

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

APPROVAL OF CONCEPT PLAN NO. 06_0054

(FILE NO. 9041971)

CONCEPT PLAN FOR THE REDEVELOPMENT OF DARLING WALK, DARLING HARBOUR FOR COMMERCIAL, RETAIL, CULTURAL, RECREATIONAL AND ENTERTAINMENT USES, BASEMENT CARPARKING AND PUBLIC DOMAIN IMPROVEMENTS

I, the Minister for Planning, under the *Environmental Planning and Assessment Act 1979* determine:

- (a) under section 75O, to approve the concept plan referred to in Schedule 1 subject to the modifications in Schedule 2 and the Proponent's Statement of Commitments in Schedule 3.
- (b) under section 75P(1)(a), that development with a capital investment value of more than \$5 million, excluding remediation, be subject to Part 3A of the Act;
- (c) under section 75P(1)(b), that development with a capital investment value of less than \$5 million and remediation be subject to Part 4 of the Act;
- (d) under section 75P(1)(c), that the demolition works stage of the project described by the Concept Plan requires no further environmental assessment; and
- (e) under sections 75P(1)(a) and 75P(2)(c) that future development be subject to the requirements set out in Part A, Part B and Part C of Schedule 2.

The reason for the modifications are:

- (1) to prevent and/or minimise adverse environmental impacts;
- (2) to set requirements for the future applications on the site; and
- (3) to ensure an acceptable built form outcome for the site.



Frank Sartor MP
Minister for Planning

Sydney,



2008

SCHEDULE 1
**CONCEPT PLAN FOR THE COMMERCIAL, RETAIL, CULTURAL,
RECREATIONAL AND ENTERTAINMENT REDEVELOPMENT OF DARLING
WALK, DARLING HARBOUR**
(MP 06_0054)

PART A—TABLE

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|---|--|
| Application made by: | Sydney Harbour Foreshore Authority |
| Application made to: | Minister for Planning |
| Major Project Application: | MP 06_0054 |
| On land comprising: | 38 Lots within Darling Harbour including the site known as Darling Walk and Tumbalong Park (Lots 318 & 319 DP 871455, Lot 314 DP 869004, Lots 52 & 53 DP 1009561, Lot 403 DP 862501, Lots 305 & 306 DP 787105, Lots 7, 8, 9, 10, Part Lots 11, 12, 14 & 15, Lots 13, 17, 18, 19, 20, 21, 22, 23, 24, 26, 29, 30, 32, 37, 38, 40, 41, 42, 43, 46, 48 in DP 1048307) |
| Local Government Area | City of Sydney |
| For the carrying out of: | Concept Plan for a commercial, retail, cultural, recreational and entertainment complex, basement car parking and public domain improvements |
| Estimated Cost of Works | \$280,000,000 |
| Type of development: | Concept Plan |
| S.119 Public inquiry held: | No |
| Determination made on: | |
| Date consent is liable to lapse: | 5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the Act. |

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 06_0149

Responsibility for other approvals / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

Inconsistencies between documents

In the event of any inconsistency between the modifications to this concept plan approval and the approved plans and documentation described in Schedule 2 or the Proponent's Statement of Commitments in Schedule 3, the modifications to this concept plan approval prevail.

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this consent.

Council means City of Sydney Council.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by JBA Urban Planning Consultants Pty Ltd on behalf of Sydney Harbour Foreshore Authority and dated December 2007 and as amended by the Preferred Project Report prepared by JBA Urban Planning Consultants Pty Ltd dated May 2008 and Addendum to the Preferred Project Report prepared by the Sydney Harbour Foreshore Authority.

GFA means gross floor area.

Minister means the Minister for Planning.

MP No. 06_0054 means the Major Project described in the Proponent's Environmental Assessment Report.

Preferred Project means the Preferred Project report and appendices prepared by JBA Urban Planning Consultants Pty Ltd on behalf of Sydney Harbour Foreshore Authority and dated May 2008.

Proponent means Sydney Harbour Foreshore Authority or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

SHFA means the *Sydney Harbour Foreshore Authority*.

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

RECOMMENDED MODIFICATIONS TO CONCEPT PLAN APPROVAL

MAJOR PROJECT NO. 06_0054

PART A – TERMS OF APPROVAL

A1 Development Description

Concept approval is granted only to the carrying out of development solely within the concept plan area as described in the document titled ***“Part 3A Concept Plan and Environmental Assessment Report Darling Walk, Darling Harbour”*** prepared by JBA Urban Planning Pty Ltd dated December 2007 and in the document titled ***“Preferred Project Report and Statement of Commitments Darling Walk, Darling Harbour”*** prepared by JBA Urban Planning Pty Ltd dated May 2008 including:

- (1) A mixed use commercial, retail, cultural, recreational and entertainment development involving a maximum of 68,000m² of GFA subject to the following:
 - (a) A maximum of 5,000m² retail GFA;
 - (b) A minimum of 1,000m² cultural, recreational and entertainment GFA; and
 - (c) A child care centre use may be included within the commercial GFA.
- (2) Maximum building heights and envelopes within 2 development blocks, separated from each other by a 20 metre wide ‘view corridor’ as identified in *Drawing DW 005 of Appendix C* of the Environmental Assessment.
- (3) Maximum of 200 basement car parking spaces to service the commercial GFA.
- (4) Maximum of 600 basement car parking spaces as a separate public car parking facility.
- (5) Public domain reconfigurations and improvements

A2 Development in Accordance with Plans and Documentation

The approval shall be in accordance with MP 06_0054 and with the Environmental Assessment, except where amended by the Preferred Project Report and Addendum to the Preferred Project Report, and the following drawings:

| Concept Plan Drawing prepared at Appendix C of the Environmental Assessment | | | |
|---|----------|---|------------|
| Drawing No. | Revision | Name of Plan | Date |
| DW 005 | | Illustrative Massing, Height and Setbacks | 05.12.2007 |

except for as modified by the following pursuant to section 750(4) of the Act.

A3 Determination of Future Applications

The determination of future applications for development is to be generally consistent with the terms of approval of Concept Plan No. 06_0054 as described in Part A of Schedule 1 and subject to the modifications of approval set out in Parts A, B & C of Schedule 2 and the Proponent's Statement of Commitments set out in Schedule 3.

PART B – MODIFICATIONS TO CONCEPT PLAN

B1 GFA AND USES

- (1) The total GFA for the development is not to exceed 68,000m², as set out in Modification A1.
- (2) A minimum of 1000m² of the GFA is to be provided for cultural, recreational and entertainment uses.
- (3) Any child care use is to be included in the commercial GFA allocation of the development.

B2 INTEGRATION OF BATHURST STREET FOOTBRIDGE

- (1) The Bathurst Street footbridge is to be integrated into the development.
- (2) Any enhancement of the existing pedestrian bridge shall:
 - (a) ensure access to a main foyer space at the northern end of the development;
 - (b) be of a high standard of architectural design, materials and detailing appropriate to the proposal to the extent and details permitted by the landowner;
 - (c) improve the quality and amenity of the public domain;
 - (d) provide improved access to the pedestrian bridge on the western side of Harbour Street;
 - (e) ensure spaces under the footbridge are not degraded or unsafe;
 - (f) provide for persons with a disability or people with mobility difficulty in accordance with the relevant Australian Standards;
 - (g) provide an interesting pedestrian experience through the use of lighting, architectural elements and/ or public art; and
 - (h) provide an integrated response to the adjacent building and public domain.

B3 GROUND FLOOR ACTIVATION

The ground floor level of the development shall generally be activated by retail uses, in particular the frontages to Tumbalong Park, between the buildings (into the view corridor / public domain area) and to Harbour Street.

B4 WIDTH OF VIEW CORRIDOR BETWEEN BUILDINGS

The view corridor separating the two approved building forms on the site is to be a minimum of 20 metres in width. The final location of the view corridor is to be determined in the future project application for the buildings.

PART C – FUTURE ASSESSMENT REQUIREMENTS

C1 HERITAGE AND ARCHAEOLOGY

- (1) In addition to the Proponent's Statement of Commitment No 20, an Archaeological Assessment and Management Plan is to be prepared and submitted with the first future application involving basement excavation or remediation, whichever occurs first.
- (2) In addition to the Proponent's Statement of Commitment No 21, an Interpretation Plan is to be prepared and submitted with the future application for public domain works.

C2 AIR QUALITY ASSESSMENT PROCESS-CROSS CITY TUNNEL

An Air Quality Assessment prepared in accordance with RTA's Cross City Tunnel Draft Protocol is to be prepared and submitted with the Project Application for the buildings.

C3 STATE ENVIRONMENTAL PLANNING POLICY NO 55

The future project applications are to demonstrate compliance with the provisions of *State Environmental Planning Policy No. 55 – Remediation of Land*.

C4 ACID SULPHATE SOILS

The future project application involving bulk excavation is to be accompanied by an Acid Sulphate Soil Management Plan identifying the risk and amelioration measures for acid sulphate soils.

C5 SYDNEY WATER STORMWATER INFRASTRUCTURE

Future project applications are to consider the impacts on Sydney Water stormwater infrastructure, and consultation with Sydney Water regarding any potential impacts on this infrastructure is to occur prior to lodgement.

C6 SYDNEY WATER SEWER INFRASTRUCTURE

Future project applications are to consider the impacts on Sydney Water sewer mains and infrastructure, in particular:

- (1) All manholes are to have physical access from the street, 24 hours a day and are to have a minimum of 2 metres clearance from the outside edge of the access lids and a minimum of 3 metres headroom clearance above the manhole surface level for maintenance purposes.
- (2) All sections of sewer mains that are made inaccessible due to building foundation pier and beam supports, or building works above, are to be maintenance-free and will require concrete encasement. A minimum clearance of 1 metre is required from the outside edge of the submain encasement to the face of piers. A minimum clearance of 500mm is required from the top of the encasement to the underside of the concrete slab above the sewer main. If these minimum clearances are not achievable, submain deviations are to be provided around the buildings.

C7 ROADWORKS

Future project applications are to provide details of roadworks or augmentation in consultation with the RTA.

C8 WATER TABLE / GROUNDWATER

The future project application involving the basement structure is to provide details of how the water table and ground water generally will be managed during and after construction of the basement car park.

C9 PUBLIC CAR PARK

Future project applications are to:

- (1) Provide details of the provision of public car parking and availability / decommissioning of other public car parking in Darling Harbour.
- (2) Provide a pricing strategy for the public car park that is structured to encourage short-stay parking and not all day parking for city workers.

C10 ESD RATING

Future project applications are to provide details which demonstrate achievement of the 5 star ABGR rating for the commercial component of the development.

SCHEDULE 3

PROPONENT'S STATEMENT OF COMMITMENTS

The following commitments have been compiled based on the environmental assessment undertaken in the preparation of the Concept Plan report and the following review and consideration of issues raised in agency and community submissions. They provide a commitment by the Foreshore Authority indicating the responsibilities and timing to implement measures to prevent potential environmental impacts that have been identified through the assessment to ensure that the project is environmentally, socially and economically sustainable, and to outline a program of works to take forward the staged development of the of the Darling Walk site under future development and Project Applications.

| Subject | Number | Commitment | Timing |
|-----------------------------|--------|--|--|
| Urban Design | 1 | A future Project Application for the commercial and retail development of Darling Walk is required to generally satisfy the urban design performance criteria specified in Chapter 7 of the Concept Plan and Darling Walk Urban Design Guidelines prepared by Cox Richardson, dated October 2007. | With a future Project Application for the commercial buildings |
| | 2 | The detailed design of the building and public domain will generally adhere to the Concept Plan parameters formulated for the Project to ensure that the intended development outcome will be achieved. | With future relevant Project Applications |
| | 3 | The design of any rooftop plant and architectural treatment shall be integrated with the design of the building to minimise visual bulk and avoid additional overshadowing (additional being to that already contemplated in the Cox Richardson urban Design Guidelines). Rooftop plant will be adequately attenuated to avoid acoustic impacts on the development and surrounding locality. | With a future Project Application for the commercial buildings |
| | 4 | The suitable activation of the Harbour Street frontage shall be examined in detail in the Project Application Stage | With a future Project Application for the commercial buildings |
| Infrastructure and Services | 5 | An infrastructure plan will be prepared to accompany Project Applications. The infrastructure plan will identify existing services to be relocated (if any) and augmentation of existing infrastructure. | With future relevant Project/ Development Applications |
| | 6 | All infrastructure planning and design will be undertaken in consultation with the relevant authorities. | With future relevant Project / Development Applications |
| Traffic and Parking | 7 | A Car Park Management Plan will be prepared to the satisfaction of the Director General, that specifies charging rates, signage and conditions of use for the public car park. | Prior to the issue of an Occupation Certificate for the Public Car Park component for the works. |
| | 8 | Secure bicycle storage facilities to be provided and located respectively within the separate commercial tenant and public parking areas. Details of these bicycle facilities are to be submitted to the satisfaction of the Director General. | With future Basement Project Applications |

| Subject | Number | Commitment | Timing |
|--|--------|--|--|
| Traffic and Parking <i>continued...</i> | 9 | A Green Commuter Strategy shall be prepared by the Project Proponent for approval by the Director General. | Prior to the issue of an Occupation Certificate |
| | 10 | An assessment of the final car park layout and vehicle access will be undertaken by the Project Proponent to demonstrate compliance with the relevant Australian Standards. | Prior to the issue of a Construction Certificate |
| | 11 | The design and construction of roads, car parking/ loading facilities and other traffic devices and infrastructure will generally be designed and constructed in accordance with relevant Australian Standards and/ or the requirements of the relevant authority. | Prior to the issue of a Construction Certificate for basement excavation works |
| | 12 | The Project proponent will consult with the RTA in relation to any required intersection and pedestrian crossing improvements along Harbour / Day Street. | With future relevant Project Applications |
| | 13 | On completion of the new parking facility at Darling Walk, 600 car spaces in the Entertainment Car Park shall be quarantined from weekday usage during standard business hours until such time as the Entertainment Car Park is redeveloped. | At the time of Occupation Certificate |
| Environmental Management | 14 | An Acid Sulphate Management Plan will be prepared and submitted. | Prior to the issue of a Construction Certificate |
| | 15 | The future Project Application will include measures for the management of any contaminated lands. | With relevant Remediation project/ Development Applications |
| Public Domain and Landscaping | 16 | A future Project Application is required to detail public domain improvements in accordance with the Concept Plan and any relevant Sydney Harbour Foreshore Authority public domain and/or landscaping strategies. | With future Project Application for the Public Domain Works |
| | 17 | The Project Application proponent must execute public domain works detailed in a future Project Application, to the satisfaction of the Sydney Harbour Foreshore Authority. The works will be completed by the Project Application proponent at no cost to the Sydney Harbour Foreshore Authority. No further contributions for public amenities and public services within the site will be required. The Project Application proponent will lodge with the Authority a bank guarantee as security against the successful completion of the works to the value of the works. The bank guarantee, in a form acceptable to the Authority, will be submitted with the first Project Application. The standard of the public domain works within the site area (technical and general performance/ design criteria) will be to the satisfaction of the Authority. | With relevant future Project Application |
| Stormwater Management | 18 | A tree management strategy for the protection of the trees during the works will be prepared. | Prior to Construction Certificate for Commercial Building works |
| | 19 | A Stormwater Management Plan will be prepared detailing water collection and stormwater harvesting systems for the proposed development. The management plan is to detail water supply arrangement to the public domain and water features. | Prior to the issue of a Construction Certificate |

| Subject | Number | Commitment | Timing |
|---|--------|--|---|
| Archaeology Interpretation | 20 | An appropriately experienced heritage practitioner or archaeologist will be engaged to prepare an Archaeological Assessment and Management Plan (AAMP) in consultation with relevant stakeholders and statutory authorities. The AAMP will identify areas of archaeological potential and provide guidelines and strategies for the management of any archaeological resource. | Prior to the issue of a Construction Certificate for commencement of basement excavation and/or remediation |
| | 21 | <p>An appropriately experienced and qualified heritage practitioner, or heritage specialist in consultation with a heritage practitioner, will be engaged to prepare an Interpretation Plan for the site in accordance with the NSW Heritage Office Heritage Interpretation Policy. The Plan will explore various cultural, social and environmental themes related to the site including:</p> <ul style="list-style-type: none"> ▪ Barker's Mill ▪ 1830s-1840s commercial growth ▪ warehousing sector ▪ Darling Harbour as an international port. ▪ Darling Harbour Reborn ▪ Darling Harbour and 2000 Olympic Games | Prior to the issue of a Construction certificate for commencement of Public Domain Works. |
| ESD | 22 | The building will achieve a minimum 5 star Australia Building Greenhouse Rating (ABGR) for the building; and a minimum 5 Green Star Building Council of Australia-Office Design v2 rating. A detailed ESD Strategy will be submitted with future Project Applications. | With a future Project Application for commercial buildings and major commercial fit out applications |
| Wastewater Minimisation | 23 | A Wastewater Management Statement is to be prepared for the site. This will include an investigation of schemes to manage wastewater from the development with wastewater treated and recycled as an alternate source of non-potable water for commercial use and public open space irrigation. | Prior to the issue of a Construction Certificate |
| Ongoing Consultation | 24 | Ongoing consultation with Government agencies, private landowners, and community stakeholders will take place according to established planning and development approval procedures | On-going |
| Crime Prevention Through Environmental Design (CPTED) | 25 | All future development is to be designed with reference to the principles of CPTED | Details to be submitted with a future Project Application for the detailed design of the commercial buildings |