

## **APPENDIX D CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENT(S) AND DCP(S)**

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### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)**

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- Draft State Environmental Planning Policy for the Remediation of Land
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy (Coastal Management) 2018
- Draft Environment State Environmental Planning Policy – Environment.

While development control plans (DCPs) do not apply to SSD under clause 11 of the SRD SEPP, consideration has also been given to the relevant clauses of the Sydney Harbour Foreshores and Waterways Development Control Plan 2005 (Sydney Harbour Waterways DCP).

### **COMPLIANCE WITH CONTROLS**

#### **State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)**

The proposed development is State significant developments under clause 3 of Schedule 2 of the SRD SEPP, as it is development at Barangaroo with a CIV in excess of \$10 million.

#### **State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)**

The Barangaroo site is listed as a State Significant Precinct under Part 12 of Schedule 3 of the *State Environmental Planning Policy State Significant Precincts* (SSP SEPP). The SSP SEPP zones the subject site part B4 Mixed Use and part RE1 Public Recreation. The proposed development is permissible with consent in both zones.

The proposed amenities and storage building would comply with the maximum building height (RL 25), maximum GFA across the public domain (75 m<sup>2</sup> out of a maximum 3,500 m<sup>2</sup>) and design excellence requirement provisions contained in the SSP SEPP. Further details regarding these provisions is contained in **Section 5** of this report.

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

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 ISEPP includes specific provisions (Clauses 88, 88A and 88B) applying to development in rail corridors.

As the application, does not involve excavation more than 2 m below ground level within 'Zone B' on the interim rail corridor map, Clause 88 does not apply to the proposed development. Further, in accordance with Clause 88A and Clause 88B of the ISEPP, the Department has considered the views of TNSW (and notified Sydney Metro) in its assessment of the proposal (**Section 4** and

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**Section 5** of this report) and is satisfied the proposed development would not adversely affect the viability/operation of the Sydney Metro and will encourage increased use of public transport.

The proposed development is therefore considered to be consistent with the relevant provisions of the ISEPP.

### **State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)**

SEPP 55 aims to provide a State-wide approach to the remediation of contaminated land and 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.

Clause 7 of SEPP 55 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
- whether it is satisfied that the site will be remediated before the land is used for the purpose proposed under the application.

The Department has considered the potential contamination impacts of the proposed development in **Section 5** of this report. This assessment has found the remediation documentation submitted with the application (e.g. RAPs) and recommendations of the contamination assessment can be relied upon to ensure that where land is contaminated, it would be remediated in accordance with the requirements of SEPP 55 so the land is made suitable for its intended future uses.

### **Draft State Environmental Planning Policy for the Remediation of Land**

The Explanation of Intended Effect for the Draft State Environmental Planning Policy for the Remediation of Land seeks to update SEPP 55 is on exhibition until 13 April 2018.

The Explanation of Intended Effect sets out the key changes proposed from SEPP 55 which largely relate to:

- categorisation of remediation works based on scale, risk and complexity
- more clearly specifying remediation works requiring development consent
- introducing certification and operational requirements for remediation works that can be undertaken without development consent
- requiring environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council.

The key operational framework of SEPP 55 is to be maintained in the new SEPP and new provisions are unlikely to significantly affect remediation works undertaken as part of the proposed development. As such, the Department is satisfied the proposed development would be consistent with the intent of the Draft SEPP.

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

The Sydney Regional Environmental Plan applies to all land within the Sydney Harbour Catchment, as shown on the Sydney Harbour Catchment Map. Barangaroo is within the defined Foreshores and Waterways Area. Consideration of the relevant clauses in the SREP are addressed in the table below. Parts of the western edge of the site (Wulugul Walk) lie within the W1 Maritime Waters zone. The proposed works/development is permissible with consent in the zone.

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SREP	Criteria	Department Comment / Assessment	Complies
<b>Part 3, clause 20 Matters for Consideration</b>	<ul style="list-style-type: none"> <li>The matters referred to in Division 3 must be considered by the consent authority.</li> </ul>	<ul style="list-style-type: none"> <li>The Department has considered the relevant matters below.</li> </ul>	Yes
<b>Part 3, clause 21 Biodiversity, ecology &amp; environmental protection</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration biodiversity, ecology and environmental protection matters that are outlined in this clause.</li> </ul>	<ul style="list-style-type: none"> <li>The Department's assessment in <b>Section 5</b> of this report found the proposal would not adversely impact on biodiversity, ecology or the natural environment.</li> </ul>	Yes
<b>Part 3, clause 22 Public access to, and use of, foreshores and waterways</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration measures to maintain public access to foreshores and waterways.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal will improve public access to the foreshores and waterways (refer to <b>Section 5</b> of this report).</li> </ul>	Yes
<b>Part 3, clause 23 Maintenance of a working harbour</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration measures to maintain maintenance of a working harbour.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal will not impact on the ability to maintain a working harbour.</li> </ul>	Yes
<b>Part 3, clause 24 Interrelationship of waterway and foreshore uses</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration the interrelationship of waterway and foreshore uses.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal will not adversely impact on the waterway or waterway uses as discussed in <b>Section 5</b> of this report.</li> </ul>	Yes
<b>Part 3, clause 25 Foreshore and waterways scenic quality</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration measures to maintain or enhance the scenic quality of foreshores and waterways.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed public domain works are well designed as discussed in <b>Section 5</b> of this report. The scenic quality of foreshores and waterways will therefore be maintained.</li> </ul>	Yes
<b>Part 3, clause 26 Maintenance, protection and enhancement of views</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration measures to maintain or enhance views.</li> </ul>	<ul style="list-style-type: none"> <li>As discussed in <b>Section 5</b> of this report, the proposed development provides enhanced views to Sydney harbour from the public domain, through street corridors and Hickson Park. Further, the proposed development would not result in any adverse impacts on views and vistas to and from key public places, landmarks or heritage items.</li> </ul>	Yes
<b>Part 3, clause 27 Boat storage facilities</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration the matters outlined in this clause in relation to boat storage facilities.</li> </ul>	<ul style="list-style-type: none"> <li>No boat storage facilities are proposed as part of the development.</li> </ul>	N/A

<b>Part 3, clause 29 Foreshores &amp; Waterways Development Advisory Committee (FWDAC)</b>	<ul style="list-style-type: none"> <li>• A consent authority must not grant consent to a DA unless it has considered any submission received from the FWDAC within 30 days of the referral.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposal development is of a type referred to in Schedule 2 of the SREP and was referred to the FWDAC. No objection or comments on the proposal was received.</li> </ul>	Yes
<b>Part 3, clause 41 Strategic Foreshore Site</b>	<ul style="list-style-type: none"> <li>• Development consent must not be granted for 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.</li> </ul>	<ul style="list-style-type: none"> <li>• The Department considers that the proposal is generally consistent with the relevant land use and master planning provisions contained within the Concept Plan, as discussed at <b>Section 5</b> of this report.</li> </ul>	Yes

### State Environmental Planning Policy (Coastal Management) 2018

The Coastal SEPP seeks to balance social, economic and environmental interests by promoting a coordinated approach to coastal management, consistent with the objectives of the *Coastal Management Act 2016*.

The “coastal zone” is defined by four (4) coastal management areas being coastal wetlands and littoral rainforest, coastal environment area, coastal use area and coastal vulnerability area.

The southern portion of the site is located within or on the very edge of the mapped proximity area for coastal wetlands, coastal environment area and coastal use area.

The site is located in the coastal environment and use areas. Although no map has been developed at present, the proposal is also likely located in proximity to the coastal vulnerability area.

Accordingly, it is considered appropriate to have regard to the provisions of the Coastal SEPP and, in particular:

- Clause 12 - development on land within the coastal vulnerability area
- Clause 13 – development on land within the coastal environment area
- Clause 14 – development on land within the coastal use area.

#### Clause 12

The Department has considered the matters prescribed by this clause. The Department is satisfied the proposal would improve public access to, and the amenity of, the foreshore, has been designed to withstand coastal hazards and minimise public safety risk and would not alter coastal processes.

#### Clause 13 and 14

The Department has considered the matters prescribed by these clauses. The Department is satisfied the proposal would not result in adverse impacts to public views, visual amenity or scenic qualities of the coast, water, vegetation, fauna or their habitats or heritage, including Aboriginal heritage. The Department is also satisfied the proposal would improve public access to, and the amenity of, the foreshore.

The Department concludes the proposed development is consistent with the relevant provisions of the Coastal SEPP.

## **Draft Environment State Environmental Planning Policy (Draft Environment SEPP)**

The Explanation of Intended Effect for the Draft Environment SEPP which finished exhibition on 31 January 2018 proposes to update and consolidate seven existing EPIs, including the Sydney Harbour Catchment SREP.

The provisions of the Sydney Harbour Catchment SREP relevant to the proposal is proposed to remain largely unchanged and therefore, Department is satisfied the proposed developments would be consistent with the intended effect of the Draft Environment SEPP.

## **Sydney Harbour Foreshores and Waterway Area DCP 2005 (DCP)**

The Sydney Harbour Foreshore and Waterways Area Development Control Plan (the DCP) complements SREP 2005 and provides more detailed design parameters for development within the foreshore area of Sydney Harbour.

The site is within the defined Foreshores and Waterways Area 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 buildings is not affected by any ecological or specific landscape character area and due to the existing Concept Approval, the design guidelines provisions are not relevant to this application. Additionally, the Department's assessment in **Section 5** of this report has demonstrated the public domain works would not result in adverse visual impacts and would greatly enhance the character and amenity of the harbour foreshore.

The Department considers the proposed development to be generally consistent with the DCP regarding landscaping, access to waterways, built form and visual impacts.

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