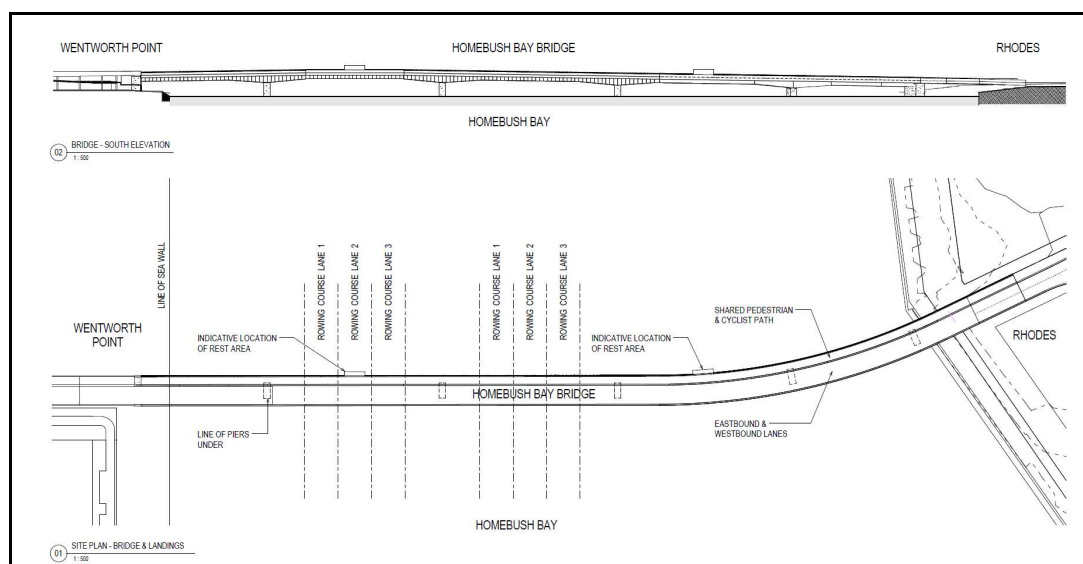


**MODIFICATION REQUEST:
Homebush Bay Bridge Modification 2
Homebush Bay, between Wentworth
Point and Rhodes
(MP10_0192 MOD 2)**

Project Design Review and Endorsement



Secretary's Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

August 2015

Cover image: Appendix A — Drawing — PA005 A — Homebush Bay Bridge Plan & Elevation, *Homebush Bay Bridge Minor Modification to Project Approval Environmental Assessment* (Scott Carver 2013)

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*NSW Government
Department of Planning & Environment*

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1. BACKGROUND

The Homebush Bay Bridge proposal (MP10_0192) was approved by the Executive Director, Development Assessment Systems and Approvals, under delegation of the then-Minister for Planning and Infrastructure on 19 March 2013. The approved project consists of a new bridge across Homebush Bay connecting the suburbs of Wentworth Point and Rhodes.

The Rhodes precinct at the eastern end of the bridge is largely developed and is predominantly high density residential development. An apartment building known as 'Monaco' is located on the northern side of the bridge, while on the southern side of the bridge is open space owned by the City of Canada Bay Council.

The Wentworth Point precinct at the western end of the bridge (known as Precinct B) is currently under development. The Homebush Bay West Development Control Plan allows for a mixture of six to eight storey residential buildings and mixed-use developments. Development of Precinct B is subject to a series of development consents issued by the Sydney West Joint Regional Planning Panel.

The construction of the bridge is part of a Voluntary Planning Agreement (VPA) between Roads and Maritime Services (RMS) and Fairmead Business Pty Ltd (the Proponent). Following completion of construction, the Proponent will transfer ownership of the bridge to RMS.

The approved bridge comprises a balanced cantilever pre-cast bridge structure over Homebush Bay and also incorporates associated road approaches and tie-ins to the local road network. The approaches to the bridge were modified as part of approved Modification 1, to provide for a grade-separated landing at Rhodes. The project location is shown in **Figure 1**, and **Figure 2** shows the approved project layout.

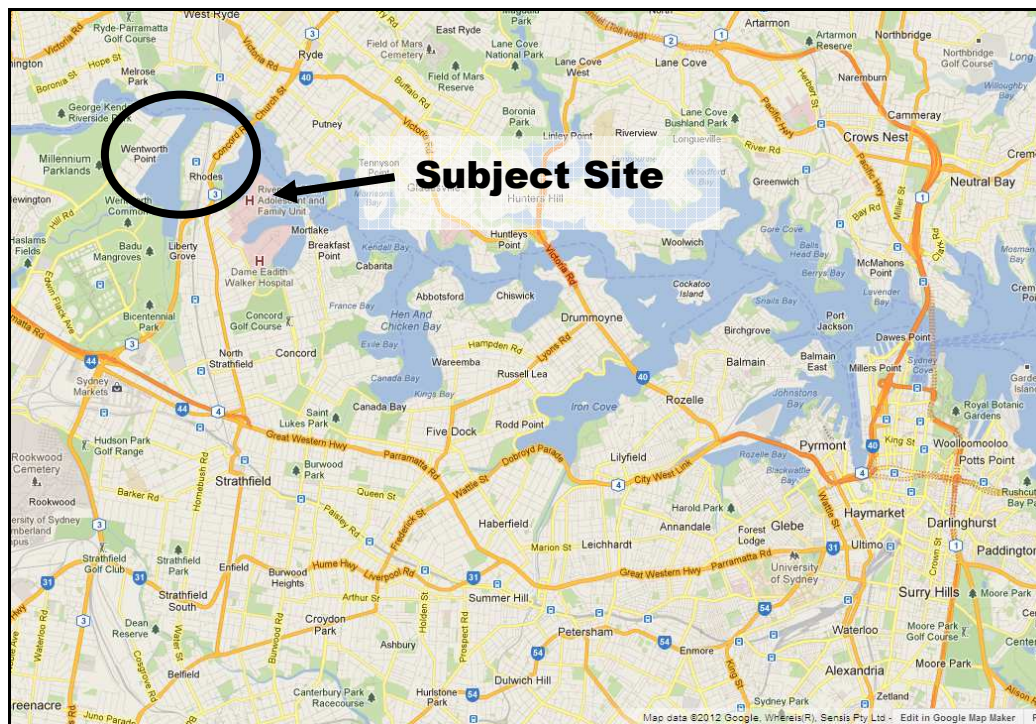


Figure 1 — Project location

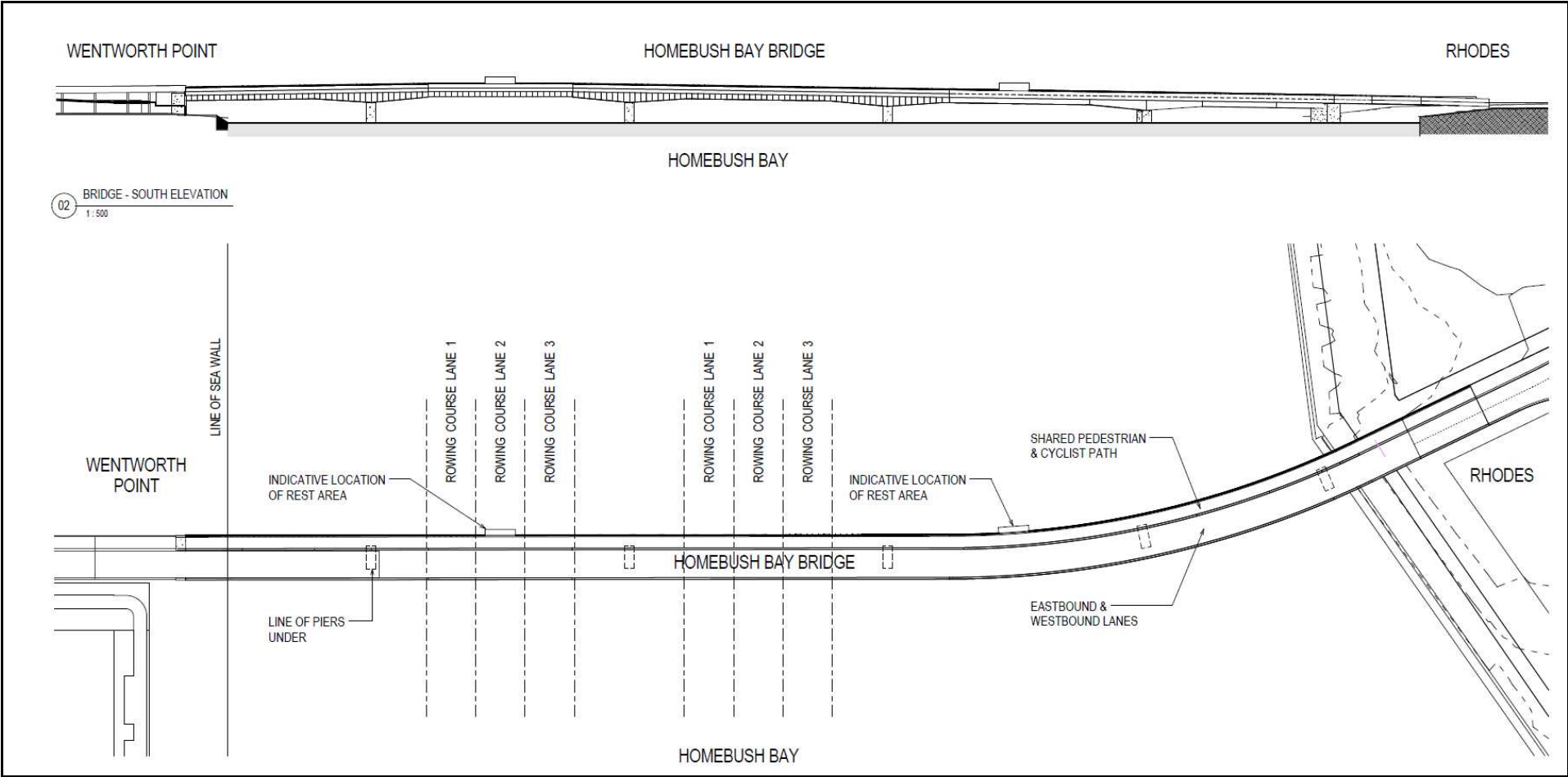


Figure 2 — Project layout plan (Source: Homebush Bay Bridge Minor Modification to Project Approval Environmental Assessment (Scott Carver 2013))

2. PROPOSED MODIFICATION

The Proponent has submitted a request (MP10_0192 MOD 2) under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act). The modification seeks to replace the construction certification requirements for the project with a system of design review and endorsement by RMS, and alter the western boundary of the project.

Specifically, the proposed modification seeks removal of the requirement to obtain a construction certificate for the project, and removal of references to the certifying authority. These references would be replaced with references to RMS's existing and ongoing role in reviewing project design aspects prior to construction. In accordance with arrangements for the eventual transfer of the bridge, RMS is acting as a project verifier. While this process is generally analogous to the construction certification process, RMS has not historically possessed powers to issue construction certificates for buildings under Part 4A of the Act.

The proposed modification also requests alteration of the western boundary of the project approximately 175 metres east to 'Gridline 8'. Gridline 8 runs perpendicular to the proposed Footbridge Boulevard approach road, approximately 15 metres east of the proposed intersection with Wentworth Place. The Proponent notes that the section of the project west of Gridline 8 is also covered by existing approvals for the Wentworth Point development site (Precinct B). As such, the Proponent has requested that the project approval be modified to allow construction of the approach road to be governed solely by the approvals governing that development site.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

In accordance with clause 3 of schedule 6A of the Act, section 75W of the Act, as in force immediately before its repeal on 1 October 2011 and as modified by schedule 6A, continues to apply to transitional Part 3A projects.

Section 75W of the Act provides that a proponent may request the Minister to modify the approval of a transitional Part 3A project. The Minister's approval is not required if the project, as modified, will be consistent with the original approval. The subject modification is not consistent with the approval, but does not constitute a project in its own right, and therefore a modification in accordance with section 75W of the Act is considered appropriate.

3.2 Delegated Authority

An application to modify a transitional Part 3A project approval may be determined by the senior officers of the Department of Planning and Environment under delegation from the then- Minister for Planning, signed 16 February 2015. In accordance with the delegation from the Secretary of the Department signed 1 December 2014, the Director, Infrastructure Projects may determine a modification request where the local council does not object, a political disclosure statement has not been made in relation to the application, and less than 25 objections are received. This proposed modification meets the terms of this delegation, and may be determined by the Director, Infrastructure Projects.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the Act, the Secretary is required to make the modification request publicly available. The Department placed the modification request on its website and referred the modification to RMS for review and comment.

In response to the modification request, RMS provided information about its existing design review and endorsement role for the project. The Department has considered the information provided by RMS in its assessment of the proposed modification.

5. ASSESSMENT

5.1 Construction Certification

The Proponent requests the construction certification requirements for the project be replaced by a system of design review and endorsement by RMS.

The project approval requires a certifying authority to approve and endorse several key aspects of the project design before construction can commence. It is noted that the key role of the certifying authority is to issue a construction certificate. However, the project approval also assigns a number of additional responsibilities to the certifying authority, including:

- Verifying compliance with *Disability Discrimination Act 1992* requirements (condition B1);
- Approving the project lighting plan (condition B2);
- Ensuring compliance with the Building Code of Australia (condition B12);
- Reviewing the post-construction dilapidation report (condition E5);
- Receiving —
 - the pre-construction dilapidation report (condition B4),
 - plans detailing bridge height (condition B9),
 - details of easements (condition C7), and
 - notification of the commencement of construction and operation of the project (condition C10); and
- On request, obtaining —
 - information on construction complaints (condition C13), and
 - the final approved plans (condition D1).

The Proponent proposes that these responsibilities be assigned to RMS, who would continue to undertake its existing design review role. The Proponent also requests that the timing for submission of a number of plans and strategies be changed to link to the completion of the RMS design review.

Department's consideration

The Department has assessed the Proponent's modification request on the basis that provision of a construction certificate is required for the project under Part 4A of the *Environmental Planning and Assessment Act 1979*. It is therefore not open to the

Department to make conditions removing the requirement for construction certification; the requirements of the Act would override any such conditions.

The Department acknowledges that the Proponent has lodged this modification request to address difficulty in appointing a certifying authority for the main bridge structure. The appointment of an accredited certifier, being a private individual or organisation, is common practice for most building work. However, building professionals law precludes the appointment of an accredited certifier as the certifying authority for the bridge structure. Further, the appointment of a council as certifier is complicated by the location of the project, which spans two local government areas (Auburn and Canada Bay) and an unincorporated area (Homebush Bay).

Notwithstanding this difficulty, a certifying authority is required to be appointed for this project. The project approval contains a series of conditions that specify key design parameters (such as bridge height and width), and sets out a series of verification steps. The project approval also sets out requirements for a series of design and management plans, the contents of which depend on the final design.

On the basis of the Department's review (as summarised below), the Minister or his delegate will retain power to issue a construction certificate for the project under Part 4A of the Act. The Minister or his delegate will exercise this power on the basis of advice from RMS about its design review and endorsement process.

The Department considers that RMS is the most appropriate organisation to advise the certifying authority on the technical aspects of the project design. RMS has the most extensive experience delivering major road projects of any organisation in NSW, and conducts (non-statutory) certification of its own projects. Furthermore, its existing review role is extensive. Prior to the transfer of ownership of the bridge, the RMS is undertaking a 'project verifier' role, whereby it reviews key project design and construction outcomes. The Department considers that this process of design review is generally analogous with the requirements for issue of a construction certificate.

The Department has also taken this opportunity to review the responsibilities of the certifying authority, and considers that these responsibilities can be rationalised. For instance, a number of plans and strategies in questions require consultation with key stakeholders, and overview and/or approval by the Secretary or Environmental Representative. The level of oversight provided means that it is not necessary for the certifying authority to retain approval functions over and above its statutory responsibilities.

The Department considers that the certifying authority should retain responsibility for the review of relevant plans, and keep the ability to obtain copies of plans on request throughout the construction period (condition D1). Additionally, information about bridge height (condition B9), compliance with *Disability Discrimination Act 1992* requirements (condition B1), and easements (condition C7) should be provided for the certifying authority's information.

On the other hand, a series of other requirements, such as reviewing road surface dilapidation and designing bridge lighting, can be adequately discharged by the Proponent without the need for the certifying authority's endorsement or approval.

The Department has therefore recommended removing the certifying authority's responsibilities for recording and rectifying road dilapidation (conditions B4 and E5) and approving the lighting plan (conditions B2 and E7).

Further, responsibility for reviewing construction complaints and compliance with conditions is more aligned to the responsibility of the Environmental Representative. As such, the Department recommends replacing the reference to the certifying authority with 'Environmental Representative' in conditions C10 and C13, and deleting reference to the certifying authority in condition C14. The Department will retain its overarching ability to investigate and ensure compliance with each of these requirements.

The Department notes that condition B12 requires the certifying authority to ensure compliance with the Building Code of Australia. It is acknowledged, however, that the bridge structure does not adhere to any category in that code. Notwithstanding this, the Department notes that industry best practice, RMS guidelines and specifications, and the project approval, specify design requirements for the project in sufficient detail. As such, the Department supports the deletion of this condition.

The Department considers that these new arrangements can be implemented, while continuing to ensure the project is built to a high standard and in compliance with design requirements of the project approval.

5.2 Western boundary modification

The Proponent requests the western boundary of the project be amended to rationalise the planning requirements for the western approach road.

The Homebush Bay Bridge project approval covers an area between Waterways Street, Wentworth Point, and Shoreline Drive, Rhodes. The area between Waterways Street and the western bank of Homebush Bay encompasses a section of the Wentworth Point development site (Precinct B) of which part is currently under construction. A series of approvals govern the subdivision of Precinct B, and construction of streets, public domain, and mixed use and residential flat buildings on that site.

The Proponent seeks the western boundary to be set approximately 175 metres east of its current location, to Gridline 8, as shown in **Figure 3**. The area to be excised from the Homebush Bay Bridge project approval corresponds with the area covered by development consents granted by the Sydney West Joint Regional Planning Panel.

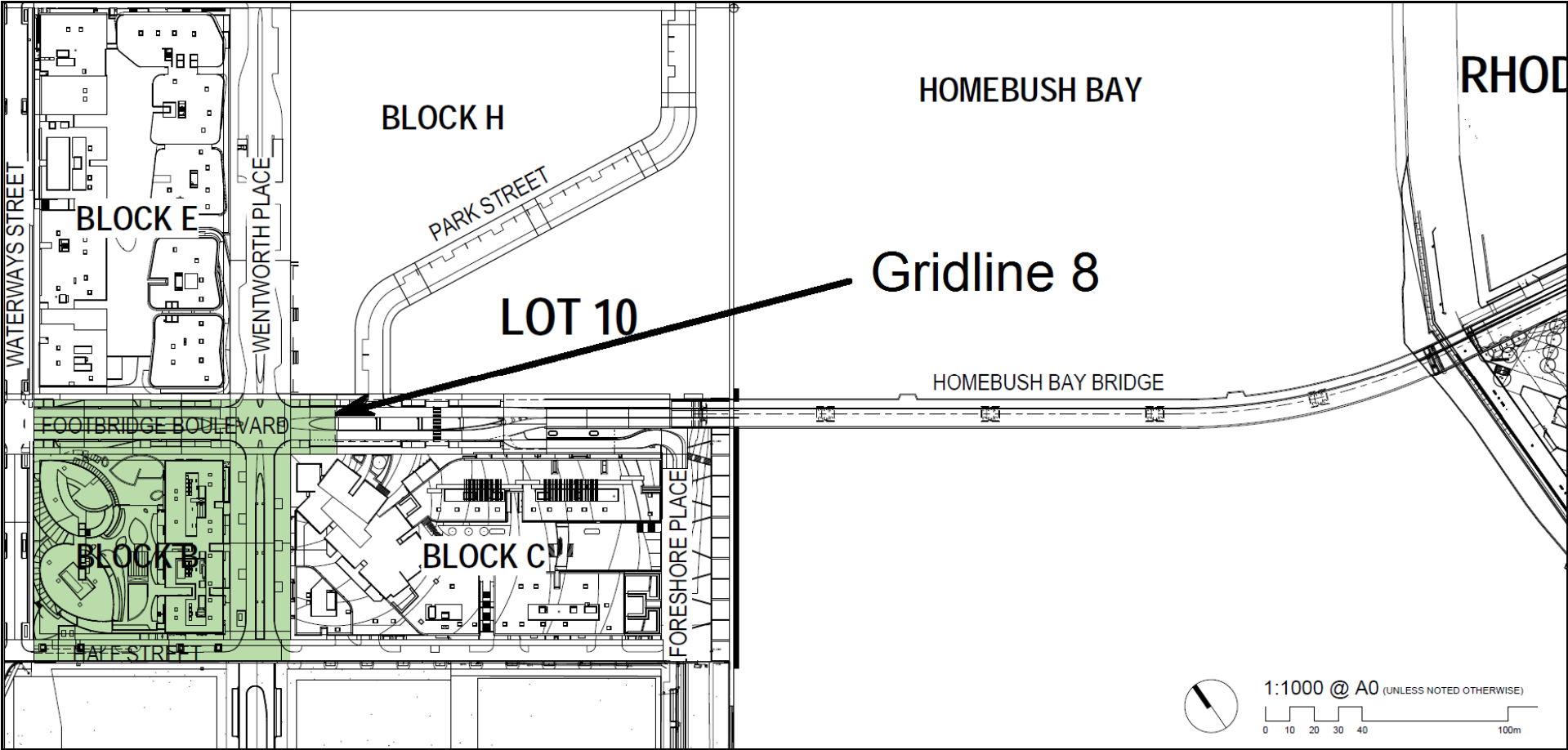


Figure 3 — Proposed western boundary (Source: detail from *Design drawing—Reference No. 20130115, Drawing. No. SK058, Rev. C*)

Department's consideration

The Department considers that it would be appropriate to amend the western boundary of the project as requested by the Proponent. The Department is satisfied that amending the western boundary would clarify the relevant planning approvals, yet ensure enhanced local amenity and public domain outcomes are achieved.

The Department considers it critically important that the approach road is developed to integrate with the surrounding site. Given the conceptual nature of the project approval, the layout of the site is prescribed in greater detail in the development consents covering Precinct B than in the project approval. As such, it is appropriate that the site is developed under the overarching development consents for the surrounding site.

The Department reiterates that the Proponent is still bound to the environmental impact assessment provided in the project Environmental Assessment and response to submissions. As such, the biophysical and amenity impacts of bridge construction, such as offsite noise impacts in Wentworth Point from construction of the bridge deck, must continue to be controlled in accordance with the approved construction environmental management plan.

6. CONCLUSION AND RECOMMENDATIONS

The Homebush Bay Bridge project (MP10_0192) consists of a new bridge across Homebush Bay connecting the suburbs of Wentworth Point and Rhodes. This modification seeks to replace the construction certification requirements for the project with a system of design review and endorsement by RMS, and alter the western boundary of the project.

The Department has reviewed the Proponent's modification request, and has also considered information provided by RMS about its existing system of design review and endorsement for the project.

The Department reiterates that the proposal requires issue of a construction certificate in accordance with Part 4A of the *Environmental Planning and Assessment Act 1979*. However, the Department also acknowledges the comprehensive design review process already undertaken by RMS. On this point, the Department considers that the certifying authority for the project, that is, the Minister or his delegate, can have extensive reference to the RMS review of the project. This arrangement ensures the project design is reviewed by an external organisation with skills and experience in the delivery of major road and large bridge projects, and is conducted in a manner that meets the requirements of the *Environmental Planning and Assessment Act 1979*.

At the same time, the Department has reviewed the responsibilities of the certifying authority and has rationalised these to better reflect the statutory roles of the certifying authority and RMS.

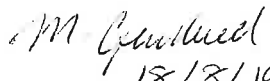
The Department has also reviewed the proposal to alter the western project boundary, and considers that it would be appropriate to amend the boundary as requested. The Department accepts the area west of the proposed boundary is covered in detail by existing development consents for the Wentworth Point development. As such, the revision of the boundary would rationalise the development requirements for that site, while continuing to ensure the development of the approach road is integrated with the surrounding works.

Therefore, based on the Department's assessment, it is recommended that the modification be approved subject to the attached recommended conditions.

Dominic Crinnion

Endorsed by

Approved by


18/8/15

Mary Garland
Team Leader
Infrastructure Projects


Karen Jones 19-8-15

Director
Infrastructure Projects

APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6872

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT
