

One such example is Brookfield’s Wynyard Place development at Wynyard Station, where a Building Management Statement (BMS) is used to manage public access through the Transit Hall that connects George Street through to the railway station. The BMS is registered on title and sets out the terms of responsibilities and requirements for public access and maintenance between Brookfield, Transport for NSW and the City of Sydney Council.

The future SSD Application will include details of the proposed approach. During the assessment and determination phase of that application there will be the opportunity for the NSW Department of Planning and Environment and the Independent Planning Commission to recommend and impose appropriate conditions to ensure that a suitable mechanism is proposed concurrent with the detailed design approval for the commercial building and open spaces.

1.2 Darling Harbour promenade and setbacks to podium and tower

The Commission requested clarification of the width of the promenade and building setbacks to it. An amended setback diagram has been prepared (Figure 47 from the Design Report, see **Figure 1**) that clarifies that the width of the existing and proposed promenade is 11.6m, as measured from the lease line. This does not include any existing areas of boardwalk.

The podium is proposed to be built to the lease line (zero setback) whilst the tower is to have a minimum 8m setback with an average 10m setback to the lease line. It is highly likely that there will be additional pedestrian circulation at ground level within the subject site to the east of the lease line, to provide circulation within the retail/ dining/ entertainment uses proposed in this location as per the section detail below.

It is noted that the boardwalk (shown on the diagram) does not exist along the entire length of the promenade. It was the Department’s preference that any works to the boardwalk not be included in the application and be considered separately, if required. Accordingly, the proposal does not involve any works to the boardwalk.

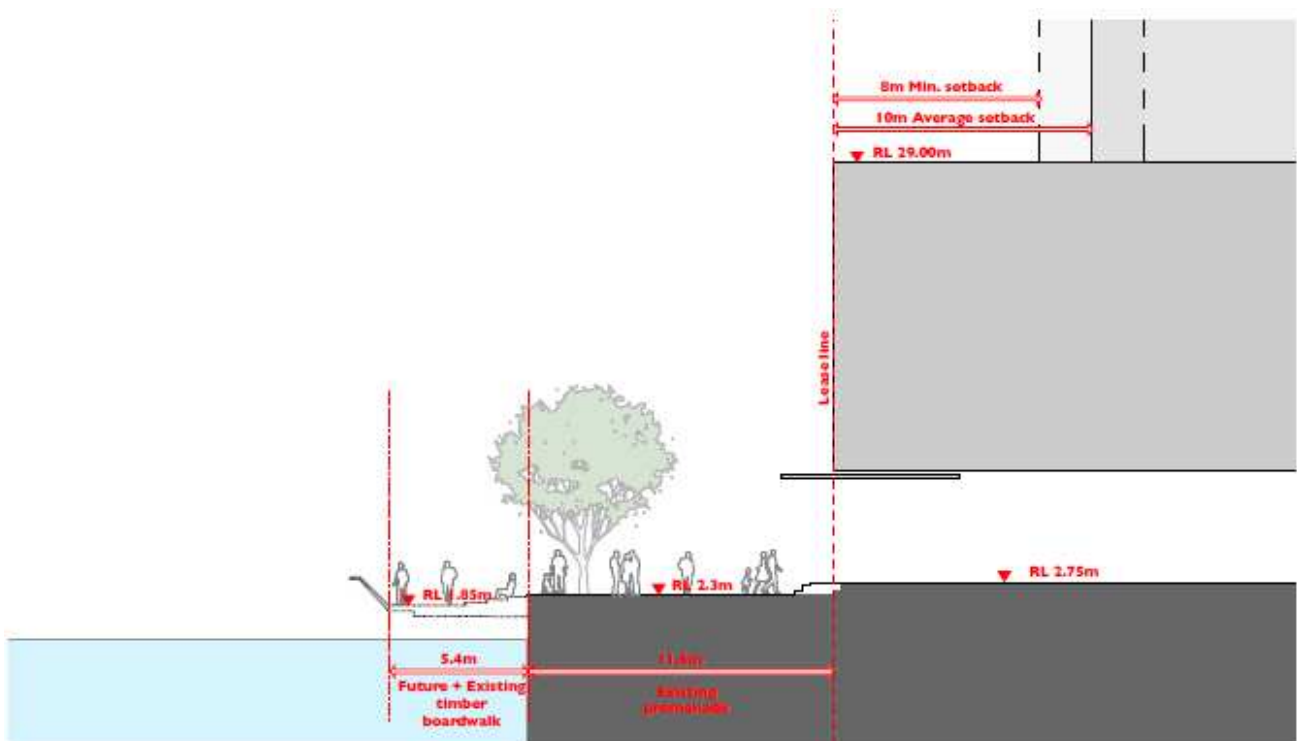


Figure 1 Waterfront setback diagram (amended)

Source: FJMT

1.3 Tower setback and wind assessment

The application proposes an average weighted setback to the tower above the podium of 10 metres, with a minimum setback of 8 metres. We understand that Council has asked for a single 10m tower setback. The weighted average and minimum setback approach affords important flexibility to allow for a range of diverse architectural design and building articulation responses through the competitive design process.

It is noted that the minimum 8m and weighted-average 10m setbacks proposed are 2 metres greater than the setbacks required for towers located elsewhere in Central Sydney under the Sydney DCP 2012 (however, noting they do not apply to Cockle Bay or this project).

The location and positioning of the tower form on this site is constrained by the proximity to the Western Distributor to the east and the sea wall to the west, and accordingly any increase in the setback as suggested by Council would constrain the ability to deliver a suitable depth of floorplate for commercial uses and would reduce the capacity to incorporate articulation in the building façade.

The 2017 Environmental Impact Statement (EIS) included a Pedestrian Wind Environment Wind Tunnel Assessment undertaken for the proposed building envelope prepared by Cermak Peterka Petersen (CPP) (Appendix N of 2017 EIS). The wind tunnel modelling demonstrated that an appropriate level of pedestrian wind comfort can be achieved within the building envelope proposed, subject to detailed design, and that a further increase in the western setback would be of minimal benefit in further mitigating wind impacts. The recommendations of the Wind Tunnel Assessment will inform the detailed design of the future building, which will be subject to further wind assessment that will be provided as part of the future detailed State Significant Development Application.

Having regard to the above, we consider that the setback as proposed (and as supported by DPE) is appropriate in the context of this site having regard to the technical analysis and urban design studies undertaken to date, and in reference to the established controls for other towers throughout the Sydney CBD.

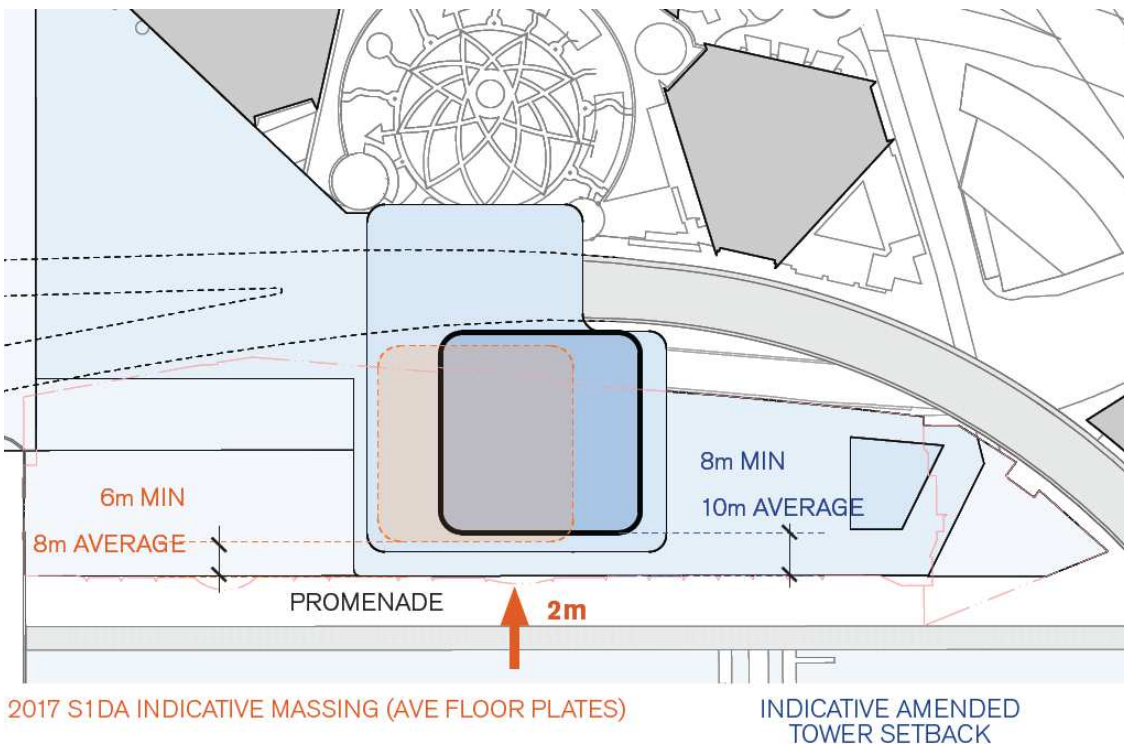


Figure 2 Promenade setback

Source: FJMT

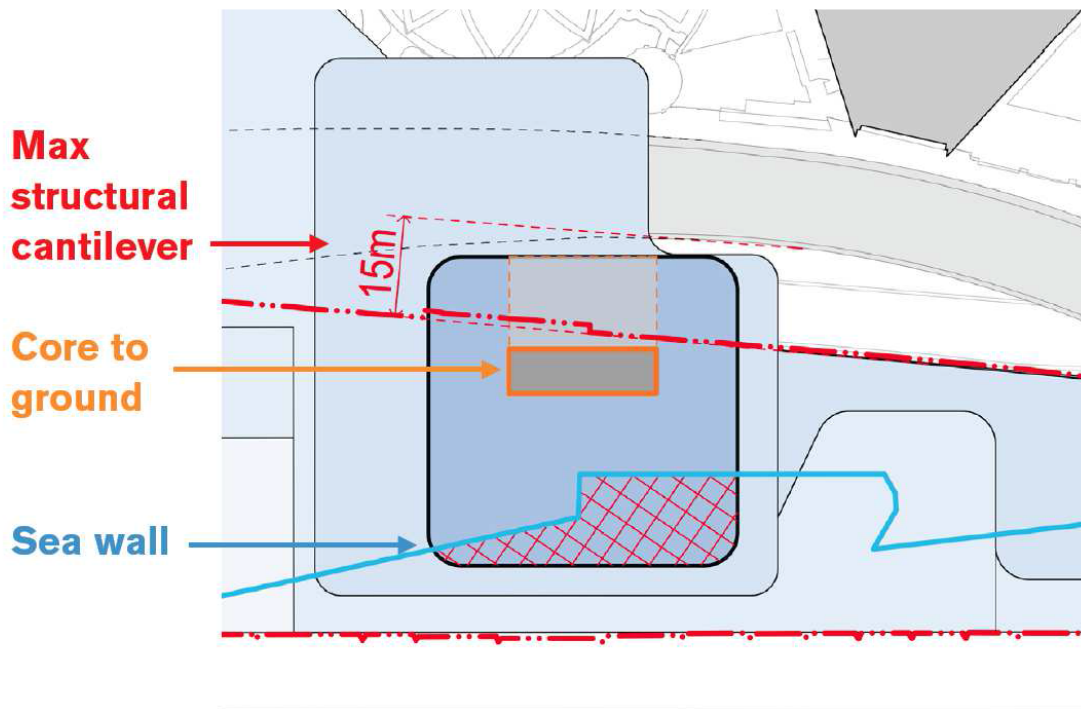


Figure 3 Structural constraints diagram

Source: FJMT

1.4 Tower width control

The Concept Proposal for which consent has been sought seeks approval for a building envelope that is up to 60 metres in width fronting Darling Harbour. This is a maximum parameter which would guide the detailed building design whilst ensuring that there is sufficient flexibility to attain design excellence and ensure that a premium grade commercial office floor plate is achieved. DPE have proposed Draft Condition C1(c) to further restrict the width of the envelope to a maximum of 53 metres. The Proponent is concerned with the rigidity of this condition, given that the EIS has demonstrated a wider 60m envelope to be acceptable, and accordingly requests that the Commission consider amending this condition to apply the 53-metre width control as an average width control rather than a maximum width, as follows:

Condition C1 c)

Maximum Average tower width fronting Darling Harbour ^A 53m ^B

^A the **maximum average** tower width relates to the entire tower width as measures between its northern and southern elevations (not just the part of the tower fronting Darling Harbour). The **maximum average** tower width shall be calculated by measuring along an axis parallel to the western site boundary.

^B Tower width is the primary tower built from control and in the case of any inconsistency with the other TBFCs the tower width control takes precedent.

It is noted that the detailed technical assessment provided with the 2017 EIS and subsequent Response to Submissions have demonstrated that a 60-metre-wide envelope is acceptable from an environmental impact's perspective having regard to urban design, visual impact, view loss, overshadowing, wind impacts and other relevant considerations. The Department's stated intention behind the 53-metre amendment is to achieve a slender tower that minimises visual dominance and promotes view sharing. This objective can be equally achieved by applying the proposed 53 metre width as an average, allowing for variance across the building height whilst

avoiding the potential to restrict future design to a 'confined box'. An average width of 53m would allow for a tapered built form and various design solutions to be explored through the design competition under the guidance of a structured competition, with a jury consisting of a representative of the Government Architect, City of Sydney and applicant. There will be in place suitable oversight to deliver an appropriate built form outcome within the envelope, whilst maintaining the intent of the original condition to ensure a slender tower through the endorsed design excellence strategy, design competition process, and design competition jury.

2.0 Additional Matters Requiring Clarification

The following sections provide additional information and clarification to assist the Commission based upon our review of the transcripts of the meetings with Council and the NSW Department of Planning and Environment and the public meeting.

2.1 Relevant environmental planning instruments

In response to matters raised with the Commission by DPE and Council it is important to note that the proposed development and planning approach is aligned with and supports the achievement of the objectives of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour REP) and is consistent with the Darling Harbour Development Plan No.1 (DHDP), which remains the principle and current environmental planning instrument which relates to the site.

The DHDP defines the land uses and character for future development that is desired within the Darling Harbour precinct and remains the current planning instrument which has guided recent development that has been assessed and approved throughout the precinct including the at The Ribbon, the Sydney International Convention, Exhibition and Entertainment Precinct (including Darling Square) and Darling Quarter. The proposed development is entirely consistent with the objects of the DHDP by promoting the development of a mix of high-quality tourism, recreational and commercial office land uses.

The State and Regional Development SEPP designates development within land subject to the DHDP as being State Significant Development to ensure that the State retains planning control for this nationally-significant precinct. The Concept SSD that is the subject of this application aligns entirely with this approach by providing for the establishment of a site-specific planning framework in the form of a building envelope and other high-level planning requirements to guide detailed design and further assessment.

The site is also identified under the Sydney Harbour REP as being within the Foreshores and Waterways Area and the City Strategic Foreshores Area. A full assessment of the proposal against the requirements for these areas is contained in Section 7.4 of the 2017 EIS. Importantly, the proposal is aligned with and supports the achievement of the objectives of the Sydney Harbour REP as it will:

- Not encroach on the waterway or foreshore;
- Not affect the natural assets and unique environmental qualities of the harbour;
- Maintain and improve public access to and along the foreshore;
- Significantly improve public access to Darling Harbour through the provision of new and enhanced pedestrian connections to the precinct as well as the provision of a large new public open space located within the foreshore;
- Provide a landmark building form that contributes to the unique visual qualities of Sydney Harbour; and
- Provide a masterplan for the site and establish the planning framework to guide the future DA(s) for the site.

2.2 View Impact Analysis

At the community meeting there was a question raised regarding the level of visual assessment undertaken for private view impacts to the Millennium Towers Building (289 Sussex Street). We confirm that a thorough assessment of the building was undertaken as part of the Supplementary Visual and View Loss Impact Assessment submitted with the EIS (**Appendix D** of the Response to Submissions). However, we note that a misdescription appears to have occurred in the DPE’s assessment report which states that:

The VVIA originally considered impacts on Millennium Towers (currently under construction). However, as that project has since been modified to remove residential use it no longer forms part of this assessment.

This section incorrectly describes the under-construction Meriton Building (230-234 Sussex St) as the Millennium Building. Notwithstanding this, the conclusions of the VVIA assessment at Appendix D of the Response to Submissions remain sound as to having an acceptable impact on Millennium Towers. Refer Section 4.4 (pages 7-73 of the VVIA by Ethos Urban at Appendix D of the RtS).

2.3 Event Operations

The publicly accessible open space provides a platform for permanent and temporary programming at key points that will make Cockle Bay Park a recognisable cultural destination. The Concept Proposal does not seek approval for event or activities, and this is clarified by Condition A6. Approval for events would need to be sought as part of a future application. As part of a future detailed Stage 2 DA, the application may include an Event Management Plan which would establish a protocol for where, when and what types of events may be held within the site. The Event Management Plan would be considered by the relevant approval authority as part of the assessment process.

2.4 Vertical Movement

Movement and circulation across the site will be available by 24 hours accessible open space, stairs and public lifts located at the north and south ends of Cockle Bay. These public lifts are complemented by retail and tenant lifts in the centre of the site. Additional public lifts facilitate access from Sussex Street at the Market Street and DrUITT Street interfaces with Darling Park. A movement diagram is provided below.

Public Realm

Reconnect - Movement Diagram

- KEY**
- MAIN TENANT ENTRY
 - WEATHER PROTECTED TENANT ENTRY
 - BICYCLE + PEDESTRIAN PATHS
 - BICYCLE + PEDESTRIAN PATHS
 - MAIN PEDESTRIAN PATHS
 - PUBLIC ACCESS - OPERATIONAL HOURS
 - LIFT PUBLIC ACCESS 24/7
 - LIFT TENANT ACCESS 24/7
 - LIFT RETAIL ACCESS 19/7
1. PYRMONT BRIDGE CONNECTION
 2. WATERFRONT CONNECTION
 3. DRUITT STREET CONNECTION
 4. PYRMONT BRIDGE PROMENADE
 5. PATH THROUGH CRESCENT GARDEN
 6. STREET ENTRY FOR TOWER TENANT
 7. WATER EDGE ENTRY FOR TENANT
 8. CYCLE PATH
 9. TENANT FOYER

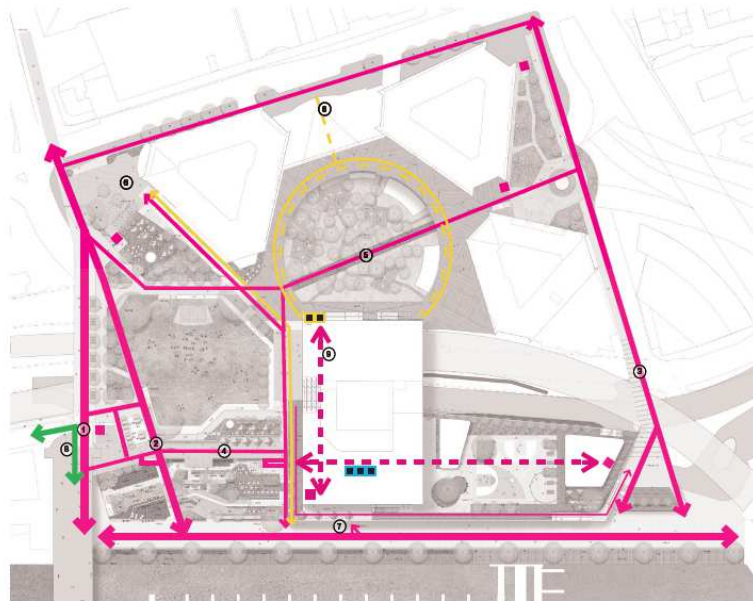


Figure 4 Movement and circulation diagram

2.6 Public Space

The existing Cockle Bay Wharf includes 226m² publicly accessible open space.

The proposed new publicly accessible open space equates to 6,500m².

3.0 Conclusion

We trust that the above information is of assistance to the Commission in considering its determination of this matter. Should you require any further information or clarification regarding this application, please do not hesitate to contact me on [REDACTED]

Yours sincerely,

[REDACTED]

Clare Swan
Director, Planning

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