

9 September 2010

Daniel Cavallo
A/ Director Government Lands & Social Projects
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Our Ref: C10/6546

Attention: David Gibson

Dear Mr Cavallo,

RE: Part 3A Major Project Application MP06_0162 – Barangaroo Concept Plan (Modification No. 4)

Thank you for providing Sydney Ports Corporation (Sydney Ports) with the opportunity to comment on the proposed modification to the Barangaroo Concept Plan Major Project Application approval.

Sydney Ports has reviewed the Environmental Assessment (EA) prepared for this Project and is supportive of the approach to further consult with Sydney Ports and the Harbour Master regarding the construction of the Public Pier and Landmark Building (Block Y). We recommend that this commitment to consult with Sydney Ports and the Harbour Master, including obtaining any necessary approvals under clause 67 of the *Management of Waters and Waterside Regulations – NSW* be incorporated in the Project's Statement of Commitments.

The Modification Application is proposing to amend the *State Environmental Planning Policy (Major Development) 2005* (MD SEPP) to facilitate the Barangaroo development and also update references to reflect legislative changes which have occurred since the gazettal of the initial Barangaroo SEPP Amendment.

Given the Barangaroo State Significant Site boundary includes two of Sydney Ports' port operational facilities (i.e. the Harbour Control Tower and the Moores Wharf facility) and a temporary cruise passenger terminal, Sydney Ports requests that the below amendments to Part 12 of Schedule 3 of the MD SEPP also be considered as part of the proposed amendments. This is to ensure the ongoing operational needs of the Port can be undertaken in an efficient manner and are consistent with approaches taken on other Sydney Ports assets within Sydney Harbour.

1) Sydney Ports has previously written to the Department requesting an amendment to the definition of 'port facilities' under the Standard Instrument (letter dated 19 May 2010) to make it consistent with the definition provided in other parts of the MD SEPP (Schedules 3 and 7) and

the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP). Sydney Ports is unaware of the status of our requested amendment and therefore requests that the Barangaroo amendment include the amended definition which is:

port facilities includes any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the Ports and Maritime Administration Act 1995:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receive, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

As a result, Clause 14 will need to be amended to remove the word 'Commercial'.

2) Sydney Ports requests that Clause 10 (Additional Permitted Uses) in Part 12 of Schedule 3 be amended as follows to clarify that any development required for operational port purposes can be undertaken under the MD SEPP. Requested amendments to this clause are marked in blue below:

Clause 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~~ port facilities undertaken by or on behalf of a public authority,
- (b) ~~a port safety operations facility on Lot 2, DP 876514.~~

3) Sydney Ports is of the opinion that Clause 11 is an unnecessary clause to incorporate in Part 12 of Schedule 3 and should be deleted given the provision of Clause 10(1) of the MD SEPP relating to the exclusion of certain exempt and complying development from Part 3A. Given this, Clause 11 of Schedule 3, Part 12 should be deleted and not be amended as proposed by Lend Lease as this provision does not allow for future anticipated legislative amendments to be applicable to the Barangaroo site. The proposed amendment by Lend Lease removes the ability of Sydney Ports being able to rely on other environmental planning instruments such as the ISEPP, the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*, etc which also include exempt and complying development provisions.

4) Sydney Ports requests that an additional clause be added to Part 12 of Schedule 3 to allow public authorities to utilise the provisions of the ISEPP. Sydney Ports recommends that the

below wording (similar to wording drafted in Clause 18 of Part 20, Schedule 3 of the MD SEPP) be incorporated as follows:

Infrastructure development by Public Authorities

(1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [State Environmental Planning Policy \(Infrastructure\) 2007](#).

It should be noted that Sydney Ports is the landowner of Lot 2 DP 876514 and Lot 4 DP 876514 as shown in Figure 3 of the Environmental Assessment (EA) report; not the Marine Ministerial Holding Corporation as described in Section 2.2 of the EA. Landowner's consent from Sydney Ports will be required prior to the determination of this Project Application.

It would be appreciated if the Department would incorporate the above amendments into the MD SEPP. Should you wish to discuss the above comments further with Sydney Ports, please do not hesitate to contact me on 9296 4720.

Yours sincerely,



Daniela Vujic
Senior Environmental Planner