

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

APPROVAL OF MAJOR PROJECT NO. 08_0057

(FILE NO. S0800651)

**DARLING WALK EXCAVATION AND CONSTRUCTION OF BUILDING INCLUDING
BASEMENT CARPARK, DARLING HARBOUR**

I, the Minister for Planning, under section 75J of the *Environmental Planning & Assessment Act, 1979*, approve the project referred to in Schedule 1 subject to the conditions in Schedule 2 and proponent's Statement of Commitments in Schedule 3.

The Hon Kristina Keneally MP
Minister for Planning

Sydney,

2008

SCHEDULE 1

MAJOR PROJECT NO. 08_0057

PART A—TABLE

Application made by:	Sydney Harbour Foreshore Authority
Application made to:	Minister for Planning
Major Project Application:	MP 08_0057
On land comprising:	38 Lots within Darling Harbour including the site known as Darling Walk and Tumbalong Park Lot 371 of DP1033766, Lots 318 & 319 DP 871455, Lot 314 DP 869004, Lots 52 & 53 DP 1009561, Lot 403 DP 862501, Lots 305 & 306 DP 787105, Lots 7, 8, 9, 10, Part Lots 11, 12, 14 & 15, Lots 13, 17, 18, 19, 20, 21, 22, 23, 24, 26, 29, 30, 32, 37, 38, 40, 41, 42, 43, 46, 48 in DP 1048307
Local Government Area	City of Sydney
For the carrying out of:	Bulk excavation, Basement structure and Construction of Buildings at Darling Walk, Darling Harbour
Estimated Cost of Works	\$259,233,681
Type of development:	Major Project
S.119 Public inquiry held:	No
Determination made on:	
Date approval is liable to lapse:	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the Act.

PART B—NOTES RELATING TO THE DETERMINATION OF MP No. 08_0057

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Legal notices

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

Inconsistencies between documents

In the event of any inconsistency between the conditions to this major project approval and the approved plans and documentation described in Schedule 2 and the Statement of Commitments in Schedule 3, the conditions to this major project approval prevail.

PART C—DEFINITIONS

In this approval:

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.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means City of Sydney Council.

Department means the Department of Planning or its successors.

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

Environmental Assessment means the Environmental Assessment dated September 2008 prepared by JBA Urban Planning Consultants including all Appendices, the Preferred Project Report dated November 2008 including all Appendices.

GFA means gross floor area.

Minister means the Minister for Planning.

MP No. 08_0057 means the Major Project described in the Proponent's Environmental Assessment Report.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Preferred Project means the Preferred Project report and appendices prepared by JBA Urban Planning Consultants Pty Ltd on behalf of Lend Lease Development and dated November 2008.

Proponent means Lend Lease Development or any party acting upon this approval.

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

RTA means the Roads and Traffic Authority, NSW.

SHFA means the *Sydney Harbour Foreshore Authority*.

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

SCHEDULE 2

CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 08_0057

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

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

- (1) Bulk excavation, basement structure and construction of 2 x 9 storey buildings comprising including:
 - (a) 67,827m² GFA including:
 - (i) approximately 64,235m² GFA of commercial floorspace
 - (ii) approximately 2,592m² GFA of retail floorspace
 - (iii) approximately 1,000 m² GFA for a children's theatre
 - (b) 200 car parking spaces to serve the commercial buildings
 - (c) 600 space public car parking facility
 - (d) Access and egress arrangements
- (2) Development must be carried out consistently with the Statement of Commitments (attached Schedule 3) except as amended by the conditions of approval.
- (3) The fitouts of the retail tenancies, commercial floorspace and children's theatre, including hours of operation, do not form part of this approval and shall be subject to separate applications to be lodged with the appropriate consent authority.
- (4) The works to the upgraded pedestrian bridge do not form part of this approval and will be subject to separate application(s) to be lodged with the appropriate consent authority.
- (5) Building identification signage does not form part of this approval. Any signage for the building will be subject to separate development applications.

A2 *Development in accordance with plans*

The development will be undertaken in accordance with the Environmental Assessment dated September 2008 prepared by JBA Urban Planning Consultants including all Appendices, the Preferred Project Report dated November 2008 including all Appendices and the following drawings prepared by FJMT Architecture:

Architectural (or Design) Drawings prepared by FJMT Architecture			
Drawing No.	Revision	Name of Plan	Date
AD000000	11	Site Plan – Site Plan	24/11/2008
AD0B4001	05	Level B4 – Reference Plan	24/11/2008

AD0B3001	05	Level B3 – Reference Plan	24/11/2008
AD0B2001	05	Level B2 – Reference Plan	24/11/2008
AD0B1001	05	Level B1 – Reference Plan	24/11/2008
AD000001	14	Level 00 – Reference Plan	24/11/2008
AD001001	17	Level 01 – Reference Plan	24/11/2008
AD002001	17	Level 02 – Reference Plan	24/11/2008
AD003001	17	Level 03 – Reference Plan	24/11/2008
AD004001	17	Level 04 – Reference Plan	24/11/2008
AD005001	17	Level 05 – Reference Plan	24/11/2008
AD006001	17	Level 06 – Reference Plan	24/11/2008
AD007001	17	Level 07 – Reference Plan	24/11/2008
AD008001	17	Level 08 – Reference Plan	24/11/2008
AD009001	17	Plant – Reference Plan	24/11/2008
AD010001	12	Roof – Reference Plan	24/11/2008
AD051001	14	Overall Elevations – Sheet 1	24/11/2008
AD051002	14	Overall Elevations – Sheet 2	24/11/2008
AD052001	13	Overall Sections – Sheet 1	24/11/2008

A3 *Development in Accordance with Documents*

The development will be undertaken in accordance with the Environmental Assessment dated September 2008 prepared by JBA Urban Planning Consultants including all Appendices, the Preferred Project Report dated November 2008, including all appendices inclusive of the following documents and their recommendations:

- (1) ARUP- Bovis Lend Lease, ESD Report for EA Submission, Issue 4 13 June 2008 (Appendix F of the EA)
- (2) Bovis Lend Lease, Darling Walk Darling Harbour, Sydney - Minimum Building Standard, EA Version, Issue A, 05 May 2008 (Appendix G of the EA)
- (3) Bovis Lend Lease, Darling Walk - Construction Management Plan Revision C 4/09/2008 (Appendix H of the EA)
- (4) Windtech Consultants – Wind Environment Statement for the proposed development known as Darling Walk, Darling Harbour – April 2, 2008 (Appendix K of the EA)
- (5) ARUP – Darling Walk Preliminary Geotechnical Appraisal – 4 April 2008 (Appendix L of the EA)
- (6) ENSR Australia - Darling Walk Stage 2 Detailed Site Investigation – 28 April 2008 (Appendix M of the EA)
- (7) ARUP – Bovis Lend Lease, Darling Walk Dewatering Management Plan – Document ref REP-GEO-001 Issue for Planning approval - 21 April 2008 (Appendix N of the EA)
- (8) ENSR Australia – Acid Sulfate Soils Management Plan – Darling Walk Redevelopment, Darling Harbour, NSW – Final – 8 July 2008 (Appendix O of the EA)

- (9) Robert Bird Group – Services Infrastructure Report - Darling Walk Redevelopment, Darling Harbour, Sydney – 17 June 2008 (Appendix P of the EA)
- (10) Worley Parsons resources and energy – Darling Walk Flood Study Update 18 June 2008 (Appendix Q of the EA)
- (11) Tanner Architects – Darling Walk – Heritage Impact Statement 11 July 2008 (Appendix R of the EA)
- (12) Casey & LOWE Pty Ltd – FINAL – Non Indigenous Archaeological Assessment Darling Walk, Darling Harbour – June 2008 (Appendix S of the EA)
- (13) Comber Consultants Pty Ltd – Final – Aboriginal Archaeological & Cultural Heritage Assessment - August 2008 (Appendix T of the EA)
- (14) Morris-Gooding Accessibility Consulting – Darling Walk – Access Review – FINAL v3 – 16 June 2008 (Appendix U of the EA)
- (15) ARUP- Bovis Lend Lease, Darling Walk, Reflectivity Study – Issue 1 – 15 April 2008 (Appendix V of the EA)
- (16) Philip Chun and Associates – Proposed commercial building Darling Walk Harbour Street, Sydney – Pre DA BCA Review – Revision 01 04/04/08 (Appendix W of the EA)
- (17) Sydney Water – Feasibility Letter – Case Number 111060 dated 7 April 2008
- (18) Delfire – Review of potential alternative solutions – Darling Walk, Sydney – Revision DA1.2 – June 2008 (Appendix W of the EA)
- (19) ARUP – Bovis Lend Lease, Darling Walk Redevelopment – Structural Design Report – 16 June 2008 (Appendix X of the EA)
- (20) Urban Tree Management – Report: Arboricultural Assessment – Darling Walk Darling Harbour (Appendix Z of the EA)
- (21) Holmes Air Sciences – Air Quality Assessment, Proposed Darling Walk Development – August 2008 (Appendix AA of the EA)
- (22) Bovis Lend Lease – Security Impact of Proposed Development on the Western Distributor (Appendix BB of the EA)
- (23) Bovis Lend Lease – Stormwater Division and Hoardings Plan Stage 01- DC000-01 – 03/07/2008 (Appendix CC of the EA)

A4 Inconsistency between documents

In the event of any inconsistency between conditions of this approval and the drawings/ documents referred to above, including the Proponent's Statement of Commitments, the conditions of this approval prevail.

A5 Lapsing of Approval

In order that the development as approved is carried out within a defined period of time, the approval shall lapse 5 years after the determination date in Part A of Schedule 1 of this approval

A6 Prescribed Conditions

The Proponent shall comply with the prescribed conditions of approval under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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 from 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 suitably 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 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.
- (d) The layout of the proposed car parking areas (including driveways, grades, turn paths, 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.
- (e) Provide dynamic signposting at the car park entrance and on each parking level advising of the number of available spaces.
- (f) Details and locations of suitable bicycle storage facilities, including showers and change rooms.

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.

B3 *Structural Details*

Prior to the issue of a Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that complies with:

1. the relevant clauses of the BCA
2. drawings and specifications comprising the Construction Certificate, and
3. the relevant Australian standards listed in the BCA (Specification A1.3)

B4 *Construction and Traffic Management Plan*

Prior to the issue of a Construction Certificate a Construction and Traffic Management Plan shall be finalised and submitted to the Certifying Authority.

B5 Construction Waste Management Plan

Prior to the issue of a Construction Certificate, a Waste Management Plan shall be prepared by a suitably qualified person and submitted to the Certifying Authority.

B6 Noise And Vibration Management Plan

A Noise and Vibration Management Plan is to be prepared detailing

- (1) specific activities to be carried out on the site and associated noise sources
 - (2) identification of potentially affected sensitive receivers
 - (3) construction noise and vibration criteria specified in the conditions of this approval
 - (4) noise and vibration monitoring, reporting and response procedures
 - (5) mitigation treatments, management methods and procedures to be implemented during construction to control noise and vibration
 - (6) contingency plans to be implemented where non-compliances or noise complaints.
- The Noise and Vibration Management Plan is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

B7 Environment Protection – Water And Sediment Control

A Water and Sediment Control Plan shall be prepared, consistent with the principles and practices set out in *Managing Urban Stormwater—Soils & Construction Volume 1* (2004) by Landcom and must include:

- (1) The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed pollution control device;
- (2) The procedures to be adopted for the prevention of run-off from the site onto the public way; and
- (3) The procedures to be adopted for the prevention of loose material and litter from being blown onto the public way.

During the works:

- (4) Erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;
- (5) Erosion and sediment control signage available from the relevant Authority must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of demolition; and
- (6) Demolition operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

The Water and Sediment Control Plan is to be submitted to the Certifying Authority prior to the issue of the first Construction Certificate.

B8 Protection Of Trees During Construction

All trees to be retained on and adjacent to the site must be protected at all times during excavation and construction. Details of the methods of protection must be submitted to and approved by the Certifying Authority prior to the issue of the first Construction Certificate. All

approved protection measures must be maintained for the duration of works and any tree on the footpath which is damaged or removed during excavation or construction must be replaced.

B9 Mechanical Ventilation

All mechanical ventilation systems shall be designed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems* of Building, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

B10 Drainage

Should the drainage from the eastern side of the new building connect into a Council owned drainage pipe or gully pit, the proponent may be required to enter into a Deed of Agreement with the Council.

In the event that stormwater connects to the kerb details certified by a hydraulic engineer demonstrating that the design complies with AS/NZS 3500.3.2 and Council's requirements must be submitted to the Certifying Authority prior to the issue of the Construction Certificate for basement or building works.

B11 Reflectivity

The light reflectivity from any building materials used on the facades of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B12 Flood study

The recommendations outlined in the detailed Darling Walk Flood Study prepared by Worley Parsons resources and energy and dated 18 June 2008 are to be implemented into the plans and documents and submitted to the Certifying Authority prior to issue of a Construction Certificate for building works.

B13 Compliance with BCA

Evidence demonstrating that the proposal complies with the BCA is to be provided to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B14 Excavation/Site Rectification

The following conditions apply to the development:

- a) Prior to the Construction Certificate being issued, documentary evidence must be provided to the Department that the owner of the site has entered into a Deed with the Department, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the proponent, which contains such conditions as the Department reasonably requires to ensure the matters set out in this condition are adequately provided for.

b) Without limiting the generality of paragraph (b), the Deed must provide for:

- i) a bank guarantee to be provided in the sum of \$500,000.00 dollars as security for the costs of such works.
- ii) The Department to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a) demolition of the existing building has commenced but not been completed;
 - b) the existing building has been demolished; or
 - c) the site has been excavated; or
 - d) the structure has commenced to be erected;

that it, or any person authorised by it, may enter the site and carry out such works at the cost of the proponent (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:

- a) make the building safe and attractive at ground level;
- b) allow the ground level to be landscaped and made attractive from any public vantage point; or
- c) for the hole to be covered to allow it to be landscaped and made attractive from any public vantage point; or
- d) in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenable stage;

AND to call on such bank guarantee to cover the cost thereof.

- c) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in an unattractive building site appearance, then the Department will have the readily enforceable rights to:
 - i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (ii)e - h to take place on the site; and
 - ii) in the event of default, must have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.

PART C— PRIOR TO COMMENCEMENT OF WORKS

C1 *Vehicle Cleansing*

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

C2 *Utility Services*

To ensure that utility authorities are advised of the development:

- (1) A survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.

- (2) Prior to the commencement of work the Proponent is to negotiate with the utility authorities (eg. Energy Australia, Sydney Water and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

C3 *Outdoor Lighting*

All 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. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the PCA prior to the commencement of construction.

C4 *Hoarding*

Any B-Class hoarding erected around the site is to contain graphics (not 3rd party advertising) which activates the public domain and may include some images of the new building.

C5 *Contact Telephone Number*

The Proponent shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

PART D – DURING CONSTRUCTION

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 (eg loading and unloading of goods, transferring of tools etc) in connection with the approved development must only be carried out between the hours of:
 - e) 7.30am and 5.30pm on Mondays to Fridays, with safety inspections permitted from 7.00am,
 - f) 7.30am and 3.30pm on Saturdays, and
 - g) 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 *Protection of the Environment Operations Act 1997* must be satisfied at all times.
- (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 or his nominee.

D2 *Notification of Excavation Works*

The PCA and Council must be given a minimum of 48 hours notice that excavation, shoring or underpinning works are about to commence.

D3 *No obstruction of public way*

The public way (outside of the work area) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the relevant Authority to stop all work on site.

D4 *Covering of loads*

All vehicles involved in the excavation process and departing with spoil or loose matter, must have their loads fully covered before entering the public roadway.

D5 *Construction Traffic*

All excavation and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. No construction zone is permitted on Harbour Street.

D6 *Lighting Of Site Outside Of Approved Construction Hours*

Lighting of the site while any work is undertaken outside of the approved construction hours must ensure that at no time must the intensity, hours of illumination or location of the lighting cause objectionable glare or injury to the amenity of the neighbourhood. If injury is resulting from the illumination, the intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury to nearby residents.

D7 *Disposal of seepage and stormwater*

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

D8 *Stormwater pits*

Any existing stormwater pits that do not comply with AS 3500 will be upgraded as part of the development.

D9 *Erosion and sediment control*

All erosion and sediment control measures, as designed in accordance with Condition B7 – ENVIRONMENT PROTECTION – WATER AND SEDIMENT CONTROL, are to be effectively implemented and maintained at or above design capacity for the duration of the excavation works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D10 *Pedestrian Access During Construction*

Pedestrian access from the CBD to Darling Harbour is to be maintained throughout construction. Alternative routes, including those for persons with disabilities, shall be clearly identified and signposted for the duration of the works, and until such time as the permanent accessible paths are provided.

D11 *Directional Signage*

Directional signage shall be modified as required to accommodate the altered pedestrian and vehicular movements within the area. Particular attention is to be paid to:

- (1) wheelchair accessible paths of travel
- (2) safe road crossing areas including signalised and other designated crossings
- (3) key landmarks
- (4) access to transport nodes including public transport

D12 *Traffic*

- (1) All loading and unloading associated with works must occur on site;
- (2) All vehicles must enter and leave the site in a forward direction;
- (3) The cost of all traffic management works shall be borne by the Proponent;
- (4) No trucks associated with the approved works are permitted to park or stand on public roadways;
- (5) Gates shall be closed between vehicle movements; and
- (6) Movement of trucks to and from the site shall be staggered so as to limit access and egress during peak traffic periods.

A Road Occupancy Licence is to be obtained from the RTA for any works that may impact on traffic flows on Harbour Street during construction.

D13 *Approved plans to be on-site*

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, HDC or Council.

D14 *Site notice*

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Contractor and the PCA. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including demolition/noise complaint are to be displayed on the site notice; and

- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D15 *Reporting on National Environmental Protection Measure*

During bulk excavation works the proponent is to report regularly on the progress in meeting the goals of the National Environmental Protection Measure (NEPM) including:

- (1) results of any monitoring undertaken during bulk excavation
- (2) assessment of action taken to manage contaminants, including circumstances that led to any levels as indicated in the monitoring investigation being exceeded
- (3) results of assessment.

Details of reporting are to be provided to the PCA.

D16 *Validation of Site Remediation*

Prior to commencement of construction works associated with the approved basement structure 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.

D17 *Dirt and dust control measures*

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during excavation and minimise dust emission from the site. In particular, the following measures must be adopted to the satisfaction of the PCA.

- (1) 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) All materials shall be stored or stockpiled at the best locations;
- (3) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs;
- (4) All equipment wheels shall be washed before exiting the site using manual or automated sprayers or drive-through washing bays in order to prevent mud, dust or debris from being deposited on council roads;
- (5) All trucks leaving the site are to be appropriately covered to prevent the escape of dust or other material on to public roads;
- (6) The streets shall be kept free from detritus material during the course of work. The Proponent shall monitor the state of roadways leading to and from the site and take all necessary steps to clean up any adversely impacted road pavements;
- (7) Cleaning of footpaths and roadways shall be carried out regularly;
- (8) At no times should compressed air be used to blow dust from the site into the atmosphere; and
- (9) No burning of demolished material is permitted on the site.

D18 *Work on site to cease*

If any unidentified historical archaeological remains or deposits are exposed during the works excavation is to cease immediately in the affected areas and the archaeologist is to

undertake an evaluation of the potential extent and significance of such relics. The Heritage Council is to be notified in accordance with Section 146 of the NSW Heritage Act, 1977.

PART E – PRIOR TO OCCUPATION AND COMMENCEMENT OF USE

E1 Landscaping and Public Domain works

All landscaping and public domain works the subject of the Concept Plan Approval and surrounding the site are to be completed prior to occupation of any component of the building or car park.

E2 Accessibility to Pedestrian Corridor between buildings

Provide details of proposed accessibility, lighting and artwork to the pedestrian / view corridor in consultation with Council prior to the occupation of any component of the building or car park.

E3 Public Car Park

- (1) Provide details of the availability / decommissioning of other public car parking in Darling Harbour and evidence that Statement of Commitment Number 13 within Schedule 3 of the Concept Plan approval (MP 06_0054) has been implemented.
- (2) Prepare a Car Park Management Plan that includes details of the pricing strategy and other measures such as signage and conditions of use to be implemented to ensure that short-stay parking is encouraged and all day parking for city workers is discouraged.
- (3) Prepare a Green Commuter Strategy which includes initiatives to reduce private car use and encourages public transport use, cycling and car pooling.

The above are to be provided prior to occupation of the public car park.

E4 Bathurst Street Footbridge

Works to the Bathurst Street pedestrian bridge and integration into the development are to be completed prior to occupation of any component of the building or car park.

E5 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:

1. Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
2. A sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the premises. The source noise level must be assessed as a LAeq, 15 minute.
3. Notwithstanding compliance with (1) and (2) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.

Prior to issue of an Occupation Certificate for the building a report is to be prepared and submitted by a qualified acoustic engineer confirming that the development has been constructed in accordance with the Acoustic Assessment Reports (Acoustic Logic Consultancy, 9 April 2008 and 14 March 2008).

E6 *Fire Safety Certificate*

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of the Occupation Certificate for the building. A copy of the Fire Safety certificate must be submitted to the relevant authority and Council.

E7 *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 to be met in full by the Proponent/developer prior to the issue of the final Occupation Certificate for the building.

E8 *Waste Management*

Prior to each Occupation Certificate being issued, the Certifying Authority must ensure that waste handling works have been completed in accordance with the Waste Management Plan; other relevant approval conditions; and any relevant Council policy.

PART F – POST OCCUPATION & ON GOING OPERATIONAL CONDITIONS**F1 *Annual Fire Safety Certificate***

For any essential fire safety equipment, an Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the relevant authority initial Fire Safety Certificate is received.

F2 *Loading and Unloading*

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

F3 *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.

ADVISORY NOTES**AN1 *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 Proponent shall ensure the following matters are complied with:

- (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 Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council 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 Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN2 *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.

AN3 *Noise Generation*

Any noise generated during the construction of the development shall not exceed the limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act 1997, or exceed approved noise limits for the site.

AN4 *Disability Discrimination Act*

This application is to comply 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.

AN5 *Temporary Structures*

A Barricade/Hoarding Permit must be obtained prior to the commencement of construction works from the relevant Authority. The permit 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 also be submitted to the relevant Authority to certify the structural adequacy of the design of the temporary Barricades/Hoarding.

AN6 *Cost Of Signposting*

All cost of signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the Proponent.

AN7 *Sydney Water Infrastructure*

The proponent is to fund any required adjustments to Sydney Water Infrastructure and engages a water servicing coordinator to get a Section 73 certificate to manage the servicing aspects of the development

SCHEDULE 3

PROPONENT'S STATEMENT OF COMMITMENTS

Final Statement of Commitments

In accordance with Part 3A of the EP&A Act the following are the commitments made by Lend Lease Development (LLD) to manage and minimise potential impacts arising from the Darling Walk development.

Construction Management

LLD commits to implementing the following plans during the construction phase:

- Traffic and Pedestrian Management Plan
- Noise and Vibration Management Plan
- Waste Management Plan
- Stormwater, Erosion and Sediment Control Management Plan
- Flora and Fauna Management plan
- Dewatering Plan
- Air Pollution Management Plan
- Hazardous Materials Management Plan

Contamination

LLD commits to implementing the following during the construction phase:

- Remediation of the site where required, and implementation of a Remedial Action Plan. A separate development application for remediation will be lodged by LLD.
- Implementation of the Acid Sulphate Soils Management Plan.

Environmental Sustainability and Amenity

LLD commits to:

- Achieving a minimum 5 star Australia Building Greenhouse Rating (ABGR) for the building and a minimum 5 Green Star buildings Council of Australia – Office Design v2 rating.
- Implementing the ESD measures detailed in the ESD Report.
- Undertaking an external noise assessment at Construction Certificate stage, to ensure external noise emissions from the mechanical plant comply with the relevant standards.

Car Parking

LLD commits to:

- Preparing and implementing a Car Park Management Plan that specifies the charging rates, signage and conditions of use for the public car park. The Car Park Management Plan will be prepared prior to operation of the car park.
- Preparing a Green Commuter Strategy which will include initiatives to reduce private car use and encourage public transport use, cycling and car pooling. The Green Commuter Strategy will be prepared prior to building occupation.

- Providing bicycle parking for use by retail users and visitors to Darling Walk will be provided within the public domain area.

Utilities and Infrastructure

LLD commits to:

- Diverting or bridging over infrastructure and services to the satisfaction of relevant authorities, where required.
- Providing easements in favour of Sydney Water to allow access to infrastructure and services within the site.

Wind

- LLD commits to the provision of vegetation and/ or impermeable balustrades within the rooftop gardens. This will implemented prior to building occupation.

Archaeology

LLD commits to implementing the following during the construction phase:

- LLD commits to implementing the recommendations of the Casey & Lowe Non-Indigenous Archaeological Assessment.
- LLD commits to implementing program of aboriginal archaeological sub-surface testing as recommended by Comber Consulting.

Consultation

LLD commits to implementing the following during the construction phase:

- Establishing a Construction Liaison Committee with representation from neighbouring stakeholders to provide a forum for neighbours to discuss issues, project progress and special activities.
- Continued liaison with relevant authority (as described in Section 4) to obtain all necessary approvals.

Bathurst Street Pedestrian Bridge

LLD commits that augmentation of the Bathurst Street Bridge will include:

- A new canopy over the length of the bridge over Harbour Street that will:
 - Protect pedestrians from sun and rain.
 - Promote and facilitate safe and convenient connections between Day Street, Darling Walk and Tumbalong Park.
 - Promote safety by maintaining clear lines of sight along the length of the bridge and by incorporating lighting and architectural elements to provide an interesting pedestrian and visual experience.
 - Be a lightweight structure (subject to structural loads).
- The Public Domain Project Application will seek detailed approval for the Bathurst Street Bridge works.

BCA and Accessibility

- The proposed development will comply with all relevant BCA requirements and Australian Standards.
- LLD commits to implementing the recommendations of the Accessibility Report.