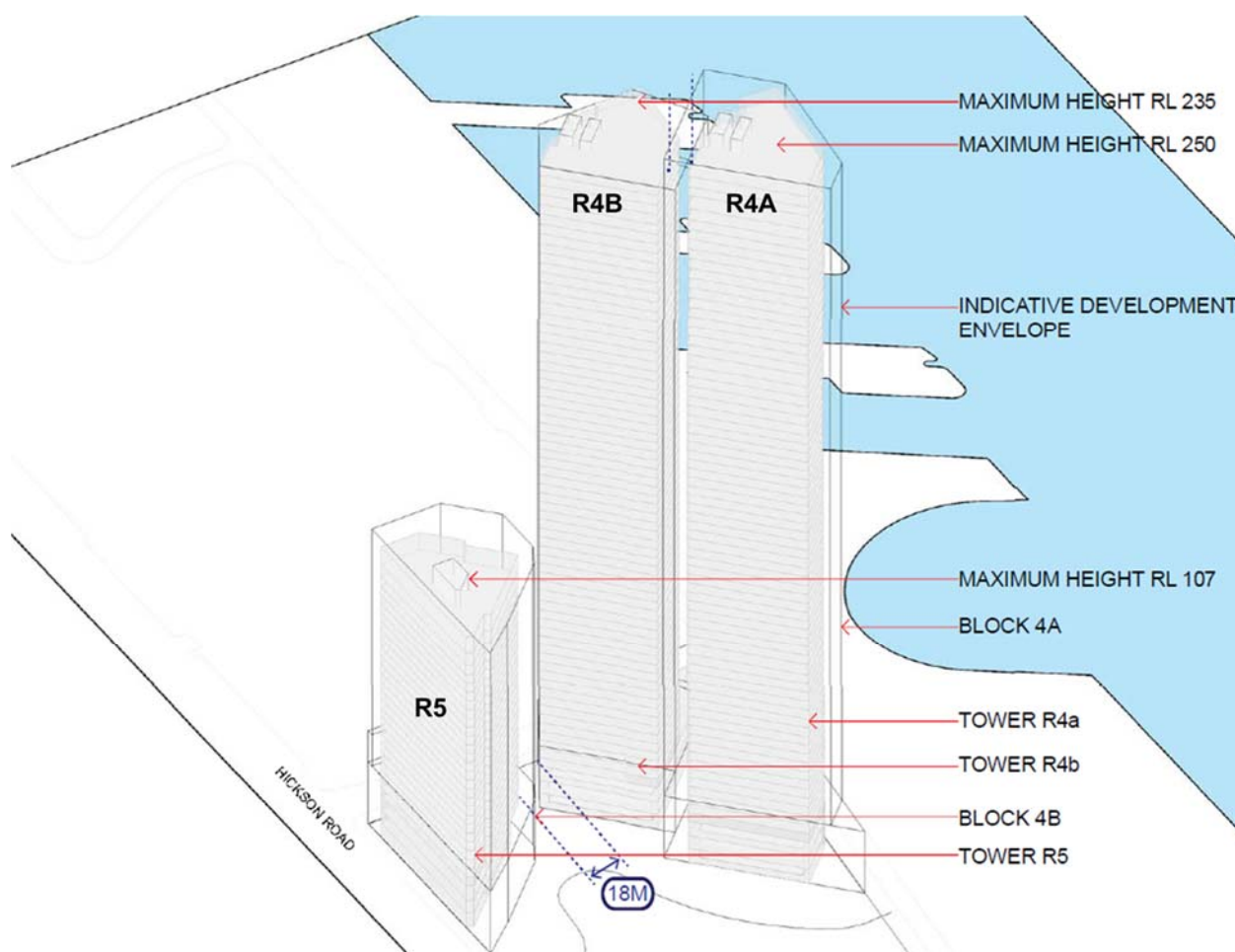


Barangaroo Concept Plan Modification 10

Section 75W Modification Assessment
MP 06_0162 MOD 10

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Cover image: Perspective looking south towards the Barangaroo South R4A, R4B and R5 building envelopes (blocks 4A and 4B)

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Glossary

Abbreviation	Definition
BFPUD	Barangaroo Built Form Principles and Urban Design
CBD	Sydney Central Business District
CIV	Capital Investment Value
Concept Approval	Concept plan application (MP06_0162), approved 9 February 2007 (as modified)
Consent	Development Consent
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
FEAR	Future Environmental Assessment Requirement of the Concept Approval
GFA	Gross floor area
Heritage NSW	Heritage NSW, Department of Premier and Cabinet
INSW	Infrastructure NSW (the Proponent)
KWH	Key worker housing
LGA	Local government area
MAAS	Museum of Applied Arts and Sciences
Minister	Minister for Planning and Public Spaces
OLS	Obstacle Limitation Surface
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
Proponent	Infrastructure NSW
Proposal	Modification 10 to the Concept Approval (as summarised at Section 2)
RtS	Response to Submissions
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SHI	Statement of Heritage Impact
SSP SEPP	State Environmental Planning (State Significant Precincts) 2005
STOP Regulation	Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017
SVI	Sky View Impact
TfNSW	Transport for NSW

Executive Summary

This report provides an assessment of a request to modify the concept approval for the mixed-use redevelopment of Barangaroo (MP 06_0162 MOD 10), in the City of Sydney (Council) local government area.

The modification request seeks approval to modify the Concept Approval to increase the Barangaroo South residential GFA and building envelope height, amend building envelope setbacks, the timeframe for the provision of key worker housing (KWH) and update the Barangaroo Built Form Principles and Urban Design (BFPUD) controls.

The application has been lodged by Infrastructure NSW (INSW) pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) (the Proponent).

The Department of Planning, Industry and Environment (the Department) publicly exhibited the Environmental Assessment (EA) between 29 April 2020 until 12 May 2020 (14 days). The Department received 11 submissions, including six submissions from public authorities, one from Council and four from the public.

Of the three public submissions, two raised objections and one provided comments. The key concerns raised in public submissions relate to car parking, amenity impacts, noise and loss of property value. Council objects to the modification on the grounds of the increase in gross floor area (GFA), insufficient public benefits and open space, delay to the provision of key worker housing, car parking provision, height of the tower and obstruction of the night sky as viewed from the Sydney Observatory.

The Proponent provided a response to the issues raised in submissions and additional information in support of the proposal.

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act and has carefully considered the issues raised in public submissions and the Proponent's response. The Department's assessment concludes that the proposal is acceptable as:

- the proposal is consistent with the Region Plan and Eastern City District Plan, as it supports the creation of a 30-minute city and will aid in the delivery of the housing target of 157,500 homes in the Eastern City between 2016 and 2036
- the site is ideally located and able to accommodate increased residential density as it can provide additional housing in an established precinct, without detracting from the existing character of the area and has excellent access to public transport including a planned high frequency Metro and is conveniently located to shops, services and the CBD
- the proposal is substantially the same as the Concept Approval (as modified) as the proposed 1.3% increase in GFA is minor in the context of the approved GFA for the site (MOD 8) and no change is proposed to the range of uses or other key elements that define the precinct
- the increase in the height of building envelope R4B continues to provide a stepped built form relationship to neighbouring buildings and would not affect key Barangaroo South urban design principles or result in any significant amenity impacts

- the additional obstruction of the night sky as viewed from the Sydney Observatory is acceptable as it is for a limited time, the Observatory could schedule viewings to avoid obstruction and as light spill would be managed and mitigated by a Light Spill Strategy
- the modification would result in additional public benefits in terms of a proportional increase in KWH and additional accommodation near to a Metro station and services
- other matters considered including BFPUD controls, heritage, overshadowing and wind, communal open space, traffic and car parking have been found to be acceptable and/or can be appropriately managed and mitigated.

The Department's assessment therefore concludes the proposal is acceptable as it has strategic merit and it would not result in any significant visual or amenity impacts. The Department is satisfied the proposal is in the public interest and recommends the application be approved subject to conditions.

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1 Introduction

1.1 Introduction

This report provides an assessment of a request to modify the concept approval for the mixed-use redevelopment of Barangaroo (MP 06_0162 MOD 10), pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application has been lodged by Infrastructure NSW (INSW) (the Proponent) and seeks approval to modify the Concept Approval to increase the Barangaroo South residential GFA and building envelope height, amend building envelope setbacks, the timeframe for the provision of key worker housing (KWH) and update the Barangaroo Built Form Principles and Urban Design (BFPUD) controls.

The Proponent has also submitted a concurrent request to amend the State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP) Barangaroo GFA map that applies to the site to reflect the increase in GFA proposed by this modification application.

1.2 Barangaroo

The Barangaroo redevelopment is a major urban renewal project located along the north-western edge of the Sydney Central Business District (CBD) within the City of Sydney (Council) local government area. The site is bounded by Sydney Harbour to the north and west, Hickson Road to the east and King Street Wharf / Darling Harbour to the south.

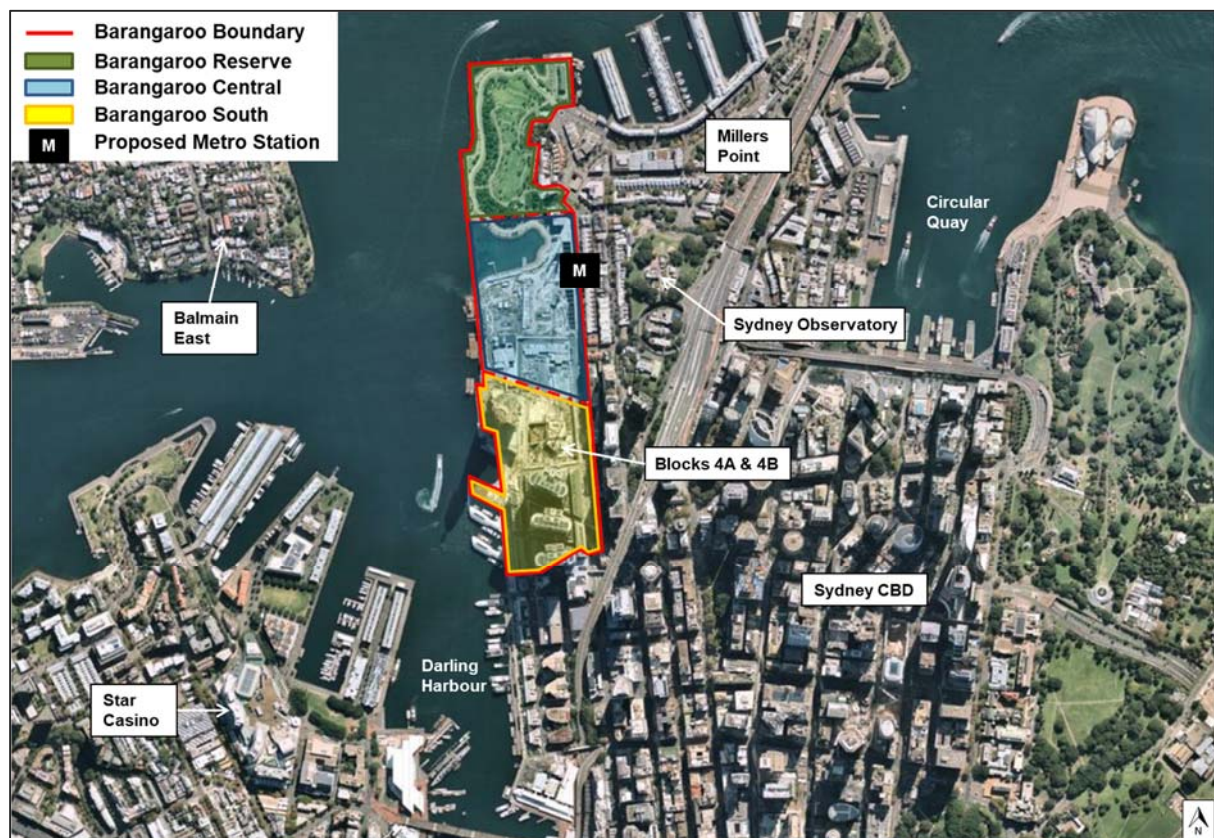


Figure 1 | The location of Barangaroo and the three Barangaroo development precincts (Source: Nearmap)

The Barangaroo site has a total area of approximately 22 hectares, fronts the harbour foreshore and has been divided into three distinct redevelopment precincts (from north to south) comprising Barangaroo Reserve, Barangaroo Central, and Barangaroo South (**Figure 1**).

The Barangaroo site is the subject of a concept plan and various development approvals for mixed-use redevelopment as summarised at **Section 1.4.1**.

This modification application relates only to Barangaroo South.

1.3 Barangaroo South

Barangaroo South is the southern-most precinct within Barangaroo and is bounded by Hickson Road to the east, King Street Wharf to the south, Sydney Harbour to the west and Barangaroo Central to the north.

The precinct is comprised of seven blocks together with public domain and open spaces. The precinct is divided into three construction stages comprising (**Figure 2**):

- Stage 1A (Blocks 1, 2, 3 and X), including a mixture of mid and high-rise (from RL 25 up to RL 209) building envelopes for commercial towers, residential and retail buildings
- Stage 1B (Blocks 4A and 4B), comprising three tower building envelopes (R4A, R4B and R5) for mixed / residential use (heights ranging from RL 107 up to RL 250), Hickson Park public open space and Stage 1B shared basement
- Stage 1C (Block Y) including the Crown Sydney Hotel Resort with a maximum height of RL 275.

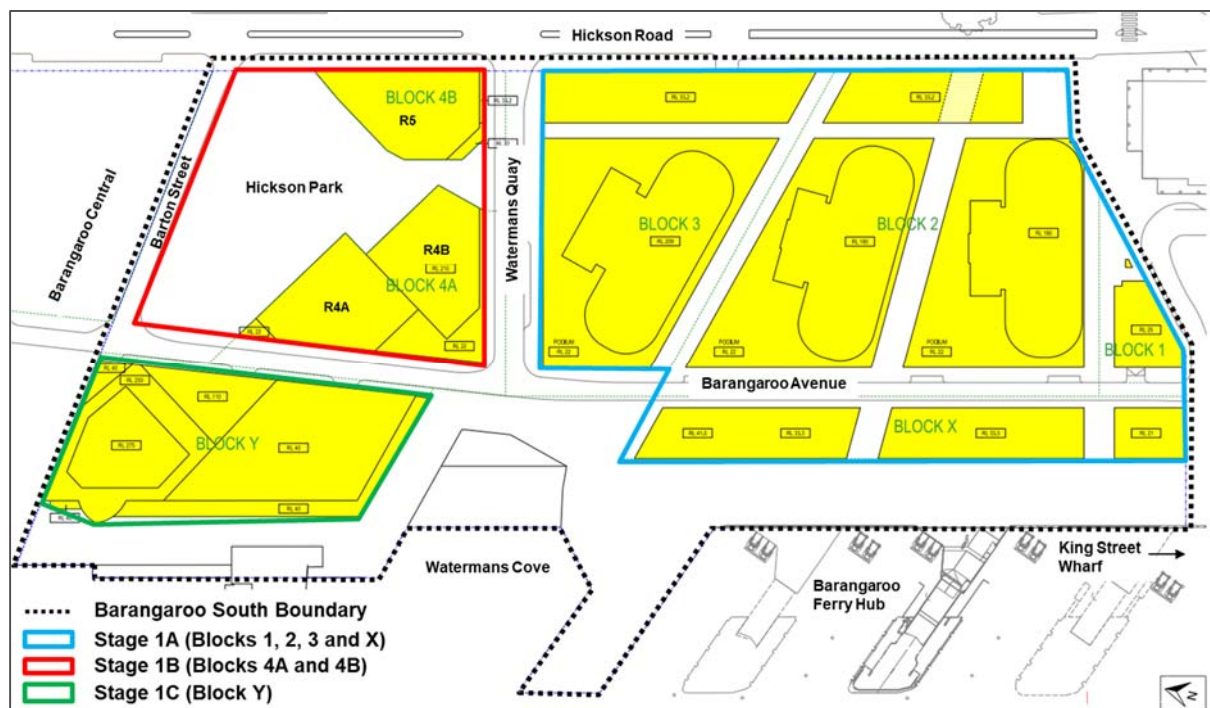


Figure 2 | Barangaroo South layout, block location and approximate stage boundaries (Source: MP06_0162 MOD8)

The development of the Barangaroo South precinct is at an advanced stage, with the southern part of the precinct (Stage 1A) largely completed, Stage 1C (the Crown Sydney Hotel Resort) almost complete and Stage 1B (shared basement) under construction. Above ground works on the towers in Stage 1B have not yet commenced.

1.4 Relevant planning history

1.4.1 Concept Approval

On 9 February 2007, the then Minister for Planning approved the Barangaroo concept plan (MP 06_0162) (the Concept Approval) for the redevelopment of the Barangaroo site.

The Concept Approval, as modified, establishes:

- a mix of uses, including residential, retail, commercial and public recreation
- a maximum gross floor area (GFA) of 579,354 m², building envelopes, building height and public open space / public domain areas
- BFPUD controls to guide the design of development.

Since its original approval, the Concept Approval has been modified on eight occasions as summarised in **Table 1**.

Table 1 | Modifications to approved Concept Plan MP06_0162

MOD	Summary of Modification	Approved
MOD 1	Administrative changes to the approval and re-wording design excellence terms.	25 Sep 2007
MOD 2	Increase of 120,000 m ² commercial GFA to Block 2, 3, 4 and 5 (Barangaroo total 509,800 m ²).	16 Feb 2009
MOD 3	Reduction of 18,800 m ² GFA (Barangaroo total 489,500 m ²). Reinstatement of a headland at the northern end of the site and enlargement of the northern cove. Removal of development Block 8 and part of Block 7 and redistribution and realignment of Globe Street.	11 Nov 2009
MOD 4	Expansion of concept plan into Sydney Harbour, redistribution of land use mix and increase of maximum GFA by 74,465 m ² (Barangaroo total 563,965 m ²), including revision of BFPUD controls, increase of building heights and establish Blocks X and Y building heights, removal of passenger terminal and increase in community uses and provision of a cultural centre.	16 Dec 2010
MOD 5	Administrative changes	Withdrawn
MOD 6	Realignment of Blocks 3, 4A and 4B development boundaries, amendment of BFPUD controls, bicycle parking rates and design excellence provisions.	25 Mar 2014
MOD 7	Inclusion of concrete batching plants as a temporary permitted use.	11 Apr 2014
MOD 8	Increase of 41,946 m ² GFA (Barangaroo total 605,911 m ²), amended Barangaroo South site boundary, urban structure, layout, land-uses, maximum height, public domain, car parking and amend BFPUD controls.	28 Jun 2016

The Concept Approval (as modified) provides for GFA and building heights as summarised at **Table 3**. The Concept Approval Barangaroo South layout is shown at **Figure 2**.

1.4.2 Relevant development approvals

There have been a number of previous approvals relating to the redevelopment of Barangaroo South, including commercial, residential, retail buildings, Crown Hotel Resort, public domain and remediation works.

Notwithstanding the extensive approval history, the Department considers the development approvals most relevant to this application are for Buildings R4A, R4B and R5 within Stage 1B (**Figure 3**), which area summarised as follows.

Building R4A

On 7 September 2017, the Independent Planning Commission (the Commission) approved an SSD application (SSD 6964) relating to Building R4A within Barangaroo South Block 4A for the construction and fitout of a 72 storey mixed-use residential tower including 327 apartments and public domain works.

Building R4B

On 7 September 2017, the Commission approved an SSD application (SSD 6965) relating to Building R4B within Barangaroo South Block 4A for the construction and fitout of a 60 storey mixed-use residential tower including 297 apartments and public domain works.

Building R5

On 3 October 2019, the Commission approved an SSD application (SSD 6966) relating to Building R5 within Barangaroo South Block 4B for the construction and fitout of a 30 storey mixed-use residential tower including 210 apartments and public domain works.

Building R5 included KWH apartments (2.3% of overall Barangaroo residential GFA) comprising 34x1 bedroom and 14x2 bedroom apartments.

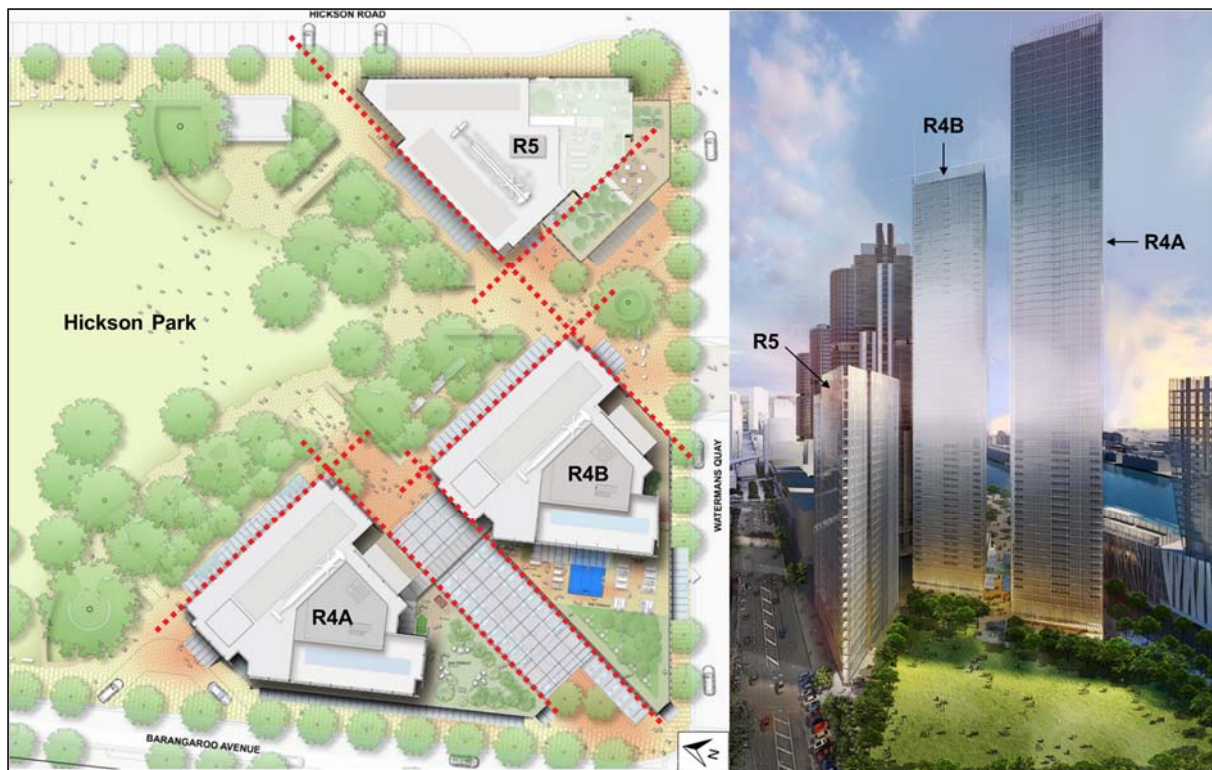


Figure 3 | The layout of approved buildings R4A, R4B and R5 and Hickson Park within Block 4 Barangaroo South (Base source: SSD 6966)

The Proponent has confirmed, in the event this modification request is approved, the Applicant for Buildings R4B and R5 would submit separate

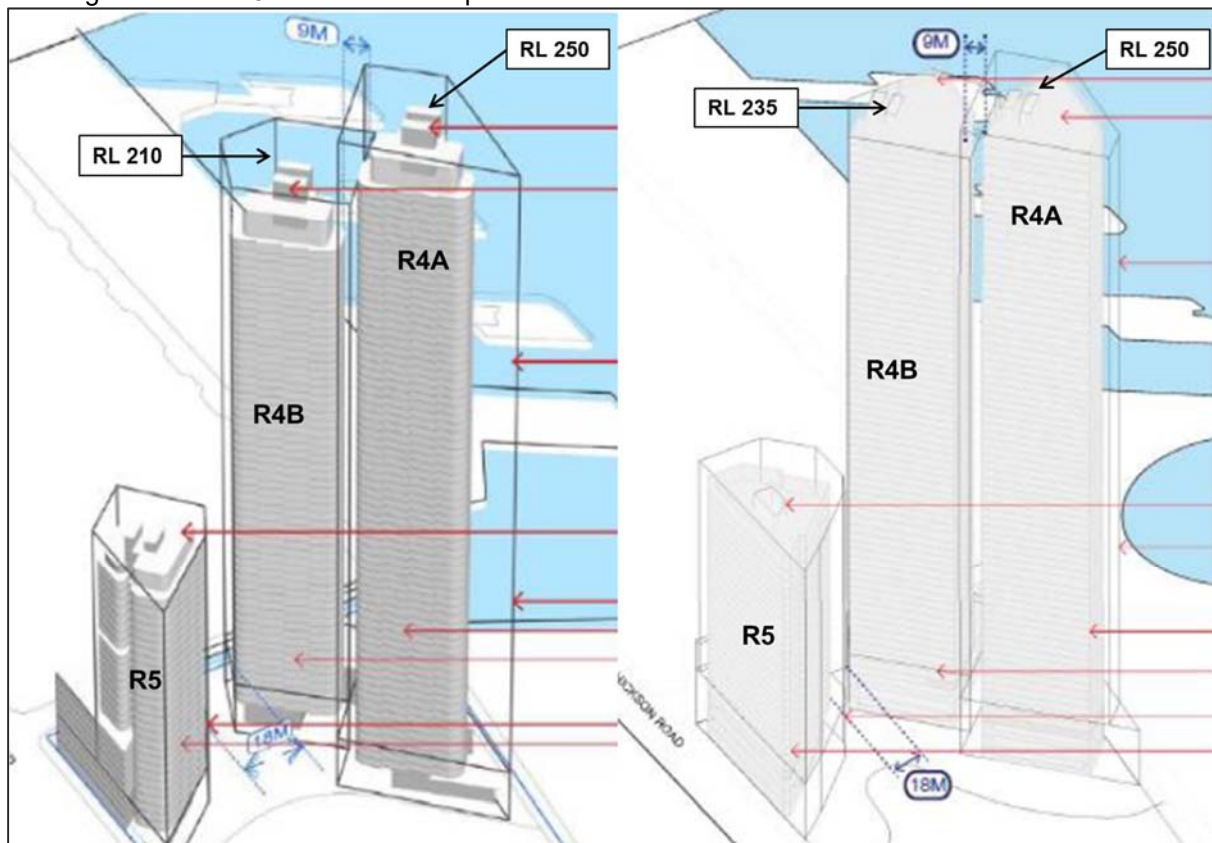


Figure 4 | MOD8 (left) and the proposed (right) maximum building envelope heights of Building R4A and R4B
(Base source: Proponent's EA)

development applications to amend the detailed designs of approved buildings (above).

1.4.3 State Environmental Planning Policy (State Significant Precincts) 2005 Amendments

The Barangaroo Site is identified as a State Significant Site under clause 7 of Part 2 of the SPP SEPP. The SEPP includes maps which establish maximum gross floor area (GFA) and building height controls for development blocks within Barangaroo, identifies land use zones, heritage items and the Barangaroo site boundary.

On 28 June 2016, the then Minister for Planning approved amendments to the Barangaroo Site zoning, heritage, GFA, height of buildings and land application maps contained within the Map Index of the SSP SEPP, to align with the modifications approved under MOD 8.

2 Proposal

2.1 Modification to the Concept Approval

The modification seeks approval to modify the Concept Approval to increase the Barangaroo South residential GFA and building envelope height, amend building envelope setbacks, the timeframe for the provision of KWH and update the BFPUD controls.

The key components and features of the proposal (as amended) are summarised at **Table 2**. A link to the application is provided at **Appendix A**.

Table 2 | Main components of the modification

Component	Modification Description
GFA	<ul style="list-style-type: none"> Increase of 8,000 m² residential GFA including an additional (Table 3): <ul style="list-style-type: none"> 5,650 m² GFA within Block 4A building envelope R4B 2,350 m² GFA within Block 4B building envelope R5. Amend Term of Approval A1 and Modification B4 of the Concept Approval to incorporate the changes to the maximum GFA.
Height and setbacks	<ul style="list-style-type: none"> Increase the maximum height of building envelope R4B (within Block 4A) by 25 m (from RL 210 m to RL 235 m) (Figure 5). Reduce the depth of the south-western corner of building envelope R4B by 8.5 m (Figure 6). Introduce a 3 m setback to the south-western corner of building envelope R4B (within Block 4A) at upper levels above RL 209 m.
KWH	<ul style="list-style-type: none"> Amend Future Environmental Assessment Requirement (FEAR) B11 and Statement of Commitment (SoC) 34 to defer the requirement for the provision of on and off-site KWH until the later of the practical completion, or the issue of the last occupation certificate, of Building R5 (Table 4).
BFPUD controls	<ul style="list-style-type: none"> Update the BFPUD controls to be consistent with the changes made by this modification. Amend Modification B5 to require application demonstrate consistency with the updated BFPUD controls. Delete Modification B9 of the Concept Approval, which requires the submission of amendments to the BFPUD controls relating to Barangaroo South.

Table 3 | Proposed increase in residential and overall GFA in Blocks 4A and 4B (in red)

Block	Maximum GFA (m ²)		Maximum Residential GFA (m ²)		Change
	Approved	Proposed	Approved	Proposed	
Block 1	1,927	1,927	0	0	No Change
Block 2	197,280	197,280	0	0	No Change
Block 3	129,934	129,934	10,515	10,515	No Change
Block 4A	86,979	92,629	86,166	91,816	+5,650
Block 4B	19,158	21,508	18,287	20,637	+2,350
Block X	18,908	18,908	16,463	16,463	No Change
Block Y	77,500	77,500	22,600	22,600	No Change
Block 5	29,688	29,688	15,000	15,000	No Change
Block 6	3,000	3,000	0	0	No Change

Block 7	15,000	15,000	14,000	14,000	No Change
TOTAL	579,354	587,354	183,031	191,031	+8,000

Table 4 | Proposed amendments to the KWH requirements of FEAR B11 and SoC 34 (in red)

FEAR B11 – On/Off Site KWH	SoC 34 – On / Off Site KWH
<p>Key worker housing for Barangaroo South shall be provided generally in accordance with Statement of Commitment 34-35 and comprise at least:</p> <ol style="list-style-type: none"> 2.3% of residential GFA on site, within Barangaroo South; and at least an additional 0.7% of the residential GFA on Barangaroo South, or its equivalent development value (but comprising at least a minimum of 1,740sqm of residential GFA), to be provided: <ol style="list-style-type: none"> offsite, but within 5 km of the site, or elsewhere within the City of Sydney LGA; as a mix of unit sizes, including at least 40% of the GFA allocated to dwellings comprising 2 or more bedrooms; prior to the issue of any occupation certificate for Blocks 4A, 4B or Y <u>practical completion of Building R5 or the last occupation certificate of Building R5.</u> 	<p>A total of 3% of residential floor space on Barangaroo South is to be allocated to key worker housing provision, and is to be provided at or before practical completion of 75% of Barangaroo South residential GFA <u>the later of the practical completion of Building R5 or the last occupation certificate of the Building R5:</u></p> <ul style="list-style-type: none"> 2.3% of the total 3% may be located in Barangaroo South, or at another location outside Barangaroo South and within the City of Sydney LGA area. Selection of any location outside Barangaroo South is to be at the discretion of the Community Housing Provider, with Lendlease agreement, to which the commitment has been allocated to own and manage. Should the existing 2.3% key worker housing provision be located at a location outside of Barangaroo South, Lendlease will transfer a monetary contribution to the Community Housing provider equivalent to the difference of the independently verified value offered by the Provider, and the independently verified cost of providing the required floor space for Key Worker Housing at Barangaroo South, at a time to coincide with practical completion of 75% of Barangaroo South residential floor space. <p>The remaining 0.7% of the total 3% is to be located outside of Barangaroo South and within the City of Sydney LGA area. Selection of any location outside Barangaroo South is to be at the discretion of the Community Housing Provider, with Lendlease agreement, to which the commitment has been allocated to own and manage. Lendlease will transfer a monetary contribution to the Community Housing provider equivalent to the difference of the independently verified value offered by the Provider, and the independently verified cost rate in (b) above, at a time to coincide with practical completion of 75% of Barangaroo South residential floor space.</p>

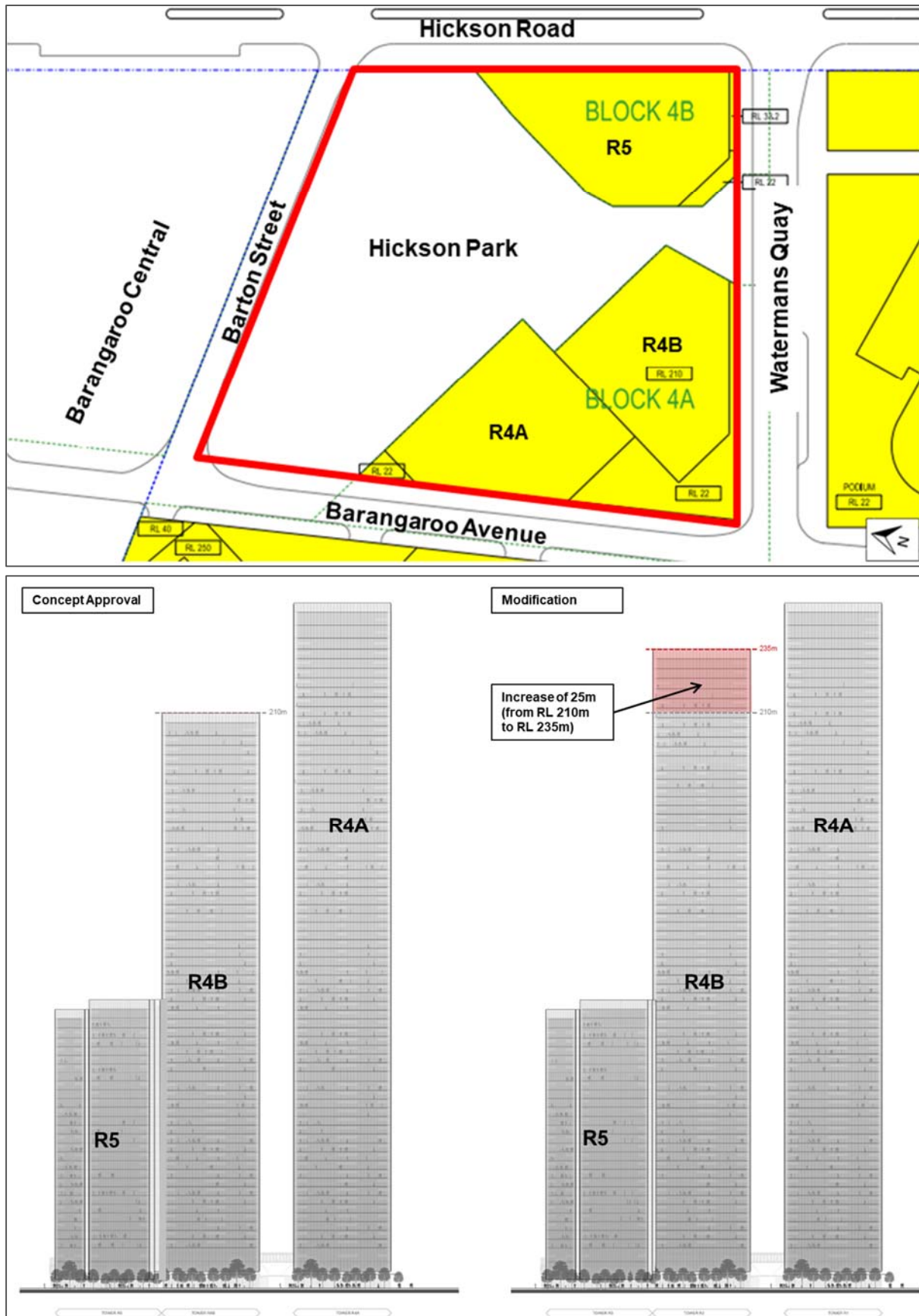


Figure 5 | Location of building envelopes (top) and approved (bottom left) and proposed (bottom right) R4A, R4B and R5 building envelopes (Base source: Proponent's EA)

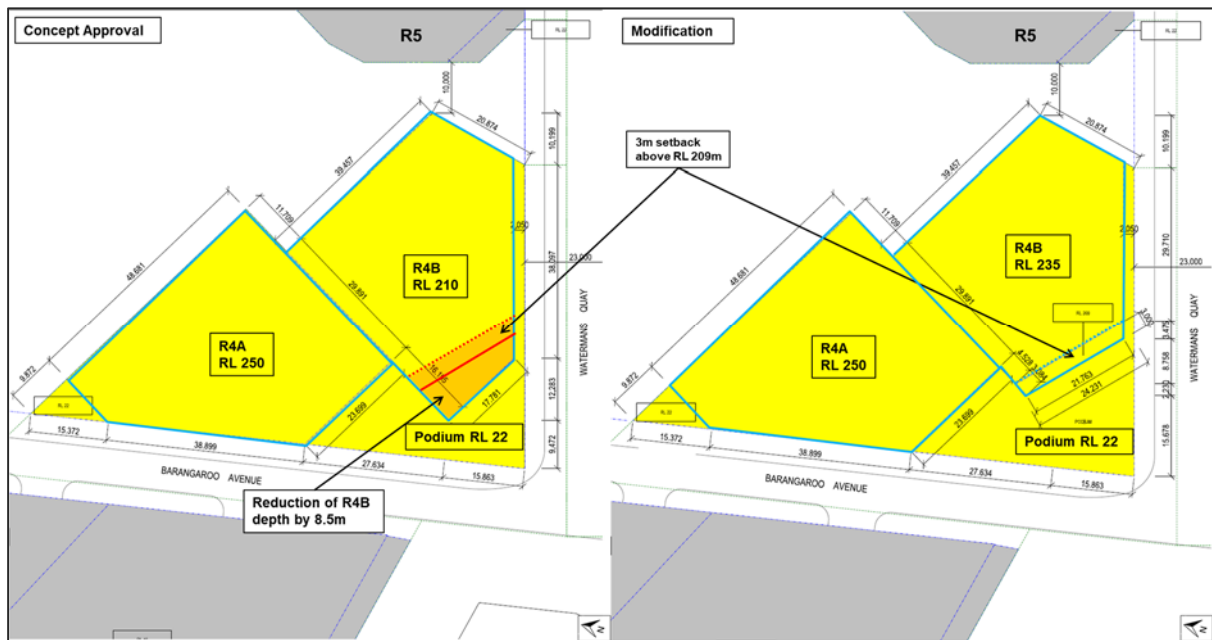


Figure 6 | Approved (left) and proposed (right) Block 4A building envelopes (towers outlined blue) showing the reduction in the R4B tower envelope (south-west corner) and inclusion of 3 m setback above RL 209 m (Base source: Proponent's RtS)

2.2 Amendment to State Environmental Planning Policy (State Significant Precincts) 2005

The Proponent has submitted a concurrent request with the modification application to amend the Barangaroo GFA map contained within the SSP SEPP to ensure it aligns with the amended GFA proposed within this modification application.

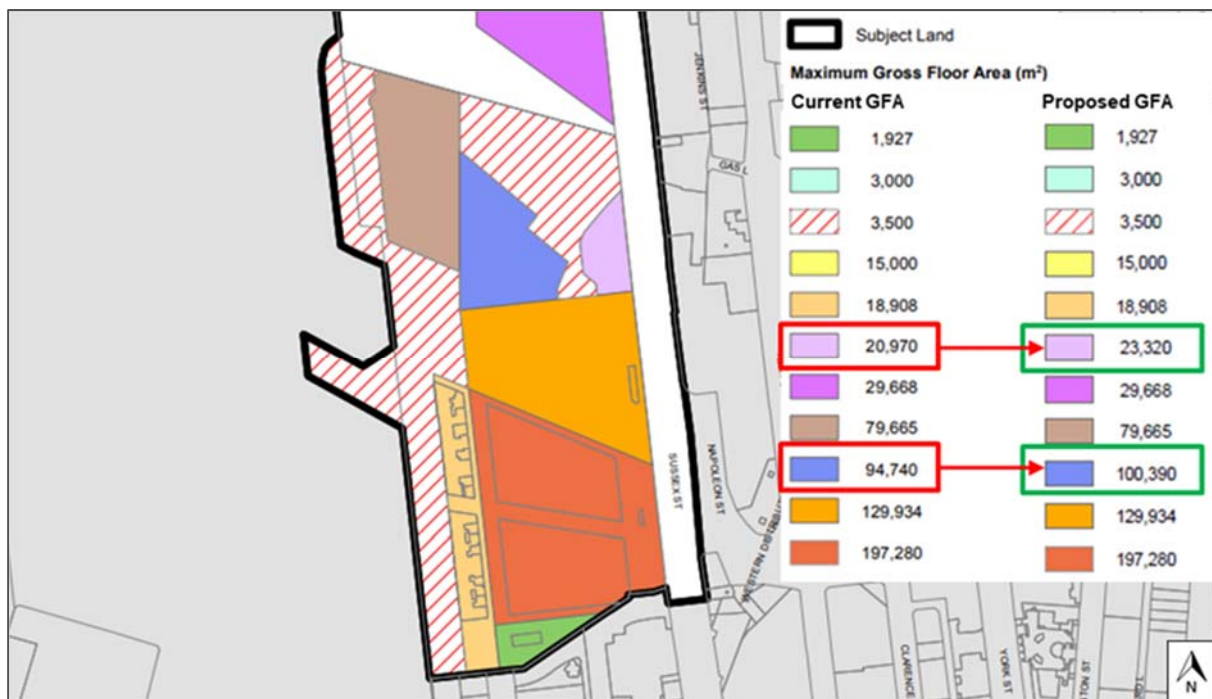


Figure 7 | The proposed amendment to the SSP SEPP GFA map showing the increase in GFA for Blocks 4A and 4B (Base source: Proponent's RtS)

The proposed amendment to the SSP SEPP Barangaroo GFA map (**Figure 7**) includes the following increase in GFA within Barangaroo South:

- Block 4A (blue area) from 94,740 m² to 100,390 m²
- Block 4B (lilac area) from 20,970 m² to 23,320 m².

The SEPP Amendment request is considered as part of a separate planning process and will be determined separately from, and following, this modification application.

3 Strategic context

3.1 Greater Sydney Region Plan and Eastern City District Plan

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

The Region Plan outlines how Greater Sydney will manage growth and change and guide infrastructure delivery. It sets the vision and strategy for Greater Sydney, to be implemented at a local level through District Plans. The site is located within the Eastern City District.

The modification is consistent with the Region Plan and Eastern City District Plan, as:

- the proposal supports the creation of a 30-minute city by co-locating housing, employment, transport, recreation infrastructure and other services in a single location that is connected to other centres
- the proposal will aid in the delivery of the housing target of 157,500 homes in the Eastern City between 2016 and 2036 as set out in the Regional Plan
- the site is ideally located and able to accommodate increased residential density as it can provide additional housing in an established precinct, without detracting from the existing character of the area
- Barangaroo is Australia's first large scale carbon neutral community, and it has sufficient water, sewer, waste and energy infrastructure to support the increased density
- the proposal facilitates the creation of a high amenity residential precinct in the city, which would enhance the competitiveness of the Harbour CBD and it fosters productivity through the provision of construction jobs.

3.2 Sydney Metro CBD and South West Project

In June 2015, the NSW Government announced a new Metro station will be constructed at Central Barangaroo, as part of the Sydney Metro CBD and South West project. The Metro project is currently under construction and due for completion 2024.

The Proponent has been working with Sydney Metro to ensure land use planning and infrastructure provision with Barangaroo is appropriately integrated with the new metro station.

The site is within 400 m walking distance of the new Metro station, will provide additional activity in the Sydney CBD and drive a high level of patronage on the new Metro route and increases residential density near a planned high-frequency Metro station.

4 Statutory Context

4.1 Modification of the Minister's Approval

The concept plan was originally approved under Part 3A of the EP&A Act. This means the project satisfied the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (STOP Regulation), which came into effect on 1 March 2018.

Under the STOP Regulation, the power to modify transitional Part 3A projects under section 75W of the Act, as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply.

Clause 3BA(5) of the STOP Regulation confirms Concept Plans may continue to be modified under section 75W provided the modification meets at least one of the following requirements:

- a) the proposed modification is to correct a minor error, misdescription or miscalculation, or
- b) the proposed modification is of minimal environmental impact, or
- c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).

The Department considers the proposal is substantially the same as the Concept Approval (as modified by MOD8) as the proposed 1.3% increase in GFA is minor in the context of the approved GFA for the site and no change is proposed to the range of uses or other key elements that define the precinct.

Consequently, 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 the carrying out of the project.

The Department of Planning Industry and Environment (Department) is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

4.2 Approval authority

The Minister for Planning and Public Spaces (the Minister) is the approval authority for the modification request. However, the Director, Key Sites Assessments, may determine the request, under delegation dated 9 March 2020, as:

- there are less than 10 public submissions in the nature of objection
- a political disclosure statement has not been made.

4.3 Planning Secretary's Environmental Assessment Requirements

On 15 April 2014, the Department notified the Proponent of the Director General's Requirements (now known as Secretary's Environmental Assessment Requirements (SEARs)) for the Barangaroo Concept Approval. The SEARs set out environmental assessment requirements for amendments to building envelope GFA, height, location and the public domain relating to Barangaroo South.

The Proponent responded to the majority of the SEARs in its MOD 8 application. However, the Proponent chose to exclude the changes to Block 4A and 4B from its MOD 8 application and submit them as part of a separate future modification application (the current application).

The Department is satisfied that the EA and RtS adequately address the requirements of the SEARs to enable the assessment and determination of the application.

4.4 Environmental Planning Instruments

The application has been assessed against the following Environmental Planning Instruments (EPIs):

- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy No.64 – Advertising and Signage
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The Department is satisfied the proposed modification does not result in significant changes that would alter the conclusions made as part of the original assessment of the Concept Plan in relation to EPIs or any subsequent replacement EPIs. The Department is also satisfied the proposed modification does not result in any changes that would require any additional assessment under the EPIs that apply to the proposed development.

With reference to SEPP 65 and the associated Apartment Design Guide (ADG), the Department notes the residential components of the Concept Plan would be assessed against the ADG recommended amenity standards as part of the assessment of future development applications (DAs).

As stated at **Section 2.2**, the Proponent has submitted a concurrent request with the modification application to amend the Barangaroo GFA map contained within the SSP SEPP to align with MOD 10.

5 Engagement

5.1 Department's engagement

The Department publicly exhibited the modification request (together with the SSP SEPP Amendment) between 29 April 2020 until 12 May 2020 (14 days). The application was exhibited on the Department's website, at the NSW Service Centre and at Council's office.

The Department placed advertisements in the Sydney Morning Herald and Daily Telegraph on 15 April 2020, notified Council and relevant Government agencies and wrote to adjoining residents and landholders, inviting submissions in response to the modification request.

In response to the exhibition of the EA the Department received a total of 11 submissions, including six submissions from public authorities, one from Council raising objections and four objections from the public, including the Millers Point Resident Action Group.

A summary of the submissions and the issues raised in the submissions is provided at **Section 5.2**. Copies of the submissions may be viewed at **Appendix A**.

5.2 Submissions

5.2.1 Public authority submission

A summary of the issues raised in public authority submissions is provided at **Table 5**.

Table 5 | Summary of public authority submissions to the exhibition of the proposal

Museum of Applied Arts and Sciences (MAAS)

MAAS does not object to the modification. However, it raised the following concerns:

- the increase in building height would obstruct the night sky viewed from the Sydney Observatory
- the modification could result in increased light spill impacts.

Transport for NSW (TfNSW)

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

- traffic generation rates should be updated to reflect the rates applied to MOD 8
- the predicted increase in traffic is unlikely to have a material impact on the transport network.

Heritage NSW, Department of Premier and Cabinet (Heritage NSW)

Heritage NSW does not object to the modification and noted:

- there are no State listed heritage items within the site. However, the increase in height may affect nearby heritage items
- the increase in the height of Building R4B is below the SSP SEPP maximum height control (RL 250 m)
- the 3 m setback provides visual connectivity between Sydney CBD and Block Y.

Civil Aviation Safety Authority (CASA)

CASA does not object to the modification. However, it confirmed the height of construction cranes would infringe the Obstacle Limitation Surface (OLS) for Sydney Airport and therefore separate approval would be required for the use of tower cranes during construction.

Sydney Metro

Sydney Metro does not object to the modification confirming the proposal would have a negligible impact on the Sydney Metro City and Southwest rail corridor.

Sydney Water

Sydney Water does not object to the modification and provided advice on detailed design of future developments relating to Sydney Water servicing, plan approval, trade wastewater, backflow prevention and water efficiency.

5.2.2 Council's submission

Council objected to the modification on the following grounds:

- the proposal represents a 55% cumulative increase in GFA (all MODs) since the original Concept Approval in 2007 and this fails to promote orderly and sustainable development
- of the proposed 8,000 m² GFA a total of 20% (1,600 m²) should be KWH
- KWH should not be delayed until the end of the project
- residential communal open space should be provided in accordance with the ADG recommended minimum standard
- no additional car parking should be provided. However, if provided the spaces should be restricted to use by future residents and not as commuter parking
- the increase in height would exacerbate existing design issues with the building envelopes including visual impact, lack of tower separation and wind mitigation
- the increase in height would further obstruct celestial objects viewed from the Sydney Observatory and increase light spill
- the proposal sets a precedent for future modification applications.

5.2.3 Community submissions

A total of four public submissions were received in response to the public exhibition of the proposal, including three objections from the public and an objection from the Millers Point Resident Action Group. The key issues raised in public submissions are summarised below:

- unjustified increase in GFA
- obstruction of night sky viewed from the Sydney Observatory
- the modification should include a proportional increase in KWH, public benefits and communal open space
- inappropriate height, scale and visual and heritage impact of the modification to building envelope R4B
- additional overshadowing and wind impact
- increase in traffic
- sets a precedent for future modifications
- inadequate consultation.

5.3 Response to submissions

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

On 17 July 2020, the Proponent submitted its Response to Submissions (RtS) (**Appendix A**). The RtS provides additional information and clarification in response to the issues raised in submissions. The RtS also included confirmation that the modification includes a reduction to the depth of the south-western corner of building envelope R4B by 8.5 m (**Figure 6**).

The RtS was made publicly available on the Department website and was referred to Council and MAAS.

The Department received a response from Council, reiterating the objections raised in its previous submission provided in response to the exhibition of the EA.

No response was received from **MAAS** at the time of writing this report. No further submissions were received from the public.

A summary of the issues raised in the submissions is provided below and copies of the submissions may be viewed at **Appendix A**:

6 Assessment

The Department has considered the proposal and the issues raised in submissions and the Proponent's RtS in its assessment of the application. The Department considers the key issues associated with the proposal are:

- density
- amendments to building envelope R4B
- night-sky impact
- public benefits
- timing of the provision of KWH.

These issues are discussed in the following sections of this report. Other issues relating to the application considered during the assessment of the application are addressed in **Section 6.6** of this report.

6.1 Density

The modification proposes to increase the total residential GFA by 8,000 m² (**Table 3**), an increase of 1.3% across Barangaroo (from 594,354 m² to 602,354 m²).

Concern was raised in public submissions and by Council about the increase in GFA. Council also stated that when considered cumulatively the increase of all modifications to the Concept Plan are significant (an increase of 55%).

In response to concerns raised, the Proponent has stated:

- the modification is appropriate within the surrounding context, optimises and enhances the development of the precinct / built form
- the proposal appropriately balances the social, economic and environmental outcomes on the site
- consistent with the EP&A Act is appropriate the increase in GFA is assessed on its own merits and against MOD8 rather than the original Concept Plan.

The Department has carefully considered the concerns raised by the community about density and overdevelopment.

The Department acknowledges the Concept Approval has evolved since its conception in 2007, however this modification results in a comparatively minor (1.3%) increase in residential GFA beyond the Concept Approval (MOD8).

Noting that this modification is being considered in conjunction with a concurrent modification to increase the GFA for Blocks 4A and 4B in the SSP SEPP, the Department considers an acceptable density is informed by the appropriateness of the built form having regard to potential impact of the floorspace such as, traffic generation, amenity impact and demand on existing/future infrastructure.

The Department has considered the concerns raised in submissions, and the Proponent's response, and is satisfied that the increase in GFA is acceptable, as:

- the Department considers the proposal has strategic merit (**Section 3**), particularly given it will provide increased housing choice (including KWH), has excellent access to public transport

including a planned high frequency Metro and is conveniently located to shops, services and jobs within the CBD

- The amendments to building envelope R4B (to increase its height and amend its setbacks) have been assessed at **Section 6.2** and the Department has concluded the changes are acceptable and would not have adverse visual or amenity impacts. The increase in GFA for building envelope R5 is wholly contained within that approved envelope
- the terms of approval (ToA), modifications, FEARs and BFPUD controls of the Concept Approval, as amended by this modification application, will ensure that the resulting development is of an acceptable overall design and would not have adverse amenity impacts in terms of visual, solar or wind impacts
- the proposal is unlikely to cause traffic impacts, as it will provide car parking in accordance with the Concept Approval maximum rates and has excellent access to existing and planned public transport including the Sydney Metro station
- the proposal provides for residential floor space within an established precinct with other tall buildings, in particular Building R4A (RL250) and would not detract from the character of the area.

The Department is satisfied the increase in GFA is minor in the context of the approved GFA for the site (MOD 8) and that no change is proposed to the range of uses or other key elements that define the precinct. The Department is therefore satisfied the proposal is substantially the same as the Concept Approval (as modified).

The Department concludes the additional floor space is strategically justified in this location and would not result in adverse visual or amenity impacts. On this basis the Department supports the increase of 8,000 m² residential GFA. The Department recommends ToA B1 and Modification B4 be amended to take account of the increase in GFA.

6.2 Amendments to building envelope R4B

Concerns were raised in public submissions and by Council about the visual impact of the increase in the height of Building R4B (**Figure 7**).

In response to concerns raised, the Proponent considers:

- the proposed modification will not give rise to excessive bulk or scale and will continue to achieve design excellence
- the proposal would create a paired composition of towers that enhances the Sydney skyline and the spatial backdrop to Hickson Park by more closely aligning the heights of Building R4A and Building R4B
- the reduction of the depth of the building envelope R4B (tower component) by 8.5 m more closely aligns the envelope with the tower form of the approved Building R4B
- the inclusion of a 3 m setback above RL 209 m would maintain visual connectivity from central Sydney through to the Crown Sydney Hotel Resort.

The Department has carefully considered the concerns raised by Council and public submissions about the increase in height.

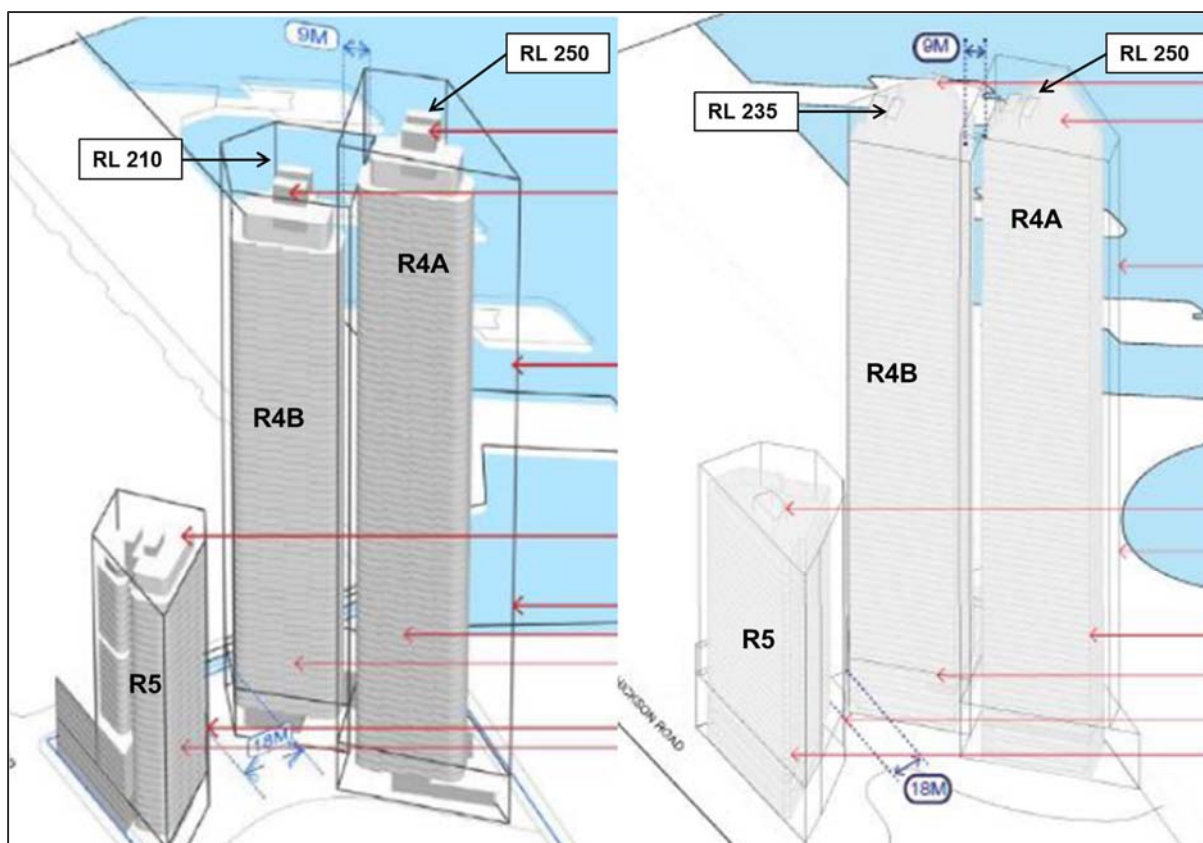


Figure 8 | MOD8 (left) and the proposed (right) maximum building envelope heights of Building R4A and R4B
(Base source: Proponent's EA)

The Department notes the proposed modified height of RL 235 remains below the maximum height control of RL 250 permitted under the SSP SEPP. In addition, the Department considers that a 25 m height increase is acceptable as:

- the modified height of building envelope R4B would continue to provide for a stepped built form relationship to surrounding buildings and would be:
 - 15 m shorter than the immediately adjoining building envelope R4A and the maximum height of buildings for Block 4A allowed by the SSP SEPP (RL 250 m)
 - 40 m shorter than the Crown Sydney Hotel Resort, which is the tallest tower in the Barangaroo South precinct (RL 275 m)
- the increase in height would not interrupt the key urban design principles supporting the Barangaroo South precinct, including the layout of built form, height and view corridors across the site and height transition between R4A, R4B and R5
- building R4A and R4B read as a related pair of towers as they are similar in scale, design and appearance. In this context it is appropriate their heights be more closely aligned (6% difference),
- the future new / amending DA for Building R4B is required to comply with the built form and urban design requirements of the BFPUD controls, as modified by this proposal
- the increase in building height would not result in additional adverse overshadowing or wind impacts, as discussed at **Section 6.6**.

The Department also supports the minor amendments to the R4B building envelope as:

- the reduction in the depth of building envelope R4B responds to the built form of the approved R4B tower (SSD 6965) and therefore refines the envelope by removing un-used / redundant building envelope volume
- the inclusion of a 3 m setback above RL 209 m adds additional articulation to the upper part of the building envelope.

Based on the reasons outlined above, the Department's assessment concludes the increase in the height of building envelope R4B is acceptable as it would not have adverse visual impacts and provides for an appropriate built form relationship to adjoining buildings. In addition, the modification would not undermine key Barangaroo urban design principles and future development would be required to comply with the BFPUD controls.

6.3 Night-sky impact

Council, MAAS, and public submissions raised concern that the proposed increase in the building height of building envelope R4B would have an adverse impact on the Sydney Observatory's view of the night sky, in particular:

- obstruction of the night-sky and celestial objects including The Jewel Box Cluster (open star cluster), The Southern Cross and The Pointers (Alpha and Beta Centauri)
- increased light spill impact.

The Proponent provided a Sky View Impact (SVI) report, prepared by the University of NSW, which considers the potential sky view loss and operational impact on the Sydney Observatory.

The SVI report notes the increase in the height of building envelope R4B result in some obstruction of views of The Jewel Box Cluster, The Southern Cross and The Pointers between mid-August to the start of October. However, the SVI report concludes this is acceptable as:

- observing conditions for the part of the sky immediately above Building R4B are generally not ideal and result in poor image quality, due to the low altitude of the Sydney Observatory, light pollution from nearby bright sources and the effects of smog, humidity and cloud cover
- the objects are only obscured for part of an observing session on most nights and the viewing schedule could be appropriately planned to avoid this time period.

The Department notes that the approved building envelopes for R4A, R4B and Y obstruct a number of constellations visible from the Sydney Observatory. In its assessment of MOD 8, the Department concluded this impact was acceptable as the Sydney Observatory's primary purpose is for recreation and education (rather than as a scientific centre) and the impact was limited to only a portion of the year. The Planning Assessment Commission agreed with the Department's assessment and imposed a FEAR on the Concept Approval requiring future development applications (DAs) include a Light Spill Strategy to ensure light spill is managed and mitigated.

The Department acknowledges the proposed increase in the height of Building R4B would result in additional obstruction of the night sky. However, the Department concludes this additional obstruction is acceptable noting:

- the obstruction is limited to mid-August to the start of October and existing viewing conditions (light and weather) mean it is not an ideal time to be viewing the affected constellations
- the objects are only obscured for part of an observing session on most nights and the Observatory could schedule viewing times of the affected constellations accordingly

- future development applications would be subject to a Light Spill Strategy to manage / mitigate light spill impacts
- the conclusions reached in the Department's assessment of MOD 8 on this matter remain relevant.

6.4 Public benefits

Concern was raised by Council and in public submissions that the proposal should include an increase in public benefits, including an increase in the amount of KWH.

The Proponent stated the Barangaroo project already provides significant public benefits which are proportional for the modified development. In addition, the increase in residential floorspace would result in a proportionate increase in KWH in accordance with the requirements of FEAR B11 and SoC 35, which require 3% of all residential floorspace to be KWH (2.3% onsite and 0.7% offsite).

The Department notes the Concept Approval provides for the following key public benefits:

- provision of extensive areas of new public open spaces including Barangaroo Reserve, Waterman's Cove, Wulugul Walk waterfront, Mercantile and Shipwright Walks, Exchange Place, Hickson Park and Public Pier
- regeneration of a dilapidated waterfront site, inclusion of public art, provision of community and retail uses
- creation of significant employment opportunities within a new mixed-use community adjacent to the CBD
- flooding/drainage infrastructure.

The proposed modification results in the following additional public benefits:

- a proportionate increase (approximately 182 m²) in KWH GFA in accordance with FEAR B11 and SoC 35
- additional housing and non-residential uses within 400 m of a planned high-frequency Metro station
- expansion of a mixed use community adjacent to the CBD and close to services and amenities.

The Department concludes the Concept Approval includes significant public benefits and the modification would result in additional public benefits in terms of KWH and additional accommodation near to a Metro station and services. The Department therefore considers the overall public benefits associated with the proposal are sufficient.

6.5 Timing of the provision of KWH

FEAR B11 and SoC 34 outline the requirements and commitments to on-site and off-site KWH as follows:

- FEAR B11 requires the provision of the 2.3% of the residential GFA as on-site KWH and an additional 0.7% of the residential GFA as off-site KWH prior to the issue of any Occupation Certificate for Blocks 4A, 4B or Y
- SoC 34 commits to providing the 2.3% on-site and 0.7% off-site KWH at or before practical completion of 75% of Barangaroo South residential GFA.

The Proponent does not seek to alter the amount or location of KWH. However the modification seeks approval to amend the timing of the provision of KWH (as shown at **Table 4**), to delay the provision of

KWH until the later of either the practical completion, or the issue of the final Occupation Certificate, of Building R5 for the following reasons:

- the Proponent requires more time to enable the delivery of off-site KWH, noting the process requires site acquisition, development approval and construction by a Community Housing Provider (CHP)
- the Proponent requires more time to construct the on-site KWH located in Building R5, which will be completed after the Crown Sydney Hotel Resort and Buildings R4A and R4B, in accordance with the indicative staging plan for MOD 8 (**Figure 8**).

Council considers the timing of delivery of KWH should not be altered as it creates a real risk of delay and/or that KWH will not be delivered in a timely and reasonable manner.

The Department has carefully considered Council's concerns and the risk of further delays to the delivery of KWH, however, on balance, considers the proposed amendment to the timing of the provision of KWH is acceptable as:

- the construction of the joint basement is at an advanced stage, which includes the site preparation works for the three towers (R4A, R4B and R5) (**Section 1.4.2**). Given the current progress of the development the Department considers the risk of delay to the timely delivery of Building R5 is negligible
- as Building R5 is the final building to be completed within the Barangaroo South precinct (as shown on the staging plan **Figure 9**) it would be unreasonable to prevent the occupation of buildings constructed within preceding stages (Crown Sydney Hotel Resort, Building R4A and R4B) until the construction and provision of KWH in Building R5 (final stage)
- the modification would allow for additional time for a CHP to acquire and deliver the off-site KWH
- the amendment of FEAR B11 and SoC 34 ensures the timing for the provision of KWH required/committed to is consistent.

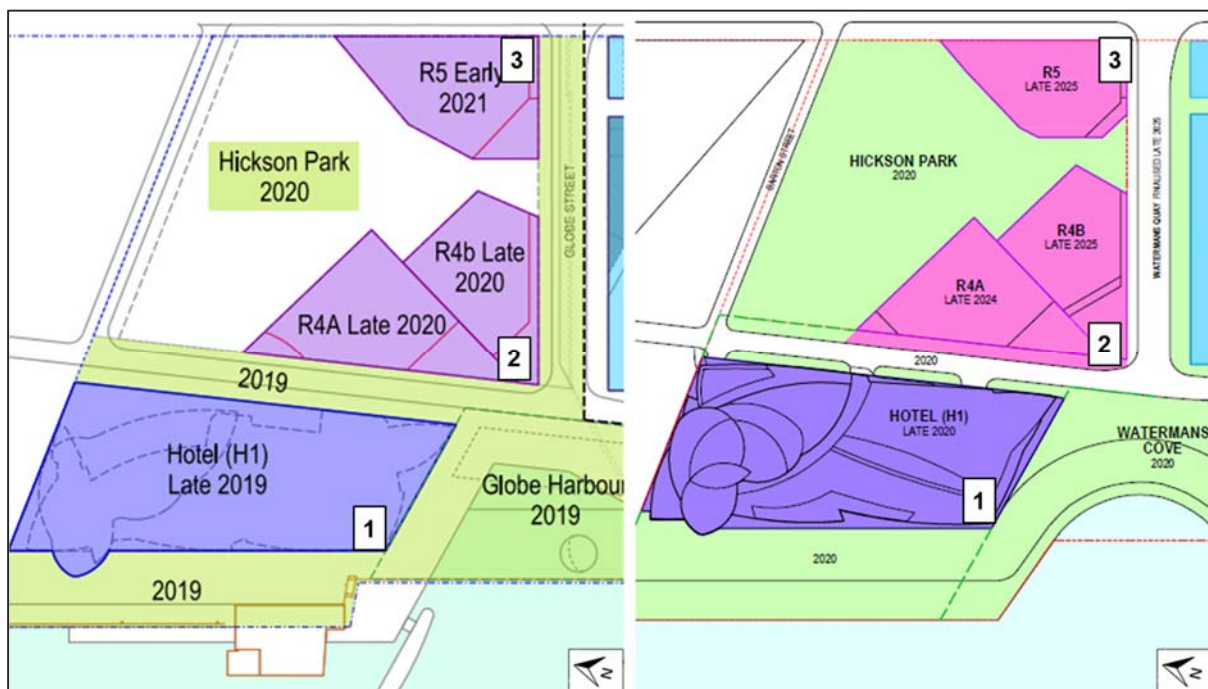


Figure 9 | MOD8 (left) and current proposed (right) indicative construction staging plan for the northern end of Barangaroo South (Base source: MP 06_0162 MOD 8)

Notwithstanding the above, the Department considers the Proponent's proposed revised timing *'the later of either the practical completion, or the issue of the last Occupation Certificate, of Building R5'* is broad and could defer the provision of off-site KWH to the absolute completion of the precinct. In the interest of enforceability and to ensure the off-site KWH is provided in a timely manner, the Department recommends the timing be revised to *'prior to the issue of the first Occupation Certificate for the residential component of Building R5'*.

6.6 Other issues

The Department's consideration of other issues is provided in **Table 6**

Table 6 | Summary of other issues raised

Issue	Findings	Recommended Condition
BFPUD controls	<ul style="list-style-type: none"> Modification B9(1)-(6) of the Concept Approval require the BFPUD controls (relating to Barangaroo South) to be amended including: <ul style="list-style-type: none"> prepare a consolidated BFPUD control document reformat and incorporate existing controls and revise controls to address MOD8 amendments amendments to urban design controls for Blocks 4A, 4B and Y wintergardens objectives and standards for Blocks 4A, 4B and Y signage standards for Blocks 4A, 4B and Y. Modification B5 requires future DA(s) to be in accordance with the BFPUD controls as modified by Modification B9(1)-(6). On 3 February 2017, the Proponent submitted consolidated and amended BFPUD controls to address the requirements of Modification B9(1)-(6). On 27 April 2017 the Department confirmed the BFPUD controls met the requirements of Modification B9(1)-(6). The application includes revised BFPUD controls, which incorporate the changes proposed by the modification. As the requirements of Modification B9(1)-(6) (Barangaroo South) have been satisfied, the Proponent proposes to delete Modification B9(1)-(6) and update Modification B5 to refer to the updated BFPUD controls. The Department notes the BFPUD controls have incorporated details relating to the amendment of the height of building envelope R4B. The Department considers the BFPUD controls are acceptable and agrees that Modification B9 can be deleted and Modification B5 should be updated to refer to the new BFPUD controls. 	The Department recommends Modification B9 be deleted and Modification B5 be updated to refer to the new BFPUD controls.
Heritage	<ul style="list-style-type: none"> Concern was raised in public submission about the increased building height resulting in unacceptable heritage impacts. Heritage NSW confirmed there are no State heritage items nearby the site, however noted the increase in height may increase visual impacts to the setting of a number of heritage items and conservation areas. Council did not raise any concern about potential heritage impacts on local listed heritage items. In response to Heritage NSW's comments, the Proponent submitted a Statement of Heritage Impact (SHI). The SHI concludes the additional height and GFA will have no discernible increased impact on views from the adjacent heritage items and conservation areas including the Millers Point Conservation Area and Observatory Hill. 	No additional conditions or amendments are necessary.

	<ul style="list-style-type: none"> The Department agrees with the conclusions of the SHI and notes there are no State heritage items nearby the site and the proposed increase in height is minor in the context of the existing approved height of the immediately adjoining Building R4A and the Crown Sydney Hotel Resort. The Department has concluded the modification to the height of building R4B is acceptable as discussed at Section 6.1. 	
Building Separation	<ul style="list-style-type: none"> Council raised concern the towers lack adequate building separation. The Proponent has confirmed the modification does not propose an amendment to the approved building separation distance between Buildings R4A and R4B (9 m). The Department notes the building separation distance between Buildings R4A and R4B was assessed and approved under the Concept Approval. The Department considers the increase in the height of R4B would not alter the relationship between buildings and is therefore acceptable in this regard. 	No additional conditions or amendments are necessary.
Overshadowing	<ul style="list-style-type: none"> Concern was raised in public submission the proposed increase in height of building envelope R4B would have adverse overshadowing impacts. The Proponent has provided shadow diagrams, which indicate during mid-winter (21 June) some additional shadowing would occur on the Pyrmont Bay private wharf and the roof of the existing commercial and residential buildings on the wharf between 9am and 10am. After 10am, overshadowing impacts are consistent with those of the Concept Approval. The Department has considered the shadow diagrams and concludes the additional overshadowing resulting from the modification is minor in nature and would not have an adverse amenity impact on the public domain or surrounding residential properties. 	No additional conditions or amendments are necessary.
Wind	<ul style="list-style-type: none"> FEAR C12 requires future DA(s) include a Wind Assessment Report and incorporate mitigation measures to address wind impacts. Concern was raised in a public submission and by Council the increase in the height of building envelope R4B would have adverse wind impacts. The Department considers the proposed modification would not result in any significant increase in wind impacts compared to the current approval. Further, the Department notes existing FEAR C12 requires future DA(s) to consider and address any wind impacts associated with the development. The Department is satisfied wind impacts can be appropriately assessed and where necessary managed or mitigated as part of the assessment of the future new / amending DA for building R4B. 	No additional conditions or amendments are necessary.
Communal open space	<ul style="list-style-type: none"> Concern was raised in a public submission and by Council future residential towers should be consistent with the ADG recommended communal open space (COS) standards. Council also noted existing approved towers (Section 1.4.2) do not meet the ADG communal open space standards. In determining the detailed applications for Buildings R4A and R4B (Section 1.4.2), the Planning Assessment Commission (PAC) noted the proposals meet the ADG recommended COS space standard, however, it would not meet the COS solar access requirement. Notwithstanding this, the PAC concluded the development would provide for a high level of amenity for residents from surrounding parks and the foreshore, which 	No additional conditions or amendments are necessary.

	<p>is consistent with the ADG objective for COS and concluded the proposed COS was acceptable.</p> <ul style="list-style-type: none"> The Department notes future new / amending DAs for Building R4B and R5 would be required to consider and address the ADG recommended standards, including those relating to COS. The Department considers new / amending DAs will be capable of providing for a high standing of amenity, similar to that achieved for approved Buildings R4A and R4B. The Department concludes the consideration of the acceptability of COS provision and quality is best addressed as part of the assessment of future new / amending DAs. 	
Traffic	<ul style="list-style-type: none"> Concern was raised in public submission the proposal would result in an increase in traffic. The application includes a Transport Management and Accessibility Plan (TMAP), which has considered the traffic impacts of the modification. The TMAP predicts the proposed increase in residential GFA would result in 11 additional trips during the AM peak and 9 additional trips during the PM peak. In addition, the TMAP notes there have been key changes to traffic generation assumption since MOD8, including the reduction in bus numbers along Hickson Road and updated (RMS) traffic generation rate guidelines. The TMAP indicates these changes result in an overall reduction in predicted trips associated with the development by 86 during the AM peak (total of 214) and 55 during the PM peak (total of 162). The Department notes the Proponent's comments about key changes to traffic generation assumptions. The Department considers the proposed addition in trips associated with the increase in GFA (11 during AM and 9 during PM peaks) is minor in the context of the surrounding existing traffic and in light of the reduction of the development's overall predicted traffic generation. The Department concludes the proposed increase in residential GFA would not have a noticeable impact on the operation of the surrounding road network. 	No additional conditions or amendments are necessary.
Car parking	<ul style="list-style-type: none"> FEAR C4 establishes maximum car parking rates for future development (residential and commercial uses) within the site. Council raised concern about car parking provision stating no additional car parking should be provided. However, if provided the spaces should be restricted to use by future residents and not as commuter parking. The Proponent has confirmed the modification does not propose to amend the approved maximum car parking rates at FEAR C4. The Department notes the number and tenure/allocation of car parking spaces would be subject to separate approval as part of the assessment of future new / amending DAs. The Department is satisfied the maximum car parking rates under FEAR C4 remain appropriate and recommends FEAR C4 continues to apply to future development. 	No additional conditions or amendments are necessary.
Development precedent	<ul style="list-style-type: none"> Concern was raised by Council and in public submissions that the proposed increase in GFA and building height may set a precedent for the other development in the locality or for further amendment to the Barangaroo Concept Approval. The Department has assessed the proposal on its merits in Section 6 of this report and concludes that the increased height complies with the 	No additional conditions or amendments necessary.

	<p>SSP SEPP, and would not result in adverse visual, amenity or environmental impacts.</p> <ul style="list-style-type: none"> The Department notes any future development would be assessed on its merits in accordance with relevant EPIs and the requirements of the EP&A Act. In particular, any future development: <ul style="list-style-type: none"> of surrounding land outside identified State significant site(s) would be the subject of separate DAs to be submitted to and determined by Council and subject to the Council's height, floor space ratio and other planning controls. within the Barangaroo Concept Approval boundary would be determined on its merits, in accordance with relevant EPIs and the Concept Approval and subject to consultation with Council and the community. The Department is therefore satisfied that the proposal has been assessed on its merits and would not set a development precedent. 	
Property values	<ul style="list-style-type: none"> Concern was raised in public submissions the proposal would have an adverse impact on property values. The Department considers matters relating to the private contracts of sale and/or value of properties are not planning matters for consideration and therefore objections based on loss of property value are not able to inform the assessment of the application. Notwithstanding, the Department has assessed the merits of the modification in detail at Section 6 and concludes, subject to conditions, the modification is acceptable. On this basis, there is no evidence to suggest the proposal would affect property values. 	No additional conditions or amendments are necessary.
Statement of Commitments numbering	<ul style="list-style-type: none"> The proponent has noted that the SoC include two commitments numbered 'SoC 19'. The Proponent has requested that the duplicate 'SoC 19' be re-numbered 'SoC 20' and the numbering of the remaining 130 SoCs be updated to take account of the change. The Department notes the duplication of the numbering of SoC 19. The Department has recommended the duplicated SoC be re-numbered 'SoC 19A'. 	The Department has recommended the duplicate SoC 19 be re-numbered SoC 19A.

7 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department has carefully considered the issues raised in the submissions and the response to those issues provided by the Proponent and concludes that the proposal is acceptable as:

- the proposal is consistent with the Region Plan and Eastern City District Plan, as it supports the creation of a 30-minute city and will aid in the delivery of the housing target of 157,500 homes in the Eastern City between 2016 and 2036
- the site is ideally located and able to accommodate increased residential density as it can provide additional housing in an established precinct, without detracting from the existing character of the area and has excellent access to public transport including a planned high frequency Metro and is conveniently located to shops, services and the CBD
- the proposal is substantially the same as the Concept Approval (as modified) as the 1.3% increase in GFA is minor in the context of the approved GFA for the site (MOD 8) and no change is proposed to the range of uses or other key elements that define the precinct.
- the increase in the height of building envelope R4B continues to provide for a stepped built form relationship to neighbouring buildings and would not affect key Barangaroo South urban design principles or have adverse amenity impacts
- the additional obstruction of the night sky as viewed from the Sydney Observatory is acceptable as it is for a limited time, the Observatory could schedule viewings to avoid obstruction and as light spill would be managed and mitigated by a Light Spill Strategy
- the modification would result in additional public benefits in terms of a proportional increase in KWH and additional accommodation near to a Metro station and services
- the deferral of the provision of KWH is acceptable subject to the Department's revised timing requiring provision of prior to Occupation Certificate of the residential component of Building R5
- other matters considered including BFPUD controls, heritage, overshadowing and wind, communal open space, traffic and car parking have been found to be acceptable and/or can be appropriately managed and mitigated.

The Department's assessment concludes the modification request is approvable, subject to the recommended amendments to conditions (**Appendix C**).

8 Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the modification to the Barangaroo Concept Plan (MP 06_0162 MOD 10) falls within the scope of section 75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the concept approval MP 06_0162
- **signs** the attached notice of modification (**Appendix C**).

Recommended by:

Matthew Rosel
Senior Planning Officer
Key Sites Assessments

Recommended by:

Amy Watson
Team Leader
Key Sites Assessments

9 Determination

The recommendation is **Adopted** by:

Anthony Witherdin

Director

Key Sites Assessments

Appendices

Appendix A – List of Documents

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

- Environmental Assessment titled ‘*Concept Plan MP06_0162 Modification Application & State Significant Precinct Amendment*’ and attachments, prepared by Ethos Urban Pty Ltd and dated 7 April 2020
- Response to submissions titled ‘Response to Submissions titled ‘*Barangaroo South Concept Plan Modification 10*’ prepared by Ethos Urban and dated 17 July 2020

Appendix B – Relevant Supporting Information

The following supporting documents and information can be found on the Department’s website:

1. Environmental Assessment

<https://www.planningportal.nsw.gov.au/major-projects/project/10406>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10406>

3. Proponent’s Preferred Project Report and Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10406>

Appendix C – Notice of Modification

See the Department’s website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/10406>

Appendix D – Community views

The Department received four submissions from the public including one from the Millers Point Action Group. The consideration of the issues raised in submissions is included in **Table 7**.

Table 7 | Community views and consideration

Issue	Consideration
Density	<p><i>Assessment</i></p> <ul style="list-style-type: none">• The Department acknowledges the Concept Approval has evolved since its conception in 2007, however this modification results in a comparatively minor (1.3%) increase in residential GFA beyond the Concept Approval (MOD8).

Issue	Consideration
	<ul style="list-style-type: none"> The proposal has strategic merit, particularly given it will provide increased housing choice (including KWH), has excellent access to public transport including a planned high frequency Metro and is conveniently located to shops, services and the CBD. The additional floor space would not result in adverse visual, built form or amenity impacts. <p><i>Recommended Conditions</i></p> <ul style="list-style-type: none"> Amendments to ToA B1 and Modification B4 to take account of the increase in GFA.
Sydney observatory	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The increase in the height of building envelope R4B impacts on views of three constellations from the Sydney Observatory between mid-August and the start of October. The impact is acceptable as: <ul style="list-style-type: none"> the Sydney Observatory's primary purpose is for recreation and education (rather than as a scientific centre) and the impact is limited to only a portion of the year existing viewing conditions during this time mean it is not an ideal time to be viewing the affected constellations the constellations are only obscured for part of an observing session on most nights and the Observatory could schedule viewing times of the affected constellations future DAs would be subject to a Light Spill Strategy to manage / mitigate light spill impacts in accordance with FEAR C13.
Public benefits and KWH	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The increase in residential floorspace would result in: <ul style="list-style-type: none"> a proportionate increase in KWH in accordance with the requirements of FEAR B11 and SoC 35, which require 3% of all residential floorspace to be KWH (2.3% onsite and 0.7% offsite). additional housing and non-residential uses within 400 m of a planned high-frequency Metro station expansion of a mixed use community adjacent to the CBD and close to services and amenities. The overall public benefits associated with the site are adequate and the modification does not warrant the requirement of additional public benefits.
Height and heritage impact	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The height of building envelope R4B is acceptable as it would not have adverse visual impacts and provides for an appropriate built form relationship to adjoining buildings. In addition, the modification would not undermine key Barangaroo urban design principles and future development would be required to comply with the BFPUD controls. The modified height (RL 235) remains below the maximum height control of RL 250 permitted under the SSP SEPP and would continue to provide for a stepped built form relationship to surrounding buildings. The additional height would have no discernible increased impact on views from the adjacent heritage items and conservation areas including the Millers Point Conservation Area and Observatory Hill.
Traffic	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The proposed addition in trips associated with the increase in GFA (11 additional trips during the AM peak and 9 additional trips during the PM peak) is minor in the context of the surrounding existing traffic and in light of the reduction of the development's overall predicted traffic generation.
Communal open space	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Future new / amending DAs would be required to consider and address SEPP 65 and the ADG recommended standards, including those relating to communal open space.

Issue	Consideration
	<ul style="list-style-type: none"> The consideration of the acceptability of communal open space provision and quality is best addressed as part of the assessment of future new / amending DAs.
Overshadowing	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The additional overshadowing resulting from the modification is limited to between 9am and 10am during mid-winter, is minor in nature and would not have an adverse amenity impact on the public domain or surrounding residential properties.
Wind	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The modification does propose to amend FEAR C12, which requires future development applications consider and address wind impacts associated with the development.
Precedent	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The proposal has been assessed on its merits and would not set a development precedent as any future development would be assessed on its merits in accordance with relevant EPIs, the requirements of the EP&A Act and would be subject to consultation with the community and relevant government authorities.
Adequacy of public consultation	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department appropriately exhibited the application in accordance with the EP&A Act. The Department is satisfied that sufficient consultation has been undertaken to allow for the assessment and determination of the application.