

## APPENDIX D CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

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### State Environmental Planning Policy (State and Regional Development) 2011

The aims of the SRD SEPP are to identify SSD and State significant infrastructure and provide the necessary functions to joint regional planning panels to determine development applications.

The proposal is a SSD pursuant to section 89C of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is development at Barangaroo with a CIV in excess of \$10 million, under clause 3 of Schedule 2 of *State Environmental Planning Policy (State and Regional Development) 2011*. Therefore, the Minister for Planning is the consent authority for the development.

### State Environmental Planning Policy (State Significant Precincts) 2005

The SSP SEPP aims to facilitate the development of important urban, coastal and regional sites of economic, environmental or social significance to the State for the benefit of the State.

The Barangaroo site is listed as a State Significant Precinct under Part 12 of Schedule 3 of the SSP SEPP.

#### Zoning

The SSP SEPP zones the project application site part B4 Mixed Use and part RE1 Public Recreation. Development for the purposes of underground car parks is permissible with consent in both of these zones.

#### Building height

Pursuant to Clause 17 of Part 12 of Schedule 3 of the SSP SEPP, the height of a building on any land within the Barangaroo site is not to exceed the maximum permitted building height shown on the Height of Buildings Map. The Stage 1B basement has a maximum height of RL 14, which is well below the maximum height limits of RL 250 and RL 107 for Blocks 4A and 4B identified on the Height of Buildings Map.

#### Gross floor area

Pursuant to Clause 18 of Part 12 of Schedule 3 of the SSP SEPP, the total gross floor area (GFA) of all buildings on any land within the Barangaroo site is not to exceed the GFA shown for the land shown on the Gross Floor Area Map. The Stage 1B basement proposes the allocation of 26 m<sup>2</sup> of GFA for basement uses within Block 4A. Residential Building R4A (SSD 6964) proposes a total GFA of 50,661.4 m<sup>2</sup> within Block 4A. Residential Building R4B (SSD 6965) proposes a total GFA of 41,633.4 m<sup>2</sup> within Block 4A. The total combined GFA of these three proposals is 92,320.8 m<sup>2</sup> which is below the maximum GFA of 94,740 m<sup>2</sup> for Block 4A identified in the SSP SEPP and therefore complies with the maximum GFA development standard.

#### Design excellence and design competition

The proposed development is for an underground basement car park. The Department considers the design excellence provisions and design competition requirements of Clause 19 of Part 12 of the SSP SEPP are not relevant to the proposed development. The intent of these clauses is to apply to significant new buildings (e.g. residential, commercial or mixed-use buildings) proposed above ground.

Future applications for the Stage 1B residential buildings (R4A, R4B and R5) would need to demonstrate compliance with these provisions and requirements. The Applicant has advised the Stage 1B residential buildings were the subject of a design competition and the design of the basement is informed by and supports the outcome of the competition.

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In particular, above-ground elements of the proposed development such as the basement entry/exit were the result of the design competition. As such, it is considered the proposed development would achieve design excellence as appropriate for a basement.

The proposed development would also facilitate the future development of Stage 1B of the Barangaroo site in accordance with the approved Concept Plan at significant benefit to the State.

Given the above, the Department's assessment concludes the proposal is consistent with the SSP SEPP.

### **State Environmental Planning Policy No. 33 – Hazardous and Offensive Development**

SEPP 33 aims to identify proposed developments with the potential for significant off-site impacts, in terms of risk and/or offence (odour, noise etc). A development is defined as potentially hazardous and/or potentially offensive if, without mitigating measures in place, the development would have a significant risk and/or offence impact on off-site receptors.

Potential for a 5,000 litre diesel storage tank is provided for within the basement to supply fuel to backup generators for emergency electricity supply to the future Stage 1B residential buildings. The EIS concludes the stored diesel would not be classified as a Dangerous Good and a Preliminary Hazards Analysis is not required for the proposed development.

The Department concurs with the findings of the EIS, however has recommended a condition requiring the preparation of a Diesel Filling Management Plan to ensure safe procedures are followed during diesel tank filling. This Plan would be prepared to the satisfaction of FRNSW and TNSW.

Based on the information provided in the EIS, and with recommended conditions of consent in place, the Department's assessment concludes the development would comply with SEPP 33 and would not pose an unacceptable risk to surrounding land uses.

### **State Environmental Planning Policy No. 55 – Remediation of Land**

SEPP 55 aims to provide a State wide approach to the remediation of contaminated land. In particular, SEPP 55 aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment by specifying:

- under what circumstances consent is required;
- the relevant considerations for consent to carry out remediation work; and
- that remediation works undertaken meet certain standards and notification requirements.

As the proposed development requires consent under the provisions of clause 3 of Schedule 2 of *State Environmental Planning Policy (State and Regional Development) 2011*, the proposed works are classified as 'Category 1' works under clause 9 of SEPP 55, and the Applicant must obtain consent before undertaking the remedial works.

Clause 7 of the SEPP prevents a consent authority from issuing development consent unless it has considered:

- whether the subject site is contaminated;
- whether a contaminated site is suitable for its proposed use in its current state, or will be suitable following remediation; and
- whether it is satisfied that the site will be remediated before the land is used for the purpose proposed under the application.

In addition, where remedial works are required, clause 17 of the SEPP requires all remedial works to be undertaken in accordance with the EP&A Act, any guidelines drafted under the *Contaminated Land Management Act 1997*, and a remedial action plan (if works are 'Category 1' works), prepared in accordance with the *Contaminated Land Planning Guidelines*. Clause 18

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also requires the Applicant to notify the relevant Council within 30 days of the completion of remedial works.

The Department's assessment in **Section 5.1** of this report concludes remediation documentation submitted in support of the application can be relied upon to ensure that where land is found to be contaminated, it would be remediated in accordance with the requirements of SEPP 55 and to ensure the land is made suitable for its intended future uses. To ensure this occurs, the Department has recommended the imposition of key conditions requiring the Applicant to:

- implement an UFP, AMP and WMP during all works;
- where required, ensure all remediation works to be undertaken in accordance with the relevant RAP and HHERAs;
- ensure all remediation works are undertaken in enclosures fitted with suitable air emissions control systems designed in consultation with the EPA and approved by the Secretary;
- ensure an EPA-accredited site auditor completes site audit statements and validation reports to confirm land has been successfully remediated;
- ensure no excavation (non-remediation) works are undertaken until contaminated parts of the site have been validated by an EPA-accredited site auditor to have been successfully remediated;
- prepare an excavation and remediation works program prior to construction which has been endorsed by an EPA-accredited site auditor and reviewed by the EPA to ensure the above does not occur; and
- notify Council the remediation works have been completed, as per the requirements of Clauses 17 and 18 of SEPP 55.

With these conditions in place, the Department concludes:

- suitable management strategies would be in place for confirming remediation is complete prior to undertaking excavation activities;
- suitable contingency measures in place in the event residual contamination is exposed during the excavation works; and
- where required, contaminated material would be successfully remediated and validated in accordance with the relevant legislation.

The Department's assessment therefore concludes that the proposal is consistent with the relevant provisions of SEPP 55.

### **State Environmental Planning Policy (Infrastructure) 2007**

The Infrastructure SEPP (ISEPP) aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

The proposal satisfies the criteria for traffic generating development under clause 104 the SEPP as it comprises a car park with capacity for more than 200 vehicles, therefore must be referred to RMS (apart of Transport for NSW) for comment under the ISEPP.

The proposal was referred to RMS and Transport for NSW for comment in accordance with the ISEPP and their comments are summarised in **Section 4** of this report. The proposal is considered to be consistent with the ISEPP given the consultation and consideration of any issues raised by RMS and TNSW has been undertaken in the Department's assessment in **Section 5** of this report.

### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

SREP (Sydney Harbour Catchment) 2005 applies to all land within the Sydney Harbour Catchment, as shown on the Sydney Harbour Catchment Map.

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The site of the Stage 1B basement is within the defined Foreshores and Waterways Area and is also identified as a Strategic Foreshore Site (Sheet 10 of the City Foreshore Area Map).

#### Matters for Consideration

Clause 20 of the SREP identifies that the following matters are required to be considered by consent authorities before granting consent to development under Part 4 of the EP&A Act:

- clause 21 - Biodiversity, ecology and environmental protection;
- clause 22 - Public access to, and use of, foreshores and waterways;
- clause 23 - Maintenance of a working harbour;
- clause 24 - Interrelationship of waterway and foreshore uses;
- clause 25 - Foreshore and waterways scenic quality;
- clause 26 - Maintenance, protection and enhancement of views; and
- clause 27 - Boat storage facilities.

The development is consistent with the relevant matters for considerations as it will maintain public access to and along the foreshore and will maintain the unique scenic and visual quality of qualities of Sydney Harbour and its islands, foreshores and tributaries. Additionally, given the development is for an underground car park, it will maintain views (including night views) to and from Sydney Harbour, and to and from public places, landmarks and heritage items. Subject to the recommended conditions, the Department is also satisfied that development would not have any impact on the biodiversity, ecology or environment of Sydney Harbour.

#### Foreshores and Waterways Planning and Development Advisory Committee

The proposal is not of a type referred to in Schedule 2 of the SREP and therefore no referral to the Committee was required under clause 29 of the SREP.

#### Strategic Foreshore Sites

The site is identified as a 'Strategic Foreshore Site' on 'Sheet 1 - City Foreshores Area' of the Strategic Foreshore Sites Map. Clause 41 of the SREP states that development consent must not be granted for the carrying out of development on a strategic foreshore site unless there is a master plan for the site, and the consent authority has taken the master plan into consideration. The Department considers that the proposal is generally consistent with the relevant land use and general master planning provisions contained within the Barangaroo Concept Plan, as identified in **Section 3.6** of this report.

#### **Sydney Harbour Foreshores and Waterways DCP 2005**

The site of the building is within the defined Foreshores and Waterways Area of the *Sydney Harbour Foreshores and Waterways Development Control Plan (DCP) 2005*, and is therefore subject to the controls in the DCP. The DCP includes aims and performance criteria in relation to ecological assessment, landscape assessment, and design guidelines for development within the area.

The location of the building is not affected by any ecological or specific landscape character area (Part 2 and Part 3), and the design guideline provisions are not relevant to this application. Additionally, as the development is contained within the Barangaroo site and would be separated from the water's edge by another building (the Crown Sydney Hotel Resort), future Barangaroo Avenue alignment and the public foreshore boardwalk, it would not result in any significant impacts to the harbour foreshore.

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