
ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF MAJOR PROJECT NO. 05_0067

(FILE NO. 9040762)

BALLAST POINT PARK

I, the Minister for Planning, having considered the following, pursuant to Part 3A of the *Environmental Planning & Assessment Act, 1979*, Section 75J Clause (2) determine the major project proposal referred to in the attached Director-General's Environmental Assessment Report, by **granting consent** to the major project referred to in the attached Schedule 1 subject to the conditions of approval in the attached Schedule 2.

This consent applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment and identified in the attached Schedule 2, and the Proponent's Statement of Commitments in the Environmental Assessment Report, subject to the conditions of approval in the attached Schedule 2.

Frank Sartor MP
Minister for Planning

Sydney,

2006

SCHEDULE 1

PART A—TABLE

Application made by:	Sydney Harbour Foreshore Authority
Application made to:	Minister for Planning
Major Project Application:	MP 05_0067
On land comprising:	Ballast Point Park, Ronald Street, Birchgrove Lot 1, 2, 3 and 4 DP 115939, Lot 7 DP 132691, Lot 11 DP 792332, Lot 413 DP 752049, Lot 634 DP 752049 and Lot 1 and 2 DP 82593.
Local Government Area	Leichhardt
For the carrying out of:	Construction of a public park at Ronald Street and Wharf Road, Ballast Point, Birchgrove as described in Schedule 2
Estimated Cost of Works	\$11 000 000
Type of development:	Major Project
S.119 Public inquiry held:	No

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 05_0067

Responsibility for other approvals / 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 Regulations, 2000* (as amended).

Appeals—Third Party

A third party right to appeal to this development consent in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

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 consent.

Proponent means Sydney Harbour Foreshore Authority or any party acting upon this consent.

Council means Leichhardt Council.

Department means the Department of Planning or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department or the nominees of the Director.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by BBC Consulting Planners and dated March 2006.

Minister means the Minister for Planning.

MP No. 05_0067 means the Major Project described in the Proponent's Environmental Assessment Report.

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

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

Works Manager means a suitably qualified person engaged by the Crown to fulfil the requirements of Section 116G (2) of the *Environmental Planning and Assessment Act 1979*.

SCHEDULE 2**RECOMMENDED CONDITIONS OF APPROVAL****MAJOR PROJECT NO. 05_0067****PART A—ADMINISTRATIVE CONDITIONS****A1 *Development Description***

Development consent is granted only to carrying out the development described in detail below:

- The development and use of the land as public open space, including a casual viewing amphitheatre, children's playground and a foreshore walking and cycle path;
- Landscaping including new plantings of predominantly native trees, shrubs and grasses, site interpretive elements and public art;
- The repair and location of retaining walls, locations of stairs, bridges and ramps throughout the park, and the location of shade structures, public amenities and maintenance/store room;
- Locations for furniture and facilities including seating, benches and barbeques;
- Provision of space for a small mobile food and beverage kiosk;
- Provision of an 18 space, on-grade public car park on Wharf Road; and
- Repairs to seawalls along the northern foreshore of the site.

Development must be carried out consistent with the procedures, safeguards and mitigation measures identified in the Statement Commitments (attached Appendix B) as amended by the conditions of approval.

These conditions of approval do not relieve the Proponent of its obligations under any other Act.

A2 *Development in Accordance with Environmental Assessment and Statement of Commitments*

The development will be undertaken in accordance with the Environmental Assessment dated 13 March 2006 prepared by BBC Consulting Planners (including all accompanying Appendices), and the Statement of Commitments submitted on 30 May 2006 which references the following drawings:

Architectural (or Design) Drawings prepared by <i>Context</i> and <i>Anton James Design</i> at Appendix 2			
Drawing No.	Revision	Name of Plan	Date
L02	B	Ballast Point Park Concept Plan	Nov 2005
L03	B	Ballast Point Park Finishes Plan	Nov 2005

except for:

- (1) any modifications which are 'Exempt Development' as identified in *State Environmental Planning Policy No.60 Exempt and Complying Development* or *Leichhardt Development Control Plan Number 35 Exempt and Complying Development* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;

- (2) otherwise provided by the conditions of this consent.

A3 *Inconsistency between documents*

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

A4 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B—PRIOR TO COMMENCEMENT OF WORKS

Design Details and Changes

B1 Materials and Finishes

Details of the proposed materials and finishes, including schedules and a sample board of materials and colours, shall be submitted to and approved by the Director prior to the commencement of above ground works.

B2 Outdoor Lighting

Any outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*.

B3 Disabled Access

Facilities and access for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy and the provisions of the *Disability Discrimination Act 1992* (Cth).

Remediation / Demolition / Earthworks

B4 Pre-Construction Dilapidation Reports

The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads.

A copy of the report is to be forwarded to the Director and Council.

Traffic & Parking

B5 Number of Bicycle Spaces

Bicycle spaces are to be provided for the development. The number and location of bicycle spaces or facilities is to be determined in consultation with Council.

Waste Management

B6 Stormwater and Drainage Works Design

If alterations to existing stormwater outlets are required, detailed designs of the alterations must be developed in consultation with NSW Maritime and shall be submitted to and approved by the Works Manager prior to the commencement of these works.

Excavation Works

B7 Notice to be Given Prior to Excavation

The Works Manager and Council shall be given written notice, at least 48 hours prior to the commencement of any excavation, shoring or underpinning works on the site.

Construction Management

B8 Construction Management Plan

Prior to the commencement of any works on the site, the details of the Construction Environmental Management Plan shall be finalised in accordance with Proponent's Statement of Commitments (Appendix B) and submitted to and approved by the Works Manager. The Plan shall address, but not be limited to, the following matters identified in the Proponent's Statement of Commitments and:

- (1) hours of work,
- (2) contact details of site manager,

The Applicant shall submit a copy of the approved plan to the Department and Council.

B9 Traffic & Pedestrian Management Plan

Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan (as part of the final Construction Environmental Management Plan) prepared by a suitably qualified person shall be submitted to and approved by the Works Manager. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes, and
- (4) pedestrian and traffic management methods,

The Applicant shall submit a copy of the approved plan as a part of the final Construction Environmental Management Plan to the Department and Council.

B10 Noise and Vibration Management Plan

Prior to the commencement of any works on the site, a Noise and Vibration Management Plan (as part of the final Construction Environmental Management Plan) prepared by a suitably qualified person shall be submitted to and approved by the Works Manager. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
 - (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
 - (3) The construction noise objective specified in the conditions of this consent,
 - (4) The construction vibration criteria specified in the conditions of this consent,
 - (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
 - (6) Noise and vibration monitoring, reporting and response procedures,
 - (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
 - (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
 - (9) Justification of any proposed activities outside the construction hours specified in the conditions of this consent.
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- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration, and
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints.

The Applicant shall submit a copy of the approved plan as a part of the final Construction Environmental Management Plan to the Department and Council.

B11 Construction Waste Management Plan

Prior to the commencement of works, the Applicant shall submit to the satisfaction of the Works Manager a Waste Management Plan (as part of the final Construction Environmental Management Plan) prepared by a suitably qualified person in accordance with Leichhardt Council's Development Control Plan No. 38. The Applicant shall submit a copy of the approved plan as a part of the final Construction Environmental Management Plan to the Department and Council.

B12 Contact Telephone Number

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

Compliance

B13 Compliance Report

Prior to the commencement of works, the Proponent, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent

PART C—DURING CONSTRUCTION

Site Maintenance

C1 Disposal of Seepage and Stormwater

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

C2 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

C3 Protection of Trees – On-site Trees

All trees on the site that are not approved for removal in the Proponent's final landscaping plan and schedule are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

C4 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted if required:

- (1) If required, physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Any earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

C5 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
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- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
- (6) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

C6 Construction Noise Objective

The construction noise objective for the Project is to manage noise from construction activities (as measured by a $L_{A10 (15\text{minute})}$ descriptor) so it does not exceed the background L_{A90} noise level by:

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 5th week to the 26th week (inclusive) of the construction period, not more than 10dB(A); and
- (3) For construction periods greater than 26 weeks, not more than 5dB(A).

Background noise levels are those identified in the Proponent's Environmental Assessment (Appendix E) or otherwise identified in the approved Construction Environmental Management Plan. The Applicant shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Environmental Management Plan.

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

C7 Construction Noise Management

The Applicant shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Environmental Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Environmental Management Plan.

C8 Vibration Management

Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the Construction Environmental Management Plan.

Heritage***C9 Heritage Superintendent***

Works on heritage components of the site shall be superintended by a consultant(s) experienced in the conservation of similar heritage structures.

C10 Use of Experienced Tradesmen

Works on heritage components of the site shall be carried out by suitably qualified tradesmen with practical experience in the conservation and restoration of similar heritage structures.

Ecologically Sustainable Development***C11 Recycling of Concrete***

Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the Works Manager.

Compliance***C12 Compliance Report***

The Proponent, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

PART D—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE***Engineering******D1 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 be met in full by the Proponent prior to the occupation or use of the works.

Management and Maintenance***D2 Plan of Management***

In accordance with the Proponent's Statement of Commitments (Appendix B) a plan of Management and Maintenance shall be prepared prior to occupation or the commencement of use. In accordance with the Proponent's Response to Submissions (Appendix D) the Management and Maintenance Plan shall be submitted to NSW Maritime upon finalisation. The implementation of the management and maintenance plan shall be the responsibility of the Proponent until ownership and responsibility for the park has been formally transferred.

PART E—POST OCCUPATION

Noise

E1 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

Public Access

E2 Public Way to be Unobstructed

Any public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

Traffic and Parking

E3 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Compliance

E4 Compliance Report

The Applicant, or any party acting upon this consent, shall submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

ADVISORY NOTES

AN1 Further Consultation with Leichhardt Council

In accordance with the Proponent's Statement of Commitments (Appendix B) the proponent is advised to continue to liaise with Leichhardt Council regarding the resolution of issues related to the proposal; including the provision of additional car parking and turning circle in Yeend Street and the provision of access to the site for recreational boat users.

AN2 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Works Manager prior to the commencement of works.

AN3 Application for Hoardings and Scaffolding

A separate application may be required to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place.

AN4 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 following matters shall be complied:

- (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 the relevant road authority:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of road authority 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 the road authority, will create significant traffic disruptions.

AN5 Movement of Trucks Transporting Waste Material

The Proponent shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN6 Stormwater drainage works or effluent systems

Certification for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act.

Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN7 Temporary Structures

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.

AN8 Place of Public Entertainment

This consent does not include approval for a place of public entertainment. Separate approval from the Council under Section 68 of the Local Government Act 1993 must be obtained for a "Place of Public Entertainment Licence" prior to the use of the premises as a public place of entertainment. The Proponent shall provide evidence of receipt of the approval to the satisfaction of the Works Manager prior to the commencement of the use should the Proponent wish to utilise the site in this way.

AN9 Disability Discrimination Act

This major project has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies 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 which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

AN10 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This major project has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.
