

08517  
2 February 2009

Mr Sam Haddad  
Director-General  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2000

Attention: Shayne Watson

Dear Mr Haddad

**MODIFICATION TO MAJOR PROJECT 08-0057  
PROJECT APPLICATION FOR BULK EXCAVATION, BASEMENT STRUCTURE AND  
CONSTRUCTION OF BUILDINGS AT DARLING WALK, DARLING HARBOUR**

We refer to the abovementioned Project Application for the Bulk Excavation, Basement Structure and Construction of Buildings at Darling Walk, Darling Harbour.

On behalf of our client, Lend Lease Development, we write to request the Minister (or her delegate) modify the project Approval MP\_0057 under Section 75W of the *Environmental Planning and Assessment Act 1979* as described below. The proposed changes primarily relate the staging of works and provide for the issuing of staged construction certificates. Other proposed amendments relate construction hours and minor errors.

For your information the construction program for Darling Walk is being staged and staged construction certificates will be obtained for the following works:

- Demolition (Complete)
- Remediation (Complete)
- Excavation
- Basement Structure
- Above Ground Structure
- Services and Façade
- Landscaping

The proposed modifications to the conditions of consent are set out in Section 1 and the justification for the proposed amendments are detailed in Section 2.

In accordance with Section 245k of the *Environmental Planning and Assessment Regulation 2000*, please find enclosed the fee of \$750 for the assessment of the request.

## 1.0 CHANGES SOUGHT TO THE PROJECT APPLICATION APPROVAL

The amended wordings of the Conditions are set out below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

### Part A – Table

Application made by: ~~Sydney Harbour Foreshore Authority~~ ***Lend Lease Development***

#### B1 - Traffic and Access Arrangements and Car Parking

- (1) (a) Access and traffic management measures in relation to the entrance/ exit to and circulation within the McDonald's drive-through by both cars and delivery vehicles including signage and line marking at the egress form the food collection point are to be detailed and resolved.
- (b) The proposed alterations to the traffic signals at the intersection of Harbour Street and Day Street and Harbour Street and Liverpool Street are to be designed to meet the RTA's requirements and endorsed by a suitable qualified Traffic Signal Engineer. The design requirements are to be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice.

B1(1) (a) and (b) are to be resolved in consultation with the RTA prior to ***the submission of the construction certificate for above ground structure.*** ~~issue of the first Construction Certificate.~~

- (c) Details of the swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site as well as manoeuvrability through the site, is to be in accordance with AUSTROADS. ***Details are to be provided to the Certifying Authority prior to the issue of a Construction Certificate for the basement structure.***
- (d) The layout of the proposed car parking areas (including driveways, grades, turnpaths, sight distance requirements, aisle widths and lengths and parking bay dimensions) are to be in accordance with AS 2890.1-2004 and AS2890.2-2002 for heavy vehicle usage ***and provided to the Certifying Authority prior to the issue of a Construction Certificate for the basement structure.***
- (e) Provide dynamic signposting at the car park entrance and on each parking level advising of the number of available spaces. ***Details are to be provided to the satisfaction of the Certifying Authority prior to the issue of the Occupation Certificate.***
- (f) Details and locations of suitable bicycle storage facilities, including showers and change rooms ***and provided to the Certifying Authority prior to the issue of a Construction Certificate for the basement structure.***

~~Details satisfying all of the above conditions are to be provided to the Certifying Authority prior to the issue of a Construction Certificate for the basement car park.~~

#### B2 - Sydney Water

~~A Section 73 Certificate is to be obtained from Sydney Water prior to the issue of the first Construction Certificate prior to the issue of an Occupation Certificate~~

***Prior to the issue of the first Construction Certificate, a Notice of Requirements under Section 73 of the Sydney Water Act 1994 must be submitted to the Principal Certifying Authority (Council or private accredited certifier)***

**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 (e.g. 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. ~~7.30am and 5.30pm~~ **7.00am and 7.00pm** on Mondays to Fridays, ~~with safety inspections permitted from 7.00am~~
  - b. ~~7.30am and 3.30pm~~ **7.00am and 5.00pm** 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 *Production of the Environment Operations Act 1997* must be satisfied at all time.
- (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 of his nominee.

**D16 – Validation of Site Remediation**

~~Prior to commencement of construction works associated with the approved basement structure a~~  
**A** Site Audit Statement must be submitted to Council and the Department validating that the site has been remediated in accordance with development consent DA 133-08-2008 issued by the Minister.

**Condition E1 – Landscaping and Public Domain**

All landscaping and public domain works the subject of the Concept Plan approval and surrounding site with the **exception of the McDonalds Drive Thru** are to be completed prior to occupation of any component of the building or car park. **Works to the McDonalds Drive Thru are to be completed within 90 days of the issue of an occupation certificate for the northern building.**

**2.0 JUSTIFICATION**

Set out below is the justification for the proposed amendments to the conditions.

**Part A – Table**

The proponent for the Project Application MP\_0057 was Lend Lease Development. Listing SHFA as the proponent is an administrative error and should be corrected for accuracy.

**B1 - Traffic and Access Arrangements and Car Parking****B1(a) and (b)**

The changes to the timing of the resolution of the access and traffic management measures for the McDonalds circulation route and alterations to the traffic signals with the RTA are sought to enable construction works to commence on site, whilst approval from the RTA is negotiated. The sign-off

process with the RTA may take up to six months, therefore it is proposed that the condition is amended in order for the sign-off process be undertaken with the RTA whilst works on site progress.

## **B2 - Sydney Water**

Due to a change in Sydney Water's certification process, the requirement for a Section 73 certificate to be obtained from Sydney Water is not possible until works upgrading and connecting to Sydney Water infrastructure is completed and formerly handed over to Sydney Water. A Notice of Requirements under Section 73 of the Sydney Water Act 1994, part 6, Division 9 can be obtained prior to the commencement of works.

## **D1 – Hours of work and noise**

The remediation and stormwater DAs approved by the Minister set construction hours from 7.00am-7.00pm Monday to Friday and 7.00am – 5.00pm on Saturdays. An amendment to the construction hours is sought to be in line with hours of work approved under DA 133-08-2008 and DA 122-08-2008.

The proposed construction hours are also consistent with City of Sydney Council standard construction hours for CBD projects (see **Attachment A**).

The proposed construction hours will assist in minimising traffic disruptions during peak periods and will avoid prolonging the overall construction programme.

## **D16 – Validation of Site Remediation**

The remediation works approved under DA 133-08-2008 by the Minister, related to proposed basement site but also other separate areas across the site i.e. the proposed McDonalds drive-way area.

The remediation works are proposed to be completed in stages, with the McDonalds drive-way works not being undertaken until the Project Application for the Public Domain works has been approved by the Minister. A Site Audit Statement cannot be obtained until all the remediation works are completed. It is requested that Condition D16 be amended to align with the Condition E1 of DA 133-08-2008 which states:

*“Within 21 days of completion of the remediation works, unless otherwise agreed with the Authority, a Section A Site Audit Statement must be submitted to the Authority and the Council, confirming that the site is suitable for its purpose.”*

## **E1 – Landscaping and Public Domain**

Due to the staging of construction the McDonalds drive thru cannot be completed until the northern building works have been completed and the existing pedestrian ramp has been removed. Therefore it is proposed that the condition be amended to allow for works to be completed after initial occupation of the northern building.

As stated in the Preferred Project Report submitted in November 2008, approval for the McDonald's drive- thru works will be sought through the Project Application.

Should you have any queries about this matter, please do not hesitate to contact me on 02 9956 6962 or [kosborne@jbaplanning.com.au](mailto:kosborne@jbaplanning.com.au).

Yours faithfully

A handwritten signature in blue ink that reads "K. Osborne". The signature is written in a cursive style with a long, sweeping underline.

Kirk Osborne  
*Principal Planner*