

Mr Sam Haddad  
Director General  
NSW Department of Planning and Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

24 February 2012  
08/14(7)

**Attention: Heather Wharton**

Dear Heather,

**Barangaroo Headland Park and Northern Cove - Main Works Project Approval 10\_0048 -  
Section 75W Application to Modify Approval**

This letter has been prepared on behalf of the Barangaroo Delivery Authority (the Authority) to request a Modification to the Barangaroo Headland Park and Northern Cove Main Works Project Application pursuant to Section 75W of the Environmental Planning and Assessment Act, 1979.

The Main Works Project Application (MP 10 0048) was approved by the Minister for Planning on 3 March 2011. The Authority has reviewed the Project Approval and has noted some administrative issues with the drafting of the conditions in the Terms of Approval. It is therefore seeking a modification under Section 75W to a number of the conditions, as set out below. The proposed modifications include administrative matters as well as changes in particular in relation to the Headland Park and Northern Cove Remediation Action Plan which was approved by the Minister for Planning on 19 January 2012.

It is requested that the Barangaroo Headland Park and Northern Cove Main Works Instrument of Approval (10-0048) be amended in respect of eleven (11) matters as outlined below:

1. Delete condition A3 to make clear that the contours of the Headland Park and Northern Cove are approved as part of the Main Work approval as sought in the Main Works application;
2. Remove condition of consent A5 to reflect recent approval of the RAP and HHERA by the Minister for Planning;
3. Amend condition A8 to make clear that a separate project application is required for the use of the floor area associated with the cultural facility but not the 300 space car park which was approved as part of the Main Works approval;

4. Amend Commitment 30 (contained in the Proponent's Statement of Commitments at Schedule 3 of the Instrument of Approval) to specifically require that the Plan of Management be prepared for the Headland Park to address the management regime for the approved car park;
5. Amend various conditions requiring the approval of Council to ensure consultation with Council and approval in specific instances;
6. Amend Condition B20 to require that the DECCW 'comment' on the required Construction Framework Environmental Management Plan (CFEMP) rather than 'endorse' the Plan consistent with DECCW's advice;
7. Amend Conditions: B21 Waste Management; B22 Noise and Vibration; and B23 Water to allow some minor works to be undertaken prior to the preparation of the required plans;
8. Amend the drafting of Condition B22(4) Noise and Vibration to make a minor correction;
9. Amend Condition B24(6) Air to correct cross referencing;
10. Amend Condition B31 Barricade Permit to require details of the barricade construction etc. to be submitted to the satisfaction of the 'relevant road authority' rather than the Council; and
11. Delete Condition B37(3)(b) which does not apply to the subject site.

The rationale for these amendments is outlined further below:

#### **1. CONDITION A3 – INCONSISTENCY BETWEEN DOCUMENTS**

Condition A3(b) of the Main Works Approval currently provides that:

*'No Approval is expressed or implied to the contours of the Headland Park and Northern Cove as depicted on the submitted plans detailed above in Condition A2 – Development in accordance with plans and documentation'.*

It is requested that Condition A3(b) of the Main Works Approval be deleted as follows:

~~*'No Approval is expressed or implied to the contours of the Headland Park and Northern Cove as depicted on the submitted plans detailed above in Condition A2 – Development in accordance with plans and documentation'.*~~

Condition A3(b) of the Main Works Approval is currently a condition of the Early Works Approval for the Headland Park. Condition A3(b) of the Main Works Approval is not appropriate and should be deleted on the basis that approval of those contours is inherent in the plans and documentation referred to in Condition A2 - Development in accordance with plans and documentation of the Main Works Approval.

## 2. CONDITION A5 - REMEDIATION ACTION PLAN (RAP) AND HUMAN HEALTH ECOLOGICAL RISK ASSESSMENT (HHERA)

Condition A5 relating to the RAP and HHERA for the Headland Park currently provides as follows:

### ***A5 REMEDIATION ACTION PLAN (RAP) AND HUMAN HEALTH ECOLOGICAL RISK ASSESSMENT (HHERA)***

*Prior to the commencement of any works under the RAP identified in the Preferred Project Report - Barangaroo Headland Park Main Works:*

- (a) the HHERA and RAP must be prepared in accordance with guidelines produced or approved under s105 of the Contaminated Land Management Act, 1997.*
- (b) the HHERA must be approved by DECCW, in accordance with guidelines produced or approved under s105 of the Contaminated Land Management Act, 1997.*
- (c) the RAP must be approved jointly by DECCW and a NSW EPA accredited Site Auditor, in accordance with guidelines produced or approved under s105 of the Contaminated Land Management Act, 1997.*
- (d) the RAP must be approved by the Minister for Planning as the approval authority.*

The RAP and HHERA for the site have now both been approved by all relevant parties listed in the condition, including the final approval authority, the Minister for Planning. It is therefore considered appropriate that the existing condition now be removed and replaced with the following:

### **A5 REMEDIATION ACTION PLAN (RAP) AND HUMAN HEALTH ECOLOGICAL RISK ASSESSMENT (HHERA)**

*All works within the site are to be undertaken in accordance with the approved RAP (Remedial Action Plan, Barangaroo Delivery Authority, Barangaroo Headland Park, Hickson Road, Sydney, NSW, JBS Environmental Pty Ltd, 8 November 2011, known as 'JBS41181-16382 Rev 3) and HHERA (Human Health Risk Assessment, Barangaroo Delivery Authority, Barangaroo Headland Park, Hickson Road, Sydney NSW, JBS Environmental Pty Ltd, 19 August 2011 known as 'JBS41181-16411 Rev 1).*

### 3. CONDITION A8 – SEPARATE PROJECT APPLICATIONS

Condition A8 of the Main Works Approval currently provides:

*‘Separate project applications are required for the use of the proposed 300 space car park and floor area associated with the Cultural Facility.’*

It is requested that Condition A8 of the Main Works Approval be amended as follows:

*‘A Separate project applications ~~are~~ **is** required for the use of the proposed ~~300 space car park~~ and floor area associated with the Cultural Facility.’*

It is proposed that the words be deleted on the basis that the Barangaroo Concept Plan Approval and the Main Works Approval were intended to provide for use and development of the 300 space car park. The Main Works Project Application specifically sought approval for the construction and use of the 300 space car park. All relevant matters were considered in the Environmental Assessment and plans showing the car park layout were provided. Accordingly, it is unclear what a further project application for the use of the car park would address.

### 4. COMMITMENT 30 - PLAN OF MANAGEMENT

Commitment 30 of the Statement of Commitments (Schedule 3 of the Instrument of Approval) currently provides:

<b>Plan of Management</b>	30. A plan of management will be prepared to guide the ongoing operations and management of the Headland Park. The plan of management will be prepared in consultation with the City of Sydney.	Prior to opening of the park to the public.
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In recent consultations with the City of Sydney, the Council requested that a commitment be made that a car park management regime statement be prepared prior to the commencement of operations of the car park within the Headland. The Barangaroo Delivery Authority considers that this statement would form an integral part of the Headland Park Plan of Management. Accordingly it is considered appropriate that the existing Commitment be amended to require that the Plan of Management address the ongoing management regime for the car park. Accordingly it is requested that the Commitment be amended as follows:

<b>Plan of Management</b>	30. A plan of management will be prepared to guide the ongoing operations and management of the Headland Park. <b>This plan is to include arrangements for the ongoing operation and management of the car park within the Headland.</b> The plan of management will be prepared in consultation with the City of Sydney.	Prior to opening of the park to the public.
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## 5. CONDITIONS REQUIRING COUNCIL APPROVALS

Conditions B8(a), B17, B19 and B37(1) currently require the approval of Council where the Council is not the consent authority. Given the unique character of the Headland Park it is considered that the application of a standard approach (and Council standards) is not suitable across the entire Barangaroo Headland Park site. However, it is agreed that consultation with Council, and approval in specific instances, is appropriate and valuable where proposed works have a direct interface with Council owned or controlled land. Accordingly it is now suggested that the wording of conditions B8(a), B17, B19 and B37(1) be amended to reflect this approach as follows:

**Condition B8(a)** - the reference to 'and approved by Council' in this Condition be amended as follows:

~~'and approved by Council'~~ ***and approved by the Certifying Authority or the Director General of the Department of Planning and Infrastructure (following consultation with Council)***

**Condition B17** - this Condition to be amended as follows:

*'made to, and approved by, Council **in consultation with the relevant Roads Authority** for construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.*

*All disused or redundant vehicle crossings and laybacks must be removed and footway and kerb reinstated in accordance with Council's standards to suit the adjacent finished footway and edge treatment materials, levels and details **as detailed in the Sydney Street Design Code 2010**. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of an Occupation Certificate, if required.....*

**Condition B19** – the reference to 'Council for approval' in this Condition be amended as follows:

~~'Council for approval'~~ ***the relevant Roads Authority for approval following consultation with Council where the proposal has a direct interface with Council owned or controlled land***

**Condition B19** – the reference to 'These alignment levels, as approved by Council, are then to be incorporated into the plans' in this Condition be amended as follows:

*'Prior to the commencement of work footpath alignment levels **along the perimeter of the Barangaroo site where it adjoins public land** must be submitted to Council for approval. The submission must be ~~accompanied by a plan~~ prepared by a Registered Surveyor and*

*must be in accordance with the City of Sydney's Public Domain Manual. ~~showing~~ The submission shall include the existing location, size and levels (AHD) of all service covers, trees, poles and street furniture, and alignment levels of cross sections, alignment levels at pedestrian entrances within the footway adjacent to and extending 20 metres past either side of the site. ~~, alignment levels of cross sections at pedestrian access points down to the water's edge, tidal ponds and man-made beach areas along the foreshore pathway~~*

*These alignment levels, as approved ~~by Council~~, are then to be incorporated into the plans.*

**Condition B37(1)** – Condition B37(1) be amended as follows:

*'The applicant shall provide a system of underground street and pedestrian lighting along all roads, footpaths and within the new park in accordance with ~~Council and~~ Energy Australia standards. Detailed plans and construction specifications for the works shall be prepared, submitted to ~~Council~~ **the relevant Roads Authority (following consultation with Council where there is a direct impact on Council owned or controlled land)** for approval and certified as complying with ~~Council's and~~ Energy Australia's specifications. **Compliance with Council's standards is also required where proposed works affect Council owned or controlled land.'***

## **6. CONDITION B20 CONSTRUCTION FRAMEWORK ENVIRONMENTAL MANAGEMENT PLAN**

Condition B20 of the Main Works Approval currently provides that:

*'Prior to commencement of the works, the Proponent shall prepare a Construction Framework Environmental Management Plan (CFEMP) to be submitted to DECCW for review and endorsement and to the Director General for approval.....'*

It is requested that Condition B20 be amended as follows:

*'Prior to commencement of the works, the Proponent shall prepare a Construction Framework Environmental Management Plan (CFEMP) to be submitted to DECCW for review and **comment** ~~endorsement~~ and to the Director General for approval.....'*

During the preparation and approval of the CFEMP for the Early Works Approval, DECCW indicated that it did not consider it appropriate to endorse the subject CFEMPs rather it considered that its role should be to review and provide comment with the final approval of the Plans to rest with the Director General. This is consistent with the procedure for other management plans required under the consent. Accordingly it is considered appropriate that the condition be amended to reflect this position.

## 7. CONDITIONS B21 - WASTE MANAGEMENT, B22 NOISE AND VIBRATION AND B23 WATER

Condition B21 of the Main Works Approval currently provides that:

***Prior to commencement of each stage of the works** [emphasis added], the Proponent must develop and submit to DECCW for review and comment a revised Waste Management Plan.....'*

It is requested that Condition B21 be amended as follows:

***Prior to commencement of each stage of the works (with the exception of site establishment works such as erection of site perimeter hoardings and signage, erection of site facilities including offices, ablutions, first aid, storage, installation of CCTV cameras and the like), the Proponent must develop and submit to DECCW for review and comment a revised Waste Management Plan.....'***

The insertion of site establishment works including examples as an exception to this condition will allow the commencement of early works which are not dependent on the submission of the required waste management plan. The change will clarify that certain minor works can be undertaken prior to submission of the required plan where the plan is not required to control these works. At present the condition has the effect that no works, at all, can be undertaken prior to the required Plan being developed.

Similar to Condition B21 above, Condition B22 of the Main Works Approval currently provides that:

*'The proponent must prepare and implement a detailed Construction Noise and Vibration Management Plan (CNVMP), to be approved by the Director General of the Department of Planning **before commencement of works** [emphasis added], that includes .....*

It is requested that Condition B22 similarly be amended as follows:

*'The proponent must prepare and implement a detailed Construction Noise and Vibration Management Plan (CNVMP), to be approved by the Director General of the Department of Planning before commencement of works (with the exception of site establishment works such as erection of site perimeter hoardings and signage, erection of site facilities including offices, ablutions, first aid, storage, installation of CCTV cameras and the like), that includes .....*

As above this will clarify that site establishment works are permitted to be undertaken prior to the preparation of the CNVMP.

Further, Condition B23 of the Main Works Approval currently provides that:

1. ***Prior to the commencement of works** [emphasis added], the proponent must develop and provide to the DECCW for comment, a comprehensive Stormwater and Water Management Plan.*

As above it is requested that Condition B23 be amended as follows:

1. *Prior to the commencement of works **(with the exception of site establishment works such as erection of site perimeter hoardings and signage, erection of site facilities including offices, ablutions, first aid, storage, installation of CCTV cameras and the like)**, the proponent must develop and provide to the DECCW for comment, a comprehensive Stormwater and Water Management Plan.*

## 8. CONDITION 22(4) NOISE AND VIBRATION

It is also requested that the 2<sup>nd</sup> paragraph of Condition B22(4) be deleted as set out below as it is not a condition, appears to be a note in drafting and is unnecessary.

4. *Vibration caused by Construction and received at any sensitive receiver outside the project must be assessed against the guidelines contained in the DECCW publication "Environmental Noise Management – Assessing Vibration: a technical guideline" and in accordance with the CNVMP.*

~~In addition to the conditions above, it is normal practice for DoP to impose "Construction Noise Management" conditions for example conditions 31-34 in the project approval for the City West Cable Tunnel ([http://www.planning.nsw.gov.au/asp/pdf/05\\_0178\\_dgreport.pdf](http://www.planning.nsw.gov.au/asp/pdf/05_0178_dgreport.pdf)). These conditions are also recommended for imposition in any project approval for the Barangaroo site).~~

## 9. CONDITION B24(6) AIR

Condition B24(6) currently contains the incorrect reference to an earlier condition and should therefore be amended as follows:

6. *The Air Quality Management Plan must not be approved until after the revised air quality impact assessment required in Condition ~~4.5~~ **B24(5)**(above) has been completed to the satisfaction of the Director General, in consultation with the Department of Environment, Climate Change and Water.*



## 10. CONDITION B31 BARRICADE PERMIT

It is also requested that Condition B31 be amended to refer to the relevant road authority rather than the Council as follows.

*‘Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the Roads Act 1993 for a Barricade Permit is to be obtained from the relevant roads authority prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of ~~Council~~ **the relevant roads authority**.’*

## 11. CONDITION B37 PAVING MATERIALS

Finally it is requested that Condition B37(3)(b) be deleted as follows:

~~‘Lighting in footpaths along Lachlan Street, Bourke Street, Sydney Gate and the new public roads to comply with AS1158.3.1 Category P2;’~~

as these requirements do not apply to the subject site and appear to have been incorrectly included from another approval.

Should you require any further information or have any queries about the matters outlined above, please do not hesitate to contact me on (02) 9719 3118.

Yours sincerely,



Helena Miller  
Director