

16 June 2014

**STATE SIGNIFICANT DEVELOPMENT APPLICATION FOR THE REDEVELOPMENT OF THE IMAX SITE (SSD 5397), SYDNEY LOCAL GOVERNMENT AREA**

**Project Application**

Grocon Pty Ltd ('the applicant') has submitted a State Significant Development application for the redevelopment of the IMAX building and surrounding public domain, Darling Harbour. The site is located within the City of Sydney Local Government Area and is owned by the Sydney Harbour Foreshore Authority (SHFA).

It is proposed to demolish the existing IMAX building, tourist office and amenities block, and construct a new twenty-storey building and a separate two-storey building. The proposed twenty-storey building will accommodate ground floor retail uses, a new IMAX cinema, commercial office development and associated parking for 86 vehicles. The proposed two-storey building will contain ground floor retail uses and the offices of SHFA. The application also involves works to the public domain and landscaping within the IMAX site 'zone of influence' including new paving surrounding the building, a new children's playground, relocation of the existing carousel and organ, and the relocation and upgrading of the existing palm grove.

Changes made to the application as detailed in the applicant's Response to Submissions were minor and included:

- minor amendments to the building footprints including realignment of the eastern and western ground level facades;
- modification to the two-storey building; and
- modification to the Wheat Road access so as to provide for separate access to a new drop-off/pick up zone and loading dock;

**Delegation to the Commission**

On 3 April 2014, the Project Application was referred to the Planning Assessment Commission ('the Commission') for determination under Ministerial delegation dated 14 September 2011, as more than 25 objections were received and the City of Sydney Council ('the Council') objects to aspects of the proposal.

Ms Gabrielle Kibble AO nominated Mr Paul Forward (chair) Ms Jan Murrell and Ms Donna Campbell to constitute the Commission to determine the project.

**Re-exhibition**

Following the referral of the application to the Commission for determination, the Commission was made aware of an error in the site description. On 13 May 2014, the file on the application and associated documentation was returned to the Department so that the application could be re-exhibited and re-notified in order to correct the error in the site description. Following the completion of the re-exhibition process, the application was referred back to the Commission for determination on 6 June 2014. No additional issues requiring the consideration of the Commission were identified during the re-exhibition process. However, the Commission notes that an additional condition addressing the Commission's concerns in relation to the potential effect of the approved building on the behaviour of the pollution plume from the Cross City Tunnel ventilation stack has been included. The Commission supports the inclusion of this condition.

## **Planning Context**

The proposal is a State Significant Development application and the Commission, in its consideration and determination of the proposal, must have regard to the matters for consideration contained in Section 79C of the Environmental Planning and Assessment Act, including the terms of the relevant environmental planning instrument applying to the site

The relevant environmental planning instrument for this proposal is Darling Harbour Development Plan No.1 however it contains very few planning controls. SHFA has prepared comprehensive master plans instead to guide future development in Darling Harbour. This master plan approach is currently being used for the adjoining Sydney International Convention, Exhibition and Entertainment Precinct (SICEEP) redevelopment site.

However, in the case of the IMAX site there is neither a master plan nor any height or floor space ratio controls to assist the Commission in its consideration of this proposal. The only relevant controls are those making the new IMAX cinema, ground floor retail tenancies and commercial office space permissible on the site.

In the absence of built form controls, the Commission has considered the height, bulk and scale of the proposed building in the context of the existing and emerging built form of Darling Harbour and of the western edge of the CBD.

More broadly, the Commission has considered whether the proposal delivers improvements to the amenity and functionality of the surrounding public domain.

## **Assessment Report**

The Director-General's Assessment Report prepared by the Department of Planning and Environment (the 'Department') considered the following key issues:

- Legislative requirements;
- Built form (height, bulk and scale, together with architectural design quality);
- Amenity impacts to surrounding properties and public domain/ open space;
- Public domain and pedestrian connectivity;
- Heritage; and
- Stormwater and flooding.

## **Site Visits and Meetings**

### Meeting with Council

On 5 May 2014, the Commission met with the Council to discuss issues raised in its submission to the Environmental Impact Assessment and Response to Submissions.

Whilst the Council indicated there appeared to be no current demand for additional office space in the CBD, particularly in light of the additional office space proposed for Barangaroo, it acknowledged that the current planning controls for Darling Harbour made it a permissible use.

In light of this, the key concerns raised by the Council related to:

- The potential impact on the overall legibility of the precinct, site lines, way-finding and pedestrian and visual connectivity as a consequence of the increased building footprint (compared to existing), with particular concern expressed in relation to the encroachments of the north-western and north-eastern building footprint into the ground plane of the public domain. The encroachments of the building footprint into the public domain would restrict existing and projected pedestrian flows.

- Pedestrian connectivity to Bathurst Street and the wider CBD.
- Public domain materials and finishes should be integrated with the SICEEP development and be sourced from the Council's palette of materials.
- Slotted drains should be removed from the proposal as they are unsafe for cyclists.

The Council's primary concern related to the first point. To address this concern, the Council has requested the deletion of the proposed retail tenancies in the north-western and north-eastern edges of the proposed building footprint.

#### Meeting with the applicant

The Commission met with the applicant on 5 May 2014 for a briefing on the project.

The applicant outlined the history of the project, including consultation with State government agencies. Various components of the project were discussed in detail, including the design of the IMAX building to avoid further overshadowing of the public domain and the proposed landscaping and other public domain improvements.

The applicant explained how the changes to the public domain west of the proposed building would remove existing visual clutter and provide for a wider pedestrian thoroughfare and increased pedestrian flows, compared to the existing situation.

At the request of the Commission, detailed supplementary information was provided by the applicant following the meeting in relation to the proposed changes to the public domain. This included critical dimensions of ground plane areas intended to accommodate existing and future pedestrian flows, clarification of changes to sight lines, and reiteration of the public benefits to be delivered by the project including the Public Domain Works Cost under the lease agreement.

#### Site visit

On 6 May 2014, the Commission visited the site and surrounds.

#### Public meeting

After the site inspection, the Commission held a public meeting to hear the community's views on the assessment report and recommended conditions. Three speakers registered to speak at the meeting (refer Appendix 1). In addition one person who had not registered to speak accepted the Commission's invitation for impromptu speakers, and addressed the Commission. Approximately 20 people (including those registered to speak) attended the meeting.

Key issues raised by speakers included:

- Height, bulk and scale inappropriate in context
- Architectural design
- Solar access and overshadowing of the public domain
- Appropriateness of commercial development in Darling Harbour
- Conflict with City of Sydney, Sustainable Sydney 2030, vision for Western Distributor
- Loss of existing views to the water currently available to residential properties.

#### Meeting with Sydney Harbour Foreshore Authority

On 12 May 2014, the Commission met with SHFA to discuss the project. SHFA briefed the Commission on the history of the IMAX site. The Commission questioned SHFA on its vision for the site in the absence of detailed planning controls or a master plan. SHFA indicated the significant constraints of the site located as it is so close to the Western Distributor, the need to retain the

IMAX theatre and the need to avoid further overshadowing of the public domain and the children's playground in particular.

SHFA described the relationship of the proposal with the SICEEP redevelopment, and in a wider context, with the southern portion of the Darling Harbour precinct. It outlined how the palette of materials and treatment of the public domain within the IMAX site zone of influence would be integrated with those of the SICEEP redevelopment, and that pavement materials would be the same as that utilised by the Council. Measures to assist way finding to Darling Harbour from town Hall station and other public transport nodes including improved signage were discussed.

The Commission raised a concern that the indicative location of the carousel on the plans contributed to a pedestrian pinch point in the north-south pedestrian thoroughfare, and also disrupted sight lines from Tumbalong Park north to the waters of Darling harbour. The Commission also noted the presence of the SHFA security observation and event control tower and the fact that the structure is inconsistent with the proposed improvements to the public domain, west of the IMAX building. SHFA indicated that the control tower was outside of the IMAX zone of influence and while it was not proposed to be removed as part of the subject application, its location and appearance would be the subject of a future works order.

At the request of the Commission, SHFA subsequently provided information to demonstrate the seamless interface of the redevelopment of the public domain between the IMAX site zone of influence and the zone of influence of the SICEEP redevelopment. The Authority advised the Commission that this would be achieved as a result of binding agreements with the proponents of each of the sites. The Commission also requested and received a document titled, "Design Guidelines for the Western Waterfront Precinct", dated May 2014. The Commission notes that the document has not yet been adopted and is currently a "draft for stakeholder engagement".

#### Meeting with the Department of Planning and Environment

On 12 May 2014, the Commission met with the Department to discuss the key issues identified in the Director-General's Assessment Report. The potential for the proposal to result in impacts to the public domain and pedestrian connectivity was discussed in detail, so that the Commission could better understand the respective positions of the Department and the Council.

In responding to Council's request to modify the north-western and north-eastern portions of the proposed building footprint and the Commission's concerns in this regard, the Department acknowledged that there were two valid arguments in relation to the respective merits of deleting or retaining the north-eastern and north-western retail tenancies (tenancies 01 and 06 respectively). The Department explained that while some disruption to existing site lines beneath the Western Distributor would occur as a consequence of retaining the subject retail tenancies, but this disruption was minor in the context of the visual dominance of the Western Distributor support pylons. The Department further explained that deletion of the north-western retail tenancy would only marginally improve sight lines but that this modification would significantly impact on the ability to activate the ground floor western facade of the building. The Commission accepted the clarification of the Department's consideration of this issue.

#### **Commission's Consideration**

The Commission has reviewed the Director-General's Assessment Report and associated documents, submissions from the Council, government agencies and the community, views expressed at various meetings including the public meeting and written submissions received before, during and after the public meeting. The Commission's consideration has also been informed by supplementary information provided by the applicant, SHFA and the Department. The requested supplementary

information related to a principal area of concern to the Commission, being the effect of the proposal on the amenity and functionality of the public domain within the IMAX zone of influence and adjoining public areas in the wider context of the Darling Harbour precinct.

#### Height, bulk and scale

Members of the public raised concern that the height and scale of the project are excessive for the site, having regard to the surrounding built form and context.

The Commission acknowledges that the height and bulk of the proposal represent a significant intensification of the existing envelope; however it does not consider the built form of the proposed building to be inappropriate in the emerging surrounding context. The height, bulk and scale of the proposal are broadly compatible with the massing of buildings on the western edge of the CBD, and with the massing and scale of future SICEEP buildings. The building is skewed to the east and is progressively reduced in height towards the western edge of the building, in deference to the scale of buildings on the western edge of the CBD

The Commission has considered the extent of overshadowing that already occurs from the structures of the Western Distributor and is satisfied that the additional overshadowing generated by the proposed built form is minimal and will not unreasonably detract from the use and enjoyment of the public domain.

#### Pedestrian flows and visual permeability

A primary consideration for the Commission is the amenity and functionality of the public domain to ensure that it will accommodate existing and projected future increases in pedestrian flows. Generous, legible and continuous public access through the IMAX site is vital.

The Commission notes the concerns of the Council in relation to the impediments to pedestrian flows and the disruption of the sight lines and visual permeability as a consequence of the proposed building footprint. However, the Commission also notes that the proposed changes to the public domain west of the proposed building would result in a net increase in the width of the usable north-south pedestrian thoroughfare, from 22.8 m to 31 m at the northern dimension of the 'throat' and 32.3 m to 44 m at the midpoint of the throat.

The Commission has given careful consideration to the Council's concern that the north-western encroachment into the public domain by the building footprint would disrupt existing sight lines currently available from the pedestrian promenade south of the IMAX building (in the vicinity of the so-called "Spanish Steps") beneath the Western Distributor road decks, towards the site of the Exhibition Centre. In this regard, the Commission was assisted by photographs provided by the applicant, Council and the Department. The Commission also directly appraised the subject view during the inspection of the site and surrounds.

The Commission notes that the support pylons of the Western Distributor are the dominant elements within the existing view disrupting sight lines and way-finding to destinations south-west of the IMAX building. The Commission considers that the deletion of the north-western retail tenancy would only marginally improve sight lines to the south-west beneath the Western Distributor, and that this would impact disproportionately on the ability to activate the ground floor western elevation of the proposed building. On this basis, the deletion of the north-western ground floor retail tenancy as requested by the Council is not supported by the Commission.

However, the Commission is concerned about a relatively narrow pinch point resulting from the western alignment of the proposed two- storey building and the proposed location of the carousel.

The 14 m wide pinch point is likely to impede north-south pedestrian flows. Further, the presence of the carousel in this location disrupts sight lines from Tumbalong Park to the water and generally reduces the visual permeability in this part of the public domain. Given that the carousel is a movable item which could be readily relocated to a less sensitive location, the Commission has imposed a condition requiring the carousel to be relocated so as not to impede pedestrian flows and/or disrupt north-south sight lines from Tumbalong Park to the water.

To further address the Commission's concern in relation to the 14 m wide pinch point, a condition has been imposed requiring the footprint of the proposed two-storey building to be modified so that it does not extend any further westward than the western alignment of the existing SHFA building and amenities block. The Commission notes that the building will also function to clearly define the eastern edge of the north-south pedestrian thoroughfare, and also screen the unsightly undercroft of the Western Distributor ramp.

The Commission gave careful consideration to the Council's request for the north-western ground floor retail tenancy to be deleted. In this regard, the Commission notes that the north-western retail tenancy projects north from the main building footprint and that the width of the available pedestrian thoroughfare between this portion of the building footprint and the water would be approximately 12 m. The Commission accepted that this was the same setback from the water observed by the alignment of buildings on the Cockle Bay foreshore. The Commission also accepted that the north-western projection of the building footprint would align with the foreshore setback of the Cockle Bay buildings creating a continuous 12 m wide foreshore pedestrian promenade, and that the projection would serve to define the alignment of the pedestrian promenade by occupying a relatively underutilised paved area, outside of the main pedestrian thoroughfare.

#### Public Domain Improvements

Further to the discussion above, the Commission notes that the proposal will deliver a number of desirable public domain improvements including:

- The removal of level changes, visual clutter and other impediments to pedestrian flows through the public domain in the IMAX zone of influence, to the west of the proposed building;
- Improvements to the legibility of the ground plane Harbour Street entrance creating an improved sense of arrival;
- A continuously defined edge to the pedestrian thoroughfare through the site, extending from Darling quarter south of the site through to the so-called Spanish Steps and the Cockle Bay foreshore. This edge would comprise the ground floor retail tenancies within the main IMAX building and the small two-storey building; and
- Landscaping and pavement improvements within the IMAX site zone of influence.

#### View Loss

The Commission broadly concurs with the Department's view loss assessment. However, the Commission notes that the Tenacity view loss planning principle is not readily applicable to the IMAX site and the CBD context. It is not always possible to preserve all existing views to the water from residential units located in the CBD, some distance from the water. Further, it is difficult to test the 'reasonableness' of the proposed building given the absence of height and other built form controls. The Commission also notes that while the proposed building would result in the loss of some existing views to the water, it is broadly consistent with the notion of view sharing in that not all existing views to the water available from the affected residential towers would be lost.

### Reflectivity

The Commission endorses the Department's recommendation and conditions on this issue having regard to the potential to impact on the safety of the vehicular traffic using the Western Distributor, given the significant extent of glazing and the building's location between the Western Distributor overpasses. This issue was addressed by the applicant during the presentation to the Commission on 5 May 2014, and the Commission is satisfied the design of the glazing panels allows for future modifications if necessary.

Therefore the Commission has resolved that the reflectivity performance of the proposed building, especially the western elevation which would present to east-bound motorists, should be monitored for a minimum period of 12 months. If in this 12 month period, the monitoring reveals that the reflectivity of the building presents an unacceptable safety issues to motorists, the reflectivity of the glazing shall be further reduced to address this. The Commission understands that this is not an unreasonable imposition given that the design of the glazing readily allows for the selective replacement of individual panels. The method of monitoring the reflectivity of the building shall be determined by the authors of the Cundall Reflectivity Study, to the satisfaction of the Department.

### Pedestrian Management Access Plan (PMAP) and signage strategy

The Commission shares the Council's concern that the anticipated 4,000 office workers who would occupy the completed building would place additional demand on the pedestrian approaches to the site, especially from the east from Town Hall rail station and nearby public bus stops. The Commission is of the view that there is a necessity for the applicant to develop a PMAP detailing how the future office workers and customers of the cinema complex would access the site. The PMAP should be developed by the applicant in consultation with Council, for the approval of SHFA.

The Commission also shares Council's concerns in relation to way-finding impediments for pedestrians seeking to access the site from Town Hall rail station and other public transport nodes. In this regard, the Commission believes that the applicant should develop a signage strategy in consultation with Council and SHFA. The cost of developing and implementing the signage strategy shall be borne by the applicant.

### **Findings and Determination**

The Commission has considered all relevant information in relation to the proposed State Significant application. In particular, the Commission has considered the constraints of the site, the height, bulk and scale of the proposal in the context of the western CBD and the emerging redevelopment of Darling Harbour, and the impact of the proposal on the public domain.

On balance, the Commission has concluded that while it agrees generally with the Department's recommendation for approval subject to conditions, additional modifications and conditions are required to maintain and improve the amenity and functionality of the public domain in order to maximise opportunities for views through the site and to facilitate existing and projected future pedestrian flows.

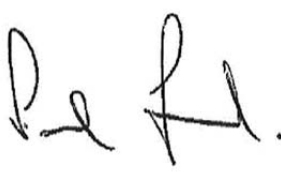
Accordingly the application as depicted in the RtS is to be modified to:

- Ensure that the footprint of the proposed two-storey detached building extends no further westward than the alignment of the existing amenities block;
- ensure the relocation of the carousel is such that it does not contribute to a pedestrian pinch point and does not unreasonably disrupt or impede opportunities for views to the water from Tumbalong Park and areas south of the IMAX site;
- ensure that the potential reflectivity of the proposed building does not impact on the safety of vehicles using the Western Distributor;

- require the development of a PMAP and a way-finding signage strategy; and
- replace proposed slotted drains with bicycle friendly drains.

Subject to the above requirements and conditions as amended by the Commission the application is approved.

In making this determination the Commission has addressed all relevant matters of consideration contained in Section 79C Of the Environmental Planning and Assessment Act. Further, the Commission is satisfied that the approval will deliver a net improvement to the public domain and that the ability of the public domain in the vicinity of the site to accommodate existing and projected future increases in pedestrian flows would be preserved by the proposal. The Commission is satisfied that on balance, the merits of proposal justify its approval.



Mr Paul Forward  
**Commission Chair**



Ms Jan Murrell  
**Commission Member**



Ms Donna Campbell  
**Commission Member**



## **Appendix 1 List of Speakers**

### **Planning Assessment Commission Meeting**

Redevelopment of the IMAX Site, Darling Harbour

Date & Time: Tuesday 6 May 2014, 3 pm

Place: The Grace Hotel, 77 York Street, Sydney

1. Paul Feet
2. Nigel Fox
3. Alan Sauran
4. Suzanne Thomas