

# Notice of Modification

## Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthony Witherdin  
**Director**  
**Modification Assessments**

Sydney *15 MARCH* 2017

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### SCHEDULE 1

<b>Development Approval:</b>	<b>MP 11_0001</b> granted by the Planning Assessment Commission on 26 March 2014
<b>For the following:</b>	Maritime Facility including: <ul style="list-style-type: none"><li>• Land component: boat storage facility, amenities, exhibition space, community work space and running maintenance workshop, green roof, earthworks, separate exhibition pavilion and kiosk, and a publicly accessible foreshore walk.</li><li>• Water component: fixed wharf, floating pontoons, three (3) dolphins, publicly accessible timber walkway, and piling.</li></ul>
<b>Approval Authority:</b>	Minister for Planning
<b>The Land:</b>	Lot 1 DP 1049334, Lot 107 DP1076596, Part Lot 19 DP 803159, Part Lot 20 DP 803159, Part Lot 22 DP 803159
<b>Modification:</b>	<b>MP 11_0001 MOD 2:</b> the modification includes administrative amendments to various conditions allowing the land and water based components of the project to commence independently of each other.

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### SCHEDULE 2

The above approval is modified as follows:

(a) Schedule 2: Part A – Deferred Commencement, Condition A1 is deleted as follows:

***Contamination Assessment***

~~A1. The project approval is deferred and does not become effective or operate until:~~

- ~~a) (a) a site auditor (accredited under the Contaminated Land Management Act 1997), engaged by the proponent, has prepared a site audit statement certifying that the site is suitable for the proposed use (without the need for remediation) and that a statement has been given to the Director-General; and~~
- ~~b) if remediation is required to make the site suitable for the proposed use, a plan of remediation, prepared by a site auditor (accredited under the Contaminated Land Management Act 1997) in accordance with the contaminated land planning guidelines in force under Part 7A of the Environmental Planning and Assessment Act 1979 and~~

~~accompanied by a site audit statement by the auditor, has been submitted to the Director-General and approved by the Director-General, whether with or without modifications.~~

- (b) Schedule 2 Part B - Administrative Conditions B2 and B3 are amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

***Development in Accordance with Plans and Documents***

B2. The development shall undertaken generally in accordance with:

- a) Environmental Assessment dated 27 November 2012 prepared by Hamptons Property Services, except as amended by the Preferred Project Report dated 18 December 2013;
- b) ~~The Revised Statement of Commitments prepared by Hamptons Property Services, section 7 of the Preferred Project Report dated 18 December 2013~~ **Amended Statement of Commitments prepared by Roberts Day dated 4 August 2016;**
- c) **Documents submitted as part of Modification 1, including MP 11 0001 Sydney Heritage Fleet Modification Pursuant to Section 75W of the Environmental Planning & Assessment Act 1979 by Hamptons Property Service dated 19 August 2015;**
- d) **Documents submitted as part of Modification 2, including Planning Assessment by Roberts Day dated 22 November 2016 and Response to submissions prepared by Roberts Day dated December 2016;**
- e) The following drawings:

<b>Architectural Drawings prepared by Crawford Architects Pty Limited</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
SK10	D	Masterplan	2013.12.04
SK12	A	Site Plan Details	2013.02.04
SK14	A	Foreshore and Museum Access Plan	2013.05.27
SK30	B	Elevation - Bank Street	2013.05.24
SK31	B	Elevations - Water Front	2013.05.24
SK32	B	Elevations South	2013.05.24
SK33	B	Elevations - North	2013.05.24
SK40	C	Level 0 Plan	2013.05.27
SK41	C	Level 1 Plan	2013.05.27
SK42	B	Level 2 Plan	2013.05.24
SK43	C	Roof Plan	2013.05.27
SK50	A	Sections - Sheet 01	2013.02.04
SK51	A	Sections - Sheet 02	2013.02.04
SK52	A	Sections - Sheet 03	2013.02.04
SK53	A	Sections - Sheet 04	2013.02.04

except for as otherwise provided by the terms of approval;

***Inconsistency between documents***

B3. If there is any inconsistency between:

- a) The terms of this approval and the **Amended** Statement of Commitments (at Schedule 3), the conditions of this approval prevail;

- b) The terms of this approval and the drawings/documents referred to in Condition A2 **B2**, the conditions of this approval prevail; and
  - c) Any drawing/document listed in Conditions A2 **B2** and any other drawing/document listed in Condition A2 **B2**, the most recent document shall prevail to the extent of the inconsistency.
- (c) Schedule 2 Modifications, Condition C6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

***Modified Plans to be Approved by the Director-General***

- C6 Amended plans which reflect compliance with all modifications detailed above must be submitted to the Director-General for approval prior to issue of ~~the a~~ construction certificate **relating to the land based components as described in Condition B1(a-b)**.
- (d) Schedule 2: Part D - Prior to the issue of a Construction Certificate, Conditions D1, D2, D5, D6, D8, D9, D10, D14 and D17 are amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

***Access from Bank Street***

- D1 In order to improve pedestrian and vehicular movement from Bank Street, the design shall be amended as follows:
- (a) the northern vehicle access/driveway crossover from Bank Street (Foreshore Vehicle and Pedestrian Access), including ingress and egress points from Bank Street and internal manoeuvring shall fully comply with the requirements of Australian Standard AS 2890.1 including the required 300mm clearance; and
  - (b) the southern service vehicle access/ driveway crossover from Bank Street shall provide access compliant with the requirements of Australian Standard AS 2890.1 without reliance on a driveway crossover which may be provided on adjoining lands.

Amended plans detailing compliance with the above must be submitted for the approval of the Certifying Authority prior to the issue of a Construction Certificate **relating to the land based components as described in Condition B1(a-b)**.

***Landscaping of the Site***

- D2 A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of a Construction Certificate **relating to the land based components as described in Condition B1(a-b)**. The Plan must include:
- (a) Location of existing and proposed structures on the site including existing trees (if applicable);
  - (b) Details of earthworks including and retaining walls and planter boxes (if applicable);
  - (c) Location, numbers and type of plant species;
  - (d) Details of planting procedure and maintenance;
  - (e) Details of drainage and watering systems.

Prior to the issue of ~~a~~ Construction Certificate **relating to the land based components as described in Condition B1(a-b)**, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property. All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

***Flooding Impacts***

- D5 In order to provide protection from flooding, the design shall be amended to incorporate the following:

- (a) flood compatible materials and finishes must be adopted throughout the ground floor. Particular attention should be directed at ensuring that the inundation of the ground floor will not damage equipment in the plant room or lift well;
- (b) power supply points and mechanical, electrical and communications equipment, and storage cabinets should be located a minimum of 0.5 m above the projected 1% AEP 'high' 2050 water level (i.e. a minimum elevation of 2.3 m AHD);

Amended plans detailing compliance with (a) and (b) above must be submitted for the approval of the Certifying Authority prior to the issue of any **a** Construction Certificate relating to the land based components as described in Condition B1(a-b).

- ~~(c) the provision of the deck of the boardwalk to be raised in the future to accommodate sea level rise, should this be necessary;~~
- ~~(d) the provision of appropriate signage, properly stowed emergency life rings in the identification of an emergency muster point/ safe refuge area to address the issue of the public safety of pedestrians accessing the timber boardwalk from flooding from Blackwattle Bay; and~~
- ~~(e) clear access to ensure the safe evacuation of volunteers and visitors to an emergency muster point/ safe refuge area in the event of a large flood.~~
- (c) the provision of the deck of the boardwalk to be raised in the future to accommodate sea level rise, should this be necessary;**
- (d) the provision of appropriate signage, properly stowed emergency life rings in the identification of an emergency muster point/ safe refuge area to address the issue of the public safety of pedestrians accessing the timber boardwalk from flooding from Blackwattle Bay; and**
- (e) clear access to ensure the safe evacuation of volunteers and visitors to an emergency muster point/ safe refuge area in the event of a large flood.**

**Amended plans detailing compliance with (c), (d) and (e) above must be submitted for the approval of the Certifying Authority prior to the issue of a Construction Certificate relating to the water based component of the project as described in Condition B1(f).**

### **Stormwater Drainage**

- D6 The combined stormwater drainage capacity (i.e. piped and overland flow) must be designed in consultation with the City of Sydney Council to convey flow up to the 100 year ARI storm event and not exacerbate the current level of ponding in Bank Street adjacent to the north-east boundary of the site. The detailed design should consider the following factors:
- (a) any relevant findings of the Blackwattle Bay Catchment Area Flood Study;
  - (b) future increases to Sydney metropolitan rainfall intensities (as identified in the NSW Government's Practical Consideration of Climate Change); and
  - (c) the requirements six a of the City of Sydney Council's Draft Stormwater Drainage Design Code in relation to the flow conditions along any overland flow path during a 100 year ARI storm event (maximum depth 0.2 m; maximum velocity 1 m/s).

Engineering drawings detailing compliance with the above must be submitted for the approval of the Certifying Authority prior to the issue of a Construction Certificate relating to the land based components as described in Condition B1(a-b).

### **Water Conservation and Re-use Measures**

- D8 In order to reduce the developments demand for potable water, the following water conservation and re-use measures must be adopted:
- a) a 15 kL (minimum) rainwater tank to store stormwater runoff from the green roof area for re-use in toilets. The level of the tank outlet must be located at a minimum elevation of 2.3 m AHD (i.e. the projected 1% AEP 'high' 2050 water level plus a 0.5 m freeboard allowance) to prevent backflow from any sea level rise, tides, storm surges and/or waves from Blackwattle Bay;
  - b) waterless urinals;
  - c) 4-star efficiency rated toilets, sinks, basins and bathroom taps and showers; and

- d) water saving devices, such as dual flush toilets and AAA rated flow regulators to all showers and taps should be installed in all areas to reduce water consumption and promote energy efficiency to reduce the project's water demands.

Plans detailing compliance with the above must be submitted for the approval of the Certifying Authority prior to the issue of a Construction Certificate relating to the land based components as described in Condition B1(a-b).

### **Alignment Levels**

- D9 a) Footpath alignment levels for the building must be prepared by a registered surveyor and must be in accordance with the Council's Public Domain Manual. Plans detailing compliance with the above must be submitted for the approval of the Certifying Authority prior to the issue of a Construction Certificate relating to the land-based component as described in B1(a-b).
- b) Prior to the issue of a construction certificate for publically accessible areas of the water based works, plans demonstrating that these works have been designed to interface with the future alignment levels of the foreshore walkway (required by Condition C4), are to be submitted to the Certifying Authority. The alignment levels of the publically accessible areas of the water based works and the foreshore walkway are to be prepared by a registered surveyor and must be in accordance with Council's Public Domain Manual.

### **Public Domain Plan**

- D10 Prior to the issue of any a Construction Certificate relating to the land based components as described in Condition B1(a-b) three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and be approved by Council. The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must be made concurrently with the Alignment Levels application. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

*Note: A Public Domain Works Guarantee deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.*

*Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Road Opening Permit for works on the public way being issued.*

*The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.*

### **Reflectivity**

- D14 The visible light reflectivity from building materials used on the facades of the buildings 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. Details of compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate relating to the land based components as described in Condition B1(a-b).

### **Service Vehicles**

- D17 Adequate space must be provided to allow manoeuvring and turning of the different sized vehicles. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off-Street Parking Part 2: Commercial vehicle facilities. Details must be submitted to and

approved by the Certifying Authority prior to issue of a Construction Certificate relating to the land based components as described in Condition B1(a-b).

- (e) Schedule 2: Part E - Prior to Construction, Condition E3 is deleted and E6 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

***Environment Protection licence***

~~E3 — An application to the EPA for an Environment Protection Licence under the *Protection of the Environment Operations Act 1997* for the facility must be submitted prior to the commencement of any on-site works.~~

***Preservation of Survey Marks***

- E6 All works in Council controlled streets must ensure the preservation of existing permanent survey marks (a brass bolt, or a lead plug holding a brass tack, covered by a cast iron box).
- a) Prior to commencement of construction relating to the land-based component as described in condition B1 (a-b) a survey plan, clearly showing the location of all permanent survey marks fronting the site and within 5 metres on each side of the frontages must be submitted to Council.
  - b) At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Senior Surveyor to arrange for the recovery of the mark.
  - c) A fee must be paid to the Council for the replacement of any permanent survey mark removed or damaged in accordance with the City's Schedule of Fees and Charges (Reinstatement of Survey Box).

- (f) Schedule 2 Part F – Construction, Condition F32 is deleted as follows:

***Access Driveways to be Constructed***

~~F32 — Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council prior to issue of any construction certificate.~~

- (g) Schedule 2 Part G – Prior to the issue of an Occupation Certificate, Condition G7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:

***Street Tree Maintenance***

- G7 All street trees planted in accordance with the approved Landscape Plan must be maintained by a qualified Horticulturist or Arborist (AQF Level 2 or 3) for a minimum period of 2 years commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.

At the end of the 2 year maintenance period, written approval must be obtained from Council before hand-over of any street tree to Council.

If a street tree has been replaced due to maintenance deficiencies during the 2 year maintenance period, the ~~twelve~~ 2 year maintenance period will start again from the date that the street tree is replaced.

- (h) Schedule 2 Part G – Prior to the issue of an Occupation Certificate, Condition G23 is added as follows:

**Environment Protection Licence**

**G23 Prior to the issue of an Occupation Certificate relating to a Scheduled Activity listed in Schedule 1 of the Protection of the Environment Operations Act 1997 an Environment Protection Licence must be obtained.**

**End of Modification**