

Jim Betts
Secretary
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

Dear Mr Betts

**SECTION 4.55 (1A) MODIFICATION APPLICATION TO MODIFY PROJECT APPROVAL
MP10_0048 (MOD 11)**

This letter has been prepared by MG Planning Pty Ltd on behalf of Infrastructure NSW (INSW) in support of an application pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act* (EP&A Act) to modify Project Approval MP 10_0048. A Part 3A Project Application for the Barangaroo Headland Park and Northern Cove main works (MP10_0048) was granted approval in 2011 by the then Minister for Planning. The Project Approval was subsequently modified to allow for the demolition of the Harbour Control Tower (Modification No 4). The Section 4.55(1A) Modification Application seeks approval to:

- Modify Condition B43 to extend the period to submit the final design documents for the physical interpretive design to 30 June 2020
- Modify Condition D15 to extend the completion date for the installation of the physical interpretive device for the Harbour Control Tower (HCT) to 30 September 2021.

The proposed modification is substantially the same development as the approved development and involves minimal environmental impact. Accordingly, the matter may be determined under S4.55(1A) of the EP&A Act.

1. RELEVANT APPROVALS HISTORY

Below is a summary of approvals relevant to the Harbor Control Tower (HCT).

MP10_0048

The Part 3A Project Approval for the Headland Park and Northern Cove main works was approved on 3 March 2011. The Project Approval permitted the construction of the Barangaroo Reserve however it did not allow for the demolition of the HCT. At the time of this Part 3A Project Application, the question of whether the HCT would be demolished or retained and adaptively reused had not been decided.

MP10_0048 Modification No 4

On 30 July 2015 MP10_0048 was modified to allow for:

- Demolition and removal of the HCT
- Decommissioning and removal of essential services
- Construction of an interpretive structure on the site of the HCT
- Replacement of the existing ground floor slab and associated works.

MP10_0048 Modification No 7

Modification No 7 was approved on 27 November 2015. It modified Condition B41 to alter the timing of delivery of the Interpretation Plan for the HCT to prior to commencement of demolition works.

MP10_0048 Modification No 8

Modification No 8 was approved on 6 May 2016. The modification included changes to the methodology for the demolition of the HCT as well as amendments to the relevant environmental management plans and the Statement of Commitments.

MP10_0048 Modification No 9

Modification No 9 was approved on 10 November 2016. The modification involved the replacement of plans showing the construction of a physical interpretative structure known as an 'Oculus' at the site of the HCT with plans showing the construction of an alternative physical interpretation device. It also inserted a new condition B43 which requires, amongst

other matters, that detailed design documentation for the interpretive device be submitted to the Secretary for approval within 6 months of the date of the Mod 9 approval.

MP10_0048 Modification No 10

Modification No 10 was approved on 13 October 2017. It modified Conditions B43 and D15 to provide the former Barangaroo Delivery Authority (now INSW) with additional time in which to finalise the procurement, design and delivery of the interpretive device.

2. PART 3A TRANSITION TO STATE SIGNIFICANT DEVELOPMENT APPLICATION

MP10_0048 was originally approved under section 75J of Part 3A of the EP&A Act and was a transitional Part 3A project under Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (EP&A (ST&OP) Regulations).

Following amendments to the EP&A Act and the associated EP&A (ST&OP) Regulations that commenced on 1 March 2018, the power to modify Part 3A approvals under former section 75W has been wound up for modification applications submitted after 1 March 2018. In order to modify a transitional Part 3A approval, the Minister for Planning can declare the development to be SSD by order under clause 6 of Schedule 2 of the EP&A (ST&OP) Regulations. If a declaration is made the approval becomes a development consent which can be modified under Part 4 of the EP&A Act if it meets the relevant test.

On 11 October 2018, the Director, Key Sites Assessment (as delegate of the Minister for Planning), made an order under clause 6 of Schedule 2 declaring the development is the subject of the project approval to be SSD. This order was published in the NSW Government Gazette on 19 October 2018 and took effect from that date.

The effect of this order is that:

- The project approval is taken to be a development consent under Part 4 for the carrying out of the development
- The modification request is taken to be an application to modify under section 4.55 of the EP&A Act.

3. PROPOSED MODIFICATION

This modification application seeks approval to modify Conditions B43 and D15 to:

- allow an extension of time to submit the final design documents for the physical interpretive device to the Secretary
- extend the completion date for the installation of the interpretive structure.

The extension in time is needed to enable INSW to finalise consultation on the design of the interpretive structure. To date, INSW has completed a substantial portion of the detailed design for the HCT and developed a consultation and stakeholder strategy. However, additional time is required to enable INSW to implement its consultation strategy in full.

Given the sensitive cultural nature of the site, Infrastructure NSW has engaged *Old Ways, New* for the detailed stakeholder engagement process with a number of key Indigenous specialists ranging from Traditional Owners and Elders, knowledge holders and community members to spatial designers, historians, archaeologists, horticulturalists and cultural knowledge specialists.

Old Ways, New has been engaged to provide an Interpretation Strategy, detailing the stakeholder engagement and research completed during the process. This information is to assist in the detailed design of the HCT Interpretative Device.

Given the engagement completed to date, further design refinements are required to implement the consultation strategy in full, and represent the response from the stakeholder engagement feedback in the design, to ensure the HCT Interpretative Device is culturally appropriate.

The overall timeframe for the consultation program and design development is provided below:

Tasks	Timeframe
Development of Stakeholder Engagement Strategy	April 2019
Stakeholder Consultation	April-August 2019
Interpretation Strategy	August – November 2019
Concept Design	December 2019 – January 2020
Continued Stakeholder Engagement based on Concept Design	January – April 2020
Design Development	February – May 2020
Technology Brief	April – May 2020
Submission of final design for interpretive device in accordance with Condition B43	30 June 2020

The proposed modifications to Conditions B43 and D15 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*.

B.43 The Proponent shall finalise the detailed design of the physical interpretive structure for the Harbour Control Tower shown in plans S16-0071 LA01.01, S16-0071 LA03.01 and 21-25400-S02 in consultation with Council, the Office of Environment and Heritage (Heritage Office), the Port Authority of NSW and the Australian National Maritime Museum. The device shall:

- be of a high quality design using durable materials;
- be of a sculptural three-dimensional quality;
- be designed so that it is clearly visible as an interpretation device from adjacent parkland and vantage points;
- be designed in consultation with a public artist and suitably qualified heritage expert; and
- be consistent with the revised 'Barangaroo Harbour Control Tower Interpretation Plan', prepared by GML Heritage and dated September 2016.

Evidence of consultation with key stakeholders and detailed design documentation for this structure shall be submitted to the Secretary for approval by ~~31 December 2017~~ *30 June 2020*.

D15 The installation of the physical interpretive structure for the Harbour Control Tower shall be completed by ~~31 December 2018~~ *30 September 2021*.

4. SUBSTANTIALLY THE SAME DEVELOPMENT

Section 4.55 (1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development as proposed to be modified is substantially the same development for which the consent was originally granted in that the proposed modification only involves modifying dates for submission of information relating to the interpretive structure and for its construction. No other changes are proposed.

5. ENVIRONMENTAL ASSESSMENT

Compliance with Environmental Planning Instruments

The planning controls for the Barangaroo site are contained within Part 12, Schedule 3 of the *State Environmental Planning Policy (State Significant Precincts) 2005* (SSP SEPP).

The site of the HCT is zoned Public Recreation RE1 under the SSP SEPP. Clause 12 of Part 12 provides that demolition may be carried out in the RE1 zone with development consent. As noted above, approval to demolish the HCT was originally granted in 2015.

The HCT is not listed as a heritage item under the SSP SEPP. However, consideration of the heritage impact of demolishing the HCT was considered in detail in the Department's assessment of Mod 4 and consequently conditions were imposed requiring the preparation of an Interpretation Strategy and the installation of an interpretive device. The modified proposal is in line with the Department's assessment and will ensure appropriate interpretation of the historic significance of the site and the HCT.

There are no other provisions under the SSP SEPP or other environmental planning instruments relevant to the proposed modifications.

It should be noted that the Barangaroo site is excluded from the application of Sydney Development Control Plan 2012. Notwithstanding, the proposed modifications do not raise any issues of relevance to the DCP.

Environmental impacts

As noted above, the proposed modifications seek an extension of time for submission of the detailed design and construction of the interpretive structure. As such, no environmental impacts will arise as a result of the proposed modifications. Rather, they will enable INSW to carry out a thorough and genuine consultation process with key stakeholders. This will ensure that the interpretive device meets the requirements of Condition B43, most notably, that it is of a high quality design, that it has a three-dimensional quality, that it can be readily seen from important vantage points and that it is consistent with the Interpretation Plan prepared by GML Heritage (September 2016).

6. SUITABILITY OF THE SITE

The site remains suitable for the proposed development for the reasons outlined in the Environmental Assessment lodged with Mod 4. The proposed modification to Conditions B43 and D15 relate to timeframes only and will not impact on the site or surrounds.

7. PUBLIC INTEREST

The proposed modifications will allow INSW to undertake further consultation with key stakeholders and to develop a design for the interpretive structure that is sensitive to the heritage significance of the site and the HCT. The proposed modifications are therefore considered to be in the public interest.

8. CONCLUSION

The approval to demolish the HCT included conditions requiring the provision of an interpretive device. The proposed modifications seek an extension of time to submit the final design documents for the physical interpretive design to the Secretary and to also extend the completion date for the installation of the interpretive device.

The proposed modifications necessitate amendments to Conditions B43 and D15 as set out in Section 3 of this letter.

In accordance with section 4.55(1A) of the EP&A Act, the consent authority may modify the consent as the proposed modification is:

- of minimal environmental impact
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. If you have any queries, please do not hesitate to contact me on 0405 180 116.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Nicola Gibson".

Nicola Gibson

3 October 2019