

- **MODIFICATION REQUEST:** *Barangaroo Concept Plan, Hickson Road, Barangaroo (MP06\_0162 MOD 7)*
- **STATE SIGNIFICANT DEVELOPMENT:** *Temporary Concrete Batching Plant, Hickson Road, Barangaroo (SSD 5967)*

*Use of existing temporary concrete batching plant installed at Barangaroo South in association with further construction at Barangaroo South.*



Director-General's  
Environmental Assessment Report  
Section 75W & Section 89H of the  
*Environmental Planning and Assessment Act 1979*

April 2014

## ABBREVIATIONS

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Applicant	Lend Lease (Millers Point) Pty Ltd
Agency	NSW Planning and Infrastructure
CIV	Capital Investment Value
DGRs	Director-General's Requirements
Director-General	Director-General of Planning and Infrastructure, or delegate.
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
PAC	Planning Assessment Commission
P&I	Planning and Infrastructure
Proponent	Lend Lease (Millers Point) Pty Ltd
Regulation	Environmental Planning and Assessment Regulation 2000
RTS	Response to Submissions
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SEPP	State Environmental Planning Policy
SSD	State significant development

**Cover Photograph:** Photograph of existing temporary concrete batching plant (Source: JBA Urban Planning Consultants)

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## EXECUTIVE SUMMARY

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This report provides a concurrent assessment of a section 75W modification application (MP06\_0162 MOD 7) to the Barangaroo Concept Plan and a State significant development application (SSD 5967) seeking approval to make the continuing use of the existing concrete batching plant permissible and to operate the concrete batching plant until the end of 2018, respectively, for the construction of development at Barangaroo South.

The current concrete batching plant was approved as a temporary installation on the basis that it was ancillary to the basement car park (MP10\_0023 MOD 4), which rendered the permissibility issue in the Barangaroo Concept Plan obsolete, and has been operating for approximately 6 months.

However, SSD 5967 cannot be determined by way of approval as the concrete batching plant is not currently a permissible use under the Barangaroo Concept Plan. Consequently, a section 75W application has also been lodged to modify the Barangaroo Concept Plan to make the plant a permitted use.

The concrete batching plant will be capable of supplying 80% of the concrete required for the redevelopment of the site. This would result in a net reduction of approximately 58,000 agitator truck movements to the site.

The modification application and the SSD application were exhibited for a 30-day period from 13 November 2013 to 13 December 2013. Planning and Infrastructure received a total of three submissions during the exhibition period, including one submission each from City of Sydney Council (the Council), EPA, and Transport for NSW. Neither the Council nor the government agencies objected or raised concerns in relation to the proposal. No public submissions were received.

Planning and Infrastructure has assessed the merits of the proposal and considers that the key environmental impacts associated with the proposal to be traffic (associated with the delivery of cementitious material to the site), acoustic and air quality impacts, soil and water management, and the implementation of appropriate management, monitoring and mitigation measures to address potential adverse environmental impacts.

Given the temporary concrete batching plant has been operational for approximately 6 months, with no known adverse environmental impacts, and given it is also regulated by an Environmental Protection Licence issued by the EPA, Planning and Infrastructure is satisfied that its ongoing operation can be appropriately managed and that it is unlikely to result in any significant environmental impacts.

Furthermore, the existing environmental management plans have been updated to address air, noise and vibration, traffic, stormwater management and waste issues. These plans were required to be prepared in consultation with EPA and Transport for NSW (as relevant) and include appropriate management, monitoring and mitigation measures to minimise the potential for adverse environmental impacts arising from the construction activities, including the operation of the concrete batching plant approved under MP10\_0023 MOD 4. Consequently, Planning and Infrastructure is satisfied that these plans can be relevantly applied to the continued operation of the concrete batching plant, subject to the minor amendments outlined in this assessment report.

Planning and Infrastructure considers the proposal to be in the public interest given it will reduce construction traffic and increase efficiencies in construction. Accordingly, it is recommended that both applications be approved, subject to conditions outlined in the Instrument of Modification and the Development Consent.

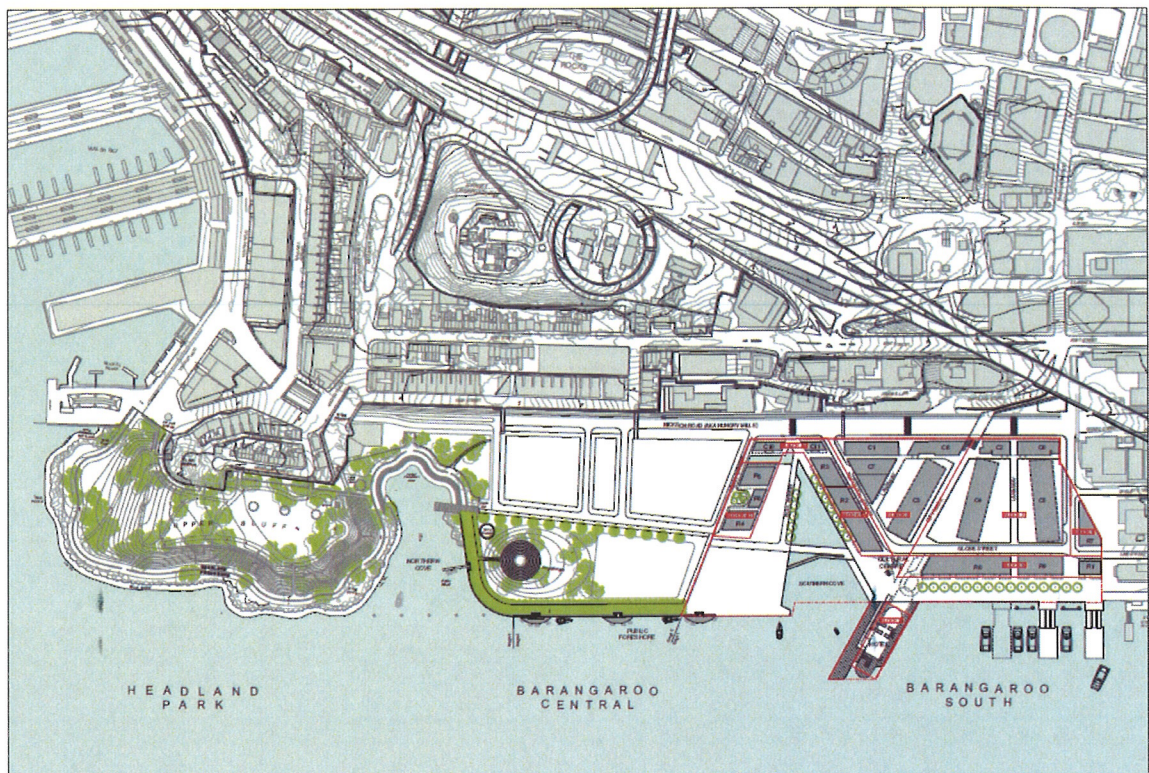


## 1. BACKGROUND

### 1.1 The Site

Barangaroo is located on the north-western edge of the Sydney CBD. The site is bounded by the Sydney Harbour foreshore to the north and west, Hickson Road and Millers Point to the east, and Kings Street Wharf/Cockle Bay/Darling Harbour to the south. Barangaroo has a site area of 22 hectares and a 1.4 kilometre harbour foreshore frontage. It is a flat and long site, being reclaimed land covered by a concrete slab, and is largely devoid of buildings.

Barangaroo has been divided into three distinct redevelopment areas (from north to south) – the Headland Park, Barangaroo Central and Barangaroo South. The current applications (MP06\_0162 MOD 7 & SSD 5967) relate only to Barangaroo South (see **Figure 1**). Barangaroo South extends over land generally known and identified in the approved Barangaroo Concept Plan as Blocks 1, 2 and 3, 4A and X, and is immediately adjacent to the public foreshore recreation area. The location of the concrete batching plant is illustrated in **Figures 2 & 3** below.



**Figure 1:** Barangaroo Precincts (Barangaroo South outlined in red)

### 1.2 Previous Approvals

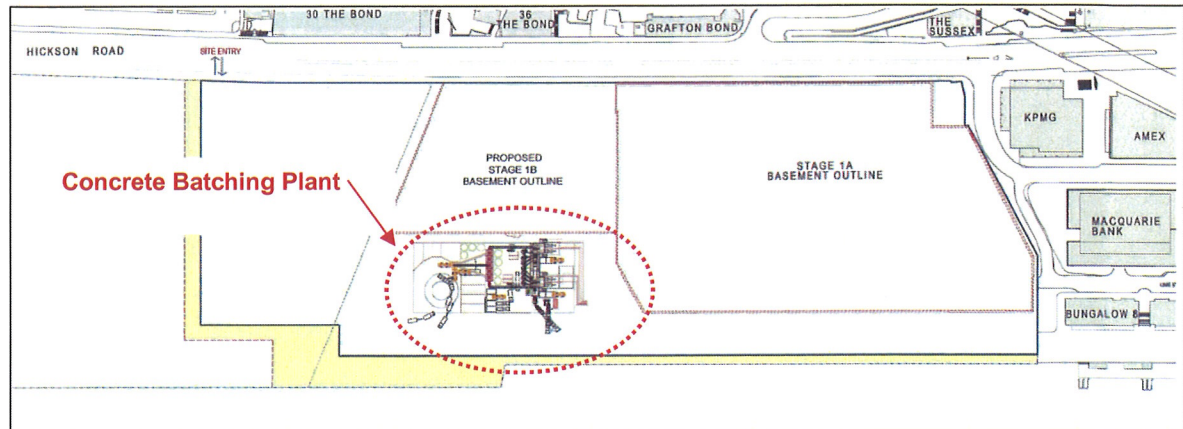
#### Barangaroo Concept Plan (MP06\_0162)

The planning history of modifications to the Concept Plan for Barangaroo is provided at **Appendix C**. In summary, five (5) modifications have been approved since the Concept Plan was originally approved in February 2007. The most recent modification, MP06\_0162 MOD 6, was approved by the Planning Assessment Commission on 25 March 2014. It is noted that MP06\_0162 MOD 5 was lodged with the department in February 2011, but was subsequently withdrawn by the proponent.



### Basement Car Park

On 2 November 2010, the then Minister for Planning approved MP10\_0023 comprising excavation, remediation and the construction of a basement car park at Barangaroo South. On 21 November 2012, the Executive Director, Major Project Assessments, approved MP10\_0023 MOD 4 to permit the installation and operation of a temporary concrete batching plant at Barangaroo South to supply concrete for the construction of the approved basement car park. The location of the approved concrete batching plant is illustrated in **Figure 2** below. The concrete batching plant has been operating since mid September 2013.



**Figure 2:** Location of approved concrete batching plant (MP06\_0162 MOD4)

Planning and Infrastructure reviewed the permissibility of the modification proposal in the assessment of MP10\_0023 MOD 4. It was determined that despite the concrete batching plant being prohibited in the 'B4 Mixed Use' zone of the Barangaroo site under Schedule 3, Part 12 of State Environmental Planning Policy (Major Development) 2005 (MD SEPP), the proposal was considered to be 'ancillary' to the approved development and therefore was not constrained by the zoning of the site. The proponent also provided satisfactory evidence to demonstrate that not only was the concrete batching plant ancillary to the approved development but that it was not an independent use.

Given the above, it was determined that the Minister could reasonably form the view that the modification request was within the scope of section 75W of the EP&A Act and therefore, was capable of being approved as a modification under section 75W of the EP&A Act. As stated above, Lend Lease's submission confirmed that the use of the concrete batching plant was connected only to the basement car park construction and would be decommissioned following the completion of construction. The terms of the modified approval appropriately reflect these requirements.

As the use of the concrete batching plant for more than one purpose (i.e. the supply of concrete for other projects) is deemed to be an 'independent' use and not an 'ancillary' use, the use of section 75W modification powers to extend the use of the concrete batching plant to other approvals is not possible. Separate approval is therefore required for the plant to remain and to service 'other' development at Barangaroo South – which the subject applications are seeking approval for.

## **2. PROPOSED DEVELOPMENT**

### **2.1 The Proposal**

#### Barangaroo Concept Plan (MP06\_0162 MOD 7)

The modification application seeks approval to modify the approved Barangaroo Concept Plan to provide for the use of a temporary concrete batching plant across the whole of the Barangaroo South site. This will allow the concrete generated by the concrete batching plant



to be used for the construction of other development (approved buildings and infrastructure) at Barangaroo South.

To give effect to the modification (i.e. to make the use permissible), the modification application seeks approval to amend the Instrument of Approval in the following manner:

- Amend Modification A1 (Development Description)- to specifically reference the documentation prepared by JBA Urban Planning submitted with the modification application and to list the “use of a concrete batching plant for the purpose of supplying concrete for the construction of the future development under this Concept Plan at Barangaroo South” as a component of the approved mixed use development; and
- Amend Modification A2 (Development in accordance with Plans and Documentation)- to specifically reference the documentation prepared by JBA Urban Planning submitted with the modification application.



**Figure 3:** Aerial Photograph showing Temporary Concrete Batching Plant as approved MP10\_0023 MOD 4 (Source: Nearmap)



### State Significant Development Application: SSD 5967

Although the concrete batching plant does not meet the criteria for State significant development (i.e. its CIV is below \$10 million) under the State and Regional SEPP 2011, it was nevertheless declared as State Significant Development (SSD) under section 89C(3) of the EP&A Act by the Minister for Planning and Infrastructure in accordance with the Order published in the Government Gazette on 19 April 2013. Refer to further discussion in Section 3.1.

The SSD application proposes to retain the temporary concrete batching plant at Barangaroo South currently installed and operating under MP10\_0023 MOD 4 and to continue to operate the concrete batching plant to supply concrete for the construction of other development at Barangaroo South (i.e. approved buildings and infrastructure).

The plant is proposed to operate during the approved project construction hours of 7am to 7pm Monday to Friday, and 7am and 5pm on Saturday. The concrete batching plant is proposed to remain operational and to supply concrete for development of Barangaroo South until end of June 2015, when it is proposed the plant will be dismantled and removed from the site. Planning and Infrastructure acknowledges that the use of the temporary concrete batching plant is linked to the construction program and that this may vary due to unforeseen circumstances. The concrete batching plant therefore may remain operational until the end of 2018 when the majority of construction is completed at Barangaroo South.

It is estimated that the plant will have the capacity to produce 145m<sup>3</sup> of pre-mixed concrete per hour, equivalent to 1,600m<sup>3</sup> and 1,450m<sup>3</sup> of concrete on a weekday and Saturday, respectively. On large concrete pour days where up to 2000m<sup>3</sup> of concrete will be required, additional pre-mixed concrete will be delivered to the site.

The concrete batching plant is proposed to retain its existing configuration as illustrated in **Figures 4** and **5** and no modifications to the plant (as constructed) are proposed in the SSD application.



**Figure 4:** View of the temporary concrete batching plant looking west across Barangaroo South





**Figure 5:** View of the temporary concrete batching plant looking north across Barangaroo South.

The general layout comprises the following key components as illustrated in **Figure 6** below:

- Cement silos with a filter bag system to store the cement powder for inclusion in the batched concrete;
- A 'twin shaft' mixer for raw materials to create concrete;
- Aggregate weigh bins to accurately measure quantities of sand and aggregate reducing wastage;
- Dust extraction system to extract airborne cement powder around the inlet to the split drum mixer;
- Water settlement and storage pits to manage the fine laden water runoff around the cement loading point and mixer areas;
- Water holding tanks to provide a buffer of required water and to manage recycled water for use within the batching of concrete;
- Silo ladders and platforms for access to service cement filters and to operate the plant;
- Batch conveyor with cover to reduce windblown dust from the conveyor;
- Batch office to operate the plant and ensure appropriate supervision of plant and stockpile areas;



- Electrical switchboard container to house electrical components as per legislative requirements; and
- Admixture tanks and bunds (steel) to ensure any leaks are contained.

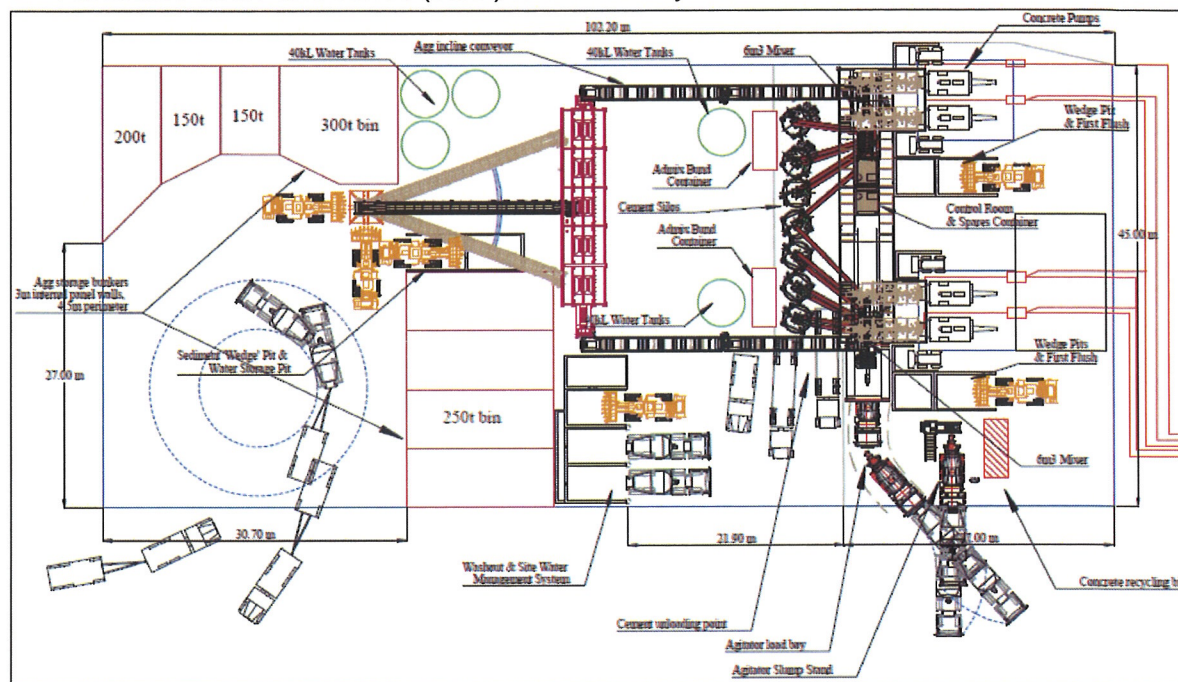


Figure 6: Layout of the approved concrete batching plant

### 3. STATUTORY AND STRATEGIC CONTEXT

#### 3.1 State Significant Development

The proposal is a State significant development pursuant to section 89C(3) of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is development for the purposes of the operation and maintenance of a concrete batching plant at Barangaroo, in accordance with the Ministerial Order dated 19 April 2013.

#### 3.2 Modification of the Minister's Approval (MP06\_0162 MOD 7)

Part of the proposal relates to a modification request under section 75W of the EP&A Act to modify the Barangaroo Concept Plan.

Planning and Infrastructure is of the view that the application to modify the Concept Plan may be considered as an application to modify the approval under section 75W of the EP&A Act. Planning and Infrastructure also considers that the Minister could reasonably form the view that the modification request is within the scope of section 75W of the EP&A Act, and is capable of being approved as a modification under section 75W of the EP&A Act.

#### 3.3 Environmental Assessment Requirements

In accordance with section 75W(3) of the EP&A Act, the Director-General notified the proponent that no additional environmental assessment requirements were required with respect to the proposed modification (MP06\_0162 MOD 7) and in this regard, the DGRs issued for MP06\_0162 MOD 6 would remain relevant to the modification. Planning and Infrastructure is satisfied that Section 4.0 of the modification application has adequately addressed compliance with the DGRs to enable the assessment of the application for determination purposes.

In accordance with section 78A(8A) of the EP&A Act, the Director-General notified the applicant of the environmental assessment requirements for the State significant

development application (SSD 5967). Planning and Infrastructure is satisfied that section 1.5 of the EIS adequately addresses compliance with the DGRs to enable the assessment of the application for determination purposes.

### 3.4 Delegated Authority

#### Modifications under section 75W of the Act (MP06\_0162 MOD 7)

On 27 February 2013, the Minister for Planning and Infrastructure delegated responsibility for the determination of modification applications under section 75W of the EP&A Act to the Executive Director, Development Assessment Systems and Approvals, where:

- The relevant local council has not made an objection;
- A political disclosure statement has not been made; and
- There were less than 25 submissions in the nature of objections.

The proposal complies with the terms of the delegation as the Council has not objected to the application, a political disclosure statement has not been made in relation to the application, and no submissions were received from the general public.

#### State Significant Development Application (SSD 5967)

On 27 February 2013, the Minister for Planning and Infrastructure delegated responsibility for the determination of State significant development under section 89E the EP&A Act to the Executive Director, Development Assessment Systems and Approvals, where:

- The relevant local council has not made an objection;
- A political disclosure statement has not been made; and
- There were less than 25 submissions in the nature of objection.

The proposal complies with the terms of the delegation as the Council has not objected to the application, a political disclosure statement has not been made in relation to the application, and no submissions were received from the general public.

### 3.5 Compliance with Clause 3B of Schedule 6A of the EP&A Act

The concrete batching plant is located on land zoned 'B4 Mixed Use' under Part 12 Schedule 3 of the MD SEPP. A concrete batching plant is not a permissible use in this zone. Notwithstanding this, the department has received advice to confirm that the approval of the modification to the Concept Plan will overcome this prohibition. In this regard, clause 3B(2)(a) of the Schedule 6A of the EP&A Act states that:

- (2) *After the repeal of Part 3A, the following provisions apply (despite anything to the contrary in section 75P (2)) if approval to carry out any development to which this clause applies is subject to Part 4 or 5 of the Act:*
- (a) *if Part 4 applies to the carrying out of the development, the development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*

Where clause 3B of Schedule 6 of the EP&A Act applies, the development the subject of a Concept Plan becomes development that may be carried out with development consent under Part 4, despite an EPI prohibiting it. It also has been established that there is no impediment to the use of section 75W to amend the Concept Plan in this manner.

Further to the above, clause 3B(2)(d) of Schedule 6A of the EP&A Act specifies that a consent authority must not grant consent under Part 4 unless it is satisfied that a development is generally consistent with the terms of the approval of a Concept Plan. Subject to MP06\_0162 MOD 7 being approved prior to the determination of the SSD 5967 (i.e. to recognise the concrete batching plant as an approved use in the Concept Plan), Planning and Infrastructure is satisfied that the legislative requirements of the EP&A Act have been satisfied.



### 3.6 Environmental Planning Instruments

The following environmental planning instruments (EPIs) apply to the site:

- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy (Major Development) 2005 (MD SEPP)*;
- *State Environmental Planning Policy No 55 – Remediation of Land*; and
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment 2005)*.

An assessment of compliance with the EPIs is provided at **Appendix B**. In summary, Planning and Infrastructure is satisfied that the application generally complies with the relevant provisions of the EPIs.

### 3.7 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the EP&A Act, as set out in section 5 of the Act. MP06\_0162 MOD 7 and SSD 5967 are considered to be consistent with the objects of the Act as both applications will promote the orderly and economic use of the site, and will facilitate improved construction efficiencies and maximise environmental sustainability. Accordingly, the application is considered consistent with the objectives of section 5 of the Act.

### 3.8 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* (POEA Act). Section 6(2) of the POEA Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes.

Planning and Infrastructure has considered the project in relation to the ESD principles and has concluded that the application has been designed to incorporate Australian best practice sustainability initiatives during construction, as outlined in **Section 5** of this report.

In addition, Planning and Infrastructure considers that the precautionary and inter-generational equity principles have been applied in the decision making process via a thorough and rigorous assessment of the environmental impacts of the project.

### 3.9 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the regulation cited in this report, the requirements for notification (clause 8G, Part 1 (MP06\_0162 MOD 7) and Part 6, Division 6 (SSD 5967)) and fees (Part 15, Division 1A (MP06\_0162 MOD 7) and Part 15, Division 1AA (SSD 5967)) have been complied with.

### 3.10 Strategic Context

Planning and Infrastructure considers that the proposal is consistent with the following State/regional/local strategies:

- The objectives of NSW 2021, including the creation of a new livable centre within the Sydney CBD, and the creation of additional construction jobs and additional commercial, retail and residential floor space; and
- The planning objectives of the draft *Metropolitan Plan for Sydney to 2031*, which promote the provision of floor space to accommodate 102,000 new jobs within central Sydney.