

# Barangaroo

17 February 2015

Ms Carolyn McNally  
Secretary  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Attention: Sara Roach

Dear Ms McNally

## **BARANGAROO HEADLAND PARK AND NORTHERN COVE MAIN WORKS – PROPOSED MODIFICATION TO APPROVAL MP10\_0048**

I am writing to seek a modification to a Planning Approval in relation to the design of two sandstone pillars along the footpath of Merriman Street, Millers Point.

The Barangaroo Delivery Authority ("the Authority") is currently progressing the construction of the Barangaroo Headland Park and Northern Cove Main Works ("the Project").

A project design review identified that the existing approval documentation (architectural plans) as modified, do not accurately reflect the proposed position and details of two proposed sandstone pillars along the footpath of Merriman Street, Millers Point, at the entrance to the Headland Park. Accordingly, the current design is not considered to be fully consistent with the MP10\_0048 approval and the Authority is now seeking a modification to the approval under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to reflect the current design of the two sandstone pillars.

The Project was approved on 3 March 2011 under the provisions of the now repealed Part 3A of the EP&A Act. Despite its repeal, Part 3A continues to apply to the Project subject to the provisions of Schedule 6A of the EP&A Act, under which the Project is classified as a transitional Part 3A project. This includes provisions relating to the modification of a transitional Part 3A project approval under the now repealed section 75W of the EP&A Act. Details of the proposed modification are included in Attachment A of this letter.

I appreciate your Department's consideration of this modification request. If your officers have any queries or require further information, please contact Mr Brian ten Brinke (Project Director tel: 02 9255 1725, email: [brian.tenbrinke@barangaroo.nsw.gov.au](mailto:brian.tenbrinke@barangaroo.nsw.gov.au)). Alternatively, please contact me directly on 02 9255 1701.

Yours sincerely



Craig van der Laan  
**A/Chief Executive Officer**

Encl.

1. Attachment A – Barangaroo Headland Park and Northern Cove Main Works, Modification Request 6
2. Drawing CO-JPW-L-S3-0100, Landscape Coloured Site Plan

# Attachment A - Barangaroo Headland Park and Northern Cove Main Works, Modification Request 6

## 1.0 Background and Approval History

On 9 February 2007, the then Minister for Planning approved the Barangaroo Concept Plan and State Significant Site application (MP 06\_0162) under the now repealed provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Concept Plan provides the overall statutory framework for the redevelopment of Barangaroo as three redevelopment areas – Barangaroo North (Headland Park and Northern Cove), Central Barangaroo and Barangaroo South. The approved Barangaroo State Significant Site (which reflects the approved concept plan area) was subsequently gazetted in *State Environmental Planning Policy (Major Development) 2005* (MD SEPP).

On 3 March 2011, the then Minister for Planning approved the Barangaroo Headland Park and Northern Cove Main Works (the Project) (approval MP 10\_0048) under Part 3A of the EP&A Act. The approval permits:

- Land formation;
- Construction of retaining walls using sandstone based materials;
- Creation of a naturalistic shoreline and northern cove through excavation and formation of sandstone retaining walls;
- General landscaping and planting;
- Construction of a shoreline promenade;
- Construction of a network of pedestrian pathways connecting the foreshore;
- Jetty/ viewing platform and public wharf extending into the northern cove;
- Construction of an underground void for future use as a cultural facility and public car parking accommodating 300 parking spaces;
- Relocation of a sewerage pumping station (SPS0014) to the area adjacent to the north eastern boundary of the site; and
- Site remediation.

That approval has since been modified three times under section 75W of the EP&A Act:

- MP 10\_0048 MOD 2, approved on 17 April 2012 to require the preparation of a plan of management for the operation of the Headland Park and car park;
- MP 10\_0048 MOD 3, approved on 9 May 2013 to allow various design changes including:
  - Insertion of sandstone steps providing water access adjacent to Moores Wharf;
  - Relocation of sewerage pumping station (SPS0014) and inclusion of the fit out of this item as an amenities block;
  - Construction of a third pedestrian bridge between Merriman Street and the Headland Park;
  - Minor changes to the cultural space and car park; and
  - Minor changes to landscaping across the site.
- MP 10\_0048 – MOD 5, approved on 16 July 2014 to allow various design changes to the public domain including the introduction of a new plaza, changes to the approved paving and adjustment to the position of the central access between Merriman Street and the Headland Park and 150mm increase to the level of the upper section of the park.

An earlier modification request (MP 10\_0048 MOD 1) was withdrawn and a fourth modification request (MP10\_0048 MOD 4) is currently under assessment by the Department of Planning and Environment (the Department) in relation to proposed demolition works at the Harbour Control Tower.

The Barangaroo Delivery Authority (the Authority) is charged with the delivery of the Barangaroo site under the requirements of the *Barangaroo Delivery Authority Act 2009*, and in accordance with the planning approvals for the site and is the Proponent for the works.

## 2.0 Need for Modification

Condition A4 of the Concept Plan approval for Barangaroo (M06\_0162) as modified, requires the determination of future project applications for development to be generally consistent with the terms of



approval of the concept plan (as modified). The Project (MP10\_0048) with the current proposed modification would remain generally consistent with the terms of the concept plan as the modification would make no changes to the approved Gross Floor Area, land use or design principles. The proposed works would be located along the western footpath of Merriman Street and is therefore within the eastern boundary of the land to which the Concept Plan and State Significant Site applies, being within the boundary as identified in the land application map of the MD SEPP. The proposed modification would therefore be contained within land that is subject to the Barangaroo Concept Plan and the proposed amendments are not considered to require a modification to the Barangaroo Concept Plan approval (M06\_0162).

Condition A2 of the current Project approval as modified (MP 10\_0048 MOD 5) requires the Project to be carried out in accordance with a number of architectural plans including *CO-JPW-L-S3-0100 (Rev 3)* – *Barangaroo Headland Park, Public Domain Works*, dated 20 January 2014. That plan includes the Headland Park entrance at Merriman Street, Millers Point.

A review of the proposed design of the Project at this location has identified that the currently approved architectural plan (*CO-JPW-L-S3-0100 (Rev 3)*) does not accurately reflect the position and details of two proposed sandstone pillars along the footpath of Merriman Street, Millars Point, at the entrance to the Headland Park. Accordingly, the current design is not considered to be fully consistent with the MP10\_0048 approval and the Authority considers that a modification to the approval is required to reflect the current design of the two sandstone pillars.

### 3.0 Statutory Context

#### 3.1 Transitional Part 3A project

The Concept Plan for Barangaroo (MP 06\_0162) and subsequent Project approval for the Headland and Northern Cover Project (MP 10\_0048) were approved under the now repealed provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Despite its repeal, Part 3A continues to apply to the Concept Plan and Project subject to the transitional provisions of Schedule 6A of the EP&A Act.

Schedule 6A of the EP&A Act (clause 2) states that a Concept Plan or Project that was approved under Part 3A either before or after its repeal is classified as a *transitional Part 3A project* and clause 3 of Schedule 6A states that Part 3A of the Act (as in force immediately before the repeal and as modified by Schedule 6A) continues to apply to a transitional Part 3A project. As such, the Project approval (MP10\_0048) can be modified under section 75W (of Part 3A) of the EP&A Act.

#### 3.2 Section 75W Modification

Under section 75W(2) of the EP&A Act, a modification is required to a Part 3A project where a proposed amendment to the project, would mean that the project as amended is not considered to be consistent with the existing approval to that project. As discussed in Section 2.0 above, the proposal is considered to be inconsistent with the terms of the Project approval (MP 10\_0048) and requires modification. The proposed modification was discussed at a meeting with the Department of Planning and Environment (Department) on 16 December 2014 and a modification under section 75W of the EP&A Act was confirmed as the appropriate approval pathway for the proposal.

Under section 75W(3) of the EP&A Act, the Department may issue environmental assessment requirements with respect to the proposed modification that the modification application must address. The Department has not issued any environmental assessment requirements with respect to the proposed modification.

The proposal would be located within the footpath of Merriman Street which is a public road vested in the City of Sydney Council. Under Clause 8F 1(a) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), land owner's consent is not required to accompany a modification application made under section 75W of the E&A Act, if the application is made by a public authority.

The BDA is public authority for the purposes of clause 4 of the EP&A Act as it comprises a NSW Government agency constituted under the *Barangaroo Delivery Authority Act 2009*. As such, in accordance with the provisions of Clause 8F 1(a) of the EP&A Regulation, landowner's consent from the City of Sydney Council is not required to accompany the modification application. However, Clause 8F 3(d) of the Regulation requires notification of the land owner at any time prior to the application being



made. The BDA has notified Council of its intention to submit a modification application for the sandstone pillars (letter dated 12 January 2015), and has thereby fulfilled its notification obligations under Clause 8F 3(d).

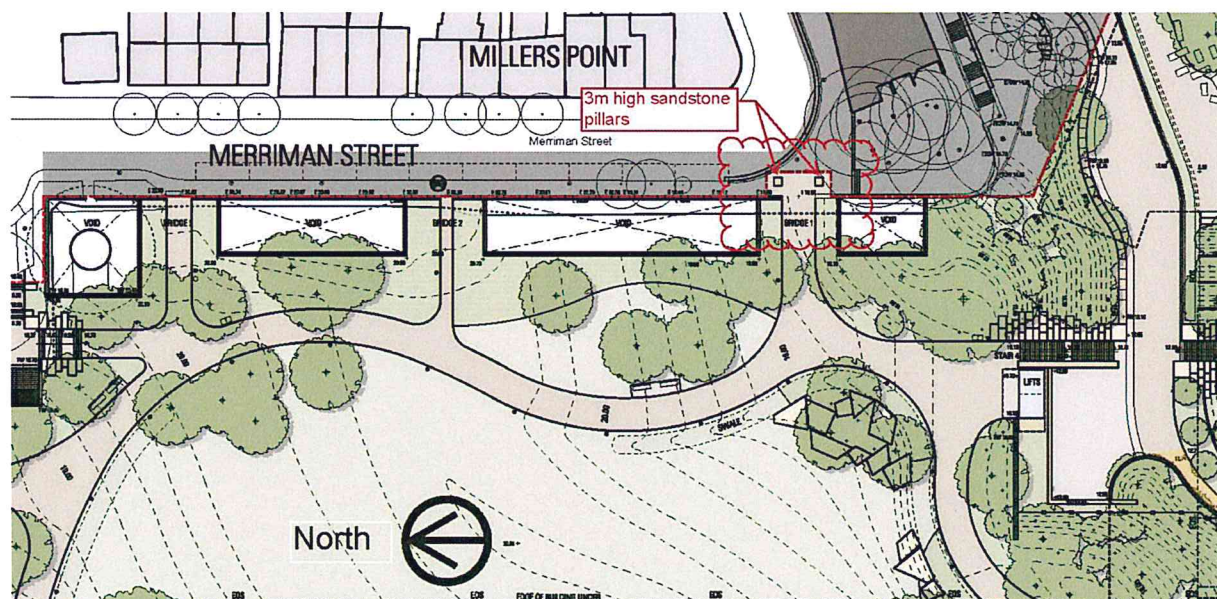
### 3.3 Permissibility

Barangaroo is identified as a State Significant Site in the MD SEPP. The MD SEPP identifies the zoning and land use permissible within the Barangaroo site. The proposed two sandstone pillars are located on the western footpath of Merriman Street, within the eastern edge of the State Significant Site boundary. The proposal would be located on land zoned RE1 Public Recreation, under which development for the purposes of recreational areas is permissible with consent. The MD SEPP adopts the definitions of words in the Standard Local Environmental Plan instrument and 'recreational area' is identified in the standard instrument to include 'a public park'. As such the proposed works which comprise entrance markers to a public park are considered to be a permissible land use under the subject zoning as it meets the terms of 'development for the purposes of a recreational area'.

By providing for the completion of the Headland Park design, the proposal would be consistent with the objectives of the zoning which promote the use of land for recreational purposes.

## 4.0 Modification Assessment and Justification

A modification is being sought to MP 10\_0048 to clarify details relating to two sand stone pillars at the entrance of Headland Park at Merriman Street, where indicated below:



### 4.1 Adjustment to Approval Boundary

The location of the proposed pillars was identified in the documentation approved as part of the original MP 10\_0048 Project (Drawing XX-PWP-LS3-1002, dated 22 October 2010). However, the drawings were not specifically annotated to identify the symbols shown along the footpath of Merriman Street as being the proposed pillars and the documentation associated with the approval did not provide details of the proposed pillars.

Notwithstanding, the location of the pillars was identified to be within the Project boundary as originally approved under MP 10\_0048 (Refer Figure 1 below).



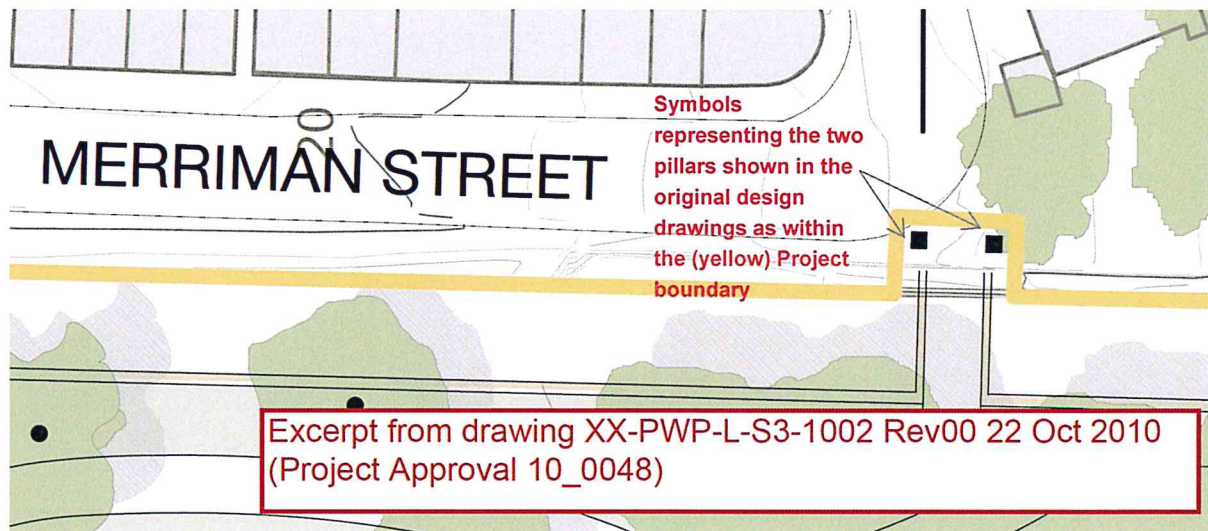


Figure 1 Original Approved Boundary under MP 10\_0048 (excerpt from Drawing XX-PWP-LS3-1002, dated 22 October 2010)

In subsequent modifications to MP 10\_0048 (MOD 5), the boundary of the Project was erroneously shown as excluding the pillars, although the symbols representing the pillars continued to be shown in the submitted design documentation (CO-JPW-L-S3-0100, Rev 3, dated 20 January 2014) (Refer Figure 2). The proposed positions of the pillars in the submitted documentation remained materially unchanged from that shown in the original MP10\_0048 approval (Refer Figure 2), however as before the documentation did not make clear what the two symbols were representing. Additional details regarding the proposed pillars at this location were not spelled out in the modification applications.

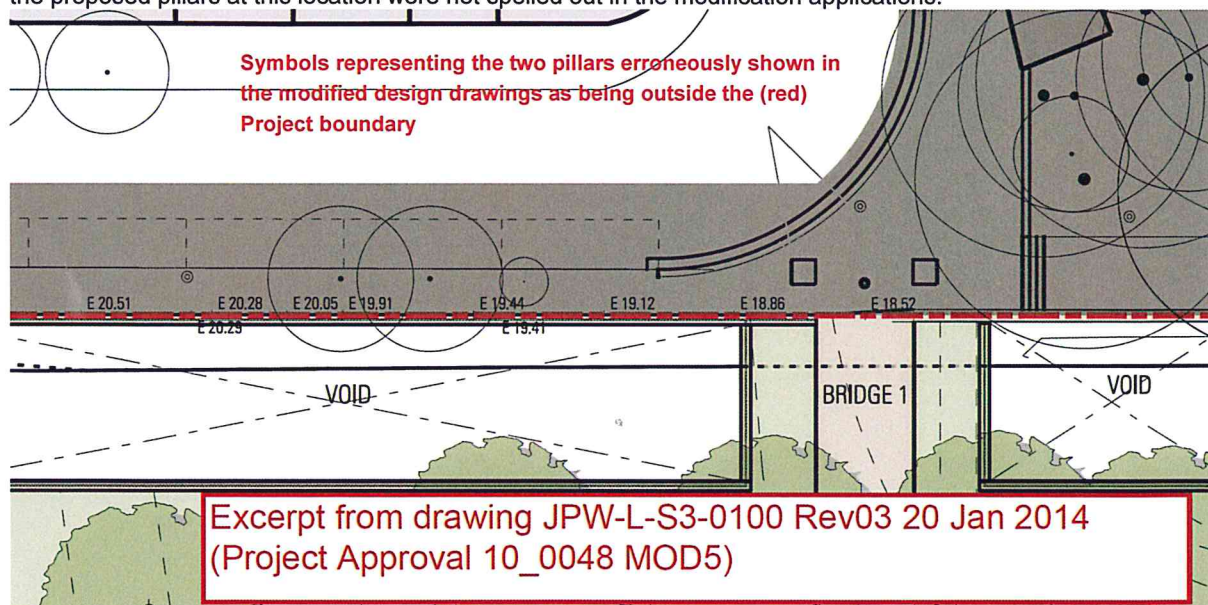


Figure 2 Modified Approved Boundary under MP 10\_0048-MOD 5 (excerpt from Drawing CO-JPW-L-S3-0100, Rev 3, dated 20 January 2014)

The current modification is sought to amend the Project boundary of MP 10\_0048 to again include the location of the pillars within the approved Project boundary for MP 10\_0048 as originally approved. The current design provided in Revision 4 of design drawings CO-JPW-L-S3-0100, shows the proposed location of the two pillars within the amended Project boundary (refer Figure 3).

This modification seeks to amend approval condition A2 of MP 10\_0048, to replace references to the design drawing CO-JPW-L-S3-0100, Rev 3, dated 20 January 2014 with the design drawing included in the current modification application (CO-JPW-L-S3-0100, Rev 4, dated January 2015) which shows the boundary of the Project (dashed red line) and identifies what the two symbols represent, being the two 3m high sandstone pillars.



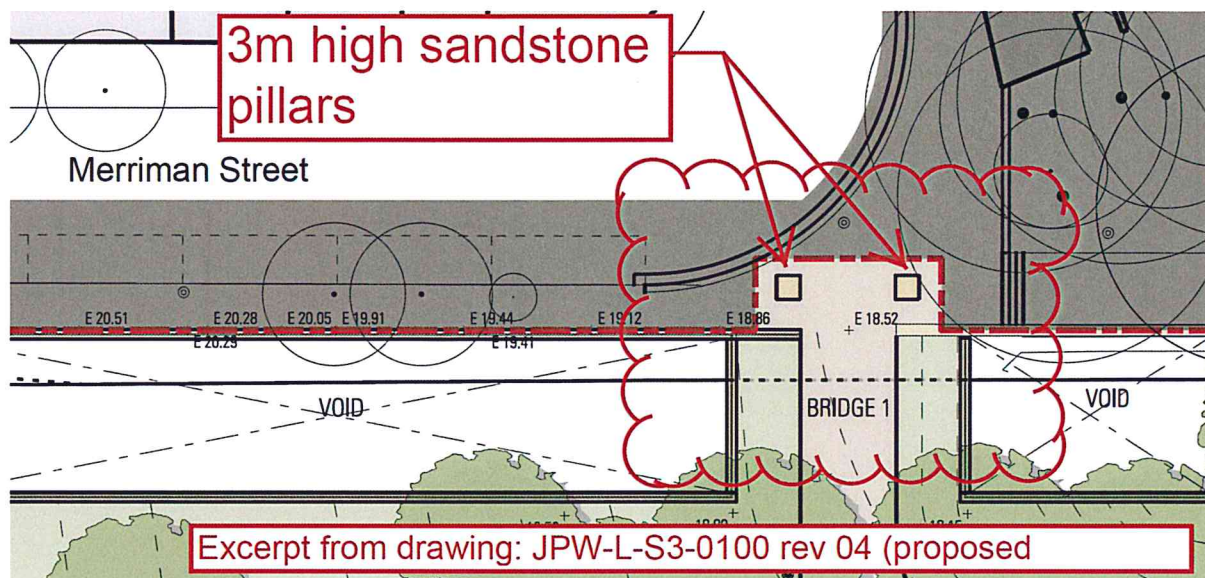


Figure 3 Current Proposed Approved Boundary (excerpt from Drawing CO-JPW-L-S3-0100, Rev 4, dated January 2015)

#### 4.2 Details of Proposed Sandstone Pillars

Additional details regarding the proposed pillars are also provided in this application to provide context to the nature of the infrastructure to be constructed.

The two pillars would comprise 3m high by 1 metre width sandstone pillars to act as markers to the entrance to the Headland Park from Merriman Street, and would be located within the footpath of Merriman Street (on the western side). Following discussions with City of Sydney Council regarding the design of the pillars the height of the pillars has been reduced from 5m to 3m.

It is considered that the installation of the pillars would have minimal environmental impacts with construction works being undertaken as part of overall construction works at the Headland Park site and subject to the approved environmental management plans and controls for the MP 10\_0048 project, including appropriate traffic and access management, erosions and sediment control and noise and dust management. The pillars are expected to be installed in 2 days within standard (day time) construction hours. It is considered that with the implementation of the already approved management plans and the requirements of existing conditions of approval relating to construction management, the impacts of construction can be managed so as to have negligible impact on surrounding land use (largely residential) or passing traffic/ pedestrian activity.

Once operational, it is considered that the pillars would not pose an intrusive visual impact on surrounding land use and would remain entirely consistent with the proposed recreational land use at Headland Park. The pillars have been designed, consistent with the design principles for Barangaroo comprising a sandstone palette consistent with the palette of the approved Headland Park project area and the sandstone character of the foreshore area. The scale of the pillars would be appropriate to its function as markers to the Park, by being of a sufficient size to be noticeable and provide a sense of place but not of a scale to be intrusive.

## 5.0 Conclusion

A modification has been sought under section 75W of the EP&A Act to incorporate an amended drawing that correctly shows the boundary of the MP 10\_0048 and includes the identification of previously shown symbols as representing the two proposed sandstone pillars at the entrance to Headland Park at Merriman Street within the Project boundary. The statutory context, approval history and potential impacts of the proposed sandstone pillars have been assessed. The approval history for the Project demonstrates that two structures were always proposed at the subject location to denote the entrance to the Headland Park (although adequate details on the structures were not previously provided), and this modification would result in the re-inclusion of the structures within the boundary of the Project area, which had been erroneously shown as part of previous modifications (due to oversights in the associated design drawings).

The details provided on the proposed sandstone pillars demonstrates that the structures would not pose adverse environmental impacts impacts and have been designed to fit appropriately within their surrounds and have been the subject of consultation with the City of Sydney Council. The proposed modification is considered to be justified and site appropriate and in the public's interest as contributing to the overall completion of the Barangaroo precinct.



