



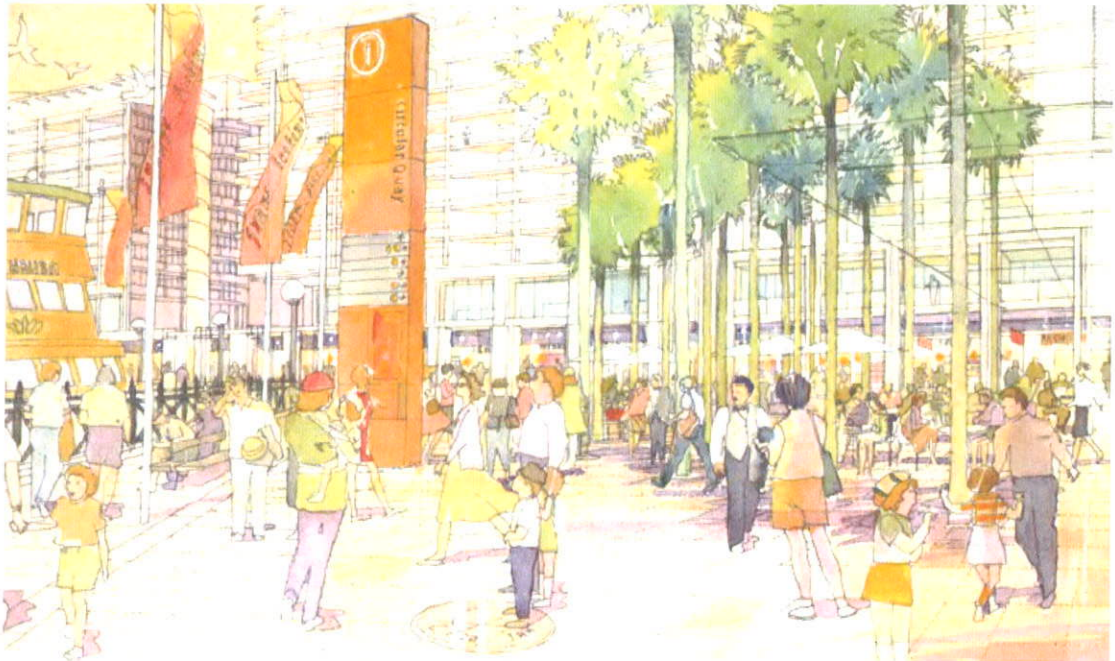
MAJOR PROJECT ASSESSMENT:

***Concept Plan for a Residential Mixed Use
Development***

71-79 Macquarie Street, Sydney

***Proposed by Mirvac Projects on behalf of AMP
Capital Investors***

MP 10_0237



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979
September 2012

ABBREVIATIONS

CIV	Capital Investment Value
DA	Development Application
Department	Department of Planning & Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EA	Environmental Assessment
ECQ	East Circular Quay
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning & Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the Environmental Planning and Assessment Act 1979
PEA	Preliminary Environmental Assessment
PPR	Preferred Project Report
Proponent	Mirvac Projects on behalf of AMP Capital Investors
RtS	Response to Submissions
VPA	Voluntary Planning Agreement

Cover Photograph: Indicative design of the public domain adjoining the site

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EXECUTIVE SUMMARY

This is an assessment report of a Concept Plan (CP) proposed by AMP Capital Investors and Mirvac (the proponent) for a residential mixed use development at 71-79 Macquarie Street, Sydney. The site is located in the City of Sydney Local Government Area. The Concept Plan seeks approval for:

- the building envelope (above and below ground);
- land uses being a mix of permanent residential, serviced apartment and retail land uses;
- location of future public domain works, including a through-site pedestrian link;
- a specified parking rate for the residential uses; and
- pedestrian and vehicular access arrangements.

The proposal has a capital investment value (CIV) of \$100 million and is a major project under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), because it is located on a Sydney Harbour Foreshore site with a CIV of more than \$5 million under clause 10(1) of Schedule 2 of *State Environmental Planning Policy (Major Development) 2005*. Therefore the Minister for Planning and Infrastructure or delegate is the approval authority.

The department exhibited the proposal for a period of 42 days between 18 January 2012 and 29 February 2012, and received a total of 17 submissions in response to the exhibition including 11 submissions (all objecting) from the general public and 6 submissions from public authorities. The public submissions were from nearby residents primarily objecting to the proposed height of the building, potential amenity impacts and the proposed vehicular access arrangements. There were no objections raised by public authorities, except the Heritage Council which objects to the proposed building height. The City of Sydney (the council) supports the proposal subject to conditions.

The department considers the height of the proposed building envelope is a key issue due to the site's prominent location and proximity to Sydney Opera House. While the proposed building envelope will be consistent with the height of the existing building, it still exceeds Council's statutory height controls by approximately 20m or 44%. However, on merit, the department supports the proposed building height as it will not result in any unreasonable impacts and will result in a good design outcome for the site. The department also considers there will be no heritage impact on the Sydney Opera House as it will replace the existing building on the site.

The provision of on-site parking in excess of Council's maximum parking controls is not supported by the department given the site's proximity to public transport. A modification to the basement envelope is recommended by the department to reflect Council's parking requirements.

Furthermore, the proposed development will deliver public benefits by:

- providing an extension to the colonnade consistent with development to the north which will create a continuous pedestrian experience at ground level;
- providing a through site pedestrian link between East Circular Quay and Macquarie Street;
- removing vehicular traffic from the pedestrian promenade and creating a safer and more useable public space; and
- facilitating off site public domain works which will revitalise the southeast corner of the promenade.

The proposal will increase the supply of high quality residential accommodation close to a range of employment opportunities, entertainment activities and public transport. This is consistent with metropolitan planning objectives which seek to cluster activity in existing centres and create vibrant and liveable places to live and work.

The proposal is recommended for approval subject to the modifications to reduce on-site parking and provision of adequate access arrangements and assessment requirements for future applications.

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1. BACKGROUND

1.1 Site Location

The site is located at East Circular Quay (ECQ) at the northern extent of the Sydney Central Business District (CBD). The locality is a popular tourist destination and major public transport interchange between the harbour and the CBD.

The street address is 71-79 Macquarie Street, Sydney.

The site is located within the City of Sydney Local Government Area and is bounded by Macquarie Street, the Cahill Expressway and City Circle Railway Line, Circular Quay and the Quay Grand (refer to **Figures 1 and 2**).



Figure 1: Site Locality – Regional Context (Source: Google Maps 2012)

1.2 Existing Site Features

The site has a total area of approximately 1,200m² which includes 310m² of Council owned land (i.e. road reserve) along the western boundary adjoining the promenade. The site also includes a stratum of basement floorspace located beneath Macquarie Street that is used for parking. The existing commercial building on the site (known as the Amatil Building) comprises 17 storeys with two levels of basement parking (refer to **Figure 3**). The existing building was constructed circa 1966.

The site falls approximately 9m from east to west between its Macquarie Street and Circular Quay frontages.

Vehicular access to the site is shared with Quay Grand, Quay Apartments (service vehicles only) and the Royal Automobile Club Australia which passes underneath the existing Cahill Expressway/City Circle Railway Line.

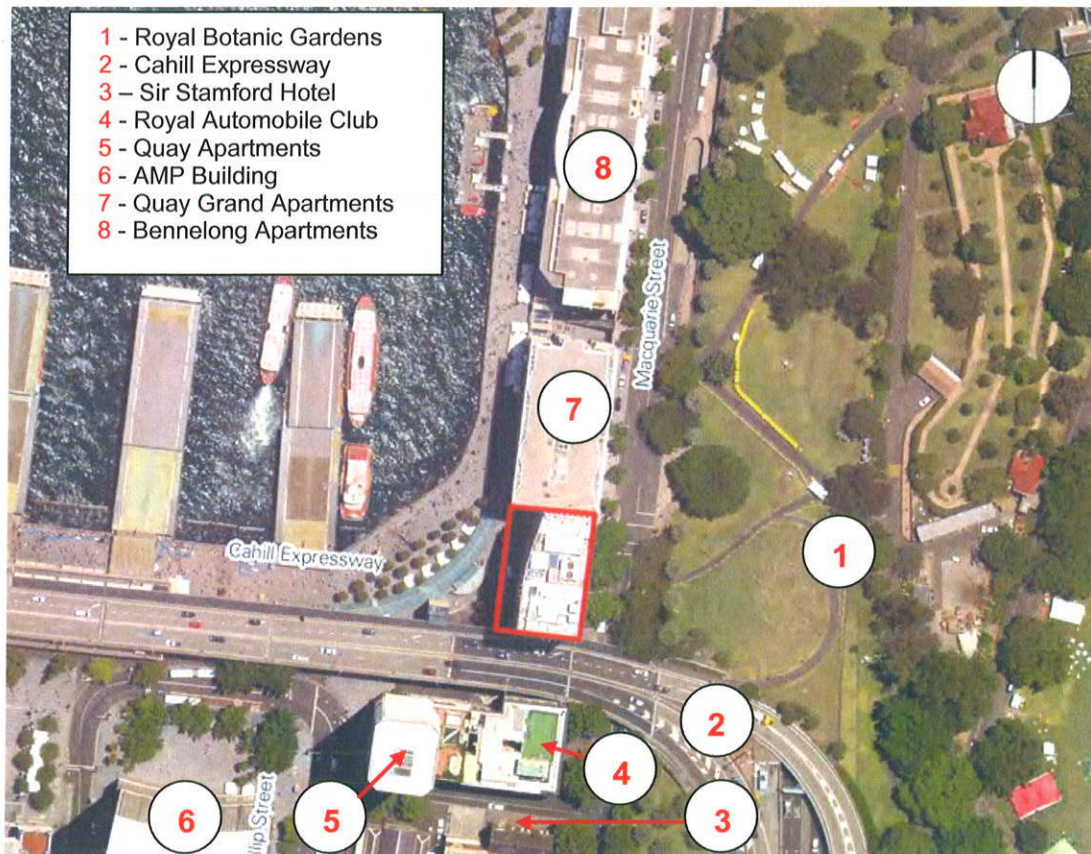


Figure 2: Aerial View of the site marked in red (Source: Proponent's EA)



Figure 3: The existing building situated between the Quay Grand and the Cahill Expressway (Source: Proponent's EA)

1.3 Surrounding Development

The surrounding area is characterised by cafes, restaurants, bars, tourist operations, hotels, residential development, public transport and cultural facilities.

The adjoining building to the north, Quay Grand, is a mixed permanent residential and serviced apartment building approximately 20m lower in height than the existing building on the subject site. Further north is the Bennelong Apartments which is also used for residential purposes and beyond is the Sydney Opera House. The residential buildings located to the north of the site were redeveloped in the 1990s and include ground level shops with outdoor seating areas along the public promenade and a colonnade providing all weather protection for pedestrians.

To the east across Macquarie Street is the Royal Botanic Gardens.

Adjoining to the south is the Cahill Expressway and City Circle Railway Line. Further south is the Royal Automobile Club Australia building which includes temporary club accommodation and beyond is the Sir Stamford Hotel fronting Macquarie Street. To the southwest is the Quay Apartment building and city buildings beyond.

The site is proximate to the ferry wharfs of Circular Quay and Circular Quay Railway Station / bus terminal, making it highly accessible to pedestrians moving between Circular Quay, Sydney Opera House, the Royal Botanic Gardens or the wider CBD.

2. PROPOSED PROJECT

2.1. Project Description

The proposal as exhibited in the Environmental Assessment (EA) seeks Concept Plan approval for:

- the building envelope (above and below ground);
- land uses being a mix of permanent residential, serviced apartment and retail land uses;
- location of future public domain works, including a through-site pedestrian link;
- a specified parking rate for the residential uses; and
- pedestrian and vehicular access arrangements.

The proposed development is detailed in **Table 1**.

Table 1: Key Project Components of the Project

Aspect	Description
Project Summary	Concept Plan for a residential mixed use development
<i>Building Envelope / Height</i>	<p>Building envelope for above and below ground works.</p> <p>Maximum building height to parapet of RL 65.37m and to top of plant room of RL 67.23m (refer to Figure 4). The proposed height is the same as the height of the existing building.</p> <p>The lower portion of the building envelope (below the level of the adjoining Quay Grand roof) will extend further to the west. This portion of the building will have a maximum RL 46.7m to match the height of the adjoining Quay Grand building. The western extension will facilitate the East Circular Quay colonnade at ground level along the western edge of the building (refer to Figure 5 which shows the proposed western extension of the building envelope in plan).</p>

Aspect	Description
<i>Through Site Link</i>	<p>A six level basement is proposed to accommodate car parking, storage and plant equipment. The proposal is to extend the basement area beneath Macquarie Street in a southerly direction to align with the southern boundary (refer to Figure 5).</p> <p>It is proposed to provide a through site pedestrian link between Macquarie Street and the public promenade. The details of the through site link will be provided at the future Development Application (DA) stage.</p>
<i>Public Domain Works</i>	<p>The public domain works proposed on the site involve the creation of a through site link from East Circular Quay to Macquarie Street and an extension of the pedestrian colonnade adjoining the promenade on the western side of the building consistent with development to the north.</p> <p>The proposal will also involve public domain works off the site which will be finalised in a Voluntary Planning Agreement (VPA) between the proponent and Council. These works are likely to include:</p> <ul style="list-style-type: none"> • removal of an existing glass awning and replacement with a new glass awning for weather protection; • removal of the kiosk/café and replacement in a new location; • provision of public art and/or water feature; • relocation of existing trees; and • new paving, street furniture, signage, lighting and screening.
<i>Vehicular Access</i>	<p>The existing vehicular access to the adjoining Quay Grand along the front of the site will be removed and a combined vehicular access point will be provided through the subject site at basement level to the adjoining Quay Grand building.</p>
<i>Parking</i>	<p>Approximately 133 car spaces. The car parking rates sought to be applied for future development are as follows:</p> <ul style="list-style-type: none"> • 1 space per studio and one bedroom apartment; • 1.4 spaces per two bedroom apartment; and • 1.8 spaces per three or more bedroom apartments.
<i>Land Uses</i>	<p>Residential and serviced apartments comprising approximately:</p> <ul style="list-style-type: none"> - 10 x studio - 43 x 1 bedroom - 24 x 2 bedroom - 26 x 3+ bedroom <p>Retail uses at ground level</p>
<i>Capital Investment Value</i>	\$100 million

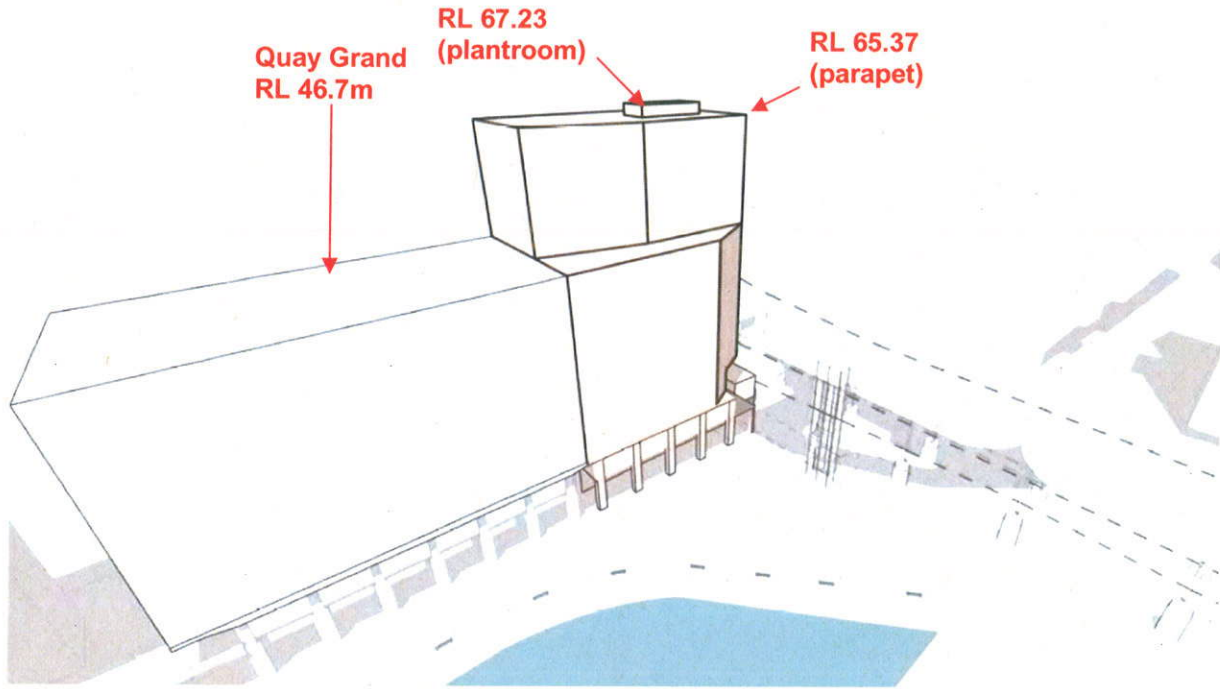


Figure 4: Proposed building envelope shown in pink shading

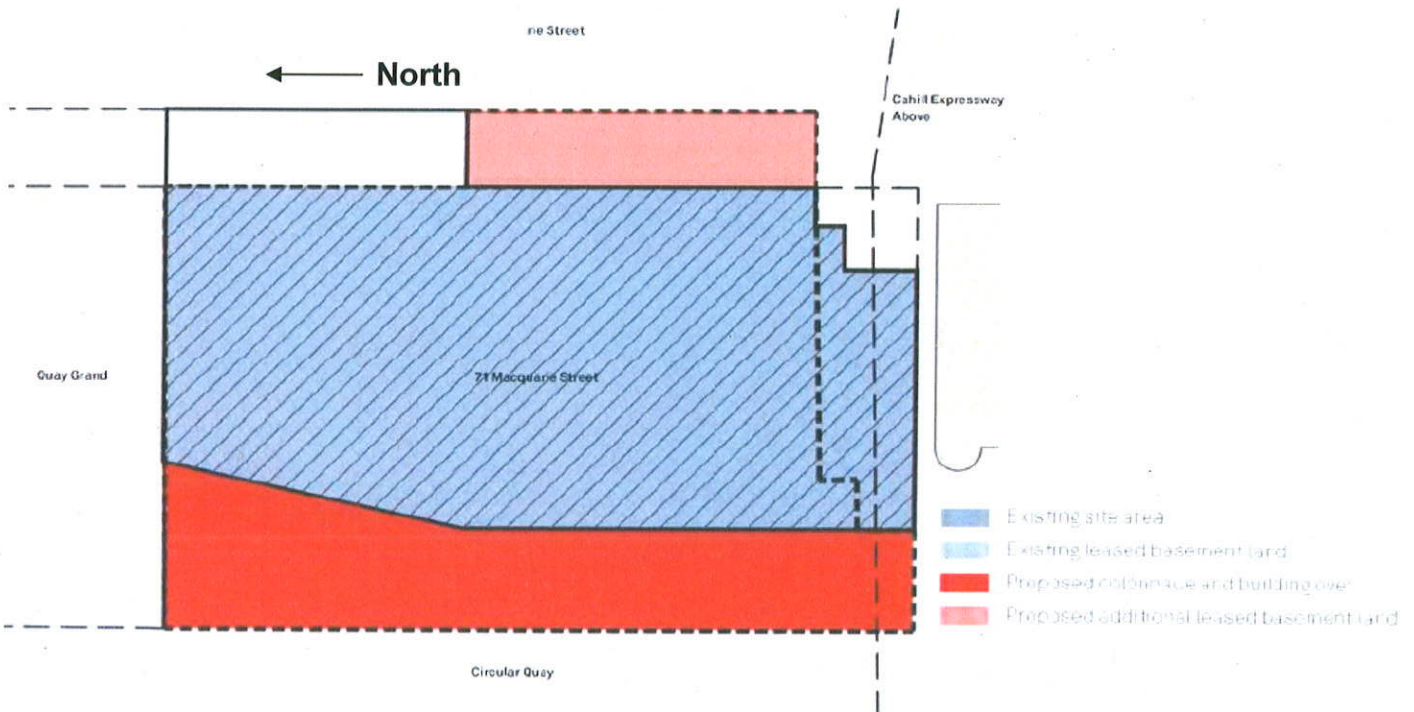


Figure 5: The proposed western extension of the building envelope in plan - shown in red (Source: Proponent's EA)

2.2. Response to Submissions

Following the conclusion of the public exhibition of the EA, the department provided a copy of all submissions to the proponent and advised that a number of issues required further consideration in particular parking, traffic and built form. The proponent responded to the submissions and the department's issues in the Response to Submissions (RtS) document that was placed on the department's website. There were no modifications to the proposal arising from the RtS.

2.3. Project Need and Justification

NSW State Plan

The *New South Wales State Plan* seeks to achieve improved urban environments and deliver attractive and sustainable development through reductions in greenhouse gas emissions and development in close proximity to existing centres, services and transport. The proposal will have excellent access to public transport, recreational facilities and employment opportunities, consistent with the aims of the State Plan.

Metropolitan Plan for Sydney 2036

The *Metropolitan Plan for Sydney 2036* is a strategic document that guides the development of the Sydney Metropolitan area towards 2036. The Metropolitan Plan aims to keep Sydney a compact city which encourages the use of public transport and increased housing opportunities located close to jobs and retail facilities. The proposed development will provide housing with excellent access to employment opportunities and shops and a range of public transport options which will reduce the reliance on private car travel.

Draft Sydney City Subregional Strategy

The *Draft Sydney City Subregional Strategy* aims to increase permanent residential population in the City and enhance the global competitiveness of Sydney. The proposed development will contribute to the vibrant character of Circular Quay and maintains its role as the harbour gateway to the city. The site also affords the opportunity to achieve good amenity for future residential occupants in terms of views and sunlight access compared to the commercial core of the Central Business District. The proposal will replace the existing commercial office space with residential uses, including serviced apartments for tourists and visitors which are considered more appropriate given the site's proximity to key tourist attractions.

2.4. Concept Plan

The Proponent has applied for approval of a concept plan under section 75M of the EP&A Act. On 7 February 2011, the Deputy Director-General, as delegate of the Director-General authorised the submission of a Concept Plan. Concept approval is sought for all aspects of the development. Concept approval does not confer development rights. Any future development of the site would need to be subject to a detailed development application to Council.

3. STATUTORY CONTEXT

3.1. Major Project

The proposal has a CIV of \$100 million and is a major project under Part 3A of the EP&A Act, because it is located on a Sydney Harbour Foreshore site with a CIV of more than \$5 million under clause 10(1) of Schedule 2 of *State Environmental Planning Policy (Major Development) 2005*. Therefore the Minister for Planning and Infrastructure is the approval authority.

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects. Director-General's Environmental Assessment Requirements (DGRs) were issued in respect of this project prior to 1 October 2011, subsequently the project is therefore a transitional Part 3A project.

This report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75O of the EP&A Act.

In this regard, the Deputy Director General may determine the application on the Minister's behalf under delegation as the council has not objected to the proposal, no political donations have been declared in respect of the proposal, and less than 25 public submissions objecting to the proposal have been made.

3.2. Permissibility

The site is zoned City Centre under Sydney Local Environmental Plan, 2005. The proposed residential, serviced apartment and retail uses are permissible with consent in the City Centre zone.

The site is zoned B8 Metropolitan Centre under draft Sydney Local Environmental Plan, 2011. The proposed development is permissible with consent in this B8 zone.

3.3. Environmental Planning Instruments

The Department's consideration of relevant SEPPs and EPIs is provided in **Appendix D**.

3.4. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposed development is consistent with objects (a) (ii) and (iv), in that:

- the development will provide a range of housing with excellent access to public transport, employment opportunities and shops;
- it will improve the pedestrian experience by extending the colonnade consistent with its northern neighbours;
- it will remove vehicular traffic from the promenade in the western part of the site creating a safer environment for pedestrians; and
- it will facilitate improvements to the public domain.

3.5. Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (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:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The proposal is considered consistent with the ESD principles because it:

- represents a low level of environmental sensitivity;
- provides housing to maximise the site's proximity to existing transport infrastructure; and
- provides a better building design and improved public access.

An assessment of the proposal in relation to ESD principles is included in **Appendix D**.

3.6. Statement of Compliance

In accordance with section 75i of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4 CONSULTATION AND SUBMISSIONS

4.1. Exhibition

Under section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment (EA) of an application publicly available for at least 30 days. After accepting the EA, the Department:

- publicly exhibited it from 18 January 2012 until 29 February 2012 (42 days):
 - on the Department's website;
 - at the Department's Information Centre; and
 - at City of Sydney Council.
- advertised the public exhibition in the Sydney Morning Herald, Daily Telegraph and the Central Courier on 18 January 2012; and
- notified landholders and relevant State and local government authorities in writing.

The department received 17 submissions during the exhibition of the proposal comprising 6 from public authorities and 11 from the general public. A summary of the issues raised in submissions is provided below.

4.2. Public Authority Submissions

Six (6) submissions were received from public authorities, with the key issues summarised in **Table 2**.

Table 2: Summary of Issues Raised in the Public Authority Submissions

City of Sydney Council
The City of Sydney supports the proposal but raised the following issues: <ul style="list-style-type: none">• the new colonnade should match the height and width of the existing colonnade;• the vehicle access at the termination of the colonnade should be screened using artwork or a visually permeable screen;• the soffit above the stairway of the through site pedestrian link should be designed at full height to ensure legibility for pedestrians;

<p>City of Sydney Council cont'd</p> <ul style="list-style-type: none"> • a stratum should be established for the through site link under Council's ownership; • there should be separation between the ground level retail activity and permanent residential development; • serviced apartment uses and residential uses should be provided on separate floors with separate access points and vertical circulation; • permanent residential uses should be sufficiently separated from the public domain and limited to floors above 9 storeys to avoid perceived privatisation of the area; • excessive parking will result in additional vehicular traffic and congestion along Macquarie Street; • consideration should be given to the potential future removal of the Cahill Expressway in the design of basement parking; • the development should demonstrate why the proposed basement entry point is preferred over an entry point that is accessed from underneath the railway viaduct; • a building height cap at RL 67m should be provided; • the NSW Heritage Office and Council should be consulted regarding design, articulation and materials; • archaeological investigation is required in consultation with relevant agencies; and • a 'Letter of Offer' outlining the proposed public domain works to the satisfaction of Council should be provided prior to determination of the Concept Plan.
<p>Heritage Branch Office of Environment and Heritage</p> <ul style="list-style-type: none"> • the development is considered to be an opportunity to mitigate a long standing adverse visual impact on the setting of not only the Sydney Opera House but also Circular Quay itself; • the overall height should be limited to the permissible height limit or the height of the adjoining Quay Grand whichever is the greater; • a Heritage Impact Statement should be submitted with a detailed assessment of the visual impact on the setting of the Sydney Opera House; and • archaeological testing should be undertaken in areas identified as potentially containing archaeological remains.
<p>Sydney Water</p> <ul style="list-style-type: none"> • the potential impact on the heritage listed Bennelong Point Oviform Stormwater Channel should be considered.
<p>Transport for NSW (Railcorp)</p> <p>Railcorp has identified a number of conditions and/or future assessment requirements to be considered as part of the future application, as follows:</p> <ul style="list-style-type: none"> • noise and vibration impacts; • electrolysis risk; • structural stability and integrity of the railway; • maintenance and access to Railcorp facilities; • safety; and • construction management.
<p>Sydney Harbour Foreshore Authority</p> <p>SHFA supports the proposal and suggests that the indicative water feature should not create a barrier to east-west pedestrian circulation.</p>

4.3. Public Submissions

Eleven (11) submissions (all in objection) were received from the general public. A summary of the issues raised is outlined in **Table 3**.

Table 3: Summary of Issues Raised in Public Submissions

Issue	Proportion of submissions (%)
<p>Traffic Impacts</p> <ul style="list-style-type: none"> • vehicular access and queuing delays; • traffic congestion; • insufficient driveway widths, gradients and manoeuvring areas for trucks and delivery vehicles in the basement; • inadequate traffic assessment; and • the traffic issues should be resolved now and not at the DA stage. 	82%
<p>Building Height</p> <ul style="list-style-type: none"> • the building height should be reduced to comply with the current planning controls; • the proposed building height is out of character with the surrounding area; • there is a lack of suitable justification for the proposed building height which relies on an economic argument; • the provision of additional floorspace over public land should only be provided if the building is lowered in height consistent with development to the north; and • a building transition is not necessary and is not a policy direction for ECQ. 	64%
<p>Building Interface (Quay Grand)</p> <ul style="list-style-type: none"> • there is a lack of design detail to determine the impacts on the Quay Grand; • adverse impact on the amenity for the Quay Grand internal pool area in terms of solar access and visual amenity; • there will be a loss of light to living/dining room windows along southern elevation of the Quay Grand; and • the northwest corner of the building should have a chamfer (splay). 	55%
<p>Privacy</p> <ul style="list-style-type: none"> • overlooking from the upper levels into balconies/ windows at the Quay Grand and the Quay Apartments; and • privacy impacts between balconies on the site and the Quay Grand. 	36%
<p>Construction Impacts</p> <ul style="list-style-type: none"> • management of traffic and pedestrian access during the excavation and construction stage; and • access arrangements for the Quay Grand residents during excavation and construction phase. 	27%

Issue	Proportion of submissions (%)
<p>View loss</p> <ul style="list-style-type: none"> • loss of southerly views from the Quay Grand, including the indoor pool area; • the building height should be reduced to improve views from surrounding areas; • the view impacts assessment is inadequate; and • the height visually detracts from views and vistas across the water from West Circular Quay. 	27%
<p>Through Site Link</p> <ul style="list-style-type: none"> • the pedestrian link is not needed given there are existing links between Macquarie Street and ECQ; • increased crime risk and potential safety and security concerns; and • the location and width of the link is inadequate. 	27%
<p>Noise</p> <ul style="list-style-type: none"> • noise impacts from service vehicles and garbage trucks and the possible future bars and/or clubs at ground level. 	18%
<p>Parking</p> <ul style="list-style-type: none"> • the number of parking spaces exceeds Council's controls. 	18%
<p>Community Consultation</p> <ul style="list-style-type: none"> • lack of proper community consultation undertaken with the neighbouring residents. 	18%
<p>Statement of Commitments</p> <ul style="list-style-type: none"> • the proponent's commitments are not sufficiently descriptive or capable of compliance. 	10%
<p>Access to the Quay Grand</p> <ul style="list-style-type: none"> • the proponent should make commitments as part of the current process to ensure full and unfettered access to the Quay Grand parking basements. 	10%

The Department has considered the issues raised in the submissions in its assessment of the project in **Section 5** of the report and/or by way of further assessment requirements on the Recommended Instrument of Approval or as a commitment in the revised Statement of Commitment submitted by the proponent.

4.4. Proponent's Response to Submissions

A copy of all submissions received during the exhibition period was forwarded to the proponent. The proponent provided a response to the issues raised in a Response to Submissions (RtS) document prepared by JBA Planning, dated May 2012 (refer to **Appendix C**). The RtS was made available on the department's website.

There were two additional public submissions lodged on behalf of the owners and occupiers of the Quay Apartments and the Quay Grand in response to the RtS. The main issues raised are summarised as follows:

- there is a lack of justification for the non-compliance with the building height controls;
- the proposed building height is contrary to the evolution of the planning controls for East Circular Quay;

- there is inadequate justification for exceeding the parking controls;
- the through site link will deliver little benefit and does not adequately justify the additional height;
- there will be a loss of views from the Quay Grand;
- there will be adverse amenity impacts to the users of the indoor pool area at the Quay Grand;
- the proposed development will result in adverse traffic and parking impacts; and
- the traffic issues have not been adequately addressed in terms of width of internal access, configuration of the truck turning area, relocation of on-street loading facilities and the provision of accurate plans with dimensions and gradients.

These issues are addressed in **Section 5** of this report.

5. ASSESSMENT

The department considers the key environmental issues for the project to be:

- building height; and
- traffic, access and carparking.

5.1. Building Height

The height of the proposed building envelope is a key issue due to the site's prominent location and proximity to the Sydney Opera House. The proposal seeks to retain the height of the existing building on the site (RL 65.37m to the parapet and RL 67.23m to plant room) which exceeds Council's current height control applying to the site (RL 46.7m).

The existing building on the site was approved in the 1960s under a less restrictive planning regime and prior to the construction of the Sydney Opera House in 1973. Since then, several redevelopment proposals were considered on the adjoining sites to the north which attracted significant public interest regarding built form and the impact on the setting of the Opera House.

In the 1990s the Federal Government negotiated an agreement with Council (excluding the subject site) which resulted in the height of the existing Quay Grand building and the Bennelong Apartments being lower and wider (than otherwise allowed under the controls applicable at the time) in exchange for public land (the former roadway to the west was closed and built over). The agreement sought to achieve a linear form of development which would reduce the dominance of buildings on the public setting, in particular the Sydney Opera House. The adjoining Quay Grand building to the north was subsequently approved in 1994 at a maximum height of RL 46.7m by the Central Sydney Planning Committee (CSPC) (**Figure 6**).



Figure 6 – View looking northeast showing the existing buildings at East Circular Quay

Concerns have been raised in the public submissions that the proposed building envelope will provide additional floorspace (by extending to the west over the road reserve) without lowering the overall height of the building as was required for buildings to the north.

The department accepts that the development will receive the benefit of additional floorspace by extending the building envelope to the west. However, a significant public benefit will be provided by completing the colonnade and facilitating public domain works to improve the adjoining promenade (discussed in **Section 5.3**). The department notes the height of the proposed extension of the building envelope to the west will match the height of the adjoining Quay Grand at an RL 46.7m and is therefore compliant with Council's height control.

The existing building on the site has a height of RL 65.37m to the parapet and RL 67.23m to the plant room. The maximum height allowed under the SLEP 2005 is RL 46.7m. The proposed building envelope will retain the same height as the existing building on the site which exceeds the current height control by approximately 20m or 44%.

Despite the fact that the proposed height exceeds the Council's LEP control, the height of the proposed building envelope is supported by Council. Council considers the proposal will be consistent with the broader planning objectives for Circular Quay and notes there will be no adverse amenity impacts, such as overshadowing or view loss from neighbouring properties.

Whilst it is considered to be a substantial departure from Council's controls, the department is of the opinion that the proposed building height should be assessed on its merit to determine whether it is an acceptable design outcome for the site. The department considers the key issues for the merit assessment to be visual and amenity impacts, including solar access and view loss.

Visual Impacts

The visual impact of the proposed building envelope height is readily ascertained by viewing the existing building on the site and its relationship to neighbouring buildings.

The adjoining Quay Grand to the north is approximately 20m lower than the existing building on the site. The Quay Apartment building, adjoining the southern side of the Cahill Expressway, is approximately 33m higher than the existing building on the site (with taller buildings further to the south). From this it can be seen that the height of the proposed building envelope will retain a stepped down building form from the higher city buildings to the south to ensure a gradual transition to the relatively low scale Quay Grand and Bennelong Apartments to the north (**Figures 7 and 8**).

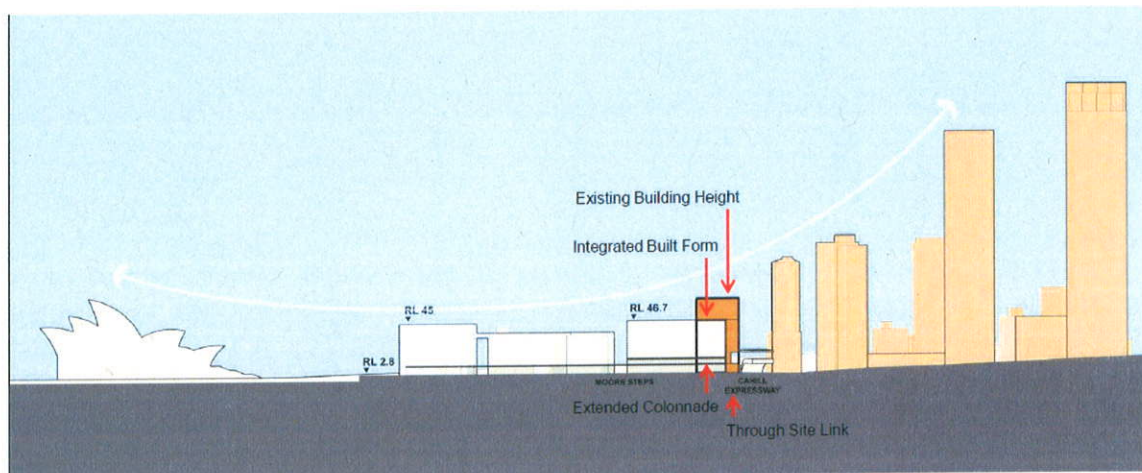


Figure 7 – Contextual elevation showing the height transition to city buildings (Source: Proponent's Design Report)



Figure 8 – Existing view from the western side of Circular Quay (Source: Proponent's Design Report)

The department therefore considers that the stepped building transition will result in a good design outcome by minimising the otherwise abrupt change of scale to the city buildings.

Circular Quay is classified as a 'Special Area' under Sydney LEP 2005 and one of the objectives seeks to reinforce the urban character and scale by requiring new buildings to be built to the street alignment and to have a transition of building heights to the northern area of the city. The department considers the proposal is consistent with the vision for Circular Quay in SLEP 2005.

The Heritage Branch of the *Office of Environment and Heritage* considers the proposed development to be an opportunity to mitigate a long standing adverse visual impact on the setting of the Sydney Opera House and Circular Quay. This forms the basis for its request that the future building should match the height of the Quay Grand adjoining to the north which is consistent with Council's current height control.

The site is in the vicinity of several listed heritage items, including the Sydney Opera House, and is located in the Sydney Opera House buffer zone identified in the Sydney Regional Environmental Plan 2005 (SREP 2005). The buffer zone covers an area from Mc Mahons Point to Cremorne Point on the northern side of the Harbour, and Dawes Point to Potts Point on the southern side of the harbour. The objectives of the buffer zone seek to protect views and vistas to and from the Opera House and other public places to protect its world heritage value.

The Heritage Branch is of the view that the proposed height of the development will have a detrimental impact on the setting of the Opera House which is contrary to the buffer zone objectives.

The proponent submitted a report titled, *Potential Impacts on the Sydney Opera House Buffer Zone*, prepared by *Godden Mackay Logan Heritage Consultants*. The visual analysis undertaken in that report identified the existing building as being visible from many points throughout the buffer

zone, but concluded the existing building on the site is not a strong, distinct element of the Circular Quay area. Instead, it acts as a transitional building between ECQ and the city landscape.

The department considers that the existing building is not readily viewed in the context of the Sydney Opera House due to distance separation (approximately 400m) and the intervening Quay Grand and Bennelong Apartments. The department considers that views to the Opera House from the foreshore promenade at East Circular Quay or Macquarie Street will not be affected by the proposal.

When viewed from West Circular Quay and The Rocks the proposed building will transition between the lower development north of the site and the higher city buildings to the south (refer to **Figure 8**).

When viewed from the Royal Botanic Gardens (to the east) the top floors of the proposed building will be visible from some vantage points and obscured by topography and existing vegetation at other locations (refer to **Figure 9**).

When viewed from the north such as Bradfield Park, Kirribilli, the Milsons Point Ferry Wharf and the Sydney Harbour Bridge the proposed building will blend in with the city buildings in the background (refer to **Figures 10 and 11**).

The department therefore considers that the proposed development will not have any adverse impact on the setting of the Sydney Opera House or its world heritage value. Importantly, the detailed design of the future building will be subject to a design excellence process, including a design competition in accordance with Council requirements. The competition process will ensure a high quality building design that complements the prominent location and its public setting.



Figure 9 – Existing view from the eastern part of the Royal Botanic Gardens showing the upper levels of the existing building (Source: Proponent's Heritage Report)

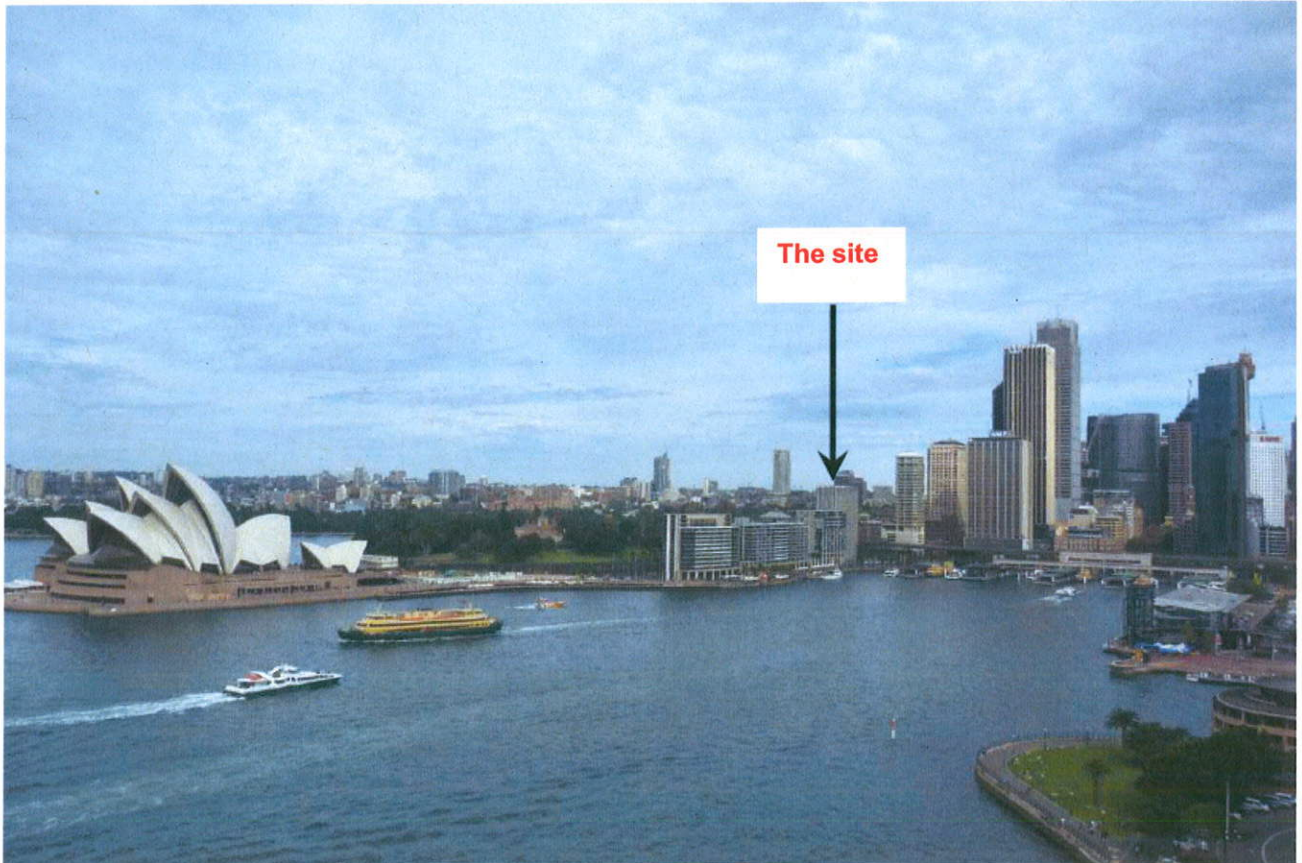


Figure 10 – Existing view from the Sydney Harbour Bridge (Source: Proponent's Heritage Report)



Figure 11 – Existing view from the Bradfield Park, Kirribilli (Source: Proponent's Heritage Report)

Amenity Impacts

The potential amenity impacts to the surrounding area as a result of the proposed building height are a matter for consideration in the merit assessment of the proposal. In particular, the department considers the key amenity issues relate to solar access and view impacts.

Solar Access

Some public submissions requested the future building be lowered to improve solar access to the surrounding properties, in particular the Royal Botanic Gardens to the east. An envelope with a compliant height (20m lower than the height of the proposed building envelope) would have a lesser overshadowing impact on the adjoining properties to the south, including the Quay Apartments, Royal Automobile Club of Australia and the Royal Botanic Gardens.

However, the department considers that the solar access impacts are acceptable because:

- the Quay Apartments and the Royal Automobile Club Australia site will continue to receive in excess of 3 hours direct sunlight in the morning and afternoon during the winter solstice. The proposal will therefore satisfy the requirements in State Environmental Planning Policy No. 65 and the Residential Flat Design Code which promote best practice in the design of flat buildings in NSW and require a minimum of 2 hours direct sunlight for apartments in dense urban areas; and
- the shadows cast by the proposed building envelope to the southeast mainly affect the Macquarie Street exit of the Cahill Expressway and avoid any significant public open space in the Royal Botanic Gardens.

Further to the above, the future building on the site will not result in any additional overshadowing impacts to adjoining properties given it is proposed to be the same height as the existing building on the site. The department considers the proposal is therefore acceptable with regard to overshadowing of adjoining properties.

View Impacts

The proponent has provided a view impact analysis to determine the impact on existing views from neighbouring properties. The potential view impacts have been considered from the Quay Apartment building and the AMP building to the southeast, the Royal Automobile Club of Australia building and the Sir Stamford Hotel to the south. Refer to the location of surrounding buildings in **Figure 3** on page 2 of this report.

The potential view impacts from the Royal Automobile Club Building and Sir Stamford Hotel do not warrant any significant consideration given these buildings are lower (with an RL 33m and RL 44m, respectively) than the Quay Grand building adjoining the northern side of the site which would already block any northern views from these properties.

The department considers that the potential view impacts from the height of the building envelope are relevant from the Quay Apartments which have two dwellings per floor comprising a northwestern and northeastern apartment with northerly aspects.

The worst case scenario is from the northeastern apartments and the proponent's view analysis shows that the proposed building envelope will obstruct views of an area of northern sky at the middle level (RL 46.7m) of the Quay Apartments. However, extensive views including Sydney Harbour Bridge, The Rocks, Circular Quay and Farm Cove to the east would be retained. The department therefore considers the view loss in the context of views retained for these affected apartments is minor (refer to **Figures 12** and **13**).

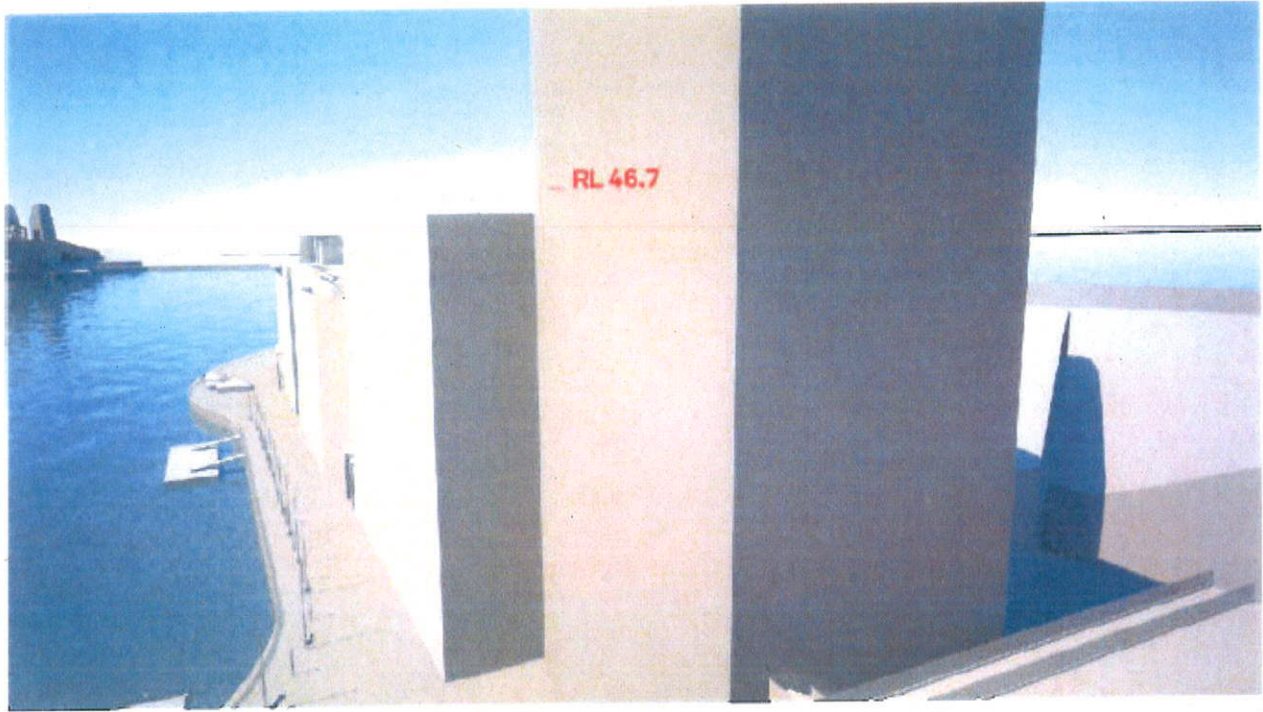


Figure 12 – Existing view from the northeastern Quay Apartment at RL 46.7m (Source: Proponent's Visual Analysis)

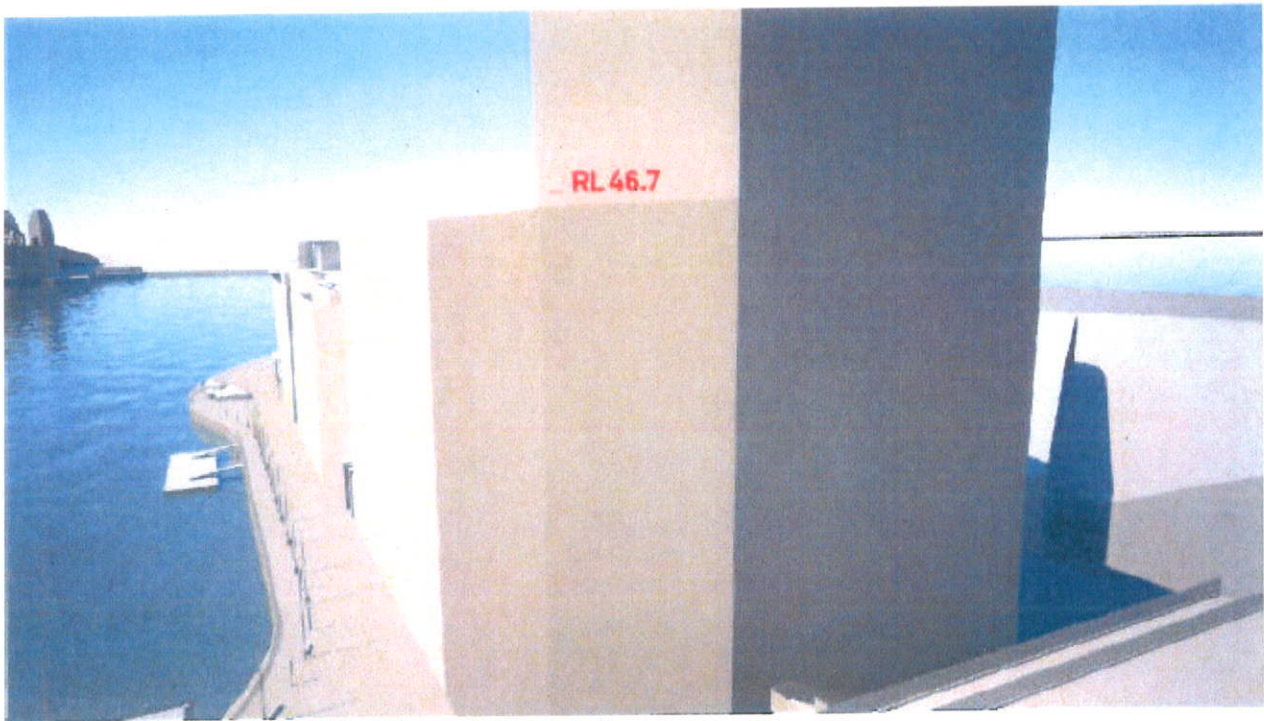


Figure 13 – Proposed view from the northeastern Quay Apartment at RL 46.7m (Source: Proponent's Visual Analysis)

The view analysis also indicates that the proposed building envelope would obstruct part of the northern view, including the eastern sail of the Sydney Opera House at RL 67m (refer to **Figures 14 and 15**). However, the department considers the view impact is not unreasonable in the context of the extensive views retained, including Sydney Harbour Bridge, The Rocks, Circular Quay and Farm Cove. In any event the view impact is existing and there will be no additional view impact as a result of the proposed building height envelope.

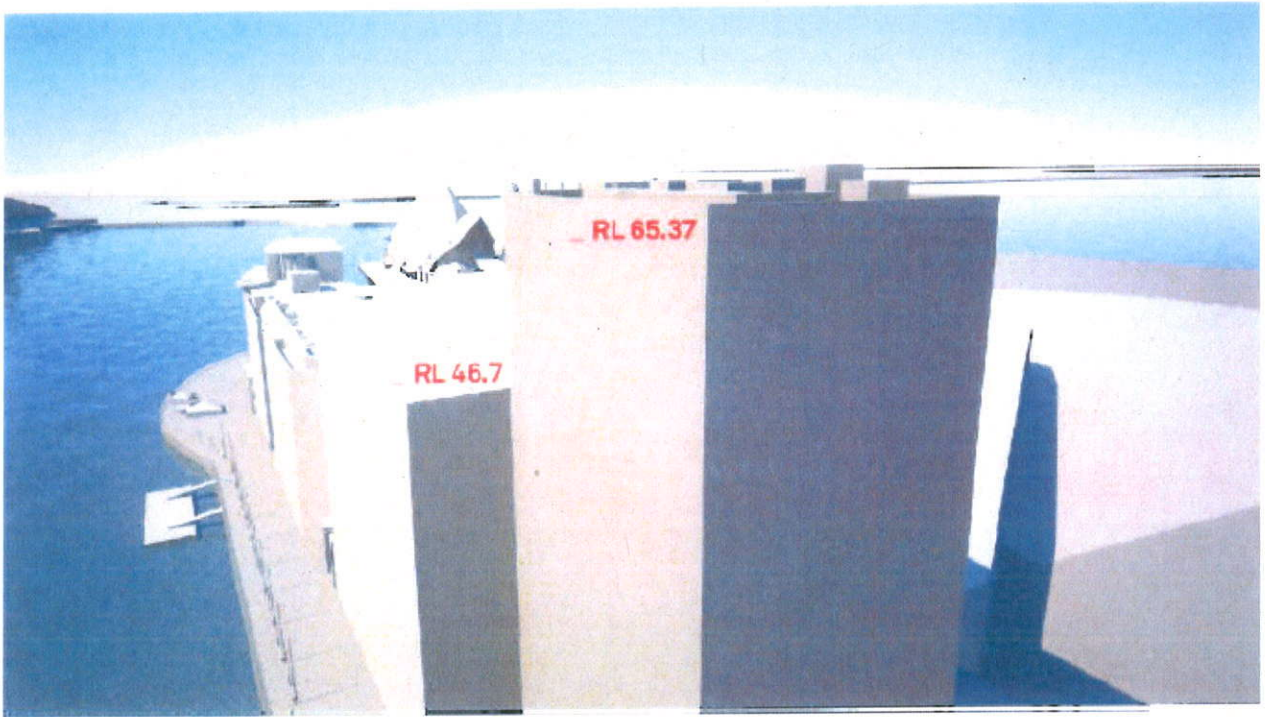


Figure 14 – Existing view from a northeastern apartment at the Quay Apartments at RL67m
(Source: Proponent's Visual Analysis)

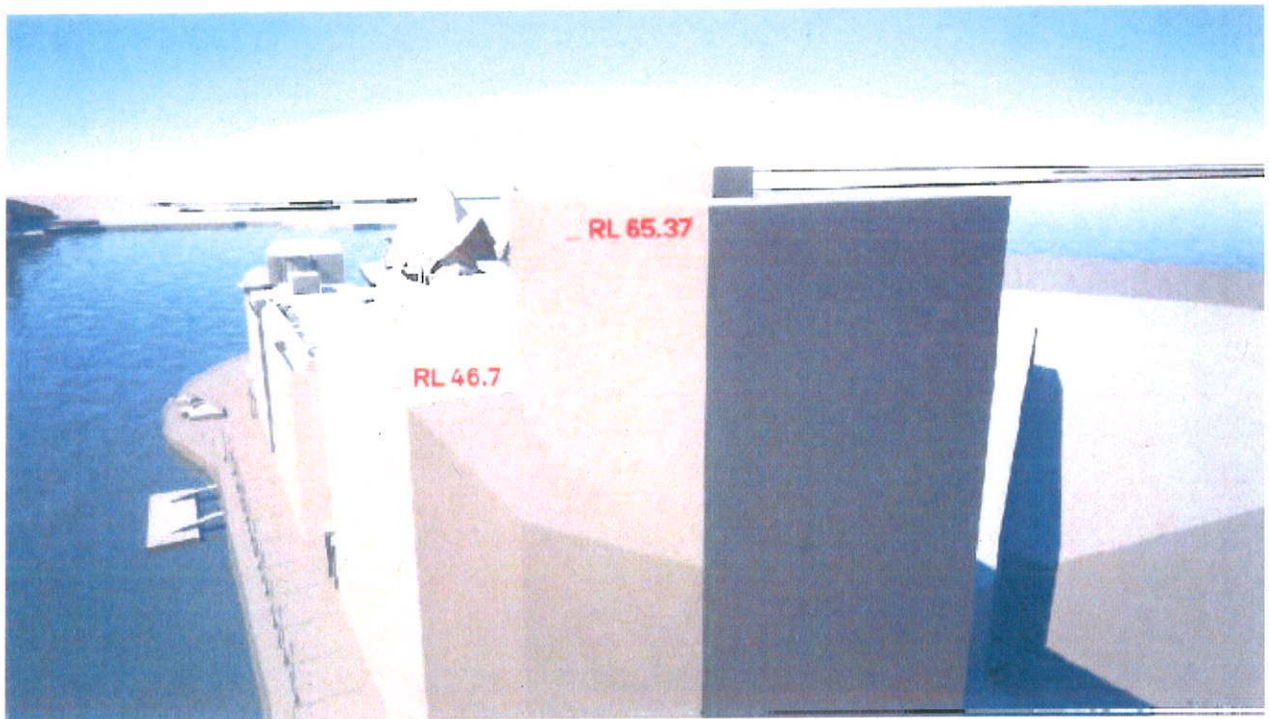


Figure 15 – Proposed view from a northeastern apartment at the Quay Apartments at RL67m
(Source: Proponent's Visual Analysis)

In addition to the height of the building envelope, concerns have also been raised in relation to the view impacts from the western extension of the building envelope which complies with Council's height control (RL 46.7m).

The proposed western extension of the building envelope aligns with the Quay Grand building adjoining to the north. The department therefore considers there will be no adverse views impacts from the Quay Apartment building, AMP building or the Royal Automobile Club Australia.

However, the proponent's view analysis shows the northeast pylon of the Sydney Harbour Bridge will be obscured when viewed from easterly windows of two rooms at the top floor of the Sir Stamford Hotel due to the western extension of the building envelope (**Figure 16**). A chamfer is provided to the southeastern corner of the proposed building envelope to minimise the view impact from the Sir Stamford Hotel. The department considers the view impact from the Sir Stamford Hotel is minor and acceptable when considered in the context of the view retained and the views available from other windows.

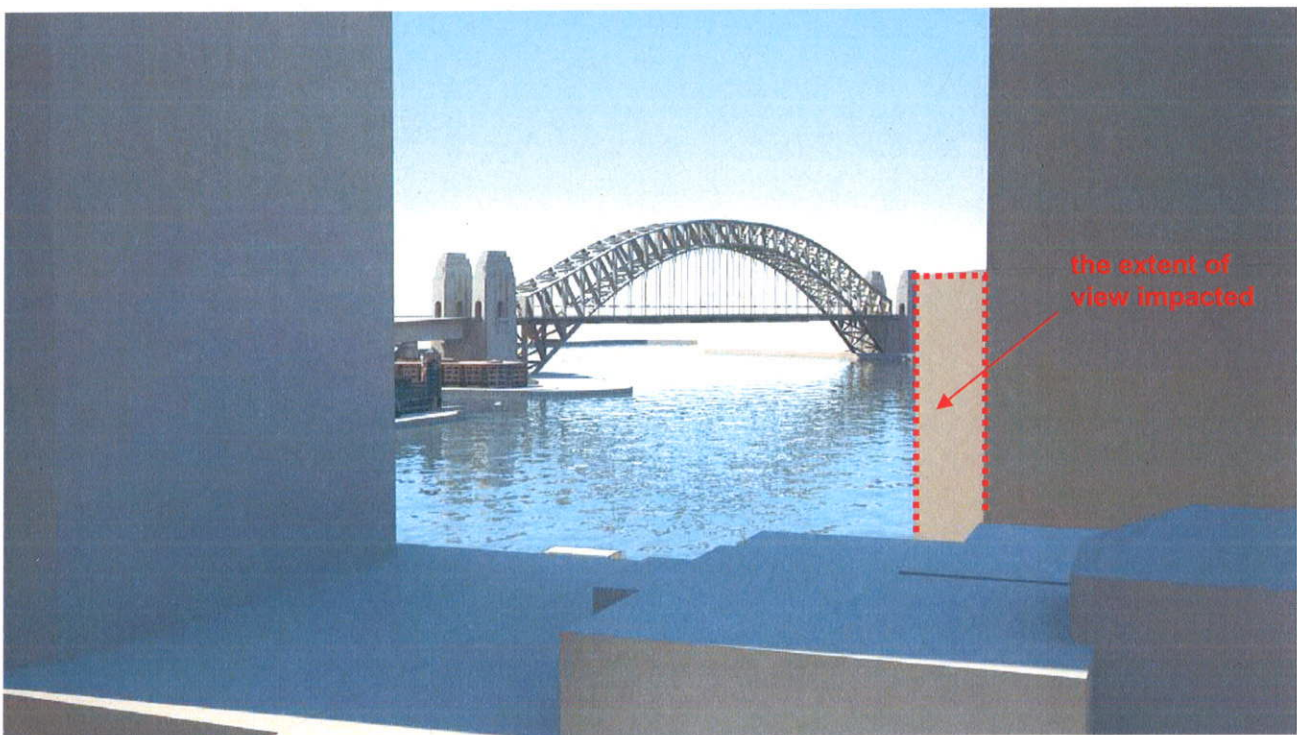


Figure 16 – View Impact from top floor of the Sir Stamford Hotel southeast of the site (Source: Proponent's Design Report)

Concerns were also raised by residents at the Quay Grand due to the potential loss of views to the south arising from the western extension of the proposed building envelope. The existing views to the south of the city buildings from the indoor pool area and the southernmost apartment balconies will potentially be affected by the western extension of the building (refer to **Figure 17**). The department considers that the view loss to the south is minor when considered in the context of the views retained to the west of The Rocks, the Overseas Passenger Terminal and Sydney Harbour Bridge (refer to **Figure 18**).

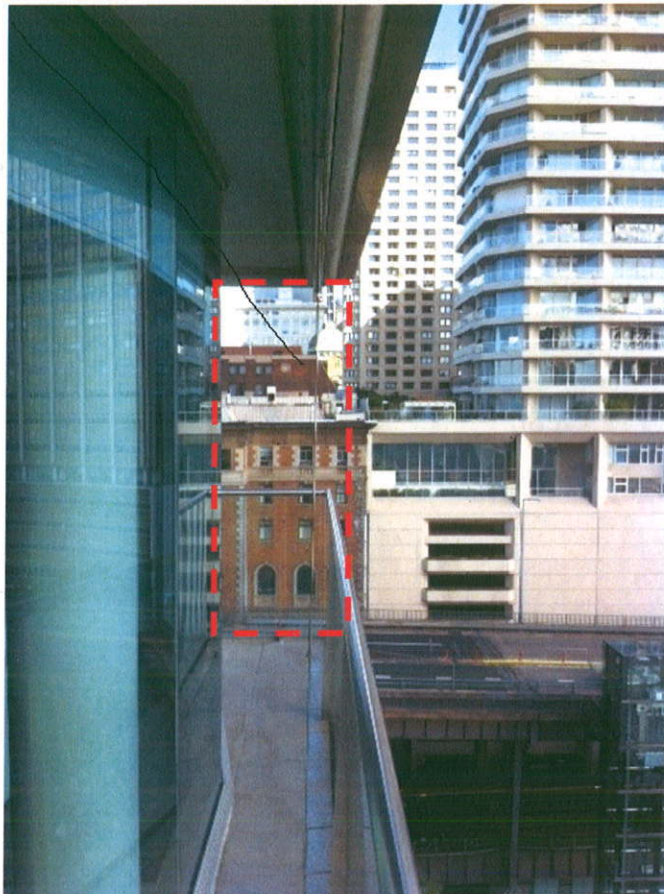


Figure 17 – View to the south from an apartment balcony at the Quay Grand. The red dashed line indicates the extent of view that potentially will be removed due to the western extension of the proposed building envelope (Source: Department's site photo)



Figure 18 – View to the west from the ECQ Bar (located below the apartments at the Quay Grand) (Source: Department's site photo)

Conclusion

The lower portion of the proposed building envelope extending over the Council owned roadway to the west will comply with Council's current height control and align the future development with existing properties to the north resulting in no adverse view loss from neighbouring properties.

The upper portion of the proposed building envelope (above the height of the existing Quay Grand building to the north), whilst representing a substantial departure from Council's height control, is consistent with the height of the existing building on the site resulting in no additional amenity impacts to the surrounding area. For this reason Council supports the retention of the existing height, subject to a building height cap at RL 67m being applied in the form of a restrictive covenant on the title or other suitable legal mechanism. The department concurs with Council's request for a height cap which is included as a future assessment requirement on the recommended instrument of approval.

On merit, the department considers the proposed building height will not result in any unreasonable impacts and in principle is a good design outcome for the site. The department therefore supports the height of the proposed building envelope.

5.2. Traffic, Access and Carparking

Traffic Generation

Council and some public submissions raised concern with the additional traffic congestion generated by the future development in the surrounding streets. The validity of traffic survey data provided in the proponent's traffic assessment report has been questioned by traffic consultants representing residents in the Quay Grand building.

The proponent's traffic consultant, *Halcrow* counted traffic entering and leaving the Quay Grand and Quay Apartments to estimate the potential traffic generation of the proposed development. Surveys indicate the net additional traffic would be 22 vehicles per hour (vph) (maximum) during the evening peak period taking into account traffic generated by the existing building on the site. This equates to one vehicle every 3 minutes on average. The proponent's traffic consultant concludes this is a low level of traffic generation by the proposed development and that there will be no adverse impacts on the surrounding road network.

A traffic report was prepared by *Varga Traffic Planning* on behalf of the owners of the adjoining Quay Grand building. This indicated that the morning and evening peak hour traffic generation is in fact greater than the *Halcrow* survey data by 16 vph and 17 vph, respectively.

In view of the discrepancy, the proponent's traffic consultant undertook a further traffic survey. The new survey confirmed that the number of traffic movements in the morning peak period was generally consistent with the traffic assessment prepared by *Varga* on behalf of the Quay Grand residents but lower in the afternoon peak period by 22 vph. The department accepts that the discrepancy in the afternoon peak period represents the daily variation in traffic visiting the site given the new afternoon peak survey data provided by the proponent's traffic consultant was generally consistent with its original traffic assessment submitted with the EA. The department notes that the discrepancy in the survey data was not raised by the Quay Grand's traffic consultant in its most recent submission regarding traffic issues. The department is therefore of the view that the traffic likely to be generated by the future development is generally low and will have minimal impact on the surrounding road network.

On-street Loading/Unloading Zones

A concern was raised by the residents of the Quay Grand with regard to the loss of the on-street loading areas along the road reserve which will be closed to make way for the western extension of the building. The Varga traffic assessment prepared for the Quay Grand residents requested clarification on the number of service vehicles accessing the site identified in the proponent's traffic survey. The existing site accommodates two on-street loading spaces on the western side of the existing building. The proponent's traffic assessment states that these spaces are used on a frequent basis as the survey identified 39 on-street loading events per day. However, only 2 of these movements were associated with the Quay Grand. Noting this survey data, the department forms the view that the existing loading spaces in front of the site are mostly used by delivery vehicles servicing other shops and restaurants to the north of the Quay Grand. The department considers that the Quay Grand is adequately serviced with its existing internal servicing area and the existing loading zones along Macquarie Street are able to satisfy the servicing needs of shops and restaurants at the northern end of ECQ.

Access

The existing vehicular access to the Quay Grand basement parking area is via two one way roadways at ground level in the Cahill Expressway undercroft area and a two way public road in front of the subject site adjoining the public promenade. The current access to the Quay Grand will be closed permanently to make way for the proposed development on the site. All vehicular access to the Quay Grand will be redirected through the basement on the site (**Figure 19**). Council imposed a condition on the adjoining Quay Grand development requiring the provision of breakthrough panels along the southern basement wall to enable future access in the event of the redevelopment of the subject site.

A number of issues have been raised by the Quay Grand residents in relation to whether the site can adequately accommodate the vehicular access and servicing needs of both buildings. The specific issues raised include the width of the access driveway, queuing times and the inadequate turning areas for trucks in the basement.

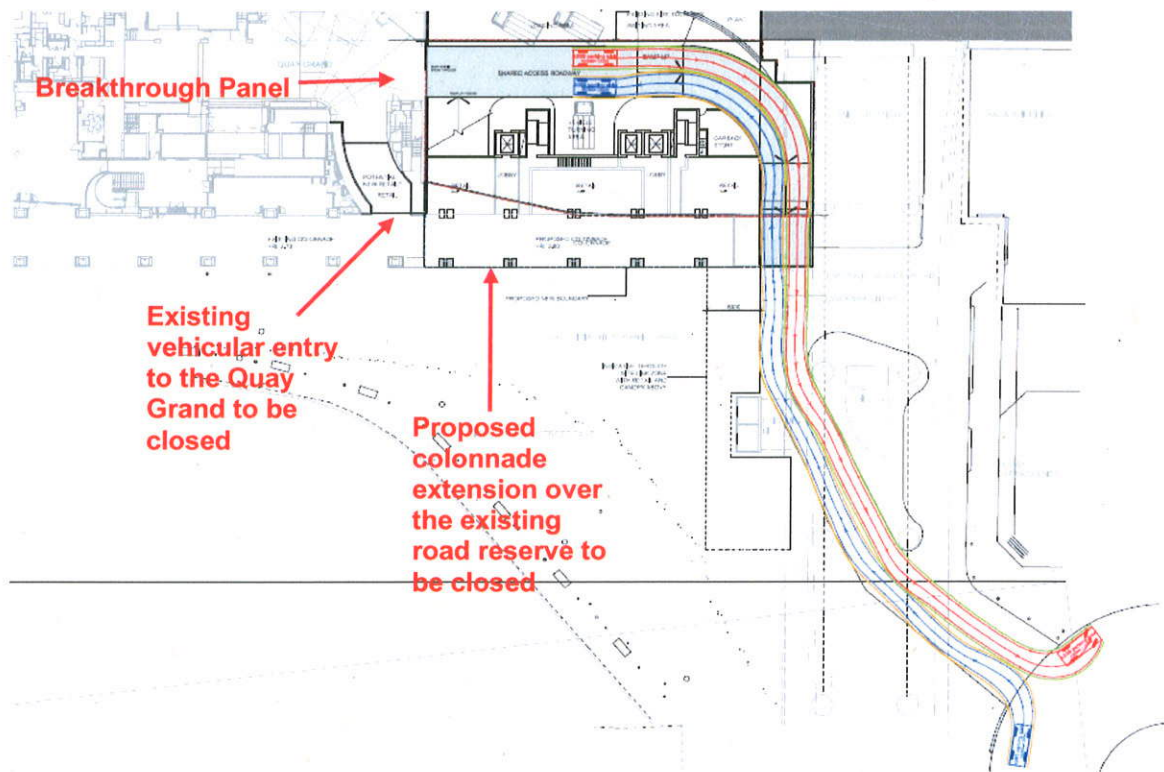


Figure 19 – Proposed Access Arrangements (Source: Proponent's Traffic Report)

The proposed combined driveway to serve the Quay Grand and the subject development will be located in approximately the same location as the existing driveway serving the subject site. The internal basement driveway is proposed to be 5.5m wide which is wide enough to allow two cars to pass. However, based on the current indicative design layout the curved section of the driveway is not wide enough to allow a car and truck to pass each other at the same time.

The proponent has recommended the installation of a conceptual control system to detect vehicles over 5.5m in length which would hold vehicles while a truck passed. In this scenario the average delay would be approximately 18 seconds when an arriving or departing truck met oncoming traffic. The proponent's traffic report prepared by GTA consultants, estimates the delays would occur about 5 times an hour in each direction during a weekday and less on weekends and at night. This equates to a truck entering or leaving the site every 12 minutes on a weekday and potentially represents significant delays for future users of the internal access driveway.

The residents at the Quay Grand object to the queuing delays and lack of visibility for drivers and potential traffic conflict. The proponent has advised that the curved section is unable to be made wider without compromising the through site link and retail configuration.

The department considers the vehicular access arrangements for future development on the site should provide for a truck and a car to pass each other without unnecessary delays for future users.

The department notes that the driveway would need to be widened by approximately 1m and is of the view that there is scope to modify the internal ground floor layout and/or the through site link to accommodate an internal driveway which complies with the minimum access requirements in Australian Standard 2890.

In this regard the department does not support the proposed 5.5m width and a modification to the ground level layout demonstrating compliance with AS2890 is included in the recommended instrument of approval.

Concern has also been raised as to whether there is sufficient internal manoeuvring area for trucks, particularly garbage trucks accessing the site. The proponent submitted additional information regarding the turning bay and access for 8.65m long garbage trucks. Varga's traffic assessment submitted on behalf of the Quay Grand residents makes the point that conventional garbage trucks are longer (up to 9.5m) and the proposed turning bay may not be able to accommodate a truck of this size. The department accepts that there are design options for manoeuvring areas for trucks in the basement, and subsequently these can be addressed at the detailed design stage, prior to lodgement of a development application.

Carparking

The existing building contains two basement levels used for carparking. The proposed development involves excavation and four additional basement levels, mainly for carparking purposes. The footprint of the existing stratum lease beneath Macquarie Street is also proposed to be extended to accommodate the additional parking on the site.

Concern has been raised in the public submissions regarding the impact of excessive parking on traffic congestion in the surrounding streets. Council has raised concern with the high number of car spaces proposed on the site and the corresponding impact on traffic congestion in the city.

In their original submission to the department Council requested that the development provide parking in accordance with the current planning controls under SLEP 2005. Council's future intentions to minimise parking in the CBD is reinforced in draft SLEP 2011 which contains lower parking requirements compared to the current parking controls. Council has now advised that it

considers parking should be applied in accordance with parking rates applicable at the time of lodgement of the future application. The comparison parking rates are shown in **Table 4**.

Table 4: Comparison parking rates

	Indicative number of apartments	Proponent's parking rate	Draft Sydney LEP 2011 parking rate	Sydney LEP 2005 parking rate
Studio	10	1	0.1	0.25
One bedroom	43	1	0.3	0.5
Two bedroom	24	1.4	0.7	1.2
Three + bedroom	26	1.8	1	2
Sub-total	103			
TOTAL Number of Spaces Required		133	57	105

The proponent justifies the proposed parking rates on the basis the future occupants will have a high expectation for access to parking because the accommodation is aimed at the high end of the market. The department does not accept that the parking should be provided based on the likely socio-economic status of the future occupants. The proponent has not provided any sound planning justification in support of the proposed parking rates. Given the site's proximity to public transport, the department does not support parking in excess of Council's requirements. Notwithstanding, the department recognises the proposal will involve premium accommodation and therefore considers that the current parking rates applicable under LEP 2005 provide a reasonable balance between the proponent's higher parking rates and the lower parking rates in Draft LEP 2011.

The department is of the view that the parking demand generated by the proposal should be provided in accordance with Council's parking requirements as set out in the current SLEP 2005 resulting in the need for fewer parking spaces and basement levels on the site. The department recommends that the proposed below ground envelope be modified to reduce the extent of basement parking in accordance with Council's parking requirements.

Furthermore, the proposed development will include serviced apartments which generate a lower parking demand compared to permanent residential development given the occupants of serviced apartments are tourists and visitors who stay for a short term and are less car dependent. The department notes the lower parking rate for serviced apartments has not been factored into the proponent's parking demand because the mix of serviced and permanent residential apartments will be finalised at the detailed design stage.

5.3. Other Issues

Building Interface (Quay Grand)

The lower portion of the building envelope (below the level of the Quay Grand building roof) is proposed to extend further west to align with the western façade of the Quay Grand Building. This western extension will also abut the common boundary with the Quay Grand. The southern elevation of the Quay Grand has opaque windows which provide indirect ambient daylight to the adjoining living/dining room in seven apartments. The proponent is seeking approval for a building envelope and the future development will potentially affect ambient daylight provided by these windows. The department notes that the proposal will not have any impact on the direct sunlight received by the western windows in these apartments. The proponent has submitted an indicative design solution with a building recess/light well which would assist in retaining ambient daylight to the potentially affected windows (**Figure 20**). From the information provided the department accepts that the impact of the future development on these windows can be appropriately addressed at the future detailed design stage.

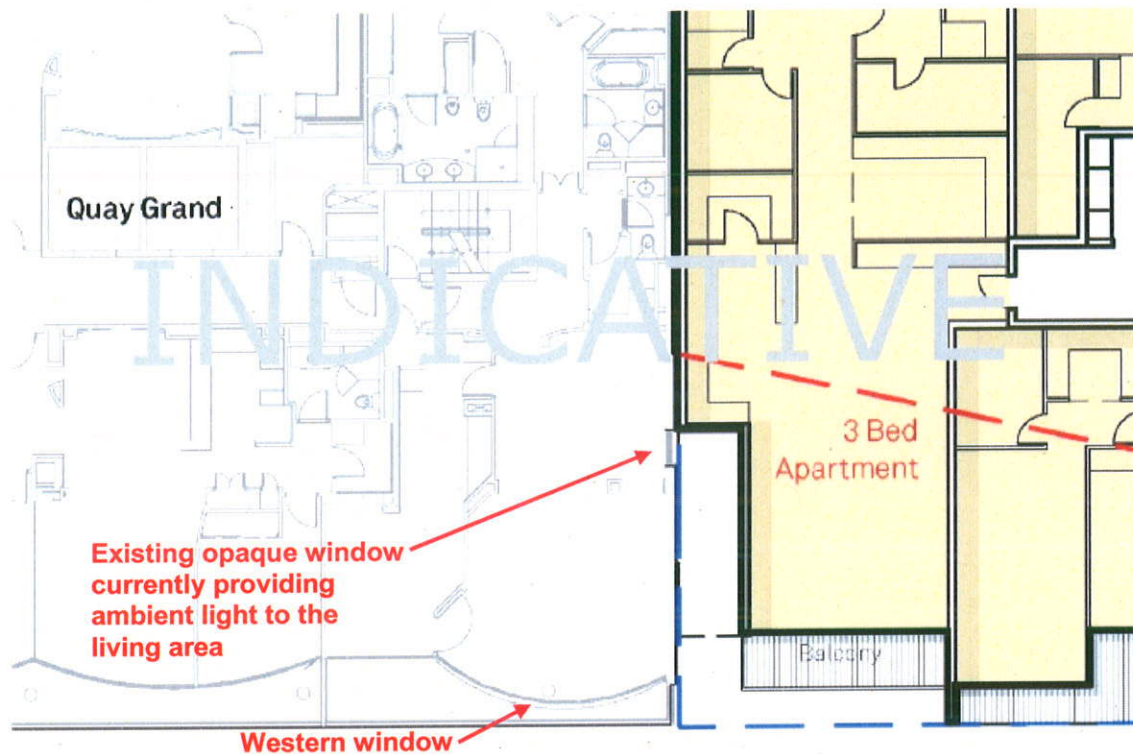


Figure 20 – Indicative Building Interface with the Quay Grand Building (Source: Proponent's RtS)

Concern has also been raised by the Quay Grand residents in relation to the potential impact on the amenity of the internal pool area (located at level 2) which has a large curved double height window overlooking Circular Quay. The Quay Grand residents are concerned the indoor pool area will be affected in regards to sunlight access. The department does not accept there will be reduced solar access to the pool area given the subject site is located to the south of the Quay Grand.

Public Domain Works

The proponent has commenced discussions with Council regarding the principles of establishing the terms of a Voluntary Planning Agreement (VPA) for the provision of public domain works. Council has advised the department that the high level terms of the VPA have been agreed in discussion with the detail yet to be confirmed. The proponent has indicated the likely public domain works that may be included in a VPA with Council, as follows:

- a through site link from ECQ to Macquarie Street;
- the extension of the pedestrian colonnade consistent with development to the north;
- removal of an existing glass awning and replacement with a new glass awning for weather protection;
- removal of the kiosk/café and replacement in a new location;
- provision of a public art and/or water feature;
- relocation of existing trees; and
- new paving, street furniture, signage, lighting and screening.

Council has requested the VPA be finalised prior to the determination of the Concept Plan. The proponent is of the view that a formal offer for public domain works should be provided with the future development application and not prior to determination of the Concept Plan. The department is concerned with Council's approach given that the final design, which is intrinsically linked to the public domain works, will not be known until the detailed design stage which will be informed by the design competition process.

The proponent has included in its Statement of Commitments a commitment to undertake ongoing consultation with Council and other relevant stakeholders with regards to the type of agreement or contributions to be entered into to enable the delivery of the public domain works.

The department therefore accepts that it is reasonable for the details of the VPA to be provided with the future development application with Council, noting that a concept approval does not provide for any development rights. The department recommends that a requirement for a VPA with Council be included as a term of approval.

Some public submissions raised concern with the possible through site link between the promenade and Macquarie Street, particularly in regards to its location and the potential for attracting crime, resulting in safety and security concerns. Council supports a through site link as it provides a link between two prominent areas and an active termination point to the future colonnade extension. The department considers that a through site link would improve public access and permeability between two important public areas. The detailed design, including its location and safety and security aspects can be addressed at the future development application stage.

Design Excellence

The proponent has committed to a competitive design process, as normally required by the Sydney LEP 2005 and Central Sydney Development Control Plan 1996. The department supports the design competition process given the site's prominent location. The existing building on the site exhibits a lack of articulation and contributes little visual interest to its public setting. The opportunity now exists through the competition process to achieve a high quality building design that will contribute to the public setting of the site.

Railway Viaduct

A number of future assessment issues were raised by Railcorp regarding the integrity of the adjoining railway infrastructure and future access and maintenance of the railway corridor. The issues raised by Railcorp are included as further assessment requirements in the recommended instrument of approval.

Privacy (acoustic and visual)

Concerns have been raised by the Quay Apartments in relation to potential privacy impacts due to overlooking of balconies and living room windows. The minimum building separation between the Quay Apartments and the future building on the site is proposed to be approximately 30m. The department does not consider there will be any adverse visual privacy impacts beyond what is generally accepted in a high density residential area. In any event any potential privacy impacts will be a matter for consideration at the future detailed design stage and can be addressed through the use of privacy screens and devices.

The department is of the view that the proposed development will not result in any significant overlooking between balconies or to the indoor pool area at the Quay Grand. In any event potential privacy impacts between neighbours can be addressed at the detailed design stage with appropriate screening measures.

Separation of Land uses

Concern has been raised by Council in regard to the introduction of permanent residential accommodation and potential amenity conflicts and the perceived privatisation of a vibrant public area. In that regard Council has recommended that the permanent residential component of the development be located at the upper nine floors of the building. In addition, it has suggested that

the serviced apartment uses should be separated from permanent residential uses and provided with separate access and vertical circulation. The department agrees with the recommendations made by Council and the requirements for land use separation are therefore included as further assessment requirements in the recommended instrument of approval. However, the department does not agree that specific floor levels should be nominated for permanent and serviced apartment uses given this should be considered at the detailed design stage prior to the lodgement of the future application to Council.

Construction Impacts

The proponent has submitted an indicative Construction Management Plan with the application which demonstrates that potential impacts to neighbouring properties can be adequately managed at the construction phase. Concern has been raised by residents at the Quay Grand in relation to access to their basement parking area during the construction period. At some point during the excavation/construction phase the existing vehicular access arrangements to the Quay Grand will be closed and alternative temporary access provided through the basement on the subject site. The department recommends that this be addressed as a further assessment requirement in the Construction and Traffic Management Plan.

Climate Change and Sea Level Rise

The existing seawall which runs along the majority of the Circular Quay precinct varies in height between 2.29 AHD and 2.45 AHD. It is considered that the site may be subject to inundation due to sea level rise in the long term. However, there are appropriate measures that can be undertaken at the detailed design stage to minimise impacts from sea level rise, particularly in regard to the design of the basement levels and location of critical infrastructure. The department recommends that the measures identified in the proponent's *Climate Change and Sea level Rise Assessment* prepared by ARUP inform the detailed design of the building. This aspect is included as further assessment requirement in the recommended instrument of approval.

Public Consultation

The application was notified for a period of 42 days in accordance with the department's public notification requirements. Approximately 200 properties within a 75m radius of the site (consistent with Council's consultation policy) were notified by letter. The proponent also convened meetings with the representatives of the Quay Grand, Quay Apartments and Royal Automobile Club of Australia. The issues raised are provided in a separate report prepared by Elton Consulting, submitted with the EA. The department considers the public consultation undertaken by the proponent satisfies the Director General Requirements and complements the statutory consultation undertaken by the department.

Residential Amenity

The future residential apartments will have the same orientation as the existing residential development to the north. In that regard the department considers the future apartments on the site will achieve good internal amenity, similar to their northern neighbours, in terms of solar access, ventilation and outlook. The future building on the site will have a minimum separation distance of approximately 30m to the existing multi-storey Quay Apartments residential building to the southeast. The proposal therefore will comply with the minimum 24m separation distance between habitable rooms for buildings exceeding 8 storeys under State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.

6. CONCLUSION

The department has reviewed the EA and considered the advice received from public authorities and the issues raised by the general public in accordance with Section 75I (2) of the Act. All relevant environmental issues associated with the proposal have been extensively addressed.

The department has assessed the merits of the proposal and on balance, considers the proposal to be a good design outcome for the site. In particular, the proposed building height will maintain a stepped building transition between its lower northern neighbours and the higher buildings to the south. Furthermore, there will be no significant additional impact from overshadowing or view loss to the surrounding area.

Furthermore, the proposed development will not have any additional material impact on the setting of the Sydney Opera House, and when viewed from the Sydney Harbour Bridge and other key locations on the northern side of the harbour as the building blends in with the city buildings behind. Due to distance separation and intervening buildings, the department considers the proposal will not detract from the significance of the Sydney Opera House.

The department is satisfied that the future access and internal vehicular arrangements can be adequately addressed at the detailed design stage to accommodate the vehicular access and servicing needs of the future development and the Quay Grand. The additional traffic generated by the proposal is generally low and is not likely to result in any significant adverse impact on the surrounding road network.

The department considers the building interface with the Quay Grand to the north can be adequately addressed at the detailed design stage to minimise any potential future amenity impacts. The department has recommended further assessment requirements on the recommended instrument of approval to ensure the integrity of the adjoining railway corridor or Railcorp infrastructure.

The department supports the design competition process which will ensure a high quality building that will contribute to its public setting.

The proposal will deliver public benefits by providing a southern extension to the colonnade and continuity of the pedestrian experience and a through site pedestrian link between the foreshore promenade and Macquarie Street. In addition, vehicular traffic will be removed from the promenade resulting in a safer and more useable public space. The proposed development will activate the ground level with retail space and facilitate public domain works which will revitalise the southeastern corner of Circular Quay. The proposed development will include serviced apartments for tourists and visitors, proximate to key tourist attractions.

The proposal will increase the supply of high quality residential accommodation close to a range of employment opportunities, entertainment activities and public transport. This is consistent with metropolitan planning objectives which seek to cluster activity in existing centres and create vibrant and liveable places to live and work. The proposal is consistent with Council's vision for Circular Quay by bringing the built form into line with neighbouring development, providing a stepped building height transition and removing vehicles from a pedestrianised space.

The department is satisfied that the concerns raised in the submissions have been addressed in the Response to Submissions, the revised Statement of Commitments and recommended future assessment requirements and modifications. The department considers that the impacts are minimal and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. Approval of the proposal is therefore in the public interest.

7. RECOMMENDATION


It is recommended that the Deputy Director General, as delegate for the Minister for Planning and Infrastructure;

- (a) **consider** the recommendations of this report;
- (b) **approve** the Concept Application, subject to conditions, under Section 75J of the *Environmental Planning and Assessment Act 1979*; and
- (c) **sign** the attached instrument of Approval (**Appendix E**).

Endorsed by:



Mark Schofield
A/Director
Metropolitan and Regional Projects South



Chris Wilson
Executive Director
Major Projects Assessment

Approved by:

Richard Pearson
Deputy Director-General
Development Assessment & Systems Performance

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4536

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4536

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4536

APPENDIX D CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

There are four accepted ESD principles:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department has considered the proposed development in relation to ESD principles and has made the following conclusions:

Precautionary Principle – It is considered that there is no threat of serious or irreversible environmental damage as a result of the project. The site does not contain any threatened or vulnerable species, populations, communities or significant habitats. The site therefore has a low level of environmental sensitivity.

Inter-Generational Principle – The project represents a sustainable use of the site as the development has excellent access to existing transport infrastructure and make efficient use of the site. The development of the site also has positive social, economic and environmental impacts.

Biodiversity Principle – It is considered that there is no threat of serious or irreversible environmental damage as a result of the project. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. Therefore the project will not impact upon the conservation of biological diversity or ecological integrity.

Valuation Principle – The proposal seeks to include residential and retail uses within the development maximising the sites location to existing infrastructure. The project will provide an improved environment to that currently provided through a better building design and the provision of improved public access.

The Proponent is committed to ESD principles and has reinforced this through the Statement of Commitments which commits to the application of sustainable ESD rating tools and targets to ensure the future building on the site minimises energy use.

The Department is satisfied that the proposal is consistent with ESD principles.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The primary controls guiding the assessment of the proposal are:

- Sydney Regional Environmental Plan 2005;
- State Environmental Planning Policy (Major Projects) 2005;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 55 – Remediation of Land; and
- Sydney Local Environmental Plan 2005

Other controls guiding the assessment of the proposal are:

- Draft Sydney LEP 2010

- City of Sydney Central Sydney DCP 1996
- City of Sydney Heritage DCP 2006

The provisions of development standards of local environmental plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R Part 3A of the Act. Notwithstanding, the objectives of the above EPIs, relevant development standards and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment in accordance with the DGRs.

COMPLIANCE WITH PRIMARY CONTROLS

Sydney Regional Environmental Plan 2005

Under Sydney Regional Environmental Plan 2005 (SREP 2005) the site is located within the Sydney Opera House Buffer Zone. SREP 2005 seeks to ensure development located in the Opera House buffer zone takes into account views and vistas between the Sydney Opera House and other public places within that zone which contribute to its world heritage value; and its visual prominence when viewed from other public spaces within the buffer zone.

The proposal has been assessed against the buffer zone criteria in Section 5.2 of the report. The department considers that the proposal will not result in any adverse impact on views of the Opera House or its visual prominence from other public spaces within the buffer zone and its world heritage value.

State Environmental Planning Policy (Major Development) 2005

As discussed previously in Section 3.1, the proposal is a major project under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is located on a Sydney Harbour Foreshore site with a capital investment value of more than \$5 million under clause 10(1) of Schedule 2 of *State Environmental Planning Policy (Major Development) 2005*. Therefore the Minister for Planning is the approval authority.

State Environmental Planning Policy No. 65 – Residential Flat Development

The proponent submitted a Design Report with the EA which looks at the proposed built form and its contextual setting. A preliminary assessment against the design quality principles in SEPP 65 has been provided in the Design Report. The department is satisfied that the future detailed design of the proposal can achieve the design principles and the relevant 'rules of thumb' within the accompanying Residential Flat Design Code. In any event the proponent has committed to a design competition process which will encourage a high quality and innovative design for the site.

State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of the SEPP requires traffic generating developments to be referred to the Roads and Maritime Services. The application was referred to the Roads and Maritime Services however, no comments were received.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires a consent authority to consider whether the land is contaminated, and if so, whether the land will be remediated before the land is used for the intended purpose. Coffey Geotechnics have undertaken a Stage 1 Preliminary Site Contamination Assessment which has concluded the potential contamination of soil and groundwater from on-site activities is considered to be low and that the site is suitable for the proposed development with respect to the land contaminated requirements of SEPP 55.

Sydney Local Environmental Plan 2005

The proposal has been considered against the Sydney LEP 2005. Key issues such as height, car parking and design excellence are discussed in detail in Section 5 of the report. Below is a summary compliance table in relation to the main controls.

Control	Response
Cl. 26 – Design Excellence	Discussed in Section 5.2 of the report
Cl. 32 – Permissibility	Discussed in Sections 3.1
Cls. 47-50 Height of Buildings	Discussed in Section 5.1 of the report
Cl. 58 - FSR	The maximum allowable FSR for the site is 8:1, with the potential to increase this to a maximum of 14:1 for serviced apartment/residential uses subject to satisfying the required height, development plan, design excellence, heritage floorspace, ecologically sustainable development and other development provisions. The indicative building envelope is capable of containing approximately 12,800m ² of gross floor area which equates to an FSR of 14.4:1. This is based on a site area which excludes the western public land to be incorporated as the public colonnade. Based on a site area of 1,200m ² including the road reserve the proposal will have an FSR of 10.1:1. The proposed indicative FSR is considered appropriate for the site.
Cl. 65 - Car Parking	Discussed in Section 5.3 of the report.
Cls. 67-76 Heritage	The existing building is not identified as being of heritage significance. The Sydney Opera House and several other items of significance are located in the vicinity of the site. A Preliminary Heritage Assessment, prepared by Godden Mackay Logan was submitted with the EA. The demolition of the building is supported and the detailed design of the new building requires consideration at the future development application stage. The Heritage Branch provided comments on the proposal. These comments are addressed in Section 5.2 of the report. Further to this is it considered that a detailed Heritage Impact Assessment can be carried out as part of any future applications.
Cl.77 – Circular Quay Special Area	The site is within the Circular Quay Special Area. The proposed development is consistent with the Circular Quay Special Area objectives set out in Schedule 6 of the LEP in that: <ul style="list-style-type: none"> • the future building will provide a stepped transition and align with its neighbours to the north; • the existing building does not have any heritage significance and proposed building envelope and the future replacement building will not have any significant adverse impact on the setting of the Sydney Opera House or other heritage items in the vicinity of the site; • there will be no additional overshadowing of the public domain; • the ground level adjoining the promenade will be activated with shops and an extension to the colonnade consistent with development to the north to create a continuity in the pedestrian experience at ground level; • the proposed building envelope will not impact on any views either to or from the Sydney Opera House; and • the proposal will revitalise the southern end of ECQ.

COMPLIANCE WITH OTHER CONTROLS

Draft Sydney Local Environmental Plan 2011

The draft Sydney Local Environmental Plan 2011 was placed on public exhibition between 27 January and 4 April 2011. Key components of the draft LEP such as zoning, floor space ratio and height controls for the site are consistent with the provisions of the Sydney LEP 2005. These provisions are discussed in the above table and are considered to be acceptable having regard to the draft LEP.

City of Sydney Central Sydney Development Control Plan 1996

The City of Sydney Central Sydney Development Control Plan 1996 (CSDCP) has been considered in the assessment of the Concept Plan. The key controls relevant to the proposal are the height and car parking provisions which are discussed in Section 5 of the report. Further consideration of the CSDCP can be undertaken during detailed design of the project.

City of Sydney Heritage Development Control Plan 2006

The City of Sydney Heritage Development Control Plan is intended for detailed heritage and conservation planning and can be further taken into account during the detailed design stage of the development. Sydney Opera House and several other items of significance are located in the vicinity of the site. A heritage assessment has been submitted with the EA. The Heritage Branch provided comments on the proposal. These comments are in part addressed in Section 5.2 of the report.