

Attachment A

Details and Assessment of Section 96(1A) Minor Modification for Central Barangaroo Waterfront Promenade and Interim Public Domain Works

1. Introduction

The Barangaroo Delivery Authority (the Authority) is currently progressing planning and development of the Central Barangaroo Waterfront Promenade and Interim Public Domain Works.

As part of the design development and Central Barangaroo Master Plan processes the opportunity to make a number of beneficial changes was identified and several relatively minor refinements to the design are now proposed.

The Authority has reviewed the minor refinements and has identified the need to submit an application under Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent to the State Significant Development for Barangaroo Central Waterfront Promenade and Interim Public Domain Works (Application Number: SSD12_5374).

The purpose of this document is to describe and assess the proposed changes and provides the following information for this application:

- Project Background;
- Proposed Changes and Assessment of Potential Environmental Impacts;
- Consideration of Planning Provisions;
- Confirmation of Capital Investment Value; and
- Recommended Changes to the Development Consent.

2. Project Background

On 11 September 2013 the delegate to the Minister for Planning and Infrastructure granted Development Consent to the Barangaroo Central Waterfront Promenade and Interim Public Domain Works (“the application”).

In accordance with Condition A1 – Development Description, the specific works covered under this consent include the following:

- Demolition of redundant services and infrastructure;
- Structural works to existing caissons and seawalls;
- Recontouring and placement of fill on the site comprising between 40,000m³ and 60,000m³ to be sourced from Barangaroo South;
- Construction of a 30m permanent waterfront promenade extending from Barangaroo South to the Northern Cove comprising a tree lined promenade and lower level boardwalk;
- Construction of retaining walls to support the construction of the promenade;

- Construction of a pontoon in the Northern Cove for small boat drop-off and access;
- Pedestrian and cycle access and circulation arrangements;
- Construction of a public deck on the southern bank of the Northern Cove;
- Installation of temporary and permanent services including: stormwater, sewer, potable water irrigation, telecommunications, security, and electrical;
- Installation of furniture including seats, rubbish bins, drinking fountains, bike racks and life buoys along the promenade;
- Construction of a temporary public domain comprising a lawn for public gatherings, casual sports and picnicking;
- Construction of a temporary access way connecting the promenade to Hickson Road;
- Installation of signage and lighting;
- Re-use of existing shipping infrastructure (bollards and fences); and
- The creation of two zones in which temporary pavilions and an event staging area will be erected when public events are held on site.

Condition A2 – Development in Accordance with Plans and Documentation requires that the development be fully undertaken in accordance with the documents and plans listed in the table to that condition.

3. Proposed Changes and Assessment of Potential Environmental Impacts

3.1 Proposed Changes

A number of changes to the specific works covered under this consent are proposed arising from design development and/or from the Central Barangaroo Master Plan. The changes are presented below for the Waterfront Promenade (WP) and are shown in the accompanying Illustrative Plans (see Attachment B):

Waterfront Promenade (WP)

1. Reduction in timber boardwalk width from 4m to 3m to better integrate the Central Barangaroo and proposed Barangaroo South waterfront promenades;
2. Deletion of feature sandstone cladding on new seawall adjacent to the Public Deck in the Northern Cove as it is no longer required;
3. Increase tree spacing from 6m to 7m to resolve conflicts with outdoor furniture positioning;
4. Inconsistency with Condition B5 Paving Materials - the specified decomposed granite paving material along the promenade shown in the approved drawing set does not comply with the requirements of Condition B5 Paving Materials.
5. Change in promenade tree species to *Celtis australis* due to the current approved species, *Gleditsia triacanthos* “Shademaster”, being placed on the NSW Noxious Weed Order (February 2014) as a Class 3 Weed in the Sydney Region.

3.2 Assessment of Potential Environmental Impacts

The following table summarises the proposed changes, the rationale for change (Master Plan or Design Development) and provides an assessment of the potential environmental impacts of each change.

Table 1 – Proposed Changes, Rationale and Assessment of Potential Environmental Impacts

Proposed Change	Rationale for Change		Assessment of Potential Environmental Impacts
	Master Plan	Design Develop	
Waterfront Promenade (WP)			
Reduction in timber boardwalk width from 4m to 3m.	X		<p>No additional environmental impacts.</p> <p>This change has been driven by the coordination and integration of the Central Barangaroo and proposed Barangaroo South waterfront promenades.</p> <p>The reduction in width will not affect pedestrian flows as the timber boardwalk is a secondary pedestrian path with the primary pedestrian and cycle paths on the upper level remaining unaffected.</p>
Deletion of feature sandstone cladding on new seawall adjacent to the Public Deck in the Northern Cove.		X	<p>No additional environmental impacts.</p> <p>The 4m section of feature sandstone cladding on the new seawall adjacent to the Public Deck in the Northern Cove was proposed to hide a change in levels from the public pier to the waterfront promenade. The change in level has been designed out and therefore the feature sandstone cladding is no longer required to be installed. The profile and surface finish of the new seawall will now be continuous from the south western edge of the Northern Cove to the underside of the public deck.</p>
Increase tree spacing from 6m to 7m to resolve conflicts with outdoor furniture positioning.		X	<p>No additional environmental impacts.</p> <p>Tree spacing along the waterfront promenade has been increased from a width of 6m to 7m to resolve conflicts with positioning of outdoor furniture. This would improve public</p>

			use of the waterfront promenade.
Inconsistency with Condition B5 - Paving Materials. The specified decomposed granite paving material along the promenade shown in the approved drawing set does not comply with the requirements of Condition B5 Paving Materials.	n/a	n/a	<p>No additional environmental impacts.</p> <p>It has been identified that the specification of decomposed granite (in the original project approval drawing set) is inconsistent with Condition B5 - Paving Materials, contained in Development Consent to SSD12_5374. Condition B5 requires compliance with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".</p> <p>The proposed use of decomposed granite material along the promenade (as per the original project approval drawing set) is considered appropriate and is an allowable paving material within the Barangaroo Headland Park (refer Barangaroo Headland Park Modification to MP10_0048 MOD 5 - Headland Park and Northern Cove - Main Works)</p> <p>In addition to this, decomposed granite is a commonly used pathway material used extensively in public areas, streetscapes and parkland settings throughout Sydney and NSW including:</p> <ul style="list-style-type: none"> • Pirrama Park, Pyrmont; • Blackwattle Bay, Glebe; • Bicentennial Park, Glebe; • Sydney Olympic Park; • Centennial Park; • Brays Bay Reserve, Rhodes; and • Circular Quay, Sydney. <p>The use of the material along the promenade is complementary to the naturalistic vision of the overall Waterfront Promenade, Headland Park and public domain areas within Barangaroo.</p> <p>As such, a modification is sought to the wording of Condition B5 to provide flexibility for the use of alternate materials than specified under Condition B5.</p>

Change in promenade tree species to <i>Celtis australis</i> (or as otherwise agreed with the NSW Department of Primary Industries) due to the current approved species, <i>Gleditsia triacanthos</i> "Shademaster", being placed on the NSW Noxious Weed Order (February 2014) as a Class 3 Weed in the Sydney Region.	n/a	n/a	<p>No additional environmental impacts.</p> <p>Change in promenade tree species is in response to a legislative change.</p> <p>Refer Attachment C for Peter Walker Partners report justifying the selection of <i>Celtis australis</i>.</p>
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4. Consideration of Planning Provisions

Consideration was given to the relevant provisions contained within Section 96(1A) – Modifications Involving Minimal Environmental Impacts, and Section 79C - Evaluation, of the EP&A Act which could be addressed during the preparation of this application.

4.1 Section 96(A) - Modifications

Section 96(1A) states that the consent authority needs to be:

- a) *satisfied that the proposed modification is of minimal environmental impact, and*
- b) *satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

As demonstrated by the detailed description of the changes shown in Section 3 above, the changes are minor in nature, have minimal environmental impact and relates substantially to the development for which the consent was originally granted.

4.2 Section 79C - Evaluation

Under Section 96(3) *"the consent authority may take into consideration such of the matters referred to in Section 79C(1) as are of relevance to the development the subject of the application."*

Section 79(C) contains the following provisions:

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

Responses to the provisions relevant to the application for the proposed changes are considered below:

Section 79(c) (a)

The primary environmental planning instruments applicable to the proposed development / subject land are:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No.55 – Remediation of Land
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy (Exempt and Complying Development Code) Amendment (Commercial and Industrial Development) 2012

It is considered that the provisions of these environmental planning instruments would still apply to the modified development in the same manner as the development for which consent was originally granted. Other provisions in this sub-section are not considered to be relevant.

Section 79(c) (b)

The likely impacts have been assessed in Table 1 of Section 3.2.

Section 79(c) (c)

The site is suitable for the development as demonstrated by the original consent granted for the development. The proposed modifications apply to the site as originally approved and no changes to the overall approved site area is being sought.

Section 79(c) (d)

After the formal lodgement of the Section 96(1A) modification submissions may be made in response to the Act or its regulations. Should the Department of Planning & Environment (the Department) seek submissions on the application (e.g. by public agencies or the public) any issues raised in submissions that are received by the Department would be responded to by the Barangaroo Delivery Authority at the request of the Department.

Section 79(c) (e)

An assessment of the proposed changes in Table 1 of Section 3.2 demonstrates that there would be no impact to the levels of public benefit and amenity within the site. The proposed changes would support the successful delivery of the Barangaroo Central Waterfront Promenade and Interim Public Domain Works and help realise its public benefits. The proposed modifications are therefore in the public interest.

5. Capital Investment Value

The Capital Investment Value (CIV) presented in Section 1.4 of the Environmental Impact Statement prepared by MG Planning Pty Ltd dated November 2012 was \$27,224,200. The proposed minor modifications to the development consent will result in the CIV being unchanged.

6. Recommended Changes to the Development Consent

The proposed modification to Development Consent (SSD12_5374) includes the following:

1. In Part A, Condition A2 – Development in Accordance with Plans and Documentation, it is proposed that development consent plans be replaced as follows:

Revised Plan	Date of Plan	Name of Plan to be Replaced
Promenade Section	July 22, 2014	Promenade Section
Promenade Section at Northern Cove	July 22, 2014	Promenade Section at Northern Cove
Promenade Ramp and Public Deck	July 22, 2014	Promenade Ramp and Public Deck
Typical Paving Detail	July 22, 2014	Typical Paving Detail

The revised plans referred to above are in Attachment D.

2. Part A, Condition B5 be modified as follows:

B5 PAVING MATERIALS

Where relevant, the surface of any material proposed to be used for the paving of footways, thoroughfares, plazas and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

Where relevant, details confirming compliance with these requirements must be provided to the Certifying Authority prior to the relevant 109R Certificate being issued.

3. An additional condition be added stating the proposed *Gleditsia triacanthos* promenade tree species be replaced with *Celtis australis*.

Attachment B

Illustrative Plans Showing Changes

Attachment C

Peter Walker Partners Report

Attachment D

Revised Development Plans