



New South Wales Government
Independent Planning Commission

Harbourside Shopping Centre Redevelopment SSD 7874

Statement of Reasons for Decision

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State of New South Wales through the Independent Planning Commission 2021

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EXECUTIVE SUMMARY

Mirvac Ltd (the Applicant) has sought concept approval for its \$708-million proposal to turn the 1980s-era Harbourside Shopping Centre on the western foreshore of Sydney's Darling Harbour into a retail, entertainment and dining precinct.

The planned Harbourside redevelopment was the subject of an Unsolicited Proposal from Mirvac to the NSW Government. The Unsolicited Proposals process does not set aside the requirements of the EP&A Act for a full and thorough, whole of government, assessment process by the Planning Secretary and Independent Planning Commission. The Commission's determination of this state significant application is independent of and unrelated to any consideration or assessment undertaken by Government as part of the Unsolicited Proposal process.

The Department of Planning, Industry and the Environment (**Department**) finalised its whole-of-government assessment of this state significant development application in March this year, concluding that the proposal would result in benefits to the local community and the State of NSW – and is therefore in the public interest and approvable, subject to appropriate conditions.

The Independent Planning Commission is the consent authority for this application because the Department received an objection from City of Sydney Council, as well as more than 50 'unique' public objections.

Commissioners Leeson and Lewin were appointed to consider the strategic and site-specific merits of the proposal in line with the legislative and policy framework and make a determination. Their decision-making process involved transcribed meetings with the Applicant, Department and Council, and an inspection of the site and surrounding area.

Community concerns, raised at the electronic public meeting and in written submissions to the Commission, centred around the height and scale of the proposed tower and podium; land use; visual impacts and view sharing; heritage impacts on Pyrmont Bridge and the Woodward Fountain; public access to and overshadowing of the Darling Harbour foreshore; the quantity and quality of proposed public open space; potential operational impacts, accessibility and connectivity of the proposed open space on the northern podium and to the west of Darling Harbour; and built form and design outcomes.

After carefully considering all the material and weighing the community's views, the Commission has determined to grant concept approval for redevelopment of the site, subject to conditions.

In simple terms, this concept approval clears the way for demolition of the existing Harbourside Shopping Centre and sets the parameters for the redevelopment of the site to support:

- a mixed-use development comprising retail/commercial floorspace on the ground floor and podium levels with residential floorspace in the tower
- a maximum Gross Floor Area (GFA) of 87,000m²
- the provision of 45,000m² of the total GFA within the proposal as non-residential floorspace, with the balance of the GFA provided as residential floor space
- the conditions of consent require a Design Excellence Competition to be conducted before further approval is obtained for any construction and,

importantly, the conditions set strict design requirements that must be adhered to and achieved through that process

- a maximum building envelope which the built form must not exceed
- an additional limit on the volume of the podium and tower of a maximum of 80% of their respective envelopes to support articulation within the envelope and building fabric
- 3,500 m² of public open space above the Northern Podium
- design guidelines and a competitive design excellence strategy to guide future development applications and ensure design excellence is delivered at the Site

The Commission accepts the project will have significant socio-economic benefits in terms of capital investment, job creation, a significant amount of new housing, and new and improved public spaces. The Commission has however, concluded that the bulk and scale of the podium (particularly at the northern end of the site) and the profile and positioning of the residential tower as proposed, would reduce solar access to the Darling Harbour foreshore and result in unacceptable overshadowing of the public promenade. The Commission also finds the bulk and scale of the northern podium risks diminishing the State significant heritage values of the Pyrmont Bridge. Additionally the provision of 3,500m² of public open space across multiple levels above the podium has been found by the Commission to limit its accessibility, amenity value and potential utilisation relative to the provision of the same area of open space at one level. The Commission has imposed conditions to address these issues.

In response to concerns raised by Council and the community, the Commission has imposed a suite of empirical and performance-based conditions, ensuring that the outcome being sought is clear, and emphasising that detailed design solutions would be required as part of the Design Excellence Competition.

The Commission has retained the Department's recommended controls on the volumetric occupation of the proposed building envelope (Gross Building Area (GBA) no greater than 80% of Building Envelope Area (BEA)); and has introduced performance requirements for solar access along the harbour foreshore to be achieved through Future Environmental Assessment Requirements (FEARs) rather than specifying changes to the building envelope, such as increasing setbacks or reducing maximum building heights.

In some instances, the Commission found it was necessary to impose absolute limits in order to ensure an appropriate outcome is achieved, such as specifying the minimum setback from Pyrmont Bridge and the maximum finished deck level height of the public open space above the northern podium.

The Commission considers that the conditions of consent provide the Applicant enough scope to find design solutions to avoid, mitigate and minimise identified impacts without compromising the benefits of the Project.

The final design of the redevelopment will require separate planning approval prior to any construction works being carried out.

The Commission's Statement of Reasons for Decision in this matter follows.

CONTENTS

EXECUTIVE SUMMARY	i
DEFINED TERMS.....	1
1 INTRODUCTION	3
2 THE APPLICATION	4
2.1 Site and Locality	4
2.2 Background to the Application.....	5
2.3 The Project.....	6
3 COMMUNITY PARTICIPATION & PUBLIC SUBMISSIONS	8
3.1 Community Group Attendance at the Site Inspection.....	8
3.2 Public Meeting.....	8
3.3 Public Submissions	8
4 The DEPARTMENT’S ASSESSMENT OF THE APPLICATION	14
5 THE COMMISSION’S CONSIDERATION.....	16
5.1 The Department’s Assessment Report.....	16
5.2 The Commission’s Meetings	16
5.3 Department Advice on Workability, Enforceability and Any Unintended Consequences of Conditions of Consent	16
5.4 Material Considered by the Commission.....	19
5.5 Statutory Context	20
5.6 Mandatory Considerations	20
5.7 Additional Considerations.....	22
5.8 Key Issues.....	23
5.9 Objects of the EP&A Act and Public Interest.....	43
6 THE COMMISSION’S FINDINGS AND DETERMINATION	45
Appendix A	46
Appendix B	47

DEFINED TERMS

ABBREVIATION	DEFINITION
ADG	Apartment Design Guide
Applicant	Mirvac Projects Pty Ltd
Application	Harbourside Shopping Centre Redevelopment (SSD 7874)
BEA	Building Envelope Area
Central Podium	As identified on annotated plan in Appendix A
Coastal SEPP	<i>State Environmental Planning Policy (Coastal Management) 2018</i>
Commission	Independent Planning Commission of NSW
CIV	Capital Investment Value
Council	City of Sydney Council
DCP	Sydney Development Control Plan 2012
Department	Department of Planning, Industry and Environment
Department's AR	Department's Assessment Report dated March 2021
DHDP	Darling Harbour Development Plan No 1
DIP	Design Integrity Panel
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FEARs	Future Environmental Assessment Requirements
FRtS	Further Response to Submissions
FFRtS	Final Further Response to Submissions
LEP	Sydney Local Environmental Plan 2012
LGA	City of Sydney Local Government Area
Mandatory Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
Material	The material set out in section 5.3
Minister	Minister for Planning and Public Spaces
Northern Podium	As identified on annotated plan in Appendix A
One Darling Harbour	50 Murray Street, Pyrmont
Project	A concept proposal for a new residential tower and non-residential podium envelope and the demolition of the existing Harbourside Shopping Centre, pedestrian bridge link across Darling Drive, obsolete monorail infrastructure and tree removal.
Regulations	<i>Environmental Planning and Assessment Regulations 2000</i>
RtS	Response to Submissions
SEPP	State Environmental Planning Policy
Site	Lots 1-10, 12-15 and 17 DP776815, Lot 2015 DP1234971 and Lot 300 DP836419

SICEEP	Sydney International Convention, Exhibition and Entertainment Centre Precinct
SEPP SRD	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
Southern Podium	As identified on annotated plan in Appendix A
SSD	State Significant Development

1 INTRODUCTION

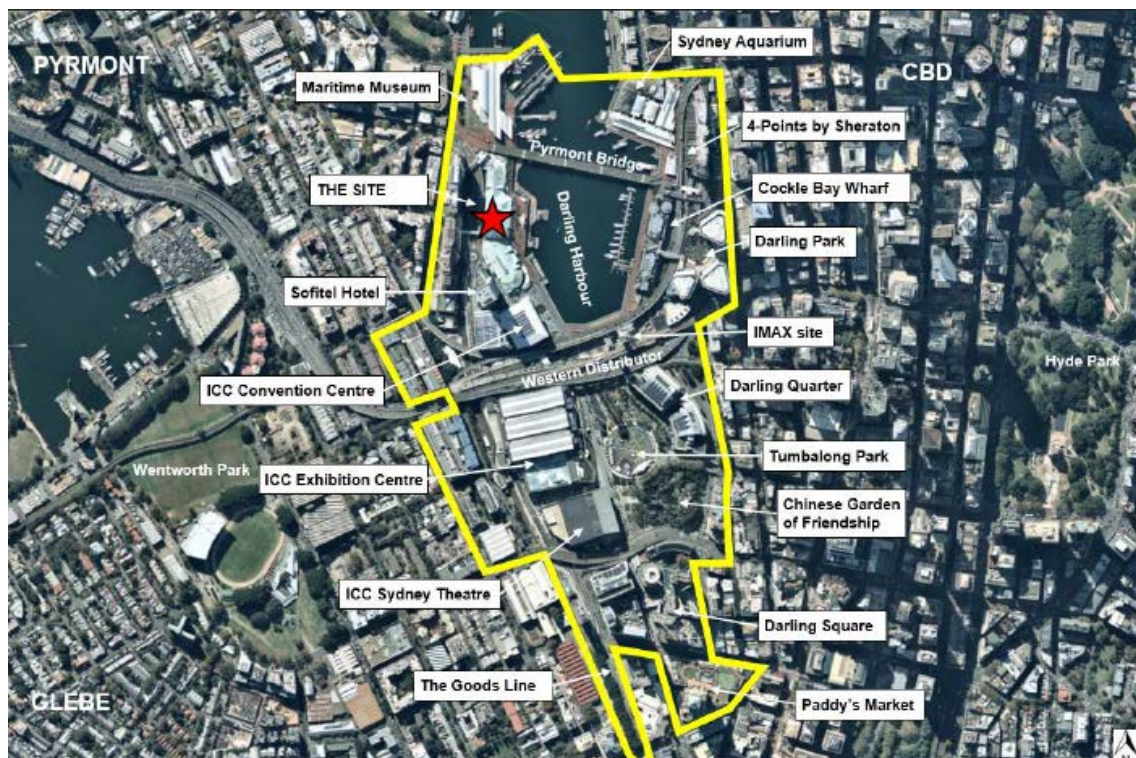
1. On 31 March 2021, the NSW Department of Planning, Industry and Environment (**Department**) referred a State significant development (**SSD**) application (SSD 7874) (**Application**) from Mirvac Projects Pty Ltd (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the Harbourside Shopping Centre Redevelopment (the **Project**), located in the City of Sydney Local Government Area (**LGA**), under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
3. The Commission is the consent authority for the Project because:
 - the Application constitutes SSD under section 4.36 of the EP&A Act as the Application has a capital investment value (**CIV**) of more than \$10 million on land identified as being within the Darling Harbour site under clause 2(b) of Schedule 2 of *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**); and
 - the Department received an objection from City of Sydney Council (**Council**); and
 - the Department received more than 50 submissions from the public objecting to the Application.
4. Professor Mary O’Kane AC, Chair of the Commission, nominated Commissioners Dianne Leeson (Chair) and Wendy Lewin to constitute the Panel determining the Application.

2 THE APPLICATION

2.1 Site and Locality

5. The site is located at 2-10 Darling Drive, Darling Harbour (Lots 1-10, 12-15 and 17 DP776815, Lot 2015 DP1234971 and Lot 300 DP836419) (the **Site**).
6. The Department's Assessment Report (**Department's AR**), dated March 2021, describes the Site at section 1.3. The Site is irregular in shape, with an area of approximately 2.05 hectares.
7. Adjoining properties are described at Assessment Report Paragraph (**ARP**) 1.3.2 of the Department's AR. The Site is bound by Darling Harbour to the east, Pyrmont Bridge to the north, Darling Drive to the west and the Sydney International Convention, Exhibition and Entertainment Centre Precinct (**SICEEP**) and public domain to the south. The location of the Site is illustrated in **Figure 1**.

Figure 1. Darling Harbour Precinct (outlined in yellow) including key developments within the precinct (source: Department's AR).



8. The existing Harbourside Shopping Centre is described in ARP 1.3.4. The centre is a three-storey retail building that was built in 1988 and is occupied by cafés, restaurants and retail.
9. ARP 1.4.1 describes the surrounding context which includes:
 - north - the State Heritage listed Pyrmont Bridge;
 - east - the Cockle Bay Wharf building which is three storeys high, (with approval for a commercial tower with a maximum height of RL 183), and Four Points at Sheraton with a maximum height of RL 93.6;

- south - the Sofitel hotel building with a maximum height of RL 133.55, ICC Convention centre and public domain, including the State heritage listed Woodward Fountain;
 - south-east - the Ribbon building, which is currently under construction and will have a maximum height of RL 93.5, and the Western Distributor;
 - west - a 17-storey residential building known as One Darling Harbour at 50 Murray Street, Pyrmont (**One Darling Harbour**), and the Novotel and Ibis Hotels to the west across Darling Drive; and
 - west and south-west – medium-rise residential and mixed-use buildings beyond Murray Street.
10. The existing public domain is described in ARP 1.3.5. The waterfront public domain in front of the Site has an area of 4,326 m² with a forecourt area of variable width, ranging from 11 m to 29 m. The widest section currently accommodates a Ferris wheel.
11. As detailed in ARP 1.4.1 and 1.5.1, the following development applications relate to surrounding sites:
- SSD 7684 approved by the Commission on 13 May 2019 for the redevelopment of Cockle Bay Wharf comprising:
 - a commercial building envelope with a maximum height of RL 183 and maximum Gross Floor Area (**GFA**) of 89,000 m²;
 - Stage 1 works for demolition of existing Cockle Bay Wharf buildings and structures, the Crescent Garden to Cockle Bay Wharf enclosed pedestrian bridge and the former monorail station and associated structures; and
 - SSD 7388 approved by the Commission on 28 June 2016 for the redevelopment of the IMAX cinema building (**Ribbon**), including:
 - demolition of the existing IMAX building, tourist office and amenities block
 - construction of a new 25 storey building and separate 2 storey building
 - hotel, serviced apartments, retail and entertainment uses
12. ARP 6.5.17 states that the proposal is consistent with the emerging character within Darling Harbour which has undergone a period of renewal and regeneration with the recent development of the ICC facilities, Sofitel, Darling Square, The Ribbon and Cockle Bay Park, including upgrades to public domain and appropriate height provisions.

2.2 Background to the Application

13. ARP 1.6.1 and 1.6.2 notes that a previous proposal for a commercial tower envelope (SSD 7375) on the Site was issued Secretary's Environmental Assessment Requirements (**SEARs**) on 9 December 2015. The proposal included staged redevelopment of the Harbourside Shopping Centre, including a commercial tower envelope.
14. ARP 1.6.2 notes that the proposal under SSD 7375 was not pursued as the larger floorplate required for commercial use would have had adverse visual and view impacts, and

“the Applicant considered that a residential tower with a smaller floor plate was a more appropriate built form outcome for the site.”

2.3 The Project

15. ARP 2.1.2 identifies that the proposal was amended on three occasions, through the Applicant's Response to Submissions (**RtS**), Further Response to Submissions (**FRtS**), and Final Further Response to Submissions (**FFRtS**).
16. The Project, as amended, is described in section 2 of the Department's AR. The main components of the Project are set out in Table 1 of the Department's AR, as replicated below.

Table 1: Main components of the proposal (source: Department's AR)

Aspect	Description
Proposal Summary	A concept proposal for a new residential tower and non-residential podium envelope, with a maximum GFA of 87,000 m ² and maximum height of RL 166.95
Demolition	<ul style="list-style-type: none"> • Demolition of: <ul style="list-style-type: none"> ○ existing site Harbourside Shopping Centre ○ pedestrian bridge link across Darling Drive ○ obsolete monorail infrastructure ○ tree removal
Building envelope	<ul style="list-style-type: none"> • Building envelope including: <ul style="list-style-type: none"> ○ maximum tower height of RL 166.95 ○ maximum podium heights of RL 25 (north), RL31 (central), RL 23.1 (south) and RL 13.75 adjacent to Pymont Bridge ○ tower setbacks including: <ul style="list-style-type: none"> ▪ minimum 32 m from Darling Harbour waterfront ▪ minimum 12 m from the eastern edge of the podium ○ podium setbacks including: <ul style="list-style-type: none"> ▪ minimum 14 m to Darling Harbour waterfront ▪ typical 20 m to Darling Harbour waterfront • Three level basements extending to RL -13.2 • A tower-built form control restricting: <ul style="list-style-type: none"> ○ the maximum tower volume to 80% Gross Building Area (GBA) of the envelope ○ the size of the tower floorplate to a maximum of 1,000m² GFA
Uses and Gross floor area	<ul style="list-style-type: none"> • Maximum GFA of 87,000 m² comprising: <ul style="list-style-type: none"> ○ 42,000 m² residential ○ 45,000 m² non-residential
Open Space	<ul style="list-style-type: none"> • 1,500 m² public open space at the northern end of the podium adjacent to Pymont Bridge at RL 13.75 and RL 17.5 • 2,000 m² publicly accessible space on the northern podium roof at RL 25 • public open space area for events and gatherings within the site adjacent to the waterfront • increased the foreshore promenade area by 474m²

Public domain	<ul style="list-style-type: none"> Waterfront public domain upgrades and sitewide concept landscaping and through site links to Bunn Street and Pyrmont Bridge approach
Infrastructure upgrades and access	<ul style="list-style-type: none"> New pedestrian bridge linking the site to Bunn Street including 24/7 access link to waterfront promenade Upgrade to paving at western entry to Pyrmont Bridge Upgrade of existing pedestrian bridge to One Darling Harbour Upgrade/landscaping of waterfront promenade
Car parking	<ul style="list-style-type: none"> Residential car parking in accordance with the following rates: Resident: <ul style="list-style-type: none"> for each studio dwelling—0.2 spaces for each one-bedroom dwelling—0.4 spaces for each two-bedroom dwelling—0.8 spaces for each three or more-bedroom dwelling—1.1 spaces Visitor: <ul style="list-style-type: none"> for each dwelling up to 30 dwellings—0.167 spaces; for each dwelling more than 30 and up to 70 dwellings—0.1 spaces for each dwelling more than 70 dwellings—0.05 spaces
Design guidelines	<ul style="list-style-type: none"> Design guidelines to inform the detailed design of the development, comprising objectives and controls relating to: <ul style="list-style-type: none"> urban structure form and massing public realm materials residential amenity carparking sustainability
Design Excellence	Competitive Design Excellence Strategy, which includes a competition framework to select a design that delivers design excellence prior to any future development applications
Contributions	\$5,200,000 contribution to affordable housing
Capital Investment Value	\$708,150,000
Jobs	<ul style="list-style-type: none"> 2,094 construction jobs comprising: <ul style="list-style-type: none"> 916 direct jobs 1,178 indirect jobs 4,468 operational jobs comprising: <ul style="list-style-type: none"> 2,130 direct jobs 2,338 indirect jobs

3 COMMUNITY PARTICIPATION & PUBLIC SUBMISSIONS

3.1 Community Group Attendance at the Site Inspection

17. On 13 April 2021, the Commission conducted an inspection of the Project Site with the Applicant. The Commission also invited representatives from community groups to attend and observe at the Site inspection. The following groups were represented:
- Pymont Action Inc.
 - One Darling Harbour

3.2 Public Meeting

18. On 28 April 2021, the Commission conducted a Public Meeting. The Public Meeting was held electronically with registered speakers presenting to the Commission Panel via telephone or video conference. The Public Meeting was also streamed live on the Commission's website.
19. The Commission heard from the Department, the Applicant, various community group representatives and individual community members. In total, 15 speakers presented to the Commission during the Public Meeting.
20. Presentations made at the Public Meeting have been considered by the Commission as submissions and are referenced below in section 3.3.1.

3.3 Public Submissions

21. As part of the Commission's consideration of the Project, all persons were offered two opportunities to make written submissions to the Commission: the first following the public meeting until 5pm on 5 May 2021; and the second following receipt of additional information provided by the Applicant and Department between 13 May 2021 and 20 May 2021.
22. The Commission received a total of 148 written submissions on the Application up to 5 May. The submissions made to the Commission comprised the following:
- two submissions in support of the Application;
 - two submissions providing comment on the Application; and
 - 144 submissions objecting to the Application.
23. The Commission received a further 102 submissions on the Additional Information (up to 20 May). The submissions made to the Commission in relation to the additional material comprised:
- 17 submissions in support of the Application;
 - 22 submissions providing comment on the Application; and
 - 63 submissions objecting to the Application.

3.3.1 Key Issues Raised

24. Key issues and concerns relating to the Project raised in the presentations and public submissions to the Commission, included:
- height, bulk and scale of the development;
 - proposed residential land use;
 - heritage impacts;

- view loss;
 - public domain impacts; and
 - provision and use of public space
25. Examples of issues raised by community members at both at the Public Meeting and in written submissions are summarised below. The submissions referred to below are not exhaustive of the submissions considered by the Commission – they are extracted to illustrate common themes and key issues raised in submissions

Height, bulk and scale of the development

26. The Commission received numerous written submissions and heard from speakers at the Public Meeting who raised concerns in relation to the height, bulk and scale of the proposal and impacts on the public domain and overshadowing.
27. Concerns were raised in relation to the overshadowing of the public domain caused by the proposed tower height and bulk. It was stated that this would be further exacerbated by the reduction in foreshore area as a result of the proposed development and will diminish the value of Darling Harbour as a tourist destination.
28. At the Public Meeting, a resident of One Darling Harbour commented:
- “Putting it simply, it is a land grab, a fourfold increase in building density in the premier tourist precinct in Sydney for which the public will see a 50 per cent decrease in the public, i.e. the retail element.”*
29. At the Public Meeting, a community member raised concerns regarding:
- “...a 45 storey residential tower which will significantly overshadow the foreshore in – at lunch time and into the afternoon and in fact will overshadow the whole place and overshadow the fantastic Woodward fountain.”*
30. Further, a written submission received by the Commission stated:
- “The department did not consider objectively that the sheer size and scale of the re-development will cast big shadows in the afternoon and adversely affect the openness and natural lights in the area.”*
31. Concerns were also raised over the height and scale of the northern podium of the development and its subsequent impact on views and heritage.
32. At the Public Meeting, a community member stated:
- “... the current Harbourside proposal has unreasonable adverse impacts on the amenity and heritage of the area due to the bulk and scale of the northern podium envelope.”*
33. Concerns were also raised that the proposal is inconsistent with the recently approved redevelopment of Cockle Bay in terms of the extent and height of podiums and their relationship to Pyrmont Bridge.
34. At the Public Meeting, a community member stated:

“Firstly, the northern podium of the Harbourside proposal is not commensurate in bulk and scale with the neighbouring Cockle Bay redevelopment, particularly adjacent to the Pyrmont Bridge. This creates inconsistency in the character of the Cockle Bay basin and a lack of coherence in the developments at the start and end of the heritage Pyrmont Bridge. The Cockle Bay redevelopment has a podium envelope with an approved RL of 12 at the Harbour’s edge, and RL of 19 over the road, and provides a large, one level park behind Pyrmont Bridge. The podium at RL 12 extends for more than 65 metres away from the Pyrmont Bridge before increasing to RL 29 for a mere 7.9 metres.”

35. Community submissions on the Additional Information stated that the Additional Information proposed some improvements in relation to view loss, open space and heritage, including:
- support for the reduction in the northern podium height; and
 - support for a single level of open space to improve accessibility.

Proposed residential land use

36. Speakers at the Public Meeting and written submissions received by the Commission raised concern about the proposed residential use within the Darling Harbour precinct - in particular, that the proposed residential land use is incompatible with the established character of Darling Harbour as a tourism and entertainment precinct.
37. At the Public Meeting, Councillor Phillip Thalys from the City of Sydney Council stated:
- “...the City of Sydney is strongly against the residential component. The original Darling Harbour Act, and I was one of the few people to actually see the exhibition of that Act in 1984, precluded residential. It did that with the intent of actually creating an event space just as Sydney Olympic Park did, and – that would be free of residential, able to be used 24/7, 365 days of the year, as in fact has happened at Darling Harbour because it was actually conceived as a public project.”*
38. In relation to existing noise-generating uses and the introduction of new residences, Councillor Thalys stated:
- “Introducing residential right slap bang on the foreshore would completely preclude that and the City of Sydney’s given extensive evidence of the complaints that we get at Circular Quay from The Toaster, for example, including events on the other side of the Quay, so I think that’s extremely relevant here and no covenant will cover such complaint in the city’s extensive experience of dealing with those things.”*
39. In relation to the proposed land uses, a written submission received by the Commission stated:
- “The department claimed that it has considered Mirvac’s proposal being consistent to the Pyrmont Peninsula Place Strategy (PPPS) vision to transform the Pyrmont Peninsula, it ignores the fact that this is a site at the waterfront of Darling Harbour Cockle Bay where land use is specifically approved for public enjoyment, entertainment and festivities. Therefore this site is special and entirely different to the rest of the Pyrmont Peninsula which might have been zoned for residential/commercial/industrial purposes.”*
40. A written submission from the Committee for Sydney in support of the proposed land use mix stated:
- “We are supportive of the type of mixed-use development Mirvac is proposing, including retail, office, and residential uses at a density appropriate for the site.”*

Heritage impacts

41. Written submissions and speakers at the Public Meeting raised concerns relating to impacts of the proposal on the adjoining State Heritage Item, Pyrmont Bridge. Specifically, concern was raised over the interface of the proposed development with Pyrmont Bridge and inadequate setbacks to the State Heritage Item.
42. In relation to the relationship between the podium and the Pyrmont Bridge, a written submission received by the Commission stated:

“The podium envelope is not sensitive to the State Heritage listed Pyrmont Bridge, being set too close to the Pyrmont Bridge at an elevation twice the height of the bridge platform that would dominate the structure.”
43. At the Public Meeting, comments made by community members regarding the potential impacts on Pyrmont Bridge included:

“...I believe the current Harbourside proposal has unreasonable adverse impacts on the amenity and heritage of the area due to the bulk and scale of the northern podium envelope.”

“Pyrmont Bridge is listed on the State Heritage Register as a key feature of the Darling Harbour area. Any development must preserve and enhance the heritage values of the bridge. The proposal will dominate Darling Harbour and significantly change and diminish the heritage context of the bridge.”

“Any development must preserve and enhance the heritage values of the bridge. The proposal will dominate Darling Harbour and significantly change and diminish the heritage context of the bridge.”

View loss

44. Speakers at the Public Meeting, and written submissions received by the Commission, raised concern regarding the loss of views as a result of the development's proposed built form. In particular, concerns were raised regarding views from the west to east, over the Darling Harbour precinct.
45. At the Public Meeting, a number of speakers who reside to the west of the proposed development commented that the proposal would drastically impact their private views and sight lines towards Darling Harbour.
46. Dr Richard Lamb, on behalf of the owners of 50 Murray Street, Pyrmont, provided a detailed presentation at the Public Meeting regarding view sharing impacts. Dr Lamb noted that no development controls are in place regarding heights in Darling Harbour and as such no relevant provisions exist to guide an appropriate built form, stating:

“There are no development controls in Darling Harbour, we all know that. There are therefore no external parameters for determining a reasonable environmental impact. What's reasonable must arise from the proper assessment of environmental impacts. That is the only valid pathway. The assessment made, therefore, is flawed. Even Ethos Urban's own assessment shows that view sharing is significantly worse in the application than in the existing environment, The cause of it is the height and the mass of the northern podium. It's still too high.”
47. At the Public Meeting, a representative on behalf of the owners of 50 Murray Street, stated:

“no one is suggesting that this Site shouldn’t be redeveloped but it could be done in a way that promotes the public good and could be done in a way that does not cause significant view loss for the residents of One Darling Harbour.”

48. A written submission received by the Commission stated:

“My primary concerns with the development are that it does not sufficiently support view sharing with existing residential buildings. The curvature of the ODH [One Darling Harbour] building means that the Northern Corridor does not enable view sharing, as the apartments face due east. The height of the northern podium at RL26.5 blocks all or the majority of valuable whole water views of Cockle Bay, for many apartments, including levels above level 7/8.”

Public domain impacts

49. Written submissions raised concerns regarding impacts to the public domain as a result of the proposal, including narrowing of the foreshore area and overshadowing caused by the proposed tower.

50. A written submission received by the Commission stated:

“The claim of the increase in public access (including walkways, bridge access, rooftops of podiums) is misleading. The reasons most people visit Darling Harbour is to enjoy the atmosphere of the foreshore and surroundings, but not the bridge access and roof tops.”

51. A written submission received by the Commission stated:

“The development has substantial overshadowing impacts on the public domain. This is contrary to the Pyrmont Place Strategy which in relation to this site requires the protection of the solar access of the harbour foreshore domain.”

52. A written submission received by the Commission in support of the Application stated:

“The widening of the waterfront boulevard will improve precinct connectivity, walkability and way finding around the precinct.”

Provision and use of Public Space

53. A number of the submissions received by the Commission and speakers at the Public Meeting identified that the amount of public space proposed is insufficient in contrast to the significant GFA proposed for residential and commercial land uses. Concern was also raised about the proposed tiered public space which was considered inaccessible for pram users, wheelchair users and the elderly.

54. Written submissions and speakers at the Public Meeting also raised concerns in relation to night-time security, lighting and privacy impacts as a consequence of the roof top public open space.

55. At the Public Meeting, a community member stated:

“a part of the flat roof on the northern podium that was once going to be what looked like a grassy rooftop is now a public space directly to the east of One Darling Harbour and only 40-odd metres away, open to the public 24/7. As this change occurred recently, there has been little detailed discussion with residents here about what impact this will have for those apartments on that level and above.”

56. A written submission received by the Commission stated:

“My apartment will be directly affected by the height of the northern podium both in view reduction, and in noise from the proposed 24/7 accessibility to the public.”

57. A written submission received by the Commission commented that the proposal will result in:
- “Creation of an unfriendly situation in regards to people on wheel chair and mums with prams. This situation can not be solved via lifts because at peak times during fireworks the lifts will not cater to the influx of people, The best way to avoid the above is to limit the height of the northern podium to RL13.75 which is about level with the State heritage Pyrmont Bridge.”*
58. At the Public Meeting, a community member stated:
- “...the proposed three level park is not family friendly and will be a deterrent for those who require disabled access and for the many families that visit the Harbour with prams, including myself.”*
59. A written submission received by the Commission stated:
- “...they want to make a three level park for the public. But this is not good for families. A park does not have levels. The park has two small chunks and no one will want to go there. They only want to go to the big level. Please make the park one level.”*
60. Submissions and speakers at the Public Meeting also stated that the amount of public space proposed is insufficient.
61. At the Public Meeting, Councillor Phillip Thalys from City of Sydney Council stated:
- “But why replace like with like with a building that still won’t have good connections westward to Pyrmont, into Pyrmont, poor – too cramped in relation to the bridge, actually tightens in key locations...”*

Demolition Noise, Dust and Vibration

62. The Commission received a number of submissions in relation to the potential noise and amenity impacts resulting from the proposed demolition works.
63. At the Public Meeting, the National Maritime Museum raised concerns regarding noise, vibration and dust impacts during demolition. A representative of the National Maritime Museum stated:
- “our main concern probably is more coming up to – to stage – to stage 2 in the design competition, but only because as a museum we have objects that are quite sensitive to – to environmental conditions and also vibrations and so forth”*

4 THE DEPARTMENT'S ASSESSMENT OF THE APPLICATION

64. Table 2 below provides an overview of the key steps in the Department's consideration of the Application.

Table 2: Overview of Department's Steps

Date	Key Steps
30 August 2016	The Department issued the SEARs.
9 December 2016	The Applicant lodged its Environmental Impact Statement (EIS) and supporting documents to the Department.
15 December 2016 to 14 February 2017	The Department publicly exhibited the EIS. A total of 171 submissions were received by the Department during this period, including 148 unique submissions comprising seven Government Agencies, Council and 140 public/special interest group submissions.
24 March 2020	The Applicant lodged its RtS.
2 April 2020 to 29 April 2020	The Department publicly exhibited the RtS. A total of 64 submissions were received by the Department during this period, comprising six Government Agencies, Council and 55 public/special interest group submissions.
12 May 2020	Amended SEARs were issued by the Department to the Applicant following a request to include Stage 1 demolition works.
12 October 2020	The Applicant lodged its FRtS.
22 October 2020 to 4 November 2020	The Department publicly exhibited the FRtS. A total of 50 submissions were received by the Department during this period, including 47 unique submissions comprising eight Government Agencies, Council and 38 public/special interest group submissions.
27 November 2020	The Applicant lodged its FFRtS.
30 November 2020 to 13 December 2020	The Department placed the FFRtS on its website. A total of six submissions were received by the Department during this period, comprising five Government Agencies and Council.

65. The Department's evaluation of the Application concludes that the proposal is acceptable as detailed in ARP 7.1.2 which states:
- *"it is consistent with the Greater Sydney Region Plan and the Eastern City District Plan's vision for a stronger and more competitive Harbour CBD and supports the renewal and reinvigoration of Darling Harbour*

- *it is consistent with the Pyrmont Peninsula Place Strategy (PPPS) vision to transform the Pyrmont Peninsula, as it would contribute to economic growth and job creation and deliver new and improved public domain areas, improved activation, accessibility, connectivity, and public open space*
- *while the Department appreciates Council and community concerns about the inclusion of private residential uses, the proposal supports the revitalisation of an underperforming shopping centre with a vibrant mixed-use development, which would deliver significant public domain and open space improvements together with increased permeability, accessibility and activation at podium levels. These benefits would support the entertainment and tourism function of the precinct and substantially increase public enjoyment of the harbour*
- *it provides a height, scale and density that is compatible with the existing and emerging character of Darling Harbour and provides appropriate setbacks from the heritage listed Pyrmont Bridge and the waterfront. It also complies with the maximum height of RL 170 m height identified in the PPPS*
- *the Department engaged an independent design advisor to review the proposal throughout the assessment process which lead to changes to the tower location, podium form and height and public domain outcomes including substantial new publicly accessible open space on the northern podium roof*
- *the scale and setback of the podium is sympathetic to the Pyrmont Bridge and can deliver a development which is appropriately articulated, activated and permeable to enhance the quality of the public domain*
- *the Applicant has committed to a design excellence strategy (DES) which includes a competitive design process that will ensure the development achieves design excellence*
- *while the proposal will interrupt views from neighbouring residential buildings and hotels, the impacts have been mitigated by lowering the northern podium and relocating the tower to the centre of the site. The Department also considers that the overall view loss impacts are reasonable given the site's location on the CBD fringe and neighbouring properties would retain an acceptable level of outlook, over the proposed landscaped podium roof with the majority of affected apartments retaining some water views or city skyline views*
- *overshadowing impacts to the public domain are acceptable having regard to the location and orientation of the site. The impacts to the waterfront promenade and Woodward Fountain are limited to after 1 pm and are in part offset by the significant new and enhanced public domain along the waterfront and podium roof. Neighbouring residential properties will also continue to achieve solar access consistent with the Apartment Design Guide*
- *the proposal would result in significant public benefits including contributions to affordable housing, a minimum of 3,500 m² of new publicly accessible open space, enlarged and enhanced waterfront boulevard and public domain, a new 24 hour accessible through site link and bridge to Bunn Street, upgrades to an existing pedestrian bridge, public art and heritage interpretation and approximately 916 direct construction jobs and 2,130 direct operational jobs.”*

5 THE COMMISSION'S CONSIDERATION

5.1 The Department's Assessment Report

66. Under section 4.6 of the EP&A Act, certain functions of the Commission are to be exercised by the Planning Secretary on behalf of the Commission, including "undertaking assessments of the proposed development and providing them to the Commission (but without limiting the assessments that the Commission may undertake)": section 4.6(b). The Planning Secretary's assessment of the Project is set out in the Department's AR.

5.2 The Commission's Meetings

67. As part of its determination, the Commission met with various persons as set out in Table 3. All meeting and site inspection notes were made available on the Commission's website.

Table 3 – Commission's Meetings

Meeting	Date of Meeting	Transcript/Notes Available on
Site Inspection	13 April 2021	22 April 2021
Department	20 April 2021	26 April 2021
Applicant	20 April 2021	26 April 2021
Council	20 April 2021	26 April 2021
Public Meeting	28 April 2021	3 May 2021
Applicant and Department	6 May 2021	10 May 2021

5.3 Department Advice on Workability, Enforceability and Any Unintended Consequences of Conditions of Consent

68. In considering the Application, the Commission proposed a number of conditions which it considered necessary, such as those requiring improved open space, improved solar access along the public foreshore, and increased visibility of the heritage listed Pyrmont Bridge.
69. Consistent with its usual practice of consulting with the Department on proposed conditions, the Commission wrote to the Department on 28 May 2021 and sought the Department's advice on the workability, enforceability and any unintended consequences of the Commission's draft proposed conditions of consent.
70. The Department's letter dated 1 June 2021, advised that no issues had been identified in relation to enforceability of the proposed conditions and suggested only minor changes to address workability. However, the Department raised the following potential unintended consequences of the conditions:

Potential unintended consequences

- *The Department considers it is unnecessary to reduce the height of entire northern podium RL 13.75 m to protect the existing views and outlook to One Darling Harbour residents as the proposed height is lower than the ridgeline of the existing shopping centre (RL 17.45 m).*

- *It is unclear if the area above the northern podium can accommodate the 3,500m² of open space as it does not include part of the central podium adjacent to the tower (which the Department understands was included in the open space calculations of the recommended proposal).*
- *The proposed changes to the podium envelope could result in an imbalance of height bulk and scale between the north and south podium which have not been tested from an urban design perspective.*
- *The removal of the Department's recommended maximum GFA and envelope utilisation controls may result in a development that is unable to achieve design excellence as:*
 - *it would allow the development to fill the envelope to its outer limit and potentially increase GFA beyond the 87,000m² assessed by the Department*
 - *it would limit the opportunity for varied design responses through the design competition*
 - *it would potentially limit appropriate articulation and modulation of the tower and podium envelopes*
 - *the Department's Independent design advisor was satisfied issues relating to the bulk of the tower were addressed by the reduction of the tower floor plate to a maximum of 1000m² in conjunction with a maximum volumetric fill of 80%.*
- *The removal of the Department's recommended maximum GFA and envelope utilisation controls is inconsistent with the approach taken for the nearby Cockle Bay Wharf Concept Approval.*

71. The Department's letter of 1 June 2021 also recommended that the Commission consult with the Applicant regarding workability and any potential unintended consequences of the Commission's proposed conditions.
72. The Commission wrote to the Department on 3 June 2021 requesting that the Department consult with the Applicant on behalf of the Commission in relation to workability and unintended consequences of the proposed conditions.
73. The Department's letter to the Commission dated 11 June 2021 attached the Applicant's correspondence in relation to the proposed conditions, dated 9 June 2021.
74. The Department's 11 June 2021 letter summarised the Applicant's concerns regarding potential unintended consequences of the proposed conditions, as follows:
 - *it would make the project unviable and therefore prevent the delivery of public benefits including the provision of new public open space, public domain upgrades, an affordable housing contribution, construction and operational jobs and wider economic benefits resulting from the redevelopment of the site*
 - *only a small proportion (approximately 30%) of the lost GFA could be potentially relocated within the envelope*
 - *the proposed tower setback would limit the ability of the detailed design to achieve design excellence through reduced flexibility within the concept envelope*
 - *the proposed single level of open space could result in an inferior public domain and urban design outcome.*

75. The Department's letter of 11 June 2021 also stated that the Department had considered the 'Alternative Built Form Massing Option' presented by the Applicant to the Commission on 6 May 2021 and submitted on 13 May 2021 and that the alternative was considered to further improve upon the proposal assessed by the Department and would deliver an acceptable outcome for the Site.
76. The Applicant's email correspondence to the Department on 15 June 2021 restated the Applicant's view outlined in their correspondence dated 9 June 2021 that a further unintended consequence of the proposed conditions would be the entrance to the commercial space moving approximately 100m from Pyrmont Bridge. The Applicant states that it is important for the project to have a clear street address to lease the space. The Commission considers that this is a matter to be resolved in the future Competitive Design Competition provided for in the imposed conditions.
77. The Commission considered the Department's and the Applicant's comments regarding workability, enforceability and unintended consequences of the proposed conditions. In response, the Commission revised the proposed conditions to include performance-based conditions, ensuring that the outcome being sought is clear, noting that detailed design solutions would be required as part of the design excellence competition. Key changes to the proposed conditions in response to the Department and Applicant's comments include:
- Retaining the Department's recommended controls on the volumetric occupation of the proposed building envelope (GBA no greater than 80% of BEA); and
 - Introducing performance requirements for solar access along the harbour foreshore to be achieved through Future Environmental Assessment Requirements (FEARs) rather than specifying changes to the building envelope (such as increased setbacks or reduced maximum heights)
78. The Commission considered whether performance requirements could achieve the outcome being sought, although in some instances, absolute maxima or minima were considered necessary by the Commission to secure an appropriate outcome including specifying the minimum set-back from Pyrmont Bridge and the maximum finished deck level height of the public open space above the Northern Podium.
79. A number of the Department's and the Applicant's other comments regarding potential unintended consequences were not considered to warrant further changes to the proposed conditions, as discussed further in the Key Issues sections of this report. Relevantly, the Commission considers that:
- variations in height, bulk or scale between the Northern and Southern podiums does not preclude high-quality design;
 - the required 3,500 m² of public open space can be accommodated above the Northern Podium and the amenity and design-quality of this space can readily be addressed through the design excellence competition process; and
 - potential reductions in GFA necessitated by the conditions and consequent economic impacts are considered acceptable when considering the corresponding benefits, such as reduced impacts on the Pyrmont Bridge, the increased amenity of public open space, and the legibility and enjoyability of the public realm.

80. The Commission has noted the Applicant's position that restrictions limiting the proposed built form would impact the commercial viability of the project. The Applicant has stated that three key controls would render the Project commercially unviable, including
- podium height control of RL 13.75 across the Northern Podium
 - tower setback increase to 22 m from the foreshore
 - deletion of the reference to 87,000 m² of GFA
81. The Commission is required to assess the development application, rather than the individual commercial position of any applicant, including the present Applicant, in determining an application.
82. The Commission has only imposed conditions it considers necessary to render the Application approvable. Two of the three controls proposed by the Commission which the Applicant objected to, have been revisited by the Commission. The Commission has therefore imposed the GFA controls recommended by the Department and the Commission's proposed tower setback control has been substituted for an outcomes based condition, requiring solar access to the public domain to be optimised.
83. The Commission is satisfied that the conditions of consent are enforceable, workable and will not result in any material unintended consequences. The Commission's detailed reasoning for the conditions imposed is explained further in the relevant Key Issues sections of this report.

5.4 Material Considered by the Commission

84. In this determination, the Commission has carefully considered the following material:
- the Department's SEARs, dated 30 August 2016;
 - the Applicant's EIS, dated 15 November 2016;
 - the Applicant's RtS, dated March 2020;
 - the Department's amended SEARs, dated 12 May 2020;
 - the Applicant's FRtS, dated October 2020;
 - the Applicant's FFRtS, dated November 2020;
 - submissions made to the Department during exhibition;
 - the Department's AR, dated March 2021;
 - the Department's letter of referral dated 31 March 2021;
 - the Department's draft Recommended Development Consent provided with the referral;
 - transcripts and presentations from the Commission's meetings with the Department, Applicant and City of Sydney Council (as listed at Table 3);
 - notes and handouts from the Commission's site inspection held on 13 April 2021;
 - presentations and the transcript from the public meeting held on 28 April 2021;
 - all written submissions received by the Commission in the initial submission period, from 1 April 2021 to 5 May 2021;
 - the Department's response to questions on notice taken at its meeting with the Commission, dated 5 May 2021 (**Department's Response**);
 - the Applicant's response to the Commission's questions taken on notice at the Commission's meeting with the Applicant dated 12 May 2021 (**Applicant's Response**);
 - all written submissions received by the Commission in relation to the Additional

Material, from 13 May 2021 to 20 May 2021;

- the Department's letter to the Commission's dated 1 June 2021;
- the Department's letter to the Commission, dated 11 June 2021 attaching letters from Mirvac and Ethos Urban, dated 9 June 2021; and
- email correspondence from the Department, attaching email correspondence from the Applicant, dated 15 June 2021.

5.5 Statutory Context

5.5.1 State Significant Development

85. The proposed development is SSD under section 4.36 of the EP&A Act as the development has a CIV in excess of \$10 million and is located within the 'Darling Harbour Site', which is identified as an SSD site under clause 2 of Schedule 2 of the SEPP SRD.
86. As the proposal seeks consent for a Concept development, any subsequent detailed applications will also be SSD pursuant to Part 2, clause 12 of the SEPP SRD.

5.5.2 Permissibility

87. The *Darling Harbour Development Plan No. 1 (DHDP)* applies to the Site. Clause 6 of the DHDP provides that development for the purposes of residential and commercial uses and demolition of existing works may be carried out with consent. The proposal is therefore permissible under clause 6 of the DHDP.
88. The Commission notes that the DHDP does not provide any development controls in relation to floor space or density.

5.6 Mandatory Considerations

89. In determining this Application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the following matters as are of relevance to the development the subject of the Application (**mandatory considerations**):
- the provisions of the following as they apply to the land to which the Application relates:
 - any environmental planning instrument;
 - any proposed instrument that is or has been the subject of public consultation under the EP&A Act and that has been notified to the Commission (unless the Planning Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved);
 - any development control plan;
 - any planning agreement that has been entered into under s 7.4 of the EP&A Act (or draft planning agreement offered); and
 - matters prescribed under the *Environmental Planning and Assessment Regulations 2000 (Regulations)*;
 - the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
 - the suitability of the site for the development;
 - submissions made in accordance with the EP&A Act and Regulations; and
 - the public interest.
90. In accordance with s 4.15(1) of the EP&A Act, the Commission has considered the mandatory considerations. They are addressed in the following sections.

91. The mandatory considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Project. To the extent that any of the Material does not fall within the mandatory considerations, the Commission has considered that Material where it is permitted to do so, having regard to the subject matter, scope and purpose of the EP&A Act.

5.6.1 Relevant Environmental Planning Instruments

92. Per Appendix C.3 of the Department's AR, relevant EPIs include:
- *State Environmental Planning Policy (State & Regional Development) 2011 (SEPP SRD)*;
 - *State Environmental Planning Policy (Infrastructure) 2007*;
 - *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
 - *State Environmental Planning Policy No. 55 – Remediation of Land*;
 - *State Environmental Planning Policy (Coastal Management) 2018*;
 - *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*, including the Apartment Design Guide (ADG);
 - *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*;
 - *Darling Harbour Development Plan No 1 (DHDP)*;
 - Draft State Environmental Planning Policy (Remediation of Land);
 - Draft State Environmental Planning Policy (Environment); and
 - Sydney Harbour Foreshores and Waterways Areas Development Control Plan 2005.
93. The Department's assessment of the Project against relevant EPIs is set out in Appendix C.3 of the Department's AR.

5.6.2 Relevant Proposed Instruments

Draft Design and Place SEPP

94. The Explanation of Intended Effect (EIE) for the Draft Design and Place State Environmental Planning Policy (**Draft Design and Place SEPP**) was placed on public exhibition on 26 February 2021.
95. The Draft Design and Place SEPP will be developed to replace the following SEPPs:
- SEPP 65, including the ADG; and
 - *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.
96. The Draft Design and Place SEPP is expected to be publicly exhibited later in 2021 as detailed on the Department's website.
97. The EIE notes that transitional provisions are to be in place which include savings provisions for applications that have already been lodged and are being considered by the relevant Consent Authority.
98. Given that the Draft Design and Place SEPP has not yet been exhibited, the Commission notes that it is not a mandatory consideration.

5.6.3 Relevant Development Control Plans

99. Clause 11 of the SEPP SRD provides that development control plans (**DCP**) do not apply to SSD.

5.6.4 Applicable Regulations

Airports (Protection of Airspace) Regulations 1996

100. Per clause 9 of the *Airports (Protection of Airspace) Regulations 1996*, the Commission is required to give consideration to the Airports Regulations for “*the erection of a building, structure or thing if the building, structure or thing would, if erected, intrude into PANS-OPS airspace for the airport concerned...*”
101. The Project has a maximum height of RL 166.95 m and will penetrate Sydney Airport’s Obstacle Limitation Surface by 10.35 m. At ARP 5.3.1, Table 4, the Sydney Airport and the Civil Aviation Safety Authority were consulted by the Department and did not object to the proposal, but stated the project requires controlled activity approval from the Department of Infrastructure & Regional Development (**DIRD**).

5.6.5 The Likely Impacts of the Development

102. The likely impacts of the Project have been considered in section 5.8 below.

5.6.6 The Suitability of the Site for Development

103. The Commission has considered the suitability of the Site. The Commission finds that the Site is suitable for the following reasons:
 - the proposal is consistent with the permissible uses defined under the DHDP;
 - the proposed development aligns with the objectives of the PPPS;
 - the Project is an orderly and economic use of the Site; and
 - any residual impacts from the Project can be appropriately managed and mitigated.

5.6.7 The Public Interest

104. The Commission has considered the public interest in section 5.9.2 of this report.

5.7 Additional Considerations

105. In determining this Application, the Commission has also considered the following guidelines:

Harbourside Urban Design and Public Realm Guidelines

106. As discussed in Appendix H of the Department’s AR, the Harbourside Urban Design and Public Realm Guidelines (Rev 3) (fjmt, September 2020) were created to guide the design of development on the Site.
107. The Department comments at Appendix H of the Department’s AR:

“The Department notes, although the Design Guidelines are high-level in nature, they generally provide an appropriate starting point for the design of future buildings and spaces and has considered the proposed guidance within the design guidelines at Section 6 of this report.

However, the Department recommends several amendments to ensure the detailed design of the development achieves the desired objectives for the development and incorporates the various changes recommended throughout this report.”
108. Condition B1 of the Department’s recommended conditions requires the Applicant to submit amended guidelines consistent with the Department’s recommendation.

Pymont Peninsula Place Strategy

109. ARP 3.5.1 acknowledges the adoption of the Pymont Peninsula Place Strategy (PPPS) in December 2020 that creates a 20-year vision and planning framework to support the NSW Government's vision for the transformation of the Pymont Peninsula, whilst meeting the aspirations of business, industry, visitors and residents.
110. ARP 3.5.2 identifies that the Site is located within the Tumbalong Park sub-precinct and is a key site within the precinct and peninsula.
111. The PPPS Structure Plan also identifies that the Site is within an 'Area capable of change'.
112. The PPPS provides an outline for the opportunities of each key site, including Harbourside, provided in Appendix B of this Statement of Reasons.
113. ARP 3.5.3 states that the proposal is expected to support the delivery of the Tumbalong Park place priorities in the PPPS by:
 - *“creating space for new jobs in supporting services;*
 - *providing new commercial space for jobs in industries aligning with the innovation corridor;*
 - *providing residential development without compromising the precinct's tourist, commercial and entertainment functions;*
 - *providing roof top open space above podium level;*
 - *improving the activation of Darling Drive; and*
 - *improving east west connections through new through site links, a pedestrian bridge and increased site permeability.”*

5.8 Key Issues

5.8.1 Land Use

114. The Commission notes that the residential land use was a significant concern raised in the Public Meeting and in written submissions made by Council and members of the public (described in paragraphs 36 to 40 above). Concerns were also raised about the proposed private use of public land, noting that the site is owned by the State Government with the Applicant holding a long-term lease until 2087.

Applicant

115. The Applicant's EIS addresses the permissibility of the proposed residential land use.
116. An assessment was provided against the provisions of the DHDP within section 5.3.4 of the Applicant's EIS. This assessment demonstrates that under clause 6(d) of the Development Plan, residential land uses are permissible with consent.
117. Section 5.5.3 of the EIS addresses the suitability of the residential component of the proposal, stating:

“The proposed residential tower located above a shopping centre in Darling Harbour provides both functionality and connectivity as it is in close proximity to services, transport nodes, employment and optimises the distribution of people and goods in and out of space. The residential component will add vibrancy by injecting local residents into Darling Harbour and ensure that Darling Harbour supports Sydney as a 24 hour global city.”
118. Section 5.17.1 of the EIS addresses potential noise impacts on future residents of the development, stating:

“Noise to the internal areas of the residential tower can be readily mitigated through appropriate design of the detailed building in order to meet relevant Australian Standards.”

119. Section 2.7.2 of the FRtS provides further discussion about proposed design measures to mitigate noise impacts on the residential component of the proposal, stating::

“Noise-related issues are addressed specifically in the addendum Acoustic Letter prepared by Renzo Tonin & Associates and appended to this RtS response at Appendix K. The Letter confirms that noise levels within the proposed residential apartments from typical noise impacts meet relevant requirements as stipulated within Development Near Rail Corridors and Busy Roads and the City of Sydney DCP. For special events noise, it is not reasonable to set internal noise goals, and sales contracts for apartments could include an acknowledgement by a purchaser that the apartment is located in an entertainment precinct, that the building has incorporated acoustic treatment to provide some mitigation against special event noise and precluding the occupant from complaining about precinct special event noise.”

Department

120. The Department at ARP 6.2.6 addresses the proposed residential land uses, stating:

“the proposed residential use is permissible and will not compromise the objects of the DHDP in terms of impacts on existing or future employment, entertainment and tourism function of the wider precinct or events within the Darling Harbour precinct...”

121. The Department at ARP 6.2.7 recommends Future Environmental Assessment Requirements (FEARs) which require that:

“future DA(s) address noise attenuation and demonstrate acceptable amenity to apartments to ensure the residential use does not compromise the tourism and entertainment function of the precinct.”

122. The Department’s correspondence to the Commission dated 5 May 2021 advised that mechanisms have been included to draw to the attention of purchasers and occupiers the potential amenity impacts at both Sydney Olympic Park and the Australian Technology Park.
123. Table 12 of the Department’s AR notes that satisfactory future residential amenity (noise, cross-ventilation, solar) can be achieved through recommended FEARs and assessment under subsequent staged development applications (**DAs**).
124. The Department addresses the potential amenity impacts to residential development within the Darling Harbour precinct through a recommended condition of consent that requires future DAs to demonstrate a high level of residential amenity in accordance with SEPP 65 and the residential guidelines within the ADG.

City of Sydney Council

125. Council commented in its meeting with the Commission on 20 April 2021, that the proposed residential use within Darling Harbour will result in adverse amenity impacts for future residents of the Harbourside redevelopment. Council also noted that the building's amenity would be compromised and degraded by the Site's proximity to the Western Distributor and severe traffic noise.

126. Council objected to the proposed inclusion of residential land uses within the Darling Harbour Precinct. Council stated in its meeting with the Commission on Tuesday 20 April 2021:

"In regards to land use, the city strongly disagrees with the proponent's assertion that the residential tower would not prejudice the 24-hour operation of the precinct as it is located a significant distance aboveground. Tourism and entertainment land uses, in our experience, generate substantial noise and they're at odds with the acoustic privacy requirements of a residential development. The site is also located within close proximity to the Western Distributor. The existing noise environment is not compatible for residential use and would diminish the enjoyment of the foreshore and Darling Harbour precinct as a public asset for leisure, recreation, entertainment, culture, education and commerce."

Commission's Findings

127. The Commission acknowledges the concerns raised by the community and Council in relation to the proposed residential land use and in turn the potential impact on future residents as a consequence of the location of the development within an entertainment and tourism precinct.

128. The Commission finds the proposed residential land use is permissible in accordance with the DHDP, as described in section 5.5.2 above.

129. The Commission agrees that use of a portion of the site for residential uses, allows for residential uses within an accessible locality with good active transport connections to the Sydney CBD, employment and other services.

130. The Commission acknowledges that the proposed residential land use introduces a sensitive noise receiver to the area and has the potential to conflict with existing noise-generating activities and land uses in the area. The Commission has therefore imposed the Department's recommended conditions of consent for future DAs to require that any subsequent stage of development includes a Noise and Vibration Impact Assessment to establish an alternative noise criterion for residential apartments and to demonstrate the implementation of noise attenuation measures would achieve the relevant alternative noise criteria.

131. The Commission has also imposed the Department's recommended condition requiring that prospective purchasers or occupants of future residences within the development are notified that the site is within a vibrant entertainment and recreation precinct and may be subject to significant amenity impacts, including noise, vibration, and light emissions, and temporary changes to access arrangements.

132. The Commission finds that the potential impacts to the amenity of future residents can be addressed through the development of appropriate mitigation measures including alternative internal noise criteria in future DAs and the design of façade treatments to achieve the criteria.

133. The Commission also agrees that a requirement that prospective residential purchasers and occupiers are made aware of the potential amenity impacts as a consequence of the surrounding entertainment precinct will provide a practical way of managing future residents' expectations.

5.8.2 Height, Bulk and Scale

134. The Commission notes that concern was raised by Council at its meeting with the Commission on 20 April 2021, and by speakers during the Public Meeting, regarding the impact of the height, bulk and scale of the proposed podium and tower envelope and, in turn, adverse amenity impacts.

Applicant

135. The Applicant refined the building envelope and intended design of the development throughout the Application process in the RtS, FRtS and FFRtS.
136. The design refinement included relocating the tower component from the northern portion of the development to the central portion of the development to reduce the heritage impacts on Pymont Bridge. This also required reconfiguration of the podium envelope to accommodate the relocated tower.
137. The design refinement also included adjustments to the northern podium envelope, including a chamfered edge to improve view sharing for the residential building at 50 Murray Street.
138. The Applicant's FFRtS Design Statement identifies that the proposed maximum tower height responds to the draft PPPS (now finalised), stating:
- "The increased height of the building envelope is established from the Draft PPPS. There are three special considerations envisioned for the Harbourside site, which include protecting solar access to the harbour foreshore public domain, prioritise the delivery of employment, entertainment and tourism floor space and towers below RL170."*
139. The Commission sought additional information from the Applicant as detailed in its letter to the Department dated 23 April 2021. The Commission requested that the Applicant provide an options analysis for modified building envelopes and setbacks and included modelling the proposal's amenity impacts, in particular overshadowing to the public domain, foreshore access to public open space, and view loss.
140. The Applicant met with the Commission on 6 May 2021 and presented a two part response to the Commission's request.
141. In relation to the Commission's requested options analysis, the Applicant stated:
- "the built form massing adjustments would have a devastating impact on the project fundamentals and associated benefits."*
142. The Applicant's Response also outlined an "alternative built form massing option", which included:
- "removal of the podium overhang to the foreshore – achieving a consistent 14m setback to the foreshore"
 - "removal of an entire level of the northern podium (from RL 25 to RL 21.35)"
 - proposing an additional level to the central podium adjacent to the tower
 - "increasing the setback of the tower from the foreshore from 32m to 36m"
 - "adjust the tower volumetric utilisation control from 80% to 85%"

- “adjust podium utilisation (from 80% to 90%)”
 - “adjustment to tower height (from RL 166.95 to RL 170)”
143. The Applicant’s correspondence to the Department dated 9 June 2021 stated that it would “not be considered reasonable” for the northern podium to be “lower than the existing built form on the site and is therefore not addressing any new impact arising from the development proposal but seeking to remove impacts from the development which were approved and have been in existing since 1988.”

Department

144. The Department’s AR assessed the proposed built form by considering character, tower location, bulk, scale and visual impacts of the proposal.
145. The Department concluded that the proposed tower envelope’s location, height and scale was acceptable as described in ARP 6.5.23 stating:
- “a tower on the site is consistent with the prevailing and emerging character within this part of Darling Harbour, and the desired future character as established by the PPPS which envisages a tower of up to RL 170 on this site
 - the central tower envelope location represents the best outcome for the site in terms of visual impacts, view loss, and heritage impacts and facilitates the creation of a significant area of publicly accessible open space above the northern podium, which is a key public benefit of the proposal.”
146. The Department noted in its meeting with the Commission on 20 April 2021 that during its assessment of the proposed building envelope, an independent urban advisor was appointed who:
- “...ultimately supported the tower with a height of up to RL 166.95, which aligns with the Pyrmont Peninsula Place Strategy and was centrally located to reduce its impact on the Pyrmont Bridge, minimise visual impact to the ICC, Sofitel Hotel and other towers along the southern edge of Cockle Bay.”*
147. At ARP 6.5.31, the Department notes in relation to the concept proposal Application that:
- “The podium has been amended in consultation with the Department and its Independent Design Advisor (Table 7) significantly reducing its height at the northern end. The Department is satisfied the revised is appropriate, as:*
- *the varied heights provided within the northern, central and southern section respond appropriately to the site’s varied context and are lower than the Sofitel Hotel to the south west and Maritime Museum to the north*
 - *it will ensure view loss impacts are minimised for the adjacent hotels and residential properties at One Darling Harbour to the west (Section 6.5). In particular, the height of the northern most extent of the podium envelope has been reduced (RL 13.75) and the higher portion of the podium envelope (RL 25) includes a chamfered edge along its north-western facade (Figure 24 and Figure 25) which would allow some views to be retained towards Pyrmont Bridge and the water from the One Darling Harbour apartments*
 - *the height of the northern most extent of the podium envelope (RL 13.75) would respect the heritage significance of Pyrmont Bridge (Section 6.5). In addition, it will be lower and have a more sensitive relationship with the Pyrmont Bridge than the existing structures on site...*

- *the lowered northern podium height, would provide level access to the public open space from the Pyrmont Bridge approach*
- *the Department recommends FEARs requiring future DA(s):*
 - *restrict the height of the northern podium adjacent to Pyrmont Bridge so as not to exceed Pyrmont Bridge deck level*
 - *demonstrate how view impacts to affected properties are minimised”*

148. The Department at ARP 6.5.41 concludes that in relation to the concept proposal Application:

“...the height, form and scale of the proposed podium envelope responds appropriately to its immediate context within Darling Harbour and is acceptable as:

- *the varied heights provided within in the northern, central and southern section’s respond appropriately to the site’s varied context, enable an appropriate scale to be achieved along the waterfront and provide a balanced response to view sharing to neighbouring residential and hotel uses*
- *the podium setback along the waterfront results in an overall increase of 474 m² of waterfront public domain, removes existing pedestrian pinch points and provides improved space for events and public gatherings*
- *the scale and setback of the podium is sympathetic to Pyrmont Bridge and provides an opportunity for a high quality and civic scale space on the northern podium roof which seamlessly aligns with the bridge and provides a high amenity transition down to the waterfront*
- *the external bulk of the podium will be restricted to 80% of the envelope to ensure the building form achieves a high amount of articulation, consistent with the indicative scheme*
- *the design guidelines and recommended FEARs will ensure that the podium bulk and scale is limited while providing flexibility for innovative design solutions to deliver appropriate permeability, connectivity and open space in future DA(s).”*

149. The Department’s letter to the Commission dated 1 June 2021 provided advice on the workability, enforceability and potential unintended consequences of the proposed draft conditions. No issues were raised regarding enforceability and minor amendments were recommended to improve workability. Regarding unintended consequences, the Department identified the following issues relevant to height, bulk and scale:

- unnecessary to reduce the height of the entire northern podium to RL 13.75 m to protect the existing views and outlook to One Darling Harbour residents as the proposed height is lower than the ridgeline of the existing shopping centre (RL 17.45 m)
- potentially insufficient space above northern podium to accommodate 3,500 m² of open space
- potential imbalance between height, bulk and scale of the northern podium and southern podium
- removal of GFA controls may result in a development that is unable to achieve design excellence

- removal of the Department's recommended maximum GFA and envelope utilisation controls is inconsistent with the approach taken for the nearby Cockle Bay Wharf Concept Approval.

City of Sydney Council

150. Council's concern with the built form of the proposed tower relates to its impact on the public domain and consistency with the urban design objectives outlined in the PPPS.
151. In Council's meeting with the Commission, Council indicated that the PPPS priorities for the Tumbalong Park sub-precinct are to:
- "Transition building heights from higher areas to the waterfront and open space so taller buildings are located to respect privacy in public space such as the waterfront promenade."*
152. Council noted in its submission dated 19 May 2021 that the options analysis requested by the Commission and provided by the Applicant demonstrated that the scheme could be amended to deliver improved public open space, solar access, view sharing and heritage outcomes.

Commission's Findings

153. The Commission notes the concerns raised in submissions regarding amenity impacts resulting from the proposed building envelope's height, bulk and scale. In particular, concerns were raised regarding the impact of overshadowing of the public foreshore by the tower and podium components of the proposal, connectivity to the Pyrmont Bridge and the impact on view sharing as a result of the bulk and scale of the northern podiums.
154. The Commission carefully considered the Applicant's Response and options analysis and the applicant's further correspondences.
155. The Commission notes the concerns raised in submissions regarding height, bulk and scale and agrees with the Department that the height of the tower is consistent with the PPPS. The Commission agrees with the Department that the location of the tower decreases the impacts on the public domain as opposed to the location of the tower in the original application.
156. The Commission, however, finds that the overshadowing of the public foreshore by the tower at the proposed location is inconsistent with the PPPS, which requires that solar access to the harbour foreshore public domain is protected. The Commission notes that the impact also extends to the State heritage-listed Woodward Fountain.
157. The Applicant's Response proposed an increase to the tower's eastern setback from the foreshore from 32m to 36m and demonstrated an improvement to solar access for the public domain. Based on the improvements to solar access presented by the Applicant for an increased set back of 4m, the Commission considers that future development applications must include a Solar Access Impact Assessment in order to ensure that solar access to the harbour foreshore public domain is protected in accordance with the PPPS.

158. The Commission has therefore imposed a condition requiring that a Solar Impact Assessment be undertaken and includes amongst other requirement that the applicant must demonstrate that measures have been implemented in the design of the tower and podium to minimise the impact of overshadowing on the public domain, surrounding open spaces and neighbouring developments in addition to demonstrating that the tower and podium siting and profile have been designed to optimise solar access to the public domain and the Woodward Fountain during the winter lunch time period.
159. The Commission notes the concerns raised in submissions and by Council regarding useability and accessibility of the tiered podium open space and the impact of the building envelope's proposed height, bulk and scale on the adjacent state heritage listed Pyrmont Bridge.
160. The Northern Podium, as amended, provides improvements to public open space creating one level area, accessible from Pyrmont Bridge and allows for an events gathering capacity within the public domain by virtue of one larger, level open space.
161. The Commission has considered the Applicant's position in their correspondence to the Department dated 9 June 2021, that applying a deck height to the northern podium that is lower than the existing Harbourside Shopping Centre is unreasonable. The Commission finds the existing Harbourside Shopping Centre is a pitched roof building, the bulk and scale of which are different to the bulk and scale proportions proposed by the development and therefore the impacts are different. The fact that these are impacts of a kind that have previously been considered in development applications for the existing Harbourside Shopping Centre is immaterial. This is not an Application where there is a voluntary surrender of existing development consent as part of a continuation of development under section 4.63 of the EP&A Act. Accordingly, the Commission is still obliged to consider all relevant impacts of the Application, include those similar to impacts considered in the context of granting consent to the existing Harbourside Shopping Centre some decades ago.
162. At the Applicant's Meeting with the Commission on 6 May 2021, the Applicant's presentation included a diagram labelled "Section at Guardian Square" which reflected a section with a terrace deck level RL 12.50 and envelope of RL13.75 which provides for two levels of retail below the terrace deck. The Applicant's presentation also reflects that a reduced podium height results in a reduction in the shadow cast by the podium building envelope over the harbour promenade public domain.
163. At the Applicant's meeting with the Commission on 20 April 2021, the Applicant presented an image showing the RLs for surrounding developments in the Darling Harbour precinct. The Commission notes that the Cockle Bay Wharf Redevelopment's podium adjacent to Pyrmont Bridge has an RL 12 and the deck of the Pyrmont Bridge is at RL 12. The Commission finds that the transition between Pyrmont Bridge and the Northern Podium is improved by ensuring that the 3,500m² of public open space is directly accessible from Pyrmont Bridge at a continuous deck level RL 12.5 further enhancing the relationship between Pyrmont Bridge and the Northern Podium. The visual impact of the Site when viewed from east to west from Pyrmont Bridge and the eastern side of Cockle Bay is improved by a level open space at RL12.5 for the extent of the 3,500m² public open space across the Northern Podium, directly accessible from the western approach to Pyrmont Bridge.

164. The Commission has therefore imposed a condition requiring the 3,500m² of public open space be provided in one contiguous area above the Northern Podium at deck height RL 12.5 in order to improve the amenity, accessibility and utilisation of the space resulting in an improvement to the openness, legibility and amenity of the public realm.
165. The imposed conditions also require the protection of a wide range of views from the Pyrmont Bridge western approach to the eastern Cockle Bay foreshore in addition to ensuring that an adequate setback from the podium to Pyrmont Bridge is provided to protect the heritage values of the Pyrmont Bridge and increase visibility of the western extent of the Pyrmont Bridge. .
166. The Commission notes the Department's advice in its correspondence to the Commission dated 1 June 2021, that should the Commission not impose conditions specifying the maximum GFA and envelope utilisation controls that the consequences may "*result in a development that is unable to achieve design excellence.*"
167. The Commission accepts the Departments advice and has therefore imposed conditions limiting the maximum GFA to 87,000m² and the heights to those shown on the concept proposal drawings in addition to imposing a further condition limiting the building envelope to the envelope shown on the concept proposal drawings. The Commission has imposed the Department's recommended 80% maximum volumetric podium envelope utilisation condition.
168. The Commission acknowledges the community concerns regarding view loss. The Commission notes that the Project will cause view loss from commercial and residential properties to the west of the site.
169. The Commission agrees with the Department's comments at their meeting with the Commission, the Commission finds that the reduction of the public open space above the Northern Podium's to deck level RL 12.5, creates an improved and level public space as well as an improvement to the public domain solar access.
170. The Commission further notes the physical setting/relationship between the Pyrmont Bridge and the project will be enhanced by the proposed conditions as will the visual experience of cyclists/pedestrians approaching the site from the west who will gain improved / expanded views of Pyrmont Bridge and the south-eastern Darling Harbour, Cockle Bay precinct.
171. The Commission notes the Department's concerns raised in its correspondence to the Commission dated 1 June 2021, that the Northern Podium may not be large enough to accommodate 3500 m² of public open space. The Commission notes that the Northern Podium has an area of approximately 4600 m² and, after removal of the relatively small area that will be lost due to the required set-back from Pyrmont Bridge and accounting for the pedestrian bridge landing in the area, the Commission finds that the Northern Podium remains large enough for the provision of 3500m² of public open space.
172. The Commission has considered the Department's correspondence dated 1 June 2021 and finds that the imposed conditions in addition to the design excellence competition informed by the design excellence brief will ensure that at the detailed design stage that the project meets the design excellence requirements.

173. The Commission has noted the Department's concern in its correspondence dated 1 June 2021, that "*the proposed changes to the podium envelope could result in an imbalance of height bulk and scale between the north and south podium.*" The Commission considers that the quality of the architectural and urban design responses will be significantly guided by the strategies and principles embodied in the Design Excellence Competition Brief and held by its Jury.
174. The detailed design of the development will be further informed by the revised Design Guidelines, as amended and consistent with the imposed conditions, that will form the basis of the future competitive Design Competition for the Stage 2 application.
175. The Commission finds that subject to the imposed conditions, the impact of the height, bulk and scale of the podium and tower building envelope can be reasonably mitigated by the conditions of consent.

5.8.3 Urban Design

176. The Commission notes that urban design is a critical component of future development applications and a key consideration for the concept proposal. The Design Excellence Strategy requires a whole of site design excellence competition prior to lodgement of any Future Development Applications.

Applicant

177. To address urban design in future development applications for the Site, the Applicant prepared Design Guidelines which have been amended throughout the assessment process to address concerns raised in submissions and also the Department's assessment.
178. The Design Guidelines have been developed to inform the Design Excellence Competition which is required to be undertaken to determine the built form outcome for the Stage 2 DA.
179. The Applicant commented in its FRTS that the Design Guidelines had been developed in a number of workshops held with the Department and its independent urban design advisor.

Department

180. During the Department's assessment of the proposal, the Applicant made changes to the submitted Design Guidelines as detailed in the FRTS. These changes were made as a result of consultation with the Department and its recommendations.
181. As detailed in Appendix H of the Department's AR, the Design Guidelines inform the future design competition for the Stage 2 DA. The Department notes at ARP 6.4.17 that the Design Guidelines are high-level in nature but generally provide an appropriate starting point for the development of the Design Excellence Competition Brief.
182. The Department's recommended amendments to the Design Guidelines are in relation to the open space to be provided and the required Ecologically Sustainable Development (**ESD**) standards to be met.

City of Sydney Council

183. Council's written submissions on the proposal have included recommendations to ensure that the Design Guidelines constitute an effective process and methodology which will result in best design outcomes for the site.

184. The Department's ARP 5.4.1 details Council's initial submission on the proposed development which stated that:
- "ESD strategies for the whole development should be considered and targets should be mandated for Stage 2."*
- "the development should be subject to a competitive design excellence process."*
185. Similarly, ARP 5.4.1 notes that Council's submission on the Applicant's FRtS stated that the:
- "design Excellence Strategy should be amended to include a requirement for observers"*

Commission's Findings

186. The Commission acknowledges the Design Excellence Strategy requires a whole of Site design competition to be completed prior to the submission of any Future Development Applications.
187. The Commission notes that the Department's recommended conditions require that the design competition be subject to a Design Integrity Panel (**DIP**) which is to be established prior to the lodgement of a future DA. The DIP is to comprise at least three members which will be selected in consultation with the Government Architect NSW.
188. The Commission has considered how the proposed development can activate the frontage of the development to Darling Drive as described in the PPPS in section 5.6 as well as activation of the adjacent Iron Wharf Place.
189. The Commission notes that the Design Guidelines include sustainability objectives at section 8.1 including targets for operational energy and water consumption.
190. The Commission acknowledges the Application provides for a through-site connection between Darling Drive and the Darling Harbour foreshore area. However, it considers that the activation of the Darling Drive and Iron Wharf Place frontage can be improved.
191. The Commission has, therefore, imposed the Department's recommended condition and included a requirement that the Darling Drive frontage be included as part of the retail design and activation strategy which is to be submitted with future DAs.
192. The Commission is satisfied that the Design Guidelines inform the stage 2 DA and will also assist in providing an acceptable design outcome for the development.

5.8.4 Amenity Impacts

193. Overshadowing of the public domain and view sharing with neighbouring developments were significant concerns raised in verbal submissions during the Public Meeting and in written submissions to the Commission (described in paragraphs 44 to 52 above).

Applicant

194. The Applicant advised in its meetings with the Commission that the overshadowing impacts to the public domain, particularly the public foreshore area, were acceptable in the circumstances where the development would result in increased public space as a result of the provision of "Guardian Square" and northern podium.
195. The Applicant also noted in its FRtS that the relocation of the tower south, towards the centre of the Site, has resulted in the reduction of overshadowing impacts on the public domain and increased solar access to the northern portion of the development.

196. The Applicant's 'Alternate Built Form Massing' option outlined in the Applicant's Response, proposed the removal of the podium cantilever and the removal of a level of a podium from RL 25 to RL 21.35 resulting in a "382sqm increase direct solar access" compared to the submitted concept proposal envelope at 1pm on 21 June 2021. In relation to the tower, the Applicant proposed to reduce the setback of the tower from 32m to 36m resulting in a "1,400sqm increase in direct solar access" for the public foreshore at 1.15pm on 21 June 2021.

Department

197. The Department states at ARP 5.7.5 that design workshops were undertaken with the Applicant which resulted in increased setbacks from the foreshore and increases in publicly accessible open space.
198. ARP 6.3.6 states that the Department believes the proposal has acceptable amenity impacts as overshadowing is minimised to the public domain and is offset by the provision of additional public open space. It also notes that there is provision of 3,500m² of new public open space on the northern podium rooftop.
199. Similarly, the Department stated at ARP 6.3.6 that:
"the proposal strikes a balance between protection of public/private views and the appropriate redevelopment of the site."
200. ARP 6.5.31 states the Department considers the proposed podium height "is appropriate as ... it will ensure view loss impacts are minimised for the adjacent hotels and residential properties at One Darling Harbour to the west."
201. In its letter to the Department dated 23 April 2021, the Commission requested that the Department consult with the Applicant to undertake an options analysis, including testing of a smaller BEA for the tower component and reduced heights of the northern podiums to demonstrate to the Commission whether a reduced scheme would reduce the concept proposal's amenity impacts.
202. The Department's correspondence to the Commission dated 5 and 13 May 2021 attached the Applicant's Response (discussed at paragraphs 140 -142 above).
203. The Department's correspondence to the Commission dated 1 June 2021, notes that the Commission's proposed conditions of consent which proposed a reduction of the Northern Podium height which the Department stated is not necessary "to protect the existing views and outlook from One Darling Harbour as the proposed height is lower than the ridgeline of the existing shopping centre at RL 17.45m".

City of Sydney Council

204. At its meeting with the Commission on 20 April 2021, Council did not agree with the Applicant's conclusion that the location of the tower was an effective way of ameliorating noise intrusion and stated that the apartments should comply with the provisions of SEPP 65 and the ADG.
205. Council also noted at its meeting with the Commission that the proposed building height results in unacceptable overshadowing of surrounding private buildings.
206. Concern was also raised by Council at its meeting with the Commission regarding the overshadowing of the public foreshore area stating that the resultant building envelope of the tower should respect solar access to the promenade until at least 2pm.

207. Council also questioned in its meeting with the Commission whether Guardian Square would have the character and function of a public open space, given that it could not be accessed directly at grade from the public waterfront boulevard. This, Council believes, has compromised the equitable access to the proposed public open space.

Commission's Findings

208. The Commission has carefully considered the impacts of the proposal to the Darling Harbour precinct's amenity.
209. The Commission notes the community concerns with respect to overshadowing impacts on the foreshore and visual impacts resulting from the building envelope in addition to Council's concerns regarding overshadowing of the foreshore and adjacent buildings.
210. The Commission considered the Applicant's proposed "Alternative Built Form Massing Option" presented at the Applicant's Meeting with the Commission on 6 May 2021 and in the Applicant's Response. The Commission finds that the alternate proposal's impact on solar access is not sufficiently improved, in particular during the lunch time period. The Commission notes that the PPS master planning requirement for the Site states that a special consideration is to "*protect solar access to the harbour foreshore public domain.*" The Commission has therefore imposed a FEAR requiring that future DA(s) must include a Solar Access Impact Assessment which assesses the overshadowing impact on neighbouring developments and must demonstrate that the tower and podium siting and profile have been designed to optimise solar access to the public domain foreshore during the winter lunch time period between 12pm and 2pm.
211. The Commission acknowledges the concerns raised by the community in relation to private view loss, in particular concerns raised by residents at 50 Murray Street Darling Harbour (One Darling Harbour). The Commission agrees with the Department's Assessment that the buildings to the west of the Site will experience view loss as a consequence of any future built form within the concept proposal building envelope. The Commission has therefore imposed a FEAR requiring that future DA(s) assess the public and private view impacts and demonstrate how consideration has been given to minimising such impacts.
212. The Commission has also noted the concerns raised by the community regarding the use of the publicly accessible northern podiums and the concerns raised relating to potential amenity impacts. The Commission has imposed a condition that future development applications must demonstrate how community consultation has informed the design and operation of the publicly accessible open space. The brief for the design competition will be informed by the conditions.
213. The Commission finds that subject to the FEARs requiring future DA(s) must include a Solar Access Impact Assessment, a Visual and View Loss Assessment and requiring that future DA(s) must demonstrate that community consultation has informed the design and operation of the 24/7 publicly accessible open space, that the amenity impacts can be reasonably mitigated and align with the public nature of the Darling Harbour precinct.

5.8.5 Open Space and Connectivity

214. The quantity and quality of public open space; its amenity value, security and safety, lighting and privacy; and pedestrian connectivity within and through the site were key issues raised in verbal submissions during the Public Meeting and in written submissions to the Commission (described in paragraphs 53 to 61 above).

Applicant

215. The Applicant has revised the provision of open space throughout the Application process. The revised scheme provides an additional 2,000m² of public open space in the form of a rooftop park immediately south of the proposed 1,500m² “Guardian Square”.
216. The Applicant commented in its meeting with the Commission that the redevelopment will:
- “...deliver significant public domain and open space improvements. Importantly, it will ensure increased permeability, accessibility, activation at the ground plane and podium levels.”*
217. The provision of through-site links was emphasised by the Applicant at its meeting with the Commission on 20 April 2021, noting that Guardian Square and the Bunn Street pedestrian bridge will be publicly accessible 24 hours 7 days a week.
218. The Applicant also noted at its meeting with the Commission on 20 April 2021 that the north-south foreshore capacity was improved as part of the proposal and therefore improves pedestrian connectivity.
219. The Applicant’s correspondence to the Department dated 9 June 2021, states that a single level of open space may result in an *“inferior public domain and urban design outcome”* whereas a *“podium form with articulation created through different heights and levels is considered to provide a superior urban design outcome and one that is far more visually interesting than a uniform podium height.”*

Department

220. ARP 6.6.8 notes the Department originally requested that the Applicant explore options to increase the provision of public open space. Consequentially, in the FFRtS, the Applicant proposed an additional 2,000m² of open space on the northern podium immediately south of “Guardian Square”.
221. ARP 6.6.10 states
- “The Department therefore supports the creation of publicly accessible open space occupying the entire northern podium. This space would make a valuable contribution to the area and substantially enhance the site and experience of the Darling Harbour foreshore.”*
222. ARP 6.6.11 addresses the design of the proposed open space, which is arranged over three levels, with the lowest level aligned with the deck height of the Pyrmont Bridge which the Department has noted to be crucial to the success of the open space.
223. In its meeting with the Commission on 20 April 2021, the Department stated:
- “The Department notes that the detailed design of these spaces will be subject to resolution through the design competition and the future DA, and we recommend a condition to ensure that the transition between the levels is of civic quality, encouraging connection and connectivity, and the landscaping and other elements provide attractive, activated and high amenity open spaces.”*
224. ARP 6.6.17 states an independent design advisor recommended that the Department include conditions requiring the provision of generous external stairs, internal escalator and lift to and from the public open space and commercial/retail levels of the northern podium. The Department considered these recommendations but found them to be prescriptive in nature which would prevent consideration of more innovative and effective design solutions.

225. The Department recommended FEARs regarding the design of the public open space, requiring that future DA(s) demonstrate:
- *“a civic quality transition between levels including direct external access, access from Pyrmont Bridge, the Harbour foreshore and from within the central podium*
 - *transitions between these areas encourage connection and continuity from the Pyrmont Bridge approach up to the upper northern podium terrace*
 - *comprehensive activation of the space including co-location of retail, community or other active uses, seating, shade and planting and other attractors*
 - *deep soil zones and pot sizes for the provision of taller trees to provide shade, enhance outlook from the west and allow views through canopy*
 - *that proposed structures, including balustrades, vegetation and planting have minimal detrimental impacts on views from neighbouring properties to Pyrmont Bridge or the harbour.”*
226. ARP 6.6.19 states that the recommended FEARs align with recommendations made by the independent design expert whilst also allowing for flexibility in future design.
227. ARP 6.6.20 recognises that the proposal seeks to improve the pedestrian connectivity around and through the Site by providing new through-site connections and links.
228. ARP 6.6.25 states the narrowing of the waterfront boulevard has been supported by the Department as the northern and southern sections are proposed to be widened which will reduce pinch points and increase permeability whilst also increasing the usable area of the public domain along the waterfront.
229. ARP 6.6.27 details the proposed through-site links, including a new pedestrian bridge between the foreshore and Bunn Street and new “Ribbon Stairs” through “Guardian Square” to Pyrmont Bridge. These through-site links have been supported by the Department stating at ARP 6.3.6, *‘the proposal provides significant public benefits including 3,500 m² of new publicly accessible open space on the northern podium rooftop in addition to new and upgraded public domain areas along the foreshore, new through site connections and event spaces’.*
230. ARP 6.6.31 notes that the Department also accepts the proposed “Ribbon Stairs” and therefore considers it unnecessary to retain the existing stairs adjacent to Pyrmont Bridge. FEARs have been recommended requiring future DA(s) provide direct civic quality stair access linking the foreshore to the northern podium open space and Pyrmont Bridge approach and an open to the sky pedestrian bridge from the foreshore to Bunn Street.
231. In the Department’s correspondence to the Commission dated 1 June 2021, the Department stated that *“it is unclear if the area above the northern podium can accommodate the 3,500m² of open space as it does not include part of the central podium adjacent to the tower (which the Department understands was included in the open space calculations of the recommended proposal).”*

City of Sydney Council

232. In its submissions on the project, Council noted that the accessibility and alignment of “Guardian Square” with the public domain and Pyrmont Bridge was insufficient.
233. Given the issues with accessibility, Council has raised concerns with the public nature of “Guardian Square” commenting at Council’s meeting with the Commission:

“...the city do not agree that Guardian Square will be a genuine public square. What the Department are agreeing to here is a total diversion of the public at a great waterfront promenade to a privatised semi-public space that is out of sight and, in our opinion, not going to be readily used.”

234. Council also raised concerns at the Public Meeting regarding the proposed width of the foreshore area, noting that the proposal includes insufficient space for events and other public uses.

Commission's Findings

235. The Commission examined the impact the proposal would have on the foreshore area including both overshadowing and variable width pedestrian connections to facilitate the proposal.
236. The Commission also considered the impact that the existing Ferris wheel within the foreshore area will have on the pedestrian connectivity within Darling Harbour and the effectiveness of the proposed through-site links to the broader Pyrmont locality were also considered by the Commission.
237. The Commission notes the importance of the Site's connection to the Pyrmont Bridge and has imposed conditions to require the retention of the civic-quality, open-to-sky, stairs to Pyrmont Bridge, connecting the foreshore to the Pyrmont Bridge approach.
238. , The Department's recommended Conditions of Consent included a FEAR to require pedestrian modelling to demonstrate adequate capacity for pedestrian movement to ensure that the foreshore area is capable of facilitating adequate pedestrian movement and is able to accommodate the public tourism and entertainment nature of Darling Harbour. This condition has been imposed in amended form by the Commission to include consideration of permanent and temporary structures within the public foreshore area.
239. The Commission notes numerous submissions were made by the public relating to concerns regarding accessibility across the proposed podium tiers and 24/7 operations. The Commission further notes the applicant's contention that a tiered open space provides a superior design outcome. The Commission finds that tiered open space does not promote equitable access and finds that a single level Northern Podium, directly accessible from Pyrmont Bridge improves accessibility for all users. Further, a single level space allows for increased opportunities for activation and utilisation. The Commission has imposed conditions of consent which require accessibility and improve the usability of the rooftop open space by ensuring it is provided on a single level above the Northern Podium.
240. The Commission has considered the potential impacts of 24/7 Northern Podium access on adjacent commercial and residential properties and has imposed conditions that require future DAs demonstrate methods or arrangements to ensure public open space is accessible 24 hours a day, seven days a week and that community consultation be undertaken to inform the design and operation of the publicly accessible open space, noting that the Site is located in a tourism and entertainment precinct. The Amendment to Design Guidelines as prepared by the Department and included at Attachment A of the conditions recommend that section 4.4 of the Design Guidelines be amended to include requirements for the provision of open space and pedestrian connections. The Commission has provided additional amendments to be made to the Design Guidelines under Attachment A requiring section 3.2 be updated to include relevant setbacks to Pyrmont Bridge to improve public connectivity between the foreshore, Pyrmont Bridge and the new open space on the Northern Podium.

241. A condition of consent was recommended by the Department to ensure that the reduction in widths of the foreshore area do not detrimentally impact pedestrian movement and the public nature of Darling Harbour. The recommended condition proposed requiring the Applicant to provide pedestrian modelling under future DAs to demonstrate adequate capacity for pedestrian movement. This condition has been imposed in amended form by the Commission to include consideration of the new Pyrmont Metro Station, as well as permanent and temporary structures (such as the Ferris Wheel) within the public foreshore area in order to ensure that there is adequate capacity to accommodate pedestrian demand.
242. The Commission finds that the proposed podium public open space is acceptable and achievable subject to the amended conditions of consent requiring it to be provided on one level, directly accessible from Pyrmont Bridge.
243. The connectivity through the site is considered acceptable, subject to conditions requiring civic quality, public open to the sky, pedestrian connections from the public foreshore area to Pyrmont Bridge and the foreshore area to Bunn Street. The Commission finds that the Bunn Street bridge provides equitable access and a clear connection linking the public space and the foreshore to Pyrmont.
244. The Commission finds that the pedestrian connection along the foreshore is acceptable as the existing foreshore connection is retained and maintained subject to the imposed conditions which provide for civic-quality stairs which are not arcade style in addition to ensuring that the publicly accessible open space is accessible 24/7.
245. The Commission finds that subject to the imposed conditions and the competitive Design Competition, the quantity and quality of public open space can be appropriately achieved and the pedestrian connectivity can be improved between Darling Harbour and Pyrmont

5.8.6 Heritage

246. The Commission received written submissions and heard from speakers at the Public Meeting who objected to the proposal due to the impacts on the adjacent State Heritage listed Pyrmont Bridge and overshadowing of the State Heritage listed Woodward Fountain (paragraphs 41 to 43).

Applicant

247. The Applicant identifies that the relationship of the proposal to the Pyrmont Bridge is a significant connection as it provides pedestrian access into Pyrmont and into the city.
248. The area between the current Harbourside Shopping Centre and the Pyrmont Bridge was identified as being compromised in terms of access and distance of separation which has informed the resultant proposal and envelope setback of seven metres. The Applicant states this setback creates a sympathetic and satisfactory relationship to the bridge.
249. In relation to the tower, ARP 6.5.13 states:

“The Applicant contends the proposed height, bulk and scale of the tower building envelope is appropriate as:

...

 - *it responds to the current and future built form character of Darling Harbour, is setback from Pyrmont Bridge, the waterfront and maximises view sharing, solar access and outlook”*

250. With respect to the podium, ARP 6.5.28 states:

“The Applicant contends the podium height and scale responds to surrounding context and is appropriate as:

- *the southern podium height allows view sharing from the ICC pool deck and foyer spaces*
- *the northern podium height is consistent with the Maritime Museum and is sympathetic to Pyrmont Bridge”*

Department

251. ARP 6.5.81 and 6.5.82 recognises that Heritage NSW and Place Management NSW made submissions to the Department recommending conditions that the building envelope for the northern podium be reduced and all works to the bridge be in accordance with the *Pyrmont Bridge Conservation Management Plan 2006*. The Applicant accepted these recommendations and amended the Application accordingly.

252. The Department is satisfied that the amendments to the northern podium building envelope and conditions of consent effectively mitigate impacts to the State Heritage Item stating at ARP 6.5.84:

“The Department is satisfied the amendments to the building envelope appropriately respond to the heritage significance of the bridge and allow sufficient flexibility to ensure the heritage values of the bridge are protected in future DA(s). The Department also notes that the new open space on the northern podium roof (section 6.7) will increase opportunities for public views and appreciation of the Pyrmont Bridge and provide the opportunity for an enhanced landscape setting in the vicinity of the bridge”.

253. The Department’s consideration of the overshadowing impacts to the public domain also addressed impacts to the Woodward Fountain, concluding at ARP 7.1.2 that:

“overshadowing impacts to the public domain are acceptable having regard to the location and orientation of the site. The impacts to the waterfront promenade and Woodward Fountain are limited to after 1 pm and are in part offset by the significant new and enhanced public domain along the waterfront and podium roof.”

City of Sydney Council

254. Council raised concern regarding the proposal’s relationship to the Pyrmont Bridge. As noted at ARP 5.4.1, it has expressed that the proposed development has adverse impacts to the heritage fabric of the Bridge and other significant heritage items including the Woodward Fountain.

255. At the Commission’s meeting with Council on 20 April 2021, Council acknowledged that the final amended scheme did result in a better relationship with Pyrmont Bridge given a greater setback had been provided for the tower component. However, it was commented that this results in a *“massive monolithic building”*.

256. Council’s submissions on the proposal have emphasised that the northern podium is considered excessive and blocks sightlines from the Pyrmont Bridge and a reduced height and greater setback of the podium should be provided.

Commission's Findings

257. The Commission has carefully considered the proposed height and setbacks of the northern podium and its alignment and relationship to Pyrmont Bridge.
258. The Commission notes the Applicant's view that the proposal is sympathetic to Pyrmont Bridge. The Commission finds that an increased setback from the proposed 4-7m between the podium and Pyrmont Bridge will result in an improvement in the relationship and setting of the proposal and Pyrmont Bridge.
259. The Commission has considered the impact of the proposal on the heritage value of Pyrmont Bridge. The Commission has considered the Department's conclusion at ARP 6.5.83 that "*that the podium deck will not be higher than the bridge to maintaining [sic] clear sight lines from the west*" and the Applicant's Response that a deck level at 12.5, allows for two adequate retail floor levels. The Commission has imposed a condition requiring that the deck level of the 3,500m² open space above the Northern Podium be no higher RL 12.5, which allows for two retail levels beneath in addition to imposing a condition requiring that the deck level of the 3,500m² of public open space does not obstruct the sight lines to the eastern Cockle Bay foreshore.
260. The Commission has also imposed a condition requiring a setback of 15m from the north-eastern corner of the podium to the nearest point of Pyrmont Bridge, with the northern edge of the podium angled appropriately to facilitate the connection to the Pyrmont Bridge landing. The required setback is intended to protect the heritage significance of the State heritage item by improving the visibility of the bridge's western landing and ensuring the podium does not visually dominate the bridge.
261. The Commission finds that subject to the imposed conditions requiring an increased setback from Pyrmont Bridge and a consistent deck height for the Northern Podium terrace at RL 12.5 that the visual link of the bridge from the west may be maintained and the heritage values of Pyrmont Bridge protected.

5.8.7 Car Parking

Applicant

262. The Applicant proposed to provide car parking at the rates set out in the Sydney LEP. This has resulted in a proposed 306 car parking spaces being provided for the residential component of the development over four basement levels.
263. The Applicant's proposal is for the non-residential uses to utilise the existing leased 255 car parking spaces located below the Novotel.

City of Sydney Council

264. At Council's meeting with the Commission on 20 April 2021, Council stated:

"So the city has raised significant concern for the increase of parking throughout our submissions. The parking supply for the development must be constrained to encourage sustainable transport and active transport. A realistic consideration of the impact of parking and traffic generation from the site on the surrounding central city road network has not been made. The excessive parking number will result in cumulative traffic and amenity impacts."
265. Council commented that the Department has made a "*light on*" assessment of traffic generation and has underestimated the impact the development would have on the operation of key intersections.

Department

266. ARP 6.7.4 details that the car parking provisions of the Sydney LEP do not apply to the Site but provide a guideline given that it applies to surrounding sites. The Department notes the Site is within close proximity to the following public transport services:
- Town Hall station (15 minute walk)
 - Light rail (Convention Centre stop, three minute walk)
 - Bus services (Maritime Museum, five minute walk)
 - Ferry services (Pyrmont Bay stop, 10 minute walk)
267. Given the number of available public transport services, the Department concludes at ARP 6.7.4 that there is strong justification to limit car parking on the Site.
268. ARP 6.7.2 notes that no parking provisions for non-residential uses have been made onsite given the existing leased 255 car parking spaces below the Novotel.
269. Notwithstanding, the conditions of consent have reflected the proposed rates as laid out in the Sydney LEP.

Commission's Findings

270. The Commission agrees with the Department that the proposed car parking rates are appropriate and that the rates align with the Category B car parking rates under the Sydney LEP 2012.
271. The Commission is satisfied that subject to the conditions imposed the impacts of parking can be appropriately managed.

5.8.8 Demolition Noise, Dust and Vibration

272. The Commission notes concern raised by speakers at the Public Meeting and in submissions regarding potential noise, dust and vibration impacts as a consequence of the demolition work and the hours of work (paragraphs 62 to 63). This included concerns from the National Maritime Museum regarding vibration impacts (paragraph 63).

Department

273. The Department concludes at ARP 6.9.1 that:

The Department is satisfied that noise impacts can be effectively mitigated through restricting hours, respite periods and other management measures identified in the NVIA.

On this basis, and subject to the Applicant's compliance and commitment to implement all reasonable and feasible mitigation measures, the Department is satisfied demolition work can be appropriately managed within the proposed hours to minimise disruption to the amenity of neighbouring properties.

Commission's Findings

274. The Commission has considered the impact that the construction of the development will have on neighbouring receivers and the submission provided on behalf of the owners of 50 Murray Street regarding construction noise.
275. The Commission agrees with the Department's conclusion as set out at paragraph 273, that the noise, dust and vibration impacts from demolition can be appropriately mitigated and managed, subject to conditions.

276. The Commission has, therefore, imposed conditions requiring preparation of a Demolition, Noise and Construction Management Plan (**DNCMP**), a Demolition Noise and Vibration Management Plan, and the scheduling of periods of respite from demolition works. The Commission has imposed a further condition requiring that continuous unattended noise monitoring be included in the DNCMP and the results of which are to be submitted to the Planning Secretary.
277. The Commission has also imposed a FEAR requiring that all future development applications include a Construction Noise and Vibration Impact Assessment including mitigation measures to ensure that sensitive land uses including the National Maritime Museum are protected during construction.
278. The Commission also finds that the Site is located in an entertainment and tourism precinct, on the fringe of the CBD within close proximity to a number of sensitive receivers including the National Maritime Museum (NMM) and a number of hotels including the Sofitel, Novotel and Ibis. The precinct surrounding the Site will continue to support tourists during demolition works with those tourists visiting the Site's surrounding destinations such as the NMM and the adjacent International Convention Centre, in addition to visitors passing across the Pyrmont Bridge.
279. The Commission has therefore imposed demolition hours on Saturday's consistent with the Interim Construction Noise Guidelines to protect the amenity of tourists and visitors during the peak Saturday period.
280. The Commission has imposed an additional condition requiring independent environmental audits during demolition works to assess compliance with the conditions of consent.

5.9 Objects of the EP&A Act and Public Interest

5.9.1 Objects

281. In this determination, the Commission has carefully considered the Objects of the EP&A Act and is satisfied with the Department's assessment provided at Table 14 of the AR, which finds that the Project is consistent with those Objects.
282. The Commission finds the Application has been assessed in accordance with the relevant EPIs and is consistent with the Objects of the EP&A Act.

Ecologically Sustainable Development

283. At ARP 3.2.2, the Department states that the proposal meets several of the directions as outlined in Sustainable Sydney 2030, which sets out Council's vision to make Sydney a more Global, Green and Connected metropolis by 2030.
284. The Commission notes that the Department finds the proposal is generally consistent with ESD principles and is satisfied the proposed sustainability initiatives will encourage ESD. The Department has also recommended additional guidance within the Design Guidelines requiring sustainability targets to be met.
285. The Commission is satisfied with the Department's assessment of the Project under the ESD principles. The Commission has applied the precautionary and inter-generational equity principles in its decision-making process via a thorough and rigorous consideration of the environmental impacts of the development.
286. The Commission finds that the Project promotes ESD subject to the imposed conditions.

5.9.2 Public Interest

287. The Commission has considered the public interest in making its determination, including with respect to the key issues outlined above. Consideration was given to written submissions and verbal submissions at the stakeholder meetings and Public Meeting. The Commission also noted the Applicant's concerns outlined in their correspondence to the Commission regarding the project's viability and the ability to deliver the public benefits associated with the project should the Commission impose reduced building envelope controls. The Commission's consideration involved weighing up the benefits of the Project against the anticipated impacts and the minimisation and mitigation measures for residual impacts.
288. The Commission finds that the Project will result in the renewal of the site and provide a range of public benefits through the provision of retail and commercial floorspace on the Site, additional public open space, and a significant amount of new housing within close proximity to the Sydney CBD.
289. The Commission finds that on balance, when considered against the Objects of the EP&A Act, principles of ESD and the benefits of the Project, the impacts of the Project are acceptable and capable of being appropriately managed and mitigated through the measures required under the conditions of consent imposed by the Commission. The Commission finds the Project to be in the public interest.

6 THE COMMISSION'S FINDINGS AND DETERMINATION

290. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in oral presentations to the Commission at the Public Meeting. The Commission carefully considered all of these views as part of making its decision.
291. The Commission has carefully considered the Material before it as set out in section 5.4 of this report. Based on its consideration of the Material, the Commission finds that the Project should be approved, subject to conditions of consent, for the following reasons:
- residential uses are permitted on the site, pursuant to the provisions of the DHDP;
 - the Project aligns with State and local strategic directions, such as those outlined in the PPPS;
 - the Project is considered an orderly and economic use of the Site as it would provide for the much-needed redevelopment of the Site; and
 - any residual impacts from the Project can be appropriately managed and mitigated through the imposed conditions.
292. For the reasons set out in paragraph 291, the Commission has determined that consent should be granted subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - protect and enhance the openness, legibility and amenity of the public realm;
 - set standards and performance measures for acceptable environmental performance
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.
293. The reasons for the Decision are given in the Statement of Reasons for Decision dated 25 June 2021.



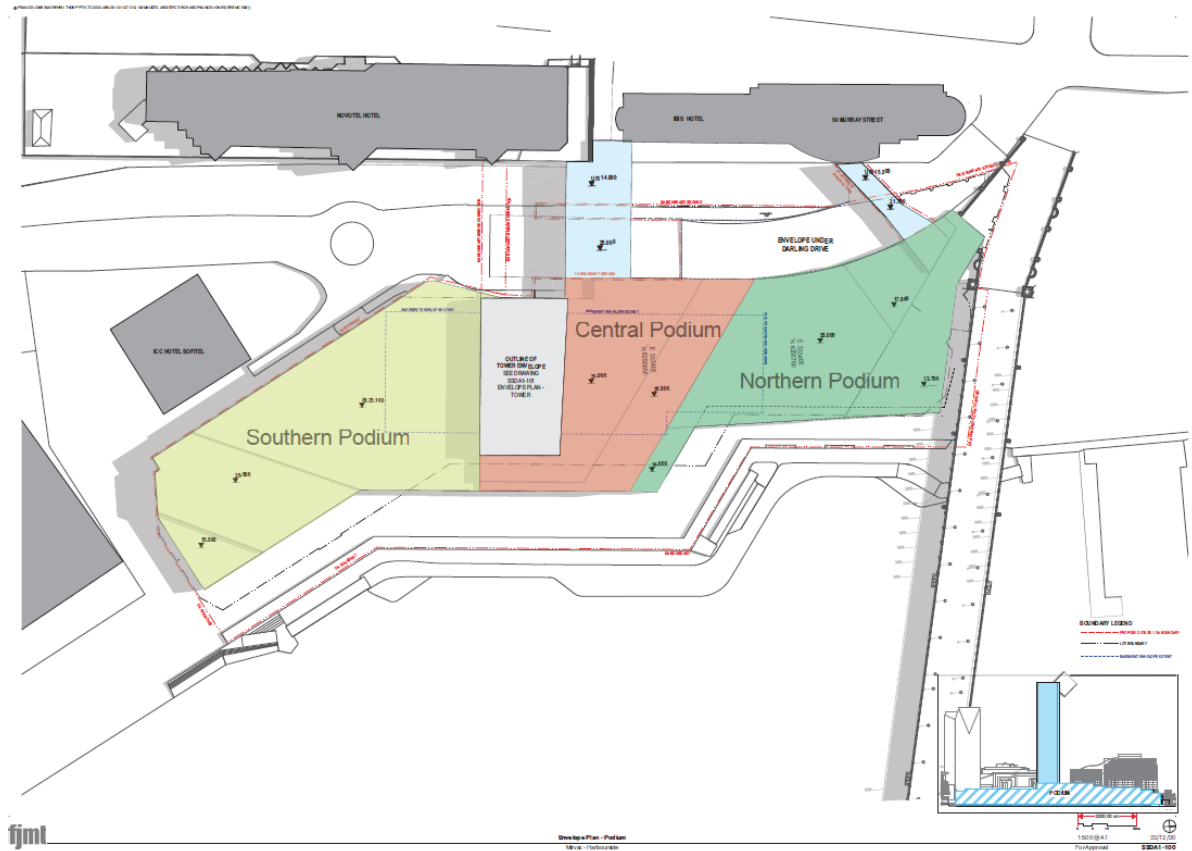
Dianne Leeson (Chair)
Member of the Commission



Wendy Lewin
Member of the Commission

APPENDIX A

Podium Area Identification Plan



APPENDIX B

Extract from Pyrmont Peninsula Place Strategy Harbourside – Key site public benefit opportunities

Harbourside

Opportunities for additional public benefits

- deliver excellence in public open space outcomes by providing publicly accessible open space on rooftop areas and indoor space in podiums that could include indoor recreation infrastructure, viewing platforms, meeting rooms, or other space to support the Innovation Corridor.
- improve and enhance east-west connections from Harris Street to the waterfront through large sites.
- improve and enhance the events and gathering capacity of the public domain in the Tumbalong Park sub-precinct as a global tourism destination.
- deliver a safe, activated and inviting streetscape interface on all boundaries, including proposed 'back of house' or service areas on Darling Drive that promote east-west connectivity from Harris Street to the waterfront.
- deliver an appropriate built form outcome to Pyrmont Bridge.

Special considerations for master planning

- Protect solar access to the harbour foreshore public domain.
- Prioritisation of the delivery of employment, entertainment and tourism floorspace.
- Tower below RL170.

Delivery pathway

State significant assessment process.