

# Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under the delegation effective at 1 October 2011, I approve the modification of the project application referred to in Schedule 1, subject to the conditions in Schedule 2.



Director  
Metropolitan and Regional Projects North

Sydney 6<sup>th</sup> February

2013

### SCHEDULE 1

**Project Approval:**

MP10\_0171 granted by the Deputy-Director-General, Development Assessment and Systems Performance, as delegate for the Minister for Planning and Infrastructure.

**For the following:**

Demolition of existing structures on site and construction of a mixed use building (residential/retail/serviced apartments), basement with 597 car parking spaces, public domain works and installation of utility services.

**Modification:**

MP10\_0171 MOD 1:

- Re-wording of Conditions B23, C8, C9 and C10;
- Deletion of Conditions D17 and D18; and
- Insertion of Condition C15 to outline a process for managing human remains, if encountered during test excavations or pre-construction and/or construction works.

## SCHEDULE 2

### PART B - PRIOR TO THE ISSUE OF THE RELEVANT CONSTRUCTION CERTIFICATE

1. In Part B, Condition B23 Wind Mitigation Measures, delete Condition B23 in its entirety and replace it with the following:

#### **B23 WIND MITIGATION MEASURES**

Prior to the issue of the first Construction Certificate above ground floor level (RL 7.5), the proponent is to provide a report and associated plans for the approval of the Director-General identifying all wind mitigation measures (including their design and specifications) to ensure compliance with the following criteria:

- (1) 10m/s along Church Street and all areas where outdoor dining is proposed.
- (2) 13m/s within the riverbank foreshore area.
- (3) 16m/s at all other locations.

All wind mitigation measures approved by the Director-General must be incorporated into the Construction Certificate<sup>1</sup> drawings.

Note<sup>1</sup>: In the event that Construction Certificates are issued on a level by level basis, all wind mitigation measures relevant to the levels being certified must be installed prior to the issue of the corresponding Construction Certificate.

### PART C - PRIOR TO COMMENCEMENT OF WORKS

2. In Part C, Condition C8 Archaeological Investigations, delete Condition C8 in its entirety and replace it with the following:

#### **C8 ARCHAEOLOGICAL INVESTIGATIONS**

##### Historical Archaeology

- (1) Prior to the commencement of pre-construction and construction activities the proponent shall undertake a professional archaeological investigation program to allow the identification of any significant archaeological heritage resource (terrestrial or maritime) and remnant built fabric elements on the site, and where possible, protect during the works from unnecessary damage. The methodology for the historical archaeological investigation program shall be prepared in consultation with the Heritage Branch OEH, and submitted to the Director-General for approval prior to the commencement of investigations.
- (2) The results of the archaeological investigation program shall include, but not necessarily be limited to:
  - (a) consideration of measures to avoid or minimise disturbance to archaeology, where archaeology of historical archaeological significance is found to be present;
  - (b) where it cannot be avoided, recommendations for any further investigations for archaeology of historical archaeological significance; and
  - (c) management and mitigation measures to ensure that there are no additional impacts due to pre-construction and construction activities.
- (3) The results of the archaeological investigation program, including recommendations (such as further archaeological work), shall be prepared in consultation with the Heritage Branch, OEH and to the satisfaction of the Director-General, prior to the commencement of pre-construction and construction activities affecting significant archaeology.
- (4) Where the archaeological investigation program identifies that areas of historical archaeological significance will be affected by the construction works, these areas

are to be subject to a professional archaeological excavation programme and/or recording prior to the commencement of pre-construction and/or construction activities affecting significant archaeology.

Note: Research Designs including any Archaeological Excavation Methodology must be prepared generally in accordance with the Heritage Council guidelines.

#### Aboriginal Archaeology

- (5) Prior to the commencement of pre-construction and construction activities the proponent shall undertake an Aboriginal archaeological investigation program to allow the identification of any significant Aboriginal archaeological heritage to be accurately identified, and where possible, protected during the works from unnecessary damage. The methodology for the Aboriginal archaeological investigation program shall be prepared in consultation with the OEH (for Aboriginal archaeological heritage and historic heritage) and the Aboriginal community, and submitted to the Director-General for approval prior to the commencement of investigations.

Consultation with the Aboriginal community must be undertaken in accordance with industry standards and best practice.

- (6) The results of the archaeological investigation program shall include, but not necessarily be limited to:
- (a) consideration of measures to avoid or minimise disturbance to archaeology, where archaeology of high archaeological significance and/or high cultural value is found to be present;
  - (b) where it cannot be avoided, recommendations for any further investigations for archaeology of moderate to high archaeological significance and/or moderate to high cultural value; and
  - (c) management and mitigation measures to ensure there are no additional impacts due to pre-construction and construction activities.
- (7) The results of the archaeological investigation program, including recommendations (such as for further archaeological work), shall be prepared in consultation with the OEH (for Aboriginal heritage) and to the satisfaction of the Director-General prior to the commencement of pre-construction and construction activities affecting the archaeology.
- (8) Where the archaeological investigation program identifies that areas of archaeological significance/cultural value will be affected by the construction works, these areas are to be subject to a professional archaeological excavation programme and/or recording prior to the commencement of pre-construction and/or construction activities affecting the archaeology.

3. In Part C, Condition C9 Archaeological Reporting, delete Condition C9 in its entirety and replace it with the following:

#### **C9 ARCHAEOLOGICAL REPORTING**

- (1) Within 12 months, unless agreed by the Director-General, of the completion of the archaeological works identified in Condition C8, a copy of the final excavation report(s) shall be prepared and lodged with the department, the relevant sections of the OEH (Aboriginal and historic) and the Council.
- (2) The information within the final excavation report(s) shall include but not necessarily be limited to:
- (a) an executive summary of the archaeological programme;
  - (b) due credit to the client paying for the excavation, on the title page;
  - (c) an accurate site location and site plan(s) (with scale and north arrow);
  - (d) historical research and/or ethnographic background, references and bibliography;

- (e) detailed information on the excavation including the aim, the context for the excavation, procedures, treatment of artefacts (cleaning, conserving, sorting, cataloguing, labelling, scale photographs and/or drawings), and analysis of the information retrieved;
  - (f) how recovered heritage items (relics and Aboriginal objects) will be managed including:
    - (i) nominating, for relics, a repository for the relics salvaged from the historical archaeological excavations
    - (ii) for Aboriginal objects, meeting the relevant requirements of s.85A of the *National Parks and Wildlife Act 1974*.
  - (g) detailed response to research questions (at a minimum those stated in the approved Research Design);
  - (h) conclusions from the archaeological programme; and
  - (i) details of how information about the excavations has been publicly disseminated (for example, include copies of press releases, public brochures and information signs produced to explain the archaeological significance of the sites).
4. In Part C, Condition C10 Interpretation Strategy, delete Condition C10 in its entirety and replace it with the following:

#### **C10 INTERPRETATION STRATEGY**

An Interpretation Strategy shall be prepared and implemented to incorporate the findings from the archaeological works. A final plan which includes specific detail regarding the design, locations, media, devices, and messages which are proposed to be used at the site should be submitted for the approval of the Director-General. The Plan must be prepared in consultation with the OEH (for Aboriginal and historic heritage), the Aboriginal stakeholders (for Aboriginal heritage), a materials conservator and an appropriately qualified archaeologist(s) in order to ensure that physical conservation needs of the archaeology are adequately reflected in the final proposals.

5. In Part C, insert the following new condition after Condition C14:

#### **C15 HUMAN REMAINS**

Prior to undertaking pre-construction and construction activities (including archaeological works) the proponent shall develop a strategy for managing the discovery of human remains (potential or confirmed), throughout the project. The strategy shall include but not necessarily be limited to:

- (c) temporary cessation of works in the vicinity; and
- (d) notification of the NSW Police, the OEH, the department, and Aboriginal stakeholders, and not recommending any works in the area unless authorised by the Director-General and or the NSW Police (which ever is relevant).

#### **PART D – DURING CONSTRUCTION**

6. In Part D, delete Condition D17 Impact of Below Ground (Sub-Surface Works) – Non-Aboriginal Objects and Condition D18 Impact of Below Ground (Sub-Surface Works) - Aboriginal Objects.

**END OF MP10\_0171 MOD 1**