

# Development consent

## Section 89E of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, under delegation dated 16 February 2015, I grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



Anthea Sargeant  
**Executive Director**  
**Key Sites and Industry Assessments**

Sydney *26 September* 2017

---

### SCHEDULE 1

<b>Application No.:</b>	SSD 7478
<b>Applicant:</b>	Lend Lease (Miller Point) Pty Limited
<b>Consent Authority:</b>	Minister for Planning
<b>Land:</b>	Part of Barangaroo South, 51A Hickson Road, Barangaroo. (Lot 214 DP 1221076)
<b>Development:</b>	Staged stratum subdivision of Lot 214 into seven (7) lots for the approved buildings and infrastructure within Stage 1A, future Sydney Metro allotments and a residue allotment for the remainder of Barangaroo South.

## DEFINITIONS

Advisory Notes	Advisory information relating to the consent but do not form a part of this consent
Applicant Application	Lend Lease (Millers Point) Pty Ltd The development application and the accompanying drawings plans and documentation described in Condition A2
BCA	Building Code of Australia
Construction Council	Any works, including earth and building works City of Sydney Council
Crown Building Works Certificate	Certification of Crown Building works under section 109R of the EP&A Act
Certifying Authority	Means a person who is authorised by or under section 109D of the EP&A Act to issue a construction certificate under Part 4A of the EP&A Act; or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works under section 109R of the EP&A Act
Department	Department of Planning and Environment or its successors
Environmental Impact Statement (EIS)	<i>Environmental Impact Statement, Stage 1A (Second Stage) Stratum Subdivision (SSD 7478) Barangaroo South</i> , prepared by JBA Urban Planning Consultants, dated July 2016
EPA	Environment Protection Authority, or its successor
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation or Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Minister	Minister for Planning, or nominee
OEH	Office of the Environment and Heritage, or its successor
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build.
Response to Submissions (RtS)	Response to Submission Letter prepared by JBA Urban Planning Consultants titled SSD 16_7478 – Stage 1A (Second Stage) Stratum Subdivision, Barangaroo South dated 7 December 2016
RMS	Roads and Maritime Services Division, Department of Transport or its successor
Secretary	Secretary of the Department of Planning and Environment, or nominee/delegate
Subject Site	Lot 214 DP 1221076
TfNSW	Transport for NSW

## SCHEDULE 2

### A ADMINISTRATIVE CONDITIONS

#### Development Description

- A1. Except as amended by the conditions of this consent, development consent is granted only to carrying out the development as described in Schedule 1.

#### Development in Accordance with Plans and Documents

- A2. The Applicant shall carry out the development generally in accordance with the:
- a) *Environmental Impact Statement, Stage 1A (Second Stage) Stratum Subdivision (SSD 7478) Barangaroo South*, prepared by JBA Urban Planning Consultants, dated July 2016;
  - b) Response to Submission Letter prepared by JBA Urban Planning Consultants titled *SSD 16\_7478 – Stage 1A (Second Stage) Stratum Subdivision, Barangaroo South*, dated 7 December 2016
  - c) following drawings, except for:
    - i) any modifications which are Exempt or Complying Development, and
    - ii) as otherwise provided by the conditions of this consent, and
  - d) conditions of this consent.

Architectural (or Design) Drawings prepared by GeoStrata:		
Name of Plan	Sheet No.	Date
Plan of Proposed Subdivision Basement Level 2 South Rev 01	Sheet 1 of 10	16-11-2015
Plan of Proposed Subdivision Basement Level 2 North	Sheet 2 of 10	16-11-2015
Plan of Proposed Subdivision Basement Level 1 South Rev 01	Sheet 3 of 10	16-11-2015
Plan of Proposed Subdivision Basement Level 1 North	Sheet 4 of 10	16-11-2015
Plan of Proposed Subdivision Basement Ground Level South	Sheet 5 of 10	16-11-2015
Plan of Proposed Subdivision Basement Ground Level North	Sheet 6 of 10	16-11-2015
Plan of Proposed Subdivision Basement Level 1 South	Sheet 7 of 10	16-11-2015
Plan of Proposed Subdivision Basement Level 1 North	Sheet 8 of 10	16-11-2015
Plan of Proposed Subdivision Basement Level 2 South	Sheet 9 of 10	16-11-2015
Plan of Proposed Subdivision Basement Level 2 North	Sheet 10 of 10	16-11-2015

#### Inconsistency Between Documents

- A3. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of the inconsistency. However, conditions of this consent prevail to the extent of any inconsistency. Where there is an inconsistency between approved elevations and plans, the elevations prevail.

#### Staged Stratum Subdivision

- A4. The Project may be subdivided in stages, generally as follows:
- a) **Stage 1:** Stratum subdivision of Lot 214 into seven lots. The seven stratum lots comprise:
    - i. Lot 301 – Building R1;
    - ii. Lot 302 – Building R7;
    - iii. Lot 303 – Building C2 - Retail;
    - iv. Lot 304 – Building C2 - Commercial;

- v. Lot 305 – for the future Metro allotment Lot - A;
- vi. Lot 306 – for the future Metro allotment Lot - B; and
- vii. Lot 300 – residue allotment

**Note:** *future stages of subdivision to create additional lots are to be subject to a separate approval, as relevant.*

The applicant may carry out the staged stratum subdivision of the buildings/structures within Lot 214 identified above by preparing and lodging for registration a stratum plan which includes any, all or part of the buildings/structures identified above within Lot 214.

### **Staging Variations**

- A5. The scope, order and extent of works within each stage detailed in Condition A4 above may be varied due to market conditions, servicing constraints and the requirements of the conditions of approval.

The progressive release of lots within each stage may occur subject to separate Subdivision Certificates.

### **Development Expenses**

- A6. It is the responsibility of the Applicant to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this consent.

### **Limitation of Consent**

- A7. This consent does not authorise the carrying out of any construction works.

### **Prescribed Conditions**

- A8. The Applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulation.

### **Legal Notices**

- A9. Any advice or notice to the consent authority shall be served on the Secretary.

**END OF SECTION A**

## **B PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE/S**

### **Requirements of EP&A Act 1979 – Application for a Part 4A Certificate**

- B1. In undertaking the subdivision approved under the consent, the Applicant must comply with the requirements of Part 4A the *Environmental Planning and Assessment Act 1979* in relation to the issue of a Subdivision Certificate.

For the purposes of this approval, the issue of a Subdivision Certificate/s is restricted to the subdivision defined by Condition A1.

### **Subdivision Certificate**

- B2. Before granting any Subdivision Certificate for a stratum subdivision, the Certifying Authority must be satisfied that the applicant has complied with all conditions of this consent that are required to be complied with before a subdivision certificate may be issued in relation to the plan of subdivision.

### **Statement of Compliance – Completion in Accordance with a Project Approval/Development Consent**

- B3. Prior to the issue of a Subdivision Certificate for a stratum subdivision, a Statement of Compliance shall be provided to the Certifying Authority demonstrating that the proposed subdivision is consistent with relevant conditions of any relevant planning approval/development consent (to the extent that they are relevant and required for that stage) issued in respect to the building (or part of the building) proposed to be subdivided. This includes, but is not limited to, any conditions relating to the allocation of the following to the respective lot/s:
- a) The number of bicycle spaces;
  - b) The number of car parking spaces;
  - c) The number of motor bike spaces;
  - d) The number of loading spaces; and
  - e) Any services or infrastructure.

The above car parking and motorcycle spaces are to be shown as part of the relevant stratum lot.

The bicycle spaces, loading spaces, services and infrastructure can be on separate lots only if they are part of a shared basement and managed under the Building Management Statement required by Condition B12.

### **Easement Plan/s**

- B4. Prior to, or upon, the issue of the first Subdivision Certificate for the subdivision of Lot 214, the proponent is to provide the Certifying Authority with an easement plan/s for authority services and infrastructure in accordance with Condition B6 and Condition B7. Alternatively, the Certifying Authority must be satisfied that appropriate agreements or bonds are in place to provide for future easements.

If it is proposed to create easements, rights of way, restrictions or covenants, an 88B Instrument must be provided.

### **Access Easement – Ground Level**

- B5. Prior to, or upon, the registration of the first stratum plan, appropriate ground level access easement/s are to be created to provide access to each building from the public domain for respective building owner/s, tenant/s and visitors, as relevant to the stratum lot/s, to the satisfaction of the certifying authority. Each easement is to

address construction staging, including any restrictions to access as a result of the construction activities including erecting hoardings.

- B6. Suitable easements for access or rights-of-way benefiting the public are to be created over the public domain areas of the residual lot at each stage in the stratum subdivision, to ensure public access to the site. The rights of public access are to be triggered by the issue of any occupation certificate for public domain works (temporary or permanent) within Barangaroo South.

### **Transport for NSW Requirements**

- B7. A qualified surveyor is to provide drawings and CAD files (if necessary) to confirm that the lot boundaries are consistent with the agreed zones and technical requirements of the future CBD Metro (including horizontal levels) to the satisfaction and approval of TfNSW. All measurements are to be verified by a Registered Surveyor.
- B8. The Applicant must prepare an instrument, in registrable form, to grant restrictions on use or easements in favour of TfNSW in respect of the land as follows:
- a) an easement permitting noise, vibration and electrolysis emitted from the Metro into the land;
  - b) a covenant ensuring that TfNSW is notified of, and consulted in relation to, applications or approval to carry out development on the land that may interfere with the design, construction or operation of the Metro; and
  - c) a covenant ensuring that TfNSW must consent to the construction or placement of any temporary or permanent structure, excavation, encroachment or alterations or additions to structures on the land that may affect or interfere with the design, construction and operation of the Metro.

This instrument must be prepared to the satisfaction and approval of TfNSW and is to be prepared at the cost of the Applicant. This instrument must be registered on the title for the land before the plan of stratum subdivision is lodged with the LPI for registration.

### **Compliance Certificate**

- B9. Prior to issue of any Subdivision Certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water and shall be provided to the Certifying Authority demonstrating that the development has satisfied the detailed requirements of Sydney Water in respect to water and wastewater.
- B10. Prior to the issue of each Subdivision Certificate (as relevant), a Compliance Certificate is to be issued certifying that a registered surveyor has confirmed that the parcel boundary of the stratum plan corresponds with floors, external walls and ceilings of the relevant building/structures as constructed or alternatively, has the benefit of an appropriate easement or is the subject of appropriate provisions in the Building Management Statement, required by Condition B12, to enable the registration of the plan.

### **Building Management Statement**

- B11. Prior to the first Subdivision Certificate for the stratum subdivision of the development, a **Building Management Statement** must be prepared in the approved form prescribed by Schedule 8A of *the Conveyancing Act 1919*. The Building Management Statement is to apply to the development as a 'united building'. The Building Management Statement must be submitted to the satisfaction of the Certifying Authority and is to include details in relation to the following matters:
- a) the use, operation and arrangements for the supply of services, maintenance and upgrading of infrastructure of each stratum lot within the subdivision;

- b) the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the subdivision; and
- c) any other matters which the Certifying Authority considers relevant and pertinent to the issue of the Subdivision Certificate.

B12. Prior to the issue of any subsequent Subdivision Certificate for the stratum subdivision of the development, a modified Building Management Statement for the development as an 'united building' OR a new Building Management Statement must be prepared in the approved form prescribed by Schedule 8A of *the Conveyancing Act 1919*. The Building Management Statement must be submitted to the satisfaction of the Certifying Authority and is to include relevant details in relation to those matters listed at **Condition B11** above.

#### **Ausgrid Electrical Infrastructure**

B13. The applicant shall liaise with Ausgrid in order to finalise any easements, leases and /or rights of way in favour of Ausgrid.

**END OF SECTION B**

## **ADVISORY NOTES**

Nil

**END OF ADVISORY NOTES**