

Notice of Modification

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthea Sargent
Executive Director
Key Sites and Industry Assessments

Sydney 17 November 2016

SCHEDULE 1

Development Approval: MP 06_0163 granted by the Minister for Planning on 27 February 2007

For the following: Project Approval for a restaurant and subdivision of land into 3 lots.

Applicant: Luna Park Sydney Pty Ltd

Consent Authority: Minister for Planning

The Land: Luna Park Lot 1 DP 1066900, including "Site C"

Modification: MP 06_0163 MOD 1: the modification includes amendments to enable landscaping works on Lot 12 ('Site A' or the wider clifftop area) to be brought forward as a first stage of works.

SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B1 Staging of Construction Certificates

Separate Construction Certificates may be obtained relating to the following stages of development, as approved:

Lot 12 Landscaping Stage – Landscaping works at Lot 12 in DP 1113743 as described and illustrated on the plan referred to in condition B7.

- | | |
|-------------------------|--|
| <u>Stage 1 –</u> | Early works involving remediation, excavation and archaeological investigation; |
| <u>Stage 2 –</u> | Construction of the building structure and all remaining works, <u>including remaining landscaping works at Lot 11 in DP 1113743;</u> |

The following conditions relate to each stage and must be completed, unless otherwise stated, prior to the issue of a Construction Certificate for each stage.

- (b) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B4 Stormwater and Drainage

- (1) Prior to release of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works, details of the proposed stormwater disposal and drainage relating to the excavation and basement structures and stormwater as it relates to the approved building on the site (MP06_0163), in accordance with Council's standard requirements, and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
 - (2) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to the commencement of any work within the public way.
 - (3) The requirements of Sydney Water with regard to the on-site detention and disposal of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water of the stormwater disposal system must be submitted prior to works commencing **(excluding landscaping of Lot 12 in DP 1113743).**
- (c) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B6 Construction Management Plan

Prior to release of the ~~Stage 1~~ **any** Construction Certificate/prior to commencement of ~~Stage 4~~ works **in any stage**, the Proponent shall provide the ~~a~~ Construction Management Plan **for the relevant stage of works** prepared by ~~Multiplex Pty Ltd~~ to the Council and the Certifying Authority ~~in accordance with the Proponent's Statement of Commitments (attached Schedule 3).~~

- (d) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B7 Landscaping of the Site

Prior to ~~the issue of a Stage 2 Construction Certificate~~ **the issue of Lot 12 Landscaping Stage Construction Certificate**, a detailed landscape plan, drawn to scale, by a landscape architect or approved landscape consultant, shall be submitted to and approved by the Certifying Authority. The plan is to include:

- (i) Location of existing and proposed structures on the site including existing trees (if applicable);
- (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
- (iii) Details of protection measures to be implemented to ensure that the existing trees nominated as being retained are retained;
- (iv) The recommendations contained within the Arborist Report prepared by Tree Wise Men Pty Ltd and dated September 2006.
- (v) Location, numbers and type of plant species;
- (vi) Details of planting procedure and maintenance;
- (vii) Details of drainage and watering systems;
- (viii) Details of the design, location and size of any deck areas; and
- (ix) a maintenance plan/regime.

- (e) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B11 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B11 Long Service Levy

Prior to ~~the Stage 4~~ **any** Construction Certificate/prior to commencement of ~~Stage 1~~ works being issued for the approved works (Capital Investment Value of \$5,547,304.00), the long service levy **relevant to the stage of works and** of \$19,415.56 payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 must be paid to Council (or, where such a levy is payable by instalments, the first instalment of the levy).

- (f) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B14 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B14 Waste Management Plan

Prior to issue of the ~~Stage 4~~ **any** Construction Certificate/prior to commencement of ~~Stage 4~~ works, the Proponent shall provide a Waste Management Plan addressing demolition and

construction waste for the relevant stage of works for the approval of the Certifying Authority.

- (g) Schedule 2 Part B – Prior to Issue of Construction Certificate Condition B15 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

B15 Site Contamination

Prior to the issue of the ~~Stage 1~~ Construction Certificate for each stage /prior to commencement of ~~Stage 1~~ works for each stage, the Proponent shall submit to the Certifying Authority a Stage 2 Environmental Site Assessment to determine the extent of remediation required for the relevant stage and the waste classification of soils for offsite disposal if remediation is required. A Remedial Action Plan (RAP) for the relevant stage shall also be prepared and submitted to the Certifying Authority. The Remediation Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue site audit statements.

- (h) Schedule 2 Part C – Prior to Commencement of Construction Works condition C1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C1 Site Audit

Prior to the commencement of construction works in any stage (excluding excavation), remediation of the site shall be undertaken in accordance with the RAP for that stage referred to in Condition B15. At the completion of the remediation works for each relevant stage the Proponent shall submit a detailed Site Audit Summary Report, Site Audit Statement and Validation Report to the Certifying Authority. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and be completed by a site auditor accredited by the Department of Environment and Conservation (Environmental Protection Agency) to issue site audit statements. The site audit must verify that the land is remediated and suitable for the proposed uses.

- (i) Schedule 2 Part C – Prior to Commencement of Construction Works condition C2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C2 Archaeological Investigation

Prior to the commencement of construction work (excluding excavation and Lot 12 Landscaping Stage works) and during the remediation and excavation phase on Lot 11, an archaeological investigation of the site Lot 11 shall be carried out in accordance with the requirements of the Archaeological Assessment of Site C prepared by Environmental Resources Management Australia and dated September 2006, as contained in Appendix H of the Environmental Assessment.

- (j) Schedule 2 Part C – Prior to Commencement of Construction Works condition C7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

C7 Utility Services

To ensure that utility authorities are advised of the development:

- (1) **Prior to the issue of a Stage 1 Construction Certificate, a** A survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.

- (2) Prior to the commencement of work **(excluding Lot 12 Landscaping Stage works)** the Proponent is to negotiate with the utility authorities (eg. Energy Australia, Sydney Water and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

- (k) Schedule 2 Advisory Notes – Advisory Note AN10 is added by the insertion of the bold and underlined words / numbers as follows:

AN10 Contamination and Remediation

In preparing any Stage 2 Environmental Site Assessment, Remedial Action Plan, and Site Audit, as required by Conditions B15 and C1, consideration should be given to the potential future use of Lot 12 integrating with the proposed and existing public parks on Lot 11 and 10.

End of Modifications to MP 06_0163