



The Star Casino

*Section 75W
Modification Assessment
(MP 08_0098 MOD 13)*

July 2019

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Cover photo

Perspective view west towards The Star, including the proposed Ritz Carlton tower and amendments to existing buildings (Source: Proponent's Architectural Design Statement).

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
CIV	Capital Investment Value
Commission	Independent Planning Commission
Council	City of Sydney Council
DCP	Development Control Plan
Department	Department of Planning Industry and Environment
DRP	Design Review Panel
EA	Environmental Assessment Report prepared by Urbis Pty Ltd dated 13 August 2018
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
GFA	Gross floor area
GSC	Greater Sydney Commission
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning Industry and Environment
Proponent	Star Entertainment Group Limited (SEGL)
Project approval	Approved project application for The Star Casino Complex (MP 08_0098)
RtS	Response to Submissions prepared by Urbis Pty Ltd, dated November 2018
SEARs	Secretary's Environmental Assessment Requirements
SEGL	Star Entertainment Group Limited
SELS	Sydney Electric Light Station Building
SEPP	State Environmental Planning Policy
SLEP 2012	Local Environmental Plan



Executive Summary

This report provides an assessment of a modification request to modify The Star Casino Complex project approval at 20-80 Pymont Street, Pymont, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposal seeks approval for:

- partial demolition of the existing Star Casino building
- construction of a 237 m tower (approximately 66 storeys) providing 220 hotel rooms, 204 residential apartments, a neighbourhood centre and 220 car parking spaces
- an increase of 48,799 m² gross floor area (GFA)
- lighting, including special events lighting
- site-wide signage upgrades and new signage and site-wide cumulative noise controls/management
- upgrade existing and create new commercial units including hours of operation
- internal and external amendments to the existing Star Casino building and upgrades to landscaping and the public domain
- plant, stormwater and flooding infrastructure amendments and upgrades
- stratum subdivision to create five lots.

The application has been lodged by Star Entertainment Group Limited (the Proponent). The site is located within the City of Sydney local government area (LGA) and has a capital investment Value of \$529,398,061.92. The proposal is predicted to create approximately 265 operational jobs and 489 construction jobs (expressed as annual average Full Time Employment).

Engagement

Following the submission of the modification request the application was publicly exhibited from 22 August until 18 September 2018 (28 Days). The former Department of Planning and Environment (the Department) received 144 submissions, (including a petition with the number of signatures redacted), comprising 12 submissions from government agencies and the City of Sydney Council (Council), 15 submissions from special interest groups and 117 submissions from the public (88 objecting, 2 providing comments and 27 in support). Of the 117 submissions from the public, 89 were from residents of Pymont (68 objecting, 2 providing comments and 19 in support).

Council objected to the principle of a tower on the site and the additional overshadowing of Union Square and Pymont Bay Park. The other government agencies did not object to the proposal and provided general comments and recommendations.

The key concerns raised in public submissions include height, scale and location of the tower, overshadowing, heritage impacts, view loss, density/overdevelopment, traffic and car parking impacts, operational noise impacts, public benefits, wind and lighting impacts.

In response to the concerns raised in submissions and by the Department, the Proponent made changes to the proposal which included various design, signage, landscape planting, vehicle access and parking changes as outlined in **Section 5.5**. The Department made the Response to Submissions (RtS) publicly available on its website and notified Council, relevant Government agencies and all previous submitters. An additional seven submissions were received from Government agencies and nine submissions from the public.

Assessment

In its assessment of the proposal, the Department has carefully considered the issues raised in submissions, the Proponent's response to these issues and the expert advice of the Department's independent design advisor.

The key assessment issues for the proposed development are strategic context, built form (including visual impacts and impacts on the amenity of the surrounding area), design excellence, public benefits, contributions and the public interest.

[Strategic justification](#)

The Department considers that the Proponent's suggested "global waterfront precinct" cannot be relied upon to justify a landmark tower in this location. The Proponent's concept does not have any planning weight, has not been subject to community consultation as part of any strategic planning process and is not part of any current or proposed Council or Government planning policy. Furthermore, the concept is reliant on matters which have not been committed to including a metro station at Pyrmont and future tall towers within the Bays Precinct. For these reasons the Department is not persuaded by the 'global waterfront precinct' concept.

The Proponent's justification for a tower also fails to adequately respond to the local character of Pyrmont. Pyrmont is characterised by an established low to medium scale character whilst supporting reasonably high levels of density. Furthermore, Pyrmont is not specifically identified in any strategic planning policy to accommodate future growth in the form of very tall buildings or significantly increased density.

The Department does not accept the Proponent's contextual or strategic justification for a tower in this location and notes there is a significant distance between the proposed tower and the established clusters of taller buildings within Barangaroo, the CBD and Darling Harbour. The Department considers a more reasonable built form context for the site is one defined by the established area of Pyrmont, separate to the strategically identified precincts of Barangaroo, the CBD and Darling Harbour.

[Built form](#)

The Department undertook a detailed assessment of the built form impacts of the proposal. This assessment has identified a number of substantial impacts related to the scale and design of the building.

The Department acknowledges and accepts the concerns raised in public and Council submissions that the proposed height is unacceptable, that the tower is inconsistent with surrounding buildings in height and form and would not contribute positively to the skyline.

[Visual impact](#)

The Department agrees with the independent design advice that the proposed tower would appear isolated and overly prominent and unrelated to its context within Pyrmont to the detriment of local and wider views from many public vantage points. The Department considers the proposed tower is inconsistent with and would adversely affect the established character of Pyrmont. Furthermore, from all directions the proposed tower would be highly visible and prominent in views from nearby public domain and public open spaces, and more distant views from the north shore. The prominence of the tower would be both significant and detrimental to those public views.

The Department also considers the proposal is contrary to Planning Principle no.4, established in The Land and Environment Court case *Veloshin v Randwick Council* [2007] NSWLEC 428 (The LEC Case). The impacts of the proposed tower are not consistent with the impacts that may be reasonably expected from an LEP complaint envelope; the proposed height and bulk significantly exceed the height and bulk of existing buildings; the proposed tower is at odds with the predominant low-to-medium rise-built form character of the surrounding area and it is overly dominant.

The Department acknowledges the proposed tower would be imposing when viewed from within the Pyrmont conservation area and be proximate in views to and from local heritage items. However, it is considered the tower is located a sufficient distance from the conservation area so as not to directly impact its setting or preclude the appreciation of proximate heritage items. The Department concludes that although minor, the heritage impacts of the proposal would only occur as the result of an unacceptable form of development and therefore should not be supported.

The Department considers the approval of the tower would establish a precedent for future tall buildings in its immediate vicinity, as a defining component of an entirely new Pyrmont character and built form context. This new character could and most likely would, be used to justify additional tall buildings, further eroding the established and desired character of Pyrmont, unsupported by any adopted strategic policy direction.

[Amenity impacts \(overshadowing, view loss, and wind\)](#)

The Department's assessment confirmed that the proposal will have overshadowing impacts to public spaces including Union Square, Pyrmont Bay Park and Pyrmont Bridge. The impacts will occur during autumn and winter and will reduce the amenity of those spaces.

View loss impacts to the most affected properties, being Astral Residences and Watermark Apartments range between moderate to severe. However, while acknowledging the negative impacts on views and outlook the Department notes that similar impacts would result from an LEP compliant scheme or a reduced height tower form. While some apartments are negatively impacted, they would retain some outlook.

Overshadowing of private residences is confined to short periods, due to the fast-moving shadow of the tower. Three instances of non-compliance with ADG guidelines have been identified where solar access to any part of residence is reduced to below 2 hours. These instances of non-compliance are related to single bedroom windows only, with all other windows in the affected apartments including living rooms and balconies, remaining compliant with the guidelines.

The Wind Assessment notes that from a comfort perspective, the future conditions would be suitable for pedestrians sitting, standing and walking. The wind impacts from the proposal are considered acceptable should the recommended mitigation outlined in the proponents updated Wind Assessment be applied.

Design Excellence

The proposed development has been subject to an alternative design excellence process as allowed for by the Secretary's Environmental Assessment Requirements (SEARs). A competition brief was established, the Proponent invited architectural firms to participate and a Design Review Panel (DRP) was convened to review and select a preferred design. The proposed building represents the winning design of a design competition. The Department is satisfied that the alternative design process competition was carried out in accordance with the SEAR's and the competition brief.

The Department notes the advice of the competition DRP that the proposed building's architecture exhibits design excellence when considered in accordance with the brief. The competition DRP also recommended the modification application clearly demonstrate how the project relates to planning for other nearby areas to the west of the CBD, including for example Darling Harbour and the Bays Precinct (Fish Market and White Bay, etc.).

However, the Department considers that the brief was established to achieve a tall tower at this specific location. This is evidenced by the brief containing a specific indicative building envelope and weighting of 70% attributed to commercial, function and buildability. The nature of the brief discouraged the consideration and selection of an alternative approach to the proposal, such as a more contextual design response.

The Department notes the key objective of design excellence provisions typically contained within statutory instruments is to deliver the highest standard of architectural, urban and landscape design. Furthermore, the overall assessment of design excellence is not only restricted to the architecture of the building, it also needs to consider the urban context, general character of the area and the visual impacts associated with such a tall building. A competitive design process is often one of the inputs to the consideration of design excellence.

Public benefit, contributions and the public interest

The Department considers public benefit from the project would include both economic and social benefits. The Department acknowledges economic benefits would arise from the proposal. These include construction and operational jobs, developer contributions and affordable housing contributions as well as the broader economic benefits related to jobs, a new hotel and upgraded Casino facilities.

The Department notes the nature and type of these benefits is typical for a development of this type and that the only unique public benefit offered by the proposal is limited to social benefits provided by the 1691m2 neighbourhood centre. The Department considers that, while there would be benefits to the public from the project, there are also impacts in relation to the proposed tall tower in this location. The Department considers the proposed tower would result in a contextually inappropriate, and overly dominant built form, inconsistent with the existing character of Pyrmont and strategic planning direction for this part of Sydney. The Department also notes other identified impacts such as private view impacts, heritage impacts and overshadowing weigh against the public benefits outlined above.

The Department does not consider the identified public benefits to be sufficient to offset the impacts that would be caused by the proposed tower and therefore, the proposal is not in the public interest.

Other issues

The Department's assessment considered other issues including include modifications to the existing Casino, special event and operational lighting, signage, noise residential amenity, traffic and parking, landscaping and public domain, consolidated consents and demolition as well as those raised in Council, government agency and public submissions. It is concluded that many of the identified assessment issues could be acceptable or capable of being acceptable subject to appropriate mitigation, however specific forms of mitigation have not been recommended for every issue as the overall conclusion reached by the Department's assessment is that the proposal should not proceed.

Summary

The issues raised by government agencies, Council and the community have been addressed in the Department's assessment report. Following detailed assessment, the Department does not support the proposal. The Department is not satisfied the impacts are acceptable or can be appropriately mitigated.

The Department does not accept the Proponent's justification that the proposed tower sits within a 'global waterfront precinct'. This concept has not been subject to any strategic planning process or community consultation and does not form part of any existing or emerging government planning direction.

The Department agrees with the independent design advice that the proposed building form of the tower would appear isolated and overly prominent and unrelated to its context within Pyrmont to the detriment of local and wider views from many public vantage points. The Department considers the proposed tower is contrary to Planning Principle no.4, as it is inconsistent with the existing and desired future character of Pyrmont and would not appear appropriate in its context.

Individual amenity impacts have been identified and although minor, they also have a cumulative impact. Furthermore, these amenity impacts are the result of the proposed built form of the tower which is not supported and does not assist in the delivery of any significant public benefit. The Department considers that the additional amenity impacts are not justified by the proposal and should not be supported at this time. The Department acknowledges some economic and other public benefits would arise from the proposal. However, these benefits are not considered sufficient to outweigh the impacts identified in relation to the proposed tower and its inappropriate relationship to the immediate and wider area.

The Department concludes that the proposal is not in the public interest and not wholly consistent with objects c) and g) of the EP&A Act as it would fail to promote the orderly use and development of land (object c)) or promote good design and amenity of the built environment (object g)).

The application is referred to the Independent Planning Commission (the Commission) as Council has objected to the proposal and more than 25 public objections have been received.

The Department concludes that the application is not approvable, for the reasons outlined in the draft notice of decision **Appendix H**. This assessment report is hereby presented to the Commission for determination.



Contents

Glossary	ii
Executive Summary	iii
Contents	vii
1. Introduction	1
1.1 Background	1
1.2 The site	1
1.3 Surrounding development	4
1.4 Approval History	6
1.4.1 Relevant planning approvals	6
1.4.2 Relevant Council planning approvals	7
2. Proposed Modification	8
2.1 Description of proposal	8
3. Strategic Context	14
3.1 Greater Sydney Regional Plan and Eastern City District Plan	14
3.2 Future Transport Strategy 2056	15
3.3 Sustainable Sydney 2030	15
3.3 Visitor Economy Industry Action Plan 2030	15
4. Statutory Context	16
4.1 Modification of the Minister's approval	16
4.1.1 Continuing operation of Part 3A to modify project approvals	16
4.1.2 Modification of the Minister's Approval	16
4.1.3 Power of the Minister to modify under section 75W	16
4.2 Permissibility	16
4.3 Delegated Authority	17
4.4 Secretary's Environmental Assessment Requirements	17
4.5 Relevant Matters for Consideration	17
4.5.1 Environmental Planning Instruments	17
4.5.2 Objects of the Act	18
4.5.3 Ecologically Sustainable Development	20
4.5.4 Environmental Planning and Assessment Regulation 2000	20
5. Engagement	21

5.1	Department’s Engagement.....	21
5.2	Summary of Submissions.....	21
5.3	Key Issues – Government Agencies.....	22
5.4	Key Issues – Council / community.....	24
5.4.1	Council key issues	24
5.4.2	Community submissions	25
5.5	Response to Submissions	26
6.	Assessment.....	28
6.1	Design Excellence	28
6.2	Built form	31
6.2.1	Proposed Tower	37
6.2.2	Visual Impact of the Tower	40
6.2.3	Heritage Impacts	44
6.2.4	Changes to the Podium.....	45
6.2.5	Conclusion.....	47
6.3	Amenity Impacts	48
6.3.1	Private View Loss.....	48
6.3.2	Overshadowing	51
6.3.3	Wind Impacts.....	58
6.4	Public Benefit, Contributions and the Public Interest.....	58
6.5	Modifications to the existing Star building	60
6.6	Traffic, Parking and Access	62
6.6.1	Traffic Generation.....	62
6.6.2	Car Parking.....	64
6.6.3	Public Transport Capacity	64
6.6.4	Bicycle Parking and End of Trip Facilities	64
6.6.5	Taxi and Coach Parking	65
6.6.6	Access and Servicing	65
6.7	Special Event and Operational Lighting	66
6.8	Future Amenity	67
6.9	Landscaping and Public Domain.....	67
6.9.1	Landscaping.....	67
6.9.2	Public Domain	69
6.10	Signage.....	70
6.11	Noise	71

6.12	Consolidated Consents.....	73
6.13	Other Issues	74
7.	Evaluation	77
	Appendices.....	80
	Appendix A - List of Documents	81
	Appendix B - Relevant Supporting Information	81
	Appendix C - Consideration of Environmental Planning Instruments	83
	Appendix D - Previous Modifications to MP 08_0098	105
	Appendix E - Surrender of Council Consents.....	107
	Appendix F - Key Issues – Council and Community Views.....	105
	Appendix G - Copies of Submissions	111
	Appendix H - Draft Notice of Decision.....	112
	Appendix I - The Department's Visual Impact Assessment	113
	Appendix J - Independent Design Advice	131



1. Introduction

1.1 Background

This report provides an assessment of a request to modify the project approval for The Star Casino at 20-80 Pyrmont Street, Pyrmont, to provide a new hotel and residential tower within the existing casino complex.

The proposal seeks approval for:

- changes to the existing building, including creation of new commercial tenancies and upgrades to landscaping and the public domain
- demolition of part of the existing building and construction of a 237 metres (m) tower (approximately 66 storeys) providing 220 hotel rooms, 204 residential apartments, a neighbourhood centre and 220 car parking spaces
- an increase of 48,799 m² gross floor area (GFA)
- special event lighting, new signage and site-wide signage upgrades
- site-wide cumulative noise controls and management
- upgrades to plant, stormwater and flooding infrastructure
- stratum subdivision to create five lots.

The application has been lodged by Star Entertainment Group Limited (SEGL) (the Proponent), pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 The site

The site is located at 20-80 Pyrmont Street on the Pyrmont peninsula, to the west of Darling Harbour. It is approximately 550 m west of the Sydney Central Business District (CBD), and located in between the three key precincts of Barangaroo, Darling Harbour and the Bays Precinct (**Figure 1**). The site is located within the City of Sydney local government area.

The site occupies an entire street block and is irregular in shape, with a total area of approximately 3.9 hectares. It is bound by Jones Bay Road to the north, Union and Edward Streets to the south, Pirrama Road to the east and Pyrmont Street to the west. The site also includes land to the north of Jones Bay Road providing a service vehicle exit onto Pirrama Road (**Figure 2**).

The site contains The Star Casino Complex (The Star), which comprises casino gaming areas, retail/shops, restaurants, bars, a night club, a multi-use entertainment facility (MUEF), the Sydney Lyric Theatre, Astral Hotel and Astral Residences (providing 480 hotel rooms/serviced apartments) and basement car parking (**Figure 2**). The site also contains the former Pyrmont Power Station Administration Building (also referred to as the Sydney Electric Light Station Building (SELS)), a local heritage item fronting Pyrmont Street.

Existing building heights within The Star Complex are varied, with the tallest building being the Astral Hotel at 74 m (approximately 19-storeys) which includes the lift motor room.

The Proponent leases the site from the Independent Liquor and Gaming Authority (ILGA) and is the operator of The Star casino (license valid until year 2093).

Pedestrian access to The Star Complex is via four entrances, one on each of The Star's main frontages (on Jones Bay Road, Edward Street, Pirrama Road and Pyrmont Street) (**Figure 3**).

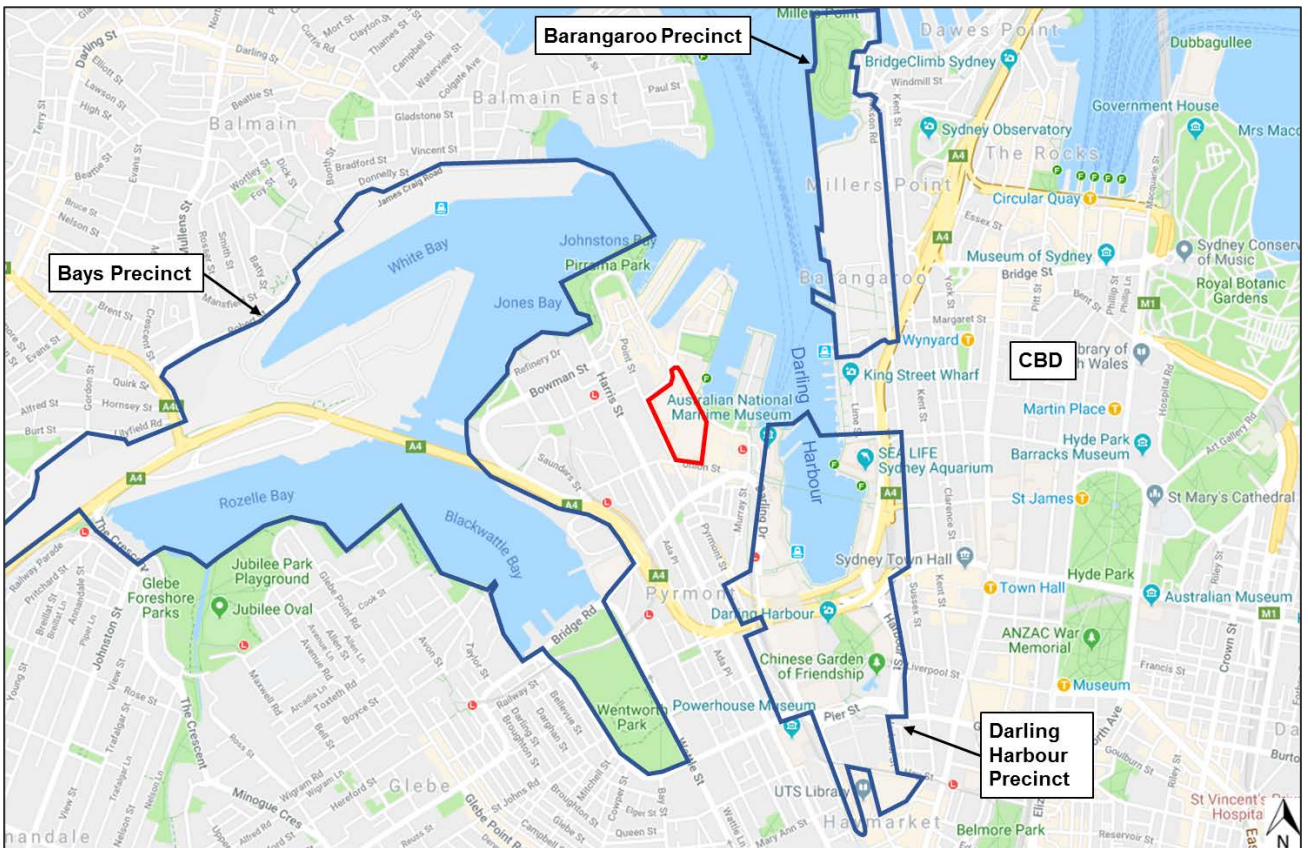


Figure 1 | Site location and relationship to the CBD and nearby urban renewal precincts (Base Source: Nearmap)

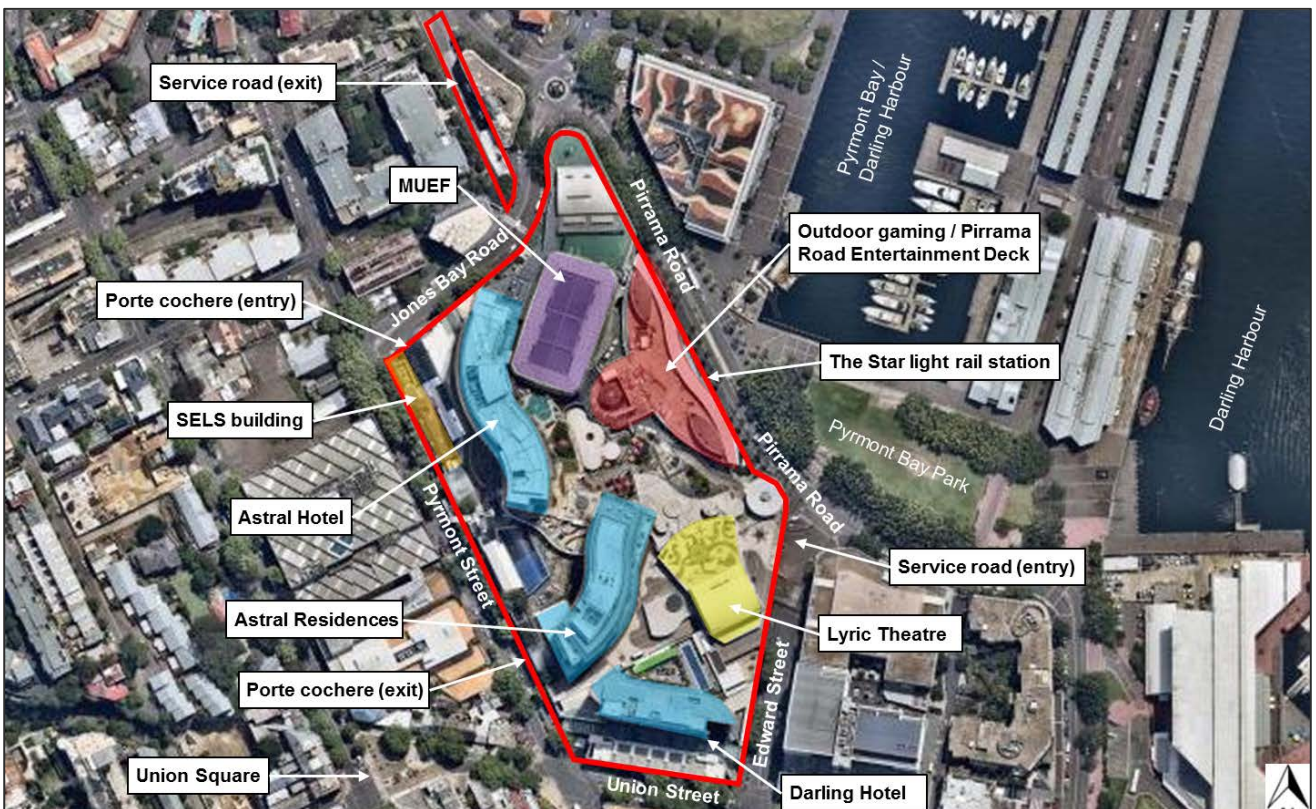


Figure 2 | The layout and key buildings of The Star complex (Base Source: Nearmap)

The site has access to a variety of public transport options, including:

- Light rail: The Star light rail station is located beneath the complex (adjacent to Pirrama Road). Services operate 24 hours a day (every 8-15 minutes and every 30 minutes late night) between Central Station and The Star
- Ferry: Pyrmont Bay Ferry Wharf is located 250 m east of the site and provides services every 30 minutes between 6am and 8pm to Parramatta, Manly (including Circular Quay, Balmain and Lower North Shore) and Darling Harbour
- Train: Town Hall Station is located approximately one kilometre (km) to the east (15 minute walk) from the site and provides high-frequency rail services to destinations across Sydney
- Bus: The Star Express private coach service connects The Star with key destinations including Central Station, Bankstown, Riverwood, Hurstville and Cabramatta. Services operate between 7:30 am and 1:00 am.

In 2016, the Government announced the Sydney Metro West project, which aims to connect the Sydney CBD to Paramatta with a high-frequency metro rail service. While the Sydney CBD and The Bays Precinct have been identified as locations for a station, Pyrmont is identified within a wider 'study area' where the Government is consulting on locations for new intermediate stations. At the time of finalising this report, there has been no announcement about a station in Pyrmont.

Parking is currently provided for 2,795 cars across five basement levels. Public vehicular access to the site is provided at the following three points (**Figure 3**):

- basement car parking access from the Pirrama Road signalised intersection at the south-east corner of the site
- basement car parking access from the eastern end of Edward Street adjacent to the light-rail corridor
- porte-cochere access (for taxis, hire-cars and valet services) entering (left turn only) from Jones Bay Road and exiting mid-way along Pyrmont Street.

A road signage system (static and digital signs) known as the Pyrmont Parking Guidance System (PPGS) is provided within surrounding streets to direct visitors to off-street parking at The Star and other parking facilities within the locality. The PPGS is currently only partially operational and is currently being updated.

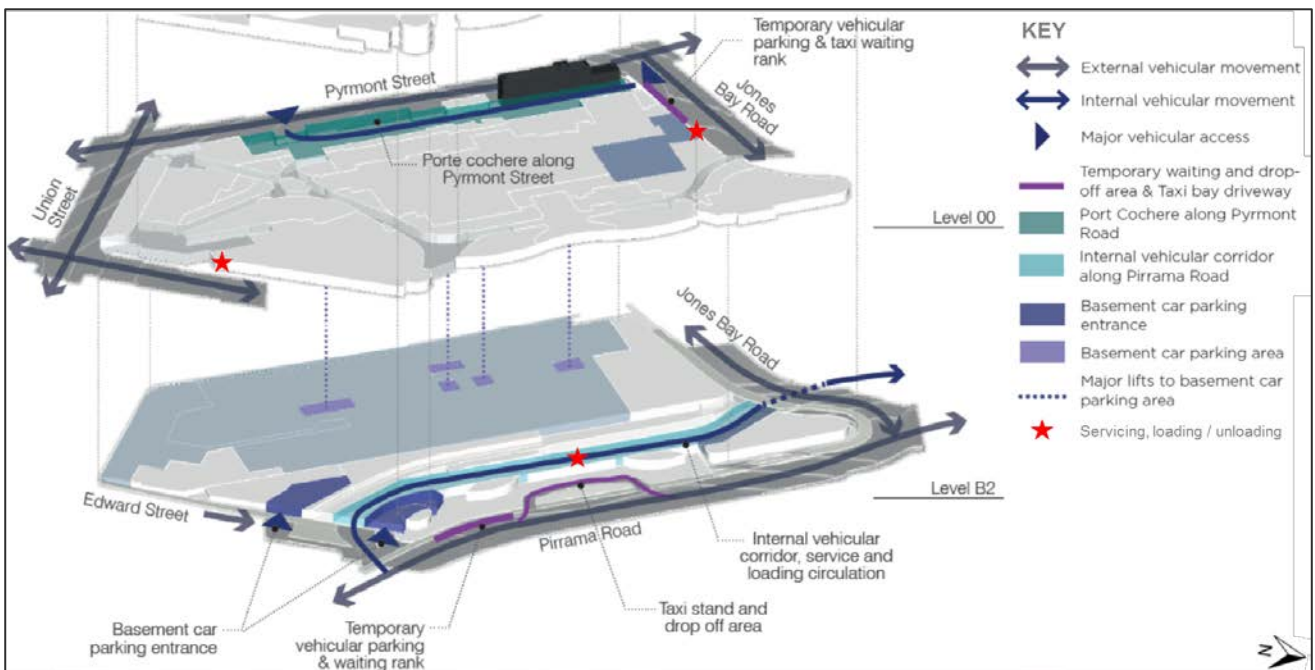


Figure 3 | Existing vehicular entries/exits, servicing, taxi drop-off and stands (Base Source: Proponent's EA)

An off-street taxi-stand and pick-up/drop-off lane (left-in, left-out) is located at the Pirrama Road frontage and comprises a pedestrian and vehicular shared space delineated by metal bollards. Taxi feeder ranks are also located on Pirrama Road and Jones Bay Road.

The Star has three on-site loading dock areas accessed (**Figure 3**):

- mid-way along Jones Bay Road

- mid-way along Edward Street, beneath The Darling Hotel
- along the internal service road (one-way, north only) accessed via the signalised intersection at the south-eastern corner of the site and exiting via a service road tunnel onto Pirrama Road north of Jones Bay Road.

Cycle access to The Star is provided via a segregated cycleway on Union Street and a shared path on Pirrama Road. End-of-trip facilities are provided for staff and comprise wall-mounted racks and storage lockers in a secure room on Level P2 of the carpark accessed off Edward Street. While no formal bicycle parking is provided for visitors, the Proponent is installing 29 bicycle parking spaces on Level B1 and B2 of the carpark (as required under MP 08_0098 Mod 14).

The site uses an existing harbour heat rejection system (HHRS), which comprises a water intake point at Jones Bay Road, a heat exchanger and pumping system at basement level and water discharge point in Pyrmont Bay / Darling Harbour.

The former Sydney Electric Lighting Station (SELS) building is located within the north-east corner of the site and is a remnant of the site's previous use as the Pyrmont Power Station. The SELS building is identified in the Sydney Local Environmental Plan (SLEP) 2012 as a local heritage item (**Figure 4**). The site does not contain any heritage listed items on the State Heritage Register (SHR).

There are 15 trees located within the site boundary, including seven Magnolias, one Honey Locust and a group of seven Bangalow Palms located at the Jones Bay Road porte-cochere. 63 street trees are located within the road reserve around the site on Jones Bay Road, Union Street, Edward Street, Pirrama Road and Pyrmont Street road reserves.

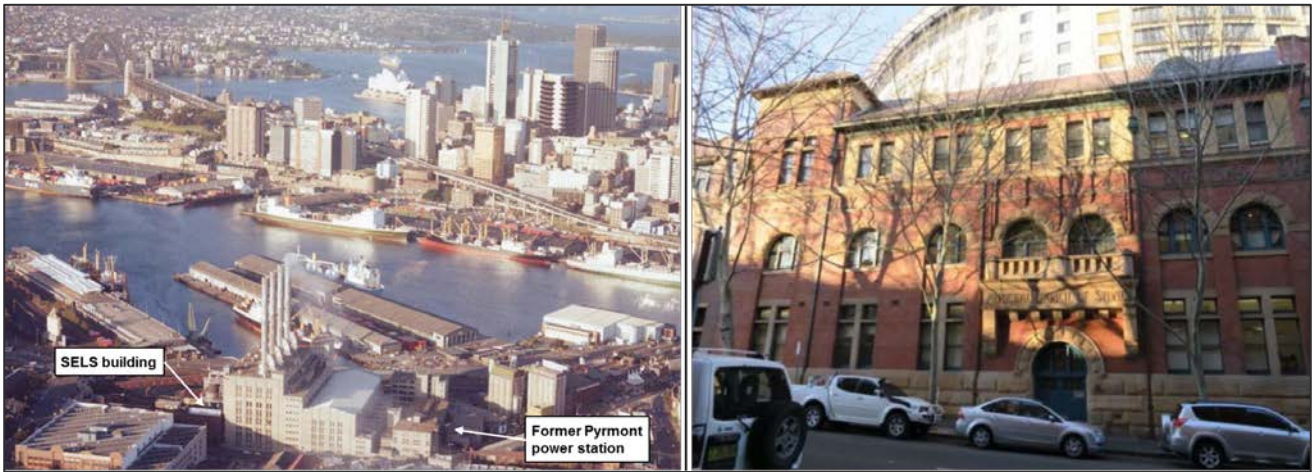


Figure 4 | The former Pyrmont power station (circa 1982) (left) and the current Pyrmont Street elevation of the SELS building (right) (Base source: Proponent's EA)

1.3 Surrounding development

The area surrounding the site has a mixed urban character, derived largely from its former use as a mixed-use industrial, inner-city and harbour-side suburb, together with more recent urban regeneration. Consequently, the Pyrmont peninsula contains a mixture of large scale former industrial buildings, many of which have been redeveloped for high density mixed-uses, converted wharf buildings and fine grain late 19th and early 20th century residential terraces and shops. With the exception of Jackson Landing, the Ibis/Novotel hotels and The Star, the buildings on the Pyrmont Peninsula have a maximum height of approximately 10 storeys.

Buildings and spaces immediately surrounding the site also vary in their use, lot size, architectural design, height and form. The immediate site context is summarised as:

- to the north of the site is an office complex within the 6-storey former Royal Edward Victualling Yard (REVV), a 4-storey mixed use building, an 8-storey residential building and a row of 2-storey terrace houses fronting Pyrmont Street
- to the west is St. Bede's Catholic Church and terrace buildings, an office complex in a 6-storey converted warehouse, 4 to 5-storey modern commercial buildings and 2-storey terrace houses and corner shops. Further west is Union Square, a triangular shaped urban plaza bound by Harris and Union Streets and framed by shops, a pub and terrace houses

- to the south, on Union Street, is a 2-storey mid-20th century warehouse building, two 2-storey terrace houses and a pub. On Edward Street is a 3-storey medical practice, 9-storey mixed use commercial building (including a supermarket) and 5-storey office building
- to the east is Pymont Bay Park, Pymont Bay / Darling Harbour foreshore, a 5-storey commercial / retail building and Metcalf Park.

Residential properties are located to the north, west and south of the site, as shown at **Figure 5**.



Figure 5 | Nearby residential properties (blue) and buildings on the SHR (orange) (Base source: Nearmap)

Owing to its rich and diverse built heritage, the Pymont peninsula contains a number of buildings of heritage significance, including four buildings on the State Heritage Register (SHR) (being the REVEY, Pymont Post Office, the Old Pymont Cottages and the Pymont Railway Cutting, as shown **Figure 5**) together with 52 locally listed heritage items (**Figure 6**). The northern extent of the Pymont Conservation Area is located south-west of the site, on the opposite side of Pymont Street and includes Union Square (**Figure 6**).

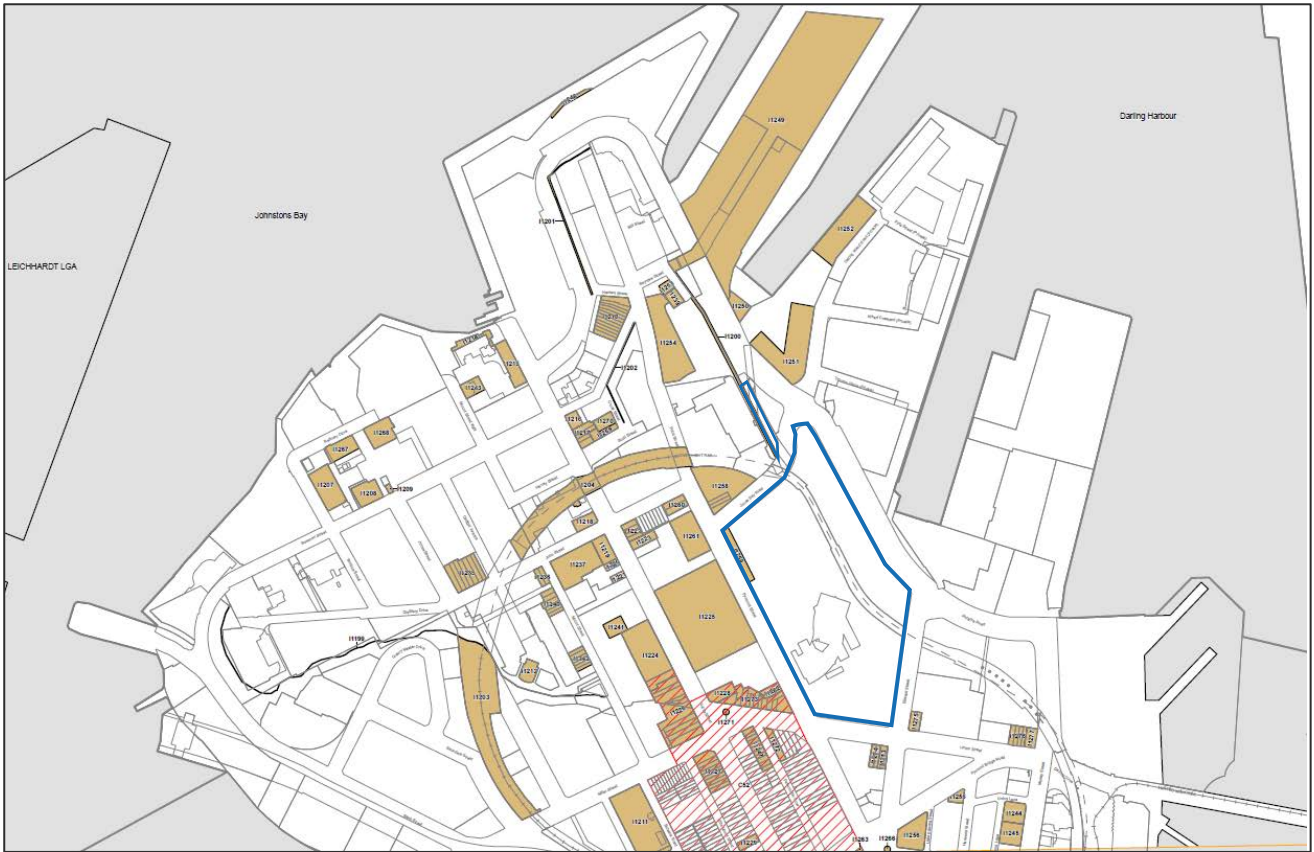


Figure 6 | Heritage context surrounding the site (shown in blue), with heritage items shaded brown and the Pyrmont Conservation Area hatched red (Base source: Sydney LEP)

1.4 Approval History

1.4.1 Relevant planning approvals

On 9 December 1994, the then Minister for Planning approved a development application (DA 33/94) for the demolition of the Pyrmont Power Station and construction of a permanent casino and entertainment complex, including a hotel, serviced apartments, theatres, restaurants, bars, car parking and associated facilities.

On 27 January 2009, the then Minister for Planning approved a Part 3A major project application (MP 08_0098) (the project approval) for alterations and additions to The Star, including:

- the construction of a 10 storey hotel above the podium
- additional basement car parking
- redevelopment of the ground level retail arcade
- redevelopment of the eastern (Pirrama Road) frontage of the Casino building to provide additional restaurants, retail outlets, gaming space, and a new entry and driveway
- works to the exterior of the existing Casino tower buildings.

The project approval has been modified 13 times, as summarised in **Appendix D**. The Star (as modified) comprises the following:

- maximum height of 74 m
- total GFA of 140,200 m², comprising:
 - o 34,300 m² hotel GFA (489 rooms: 318 in the Astral Hotel and 171 in The Darling)
 - o 33,887 m² gaming GFA
 - o 18,571 m² circulation / back of house GFA
 - o 16,137 m² serviced apartment GFA (117 serviced apartments in the Astral Residences)

- o 14,523 m² food and beverage GFA (including the Sky Terrace rooftop bar on Level 3)
- o 9,403 m² Lyric Theatre GFA (capacity 2,005 patrons)
- o 5,477 m² MUEF GFA (capacity 2,200 patrons)
- o 5,020 m² office/administration GFA
- o 1,976 m² retail GFA
- o 906 m² night-club GFA
- 2,795 basement car parking spaces
- The Star light rail station.

The works approved under the most recent modification (MP 08_0098 MOD 14) have recently commenced. The Proponent has confirmed its commitment to fully implement these works and the works are therefore reflected in the base plans and calculations for the current modification.

1.4.2 Relevant Council planning approvals

A range of internal and external alterations and additions to The Star have also been undertaken in accordance with approvals issued by the City of Sydney Council (Council). Council has issued a total of 52 development consents since 2009, which primarily relate to minor works and alterations and include:

- temporary events on site
- commercial fit outs
- refurbishment and reconfiguration of internal areas
- replacement of existing signage
- alterations and additions to the Astral Hotel and Astral Residence.

The planning approvals issued by Council relevant to this modification (i.e. those to be surrendered and/or replaced by this modification request) are summarised at **Appendix E**.



2. Proposed Modification

2.1 Description of proposal

The key components of the proposed modification (as amended by the Response to Submissions (RtS)), are summarised at **Table 1. Appendix A** contains a link to the Proponent's modification request and RtS.

Table 1 | Main components of the modification

Component	Description
Proposal Summary	<ul style="list-style-type: none">• Construction of a tower, including hotel, residential and neighbourhood centre uses, together with internal and external amendments to the existing Star complex, infrastructure, transport and landscape upgrades, signage and subdivision.
Demolition	<ul style="list-style-type: none">• Demolition of existing buildings at the corner of Pirrama Road and Jones Bay Road (levels B02 to Level 5), including foundations, floor slab, columns, walls, stairs, works/structure relating to the former Show Theatre, Sports Bar and part of Pirrama Road and Jones Bay Road facades.• Demolition of several existing office/admin, back of house, and food and beverage outlets within the existing footprint of The Star.
Built form (the tower)	<ul style="list-style-type: none">• Construction of a 237 m tower (Figures 7 to 9), providing:<ul style="list-style-type: none">○ 220 hotel rooms and hotel amenities, including sky lobby, restaurant/bar/lounge, spa and gym, terrace and end of trip facilities.○ 204 residential apartments and residential communal open space, including pool and amenities, with the following mix:<ul style="list-style-type: none">- 81 one-bedroom apartments- 104 two-bedroom apartments- 19 three-bedroom apartments.○ a neighbourhood centre (Ground to Level 4) including café, library, learning/innovation hub and function centre.
Changes to the existing building	<ul style="list-style-type: none">• Construction of a two-storey extension above the Pirrama Road frontage and amendments to provide two pools and amenities (for use by the hotel and The Star guests) (Figure 10).• New awnings and glazed roofs at the corner of Union Street and Edward Street and Union Street and Pyrmont Street.• Minor upgrade of Astral Hotel and Astral Residences (Level 5) including new pool deck, pool, spa, gym and associated amenities upgrade.
GFA	<ul style="list-style-type: none">• Increase of 48,799 m² GFA (from 140,200 m² to 188,999 m²), comprising:<ul style="list-style-type: none">○ +23,914 m² residential GFA○ +20,806 m² hotel GFA○ +5,740 m² food and beverage GFA○ +1,726 m² neighbourhood centre GFA○ +237 m² back of house / circulation GFA○ -3,007 m² office and retail GFA○ -617 m² Astral Hotel GFA.
Food and beverage outlets	<ul style="list-style-type: none">• 17 food and beverage outlets, comprising:<ul style="list-style-type: none">○ five new outlets to replace the Pizzaperta, Marquee, Balla, Black and Sports Bar○ 11 new outlets at various locations throughout The Star○ refurbish existing outlet (on Level 2), overlooking the porte cochere adjacent to the SELS building.

	<ul style="list-style-type: none"> • Four restaurants, bars and club lounge associated with the new hotel. • Hours of operation and maximum number of patrons.
Noise	<ul style="list-style-type: none"> • Site wide acoustic strategy for the existing operation and proposed uses.
Car parking	<ul style="list-style-type: none"> • Increase of 174 car parking spaces (from 2,795 to 2,969 spaces) comprising: <ul style="list-style-type: none"> ○ increase of 220 car parking spaces (provided within a car stacker facility) located beneath the proposed tower and accessed via an existing service road, comprising: <ul style="list-style-type: none"> • 171 residential car parking spaces • 49 hotel car parking spaces. ○ decrease of 46 existing basement level visitor car parking spaces to allow for the construction of a new Pyrmont Street car park entry.
Bicycle parking	<ul style="list-style-type: none"> • Increase of 301 bicycle parking spaces (from 34 to 335 spaces) comprising: <ul style="list-style-type: none"> ○ 204 residential spaces provided within individual apartment lockers ○ 35 employee spaces in secure room at Union Street ○ 62 visitor spaces for The Star, hotel and residential guests provided within the site and its curtilage.
Transport upgrades	<ul style="list-style-type: none"> • Changes to the PPGS, including two new static signs on Pyrmont Bridge Road and a re-design of the existing Pyrmont Bridge Road/ Pyrmont Street sign. • Upgrade of finishes to the light rail station surrounds and removal of existing wall barrier to the Pirrama Road frontage. • Reduce the length of the existing Pirrama Road bus stop by 10 m (from 41 m to 31 m).
Access and servicing	<ul style="list-style-type: none"> • New porte cochere for the proposed new hotel, fronting Pirrama Road: <ul style="list-style-type: none"> ○ incorporating pick-up/drop-off areas for up to six taxis or two coaches ○ left/right in and left out vehicle movements. • New ramped vehicular entry/exit to The Star basement car park from Pyrmont Street, including reconfiguration of basement car parking and circulation. • Replace the existing 15 m long taxi holding bay area on Jones Bay Road with three pick-up/drop-off parking spaces (5-minute short term parking) for the residential apartments and neighbourhood centre. • Replace six taxi parking spaces on the southern side of Jones Bay Road, near the Astral Port Cochere entry, with on-street parking to be managed by Council (i.e. not associated with The Star). • Formalise the use of the former on-site taxi pick-up/drop-off road outside The Star main entrance on Pirrama Road for a VIP drop-off shared space. • Amend the existing service road beneath The Star including: <ul style="list-style-type: none"> ○ upgrade the Event Centre loading dock providing dedicated raised loading bays for small, medium and long rigid vehicles ○ provide four pick-up/drop-off taxi bays on the eastern side of the service road, taxi feeder rank (up to 12 taxis), patron queuing facilities ○ formalise coach pick-up/drop-off bays on the western side of the service road ○ widen the service road and amend/upgrade the service road footpaths, crossings and pedestrian connection to the light rail stop.
Plant and infrastructure	<ul style="list-style-type: none"> • Construct a new cooling plant room and generator flues adjacent to the Astral Hotel, fronting Jones Bay Road. • Install photovoltaic panels to the roofs of Astral Hotel, Darling Hotel and Lyric Theatre. • Construct a plant room (Level 4) adjacent to the Darling Hotel to contain combined-heat-and-power gas generators. • New plant rooms within Levels 3 to 6 of the tower podium and minor amendment / reconfiguration of other existing plant rooms.
Lighting	<ul style="list-style-type: none"> • 53 special event lighting displays per year, including use of existing Vivid installation and moving projector lights.

- Site-wide lighting strategy including internal, external and feature lighting.

Signage	<ul style="list-style-type: none"> • 26 new signs and signage zones, comprising: <ul style="list-style-type: none"> ○ nine business identification signs ○ nine building identification signs and/or logo signs ○ seven directional and car park signs ○ 13 illuminated display signs within a display unit.
Landscaping and public domain	<ul style="list-style-type: none"> • Removal 24 existing trees (5 on-site and 19 street trees) and replacement with 24 new trees. • Upgrade the entry forecourt of the SELS building at the corner of Jones Bay Road to provide for a small plaza. • Green wall embedded into the recessed vertical seam of the tower’s western elevation. • 794 m² inaccessible green roofs at Level 6 and 8. • Footpath and driveway upgrades around the site. • Hard and soft landscaping on the podium roof and to communal terraces and balconies.
Stormwater and flooding	<ul style="list-style-type: none"> • Installation of flood gates at the Edward Street and new Pymont Street vehicular entrances. • Stormwater upgrade works, including increased pit inlets and pipe capacities at Pymont Street and Edward Street.
Surrender / consolidation of consent	<ul style="list-style-type: none"> • Surrender 24 development consents issued by Council (as summarised at Appendix E), comprising: <ul style="list-style-type: none"> ○ seven consents relating to existing signage that have been installed, incorporated into the Modification 13 drawings and are not subject to any ongoing operational or management conditions ○ six consents relating to food and beverage premises that have either been or are being replaced or demolished in response to the Modification 13 works ○ 11 consents relating to other works (including plant rooms, lighting and rooftop amenities) that are to be demolished, replaced or not-constructed due to the Modification 13 works.
Subdivision	<ul style="list-style-type: none"> • Stratum subdivision of The Star and proposed tower into five lots.
Capital investment value	<ul style="list-style-type: none"> • \$529,398,061.92 (excluding GST)
Jobs	<ul style="list-style-type: none"> • 265 operational jobs and 489 construction jobs (expressed as annual average Full Time Employment)

Table 2 | Comparison between the key elements of the project approval and the proposed modification

Component	Project Approval	Current Modification	Difference (+/-)
Maximum height	74 m	237 m	+163 m
Total GFA	140,200 m ²	188,999 m ²	48,799 m ²
Hotel rooms	489	709	+220
Serviced apartments	117	117	No change
Residential apartments	0	204	+204
Car parking spaces	2,795	2,969	+174



Figure 7 | Perspective view west towards The Star (as modified) and proposed Ritz Carlton tower (Source: Proponent's RtS)



Figure 8 | Perspective view south towards the tower (neighbourhood centre at the base of the tower) (Source: Proponent's RtS)

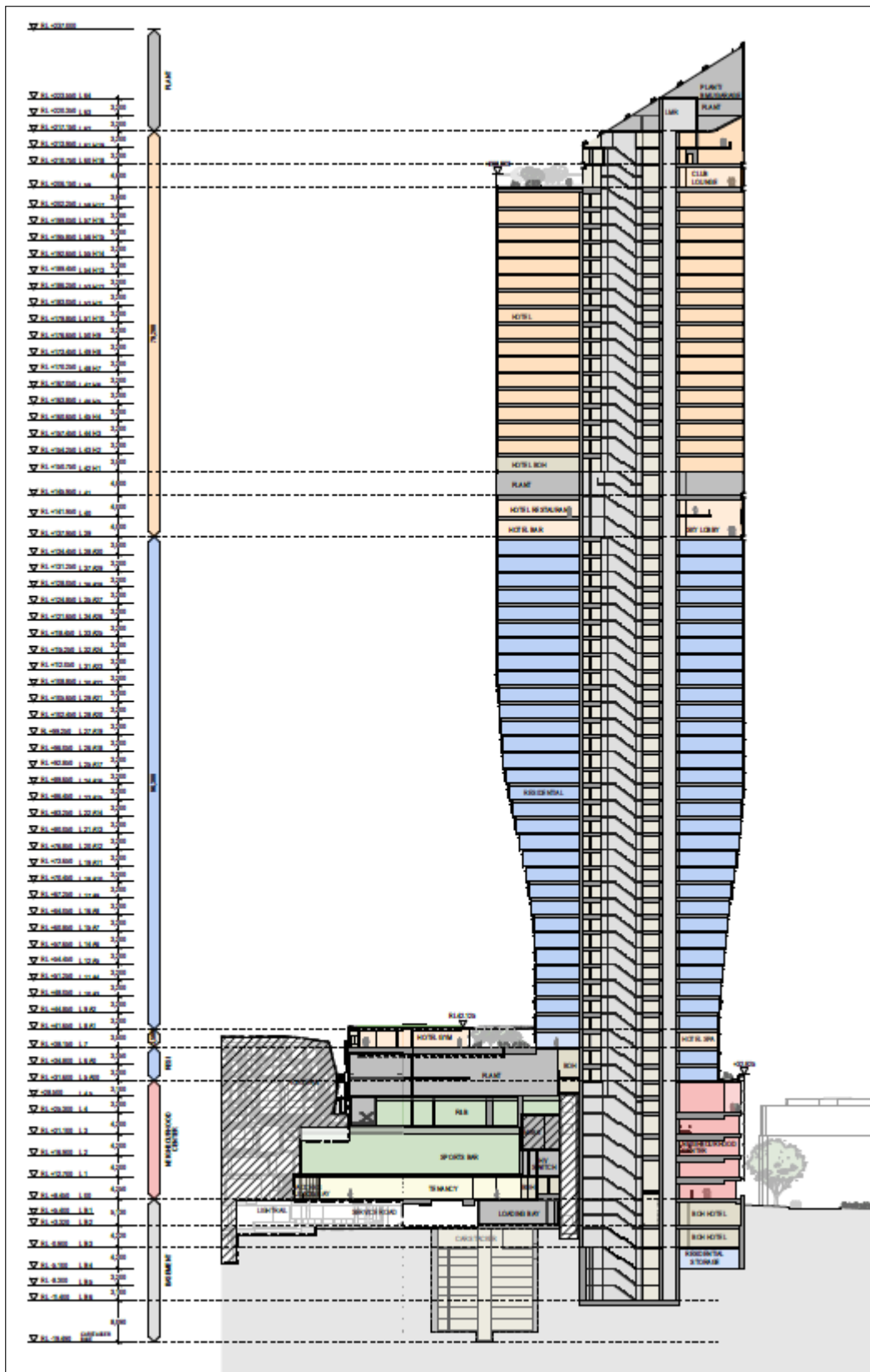


Figure 9 | Distribution of uses within tower: residential (blue), hotel (orange) and neighbourhood centre (pink)
 (Source: Proponent's Architectural drawings)



Figure 10 | Extension to Pirrama Road frontage including new rooftop pools and amenities (Source: Proponent's RtS)



3. Strategic Context

3.1 Greater Sydney Regional Plan and Eastern City District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. In March 2018, the GSC published the Greater Sydney Region Plan (the Region Plan) and the associated District Plans.

The Region Plan outlines how Greater Sydney will manage growth and change and guide infrastructure delivery. It sets the vision and strategy for Greater Sydney, to be implemented through District Plans. The site is located within the Eastern City District, within the Harbour CBD and within the Innovation Corridor (**Figure 11**).

The Department notes that these strategic documents do not set objectives for, or outline the scale of, development that should occur in specific areas.

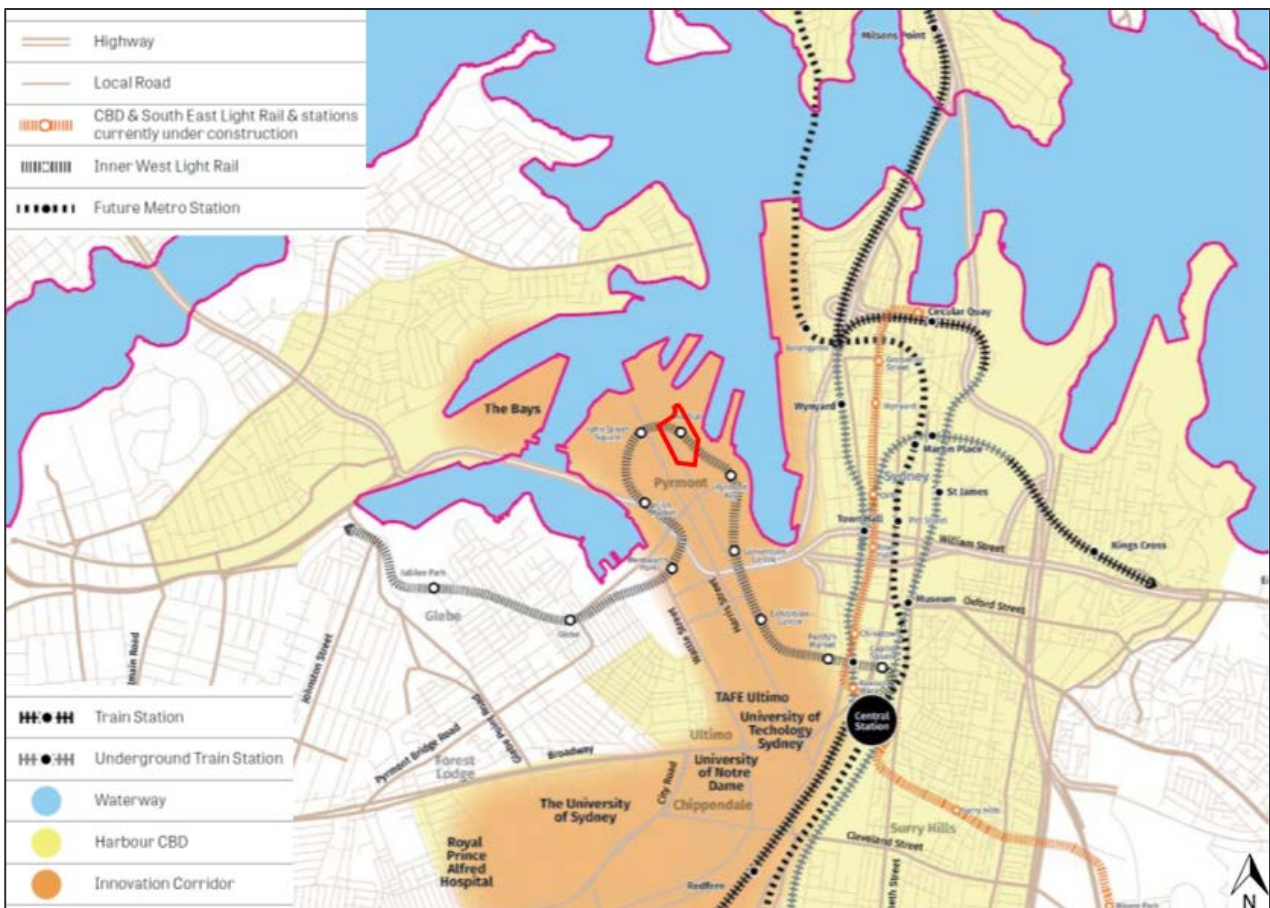


Figure 11 | The site is located within the Harbourside CBD and Innovation Corridor (Source: Eastern City District Plan)

The proposal is consistent with the Region Plan as it:

- fosters productivity through a growth in jobs, housing and hotel accommodation with good access to public transport within the Harbour CBD, and in doing so, supports the integration of land use and transport, contributing to a walkable and '30-minute city' (Objectives 14 and 18)

- supports the Harbour CBD's role to grow an internationally competitive commercial sector to support an innovation economy, provide residential development without compromising commercial development and provide a range of entertainment and leisure activities and a vibrant night-time economy (Objective 18)
- increases business activity and provides access to jobs (Objective 22).

The Precinct is located within the Eastern City District Plan area. The proposed uses are consistent with some of the objectives of the Eastern City District Plan, as they will:

- deliver social infrastructure and foster healthy communities via the proposed community centre, reflecting the needs of the community now and in the future (Planning Priorities E3 and E4)
- increase housing supply in proximity to jobs, services and public transport (Planning Priority E5)
- contribute to a stronger and more competitive Harbour CBD (Planning Priority E7)
- foster the creation of the '30-minute city' (Planning Priority E10)
- grow investment, business opportunities and jobs within the Harbour CBD (Planning Priority E11).

3.2 Transport 2056

The Future Transport Strategy 2056 is an update to the NSW Long Term Transport Master Plan 2012 and outlines a planned and coordinated set of actions to address challenges faced by the NSW transport system to support the State's economic and social performance over the next 40 years.

The proposed development contributes to the strategy as:

- the site is located within walking distance to a number of public transport services
- it provides active transport travel options by providing bicycle parking spaces
- it does not increase the approved number of on-site public car parking spaces which will encourage the use of public transport.

3.3 Sustainable Sydney 2030

Sustainable Sydney 2030 sets out the City of Sydney's vision to make Sydney a more global, green and connected metropolis by 2030.

The proposal would contribute to several strategic directions in Sustainable Sydney 2030, as it would:

- increase interstate and global competitiveness through providing world class tourist accommodation
- be a leading environmental performer by targeting a 5-star Green Star rating
- contribute towards a lively and engaging city centre.

3.4 Visitor Economy Industry Action Plan 2030

The Visitor Economy Industry Action Plan 2030 (VEIAP) seeks to increase overnight visitor expenditure to more than triple 2009 expenditure by 2030. The Plan identifies six focus areas aimed at growing the NSW visitor economy beyond 2020. The key focus areas relevant to the proposed modification identified in the VEIAP include:

- support, bolster and encourage the visitor economy (Focus 5)
- make opportunities to support growth (Focus 6).

The proposal supports the VEIAP through private investment in a hotel development which will support the revitalisation of the hotel and overnight visitor accommodation within the Harbour CBD and tourist district of Sydney.



4. Statutory Context

4.1 Modification of the Minister's approval

4.1.1 Continuing operation of Part 3A to modify project approvals

The project was originally approved under the former Part 3A of the EP&A Act. This means the project is a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the *Environmental Planning & Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (ST&OP Regulation).

Under the ST&OP Regulation projects the subject of existing Part 3A approvals remain transitional Part 3A projects until they are transitioned to SSD (clauses 3(1)-(2) and 6, Schedule 2). A Part 3A project approval may be modified under section 75W of the EP&A Act if the request to modify was made before the 'cut-off' date of 1 March 2018.

As the Proponent made a request to modify the Part 3A approval and requested environmental assessment requirements (EARs) for the proposal on 17 December 2016 (before 1 March 2018), the Part 3A provisions and specifically the power under s.75W to modify the approval continue to apply to and in respect of the project (clause 3 and 3BA of Schedule 2 to the ST&OP Regulation). Consequently, the assessment of this request is required to be prepared in accordance with the requirements of Part 3A and relevant regulations. The Minister (or his delegate) may approve or disapprove the carrying out of the project under section 75W of the EP&A Act.

4.1.2 Modification of the Minister's Approval

The Minister's approval for certain modifications is not required if the project, as modified, will be consistent with the existing approval (s 75W(2), EP&A Act). In this instance, the proposal seeks to demolish existing structures, construct a tower, introduce residential use, increase GFA, undertake internal and external changes, amend lighting, signage and subdivision, and includes revisions to and/or new conditions of consent. Therefore, the Minister's approval is required to modify the project approval.

4.1.3 Power of the Minister to modify under section 75W

In the context of section 75W the Minister has a broad discretion to approve, or disapprove, a request to modify. The discretion is constrained by matters including the words of section 75W, and the scope of the subject matter, purpose of the EP&A Act and guidance is given in principles established in case law.

Section 75W provides that a modification of an approval means 'changing the terms of' the approval to carry out a project or concept plan under Part 3A, including by revoking or varying the conditions or imposing an additional condition of the approval. For a request to modify an approved project submitted before 1 March 2018, the change must be a modification, rather than a wholesale or radical change. It is notable, however that there is no equivalent limitation on the power to modify as applies under s 4.55, EP&A Act and cl 3BA(6), EP&A (STOP) Reg (which apply the substantially the same development criteria).

The Department concludes the Minister could reasonably form the view that the modification request falls within the scope of section 75W of the EP&A Act and is capable of being considered and determined as a modification under section 75W of the EP&A Act.

4.2 Permissibility

The site is zoned B3 Commercial Core under the SLEP 2012. A range of land-uses are permissible with consent within this zone, including a mixture of hotel, commercial, community and cultural uses. The project approval allows entertainment facilities, gaming areas, retail/restaurant/bars, theatres, hotel and serviced apartments.

Residential accommodation is prohibited within this zone and are not included in the project approval. Council objects to the modification request as residential accommodation is prohibited within the B3 Commercial Core zone.

The Department notes that the SLEP 2012 and other environmental planning instruments (EPI) (excluding State Environmental Planning Policies) do not apply to the project approval (section 75R of the EP&A Act). Therefore, despite residential uses being prohibited within the B3 zone, the Minister (or his delegate) may determine that aspect of the modification request, including by approval.

Further, section 75W gives the Minister the power to modify all aspects of a project, not only the conditions (as confirmed in *Barrick Australia Ltd v Williams (2009) 74 NSWLR 733*). Therefore, the Minister has the power, under section 75W, to modify the terms of the approved project to permit residential uses.

The Department therefore considers that the proposed uses are permissible with consent and the Minister (or delegate) may determine the modification request.

4.3 Delegated Authority

On 14 September 2011, the Minister for Planning delegated his functions to determine applications under section 75W of the EP&A Act to the Independent Planning Commission (the Commission).

The Proponent has not disclosed a political donation in relation to this request. In this case, there were more than 25 public submissions objecting to the proposal including the Council and so the Department does not have delegation to determine the application.

4.4 Secretary's Environmental Assessment Requirements

On 9 February 2016 and 9 May 2016, the Secretary notified the Proponent of the Environmental Assessment Requirements (SEARs) for the section 75W modification request (MP 08_0098 MOD 13). The SEARs stated that if the modification is not exhibited within two years (i.e. by 9 May 2018) the Proponent must consult further with the Secretary in relation to the preparation of the environmental assessment.

Council objected to the proposal stating that it is invalid as it was not exhibited before 9 May 2018.

On 28 March 2018, the Proponent wrote to the Secretary requesting that the SEARs be reviewed for currency in accordance with the timeframe set by the SEARs. On 11 May 2018, the Department completed its review of the SEARs and notified the Proponent of the minor amendments to the SEARs to update the relevant policies/guidelines that had come into force since the SEARs were issued in May 2016.

The Department has reviewed the Environmental Assessment against the SEARs and is satisfied that it adequately provides the information required in the SEARs to enable the assessment and determination of the request.

4.5 Relevant Matters for Consideration

The following are statutory matters that are relevant to the consideration of the request:

- relevant EPIs
- objects of the EP&A Act
- Ecologically Sustainable Development
- Environmental Planning and Assessment Regulation 2000.

These matters are considered below.

4.5.1 Environmental Planning Instruments (EPIs)

Applicable EPIs

The Department has reviewed the relevant EPIs that apply to the proposal, including:

- State Environmental Planning Policy (State & Regional Development) 2011
- 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 No.64 – Advertising and Signage
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, including the Apartment Design Guide (ADG)
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Draft Remediation of Land State Environmental Planning Policy
- Draft State Environmental Planning Policy (Environment)

The Department’s review of the proposal against the relevant provisions of these EPIs (see **Appendix C**) concludes the proposed modification is not consistent with all relevant EPIs, in particular, State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65) and Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP (SHC) 2005).

SEPP 65 (Schedule 1) contains nine principles that a consent authority is to take into consideration when determining a development application for residential development. The proposal, in particular the tower element which proposes residential apartments, is not considered to be consistent with some of the principles of SEPP 65 as it:

- would not respond appropriately to the desirable elements of the area’s existing and future context, contrary to Principles 1 (Context and neighbourhood character), 2 (Built form and scale) and 9 (Aesthetics)
- would appear isolated, obtrusive and overly dominant, impacting on local and wider views and vistas contrary to Principles 1 (Context and neighbourhood character) and 2 (Built form and scale)
- would not be consistent with the stated or desired future density of the area and unreasonably impact on the surrounding neighbourhood contrary to Principle 3 (Density).

The SREP (SHC) 2005 applies to all land within the Sydney Harbour Catchment, as shown on the Sydney Harbour Catchment Map. The Star site is within the defined Foreshores and Waterways Area. The proposal is not consistent with the aims and planning principles of SREP (SHC) 2005 as it is not considered to:

- result in the public good being given precedence over the private good, contrary Part 1, 2 (2) b)

Clause 20 of the SREP (SHC) 2005 identifies a range of matters which are required to be considered by consent authorities before granting consent to development under Part 4 or Part 5 of the Act. Noting this modification application is made under S.75W of the Act, Clause 20 does not strictly apply. However, to inform its merit assessment the Department has considered the relevant clauses in **Appendix C**. This consideration concludes that the proposal is not consistent with Clause 25 (Foreshore and waterways scenic quality) and Clause 26 (Maintenance, protection and enhancement of views).

4.5.2 Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment the objects should be considered to the extent they are relevant.

A consideration of the Objects of the EP&A Act, as they relate to the proposed modification, is provided at **Table 3**.

Table 3 | Response to the objects of section 1.3 of the EP&A Act

Objects of the EP&A Act	Consideration
<p>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources</p>	<p>The proposal redevelops an existing urban site close to services and public transport. The proposal would not impact on any natural or artificial resources, agricultural land or natural areas.</p> <p>The proposal seeks to maximise the use of the site and provides some public benefits including provision of a neighbourhood centre, construction and operational jobs, developer and affordable housing contributions and broader economic benefits related to jobs a new hotel and upgraded facilities.</p> <p>The public benefits contribute somewhat to the social and economic welfare of the community, the merits of which are discussed in Section 6.4. However, The Department does not consider the Proposal is in the public interest</p>
<p>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social</p>	<p>The proposal includes measures to facilitate ESD (Section 4.5.3).</p>

considerations in decision-making about environmental planning and assessment

(c)	to promote the orderly and economic use and development of land	<p>The proposal involves the economic use of land through the redevelopment of an existing inner-city site that is in close proximity to existing services and has excellent access to public transport.</p> <p>The proposal will facilitate the development of the site for hotel, residential purposes and the expansion of existing uses on site.</p> <p>The Department does not consider the proposal promotes the orderly use of land. It is inconsistent with current strategic planning for the area, would fundamentally change the established character of Pymont and could set an unwelcome precedent for future tall buildings outside of any adopted strategic planning policy. This is considered further in in Section 6.2.</p>
(d)	to promote the delivery and maintenance of affordable housing	<p>The proposal includes a contribution towards the provision of affordable housing (Section 6.4).</p>
(e)	to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	<p>The project involves redevelopment of an already developed site and will not adversely impact on any native animals and plants, including threatened species, populations and ecological communities, and their habitats.</p>
(f)	to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	<p>The proposal will be highly visible and is considered to significantly alter the townscape setting, resulting in indirect impacts to the heritage character of the area as discussed in Section 6.2.3.</p>
(g)	to promote good design and amenity of the built environment	<p>The Department considers the scale of the proposed tower is out of character with its immediate context and would result in unacceptable visual impacts due its scale, isolation and visual dominance of the existing Pymont townscape and wider views.</p> <p>The impact of the proposal with respect to design and amenity and its relationship to the surrounding built environment is discussed in Section 6.2</p>
(h)	to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	<p>The proposal is supported by detailed reports, including structural assessments, geotechnical report and BCA report, which conclude the development is capable of meeting relevant construction standards. As discussed at Section 6.6 and Appendix C, the residential accommodation is considered to provide appropriate internal amenity standards as set out in the Apartment Design Guide.</p>
(i)	to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	<p>The Department publicly exhibited the modification request, which included consultation with Council, Government agencies and the public as outlined in Section 5, and consideration of their responses as outlined in Section 6.</p>
(j)	to provide increased opportunity for community participation in environmental planning and assessment.	<p>The Department publicly exhibited the application as outlined in Section 5.</p>

4.5.3 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity

- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

The hotel and residential component of the modification application have been designed to achieve a 5-Star Green Star rating (Design & As Built rating tool) and the hotel is also targeting a National Australian Built Environment Rating System (NABERS) energy rating of 5.5 Stars and water rating of 4 Stars during operation.

A summary of the proposal's key ESD initiatives and sustainability measures is provided below:

- adoption of best practice energy and water conservation measures
- optimisation of the site's orientation to maximise solar access
- water efficient fixtures and sub-metering
- high thermal performance walls and façade system
- integration into existing Star rainwater harvesting system
- energy efficient lifts and escalators
- full LED lighting system with user control
- high efficiency fans and pumps,
- installation of tri-generation system (combined heat, power and cooling)
- installation of photovoltaic panels (165 kW) above the Astral and Darling hotels and the Lyric Theatre roofs
- augmentation and integration to the waterless heat rejection system (harbour heat rejection)
- use of responsibly sourced materials and use of recycled materials where possible.

The Department has considered the project in relation to the ESD principles. The Precautionary and Inter-generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is generally consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act.

4.5.4 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the relevant requirements for Notification and Fees have been complied with.



5. Engagement

5.1 Department’s Engagement

In accordance with section 75X(2)(f) of the EP&A Act, the Department made the modification request publicly available from 22 August 2018 until 18 September 2018 (28 days). The request was made publicly available on the Department’s website, at the NSW Service Centre and the City of Sydney Council’s office.

The Department placed a public notice in the Sydney Morning Herald, Daily Telegraph and Central Courier on 22 August 2018 and notified landholders, Council and relevant Government agencies in writing.

The Department considered the comments raised in Council, Government agencies and public submissions during the assessment of the application (**Section 6**).

5.2 Summary of Submissions

The Department received a total of 138 submissions, comprising a submission from Council, 11 submissions from Government agencies and 126 submissions from the public and special interest groups. The Department also received a petition raising concerns with the proposal, however the number of signatures on the petition was redacted.

A summary of the submissions is provided at **Table 4** and a summary of the issues raised in the submissions is provided at **Appendix F**. Copies of the submissions may be viewed at **Appendix H**.

Table 4 | Summary of submissions

Submitters	Number	Position
Government agencies	11	
• Transport for NSW, including Transdev and Sydney Trains (TfNSW)	✓	
• Roads and Maritime Services (RMS)	✓	
• Heritage Council	✓	
• Office of Heritage and Environmental Communities and Greater Sydney Division (OEH)	✓	
• Department of Industry (DoI)	✓	
• Sydney Airport Corporation (SAC)	✓	Comment
• Civil Aviation Safety Authority (CASA) Independent Liquor and Gaming Authority (ILGA)	✓	
• Environmental Project Authority (EPA)	✓	
• Independent Liquor and Gaming Authority (ILGA)	✓	
• NSW Police	✓	
• Ausgrid	✓	
City of Sydney Council (Council)	1	Object
Special Interest Groups	15	
• Alex Greenwich MP – Member for Sydney	✓	
• Pyrmont Action	✓	Object
• National Trust of Australia	✓	
• Committee for Sydney	✓	
• TEG (Ticketek)	✓	Support

• Tourism and Transport Forum	✓	
• Destination NSW	✓	
• Sydney Business Chamber	✓	
• Business Events Sydney	✓	
• International Convention Centre Sydney Company	✓	
• Foundation Theatres (Lyric)	✓	
• Pyrmont Ultimo Chamber of Commerce	✓	
• Australian Film Institute / Australian Academy Cinema Television Arts	✓	
• Urban Taskforce Australia	✓	
• Tourism Australia	✓	
Community	117	
	75	Object
• < 5 km from the site	26	Support
	2	Comment
• 5 – 10 km from the site	4	Object
	9	Object
• > 10 km from the site	1	Support
TOTAL	144	

5.3 Key Issues – Government Agencies

The key issues raised by Government agencies are summarised in **Table 5**.

Table 5 | Government agency submissions to the exhibition of the modification application

Transport for New South Wales (TfNSW)

TfNSW does not object to the modification and provided the following comments:

- light rail infrastructure must be protected and any disruptions to its operation are to be minimized during the construction and operation of the development
- the development should comply with the requirements of Asset Standards Authority (ASA) Standard T HR CI 12080 ST External Developments 1.0 and Developments Near Rail Corridors and Busy Roads – Interim Guidelines.

TfNSW recommended conditions relating to the protection and operation of the light rail corridor, design of the Pirrama Road bus stop, and the preparation of management plans for the porte cochere, service road / taxi / car stacker, loading and servicing and construction and pedestrian traffic.

Roads and Maritime Services (RMS)

RMS does not object to the modification and provided the following comments:

- the right turn from Jones Bay Road must be approved by Council prior to installation
- line marking for the Pyrmont Bay entry/exit should exclude the guidance line for vehicles entering the site
- a Construction Traffic Management Plan should be submitted to Council prior to the issue of a Construction Certificate
- all signage associated with the development should be at no cost to RMS

Heritage Council

Heritage Council does not object to the modification and provided the following comments:

- the development would not have any adverse heritage impacts on nearby SHR items
- impacts on local heritage items should be considered and where necessary mitigated
- an unexpected archaeological finds protocol should be provided to manage any unforeseen finds during construction
- the stormwater upgrades located outside the site should be subject to an archaeological assessment and management.

Department of Industry (Dol)

Dol does not object to the modification and provided the following comments:

- confirmation of water access licenses/shares for the proposed works is required
- detailed design of levels below-groundwater level is required
- a groundwater dewatering report should be prepared, including all groundwater quality testing data
- analysis of the contaminant hydrochemistry of groundwater and the potential impact of dewatering on the quality and quantity of the groundwater source is required.

Dol recommended conditions relating to water quality and management and contamination impacts during construction.

Office of Environment and Heritage (OEH)

OEH does not object to the modification and provided the following comments:

- replacement tree planting should be from locally indigenous species
- the design and level of the Pyrmont Street vehicle access should be reviewed to address flooding impacts
- confirmation of consultation with relevant Aboriginal stakeholders is required.

Sydney Airport Corporation Ltd (SAC) / Civil Aviation Safety Authority (CASA)

SAC and CASA do not object to the modification and provide the following comments:

- should the development exceed 237 m Australian Height Datum (AHD) or if construction cranes exceed 285 m AHD then a new application for controlled activity must be submitted to the Commonwealth Department of Infrastructure, Regional Development and Cities
- the highest point of the building should be obstacle lit by medium intensity steady red lighting during dark hours.

Environment Protection Agency (EPA)

EPA does not object to the modification and stated it does not constitute a Scheduled Activity under Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act) and does not require an Environmental Protection Licence.

Independent Liquor and Gaming Authority (ILGA)

ILGA does not object to the modification and confirmed it has no comments on the proposal.

NSW Police

NSW Police does not object to the modification and confirmed it has no comments on the proposal.

Ausgrid does not object to the modification and confirmed it has no comments on the proposal.

5.4 Key Issues – Council and community

5.4.1 Council key issues

Council objects to the proposal as summarised in **Table 6**.

Table 6 | Summary of Council submission to the exhibition of the modification application

Council

Council objected to the proposal on the following grounds:

- the proposal does not qualify as a modification application as it was submitted after the:
 - o two year deadline established by the SEARs
 - o 1 March 2018 'cut-off-date' for the consideration of Section 75W modification applications
- the application is beyond the scope of a modification, represents a radical transformation of the terms and impact of the project approval and instead should be made via a planning proposal and a subsequent development application to Council
- the height and scale of the tower is excessive, dominates and is isolated within the surrounding low-scale environment and has significant adverse visual impacts
- the proposal is inconsistent with the SLEP 2012 maximum height controls and surrounding buildings heights/forms
- the tower has an adverse impact on public and private views
- adverse heritage impact on the General Post Office (GPO) clock tower
- the provision of residential use on the site is not justified and is prohibited under the SLEP 2012
- the proposal has adverse wind and overshadowing impacts.

Council also provided the following comments on the proposal:

- the proposal is inconsistent with the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- insufficient information has been provided on overshadowing impacts on neighbouring properties
- the proposal adversely impacts on solar access to Union Square and Pyrmont Park
- further information is required on the site-wide acoustic monitoring strategy
- additional detail is required on the design, layout, operation and management of the neighbourhood centre
- the neighbourhood centre (including fit-out and management plan) should be secured via condition
- the proposal is inconsistent with ADG requirements including natural ventilation, deep soil and communal space
- the tower does not include operable windows
- the right turn from Jones Bay Road into The Star porte cochere should be deleted
- the Ritz Carlton porte cochere on Pirrama Road requires TfNSW endorsement
- amendments to kerb-side parking require separate approval by the Local Pedestrian, Cycling and Traffic Calming Committee
- all bicycle parking should be contained within the site and bicycle parking should be provided for all apartments
- the loading dock management plan should be updated to correctly reflect what is proposed
- the surrounding public domain and public lighting should be upgraded to Council's standard
- a comprehensive, coordinated and detailed landscaping plan/strategy (including maintenance plan) is required
- insufficient information has been provided on the design and management of the 'green seam' (levels 21-59), green roofs (levels 5, 6 and 8), pool decks and leisure areas (level 7), green wall (Pirrama Road port cochere) and Club Lounge (level 59)
- a higher percentage of native species should be planted throughout the development
- further information on BASIX and Nationwide House Energy Rating Scheme (NatHERS) is required
- the hotel should target a NABERS Hotel rating of 4.5 stars or better and the 5 Star GreenStar Design & As Built should apply to the whole development
- financial contributions should be recalculated in accordance with Council's Development Contributions Plan 2012
- affordable housing contribution should be reviewed for accuracy.

5.4.2 Community submissions

Of the 117 submissions received from the public, 89 were from residents of Pyrmont (68 objecting, 2 providing comments and 19 in support). The key issues raised in submissions are summarised in **Table 7**.

Table 7 | Summary of public submissions to the exhibition of the project modification

Public Submission	Proportion of total (117 submissions)
Objections and Comments	
Traffic and car parking impacts	50.8%
Excessive height of the tower	34.4%
Overshadowing of neighbouring properties	34.4%
Proposal should comply with Council's LEP/DCP controls	31.1%
Out of context within low-rise Pyrmont and exceeds previous power station height	31.1%
Overshadowing of public domain and open spaces	28.7%
Adverse visual impacts from the public domain	26.2%
Operational noise impacts	22.1%
Adverse heritage impact	18.0%
Apartments will not be affordable / international owners will leave them vacant	17.2%
Adverse impact on property values	16.4%
Loss of private views	13.9%

Other issues

Other issues raised in submissions included the proposal being outside the scope of a modification, issues related to density including the increased pressure on public transport and local parks and issues related to building form including the contextual justification for the tower, solar glare, lighting and signage impacts. Submission were also received concerning the affordability and accessibility of the neighbourhood centre.

Support

Twenty-six submissions of support were received from the local community citing the following benefits of the proposal:

- the level of community engagement undertaken by the proponent
- high quality architectural design
- the neighbourhood centre
- strengthening of tourism within Pyrmont and Sydney
- improved hotel accommodation
- new retail restaurant and bar uses
- employment and economic benefits of the proposal.

5.5 Response to Submissions

Following exhibition of the modification application, the Department placed copies of all submissions received on its website and requested the Proponent provide a response to the issues raised.

On 27 November 2018, the Proponent provided a Response to Submissions (RtS) (**Appendix B**), which provides additional information and clarification in response to issues raised in submissions. The RtS also includes the following amendments to the proposal:

- delete the right hand turn from Jones Bay Road into the Astral porte cochere
- demolish the legacy theatre sloping seating slab
- delete the proposed café and outdoor seating on Jones Bay Road and introduce acoustic glazing
- replace four microturbines on level 4 with a substation
- relocate bicycle parking and reduce the car stacker footprint
- remove the proposed solar photovoltaic cells from the MUEF and include building integrated photovoltaic (BIPV) cells into the louvres of section of the residential portion of the tower
- reduce building identification signage at roof level of the tower
- reduce the footprint of the basement level car stacker
- include spandrel grills to residential apartments to provide additional natural ventilation.

The Department made the RtS publicly available on its website and notified Council, relevant Government agencies and all previous submitters. An additional seven submissions were received from Government agencies and nine submissions from the public, which are summarised below.

Table 8 | Summary of Council and Government agency submissions to the RtS

Council

Council reiterated the objections and concerns raised in its original submission (**Table 6**) and provided the following additional comments:

- public domain resurfacing and upgrade works should extend the full length of Pyrmont Road and include upgraded public domain lighting
- the Pyrmont Street entrance is likely to result in pedestrian and vehicle conflicts
- the maintenance and liability of the planter that spans public and private land (adjacent to the Pirrama Road frontage and car park entrance) should be clarified
- insufficient information has been provided about stormwater drainage capacity and flood gate efficiency
- details of the raised pedestrian crossing on Jones Bay Road, including its impact on stormwater flows, should be provided for Council's review and approval
- the landscape design should be amended to ensure that soil depths are provided in accordance with the Landscape Code Volume 2 and ADG requirements
- insufficient information has been provided on the design and maintenance of the green wall within the tower's vertical seam
- LED grow lighting should be installed within the tower porte cochere to support the proposed (shaded) green wall
- a landscape maintenance plan is required, including who is responsible for maintenance
- the reduction in the amount of proposed green roof area 4,311 m² (MOD 14) to 794 m² is not supported.

TfNSW

TfNSW confirmed the route alignment and station location of the proposed Sydney West Metro have not been finalised, and a station location in Pyrmont is therefore not certain.

TfNSW updated its recommended conditions relating to the protection and operation of the light rail corridor, design of the Pirrama Road bus stop, and the preparation of management plans for the porte cochere, service road / taxi / car stacker, loading and servicing and construction and pedestrian traffic.

Dol

Dol confirmed the proposal adequately addresses all matters raised in its original submission, and recommended a condition requiring the detailed design, groundwater investigation and relevant management plans be referred to Dol (water) for review.

OEH

OEH confirmed the proposal adequately addresses all flood risk management matters raised in its previous comments.

Heritage Council

Heritage Council confirmed it has no comments or concerns in relation to State heritage matters.

RMS

RMS confirmed it has no further comment on the proposal.

Sydney Water (did not comment on EA)

In response to the RTS, Sydney Water advised it does not object to the modification and did not provide comments.

A total of nine submissions were received from the public comprising eight objections and one support. These submissions commented on the additional justification provided within the RtS and reiterated existing concerns. No new issues were raised in response to the RtS.

On 17 January and 21 January 2019, the Proponent provided further information in response to the submissions on the RtS (**Appendix B**), which provided additional information and clarification in response to issues raised. The additional RtS also includes the following amendments to the proposal:

- resurfacing between the basement driveway and corner of Jones Bay Road with granite paving in accordance with council specifications
- amendments to basement car park driveway access to include a pedestrian island refuge
- removal of low walls at corner of Jones Bay Road
- reduction of planter area at southern end of Pirrama Road
- introduction of glazing vents to green seam.
- amended planting schedule for the living wall to include shade tolerant planting

In light of the concerns raised in public submissions and the complexity of the proposal the Department engaged an independent design advisor (Professor Peter Webber) to provide independent expert design advice to assist the Department's assessment of the application. The advice is discussed in detail within Section 6.2 of the report and a copy of the advice is in **Appendix J**



6. Assessment

The Department has considered the modification request, the issues raised in submissions and the Proponent's response to submissions in its assessment of the proposal. The Department considers the key assessment issues associated with the proposal are:

- design excellence
- built form, including visual impacts and impacts on the amenity of the surrounding area
- public benefits, contributions and the public interest.
- modifications to the existing building
- traffic parking and access
- special event and operational lighting
- internal amenity
- landscaping and public domain
- signage
- noise
- consolidated consents

Each of these issues is discussed in the following sections of this report. Other issues were taken into consideration during the assessment of the application and are discussed at **Section 6.10**

6.1 Design Excellence

To demonstrate that the proposal achieves design excellence, the SEARs required the Proponent to:

- undertake a competitive design process in accordance with the Council's Competitive Design Policy, or
- undertake an alternative design excellence process, comprising a brief for a design competition, a design review panel (DRP) to review each option and inform the preferred design, and mechanisms to retain the architect during the design and construction.

The SEARs included further requirements to justify the proposed built form and design excellence, such as presenting a robust urban design analysis, addressing the height, bulk and scale of the proposal within its context, visual impacts and design quality, and providing a floor-by-floor GFA breakdown of the different uses. Information provided by the Proponent is considered in the Department's assessment of building form impacts (**Section 6.2**).

In October 2016 and in response to a request from the Proponent, the Department advised that the proposed alternative design excellence process adequately addressed the requirement for a design excellence process in the SEARs.

The brief for the design competition included an indicative building envelope (**Figure 12**) and weighted assessment criteria to inform the DRP's selection of the successful architectural firm (**Table 9**). The DRP established to oversee the design competition comprised the following members:

- Greg Hawkins (Chair) – Managing Director of The Star
- James Doolan – Regional Vice President Hotel Development, Asia Pacific, Marriot International
- Lisa-Maree Carrigan – Director, GSA Architects
- Craig Allchin – Adjunct professor of Architecture, UTS and Lecturer of Urban Design Landscape Architecture, University of Pennsylvania
- Peter Poulet – former NSW Government Architect.

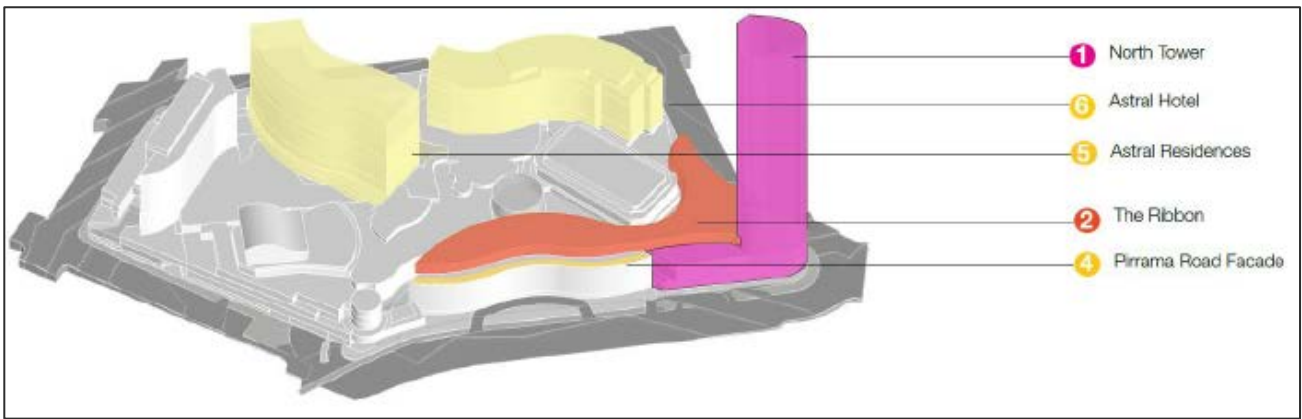


Figure 12 | Indicative building envelope in the design brief (showing a 237m tower) (Source: Proponent’s EA)

Table 9 | Summary of DRP assessment criteria

Criteria	Weighting	Matters for consideration
Commercial and function requirements	50%	<ul style="list-style-type: none"> satisfies the functional brief relating to: <ul style="list-style-type: none"> number, size and configuration of hotel rooms and apartments vertical allocation of building uses and activities vertical transportation and building core connections, linkages and relationship to existing activities at The Star vehicle access and parking arrangements. creates a landmark, exemplar development contributing positively to the city. provides an international standard development/building complementing the future vision of The Star and the Ritz Carlton brand. enhances the built form quality and appeal of The Star. conforms to the defined project budget and maximises the marketability and appeal of the development.
Architectural and urban design merit	30%	<ul style="list-style-type: none"> innovative, distinctive, visually interesting architectural character. maximises access to views, sunlight and natural ventilation. attractive, clear and safe access. responds positively to the urban context, enhancing the ground plane and interfaces with the public domain. innovative use of materials and finishes to create a visually interesting development.
Buildability	20%	<ul style="list-style-type: none"> effective response to critical construction and technical issues including. maximisation of ESD opportunities. conformance with the defined solar envelope and minimisation of overshadowing. conformance with relevant planning and development requirements (e.g. SEPP 65).

Four architectural firms were invited to participate in the design competition, including BVN Architecture, Francis-Jones Morehen Thorp (FJMT), Grimshaw architects and Woods Bagot.

The design competition was held over three days from 10 to 12 October 2016. The DRP was unable to select a preferred scheme following this initial competition, and therefore invited the four architectural firms to participate in a second phase of the competition.

The DRP noted that all submissions were a very high quality and capable of satisfying the brief. Using the assessment criteria, the DRP unanimously agreed that the scheme by FJMT was the preferred design, as it:

- is an elegant, international standard design with a refined, distinctive and visually interesting built form meeting the expectations of the Ritz-Carlton brand and considered unique to its place as part of both the Star Entertainment complex and the broader Sydney environment
- provides a holistic appreciation and response to the surrounding context, optimising positive visual, environmental and operational outcomes, with the ground plane treatment promising future improved linkages and relationships to the public domain
- responds sympathetically to environmental considerations – for example, by maximising solar access for the surrounding area and by incorporating a façade and materials in keeping with the waterfront location
- addresses the operational needs of Ritz-Carlton, delivering highly efficient layouts, large guest rooms and world-class guest amenities, achieved in a way that maximises availability of a truly spectacular view of the Sydney CBD from the majority of guest rooms and all publicly accessible facilities such as the hotel’s lobby, bar and restaurant.

FJMT also presented alternative height approaches, but the DRP supported the taller scheme which it considered to achieve more elegant proportions with negligible additional environmental impacts.

The DRP also requested the following recommendations be considered by the project team prior to submission of the modification application:

- urban context – clearly demonstrate how the project relates to planning for other nearby areas to the west of the CBD, including for example Darling Harbour and the Bays Precinct (Fish Market and White Bay, etc.)
- community facility – provide a firm commitment from SEGL about the intended range of activities and operating model for the community facility, being an important component of the site
- site linkages and legibility – establish clear pedestrian movement opportunities and visual links through the site from Jones Bay Road, noting the inherent constraints of the site with differing levels.

During the assessment of the modification request, the Department required the DRP be reconvened to confirm the proposal retained the architectural design integrity of the winning scheme. The Proponent’s RtS included unattributed quotes from panel members confirming the recommendations of the DRP had been addressed and that the exhibited proposal retains the design integrity of the winning scheme.

The Department acknowledges that the alternative design excellence process adequately addressed the requirement for a design excellence process in the SEARs. Furthermore, the DRP selected the winning scheme as it exhibited design excellence in accordance with the brief and the DRP were satisfied that the proposal as lodged retained the design integrity of the winning scheme. In December 2018, the Government Architect NSW confirmed that the reconvened panel was satisfied that the proposal addresses the recommendations made in the final DRP meeting, maintains the design integrity of the scheme previously presented to the DRP, and exhibits design excellence.

The Department notes the DRP report, prepared by Urbis, provides no analysis of the 237m height of the competition winning scheme other than to reference the ‘changing character of the CBD and areas to the west’.

The Department considers that the brief was established to achieve the particular outcome of a tower in a specific location, as has been proposed. This is evidenced by the brief containing a specific indicative building envelope and weighting of 70% attributed to commercial, function and buildability. The nature of the brief discouraged the consideration and selection of an alternative approach to the development, which the DRP may have considered to also achieve design excellence, such as a more contextual design response. This had the effect of limiting the scope of the competition to the building’s architecture and detailed design.

The Department notes the key objective of design excellence provisions typically contained within statutory instruments is to deliver the highest standard of architectural, urban and landscape design. Furthermore, the overall assessment of design excellence is not so restrictive to preclude careful consideration of a building’s relationship with the adjoining developments, the urban context, general character of the area and the visual impacts associated with such a tall building.

This is consistent with the SEARs, which sets out requirements and expectations in addition to the alternative design excellence strategy which must inform the Department's assessment of building form and design excellence.

While accepting the DRP's advice that the proposal buildings architecture exhibits design excellence in accordance with the brief, the Department considers this is one of many considerations in the assessment of the proposal. Subsequent sections of this report assess the specific planning merits of the proposal, such as built form impacts and amenity impacts, having regard to wider stakeholder views on the proposal.

6.2 Building Form

The proposed building form and its relationship to its immediate and wider context is a key issue in the Department's assessment of the proposed development.

As noted in submissions, building height was a key consideration of the assessment of the original project application (MP 08_0098). At the time of that assessment the Department supported the construction of a 10-storey hotel above the podium as it was considered to appropriately mediate between the existing casino tower buildings and the adjacent low-rise development in Pyrmont.

This proposal seeks approval for:

- a tower at the northern corner of the site, with a height of RL 237 m (approximately 42 stories, including podium) **(Figures 13 & 14)**
- podium and tower base, with a height of RL 32.8 m (approximately 5 storeys) to the corner of Pirrama Road and Jones Bay Road
- roof additions and alterations to the existing Star building increasing the podium height along Pirrama Road and Jones Bay Road to a height of RL 44.3 m **(Figure 15)**
- a generator flue, to a height of RL 49.3 m and cooling tower plant above the existing level 5 (RL 48.7) **(Figure 16)**.

Concern was raised in public submissions in relation to the height, scale, visual impacts and overshadowing of the tower, and its isolation within the low-rise context of Pyrmont. A large number of submissions considered that the principle of a tower was not appropriate in this location. Council objected to the proposed tower height of 237m being more than 8 times the maximum building height permitted under the SLEP. Council considered that the tower was contextually inappropriate and inconsistent with surrounding buildings in height and form and would not contribute positively to the skyline.

In support of the proposal, the Proponent has provided an Urban Context Report, Contextual Analysis Report and a Visual Impact Assessment. The Proponent also commissioned consultants to peer review these reports.

The Proponent contends that the site's location at the western edge of Darling Harbour and its relationship to the changing character of the Barangaroo, Darling Harbour and the Bays precincts **(Figure 1)** provides strategic justification for a landmark tower in this location. Specifically, the emerging character of these sites, namely taller forms with active ground planes, can be viewed as an emerging "global waterfront precinct" where tall buildings mark destination points and contribute to an increasingly recognisable identity as an international waterfront destination.

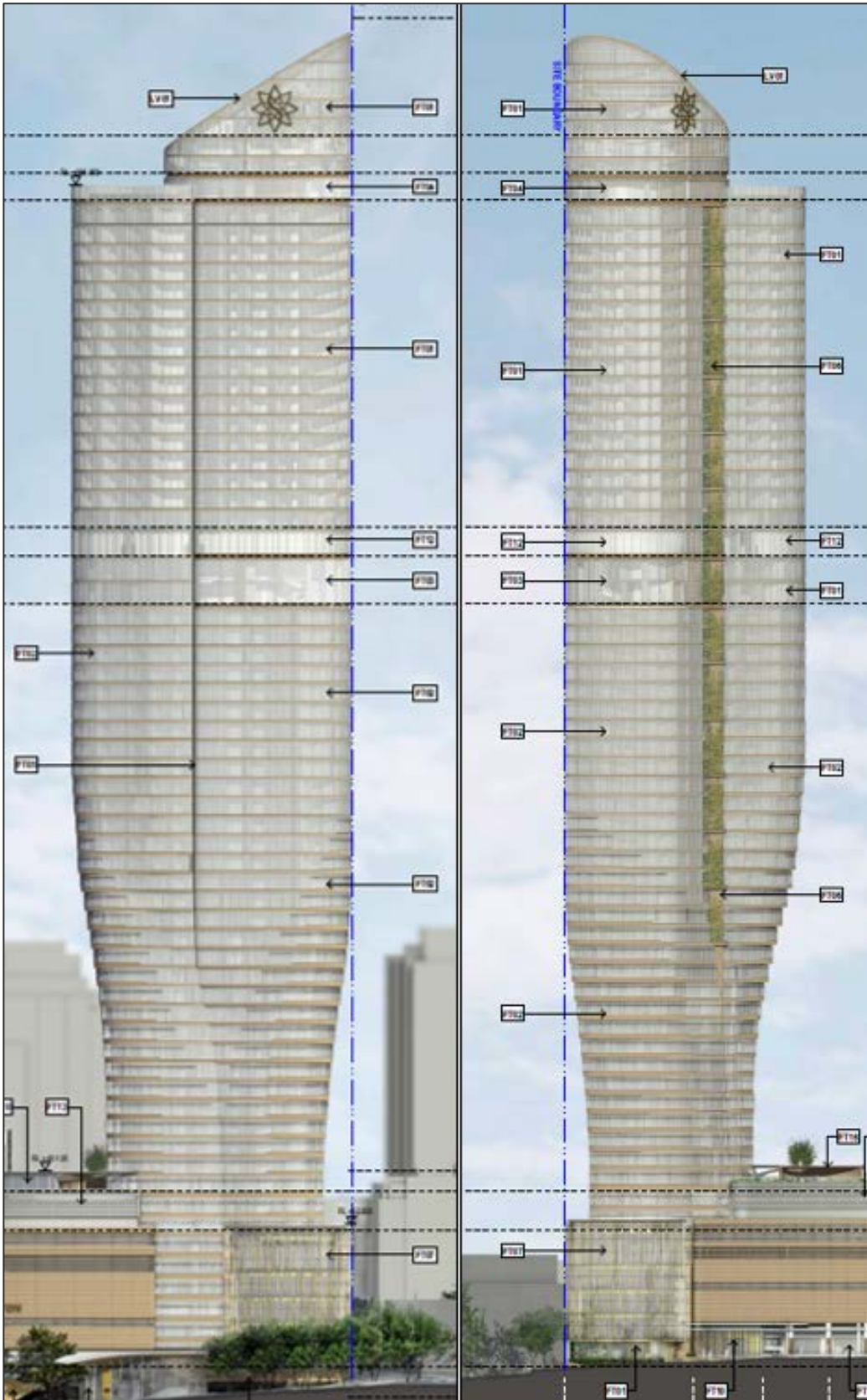


Figure 13 | Pirrama Road (left) and Jones Bay Road (right) tower elevations (Source: Proponent’s Architectural drawings)

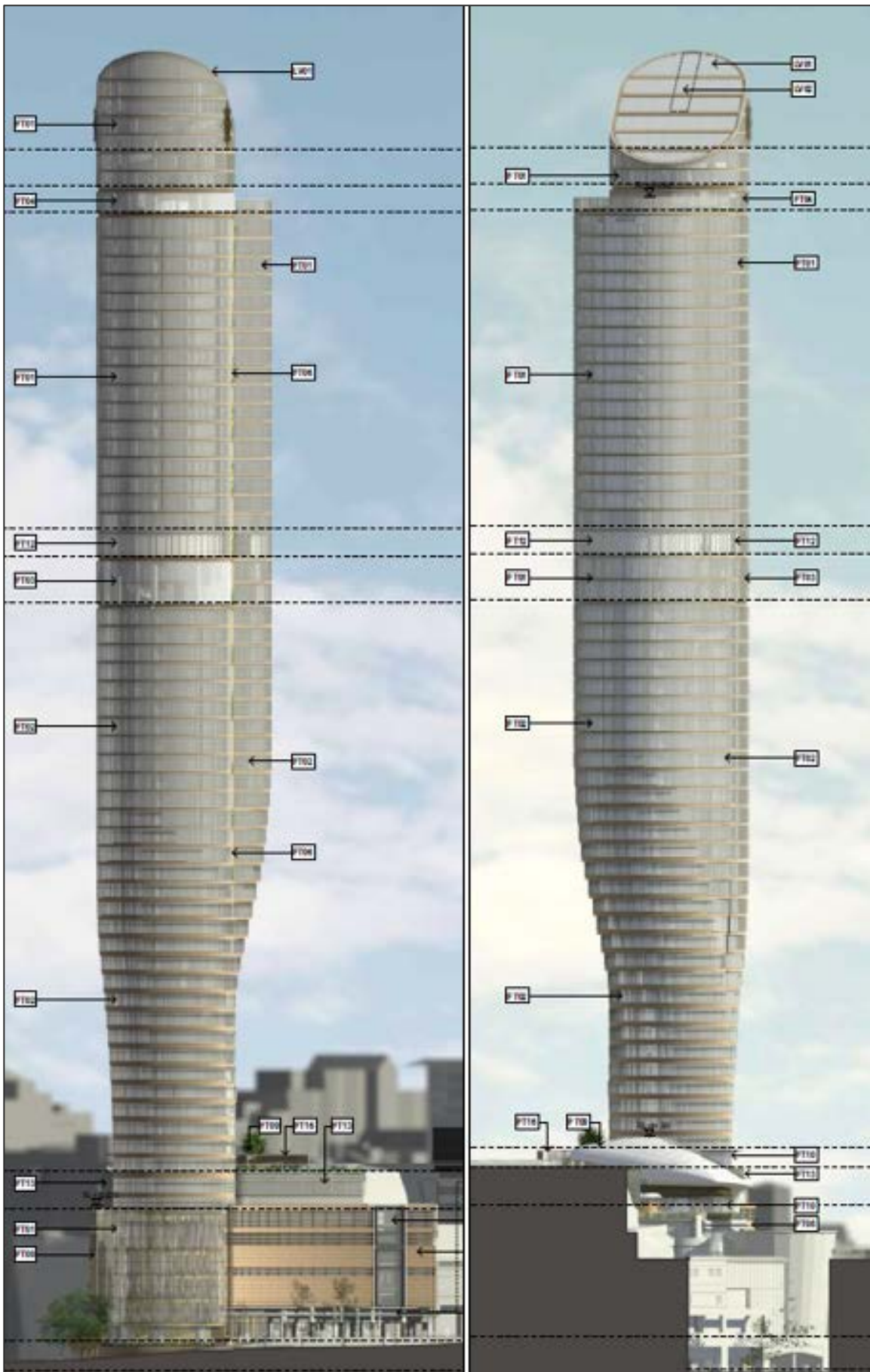


Figure 14 | north (left) and south (right) tower elevations (Source: Proponent's Architectural drawings)



Figure 15 Existing (above) and proposed Pirrama Road podium elevation (note: red dashed line denotes demolition)
 (Base source: Proponent's Architectural drawings)

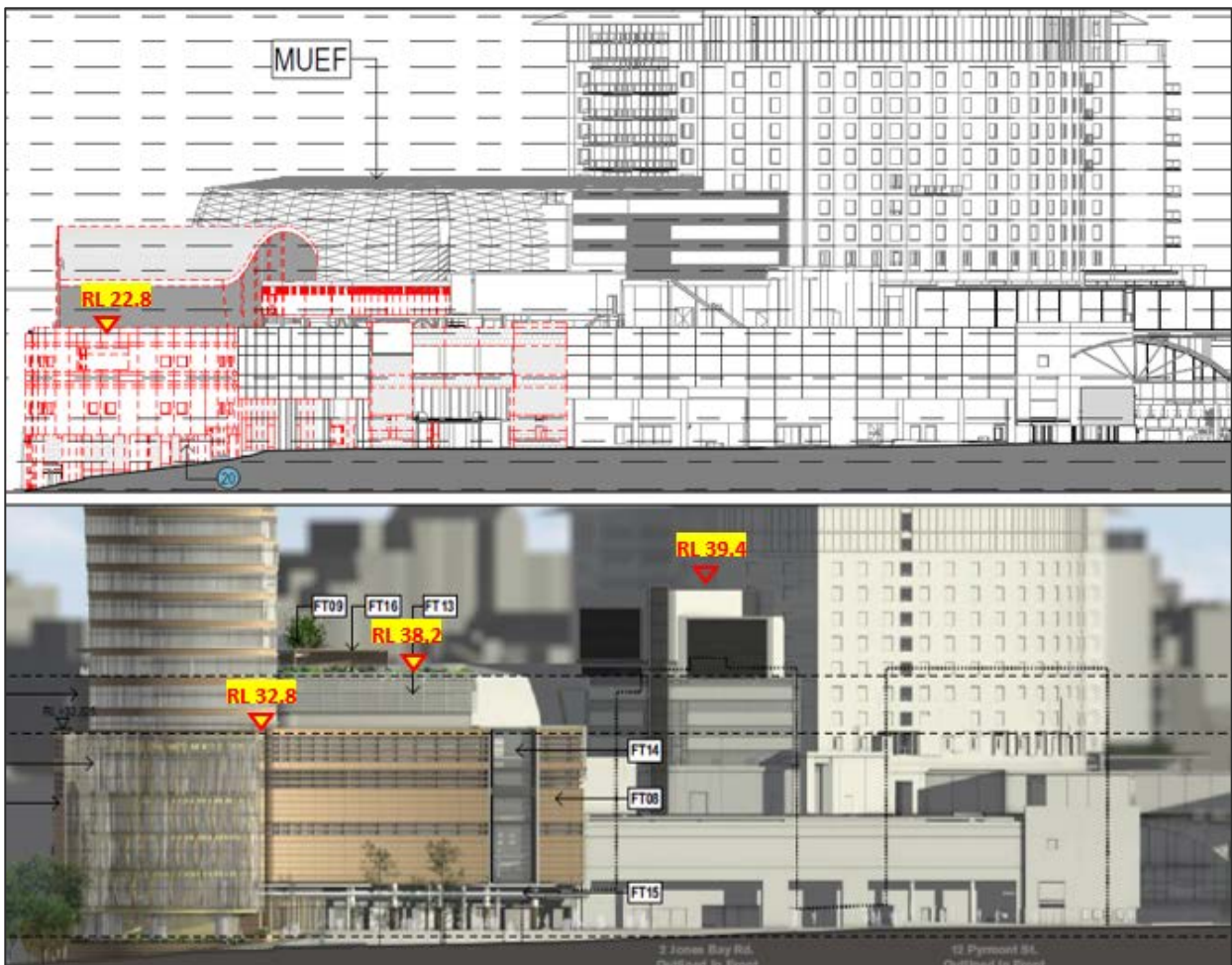


Figure 16 Existing (above) and proposed Jones Bay Road podium elevation (note: red dashed line denotes demolition)
 (Base source: Proponent's Architectural drawings)

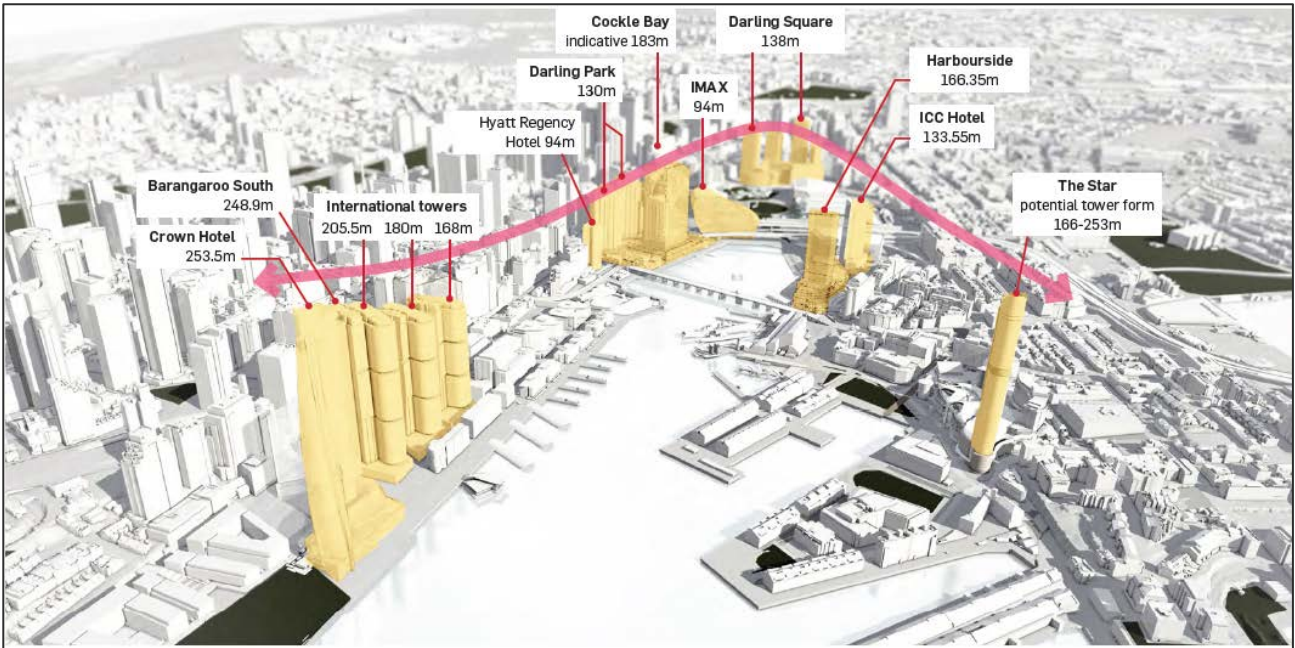


Figure 17 | Comparison of the proposed tower and other tall buildings within Darling Harbour Waterfront (note: the proposed Harbourside building is currently under consideration by the Department). (Source: Proponent’s Urban Context Report)

The Proponent contends the built form is appropriate as it would:

- form part of the changing city skyline, informed by renewal and development in the City of Sydney and surrounding areas, such as the Bays precinct
- be consistent with the scale set by development in the wider area, and the envisaged future urban context of the site and its surrounds
- re-establish the sites presence within the CBD skyline, acknowledging the global significance of the wider precinct as related to its context in Darling Harbour and is sensitive to its context on the edge of Ultimo-Pyrmont
- form part of a “global waterfront precinct” responding to the emerging changing character of tall buildings on surrounding strategic sites, including:
 - the International Towers and Crown Hotel at Barangaroo
 - Cockle Bay Wharf, ICC hotel, IMAX / Ribbon and Harbourside (under assessment)
 - Bays Precinct.
- reflect the emerging character of the western side of Darling Harbour of tall towers above podiums, including Darling Square, ICC Hotel and Harbourside (**Figure 17**)
- be viewed either in the round as an iconic singular building or as part of a cluster of future towers framing the Darling Harbour waterfront and future development within the Bays Precinct
- include a podium form and active street wall responding to the human scale experience of Pyrmont
- reflect the sites potential to become the most significant public transport interchange on the peninsula being highly accessible by public transport including light rail, bus and ferry and a proposed future metro station (Metro West at Union Street)
- mitigate overshadowing and view impacts through the building design
- provide public benefits including:
 - the delivery of a neighbourhood centre
 - 489 new construction and 265 operational jobs
 - supporting the diversification and refurbishment of existing restaurants on the site available to members of the public.

To assist in the assessment of the proposal, the Department has analysed the character of the area, and in particular the heights of buildings in the local and wider context and sought independent design advice on the appropriateness of a tower in this location.

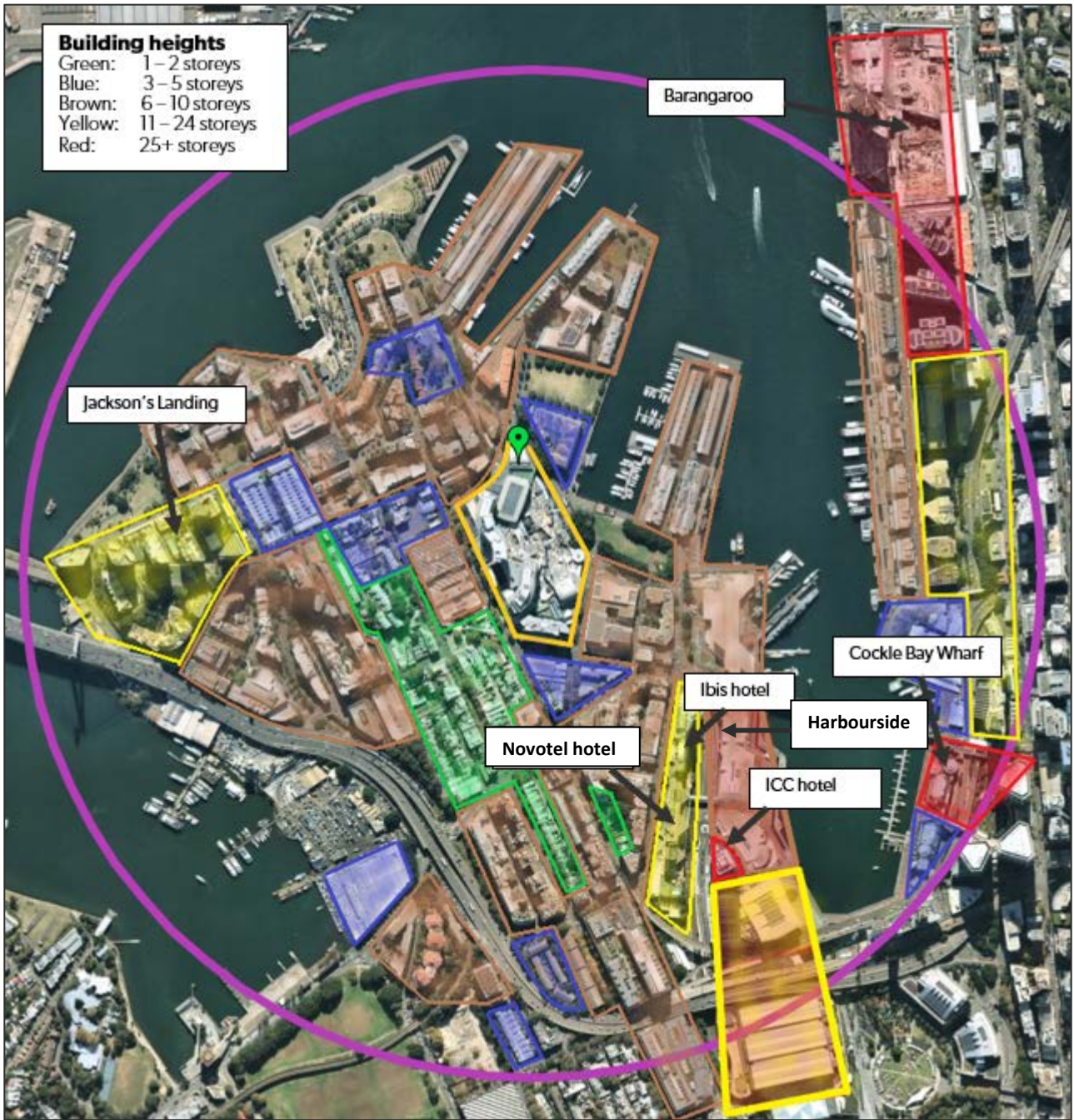


Figure 18 | Analysis of building heights surrounding the Star site (shown in gold) (Base source: Nearmap)

The Department’s analysis shows the built form character of the area directly adjoining the Star site ranges in height from one to two storeys to a maximum of approximately ten storeys.

Buildings in the wider area are mixed, with several mid-rise buildings (11 – 24 storeys), including Jacksons Landing, Ibis and Novotel and ICC Sydney. Clusters of tall buildings (+25 storeys), around Barangaroo and Cockle Bay Wharf, define the western edge of the CBD and the ICC Hotel defines the northern extent of the cultural, leisure and entertainment precinct of ICC Sydney.

Independent design advice

Concerns were raised in public submissions that the height of the proposed tower was excessive and out of context within low-rise Pyrmont. Council raised concerns that the height and scale of the tower is excessive, dominates and is isolated

within the surrounding low-scale environment. Furthermore, Council noted the proposal is inconsistent with the SLEP 2012 maximum height controls and surrounding buildings heights and form.

The Department engaged an independent design advisor, Professor Peter Webber, (the independent design advisor) to provide independent expert design advice to assist the Department's assessment of the application. The Department sought the advice to specifically consider if a tower form is appropriate in the proposed location given the local and wider urban context.

Following consideration of the relevant information, the independent design advisor prepared an independent design report (**Appendix K**). The report considers the existing and proposed built form as well as the immediate and wider context of the site. The report notes the key considerations as being the potential visual impact of the tower, the impact on views and overshadowing, symbolic issues, and the precedent which could potentially be established.

The independent design advisor has raised significant concern in relation to the establishment of a tall tower in this location. Key concerns raised in the report relate to visual impacts, the built form being unrelated to its context and precedent. These concerns are discussed in more detail in the relevant sections (6.2.2 to 6.3) of the assessment below.

6.2.1 Proposed Tower

Strategic justification

The Department is cognisant of the differing views expressed by Council, the Proponent, the DRP and the public relating to the justification for a tower in this location. The Proponent's justification relies heavily on the proposed tower contributing to a new "global waterfront precinct", defined by the tall buildings of Barangaroo, Darling Harbour (Cockle Bay Wharf, ICC Sydney, ICC Hotel, Darling Square and the Harbourside Shopping Centre) and future development at the Bays precinct.

It is noted Barangaroo, Darling Harbour and the Bays are each designated as 'identified sites' within the State and Regional Development SEPP, given the significance of their development to the State. Whereas, the Star site is not located within an identified precinct or an area specifically designated for significant future growth (additional height and floor space) in any adopted or emerging planning policy (**Figure 1**).

The proposed tower height of 237m is over 100m taller than the next tallest building on the western side of Darling Harbour, being the ICC Hotel and over 80m taller than the proposed tower on the Harbourside shopping centre. The proposed height is approximately 16 m shorter than the height of the tallest building, being the Crown Hotel Resort building at Barangaroo (at 253.5 m).

In addition, the Department notes the isolated tower proposed on the Star site is physically separated from the concentration of tall building clusters at Barangaroo and Darling Harbour, and future potential development at the Bays precinct (**Figure 19**).

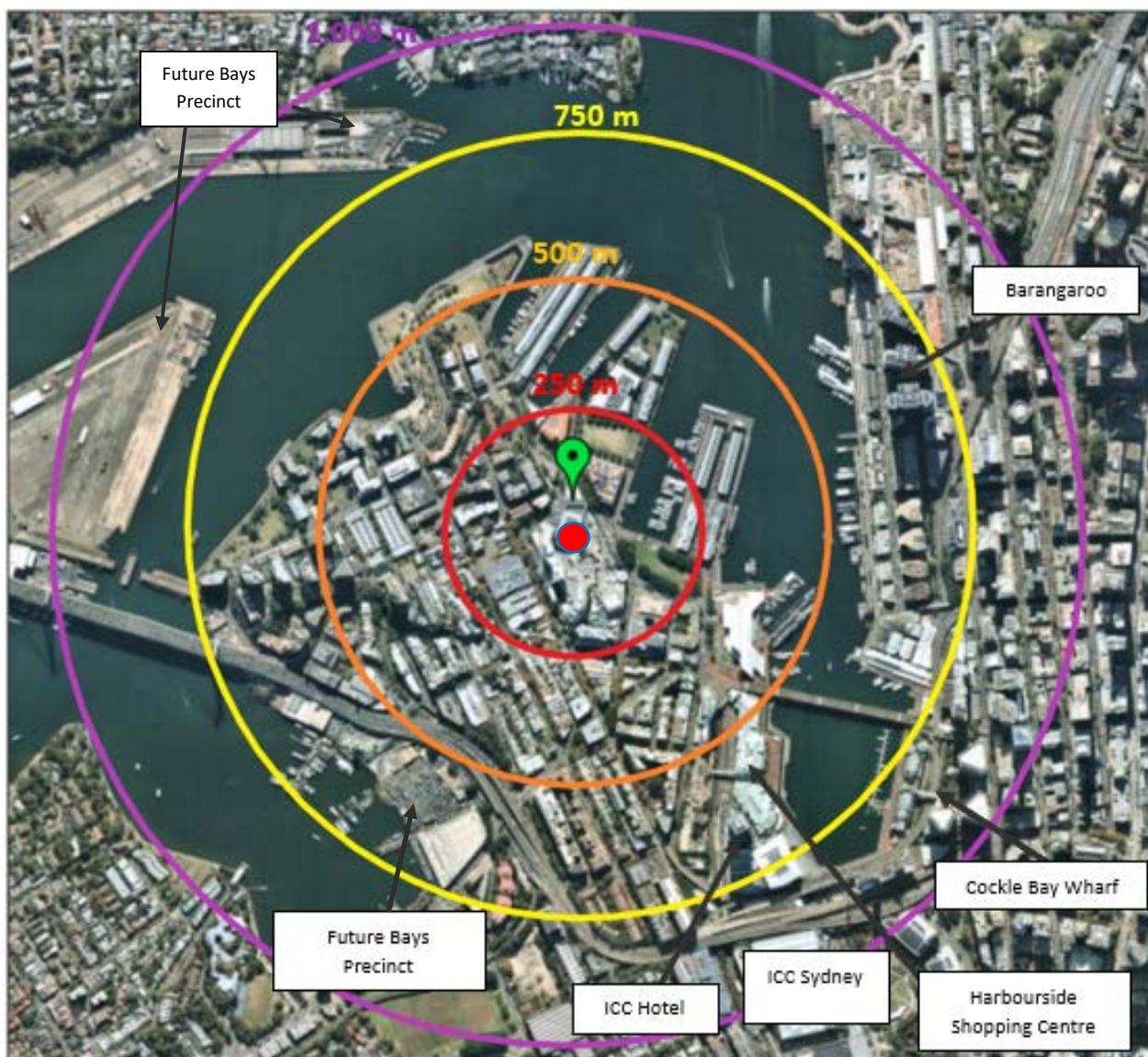


Figure 19 | Location of the proposed tower on the Star site in the context of other existing or future potential tall building clusters in the area (Base source: Nearmap)

Measured from its central point, the Star site is located approximately 700m west of the cluster of tall towers of Barangaroo, separated by Darling Harbour. Barangaroo was designated to accommodate a new Harbour precinct, including the expansion of the City’s commercial centre, housing, headland park and public domain. Importantly, Barangaroo reads as a cluster of tall buildings that define the western edge of the CBD.

The Star site is also separated from the Darling Harbour cluster, a concentration of buildings that frame the immediate waterfront south of Pyrmont Bridge and mark the major cultural and leisure precinct of the ICC Sydney. The Darling Harbour precinct was designated to accommodate future growth in relation to tourist, educational, recreational, entertainment, cultural and commercial facilities. The Star site is located approximately 700m north of the ICC Hotel and ICC Sydney, and over a 1 km from three residential buildings of Darling Square. Harbourside (currently under assessment by the Department) is located approximately 600m from the Star site.

With respect to existing taller buildings within Darling Harbour, the Department notes:

- the ICC Hotel was a key component of ICC Sydney and central to the delivery of the Government’s commitment to deliver international standard convention exhibition and entertainment facilities in NSW (as identified in the State infrastructure strategy 2012- 2032). The height and prominence of the ICC Hotel was supported by the Department as appropriately marking the northern extent of the Darling Harbour precinct

- the recently approved Cockle Bay Wharf concept plan was considered an acceptable urban design response to its location on the western edge of Darling Harbour and the CBD, recognising the substantial quantity of new public open space that was provided by the proposal.

The Bays precinct is isolated from other ‘identified sites’ and located between 600 and 1000m from the star site. The Bays precinct is designated to be a future cultural, maritime, recreational, retail and commercial hub, with public spaces, promenades and future workplaces. The Department notes with respect to the future changing context relied upon by the Proponent, that planning for the Bays precinct is in the preliminary stages and the future built form aspirations and controls are yet to be identified or subject to any strategic planning process or community consultation. The Department notes further, that even if tall towers were considered for the Bays precinct in the future, the significant separation distance is too great to inform a new context within which the isolation of the proposed tower would be mitigated.

The Department also considers that the Proponent’s suggested “global waterfront precinct” cannot be relied upon to justify a landmark tower in this location. The Department notes that the Proponent’s concept does not have any planning weight, has not been subject to community consultation as part of any strategic planning process and does not form part of any current or proposed Council or Government planning policy.

The Proponent’s justification for a tower also fails to adequately respond to the local character of Pyrmont. Pyrmont is characterised by an established low/medium scale character whilst supporting reasonably high levels of density. Furthermore, Pyrmont is not specifically identified in any strategic planning documents to accommodate future growth in the form of very tall buildings or significantly increased density.

The Department also notes that a metro station within Ultimo and Pyrmont has not been confirmed by Government, although locations for several stations along other parts of the future west metro line have been announced. A potential future metro station in the area is uncertain and cannot be relied upon to justify higher density residential/hotel development in this location.

As no planning controls technically apply to the proposal the Department considers that the appropriateness of a tower in this location should also be considered against the principles established in The Land and Environment Court case *Veloshin v Randwick Council* [2007] NSWLEC 428 (the LEC Case) which helpfully sets out Planning Principles for the consideration of the assessment of height and bulk. The Principles are quoted below (numbering added for ease of reference).

1. The appropriateness of a proposal’s height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks. The questions to be asked are:
 - a) Are the impacts consistent with impacts that may be reasonably expected under the controls? (... for non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.)
 - b) How does the proposal’s height and bulk relate to the height and bulk desired under the relevant controls?
2. Where the planning controls are aimed at preserving the existing character of an area, additional questions to be asked are:
 - a) Does the area have a predominant existing character and are the planning controls likely to maintain it?
 - b) Does the proposal fit into the existing character of the area?
3. Where the planning controls are aimed at creating a new character, the existing character is of less relevance. The controls then indicate the nature of the new character desired. The question to be asked is:
 - a) Is the proposal consistent with the bulk and character intended by the planning controls?
4. Where there is an absence of planning controls related to bulk and character, the assessment of a proposal should be based on whether the planning intent for the area appears to be the preservation of the existing character or the creation of a new one. In cases where even this the question then is:
 - a) Does the proposal look appropriate in its context?

The SLEP 2012 permitted building heights within Ultimo-Pyrmont ranges from 3m to 65 m (**Figure 18**), being the height of the existing Astral hotel towers and residential redevelopment at Jacksons Landing. However, the SLEP does not technically apply to the application because of the existing Part 3A approval and therefore the Department considers it reasonable to

consider the proposal in the context of Principle 4, and in particular the question established by the court being: Does the proposal look appropriate in its context?

The Department considers that the proposed tower fails to address Planning Principle no.4 as:

- the proposed height and bulk significantly exceed the height and bulk of existing buildings surrounding the site and in the wider Pyrmont Peninsula, inconsistent with the existing and desired future built form character of Pyrmont
- it is at odds with the predominant low-to-medium rise built form character of the surrounding area
- it is overly dominant and does not look appropriate in its context
- the impacts are not consistent with the impacts that may be reasonably expected from an LEP complaint envelope.

To adequately understand the appropriateness of the proposed tower in this context, the Department has carefully considered the potential visual, private view, heritage, overshadowing, and wind impacts of the proposal.

6.2.2 Visual impacts of tower when viewed from the surrounding area

Due to its height and isolation the proposed tower is very prominent in a wide range of views from the surrounding area. The proponent has therefore provided a Visual Impact Assessment (VIA), prepared by Architectus and peer reviewed for the Proponent by Richard Lamb Associates. This (VIA) considers the visual impacts of the proposed tower from a range of distant (long range) and local (mid-range) viewpoints surrounding the site (**Figures 20 to 31**).

Distant (long range) views



Figure 20 | Existing (left) and proposed (right) south view from Balls Head reserve (Source: Proponent's VIA)

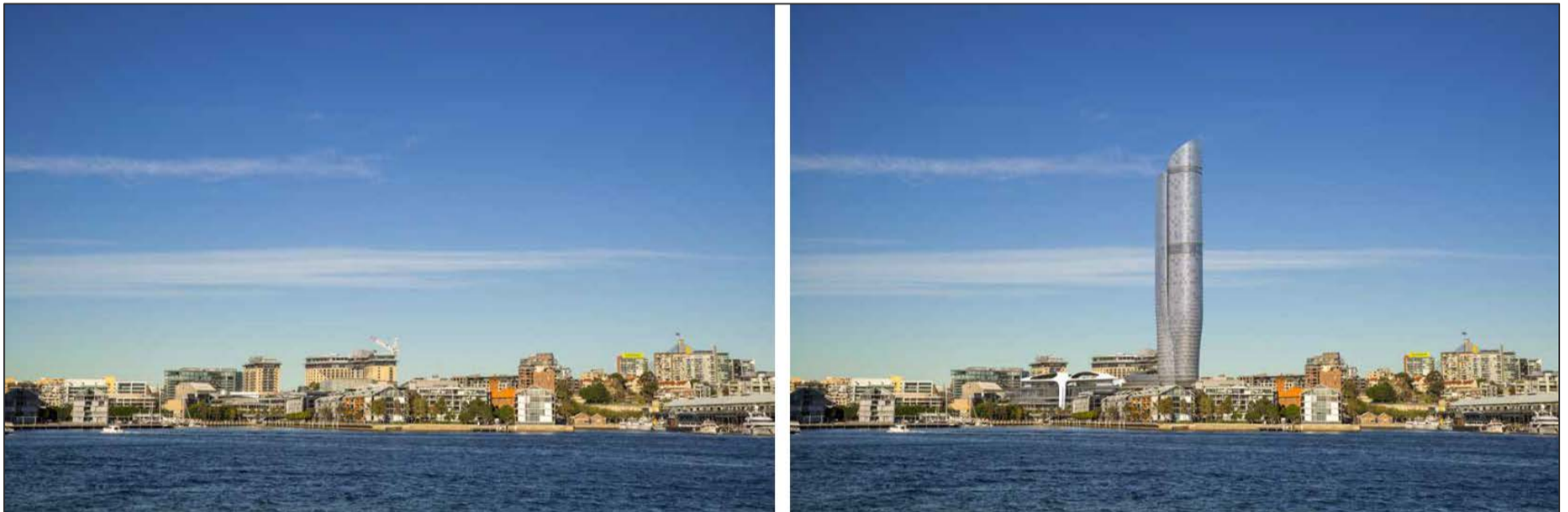


Figure 21 | Existing (left) and proposed (right) view south east from Barangaroo foreshore promenade across Darling Harbour (Source: Proponent's VIA)



Figure 22 | Existing (left) and proposed (right) south east view from Sydney Observatory (Source: Proponent's VIA)



Figure 23 | Existing (left) and proposed (right) west view from King Street wharf across Darling Harbour towards Pyrmont (Source: Proponent's VIA)



Figure 24 | Existing (left) and proposed (right) south east view from Barangaroo headland park across Darling Harbour (Source: Proponent's VIA)

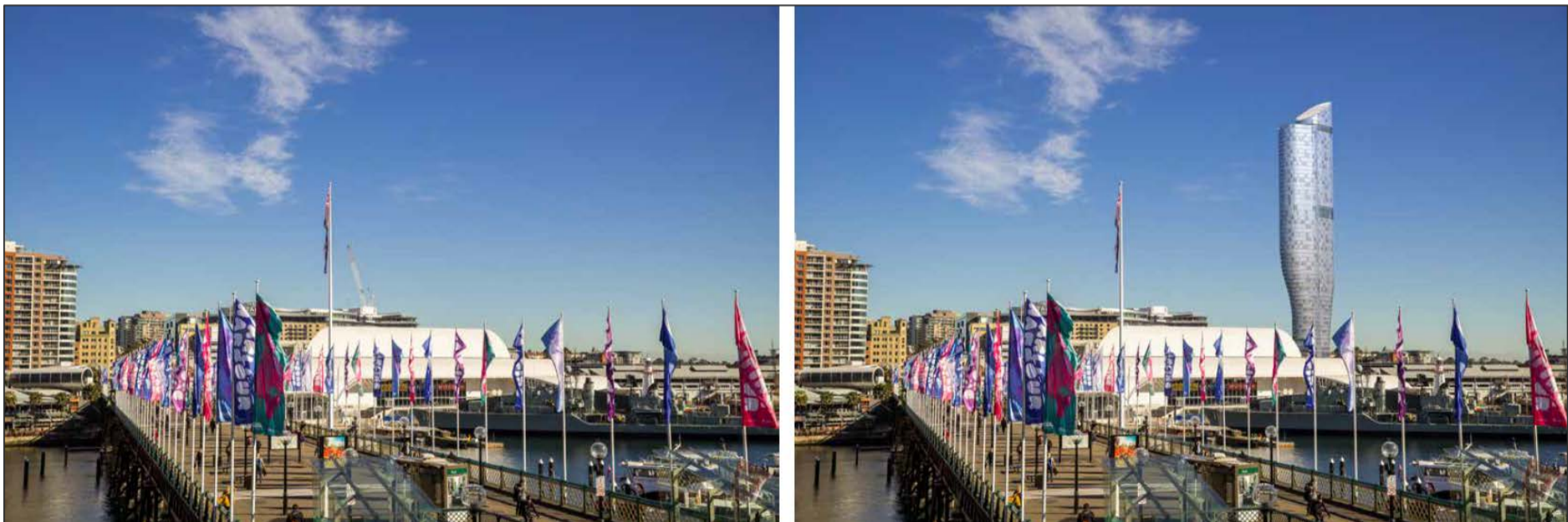


Figure 25 | Existing (left) and proposed (right) west view from walkway to Pyrmont (Source: Proponent's VIA)



Figure 26 | Existing (left) and proposed (right) north west from the southern end of Cockle Bay (Source: Proponent's VIA)



Figure 27 | Existing (left) and proposed (right) south view from Illoura Reserve toward Pyrmont from the southern end of Cockle Bay (Source: Proponent's VIA) (moderate-high)

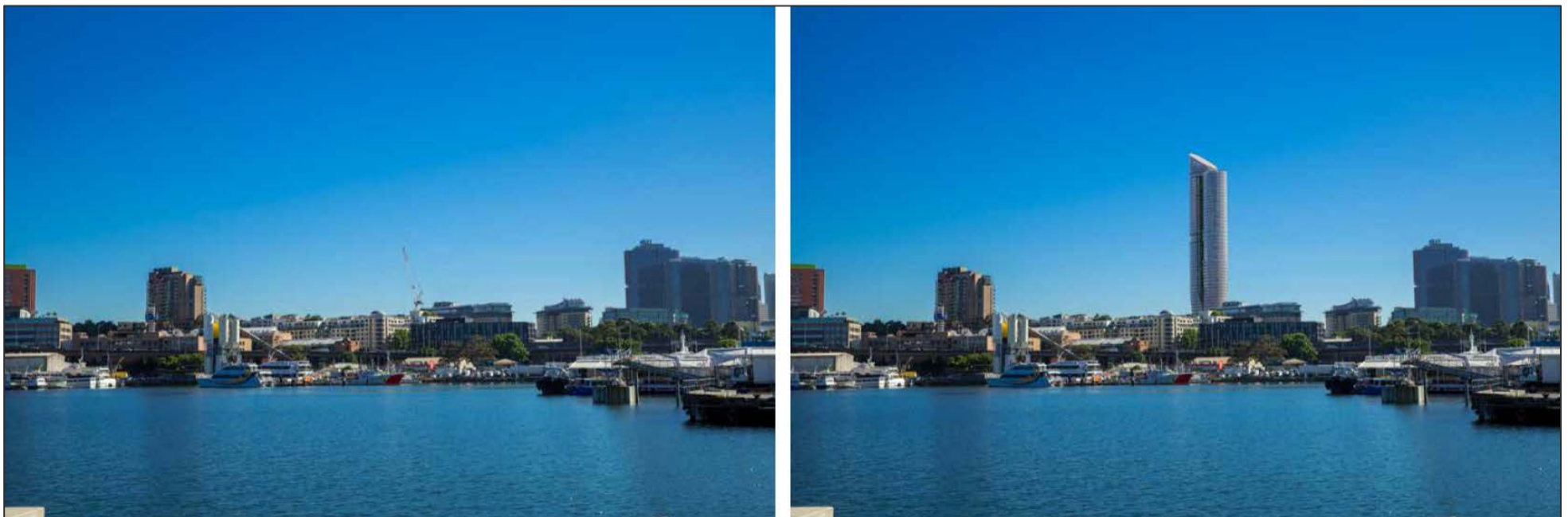


Figure 28 | Existing (left) and proposed (right) north east from Blackwattle Bay walkway (Source: Proponent's VIA)

Local (mid range) views



Figure 29 | Existing (left) and proposed (right) north west from the western side of Union Square (Source: Proponent's VIA)



Figure 30 | Existing (left) and proposed (right) southeast view from Giba Park in (Source: Proponent's VIA)



Figure 31 | Existing (left) and proposed (right) north west view from Pyrmont Bay Park (Source: Proponent's VIA)

The proponent's VIA (and peer review of their VIA) concluded that the overall visual impact of the proposal on public views is acceptable, that the building would not have substantial negative visual impacts, and that the extra height obscures an area of sky only. The VIA concluded that the view impacts are caused by the building appearing as a new, large element within the field of view which is indicative of a view change but not necessarily indicative of a negative impact.

The Proponent contended that the impact of the proposal on public domain views is acceptable and reasonable, as it does not affect the elements of ascribed importance within views and is primarily a compositional change within a context where significant urban regeneration and growth is strategically envisioned.

The Department notes that with respect to the conclusions of the VIA and peer review of the VIA, the independent design advisor did not agree with the proponent's contention, and concluded that:

"It cannot be agreed that this would be the case, because from the large majority of other viewpoints it is considered that the tower would be unduly prominent, unrelated to its context and unacceptable. The argument that 'only sky views' are obscured by extra height ignores that fact that the substantial visual bulk of the very tall tower seen against the sky would be oppressive from many viewpoints. This is demonstrated by many of the images presented"

The Department considers that the above visual analysis indicates that from all directions the proposed tower would be highly visible/prominent in views from nearby public domain and public open spaces, and more distant views from the north shore. The prominence of the tower would be both significant and detrimental to those public views.

The Department accepts the independent design advice in relation to the visual impact assessment, and in particular the following points made in relation to the proposed tower with reference to the Visual Impact Assessment:

- View from Balls Head Reserve illustrates its isolated form adversely impacting on views to the Harbour and Goat Island (**Figure 20**)
- View from Central Barangaroo Foreshore indicates how it would be completely unrelated to its context in this part of Pyrmont. (**Figure 21**)
- Views from Pyrmont Bridge and east Cockle Bay both demonstrate its undue prominence, even in the context of the very large Convention Centre and ICC buildings. (**Figures 25 & 26**)
- View from Giba Park where it would be closer, the tower becomes highly intrusive. (**Figure 30**)
- Pyrmont Bay Park view (demonstrates clearly that the tower would loom over the environment in this area, with little regard for its pedestrian context (**Figure 31**).

The Department considers that from the identified views the proposed tower would appear incongruous and incompatible with its surrounding built form context, overly dominant and would adversely affect the established character of Pyrmont and wider views and vistas from a large number of public vantage points as identified above.

The Department notes with respect to the future changing context relied upon by the Proponent, that planning for the Bays precinct is in the preliminary stages and the future built form aspirations and controls are yet to be identified or subject to any strategic planning process or community consultation. Even if tall towers were considered for the Bays precinct in the future, the significant separation distance is considered too great to inform a new context within which the isolation of the proposed tower would be mitigated.

Development precedent

Concerns were raised in public submissions that the proposed tower would set an undesirable development precedent for Pyrmont. The independent design advice also considered that the proposed tower would establish an undesirable precedent which would potentially encourage further tower buildings on nearby waterfront sites stating:

- there are no other current proposals for tower blocks on the western side of Darling Harbour north of the Harbourside development
- statutory planning controls over Pyrmont limit heights in this area
- if a tower were to be approved on the site it should be in the context of a change to statutory controls to permit tall buildings on other adjoining and nearby sites along the waterfront and no such change is currently intended.

The Department notes that all surrounding properties within the City of Sydney are subject to SLEP 2012 planning controls and that there is currently little opportunity for sites in Pyrmont (i.e. within 550m of proposed tower) to accommodate further tower developments. The Department does acknowledge that if approved, the proposed tower would fundamentally change the existing mid/low rise character of Pyrmont, creating a new built-form context which would have to be considered in the assessment of any future development.

The Department therefore considers the approval of the tower would establish a precedent for future tall buildings in its immediate vicinity, as a defining component of an entirely new Pyrmont character. This new character could and most likely would, be used to justify additional tall buildings, further eroding the established character of Pyrmont, unsupported by any adopted planning policy.

6.2.3 Heritage impacts

While the Star building itself is not listed and not within a conservation area, the SELS component of the Star is identified as a local heritage item, and the surrounding area contains many heritage items (52 local items and 4 state items). The Pyrmont Conservation Area is also located to the south west of the site (**Figure 6**).

Concerns were raised in public submissions about the impact of the tower on nearby heritage items. While Council did not comment on any local heritage impacts, Council objected to the impact of the tower on the GPO clocktower (i.e. the tower would be visible in the background of the clocktower). The Heritage Council did not raise concerns about the proposed tower on state heritage items.

The Department notes the Proponent's Heritage Impact Assessment, and Heritage Addendum, contended that:

- the proposed tower would not obscure any identified significant heritage views and only effect portions of sky views
- although the tower would be visible in the background of a number of items and may introduce another focal point in some views, it would not preclude an ability to fully appreciate any heritage items
- the reduced scale of the tower at lower levels would generally relate to the scale of buildings within the Pyrmont Conservation Area and reduce the visual impact of the scale of the tower when viewed in the immediate vicinity of heritage listed items located around the intersection of Pirrama Road and Jones Bay Road, in particular the state listed former Royal Edward Victualling Yard
- the visibility of the tower is not considered to generate a detrimental heritage impact on the proximate heritage items or the Conservation Area.

The Department also notes that Council did not object to the impact of the tower on local heritage items. Notwithstanding, the Department considers that due to its bulk and scale, the proposed tower will be highly visible from several of the surrounding heritage items and the conservation area. The proposed tower would be likely to significantly alter the townscape setting and impact indirectly upon the heritage character of the area.

In response to Council's concerns about the impact of the tower on the GPO clock tower, the Department notes that the building at 151 Clarence Street, approved by Council and completed in late 2018, has altered the background setting of the GPO clock tower. However, the Proponent's comparative analysis (**Figure 32**) is unclear as to the exact impact of the tower on the GPO clock tower and the extent to which this is mitigated by the building at 151 Clarence Street, as the comparative analysis uses two different viewpoints.

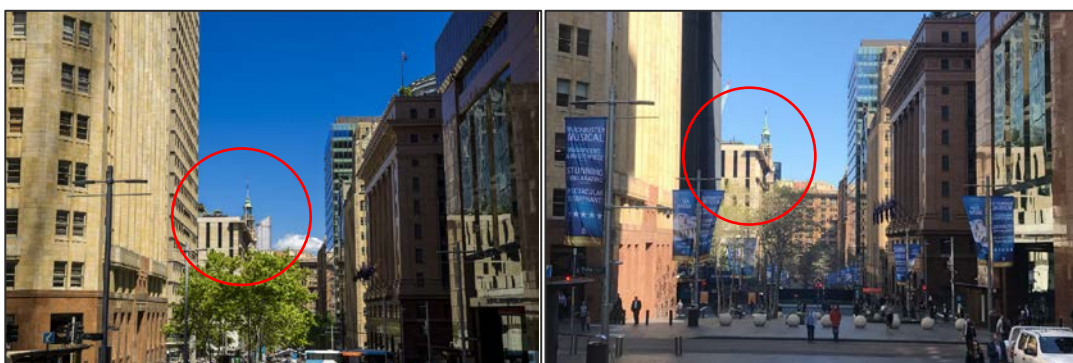


Figure 32 | Proposed tower in the context of the GPO (left) and the constructed building at 151 Clarence Street, as in 2018 (right)
(Source: Proponent's RTS)

The Department notes that although visible in the selected view at the eastern end of Martin Place, the tower would become less visible in those views from Martin Place further west (closer to George Street). This is acknowledged in the independent design advice which states:

" ...Even from Martin Place, where glimpses would be visible, the new tower being relatively distant may not be unduly intrusive from most viewing positions..."

The Department acknowledges the proposed tower would have an imposing presence when viewed from within the Pyrmont conservation area and be proximate in views of local heritage items. It is considered the tower is located a sufficient distance from the conservation area so as not to directly impact its setting or the ability to appreciate proximate heritage items.

The Department notes however that the heritage impacts of the proposal, although minor, would only occur as the result of an unacceptable form of development. The scale of the proposed tower is not anticipated or supported by adopted policy and not considered to be justified in the proposed location. On this basis the Department considers that the heritage impacts have not been justified and should not be supported at this time.

6.2.4 Changes to the podium

The northern portion of the site, at the corner of Pirrama Road and Jones Bay Road, is to be demolished to make way for the proposed residential and hotel tower. The tower transitions to a new corner podium element accommodating the proposed neighbourhood centre. This element is differentiated from the tower form, being set forward to the boundary and through a change in materiality with a clear glass skin over articulated timber louvres. Further east from the corner, the podium transitions to a curved sandstone form on Jones Bay Road and Pirrama Road where it adjoins the existing casino building.

The most significant change to the existing podium is the introduction of a two-storey roof extension to the Pirrama Road elevation, which incorporates the curved, biomorphic "Ribbon" structure, sloping back from the Pirrama Road frontage (**Figures 33 & 34**).

The Department considers the proposed podium addition integrates well with the design of the existing building, is a modern architectural feature and organic form that enhances the visual appearance of the building. Through its sloping recessive form and orientation, this addition would not appear visually dominant or imposing in views from the public realm and would not adversely overshadow the surrounding public domain and open spaces.

The Department notes that with the exception of the Ribbon elements the new podium height is largely within the 28m LEP height limit and considers the form and scale of the new podium relates well to the grain and scale of the residential buildings to the west on Jones Bay Road.

Therefore, the Department considers the form and scale of the proposed changes to the podium, together with the introduction of the Ribbon Feature, to be acceptable, as these are sympathetic to the local Pyrmont context and enhance the visual appearance of the building.

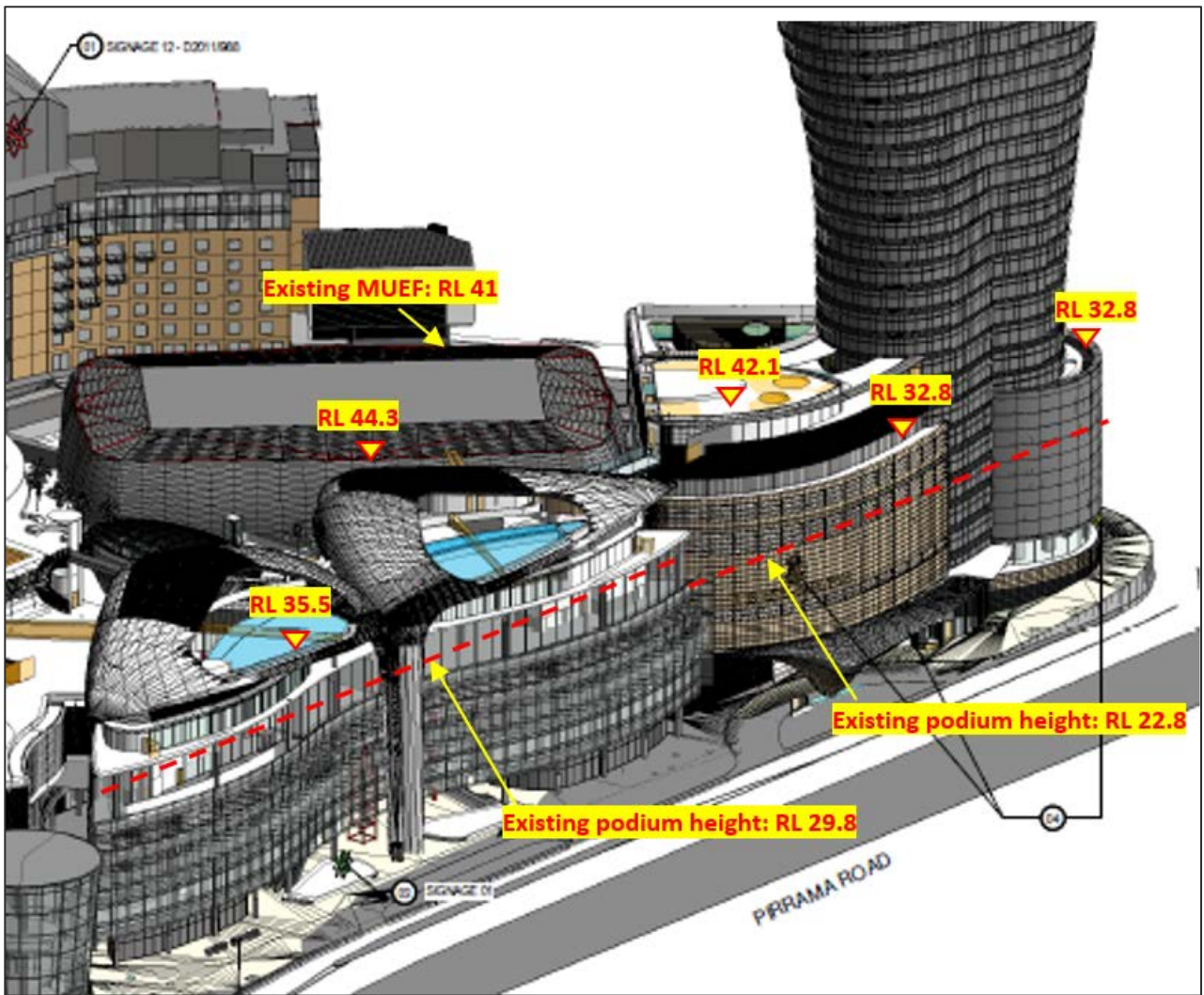


Figure 33 | Axonometric view showing the height of podium elements on the Pirrama Road frontage
 (Base source: Proponent's Architectural drawings)

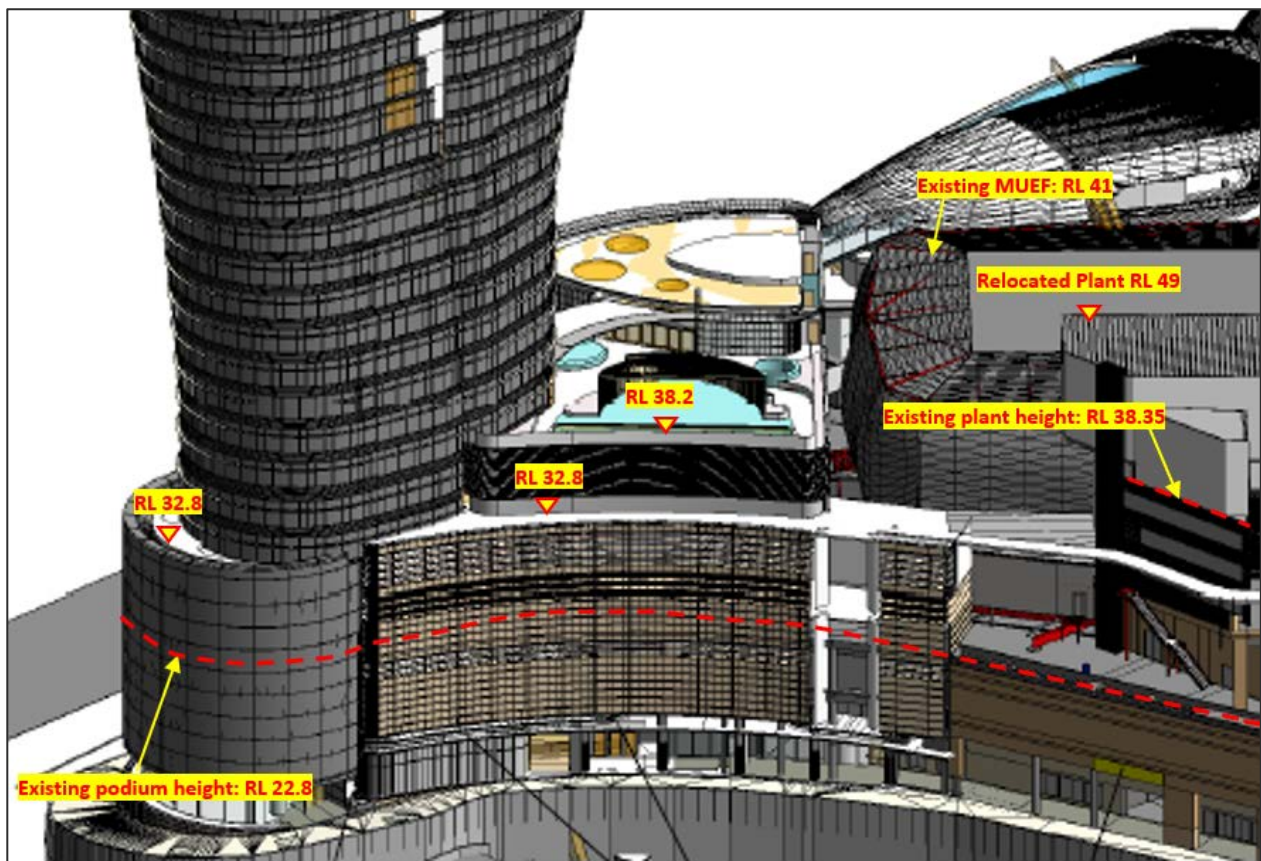


Figure 34 | Axonometric view showing the height of podium elements on the Jones Bay Road frontage (Base source: Proponent’s Architectural drawings)

6.2.5 Conclusion

The Department has undertaken a detailed assessment of the built form impacts of the proposal. This assessment has identified a number of impacts along with aspects of the Proponent’s justification for the proposal which are not supported.

The Department acknowledges and accepts the concerns raised in public and Council submissions that the proposed height is unacceptable, that the tower is contextually inappropriate, inconsistent with surrounding buildings in height and form and would not contribute positively to the skyline.

The Department does not accept the Proponent’s contextual or strategic justification for a tower in this location and there is a significant distance between the proposed tower and the established clusters of taller buildings within Barangaroo, the CBD and Darling Harbour.

While numerous taller buildings are situated within Darling Harbour and Barangaroo, these form part of cohesive clusters of high-density buildings, associated with strategically identified precincts. By way of example, the towers within Barangaroo read against the existing building heights of the CBD. Darling Harbour is read as a collection of buildings framing the immediate waterfront of Cockle Bay and marking the northern edge of the Darling Harbour precinct.

Those development precincts are planned to accommodate increased scale of built form to deliver significant growth with a mix of uses, including tourism, employment, entertainment, civic uses and public domain all supported by a variety of public transport options. The same context does not apply to the Star site.

The Proponent’s contextual analysis draws upon wider aerial based perspectives of taller buildings around the western harbour (**Figure 18**). The Department is not convinced by the Proponent’s justification for a tower and is not satisfied that this represents an appropriate context within which to assess the proposal. It is only when a very wide aerial perspective of the CBD and western harbour waterfront is adopted that the site can be seen or read in the context of other tall buildings and even those images are considered to highlight the isolation of the proposed tower. The Department notes that there are no views presented in the Proponents VIA in which the site is read as sharing the proponents suggested context.

The Department considers a more reasonable built form context for the site is one defined by the established area of Pyrmont, separate to the strategically identified precincts of Barangaroo, CBD and Darling Harbour.

The Department considers that the height and location of the proposed tower is inappropriate. This is because its height and isolation (from other tall buildings and strategically identified precincts) result in a scale and relationship inconsistent with nearby development. The proposed height, by comparison would be almost four times the height of any development allowed within Pyrmont (under the SLEP 2012) and over eight times the height of the residential buildings to the west. In this context, the proposal is considered to be fundamentally contrary to Planning Principle no.4, as it is inappropriate to its context, would appear particularly incongruous, isolated, and would visually dominate the skyline to the detriment of both local and distant views.

The Department therefore considers that the proposed tower is not appropriate in this location and should not be supported.

6.3 Amenity Impacts

6.3.1 Private view loss

A number of residential apartment buildings to the north and west of the site enjoy a range of views towards Darling Harbour, the CBD and district views beyond (over) the site. The impact of the proposal on these views is a key issue in the Department's assessment.

The Proponent provided a View Impact Assessment (VIA). The VIA provides a comprehensive analysis of the view impacts of the proposed development, characterising the view loss at the affected premises. It considers:

- the height, orientation and location of the affected buildings
- comparisons with an LEP compliant Building envelope
- comparison to the approved but not constructed MOD 14.

The VIA utilises various focal lengths (17mm, 24mm and 50mm) to illustrate the private view impacts. Council raised concerns that the use of focal lengths less than 50mm did not accurately represent the impacts of the proposal and that 50mm most accurately represents what a human eye sees.

The Proponent contends that for some views the 50mm format alone does not provide a clear understanding of the breadth of the view and/or the size of the proposal, and the wider-angle view has been used and is noted within the view description. Where the 17mm focal length view has been used to demonstrate wider view impacts a 50mm focal length view has also been provided for comparative purposes.

The Department accepts that due to the size of the proposal and the proximity to the site of some private views that the use of a wider focal length is appropriate to understand the full impact of the proposal in these circumstances. Where these have been provided a comparison with a 50mm focal length has also been provided.

The VIA considered the properties identified in **Table 10** and **Figure 35** are the most affected properties.

Table 10 | Summary of view impacts identified in the VIA

Location	VIA assessed Impact
Watermark Apartments at 2 Jones Bay Road	High
Astral Residences (lower levels)	High
Astral Residences (mid-level)	Moderate
88 John Street	Moderate
Watermark Apartments at 24- & 26-Point Street	Moderate

Concern was also raised in public submissions regarding view impacts to the following additional properties:

- 4A/4 Distillery Drive
- 14 & 16 Pyrmont Street
- 27 Mount Street.



Figure 35 | Aerial view of site (outlined red) and the five properties most affected by proposal (outlined blue) (Base source: Nearmap)

In order to ascertain whether or not the proposed view sharing impacts are reasonable the Department has followed a four-step assessment in accordance with the principles established by Tenacity Consulting Vs Warringah [2004] NSWLEC 140. The steps/principles adopted in the decision are:

1. Assess what views are affected and the qualitative value of those views
2. Consider from what part of the property the views are obtained
3. Assess the extent of the impact (Tenacity principles establish an impact spectrum including 'negligible', 'minor', 'moderate', 'severe' and 'devastating')
4. Assess the reasonableness of the proposal that is causing the impact.

Tenacity steps 1 to 3

A detailed assessment of potential view impacts to the above identified properties in accordance with Tenacity steps 1-3 is provided in **Appendix D**.

In summary, whilst the Department agrees with some of the Proponent's assessment, The Department considers that several view impacts are greater than concluded by the Proponent. The view impacts to mid-level south facing apartments at 2 Jones Bay Road and apartments at levels 4 and 5 of the Astral Residences are considered to be severe not moderate.

Reasonableness of the proposal (Tenacity step 4)

This section should be read in conjunction with the Department's detailed assessment provided in **Appendix D**.

The fourth step of the Tenacity planning principles is to assess the reasonableness of the proposal that is causing the impact. Based on the Tenacity test, the Department considers it reasonable to assess the impact of view loss in comparison to:

- The extent of view loss already approved at the site up to and including MP09_0098 MOD 14
- The extent of view loss that would arise if a scheme was designed to comply with the maximum height controls applicable to the site.

Although not a mandatory consideration for this proposal, the SDCP 2012 controls provide a reference with respect to the consideration of view impacts. The controls recognise that outlook as opposed to private views, is the appropriate measure of residential amenity and that there is no guarantee that views or outlook from existing development will be maintained. The Department also notes that the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 acknowledges that public good has precedence over the private good when changes are proposed to Sydney Harbour or its foreshores.

In this regard the photomontages provided and assessed (**Appendix D**) depict the extent of change between the existing building and an LEP compliant envelope. The Department notes that of the severely impacted views, the proposal will generally only obstruct views of sky above an LEP compliant building envelope, and that an LEP compliant scheme at a height of 28 metres would also obstruct existing views of land, water and land-water interface.

Even when a proposal complies with all relevant planning controls, the Tenacity planning principles require the question be asked whether a more skilful design could provide the Proponent with the same development potential and amenity and reduce the impact on the views from neighbours. The Proponent argues that the proposed building form has sought to respond to view sharing principles by narrowing and curving the base of the tower form. Furthermore, the Proponent asserted:

- significant view impacts are restricted to approximately 30 apartments across two buildings (2 Jones Bay Road and Astral residences) with 13 of the 16 affected apartments at 2 Jones Bay road also experiencing a high (severe) view impact from the previous MOD 7 Approval
- views from Astral Residences within the site do not have the same expectation of retention as those of private dwellings outside the site
- acceptable outlook is retained from all affected apartments and appropriate amenity is maintained.

With regard to outlook, as opposed to views, the Department considers that an acceptable level of outlook is maintained from affected apartments.

The Department notes the key aspects of private views are retained in most circumstances. Whilst the severe view impacts to lower floor apartments within the Astral Residences and 2 Jones Bay Road are acknowledged, the Department notes that an LEP compliant envelope would result in similar or greater view impacts to these properties at their lower levels.

The Department notes that the view impacts from the most recent modification affecting views (MOD7) included severe view impacts to a similar number of apartments. In the current case however, the significant increase in height and visual prominence of the proposed tower is considered to result in greater impacts than those experienced because of MOD 7.

The Department considers that a reduction in the proposal's height and scale of the proposed tower would not significantly alter the degree of view loss resulting from the proposal. Furthermore, the Department does not consider an alternative design would necessarily achieve a better overall outcome, as lower scale development than proposed would still have significant impacts on views. This contention is supported by the independent design advice which stated:

'...A range of view impacts from 24 locations are simulated using digital images, with in addition a transparent envelope representing "a 28m.LEP compliant height for the site within the proposed view." (p.92) The impacts range from minor to very severe as is inevitable in this dense location. The relatively slender tower form, as well as the rounded corner forms would mitigate impacts to the extent possible if a development of this density were to be approved on the site...'

The Department acknowledges the negative impacts on views and outlook of some private residences, particularly those at 2 Jones Bay Road and Astral Residences within the Star site. Whilst recognising that to some extent similar impacts would result from an LEP compliant scheme or a reduced height tower form, the Department notes that these impacts would be the result of an unacceptable form of development. The scale of the proposed tower is not anticipated or

supported by adopted policy and is not considered to be justified in the proposed location. On this basis the Department considers that the identified impacts to private views are not justified and should not be supported at this time.

6.3.2 Overshadowing

Concerns were raised in public submissions about the potential overshadowing of public spaces and residential apartments. In addition, Council objected to the proposal on the grounds that it would overshadow Union Square and Pyrmont Park public spaces between 9:00am and 3:00pm on 21 June, contrary to the provisions of the Sydney LEP which requires new buildings to minimise overshadowing on public open space during this period.

The Proponent’s overshadowing analysis demonstrates the height of the proposed tower results in a number of residential properties and open spaces in Pyrmont experiencing some degree of overshadowing, however due to its slender form the shadow is fast moving. The shadow length of the towered reduces away from the winter solstice during summer and the equinox and the siting of the tower to the north of the site also results in the majority of the tower shadow being over the outer part of the site during the equinox from midday to 2pm.

The Department considers the key areas potentially overshadowed to be:

- Public spaces:
 - Union Square
 - Pyrmont Bay Park
 - Pyrmont Bridge
 - Clifftop Walk.
- Private residences:
 - 49-51 Mount Street
 - 102 Miller Street
 - 4A/4 Distillery Drive Pyrmont
 - 16 Pyrmont Street, Pyrmont
 - 16/1 Murray Street
 - 74/1 Murray Street.

The Department’s assessment of overshadowing below has therefore focused on these areas.

Union Square

Union Square is a triangular shaped urban plaza bound by Harris and Union Streets approximately 100m to the east of the site (**Figure 5**). Union Square is an important community space and contains the Pyrmont War Memorial erected in 1922.

Council objected to the proposal as it would result in additional overshadowing of Union Square between the hours of 9:00am to 3:00pm during winter. The Sydney DCP 2012 (provision 3.2.1.1) states that the overshadowing effects of new buildings on publicly accessible open space is to be minimised between these times on 21 June. Overshadowing of public spaces was also raised in 28% of public submissions.

The application includes an assessment of the predicted overshadowing impact of the proposal on Union Square. A summary of the predicted overshadowing is provided at **Table 11** and shadow diagrams of Union Square on peak days are provided at **Figure 36**.

Table 11 | Additional overshadowing of Union Square

Impact	Union Square
Maximum number of days Union Square experiences additional overshadowing	65 days per year (19 May to 24 July)
The day Union Square experiences the most additional overshadowing (peak day)	21 June

Peak day overshadowing % change

4.6%

Peak day maximum overshadowing of at any one point (minutes)

60 Minutes (10:30am to 11:30am)



Figure 36 | Shadow diagrams indicating peak day overshadowing (blue) of Union Square (red) (Base source: Proponent's RtS)

Table 11 and **Figure 36** confirm that the proposal would result in additional overshadowing of Union Square at certain times of the day during the period between of 19 May to 21 July. In addition, the Proponent's overshadowing assessment confirms:

- between 9:00am and 3:00pm Union Square currently receives 92.8% direct solar access in summer which reduces to 64.4% in mid-winter
- the proposal results in a 4.6% reduction (to 59.8%) in solar access on the peak day
- additional overshadowing would occur for a maximum of 65 days in the year between 19 May and 24 July (Winter)
- additional overshadowing would occur over a period of 1-hour between 10:30am to 11:30am
- the degree and duration of overshadowing reduces either side of the peak day
- over the year the current average direct solar access for Union Square between 9:00am and 3:00pm is 82.1% reducing to 81.5% as a result of the proposed tower.

The Proponent contends the overshadowing of the Union Square is acceptable on the basis that it is confined to a narrow window of time outside the lunch period and for a limited period throughout the year. The Proponent also contends that the siting of the tower to the north of the site minimises overshadowing to public spaces.

Department's consideration of overshadowing to Union Square

The Department notes that due to the existing low-rise character of Pymont, Union Square presently achieves excellent solar access throughout the year. On the most affected day (21 June), Union Square would continue to receive direct sunlight most of the day, with the exception of the one-hour window from 10:30am to 11:30am. The Department notes that during this period the greatest overshadowing occurs between 10:45 and 11:15am. As a result of the narrow tower form and fast-moving shadow, the square would remain capable of providing a high-quality open space during early mornings, lunch times and afternoons. However, there is a moderate impact from the loss of solar access in the late morning when the space could be expected to be used for active and passive recreation.

Having carefully considered the Solar Study, together with Council's comments, the Department considers the impact of a tower on Union Square is moderate for the following reasons:

- the proposal affects solar access to Union Square for 65 days of the year between May 19th and July 23rd (for 300 days per year there is no impact)
- overshadowing of Union Square occurs for a maximum of approximately 60 minutes on the most affected day (being 21 June)
- the amount of direct sunlight on the most affected day reduces from 64.4% to 59.8%, a reduction of 4.6%.

The Department notes the overshadowing impacts to Union Square would only occur as the result of an unacceptable form of development. On this basis the Department considers that the additional overshadowing of Union Square has not been justified by the proposal and should not be supported at this time.

Pymont Bay Park and Pymont Bridge

Concern was raised in public submissions the proposal would overshadow Pymont Bay Park and the northern end of Pymont Bridge. Council also raised concerns about overshadowing of Pymont Bay Park (**Figure 37**).

Pymont Bay Park is a large grassed area located directly east of the site and approximately 165m to the south east of the proposed tower. Pymont Bridge is located to the south east of the site approximately 530m from the proposed tower location. (**Figure 38**). Presently both Pymont Bay Park and Pymont Bridge received 100% solar access between 9:00am and 3:00pm throughout the year.

Pymont Bay Park

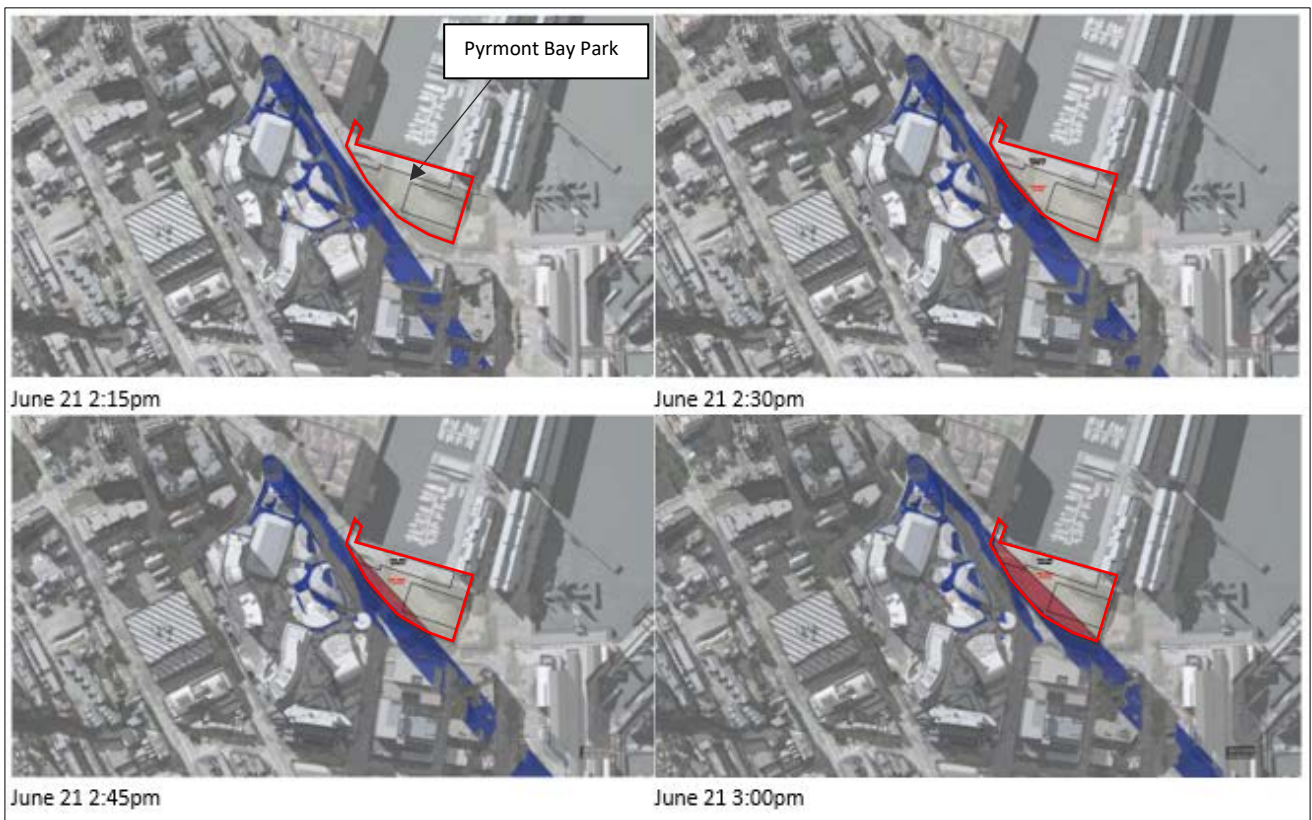


Figure 37 | Shadow diagrams indicating additional overshadowing (red) of Pymont Bay Park on 21 June (Base source: Proponent's RtS)

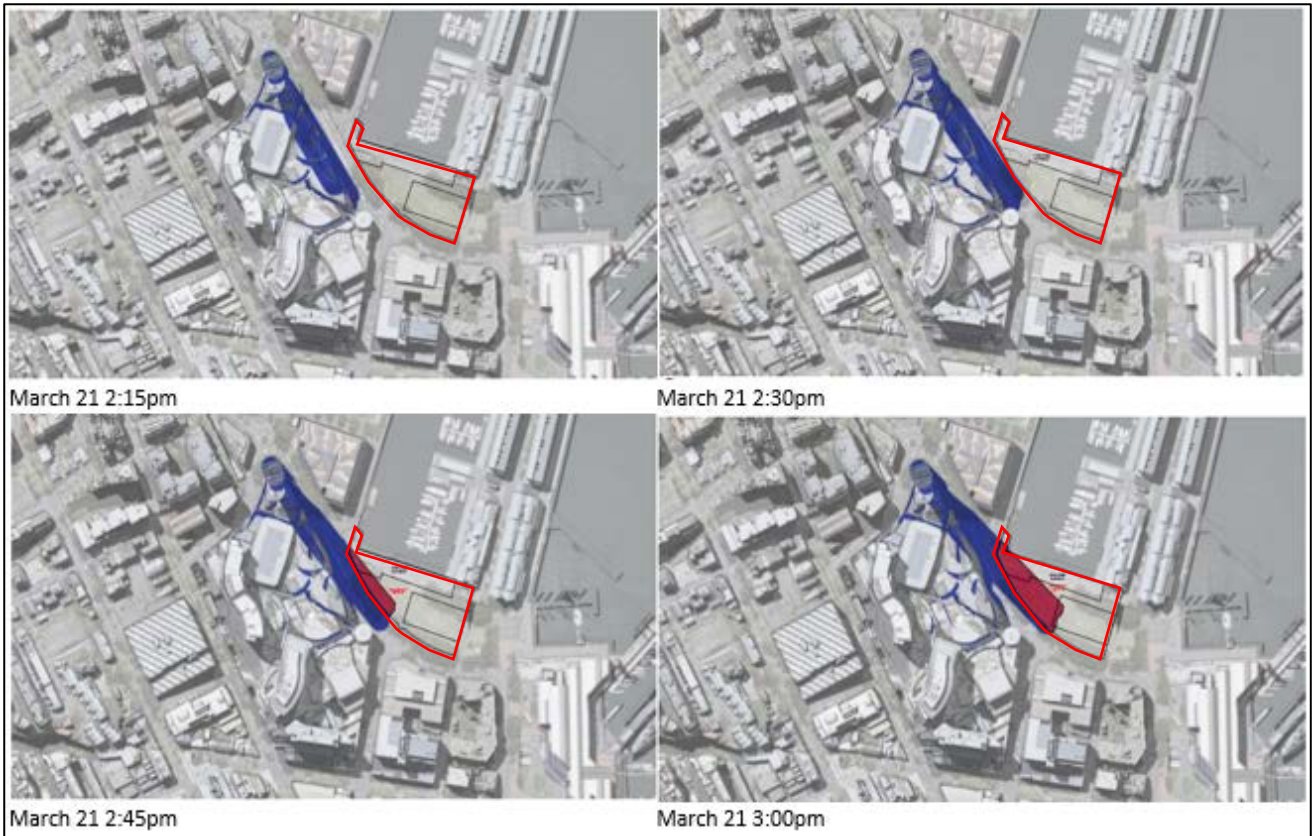


Figure 38 | Shadow diagrams indicating additional overshadowing of Pymont Bay Park on 21 March (Base source: Proponent’s RtS)

The Proponents overshadowing analysis demonstrates that the largest impact to Pymont Park is in mid-winter (21 June) where existing solar access is reduced from 100% to 97.9% with no additional overshadowing of the park until 2:30pm. In the equinox solar access would be reduced from 100% to 98.33% with no additional overshadowing of the park until 2:45pm.

The Department considers overshadowing impact on Pymont Bay Park is to be minor as:

- additional overshadowing in mid-winter and the equinox is confined to a limited period and results in a negligible 2% reduction to existing solar access between 9:00am and 3:00pm
- the maximum overshadowing during the equinox (March and September) and mid-winter takes place outside the lunch period, after 2:45pm
- The park would retain over 5.5 hours of solar access during the most affected days (21 June and the Equinox) with the impact reducing thereafter
- over the period of the year the additional overshadowing results in only a 2.3% reduction from 100% to 97.7%
- the Park maintains excellent solar access through the year and the additional overshadowing will not alter its function or usability as a passive and active recreation space.

Pymont Bridge

Pymont Bridge presently experiences 100% solar access throughout the year. The Proponent’s solar analysis demonstrates that the western edge of Pymont Bridge would experience additional overshadowing after 2:40pm during mid-winter (**Figure 39**).

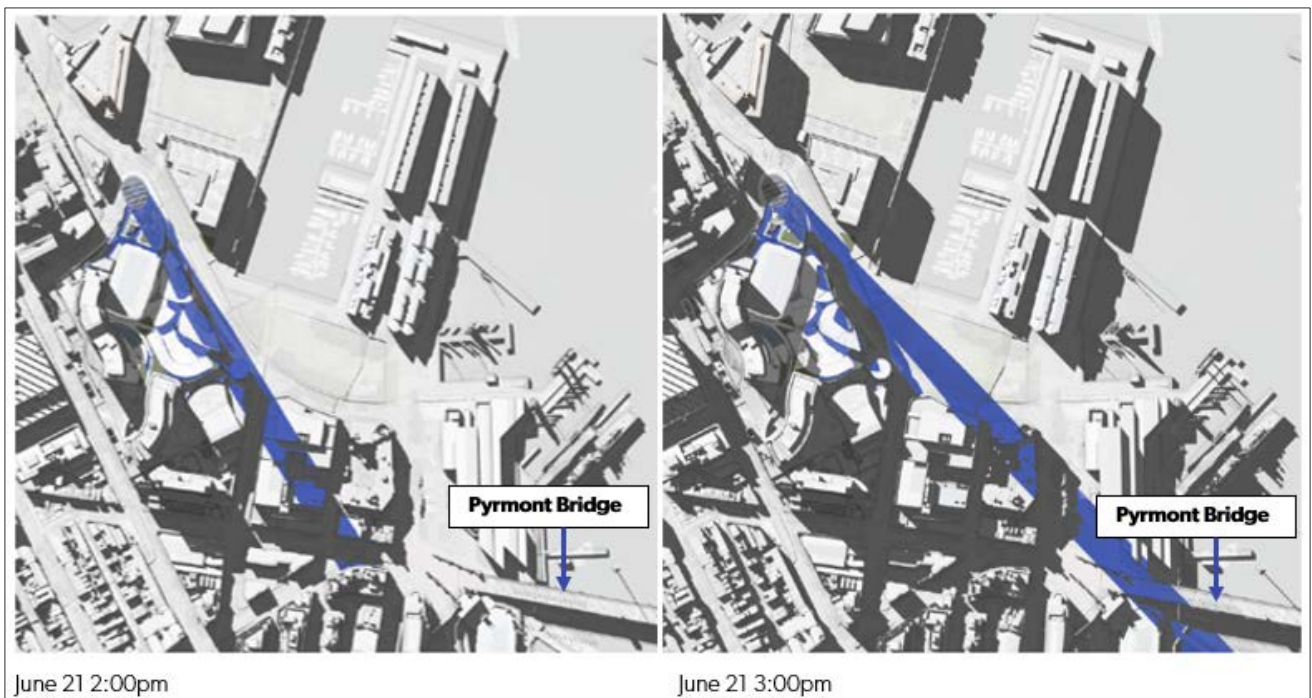


Figure 39 | Shadow diagrams indicating additional overshadowing of Pyrmont Bridge on peak day (21 June) (Source: Proponent's RtS)

Concern was raised in public submissions that the overshadowing of Pyrmont Bridge would affect the usability and pleasant nature of this space during the afternoon.

The Department has carefully considered the submissions and the Proponent's solar analysis and considers the overshadowing to Pyrmont Bridge is minor as:

- the solar impact in mid-winter is confined to a small section of the western edge of the bridge after 2:40pm on the peak day (mid-winter) and reduces thereafter
- the bridge retains full solar access for more than 5.5 hours on the most affected day (21 June)
- solar access is unaffected during the summer and the equinox
- OEH raised no issues in relation to overshadowing impacts on heritage listing of the bridge.

The Department notes that the overshadowing impacts to Pyrmont Bay Park and Pyrmont Bridge although minor, would only occur as the result of an unacceptable form of development. On this basis the Department considers that the additional overshadowing of Pyrmont Bay Park and Pyrmont Bridge is not justified by the proposal and that the additional overshadowing resulting from the proposed tower should not be supported at this time.

Clifftop Walk

A public submission was received objecting to the proposal on the basis that it would overshadow Clifftop Walk. Clifftop walk is a public pedestrian path located approximately 360 m from the location of the proposed tower. The majority of the path is overshadowed due to its position behind neighbouring buildings, however a small section of the path, approximately 35m in length would experience additional overshadowing as a result of the proposed tower.

In the RtS the Proponent provided additional overshadowing analysis of Clifftop Walk (**Figure 40**) which demonstrated that the currently sunlit section of the path would experience overshadowing between 9:00am and 9:30am during mid-winter. No overshadowing would be experienced at any other time of year.

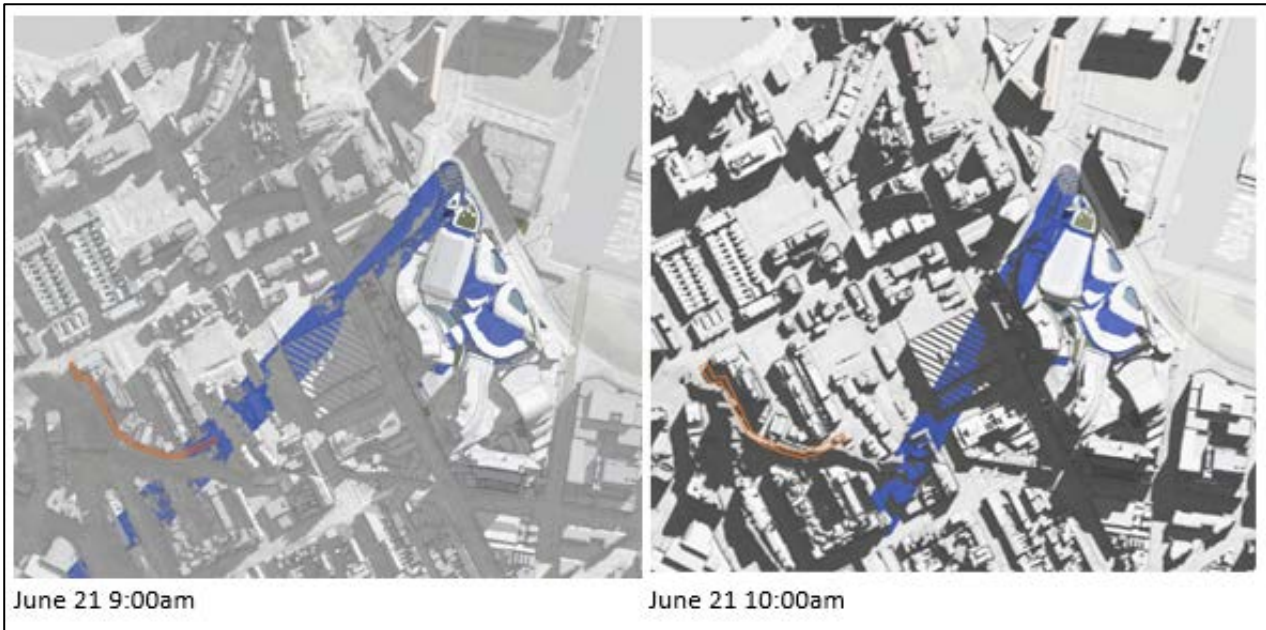


Figure 40 | Shadow diagrams indicating overshadowing of Clifftop Walk (orange) during peak day (21 June) (Base source: Proponent's RtS)

The Department considers the minor overshadowing to this short section of Clifftop Walk is minor as:

- it would only be experienced for a 30-minute period during mid-winter for 9:00am to 9:30am, reducing thereafter
- would always retain full solar access outside of this window during summer and the Equinox.
- the paths function as a pedestrian thoroughfare, rather than recreational space, would not be affected by the resulting overshadowing.

Private residences

The State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development – Apartment Design Guide (ADG) recommends controls for new residential developments including their impact on existing residential buildings. The Department considers the ADG is a helpful guide to assess impact on adjoining existing residential development.

The ADG recommends at least 70% of apartments in urban areas receive at least 2 hours of solar access between 9am and 3pm in mid-winter and recommends further, that where an adjoining property does not currently receive 2 hours of solar access the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.

The Proponent provided a sun access impact analysis, which considered the overshadowing impact of the building to residential properties between 9:00am and 3:00pm in mid-winter. The analysis identified three instances to the southeast of the site where solar access to any part of an apartment is reduced to below 2 hours (**Figure 41**). The sun access analysis confirms that no properties currently receiving less than 2 hours solar access would have their solar access reduced by more than 20% as a result of the proposal, in accordance with the ADG guidelines.

The Department has carefully considered the potential overshadowing impact on nearby affected properties and considers, on balance, the proposal to be acceptable for the following reasons:

- non-compliance with the ADG guidelines is restricted to three individual properties
- at 49-51 Mount Street the impact is confined to one of two street-facing second story windows, with sun access to the other street facing window, living room and balcony all remaining compliant with the ADG guidelines.
- at 102 Miller Street the impact is confined to single bedroom windows within two flats, with the balcony living room and master bedrooms at each flat maintaining in excess of 2 hours sun access during mid-winter.

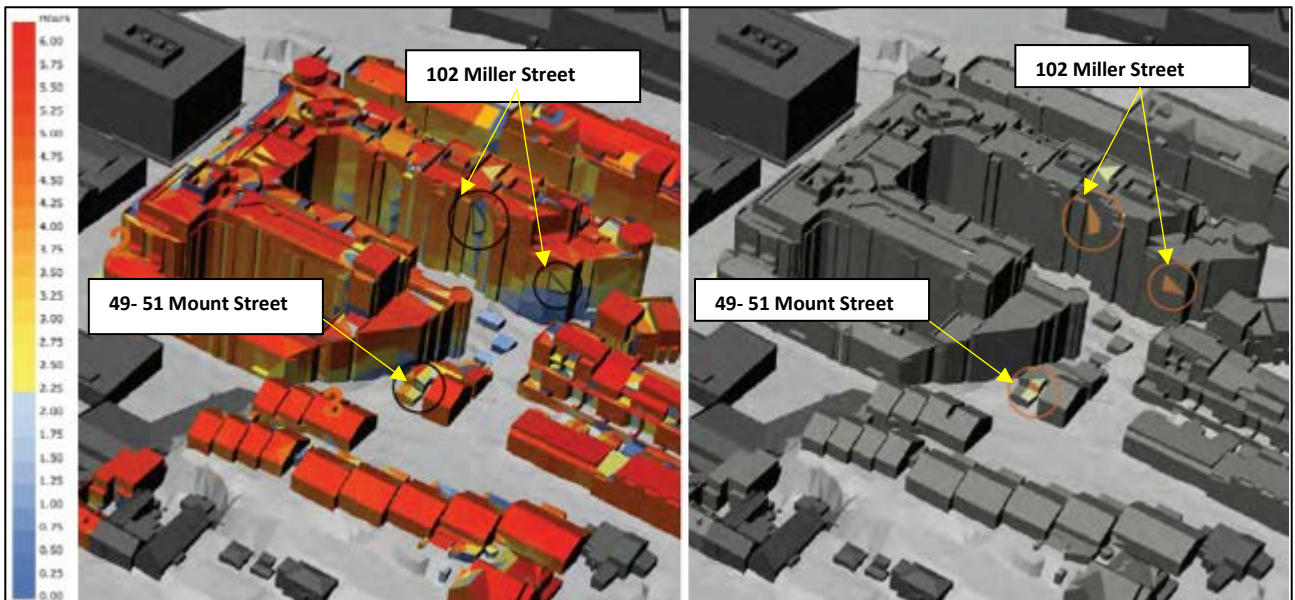


Figure 41 | Existing solar access during mid-winter (left) and instances where solar access drops to below 2 hours as a result of the proposal (right) (Source: Proponent’s EA)

The Department considers that despite the proposal creating reductions below the ADG guidelines for some individual windows, the impact to the affected properties as a whole would be negligible as all other rooms maintain compliance with the ADG guidelines. The Department notes further that overshadowing is confined to the peak day (21 June) with any impacts reducing thereafter. Due to the fast moving nature of the proposed shadow, the impact to these properties is considered to be acceptable.

Concern was raised in public submissions the proposal would result in additional overshadowing at the following properties:

- 4A/4 Distillery Drive
- 14 and 16 Pyrmont Street
- 161 Murray Street (Nos 16 and 74).

In response to public submissions the proponent provided additional analysis of the solar impacts at these properties. The impact is summarised at **Table 12**.

Table 12 | Overshadowing of residential properties

Property Address	Peak Day	Additional Overshadowing	Impact mid-winter
• 4A/4 Distillery Drive	21 August	6:30am-7:00am	Nil
• 14 & 16 Pyrmont Street	21 March	9:15am- 11:15am	Nil
• 161 Murray Street (16 & 74)	21 June	2:00pm - 3:00pm	1 hour

4A/4 Distillery Drive experiences overshadowing for a 30-minute period on 21 August, with the impact reducing either side of this day. There is no impact to this property during mid-winter, as such the overshadowing is fully compliant with the ADG guidelines.

14& 16 Pyrmont Street experience additional overshadowing for a 2-hour period during mid-morning on the peak day (Equinox) with the impact reducing either side of these times. There is no impact to this property during mid-winter, and therefore the overshadowing impact is fully compliant with the ADG guidelines.

16 and 74/ 161 Murray street experience additional overshadowing during a 1-hour period during mid-winter with the impact reducing thereafter. This property retains in excess of 2 hours sun access during mid-winter and as such remains fully compliant with ADG guidelines.

The Department has carefully considered the potential overshadowing impact on affected properties and considers these impacts to be acceptable, as all properties retain more than the 2 hours sunlight during mid-winter as required by the ADG guidelines. The Department notes that any additional overshadowing to these properties is confined to short periods due to the fast-moving shadow of the proposed tower and all retain high levels of solar access throughout the remainder of each affected day and all other times of the year.

6.3.3 Wind impacts

Concerns were raised in public submissions about the potential wind impacts resulting from proposed tower, particularly the creation of 'wind tunnel effects' at ground floor level.

The Proponent provided a Pedestrian Wind Environment Assessment (Wind Report), which tested pedestrian level wind environments at 25 locations within and around the development site. The Wind Report was updated in the RtS to include additional wind modelling analysis of:

- the entrance to 10 Jones Bay Road
- Pyrmont Bay foreshore, opposite the Pirrama Road frontage
- Pyrmont Bay Park and Metcalf Park
- 16 Pyrmont Street.

The updated Wind Report predicts that wind conditions around the site would remain comparable to existing conditions in most locations. Furthermore, the wind report notes that from a comfort perspective, conditions would be suitable for pedestrians sitting, standing and walking. The report recommended several mitigation measures which were integrated into the proposal including:

- dense landscaping on Pirrama Road adjacent to the Lyric theatre office and the two Food and Beverage tenancies
- façade awing at level 59 "Club lounge Sky Terrace"
- extended roof and vertical screening/landscaping at Level 7 residential terrace.

The recommended mitigation measures have been incorporated into the proposal to ensure wind impacts are minimised and all areas remain suitable for their intended purpose.

The Department considers that if it was determined that the project should proceed it is likely to have acceptable wind impacts for pedestrians within and around the development.

The Department recommends if it was determined that the development should proceed, conditions would need to be included to require the recommendations of the wind report to be implemented. This would ensure improved comfort levels at outdoor seating locations along Pirrama Road from standing to sitting.

6.4 Public benefit, contributions and the public interest

Public benefit

Concern was raised in some public submissions that the development includes insufficient public benefits, particularly that the proposed neighbourhood centre is insufficient to offset the various impacts of the proposal.

In contrast, the Department notes that public submissions from various organisations considered the proposal would result in public benefits including contributions to tourism and the arts, reducing pressure on hotel occupancy, rejuvenation of the western harbour, iconic architecture and the positive flow on effects to the community from private investment.

In addition to benefits mentioned in submissions the Proponent contended that the proposal results in public benefits in the form of:

- the delivery and operation of the neighbourhood centre (1,691 m² GFA)
- the creation of 489 new construction and 265 operational ongoing jobs (expressed in annual average Full Time Employment (FTE));
- the diversification and refurbishment of existing restaurants on the site available to members of the public
- positive economic benefits for the Pyrmont area, and the wider Sydney metropolitan area and NSW

- public domain and access upgrades improving the public interface with The Star and enhancing the pedestrian environment.

The Department considers public benefit from the project would include both economic and social benefits.

The Department acknowledges public benefits would arise from the proposal including the creation of new construction and operational jobs as well as positive economic benefits.

Council raised concerns about the lack of detail regarding the management and operation of the neighbourhood centre and the lack of certainty of it remaining a community facility in the long term. As part of their RtS the Proponent provided details relating to the proposed fitout of the neighbourhood centre and proposed to update the Statement of Commitments to secure the centre for community use for at least 30 years. The Proponent also submitted a management plan for the centre outlining the objectives, governance structure and operational management provisions. Council did not provide further comment on the response to this issue. The Department is satisfied the additional information clarifies the delivery and operation of the neighbourhood centre and confirms it provides a public benefit.

Contributions

The additional floor space within the development generates the need for additional Section 7.11 and Affordable Housing Contributions. The Proponent has calculated these as follows:

- Section 7.11 Contribution: \$5,667,711.43 (subject to detailed calculations of approved floorspace)
- Affordable Housing contribution: \$1,856,696.97 (subject to detailed calculations of approved floorspace).

Council raised concerns regarding the Proponent's calculations not being in accordance with the City of Sydney Development Contributions Plan 2015. The Department considers that the proposed contributions would need to be confirmed by Council in accordance with their contributions plan and secured via condition with payment prior to any works commencing on the site.

The public interest

In determining the public interest merits of the proposal, the Department has had regard to the objects of the EP&A Act. These have previously been considered in section 4.5.2 of this report.

The Department assessment considers the benefits of the proposal to include:

- a new neighbourhood centre
- construction and operational jobs
- standard developer contributions and an affordable housing contribution
- broader economic benefits related to jobs, a new hotel and upgraded Casino facilities
- no negative environmental impacts with respect to wind, traffic or ESD principles.

The Neighbourhood Centre is supported by the Department as a direct public benefit. However, it would need to be subject to appropriate fit out and operational management conditions to ensure the centre is affordable, accessible and made available to the local community in perpetuity.

The Department notes the nature and type of these benefits including the jobs and financial contributions are typical for a development of this type. It is also noted the only unique public benefit offered by the proposal is limited to the 1691m² neighbourhood centre. These benefits need to be balanced against the significant built form outcomes being sought and transformative nature of the proposal for the character of the immediate and wider city area.

The independent design advice discussed the notion of public benefits when considering the appropriateness of a large tower in the proposed location. The advice correctly noted approval of developments that are not consistent with controls and/or nearby development can sometimes be justified because of the amount of public benefit. The advice concluded in this instance the public benefits resulting from the proposal would not justify its negative impacts. The Department considers that, while there would be benefits to the public from the project, there are also impacts in relation to the proposed tall tower in this location. The Department considers the proposed tower to result in an overly dominant built form, inconsistent with the existing character of Pymont and strategic planning direction for this part of Sydney. The Department also notes other identified impacts such as private view impacts, heritage impacts and overshadowing weigh against the public benefits outlined above.

The Department does not consider the identified public benefits are sufficient to offset the impacts that would be caused by the proposed tower.

In relation to the consideration of the project against the relevant objects of the EP&A Act the Department considers the project has not demonstrated consistency with all the objects of the EP&A Act. In particular, due to the height and isolated location of the proposed tower the Department is not satisfied that the project is consistent with the object c) and object g) as outlined below.

The proposed tower is not considered to be consistent with the objective c) of the Act in so far as it would not represent the orderly development of the land as the siting of a tall tower in this location:

- is inconsistent with the current strategic planning for the area
- would fundamentally change the established character of Pymont
- could set an unwelcome precedent for further tall buildings, outside of any adopted strategic planning policy framework.

Furthermore, the proposal is not considered to be consistent with the objective g) of the Act in so far as it would not promote good design and amenity of the built environment as:

- the scale of the proposed tower is out of character with its immediate context
- the tower would result in unacceptable visual impacts due its scale, isolation and visual dominance of the existing Pymont townscape and wider view impacts.

The Department therefore concludes the project is not in the public interest.

6.5 Modifications to the existing Star building

Food and beverage tenancies

The modification proposes an additional 5,519m² of GFA dedicated to Food and Beverage (F&B) outlets comprising:

- five new outlets to replace the Pizzaperta, Marquee, Balla, Black and Sports Bar at level 00
- three new outlets with external seating areas at the level 5 terrace
- two new outlets with external seating at level 7
- refurbishment of the existing outlet (on Level 2) on the corner of Edward and Union Street, overlooking the porte cochere adjacent to the SELS building
- four new outlets at various locations within the Star
- a new outlet accessed off the existing walkway from Jones Bay Road
- four restaurants, bars and club lounge associated with the new hotel.

Concerns were raised in public submissions about the reconfigured F&B outlets within the existing Star building and their hours of operation.

The Proponent's proposed site wide noise strategy stipulates a maximum density of 2 persons per square metre in external areas, to minimise noise impacts to neighbouring residential properties and ensure compliance with existing noise conditions. The proposed hours of operation, patron capacity and density are summarised at **Table 13**.

The Department notes that no outdoor areas are proposed to be open past midnight and that the operating hours for new internal outlets are consistent with current operations. Further, the 24/7 operation of the two premises at level 2 and 3 is consistent with the operating hours of existing food and beverage outlets within the level 3 Sovereign and level 1 gaming areas of the complex.

Table 13 Hours of operation and maximum numbers of patrons at for proposed Food and Beverage outlets

Restaurant	Location	Proposed Hours of operation	Capacity & Density of Patrons (persons per m)	
			Internal	External
Pirrama 1	Pirrama Rd	7am to midnight	81 (0.6/m ²)	44 (0.7/m ²)

(currently Pizzaperta)				
Pirrama 2 (currently Marquee)	Pirrama Rd	7am to midnight	81 (0.6/m ²)	25 (0.7/m ²)
Restaurant Street 1 (currently Balla)	Level 00	7am to 2am	207 (0.5/m ²)	0
Restaurant Street 2 (currently black)	Level 00	7am to 2am	260 (0.5/m ²)	0
Restaurant Street 3	Level 00	7am to 2am	74 (0.7m ²)	0
Restaurant Street 4	Level 00	7am to 2am	130 (0.7m ²)	0
Restaurant Street 5	Level 00	7am to 2am	260 (0.5/m ²)	0
Restaurant Street 6	Level 00	7am to 2am	279 (0.6.m ²)	0
Restaurant Street 7	Level 00	7am to 2am	356 (0.6/m ²)	0
Social enterprise cafe	Jones Bay Road	7am to 10pm	116 (0.7/m ²)	0
Union-Edward venue	Edward and Union St- 2 levels	7am to 3am (internal) 9am to midnight (balcony)	89 (0.7/m ²) L1 234 (0.7/m ²) L2	0 39 (0.7/m ²) L2
Level 2 Asian Restaurant (existing tenancy)	L02	24/7	258 (0.6/m ²)	0
L3 F&B above Sports Bar	L03	24/7	395(0.7/m ²)	0
Sky Terrace Bistro	Level 5	7am to 2am (internal) 7am to midnight (terrace)	161 (0.7/m ²)	171 (0.7/m ²)
Sky Terrace Bar	Level 5	7am to 2am (internal) 7am to midnight (terrace)	324 (0.8/m ²)	68 (1/m ²)
Sky Terrace Restaurant	Level 5	7am to 2am (internal) 7am to midnight (terrace)	243 (0.6/m ²)	41(0.6/m ²)
Star Pool Bar & Deck	Level 7	7am to midnight (pool bar)		307 (0.7.m ²)

The Department notes that Council raised no concerns regarding the proposed hours of operation. In response to noise concerns raised in submissions, the outdoor seating proposed for the food and beverage outlet on Jones Bay Road was deleted from the proposal and acoustic glazing proposed for the Jones Bay Road Frontage. The revised Noise Impact Assessment submitted with the RtS confirms that subject to these changes, and the implementation of the proposed site wide acoustic monitoring strategy, the proposed hours of operation will not result in noise disturbance to nearby residential receivers.

The Department considers that subject to conditions securing the hours of operation and acoustic glazing, the impacts associated with the proposed food and beverage outlets could be appropriately mitigated.

Plant and diesel flues

Concerns were raised in public submissions regarding the rooftop plant room and relocation of diesel generator flues to Jones Bay Road.

The Air Quality report submitted with the application confirms that the air quality impacts from plant, generators and flues would meet NSW EPA air quality criteria and not result in adverse air quality impacts to residential receivers.

The Department considers the design of the rooftop plant room generally blends with existing structures and is acceptable in design terms. However, the design includes a significant amount of potentially redundant floor-to-ceiling height above proposed plant. The Department considers the visual impact of the plant room could be minimised further through the imposition of appropriate conditions to reduce its scale and ensure appropriate materials are selected to reduce its visual impact.

Solar PV panels

The proposal includes the introduction of new solar PV panels to the roof of the Astral Hotel, Darling Hotel and Lyric Theatre. The Department considers that the panels are sited appropriately and would not result in impact the character or appearance of the building or surrounding area.

Council requested confirmation that the proposed PV system (as it contributes to sustainability targets) will feed power directly into the new development.

The Proponent has confirmed that all proposed PV systems that contribute to the BASIX score will feed power directly to the proposed new residential development.

The Department notes that the BASIX definition does not require the photovoltaic arrays to be on a specific building and does not restrict their placement on multiple buildings on the land the subject of the application. As the proposed solar PV will feed power directly to the new residential component of the development in accordance with BASIX requirements the Department considers that the proposed solar PV would be acceptable.

6.6 Traffic, parking and access

Concerns were raised in public submissions about traffic and car parking impacts. Council raised concerns about the proposed right hand turn from Jones Bay Road, bicycle parking, loading dock and Pymont Street footpath.

The Department considers the key issues relate to

- Traffic Generation
- Car parking
- Bicycle parking
- Taxi and coach parking
- Servicing and Access.

6.6.1 Traffic Generation

The impact of traffic generated by the development was a key consideration of the Department's original assessment of the project approval. Concerns were raised in public submissions regarding congestion within the surrounding road network.

The proposal is supported by a Traffic Impact Statement (TIS). The TIS analysed the potential impact on traffic as a result of the increase in overall GFA and associated increases in staff and patron travel to the site. The TIS estimates the proposed modification will increase vehicle trips to and from the site as follows:

- AM peak (8:00 am to 9:00 am) +16%
- PM peak (5:30 pm to 6:30 pm) +15%
- Off-peak (10:30pm to 11:30 pm) + 9%.

In order to mitigate impacts from increased vehicle trips to and from the site, the Proponent has proposed a traffic reassignment strategy to redirect traffic away from critical parts of the road network towards a new car park access on Pymont Street which includes:

- relocation of the Sovereign member car-park entry/exit to Pymont Street.
- improved static wayfinding
- implementation of the upgraded Pymont Parking Guidance System (as approved in the statement of commitments under MOD 14) to manage traffic movements in the precinct
- limited provision of on-site car parking for the new hotel and residential apartments development
- relocation of taxi services into the service road
- increases in employee and visitor cycle parking facilities.

The TIS has modelled the impact on the eight key intersections surrounding the site and the surrounding road network (**Tables 14 & 15**) and notes that the performance of each intersection will continue to operate at a satisfactory level and that the traffic mitigation strategy will spread potential traffic impacts more evenly across the adjacent traffic network.

Table 14 | Percentage change in vehicle trips at key intersections

Key intersection	Change AM	Change PM	Change Off Peak
Pyrmont Street/ Jones Bay Rd	10%	3%	3%
Pyrmont Street / Union Street	31%	41%	25%
Pyrmont Street /Pyrmont Bridge Road	15%	18%	11%
Pyrmont Bridge Road / Union Street	30%	-5%	1%
Pirrama Road / Star Car Park Entrance	12%	-7%	-19%
Jones Bay Road / Pirrama Road	8%	-1%	-11%
Union Street / Edward Street	9%	3%	5%
Pyrmont Bridge Road/ Murray Street	14%	1%	-3%

Table 15 | Level of service (LOS) change before and after the Modification

Road Network	LOS AM		LOS PM		LOS Off Peak	
	Before	After	Before	After	Before	After
Jones Bay Rd	A	A	A	A	A	A
Pyrmont Street / Union Street	B	C	C	C	C	C
Pyrmont Street /Pyrmont Bridge Road	B	B	C	D	C	C
Pyrmont Bridge Road / Union Street	A	A	A	A	A	A
Pirrama Road / Star Car Park Entrance	A	A	A	B	B	B
Jones Bay Road / Pirrama Road	A	A	B	B	B	B
Union Street / Edward Street	B	B	B	C	C	B
Pyrmont Bridge Road/ Murray Street	C	C	C	C	C	C

The Department notes that the Level of Service at the intersection of Pyrmont Street and Pyrmont Bridge Road reduces from LOS C to LOS D during the PM peak as a result of the modification. The Department notes however that neither Council, RMS or TfNSW raised concerns regarding the impact of the proposal on this intersection. The Department notes further that the proposal results in improved traffic flow at the intersection of Union Street and Edward Street and that LOS D is common categorisation for highly urbanised environments during peak periods.

The Department considers that the increases in traffic resulting from the proposal could be accommodated within the local road network without significant adverse impacts on surrounding intersections and therefore concludes the minor traffic impact would be acceptable.

6.6.2 Car parking

The existing Star Casino complex provides 2,795 car parking spaces. A total of 3,000 spaces are allowed for in accordance with the existing approval, however the Proponent notes that the full car park capacity of 3,000 spaces has not been taken up due to operational and storage requirements.

The proposed Pyrmont Street car park entry ramp results in the removal of 46 existing spaces, resulting in an overall site car park capacity of 2,749 spaces. The proposed increase in GFA generates the need for an additional 220 car parking spaces comprising 171 residential car parking spaces and 49 hotel car parking spaces. These spaces are to be accommodated in the car stacker facility under the proposed tower and are in accordance with the requirements of Sydney LEP 2012.

Council did not raise concerns in relation to car parking provision at the site. The Department also considers the proposed number of car parking spaces is adequate to service the development, based on the demonstrated parking capacity on site and acknowledging that the site is well serviced by alternate transport options.

The Department further notes, as secured in the Statement of Commitments under MOD 14, the Proponent is working with TfNSW to upgrade the Pyrmont Parking Guidance system to simplify and improve the parking information available to drivers wishing to park around Pyrmont and Darling Harbour. The Proponent contends this will reduce unnecessary circulation of traffic on local roads by providing real-time information on parking availability.

TfNSW recommended a Condition requiring submission of a service road, taxi and car stacker management plan to mitigate any impacts associated with the competing needs of the car stacker with the other functions of the service road. Subject to this condition, the Department considers the proposed parking on site to be acceptable.

6.6.3 Public Transport capacity

Concern was raised in public submissions the light rail service to the site is operating at capacity, particularly during peak times. TfNSW did not raise objections on this ground. The Department notes that the site is well served by public transport including the light rail, bus, ferry and heavy rail with Town Hall station being approximately 15 minutes' walk from the site.

With respect to public transport capacity the TIS notes:

- current bus services to the site are underutilised and have sufficient capacity to accommodate additional staff and visitor trips resulting from the proposal
- although light rail services currently operate at up to 95% capacity during peak times, most future trips associated with the proposed modification fall outside the light rail peak demand periods
- sufficient capacity (including passenger access to platforms) is available to accommodate additional staff and visitor trips generated by the proposal.
- ferry services have sufficient capacity to accommodate additional staff and visitor trips
- Proposed upgrades to the CBD heavy rail services in 2020 will ensure sufficient capacity to accommodate the proposed increase trips by heavy rail (Town Hall Station).

The Department notes that TfNSW did not raise concerns regarding the capacity of the light rail to service the development and considers that as the majority increase in future trip is predicted to occur outside of peak times when there is sufficient capacity on the light rail, and the spare capacity of alternative public transport to the site, including bus, ferry and heavy rail, the impact on public transport services would be acceptable if it was determined that the project should proceed.

6.6.4 Bicycle parking and end of trip facilities

Modification 14 increased cycle parking for staff at the site by 3 spaces from 26 to 29 spaces. Currently there are no end of trip facilities for staff or cycle parking provision for visitors.

As submitted the proposal did not provide for any cycle parking for future residents and proposed facilities for visitors were proposed to be provided off site. In response to concerns raised by the Department and Council the proposal was amended to provide cycle parking facilities as follows:

- 204 residential spaces provided within individual lockers (rate of 1 bicycle parking space per dwelling)
- 35 employee spaces (rate of 1 space per 4 hotel employees and 1 space per 10 Casino employee) in a secure room at Union Street, 40m from the Union Street cycleway
- 62 visitor spaces for The Star, hotel and residential guests provided within the site and its curtilage.

The proposed residential cycle parking provision is in accordance with clause 3.11.3 of the Sydney DCP 2012 and all cycle parking facilities are provided in accordance with relevant Australian standard AS 2890.3.

The Department notes end of trip facilities for hotel staff will be provided on level B3 of the new hotel. Casino staff who cycle to work, use staff back of house facilities located within the existing Star building. The Department considers that the small increase in Casino staff (+40) as a proportion of all staff currently employed at the Star Casino would not generate the need for additional end-of-trip facilities.

Accordingly, the Department concludes the proposed bicycle parking facilities would be acceptable and could be secured via condition if it was determined that the project should proceed.

6.6.5 Taxi and coach parking

Modification 14 relocated the Pirrama Road taxi rank to the service road running underneath the site. The proposal refines this arrangement relocating the taxi holding bay area from Jones Bay Road and six taxi parking spaces on the southern side Jones bay Road to the eastern side of the service road, and includes:

- four pick-up/drop-off taxi bays on the eastern side of the service road,
- taxi feeder rank with space for 12 taxis
- patron queuing facilities
- formalised coach pick-up/drop-off bays on the western side of the service road.

In addition, the new hotel port cochere will provides pick-up/drop-off areas for up to six taxis or two coaches (for the hotel only). The proposed taxi parking arrangements enable the existing 15 m long taxi holding bay area on Jones Bay Road to be replaced with three pick-up/drop-off parking spaces (5-minute short term parking) for the residential apartments and neighbourhood centre, the replacement of six taxi parking spaces on the southern side of Jones Bay Road with on-street parking to be managed by Council (not associated with The Star) and the use of the former on-site taxi pick-up/drop-off road outside The Star main entrance on Pirrama Road for a VIP drop-off shared space.

The Department supports the relocation of the Jones Bay Road taxi holding areas to within the site and the service road to formalise and improve arrangements for taxis within the service road. Noting the multiple functions of the service road which also provides access to the loading dock and car stacker, TfNSW recommended a condition requiring a service road, loading dock and car stacker management plan to manage the interaction between users of the service road.

The Department notes that the new porte cochere on Pirrama Road will require relocation of the existing northbound bus stop 5m further south and the shortening of the overall bus zone from 41m to 31m. TfNSW requested a condition requiring that the Pirrama Road bus stop be designed in consultation with Sydney buses and Council to ensure bus operations remain unaffected by the proposal. TfNSW also requested a porte cochere management plan to ensure the operation of the porte cochere does not have a detrimental impact on the surrounding road network.

The Department considers that subject to TfNSW' s recommended conditions that the proposed taxi and coach parking arrangements would be acceptable if it was determined that the project should proceed.

6.6.6 Access and Servicing

The proposal includes the following modifications to existing access and servicing:

- new ramped vehicular entry/exit to The Star basement car park from Pyrmont Street
- porte cochere for the new hotel
- amendments to the existing service road beneath The Star including:
 - upgrades to the existing Event Centre loading dock, providing dedicated raised loading bays for small, medium and long rigid vehicles
 - widening the service road and amend/upgrade the service road footpaths, crossings and pedestrian connection to the light rail stop
 - access to the new tower car stacker parking system
 - formalised taxi and coach parking arrangements.

Pymont Street car park entrance

Council raised concerns that insufficient refuge width was available between the exit and entry lanes, forcing pedestrians to hurry across the driveway to avoid conflicts. In response, the Proponent amended the driveway access to include a larger pedestrian island/refuge between the entry and exit lanes. Council did not provide further comment on this proposed solution.

The Department notes that neither RMS nor TfNSW raised concerns about pedestrian and vehicle conflicts at this entrance and notes further:

- this location has some of the lowest pedestrian traffic demand around the site, peaking at less than 80 pedestrians per hour in the AM peak period
- the new entrance transfers vehicles away from higher pedestrian demand areas in Pirrama Road assisting in reducing overall vehicle/pedestrian conflicts at the site
- vehicle traffic enters and exits the car park at 90 degrees to the flow of pedestrians and traffic along Pymont Street, maximising sight lines
- awnings and planters adjacent to the entrance have been designed to maximise vehicle sightlines
- signage and pavement treatments have been incorporated into the designed to provide visual cues to pedestrians.

The Department therefore considers the proposed traffic island in combination with the proposed landscaping, paving treatment and signage would be sufficient to ensure the safety of pedestrians crossing the new Pymont Street car park entrance if it was determined that the project should proceed.

Loading dock

Upgrades to the existing loading dock are proposed to accommodate increased demand, including dedicated bays for different sized vehicles and increasing hours of operation. Outside of special events, the existing loading dock currently operates between 6 am and 6 pm, Monday to Saturday. It is proposed to increase the loading dock operating hours to 24 hours, Monday to Friday, and on Saturdays, Sundays and Public Holidays as required. The proponent submitted a loading dock management plan that confirms the loading dock has sufficient capacity to cater for increased demand resulting from the proposal.

Council did not raise concerns in relation to the loading dock upgrade or operations. TfNSW recommend a condition requiring submission of a loading dock management plan to ensure the operation, particularly queuing to enter the car park or loading dock facilities, does not impact on the surrounding road network.

The Department considers that subject to the recommended condition that the loading dock arrangements for the site would be acceptable if it was determined that the project should proceed.

General arrangements within the service road

The Department notes that the location of the loading dock, taxi and coach parking, waiting bays and new car stacker access within the Star service road involves various users interacting in a relatively confined space. TfNSW noted that the competing needs of the various users or any incidents may result in queuing along the service road and potentially back to Pirrama Road and recommended a condition requiring submission of a Service Road, Taxi and Car stacker Management Plan to mitigate any impacts.

The Department considers that subject to the TfNSW recommended conditions that the access and servicing arrangements for the proposal would be acceptable if it was determined that the project should proceed.

6.7 Special event and operational lighting

The proposal seeks approval for a total of 53 (permanent) special event lighting days (6pm-11pm) for: Vivid Sydney (21), Chinese New Year (20), Christmas (5), State of Origin (3), New Year's Eve/day (2), ARIA awards (1), Australia Day (1).

Concerns were raised in public submissions about the visual impact of the special event lighting. Council has previously granted temporary yearly consents for special event lighting on The Star during Vivid (21 days). Council provided no response on this part of the modification.

The Department has granted special event lighting elsewhere in Darling harbour (SICEEP, Sofitel, IMAX) and notes the proposed 53 days goes well beyond any of those approvals.

The Department considers that permanent special event lighting for Vivid festival would be acceptable given the success of the previous trial periods. However, the Proponent has not provided robust justification for the extent of the proposed special events lighting other than to confirm that it would meet relevant Australian Standards. The full assessment of visual impact goes beyond the consideration of Australian Standards, and due to the search-light nature of the lighting it is noted the impacts would be visible across the city.

The Department considers that the proposed lighting could be considered on a trial basis allowing an additional 6 days beyond Vivid (1 for each identified event) on a 2-year trial basis. This would need to be secured by an appropriate condition including requirements for management operational plans to guide the use of lighting during the trial.

Concerns were also raised that the proposed day-to-day operational lighting would have adverse impact on neighbouring residential properties.

The Proponent has confirmed that the proposed operational lighting would comply with Australian Standards to prevent adverse light-spill. Subject to conditions limiting the number of event days, securing compliance with relevant Australian standards and management plan to secure an appropriate complaint handling policy the proposed operational lighting could be supported.

6.8 Future amenity

State Environmental Planning Policy 65 – Residential Apartment Development (SEPP 65) seeks to improve the design quality of residential developments and encourage innovative design. The Apartment Design Guide (ADG) is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments.

With respect to future amenity of the proposed residential component of the development, there are five minor departures from the guidelines of the ADG in relation to:

- deep soil zones
- ceiling heights
- habitable room dimensions
- balconies
- number of apartments sharing a single lift.

The Department has considered the quality of future residential amenity as part of its assessment. A full assessment of the proposal against the ADG amenity criteria is provided at **Appendix C**, which demonstrates that the above instances of non-compliance are either minor and acceptable or could be resolved through the imposition of suitable conditions if it was determined that the project should proceed.

6.9 Landscaping and public domain

6.9.1 Landscaping

The Proposal includes site wide landscape strategy incorporating the following elements:

- Pirrama Road arrival and light rail entry works including paving and modifications to improve pedestrian access
- Pirrama Road and Jones Bay Road works including upgrades to the footpath, replacement street trees upgrade to the paving finishes
- new Pymont Street driveway entry
- Various planters at Levels 3, 4 and 5 and green roof at levels 6 and 8
- green roof at levels 6 and 8
- a “green seam” to the western elevation of the proposed tower from levels 21 to 59 and green wall under new hotel port cochere

Concerns were raised in public submission regarding the removal of existing trees. Council raised concerns regarding the proposed soil depth, planting schedule and the viability and maintenance of the green seam and green wall. OEH provided comments recommending incorporation of more native species within in the proposed planting schedule.

The Department considers the keys issues in relation to landscaping relate to trees, green roofs and planting schedule as well as the green seam and green wall.

The key issues in relation to landscaping are considered in the following sections.

Trees

There is a total of 72 trees in the vicinity of the site including nine trees within the site boundary and 63 street trees located within the road reserve on Jones Bay Road, Union Street, Edward Street, Pirrama Road and Pyrmont Street.

Concerns were raised in public submissions about the removal of existing trees.

The proposal includes the removal 24 existing trees (5 on-site and 19 street trees) and replacement with 24 new trees. 16 of the trees to be removed on Pirrama Road are of high retention value including 12 Cabbage Tree Palms and Four Weeping Figs. These trees would be replaced with mature Sydney Red Gums, reflecting the preferred tree species for this area as identified in the City of Sydney Street Tree Masterplan 2011.

The Proponent considers the proposed replacement tree strategy is acceptable as:

- there will be no net loss of trees as a result of the proposal
- there are no feasible options that could be implemented that would allow for the retention of these trees.
- replacement tree species have been specified in accordance with Council's Street Tree Masterplan 2011
- the Sydney Red Gums replacing the 16 trees of high retention value, will be larger at maturity than the existing Cabbage Tree Palms that are proposed to be removed.

The Department notes that whilst the 16 trees of high retention value area are mature specimens which make a positive contribution to streetscape amenity, the replacement Sydney Red Gums are a native species and consistent with Council's street-tree strategy for the area. The trees would also be larger at maturity than the existing Cabbage Tree Palms improving tree canopy cover and shading over time. The Department notes further that OEHL is supportive of the planting of native Sydney Red Gums at the site.

As the proposal would not result in a net loss of trees at the site and the replacement trees are mature native species in accordance with Council's Street Tree Masterplan 2011, the Department considers that if it was determined that the project should proceed, the proposed tree retention/replacement strategy would be acceptable subject to conditions ensuring the protection and retention of trees during construction and appropriate planting and maintenance scheduling.

Green roof and planting schedule

The proposal results in the non-accessible green roof area proposed under MOD 14, being replaced with an accessible terrace resulting in a reduction of green roof of that approved under MOD 14 from 4,311m² to 794m².

Council raised concerns regarding the reduction in green roof area (between MOD 14 and MOD 13) and the lack of detail regarding, species selection and maintenance. OEHL recommended that more local provenance species should be provided in the landscape schedule generally.

In response to concerns raised in submissions the proponent provided updated landscaping details including:

- a revised planting schedule including native species mix/biodiverse wildflower planting and more local provenance species across the site
- a revised landscape maintenance plan
- details of minimum soil depths (in accordance with the ADG), hard landscaping materials and advice in relation to the design construction and maintenance of the green roof and green wall elements of the proposal.

The Department notes that MOD 14 has not been implemented and the proposal would therefore not result in a reduction in biodiversity at the site. The Department considers the proposed areas of green roof would be acceptable they result in an increase in green roof and biodiversity compared to the existing site.

The Department supports the provision of additional native species across the site in accordance with the recommendations of OEHL and considers that the proposed green roof and planting details could be supported subject to appropriate conditions securing appropriate maintenance and planting details and maintenance.

Green seam

The proposal includes a "green seam" to the western elevation of the proposed tower from levels 21 to 59 comprising an inner façade and partially overlapping outer façade containing planters with stainless steel wires and climbing plants

Council raised concerns about the viability of the green seam and sought clarification on issues including:

- the acceptable radiant and reflective heat level for healthy plant growth
- impacts of the integrated exhaust/ventilation grills of the façade venting onto the plants
- complexity of the maintenance system
- maintenance and provision for composting or biodigester for green wall waste.

The Proponent consulted with Junglefy living wall specialists, designers of the living wall at 1 Central Park, to review and revise the design of the proposed green seam and provided additional information in response to Council's concerns. The Proponent confirmed that Junglefy are confident that plants behind the glazing will succeed for the following reasons:

- the conditions to the western façade of the tower will be no different to those of recent successful precedents within Sydney, notably 1 Central Park, designed by Junglefy
- the high-performance glazing of the tower façade will assist in reducing the heat load
- passive air intake from the inner façade spandrel grille will not impact plant health and no apartment exhausts will discharge onto the green seam
- the introduction of a new ventilation grill to the spandrel zone of the outer façade will assist with mitigating solar heat gain within the cavity
- reducing planter beds between the outer and inner facades from every floor to every third floor of the building will increase ventilation pressure to increase airflow and reduce heat within the cavity.

The Proponent also proposed the following maintenance protocol:

- general maintenance including pruning and pest management would be undertaken by rope access and conducted 4- 5 times per year
- visual inspections would be undertaken on a fortnightly basis
- constant irrigation monitoring
- green waste would be collected in bags and disposed of at a green waste recycling facility.

The Department has carefully considered Council concerns and the Proponents response and considers that the proposed green seam is capable of being viable, subject to conditions securing the revised detailed design, specific plant selection and detailed management plans for maintenance and sustainable green waste disposal.

Green wall

Council raised concerns regarding viability of green wall and planters located under the hotel port cochere, due to their being located in full shade. In response to Councils concerns the Proponent provided a revised landscaping plan which includes the provision of shade tolerant plants (*Syzygium smithii* and *Clivia miniata*) within the planters beneath the port cochere.

The Department notes that the revised landscaping plan does not specify plant species for the green wall. However, it is considered the viability of the green wall could potentially be secured through conditions requiring appropriate shade tolerant plant species and/or LED lighting.

6.9.2 Public domain

Council considered that the Pymont Street footpath (currently asphalt) and street lighting should be upgraded due to the increase pedestrian traffic arising resulting from the proposal. In their RtS, the Proponent committed to the resurfacing the area between the new Pymont Street car park entrance and the corner of Jones Bay Road with granite paving, in accordance with Councils requirements. The Proponent contends however that the provision of new public domain lighting is not reasonable and suggested that part of the s 7.11 developer contributions be utilised for any public domain upgrades.

The Department has carefully considered Council's comments and the Proponent's response and considers that if it was determined the project should proceed, the insertion of a new vehicle crossing to Pymont Street and the intensification of the use of the site by 220 hotel rooms and 203 apartments would require a proportionate upgrade of the surrounding public domain and lighting to be secured by condition.

6.10 Signage

The proposal includes the provision of twenty-six new signs and signage zones comprising:

- nine business identification signs
- nine business identification signs and/or logo signs
- seven directional and car park signs
- thirteen illuminated display units.

The application is also supported by a site wide signage strategy designed to provide a framework for the proposed and future signage at the site.

Eighteen of the twenty-six proposed signs, and future signage within signage zones would be illuminated by either backlit or halo illumination. A SEPP 64 compliance schedule was been submitted with the application and indicates that the proposed signage is consistent, and the future signs within the proposed signage zones are capable of being consistent, with the design and siting criteria of SEPP 64.

Tower signage

Concerns were raised in public submissions that the tower signage would be visually obtrusive. The Department considered that the proposed tower logo signs as exhibited were too large in relation to the proportions of the facade. In response, the Proponent reduced the diameter of the proposed tower signage from 8.2m to 7.9m (49m²).

The Proponent undertook an assessment of comparable tower signage and contends the revised proposed tower signage at 49m² would be in keeping with the prevailing character of existing and approved tower signage with central Sydney and Darling Harbour including:

- Crown Casino - 51.35m²
- ICC Sofitel hotel - 70m²
- One International Tower - 72m²
- Hyatt Regency - 36m².

The Department considers that the revised tower signage would be consistent with building identification signage on similar type of towers, relates appropriately the proportions of the tower facade and would therefore be acceptable if it was determined that the project should proceed.

The Department has undertaken a detailed assessment of all proposed signage against the key assessment criteria in SEPP 64 (refer to **Appendix C**).

The Department considers that the proposed signage is proportionate to the scale of the development. In particular:

- if it was determined that the project should proceed, the tower signage could be considered to be compatible with the amenity and visual character of the area and appropriately located;
- the scale of the signs would be acceptable within the context of the building
- the signage appropriately integrates into the overall building design
- the proposed method of illumination would be unobtrusive and unlikely to negatively impact on motorists or residents
- when considered in the context of the overall building, if it was determined that the project should proceed the signage itself would not result in negative impacts on adjoining properties or the public domain in addition to the impacts of the tower itself.

The Department notes that the proposed signage zones will be positioned to directly relate to their respective uses and are proportionate to the extent of the relevant frontage. The Department has considered the principle of the proposed signage zones and is satisfied that all future signs will be capable of being appropriately positioned, proportioned and integrated into the design of the building and are therefore would be acceptable if it was determined that the project should proceed.

The Department therefore considers that if it was determined that the project should proceed, the proposed signage could be supported subject to appropriate conditions securing maximum illumination levels and requiring future signs within signage zones be subject to separate approval.

6.11 Noise

Operational noise

Condition F5 currently sets the following cumulative noise limits for the premises requiring that:

- noise levels must not exceed the background noise level by more than 5 decibels (dB) between 7 am and 12 midnight at the boundary of the nearest affected property
- noise levels must not exceed the background noise level between 12 midnight and 7 am at the boundary of the nearest affected property
- the use must not be audible within any habitable room in any surrounding residential property between 12 midnight and 7 am
- noise must not exceed the background noise level by more than 3 dB within any affected commercial premises (indoors) at all times.

The Proponent submitted a Noise Impact Assessment (NIA) which analysed noise emissions from mechanical plant, patron and music noise in addition to other noise sources such as vehicle movements. The NIA found the existing and proposed operation can comply with the cumulative noise management criteria. The NIA recommended additional noise conditions requiring submission of a noise management plan and noise verification plan in order determine noise control points within the site from which to measure noise and facilitate the site wide acoustic strategy.

Concerns were raised in public submissions regarding noise impacts from outdoor seating outside the new café and restaurant tenancies on Jones Bay Road. In response, the Proponent removed the outdoor seating (and window/door openings to Jones Bay Road) and specified acoustic glazing for these tenancies. The Department is satisfied with these amendments that the use of these tenancies would not result in unacceptable noise impacts to nearby residents.

Council supported the site wide acoustic monitoring strategy in principle however raised the following issues:

- the cumulative noise control level will be required to be disseminated back to individual premises
- the monitoring strategy should also allocate maximum patron capacities and amplified noise levels at reference locations on each premises that can be tested in the absence of noise interference from adjacent premises
- the Department will need to commit to this strategy, ensure that accurate patron capacities are kept for all approvals, and ensure that all future Department determinations comply with the strategy.

In response the Proponent contended that:

- the existing approval conditions contain a requirement for licensed premises to be assessed cumulatively in Condition F5 ensuring the total noise emitted by all onsite licensed premises must meet the site-wide criteria and are not subject to individual criteria set for each licensed premises and receiver
- the Proponent will commit to reviewing existing applicable council noise conditions and seek a modification to any existing conditions to make them consistent with the Modification 13 approval conditions in consultation with Council
- dissemination back to individual premises is not required as The Star is considered to be one entity and therefore has control over each noise emitting source so that it can ensure the cumulative noise at a receiver meets the site-wide criteria in proposed Condition F5A
- Conditions recommended by the NIA securing a Noise Management Plan and Noise Verification Plan and Acoustic review.

Council chose not to provide any further comments at RtS stage, as such it is unclear whether Council's now supports the proposed acoustic strategy or maintains its concerns. The Department supports the proposed site wide acoustic strategy as it provides a simplified and more stringent, approach to noise management of all existing and proposed activities on the site.

If it was determined that the project should proceed, a resolution would have to be found to align to the different noise conditions contained within the existing Council consents which are not being surrendered as part of the modification. Conditions would also be required securing, maximum patron capacities, an Operational Noise Management Plan, Noise Verification Plan and a trial period to determine the effectiveness of the strategy in practice.

Construction noise

The Proponent predicts the Mod 13 construction period would be approximately 3 years (36 months). The proposed construction hours are consistent with the terms of the existing approval and Council's City of Sydney Construction Hours/Noise within the Central Business District Code of Practice 1992 as shown at **Table 16**.

Table 16 | Comparison between Councils Code of Practice, project approval and proposed construction hours for construction works

Day	Councils code of practice	Project approval hours of construction (MOD 14)	Proposed Hours of Construction
Monday to Friday	7 am to 6 pm	7 am to 5:30 pm (9 am to 3:30 pm (heavy demolition)) (9 am to 4 pm (mechanical rock blasting))	7 am and 5:30 pm (9 am to 3:30 pm (heavy demolition)) (9 am to 4 pm (mechanical rock blasting))
Saturday	8 am to 1 pm	8 am to 3 pm	8 am to 3:30 pm
Sunday and Public Holidays	No work	No work	No work

Concern was raised in eight public submissions about noise impacts during construction. Specifically, that the EPA recommended noise and vibration mitigation and management measures should be implemented to address construction noise impacts.

The Interim Construction Noise Guideline 2009 (ICNG) includes noise assessment level (NML) guidelines which generally apply to NSW. However, the Department notes the Council's Code of Practice was the basis upon which the existing construction hours were approved under MP08 0098 MOD 5. The Department therefore considers Council's Code of Practice contains the most appropriate NML guidelines for the site.

The Code of Practice specifies the NML above existing rating background level (RBL) at sensitive receivers during construction as:

- RBL + 5 dB(A) between 7 am to 8 am Monday to Saturday
- RBL +10 dB(A) between 8 am to 7 pm Monday to Friday and 8am to 5pm Saturday.

The ICNG specifies the NML above existing rating background level (RBL) at sensitive receivers during construction as:

- RBL +10dB(A) noise affected
- 75dB(A) highly noise affected.

The Proponent submitted a Noise Impact Assessment (NIA) to assess the potential noise impacts associated with the construction. The NIA undertook noise monitoring at 7 locations around the site and identifies the closest residential receivers to be 2 Jones Bay Road, 91 and 93 Pyrmont Street and 31 Union Street, all located between 20m and 28 metres. The RBL at these sites and permitted construction noise levels are summarised at **Table 17**.

Table 17 | Sensitive receivers and permitted NML

Residential receiver	Distance from site	RBL (7am to 6 pm)	NML (ICGN)	NML (Council Code of Practice)
91 and 93 Pyrmont Street	20m	54 dB(A)	64 dB(A)	Between 59 - 64 dB(A)
31 Union Street	20 m	56 dB(A)	66 dB(A)	Between 61 - 66 dB(A)
2 Jones Bay Road	28m	54 dB(A)	64 dB(A)	Between 59 - 64 dB(A)

The NIA predicts unmitigated construction noise impacts would exceed the NML up to a maximum of 16 dB(A) (80 d(BA) at 20m from the site) which also exceeds the ICNG's 'highly-affected' noise threshold (75 dB(A)). As such the nearest sensitive residential receptors are likely to experience noise levels in excess of the permitted NML.

The NIA Addendum submitted with the RTS clarifies that the predicted construction noise levels are taken from typical construction equipment/practices as the construction methodology has not yet been defined to a level of detail to allow for a detailed noise assessment. The NIA addendum contends that construction noise mitigation measures required by the Construction Noise and Vibration Management Plan (CNVMP) (Existing Condition B21) will specify specific mitigation measures based on the detailed construction methodology, to reduce the potential noise impacts. The NIA addendum proposes mitigation measures be included in the CNVMP comprising:

- uses of effective and appropriate equipment including vibration dampening, non-tonal alarms systems and other forms of attenuation as required
- maximising distance between noisy works and sensitive receivers and use of temporary noise barriers, enclosures, site building, stockpiles or other structures to shield construction work from receivers.
- effective monitoring, scheduling, notification and complaints handling protocols
- monitoring and management of delivery practices

The Department has carefully considered the findings of the NIA, and the Proponent's proposed response to the predicted NML exceedances. The Department notes that existing Condition B21 requires the CNVMP must be prepared in accordance with the Interim Construction Noise Guideline and include feasible and reasonable work practices to meet the established construction noise limits. The Department considers, given the dense urban nature of the immediate surrounding area, noise exceedances during construction are unavoidable and is satisfied the construction work management measures suggested by the Proponent could be further refined in the preparation of the CNVMP to manage and mitigate the most significant construction noise impacts if it was determined that the project should proceed.

6.12 Consolidated consents

A range of internal and external alterations and additions to The Star have been undertaken in accordance with approvals issued by the Council. Council has issued a total of 52 development consents since 2009, which primarily relate to minor works and alterations and include:

- temporary events on site
- commercial fit outs
- refurbishment and reconfiguration of internal areas
- replacement of existing signage
- alterations and additions to the Astral Hotel and Astral Residence.

The proposal seeks to consolidate the relevant operative provisions of 24 development consents issued by Council (**Appendix E**) into the Major Project Approval as follows:

- seven consents relating to existing signage that have been installed, incorporated into the Modification 13 drawings and are not subject to any ongoing operational or management conditions
- six consents relating to food and beverage premises that have either been or are being replaced or demolished in response to the Modification 13 works
- 11 consents relating to other works (including plant rooms, lighting and rooftop amenities) that are to be demolished, replaced or not-constructed due to the Modification 13 works.

Council did not raise any concerns regarding the consolidation/surrender of consents. The Department considers that the consolidation of consents is would be acceptable in principle subject to all relevant conditions from those consents being incorporated into the modification instrument if it was determined that the project should proceed.

6.13 Other Issues

Table 18 | Summary of other issues raised

Issue	Consideration	Recommended Condition
Archaeology	<ul style="list-style-type: none"> Proposal includes demolition of part of the northern tip of the site Heritage Council raised no objection as the sub-surface has been significantly disturbed. OEH raised no objection regarding impacts on aboriginal cultural heritage. The Proponent proposes an unexpected find protocol (UFP) If the proposal was supported and the UFP would need to be secured by condition. 	A condition would be required to secure the UFP if it is determined that the proposal should proceed.
Air Quality	<ul style="list-style-type: none"> The proposal includes an air quality report prepared by WSP which assessed construction and operational air quality impacts. The report concludes that air quality impacts from plant, generators and flues would be minimal and meet NSW EPA air quality criteria at all sensitive receivers. The report also made recommendations for reducing dust impacts during construction. The Department notes that air quality issues during construction could be appropriately mitigated through a Construction Environmental Management Plan (CEMP) 	A condition requiring submission of a CEMP for the proposed construction would be required if it is determined that the proposal should proceed.
Demolition	<ul style="list-style-type: none"> The Proposal involves significant demolition works to the northern end of the existing Star building. Given the closeness to existing residential uses, a Demolition Environmental Management Plan would need to be secured by condition. 	A condition requiring a Demolition Environmental Management Plan prior to the commencement of works on-site if it is determined that the proposal should proceed.
Contamination	<ul style="list-style-type: none"> Proposal includes demolition of part of the site (northern tip, in the location of the proposed tower) EPA raised no objection and confirm the proposal does not require an Environmental Protection Licence (EPL) under the POEO Act The Proponent has stated the site has previously been remediated, therefore the risk of encountering contaminants is low and proposes an unexpected find protocol (UFP) The UFP should be secured by condition. 	A condition would be required to secure the UFP
Waste Management	<ul style="list-style-type: none"> The Proponent has prepared a Waste Management Plan (WMP) as part of the EA which identifies waste sources and quantities and ensures all waste streams would be classified and disposed of in accordance with the Sydney DCP 2012 and Councils Policy for waste minimisation in New Developments 2005. The plan outlines waste stream separation, bin and storage locations and collection and recovery procedures The Department is satisfied that the proposed waste management strategy is acceptable subject to a condition requiring compliance with the submitted waste management plan. 	A condition requiring compliance with the submitted Waste Management Plan would be required if it was determined that the proposal should proceed.
Subdivision	<ul style="list-style-type: none"> The proposal includes the subdivision of the site into five lots for: The Star, Ritz (tower), residential (tower), car park stacker and back of house. The Department considers the principle of subdivision of the site could be acceptable subject to appropriate conditions. 	Conditions would be required to secure the timing and implementation of the subdivision if it was determined that the proposal should proceed.

Sydney Airport	<ul style="list-style-type: none"> • The height of the tower (237 m) penetrates the Obstacle Limitation Surface (OLS) by 81 m and is a controlled activity • The Commonwealth Department of Infrastructure, Regional Development and Cities (DIRDC) has previously approved the controlled activity (tower height). Sydney Airport raised no objection • The Modification is consistent with the DIRDC approval (maximum building height). 	<p>A condition requiring the development not exceed the DIRDC approval and separate approval for any cranes that exceed DIRDC approval height would be required if it was determined that the proposal should proceed.</p>
Reflectivity	<ul style="list-style-type: none"> • Concern was raised in public submissions about the impact of the reflectivity of the tower. • The Proponents solar reflective assessment identified potential glare impacts above 20% from the northern and western facades of the podium in Darling Island Road and John Street and recommended the following reflective mitigation measures: <ul style="list-style-type: none"> ◦ the external glazing over the northern and western podium façade (where solar glare impacts were found) to have a reflectivity coefficient of 12-15%, and ◦ the external glazing over the remaining tower facades will have a reflectivity coefficient of 10%. • The above recommendations have been adopted in the buildings design. • The Department considers the identified reflectivity issues could be addressed via a condition requiring the implementation of the mitigation measures identified in the solar reflectivity assessment prepared by CPP dated 22 March 2018. 	<p>A condition requiring implementation of the recommendations in Solar Reflectivity Assessment prepared by CPP dated 22 March 2018 would be required if it was determined that the proposal should proceed.</p>
Building maintenance unit	<ul style="list-style-type: none"> • A roof mounted building maintenance unit is proposed to the tower • The Department considers that in order to protect the design integrity of the tower the BMU should be stowed internally when not in use. 	<p>A condition requiring The BMU to be stowed away when not in use would be required if it is determined that the proposal should proceed.</p>
Community consultation	<ul style="list-style-type: none"> • Concern was raised in public submissions about the extent of community consultation undertaken. • The Proponent has confirmed it consulted with key stakeholders and community groups prior and following lodgement of the application, including: <ul style="list-style-type: none"> ◦ pre-submission consultations with key stakeholders, including nearby residents, regulatory authorities, local community groups, ◦ the Proponent has undertaken the following key consultation activities at EA and RtS stages of the application: <ul style="list-style-type: none"> - meetings, briefings and presentations with various government agencies and key stakeholders - distribution of a community fact sheet to nearby residences and businesses - focus groups to examine community attitudes and sentiment - distributed newsletter to residents of the Astoria Towers, local community groups and local businesses and stakeholders - surveys of visitors to the STAR to seek feedback on local amenity aspects and preferences - contacting local community groups to seek ideas and input. - providing a mechanism via e-mail and phone for community feedback. • The Department notes it has appropriately exhibited the EA and the and notified the RtS in accordance with the requirements of the EP&A Act as stated in Section 4. 	<p>No additional conditions or amendments are necessary.</p>

- The Department is satisfied that sufficient consultation has been undertaken to allow for the assessment and determination of the application.

Privacy	<ul style="list-style-type: none"> • Concerns were raised in public submissions that the tower would overlook neighbouring habitable room windows. • As shown at Appendix C, the proposal exceeds the ADG recommended minimum separation distance. 	No additional conditions or amendments are necessary.
Anti-social behaviour	<ul style="list-style-type: none"> • Concerns were raised in public submissions the expansion of the existing night-club would result in an increase in anti-social behaviour. • The Proponent confirmed the increase in floor area associated with the night-club is back-of-house only • The Modification would not materially alter the operation of environmental impacts of the night-club • The Department therefore considers the Modification would not result in additional anti-social behaviour 	No additional conditions or amendments are necessary.
Social infrastructure	<ul style="list-style-type: none"> • Concern was raised in public submissions the proposal would place demands on existing social infrastructure • The proposal includes the provision of a neighbourhood centre • The Department notes that school capacities are separately reviewed by the Department of Education and if supported, the proposal would be subject to Developer contributions to Council which would need to be secured by conditions. 	Developer contributions to be secured by conditions if it is determined that the proposal should proceed.
Council's LEP/DCP controls	<ul style="list-style-type: none"> • Concern was raised in public submissions and by Council that the proposal should comply with Council's LEP and DCP controls for the site. • Under section 75W, Council's LEP and DCP controls do not apply to the site. • The Department has considered the proposal at Section 6 	No additional conditions or amendments are necessary.
Adverse impact on property values	<ul style="list-style-type: none"> • Concern was raised in public submissions the proposal would have an adverse impact on property values. • The Department notes matters relating to the private contracts of sale and/or value of properties are not planning matters for consideration and therefore objections based on loss of property value are not able to inform the assessment of the application. 	No additional conditions or amendments are necessary.



7. Evaluation

The Department has assessed the merits of the proposal taking into account the issues raised in submissions as well as the Proponent's responses to these and all information submitted in support of the proposal. The Department notes that the proposal involves a new hotel and residential tower above the Star Casino building, Pyrmont, together with internal and external changes to the existing building.

The Department is satisfied that the proposal meets the scope for a modification under section 75W, as SEARs were requested before 1 March 2018. The Department is also satisfied that the modification request documents addressed the minimum information requirements of the SEARs.

The Department notes that the proposal has followed an alternative excellence design process. The Department is satisfied that the alternative design excellence competition was carried out in accordance with the SEARs and the competition brief. However, the Department also notes the competition brief was limited to achieving the outcome of a tall tower in this specific location and did not consider alternative approaches to the development.

The Department concludes that the objectives of design excellence is about more than the architecture of a structure or building. The context within which any object sits is also an important consideration. This conclusion is supported by the comments of the design competition panel on urban context who recommended the project needed to demonstrate how it could relate to the planning for other areas west of the CBD including Darling Harbour and the Bays Precinct.

The Department has sought independent design advice to assist in its assessment. The Department agrees with the conclusions reached in the independent advice in relation to the tower being isolated, overly dominant, unrelated to its context and having adverse visual impact. The Department also acknowledges the conclusions of the advice in relation development precedent, that if approved, a tower would redefine the context within which future development is assessed, out of step with any adopted planning policy.

The Department has identified a number of impacts and also aspects of the Proponent's justification for the proposal which are not supported for the reasons discussed below.

The proposal is not considered to be fully consistent with the design principles contained in SEPP 65 that are relevant to the residential component including context and neighbourhood character; scale and built form; aesthetics and density.

The Department does not accept the Proponent's contextual or strategic justification for a tower in this location. The Department does not accept the Proponent's justification that the proposed tower sits within a 'global waterfront precinct'. The Department considers there to be several reasons why the Proponent's 'global waterfront precinct' cannot be relied upon to justify a tower in this location:

- the concept does not have any planning weight
- has not been subject to any community consultation as part of a strategic planning process
- does not form part of any current or planned Government policy
- the proposed tower is isolated from the clusters of tall buildings that define the western edge of the CBD and sit within identified development precincts, such as Barangaroo and Darling Harbour
- does not adequately consider the current or future character of the immediate site context including the lower scale character of Pyrmont
- is reliant on matters which have not been committed to including a metro station at Pyrmont and future tall towers within the Bays Precinct.

The Proponent's justification for a tower also fails to adequately respond to the local character of Pyrmont. Pyrmont is characterised by an established low to medium scale character whilst supporting reasonably high levels of density. Furthermore, Pyrmont is not specifically identified in any strategic planning documents to accommodate future growth in the form of very tall buildings or significantly increased density.

The Department considers a more reasonable built form context for the site is one defined by the established area of Pyrmont, separate to the strategically identified precincts of Darling Harbour the CDB and Barangaroo.

The Department considers the proposal is contrary to several of the principles outlined in Planning Principle no.4 of the LEC case. The impacts of the proposed tower are not consistent with the impacts that may be reasonably expected from an LEP complaint envelope; the proposed height and bulk significantly exceed the height and bulk of existing buildings; the proposed tower is at odds with the predominant low-to-medium rise-built form character of the surrounding area and it is overly dominant.

The Department acknowledges the proposed tower would be imposing when viewed from within the Pyrmont conservation area and be proximate in views of local heritage items. However, it is considered the tower is located a sufficient distance from the conservation area so as not to directly impact its setting or preclude an ability to appreciate proximate heritage items. The Department concludes that although minor, the heritage impacts of the proposal would only occur as the result of an unacceptable form of development and therefore should not be supported.

The assessment has confirmed the proposal would result in overshadowing of Union Square and Pyrmont Bay Park and result in detrimental view impacts to number of residential properties. Individually, these various amenity impacts may be minor to moderate, however they have a cumulative impact. Furthermore, these amenity impacts are the result of the proposed built form of the tower which is not supported because it is inappropriate to its context and does not assist in the delivery of any significant public benefit other than the neighbourhood centre. The Department considers that the additional amenity impacts are not justified by the proposal and that the additional amenity impacts resulting from the proposed built form should not be supported at this time.

The Department acknowledges the economic and social benefits that would arise from the proposal including the creation of new construction and operational jobs, standard developer contributions, affordable housing contributions, and the broader economic benefits related to a new hotel and upgraded Casino facilities. The Neighbourhood centre is also supported by the Department as a direct public benefit.

The Department notes however the nature and type and of benefits proposed are typical for a development of this size noting the only unique public benefit offered by the proposal is limited to the 1691m² neighbourhood centre. Overall, the Department does not consider the identified benefits are sufficient to offset the impacts that this assessment has identified would be caused by the proposed tower.

The Department concludes that the proposal is not in the public interest and not wholly consistent with objects c) and g) of the EP&A Act. It would fail to promote the orderly use and development of land (object c) as the siting of a tall tower in this location:

- is inconsistent with the current strategic planning for the area
- would fundamentally change the established character of Pyrmont
- could set an unwelcome precedent for further tall buildings, outside of any adopted strategic planning policy framework.

Furthermore, it would not promote good design and amenity of the built environment (object g)) as:

- the scale of the proposed tower is out of character with its immediate context
- the tower would result in unacceptable visual impacts due its scale, isolation and visual dominance of the existing Pyrmont townscape and wider view impacts.

The Departments assessment has also considered a range of issues including those raised in Council, government agencies and public submissions. The Department has had regard to the advice provided by the independent design advisor. It is concluded that many of the identified assessment issues could be acceptable or capable of being acceptable subject to appropriate mitigation. These include noise, signage, residential amenity, traffic and parking, landscaping and the summary of 'other issues' listed in **Table 18**.

It must be noted that specific forms of mitigation have not been identified and/or recommended for every issue which may require mitigation. This is because the overall conclusion reached by the Department's assessment is that the project should not proceed. Should the Commission consider the project is capable of being approved, further details of mitigation measures would need to be defined by robust and detailed conditions of approval.

The Department concludes that the application is not approvable, for the reasons outlined in **Appendix H**. This assessment report is hereby presented to the Commission for determination.

Endorsed by:



David McNamara

Director

Key Sites Assessments

Endorsed by:



Anthea Sargeant

Executive Director

Compliance Industry and Key Sites



Appendices

Appendix A – List of Documents

Appendix B – Relevant Supporting Information

Appendix C – Consideration of Environmental Planning Instruments

Appendix D – Previous Modifications to MP 08_0098

Appendix E – Surrender of Council Consents

Appendix F – Key Issues – Council and Community Views

Appendix G – Copies of Submissions

Appendix H – Draft Notice of Decision

Appendix I – Department’s Visual Impact Assessment (Tenacity steps 1-3)

Appendix J – Independent Design Advice

Appendix A – List of Documents

List of key documents relied on by the Department in its assessment:

- Environmental Assessment Report and attachments, prepared by Urbis, dated 13 August 2018
- Response to Submissions and attachments, prepared by Urbis, dated November 2018
- Response to the notification of submissions and attachments prepared by Urbis, dated 17 January 2019 and 31 January 2019

Appendix B – Relevant Supporting Information

The following supporting documents and supporting information to this assessment report can be found on the Department's website at:

1. Modification Request Environmental Assessment Report
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7466
2. Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7466
3. Response to Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7466
4. Supplementary information and amendments
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7466

Appendix C – Consideration of Environmental Planning Instruments

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

EPIs considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
- Draft Remediation of Land State Environmental Planning Policy (draft Contamination SEPP)
- State Environmental Planning Policy No.64 – Advertising and Signage
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, including the Apartment Design Guide (ADG)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)

State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP (ISEPP) aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

The project approval is 'traffic generating development' under Schedule 3 of the ISEPP. In addition, the proposal includes more than 200 car parking spaces and more than 2,000 m² retail and therefore is a development to which the ISEPP applies. The ISEPP requires the development be referred to RMS for comment.

The application was referred to RMS in accordance with the ISEPP. RMS' submissions on the proposal are summarised at **Section 5**.

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application.

Contamination has been addressed in previous approvals on the site including DA 33/94 (Original Major Project Approval) and MPO8_0098 (Project Star). These assessments included the separate portions of the site before they were amalgamated into the current land title (Lot 500 in DP 1161507).

These separate (former) lots as well as the relevant contamination assessment conclusions are summarised below:

- Lot 122 in DP 828957 (former Power Station Site – western portion of the subject site): A formal Section 35 Revocation notice (Revocation Notice 379) was issued by the EPA on 13 May 1994 confirming that it is satisfied that the site has been remediated in accordance with acceptable limits for medium density residential housing purposes.
- Lot 121 in DP 828957 (former Switching Station Site – southern corner of the subject site): A Phase 1 Contamination Assessment was provided as part of MPO8_0098 confirming that the potential for contamination associated with the site for a commercial land use is likely to be generally low.
- State Rail Authority Site – eastern portion of the subject site: DA 33/94 was accompanied by a report by AGC Woodward Clyde (Feb 1994) that concluded that the SRA land contains no adverse levels of contamination and that based on the results of the site investigation and the health risk assessment, there does not appear to be any need to remediate the site for development to commercial/industrial or medium density residential development.

The area of significant site disturbance as part of the proposed modification is limited to the tower location which has been confirmed to contain no adverse levels of contamination.

The proponents Geotechnical Assessment notes that previous borehole testing fill material comprising sandy fill with sandstone gravel, cobbles and boulders, with sandstone bedrock encountered between RL 100.10 and RL 103.00.

If it was determined that the proposal should proceed, conditions relating to environmental management during construction, such as details of removals of excavation material, would be required.

Draft Remediation of Land State Environmental Planning Policy

The Department is reviewing all State Environmental Planning Policies to ensure they remain effective and relevant and SEPP 55 has been reviewed as part of that program. The Department has published the draft Remediation of Land State Environmental Planning Policy (Remediation SEPP), which was exhibited until April 2018.

Once adopted, the Remediation SEPP will retain elements of SEPP 55, and add the following provisions to establish a modern approach to the management of contaminated land:

- require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant
- categorise remediation work based on the scale, risk and complexity of the work
- require environmental management plans relating to post-remediation management or ongoing management of on-site to be provided to Council.

The new SEPP will not include any strategic planning objectives or provisions. Strategic planning matters will instead be dealt with through a direction under section 117 of the EP&A Act.

The Department considers consistency with the draft Remediation SEPP could be secured by conditions if it was determined that the proposal should proceed.

State Environmental Planning Policy No. 64 – Advertising and Signage

State Environmental Planning Policy No 64- Advertising and Signage (SEPP 64) applies to all signage that under an EPI can be displayed with or without development consent and is visible from any public place or public reserve.

Under clause 8 of SEPP 64, consent must not be granted for any signage application unless the proposal is consistent with the objectives of the SEPP and with the assessment criteria which are contained in Schedule 1.

Table 19 provides an assessment of the proposed signage against the assessment criteria, noting that future signs within the proposed signage zones will be subject to separate future planning applications.

Table 19 | SEPP 64 compliance table

SEPP 64 Criteria	Department's Consideration	Consistent
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	<p>The proposed signs are appropriately located and integrated into the design and appearance of the building and the inclusion of building and business identification signage is common for tower buildings.</p> <p>However, the Department does not support the proposed tower in this location. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.</p>	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	<p>The proposed signs follow a consistent theme for signage throughout the development and wider area.</p> <p>However, the Department does not support the proposed tower in this location. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.</p>	Yes

2 Special areas

Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	<p>The proposed signage at podium level and within the existing building envelope would not detract from the amenity or visual quality of the surrounding area.</p> <p>Signage located on the tower, and in particular luminated signage at upper levels, would be highly visible from the surrounding open space and waterways. However, the Department does not support the proposed tower in this location. If it was determined that the proposal should proceed, conditions could be used to mitigate any adverse impacts to an acceptable level.</p>	No
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3 Views and vistas

Does the proposal obscure or compromise important views?	<p>The proposed signs are integrated with the proposed building and would not result in any obstruction of views. As discussed at Section 6.10, the location and content of the signs would not otherwise compromise important views to an extent greater than the tower itself.</p> <p>However, the Department does not support the proposed tower in this location. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.</p>	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	<p>The proposed tower roof level Star logo signs are located below the parapet line of the building. The location and content of the tower signs would not otherwise dominate the skyline or reduce the quality of vistas.</p> <p>In response to concerns raised by the Department, the Proponent reduced the size of the logo so that it was consistent with the size of other tower roof level signage in Darling Harbour/Barangaroo.</p> <p>However, the Department does not support the proposed tower in this location. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.</p>	Yes
Does the proposal respect the viewing rights of other advertisers?	The proposed signs do not impact upon the viewing rights of other advertisers.	Yes

4 Streetscape, setting or landscape

Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	<p>The scale, proportion and form of the proposed signs are proportionate to the scale of the building if it was determined that the proposal should proceed.</p> <p>In response to concerns raised by the Department, the Proponent reduced the size of the logo so that it was consistent with the size of other tower roof level signage in Darling Harbour/Barangaroo. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.</p>	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	<p>The proposed signage zones would contribute to the visual interest of the building by contributing to the identification and recognition of site.</p> <p>If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.</p>	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	<p>The proposed signs are considered to be sympathetic to the architectural treatment of the building.</p> <p>If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.</p>	Yes
Does the proposal screen unsightliness?		N/A

Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signs do not protrude above the parapet line of the building. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.	Yes
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Does the proposal require ongoing vegetation management?	The signs would not require ongoing vegetation management.	Yes
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5 Site and building

Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The signs have been designed to be compatible with the proposed building and its architecture. Importantly the signs have been placed to allow suitable identification without causing visual clutter. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.	Yes
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Does the proposal respect important features of the site or building, or both?	The signs have been located in the most architecturally appropriate locations to assist in place identification and wayfinding. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.	Yes
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Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signs have been integrated with the building architecture. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.	Yes
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6 Associated devices and logos with advertisements and advertising structures

Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The Star logo has been designed to be an integral part of the signage. If it was determined that the proposal should proceed the proposed tower signage is likely to comply with this clause.	Yes
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7 Illumination

Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft?	The illumination of signs and signage zones would not result in unacceptable glare.	Yes
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Would illumination detract from the amenity of any residence or other form of accommodation?	The illumination would not detract from existing amenity.	Yes
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Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew?	The intensity of the illumination is not able to be adjusted and would not be subject to a curfew. If it was determined that the proposal should proceed this could be considered acceptable subject to appropriate conditions.	Yes
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8 Safety

Would the proposal reduce safety for pedestrians, particularly children, by	The signs would not obscure sightlines to or from public areas.	Yes
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obscuring sightlines from public areas?

Would the proposal reduce safety for any public road?	The signs are not considered to be out of proportion given the scale of the development. Illumination would not consist of flashing, blinking or intermittent lights. The signs would not reduce safety for any public road	Yes
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State Environmental Planning Policy No. 65 – Residential Apartment Development (incl. Apartment Design Guide)

State Environmental Planning Policy 65 – Residential Apartment Development (SEPP 65) seeks to improve the design quality of residential developments and encourage innovative design. The Apartment Design Guide (ADG) is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments.

The Department has assessed the residential component of the proposal against the SEPP 65 principles in **Table 20**.

Table 20 | Department’s consideration of SEPP 65 principles

SEPP 65 Principle	Department’s Consideration	Consistent
1. Context	The Department has considered the site context and neighbourhood character at Section 1.3 and 6.2	No
	The Department does not consider that the proposed tower responds appropriately to the desirable elements of the areas existing or future planned context and is considered contrary to Principle 1.	
2. Built Form & scale	The Department has considered the building form and scale of the development and heritage impacts at Section 6.2	No
	The Department does not consider the scale, bulk and height of the proposed tower to be appropriate to the existing or desired future character of the street, surrounding buildings or the local Pyrmont area. Further the Department considers the proposal results in impacts to local and wider views and vistas appearing isolated, visually obtrusive and unrelated to its context. Therefore, the Department considers the proposed tower is contrary to Principle 2.	
3. Density	The Department considers the acceptability of the density of the development is ultimately informed by the appropriateness of the built form and having regard to potential impact of the floorspace such as, traffic generation, amenity impacts and demand on existing/future infrastructure.	No
	The Department has considered the built form of the proposal at Section 6.2 and concludes that the proposal does not look appropriate in its context is visually obtrusive and has unacceptable impact on local and wider views. As discussed at Sections 6.3 , amenity impacts including overshadowing and private view loss are acknowledged as being relatively minor but would only occur as the result of an unacceptable form of development and are therefore not considered to be justified by the proposal.	
	Whilst the proposal includes an affordable housing contribution, public domain improvements, and an on-site neighbourhood centre as discussed at Section 6.4 . These are not considered sufficient to outweigh the impacts of the proposal. The Department concludes the proposal unreasonably impacts on the surrounding neighbourhood and is not consistent with the existing or planned future density for Pyrmont and is therefore contrary to Principle 3.	
4. Resource, energy and water	A BASIX report and certificate was provided with the RtS and demonstrates that the proposed development meets the BASIX water, thermal and energy efficiency targets. Further, Ecologically Sustainable Development principles have been incorporated into the proposal including the installation of solar photovoltaic panels (165 kilowatts). The residential component of the tower will be considered against Green Star ratings. If it was determined that	Yes

the proposal should proceed, the Department considers it could comply with Principle 5 subject to the attachment of suitable conditions securing the proposed sustainability measures.

5. Landscape	The proposal includes a landscaped podium roof and public domain improvements. If it was determined that the proposal should proceed, the Department considers the proposed landscaping could comply with Principle 6 subject to the attachment of suitable conditions	Yes
6. Amenity	The proposal complies with principle 6. of SEPP 65 and, despite some minor non-compliances, generally meets the recommended standards of the ADG. Overall the proposal would achieve a satisfactory standard of residential amenity. The proposed apartments will achieve satisfactory levels of privacy, private open space, solar access and natural ventilation.	Yes
7. Safety	The building has been designed to provide passive and active surveillance of the surrounding public domain. The location of trees, planters and bollards delineate pedestrian and shared spaces to minimise the risk of pedestrian/vehicular conflicts. Secure entrances are provided to the tower at Jones Bay Road and within The Star. Access to the car stacker within the basement is achieved by use of a security key and direct lift access is provided between the car stacker and residential tower. Residential storage/bicycle storage is provided within a secure basement level and accessed by the residential (lobby) lifts and the car stacker lift.	Yes
8. Social dimensions and Housing affordability	The proposal includes an affordable housing contribution of \$\$1,856,696.97. The Department considers that the proposed contribution would need to be confirmed by Council and secured via condition with payment prior to any works commencing on the site.	Yes, subject to agreement with Council
9. Aesthetics	The Department has considered the architectural expression of the tower at Section 6.1 and the modification to the existing casino building at Section 6.5 . The modification was subject to a design excellence process and the Department accepts the DRP's advice that the proposal buildings architecture exhibits design excellence in accordance with the brief. However, the Department does not consider that the proposed tower responds to the existing or desired future character of the area and is therefore contrary to Principle 9.	Yes

The Department has assessed the proposal against the relevant recommended criteria of the ADG at **Table 21**

Table 21 | The Department's consideration of the relevant recommended criteria of the ADG

ADG Criteria	Proposal	Consistency
3B Orientation		
<ul style="list-style-type: none"> Building type/layouts respond to streetscape, optimising solar access Overshadowing of neighbouring properties is minimised 	<ul style="list-style-type: none"> All apartments have an unobstructed outlook, which has maximised solar access. As discussed at Section 6.3, overshadowing of neighbouring properties has been minimised with only 2 instances so noncompliance with minimum solar access standards. 	Yes
3C Public Domain Interface		
<ul style="list-style-type: none"> Transition between public/private without compromising security 	<ul style="list-style-type: none"> Active frontages have been maximised and residential accesses are easily identifiable. 	Yes

- Amenity of public domain is retained and enhanced
- Suitable public domain/landscaping has been provided.

3D Communal and Public Open Space

- | | | |
|---|---|------------|
| <ul style="list-style-type: none"> • minimum 25% of the site • minimum 50% direct sunlight to principal usable part of the communal open space for a minimum of 2 hours in mid-winter • Communal open space is designed to maximise safety and a range of activities | <ul style="list-style-type: none"> • A total of 675.27 m² residential communal open space is provided on the roof of the podium (Level 7), which equates to 28% of the tower site. • The residential communal open space receives approximately 3 hours of direct sunlight in mid-winter (between 1 pm and 3 pm). • The communal open space has been designed in accordance with CPTED principles. The space includes a deck, swimming pool and hard/soft landscaping. In addition, the space adjoins change facilities, gym and BBQ areas. | <p>Yes</p> |
|---|---|------------|

3E Deep Soil Zones

- | | | |
|--|--|-------------------------------------|
| <ul style="list-style-type: none"> • For sites greater than 1,500m² a minimum of 7% of the site should provide for deep soil zone(s) | <ul style="list-style-type: none"> • No deep soil zones are provided on the tower site. • The Proponent has stated that due to the existing 100% site coverage it has not been possible to include deep soil zones. In addition, the development includes appropriate stormwater solutions / onsite retention. • The Department considers that the lack of dedicated deep soil zone(s) within the site is acceptable as: <ul style="list-style-type: none"> o the development is located in a dense urban area and it is not unusual for buildings in such locations to occupy the entire site o new replacement (native) street trees are proposed around the site and the development includes varied soil depths and extensive planting at ground, podium and terrace/roof top levels o the ground floor uses in the podium are entirely non-residential (with the exception of the residential lobby) o the site adjoins existing public open spaces, including Pyrmont Bay Park and Metcalfe Park o the hydrological impacts of the 100% site coverage will be mitigated by proposed stormwater infrastructure, including on-site retention. | <p>No, but adequately addressed</p> |
|--|--|-------------------------------------|

3F Visual Privacy

- | | | |
|---|---|------------|
| <ul style="list-style-type: none"> • Minimum separation distance from building to side boundary: | <ul style="list-style-type: none"> • The residential apartments are located on all floors of the tower between Levels 5 and 38. The closest neighbouring residential buildings to the tower are: | <p>Yes</p> |
|---|---|------------|

Height	Habitable rooms and balconies	Non-habitable rooms

- Watermark, 2 Jones Bay Road (8-storeys), located 30 m to the west

Up to 12m (4 storeys)	6m	3m	- 8 Jones Bay Road (4-storeys), located 22 m to the north-west.
Up to 25m (5-8 storeys)	9m	4.5m	• The proposal exceeds the ADG recommended minimum visual privacy separation distances.
Over 25m (9+ storeys)	12m	6m	

3G Pedestrian Access to Entries

<ul style="list-style-type: none"> • Building entries and pedestrian access connects to and addresses the public domain • Access, entries and pathways are accessible and easy to identify • Large sites provide pedestrian links for access to streets and connection to destinations 	<ul style="list-style-type: none"> • The main pedestrian residential entrance to the tower is located on Jones Bay Road, is easily identifiable, is accessible. A secondary access is provided directly into The Star and is also easily identifiable and accessible. • Due to its nature and layout The Star complex already provides for through site links and pedestrian permeability. The modifications to The Star would improve wayfinding throughout the complex. 	Yes
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3H Vehicle Access

<ul style="list-style-type: none"> • Vehicle access points are to be designed to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes. 	<ul style="list-style-type: none"> • Residential car parking is provided within the basement levels beneath the tower and accessed via the existing service road and a car stacker (with secure entry system). 	Yes
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3J Bicycle and Car Parking

<ul style="list-style-type: none"> • Minimum parking requirement as set out in the Guide to Traffic Generating Developments or local Council requirement, whichever is the less • Parking is available for other modes of transport • Car parking design access is safe and secure • Visual and environmental impacts of underground, at grade or above ground car parking are minimised 	<ul style="list-style-type: none"> • The Department has considered car and bicycle parking at Section 6.4.4 • A total of 220 residential car parking spaces are provided in accordance with Council's SLEP 2012 controls. • A total of 224 residential bicycle parking spaces (204 for residents and for 20 visitors) are provided in accordance with Council's controls. • The Star complex includes taxi ranks, coach parking, and 2,795 (existing) on-site car parking spaces for visitors. • The residential car stacker is accessed via a secure entry system providing adequate safety and security. • Access to the residential car parking is via the existing enclosed service road and would therefore not have any visual impacts. 	Yes
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4A Solar and Daylight Access

<ul style="list-style-type: none"> Minimum of 70% of apartments' living rooms and private open spaces receive 2 hours direct sunlight between 9 am and 3 pm in mid-winter in the Sydney Metropolitan Area Maximum of 15% of apartments have no direct sunlight between 9 am and 3 pm in mid-winter Shading and glare control is provided 	<ul style="list-style-type: none"> Over 70% of all apartments receive two hours of direct sunlight in mid-winter between 9 am and 3 pm. There are only 12 single aspect, south facing apartments (6% of all apartments) comprising three 1 bedroom and nine 2-bedroom apartments. Shade a glare control has been incorporated into the design of the façade. 	Yes
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4B Natural Ventilation

<ul style="list-style-type: none"> At least 60% of apartments are cross ventilated in the first nine storeys (apartments 10 storeys or greater are deemed to be cross ventilated) Overall depth of a cross-over or cross-through apartment does not exceed 18m 	<ul style="list-style-type: none"> There are four storeys with apartments within the first nine storeys of the development and 70% of these are naturally cross ventilated. No cross-over or cross-through apartments are proposed. 	Yes
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4C Ceiling Heights

<ul style="list-style-type: none"> Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> Habitable rooms 2.7m Non-habitable rooms 2.4m 	<ul style="list-style-type: none"> All habitable rooms, with the exception of some kitchens, will achieve a minimum ceiling height of 2.7 m. Approximately 20% of all kitchens are proposed with 2.4 m ceiling heights. If it was determined that the proposal should proceed the Department considers these instances of non-compliance would be acceptable as: <ul style="list-style-type: none"> the affected areas (i.e. which are located further than eight metres from a window) comprise non-habitable rooms, including entrance halls, kitchens circulation areas, walk-in wardrobes and bathrooms the lower floor to ceiling heights (2.4 m) is limited to only 20% of all kitchens and all of those kitchens form part of open-plan kitchen-living rooms where the living room meets or exceeds the minimum floor to ceiling height standard the proposed layout and design of the apartments meet or exceed other internal amenity criteria of the ADG and will therefore provide for a high standard of overall amenity. 	No, but adequately addressed
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4D Apartment Size and Layout

<ul style="list-style-type: none"> Minimum apartment sizes <ul style="list-style-type: none"> Studio 35 m² 1 bedroom 50 m² 2 bedroom 70 m² 	<ul style="list-style-type: none"> All apartments meet or exceed the ADG recommended minimum apartment sizes. Every habitable room has a window with total glass area more than 10% of the floor area. No rooms borrow daylight or air from other rooms. 	No, but adequately addressed
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- 3 bedroom 90 m²
- Every habitable room must have a window in an external wall with a total glass area of not less than 10% of the floor area. Daylight and air may not be borrowed from other rooms
- Habitable room depths are limited to 2.5 x the ceiling height
- In open plan layouts the maximum habitable room depth is 8m from a window
- Master bedroom have a minimum area of 10m² and other bedrooms have 9m²
- Bedrooms have a minimum dimension of 3m (excluding wardrobes)
- Living rooms have a minimum width of:
 - 3.6 m for studio and one bed
 - 4 m for 2 and 3 bed
- The width of cross-over or cross-through apartments are at least 4m internally.
- The depths of a number of open plan kitchen / living rooms exceed the ADG recommended depth (6.75 m) of 2.5 x ceiling height.
- All open plan layouts provide for habitable room depths equal to or less than 8 m from an external window or internal winter-garden window.
- All apartments comply with the ADG recommended minimum bedroom sizes.
- Due to chamfered design/layouts, the widths of a number of the living rooms do not comply the recommended ADG minimum living room widths.
- If it was determined that the proposal should proceed, the Department considers these instances of non-compliance would be acceptable as:
 - The deviations are generally minor in nature. In particular,
 - The layout of apartments are flexible, generally square/rectangular in shape and can accommodate likely future furniture.
 - The amenity of these apartments is of a high standard, including appropriate outlook, access to daylight/sunlight and natural ventilation.
 - All apartments either meet or exceed the ADG minimum overall apartment sizes.
- No cross-over or cross-through apartments are proposed.

4E Private Open Space and Balconies

- | | | |
|---|---|-------------------------------------|
| <ul style="list-style-type: none"> • Primary balconies are provided to all apartments providing for: <ul style="list-style-type: none"> • Studios apartments min area 4m² • 1 bed min area 8m² min depth 2m • 2 bed min area 10m² min depth 2m • 3 bed min area 12m² min depth 2.5m • For apartments at ground floor level or similar, private open space must have a minimum area of 15m² and depth of 3m² • Private open space and primary balconies are integrated into and contribute to the architectural form and detail of the building • Primary open space and balconies maximises safety | <ul style="list-style-type: none"> • All apartments are provided with balconies in the form of winter-gardens, with the exception of five, 1 bedroom apartments on Levels 9 to 15, which are provided with Juliette balconies due to size constraints. In addition, there are a number of balconies that do not meet the minimum depth requirements. • If it was determined that the proposal should proceed, the Department considers the Juliette balconies are acceptable given the size constraints of the respective flats • The Department considers that other undersized balconies could be conditioned to be enlarged to provide and acceptable level of amenity. • There are no ground floor level apartments. • All winter gardens are integrated into the design of the building. • All winter gardens are internal to the apartments and therefore are secure. | <p>No, but adequately addressed</p> |
|---|---|-------------------------------------|

4F Common Circulation and Spaces

<ul style="list-style-type: none"> • Maximum number of apartments off a circulation core is eight – where this cannot be achieved, no more than 12 apartments should be provided off a single circulation core. • For buildings 10 storeys and over, the maximum number of apartments sharing a single lift is 40 • Natural ventilation is provided to all common circulation spaces where possible • Common circulation spaces provide for interaction between residents • Longer corridors are articulated 	<ul style="list-style-type: none"> • A maximum of seven apartments are provided each floor off a single circulation core. • A total of 203 apartments are served by three lifts (68 apartments per lift). • The Proponent has provided a Vertical Transportation Plan (VTP), which analyses the capacity, performance and suitability of the tower’s three passenger lifts to meet future needs. The VTP concludes that the lifts will have the capacity to handle 7% of the building’s residential population at any one time and a waiting time of approximately 50 seconds or less. Based on this, the Proponent asserts that the lift system will provide future tenants and visitors with a good level of service • If it was determined that the proposal should proceed the Department considers, on balance the proposal for three lifts could provide an acceptable level of service as: <ul style="list-style-type: none"> o the exceedance of the ADG recommended number of apartments per lift (11 apartments) is minor in nature o the proposed building will provide for a high standard of internal amenity, including a lobby with seating opportunities, articulated and short internal corridors and access to natural light and ventilation o the VTP has confirmed that a waiting time of up to 50 seconds is within the standard benchmark for a normal residential tower development (being between 30 and 60 seconds). • The residential lobby, communal open space and lift lobbies provide opportunity for interaction. • Corridors are not excessively long and include articulation. 	<p>No, but adequately addressed</p>
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4G Storage

<ul style="list-style-type: none"> • The following storage is required (with at least 50% located within the apartment): <ul style="list-style-type: none"> • Studio apartments 4m³ • 1-bedroom apartments 6m³ • 2-bedroom apartments 8 m³ • 3-bedroom apartments 10 m³ 	<ul style="list-style-type: none"> • Residential apartments meet the ADG recommended minimum storage requirements. 	<p>Yes</p>
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4H Acoustic Privacy and 4J Noise and Pollution

<ul style="list-style-type: none"> • Noise transfer is minimised through the siting of buildings and building layout and minimises external noise and pollution. 	<ul style="list-style-type: none"> • The tower is located at the northern end of the site, away from the main part of The Star complex. In addition, the tower lift core has been located on the 	<p>Yes</p>
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- Noise impacts are mitigated through internal apartment layout and acoustic treatments.

western elevation and lifts adjoin a maximum of only two apartments per floor.

4K Apartment Mix

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|--|---|------------|
| <ul style="list-style-type: none"> • Provision of a range of apartment types and sizes • Apartment mix is distributed to suitable locations within the building. | <ul style="list-style-type: none"> • A variety of apartment sizes and types (below) are have been provided and appropriately located within the tower: <ul style="list-style-type: none"> • 40% 1- bedroom • 51% 2- bedroom • 9% 3 – bedroom | <p>Yes</p> |
|--|---|------------|

4M Facades

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|--|--|-----------|
| <ul style="list-style-type: none"> • Building facades provide visual interest along the street while respecting the character of the local area • Building functions are expressed by the facade | <ul style="list-style-type: none"> • The Department has considered the architectural expression of the tower at Section 6.1 and the modification to the existing casino building at Section 6.5. • The modification was subject to a design excellence process and the Department accepts the DRP’s advice that the proposal buildings architecture exhibits design excellence in accordance with the brief. However, the Department does not consider that the proposed tower responds to the existing or future local context or character. • The selected materials from ground to podium level are considered to respect the character of the local area and the building functions are clearly expressed by the various facades at street level. | <p>No</p> |
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4N Roof Design

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|---|---|------------|
| <ul style="list-style-type: none"> • Roof treatments are integrated into the building design and positively respond to the street • Opportunities to use roof space for accommodation and open space is maximised • Roof design includes sustainability features | <ul style="list-style-type: none"> • The roof design of the building is architecturally expressed and visually interesting. • Communal open space is provided at level 7, which includes planting. • Areas of green roof are provided. | <p>Yes</p> |
|---|---|------------|

4O Landscape Design and 4P Planting on Structures

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|--|--|------------|
| <ul style="list-style-type: none"> • Landscape design is viable and sustainable • Landscape design contributes to streetscape and amenity • Plant growth is optimised with appropriate selection and maintenance • Appropriate soil profiles are provided, and plant growth is maximised (selection/maintenance) | <ul style="list-style-type: none"> • A detailed landscaping strategy and plans have been prepared by the Proponent, which demonstrate that the landscaping for the site is viable and sustainable and will contribute to the streetscape and amenity. • The plant schedule for the development includes a majority of Australian native plants, which will reduce maintenance/watering requirements. • Raised planters are provided at upper levels providing appropriate soil profiles for trees and shrubs. | <p>Yes</p> |
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- Building design includes opportunity for planting on structure

4Q Universal Design

<p>Universal Design Guidelines (20% of apartments)</p>	<ul style="list-style-type: none"> • The Proponent has confirmed 20% of all apartments comply with the ADG recommended Universal Design Guidelines standards. To ensure this is the case, a condition would be required securing 20% of apartments meet the standards if it was determined that the proposal should proceed. 	<p>Yes</p>
<p>Safe and continuous levelled path to entrances</p>		
<p>Accessible entry door with a minimum 820mm clear opening width and a step-free threshold</p>		
<p>Level landing area of 1200mm x 1200mm at the entrance door</p>		
<p>Internal doors with a minimum 820mm clear opening width and a step-free transition between surfaces</p>		
<p>Internal corridors with a minimum of 1000mm clear width.</p>		
<p>Step free shower recess</p>		
<p>Bathroom wall is reinforced for grab rails around the toilet, shower and basin.</p>		
<p>A toilet is provided on the ground or entry level in multi-level</p>		
<p>apartments that provide:</p> <ul style="list-style-type: none"> • minimum clear width of 900mm between walls • minimum clear circulation space forward of the toilet pan of 1200mm (excluding the door swing) 		
<ul style="list-style-type: none"> • A variety of apartments with adaptable designs are provided 	<ul style="list-style-type: none"> • A total of 30 adaptable apartments in accordance with Council's requirements. A condition would be required to secure the provision of these adaptable apartments. 	<p>Yes</p>
<ul style="list-style-type: none"> • Apartments layouts are flexible and accommodate a range of lifestyle needs 	<ul style="list-style-type: none"> • The apartments have been designed with logical and flexible layouts to accommodate a range of lifestyle needs. 	

4S Mixed Use

<ul style="list-style-type: none"> • Mixed use developments are provided in appropriate locations and provide street activation and encourage pedestrian movement 	<ul style="list-style-type: none"> • The development appropriately activates the street and encourages pedestrian movement through and around the complex. 	<p>Yes</p>
<ul style="list-style-type: none"> • Residential levels are integrated within the development, safety and amenity is maximised. 	<ul style="list-style-type: none"> • All residential levels are integrated into the tower and safety and amenity have been maximised. 	

4T Awning and Signage

<ul style="list-style-type: none"> • Awnings are well located and complement and integrate with the building • Signage responds to the context and design streetscape character 	<ul style="list-style-type: none"> • There are no awnings associated with the residential component of the development. All new awnings/covered areas associated with the hotel component and modifications to the existing Star complex have been integrated into the design of the building and complement the overall appearance of the development. • The Department has considered signage at Appendix C and Section 6.10, and concludes that if it was determined that the proposal should proceed proposed signage would be acceptable. 	<p>No, but adequately addressed</p>
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4U Energy Efficiency

<ul style="list-style-type: none"> • Development incorporates passive environmental and solar design • Adequate natural ventilation minimises the need for mechanical ventilation 	<ul style="list-style-type: none"> • The residential component meets or exceeds BASIX water, thermal and energy efficiency targets. • All apartments will have excellent access to daylight. As discussed at point 4A, over 70% of all apartments receive two hours of direct sunlight in mid-winter and only 12 single aspect, south facing apartments (6% of all apartments) are provided. • Natural ventilation is provided to all apartments. 	<p>Yes</p>
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4V Water Management and Conservation

<ul style="list-style-type: none"> • Potable water use is minimised • Urban stormwater is treated on site before being discharged to receiving waters • Flood management systems are integrated into the site design 	<ul style="list-style-type: none"> • Water efficiency will be achieved via efficient water fixtures and fittings, water meters and extension of the existing site recycled water system to the tower. • The development would be incorporated into The Star's existing Water Sensitive Urban Design strategy, including rainwater harvesting and reuse, flooding and drainage. 	<p>Yes</p>
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4W Waste Management

<ul style="list-style-type: none"> • Waste storage facilities are designed to minimise impacts on streetscape, building entry and residential amenity • Domestic waste is minimised by providing safe and convenient source separation and recycling 	<ul style="list-style-type: none"> • The residential waste storage room is located on Level 1 and would not be visible from the street. • The waste room is conveniently accessed from the residential lobby by stairs or directly from apartments by lift and includes sufficient space for the provision of general waste and recycling facilities. 	<p>Yes</p>
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4X Building Maintenance

<ul style="list-style-type: none"> • Building design detail provides protection from weathering • Systems and access enable ease of maintenance • Material selection reduced ongoing maintenance cost 	<ul style="list-style-type: none"> • The building has been appropriately designed to allow ease of maintenance. • High quality materials have been selected, which are durable and likely to minimise ongoing maintenance costs. 	<p>Yes</p>
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State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The BASIX SEPP encourages sustainable residential development across NSW by setting targets that measure the efficiency of buildings in relation to water, energy and thermal comfort. The BASIX SEPP requires all new dwellings meet sustainable targets of a 25% reduction in energy use (building size dependent) and 40% reduction in potable water.

The Proponent has committed to BASIX as a minimum and has provided a BASIX report and certificate (ref: 794694M) demonstrating satisfactory compliance with BASIX targets. The BASIX scores of the building are:

- Energy – 25%
- Water – 44%
- Thermal Comfort – Pass

State Environmental Planning Policy (Coastal Management) 2018

The Coastal SEPP gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective. It defines four coastal management areas and specifies assessment criteria that are tailored for each coastal management area. The consent authority must apply these criteria when assessing proposals for development fall within one or more of the mapped areas.

The Coastal SEPP identifies the site is located within the Coastal Environment and Coastal Use areas.

Clause 13(2) and 14(2) confirm the Coastal SEPP assessment criteria for identified coastal management areas do not apply to sites that are also within a Foreshore and Waterways Area as defined by the SHC SREP.

The Star is identified in as being within the Foreshore and Waterways Area and therefore the Coastal SEPP assessment criterial do not apply. The Department has assessed the proposal against the SHC SREP below.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The SREP (SHC) 2005 applies to all land within the Sydney Harbour Catchment, as shown on the Sydney Harbour Catchment Map. The Star site is within the defined Foreshores and Waterways Area and the relevant provisions of the SHC SREP have been considered in **Table 22**.

Clause 20 of the SREP identifies a range of matters which are required to be considered by consent authorities before granting consent to development under Part 4 or Part 5 of the Act. Noting this modification application is made under S.75W of the Act, Clause 20 does not strictly apply. However, to inform its merit assessment the Department has considered the relevant clauses in **Table 22**. This consideration concludes that the proposal is not consistent with Clause 25 (Foreshore and waterways scenic quality) and Clause 26 (Maintenance, protection and enhancement of views).

Table 22 | Consideration of the relevant provisions of the SREP (Sydney Harbour Catchment) 2005

Assessment criteria	Department’s consideration	Compliance
Part 1 Preliminary		
<p>Clause 2 Aims of the Plan</p> <p>This clause sets out the aims with respect to the Sydney Harbour Catchment and establishes the principles for the purpose of enabling these aims to be achieved.</p> <p>Part 1, 2 (2) For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles:</p> <p>(a) Sydney Harbour is to be recognised as a public resource, owned by the</p>	<p>Council considered the proposal to be contrary to Principles 2 a) and b) of the SHC SREP 2005</p> <p>As discussed at Section 6.2 The Department considers that the proposed tower would be unduly prominent, unrelated to its context, have unacceptable visual impacts on local and wider views and that the public benefits (Section 6.3) are not sufficient to offset these impacts. As such, the Department agrees with Council that the proposed tower would result in private good</p>	No

public, to be protected for the public good,

taking precedence over the public good contrary to Principles 2) a) and b) of the SREP (SHC)

(b) the public good has precedence over the private good whenever whatever change is proposed for Sydney Harbour or its foreshores

(c) protection of the natural assets of Sydney Harbour has precedence over all other interests.

Clause 3 Land to which plan applies	Within the Sydney Harbour Catchment, particular provisions of this plan apply to the Foreshores and Waterways Area.	The site is located within the Foreshores and Waterways Area as identified in the zoning map.	Yes
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Part 2 Planning Principles

Clause 12 Objective	These principles are to be considered and, where possible, achieved: (a) in the preparation of environmental planning instruments and development control plans under Part 3 of the Act, and (b) in the preparation of environmental studies and master plans for the purposes of the Act.	The application is a modification under s75W of the Act and therefore the principles do not strictly apply to the modification application. Council has objected on the basis of noncompliance with these principles and to inform its merit assessment the Department has considered the relevant clauses below.	N/A
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Clause 13 Sydney Harbour Catchment	Provides a set of planning principles for land within the Foreshores and Waterways Area. 13 f): development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour	Council considered that the proposal is contrary to this principle as it would result in substantial and long-term negative impacts on private views from residential dwellings and views from the public domain including Martin Place, Glebe foreshore Parks, Cockle Bay, Union Square and Pyrmont Park amongst others. The Proponent contends that the proposal: <ul style="list-style-type: none"> would not compromise the unique visual qualities of the Harbour in this location would not diminish the visual quality of the Harbour or its foreshore. would enhance the local character and broader setting and maintain important vistas to and from the Harbour. The Department considers the proposal is not consistent with Planning Principle 13 f) as it is not considered to be appropriate within its context and would have an adverse visual impact on the surrounding area and views from the foreshore at number of locations, as discussed at Section 6.2.2	No
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<p>Clause 14 Foreshores and Waterways Area</p>	<p>Provides a set of planning principles for land within the Foreshores and Waterways Area.</p> <p>14 d) development along the foreshore and waterways is to maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores</p>	<p>Council considered that the proposal is contrary to this principle as it would result in substantial and long-term negative impacts on private views from residential dwellings and views from the public domain including Martin Place, Glebe foreshore Parks, Cockle Bay, Union Square and Pyrmont Park amongst others.</p> <p>The Proponent contends that the proposal:</p> <ul style="list-style-type: none"> • would not compromise the unique visual qualities of the Harbour in this location • the tower would not diminish the visual quality of the Harbour or its foreshore. • would enhance the local character and broader setting and maintain important vistas to and from the Harbour. 	<p>No</p>
<p>Clause 15 Heritage conservation</p>	<p>Provides a set of planning principles for heritage conservation</p> <p>15 d) the natural, scenic, environmental and cultural qualities of the Foreshores and Waterways Area should be protected.</p>	<p>Heritage impacts of the proposal are discussed in section 6.2.5</p> <p>Council considered that the proposal is contrary to this principle as it would result in substantial and long-term negative impacts on private views from residential dwellings and views from the public domain including Martin Place, Glebe foreshore Parks, Cockle Bay, Union Square and Pyrmont Park amongst others.</p> <p>The Proponent contends that the proposal:</p> <ul style="list-style-type: none"> • would not compromise the unique visual qualities of the Harbour in this location • the visibility of the tower would not diminish the visual quality of the Harbour or its foreshore. • would enhance the local character and broader setting and maintain important vistas to and from the Harbour. 	<p>No</p>
<p>The Department considers the proposal is not consistent with Planning Principle 14 d) for the Foreshores and Waterways Area as the proposal is not considered to be appropriate within its context and would have an adverse visual impact on the surrounding area and views from the foreshore at number of locations, as discussed at Section 6.2.2</p>			
<p>The Department considers the proposal is not consistent with planning principle 15 d) as the proposal is not considered to be appropriate within its context and would have an adverse visual</p>			

impact on the surrounding area and views from the foreshore at number of locations, as discussed at

Section 6.2.2

Part 3 Foreshores and Waterways Area			
Division 1 Development Control			
Clause 16 Zones indicated on Zoning Map	Land is zoned in accordance with the zoning map.	The site is on land adjacent to the waterway zoned W1 – Maritime Waters.	N/A
Clause 17 Zoning objectives	The objectives of the W1 – Maritime Waters Zone should be met	The site is located adjacent to the W1 Maritime Waters Zone. However, the site located wholly on land and has no associated uses that directly rely on the waterway. The proposal will not affect the movement of commercial shipping, public water transport and maritime industry operations.	N/A
Division 2 Matters for consideration			
Clause 20 General	The matters referred to in Division 3 must be considered by the consent authority before granting consent to development under Part 4 of the Act.	The matters referred to in this division are to be taken into consideration by consent authorities before granting consent to development under part 4 of the Act and are not applicable to Part 3A projects. However, to inform its merit assessment the Department has considered the following relevant clauses.	Yes
Clause 21 Biodiversity, ecology & environmental protection	The consent authority must take into consideration the matters listed in the clause in relation to biodiversity, ecology and environmental protection.	If supported the proposal would not have any adverse impacts on the biodiversity, ecology or the general environment, stormwater quality and quantity, subject to the attachment of appropriate conditions	Yes
Clause 22 Public access to, and use of, foreshores and waterways	The consent authority must take into consideration the matters listed in this clause in relation to public access to, and use of, the foreshores and waterways.	If supported the proposal would not impact on public access to the foreshore or impact up on watercourses, wetlands, riparian lands or remnant vegetation.	Yes
Clause 23 Maintenance of a working harbour	The consent authority must take into consideration the matters listed in relation to the maintenance of a working harbour.	If supported, the proposal would not reduce the capacity of Sydney Harbour to function as a working harbour.	Yes
Clause 24 Interrelationship of waterway and foreshore uses	The consent authority must take into consideration the matters listed in this clause in relation to the interrelationship of waterway and foreshore uses.	The proposal tower is set back from the foreshore	Yes
Clause 25	The matters to be taken into consideration the matters listed in relation to the maintenance, protection and enhancement of the scenic	The Proponent contends that proposed tower would not compromise the unique visual qualities of the Harbour as it is located in an area of	N/A

Foreshore and waterways scenic quality

quality of foreshores and waterways are as follows.

(a) the scale, form, design and siting of any building should be based on an analysis of:

- (i) the land on which it is to be erected, and
- (ii) the adjoining land, and
- (iii) the likely future character of the locality,

(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries.

(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.

significant urban development as noted on the landscape character maps of the DCP

As discussed in **Section 6.2** The Department does not consider that the scale of the proposed tower relates to its context and would visually dominate the skyline at both local and distant views to the detriment of those views, contrary to 25 a) and would therefore fail to maintain, protect and enhance the unique visual qualities of Sydney Harbour contrary to 25 b).

Clause 26 Maintenance, protection and enhancement of views

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows:

- a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,
- b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,
- c) the cumulative impact of development on views should be minimised.

The Proponent contends that the proposal is appropriate to an emerging context which includes Barangaroo, the ICC hotel and the future transformation of the Bays Precinct, and although visible from a number of vantage points the visibility of the tower does not diminish the visual qualities of the Harbour or its foreshore.

As discussed in **Section 6.2** The Department does not accept the Proponent's contextual or strategic justification for a tower in this location due to the significant distance between the proposed tower and the established clusters of taller buildings within Barangaroo, the CBD and Darling Harbour. The Department considers a more reasonable built form context for the site is one defined by the established area of Pyrmont.

The Department considers that the proposed tower would appear overly dominant and incompatible with its surrounding context and would visually dominate the skyline in both local and distant views from public vantage points, to the detriment of those views contrary to 26 a) and b)

No

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

The Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (SHFW DCP) applies to sites within the Foreshores and Waterways Area as identified in the SHC SEPP. Pursuant to section 75R (1) of the EP&A Act (repealed), Part 4 and Part 5 of the Act do not apply to or in respect of an approved project. This includes the requirement under section 4.15(1) of the Act that a consent authority must take into consideration the provisions of any relevant development control plan in determining a development application (other than SSD). Whilst not strictly applicable in the context of a section 75W, to inform its merit assessment the Department has considered the relevant clauses in **Table 23**.

Table 23 | Consideration of relevant SHFW DCP guidelines

Issue	Guidelines	Department consideration
Foreshore access	<ul style="list-style-type: none"> • Foreshore access is to be encouraged and wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved • most desirable are foreshore links joining public open spaces or access points 	The proposal does not affect public access along the waterfront.
Siting of buildings and structures	<ul style="list-style-type: none"> • where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbing it • buildings should address the waterway; • buildings should not obstruct views and vistas from public places to the waterway • buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP • where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore 	The proposed building addresses the waterway and does not obstruct views and vistas from public places to the waterway.
Built form	<ul style="list-style-type: none"> • where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting • where undeveloped ridgelines occur, buildings should not break these unless they have a backdrop of trees • while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs • walls and fences should be kept low enough to allow views of private gardens from the waterway • bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting should be observed • use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied • colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP • the cumulative visual impact of a number of built elements on a single lot should be mitigated through bands of vegetation and by articulating walls and using smaller elements; • the cumulative impact of development along the foreshore is considered having regard to preserving views of special natural features, landmarks or heritage items 	<p>The Proponent contends that the proposal:</p> <ul style="list-style-type: none"> • would not impact on landmarks or heritage items identified on the DCP planning maps • despite presenting a contrasting scale or design to existing buildings, would enhance the local and broader setting and maintain important views and vistas to and from the Harbour. • the design of the tower element mitigates its visual impact in key views through articulation of the long façade of the Proposal to break down its visual bulk into different vertical elements. <p>As discussed in Section 6.2 The Department considers the proposal is not appropriate within its context and would have an adverse visual impact on the surrounding area and views from the foreshore at number of locations. Therefore, the Department does not consider that the contrasting scale of the proposal would enhance the setting.</p>
Planting	<ul style="list-style-type: none"> • appropriate species from those found in the surrounding landscape should be incorporated 	Landscaping is considered within Section 6.9.1 . If it was determined that the proposal should proceed the removal of mature trees could be considered

- endemic native species should be used in areas where native vegetation is present or has the potential to be regenerated
- exotic species that have the potential to spread into surrounding bushland should be avoided
- existing mature trees should be retained where possible and incorporated into the design of new developments
- vegetation along ridgelines and on hillsides should be retained and supplemented with additional planting to provide a backdrop to the waterway
- a landscape plan is to be submitted with any land-based development proposal showing existing and proposed changes in contours, surface and sub-surface drainage, existing trees to be retained and removed, measures to protect vegetation during construction, and proposed planting including species and common names.

acceptable due to their replacement with mature specimens of local provenance.

Redevelopment sites	<p>Redevelopment proposals should:</p> <ul style="list-style-type: none"> • ensure continuous and inviting public access to the foreshore; • allow for a mix of uses to further improve the public utility and amenity of the waterfront; • provide public jetties and wharves for access to vessels where there is a demonstrated demand; • identify suitable areas that can be conserved and made available to the public; • provide public road access to the foreshore park where a park is being provided; and • be designed considering the site in the broader context of the River and the Harbour. <p>Redevelopment sites have the potential to provide a gateway and become a waterside destination for the hinterland.</p>	<p>The proposal is located on previously developed land separated from the foreshore by existing public roads. As such there is no opportunity to enhance public access the foreshore.</p>
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Draft State Environmental Planning Policy (Environment)

The Department has been working towards developing a new policy for the protection and management of our natural environment and has published the draft Environment State Environmental Planning Policy (draft Environment SEPP), which was exhibited until January 2018.

Once adopted, the Environment SEPP will consolidate seven existing SEPPs (including the SHC SREP) to simplify the planning rules for a number of water catchments, waterways, urban bushland, and the Willandra Lakes World Heritage Property. The Environment SEPP will provide a consistent level of environmental protection to that which is currently delivered under the existing SEPPs. Where existing provisions are outdated, no longer relevant or duplicated by other parts of the planning system, they will be repealed.

The Explanation of Intended Effect states that the policy intent of the existing Harbour Regional Environmental Plan will continue, with the following updates to the aims of the plan to better reflect the current use and needs of the Harbour:

- The emphasis on public accessibility to and along the foreshore and within the waterways themselves, and on the protection and enhancement of the natural and scenic qualities will be retained, as will the emphasis on the unique identity and cultural significance of Sydney Harbour.
- The aims relating to the importance of the Harbour and its natural features as a public asset of national and international significance will be carried forward and the aims will continue to require consent authorities to give precedence to the public good and to prioritise the protection of the natural assets of the Harbour.

- The aims related to catchment management and water quality will be transferred to a new 'Catchments' section in the Environment SEPP where the generic catchment management and water quality and water quantity provisions from SEPP (Sydney Drinking Water Catchment), the Harbour Regional Environmental Plan, Georges River Regional Environmental Plan and Hawkesbury Nepean Regional Environmental Plan will be consolidated.
- It is proposed to amend aim 1(d) of the Harbour Regional Environmental Plan to clarify that the 'working harbour' includes a range of recreational, transport, tourism and commercial uses. This reflects the changes to Sydney Harbour in recent years that has seen a shift away from traditional industrial and heavy shipping uses to a more modern working harbour. The provisions will continue to provide a framework that balances development for these uses against the values of the harbour as a public asset and the need for public access to the waterways and foreshores.

With respect to Planning Principles the EIE states that:

- Clause 13, Sydney Harbour Catchment, Clause 14, Foreshores and Waterways Area and Clause 15, Heritage Conservation, will be transferred to two Ministerial Directions. The first will combine all catchment management and water quality and quantity provisions from the other catchment SEPPs. The second will combine clauses 14 and 15 into a consolidated Sydney Harbour foreshores and waterways direction which will reflect the overarching public good principles set out in the SREP (SHC)

Given that the proposal is not consistent with clause 13, 14 or 15 of the SHC SREP, the Department concludes that the proposed development will not be consistent with the provisions of the Draft Environment SEPP as they relate to the protection and enhancement of the natural scenic qualities of the harbour.

Appendix D – Previous Modifications to MP 08_0098

The project approval has been modified on 13 occasions, as summarised at **Table 24**.

Table 24 | Summary of modifications to MP 08_0098

Modification Number	Approval Date and Authority	Modifications
MOD 1	3 Mar 2009 (Department)	Modifications to Conditions A6 and B1 to provide clarity on what constitutes external artwork, lighting and signage, and alterations to the timing of compliance requirements for a number of conditions.
MOD 2	25 Mar 2009 (Department)	Modification of Condition B2 to clarify the approved hotel height and exclude lift overruns from the height limit.
MOD 3	6 Apr 2009 (Department)	Modification of Condition B4 to allow a staged agreement process between the Sydney Metro Authority and the proponent for excavation within the vicinity of the rail easement tunnel easement.
MOD 4	1 Dec 2009 (Minister)	Modifications to the façade design, consolidation of the porte cochere, reconfiguration of the entry stairs, consolidation of the entry water features to a single water feature, relocation of the gaming entry point, and a 682 m ² extension to the entertainment deck.
MOD 5	20 Jul 2010 (Department)	Modifications to Conditions A2, A3 and D11 to alter the general project arrangement, reference to revised BCA capability statement, and extend the hours for construction to 3:00pm on Saturdays.
MOD 6	9 Sept 2009 (Department)	Deletion of Level 13 of the hotel, and increased the floor to ceiling heights on Levels 11 and 12 of the hotel. The application also reduced the number of suites on Level 6 to 12 of the hotel from 14 to 7 on each floor, resulting in an overall reduction in the total number of hotel suites from 252 to 173.
MOD 7	29 Jul 2011 (Commission)	Construction of the MUEF on the Level 4 rooftop terrace area.
MOD 8	17 Nov 2010 (Department)	Partial enclosure of the existing outdoor terrace adjoining the Sovereign Room on Level 3.
MOD 9	13 Oct 2011 (Department)	Relocation of the night club to the southern end of Level 2 and relocation of the restaurant to the northern end of Level 2.
MOD 10	16 Dec 2011 (Department)	To change the cladding material on the façade of the MUEF from profiled stainless-steel sheeting (as approved under MOD 7), to starfire glass.
MOD 11	17 Oct 2012 (Department)	Amend Condition F1 'No Speakers or Outside Music' to permit the playback of background music and DJ/live band/amplified music events on the Level 3 Darling Pool Terrace of the Star Casino.
MOD 12	14 Oct 2014 (Department)	Amendment of Condition F1 to allow for the installation and use of speakers on Level 1 Pirrama Road outdoor gaming area and Level 3 Pirrama Road Entertainment Deck and amend Condition F3(2) to allow for permanent 24-hours 7 days use of the Level 1 Pirrama outdoor gaming area.

MOD 13	Current application	Refer to Section 2
MOD 14	4 Oct 2017 (Department)	Expansion of gaming floor area, enclosing the level 3 terrace and pre-function centre, internal alterations to the Astral Hotel and the SELS building, upgrades to vertical transportation, services and infrastructure, consolidation of existing development consents, enable a range of minor works to the building which would be undertaken without further approval, establish a cumulative noise management framework, allow 24-hour construction for minor internal works, extend trial periods on various gaming areas and use of outdoor speakers and other administrative amendments

Appendix E – Surrender of Council Consents

Due to the demolition and/or replacement of a number of existing food and beverage tenancies and as certain operations/works have been subsumed into the modified complex as a result of modification 13, the Proponent proposes surrender 24 redundant consents (issued by Council).

A summary of consents issued by Council to be surrendered is provided at **Table 25**.

Table 25 | Summary of consents issued by Council to be surrendered

Reference	Description	Approved
Food and Beverage Tenancies		
D/2011/18	Fitout of 180 seat licensed restaurant (Black)	17 Mar 2011
D/2011/19	Fitout of 185 seat licensed restaurant (Balla)	17 Mar 2011
D/2011/862	Fitout and use of a tenancy fronting Pirrama Rd as a restaurant with outdoor seating (Century)	11 Nov 2011
D/2013/1259	Change of use and fitout of licensed restaurant on Pirrama Rd, including alterations to façade and outdoor seating and umbrellas (Pizzaperta)	27 Sep 2013
D/2014/355	Change of use to part of Level 1 to a new licensed restaurant called 'the Star Buffet', enclosure of balcony for storage and new plant room on Level 3.	30 May 2014
D2016/1578	Increase in number of seating by 19 seats to permit a maximum patron capacity of Gojima to 68.	12 Dec 2016
Signage		
D/2011/986	Replacement of existing illuminated building identification signage on the north-eastern elevation of the Star City Casino lift shaft	1 Aug 2011
D/2011/987	Two non-illuminated identification signs located at the eastern elevation fronting Edward St and the western elevation fronting Pyrmont St	1 Aug 2011
D/2011/988	Replacement of existing illuminated building identification signage on the eastern elevation (western building) and the western elevation (eastern building) of The Star serviced apartments	1 Aug 2011
D/2011/1060	Construction of freestanding signage within the Pirrama Road forecourt of Star City Casino. The sign is to be of metal construction consisting of 7 individual letters varying in size between 1.1m and 1.96m in length, each having a width of 0.6m and a height of 2m. The signage zone is to have an area of 14.2m x 0.6m.	9 August 2011
D/2012/431	Street frontage signage for Sokoyo Restaurant in the Darling building and tenancy signage for retail component of The Star building	14 May 2012
D2015/479	Installation of free-standing steel signage and associated lighting to existing garden bed	30 Jun 2015
D2016/1368	Removal of existing glass partition with signage. New solid partition with signage	1 Feb 2017

Other Works		
D2011/893	Removal of existing central water feature and pond elements located within the ground level entry foyer of Star City Casino and replaced with sandstone flooring.	1 Aug 2016
D2011/894	Refurbishment and internal reconfiguration of hotel suites located on levels 15 and 16 within the Star City Casino complex; and conversion of an existing storage room on level 15 for use as a communications room	1 Aug 2016
D/2012/802	External illumination on three sides of the MUEF façade (including Jones Bay Rd elevation). Alterations and refurbishment of Astral Hotel lifts. Installation of internal/external lighting to The Star building	30 Jul 2012
D/2012/1006	Modification to the Level 3 entry ring, pool, landscaped roof, extension of Level 6 plant room and new stairs to the plantroom	4 Sep 2012
D2013/473	Reconfiguration of existing office space on Levels 3 and 4 including minor demolition of existing internal walls and partitions and installation of new office partitions and windows.	6 May 2013
D2013/1999	Refurbishment of wet areas	21 Jan 2014
D2014/899	Removal of existing awning and replace with new extended awning to Level 3 terrace above Jones Bay Road frontage.	1 Aug 2014
D/2015/1826	Addition of 4 new lifts within the Astral Hotel and erection of temporary marquee over the Level 3 Sky Terrace adjacent to Pirrama Road	7 Apr 2016
D2015/1064	Removal of the existing Astral Towers observation lifts from Level 01 to level 17, and installation of works to seal openings.	11 Sep 2015
D/2015/1187	Conversion of hotel suites on Level 5 of the Astral Hotel to a business centre and VIP check-in and guest lounge	3 Nov 2015
D/2016/48	Installation of new lift, lobbies and terrace areas adjacent to the Level 5 VIP guest lounge (Pyrmont Street) of the Astral Hotel.	15 Jul 2016

Appendix F – Key Issues – Council and Community Views

A summary of the Department’s consideration of the key issues raised in submissions is provided at **Table 26**.

Table 26 | Department’s consideration of key issues raised in submissions

Issue raised	Consideration
The proposal does not qualify as a modification	<ul style="list-style-type: none"> • Section 4 considers the statutory context of the modification. • As the Proponent made a request to modify the Part 3A approval and requested environmental assessment requirements (EARs) for the proposal on 17 December 2016 (before 1 March 2018), the Part 3A provisions and specifically the power under s.75W to modify the approval continue to apply to and in respect of the project (clause 3 and 3BA of Schedule 2 to the ST&OP Regulation). • In the context of section 75W the Minister has a broad discretion to approve, or disapprove, a request to modify. The discretion is constrained by matters including the words of section 75W, and the scope of the subject matter, purpose of the EP&A Act and guidance is given in principles established in case law. • Section 75W provides that a modification of an approval means ‘changing the terms of the approval to carry out a project or concept plan under Part 3A, including by revoking or varying the conditions or imposing an additional condition of the approval. For a request to modify an approved project submitted before 1 March 2018, the change must be a modification, rather than a wholesale or radical change. It is notable, however that there is no equivalent limitation on the power to modify as applies under s 4.55, EP&A Act and cl 3BA (6), EP&A (STOP) Reg (which apply the substantially the same development criteria). • The Department concludes the Minister could reasonably form the view that the modification request falls within the scope of section 75W of the EP&A Act and is capable of being considered and determined as a modification under section 75W of the EP&A Act.
Height and Scale of the tower and visual impacts	<ul style="list-style-type: none"> • Section 6.2 considers the height and sale of the tower and concludes that the tower would be isolated, overly dominant, would not look appropriate in its context and would result in adverse visual impacts.
Overshadowing (public spaces)	<ul style="list-style-type: none"> • Section 6.3.2 considers the overshadowing impacts on Union Square, Pyrmont by Park, Pyrmont Bridge and Clifftop Walk • There would be additional overshadowing of Union Square for approximately 1 hour during the most affected day (21 June) which is considered to be a moderate impact as the reduction in solar access would be experienced in the late morning when the space could be expected to be used for passive recreation • The Department considers that the additional overshadowing of Union Square and other public spaces, although minor, has not been justified by the proposal and should not be supported at this time
Overshadowing (properties)	<ul style="list-style-type: none"> • As discussed at Section 6.4.2, the Department has carefully considered the potential overshadowing impact on affected properties and considers these impacts to be acceptable, as all properties retain more than the 2 hours sunlight during mid-winter as required by the ADG guidelines. • The Department notes that any additional overshadowing to residential properties is confined to short periods due to the fast-moving shadow of the proposed tower and all affected properties would retain high levels of solar access throughout the remainder of each affected day and all other times of the year.
View loss	<ul style="list-style-type: none"> • The Department has considered the view loss impacts on nearby residential properties against the Tenacity principles at Section 6.3.1. • The Department acknowledges the negative impacts on views and outlook of some private residences, particularly those at 2 Jones Bay Road and Astral Residences, recognising that to some extent similar impacts would result from an LEP compliant scheme or a reduced height tower form

	<ul style="list-style-type: none"> The Department notes that some private view impacts would be the result of the tower which is considered an unacceptable form of development. The scale of the proposed tower is not anticipated or supported by adopted policy and is not considered to be justified in the proposed location. On this basis the Department considers that the identified impacts to private views are not justified and should not be supported at this time
Heritage impact	<ul style="list-style-type: none"> Section 6.2.3 considers heritage impacts and concludes although minor, would only occur as the result of an unacceptable form of development, have not been justified and should not be supported at this time.
Operational noise impacts	<ul style="list-style-type: none"> Section 6.11 considers operational noise impacts. The outdoor seating to Jones Bay Road has been deleted from the proposal and acoustic glazing would need to be secured by condition on this elevation to reduce noise impacts to nearby residential properties. The Department supports the Proponent's site wide acoustic strategy subject however if it was determined that the proposal should proceed, a resolution would have to be found to align the different noise conditions contained within the existing Council consents which are not being surrendered as part of the modification. Conditions would also be required to secure hours of operation, maximum patron capacities, an Operational Noise Management Plan, Noise Verification Plan and a trial period to determine the effectiveness of the strategy in practice
Construction impacts	<ul style="list-style-type: none"> Section 6.11 considers construction noise impacts. The Department is satisfied the construction work management measures suggested by the Proponent could be further refined in the preparation of the Construction Noise and Vibration Management Plan to manage and mitigate the most significant construction noise impacts if the proposal was supported. If it was determined that the proposal should proceed, a Demolition and construction Environmental Management Plan, Construction Pedestrian and Traffic Management Plan and Construction Waste Management Plan would need to be secured by condition.
Traffic and car parking impacts	<ul style="list-style-type: none"> Section 6.6 considers traffic parking and access The Department considers that the increases in traffic resulting from the proposal could be accommodated within the local road network without significant adverse impacts on surrounding intersections. The Department considers the proposed number of car parking spaces is adequate to service the development, based on the demonstrated parking capacity on site. TfNSW recommended a Condition requiring submission of a service road, taxi and car stacker management plan to mitigate any impacts associated with the competing needs of the car stacker with the other functions of the service road. Subject to this condition, the Department considers the proposed parking on site to be acceptable if it was determined that the proposal should proceed. Residential cycle parking provision is in accordance with clause 3.11.3 of the Sydney DCP 2012 and all cycle parking facilities are proposed to be provided in accordance with relevant Australian standard AS 2890.3.
Apartments will not be affordable / international owners will leave them vacant	<ul style="list-style-type: none"> Section 6.4 considers Public benefits and contributions. No onsite affordable housing is proposed, however the proposal includes an affordable housing contribution which would need to be confirmed by Council and secured by conditions if it was determined that the proposal should proceed.

Appendix G – Copies of Submissions

Copies of submissions can be found on the Department's website at:

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7466

Appendix H – Draft Notice of Decision

The recommended notice of modification can be found on the Department’s website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7466

Appendix I – Department’s Visual Impact Assessment (Tenacity steps 1-3)

Watermark Tower (2 Jones Bay Road) (Tenacity steps 1 to 3)

Watermark Tower (2 Jones Bay Road) is a 9-storey residential building located directly to the north of the site across Jones Bay Road, approximately 32m to the west of the proposed tower location (**Figure 1**). The building contains both south and east facing apartments, with south facing apartments also benefiting from an oblique eastern aspect from angled balconies. The Department considers these apartments to be most affected by the development.

Views of the city skyline from apartments below level 3 (4th storey) are obscured by the existing Star buildings and therefore, the proposed modification would not result in significant view loss when compared with the existing situation. The impact on views from Watermark Tower Apartments is discussed within the following sections with reference to both south and east facing apartments at mid (level 6) and upper (level 8) levels.

Mid-levels (level 6) south facing apartments at 2 Jones Bay Road

In relation to view loss from mid- level south facing apartments, the Department notes the following (refer to **Figures 42 to 44**)

- south facing apartments have a southerly aspect from living rooms and an oblique easterly aspect from balconies
- views comprise the existing rooftop of The Star in the foreground and distant views of the CBD including Sydney Tower, to both the south and east (oblique view)
- the proposed development would obscure all views of the CBD skyline, with the exception of the top third of Sydney Tower in both south and east views and the amount of visible sky would also be significantly reduced
- an LEP compliant scheme would block all views of the CBD skyline, with the exception of the tops of Barangaroo buildings, but including Sydney Tower.

The VIA suggests the overall impact on these views to be moderate. However, the Department considers the impact to be severe, noting the almost complete obstruction of city skyline views from both south and east aspects.

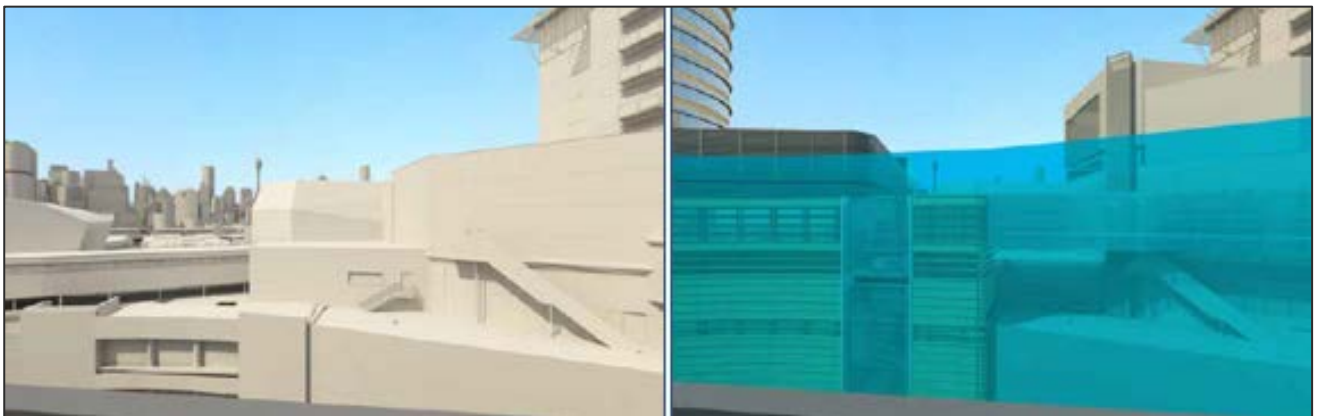


Figure 42 | Existing view (left) and proposed view (right) from living room of south facing apartment on level 6 (17mm focal length) note: blue shading denotes LEP compliant building envelope (Source: Proponent’s VIA)

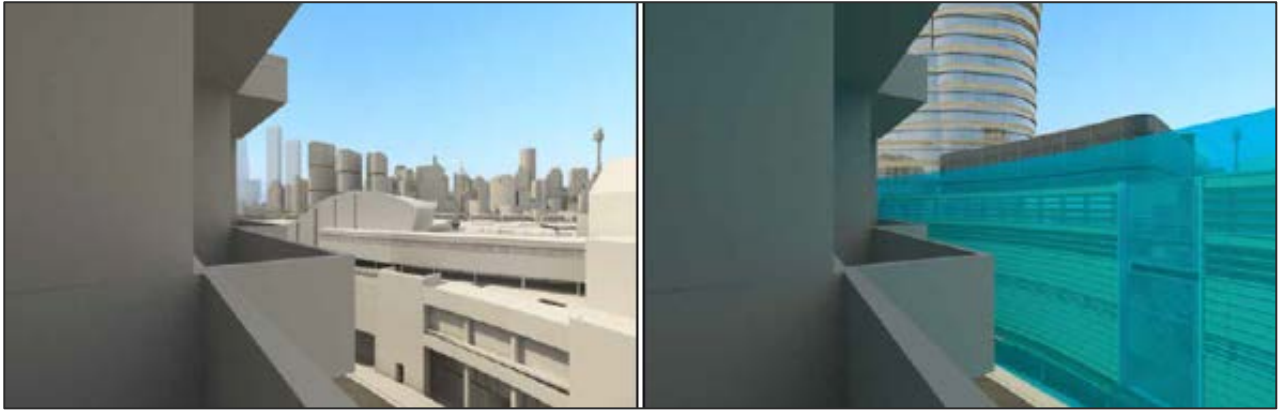


Figure 43 | Existing view (left) and proposed view (right) east from balcony of south facing apartment on level 6 (17mm focal length). note: blue shading denotes LEP compliant building envelope (Source: Proponent's VIA)

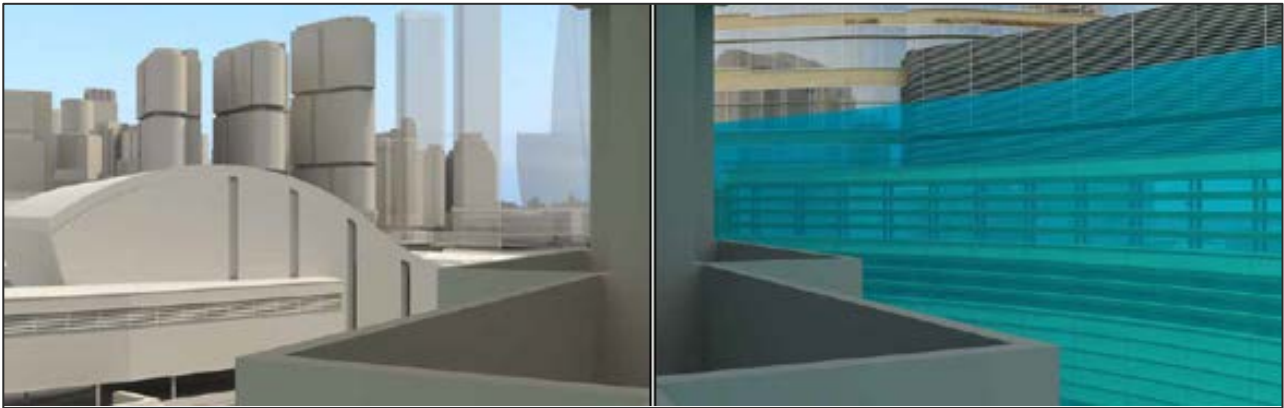


Figure 44 | Existing view (left) and proposed view (right) east from balcony of south facing apartment on level 6 (50mm focal length). note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)

Mid-levels (level 6) east facing apartments at 2 Jones Bay Road

In relation to view loss from mid-level east facing apartments, the Department notes the following (refer to **Figures 45 & 46**):

- these apartments have an easterly aspect from living rooms with panoramic views across the site towards the CBD/ Barangaroo, including the Harbour Bridge and Sydney Tower in the distance
- the existing casino building forms part of the existing foreground view
- the proposed modification would block the majority of views of the city skyline including the iconic Sydney Tower with the proposed tower also blocking a significant proportion of the sky
- existing water views of Darling Harbour and the iconic Sydney Harbour bridge would remain.

The VIA suggests the overall impact on these views to be high (severe). The Department agrees with this assessment, noting the almost complete obstruction of the city skyline, including the iconic Sydney Tower as well as the presence and proximity of the large tower element dominating the foreground view. Notwithstanding, the Department also notes that an LEP compliant envelope would have a similar adverse view impact.



Figure 45 | Existing view (left) and proposed view (right) east from balcony of south facing apartment on level 6 (17mm focal length). note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)

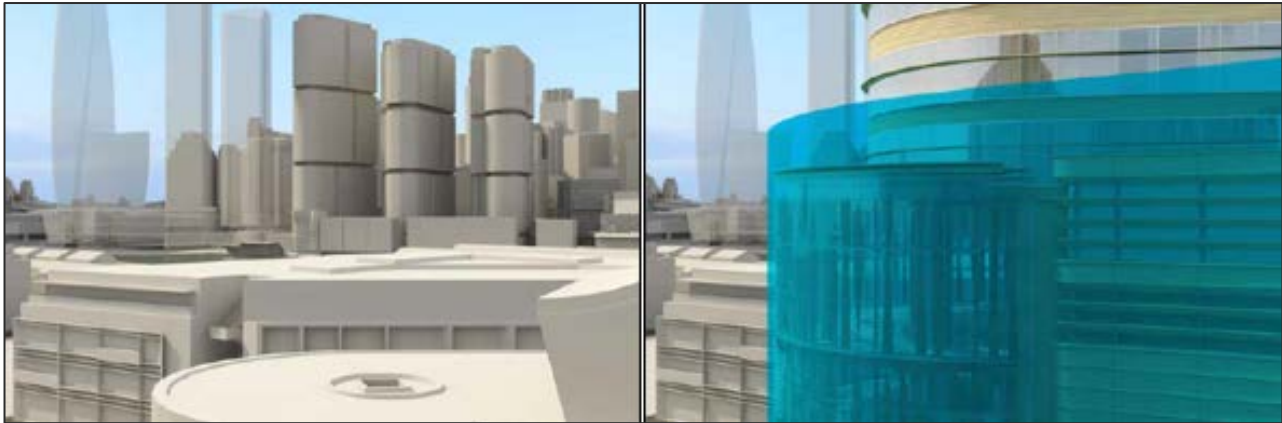


Figure 46 | Existing view (left) and proposed view (right) east from balcony of south facing apartment on level 6 (50mm Focal length). note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)

High level (level 8) south facing apartments at 2 Jones Bay Road

In relation to view loss from high-level south facing apartments, the Department notes the following (refer to **Figures 47 to 49**):

- south facing apartments have a southern aspect from living rooms and an oblique easterly aspect from balconies
- views from both the south and east (oblique view) comprise the existing rooftop of The Star in the foreground, Darling Harbour and distant views of the CBD, including Sydney Tower
- the proposal would completely obstruct the existing water view and most of the city skyline, although Sydney tower would still be visible
- An LEP compliant building would also completely obscure water but views of the city skyline would be retained.

The VIA suggests the overall impact on these views to be high(severe). The Department notes that views of Centreport Tower are mostly retained however, given the complete loss of water views and the loss of the majority of city skyline in views to the east, the Department agrees this view impact to be severe.

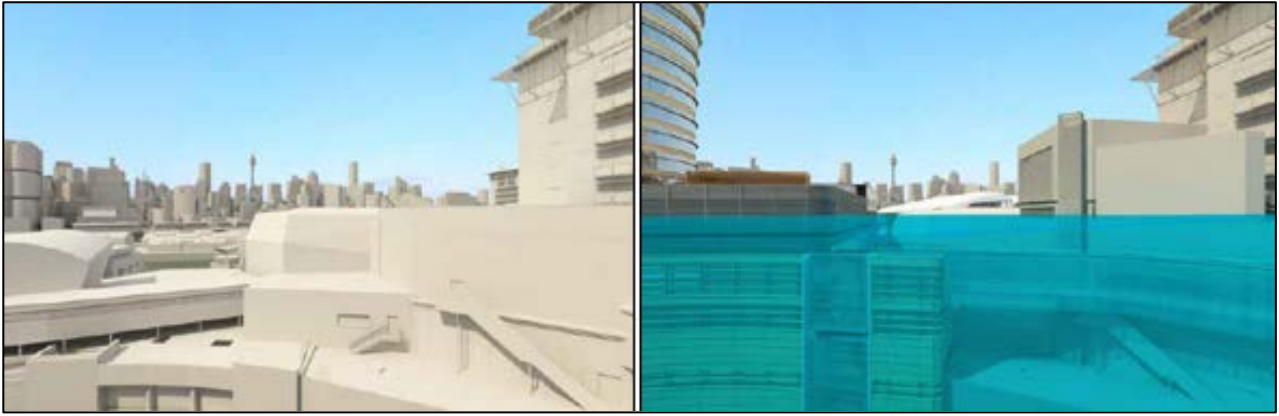


Figure 47 | Existing (left) and proposed (right) view south from balcony of south facing apartment on level 8 (17mm focal length). note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)



Figure 48 | Existing (left) and proposed (right) view east from balcony of south facing apartment on level 8 (17mm focal length). note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)

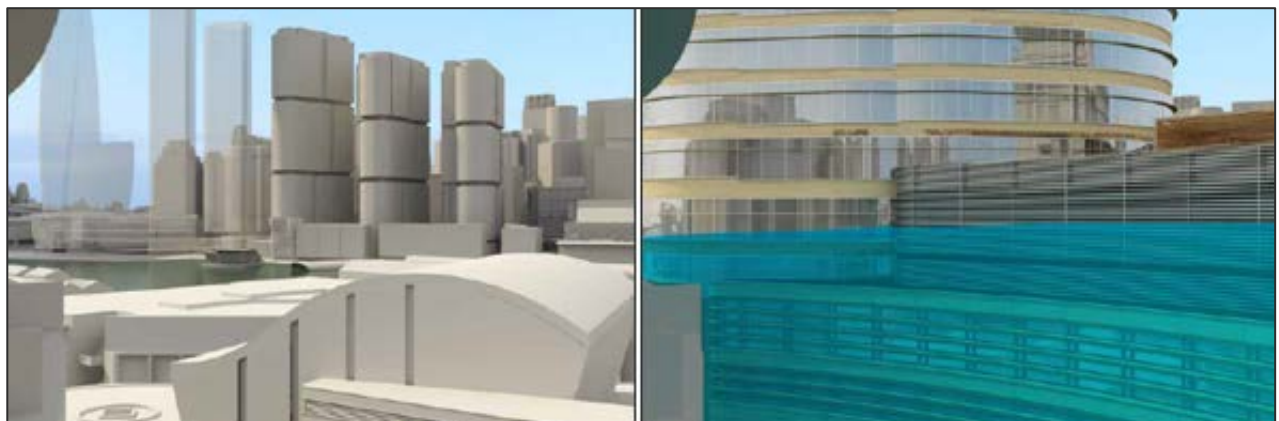


Figure 49 | Existing view (left) and proposed view (right) east from balcony of south facing apartment on level 8 (50mm focal length) note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)

High levels (level 8) east facing apartments at 2 Jones Bay Road

In relation to view loss from high-level east facing apartments, the Department notes the following (refer to **Figures 50 & 51**):

- these apartments have a panoramic view across the site towards the CBD/ Barangaroo, including the iconic Harbour Bridge and Sydney Tower in the distance

- the proposal would obscure the central and right portions of the existing panorama, including the entirety of the city skyline, except for Sydney Tower and water views and the iconic Sydney Harbour Bridge would remain visible in the left-hand portion of this view
- an LEP compliant building would also partially obscure water views of Darling Harbour however would not impact views of the city skyline.

The VIA suggests the overall impact on these views to be high (severe). The Department agrees with this assessment, noting the almost complete loss of skyline views and the presence and proximity of the large tower dominating the remaining view.

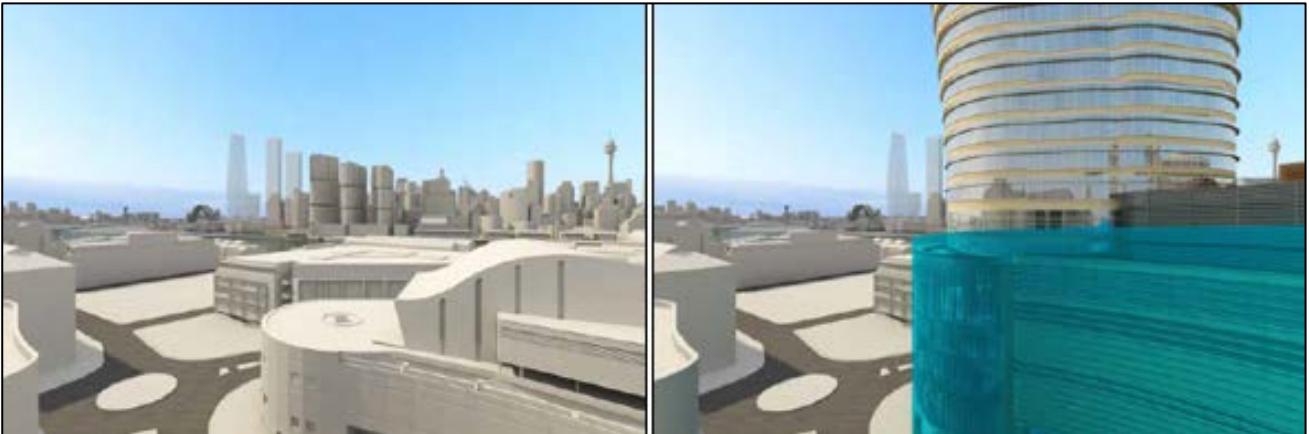


Figure 50 | Existing view (left) and proposed view (right) east from balcony of east facing apartment on level 8 (17mm focal length). Note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)

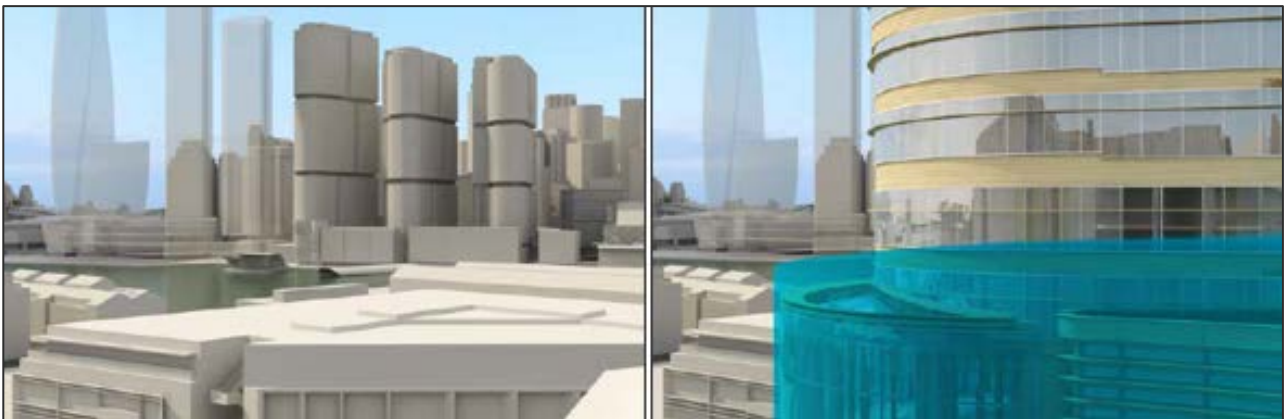


Figure 51 | Existing (left) and proposed (right) view east from balcony of east facing apartment on level 8 (50mm focal length). Note: blue shading denotes LEP compliant building envelope (Source Proponent's VIA)

Watermark Tower (24 & 26 Point Street) (Tenacity steps 1 to 3)

Watermark Towers at 24 & 26 Point Street comprises two separate 7-storey residential buildings located to the north of site approximately 60 m and 80 m respectively from the proposed tower location. Apartments within the south facing building (26 Point Street) have a southerly aspect across the rear of the site which would be unaffected by the proposal, and an oblique easterly aspect from south facing balconies across the northern edge of the site.

Apartments within the east facing building (24 Point Street) have panoramic views across the northern edge of the site towards Darling Harbour, the CBD and Sydney Harbour Bridge.

South facing apartments at 26 Point Street

In relation to view loss from south 26 Point Street, the Department notes the following (refer to **Figure 52 & 53**):

- the impact from the proposal falls on the oblique easterly views from south facing balconies only

- the tower is prominent in oblique easterly view however the inset curve of the tower form at lower levels assists in retaining part of the view corridor
- at upper levels existing water views and partial views of Barangaroo and the CBD are retained
- at lower levels the view corridor is generally partially retained
- at lower levels an LEP compliant envelope would have a comparable impact to the proposed scheme.

The VIA suggests the overall impact on these views to be low (at lower levels) to moderate (at upper levels). The Department agrees with this assessment, as although the tower element would be prominent in the views to the east, at upper levels existing water views and partial views of Barangaroo and the CBD are retained. At lower levels the oblique easterly view corridor is generally retained and the impact is comparable to an LEP compliant envelope. The main southerly aspect at all levels would be unaffected by the proposal.

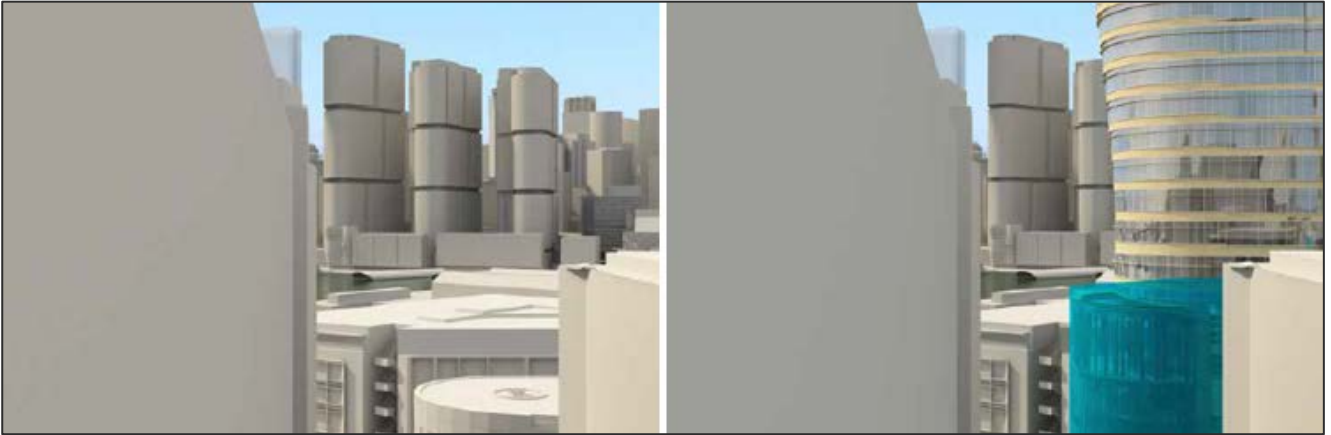


Figure 52 | Existing (left) and proposed (right) oblique easterly views from south facing balconies of an apartment at Level 7 apartment (50mm focal length) (note blue shading indicates LEP compliant envelope) (Source: Proponent's VIA)



Figure 53 | Existing (left) and proposed (right) oblique easterly views from south facing balconies of an apartment at Level 1 apartment (50mm focal length) (note blue shading indicates LEP compliant envelope) (Source: Proponent's VIA)

East facing apartments at 24 Point Street

In relation to view loss from east facing apartments at 24 Point Street, the Department notes the following (refer to **Figures 54 & 55**):

- at upper levels the proposal obscures a small portion of the existing view of the CBD skyline and the southern extent of Darling Harbour, however the majority of this view, including views of the water and the Harbour Bridge are retained
- at lower levels the view is obscured by existing buildings with only the tops of buildings at Barangaroo and the CBD visible. The proposal would result in a minor encroachment to sky views with an LEP compliant envelope resulting in a comparable impact to CBD skyline views.

- at lower levels the proposed tower is only visible in the 17mm focal length meaning it would only be seen from close to the façade and would not be visible internally from within the apartment.

The VIA suggests the overall impact on these views to be low (at lower levels) to moderate (at upper levels). The Department agrees with this assessment. At upper levels the existing panoramic view would be obscured to the south towards Darling Harbour although it would not be noticeable at the window façade (50mm focal length view). Lower level views are already heavily obscured by existing buildings.

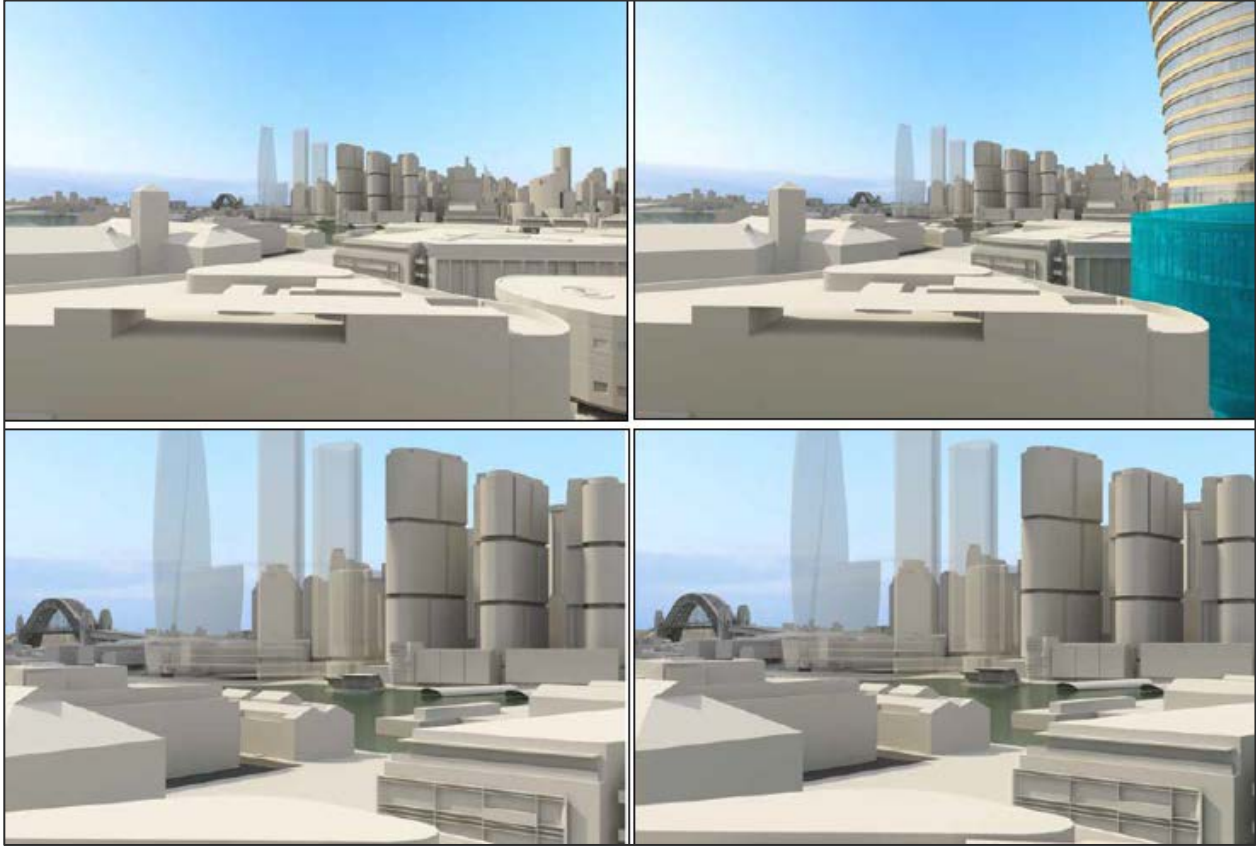


Figure 54 | Existing (left) and proposed (right) easterly views from the living room of a Level 5 apartment (above:17mm focal length below:50mm focal length) (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)

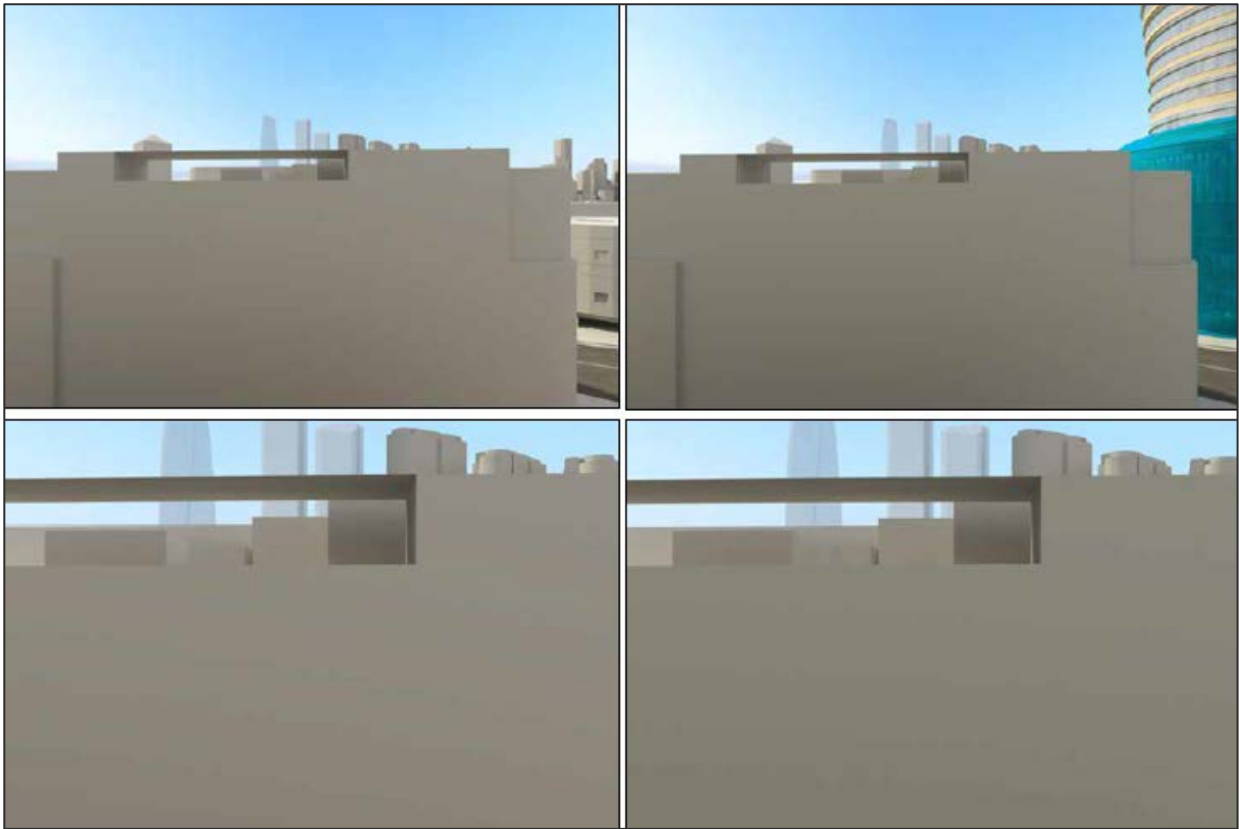


Figure 55 | Existing (left) and proposed (right) easterly views from the living room of a Level 1 apartment (above: 17mm focal length below: 50mm focal length) (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)

88 John Street (Tenacity steps 1 to 3)

88 John Street is 7 storey residential building located to the northwest of the site, approximately 100 m to the west of the proposed tower location (**Figure 35**).

Apartments within this building are either south facing with an oblique east facing view to the CBD from south facing balconies, or east facing apartments with corner balconies with views across the site which include the CBD skyline and water views.

South facing apartments at 88 John Street

In relation to view loss from south facing apartments, the Department notes the following (refer to **Figure 56 & 57**):

- the view towards the site is available from the edge of the balcony only, with the main southerly view towards Pyrmont and Ultimo unaffected by the proposal
- at upper levels existing water views and partial views of the CBD skyline are retained and south facing views are unaffected by the proposal
- at lower levels the proposal would partially obscure city skyline views however the inset curve of the tower at lower levels ensures part of the existing view corridor along John Street towards Barangaroo are retained.

The VIA suggests the overall impact on these views to be low (at lower levels) to moderate (at upper levels). The Department agrees with this assessment noting the retention of the view corridor along John Street toward Barangaroo at lower levels, and the retention of existing water views and partial retention of City Skyline views at upper levels. The Department notes that view impacts are to a secondary oblique view and that the main southerly aspect would be unaffected by the proposal.

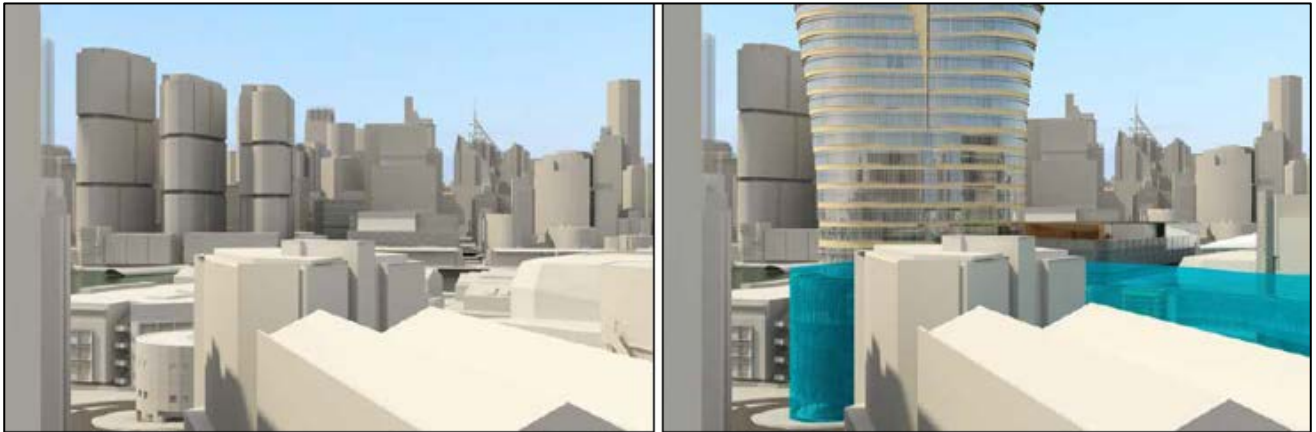


Figure 56 | Existing (left) and proposed (right) oblique easterly views from the balcony of an upper level (level 7) south facing apartment (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)

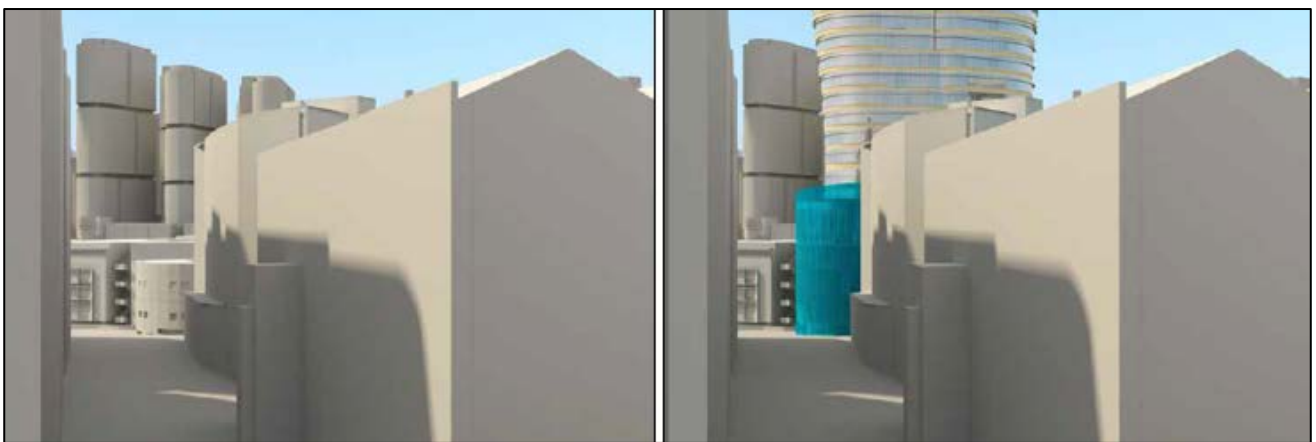


Figure 57 | Existing (left) and proposed (right) oblique easterly views from the balcony of a lower level (level 2) south facing apartment (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)

East facing apartments at 88 John Street

In relation to view loss from east facing apartments at 88 John Street, the Department notes the following (refer to **Figures 58 & 59**):

- at upper levels existing water views and partial views of the city skyline are retained
- at lower levels the existing view of the city skyline is limited and the inset curve of the tower at lower levels ensures the existing view corridor along John Street towards Barangaroo and the majority of the existing city skyline view is retained.

The VIA suggests the overall impact on these views to be low (at lower levels) to moderate (at upper levels). The Department agrees with this assessment noting the retention of the view corridor along John Street towards Barangaroo at lower levels, and the retention of existing water views and partial retention of city skyline views at upper levels. The Department notes the apartments also benefit from a second southerly view across John Street towards Ultimo and Pyrmont unaffected by the proposal.

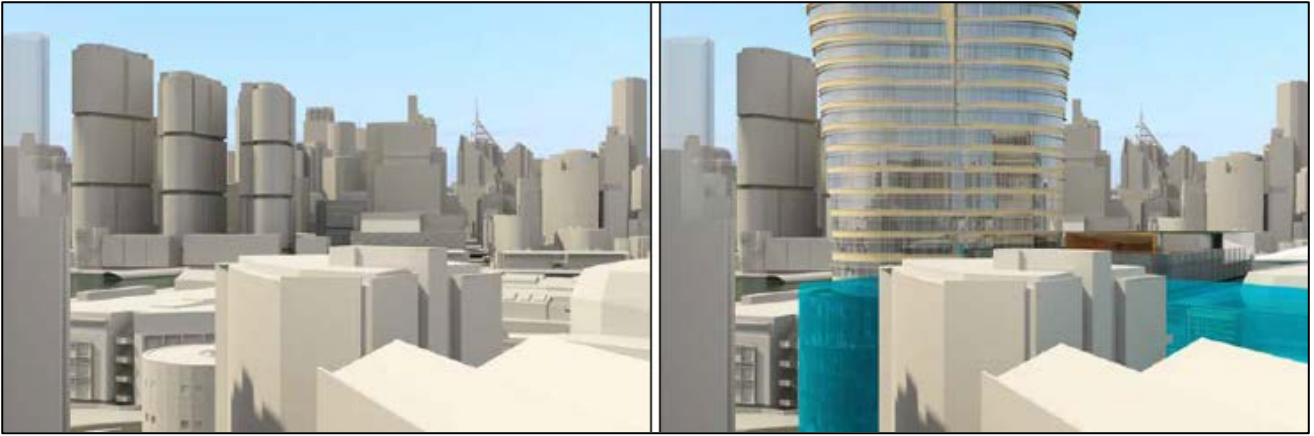


Figure 58 | Existing (left) and proposed (right) easterly views from the balcony of an upper level (level7) east facing apartment (note blue shading indicates LEP compliant envelope) (Source: Proponent’s EA)

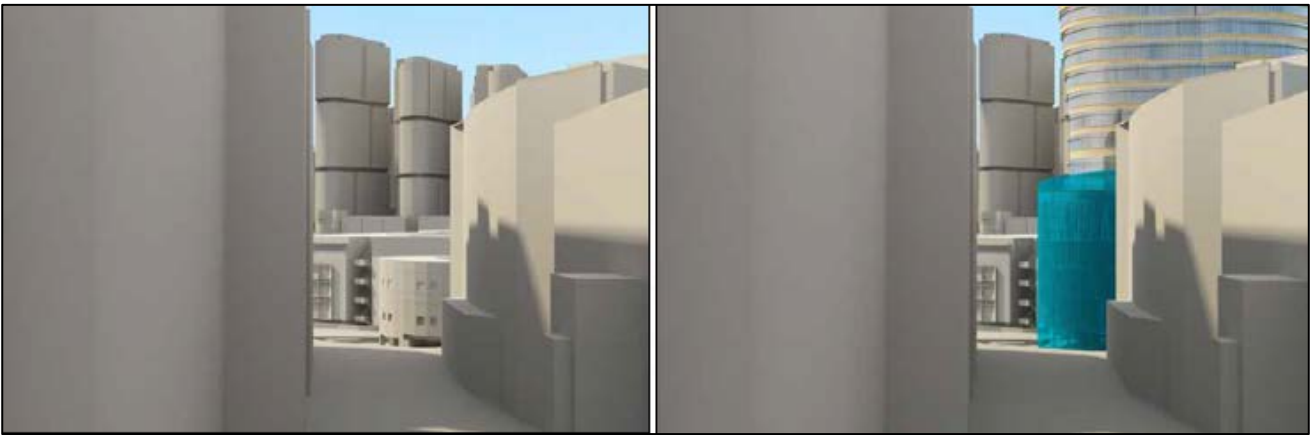


Figure 59 | Existing (left) and proposed (right) easterly views from the balcony of an upper level (level7) east facing apartment (note blue shading indicates LEP compliant envelope) (Source: Proponent’s EA)

21 Cadigal Avenue (Tenacity steps 1 to 3)

21 Cadigal Avenue is a 16-storey residential building located approximately 200 m to the west of the proposed tower location (**Figure 35**). Apartments in this building have an existing panoramic view of Pyrmont and Darling Harbour and the CBD and district views toward the lower north shore and Harbour Bridge.

The Department notes the proposal would change the view from 21 Cadigal Street with the tower element appearing prominent in the foreground of the existing wider views and obscuring a portion of Darling Harbour and one of the Barangaroo towers (**Figure 60**). In addition, the Department notes 21 Cadigal Avenue is located a significant distance from the site and the existing view is achieved across numerous low-rise developments. Given the distance from the site, and as water views would be largely retained, the Department considers that the interruption of the view to be moderate in nature due to the central prominence of the tower form. The Department also notes that views either side of the tower across Darling Harbour and the Harbour Bridge beyond would be unaffected by the proposal.



Figure 60 | Existing (left) and proposed (right) easterly views from the living room of an apartment on level 15 (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)

Astral residences (Tenacity steps 1 to 3)

Astral residences is a 10-storey above podium building located within the Star Casino complex site, approximately 60 m south east of the MUEF and 100 m from the location of the proposed tower. The building contains 117 serviced apartments.

Due to the orientation of the building, only apartments with a north aspect have views towards the site. A total of 14 apartments (two per floor over seven storeys) were identified in the Proponents VIA as having a high (severe) view impact. From upper floor apartments these northern views are currently over the site.

Serviced apartments are a form of visitor accommodation as opposed to residential use, as such there is a reduced expectation of view retention for this type of use. However, of the 14 most affected serviced apartments, three are privately owned and occupied. It is these three apartments (units 751 at podium level, 851 and 852 at level 4) that are amongst the most affected.

The impact on north east views from the Astral residences is discussed within the following sections with reference to a sample of six apartments at lower (level 1), mid (level 5) and upper (level 10) levels of the northern elevation and the privately-owned apartments at podium and level 4.

Lower levels (Podium and level 1) Astral Residences north facing and dual aspect apartments.

In relation to view loss from the lower levels of Astral residences, the Department notes the following (**Figures 61 to 63**):

- apartments either have a northerly aspect or a combination of a northerly and secondary easterly aspect
- foreground views are across the site and include the water and wider district views to Barangaroo and CBD buildings with dual aspect apartments also having a view east to Darling Harbour
- the development would entirely block views of the water and both northerly and easterly district views
- only one privately owned apartment (no. 751) is affected by the proposal with the remaining impacted apartments owned by SEGL
- an LEP compliant envelope would also completely obscure water, sky and district views and result in a severe view impact.

The VIA suggests the overall impact on these views to be high (severe). However, the Department considers the impact to be devastating, noting the loss of water and foreshore views and significant loss /significant change of distant backdrop developments. The Department notes however that an LEP compliant envelope would have a greater impact than the proposal.

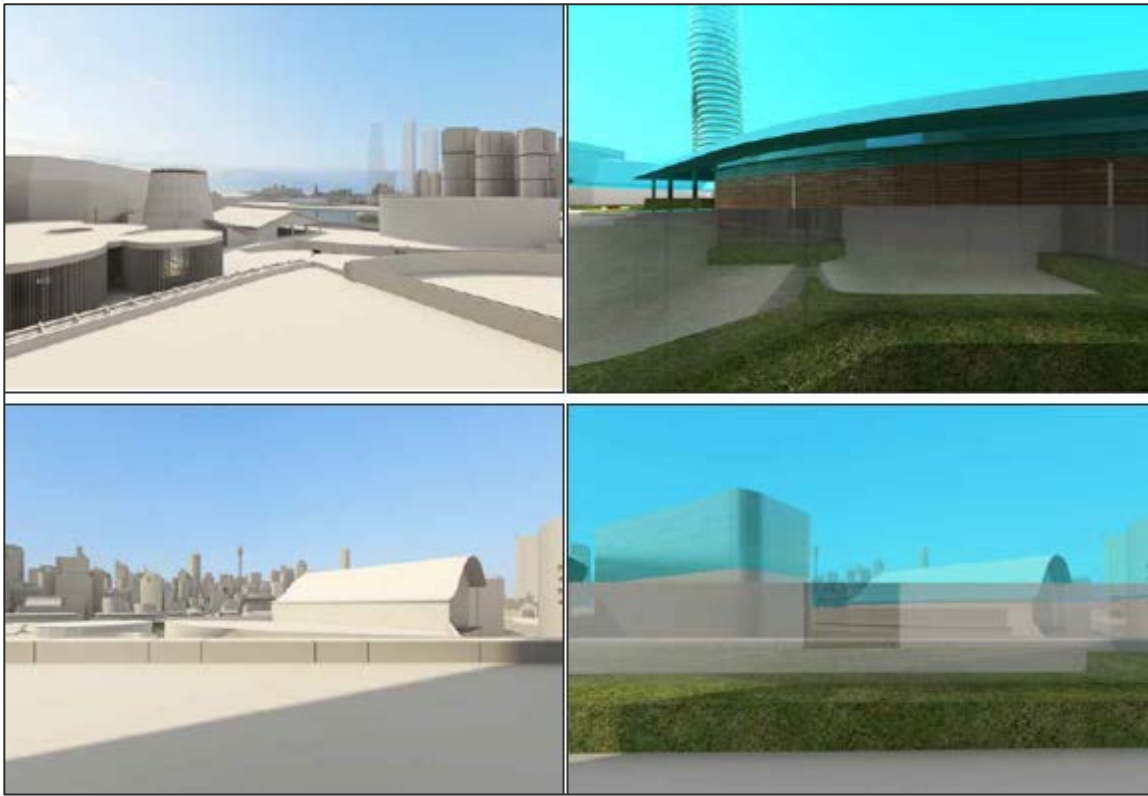


Figure 61 | Existing (left) and proposed (right) north (above) and east (below) views from the living room of dual aspect apartment at Level 1 (17mm focal length) (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)

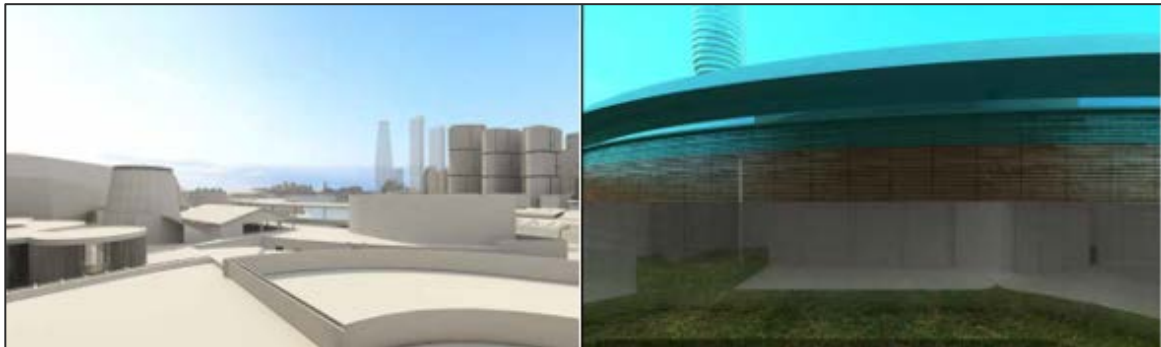


Figure 62 | Existing (left) and proposed (right) views from the living room of northerly aspect apartment at Level 1 (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)



Figure 63 | Existing and proposed north view from the living room of privately-owned apartment no. 751 at podium level (Base source: Proponent's RtS)

Mid-portion of the Astral residences (level 4 and 5)

In relation to view loss from the mid-portion of the Astral Residences, the Department notes the following (refer to **Figures 64 & 65**):

- apartments either have a northerly aspect or a combination of a northerly and secondary easterly aspect
- foreground views are across the site and include the water and wider district views to Barangaroo and CBD with dual aspect apartments also having a view east across the site to Darling Harbour
- the development would entirely block views of the water and northern district views from apartments with a sole northerly aspect however at this level, wider district views to Barangaroo and CBD would be retained and views south from dual aspect apartments to Darling Harbour to the CBD would be unimpeded by the proposal.
- only two privately owned apartments (no. 851 and 852) are affected by the proposal with the remaining impacted short stay apartments owned by SEGL
- Privately owned apartment 852 retains a second easterly aspect with views across the site towards Darling Harbour.

The VIA suggests the overall impact on these views to be moderate to high (severe). The Department considers the impact to be severe, noting the complete loss of water and foreshore views as a result of the development.

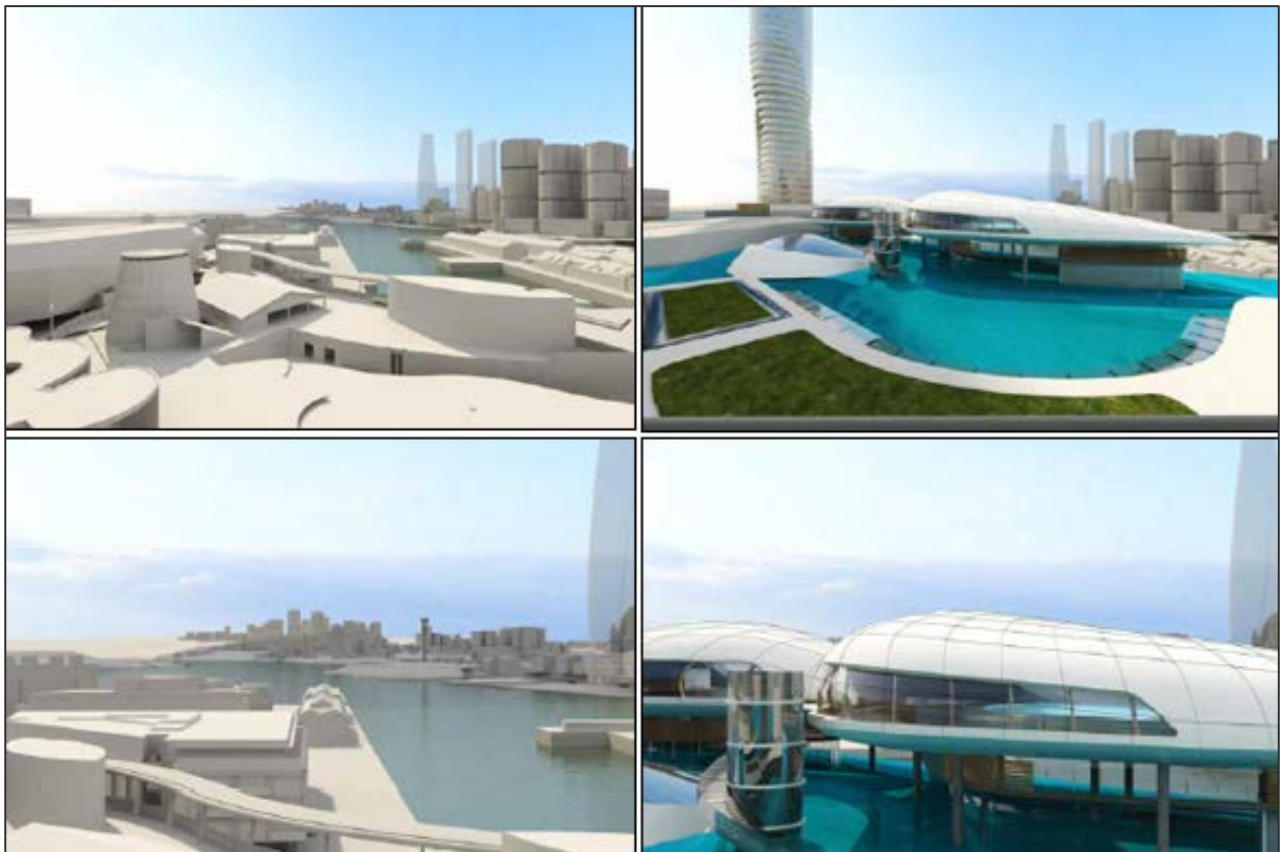


Figure 64 | Existing (left) and proposed (right) north views from the living room of Level 5 apartment (above:17mm focal length below:50mm focal length) (note blue shading indicates LEP compliant envelope) (Source: Proponent's EA)

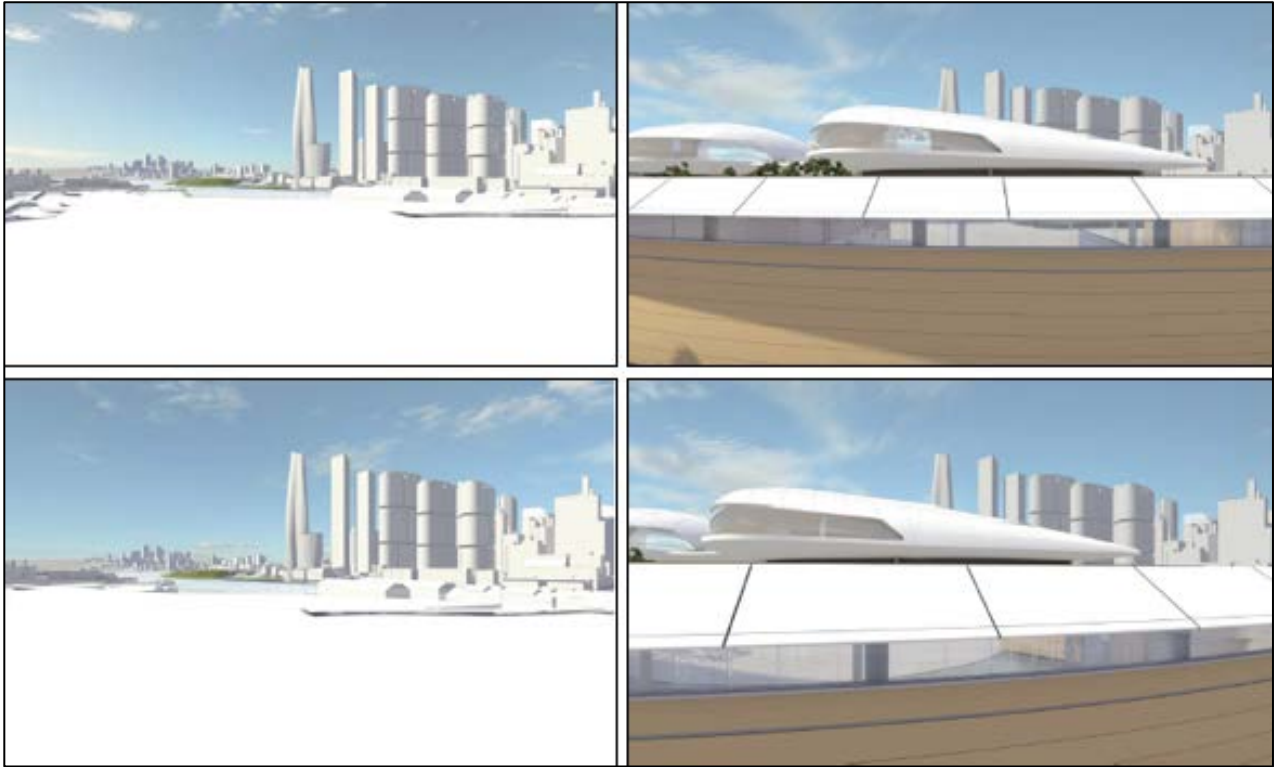


Figure 65 | Existing (left) and proposed north view (right) from living room of privately-owned apartments on level 4 (17mm focal length) (no.851 above and 852 below) (Source: Proponent's RTS)

Upper-portion of the Astral Residence (level 10)

In relation to view loss from the upper level Astral Residences apartments, the Department notes the following (refer to **Figures 66**):

- apartments either have a northerly aspect or a combination of a northerly and secondary easterly aspect
- foreground views are across the site and include the water and wider district views to Barangaroo, the CBD and Harbour Bridge, dual aspect apartments also having a view east of Darling Harbour and the CBD skyline including Sydney Tower
- the development would result in a minor reduction in water views to the north.
- the tower would appear within the wider district views to the north however, would not obscure any part of the CBD skyline.
- views to the east would be unaffected by the proposal.
- Privately owned apartment 852 retains a second easterly aspect with views

The VIA suggests the overall impact on these views to be moderate. The Department agrees with this assessment, as although the tower element would be prominent in the views to the north, the majority of northerly water views and wider district views of Sydney Harbour the Barangaroo would be retained. Easterly views from dual aspect apartments to Darling Harbour and the CBD would also remain unaffected.

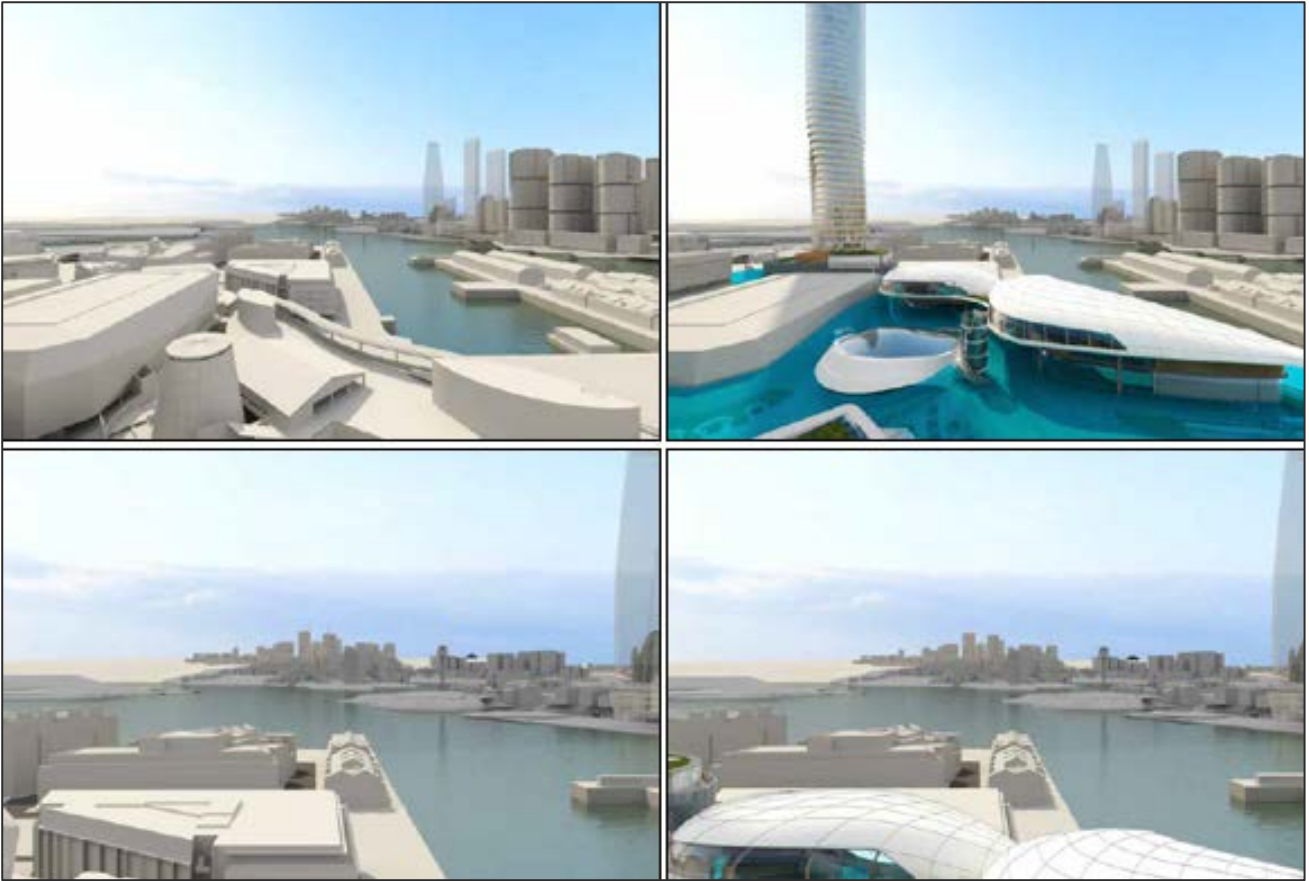


Figure 66 | Existing (left) and proposed (right) easterly views from the living room of a Level 10 apartment (above:17mm focal length below:50mm focal length) (note blue shading indicates LEP compliant envelope) (Source: Proponent’s EA)

Properties raised in public submissions (Tenacity steps 1-3)

Concern was also raised in public submissions regarding view impacts to the following properties:

- 4A/4 Distillery Drive
- 14 & 16 Pyrmont Street
- 27 Mount Street
- Astral residences (Apartments 851 and 852)

In response to these concerns the Proponent provided additional view impact studies as part of the VIA addendum submitted with the RtS. The impacts to private residences within the Astral Residences have been considered within the overall assessment of that building above. A consideration of the remaining properties is provided below.

4A/4 Distillery Drive

4A/4 Distillery Drive is a residential building located approximately 400m from the site. Apartments in this building, including 4A have views east to the site through a corridor between other tall buildings (“the Distillery” and “the Quarry”) at Jackson’s Landing. Dual aspect buildings also enjoy northerly district views across Bowman Street.

The Department notes the proposal would change the view from apartments within 4 Distillery Drive appearing prominent the existing eastern view corridor and partially obscuring distant views to the CBD/Barangaroo (**Figure 67**). In addition, 4 Distillery Drive is located a significant distance from the site and the existing city skyline views are achieved across a distance of over 1000m. As proposal would primarily obstructs areas of sky, city skyline views would be partially retained, and dual aspect apartment would retain their existing northerly aspect, the Department considers that the impact the view to the east to be moderate.



Figure 67 | Existing (left) and proposed (right) easterly views from the living room of a 4a/4 Distillery Drive (Base source: Public submission 279707 from Proponents VIA addendum)

14 & 16 Pymont Street

14 and 16 Pymont Street are residential terrace houses located approximately 100m to the west of the site fronting Pymont Street. Views from these properties are from the rear terrace and comprise the existing Star buildings and an area of sky. Although the proposal would be prominent in this view, introducing a new larger scale and obstructing a portion of visible sky, the Department considers the impact to be moderate noting the views do not include important elements such as water or district views, however the obstruction is to an extensive portion of the existing available sky view and would appear visually dominant.

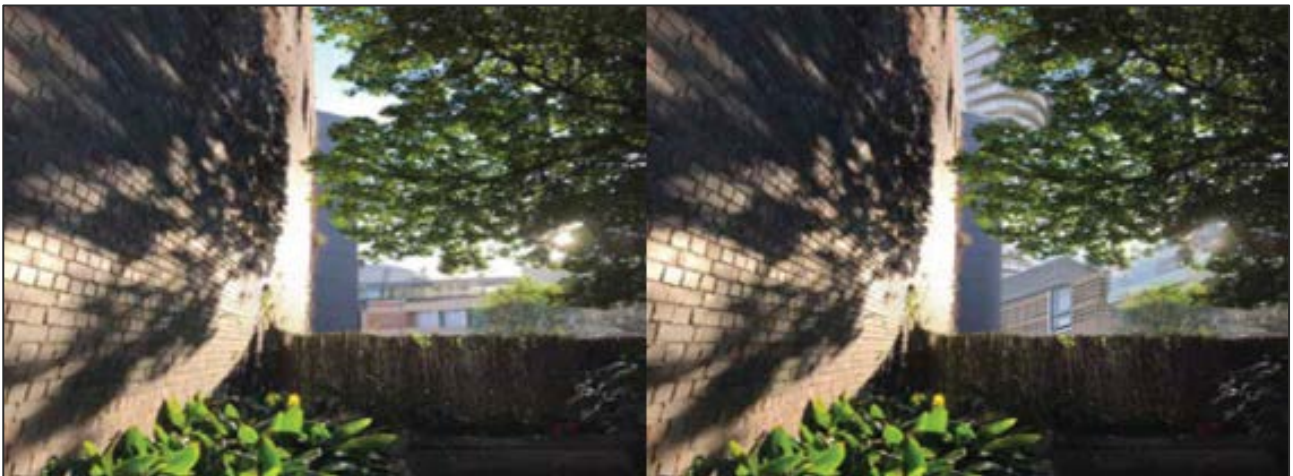


Figure 68 | Existing (left) and proposed (right) easterly views from the rear terrace of 14 Pymont Street (Base source: public submission 284218 and Proponents VIA addendum)



Figure 69 | Proposed easterly views from the rear terrace of 16 Pyrmont Street (existing view not supplied) (Source: Proponents VIA addendum))

27 Mount Street

27 Mount street is a residential building located approximately 200 m from the site. Apartments within this building have an easterly view towards the site across Darling Harbour to North Sydney.

The Department notes the proposal would change the view from 27 Mount Street and would be a prominent element in the skyline, obstructing distant views of the approved Barangaroo towers (**Figure 70**). In addition, the Department notes 27 Mount Street is located a significant distance from the site and the existing view is achieved across numerous intervening developments. Whilst the proposal would appear visually dominant in this view the majority of sky view would be retained due to the extent of the existing vista. Given the distance from the site, and that the majority of the existing view would be retained, the Department considers that the interruption of the view to be moderate in nature.

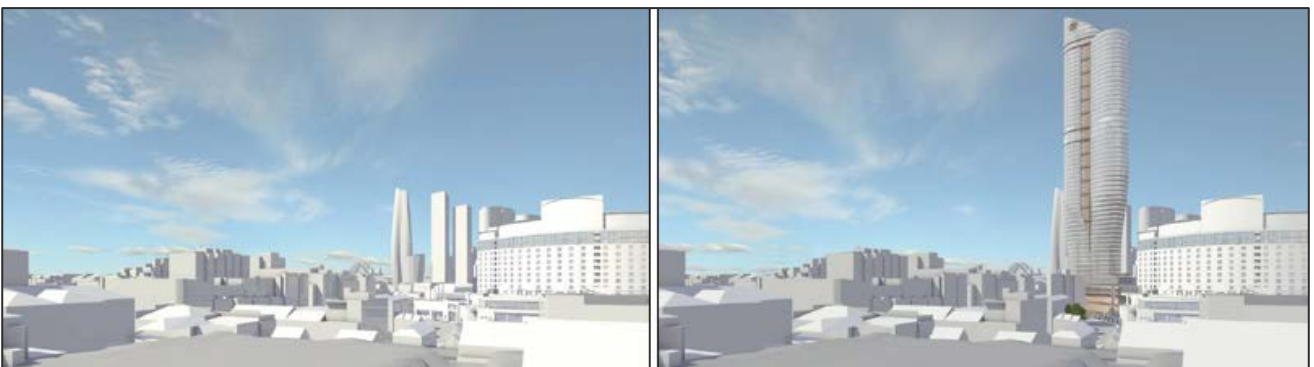


Figure 70 | Existing and proposed view from 27 Mount Street (Source: Proponents VIA addendum)

Appendix J – Independent Design Advice

THE STAR CASINO - PYRMONT, SYDNEY

PROPOSED NEW RESIDENTIAL AND HOTEL TOWER – Mod 13

Independent Assessment and Design Advice

Professor Peter Webber

July 2019

Emeritus Professor G.P. Webber Planning Architecture Urban Design ABN -50342 516 946 peterwebber@bigpond.com Ph 02 9955 4294

Introduction

This report responds to a critical issue in relation to the proposed tower: -

“Is a tower form appropriate in this location given the local and wider urban design context?”

The following documentation submitted by the applicant has been reviewed: -

.Urban Context Report (Urbis – November 2018)

.Visual Impact Assessment (Architectus - August 2018)

.Peer reviews of the Urban Context report (Olsson and Associates – June 2018), and the Visual Impact (Richard Lamb and Associates – July 2018) – commissioned by applicant.

It is noted that a number of strong objections have been received, including those from the City of Sydney, and from local residents who would potentially be impacted. A further document submitted by the applicant ‘Addendum Response to Submissions: Visual Impact’ (Architectus Group Pty Ltd November 2018) has also been reviewed.

The site has been inspected from both close-up and a range of distant viewpoints. Detailed planning and architectural issues are not discussed in this report, except where the forms, materials and finishes potentially might have significant impacts.

My summary C.V. is attached.

The Sydney LEP statutory controls zone the site R3, with an FSR of 3.5:1, a height of 65m. where the existing two taller blocks are located, and 28m. for the remainder of the site. These standards are consistent with the present buildings on the site, and although they are negated when the SSD process applies, they are nevertheless useful as a comparison with the height proposed in the current submission.

Site

The proposed tower is located at the northern end of a four-acre site, bounded by five existing roads, -Pirrama Road, Jones Bay Road, Pyrmont Street, Edward Street, and Union Street, and containing a range of diverse activities. These include the Star Casino, the large Event Centre, the Sovereign Resort, the Lyric Theatre, and rising above the podium buildings the 10-12 storeys of the Astral Residences and the Astral Hotel. The tower footprint would cover only a small part of the total site, and the application states that its location has been determined by a range of existing constraints. These include the light rail tracks, the fact that in the short-term the area occupied by the Lyric Theatre has ‘ownership issues’ (Context Report p.41), and because a tower building along the Pyrmont Road frontage could not achieve sufficient separate distances from either of the Astral buildings. This conclusion is not at issue, and in any case the alternative locations which were explored for a tower on this large site would inevitably give rise to similar impacts.

Built Form

Existing

The present buildings on the site are low-rise, having a podium form along the street frontages, -four storeys facing Pirrama Road, and 3-4 in Pyrmont Street, -with higher components set back from the frontages. Although the Astral Residences and Hotel rise an additional 10-12 storeys above the podium, they are relatively unobtrusive from ground-level viewpoints because of their setbacks, building forms and restrained palette of external materials and colours. The Casino itself also fits within the podium and is not over-assertive. The development was approved at the time because this complex range of activities and building forms would be acceptable in relation to the surrounding urban context.

Proposed

Two applications have been submitted, Modification 14 which relates mainly to internal changes to the existing buildings, and Modification 13 for the new tower and podium structure. This would accommodate 204 residential apartments and 220 hotel rooms, along with a range of complementary facilities. As well there is a proposed addition to level 7 of the existing building along Pirrama Road containing swimming pools, restaurants and storage facilities, termed by the applicant 'The Ribbon'. At ground level a 'Neighbourhood Centre' is proposed, including a café, library, learning innovation hub and function centre.

The tower form is the outcome of a design competition between three leading architectural firms who responded to a brief which required (Visual Impact Assessment p.11) that: -

- “-Tower should be visually slender
- Tower should address a variety of skyline views (designed to be seen in the round)
- Address streetscape and entrance
- Address private view impacts (upper podium/lower tower)”

The tower as proposed would rise to approximately 233 metres, -62 levels, -above Pirrama Road. The apartments are located at Levels 8-39, and the hotel at Levels 39-62, with the hotel Sky Lobby and Club Lounge at the topmost levels. The first seven levels are expressed as an articulated podium built to the Pirrama-Jones Bay Road corner street-frontages. The tower form has a small set-back from the podium, and then as it rises extends out again to the street frontage about 20 levels above. The roof profile has the top 7 levels of the northern component splayed down to the south.

Context

North Pyrmont

Pyrmont developed from mid-Victorian times with major wharf facilities, industrial buildings and workers housing. During the late 20th century there has been extensive redevelopment, mainly residential, which generally responded sensitively to the character and important heritage of the area. In this part of northern Pyrmont many existing structures have been adapted for residential use, and new buildings have been required to respect the heights and forms of neighbouring structures. There

a no very tall 'tower' buildings in this part of Pyrmont. Nearby buildings across the streets bounding the subject site are of similar height to the sections of the casino buildings which they face.

Broader Context

To the south and east, across Cockle Bay and the east side of Darling Harbour, 'tower' buildings have been constructed or approved. These range from the tallest, the Crown Hotel and Casino at Barangaroo, to the three towers to the south at Darling Square, and two towers for Harbourside and the ICC Hotel on the west side of Cockle Bay. Figure 6.1.3 (Visual Impact Assessment p.159) is helpful in understanding their collective impact.

Assessment of Proposed Development

The key considerations are the potential visual impact of the tower, the impact on views, and overshadowing, symbolic issues, and potentially the precedent which could be established.

Visual Impact

The applicant's Visual Impact Assessment explores the impact from a comprehensive range of viewpoints, of which 24 were selected for 'detailed photomontage analysis' (p.36). From several of the more distant selected viewpoints, -for example Glebe Foreshore Parks (p.74-5), Blackwattle Bay/Rozelle Bay (p.76-7), and Gladesville Bridge (p.81), -the tower would be seen against the backdrop of existing high-rise buildings in the city centre, with prominent features the foreground such as the nearby peninsula and Anzac Bridge, and would not be conspicuous or objectionable. Even from Martin Place, where glimpses would be visible, the new tower being relatively distant may not be unduly intrusive from most viewing positions.

The study concluded that "...the overall visual impact of the proposal on public and private views, including cumulative impacts, is acceptable." (p.162) The peer review of Visual Impact similarly argues that the building would not have "...substantial negative visual impacts...", and that "The extra height obscures an area of sky only..." (Richard Lamb & Associates p.8).

It *cannot* be agreed that this would be the case, because from the large majority of other viewpoints it is considered that the tower would be *unduly prominent, unrelated to its context and unacceptable*. The argument that 'only sky views' are obscured by extra height ignores that fact that the substantial visual bulk of the very tall tower seen against the sky would be oppressive from many viewpoints. This is demonstrated by many of the images presented, such as for example:-

Distant/Medium Distant

-View from Balls Head Reserve (p.49) illustrates its isolated form adversely impacting on views to the Harbour and Goat Island

-View from Central Barangaroo Foreshore (p.55) indicates how it would be completely unrelated to its context in this part of Pyrmont.

-Views from Pymont Bridge (p.63) and east Cockle Bay (p.67) both demonstrate its undue prominence, even in the context of the very large Convention Centre and ICC buildings.

-View from Giba Park (p.85) where it would be closer, the tower becomes highly intrusive.

Immediate

Two images are presented:-

-Pirrama Road / Jones Bay Road view (p.89) shows how the setback of the tower from the podium façade at lower levels would do very little to mitigate the adverse impact of the tower bulk rising above, even though this would be far more significant than the image depicts. Only the lower six levels of the tower are visible in this montage, whereas in reality anybody experiencing the building from this viewpoint would be well aware of the bulk of the tower above. Comparison with the image of the existing building is also very telling.

-Pymont Bay Park view (p.91) demonstrates clearly that the tower would loom over the environment in this area, with little regard for its pedestrian context.

Private Views

A range of view impacts from 24 locations are simulated using digital images, with in addition a transparent envelope representing “a 28m.LEP compliant height for the site within the proposed view.” (p.92) The impacts range from minor to very severe as is inevitable in this dense location. The relatively slender tower form, as well as the rounded corner forms would mitigate impacts to the extent possible if a development of this density were to be approved on the site.

Built Form

To judge by the images provided, the selected design initially would appear to be the best of the three designs, although still highly problematic. Whilst it could be an elegant three-dimensional form when viewed as an isolated ‘object’, it has no sympathy with its urban context, and the extremely tall structure with its curved forms and narrowed lower levels, could well be more visually assertive than either of the other two submissions.

Overshadowing

The very tall building would cause winter overshadowing of residential units on the site itself and others to the south and west. Although the tower appears relatively slender because of its height, it does have a substantial footprint, and would certainly generate significant shadows. The EIS includes information in this respect, and this will need to be examined closely, since overshadowing, along with outlook towards the dark side of the tower with the sun behind or close to it would have considerable impacts.

It should also be kept strongly in mind that approval could open the door to further applications, as discussed below under ‘Precedent Argument’, and that their location would be such that collectively overshadowing of residential buildings could be very significant..

Symbolic Issues

The form and architectural detail of many buildings convey meaning, whether or not intended. For example, typically in Western cities from medieval and later eras, the highest and most prominent buildings were limited to those serving religious or civic functions, The churches, cathedrals and town halls symbolised the highest values and beliefs of the community, and were legitimately termed 'iconic'. In contemporary cities this culture no longer exists, and the tallest towers almost always serve commercial and residential uses. Many commercial tower, complete with their skyline signage, are powerful advertising devices for corporations.

The proposed tower on the Star Casino site would serve such purpose, drawing attention both to its hotel and up-market apartments, and to the attached Casino itself. It may not be accidental that the proposed height of 166-253m. is almost identical to that of its commercial opposition, -the Crown Hotel and Casino on the opposite side of the water, -253.5m (Fig. 6.1.3). It is considered that there is no justification for approval of the proposed tower in this context.

Public Benefit

Approval of proposals which are in excess of FSR density controls and/or not consistent with nearby development can sometimes be justified because the outcome will also result in worthwhile 'public benefit', very often dedication of attractive public space such as that proposed on the nearby Cockle Bay site. In the subject proposal no public space is proposed. The application does include 'Neighbourhood Centre' facilities within the development at ground floor level. Their potential need and value to be assessed, but the cost to the developer would be very small in comparison with the very major financial gain from each of the large number of residential units, as well as the hotel.

Precedent Argument

It is understood that there are no other current proposals for tower blocks on the western side of Darling Harbour north of the Harbourside development site: also statutory planning controls over most of the northern part of Pyrmont limit heights in this area. It would appear very likely that despite this constraint, if the Star Casino application were to be approved, other applications would almost certainly follow, and would be difficult to refuse.

The Fig. 6.1.3 diagram with its flowing red height line certainly evokes this conclusion. The applicants are clearly advancing this proposition in support of approval. They draw a comparison with London's 'Shard' tower on the south bank of the Thames, writing that although this is presently an isolated 'spire-like crystal structure', it is likely to change from a '...singular tower-in-the-round to one which may exist as part of a small cluster...' (Urban Context p.91). Further, in the Visual Impact Statement 'Conclusion – Future Context' (p.18) it is stated that the '...open skyline view is likely to change over the next 20-30 years as the Bays Precinct is developed and further development along the western side of Darling Harbour. Development of the site should be considered within this context.'

This is a critical issue. If any tower block were to be approved on the site it could surely only be within the context of a change to statutory controls to permit tall buildings on other adjoining and nearby sites along the waterfront. No such change is currently intended, and if ever introduced would be unfortunate, as it would result in very undesirable outcomes, including the collective impacts relating to overshadowing and view loss for residents to the south and west.

Conclusion

For the range of reasons discussed above, it is considered that the application should not be approved. In summary it would:-

- .Be unduly prominent, with its over-assertive built form unrelated to its context
- .Have adverse impacts on views from residential properties, and cause winter overshadowing and negative impacts on outlook
- .Symbolise and draw attention to the site of the Casino as a venue for gambling
- .Not result in public benefit near the order needed to offset and/or justify its negative impacts
- .Establish a very undesirable precedent which would potentially encourage applications for further tower buildings on nearby waterfront sites.

