

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;
- State Environmental Planning Policy No. 64 – Advertising and Signage;
- 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 Department therefore consulted with RMS as part of its consideration of the EIS. RMS raises no objection with the proposal, subject to recommended 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.

The site is built up and not accessible to undertake stage two detailed site investigations. A preliminary Remediation Action Plan (RAP) was submitted with the RtS which confirms that, if contamination is identified in a Stage 2 Detailed Site Investigation, the site can be remediated and made suitable for the proposed use. Specifically, the preliminary RAP outlines potential remediation strategies (if required) based on the site-specific issues and required validation works.

The Department is satisfied that subject to a Stage 2 detailed site investigation and remediation action (if necessary) in accordance with the preliminary RAP and future recommendations of the Stage 2 contamination assessment, the site can be made suitable for the intended use satisfying the requirements of *State Environmental Planning Policy No. 55 Managing Land Contamination: Planning Guidelines SEPP 55*.

The Department recommends appropriate conditions of consent accordingly.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposal seeks approval for signage zones including:

- two building identification signs on the northern and southern facades;
- a business identification sign for the hotel at the eastern ground floor lobby entry; and
- nine business identification signs for individual retail tenancies at the ground floor podium on the eastern and northern facades.

It is noted that seven advertisement signs for IMAX and two advertisements signs for tenants and sponsors have been deleted from the proposal as discussed in **Section 5.6**.

In accordance with Clause 8, in Part 2 of SEPP 64, the Department must be satisfied that the signage zones for building identification signage and business identification signage are consistent with the objectives of SEPP 64 as stated in Clause 3(1)(a) and the assessment criteria set out in Schedule 1.

The Department considers the two proposed building identification signs are well integrated into the upper northern and southern facades and are of a reasonable scale in the context of the overall height and scale of the proposed building. They will not obscure or obstruct any existing views or reduce the visual quality of the building. The signage will not detract from the character of surrounding buildings and are compatible with the desired amenity and visual character of the Darling Harbour. The business identification sign for the hotel and individual retail tenancies are located at ground floor podium levels. The Department considers that the signage zones are appropriately sized, positioned and proportioned in relation to the ground floor tenancy.

As discussed in **Section 5.6**, the signage zones are considered acceptable subject to a condition of consent requiring signage details be approved prior to any signage installation.

Table 5: Assessment against SEPP 64 – Schedule 1 Criteria

MATTER	COMMENT
SEPP 64 – Schedule 1 Assessment for the 3 proposed building identification signs	
Character of the area	The signage will not detract from the character of surrounding buildings and is compatible with the character of the Darling Harbour precinct and adjoining Sydney CBD.
Special areas	The signage will not detract from the visual character of the Darling Harbour tourist and recreation precinct.
Views and vistas	The signage will not obscure or obstruct any existing views or reduce the visual quality of the building. The Department recommends a condition for the final details of signage zones to be submitted to the Department for approval.
Streetscape, setting or landscape	The signage is consistent in scale and proportion with other building and business identification signage in the Darling Harbour precinct and general Sydney CBD.
Site and building	The signage is well integrated into the relevant building façades and is of reasonable scales for the building.
Associated devices and logos	The proposed signage zones for building and business identification signs do not include details of devices and logos. The Department recommends a condition for the final details of signage zones to be submitted to the Department for approval.
Illumination	The details of the signage zones have not been provided including whether any illumination is proposed. The Department has recommends a condition for the final details of signage zones to be submitted to the Department for approval.
Road safety	The proposed size and location of signage zones is consistent with other building and business identification signage within the Darling Harbour precinct and Sydney CBD. The signs will be visible from surrounding roads including the Western Distributor over pass and Harbour Street and will not distract from essential sight lines of pedestrians and vehicles.

In summary, the proposed signage is considered to be compatible with the amenity and visual character of the area, subject to the final details to be approved by the Department. The proposed signage zones are considered satisfactory with regards to the key assessment criteria in Schedule 1 of SEPP 64.

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 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 Department 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 Development Control Plan 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 Department has considered the proposal against the relevant guidelines in **Table 6**.

Table 6: Assessment against relevant guidelines of Sydney Harbour Foreshores and Waterways Area DCP 2005

Issue	Guidelines	Department comment
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 they have a backdrop of trees • while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs • walls and fences should be kept low enough to allow views of private gardens from the waterway • bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting should be observed • use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied • colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP • the cumulative visual impact of a number 	<p>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 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 currently under construction exhibition, convention and entertainment facilities and international convention centre hotel, which will see the revitalisation of Darling Harbour with new modern buildings.</p> <p>Further discussion on built form is within Section 5.3.</p> <p>The proposal will not have any adverse impact 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>

	<p>of built elements on a single lot should be mitigated through bands of vegetation and by articulating walls and using smaller elements;</p> <ul style="list-style-type: none"> the cumulative impact of development along the foreshore is considered having regard to preserving views of special natural features, landmarks or heritage items 	
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>Twelve 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 5.6</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 spread into surrounding bushland should be avoided existing mature trees should be retained where possible and incorporated into the design of new developments vegetation along ridgelines and on hillsides should be retained and supplemented with additional planting to provide a backdrop to the waterway a landscape plan is to be submitted with any land-based development proposal showing existing and proposed changes in contours, surface and sub-surface drainage, existing trees to be retained and removed, measures to protect vegetation during construction, and proposed planting including species and common names. 	<p>The 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 5.5.</p>
Redevelopment sites	<p>Redevelopment proposals should:</p> <ul style="list-style-type: none"> ensure continuous and inviting public access to the foreshore; allow for a mix of uses to further improve the public utility and amenity of the waterfront; provide public jetties and wharves for access to vessels where there is a demonstrated demand; identify suitable areas that can be conserved and made available to the public; 	<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 5.5.</p>

	<ul style="list-style-type: none">• 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.	
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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 retail facilities and involves public domain upgrades which will assist in revitalising Darling Harbour. The proposed hotel and serviced apartment uses will also provide a new visitor accommodation facility to support the tourist, retail and entertainment facilities in Darling Harbour.