

EXPLANATION OF INTENDED EFFECT

PROPOSED AMENDMENT TO STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) 2005

SCHEDULE 3 PART 12 BARANGAROO SITE

1.0 OBJECTIVES OR INTENDED OUTCOMES

The proposed instrument (the SEPP Amendment) will make amendments to *State Environmental Planning Policy (Major Development) 2005* ('the Major Development SEPP'), in particular the provisions relating to the State Significant Barangaroo site within Schedule 3 Part 12 of the SEPP.

Since the initial granting of the Concept Plan Approval in February 2007, there have been three modifications granted to that approval (the Approved Concept Plan). Development blocks and an overall Gross Floor Area (GFA) and height controls were established in the original Concept Plan approval. Since this time, there have been a number of Concept Plan Amendments which have amended the development blocks and maximum permissible GFA within the blocks without corresponding amendment(s) to the Major Development SEPP Maps. Specifically, these modifications have resulted in the deletion of Block 8 as identified in the existing provisions of the Major Development SEPP and the addition of up to 120,000m² of GFA. The proposed SEPP Amendment therefore responds to the need to update the Major Development SEPP to reflect the Approved Concept Plan.

In December 2009, Lend Lease (Millers Point) Pty Ltd (Lend Lease) was appointed as the preferred proponent to develop the southern portion of the site (Barangaroo South). Lend Lease has taken the opportunity to redistribute GFA across Barangaroo South which has resulted in a Concept Plan Modification which seeks approval for the:

- Reconfiguration and creation of new development blocks in response to Concept Plan conditions requiring the enlargement of the Southern Cove ;
- redistribution of the land use mix;
- an increase in the total quantum of GFA located within Barangaroo South;
- an increase in the height of a number of the proposed towers within Barangaroo South;
- the establishment of the new pier and landmark building extending into the Harbour; and
- reconfiguration and activation of the public waterfront area through the introduction of uses including retail and residential to the west of Globe Street.

These components of Lend Lease's scheme require the SEPP Amendment to reconcile the Major Development SEPP planning provisions with the Approved Concept Plan and the proposed Concept Plan Modification.

The purpose of the SEPP Amendment will therefore be to:

- Create new development blocks and reconfigure land uses in accordance with previous Concept Plan modifications and Lend Lease's proposed Concept Plan Modification;
- Redefine the delineation between urban development and public recreation;
- Amend the site boundary to include the landmark hotel and parts of Hickson Road;
- Increase the maximum permissible GFA within the development blocks to reflect previous Concept Plan modifications and Lend Lease's proposed Concept Plan Modification;
- Increase the maximum permissible height controls to reflect the changes in configuration of land uses and GFA across the site, whilst allowing flexibility for the design of individual buildings within the certainty of a structured framework; and
- Undertake general tidy up and housekeeping amendments to the existing SEPP provisions to reflect current legislative requirements.

There will be:

- amendments to the main body of the existing Schedule 3 Part 12 State Significant Site provisions of the Major Development SEPP for Barangaroo; and
- amendments to the gazetted Major Development SEPP maps including the Land Application Map, Land Zoning Map, Gross Floor Area Map, Height of Buildings Map and Heritage Map.

2.0 EXPLANATION OF PROVISIONS

This section provides an explanation of the proposed provisions of the SEPP Amendment. Terms used in this description have the same meaning as in the *Environmental Planning and Assessment Act 1979* ('EP&A Act') or the *Standard Instrument (Local Environmental Plans) Order 2006*, unless otherwise specifically defined.

2.1 Clause 1 Land to which the Part Applies

The proposal seeks to amend the **Land Application Map** to:

- extend the site boundary beyond the western edge of the existing Land Application Map to include a north-west oriented intrusion into the existing waters of Darling Harbour; and
- extend the boundary of the site east to include a portion of Hickson Road.

Western Extension of Site Boundary

The proposal seeks to amend the **Land Application Map** to extend beyond the western edge of the existing Land Application Map and include a north-west oriented intrusion into the existing waters of Darling Harbour. This area is to accommodate the public pier and landmark building as proposed by Lend Lease's proposed Concept Plan Modification.

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour REP) currently applies to the hydrological catchment of the Harbour (including the waterways and tributaries) and establishes planning principles and specific provisions for the Foreshores and Waterways Area, strategic foreshore sites, heritage items and wetland protection areas. Consistent with recent planning reforms, the REP is now deemed to be a SEPP.

The Darling Harbour waterway, west of the existing Barangaroo RE1 Public Recreation zone boundary, falls within the Foreshores and Waterways Area. Land located west of the Barangaroo RE1 zoning boundary is therefore currently zoned W1 Maritime Waters under the Sydney Harbour REP. The proposed public pier and landmark building are currently prohibited in the W1 Maritime Waters and accordingly a rezoning is required to rectify the current underlying prohibitions.

Eastern Extension of Site Boundary

It is also proposed to extend the boundary of the site east to include a portion of Hickson Road. This will facilitate the co-ordinated delivery of road infrastructure facilities (specifically pedestrian bridges providing access across Hickson Road) within the same planning regime of the Barangaroo site, by being included in the Site Boundary. The zoning of Hickson Road will remain Maritime and Transport Zone under *Sydney Local Environmental Plan 2005*.

A minor site boundary adjustment is also proposed on the south eastern corner of the site to include part of Lot 110 DP 1061311 in the Barangaroo site. Lend Lease has the ability to develop over this land and seeks to ensure that the Schedule 3 Part 12 Barangaroo site provisions within the Major Development SEPP also apply to this parcel of land.

Prevailing Controls

Pursuant to Clause 5 of the Major Development SEPP in the event of an inconsistency between the SEPP and another environmental planning instrument, the Major Development SEPP prevails to the extent of the inconsistency. Hence, the Hickson Road portion of land proposed to be included in the Land Application Map is expressly stated in the SEPP Amendment to remain under the provisions of *Sydney Local Environmental Plan 2005*. However, should any inconsistency between planning instruments arise, Schedule 3 Part 12 Barangaroo Site of the Major Development SEPP will prevail. A new clause 7(3) seeks to reinforce this relationship.

2.2 Clause 2 Interpretation – insert new definitions

The SEPP Amendment proposes to insert two new definitions at Clause 2 Interpretation. These are summarised as follows:

- a new definition for “Block of land” to make it clear which areas of land are referred to in subsequent clauses within the SEPP Amendment;
- a new definition for “foreshore public domain works” to facilitate future development which provides access to the foreshore within the proposed public recreation areas, such as boardwalks, landscaping, stormwater, lighting, street furniture, etc;
- a new definition for “road infrastructure facilities” is proposed which has been drawn from Division 17 Roads and Traffic of *State Environmental Planning Policy (Infrastructure) 2007*. The additional definition is required as the Standard Instrument (Local Environmental Plans) Order 2006 referenced at Clause 2 Interpretation does not include a definition for *road infrastructure facilities*, or a similar definition, to enable the provision of pedestrian bridges over Hickson Road. The definition will assist in facilitating the proposed pedestrian bridges across Hickson Road, which are proposed as additional permitted uses at Clause 10 of Part 12 Barangaroo Site of the Major Development SEPP, particularly as the Maritime and Transport Zone currently prohibits pedestrian bridges (refer Section 2.7 below); and
- a new definition for “remediation” is also proposed to be introduced to clarify the scope of remediation works as envisaged to be undertaken are permissible on the site.

2.3 Redistribution of Development Blocks, GFA and Height

Condition B3 of the Concept Approval required further detailed designs to be prepared for the proposed new Southern Cove. Detailed designs are required to address the following requirements and objectives:

- a) an enlarged water intrusion including a component east of the proposed “Globe Street”*
- b) active edges around the enlarged waterbody, including appropriate ground floor uses in buildings to activate the foreshore area*
- c) achieving appropriate pedestrian linkages along the foreshore and connections to Hickson Road*
- d) a theme which celebrates the water as an important part of the landscape element*

Lend Lease’s proposed Concept Plan Modification incorporates an enlarged Southern Cove. As a consequence of requiring an enlarged Southern Cove, Condition C1 of the Concept Plan approval also allows for the redistribution of GFA within Blocks 2, 3, 4 and 5 that is displaced as a result of the enlargement of the Southern Cove.

As a result of the enlarged Southern Cove, the Blocks as defined in the Approved Concept Plan have been reconfigured, with the redistribution of the GFA between Blocks 2-4 within Barangaroo South arising as a consequence of the enlarged Southern Cove. The GFA has been redistributed in a revised block layout known as Blocks 1, 2, 3, 4a, 4b, and 4c.

The proposed Concept Plan Modification also proposes the creation of two new blocks – Block X which will accommodate retail and residential uses west of Globe Street and Block Y within which the proposed landmark building (including hotel and community uses) will be located. The location of the revised development blocks, redistributed GFA and additional GFA is presented on the **Gross Floor Area Map**.

Clause 17 (Height of buildings) and Clause 18 (Gross floor area restrictions) have been amended to reflect the redistributed development blocks and GFA. The redistribution of gross floor area has determined the overall form and design of the towers in Barangaroo South. The heights of the proposed buildings also necessitates amendments to the height controls in the Barangaroo South and therefore the maximum RLs on the **Building Height Map**.

2.4 Delineation of Mixed Use and Public Recreation Zones

As a further consequence of Condition B3 in the approved Concept Plan requiring an enlarged Southern Cove and the resulting redistribution of GFA, amendments to the Barangaroo **Site Zoning Map** and specifically the delineation of the B4 Mixed Use and RE1 Public Recreation are proposed. Previously, the delineation of mixed use and open space zones generally followed the spine of the roads presented in the approved Concept Plan documentation, noting however that the roads were not specifically approved in the original Concept Plan.

The same principle has been adopted in the proposed Concept Plan Modification, however a new Block X has been established west of Globe Street providing low rise residential buildings between Globe Street and the foreshore promenade. This results in the redesign and reconfiguration of the public promenade (RE1 Public Recreation Zone) at the southern end of the site (in front of Blocks 1 – 3) including a reduction in the width of the public promenade from a minimum of 60m to a minimum of 27m. Reconfiguration of the RE1 Public Recreation Zone has also occurred as a result of the enlargement of the Southern Cove and the redistribution of Development Blocks (discussed above). Overall approximately 3.1 ha of the RE1 zone is created which is greater than the existing 2.9 ha provided under the Approved Concept Plan.

2.5 Clause 4 Maps

The Land Application Map, Gross Floor Area Map, Height of Buildings Map, Heritage Map, and Land Zoning Map have been amended accordingly to take into account the changes outlined at Section 2.1 to Section 2.4 above.

2.6 Clause 9 Additional permitted uses within the RE1 Public Recreation Zone

Lend Lease's proposed Concept Plan Modification includes active retail, commercial and community uses within the ground levels of Block X and Block Y.

The key amendment to the range of permissible uses in the RE1 Public Recreation zone is the introduction of foreshore public domain works. This definition has been introduced to allow embellishment and improvement works to be undertaken (with consent) within the public recreation area that may not necessarily be ancillary to the mixed uses development on the site.

General housekeeping amendments regarding additional required permissible uses (with consent) within the RE1 zone are also proposed, including *business identification signage; flood mitigation works; filming; moorings; waterbodies and water recreation structures*.

2.7 Clause 10 Additional Permitted Uses

Clause 10 of Part 12 Barangaroo site (within Schedule 3 of the Major Development SEPP) is proposed to be amended to allow the following additional permitted uses:

- road infrastructure facilities over Hickson Road that support and facilitate pedestrian access across Hickson Road. This is required to facilitate pedestrian bridges over Hickson Road;

- development for the purpose of remediation of land over Hickson Road and within the RE1 Public Recreation Zone. Remediation is currently permissible in the B4 Mixed Use Zone on that basis that all uses that are not prohibited, are permissible with consent. However, for clarity, Lend Lease requests the SEPP be amended to specifically permit remediation within the RE1 Public Recreation Zone and Hickson Road reserve.
- provision of a porte cochere, driveway and vehicular drop off facilities within the RE1 Public Recreation zone between Blocks X and Y for the sole purpose of servicing the functions of the landmark building.
- canopies, wind amelioration and sheltering structures which may be attached to residential, commercial and tourist uses and extend beyond the B4 Mixed Uses boundary into the RE1 Public Recreation zone.

2.8 Clause 11 Exempt and Complying Development

The SEPP Amendment seeks to update Clause 11 to reflect legislative changes in exempt and complying development provisions which have occurred since the gazettal of the initial Barangaroo SEPP Amendment. Exempt and complying development now reference the State policy *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* rather than the local Development Control Plan (DCP).

2.9 Clause 18 Gross Floor Area restrictions

Clause 18 as currently drafted permits the redistribution of GFA across Blocks 2, 3, 4 and 5 as long as the total sum of the GFA for those Blocks is not exceeded. Block 4, as approved, coincides with the enlarged Southern Cove, and accordingly has been split into three individual Development Blocks: 4a, 4b and 4c.

The SEPP Amendment proposes to amend clause 18 to allow the redistribution of GFA amongst Blocks 2, 3, 4a, 4b and 4c. The reference to Block 5 has been deleted as it is not required to deliver the Southern Cove.

3.0 CONCLUSION

The information contained within this Explanatory Note is to provide a plain English explanation of the intended outcomes and intentions of the proposed amendments to Schedule 3 Part 12 of the Major Development SEPP.

Having regard to the proposed Concept Plan Modification, and in accordance with provisions in Part 3 of the Environmental Planning and Assessment Act, 1979, and clause 8 of the Major Development SEPP, it is requested that the Director General make arrangements for the SEPP Amendment as outlined above.

Part 12 Barangaroo site

Division 1 Preliminary

1 Land to which this Part Applies

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

2 Interpretation

(1) In this Part:

Block of land means an area of land shown edged in black and marked "1", "2", "3", "4a", "4b", "4c", "X", "Y", "5", "6" or "7" on the Land Application Map.

foreshore public domain works means development for the purpose of providing public access to the foreshore, including seawalls, jetties, wharves, pontoons, boardwalks, landscaping, storm water management or public domain elements (such as furniture, lighting or play equipment).

Gross Floor Area Map means the State Environmental Planning Policy (Major Development) 2005 Barangaroo Gross Floor Area Map.

Height of Buildings Map means the State Environmental Planning Policy (Major Development) 2005 Barangaroo Height of Buildings Map.

Heritage item means a building that is shown as a heritage item on the Heritage Map.

Heritage Map means the State Environmental Planning Policy (Major Development) 2005 Barangaroo Heritage Map.

Land Application Map means the State Environmental Planning Policy (Major Development) 2005 Barangaroo Land Application Map.

Land Zoning Map means the State Environmental Planning Policy (Major Development) 2005 Barangaroo Land Zoning Map.

road infrastructure facilities includes:

- (a) tunnels, ventilation shafts, emergency access ways, vehicle or pedestrian bridges, causeways, road-ferries, retaining walls, toll plazas, toll booths, security systems, bus lanes, transit lanes, transitways, transitway stations, rest areas and road related areas (within the meaning of the *Road Transport (General) Act 2005*), and
- (b) associated public transport facilities for roads used to convey passengers by means of regular bus services within the meaning of the *Passenger Transport Act 1990*, and
- (c) bus layovers that are integrated or associated with roads (whether or not the roads are used to convey passengers by means of regular bus services within the meaning of the *Passenger Transport Act 1990*), and

- (d) traffic control facilities (as defined by the *Transport Administration Act 1988*), RTA road safety training facilities and safety works.

remediation means:

- (a) removing, dispersing, destroying, reducing, mitigating, containing or testing the contamination of any land, or
- (b) eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals on the land).

(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*.

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 or replaced from time to time by maps declared by environmental planning instruments to amend or replace 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.
- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

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.

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 Land 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.
- (3) Notwithstanding clause 3 in Division 1 of this Part and subject to clause 10 in Division 3 of this Part, the provisions of Sydney Local Environmental Plan 2005 will continue to apply to that part of the Barangaroo site identified as Hickson Road within the Land Zoning Map. For the purposes of this clause, in the event of an inconsistency between any part of this Policy and Sydney Local Environmental Plan 2005, this Policy prevails to the extent of the inconsistency.

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,
 - (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,
 - (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:
- business identification signage; charter and tourism boating facilities; community facilities; earth works; entertainment facilities; environmental facilities; environmental protection works; filming; flood mitigation works; food and drink premises; foreshore public domain works; function centres; information and education facilities; jetties; kiosks; markets; moorings; 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; waterbodies; water recreation structures
- (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.
- (c) road infrastructure facilities over Hickson Road that support and facilitate pedestrian access across Hickson Road.
- (d) development for the purpose of remediation of land over Hickson Road and within the RE1 Public Recreation Zone.
- (e) provision of porte cochere, driveways and vehicular drop off facilities within the RE1 Public Recreation zone of part Lot 5 DP 876514, between Blocks X and Y for the purpose of servicing the functions of any tourist and visitor accommodation.
- (f) canopies, wind amelioration and sheltering structures which may be attached to buildings located within the B4 Mixed Uses Zone and which extend into the RE1 Public Recreation Zone.

11 Exempt and complying development

Development within the Barangaroo site that satisfies the requirements for exempt development or complying development specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, 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.

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:

- (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.

(2) 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.
- (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 Height of Buildings 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 marked "2", "3", "4a", "4b" and "4c" 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 blocks combined does not exceed 428,932 square metres (being the sum of the gross floor areas shown for those blocks 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:
 - (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.
- (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.

(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.

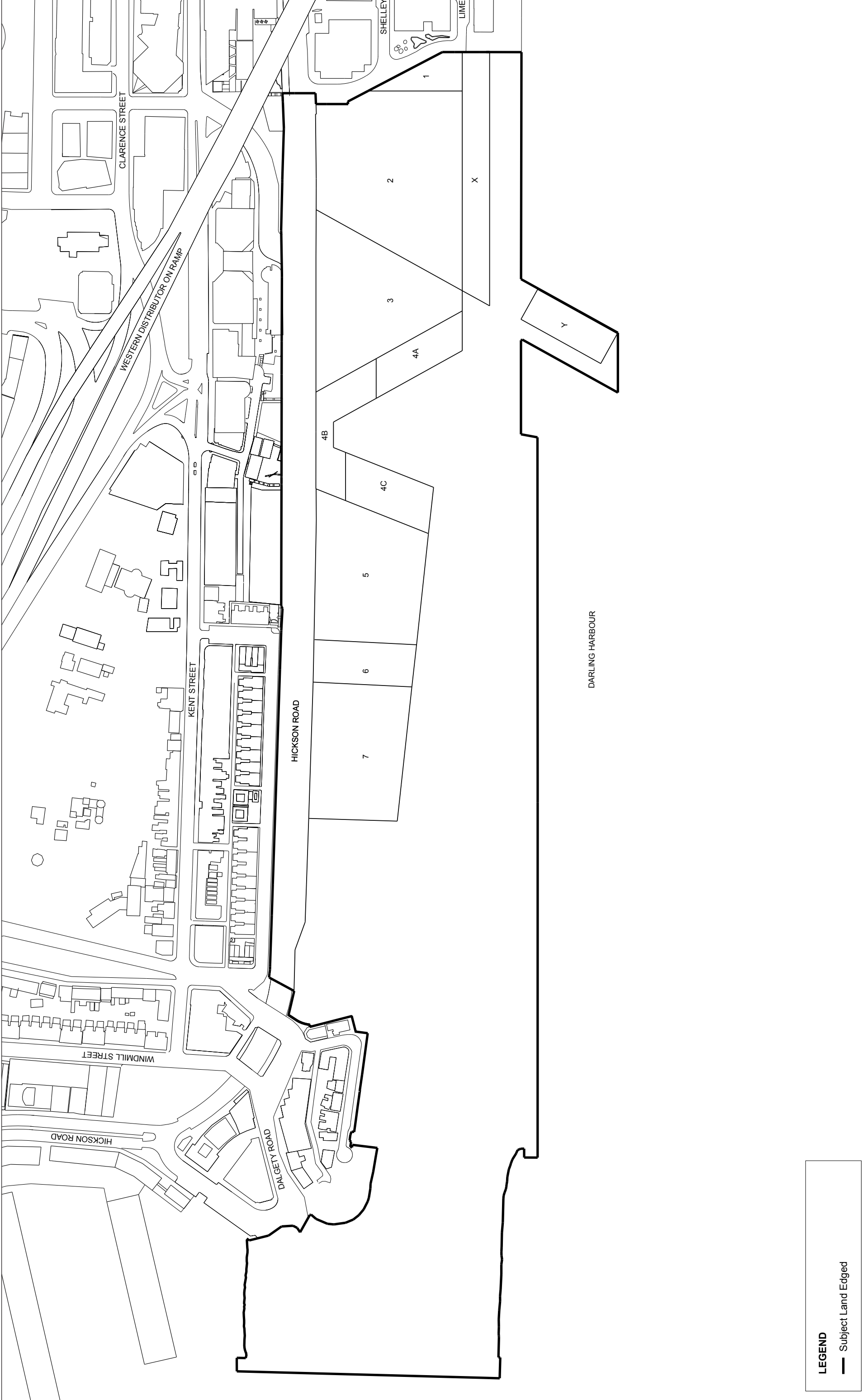
SEPP DRAWINGS

Rogers Stirk Harbour + Partners

Disclaimer

This report has been produced for Lend Lease (Millers Point) Pty Ltd (Lend Lease) for the purpose of supporting Lend Lease's Concept Plan Amendment submission for the Barangaroo South Project and, in accordance with RSHP's normal practice, RSHP do not accept any responsibility or liability for the contents of this report towards any person other than Lend Lease or for the consequences of this report being used for a purpose other than the purpose for which it was commissioned.

Areas quoted have been measured from plans produced at Concept stage of the design and are approximate and illustrative only. Further development of the design, measurement and construction tolerances and/or further client/tenant requests will inevitably result in changes to these areas [which could involve significant reductions] and RSHP accept no legal responsibility for any decision, commercial or otherwise, made on the basis of these areas.

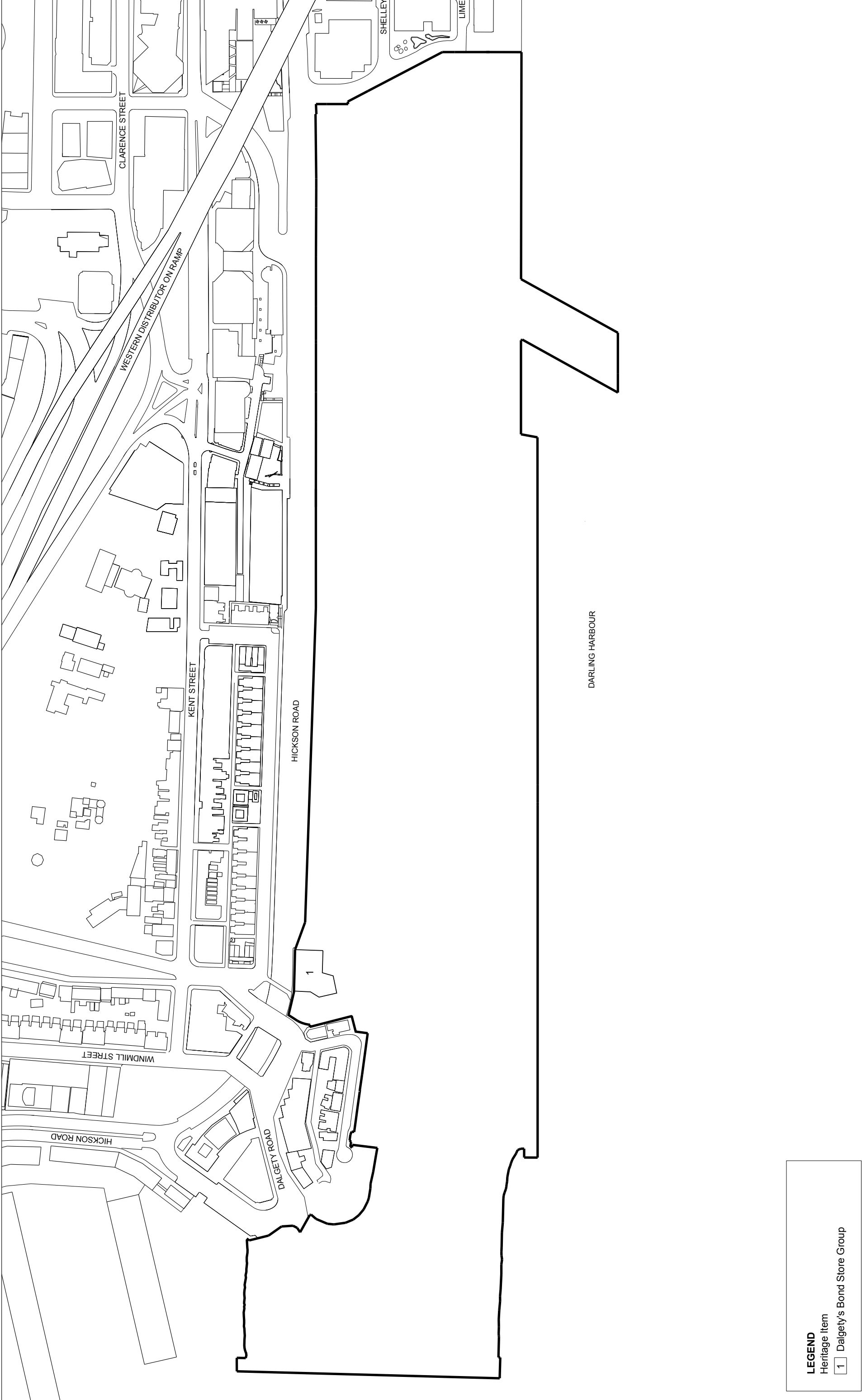


LEGEND

— Subject Land Edged

Scale: 1:3000 @ A3

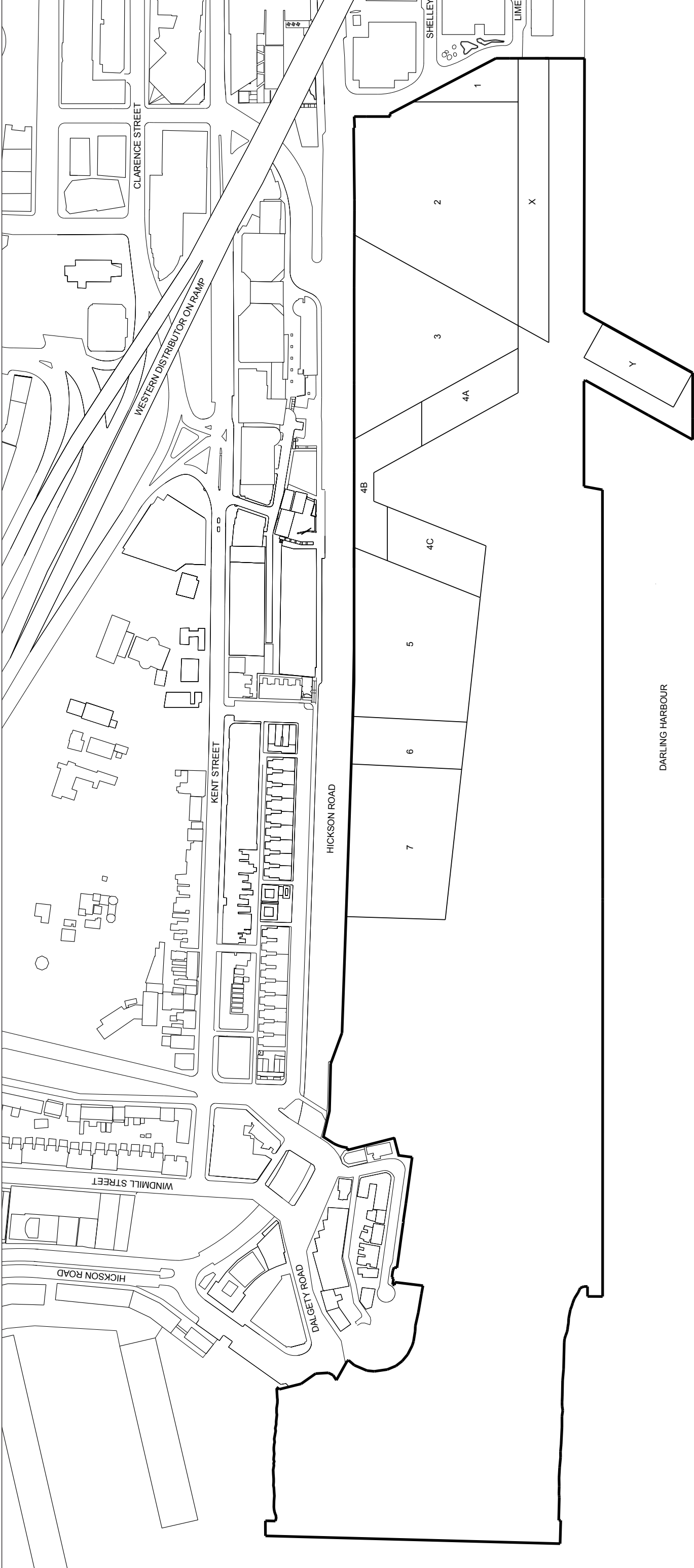
Land Application – Map



Scale: 1:3000 @ A3

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Heritage Map



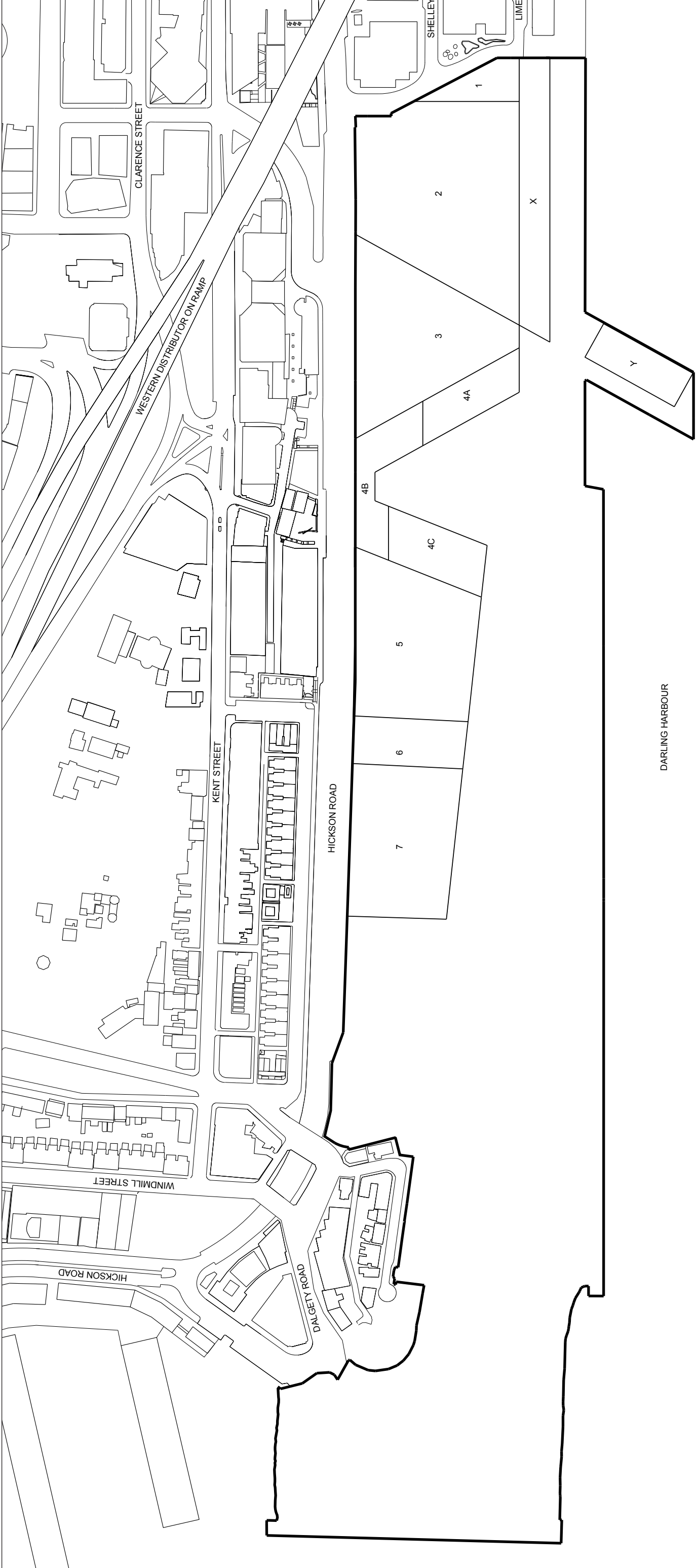
MAXIMUM BUILDING HEIGHT PER BLOCK (RL)

- 1 = RL 80
- 2 = RL 180
- 3 = RL 209
- 4A = RL 41.5
- 4B = RL 175
- 4C = RL 160
- X = RL 41.5
- Y = RL 170
- 5 = RL 34
- 6 = RL 29
- 7 = RL 35
- 8 = 0

Note: Existing Ground Level = RL 2

Scale: 1:3000 @ A3

Height of Buildings Map



MAXIMUM GROSS FLOOR AREA PER BLOCK (M²)	
1	= 9,400
2,3,4A,4B,4C	= 428,932
X	= 18,908
Y	= 33,000
5	= 41,225
6	= 3,000
7	= 15,000
8	= 0

Scale: 1:3000 @ A3

Gross Floor Area Map



LEGEND

Site Boundary

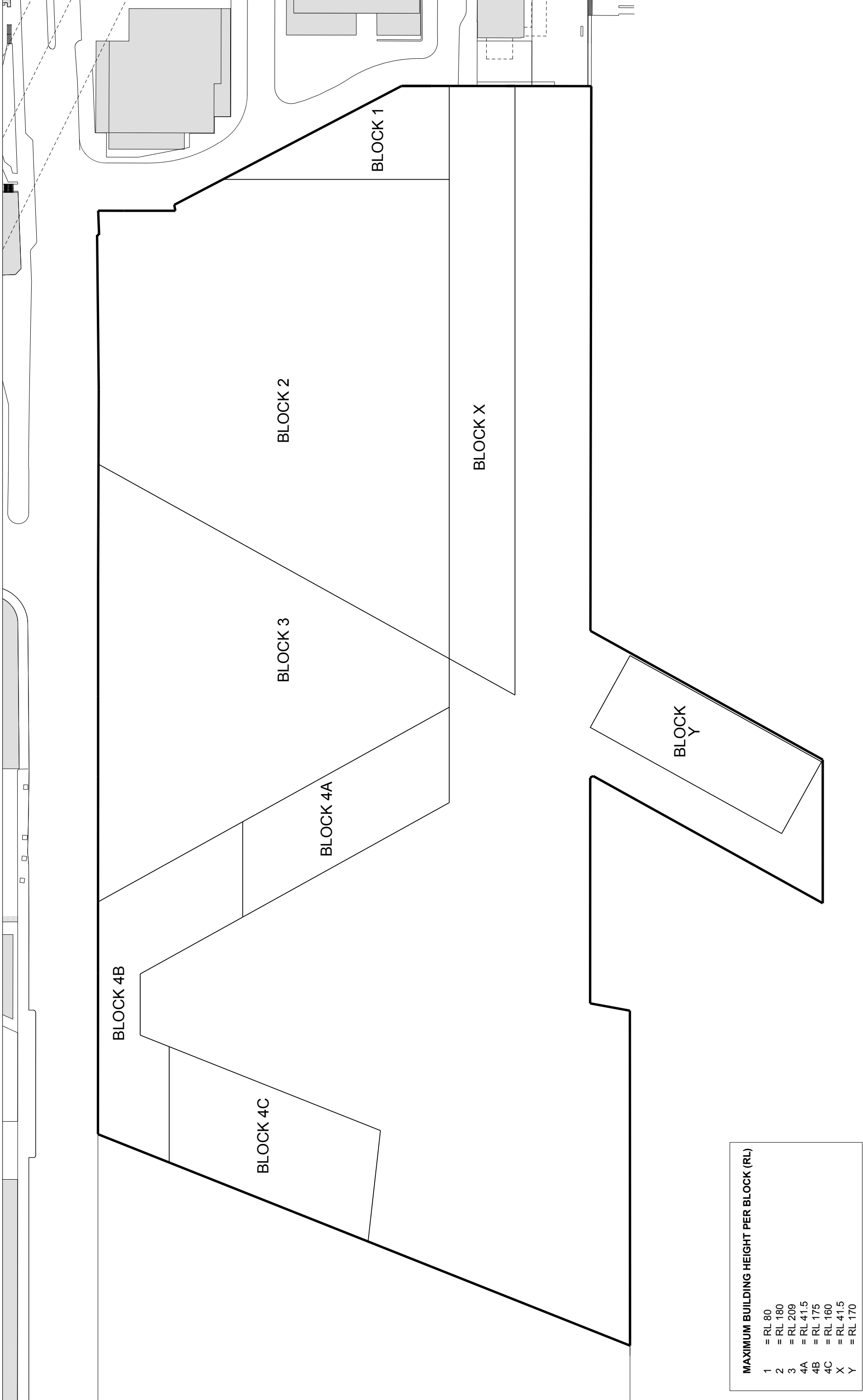
ZONE

B4 Mixed Use

RE1 Public Recreation

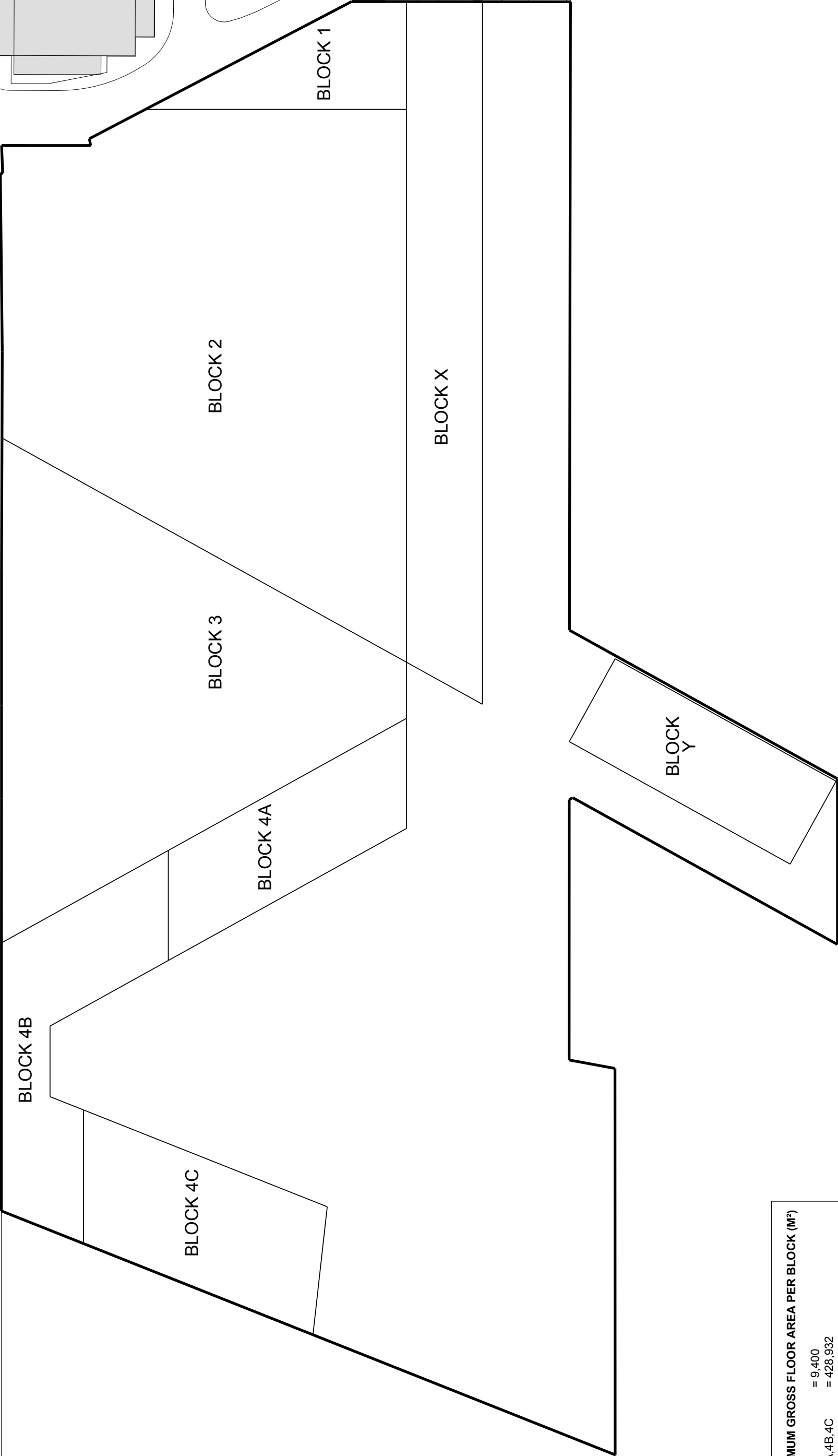
Darling Harbour

Scale: 1:3000 @ A3



Scale: 1:1250 @ A3

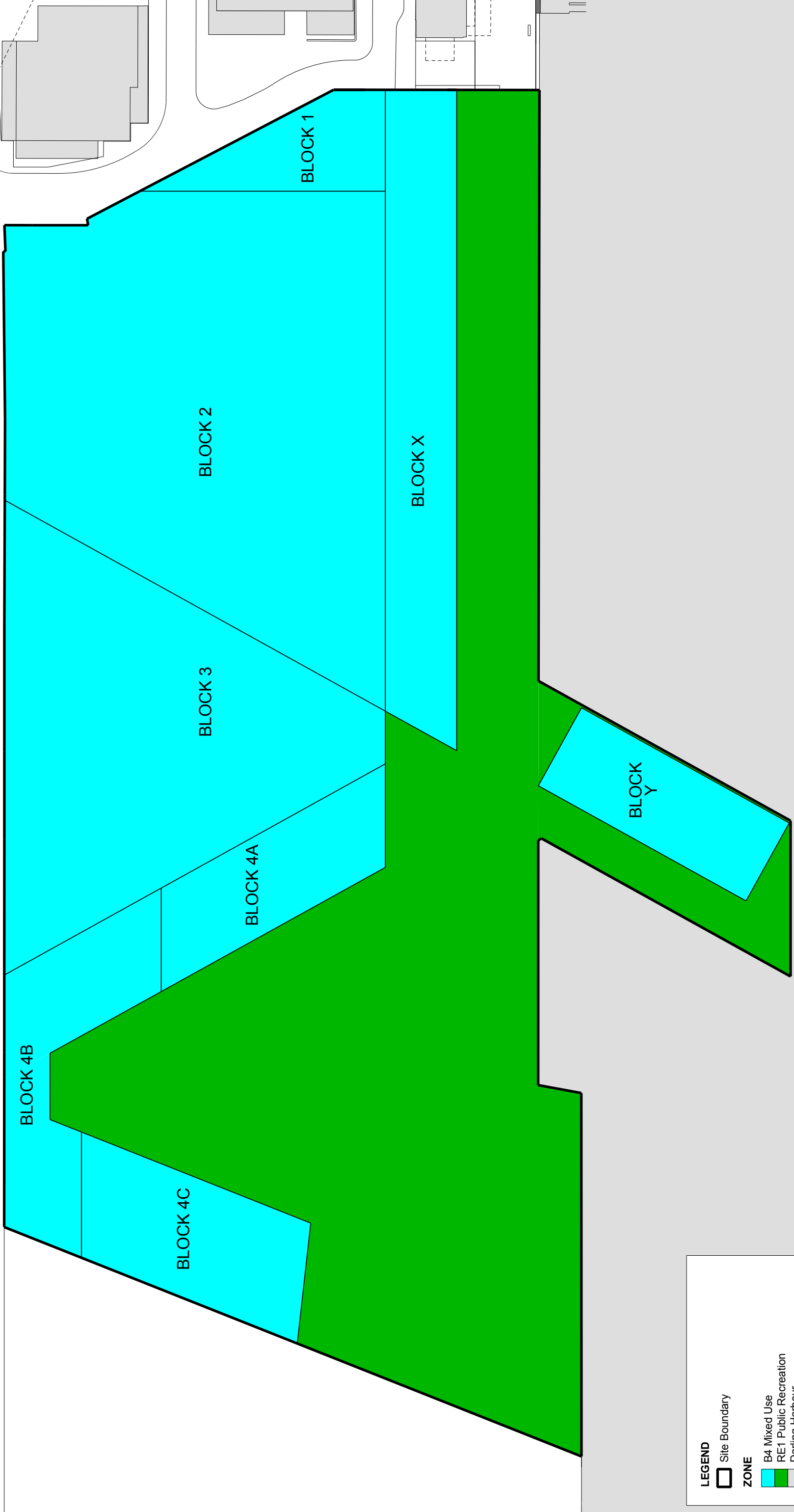
Barangaroo South – Height of Buildings Map



MAXIMUM GROSS FLOOR AREA PER BLOCK (M ²)	
1	= 9,400
2,3,4A,4B,4C	= 428,932
X	= 18,908
Y	= 33,000

Scale: 1:1250 @ A3

Barangaroo South – Gross Floor Area Map



Scale: 1:1250 @ A3

Barangaroo South – Land Zoning Map

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