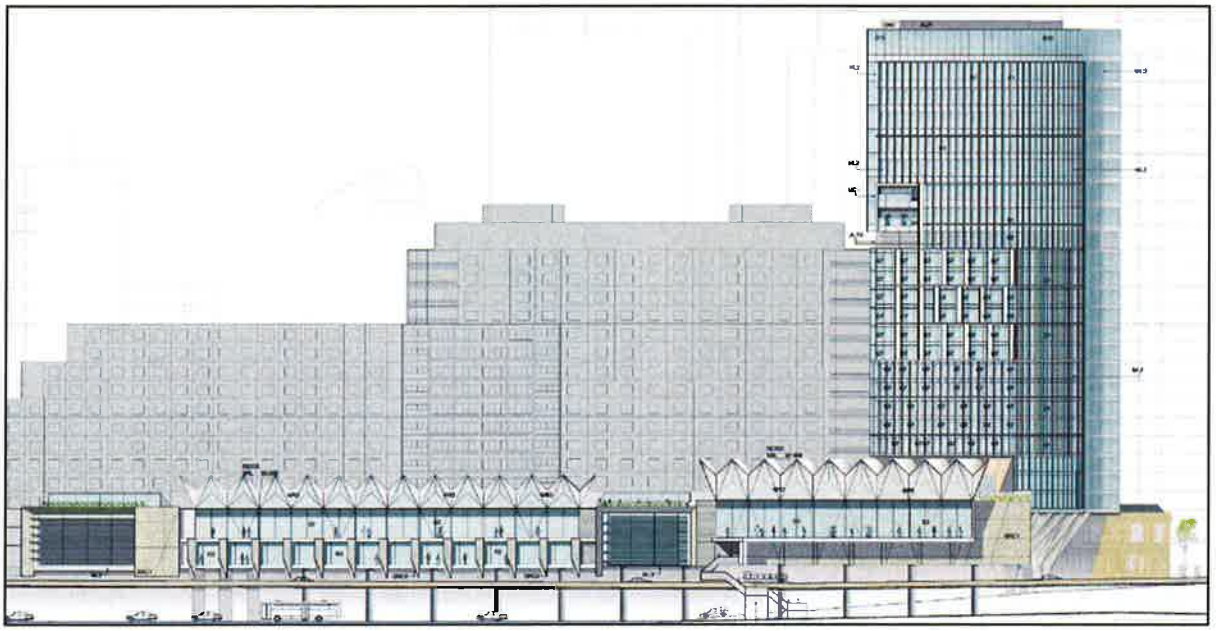
NSW GOVERNMENT | Planning & Infrastructure

ASSESSMENT REPORT: Four Points by Sheraton Hotel Redevelopment 161 Sussex Street, Sydney (SSD-4972-2011)



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

June 2013

ABBREVIATIONS

Applicant	GL Investments Co Pty 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
Department	Department of Planning & Infrastructure
DGRs	Director General's environmental assessment requirements
Director General	Director General of the Department
EIS	Environmental Impact Statement titled 161 Sussex Street Redevelopment dated July 2012
EP&A Act	*Environmental Planning and Assessment Act 1979*
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Minister	Minister for Planning & Infrastructure
NOW	NSW Office of Water
OEH	Office of Environment and Heritage
PAC	Planning Assessment Commission
PFM	Planning Focus Meeting
RMS	Roads and Maritime Services
RtS	Response to Submissions
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State significant development

Cover Photograph: West elevation of the proposed development by Cox Richardson

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Published June 2013
NSW Department of Planning & Infrastructure
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NSW Government
Department of Planning & Infrastructure

EXECUTIVE SUMMARY

GL Investment Co Pty Ltd (the applicant) proposes to redevelop the Four Points by Sheraton Hotel, located at 161 Sussex St, Sydney in the City of Sydney Local Government Area.

The site currently comprises a mix of uses including hotel, commercial offices, retail and restaurant uses fronting Sussex Street and constructed above Slip Street and the Western Distributor. Existing buildings on the site include the 696 room Four Points by Sheraton Hotel and four heritage buildings listed on the State Heritage Register including the building known as the Corn Exchange.

The proposal seeks to redevelop the hotel to include new hotel rooms, office space and a new convention, exhibition and function space, with a total of 21,214m^2 of new gross floor area. The capital investment value of the development is $148.5 million. The two major new building components are:

- a 25 storey tower at the southern end of the site, which comprises 231 hotel rooms, and 5,775m^2 of commercial office space over the top six levels; and
- a new low-rise addition to the west of the existing hotel podium constructed over the Western Distributor roadway adding 4,810m^2 of convention, exhibition and function space.

The proposal is State significant development under Part 4 of the Environmental Planning and Assessment Act, 1979 because it is development having a capital investment value of more than $10 million on land identified as being within the Darling Harbour Site under Clause (b) of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore the Minister for Planning and Infrastructure is the consent authority.

The Department publicly exhibited the application from 12 September 2012 until 26 October 2012 The Department received 120 submissions including 9 from public authorities and 111 from the general public. The key issues raised were view loss, height, heritage impacts, traffic, overshadowing, wind and construction noise

The Department has considered all relevant matters under Section 79C, the objects of the Environmental Planning and Assessment Act, 1979 and Ecologically Sustainable Development in its assessment.

The Department's assessment concludes that the development is of a scale and form that is in keeping with its context on the edge of the city centre. In particular, the Department notes the significant improvements to the design undertaken by the applicant in response to the issues raised during exhibition. These include improvements to the architectural design expression of the convention/function component of the development, the context of the Corn Exchange and heritage interpretation generally. These amendments are described in **Section 4** of this report.

The Department has also assessed impacts on views, and concluded that although there will be views lost from nearby buildings as a result of the development, the affected properties maintain reasonable mid-distance views appropriate to their locations inside the central business district.

The Department's assessment is described in **Section 5** of this report. The Department considers the major issues to be built form and urban design, view impacts, heritage, access and developer contributions. The Department's assessment concludes that the impacts arising out of the proposed development are acceptable and can be adequately managed by the changes to the design and through conditions of approval. Specifically, conditions are

recommended to address noise from construction, heritage impacts, traffic management, upgrade immediately adjacent footpaths and intersections, developer contributions and to ensure ecologically sustainable development outcomes.

The development will contribute positively to the area by providing important visitor accommodation, convention and function services, and commercial office space supporting the growth of jobs in the city centre. The Department considers that the proposal is consistent with strategic planning objectives of NSW 2021 and the draft Metropolitan Strategy and the Council's Sustainable Sydney 2030 plan. On balance, it is considered that the project is in the public interest and the Department has recommended approval, subject to conditions.

The application is being referred to the Planning Assessment Commission for determination as there are more than 25 submissions in the way of an objection to the proposal.

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BACKGROUND

1.1 Description

GL Investment Co Pty Ltd (the applicant) proposes to redevelop the Four Points by Sheraton Hotel, located at 161 Sussex St, Sydney in the City of Sydney Local Government Area. The site location is shown in **Figure 1**.

Figure 1: Regional Context – site location

The site is located on Sussex St, occupying the entire block between King Street and Market Street on the western side of the central business district adjacent to the Western Distributor roadway, overlooking Darling Harbour. The site has an area of 11,223m² fronting Sussex Street.

1.2 Site context

Surrounding uses include a wide mix of commercial, retail, tourism, entertainment and residential development as well as significant road infrastructure. The site is surrounded by tall buildings within the central business district in the blocks to the north, south, and east. To the west of the site there are low rise buildings of the Aquarium and Pier 26/Helm bar, part of the Darling Harbour precinct, including the Western Distributor and the elevated roadway of the King Street overpass.

Because of the low rise nature of development to the west, the site has panoramic views over Darling Harbour and to the west of Sydney. It is unlikely that these views will be overbuilt. As a result any development on the site will feature in the views of the city from the west, including from the Pyrmont Bridge and western side of Darling Harbour.

The site is within walking distance of the CBD's major commercial, entertainment and shopping districts including the Queen Victoria Building, Pitt Street Mall, Chinatown and Darling Harbour.

Directly to the north of the site is the Slip Inn Hotel. Further to the north along Sussex Street are serviced apartments and commercial office uses. Surrounding development to the east comprises commercial office uses and a parking station. Two Secure Parking stations are located opposite the site on Sussex Street. A residential apartment building is located at 26 Market Street.

Figure 2: View north from the site showing the Slip Inn and Sussex Street streetscape

Immediately to the south of the site is the Monorail and pedestrian access over Sussex Street to Darling Harbour. This pedestrian walkway leads to Pyrmont Bridge and is heavily used by pedestrians and cyclists throughout the day. Further south on Sussex Street is the Shelbourne Hotel and Darling Park commercial office buildings. Opposite the Darling Park Towers is the Astoria Tower apartment building at 222-228 Sussex Street.

Figure 3: View south of the site on Sussex Street showing the Darling Park development

To the west and south of the site is Darling Harbour a large tourist, entertainment and cultural precinct with major attractions and venues such as Sydney Aquarium, Sydney Wildlife World, National Maritime Museum, Sydney Convention and Exhibition Centre, IMAX cinema and Harbourside shopping centre. To the northwest is the King Street Wharf precinct with tourist, entertainment, commercial, residential and serviced apartment uses and a ferry terminal. Further north is the Barangaroo development precinct.

1.3 Existing Development on the Site

The site comprises a mix of uses including hotel, commercial offices, retail and restaurant uses. Existing buildings on the site include the Four Points by Sheraton Hotel, which extends over Slip Street and the Western Distributor, and four heritage listed buildings including the Corn Exchange and the Dundee Arms Hotel.

The Four Points by Sheraton Hotel is a 16 storey building comprising 630 hotel rooms, reception area, restaurant, bar, conference rooms, fitness centre and day spa. The hotel building has a stepped form from 10 storeys on the northern side to 16 storeys in the south. The building extends over Slip Street, which is used to service the hotel as well as the Darling Park development further to the south, and is also partly built over the Western Distributor. The hotel building also incorporates former sandstone warehouses in the north eastern part of the site accommodating shops and a restaurant. The existing hotel is currently being refurbished and when complete the existing room capacity will be 696 rooms.

There are a four items on the site listed on the State Heritage Register in accordance with the Heritage Act 1977. They are:

- Commercial Building – 121-127 Sussex Street;
- Central Warehouses – 139-151 Sussex Street;
- The Dundee Arms Hotel Building – 173-185 Sussex Street; and
- The Corn Exchange Building – 173-185 Sussex Street.

The Corn Exchange Building is also listed on the Sydney Harbour Foreshore Authority Section 170 register.

Refer to **Figure 4** for the existing site layout and **Figure 5** for a view of the existing development on the site within the context of surrounding buildings and features.

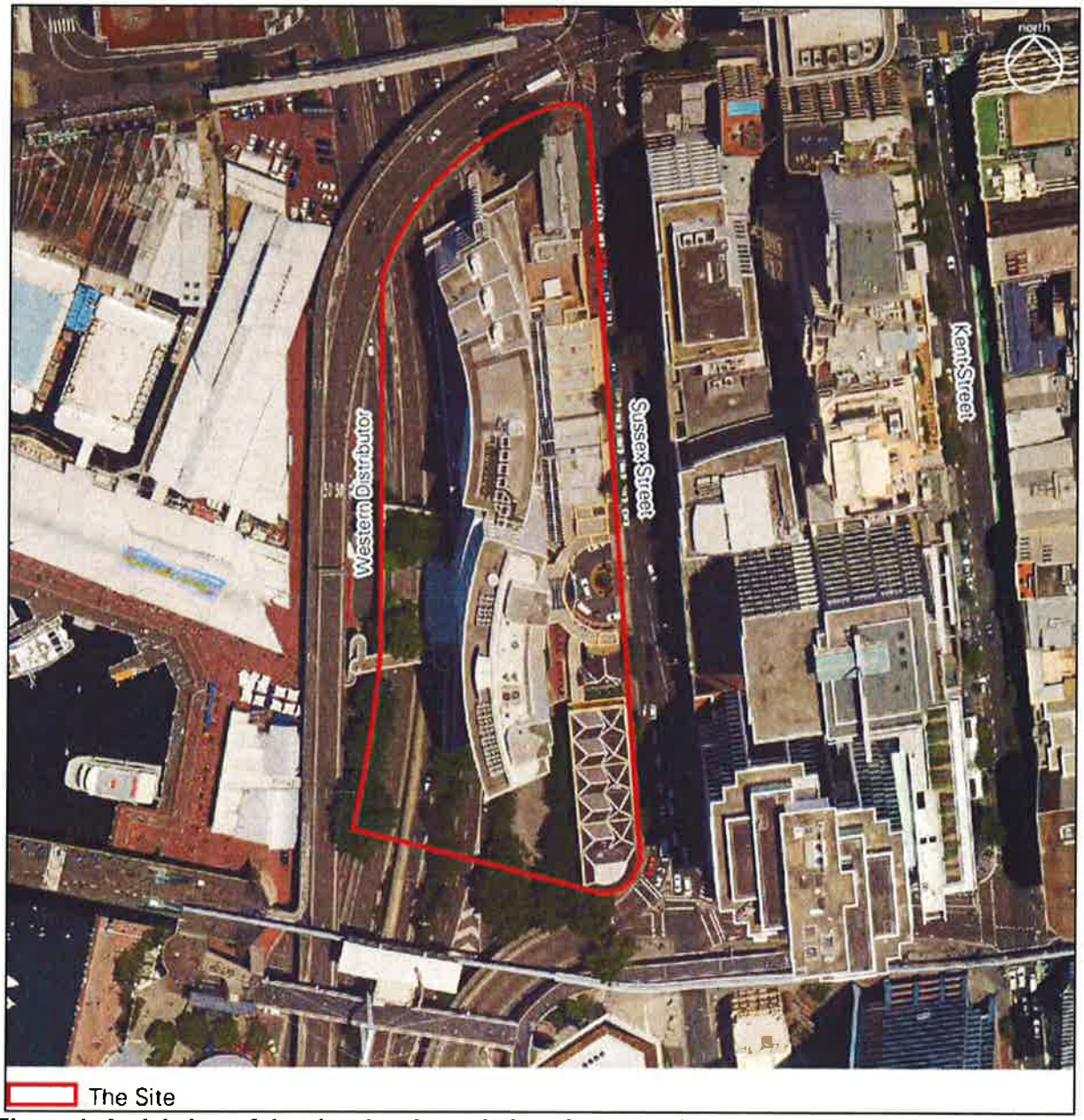


Figure 4: Aerial view of the site showing existing site layout (reproduced from the Environmental Impact Statement)

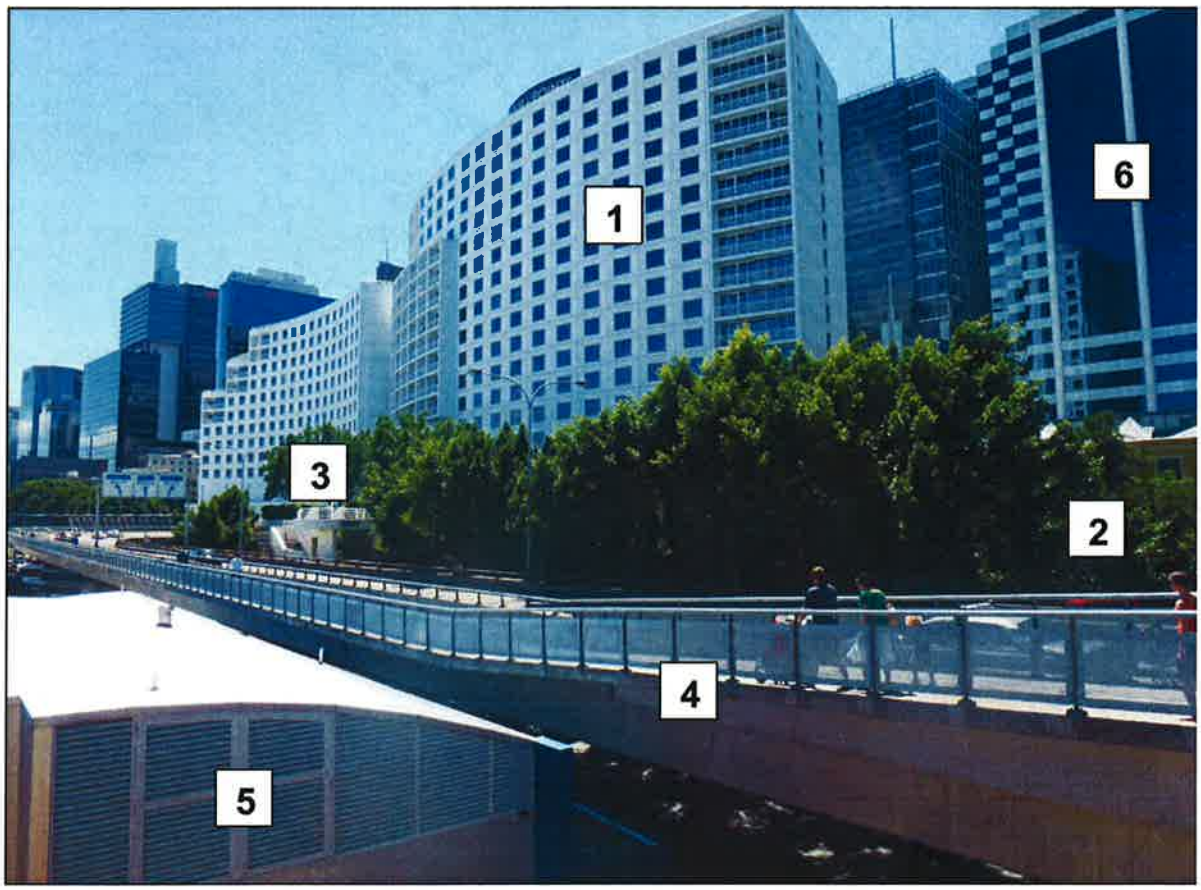


Figure 5: View of the site from the eastern end of the Pyrmont Bridge (reproduced from the EIS by JBA planning, page 8)

Legend:

1. Existing Four Points Hotel
2. Corn Exchange
3. Existing Pedestrian Stairs to Darling Harbour
4. Elevated Roadway and Pedestrian/Cycleway to King Street
5. Sydney Aquarium
6. Allianz Building

2 PROPOSED DEVELOPMENT

2.1 Description

The proposal seeks to redevelop the hotel to accommodate new hotel rooms, office space and a new convention, exhibition and function space, with a total of 21,214m^2 of new gross floor area. The capital investment value of the development is $148.5 million.

The development proposes a 25 storey tower at the southern end of the site, which comprises 231 hotel rooms, and 5,775m^2 of commercial office space over the top 6 levels, and a new low-rise addition to the west of the existing hotel podium constructed over the Western Distributor Roadway adding 4,810m^2 of convention, exhibition and function space. The proposed development also includes a range of other changes and upgrades to the existing building including changes to the Sussex Street port cochere and building entries, reconfiguration of the existing through site link, public domain works, and internal alterations.

The layout of the proposed development is shown in **Figures 6** and **7**. The key components are listed in **Table 1.**

Table 1: Key Components of Development

Aspect	Description
New Building: Tower	Construction of a 25 storey tower, comprising 231 hotel rooms and 5,775m^2 of commercial floorspace and 4,810m^2 of convention, exhibition and function space;
New Building: Podium	Extension of the existing podium space over the Western Distributor to provide new convention and exhibition space including pre function space, meeting rooms and function rooms;
Demolitions	External and internal demolition works;
Existing Building:	• Upgrades to the port cochere, building entries on Sussex Street, the hotel lobby and reception areas; • Relocation of the all-day dining area within the current ground floor level and new and upgraded back of house areas including new kitchens to service the new convention/function venues;
External works	Public domain works on Slip Street; and
Pedestrian connectivity	Realignment of an existing pedestrian site link through the site to provide a direct connection between Sussex Street and Darling Harbour.

The applicant amended the proposal in response to the Department's assessment and the issues raised in the submissions received during the exhibition of the application. Key amendments include:

- changes to the architectural design of the conference and function area to the west of the existing tower building;
- reduction of the floor plate of the lower levels of the proposed tower building to improve the setting of the Corn Exchange;
- improvements to the heritage expression of Wharf Lane between the Corn Exchange and the Dundee Arms Hotel; and
- a number of other minor amendments to address heritage issues, incorporate bicycle parking and ESD measures, and improve the expression of the pedestrian link through the interior of the hotel building.

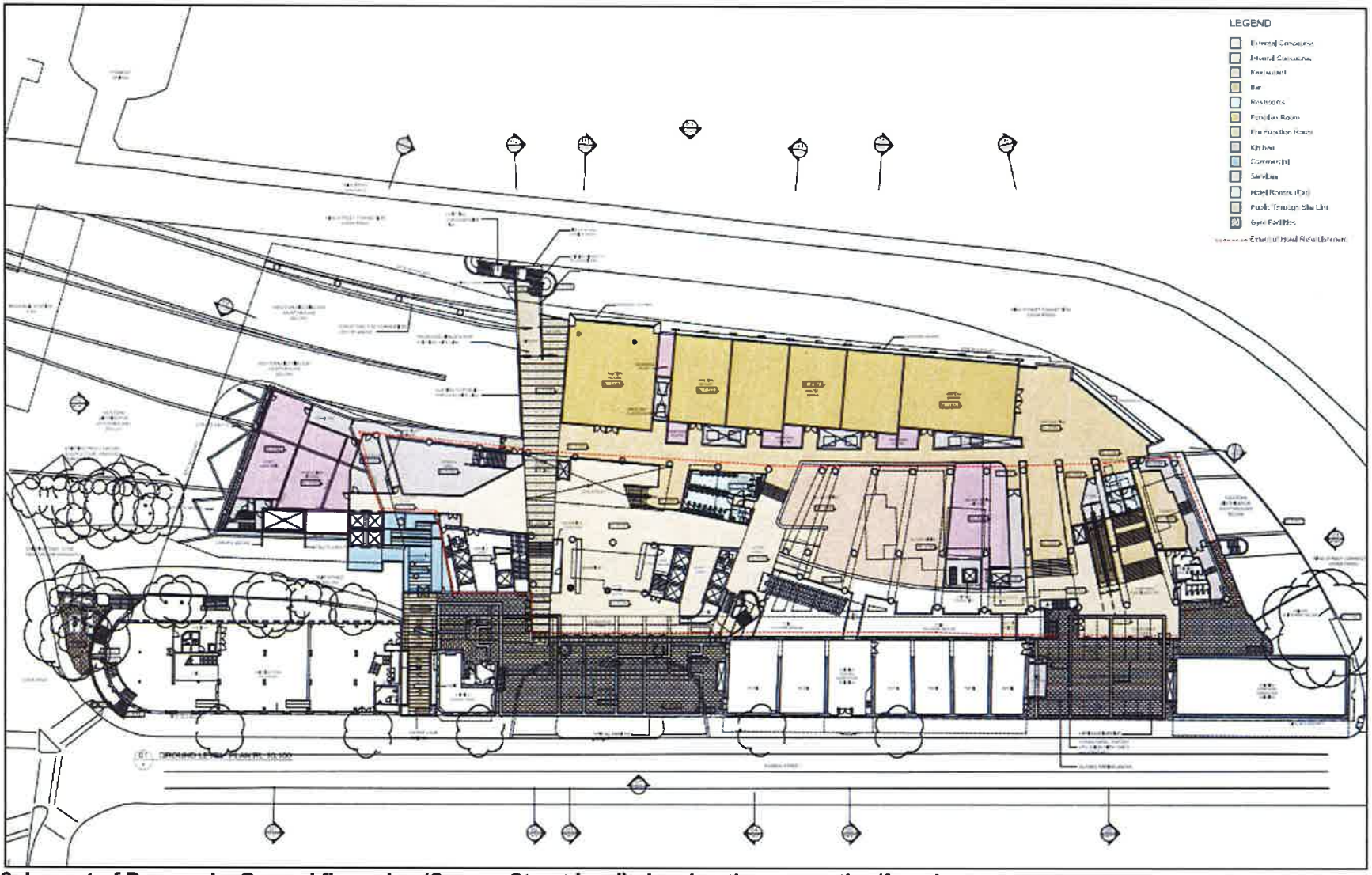


Figure 6: Layout of Proposal – Ground floor plan (Sussex Street level) showing the convention/function use

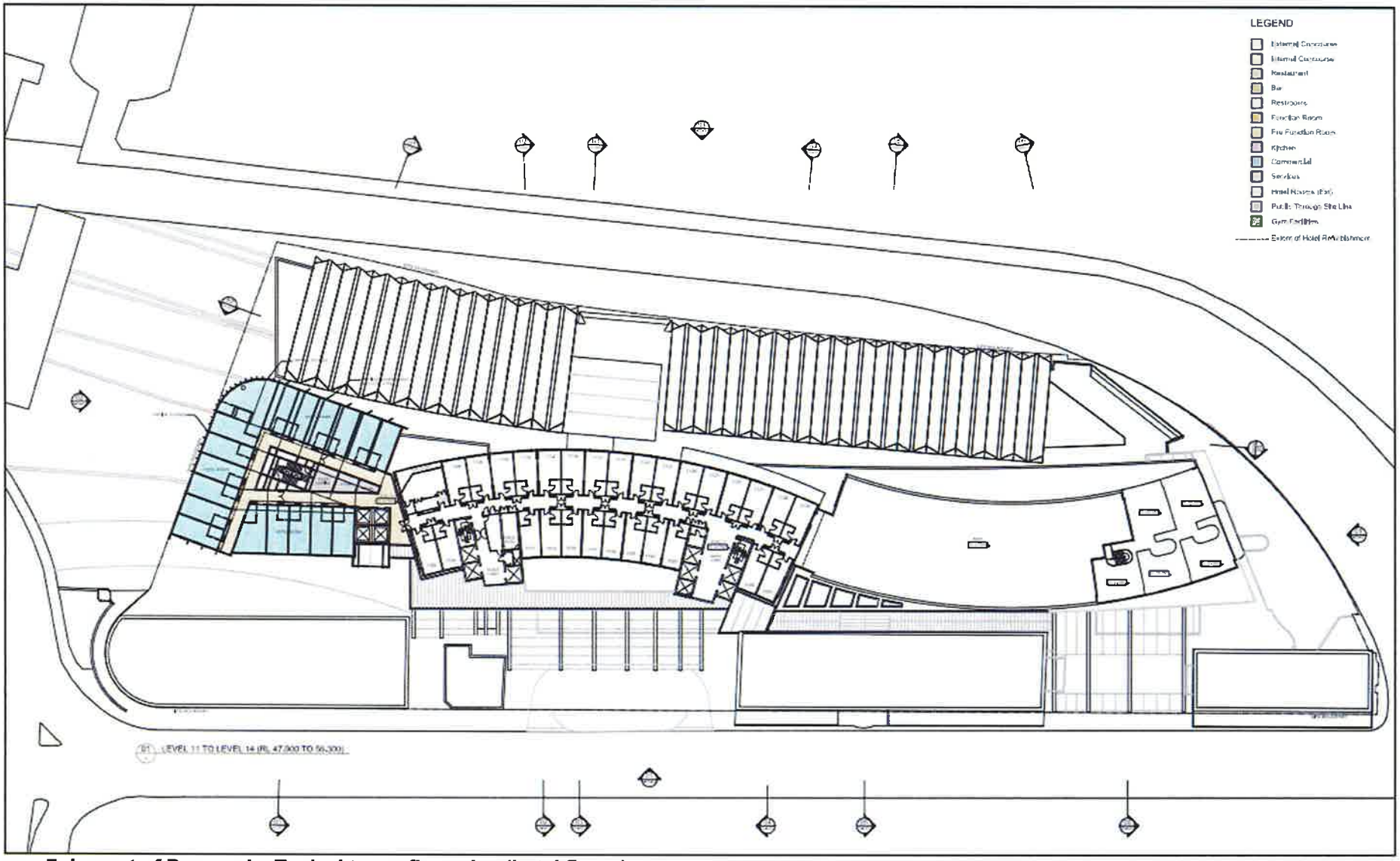


Figure 7: Layout of Proposal – Typical tower floor plan (hotel floors)

2.2 Project Need and Justification

NSW 2021
NSW 2021 sets 32 Goals for the State. Included in its economic goals are specific industry growth targets, including to increase tourism in NSW with double the visitor expenditure by 2020. The proposed development will assist in meeting these targets by providing new visitor accommodation and facilities that will assist NSW in providing for large groups, corporate meetings, association and convention bids. It will also complement the proposed redevelopment of the Sydney Exhibition and Convention Centre.

Metropolitan Strategy
The *Metropolitan Plan for Sydney 2036* plans for Sydney's growth. It divides Sydney into 10 subregions, with subregional plans prepared to identify employment and housing targets for each region. The subject site is located within the Sydney City Subregion. The *Sydney City Subregional Strategy* sets a target of 58,000 new jobs by 2031. The subregional strategy also includes a key direction to *"ensure adequate capacity for new office and hotel developments"*. It notes that anticipated overall tourist numbers are projected to grow 10 per cent to 2016 across metropolitan Sydney, and will continue to focus on central Sydney. To ensure these crucial aspects of the economy are not constrained, it notes that planning undertaken by State and local government will need to identify and preserve adequate capacity for hotel space, convention and exhibition facilities and tourism infrastructure in and around Central Sydney. The proposed development will assist in meeting these targets.

Draft Metropolitan Strategy
The Draft Metropolitan Strategy for Sydney to 2031 is on public exhibition until 31 May 2013. The Draft Strategy identifies the critical role of Global Sydney. It notes the role of Sydney's CBD and Global Economic Corridor as "*the strongest cluster of jobs in Australia*", as well as the role in tourism with "*2.6 million international overnight visitors to Sydney in 2012*". The Draft Strategy identifies Metropolitan Priorities for the Central Subregion including to develop the subregion as a premier visitor destination, and to extend the commercial core and ensure adequate capacity for employment growth. The proposed development is consistent with these priorities by providing for tourism and hotel infrastructure as well as commercial office space at the edge of the commercial core.

Ministerial Taskforce on Tourism, Planning and Investment
In 2010 the New South Wales Joint Ministerial Taskforce on Tourism, Planning and Investment examined issues of visitor accommodation and conference facilities in Sydney. In relation to private business event facilities, the taskforce's report noted opportunities for private conference and function areas at various sites around inner Sydney between around 2,500m² and 10,000m² and their ability to make a significant contribution to Sydney's capacity to accommodate larger conferences and a broader range of business events. It found that "*there does appear to be market failure in the provision of larger venues as there is a gap between private facilities for 800 pax and major public business event facilities.*" The Taskforce supported further investigations to foster private investment in this area. The proposed development helps address this identified need.

In relation to visitor accommodation, a background technical report by property consultants Jones Lang LaSalle Hotels to the Taskforce highlighted that demand for visitor accommodation will continue to rise, with international visitor nights projected to increase by 3.1% per annum to 2020 and domestic visitor nights by 1.6% per annum to 2020. Of particular significance is the Jones Lang LaSalle Hotels study's finding that Sydney City is forecast to experience an accommodation supply shortfall during the medium term (2012 to 2016), whereby an average of 0.8% of room night demand could be displaced per annum. This is equivalent to an annual average shortfall of 942 rooms taken at 75% occupancy (i.e. nearing capacity). The Taskforce recommended that that Government progress negotiations with the City of Sydney over planning controls that incentivise hotel development, in

recognition of its role as economic infrastructure for the State (recommendation 33). The proposed development assist in addressing this identified need.

City of Sydney
Work undertaken as part of the *Sustainable Sydney 2030 Strategy* by the City of Sydney highlighted the need for more visitor accommodation in Sydney. It identified the state significant clusters of employment within the local government area in tourism and supporting industries (retail, accommodation, food and beverage, transport) that are vital to delivering the visitor experience. The City of Sydney Council's Visitor Accommodation Monitor (May 2011) reported that whilst growth in hotel rooms has remained relatively flat, or even declined in recent years, demand for accommodation is increasing. It reported that the occupancy rate reached its highest ever rate of 85.5% in December 2010 indicating a need to invest in additional hotel infrastructure. The proposed development helps address this identified need.

STATUTORY CONTEXT

3.1 State significant development

The proposal is State significant development under Part 4 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) because it is development having a capital investment value of more than $10 million on land identified as being within the Darling Harbour Site under Clause (b) of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore the Minister for Planning and Infrastructure is the consent authority.

3.2 Delegations

On 14 September 2011, the Minister delegated his functions to determine all State Significant Development Applications to the Planning Assessment Commission (PAC) where an objection has been received by the relevant local Council, where the proponent has provided a political donation disclosure statement, or where there are more than 25 public submissions in the nature of objections.

The application is being referred to the PAC for determination as there have been more than 25 public submissions objecting to the proposed development.

3.3 Permissibility

The proposal is permissible under Darling Harbour Development Plan No.1. From 1 July 2009 this plan is taken to be a State Environmental Planning Policy (see section 120 of Schedule 6 to the EP&A Act No 203).

Under the Plan, development for the purposes of tourist, educational, recreational, entertainment, cultural or commercial facilities are permissible with consent under Clause 6(a) and development for any purpose specified in Schedule 1, which includes commercial premises; convention centres; hotels, are permissible with consent under Clause 6(d). Renovation and demolition of a building or work is permissible with consent under Clause 8.

The Department notes that the development includes significant construction over the Western Distributor Roadway. Darling Harbour Development Plan No.1 does not distinguish development over this roadway from other development, and contains no special provisions in relation to construction on or over roadways. The Department notes that the proposed development will require a Works Authorisation Deed from Roads and Maritime Services. A works authorisation deed is a formally executed common law agreement between Roads and

Maritime Services and the proponent. It is entered into after a Development Application has been approved and prior to approval of detailed design drawings. The deed authorises the proponent to implement road works or other works for which Roads and Maritime Services has a statutory interest, subject to prescribed requirements and conditions.

3.4 Environmental Planning Instruments

Under Section 79C of the EP&A Act, the consent authority is required to take into account the relevant provisions of any State Environmental Planning Policy or Environmental Planning Instrument that applies to the carrying out of the proposal. The following Environmental Planning Instruments apply to the carrying out of the proposal:

- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Infrastructure);
- Darling Harbour Development Plan No.1; and
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.
- State Environmental Planning Policy No 55—Remediation of Land

The proposed development complies with the relevant requirements and standards within these Environmental Planning Instruments. The Department's consideration of relevant State Environmental Planning Policies and Environmental Planning Instruments is provided in **Appendix D**.

3.5 Objects of the EP&A Act

Decision-makers are required to consider the objects of the EP&A 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 objects of most relevance to the Minister's decision on whether or not to approve this development are 5(a)(i), (ii), (vii), 5(b) and 5(c). The following assessment is provided in response to these relevant objectives:

<u>Object 5(a)(i)</u> - The proposed development contributes to the local and State economy, improves the local environment and contributes to the welfare of the community by supporting the growth of jobs, providing facilities that contribute to the State's tourism economy, and by improving the setting of significant heritage items.

Object 5(a)(ii) - The proposed development is considered to be an appropriate economic use of the land in accordance with relevant planning policies and strategies on the basis that it provides employment generating uses close to existing major public transport infrastructure and services.

Object 5(a)(vii) - The proposed development contains a range of initiatives addressing sustainability including rainwater harvesting, solar thermal hot water, high energy efficiency including a 5 start NABERS energy rating, and a range of measures addressing recycled and sustainable building materials.

Object 5(b) - The proposed development met the criteria for State significant development in that it has a capital investment and location identified in a State Environmental Planning Policy as being State significant.

Object 5(c) - Public involvement and participation in the development assessment process was provided through the public exhibition and notification of the Development Application. Issues raised during the public exhibition and notification period are discussed in **Section 4** of this report.

1.4 Ecologically Sustainable Development

The EP&A 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 - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
  (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
  (ii) an assessment of the risk-weighted consequences of various options,
(b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,
(c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
(d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:
  (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
  (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
  (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

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

Precautionary Principle: The Environmental Impact Statement identified and assessed the environmental impacts associated with the project. Furthermore, the Department considers

that the proponent's revised proposal in its Response to Submissions document and the recommended conditions of approval will manage the residual environmental impacts associated with the construction and operation of the project.

Inter-Generational Principle: The project will provide for jobs and accommodation within close proximity to existing transport and infrastructure. Furthermore, the project has been designed in accordance with sustainable design principles to reduce the reliance on fossil fuels to heat and cool the building.

Biodiversity Principle: The project will not disturb any significant flora or fauna.

Valuation Principle: The cost of infrastructure and measures to ensure an appropriate level of environmental performance have been incorporated into the cost of development on the site.

The applicant has addressed in detail ESD principles as they relate to the project development and the Director-General's Requirements. The proposed buildings will incorporate such principles in the design, construction and ongoing operational phases of the development. The Department has considered the objects of the Act, including the encouragement of ESD in its assessment of the application. On the basis of this assessment, the Department is satisfied that the proposal encourages ESD, in accordance with the objects of the Act.

4 CONSULTATION AND SUBMISSIONS

The Department exhibited the Development Application and Environmental Impact Statement for the proposal between 12 September 2012 and 26 October 2012. During the exhibition period, the Department received 120 submissions on the proposal, including:

- 8 submissions from public authorities;
- A submission from the City of Sydney Council; and
- 111 submissions from the general public.

A summary of the issues raised in submissions is provided below.

4.1 Public Authorities

Agency	Summary of Issues
Ausgrid	Ausgrid requests that a condition be imposed for the applicant to make provision for an electricity substation, which meets the electricity demands. It was also requested that the applicant, liaise with Ausgrid's Senior Project Manager/CBD in relation to nearby underground cabling.
Environment Protection Authority	The EPA did not make any comment.
NSW Heritage	Issues raised by NSW Heritage for consideration include: • The proposed tower's impact on view lines and the setting of the Corn Exchange; • The proposed tower's height ad massing; • The architecture of the tower façade behind the Corn Exchange; • Ensuring the proposed glass awnings do not affect significant fabric; • The need to provide further information regarding European archaeology; and

Agency	Summary of Issues
	• The need to condition any approval to provide more information regarding: – interpretation strategy details; – an audit of the heritage items to identify any required conservation works; – other standard heritage conditions; and – standard archaeological conditions.
NSW Office of Water	NSW Office of Water sought further information of groundwater levels and the potential impacts.
Office of Environment and Heritage	No issues were raised.
Roads and Maritime Services	Roads and Maritime Services made the following comments: • Improvements to pedestrian safety in the area to be considered; • The proposed development should be designed to mitigate road traffic noise from the Western Distributor: • Construction stage issues were raised including: – the need for further RMS approvals in relation to building over and in proximity to the Western Distributor; – the need for more information unlikely to be available until after the appointment of a building contractor; and – the need for a major work deed to be entered into. • Several issues were raised that could form conditions of any approval to provide more information including: – a traffic management plan for Slip Street; – a work travel plan and transport access guide; – need for compliance with Australian Standards and AUSTROADS; and – vehicles to enter and leave the site in a forward direction.
Sydney Harbour Foreshore Authority	No issues were raised.
Sydney Airports Corporation	No issues were raised. The proposed development's height is well under Sydney Airport's Obstacle Limitation Surface (OLS) of 156 metres AHD over the site.
City of Sydney	• The need for further design development of interpretative landscape and awnings; • Views of the Corn Exchange from the Pyrmont Bridge to not be impeded by further plantings; • Design changes to Wharf Lane, and its awning, to improve its conservation and lessen heritage impacts; • The establishment of a direct pedestrian connection between the site and Pyrmont Bridge; • The need for more information about the Slip Street landscaping and artworks; and • Auditing of heritage items and monitoring of their condition throughout demolitions and construction.

4.2 General Public

The Department received 111 objections to the proposed development from the public. The issues raised are summarised below:

Table 2: Summary of Issues Raised in Public Submissions

Issue	Proportion of submissions (%)
Loss of views	87%
Height	86%
Loss of greenery and the setting of the Corn Exchange	82%
Traffic impacts	80%
Overshadowing	79%
Consultation process	65%
Property value impacts	48%
Wind impacts	44%
Lifestyle impacts	42%
Night time construction impacts	19%
Conflict of interest	16%
Lack of car parking	16%

An assessment of the key issues raised in submissions is at **Section 5** of this report.

4.3 Response to Submissions

The proponent has provided a response to the issues raised in submissions (see **Appendix C**). The response included amended architectural drawings, a response to submissions and a number of supplementary reports and additional information. Key amendments made:

- changes to the architectural design of the conference and function area to the west of the existing tower building;
- reduction of the floor plate of the lower levels of the tower building to improve the setting of the Corn Exchange;
- improvements to the heritage expression of Wharf Lane between the Corn Exchange and the Dundee Arms Hotel; and
- a number of other minor amendments to address heritage issues, incorporate bicycle parking, include ESD measures, and improve the expression of the pedestrian link through the interior of the hotel building.

Issues arising from the Departments assessment and the submissions relating to view impacts, height, overshadowing and heritage are discussed in detail in **Section 5** of this report.

The Department considers that the issues relating to the lack of car parking are not significant. The development does not provide any on-site car parking but instead utilises existing public parking in an adjacent building. This is consistent with the Sydney Local Environment Plan 2005 and Sydney Local Environment Plan 2012 neither of which require parking to be provided for the uses proposed in the development. The Department considers the site has excellent access to public transport services to accommodate potential increases in patronage arising from the proposed development.

Issues relating to traffic generation have been addressed in the Development Application and in the revised Environmental Impact Statement and are not considered to be significant. The

Department has recommended conditions of approval to address the issues raised by the Roads and Maritime Services regarding traffic management of Slip Street, green travel plans, and the servicing of the development. Issues relating to increases in pedestrian traffic are discussed in detail in **Section 5.4**.

Noise impacts arising from the proposed night time construction are discussed in detail in **Section 5.6.**

A number of submissions also raised issues relating to the consultation process. In this regard, the Department has followed standard statutory procedures in relation to the Development Application assessment and its exhibition as described in **Section 3.4**. The Department is satisfied that the proper processes were followed in accordance with the EP&A Act and the regulations.

Issues relating to wind impacts have been addressed in the proponent's Response to Submissions document and in particular the Pedestrian Wind Environment Statement by Windtech Consultants Pty Limited. The Statement notes that the wind impacts of the proposed development are expected to be negligible and that accessible surrounding areas are expected to remain suitable for pedestrian activity. The Department agrees with this assessment.

Issues relating to property value and lifestyle have been addressed by ensuring that the development is in keeping with its context in the central business distinct of Sydney.

5 ASSESSMENT

The Department considers the key environmental issues for the project to be:

- Construction over the Western Distributor;
- Built form;
- View impacts;
- Heritage;
- Access; and
- Developer contributions.

5.1 Construction over the Western Distributor

The proposed new buildings on the site are partially constructed over the roadway of the Western Distributor. Construction activity affecting the Western Distributor will involve construction of the piles and columns to support the building platform which spans over the Western Distributor. A draft Construction Traffic Management Plan has been prepared and is included at Appendix E of the Environmental Impact Statement. Roads and Maritime Services has advised the applicant that it will be required to execute a works authorisation deed for the works over a public road.

The Department notes that the existing hotel is already partly constructed over the Western Distributor as well as Slip Lane and further south, the Department notes that the Darling Park development is similarly constructed over the Western Distributor roadway. The Department notes that the Darling Park development already constrains the Western Distributor both laterally and vertically. Roads and Maritime Services was consulted in relation to the proposal and did not raise any objections.

The Department notes that the construction over the roadway has potential benefits including acoustic improvements to areas in the vicinity of the roadway due to the screening of existing traffic noise. Accordingly, the Department considers that approval to build over the roadway is acceptable in principle.

Notwithstanding, construction over the Western Distributor will give rise to a longer than normal construction time, due to the likelihood that Roads and Maritime Services will only allow brief and out of hours closing of this significant arterial road. While the logistics of the construction over the Western Distributor roadway are yet to be fully resolved, it is likely that construction over the roadway will be at night-time only. The Department notes that the proposed development will require a major works deed from the Roads and Maritime Services in relation to construction work over and in the vicinity of the Western Distributor motorway. There remains a degree of uncertainty regarding construction timings and duration, with the details to be determined in consultation with the Roads and Maritime Services. The Roads and Maritime Services may also impose additional requirements in relation to the timing of construction and potential impacts including noise.

The Department notes the proponent operates a large hotel on the remainder of the site immediately adjacent to the area of construction and that this provides the nearest sensitive receiver to the construction site and creates an incentive for the proponent to minimise noise. The Department also notes Section 2.8 of the Response to Submissions document addresses construction noise issues and lists the principles to be employed in order to minimise noise and vibration impacts on the surrounding area. It notes that particular care must be taken during piling works and demolition. It also notes the need for the main contractor, with its appointed subcontractors, to work collaboratively with the acoustic and vibration consultant to develop strategies that will ensure appropriate methodologies and

monitoring techniques are maintained throughout the works. These are likely to include the following work practices:

- erecting temporary noise barriers before work commences;
- consulting with affected neighbours regarding effectiveness of the noise mitigation measures;
- where feasible and reasonable, utilising alternatives to rock-breaking work methods, such as hydraulic splitters for rock and concrete, hydraulic jaw crushers, chemical rock and concrete splitting, and controlled blasting such as penetrating cone fracture;
- using alternatives to diesel and petrol engines and pneumatic units, such as hydraulic or electric controlled units where feasible and reasonable, and locate any electrical generators away from residences;
- selecting the least noisy machine available, for example rubber wheeled vehicles in lieu of steel; and
- selecting super-silenced compressors, silenced jackhammers and damped bits where possible.

Although there will be noise impacts during construction, the Department is satisfied that these can be managed to acceptable levels. The Department has recommended the imposition of conditions requiring the proponent to:

- prepare a Construction Noise Management Plan that will ensure all construction noise complies with the criteria identified in the Interim Construction Noise Guideline July 2009 (DECCW), prior to the issue of the first Construction Certificate;
- ensure construction works are managed in accordance with the requirements of the Construction Noise Management Plan; and
- ensure all acoustic treatments identified in Section 2.8 of the Response to Submissions by JBA Urban Planning Consultants are incorporated prior to the issue of a Construction Certificate.

5.2 Built form

5.2.1 Built form

A line of low rise heritage buildings effectively provides a street frontage for the development along Sussex Street. Behind them, the existing and proposed tower buildings, which are curved and stepped, are set back from the Sussex Street frontage by a minimum of 16m. The existing hotel building has a built form of 140m length which steps in the middle from a height of (predominantly) 36 metres above Sussex Street to a height of (predominantly) 53 metres. The proposed development adds a new tower joined to the southern end of the existing hotel building.

This has the effect of lengthening the unbroken line of building on the site by approximately 40 metres. Because the existing hotel steps up towards the south and the new tower connects directly to it, the proposed development will result in a building that exceeds 45 metres in height for a length of 105 metres. Submissions have objected to the building bulk resulting from this configuration.

The Department notes that the street frontage height of most blocks in the Sydney CBD ranges from 20 to 45 metres above street level. Council's planning controls reinforce this form, requiring most blocks in the Sydney CBD to build on the street frontage with heights between 20 and 45 metres. Many existing buildings in central Sydney are built to a height of 45 metres. The result is that the typical built form in a city block can extend for most of the length of the block with a street frontage of 45 metres, and with higher buildings set back behind the street frontage. As a result, the Department considers that it is acceptable for the tower building to be joined to the existing building up to a height of 45 metres.

With regard to the length of the proposed building above 45 metres in height, the proponent has argued that the new tower must be physically connected to the existing hotel for operational reasons. This is because the two buildings will be internally connected and share facilities, as well as having matching floor levels. Although the tower could have been separated from the existing building above 45 metres in height, the configuration of the existing buildings on the site means that any building separation is unlikely to result in additional view sharing, solar access or ventilation benefits unless the separation was of a large dimension. The Department accepts the proponent's arguments in this regard.

In responding to the issue of building separation, the proponent has included design features to help differentiate the tower from the existing building and to minimise its visual bulk and scale. The tower narrows at the point of connection to the existing building with a changed floorplate. The glass and metal design of the facade creates a visually distinctive style compared to the existing building. The tower's mid-level plantroom floor responds to the height of the existing hotel building, and the commercial floors of the tower have a modified facade treatment compared to the hotel floors below responding to the changed use. Taking these design attributes into account, the Department considers that it is acceptable for the tower building to be joined to the existing building for its full height above 45 metres and that despite its overall length the built form on the site is acceptable.

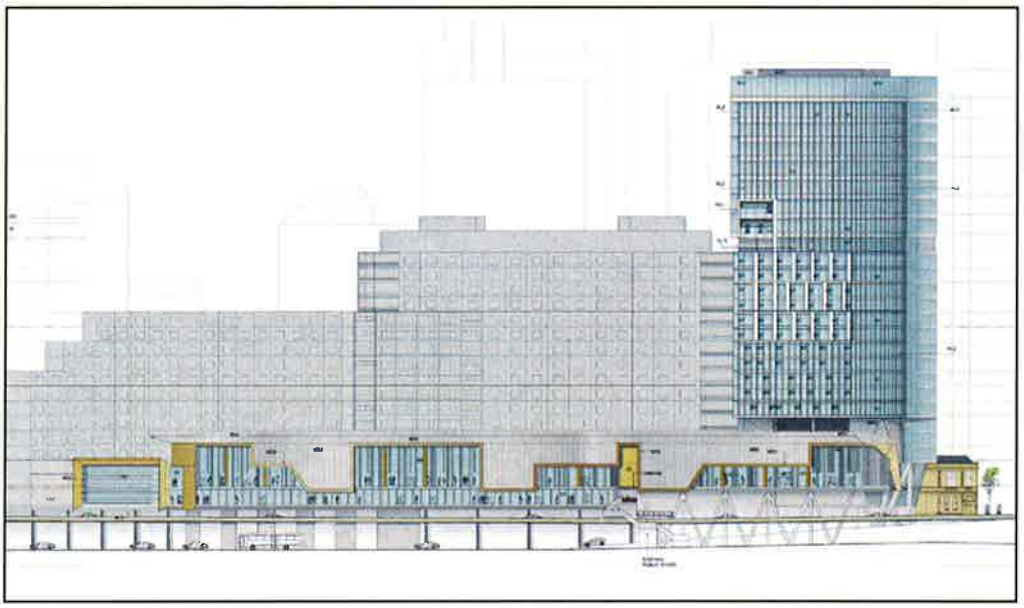


Figure 8: Western elevation of the development as lodged

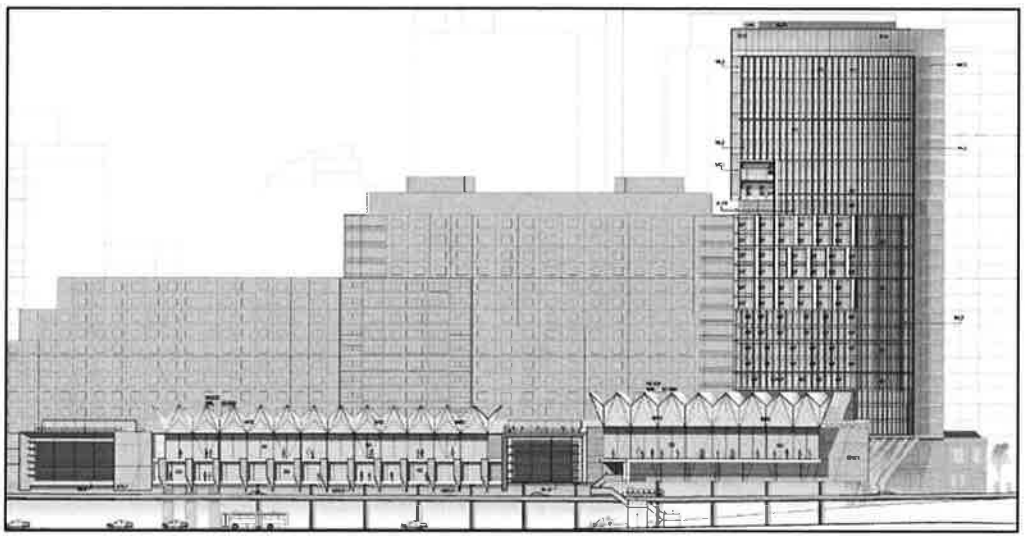


Figure 9: Western elevation of the development as amended

Submissions also objected to the lack of a setback from the Market Street boundary and suggested that this contributes to the overall length and bulk of the buildings. Council's submission notes that the proposal maintains the alignment of Market Street onto the Pyrmont Bridge and supports this aspect of the design. It is considered that the site boundary itself is of lesser importance than the alignment of the city grid, which has been weakened as a result of changes to the western edge of the city in the 1970s and 80s. As a result, the Department considers that the building alignment as proposed results in a better urban design outcome than would be obtained by requiring further boundary setbacks.

The Department's internal urban design advice as well as Council's submission questioned the appropriateness of the strong horizontality of the design of the convention and function component, particularly the roofline. The proponent has responded to this by redesigning the architectural treatment of this element. The proponent has introduced a break in the form with a changed roofline and an outdoor deck area that is partially landscaped. The roof over the conference/function rooms is now a folded slab, concertinaed like a fan, and this design expression flows into the design of the western elevation. The result is a significant improvement to the proposal and is supported by the Department.

5.2.2 Height

Sussex Street is set at approximately RL10m and the height of the proposed development is measured to RL93.6m. This means that the proposed development has a maximum height of approximately 84m. The relevant Environmental Planning Instruments do not contain any development standards that control the height of buildings at this location.

The blocks northeast, east and southeast of the site along the eastern side of Sussex Street have a maximum height under the Sydney Local Environment Plan 2005 (which was current at the time the application was lodged) of 80m, with the potential for this to be increased by up to 10%. Sydney Local Environment Plan 2012 maintains a height of 80m for these blocks.

The blocks to the north of the site, occupied by the King Street Wharf development have maximum heights under the Sydney Local Environment Plan 2012 of between 16m and 50m. The block to the south occupied by the Darling Park development, like the subject site, is subject to the Darling Harbour Development Plan, which does not contain building height controls.

Figure 10: Site context – showing existing building heights along the western edge of the CBD (the approximate location of the proposed tower building is circled in red)

Submissions have objected to the height of the proposed development. In particular, that the height (RL93.6m) is not in keeping with the reduction in scale from the George Street ridge of the city, and that the proposal does not contribute to the layering of built form from Darling Harbour up to the CBD when viewed from the west. Submissions have objected that the proposed development's height is out of context with the existing buildings on the site which are at a maximum height of RL65m and have also suggested that the height does not allow for view sharing of Darling Harbour from buildings on the edge of Central Sydney.

The Sydney Local Environment Plan 2005 objectives for height include:

- to provide a transition of building heights between localities and street blocks;
- to provide high quality urban form for all buildings, while maintaining satisfactory sky exposure and daylight to existing buildings and to the sides and rear of tower forms;
- to allow for and promote the ventilation of the City by the free movement of air around and between tower structures;
- to nominate heights that will provide a transition in built form and land use intensity between the City Centre zone and adjoining lower scale localities within and adjacent to Central Sydney;
- to provide for view sharing along the edges of Central Sydney, and
- to ensure an appropriate height transition between new buildings and heritage items or Special Areas.

There are no specific objectives relating to controlling the height of buildings to model the overall form of the City Centre Zone in an east-west, or north-south direction. The maximum building heights under Sydney Local Environment Plan 2005 east of the site for example, reduce to 60 metres for the two blocks between Kent Street and York Street.

Sydney Local Environment Plan 2012 similarly contains objectives for height which include

- to ensure the height of development is appropriate to the condition of the site and its context;
- to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas;
- to promote the sharing of views; and
- to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas.

Sydney Local Environment Plan 2012 also contains additional local provisions to ensure that tower development:

- provides amenity for the occupants of the tower and neighbouring buildings;
- does not adversely affect the amenity of public places;
- is compatible with its context;
- provides for sunlight to reach the sides and rear of the tower;
- promotes the ventilation of Central Sydney by allowing the free movement of air around towers; and
- encourages uses with active street frontages;

Figure 11: Existing (left) and montage (right) views showing the proposed development in its context (the proposed tower is circled in red) (reproduced from the EIS)

In terms of context, the Allianz Building at 2 Market Street, (immediately east of the site) has a height of RL95.6m. The block to the south contains the Darling Park development with two towers at a height of RL132.1m. Further north, whilst King Street Wharf remains a lower height precinct, the approved envelopes for Barangaroo to the north include for several tall buildings up to RL209m. Therefore, it is considered that there is no overall consistency to the height of tall buildings along the western edge of the city.

In considering an appropriate height and bulk for the development, the Department considers that a critical issue is the views of the Corn Exchange from the Pyrmont Bridge. This issue directly relates to the bulk and design of the lower levels of the building and not specifically the height of the tower. The relationship with the Corn Exchange is discussed in detail below in **Section 5.3**

Another consideration appropriate in determining the height is the potential overshadowing resulting from the development. The Environmental Impact Statement included an overview of overshadowing and shadow diagrams. The shadow diagrams (as revised in the Response to Submissions document) demonstrate that the proposed development does not further overshadow the public foreshore walkway along Darling Harbour. The public foreshore walkway is already overshadowed by the existing development along Cockle Bay.

The proposed development will result in some overshadowing of the Circular Garden within the Darling Park development from just after 10:30am in the morning until just before 12.30pm in midwinter. The Department notes that the extent of overshadowing will only affect a small portion of the north-west corner of the Circular Garden, with the remainder already being overshadowed by the existing Darling Park northern tower. The Department also notes that the garden will continue to have partial or full access to sunlight through the afternoon, with more than 50% of the garden being in full sunlight from 12:00 noon onwards.

The publically accessible space north of the Darling Park towers, near the corner of Sussex and Market Streets, will be overshadowed by the proposed development from 12:00 noon until 3:00pm in midwinter. The proponent argues that this space is used as a transition space that people use as a means for meeting up as opposed to a public open space used for recreation or leisure. The majority of people using the space are either entering or exiting the northern Darling Park tower, or are walking to and from Pyrmont Bridge. It also notes that outdoor seating in the area is restricted in its use to cafe customers rather than available to the public. The proponent further notes that overshadowing impacts caused by the proposed tower shift from west to east throughout the day. As a result no part of this northern square will be overshadowed by the development for the entire day and at midwinter the outdoor seating area for the existing cafe is overshadowed for only two hours of the entire day. On balance, the Department considers this overshadowing impact as acceptable.

The proponent also undertook further analysis of the shadow impacts of the proposed development on the Astoria Tower apartments and the Berkeley apartments. The analysis confirms that in midwinter the proposed development will have a small overshadowing effect on the northern facade of the Astoria Tower, with the northern windows of apartments on Levels 9 – 13 being affected between 2:15pm and 3:15pm. It is noted that each window is only shadowed for no more than 30 minutes. The proposed development will not result in any overshadowing impacts on 25 Market Street between the hours of 9:00am to 3:00pm. The Department considers that this overshadowing is acceptable.

On balance, the Department considers that the height of the proposed development is in keeping with the context and does not give rise to significant overshadowing impacts.

5.2.3 Floor Space

The submissions received during the exhibition process have suggested that the proposed development should be consistent with the built form controls applying elsewhere in the city.

As stated previously, the proposed development is not within the area of the Sydney Local Environment Plan or subject to Council's Development Control Plans. Darling Harbour Development Plan 1 does not contain development standards relating to height, floor space or specific controls relating to built form. Notwithstanding, the Department's assessment has had regard to the objectives of the Sydney Local Environment Plan 2005, Sydney Local Environment Plan 2012, and Central Sydney Development Control Plan provisions.

The Department has also sought specific information from the proponent to enable consideration of the proposed development's 'fit' with Council's planning controls that apply on adjacent blocks including in relation to height and floor space ratios in order to enable its consideration of the application. As noted above in **Section 5.1.2** the height of the proposed development is considered to be contextually appropriate for the site and is broadly in keeping with the heights of adjacent buildings.

In relation to floor space, the Sydney Local Environment Plan 2012 controls the maximum floor space of adjacent blocks. To the east the permitted floor space ratio is a maximum of 8:1 ('zone' AC, Area 3) with bonuses available under Section 6.3 of an additional 3:1 for hotel uses and 2:1 for commercial uses.

The most comparable block of the King Street Wharf Development immediately to the north has a maximum FSR of 7.5:1 ('zone' AB, Area 4) with bonuses available under Section 6.3 of the Sydney Local Environment Plan 2012 of an additional 1.5:1 for all uses.

The proponent has calculated the Floor Space Ratio of the development in accordance with the methodology of the Sydney Local Environment Plan and found it to be 5.3:1. This is significantly less than that permitted on comparable adjacent sites even without taking into account the availability of bonus floor space under the Plan.

It is considered that the proposed development achieves an acceptable and comparable built form with adjacent city blocks and is of a scale, height and form that is broadly consistent with its context despite being subject to a different Environmental Planning Instrument.

5.3 View Impacts

The Environmental Impact Statement includes a Visual Impact Assessment by GMU Urban Design and Architecture. This report details the impact of the proposed development on key public and private views. A significant number of submissions objected to the impact of the proposed development on views. The applicant in its Response to Submissions document also provided a further analysis of view impacts at the Astoria apartments at 222 Sussex Street and The Berkeley apartments at 25 Market Street.

5.3.1 Impact on private views

The revised *View Impact Analysis* by GMU Urban Design and Architecture provides a comprehensive analysis of the view impacts of the proposed development, characterising the view loss at the affected premises. The computer generated images show that the proposed development will impact on distant views to the harbour and distant horizon from these buildings. The proponent's Response to Submissions document also contains an assessment of the view impacts on 2 Market Street.

The Department notes that proposed development will impact on views. Submissions objecting to view loss have been received from three locations:

- 222 Sussex Street (a residential building known as *the Astoria*);
- 25 Market Street (a residential building known as *the Berkeley*); and
- 2 Market Street (a commercial building known as the *Allianz Building)*.

To determine whether or not the proposed development's view sharing is reasonable the Department has followed a four-step assessment in accordance with the principles established by Tenacity Consulting Vs Warringah [2004] NSWLEC 140. The first step is the assessment of views to be affected and the qualitative value of those views. The Tenacity principles note that "*water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*" The second step is to consider from what part of the property the views are obtained. The third step is to assess the extent of the impact. The fourth step is to assess the reasonableness of the proposal that is causing the impact.

Astoria View Impacts

Applying the Tenacity principles to the Astoria, the Department notes that the affected apartments in the Astoria have city views as well as harbour views. The proposed development will impact on views to the northwest, including significant views of Sydney Harbour. These range from distant views to mid-range views showing the water and land interface. These are detailed in the Visual Impact Assessment provided with the application and an example is provided in **Figure 12,** which shows an example of before and after views from the Level 23 Balcony. The Department notes that the harbour views from all apartments are partial, oblique views between existing tall buildings in the city.

The Visual Impact Assessment details the view impacts from a range of different spaces in the Astoria. These include balcony views, seated views and standing views from living spaces. In relation to views from balconies facing Kent Street, apartments:

- below level 15 do not currently enjoy water views to the northwest and are not significantly impacted by the development;
- above level 15 have a partial water view between the Darling Park tower and the existing Four Points hotel building. This water view is of Darling Harbour with a partial view of the distant East Balmain foreshore. This water view will be taken away by the proposed development;
- above level 23 also have water views over the top of the existing Four Points hotel building. This water view is of Darling Harbour and the foreshore at King Street Wharf to the distant foreshore of Sydney Harbour with iconic views to harbour landscape features including include East Balmain, Goat Island and Balls Head. These views will be significantly reduced by the proposed development which would obscure the Balmain East headland and part of King Street Wharf and the water in between; and
- on all levels retain existing views between the Darling Park towers towards the west. For apartments above level 9 this includes water views.

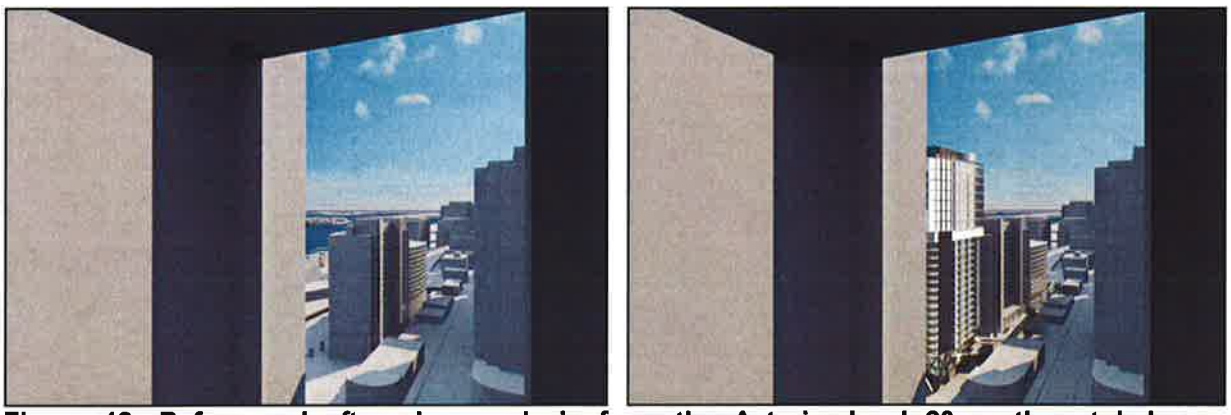


Figure 12: Before and after view analysis from the Astoria, level 23 northwest balcony (reproduced from the Response to Submissions)

In relation to views from north facing windows of living areas of the Astoria, which rely on views across a side boundary, apartments:

- below level 9 do not have north facing windows;
- between level 9 and level 23 have a partial water view between the Darling Park tower and the existing Four Points hotel building. This water view is of Darling Harbour with a partial view of the Pyrmont foreshore. This water view will be significantly reduced by the proposed development; and
- above level 23 also have water views over the top of the existing Four Points hotel building. This water view is of Darling Harbour looking over the Sydney Aquarium and the distant foreshore of Sydney Harbour with iconic views to harbour landscape features including eastern Pyrmont, East Balmain, Goat Island and Balls Head. These views will be significantly reduced by the proposed development which would partly obscure views of the Aquarium buildings and the Pyrmont and Balmain foreshore and the water in between.

All of the views from north facing windows are across a side boundary of a site which is currently developed well below the maximum permitted floorspace and height. The degree of reliance on side boundary views is highlighted in **Figure 13**. The Department notes step three of the Tenacity planning principles and that the expectation to retain side views is often unrealistic. Specifically the Department notes that the Response to Submissions has highlighted that in the case of the north facing boundary windows in the Astoria, a legal and binding covenant exists on all contracts for units within the Astoria Tower apartments that permits Council to seal or enclose all windows along the northern and southern side

boundaries in case of development on adjoining sites. This covenant has already been exercised along the southern boundary where windows have been sealed up to Level 24. The Department notes the potential for views from these windows to be lost completely should the adjacent site be developed with a tower permissible under the Sydney Local Environment Plan 2012.

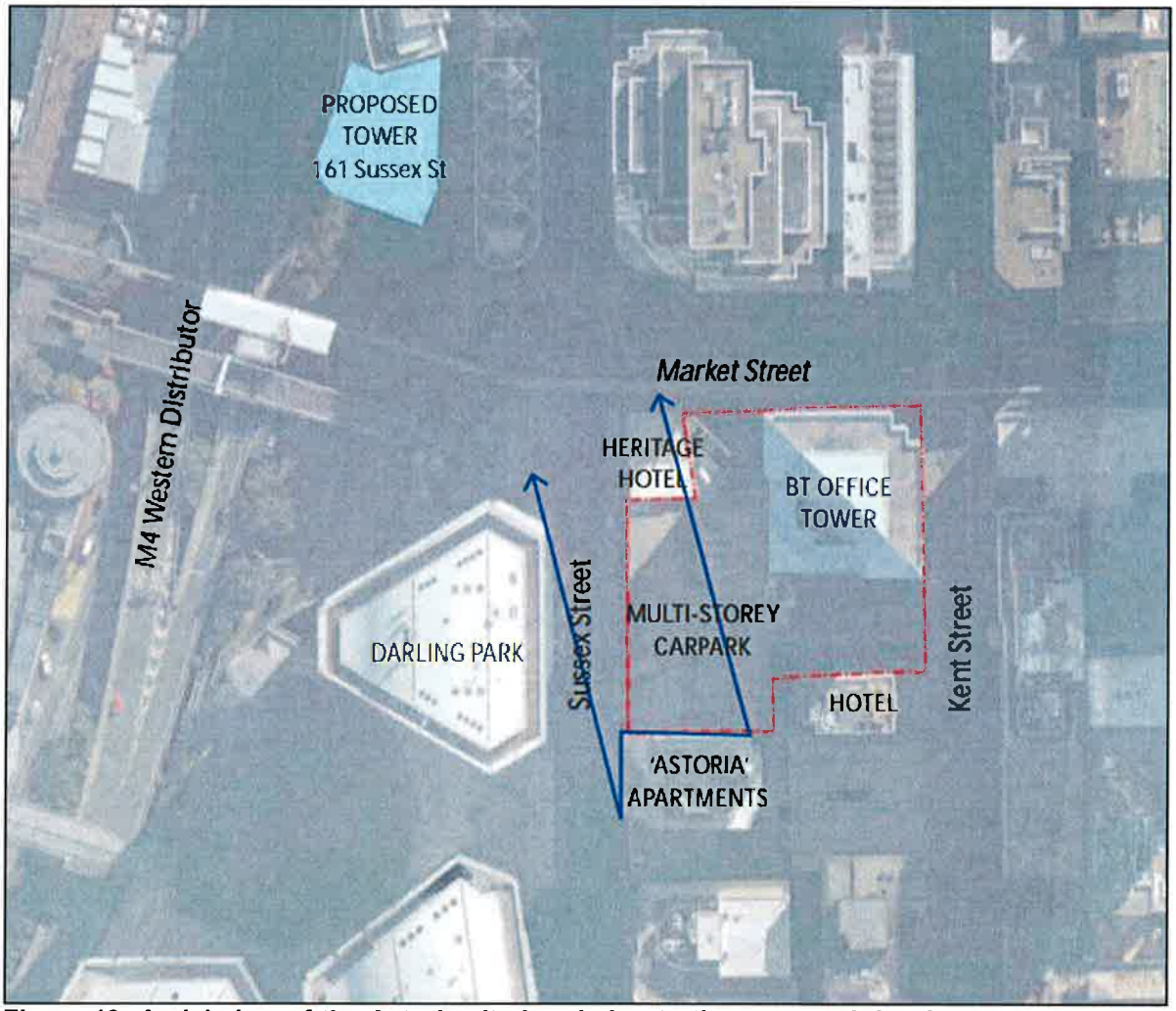


Figure 13: Aerial view of the Astoria site in relation to the proposed development showing the reliance on views across side boundaries (reproduced from the Response to Submissions)

Berkeley View Impacts

Applying the Tenacity principles to the Berkeley, the Department notes that the affected apartments are on the northern and western elevations. These apartments have city views as well as harbour views. The proposed development will impact on oblique views to the northwest, including views of Sydney Harbour. The extent of view impacts does not change significantly between floors.

The north facing apartments of the Berkeley have water views of Sydney Harbour showing mid-distance views of the water and land interface of Darling Harbour and Cockle Bay. The views include iconic elements of the Pyrmont Bridge, the giant flagpole in the Darling Harbour waterway and a distant view of the Anzac Bridge tower. The proposed development will impact on these views by reducing the width of the view aperture along Market Street, which will reduce the extent of water which is visible. The Department notes that iconic views of the Pyrmont Bridge will be maintained as well as distant views to the Anzac Bridge tower. Views to the National Maritime Museum will be reduced. Views of Darling Harbour south of and including the Pyrmont Bridge are not affected. These apartments also enjoy

views towards the east including city views and views of Sydney Tower. **Figure 14** shows an example of the before and after views.

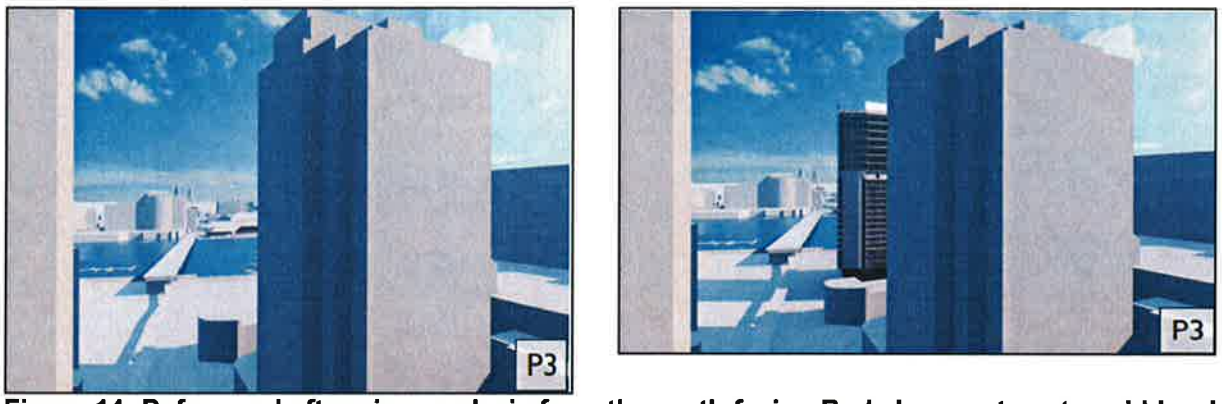


Figure 14: Before and after view analysis from the north facing Berkeley apartments, mid-level (reproduced from the Response to Submissions)

The south facing apartments of the Berkeley have narrow water views of Sydney Harbour showing mid-distance views of the water and land interface of Darling Harbour in front of the Aquarium. The views do not include iconic elements. The proposed development will take away the views of the waterway. **Figure 15** shows an example of the before and after views.

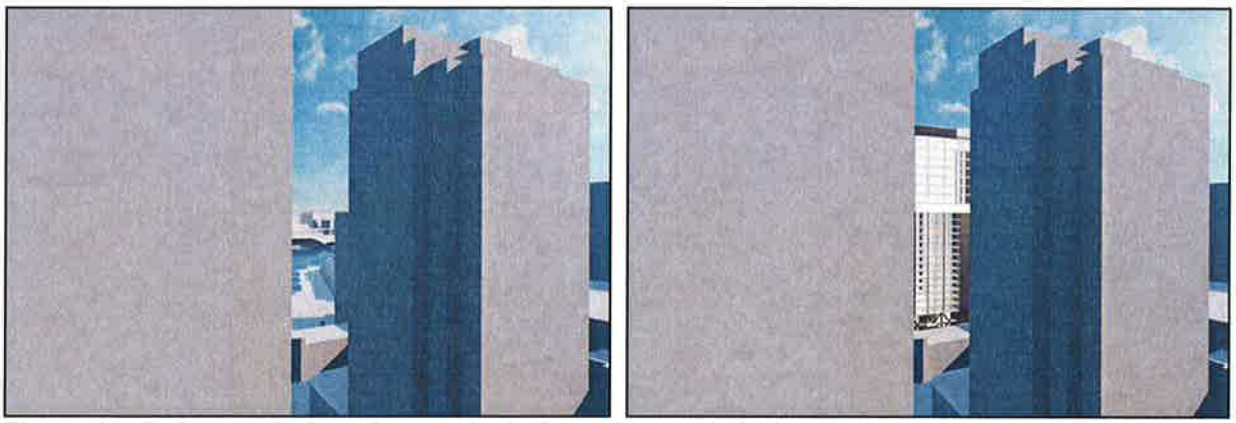


Figure 15: Before and after view analysis from the south facing Berkeley apartments, mid-level (reproduced from the Response to Submissions)

Allianz View Impacts

Applying the Tenacity principles to the Allianz Building, the Department notes that west facing parts of the building are affected. These floors have city views as well as harbour views. The proposed development will impact on views to the west, including views of Sydney Harbour. The extent of view impacts does not change significantly between.

The affected floors have water views of Sydney Harbour showing mid-distance views of the water and land interface of Darling Harbour and Cockle Bay. The views include iconic elements of the Pyrmont Bridge, the giant flagpole in the Darling Harbour waterway, Star City Casino and a distant view of the Anzac Bridge tower. There are also distant harbour views towards the northwest available above level 20, over the roof of the existing Four Points Hotel Building. The proposed development will impact on these views by reducing the extent of views. In particular the Department notes that the proposed development will take away the views of the Pyrmont Bridge, the giant flagpole in the Darling Harbour waterway, Star City Casino and a distant view of the Anzac Bridge tower. The Department notes that as a

commercial use with large floorplates the precise extent of view impact varies from the north to the south end of each floor. **Figure 16** shows an example of the before and after views.

Figure 16: Before and after view analysis from the Allianz building, Level 20 (reproduced from the submission by RPS Consulting)

Reasonableness of Proposal

The fourth step of the Tenacity planning principles is to assess the reasonableness of the proposal that is causing the impact. The Department notes that the impacts on views do not arise as a result of a non-compliance with the planning controls. Its assessment of the proposed development is that it is compliant with Darling Harbour Development Plan No 1. As noted above in **Section 5.2**, the proposed development is also broadly compliant with the development standards that apply to adjacent sites subject to Sydney Local Environment Plan 2012. In particular, the Department notes the proposed development's Floor Space Ratio is significantly below what is permissible for adjacent sites subject to Sydney Local Environment Plan 2012. Taking this into account, the Department considers that the proposed development is reasonable for the site.

With a complying proposal, the Tenacity planning principles require that the question should be asked whether a more skilful design could provide the proponent with the same development potential and amenity and reduce the impact on the views of neighbours. The Department considers that the degree of change that would be required in order to maintain significant views from the Astoria, Berkeley and Allianz buildings would result in an unreasonable impact on development potential and urban design of the proposed development. The Department also notes in relation to the view impacts that the Response to Submissions has highlighted the setback of the proposed hotel building from Sussex Street, which is much greater than that which would be required if the site were subject to Sydney Local Environment Plan 2012. The applicant argues that this increased separation provides for improved access to natural light and mid-distance views from adjoining buildings in particular the Allianz building. This is shown in **Figure 17**.

The Department notes that reducing the height of the tower would reduce the impact on views from the upper levels of the Astoria (above level 23) and the upper levels of the Allianz building (above approximately RL65m). Such a change, however, would also result in a tower with bigger floorplates in order to achieve the same development potential, which would give rise to other view loss and heritage impacts.

The Department also notes that water view impacts arise from the width of the tower as well as its height. With a floorplate of approximately 900 square metres, the tower is at a size that is at the lower end of currently favourable commercial floorplates. As a result the Department considers it is not possible to significantly reduce the tower floorplate without unreasonably impacting on the viability of the proposal. Considering the shape of the tower floorplate, the Department considers that even if the tower could be redesigned to be a narrow, rectangular floorplate, whichever way it was aligned on the site it would still result in almost no change to view impacts at the Astoria, and only minimal changes to view impacts at the Berkeley or the Allianz building.

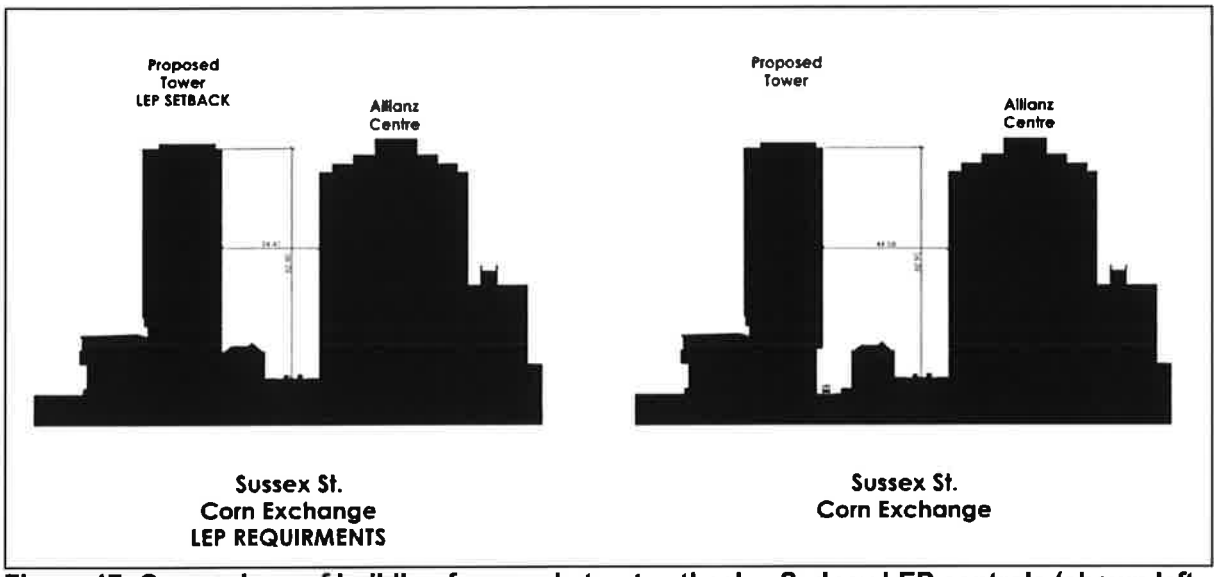


Figure 17: Comparison of building form and street setback – Sydney LEP controls (shown left – 34.41m setback from Sussex St) and the proposed development (right – 44.58m setback from Sussex St) (reproduced from the Response to Submissions)

With regard to the tower's location within the site, the Department considers that there are no opportunities to relocate the tower in a way that would significantly reduce view impacts or improve the view sharing. The tower cannot be relocated further to the north as it is already joined to the existing hotel building. The tower cannot be moved further west as it would come into conflict with the Western Distributor roadway. Even if it could be located to the western boundary, the Department notes that because of the alignment of the site it would result in very little change to view impacts at the Astoria, the Berkeley or the Allianz building. As discussed above in Section 5.2.1 the location of the tower responds to the alignment of Market Street as well as to the setting of the Corn Exchange. Accordingly, it is considered that relocating the tower further south is not appropriate as it would give rise to unacceptable heritage and streetscape impacts, and it is already located at the southern boundary of the site. Similarly, relocating the tower further to the east would give rise to increased heritage impacts and reduce the streetscape quality of Sussex Street with little or no improvement in view sharing, and arguable worse view impacts.

Private View Loss Summary and Conclusions

Following the four-step planning principles established by Tenacity Consulting Vs Warringah [2004] NSWLEC 140, the Department makes the following conclusions:

For the Astoria:

- the affected views are partial views of a high value, and containing iconic elements;
- the affected views are from living areas and balconies, some of which rely on views across a side boundary;

- the impact is significant, with the total loss of existing north-western water views from apartments between level 15 and level 23, and a significant but not total loss of existing north-western water views from higher floors; and
- the west facing apartments above level 15 will retain existing water views (between the Darling Park towers towards the west);

however:

- the proposed development is reasonable considering its compliance with relevant requirements and standards of the applicable environmental planning instruments; and
- a more skilful design would not significantly reduce the impact on the views from the Astoria while still providing the applicant with the same development potential and amenity.

The Department acknowledges that the view loss impact on the Astoria is substantial. For some apartments the existing water views to the northwest would be lost. For others there would be a reduction in the extent and quality of the water views.

Notwithstanding these impacts, using the *Tenacity* planning principles, the Department must consider the reasonableness of the proposal when deciding whether these view losses are acceptable.

The Department notes that the proposal is compliant with all relevant requirements and standards in environmental planning instruments applying to the site. Further, the proposal is consistent with other surrounding development within its wider CBD context. It is also the Department's opinion that, given the site's constraints, a more skilful design would not provide the applicant with the same development potential and amenity while at the same time reduce view loss impact on neighbouring properties. The Department notes that due to the narrow aperture between the Northern Darling Park tower and the existing Four Points building, even a very slender tower on the site would result in equivalent view losses.

As discussed in the *Tenacity* planning principles the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. Given the most significant view loss impacts occur towards the north-west towards a side boundary, the department considers that it is impractical to retain side boundary views at this location. Further such views should be given less weight than primary views across front and rear boundaries.

The Department also notes that the distance of the Astoria building from the development site makes the retention of oblique views very difficult and unlikely. The development site is located one block east from the foreshore and approximately 130m from the Astoria building. There are future development opportunities available on the sites between the Astoria building and the water, which may also result in similar or greater view loss impacts.

Despite the view loss impacts described above, other alternative views would be retained. The most affected apartments would still retain existing water views to the southwest between the Darling Park towers, and high level apartments would still retain water views to the northwest over the existing hotel building. The department considers that the retained views would provide a reasonable level of amenity for residents, within the context of the site's highly urbanised location.

As a result, after applying the *Tenacity* planning principles, the Department concludes that despite the significance of the view loss, on balance view sharing is reasonable and the view loss is acceptable.

For residents living in the Berkeley:

- the affected views are high value, and containing iconic elements;
- the affected views are from living areas and balconies; and

- the impact is significant, with the total loss of existing water views from south-west facing apartments, and a partial loss (reduced by approximately 25% but containing iconic elements) of existing water views from north facing apartments; and

however:

- the proposed development is reasonable considering its compliance with relevant requirements and standards of the applicable environmental planning instruments; and
- a more skilful design would not significantly reduce the impact on the views from the Berkeley while still providing the applicant with the same development potential and amenity.

The Department acknowledges that the view loss impacts on the Berkeley would be substaintial. For south-western facing apartments the existing narrow water views to the north-west would be lost. However, it is noted that the existing views to the north-west are heavily constrained by the existing Allianz and BT towers. For the north facing apartments there would be a reduction in the extent and quality of the water views.

Notwithstanding these impacts, using the *Tenacity* planning principles, the Department must consider the reasonableness of the proposal when deciding whether these view losses are acceptable. The Department notes that the proposal is compliant with all relevant requirements and standards in the environmental planning instruments applying to the site. The Department also considers that the proposal is consistent with other development within its wider CBD context. It is also the Department's opinion that, given the site's constraints, a more skilful design would not provide the applicant with the same development potential and amenity while at the same time reduce the view loss impact on neighbouring properties. In particular, the Department notes that moving the tower further north to reduce the view impacts is not an option as it already abuts the existing hotel building.

The Department considers that due to the location of the Berkeley which is two blocks away from the water's edge and sits behind the Allianz and BT towers, it is unrealistic to retain the heavily constrained views in the context of the highly urbanised CBD environment. To retain the existing views would result in precluding any reasonable level of development occurring on the subject site.

Despite the view loss impacts described above, the Berkeley's apartments would still enjoy good mid-distance views of city buildings, and would still retain good views along the alignment of Market Street to the Pyrmont Bridge and the Darling Harbour foreshore. It is considered that the retained views would still provide residents within the Berkeley apartments with a reasonable level of amenity within the context of its highly urbanised CBD location.

As a result, after applying the *Tenacity* planning principles, the Department concludes that despite the significance of the view loss, on balance view sharing is reasonable and the view loss is acceptable.

For the Allianz building:

- the affected views are high value, and containing iconic elements;
- the affected views are from commercial offices; and
- the impact is significant, with the reduction of existing water views to the west containing iconic elements;

however:

- the proposed development is reasonable considering its compliance with relevant requirements and standards of the applicable environmental planning instruments; and
- a more skilful design would not significantly reduce the impact on the views from the Allianz building while still providing the applicant with the same development potential and amenity.

The Department acknowledges that the view impact on the Allianz building is substantial. A significant proportion of the views to the west, including water views of Darling Harbour and the Pyrmont Bridge will be lost.

Notwithstanding these impacts, using the *Tenacity* planning principles, the Department must consider the reasonableness of the proposal when deciding whether these significant losses are acceptable.

The Department notes that the proposal is compliant with all of the relevant requirements and standards in the environmental planning instruments applying to the site. The Department also considers that the proposal is consistent with its context. It is also the Department's opinion that, given the site's constraints, a more skilful design could not provide the proponent with the same development potential and amenity while at the same time reduce the impact on the views of neighbours. In particular, the Department notes that different configurations of the tower floorplate would change the extent of view loss from different parts of the Allianz building's open plan floors, but overall there would be little or no change to the quantum of the proposal's view loss impacts. While reducing the height of the tower would reduce the impact on distant views, this would have little impact on short range views to the Darling Harbour foreshore, as it would remain obscured by the lower levels of the tower. In addition the tower floorplate of a shorter building would need to be increased to accommodate the same development area resulting in further impacts on views and heritage.

Despite the view loss impacts described above, the Allianz building will still enjoy views of city buildings that are in keeping with its location, and will still retain good quality water views of Cockle Bay.

It should also be noted that given the Allianz building is a commercial building, view loss impacts associated with the proposal should not be given the same weight as if it were a residential building. As such it is considered that the view loss impacts are reasonable and the retained views will provide a reasonable level of amenity for commercial tenants.

As a result, after applying the *Tenacity* planning principles the Department concludes that despite the significance of the view loss, on balance the view sharing is reasonable and the view loss is acceptable.

Overall the department considers that the view loss impacts are reasonable. The proposal complies with relevant EPIs and an alternative design would not significantly improve view loss impacts to neighbouring properties. Further the department notes that there are no planning controls which specifically aim to limit view loss impacts at this location from neighbouring residential properties. The department also notes that retained views from neighbouring properties would still provide a reasonable level of amenity for residents/commercial tennants, within the context of the site's highly urbanised location.

5.3.2 Impact on views of Sydney Tower

The Department notes that the proposed tower component of the development will block some views of Sydney Tower when viewed from Pyrmont Bridge. Views of Sydney Tower are considered to be iconic. The Department notes however that at the eastern end of the Pyrmont Bridge existing buildings already obscure views of Sydney Tower, as shown in **Figure 18**. This impact on views of Sydney Tower is localised to the eastern end of the Pyrmont Bridge and the iconic views of Sydney Tower from the western end of the bridge will be retained. Accordingly the Department considers that this impact is acceptable.

Figure 18: Existing City view from the Pyrmont Bridge
(reproduced from the Response to Submissions)

5.4 Heritage

The Environmental Impact Statement includes a Statement of Heritage Impact prepared by City Plan Heritage and a Heritage Peer Review by Urbis. These have been further reviewed and amended in response to submissions. An Archaeological Assessment by Casey and Lowe has also been included and was prepared in accordance with Heritage Council guidelines.

Major heritage issues including the setting of the Corn Exchange, the conservation of Wharf Lane and the interpretation of the Sussex Street frontage are discussed below.

5.4.1 Corn Exchange

The Statement of Heritage Impact notes the significance of the relationship between the Corn Exchange and Darling Harbour. It quotes the conservation management plan stating:

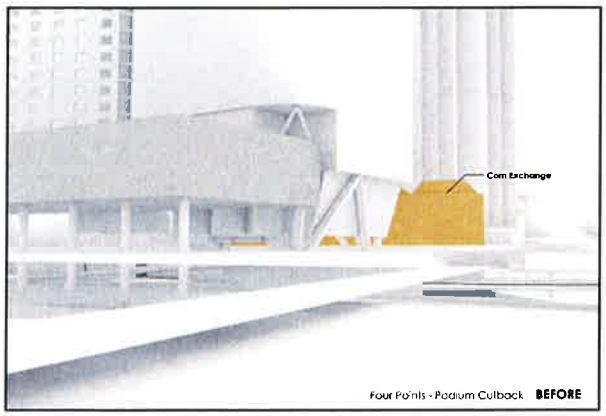
> *"Historically the building's western facade was highly visible from Darling Harbour and the city approach of the Pyrmont Bridge. This view has been eroded through the track of the Monorail and its station. A grove of trees also blocks the views of the building from this direction."*

Site visits by Department staff have confirmed that views of the Corn Exchange from the nearby foreshore of Darling Harbour are heavily obscured by the line of trees along the Western Distributor roadway and the roadway structures and barriers (see **Figure 19**). Even with the removal of the trees, the Department is satisfied that the Corn Exchange would remain largely obscured from the public domain of the Darling Harbour foreshore by the roadway structures. The corner, upper level and roof of the Corn Exchange could be visible from the deck of the Pyrmont Bridge, but are currently obscured by the line of trees adjacent to the Western Distributor.

Figure 19: Current view of the Corn Exchange from the Pyrmont Bridge (the red circle highlights the Corn Exchange) (reproduced from the Response to Submissions)

As noted in the Statement of Heritage Impact, later developments both on the proposed development's site and adjacent sites have heavily modified views to the Corn Exchange and fundamentally changed the character of this view over time to essentially provide a backdrop to its roofscape. The Department also notes that the views of the northern end of the Corn Exchange that will be partially obscured by the proposed development's tower are currently obscured by vegetation.

In response to issues raised during exhibition by the Council, the Heritage Council and the Department, the proponent substantially revised the lower levels of the building. The structure supporting the tower has been refined and the exterior of the building at these lower levels pulled back with a smaller floor plate. These changes have improved the views of the Corn Exchange from the end of the Pyrmont Bridge. **Figure 20** shows two views of this part of the proposal, one illustrating the proposal as exhibited and the second illustrating the revised proposal.



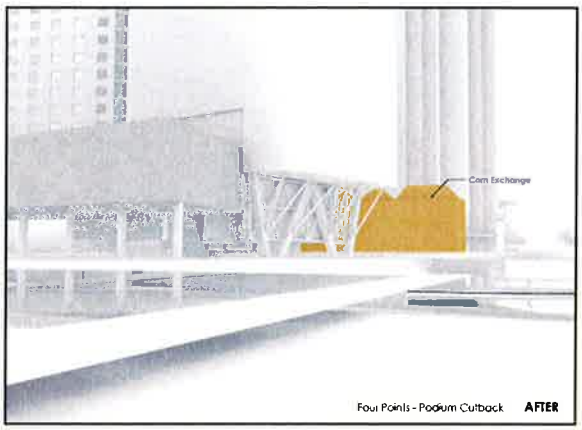


Figure 20: Analysis showing the setting of the Corn Exchange (left image is the proposal as lodged, right image is the revised proposal) (reproduced from the Response to Submissions)

The Department agrees with the findings of the Statement of Heritage Impact that the building will continue to be progressively revealed as a person walks towards the east, and notes it will be fully revealed from the pedestrian walkway following demolition of the Monorail. It is considered that the setback of the lower levels of the tower responds appropriately to this 'revealing' of the building.

The architectural treatment of these floors includes distinctly different materials and design and a curving glazed corner at the lower levels. The height of the lower tower floor also references the parapet height of the Corn Exchange. Also, the key views of the Corn Exchange from Sussex Street and Market Street towards the west are considered to remain substantially intact with the tower being set back from the Market Street and Sussex Street alignments to allow the Corn Exchange's corner and roof to read against the sky from the Market Street footpath. It is considered that the corner of the Corn Exchange will still maintain a significant presence in views from the Pyrmont Bridge.

The proposed development also includes upgrading and heritage interpretation works at the southern end of Slip Street to improve the area adjacent to the Corn Exchange Building. The improvements works include:

- remodelling the stairs at the base of the Corn Exchange Building;
- acoustic barriers including artwork, to be installed on the western side of Slip Street; and
- heritage interpretation including:
  - road paving treatments and re-interpretation of the former "Wharf Lane";
  - identifying original 1890's allotments and former buildings in the ground plane; and
  - ground plane treatments to identify former street and laneways alignments.

These works combined with the reactivation of this area are predicted to have a positive impact on the heritage significance of the Corn Exchange.

Whilst there will be impacts from the proposed tower on the views of the Corn Exchange the Statement of Heritage Impact notes that there are also mitigating features, including the removal of vegetation to reveal the building, demolition of the monorail (by others) and the inclusion of heritage interpretation. The tower form is modified at the lower levels with a reduced floor plate to help reveal the Corn Exchange. Taking these factors into account it is considered that, the impacts on the setting of the Corn Exchange are acceptable.

5.4.2 Wharf Lane

Council raised issues regarding the heritage conservation of Wharf Lane, being a former lane within the site between the Corn Exchange and the Dundee Arms Hotel. The Council requested that Wharf Lane be better interpreted in the design through the use of materials and structures such as awnings above. Issues were also raised about the conservation of significant fabric on the southern elevation of the Dundee Arms Hotel.

The proponent has responded by improving the expression of Wharf Lane in the proposed development. The revised design interprets the ground plane as a bridge element, constructed of lighter weight materials including timber, and pulled back on its sides to reveal the full elevations of both the Corn Exchange and the Dundee Arms Hotel. Clear panels are introduced into the floor leading to interpretive features below. The extent of awnings has also been reduced. The new arrangement is detailed in **Figure 21**. The Department considers that these amendments have significantly improved the heritage interpretation of Wharf Lane and adequately addressed Council's concerns.

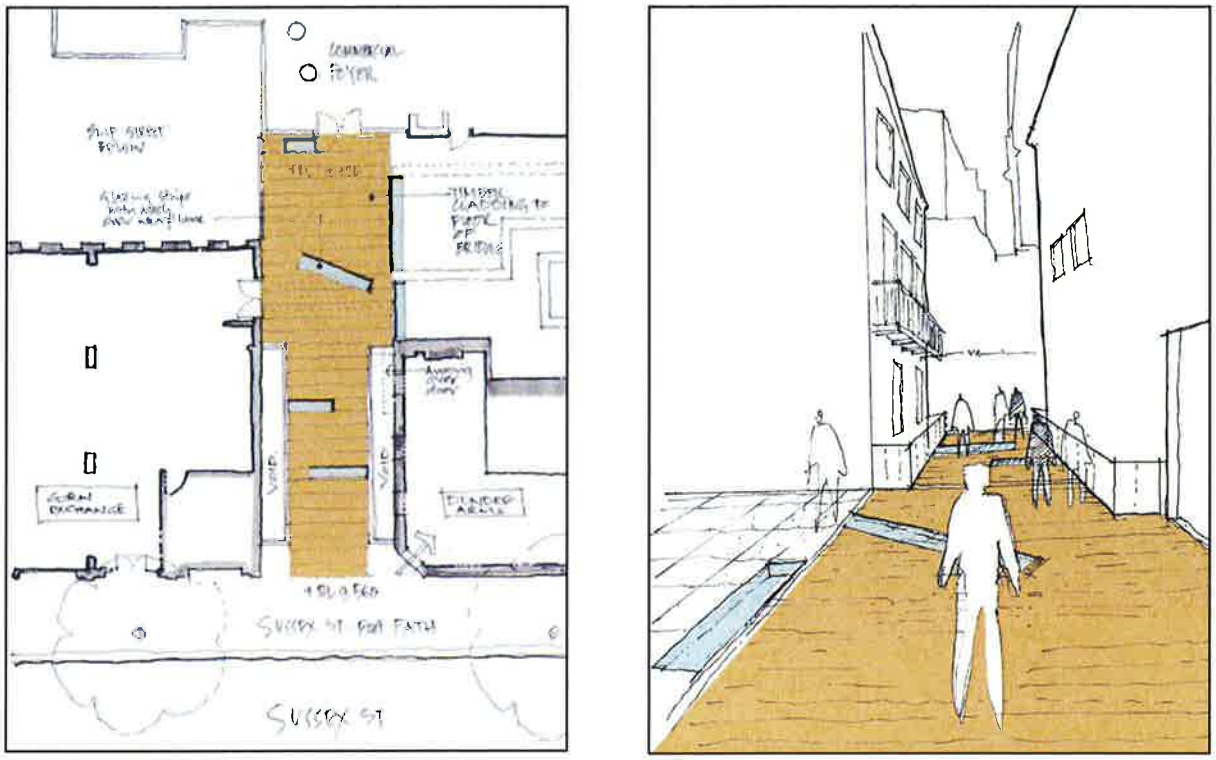


Figure 21: Plan and sketch of the revised Wharf Lane arrangement
(reproduced from the Response to Submissions)

5.4.3 Sussex Street Frontage

The proposed development includes a number of changes to the Sussex Street frontage of the site. These include remodelling of the port cochere including demolition of the associated 1990's faux heritage structures along Sussex Street.

The redevelopment of the public domain along the street frontage includes heritage interpretation elements such as paving patterns to reflect building footprints of demolished buildings, bollards to define early 20th Century building owners, and interpretation signage to explain the evolution of the site. The design also incorporates a canopy on the northern entry that extends to the footpath building line and turns down to reinforce the street edge. This canopy will have former heritage building footprints etched on it.

The main southern entry port cochere also has a canopy reflecting historic building footprints set back slightly from the street.

The Department considers that these elements of the proposal represent a significant heritage and urban design improvement for the site.

5.5 Access

The Environmental Impact Statement includes a Transport and Accessibility Impact Assessment by Colston Budd Hunt and Kafes Pty Ltd (CBHK). It provides an overview and assessment of the existing traffic and transport arrangements, the traffic and parking impacts of the project, and the impact of the project on pedestrian movement, safety and amenity.

Council's submission raised an issue regarding pedestrian connectivity to Darling Harbour and specifically the opportunity to connect from Sussex Street to the pedestrian bridge between Market Street and the Pyrmont Bridge with a new pedestrian bridge following the decommissioning of the monorail.

The Department requested the proponent investigate the potential of this link to be constructed. The proponent's Response to Submissions document provided a feasibility study and costing for this link. The investigation concluded that while it appears that such a link would be technically possible to construct, it would give rise to several significant issues, such as:

- the structural feasibility of landing long columns and potentially lift cores (for equitable access) between the roadways of the Western Distributor;
- uncertainty regarding the potential to rely on the existing bridge for any structural support; and
- the potential for any new structures to significantly impact on the existing view lines of the Pyrmont Bridge and the Corn Exchange.

The Department has considered the proponent's investigation into the feasibility of such a connection. The Department has considered a three step process to determine whether the pedestrian bridge should be pursued. The first step is to evaluate whether the pedestrian connection is warranted on its own merits. The second is whether the likely impacts of the bridge outweigh any benefits. The third issue relates to whether the cost of the infrastructure would result in better outcomes if it were spent on other infrastructure or services.

In Council's recent (2008) consideration of a Development Application for pedestrian bridges over Market and Castlereagh Streets in conjunction with the recent Westfield redevelopment (Development Application NO: D2008/1298) its assessment report summary stated "*grade separated above ground pedestrian access across city streets is not consistent with the plans for a revitalised city centre and pedestrian amenity as described in the City's Sustainable Sydney 2030 vision.*" The assessment also noted that the subject bridges would "*foreshorten views and obscure axial vistas along Market and Castlereagh Streets*" and "*isolate pedestrians from the street*" and "*not contribute to street life or promote activity and interest*". The Department notes that while bridges were eventually approved for that application, they replaced existing bridges rather than creating new connections. It is the Department's view that the issues as stated in that assessment are equally applicable to the creation of a new bridge adjacent to the Corn Exchange.

If a bridge were to be provided there would be substantial visual impacts. The Department notes that any new connection would have impacts on significant heritage views of both the Corn Exchange and the Pyrmont Bridge. The Department notes that Pyrmont Bridge, which is considered to have a high level of design quality, will be further revealed following decommissioning of the monorail. The Department considers that a connection into this bridge at the geometries forced by the alignment of the Market Street on-ramp below is highly likely to detract from rather than enhance its aesthetic qualities. This would likely be exacerbated by the limited locations for structure, due to the existence of the Western Distributor roadway below. The need to install a lift in order to meet disability access requirements would add further bulk to the structure.

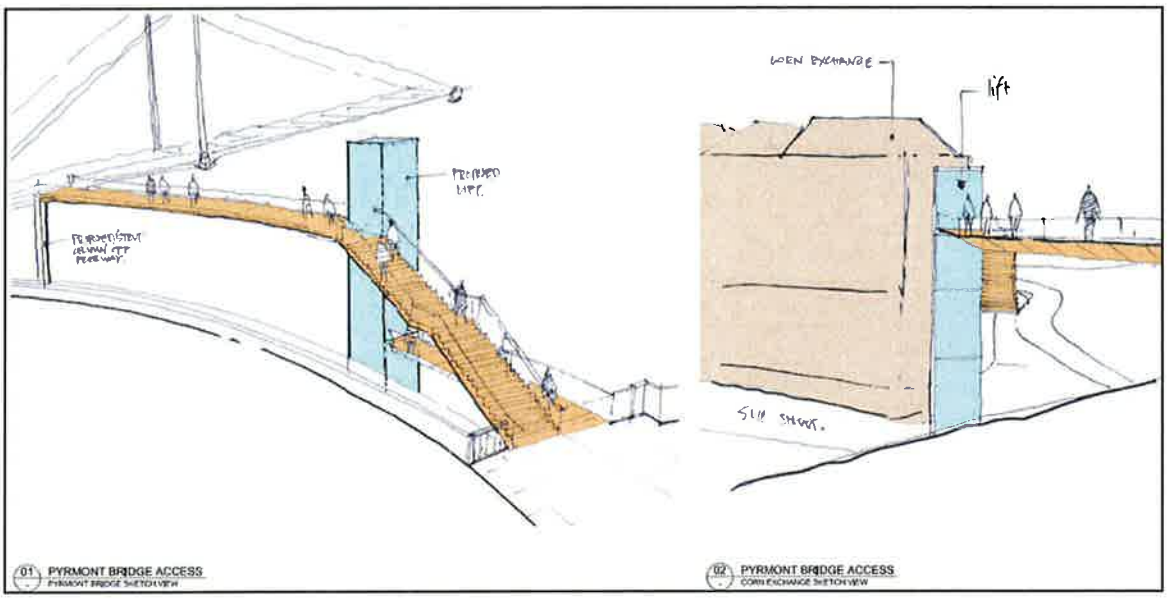


Figure 22: Pedestrian bridge link - preliminary sketches
(reproduced from the Response to Submissions)

The Department also notes that the proponent has provided a preliminary estimate of the cost of such a connection at $4.5 million. This represents approximately 3% of the cost of the overall development. The Department considers that it would be unreasonable to require the cost of such a connection to be borne entirely by the proposed development. As a result it is unclear if and when any such connection would be built. Alternatively, investment in the pedestrian infrastructure of Sussex Street including improved pedestrian amenity at the Market Street and King Street intersections would contribute directly to street life and promote safe pedestrian activity along the existing street frontages. As a result it is the Department's view that any expenditure should be prioritised towards improving existing street level pedestrian infrastructure such as the Market street and Sussex Street intersection, and if a need were established, enhancing the existing pedestrian bridge, rather than by creating a new link.

Therefore, it is the Department's opinion that a better outcome would be to improve the pedestrian environment on the street rather than install new bridges, and enhance rather than duplicate existing structures if required.

Notwithstanding the above, the Department notes that the design of the proposed development does not preclude the potential for such a pedestrian bridge to be constructed at a later time in the event that such a connection were warranted.

The Department has noted that the proposed development will increase the pedestrian traffic to and from the site, particularly arising out of the significant intensification of the conference/function use. With regard to pedestrian traffic to and from the city side of the development, the Department notes that the development will increase pedestrian traffic at the intersections of Market Street and Sussex Street, and King Street and Sussex Street.

In particular, the Department notes the observation in the *Traffic and Access Statement* by Colston Budd Hunt and Kafes in relation to the pedestrian islands at the Market Street and Sussex Street intersection that "*pedestrian access onto these islands is limit*ed" and that they are "*small*". It notes the potential for this intersection to be redesigned to remove the two islands. It is the Department's view that even small increases in pedestrian movements have the potential to cause impacts to the Market Street and Sussex Street intersection due to the very small size of the pedestrian islands. A similar situation exists on King Street, although the pedestrian island is larger.

Conference and function uses tend to generate high pedestrian movements at specific times (at the start and end of large events) rather than at average rates throughout the day. As a result the Department considers that these intersections should be upgraded to improve their safety and capacity to handle increased pedestrian movements. A condition of consent is recommended for this work to be undertaken by the applicant to the satisfaction of Council and the Roads and Maritime Services.

The Department also notes the need to upgrade the Sussex Street footpath between King Street and Market Street from the existing brick finish to the City's current granite footpath standards. A condition of consent is also recommended for this work to be undertaken by the applicant to the satisfaction of Council.

The Department notes that the proposed development realigns the existing pedestrian connection between Darling Harbour and Sussex Street through the hotel. The Department raised concerns about the management and design expression of this link. The proponent's Response to Submissions document has modified the design of the link, including improving the ceiling height, width and quality of this link space relocating the reception desk and improving the clarity of the link.

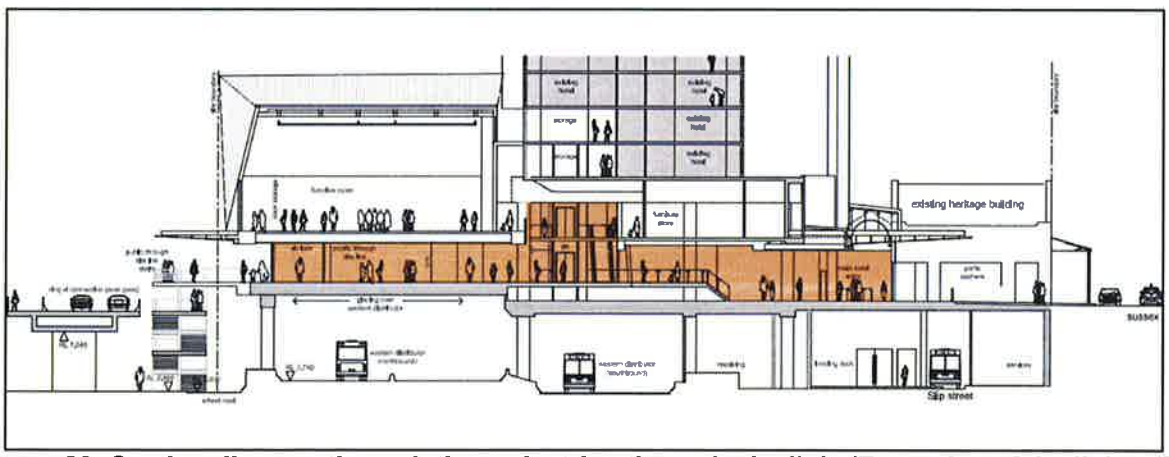


Figure 23: Section diagram through the pedestrian through site link. (For a plan of the link, refer to Figure 4) (reproduced from the Response to Submissions)

The Department is satisfied that the revised design is a significant improvement on the design as lodged, and an improvement on the link as it currently exists. The Department has recommended a condition of consent that ensure the through site link remains publicly accessible between 6am and midnight every day. This is considered acceptable as it offers a reasonable balance between providing for the public amenity of the through site link whilst managing the safety and security of this area late at night.

5.6 Developer Contributions

The Department notes that the subject land is not within any contributions plan. Notwithstanding, the Minister has the statutory power to impose contributions under Sections 94A and 94B of the EP&A Act 1979. In exercising this power, under delegation, the Planning Assessment Commission, must satisfy itself that any contributions are reasonable in the circumstances.

The Department has considered whether there is a nexus between the proposed development and the need for additional public amenities and services in the local area. The Department notes that adjacent city blocks, are subject to the City of Sydney Act. Under Section 61 of the Act, cash contributions amounting to 1% of the total development cost are payable to the Council when carrying out building projects that exceed $200,000. The

contributions assist Council in the provision of public infrastructure, community projects and facilities.

The Department notes that the proposed development does not propose any significant public infrastructure or service improvements, or result in any significant improvements to accessibility, open space or other public benefits. The Department considers that the proposed development's changes to Slip Street are primarily in the nature of private improvements with the major benefits flowing to the proponent. With regard to the through-site pedestrian link between Wheat Road and Sussex Street, the Department notes that the proposed development relocates this existing piece of public infrastructure rather than enhancing or expanding it.

Therefore, the Department considers that it is appropriate and reasonable to impose a 1% contribution on the development in accordance with 94A and 94B of the EP&A Act, this being the contribution level payable by adjacent comparable development in the city centre. Accordingly the Department has recommended a condition of approval that the proponent pay a contribution of $1,485,000 to the Council prior to the issue of a Construction Certificate.

5.7 Other issues

5.7.1 Ecologically Sustainable Development

The revised Environmental Impact Statement includes an *Ecologically Sustainable Development* report by Cundall. The Department raised several issues relating to the sustainability of the development following the exhibition of the application. The applicant responded by preparing an ESD report by Aecom addressing sustainability opportunities for the development including renewable energy use, rainwater harvesting, NABERS Office Energy rating for the office component. Information was also provided as to how the proposed development would contribute to the Sydney Harbour Foreshore Authority Sustainability Policy targets.

The Department is satisfied that the proposed development as revised has incorporated appropriate sustainability initiatives for its use and context. The Department has recommended conditions to ensure the ESD commitments in the Response to Submissions are achieved.

5.7.2 Reflectivity

The Environmental Impact Statement includes a Solar Light Reflectivity Analysis, prepared by Windtech. The report assessed the impact of solar reflections off the proposed building on traffic, pedestrians and the occupants of surrounding buildings. The analysis concluded that there would be no adverse glare impacts for drivers or pedestrians.

The report recommends limiting the specular reflectivity of the glazing on levels 11 to 20 of the western aspect of the western tower to 11 percent, and glazing on the northern aspect of the north-western corner of the podium to 14 per cent. The report also recommends there will be no adverse glare impacts for the occupants of the surrounding buildings provided that no glazing exceeds a specular reflectivity of 20 percent.

The Department sought confirmation that the glazed western elevation of the conference/function rooms in the proposed development would not cause adverse glare for drivers travelling on the King Street on-ramp. A revised Solar Light Reflectivity Analysis was prepared by the proponent which noted that the reflections of the facade would be broken up by variety of architectural elements and recommended that three 40cm high screens should be added to the top of the glazed roof section of the western podium expansion to ensure potential glare impacts are managed.

The Department is satisfied that the reflectivity impacts have been adequately addressed and has recommended the imposition of conditions requiring the proponent to select glazing and provide the screens in accordance with the recommendations of the Solar Light Reflectivity Analysis.

6 CONCLUSION

The Department's assessment of the proposal to redevelop the Four Points by Sheraton Hotel has concluded that the development will assist in achieving the employment and tourism targets specified in *NSW 2012,* the *Metropolitan Strategy* and *Sydney City Subregional Strategy,* the *draft Metropolitan Strategy* and the City of Sydney's *Sustainable Sydney 2030* Community Strategic Plan.

In its assessment, the Department has considered all relevant matters under Section 79C, the objects of the EP& A Act, 1979 and ESD in its assessment.

The Department considers that the proposed development is consistent with relevant State Environmental Planning Policies and Environmental Planning Instruments and is compatible with the context of the adjacent CBD development which is subject to different development standards. Overall, the development will positively contribute to the area by providing important visitor accommodation, convention and function services, and commercial office space supporting the growth of jobs in the city centre.

The Department has assessed the likely impacts of the development. The Department has also considered the matters raised in submissions by the Council and the public. The Department considers that the impacts arising out of the proposed development are acceptable and residual impacts can be adequately managed through changes to the design and the imposition of conditions on the approval.

The Department has assessed the key issues arising from development including construction over the Western Distributor, the built form, height and floor space, potential views loss, heritage, access and developer contributions. The Department has concluded that the development will not give rise to unacceptable adverse impacts, will improve the local environment of Sussex Street, enhance the setting of the site's significant heritage items, and improve the ecological sustainability of the hotel. Several conditions are recommended to address noise from construction, heritage, traffic management, to require upgrading of immediately adjacent footpaths and intersections, to require developer contributions and to ensure ecologically sustainable development outcomes.

Overall, the Department considers that the site is suitable for the development and that the development is in the public interest. Consequently, the Department recommends that the project be approved, subject to conditions.

7 RECOMMENDATION

It is recommended that the Planning Assessment Commission as Delegate of the Minister:

(A) consider all relevant matters under Section 79C of the *Environmental Planning and Assessment Act 1979*, including those contained in the findings and recommendations of this report and appended documentation;

(B) grant consent to the development application, subject to conditions, under section 89E of the *Environmental Planning and Assessment Act 1979*; and

(C) **sign** the attached development consent (Appendix E).

Prepared by:

3/6/13

Karen Jones
Director, Metropolitan & Regional Projects South

5.6.13

Chris Wilson
Executive Director,
Development Assessment Systems & Approvals