

**ANGEL PLACE
LEVEL 8, 123 PITT STREET
SYDNEY NSW 2000**

URBIS.COM.AU
Urbis Pty Ltd
ABN 50 105 256 228

30 September 2019

Ms Dianne Leeson
Panel Chair
Independent Planning Commission NSW
Level 3, 201 Elizabeth Street,
Sydney NSW 2001

Dear Dianne,

MP 08_0098 (MODIFICATION 13) –DEPARTMENT’S RESPONSE TO THE IPC REQUEST FOR FURTHER INFORMATION

We write on behalf of the Star Entertainment Group Limited (**the Proponent**) in relation to Modification 13 to Major Project Approval 08_0098 (**the Proposal**). The Department of Planning, Industry and Environment (**the Department**) was requested by the Independent Planning Commission (**IPC**) to provide additional information in regard to their assessment of the Proposal. The Department, by letter dated 20 September 2019 provided a Response to the IPC’s Request for Additional Information (**the Department’s Response to RFI**).

This correspondence reiterates key items of the Proponent’s environmental assessment in providing a response to the Department’s Response to RFI and for consideration by the IPC. The additional information requested related to the following key issues:

- **Strategic justification** – whether the Proposal is consistent or inconsistent with strategic planning including the Greater Sydney Region Plan and the Eastern City District Plan (**ECDP**).
- **Confirmation of documentation provided to visual impact consultant** – whether the Independent Design Advice (**the IDA**) prepared by Professor Peter Webber had the benefit of the full suite of documents submitted with the Proposal.
- **Design competition brief** – whether the design excellence brief contained a tower form and the position of the Department in this regard.
- **Precinct considerations** – whether the Department considers:
 - the project site is located within the Darling Harbour Precinct (ECDP, Figure 17, page 63) or within another strategic precinct; and
 - the Department’s advice regarding the ECDP (page 46) which references “*the city high rise areas of Pyrmont and the Sydney CBD*”.

Each item raised in the Department’s Response to RFI is cited in **bold italics**, the Proponent’s response follows.

STRATEGIC JUSTIFICATION

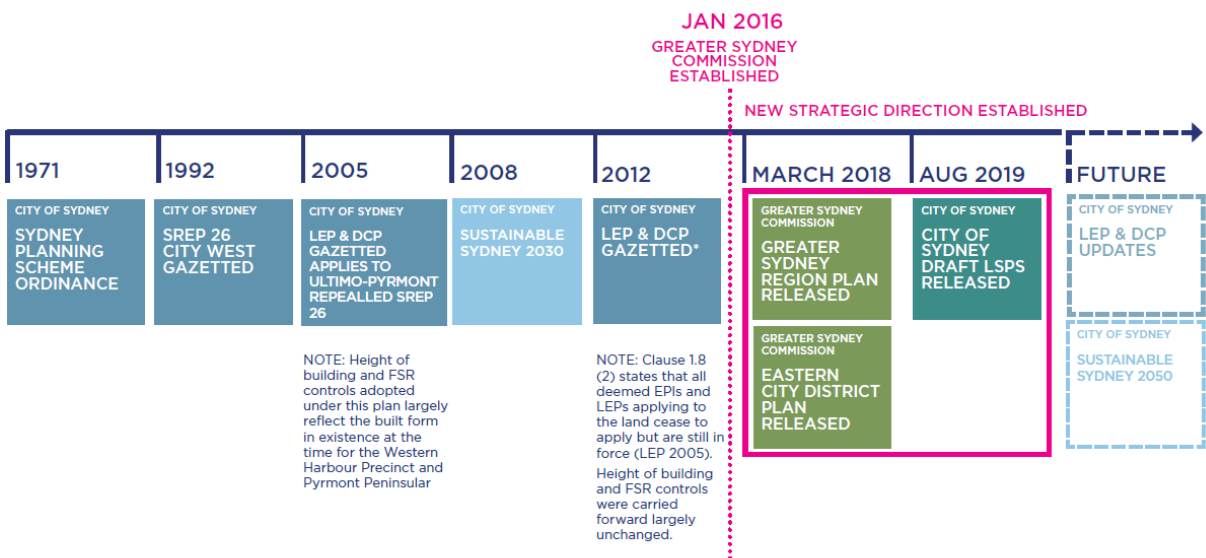
“With reference to strategic justification the Department’s consideration of the proposal in relation to the strategic planning context is addressed in Section 3 (pages 14-15) and Section 7 (page 79) of the Department’s assessment report”.

The Department does not specifically answer the request raised by the IPC to provide comment on whether the site is consistent or inconsistent with the Greater Sydney Region Plan or the ECDP. No new or additional information is provided rather reliance placed on the previously stated position in Section 3 (pages 14-15) and Section 7 (page 79) of the Department’s Assessment Report. These sections confirm that the Proposal’s Strategic Context includes the Greater Sydney Region Plan and ECDP. The strategic context of the site also includes the City of Sydney’s draft Local Strategic Planning Statement (**draft LSPS**) currently on public exhibition from 30 August 2019. Reference to key directions identified in the LSPS for the site are contained in Section 1.1.6 of this document.

The Greater Sydney Region Plan together with the ECDP and draft LSPS consistently identify the following strategic directions for the site:

- part of the Harbour CBD, Australia’s global gateway and financial capital;
- part of the Innovation Corridor, supporting global competitiveness of the Harbour CBD; and
- within the Innovation Corridor, the Darling Harbour Precinct in which the site is located is identified as a major entertainment, tourism, conference, and culture precinct.

Figure 1 - Overview of NSW Strategic Planning Direction



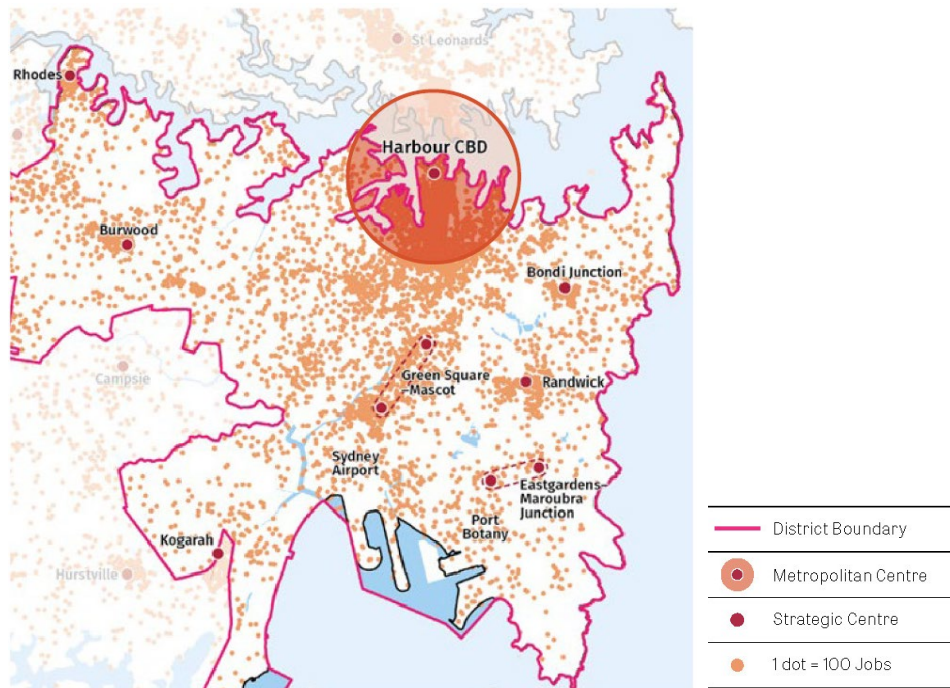
Source: Urbis

EASTERN CITY DISTRICT PLAN

In the ECDP, the Western Harbour Precinct and Pyrmont Peninsula are identified as being located within:

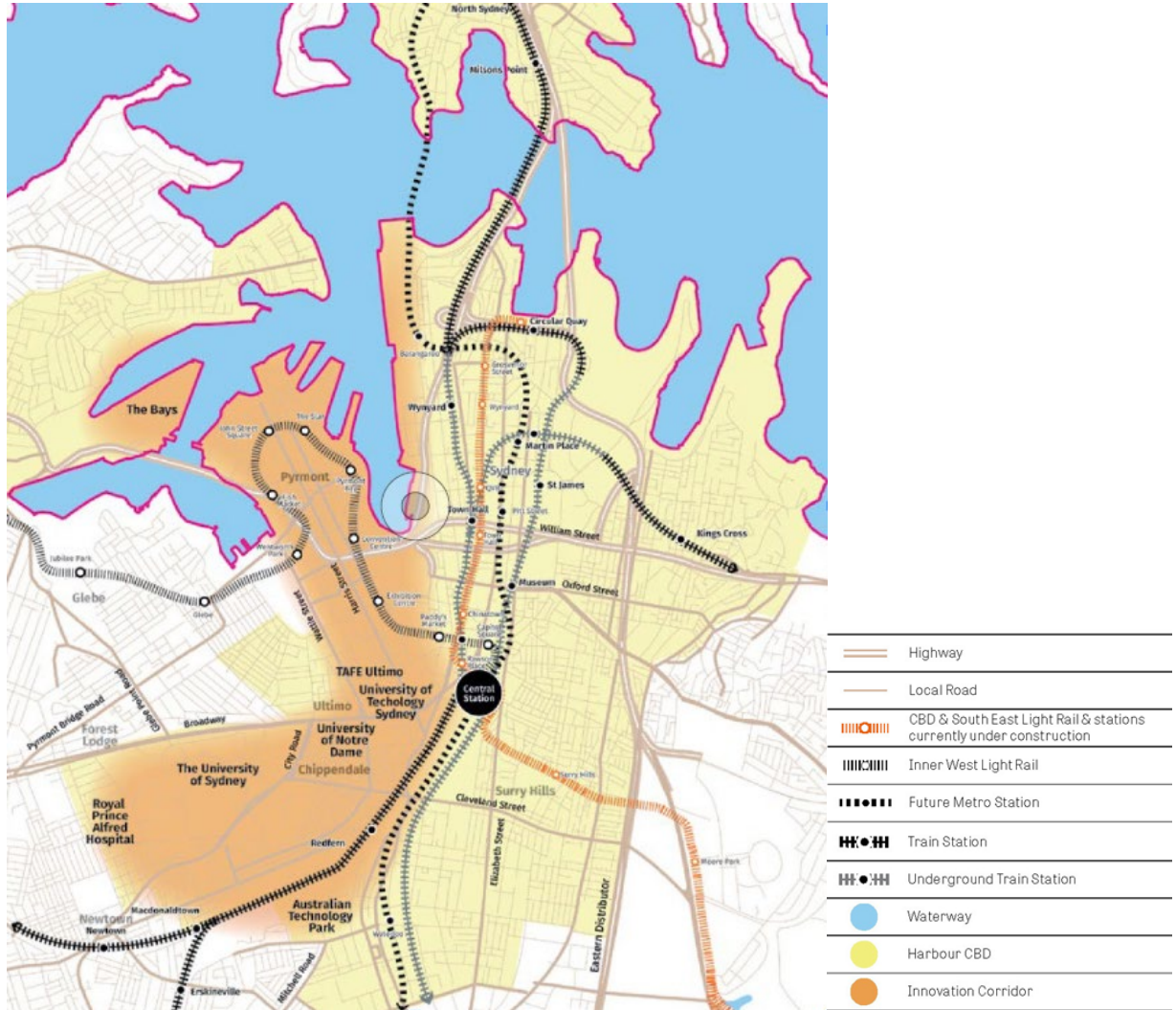
- The **Harbour CBD (ECDP figure 15 page 56)**: Australia’s global gateway and financial capital (ECDP page 8). The success of the Harbour CBD is underpinned by a package of competitive advantages including *‘its existing and growing entertainment, cultural, tourist and conference assets’*. The plan identified that the *‘growth of the Harbour CBD must be enabled for the region to remain competitive’*. (ECDP page 57)
- The **Innovation Corridor (ECDP figure 16 page 60)**: which contains knowledge intensive, creative and start-up industries along with health, education and research services that support the global competitiveness of the Harbour CBD. Tourism, conferences, entertainment and culture contribute to the Harbour CBD’s attractiveness to international talent. Ongoing investment in major entertainment precincts such as Darling Harbour build a more diverse and competitive offering in these sectors. (ECDP page 59)
- The **Darling Harbour Precinct within the Innovation Corridor (ECDP figure 17 page 63)**. The Darling Harbour Precinct is identified as a *‘major entertainment precinct’*. The ECDP identifies that *‘Cultural, entertainment, arts and leisure activities must continue to be provided to build a more diverse and competitive offering in these sectors.’* (ECDP page 59).

Figure 2 – The site within the Harbour CBD



Source: Eastern City District Plan, Figure 15 ‘Eastern City District Job Density’

Figure 3 – The site within the Eastern City’s Innovation Corridor



Source: Eastern City District Plan, Figure 16 'Harbour CBD'

Figure 4 – Darling Harbour Precinct within the Innovation Corridor



Source: Eastern City District Plan, Figure 17 'Innovation Corridor Harbour CBD'

The Proposal is consistent with the emerging future context and strategic planning directions of the ECDP.

The Proposal is consistent with the following strategic directions of the ECDP:

A Globally Competitive Precinct

Sydney's Harbour CBD must remain a powerhouse of creativity and innovation at all levels to remain its attractiveness to international talent and global competitiveness.

An Innovation Corridor of the Harbour CBD and part of the Darling Harbour Precinct

The Darling Harbour Precinct must continue to strengthen the City's international competitiveness and grow its vibrancy through investment in diversity and the offering of tourism, entertainment, conferences and culture.

A Tourism Destination

The Darling Harbour Precinct is an internationally competitive tourism destination, supporting the growth, productivity and attractiveness of Sydney's Harbour CBD.

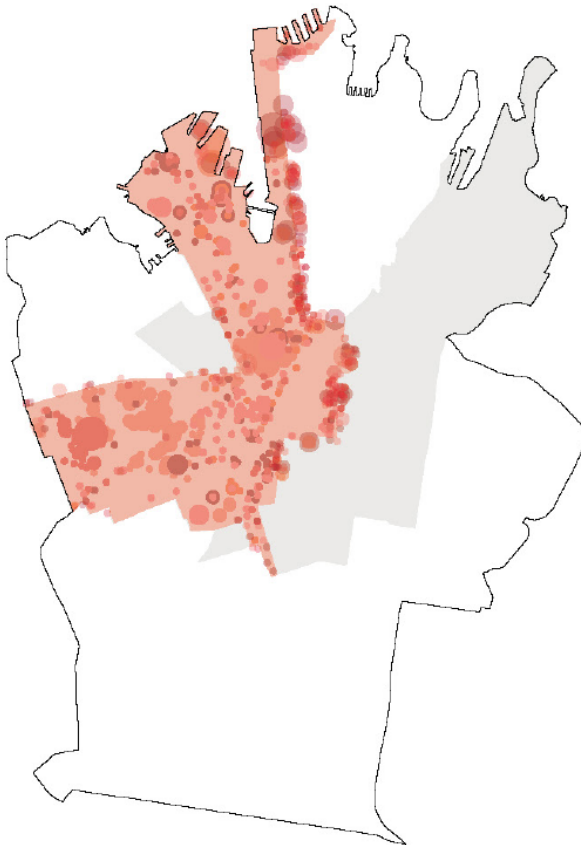
CITY OF SYDNEY DRAFT LSPS

Innovation Corridor

The City of Sydney's draft LSPS reflects the ECDP directions of the site as being located within:

- **The Innovation Corridor:** The Innovation Corridor includes parts of Central Sydney and parts of The City Fringe (as indicated in the maps below). The strategic direction for the Innovation Corridor is to *'Build internationally competitive and knowledge-intensive business clusters in the Innovation Corridor.* (LSPS Page 18).

Figure 5 - Western Harbour Precinct and Pyrmont Peninsula within the Innovation Corridor



Source: City Plan 2036 Draft LSPS, page 79, Key Moves

The draft LSPS builds on the *'Green, Global and Connected'* vision for the City of Sydney and states:

'Sydney will remain Australia's most significant global city, home to globally aware people, jobs and businesses and an international gateway with world-class tourism attractions and sustained investment in cultural infrastructure, icons, amenities and public spaces.' (draft LSPS page 54)

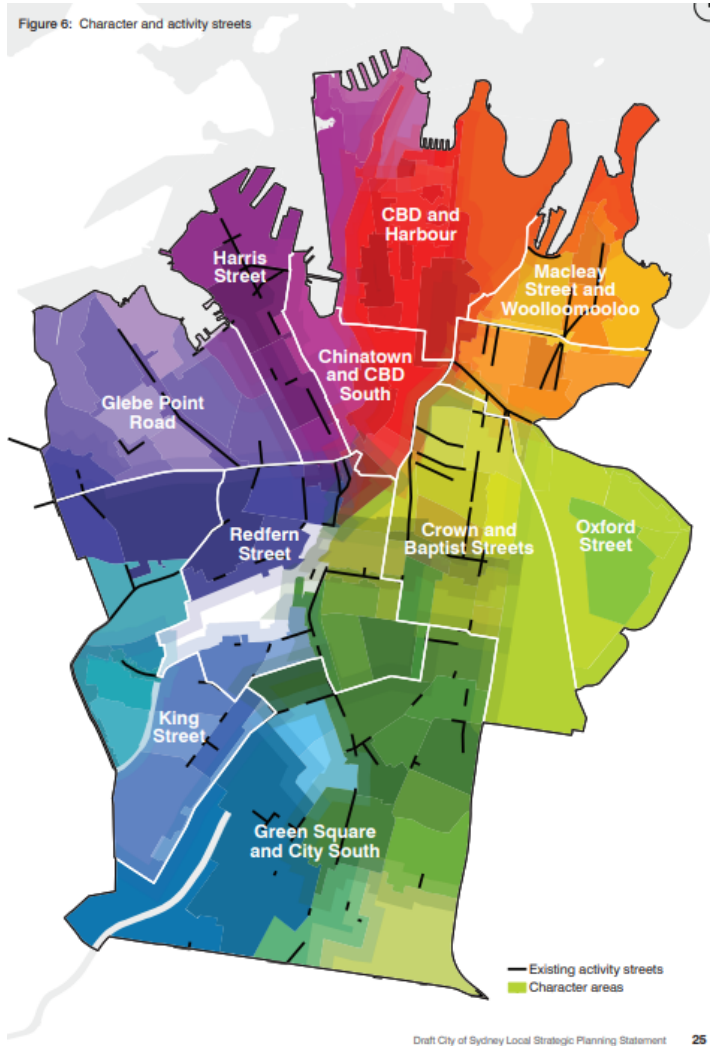
“We need to continue managing growth sustainably and promoting economic diversity and collaboration by ensuring that internationally competitive industries and sectors can innovate, agglomerate and grow” (Draft LSPS, page137).

Place and Character

The draft LSPS identifies the distinct identity and character of the city’s precincts and places including local heritage items and conservation areas.

- The draft LSPS acknowledges the **design excellence** process as a leading example across the country of how the planning system can deliver a highly values architectural and design outcomes. (draft LSPS page 20)
- **The draft LSPS identifies local character areas.** It includes colour shading for character areas, black lines for existing activity streets and white lines which reflects named areas on the plan. The named areas on the plan include multiple shades of different character areas and character area shading extends across the identified white line areas. In proximity to the site – the map identifies a similar colour (purple) across different character areas of the CBD and Harbour, Chinatown and CBD South and Harris Street areas. The mid-tone purple colour includes waterfront areas of Barangaroo, Darling Harbour, Cockle Bay, Darling Park, the ICC and Harbourside as well as the Maritime Museum, and The Star and Lyric Theatre. It extends around the north of the Pymont Peninsula to Jackson’s Landing (draft LSPS page 25). A darker purple shading is provided along the Harris Street spine including the Heritage Conservation Area while red areas extend across the majority of the CBD and Harbour and Chinatown and CBD South areas (refer **Figure 6**). The significance of this spatial mapping is to demonstrate consistency in these emerging character areas as City of Sydney transitions to a more place-based planning approach. Of note, is the site’s grouping with Barangaroo and the eastern and southern portions of Darling Harbour.

Figure 6 – Make Great Places



Source: City Plan 2036 Draft LSPS, page 25, Character and Activity Streets

The Proposal is consistent with the strategic directions of the draft LSPS including:

- **World Class Tourism Attractions** The proposal includes significant investment to grow a world-class offer and ensure the ongoing international competitiveness of the entertainment, leisure and tourism industry.
- **Design Excellence** The proposal is the outcome of an extensive design excellence process.
- **Character and Place** The Proponent’s Urban Context Report identified the waterfront land enclosing Darling Harbour as having a consistent character which extends across different localities. This is generally consistent with the mid purple tone area identified in the City of Sydney LSPS character area.

DOCUMENTATION PROVIDED TO VISUAL IMPACT CONSULTANT

“In relation to the documentation provided to Professor Webber the Department notes he was engaged to provide independent design advice on the specific question of whether a tower form is appropriate in the location given the local and wider urban context. He was not engaged to undertake an assessment of the application in its entirety, as this task was being undertaken by the Department.

To answer this question, Professor Webber was specifically requested to:

- *review and comment on the Urban Context Report and Visual Impact Assessment (including relevant documents below); and*
- *identify and consider any relevant industry recognised design principles and practice in relation to locating tower building forms...”*

The Proponent maintains that the approach undertaken by the Department to narrow the brief of the IDA, does not allow for a wholistic approach assessing the visual impacts of the Proposal. No reference is made in the IDA to the Architectural Design Statement (**ADS**), the RtS Report or the Preferred Project listed in Section 2.0 of the RtS. For the IDA to conclude with absolute certainty the *appropriateness* of a tower on the site, the opinion:

- should have been based on the relevant documents lodged with the Proposal as they relate to design, design development, context, etc. It is not the Proponent’s submission that the IDA should have undertaken an assessment of the application in its entirety but rather question the robustness of the conclusion of the IDA when it was based only on part of the available and relevant material.; and
- should identify any planning policy that is inconsistent with the Proposal.

The Proponent also considers that it was unreasonable for the Department to rely on the IDA to determine the extent or reasonableness of ‘public benefit’ arising from the Proposal given this issue was outside the scope of the Department’s brief for the IDA (“...whether a tower form is appropriate in the location given the local and wider urban context”) and that the IDA misinterpreted the scale of the Neighbourhood Centre.

DESIGN COMPETITION BRIEF

“For information on the design excellence brief please refer to the Department’s assessment report (Section 6.1, pages 28-31), which considers design excellence including the design excellence brief.

The Department maintains this position and its conclusions in relation to design excellence, having reviewed Urbis’ response to the assessment report. It is noted the Urbis response reconfirms the Proponent’s position, referring to existing documents already considered by the Department in its assessment.

The Urbis response claims the Design Review Panel (DRP) was charged with determining whether the proposal exhibits design excellence. The Department disagrees with this assertion, as it’s the consent authority (in this instance the Commission and not the DRP) that

has the statutory role to determine the modification application including any determination of whether the proposal exhibits design excellence.

It is important to clarify the role of a design excellence process cannot be is not a substitute for planning approval, but a prerequisite (albeit an important one) to lodging the modification request for exhibition and assessment. While the views of the DRP are an important input, the consideration of design excellence and the consistency with the objects of the Environmental Planning and Assessment Act 1979 are ultimately a decision for, in this case, the Commission.

The Commission has the design excellence brief and the Department's letter of 20 October 2016 (contained within Appendix B of the Proponent's Design report), which advised the design excellence process adequately addressed the requirements of the SEARs in so far as they required the Proponent to undertake a design excellence process".

The Proponent does not disagree with the Department's submission that the role of a design excellence process cannot be a substitute for planning approval, but is a prerequisite (albeit an important one) to lodging the modification request - it was a requirement of the SEARs:

"2. Built Form and Design Excellence

- *Demonstrate design excellence:*
 - *Through undertaking a competitive design process in accordance with the City of Sydney Competitive Design policy. This requires that a Design Excellence Strategy is endorsed by the Secretary prior to the commencement of the competitive design process; or*
 - *Through an alternative design excellence process endorsed in writing by the Secretary which includes:*
 - *A design brief requiring a minimum of three alternative design options for the proposal;*
 - *Establishment of a design review panel to review each alternative and inform the preferred design; and*
 - *Mechanisms to retain the architect during the design and construction of the scheme".*

The Proponent maintains that the Proposal which is the result of a design excellence process undertaken in accordance with the SEARs and overseen by the Department exhibits design excellence and is a good architectural and urban design outcome for the site because:

- *the DRP confirmed that the competition winning scheme (forming the exhibited Proposal) has 'negligible additional environmental impacts' and 'a holistic appreciation and response to the surrounding context';*
- *as cited in the Department's AR page v: 'The Department is satisfied that the alternative design process competition was carried out in accordance with the SEAR's and the competition brief' and '... the advice of the competition DRP [Design Review Panel] that the proposed building's architecture exhibits design excellence when considered in accordance with the brief'.*

Observations made by the Department regarding the scope of the brief or its outcomes exist outside of the Department's role during the design excellence process, which was to act as an Independent Observer to verify that the competitive process had been followed appropriately and fairly.

PRECINCT CONSIDERATIONS

THE DARLING HARBOUR PRECINCT

“Discussion of the strategic context of the site including the Eastern District Plan is contained within the Department's assessment report (Section 3, pages 14-15), which considers the proposal against relevant strategic plans.

Furthermore, the Department confirms for the Commission the purpose and function of the Eastern District Plan (page 14) being ‘.. The District Plan informs local strategic planning statements and local environmental plans, the assessment of planning proposals as well as community strategic plans and policies...’.

The Darling Harbour precinct identified on page 63 of the Eastern District Plan, which includes the site, relates to the innovation corridor only, and specifically in relation to the planning priority and objectives for the innovation corridor.

The relevant planning priority for the innovation corridor is Planning Priority EB “Growing and investing in health and education precincts”. Objective 21 of Planning Priority EB relates to “Internationally competitive health, education, research and innovation precincts”.

The Department recommends the Commission has regard to the full supporting text for Planning Priority EB (on pages 62 to 67 of the plan), which in essence states that digital innovation and start-ups seek out space in character buildings in suburbs like Pyrmont, and that they require “proximity to affordable and diverse housing options that can be multipurpose, and a range of cultural, entertainment and leisure activities, including strong night-time activities”.

Action 26(f) of Planning Priority EB seeks to “Facilitate an innovation corridor that supports a strong night time economy”, which the Department considers is the only action relevant to the proposal.

The Department recognises the existing Star casino complex contributes to the night time economy through the provision of entertainment and restaurant facilities.

The Department notes further that Planning Priority EB does not specifically identify increased hotel accommodation or residential density as objectives or actions to facilitate the innovation corridor. The innovation corridor is focused on providing affordable commercial floorspace and housing options for start-up businesses”.

The Proponent agrees with the Department’s citing of ECDP as a means to understand the strategic context of the site. The ECDP provides the overarching strategic plan for the Eastern City District. It is not the role of the ECDP to provide specific targets on a site by site basis, rather it is to provide broad overarching guidance of which directions to prioritise. The Department has not demonstrated how or why the Proposal is inconsistent with the ECDP. The Proposal is located in:

- The **Harbour CBD (ECDP figure 15 page 56)**: Australia’s global gateway and financial capital (**ECDP page 8**). The success of the Harbour CBD is underpinned by a package of competitive advantages including ‘its existing and growing entertainment, cultural, tourist and conference

assets'. The plan identified that the *'growth of the Harbour CBD must be enabled for the region to remain competitive'*. (ECDP page 57)

- The **Innovation Corridor (ECDP figure 16 page 60)**: which contains knowledge intensive, creative and start-up industries along with health, education and research services that support the global competitiveness of the Harbour CBD. Tourism, conferences, entertainment and culture contribute to the Harbour CBD's attractiveness to international talent. Ongoing investment in major entertainment precincts such as Darling Harbour build a more diverse and competitive offering in these sectors. (ECDP page 59)
- The **Darling Harbour Precinct** within the Innovation Corridor (ECDP figure 17 page 63). The Darling Harbour Precinct is identified as a *'major entertainment precinct'*. The plan identifies *'Cultural, entertainment, arts and leisure activities must continue to be provided to build a more diverse and competitive offering in these sectors.'* a destination for tourism, conferences, entertainment and culture. (ECDP page 50).

The Proponent maintains that the Proposal is in accordance with the ECDP, that of the Greater Sydney Region Plan and also the draft LSPS.

The Proponent requests that the IPC have regard to the NSW Government's, NSW Innovation and Productivity Council, document *'NSW Innovation Precincts'* (September 2018). This provides guidance on *'Lessons learned from international experience'* and states that successful international examples *'make productive use of land and buildings...'* (Page 6). Conversely, it notes *'planning regulations'* as a barrier to successful innovation precincts as they *'create financial or bureaucratic impediments...'* (Page 8).

THE CITY HIGHRISE AREAS OF PYRMONT AND THE SYDNEY CBD

"Finally, the Department notes the city high-rise areas quote from Mr Johnson is a part of a sentence (from page 46 of the Eastern District Plan). The Commission is requested to review this section in full to appreciate its context, as it forms part of supporting text of Planning Priority E6 "Creating and renewing great places and local centres and respecting the Districts heritage". This section summarises the attributes of existing places within the District. The objectives and actions of Planning Priority E6 relate to place-based planning and heritage conservation".

The Proponent agrees that the IPC should have regard to the context of Planning Priority E6 in the ECDP.

Specific reference should also be had to the Proponent's place-based approach to understanding the context of the site as detailed in the Urban Context Report. As detailed in the section *'Place and Character'* of this correspondence, the draft LSPS also provides guidance on understanding the existing and projected attributes of places within the Eastern City District.

With regard to place and character, the Urban Context Report identified the waterfront land enclosing Darling Harbour as having a consistent character which extends across different localities. Portions of the "Sydney CBD and Harbour" including Barangaroo, with the site of the Proposal, demonstrates consistency in the strategic direction for these areas within the draft LSPS character area.



The Proponent has not relied on the reference made in the ECDP at page 46 which groups Pyrmont and the Sydney CBD as *'the city high-rise areas...'*, rather an assessment was undertaken against the established planning priorities of the ECDP, which have been translated into the draft LSPS. As demonstrated, the Proposal will contribute to the achievement of planning priorities of the ECDP and draft LSPS.

Yours sincerely,

A handwritten signature in black ink that reads "Clare Brown". The signature is fluid and cursive, with the first name "Clare" and last name "Brown" clearly distinguishable.

Clare Brown
Director