the CBD. The planning controls for development in the Sydney CBD recognise that outlook as opposed to views is the appropriate measure of residential amenity in the CBD context. This is reflected in Council DCP 2012, which states that there is no guarantee that views or outlook from existing development will be maintained. The agency also notes that the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 acknowledges that public good has precedence over the private good when changes are proposed to Sydney Harbour or its foreshores.

Even when a proposal complies with all relevant planning controls, the Tenacity planning principles require that the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views from neighbours. The applicant argues that the development's proposed building form has sought to respond to view sharing principles within a highly urbanised city environment. Furthermore, the applicant asserts that:

- there is a lower expectation of view retention for development located a distance away from the water's edge;
- the proposal has been required to mitigate overshadowing to Tumbalong Park, pushing development potential to the east. The view impacts on a limited number of units has to be weighed against the public benefit to a highly used public green space;
- the proposal cannot significantly reduce or mitigate its view impacts without severely compromising its development potential due to site constraints and structural complexity; and
- the most affected properties retain partial views including water views and/or other landmarks.

With regard to outlook, as opposed to views, the agency considers that the significant distance between existing hotel and residential buildings and the proposed development will ensure that a suitable level of outlook is maintained to all existing rooms and apartments.

The agency acknowledges that view losses as a result of the development would range from moderate to significant. However, the agency notes that the views currently enjoyed by PARKROYAL hotel, Millennium Towers and Emporio Apartments are a result of the uncharacteristic CBD low rise nature of the existing IMAX site. It also notes that there would be no devastating view impacts despite the scale of the building compared to the existing development. Further, the key aspects of the view, such as Darling Harbour water views are a considerable distance away from affected properties. The agency considers that given the site's CBD fringe location, the interruption of existing views that are currently unimpeded by any development is inevitable and reasonable in this context.

The agency has considered each of the alternative design approaches identified by the applicant and agrees with the applicant that although the approaches would result in some improvement to view loss impacts, there would also be significant and negative impacts on the building design quality and aesthetic and its impact on neighbouring spaces. The agency also considers that the building, if so compromised, would fail to appropriately integrate into the Darling Harbour precinct and because of this would undermine the appropriate urban rejuvenation of this important precinct. Such an outcome is considered unsustainable and inequitable in terms of the State significance and strategic importance of this land and its ability to contribute significantly to economic growth, job creation and support the creation and delivery of the wider Darling Harbour renewal. On the basis of this assessment, and in light of the provision of an acceptable scheme, the agency considers that the proposals impacts on view loss to be reasonable and acceptable.

5.3.2 Overshadowing/Loss of daylight

The site is located to the north of several areas of public domain, including Tumbalong Park, the Darling Quarter playground, the Exhibition Green and the Village Green. The retention of solar access to these areas has been a key aspect of the design of the building, as outlined in **Section 5.2**.

The nearest residential properties are situated approximately 160 metres to the east of the site, and given the separation between the sites will not be affected by the shadow cast by the proposed building. A high proportion of submissions, however, raised concerns about the loss of daylight caused by the proposal.

The agency has considered the impacts on both the public domain and to private properties.

Public domain

The applicant has provided a Solar Access Report which demonstrates that the proposed building does not cause any overshadowing of Tumbalong Park, Exhibition Green or the Village Green at any time of year. However, it will cause shadowing of the Darling Quarter playground on June 21.

The Solar Access report indicates that approximately 38% to 53% of the playground is overshadowed by existing buildings and structures between 11am and 2pm on June 21 as shown in **Figure 31**.

The proposal will cause minor additional overshadowing of the playground, with the greatest impact of 11% additional shadowing at 11am. This is reflected in aqua blue shading within **Figure 31**. The overshadowing between 12 and 2pm ranges from approximately 5% to 0% of the playground area.

The agency considers that the overshadowing impact is acceptable, noting that:

- the greatest impact is at 11am in midwinter, which is outside of the core lunch period of 12pm to 2pm;
- the impact during the core lunch period is between 5% and 0% of the playground area;
- the additional impact is minor in comparison to the existing shadow cast by the Darling Quarter buildings and Western Distributor overpasses; and
- the proposal does not have any shadow impact at other times of the year.

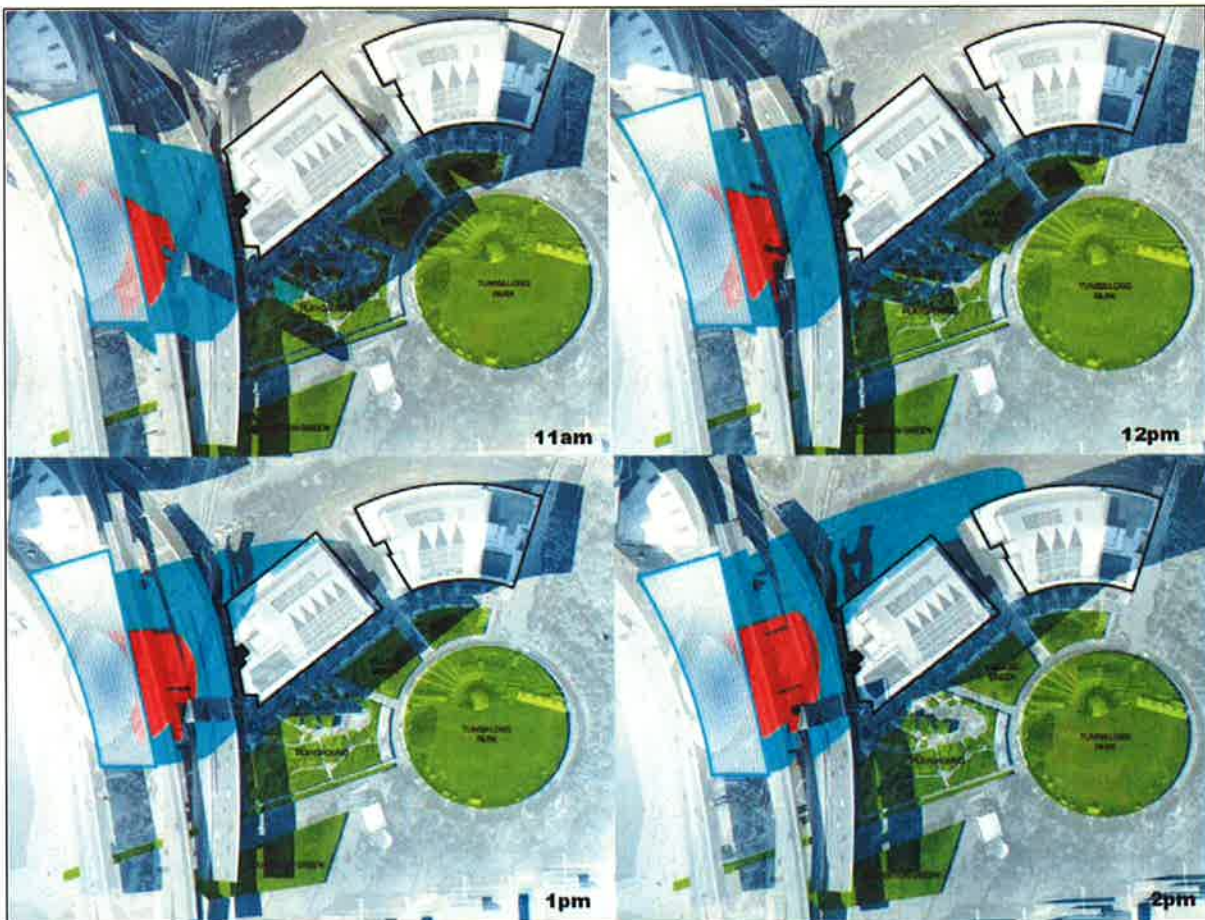


Figure 31: Existing and additional overshadowing on the Darling Quarter Playground (Source: Applicant's EIS)

The main area of public domain within the site is largely shadowed by the Western Distributor overpasses and the proposed building does not have any tangible impact on solar access to these areas.

Overall, the agency considers that the solar access to the public domain within the site and to the south has been maximised through careful building design which has deliberately shifted the building mass and height to the eastern portion of the site. On this basis, the agency considers that the minor increase in shadowing to the Darling Quarter playground in mid winter is acceptable.

Private properties

The proposal will cause shadowing of the northern façade of the northern-most Darling Quarter building, which includes offices occupied by the Commonwealth Bank of Australia (CBA). CBA has raised concern that the proposal will impact daylight levels into the building and has requested that a daylight assessment be undertaken.

The agency notes that the proposal will cause shadowing to this commercial building during mid winter, and although it will not cause overshadowing at other times of the year, it will cause a reduction of views to the sky and day light to the northern elevation.

The main orientation of the Darling Quarter building is to the west overlooking Tumbalong Park and to the east overlooking Harbour Street. The north and south elevations provide an outlook to Darling Harbour and Haymarket, however these are not considered to be the primary outlook and source of daylight.

While the proposed form has been designed with the bulk to the east, it will cause a loss of solar access and daylight to the northern façade.

Notwithstanding the agency considers that the amenity to the northern most Darling Quarter building will be maintained to an acceptable level, noting:

- it's location within a CBD environment where outlook and solar access to the public domain is of higher importance than to private properties;
- the retention of its primary outlook over Tumbalong Park provides a high level of amenity; and
- the building will maintain a good level of daylight access from the primary east and west elevations.

The agency notes that it is unreasonable to expect high levels of solar access to commercial buildings within a CBD environment. On this basis, it considers that the impacts of the proposal on the outlook and daylight access to the northern most Darling Quarter building are acceptable.

5.4. Public domain

The proposal involves a zone of influence of 11,200m² surrounding the proposed building, within which it is proposed to upgrade and revitalise the public domain including:

- new paving and landscaping;
- new entry and street address for the commercial and function lobbies from Wheat Road;
- expansion of the Darling Quarter playground;
- relocation and upgrade to Palm Grove;
- creation of a new outdoor event space under the proposed "City Screen"; and
- through site connections to "The Boulevard" within SICEEP.

The proposed building footprint is substantially larger than the existing IMAX building at the ground level, as shown in the comparison plan provided at **Figure 32**.

The agency has considered the key impacts of the proposal on the public domain in the following locations:

- Northern public domain;
- Western public domain; and
- Eastern public domain.

5.4.1 Northern public domain

The northern public domain provides the interface between the building and Cockle Bay. This area is primarily a circulation space between the eastern and western sides of Cockle Bay and further south to Darling Harbour.

Proposed upgrades to the northern public domain are limited to new paving.

The agency considers that the key assessment issues for the northern public domain are:

- pedestrian circulation;
- visual permeability and way finding;
- Western Distributor overpass; and
- public domain works.

Pedestrian circulation

The north-east and north-west corners of the proposed building protrude beyond the existing footprint into the northern public domain (**Figure 32**). Council has raised concern in relation to the impacts on pedestrian circulation space in the north-east corner of the site which creates a pinch point for pedestrians walking along Cockle Bay. The agency also noted these concerns and raised the issue with the applicant.

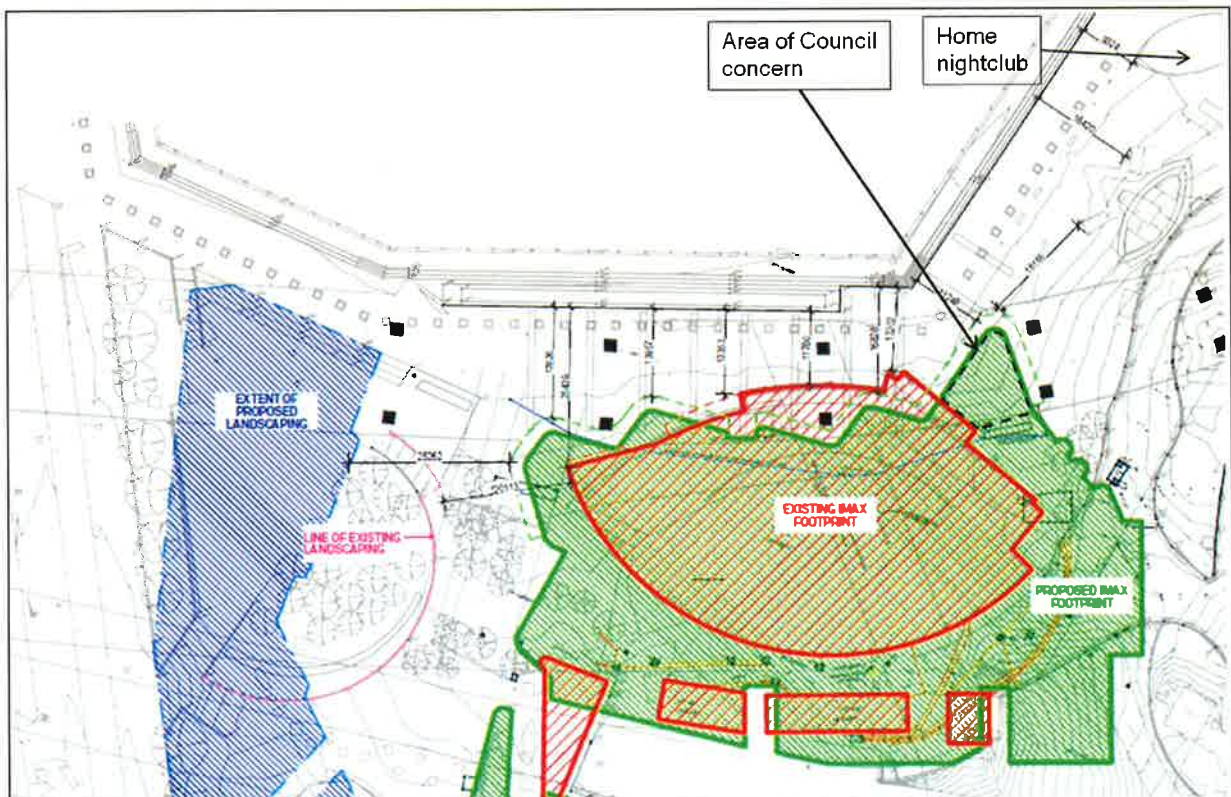


Figure 32: Comparison of the existing and proposed building footprint and public domain/circulation around the building (Base Image Source: Applicant's Rts)

In response the applicant provided the following additional justification for protrusion in the north-east corner of the site:

- the proposed minimum circulation path between the building edge and the top of the wooden steps to the waterfront is 11.2 metre wide;
- this exceeds the existing circulation width outside the nearby 'Home nightclub' along Cockle Bay Wharf (approx 9.3 metres);
- the proposal has been designed to align with the predominant building line along Cockle Bay Wharf to reinforce the main pedestrian desire lines around the building; and
- the entries to the building are located to the east and west which encourages gathering in these locations while freeing up the space to the north of the building purely for circulation.

Upon review of the additional information provided by the applicant, the agency is satisfied that the pedestrian circulation space in the north-east corner is acceptable. In particular, it is noted that the minimum circulation provided to the north of the building of 11.2 metres is generally consistent with the widths along Cockle Bay Wharf (approx 12 metres).

Further, it is noted that the existing IMAX building entry is on the north elevation, and removing this entry will reduce the extent of people gathering and allow this area to be used primarily as circulation space.

On this basis, the agency considers that the applicant has satisfactorily addressed issues regarding circulation space in the north-east corner of the building.

Visual permeability and way finding

Council also raised concerns that the proposed protrusion in the north-west corner would affect connectivity and sight lines to and from Cockle Bay Wharf and the future International Exhibition Centre and "The Boulevard" within the SICEEP approval.

In particular, Council considers that the proposal will impact the sight lines for pedestrians walking closer to the Cockle Bay edge heading south along Cockle Bay Wharf (shown in blue dashed arrow in **Figure 33**).

Council provided the agency with a photomontage showing the existing IMAX building and estimated extent of new building as viewed from the main pedestrian walkway along Cockle Bay (Figure 34). Council considers that the proposal will have a significant effect on views through the site to the SICEEP development and public domain. Further, the visual interruption will reduce the ease of way-finding through the precinct.

Council has requested that the proposal be amended to remove the additional floor space outside of the existing building footprint in the north-west corner (Tenancy 6) in order to maintain the existing level of visual connectivity.

In response, the applicant argues that the proposed buildings will not adversely affect sight lines from the base of the "Spanish Steps" from Druiitt Street through to the approved exhibition centre main entry doors (shown in red dashed arrow in **Figure 33**). The applicant has submitted a photomontage which demonstrates the extent of impact on visibility through the public domain from the base of the steps (**Figure 34**).

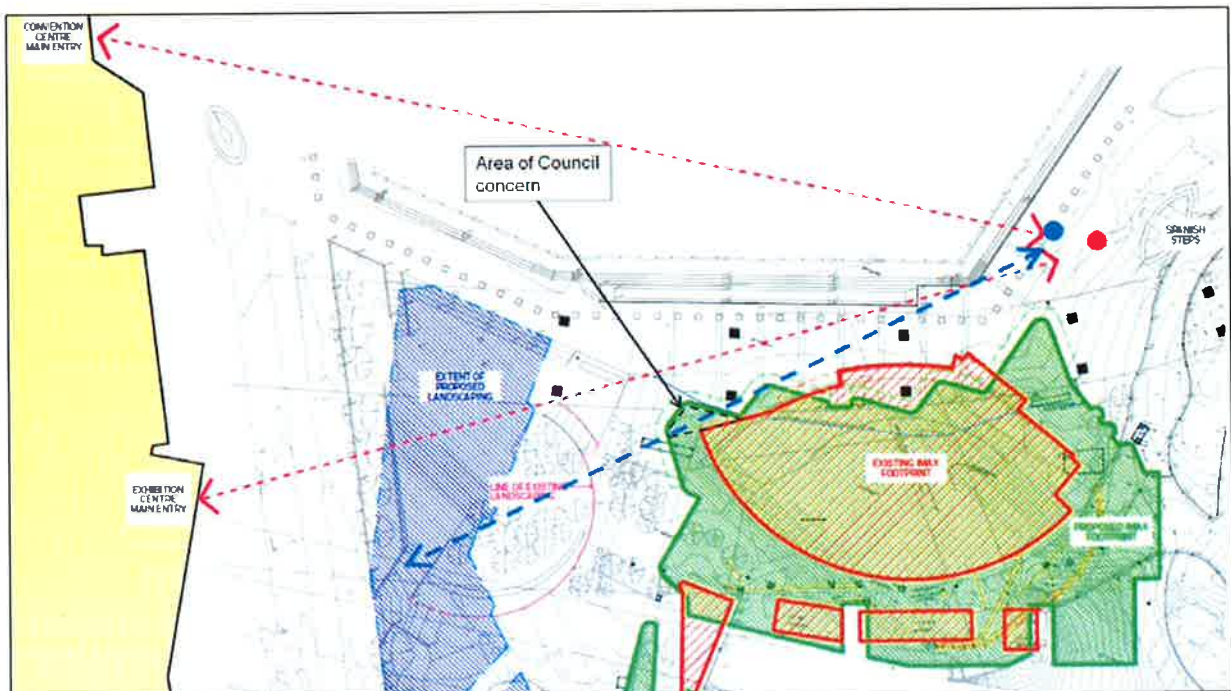


Figure 33: Sight lines from the base of the "Spanish Steps" (red dotted line) and Cockle Bay wharf (black dotted line) (Base Image Source: Applicant's RtS)



Figure 34: Photomontages provided by the applicant (above) and Council (below) indicating the extent of views through the site affected by the proposal. Extent of new building shown in blue shading (Source: Applicant's RfS and City of Sydney Council)

The agency has considered the justification provided by the applicant and the concerns raised by Council. It is noted that the photographs provided by the applicant and Council are from different viewing angles, and that the level of impact of the proposal will vary depending on standing positions between the steps and the Harbour edge. The 16 metre wide public domain space in this location provides many different viewing aspects depending on the precise standing location.

Notwithstanding different viewing locations, the Western Distributor overpasses and associated supporting columns are a dominant element in the public domain and create a visual barrier to all sight lines from Cockle Bay through to Darling Harbour.

Noting this, the agency considers that the proposal should make a positive contribution to the public domain through improvements to visual permeability and has discussed the potential for amendments to the building design in the north-west corner to retain views through the site with the applicant.

The applicant advised that a reduction of the building footprint in the north-west corner would have minimal impacts on sight lines in this location. Further, any reduction would result in the creation of unworkable retail floor space, potentially leaving the north-west corner inactivated, which is an undesirable outcome for the public domain in this location.

The agency considers that the north-west corner should be as open as possible to assist in way-finding and guide pedestrians through the precinct. However, this needs to be balanced against the benefits of providing a consistent active edge at the ground floor. Overall, it is considered that the proposal will have a minor impact on visual permeability, which is considered acceptable given that:

- the level of impact varies depending on the standing location within the pedestrian circulation along Cockle Bay Wharf (between the steps and the Harbour edge);
- the overpasses and supporting columns provide significant visual barriers in this location; and
- the benefit of any reduced building footprint in this location, may be negated by the views blocked by the existing supporting columns (depending on viewing position).

On this basis, the agency considers that the applicant has satisfactorily addressed issues regarding visual permeability and way finding in the north-west corner of the building. The agency considers that the views through the public domain and way-finding between Cockle Bay and the Darling Harbour precinct will be maintained at an acceptable level.

Western Distributor overpass

The existing IMAX building has a dark and heavy façade which is accentuated by the shadowing of the Western Distributor overpass. The overpass provides a significant constraint to providing an attractive public domain space, however the use of light materials and illumination in the proposed building assists to brighten this space and minimise the overbearing feeling of the overpass. The undulating façade also provides visual interest in the public domain and draws the eye away from the dominant overpass.

While the recommended conditions, as outlined above, will result in changes to the shape and dimensions of the ground and first level floor space in the north-west corner of the building, the agency has recommended that flexibility be provided for the first floor to protrude beyond the existing building footprint to enable the undulating facade to be retained in this location.

Public domain works

The proposed public domain works in this area are limited to new paving within the zone of influence. The need to maximise circulation space limits the options for major public domain treatments such, including as landscaping or facilities. It is therefore considered appropriate that the paving be upgraded.

It is also noted that the existing timber seating surrounding Cockle Bay, which is immediately outside of the public domain works area, is currently being upgraded as part of Sydney Harbour Foreshore Authority's capital works program.

The agency considers that new paving will enhance the interface between the building and the water front. Conditions of consent have been recommended to ensure that the new paving will provide a seamless transition to the existing Cockle Bay Wharf and the SICEEP development and be consistent with SHFA's materials and finishes palette for Darling Harbour.

5.4.2 Western public domain

The western public domain is currently characterised by a mix of paved circulation area, a carousel, palm trees, low concrete walls, seating areas, and event space. It is proposed to rationalise these elements, and create defined spaces for:

- relocation of the carousel and a new playground in the south-west corner of the site, complementing the existing playground in the Darling Quarter precinct to the south;
- relocation and consolidation of existing palms into an elevated landscaped area (Palm Grove) for passive recreation;
- provision of a raised deck for small event space and informal seating; and
- provision of a City Screen on the western elevation of the building and large event space within the circulation area.

The existing and proposed plans for the western public domain are shown in **Figure 35**.

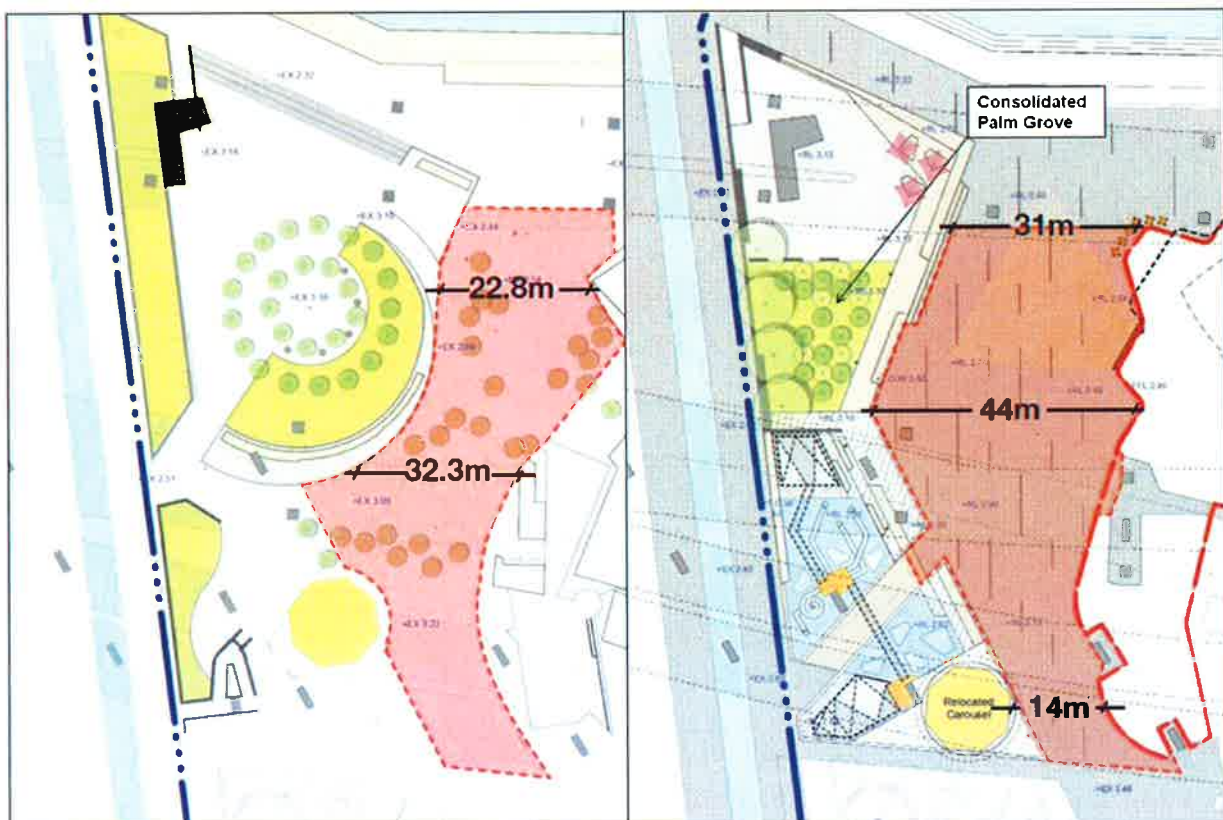


Figure 35 The existing (left) and proposed (right) western public domain layout (Source: Applicant's EIS)

The agency considers that the key assessment issues in relation to the western public domain are:

- pedestrian circulation and visual permeability;
- interface with the future SICEEP public domain to the west;
- interface with the existing Darling Quarter public domain;
- the proposed City Screen and large event space; and

- relocation of existing palms.

Pedestrian circulation and visual permeability:

Although the proposed building footprint extends further west than the existing IMAX building, the proposal creates a wider circulation space than currently provided in the western public domain (**Figure 35**). This is achieved through the rationalisation of existing landscaping, seating areas and retaining walls in the west of the site.

The applicant notes that the existing public domain is a confused space. The centrally positioned carousel, raised areas and event space do not optimise the space. The proposal seeks to create a series of defined spaces with clear functions and boundaries.

The western edge of the circulation space aligns with the open space design of the Darling Quarter precinct to the site which reinforces the primary north south pedestrian route and enhances visual permeability and way finding through the site.

SICEEP interface

The site adjoins "The Boulevard" immediately to the west, which is the main north-south pedestrian corridor linking the SICEEP facilities, the Haymarket precinct to the south and Cockle Bay. The Boulevard has a width of 20 metres and accommodates street furniture, public art, landscaping and interactive way-finding kiosks.

The applicant has provided concept landscape plans which indicate the proposed pedestrian circulation area to the west of the building as the main alternate north-south pedestrian connection through to Darling Quarter. Four secondary cross-site connections are also proposed which link directly to The Boulevard, as shown in **Figure 36**.

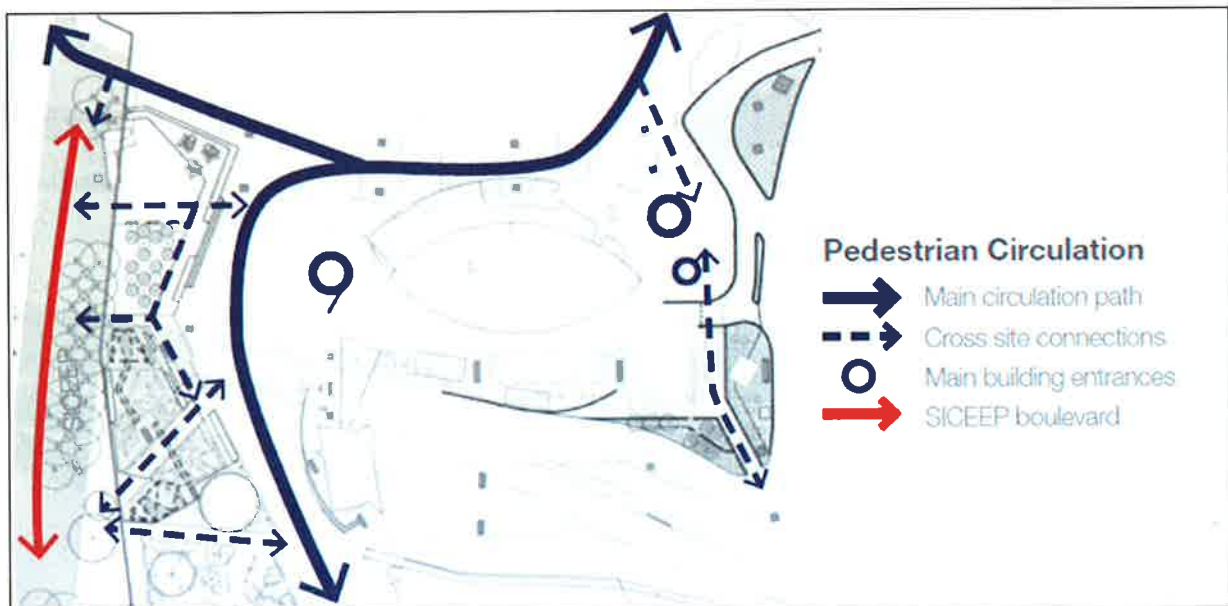


Figure 36: Primary and secondary pedestrian connections and links to The Boulevard (Source: Applicant's RtS)

The proposed playground facilities, Palm Grove and raised seating areas will form a defined eastern boundary to The Boulevard and will assist in activating the main north-south circulation path through the precinct.

The agency recommends that detailed public domain and landscape plans be prepared to ensure that the interface between the site and SICEEP will be coherent and seamless. In particular, the materials and finishes should integrate with the SICEEP development, the palette of materials and

finishes for Darling Harbour and the finished ground levels of the pedestrian connections must align with The Boulevard. Appropriate conditions of consent have been recommended.

Darling Quarter interface

The proposal involves the relocation of the existing carousel and a new playground in the south-west corner of the site, which seeks to extend and complement the existing children's playground in the Darling Quarter precinct. The eastern boundary of the playground aligns with the eastern boundary of the Darling Quarter playground which creates a uniform definition of spaces and will assist in the public domain being read as one continuous space.

The playground is proposed to provide a range of recreational elements including giant, multi layered climbing nets, look outs, climbing walls, slides, in ground trampolines and sculpted landform for skating/scooter riding (**Figure 37**). This complements the playground in the Darling Quarter which contains more traditional playground elements for younger children.

The agency is satisfied that the southern end of the western public domain has been designed to function as an extension to the existing public domain in the Darling Quarter. Recommended conditions have been provided to require that the detailed design plans ensure that the paving and finished ground levels are consistent with or complement the Darling Quarter public domain.



Figure 37: Proposed playground layout (Source: Applicant's EIS)

City Screen and large event space

The proposal includes a City Screen on the western elevation of the building (**Figures 38 and 39**). The screen is situated on the first level, elevated above ground level and is intended to be used for:

- promotions and advertisements (for occupants of the building only);
- security announcements and information;
- precinct information and promotions overseen by SHFA;
- IMAX movie trailers and "what's on" information; and
- special events (sporting events, New Years Eve etc).

The applicant has advised that the City Screen will not be used for any third party advertising.

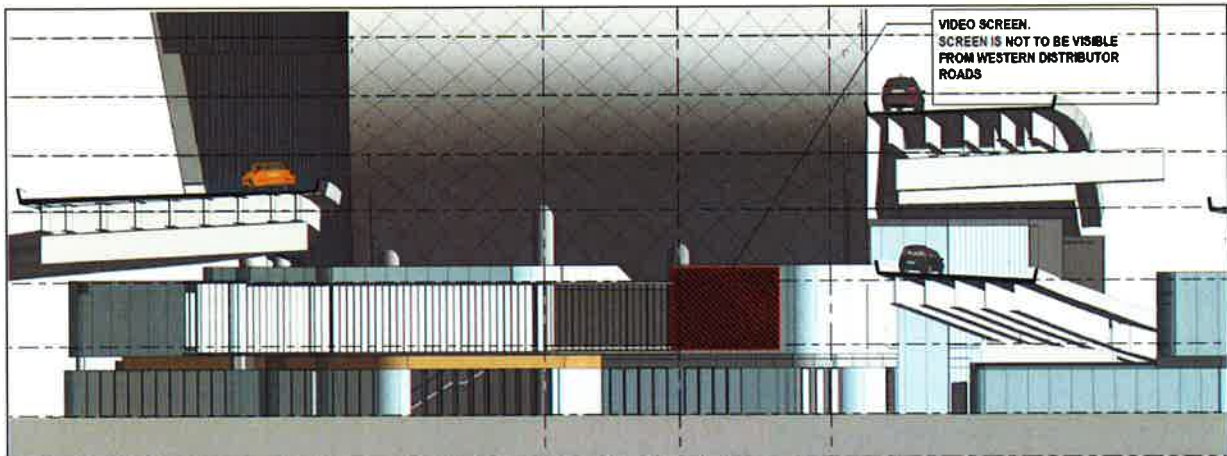


Figure 38: Location of proposed City Screen in relation to Western Distributor overpasses (Source: Applicant's RtS)



Figure 39: Visual perspective of the City Screen on the western elevation of the building (Source: Applicant's RtS)

Council raised concern that the City Screen may affect the safety of traffic on the Western Distributor overpass. The applicant has confirmed that the City Screen is oriented toward the north-west and therefore would not be visible to traffic on the Western Distributor.

Council also raised concern about the large event space within the pedestrian circulation area under the City Screen. The need for event space was questioned given that there are many other large event spaces in the immediate locality. The primary concern was in relation to impacts on pedestrian circulation, and Council has recommended that a Pedestrian Management Plan be prepared prior to any special events.

The agency considers that the City Screen will generally have minimal impact on circulation around the building. Viewing of the City Screen is expected to be from the proposed elevated seating areas in the north-western portion of the site or from passers by. During special events, however, the screen may attract large crowds which may restrict pedestrian circulation.

The agency therefore recommends, prior to the issue of an occupation certificate that a pedestrian management plan be prepared in consultation with SHFA.

Relocation of existing palms

There are over 60 palm trees within the Western public domain (known as Palm Grove), located within both landscaped areas and scattered throughout the public domain within paved areas.

The existing palm trees are proposed to be removed and transplanted to a consolidated elevated landscaped area in the west of the site (**Figure 35**). Council notes that the existing palm trees are an important part of the public domain and provide canopy cover across the site. Council has recommended that the canopy cover across the site should be maintained and enhanced. It has requested that an Arborist Report be prepared to enable an assessment of the removal and transplant of existing palm trees.

The agency notes that the existing palm trees are an important component of the existing public domain as they provide a vertical element which assists to reduce the dominance of the Western Distributor overpasses. They also provide a degree of shade and provide visual interest within the public domain as demonstrated in **Figure 40**.



Figure 40: Existing palm trees within the western public domain

The submitted public domain plan indicates that approximately 20 (or a third) of the existing palms will be relocated to the Palm Grove. It is noted proposed to relocate any of the remaining palms within the site.

The agency agrees with Council that an Arborist report should be prepared to determine the condition of all trees and their viability for relocation. Options should also be explored for possible relocation of palms within the eastern public domain, which is discussed in **Section 5.4.3** of this report.

The agency supports in principle the proposed relocation and consolidation of the existing palms as it will provide enhanced pedestrian circulation and clearer definition of spaces and uses within the public domain. The current scattering of palms within paved areas is incoherent and presents an obstacle to orientation and way finding through the precinct.

Notwithstanding, the agency considers that the canopy cover could be enhanced. While there are limited opportunities for additional retention outside of the consolidated Palm Grove within the Western Public domain, it is considered appropriate that additional palms be provided in the eastern public domain. Appropriate conditions of consent have been recommended to ensure that tree retention is maximised through the relocation of palm trees in both the western and eastern public domain.

5.4.3 Eastern public domain

The public domain to the east of the existing IMAX building is shown in **Figure 41** and currently comprises:

- a secondary public entry to the IMAX building;
- Wheat Road, which provides access to the existing building and bus and taxi drop-off/pick up;
- the Jay Flowers sculpture within a landscaped traffic island;
- palm trees within existing paving; and
- the Sewerage Pumping Station No. 12.

The existing public domain is used as a pedestrian and vehicular thoroughfare. The space functions as a service environment and does not have any particular recreation or public amenity purpose. The Western Distributor overpasses are a dominant visual feature in this space.



Figure 41: Current features within the eastern public domain

The proposed building footprint is significantly larger than the existing IMAX building and extends further east into this area (**Figure 32**).

The key issues in the agency's consideration of the eastern public domain are:

- reduction in public domain;
- landscaping; and
- relocation of Jay Flowers.

Reduction in public domain

As mentioned above, the building footprint extends further east than the existing IMAX building, and the applicant seeks to rationalise the space within the eastern public domain, to accommodate vehicular access, foot paths and landscaping within a smaller space.

Wheat Road is proposed to be realigned to provide separate entries to the proposed carpark/loading and the public drop off/pick up area. The proposal maintains approximately the same amount of soft landscaping in a revised layout to achieve the Wheat Road realignment.

The proposed footpaths are a minimum of 4.5 metres in width. It is noted that this area serves primarily as a service area and will not provide the same level of amenity and connectivity as the primary connections through Darling Harbour located to the west of the building. On this basis, the footpath widths are considered acceptable for the expected volume of pedestrian traffic using this path.

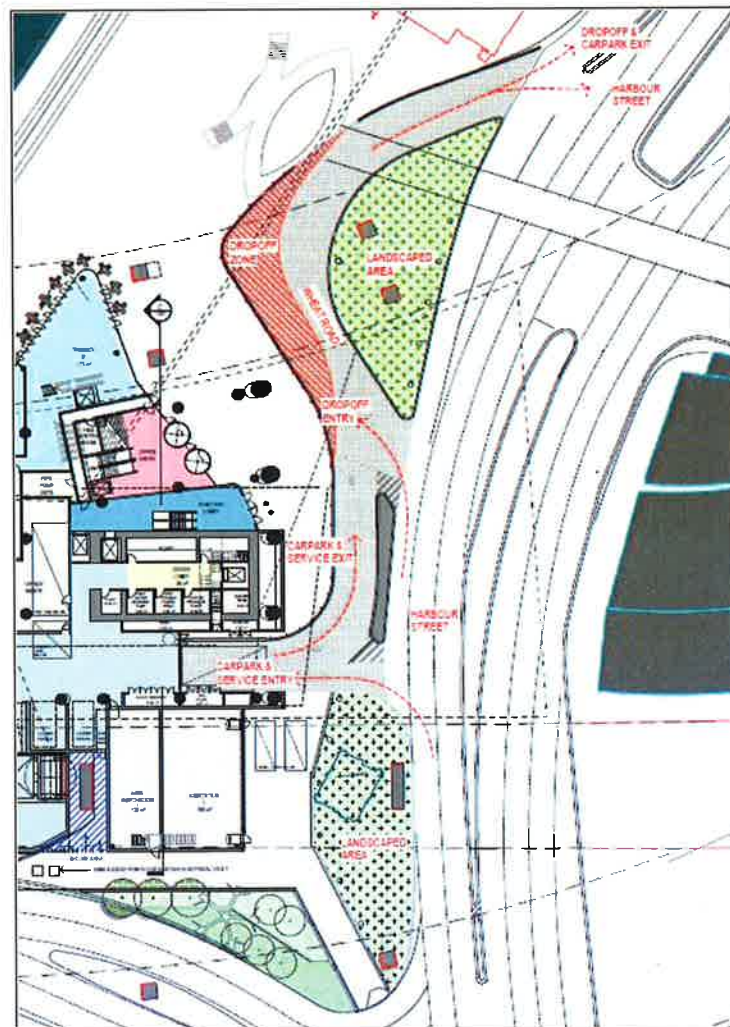


Figure 42: The proposed upgrades to the eastern public domain (Base Image Source: Applicant's RtS)

The agency considers that the proposed new landscaping and paving along with the building will add visual interest to this area reducing the dominance of the Western Distributor overpasses. In addition the building entries for the office and function uses will activate this space and provide a street address to Harbour Street (**Figure 42**).

On this basis, the agency does not raise concerns with the reduced public domain in this area, noting that the existing public domain is currently not well utilised and poorly activated. The proposed public domain upgrade will enhance this area particularly through new landscaping, paving and the office/function building entries which will activate this space and provide a sense of place and street address.



Figure 43: Perspectives of the eastern public domain upgrades (Source: Applicant's RtS)

Landscaping

Council has requested that additional soft landscaping, including canopy cover, be provided in the eastern public domain.

As previously discussed, the proposal involves the relocation of approximately a third of the existing palm trees into a single raised landscaped area in the western public domain. There are, however, no plans to retain any palm trees within the eastern public domain. As demonstrated in **Figure 43**, the existing palms enhance the existing public domain in this location, and could potentially be reused within proposed landscaped areas.

It is recommended that these trees be included in the overall Arborist Report for the site, and that revised landscape/public domain plans be prepared which provide a greater degree of soft landscaping, including canopy cover, in the eastern public domain. This should include relocation of existing palm trees which will not be incorporated into Palm Grove.

The agency generally supports the rationalisation and consolidation of landscaped areas, and considers that the proposed landscaping will enhance the eastern public domain, subject to conditions to incorporate existing palm trees.

Jay Flowers

The Jay Flowers is a piece of public art which was commissioned by the Darling Harbour Authority in 1988 (**Figure 41**). It was intended to create a meeting place, and stands at one of the pedestrian gateways to Darling Harbour. The sculpture is not a heritage item.

Council raised concern over the proposed relocation of the Jay Flowers sculpture to the south of the SPS. Council considers that the sculpture was intended to be a prominent feature in Darling Harbour and should be better utilised within the public domain. Presently the Jay Flowers is located in a traffic island in a visually obscured location which diminishes its function.

The applicant notes that the relocation to the southern side of the Sewerage Pumping Station will not affect the heritage significance of the item, and considers that the location is acceptable.

The agency agrees that, while the sculpture is not a heritage item, it is a piece of public art worthy of retention on the site. Given its intended use as a prominent feature and meeting place it is considered appropriate to require the applicant to explore more appropriate locations for the sculpture within the eastern public domain. It is therefore recommended that the revised public domain/landscape plans provide for the relocation of the Jay Flowers sculpture to a more prominent position on the site, to retain its intended purpose as a meeting place in Darling Harbour.

5.5. Transport, traffic, parking and servicing

The proposal involves 86 car parking spaces within a car stacker facility.

The traffic generated by the development (approximately 170-180 am and pm peak period trips) is not expected to have a significant impact on the local road network, given the existing traffic volumes on Harbour Street (19,000 vehicles per day).

Council previously raised concerns about the impact of the proposal on the intersection of Erskine Street with Shelley Street and Sussex Street, however has noted that the low traffic generation expected from 86 spaces is likely to have acceptable impacts on the local road network.

RMS and TfNSW did not raise any concerns in relation to the traffic impact on the local road network, however raised some issues in relation to the operation of the development. The key issues in relation to transport, traffic, car parking and servicing are:

- queuing on Harbour Street;
- loading arrangements;
- parking provision and allocation;
- bicycle parking;
- pedestrian capacity on existing footpaths;
- Wheat Road servicing;
- construction traffic; and
- traffic noise and pollution.

Queuing on Harbour Street

TfNSW raised concerns in relation to the potential queuing of vehicles waiting to be serviced at the proposed car stacker onto Harbour Street.

The proposed car stacker would be operated by valet, and involves 3 transfer cabins to reduce the incidence of queuing at the entry to the site. Queuing capacity is provided for 3 vehicles within the property boundary and an additional 4 vehicles between the property boundary and Harbour Street. The applicant's traffic consultant has advised that its analysis has shown that there would be only an 8% chance of a queue extending 7 vehicles in the am peak (assuming a worst case/conservative scenario where 80% of vehicles arrive during peak hour).

Notwithstanding this, TfNSW has concerns that vehicles may, at times, queue onto Harbour Street due to delays in entering the site. The primary concern is in relation to traffic safety at the Harbour Street and Wheat Road intersection caused by obscured site lines, therefore increasing the risk of rear end type crashes caused by queued vehicles. TfNSW has recommended that a condition be imposed on any consent for a Road Safety Audit to be undertaken at this intersection.

The agency notes the following additional measures have been proposed by the applicant's traffic consultant to further reduce the risk of queuing extending to Harbour Street:

- control of the car stacker facility by valet;
- limiting loading activity during the weekday am peak period to enable more effective use of the car stacker facility;
- temporarily using the adjacent courier bays and loading bays in the event of inefficiency, breakdown or other incident; and

- redirecting or diverting vehicles to use alternate parking if an emergency situation.

The agency also notes that a Loading Bay Management Plan and Car Stacker Management Plan will be prepared (as discussed in more detail in the next section) which will include measures to minimise conflicts between cars and heavy vehicles, maximise efficiency of the stacker and therefore minimise queuing impacts. On this basis, it is considered that these issues can be addressed as conditions of consent, including the need for a Road Safety Audit as recommended by TfNSW.

Loading arrangements

The proposal incorporates 3 loading bays at ground level which can accommodate medium rigid vehicles (up to 8.8m in length). An additional 3 courier spaces are proposed.

TfNSW initially considered that 3 loading bays may not be sufficient to service the entire building. However, in response the applicant has confirmed that the proposed building has been designed with the intention of being occupied by a single anchor tenant which will enable the effective management of loading bay operations within the 3 proposed bays. Following review of the applicant's response, TfNSW did not raise any further objections to the number of bays.

The applicant has also submitted plans which demonstrate the independent access to the loading bays is achievable, while vehicles queue to access the car stacker facility.

However, concerns were maintained by both TfNSW and Council in relation to potential conflicts between the loading bay and the car stacker facility. TfNSW has recommended that a Loading Bay Management Plan and Car Stacker Management Plan be prepared prior to issue of a Construction Certificate which would include measures to minimise conflicts between car and heavy vehicle access. The agency has recommended the requirement for these documents as conditions of consent.

On this basis, the agency is satisfied that the number of loading and courier delivery spaces is sufficient for the development and that any conflicts between the loading area and car stacker facility can be resolved through effective management by the future tenant/s through the Loading Bay Management Plan and Car Stacker Management Plan.

Parking provision and allocation

The City of Sydney LEP controls provide for a maximum of 90 car parking spaces for the proposed floor area, including 77 spaces for the office floor space and 13 spaces for other uses (retail, IMAX and function floor space).

The proposal seeks a total of 86 car parking spaces which are intended to be solely allocated to the office floor space. No parking is proposed for the retail, IMAX or function components of the development.

Council does not support the provision of greater than 77 car parking spaces to the office floor space, and has recommended that if 86 spaces are to be provided, the remaining 9 spaces should be allocated to other uses within the building (retail, IMAX or function space).

The agency does not raise any objection to the provision of 86 spaces as it is within the maximum rate provided by Council's LEP. Further, the agency considers that the allocation of the spaces can be resolved by the applicant when the final tenant/s of the building and their car parking needs are known.

Council also requested that the number of motorcycle spaces be increased from 5 spaces to 8. The applicant considers that 5 spaces are sufficient for the proposal, and notes that the basement could not accommodate the additional 3 spaces. It is also noted that the additional 3 spaces is not material to the overall targets of the proposal to encourage sustainable travel choices.

The agency considers that the 5 motorcycle spaces are acceptable given that there is public motorcycle parking available approximately 100 metres to the east of the site near Sussex Street and Druitt Street. Further, the primary mode of transport to and from work is expected to be via public transport and adequate employee bicycle spaces will be provided as an alternate active transport option.

One accessible parking space is provided at the ground level, separate from the car stacker facility, which is considered to be acceptable.

Bicycle parking

The proposal provides 276 employee bicycle parking spaces and 56 visitor spaces within the ground level of the proposed building. End of trip facilities including showers and lockers are provided on the first level of the building.

The two bicycle parking areas are accessed by the driveway to the loading bay and car stacker facility. However, there is an option to provide access from the northern public domain between Tenancy 3 and 4. The agency considers that the alternate access is safer as it removes any conflicts between bicycles, heavy vehicles and cars and therefore recommends that this be provided as the main bicycle entrance. An appropriate condition has been recommended.

The agency has considered the bicycle parking provision in the context of the NSW Planning Guidelines for Walking and Cycling and the Sydney DCP 2012.

The NSW Planning Guidelines for Walking and Cycling suggest that employee bicycle parking should be provided at a rate of 3-5% of journey to work trips and visitor parking at a rate of 5-10% of trips. Application of these rates generates the need for a 120-200 employee spaces and 200-400 visitor spaces (based on up to 4,000 employees within the building). The provision of 276 employee spaces exceeds this recommendation, however an additional 44-144 visitor spaces would be required to be consistent with the guidelines.

The Sydney DCP 2012 recommends that bicycle parking be provided at a rate of 1 employee space per 150m² of gross floor area (GFA), and 1 visitor space per 400m² GFA. Application of the DCP rates for the office floor space would generate the need for 431 employee spaces and 161 visitor spaces. Notwithstanding the DCP requirements, Council has recommended that the proposal provide 446 employee and 100 visitor bicycle parking spaces. This would require an additional 155 employee spaces and 44 visitor spaces.

The applicant has advised that the 332 spaces within the building (276 employee and 56 visitors) could be allocated solely to employees, and that visitor spaces be provided external to the building within the public domain.

Council and the agency support the increase in employee parking spaces and relocation of visitor spaces to the public domain. Although employee parking remains 114 spaces less than Council's recommendation of 446 spaces, the agency considers that the provision is acceptable noting that it will provide spaces for up to 8% of employees which exceeds the recommendations of the NSW Planning Guidelines for Walking and Cycling.

In addition to the 56 visitor spaces proposed by the applicant, the agency has recommended that the visitor bicycle parking area be capable of being expanded to 100 spaces. Council has accepted that 100 visitor spaces is acceptable and has not raised any objections to the imposition of a condition providing for the future expansion when demand warrants. The visitor parking provision of 56 spaces within the public domain, with the ability to expand to 100 spaces in the future, is considered acceptable, noting the predominant office use within the development and the availability of bicycle parking within the surrounding public domain.

An appropriate condition has been recommended to include the requirement for a Green Travel Plan to encourage active and sustainable travel choices, which would include bicycle use. In

addition, the agency has recommended that the Green Travel Plan include a monitoring requirement to enable the number of visitor bicycle spaces to be expanded in the future if the demand arises.

Pedestrian capacity

Council has raised concerns that the main pedestrian connections from Town Hall station to Darling Harbour, along Bathurst and Druitt Streets, may be congested during peak times. Council requested that the applicant undertake an assessment of the adequacy of existing footpaths and intersections to determine any required upgrades.

The applicant has advised that pedestrian movements to and from the site are expected to be distributed across the network, with limited impact on any one particular route. It is further identified that the footpaths immediately surrounding the site will be improved, however there is limited scope to improve pinch points away from the site. The applicant considers that the intersection queuing can be resolved through operational adjustments, including alterations to the phasing times of signalised pedestrian crossings.

The agency does not consider that any physical works to improve pedestrian capacity along Bathurst and Druitt Streets are necessary or possible, given that the existing footpaths are currently in good condition and cover the area from the kerb to the building line. There may, however, be scope to make minor adjustments to the phasing of traffic signals to allow additional time for pedestrians to cross to relieve some congestion in the peak periods.

The agency has therefore recommended that six months after occupation of the development, the applicant undertake an assessment of this issue and consult with RMS to determine if any operational adjustments to pedestrian crossings are necessary. It is considered appropriate that this assessment be undertaken post occupation to enable a true assessment of the distribution of pedestrian traffic and impact on capacity of existing footpaths.

Wheat Road servicing

Darling Park Management raised concern that the proposal will increase traffic in Wheat Road, which may affect the servicing and deliveries to Cockle Bay Wharf and Sydney Aquarium.

The proposal involves the realignment of Wheat Road (**Figure 39**) to provide separate entries to the car park/loading bays and the drop off/pick up zone. In addition, the realignment provides for direct access to Harbour Street, which is an improvement to current conditions which require vehicles to travel to the rear of Cockle Bay Wharf.

The revised Wheat Road layout also provided improvements to bus operations. The new arrangement allows for a 14.5 metre bus to set-down and pick up passengers, while providing clearance to allow all vehicles (including heavy vehicles) to pass the bus. This is not currently possible within Wheat Road.

Construction traffic

Darling Park Management and a number of other public submissions raised concern in relation to construction traffic management. RMS has provided a number of recommended conditions to ensure that appropriate plans and mitigation measures are put in place to minimise the disruption to the surrounding road network. Specifically, RMS require that a Construction Traffic Management and Access Plan be prepared in consultation with RMS and TfNSW including the cumulative impacts of the proposal and surrounding developments including:

- Barangaroo;
- CBD and South East Light Rail;
- Central Park;
- Four Points by Sheraton;
- Sydney City Centre Bus Plan;
- Sydney Harbour Bridge Toll Plaza upgrade;

- SICEEP; and
- Wynyard Walk.

The agency generally agrees with the RMS's recommendations and has included appropriate conditions of consent.

Noise and pollution

A high proportion of submissions raised concern that the proposal will cause traffic noise and pollution. The agency, however, notes that the traffic generated by the proposed development is minor in the context of the 19,000 daily vehicle trips along Harbour Street. On this basis, the agency considers that the proposal will not have any significant impacts on noise and pollution.

5.6. Heritage

The Heritage Division, on behalf of the Heritage Council, provided comments to the Agency on the visual impacts of the proposal, impacts on heritage items and the potential for archaeological relics within the site.

The key heritage issues are:

- impacts on the Pyrmont Bridge;
- archaeological Heritage;
- relocation of the Carousel and Organ; and
- conservation of the Sewerage Pumping Station No. 12.

Pyrmont Bridge

Pyrmont Bridge, located approximately 300 metres to the north of the site, is a heritage item on the State Heritage Register and the Sydney Harbour Foreshore Authority (SHFA) Section 170 Register. The heritage significance of the Pyrmont Bridge is based on historical, associational, aesthetic and technology values including:

- association with the economic and social development of Sydney at the end of the 19th century providing a key link between the CBD and inner western suburbs;
- association with Percy Allen, who introduced the concept of American timber bridge practice in NSW;
- technological innovation – it was one of the first electric powered swing bridges and at the time of construction, the swing span was one of the largest in the world; and
- the carved stonework of the piers and portals adds to the aesthetic appeal of the bridge.

The Heritage Division considers that the proposed building will be one of the most visually dominant buildings surrounding Darling Harbour and will adversely impact on the current visual setting of the Pyrmont Bridge. It has recommended that the height, footprint and bulk of the building should be reduced to lessen the impact on the setting of the Pyrmont Bridge.

The agency has considered the general visual impacts of the proposal from the Pyrmont Bridge in **Section 5.2.5** of this report. However, in addition, the heritage impacts of the proposed built form on the bridge also need to be carefully considered.

The agency notes that the proposal will distinctly alter the broader setting of Darling Harbour which includes the Pyrmont Bridge as demonstrated in **Figure 44**. The height and scale of the proposed building will form a dominant element in views to and from the Bridge.



Figure 44: The proposal in the context of the Pyrmont Bridge (Source: Applicant's RTS)

The applicant notes that existing high rise development has created a setting vastly different from when the Pyrmont Bridge was constructed. Further, new developments including Barangaroo, the exhibition and convention facilities as part of the SICEEP development, and particularly the proposed International Convention Centre hotel, will significantly alter the visual setting of the entire area (Figure 45).



Figure 45: View of the proposal from the eastern edge of the Pyrmont Bridge in the context of the approved Convention Centre and proposed Hotel on the western side of Cockle Bay (Source: Applicant's RTS)

The agency notes the concerns raised by the Heritage Division, however, considers that the built form, height and scale are acceptable noting that:

- the site is located approximately 300 metres from the Pyrmont Bridge and this separation allows for the immediate setting of the bridge to be retained;
- the form of the building is reflective of its CBD fringe location, characterised by dense tower developments to the east and the lower scale development to the west;
- the proposal is part of a broader transitional area, whereby the character of Darling Harbour is shifting towards greater building height and bulk at the waterfront, with new development framing the harbour;
- the cumulative redevelopment of Darling Harbour will alter the aesthetic qualities of the entire area; and
- the proposal for a contemporary and innovative building is consistent with the desired future character for Darling Harbour.

Overall, the agency considers that while the proposal will alter the setting of the Pyrmont Bridge, it is not expected that the proposal will reduce the heritage significance of the bridge, noting that its historical, associational, aesthetic and technology values will be retained.

Archaeological Heritage

The site has the potential to contain archaeological evidence related to the historical use and development of the area. The existing IMAX building does not contain any basement or major underground works which would have disturbed the site during its construction.

The Heritage Division has recommended that an Archaeological Assessment be prepared and assessed prior to determination of the application to enable the final mitigation measures to be imposed as consent conditions. These could include fieldwork methodology, artefact analysis, final reporting and interpretation.

The applicant has committed to preparing an Archaeological Assessment prior to issue of a Construction Certificate. If required, an Archaeological Research Design or Archaeological Management Plan would be prepared. Noting this commitment, the agency is satisfied that an Archaeological Assessment can be undertaken prior to issue of a Construction Certificate. It is recommended that a condition be imposed which requests the Archaeological Assessment be approved by the Director General of Planning & Infrastructure, in consultation with the Heritage Council of NSW. This would enable a critical review of the final mitigation measures and any additional measures to be incorporated into the Assessment, as part of the agencies review and approval.

The applicant's heritage consultant has identified that there is limited potential for the site to contain Aboriginal Archaeological evidence given that the majority of the site is on reclaimed land (from the Harbour) which occurred after 1830. Notwithstanding, as introduced fill may have contained isolated Aboriginal artefacts, and a small part of the site forms the previous shoreline, the applicant has committed to undertake an Aboriginal Due Diligence assessment. The agency supports this commitment and the approach to Aboriginal archaeology.

Carousel and Band Organ

The existing Carousel and Band Organ are movable items of heritage significance (**Figure 46**). The Carousel is listed on the State Heritage Register and the SHFA Section 170 Register, and both structures are covered by a Conservation Management Plan (CMP) prepared by SHFA in July 2012.

As the Carousel and Band Organ are movable, there are no significant associations with the current location, setting and context. The CMP outlines that the setting of the Carousel could be improved by a new enclosure structure which improves transparency and views to the Carousel (even when not in operation) and evokes a sense of a carnival or fairground. There is also an opportunity to improve connectivity and integration with the Darling Quarter Playground.

The agency considers that the proposed new location for the Carousel and Organ (**Figure 34**) will have a better relationship with both the proposed playground facilities within the western public domain and the existing Darling Quarter Playground.

The Heritage Division has requested that the methodology for the disassembly and relocation of the Carousel and Organ be prepared prior to commencement of works. In addition, Council has also requested that archival recording of the Carousel and Organ be undertaken prior to their relocation. This is consistent with the CMP, and the agency has recommended appropriate conditions to cover these matters.

The agency also recommends that a condition be imposed to provide a new enclosure structure to the Carousel in accordance with the CMP prior to occupation of the development.



Figure 46: The Carousel and Band Organ (Source: SHFA CMP)

Sewerage Pumping Station No. 12

The applicant's heritage consultant has recommended that conservation works to the Sewerage Pumping Station (SPS) No. 12 (**Figure 41**) be incorporated into this development. The Heritage Division also considers that conservation works should be undertaken as part of this development and has recommended a condition to require a structural condition assessment

The agency has incorporated recommended conditions to require an assessment and schedule of works to the SPS be undertaken prior to commencement of works, and that the conservation works be completed prior to occupation of the development.

5.7. Stormwater and flooding

The site is affected by two stormwater channels/culverts as outlined in **Figure 47**. The Hay Lackey Channel lies underneath the existing IMAX building and will also be located beneath the proposed new building. The Southern Outfall Culvert is currently within the public domain, however will be partially covered by the north-west corner of the proposed building.

Sydney Water has advised that it is possible to build over a stormwater asset where there is an existing building located over the asset, and where it is the only feasible option to facilitate the reasonable redevelopment of the site. In this case, as the Hay Lackey Channel passes through the centre of the site, and under the existing building, it is possible to build over the channel in accordance with Sydney Water's policy.

Sydney Water has provided a number of requirements to ensure that the proposal does not interfere with the operation and accessibility to the stormwater assets; including:

- determine feasible options to deviate stormwater access around the building;
- provide a Stormwater Impacts Report; and
- investigate the condition of the assets to determine if deviation or reconstruction is necessary.

Following discussion with Sydney Water, these requirements have been included as recommended conditions of consent to be satisfied prior to issue of a Construction Certificate.

Sydney Water also requires the applicant to provide a 2D flood study, which includes any necessary design elements to ensure that the local flood risks are appropriately managed and mitigated. It is also noted that SHFA is currently undertaking works to the timber seating on the southern edge of Cockle Bay which will remove a current blockage to the overland flow path which will improve local flooding conditions in the area.

Sydney Water has confirmed that these requirements can be addressed prior to issue of a Construction Certificate. Appropriate conditions of consent have been recommended.



Figure 47: Approximate location of the Sydney Water stormwater assets (Base Image Source: Applicant's EIS)

5.8. Other issues

Signage

There are two building identification signage zones nominated on the northern and southern facades of the building. The signage zones are located at approximately RL 83 (top of sign) with an area of approximately 100m² (approx. 6m high x 17 m wide).

The signs will be subject to a detailed analysis within a future development application (DA). This will include assessment against the principles of SEPP 64.

The agency has considered the signage zones, in principle and considers that they are appropriately sized, positioned and proportioned in relation to the overall height and scale of the proposed building. On this basis, the signage zones are considered acceptable subject to a condition of consent requiring a future DA be approved prior to any signage installation.

Reflectivity

The external elevations of the building are glazed which may give rise to reflectivity issues for pedestrians and vehicular traffic.

The application was accompanied by a Reflectivity Study, which considers the impact of the building from 4 locations along the Western Distributor overpasses and on/off ramps and from 3 pedestrian view points along Cockle Bay wharf and Darling Quarter.

The standard requirements for reflectivity are generally a maximum of 20%. However, given the amount of glazing proposed, and the sensitive location in terms of vehicular and pedestrian traffic, the Reflectivity Study provides the following recommendations:

- a maximum visible light reflectivity of 15% be achieved on the southern façade, and east and west ribbon façades; and
- a maximum reflectivity of 8% be achieved on the northern façade.

The agency is satisfied that the more stringent reflectivity requirements will minimise reflectivity issues for vehicles, pedestrians and occupants of surrounding buildings.

Air Quality

The applicant has undertaken an Air Quality Assessment given the proximity of the building to the Cross City Tunnel stack plume (being 10 metres at its closest point). This assessment notes that the stack plume does not cause air quality risks at levels below 60 metres (above ground level). Above 60 metres, the air quality is reduced as a result of the stack plume. It is therefore not appropriate to locate any balconies, terraces, operable windows or air intakes for the building above a height of 60 metres.

The agency has reviewed the applicant's Air Quality Assessment and considers that the proposal is acceptable, subject to the imposition of conditions to ensure that the building does not involve any balconies, terraces or operable windows above a height of 60 metres, and the air intakes for the building are also located below 60 metres above ground level.

City Central Zone Substation

Concern was raised in a public submission regarding to the proximity of the proposed building to the substation as a result of the proposed overhang over Harbour Street. Concern was raised specifically in relation to long term impacts of Electromagnetic Field (EMF) Radiation and possible safety for building occupants in the event of explosion/fire within the Ausgrid Central Zone Substation.

Whilst the agency acknowledges that electrical infrastructure, such as substations, generates EMF radiation, this radiation is known to diminish rapidly with distance from a source and are effectively shielded by common building materials such as brick and metal. The agency notes that various guidelines recommend a precautionary approach which ensures that the risk of magnetic field exposure is minimised as far as possible (taking into account reasonable and practicable considerations). The agency considers that the proposed building has been appropriately designed to ensure that exposure to magnetic fields has been minimised in the following ways:

- the proposed building is separated from the substation by between 1 and 2 metres and two separate solid partitions; and
- the uses within the proposed building located adjacent to the substation, at ground and first floor level, are allocated to low human use areas such as vehicular access, car parking / car-stacker and changing rooms.

The agency referred the application to Ausgrid, which provided recommended conditions in relation to the protection of Ausgrid's electricity infrastructure, including the adjacent substation and all underground infrastructure.

The agency considers it prudent to require the applicant to consult with Ausgrid on any structural or design measures which need to be taken to minimise any associated risks for future building occupants. An appropriate condition has been recommended.

6. CONCLUSION

The agency has assessed the merits of the proposal taking into consideration the issues raised in all submissions and is satisfied that the impacts have been satisfactorily addressed within the Application's EIS, RtS and agency's recommended conditions.

The agency has considered the built form impacts of the proposal, noting that the height and scale of the development would result in a highly prominent building, occupying a much larger building footprint including air space over Harbour Street. It is considered that the proposal responds to the constraints of the site and surrounding context in a unique and potentially iconic way. The overhang over Harbour Street is an integral part of the overall architectural composition of the building, and provides scope for large floor plate office space, a transition in height and bulk from the east to west and maintenance of solar access to the Darling Harbour public domain, including Tumbalong Park.

The proposal will affect private views from a number of buildings to the east and south of the site. However, it cannot be reasonably expected that private views within a CBD environment will be maintained in perpetuity. The agency has considered the private view loss impacts, balanced against the public benefits, and considers that these impacts are reasonable and acceptable.

The proposed public domain upgrade around the site will also provide an enhanced function and purpose to the spaces to the east and west of the building, improve pedestrian amenity and circulation and create seamless connections to adjacent sites (subject to conditions).

The transport, stormwater and heritage impacts have also been carefully considered and can be satisfactorily addressed through recommended conditions of consent.

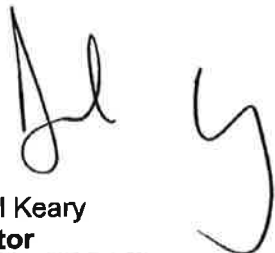
The proposal will have a number of significant positive economic, social and environmental impacts. The proposal will strengthen the role of Darling Harbour as a tourist attraction and complement the revitalisation of precinct in association with the recently approved convention, exhibition and entertainment facilities. The proposed premium grade office space will also provide a significant boost to local employment by creating up to 4,000 ongoing jobs on the western fringe of the CBD.

Subject to recommended conditions, the agency considers the proposal to be in the public interest and recommends the application be approved.

6. RECOMMENDATION

It is RECOMMENDED that the Planning Assessment Commission:

- **note** the information provided in this report;
- **approve** the development application, subject to recommended conditions; and
- **sign** the attached consent instrument.



Daniel Keary
Director
Industry, Key Sites and Social Projects



3. 4. 14

Chris Wilson
Executive Director
Development Assessment Systems & Approvals

APPENDIX A ENVIRONMENTAL IMPACT STATEMENT/ RESPONSE TO SUBMISSIONS

See Planning & Infrastructure's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5397

APPENDIX B SUBMISSIONS

See Planning & Infrastructure's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5397



APPENDIX C CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS/ SEPPS

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)

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

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

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

COMPLIANCE WITH CONTROLS

State Environmental Planning Policy (State & Regional Development) 2011

The proposal is State Significant Development under Clause 2 of Schedule 2 of SEPP as the site falls within the area defined as the 'Darling Harbour Site' and has a capital investment value in excess of \$10 million.

State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of the SEPP requires referral of applications for traffic generating development to the Roads and Maritime Services (RMS) for concurrence. The proposed works are located adjacent to RMS infrastructure (the western Distributor over passes) and defined as traffic generating development. The agency therefore consulted with RMS as part of its consideration of the EIS. RMS raises no objection with the proposal, subject to conditions.

State Environmental Planning Policy No. 55 - Remediation of Land

The applicant engaged Douglas Partners to undertake a Phase 1 Contamination Assessment for the proposed development. Douglas Partners concluded that the potential contamination of the site is not likely to be significant, and that the site can be made suitable for the development, subject to appropriate management principles should contaminants be present. In order to quantify the nature, extent, risk and management (if required) of any contamination of the site, Douglas Partners have recommended that a Phase 2 Contamination Assessment, including soil and groundwater testing, be undertaken after demolition, but prior to construction commencing.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the Foreshores and Waterways boundary under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour REP). The Sydney Harbour REP aims to provide a clear and consistent planning framework to protect and enhance the unique attributes of the Harbour.

The proposal is considered consistent with the planning principles outlined in the REP as it will:

- not affect the natural assets and unique environmental qualities of the harbour;
- maintain public access to and along the foreshore; and
- provide an iconic building form which contributes to the unique visual qualities of the harbour.

The site is identified as a strategic foreshore site, and the REP states that development must not be undertaken unless a master plan has been prepared for the site which addresses:

- (a) design principles drawn from an analysis of the site and its context;
- (b) phasing of development,

- (c) distribution of land uses including foreshore public access and open space,
- (d) pedestrian, cycle and motor vehicle access and circulation networks,
- (e) parking provision,
- (f) infrastructure provision,
- (g) building envelopes and built form controls,
- (h) heritage conservation (including the protection of archaeological relics and places, sites and objects of Aboriginal heritage significance), implementing the guidelines set out in any applicable conservation policy or conservation management plan,
- (i) remediation of the site,
- (j) provision of public facilities,
- (k) provision of open space, its function and landscaping,
- (l) the impact on any adjoining land that is reserved under the *National Parks and Wildlife Act 1974*,
- (m) protection and enhancement of the natural assets of the site and adjoining land,
- (n) protection and enhancement of the waterway (including water quality) and any aquatic vegetation on or adjoining the site (such as seagrass, saltmarsh, mangroves and algal communities).

The agency is satisfied that the application adequately addresses the issues (a) to (n) above and that a master plan is not necessary. The application encompasses a broad zone of influence for public domain upgrades and provides an appropriate level of detail on the interface and integration with the public domain upgrades undertaken and proposed for Darling Harbour, specifically the Darling Quarter and SICEEP.

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

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

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

<i>Issue</i>	<i>Guidelines</i>	<i>Department comment</i>
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 public access along the waterfront.
Siting of buildings and structures	<ul style="list-style-type: none"> • where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbing it • 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 	The proposed building addresses the waterway and is sited to maintain similar public views through from SICEEP to the Harbour. The design of the building steps up to the east to maintain public views and a feeling of openness to Darling Harbour.
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 	The proposed built form has responded in a unique and iconic way to the constraints of the site and the surrounding built context. While the scale and design is in contrast to existing building, it is

	<p>they have a backdrop of trees</p> <ul style="list-style-type: none"> • 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>considered that the bold and innovative design will make a positive contribution to Darling Harbour. The site is well suited to accommodate a landmark building within a tourist and entertainment precinct. The proposal will complement the recently approved exhibition, convention and entertainment facilities, which will see the revitalisation of Darling Harbour with new modern buildings.</p> <p>Further discussion on built form and visual impacts is within Section 5.2.</p> <p>The proposal is considered to have an acceptable impact of the proposal on the heritage listed Pymont Bridge. The separation between the site and the Bridge allows for the immediate setting of the Bridge to be protected. Further discussion on visual impacts on the Pymont Bridge is within Section 5.6.</p>
Signage	<p>Signage should:</p> <ul style="list-style-type: none"> • be of minimal dimensions and consistent with the commercial or community identity of the premises • not be brightly illuminated to avoid becoming navigational hazards. Lighting of signs should be directed downward away from the water • preferably be placed on the facades of buildings, rather than on roofs or free standing • signs that intrude on the skyline should be avoided. 	<p>Two proposed signage zones are provided on the façade of the building. The signage zones will accommodate building/business identification signage. The signage will be a minor component of the development, and is scaled in proportion to the height and bulk of the building. This is consistent with the objectives for signage under the DCP. Refer to Section 5.8</p>
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 	<p>The proposal seeks to retain and rationalise existing palm trees on the site. Additional landscaping will be provided in the eastern public domain. Further discussion on planting is within Section 5.3.</p>

	<p>spread into surrounding bushland should be avoided</p> <ul style="list-style-type: none"> • 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. 	
Redevelopment sites	<p>Redevelopment proposals should:</p> <ul style="list-style-type: none"> • ensure continuous and inviting public access to the foreshore; • allow for a mix of uses to further improve the public utility and amenity of the waterfront; • provide public jetties and wharves for access to vessels where there is a demonstrated demand; • identify suitable areas that can be conserved and made available to the public; • provide public road access to the foreshore park where a park is being provided; and • be designed considering the site in the broader context of the River and the Harbour. Redevelopment sites have the potential to provide a gateway and become a waterside destination for the hinterland. 	<p>The proposal will maintain the same level of public access to the foreshore. The proposed public domain upgrades will improve pedestrian circulation and connectivity around the waterfront. Further discussion is provided within Section 5.3.</p>

Darling Harbour Development Plan No. 1

The proposal is consistent with the objectives of the Darling Harbour Development Plan No. 1 (the Development Plan) as it provides a variety of tourist, entertainment and commercial facilities and involves public domain upgrades which will assist in revitalising Darling Harbour. The proposed commercial uses will also provide a working population which will support retail facilities in Darling Harbour.

APPENDIX D RECOMMENDED CONDITIONS OF CONSENT
