

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF MAJOR PROJECT NO. 08-0017

(FILE NO. S08/00591)

**CONSTRUCTION OF A NEW 3 STOREY HOTEL BUILDING, CONSTRUCTION OF
A NEW PORTE COCHERE, IMPROVEMENTS TO VEHICULAR AND
PEDESTRIAN ACCESS AND EXPANSION OF GROUND FLOOR RECEPTION
AREA OF EXISTING NOVOTEL HOTEL**

100 MURRAY STREET, DARLING HARBOUR

I, the Minister for Planning, under section 75J of the *Environmental Planning & Assessment Act, 1979*, approve the project referred to in Schedule 1 subject to the conditions in Schedule 2 and proponent's Statement of Commitments in Schedule 3.



The Hon Kristina Keneally MP
Minister for Planning

Sydney,

19 Feb.

2009

SCHEDULE 1

PART A—TABLE

Application made by:	Tourism Asset Holdings Ltd
Application made to:	Minister for Planning
Major Project Application:	MP 08_0017
On land comprising:	Lot 300 in DP 836419 100 Murray Street, Darling Harbour
Local Government Area	City of Sydney
For the carrying out of:	<ul style="list-style-type: none"> • Construction of a new 3 storey hotel building • Construction of a new porte cochere • Reconfiguration of vehicular access • Expansion of ground floor reception area of existing hotel • Improvements to pedestrian access
Estimated Cost of Works	\$16,000,000
Type of development:	Major Project
S.119 Public inquiry held:	No
Determination made on:	
Date approval 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. 08-0017

Responsibility for other consents / 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 approval authority shall be served on the Director General.

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 approval.

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act, or where development is carried out by the Crown it has the same meaning as s. 116G of the Act.

Council means City of Sydney Council.

CPI means Consumer Price Index.

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 dated May 2008.

Minister means the Minister for Planning.

MP No. 08-0017 means the Major Project described in the Proponent's Environmental Assessment.

PPR means Preferred Project Report.

Proponent means Tourism Asset Holdings Ltd or any party acting upon this approval.

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

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

SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 08-0017

PART A—ADMINISTRATIVE CONDITIONS

A1 Development Description

- (1) Development approval is granted only to carrying out the development described in detail below:
- Construction of a new 3 storey hotel comprising 96 hotel rooms;
 - Refurbishment of plaza entrance at Murray Street including expansion of ground floor reception area of existing hotel;
 - Reconfiguration of existing vehicle entrances and new porte cochere;
 - Enhancements to pedestrian access through the site.
- (2) Development must be carried out consistently with the Statement of Commitments (attached Schedule 3) except as amended by the conditions of approval.
- (3) Building identification signage does not form part of this approval. Any signage for the building is to be subject to separate approval, unless the signage is exempt development.

A2 Development in Accordance with Plans

The development will be undertaken in accordance with the Environmental Assessment dated May 2008 prepared by JBA Urban Planning Consultants, including all Appendices and the following drawings:

Architectural (or Design) Drawings			
Drawing No.	Revision	Name of Plan	Date
A0/A00-01	2	COVER SHEET	1/5/2008
A0/A00-02	2	LOCALITY PLAN	1/5/2008
A0/A00-03	2	SITE PLAN	1/5/2008
A1/A01-01	2	GROUND FLOOR PLAN – AREA 2	1/5/2008
A1/A01-02	2	GROUND FLOOR PLAN – AREA 1	1/5/2008
A1/A01-03	2	PART FLOOR PLANS – AREA 1 & 2	1/5/2008
A1/A01-04	2	FIRST FLOOR PLAN – AREA 1	1/5/2008
A1/A01-05	2	SECOND FLOOR PLAN – AREA 1	1/5/2008
A1/A01-06	2	THIRD FLOOR PLAN – AREA 1	1/5/2008
A1/A01-07	2	ROOF PLAN – AREA 1	1/5/2008
A1/A01-08	2	PORTE COCHERE ROOF PLAN	1/5/2008

A1/A02-01	2	NORTH ELEVATION – AREA 1	1/5/2008
A1/A02-02	2	SOUTH ELEVATION – AREA 1	1/5/2008
A1/A02-03	2	EAST ELEVATION – AREA 1	1/5/2008
A1/A02-04	2	WEST ELEVATION – AREA 1	1/5/2008
A1/A02-05	2	SECTION AA – AREA 1	1/5/2008
A0/A02-04	1	WEST ELEVATION AREA 1 & 2	1/5/2008
A2/A02-07	1	PORTE COCHERE ELEVATIONS	1/5/2008
A1/A04-01	1	SHADOW DIAGRAMS	1/5/2008

A3 Development in Accordance with Documents

The development will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by JBA Urban Planning Consultants on behalf of Tourism Asset Holdings Ltd, May 2008;
- (2) Architectural Plans prepared by Architectus, various dates;
- (3) Traffic Impact Assessment prepared by Arup dated January 2008;
- (4) BCA Assessment Report prepared by Steven Watson & Partners dated January 2008;
- (5) Structural Integrity Report prepared by Hyder Consulting dated 12 December 2007;
- (6) Environmental Sustainable Development Report prepared by Cundall dated 30 April 2008;
- (7) Acoustic Assessment prepared by Acoustic Logic Consultancy dated 11 December 2007;
- (8) Accessibility Assessment prepared by Accessibility Solutions (NSW) Pty Ltd dated 18 February 2008;
- (9) Statement of Commitments dated May 2008.

A4 Inconsistency between documents

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions of this approval prevail.

A5 Lapsing of Approval

In order that the development as approved is carried out within a defined period of time, the approval shall lapse 5 years after the determination date in Part A of Schedule 1 of this approval.

A6 Prescribed conditions

The Proponent shall comply with the prescribed conditions of approval under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

B1 Sydney Water

Prior to issue of a Construction Certificate, a Notice of Requirements under Part 6, Division 9 of the Sydney Water Act 1994 shall be obtained and a copy must be submitted to the Certifying Authority (Council or a private accredited certifier).

B2 Structural Details

Prior to the issue of a Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that complies with:

- 1) the relevant clauses of the BCA
- 2) drawings and specifications comprising the Construction Certificate, and
- 3) the relevant Australian standards listed in the BCA (Specification A1.3)

B3 Construction and Traffic Management Plan

Prior to the issue of a Construction Certificate a Construction and Traffic Management Plan shall be finalised and submitted to the Certifying Authority and must include.

- (1) The proposed method of access to and egress from the site construction vehicles, including access routes through the Council area.
- (2) Movement scheduling where practicable to reduce impacts during sensitive times of the day.
- (3) The proposed method of unloading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible, mobile cranes should be located wholly within the site. The use of crane must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30 am without the prior approval of Council.
- (4) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- (5) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- (3) The proposed method of support to any excavation adjacent to adjoining properties.

B4 Noise And Vibration Management Plan

A Noise and Vibration Management Plan is to be prepared detailing

- (1) Specific activities to be carried out on the site and associated noise sources
- (2) Identification of potentially affected sensitive receivers
- (3) Construction noise and vibration criteria specified in the conditions of this approval
- (4) Noise and vibration monitoring, reporting and response procedures
- (5) Mitigation treatments, management methods and procedures to be implemented during construction to control noise and vibration
- (6) Contingency plans to be implemented where non-compliances or noise complaints.

The Noise and Vibration Management Plan is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

B5 Protection Of Trees During Construction

All trees to be retained on and adjacent to the site, including street trees must be protected at all times during excavation and construction. Details of the methods of protection must be submitted to and approved by the Certifying Authority prior to the issue of the first Construction Certificate. All approved protection measures must be maintained for the duration of works and any tree on the footpath which is damaged or removed during excavation or construction must be replaced.

B6 Mechanical Ventilation

All mechanical ventilation systems shall be designed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

B7 Drainage

Should the drainage from the new building connect into a Council owned drainage pipe or gully pit, the proponent may be required to enter into a Deed of Agreement with the Council.

In the event that stormwater connects to the kerb details certified by a hydraulic engineer demonstrating that the design complies with AS/NZS 3500.3.2 and Council's requirements must be submitted to the Certifying Authority prior to the issue of the Construction Certificate for basement or building works.

B8 Reflectivity

The light reflectivity from any building materials used on the facades of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B9 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with AS1428 – "Design for Access and Mobility" where required by the BCA. Prior to the issue of a Construction Certificate for new building work, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

B10 Outdoor Lighting

All outdoor lighting must comply with, where relevant , AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting and must be mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network. Details showing compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B11 Indoor Lighting

The proposed internal lighting system for the hotel must be designed to provide for the efficient use of energy including the use of energy efficient light fittings, zoned lighting and controls and sensors to ensure automatic switch off during non-working hours in appropriate areas of the building. Evidence demonstrating compliance with this requirement is to be provided to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B12 Water Conservation

All new fixtures and fittings are to achieve the following WELS rating and performance

- (1) hand wash basins rated to WELS 4 Star
- (2) sink taps rated to WELS 4 Star
- (3) showerheads rated to WELS 4 Star
- (4) dual flush toilets rated to WELS 4 Star
- (5) urinals should be waterless or sensor rated and rated to WELS 5 Star, and
- (6) dishwashers rated to WELS 4 star.

Evidence demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

PART C— PRIOR TO COMMENCEMENT OF WORKS

C1 Vehicle Cleansing

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

C2 Utility Services

To ensure that utility authorities are advised of the development:

- (1) 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 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.

C3 Hoarding

Any B-Class hoarding erected around the site is to contain graphics (not 3rd party advertising) which activates the public domain and may include some images of the new building.

C4 Contact Telephone Number

The Proponent shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

C5 Design standards

Vehicular access and car park areas are to comply with the relevant Australian Standard and on-site manoeuvrability is to comply with AUSTROADS.

C7 Barricade Permit

Where construction/building works require the use of a public place including a road or footpath, approval for a Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

PART D—DURING CONSTRUCTION**D1 Hours of work and noise**

The hours of excavation and work on the development must be as follows:

- (1) All excavation and construction work and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the approved development must only be carried out between the hours of:
 - a) 7.00am and 7.00pm on Mondays to Fridays, inclusive; and
 - b) 7.00am and 3.00pm on Saturdays; and
 - c) No work must be carried out on Sundays or public holidays.
- (2) All work, including excavation and construction work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.
- (3) Noise and vibration emissions from equipment and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents or businesses and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.
- (4) Works may be undertaken outside these hours where:
 - a) The delivery of materials is required outside these hours by the Police or other authorities;
 - b) It is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
 - c) The work is approved by the Director-General or his nominee.

D2 Notification of Excavation Works

The PCA and Council must be given a minimum of 48 hours notice that excavation, shoring or underpinning works are about to commence.

D3 No obstruction of public way

The public way (outside of the work area) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the relevant Authority to stop all work on site.

D4 Covering of loads

All vehicles involved in the excavation process and departing with soil or loose matter must have their loads fully covered before entering the public roadway.

D5 Construction Traffic

All excavation and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. No construction zone is permitted on Harbour Street.

D6 Disposal of seepage and stormwater

Any seepage or rainwater collected on-site during excavation shall not be pumped to the street stormwater system unless separate prior approval is given in writing by the relevant Authority.

D7 Pedestrian Access During Construction

Pedestrian access from the CBD to Darling Harbour is to be maintained throughout construction. Alternative routes, including those for persons with disabilities, shall be clearly identified and signposted for the duration of the works, and until such time as the permanent accessible paths are provided.

D8 Directional Signage

Directional signage shall be modified as required to accommodate the altered pedestrian and vehicular movements within the area. Particular attention is to be paid to:

- (1) wheelchair accessible paths of travel
- (2) safe road crossing areas including signalised and other designated crossings
- (3) key landmarks
- (4) access to transport nodes including public transport

D9 Traffic

- (1) All loading and unloading associated with works must occur on site;
- (2) All vehicles must enter and leave the site in a forward direction;
- (3) The cost of all traffic management works shall be borne by the Proponent;
- (4) No trucks associated with the approved works are permitted to park or stand on public roadways;
- (5) Gates shall be closed between vehicle movements; and
- (6) Movement of trucks to and from the site shall be staggered so as to limit access and egress during peak traffic periods.

A Road Occupancy Licence is to be obtained from Council for any works that may impact on traffic flows on Murray Street during construction.

D10 Approved plans to be on-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department or Council.

PART E—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

E1 Landscaping

All landscaping works the subject of the Project Approval are to be completed prior to occupation of any component of the building or car park.

E2 Through Site Pedestrian link

Details of materials, colours and other methods of demarcation for the pedestrian through site link must be submitted to the Department prior to the occupation of any component of the building or car park.

E3 Porte Cochere, Vehicular & Pedestrian Access

Improvement works to vehicular and pedestrian access and construction of the new porte cochere are to be completed prior to occupation of any component of the building or car park.

E4 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of the Occupation Certificate for the building. A copy of the Fire Safety certificate must be submitted to the relevant authority and Council.

E5 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of the final Occupation Certificate for the building.

E6 Waste Management

Prior to Occupation Certificate being issued, the Certifying Authority must ensure that waste handling works have been completed in accordance with the Waste Management Plan; other relevant approval conditions; and any relevant Council policy.

E7 Water Certificate

Prior to issue of an Occupation Certificate a (Developer) Compliance Certificate under section 73 of the Sydney Water Act 1994 must be submitted to the Principal Certifying Authority (Council or a private accredited certifier).

PART F—POST OCCUPATION

F1 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:

1. Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
2. A sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be

measured in the absence of noise emitted from the premises. The source noise level must be assessed as a LAeq, 15 minute.

3. Notwithstanding compliance with (1) and (2) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.

F2 Annual Fire Safety Statement

For any essential fire safety equipment, an Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the relevant authority initial Fire Safety Certificate is received.

ADVISORY NOTES

AN1 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the Proponent shall ensure the following matters are complied with:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN2 Disability Discrimination Act

This application is to comply with the Disability Discrimination Act 1992. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia and the Australian Standard AS 1428.1 – Design for Access and Mobility.

SCHEDULE 3

MP 08-0017

CONSTRUCTION OF A NEW 3 STOREY HOTEL BUILDING, CONSTRUCTION OF A NEW PORTE COCHERE, IMPROVEMENTS TO VEHICULAR AND PEDESTRIAN ACCESS AND EXPANSION OF GROUND FLOOR RECEPTION AREA OF EXISTING NOVOTEL HOTEL

**NOVOTEL DARLING HARBOUR, 100 MURRAY STREET, DARLING HARBOUR
LOT 100 IN DP 836419**

PROPONENT'S STATEMENT OF COMMITMENTS

Table 7 – Table of Project Application Commitments

Subject	Commitment	Timing
Construction Environmental Management Plan	1. Noise, vibration, dust, soil and erosion arising from the proposed construction works will be managed in accordance with an Environmental and Construction Management Plan (CEMP) which will be prepared by the contractor once appointed.	Prior to, and throughout, construction works.
	2. The necessary approvals and permits required for construction will be obtained prior to the relevant works commencing.	Prior to works commencing for each component as relevant.
Waste Management	3. A Construction Waste Management Plan (WMP) will be prepared by the contractor once appointed. All construction employees will be advised of the requirements of the WMP and will be required to adhere to those requirements throughout the duration of the construction works.	Prior to, and throughout, construction works.
	4. Hotel waste will be collected within the car park of the hotel between the hours of 8am and 6pm.	On going.
Transport	5. A Construction Traffic Management Plan (TMP) will be prepared prior to works commencing. All contractors / suppliers will be advised of the requirements of the TMP and will be required to comply with the TMP as part of their work contract.	Prior to and throughout the duration of the construction works.
	6. Trucks will follow the routes provided for in the TMP and where required the contractor will seek specific permits for oversized vehicles or the like. There are route restrictions for the transport of hazardous materials. The contractor and the transporter will develop and adhere to a route plan that meets the legal limitations.	Throughout the duration of the construction works.
Acoustic Amenity	7. Noise mitigation measures as outlined by Acoustic Logic Consultants (Refer Appendix I) will be implemented. The report will be updated if required.	Throughout the duration of the construction works.
	8. Hours of construction works will be limited to 7am - 6pm, Monday to Friday and 8am – 5 pm Saturday.	Throughout the duration of the construction works.
	9. Noise will be monitored on site as per the recommendations of the Acoustic Assessment at Appendix I.	Throughout the duration of the construction works.

Stormwater Management & Quality	10. Construction works will be carried out so that no debris falls, flows or is carried into Sydney's stormwater system. A Storm Water Management Plan (SWMP) will be prepared by the contractor once appointed and will be implemented prior to and throughout the duration of the construction works.	Prior to and throughout the duration of the construction works.
Sustainability	<p>11. All construction works will be undertaken in accordance with best practice methods possible. Where possible waste materials will be recycled and emissions will be reduced.</p> <p>12. Energy and water efficient fixtures and fittings will be installed as per Cundalls' report at Appendix E.</p>	<p>Throughout the duration of the construction works.</p> <p>Prior to occupation of the hotel extension.</p>
Community Contact	<p>13. The contractors 24 hour contact details will be displayed on a sign erected on Murray Street.</p> <p>14. Should works be required out of hours for safety reasons, surrounding residents will be given 48 hours prior notice.</p>	<p>Throughout the duration of the construction works.</p> <p>As required.</p>
Structural / Operational	15. A Plan of Management will be prepared, which will outline operational management issues during the strengthening of columns construction phase.	Prior to the issue of a Construction Certificate.