

APPENDIX 4.

SEPP (MAJOR PROJECTS) 2005 (AMENDMENT NO 18)

Department of Planning



New South Wales

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning. (S06/01256-1)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify the land to which this Policy applies as a State significant site under *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to identify development on that land that is development to which Part 3A of the *Environmental Planning and Assessment Act 1979* (*the Principal Act*) applies, and
- (c) to establish appropriate zoning and other development controls for that land, whether the development is carried out under an approval under Part 3A of the *Principal Act* or a development consent under Part 4 of that Act, and
- (d) to provide for appropriate development on that land that satisfies the principles of ecologically sustainable development, and
- (e) to encourage a culturally rich and vibrant place for people, and
- (f) to ensure accessibility to and along Sydney Harbour and its foreshores.

3 Land to which Policy applies

This Policy applies to land shown edged heavy black on Map 10 in Schedule 3 to *State Environmental Planning Policy (Major Projects) 2005* (to be inserted by Schedule 1 [5] to this Policy).

4 Amendment of State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 is amended as set out in Schedule 1.

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Schedule 1 Amendments

(Clause 4)

[1] Clause 16 Savings and transitional provisions

Insert after clause 16 (2):

- (2A) Anything done under Part 3A of the Act in reliance on a declaration by this Policy of development described in a Schedule to this Policy to be a project to which Part 3A applies is not affected by the repeal of that description of that development in that Schedule, but only if that project continues to be a Part 3A project by the inclusion of the description of that development in another Schedule to this Policy.

[2] Schedule 2 Part 3A projects—specified sites

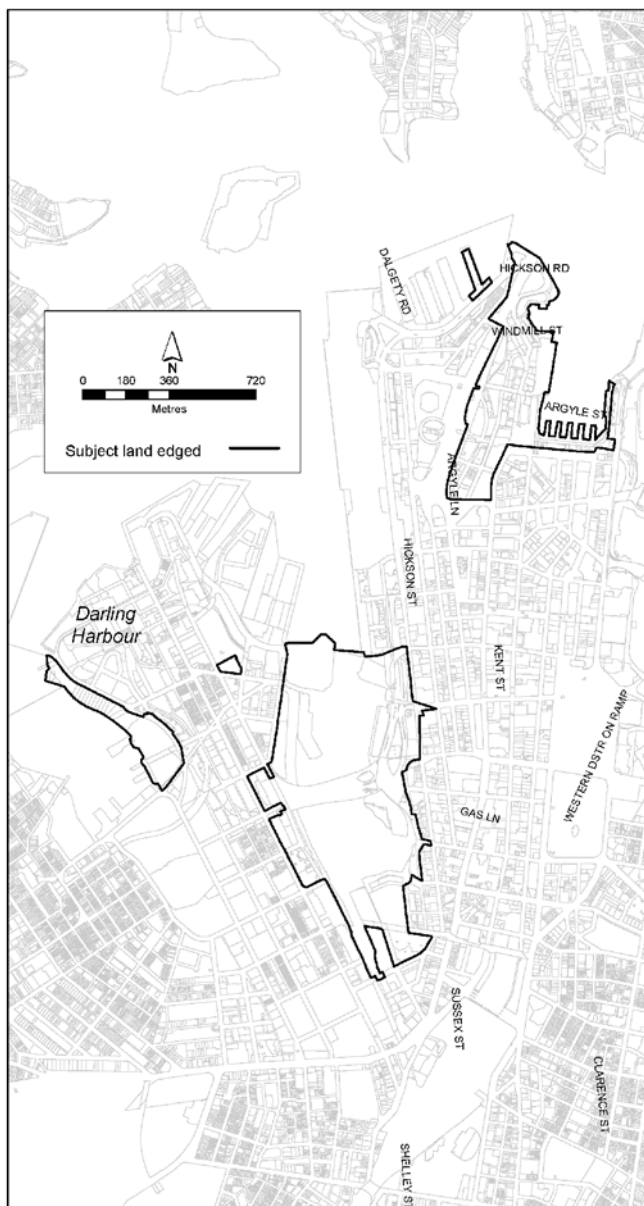
Omit clause 10 (1) (d).

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[3] **Schedule 2, Map 9**

Omit the map. Insert instead:



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[4] Schedule 3 State significant sites

Insert in appropriate order:

Part 12 Barangaroo site

Division 1 Preliminary

1 Land to which this Part Applies

This Part applies to the land identified on Map 10 to this Schedule referred to in this Schedule as the *Barangaroo site*.

2 Interpretation

(1) In this Part:

Building Height Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Building Height Map.

Gross Floor Area Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Gross Floor Area Map.

Heritage Conservation Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Heritage Conservation Map.

heritage item means a building, work, relic, tree or place that is shown as a heritage item on the Heritage Conservation Map.

Zoning Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Zoning Map.

(2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

3 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development on land within the Barangaroo site are this Policy and all other State environmental planning policies except *State Environmental Planning Policy No 1—Development Standards*.

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4 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended from time to time by maps declared by environmental planning instruments to amend that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Part to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

Division 2 Part 3A projects

5 Part 3A projects

- (1) Such development within the Barangaroo site as has a capital investment value of more than \$5 million, other than development for the purpose of a public utility undertaking.
- (2) Subdivision of land within the Barangaroo site, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:
 - (a) widening a public road,
 - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,
 - (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes or emergency service purposes or public conveniences.

Note. Clause 1 (3) of Part 1 of Schedule 6 provides that the Minister is the consent authority for all development on the Barangaroo site that is development to which Part 4 of the Act applies.

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Division 3 Provisions applying to development within Barangaroo site

6 Application of Division

This Division applies with respect to any development within the Barangaroo site and so applies whether or not the development is a project to which Part 3A of the Act applies.

7 Land use zones

- (1) For the purposes of this Policy, land within the Barangaroo site is in a zone as follows if the land is shown on the Zoning Map as being within that zone:
 - (a) Zone B4 Mixed Use,
 - (b) Zone RE1 Public Recreation.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

8 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
 - (a) to provide a mixture of compatible land uses,
 - (b) to integrate suitable development in accessible locations so as to maximise public transport patronage and encourage walking and cycling,
 - (c) to encourage a diverse and compatible range of activities through various means, including the following:
 - (i) commercial and retail development,
 - (ii) cultural and entertainment facilities,
 - (iii) tourism, leisure and recreation facilities,
 - (iv) social, education and health services,
 - (v) higher density residential development,
 - (d) to incorporate contemporary urban design principles in the design of new buildings and the interpretation of their relationship with the public domain,
 - (e) to implement the principles of energy efficiency, travel demand management and other sustainable development practices as part of the development assessment process,
 - (f) to facilitate the conservation of heritage items,

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- (g) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area.
- (2) Except as otherwise provided by this Policy, development for any purpose may be carried out with consent on land within Zone B4 Mixed Use unless prohibited by subclause (3).
- (3) Development for any of the following purposes is prohibited on land within Zone B4 Mixed Use:
bulky goods premises; caravan parks; dual occupancies; dwelling houses; extractive industries; hazardous industries; hazardous storage establishments; heavy industries; industries; light industries; materials recycling or recovery centres; mines; moveable dwellings; offensive industries; offensive storage establishments; restricted premises; sex services premises; truck depots; warehouse or distribution centres.

9 Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
 - (a) to enable land to be used for public open space or recreational purposes,
 - (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes,
 - (d) to ensure the vitality and safety of the community and public domain,
 - (e) to promote and maintain public access to and along the foreshore,
 - (f) to allow land beneath the finished surface of the public domain to be used for car parking associated with development on land within Zone B4 Mixed Use if it can be demonstrated that any such use will not detract from the primary use of the land for public open space or recreational purposes,
 - (g) to allow the public domain to be enhanced by a variety of compatible land uses in a manner that contributes positively to, and does not dominate, the primary use of the land for public open space or recreational purposes,

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- (h) to allow land to be used in conjunction with the transportation of passengers by water.
- (2) Development for any of the following purposes may be carried out with consent on land within Zone RE1 Public Recreation:
- charter and tourism boating facilities; community facilities; earth works; entertainment facilities; environmental facilities; environmental protection works; food and drink premises; function centres; information and education facilities; jetties; kiosks; markets; passenger transport facilities; public entertainment; public halls; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; telecommunications facilities; telecommunications networks; temporary structures; transport depots; underground car parks.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2).
- (4) For the purposes of subclause (2), *kiosk* means retail premises with a gross floor area not exceeding 80 square metres and that provides food, light refreshments and other small convenience items such as newspapers, films and the like.

10 Additional permitted uses

Despite any other provision of this Policy, development for the following purposes on the following land may be carried out with development consent:

- (a) a harbour control operations tower on Lot 4, DP 876514,
(b) a port safety operations facility on Lot 2, DP 876514.

11 Exempt and complying development

Development within the Barangaroo site that satisfies the requirements for exempt development or complying development specified in *Central Sydney Development Control Plan 1996*, as in force on 9 February 2007, is exempt development or complying development, as appropriate.

12 Demolition within Zone RE1 Public Recreation

Development for the purposes of demolition may be carried out with consent on land within Zone RE1 Public Recreation.

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13 Advertising within Zone RE1 Public Recreation

Development for the purposes of an advertisement may be carried out with consent on land within Zone RE1 Public Recreation if:

- (a) the advertisement is erected by, or on behalf of, a public authority, and
- (b) it is displayed on public street furniture, a bus shelter, a public telephone booth or a similar structure.

14 Commercial port facilities

- (1) Development for the purposes of a commercial port facility that has a capital investment value of \$5 million or less and is carried out on land within the Barangaroo site does not require development consent.

Note. As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of commercial port facilities having a capital investment value of \$5 million or less is subject to the environmental assessment and approval requirements of Part 5 of the Act.

- (2) Development for the purposes of a commercial port facility that has a capital investment value of more than \$5 million may only be carried out on the Barangaroo site with consent.

15 Public utility undertakings

- (1) Development for the purposes of public utility undertakings that is carried out on land within the Barangaroo site does not require development consent.

Note. As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

- (2) This clause does not apply to any development to which clause 14 applies.

16 Subdivision—consent requirements

- (1) **Consent required for subdivision**

Land within the Barangaroo site may be subdivided, but only with consent.

- (2) **Consent not required for minor subdivision**

However, consent is not required for a subdivision for the purpose only of any one or more of the following:

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- (a) widening a public road,
 - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,
 - (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes or emergency service purposes or public conveniences.

(3) **Strata subdivision**

Subject to the other provisions of this Part, development consent may be granted to a subdivision of land under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* only if the consent authority is satisfied that the subdivision will result in lots that:

- (a) if the subdivision is for the purpose of the erection of a building, are capable of accommodating a building that:
 - (i) complies with all relevant requirements of this Part, including those relating to maximum building height and gross floor area, design excellence and heritage conservation, and
 - (ii) is not an overdevelopment of the lot, and
 - (iii) facilitates orderly and high quality development of the resultant lots, and
 - (b) provide an appropriate curtilage for any heritage item on the land that does not adversely affect the heritage significance of the item, and
 - (c) are compatible with the existing subdivision pattern of the locality.
- (4) Before granting consent for stratum subdivision of a building, the consent authority must consider whether the related building management statement or strata management statement adequately addresses the ongoing maintenance, upgrading, redevelopment and structural adequacy of the part of the building within each proposed stratum lot.

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- (5) Before granting the subdivision certificate for strata subdivision of a new or refurbished building, the consent authority must be satisfied that any occupation certificate needed before the building is occupied has been issued.

17 Height of buildings

- (1) The height of any building on any block of land on the Barangaroo site is not to exceed the height for development on that block, expressed as Reduced Level (RL), as shown on the Building Height Map.
- (2) In this clause, **block of land** means the following:
- (a) an area of land shown edged in black and numbered “1”, “2”, “3”, “4”, “5”, “6” or “7” on the Building Height Map,
 - (b) the combined areas of land shown edged in black and numbered “8” on that map.

18 Gross floor area restrictions

- (1) The total gross floor area of all buildings on any block of land on the Barangaroo site is not to exceed the gross floor area shown for that block on the Gross Floor Area Map.
- (2) Despite subclause (1), the total gross floor area of all buildings on a block of land numbered “2”, “3” or “4” may exceed the gross floor area shown for that block on the Gross Floor Area Map if the total gross floor area of all buildings on those 3 blocks combined does not exceed 310,500 square metres (being the sum of the gross floor areas shown for those blocks on that map).
- (3) In this clause, **block of land** means the following:
- (a) an area of land shown edged in black and numbered “1”, “2”, “3”, “4”, “5”, “6” or “7” on the Gross Floor Area Map,
 - (b) the combined areas of land shown edged in black and numbered “8” on that map.

19 Design excellence

- (1) Consent must not be granted to development involving the erection of a new building or external alterations to an existing building unless the consent authority has considered whether the proposed building exhibits design excellence.
- (2) In considering whether the proposed building exhibits design excellence, the consent authority must have regard to the following matters:

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- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the building will improve the quality and amenity of the public domain,
 - (c) whether the building will meet sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency,
 - (d) if a design competition is required to be held in relation to the building, as referred to in subclause (3), the results of the competition.
 - (3) Consent must not be granted to the following development unless a design competition has been held in relation to the proposed development:
 - (a) the erection of a new building that will be greater than Reduced Level (RL) 57,
 - (b) the erection of a new building on a site of greater than 1,500 square metres.
 - (4) Subclause (3) does not apply if the Director-General:
 - (a) certifies in writing that the development is one for which an architectural design competition is not required because of the excellence of the proposed design for the development concerned, and
 - (b) is satisfied that:
 - (i) the architect responsible for the proposed design has an outstanding reputation in architecture, and
 - (ii) necessary arrangements have been made to ensure that the proposed design is carried through to the completion of the development concerned.
 - (5) The Director-General may issue procedures setting out or dealing with the following:
 - (a) the conduct of design competitions,
 - (b) the establishment of design competition juries.
 - (6) In the event a design competition is held, the consent authority must, before granting consent, consider the advice of a design competition jury established in accordance with any procedures issued under this clause.

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- (7) In this clause:

design competition means a competitive process conducted in accordance with procedures issued by the Director-General from time to time.

20 Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.

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- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

21 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
- (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
 - (d) damage or despoil the tree or place, or
 - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree, or land on which the building, work or relic is situated, or the land that comprises the place, or
 - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) However, consent under this clause is not required if the proponent of the development has notified the consent authority of the proposed development and the consent authority has advised the proponent in writing before any work is carried out that it is satisfied that the proposed development:
- (a) is of a minor nature, or is for the maintenance of the heritage item, and
 - (b) would not adversely affect the significance of the heritage item.

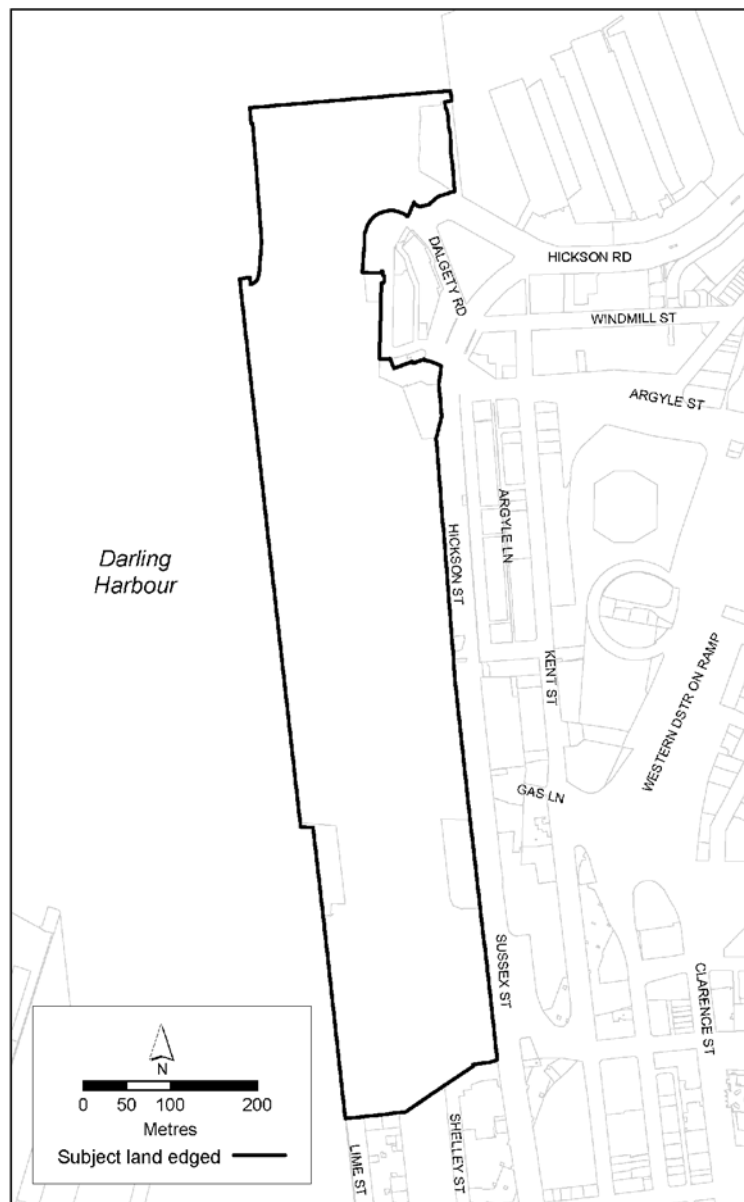
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[5] **Schedule 3, Map 10**

Insert in appropriate order at the end of the Schedule:

Map 10—Schedule 3—Barangaroo site



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[6] Schedule 6 Minister consent authority for Part 4 development

Omit clause 1 (1) (d).

[7] Schedule 6, clause 1 (3)

Insert after clause 1 (2):

- (3) Development (with a capital investment value of not more than \$5 million) within the area identified on Map 10 to Schedule 3.

Note. Development controls in relation to the Barangaroo site for development under Part 4 of the Act are contained in Part 12 of Schedule 3.w