



New South Wales Government
Independent Planning Commission

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Central Barangaroo Early Works (Phase 1) – Hickson Road Interface SSD-39587022

Statement of Reasons for Decision

Janett Milligan (Chair)
Simon Smith

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1. Introduction

1. On 8 January 2025, the NSW Department of Planning, Housing and Infrastructure (**Department**) referred the State Significant Development (**SSD**) application SSD-39587022 (**Application**) from Aqualand B Development Holding Pty Ltd (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the construction of a new retaining wall and associated works, known as Central Barangaroo Early Works (Phase 1) – Hickson Road Interface (the **Project**) located in the Sydney Local Government Area (**LGA**) under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
3. The Application constitutes SSD pursuant to section 4.36 of the EP&A Act as the Project satisfies the criteria under section 2.6(1) and Schedule 2, section 3 of the *State Environmental Planning Policy (Planning Systems) 2021* (**SEPP Planning Systems**), being development within the Barangaroo Site with an estimated development cost of more than \$10 million.
4. In accordance with section 4.5(a) of the EP&A Act and section 2.7 of the Planning Systems SEPP, the Commission is the consent authority as City of Sydney Council (**Council**) made an objection to the Application.
5. Andrew Mills, Chair of the Commission, appointed Janett Milligan (Chair) and Simon Smith to constitute the Commission for the purpose of exercising its functions with respect to the Application.
6. The Department concluded in its Assessment Report (**AR**) that the Project is consistent with the existing Barangaroo Concept Plan approval, would not result in any unacceptable environmental impacts and is in the public interest. The Department recommended approval of the Application, subject to conditions.

2. The Application

2.1 Site and Locality

7. The Project site (the **Site**) is located within the Central Barangaroo redevelopment precinct, adjacent to the Sydney Harbour foreshore (refer AR Figure 1). As the Department's AR notes at paragraph (**AR para**) 8, the Site is legally identified as Lot 51 in Deposited Plan 1301725, and is 13 hectares in area. The Project is in the southeastern corner of this lot, with frontages to Hickson Road and Barton Street (see Figure 1 below).
8. The Site is mostly flat, contains no vegetation, and is surrounded by construction hoarding and fencing. No construction works associated with the Central Barangaroo precinct have commenced on Site, other than site preparation and remediation works (refer AR Figure 3). The Site has supported the construction of Barangaroo South for the past ten years and was most recently used as a laydown area to assist with constructing the Barangaroo Metro Station. The Site is owned by Infrastructure NSW (**INSW**), who have provided landowner's consent for the lodgement of the Application (AR para 6, 9 and 10).
9. The Site is zoned B4 Mixed Use under the *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* (**SEPP Eastern Harbour City**).

Figure 1 – Site and local context (Source: AR Figure 2)



2.2 The Project

2.2.1 Overview

10. The Application seeks approval for the construction of a 153m long x 17.6m deep secant pile 'L' shaped retaining wall, measuring 132m along the Hickson Road frontage and returning 21m to the west at its southern extent, as well as associated works at the boundary of the Site with Hickson Road in Central Barangaroo. These associated works include (AR Table 1):
 - works to the perimeter retention wall of the Barangaroo Metro Station Box;
 - partial demolition of an existing shoring wall and capping beam along Hickson Road;
 - excavation for the construction of the retaining wall and rock anchors, as well as post-construction backfill and remediation; and
 - construction of temporary stormwater diversion works along Hickson Road and Barton Street.
11. Construction of the Project is scheduled to be undertaken over 14-17 months in three stages. The Applicant states that the Project is required to support the future public domain upgrades along Hickson Road being undertaken by INSW and the relocation of the Sydney Water pumping station (AR para 17). Refer to Table 1 of the Department's AR for a summary of the Project's key aspects.

2.2.2 Related projects and works

12. The Barangaroo Part 3A Concept Plan (MP06_0162) (**Concept Plan**) applies to the Site. The Concept Plan was originally approved in 2007 by the then Minister for Planning and has since been modified nine times, with a further modification (MP06_0162 MOD 9) (**Mod 9**) currently under assessment by the Department (AR para 11-12).
13. The existing Concept Plan approval provides for three development blocks within Central Barangaroo for commercial and residential uses with building heights up to reduced level (**RL**) 35m (approximately 8 storeys), together with public domain and open spaces. The existing Concept Plan approval also allows for the construction of Barton Street as a temporary road that runs east to west through Hickson Park for the sole use of construction vehicles during the development of Barangaroo South and Central Barangaroo (AR para 4 and 14).
14. Mod 9 seeks approval to increase the amount of gross floor area allowed within Central Barangaroo, change the layout of the development blocks, increase heights, modify the road and pedestrian movement networks, and amend design guidelines (AR para 12).
15. In addition, Central Barangaroo has been subject to various other related projects and works, including SSDs granting consent for staged remediation of the precinct, and Stage 1B public domain works facilitating the creation of a small portion of Hickson Park within the Central Barangaroo remediation works (AR para 16). Refer to Appendix B of the AR for further detail regarding these projects and works.

3. The Commission's Consideration

3.1 Material Considered by the Commission

16. In this determination, the Commission has considered the following material (**Material**):
 - the Planning Secretary's Environmental Assessment Requirements (**SEARs**) issued by the Department, dated 14 April 2022;
 - the following information provided by the Applicant:
 - the Environmental Impact Statement dated 27 April 2023 (**EIS**), and its accompanying appendices;
 - the Response to Submissions Report dated 10 November 2023 (**RtS**), and its accompanying appendices; and
 - all responses to the Department's additional information requests;
 - all public submissions on the EIS made to the Department during public exhibition;
 - all Government Agency advice to the Department;
 - the Department's AR and recommended conditions of consent, dated January 2025;
 - comments from the meeting with the Department, as referenced in Table 1 below;
 - all observations and material gathered at the Site inspection on 23 January 2025; and
 - the Department's comments (dated 23 January 2025) on the feasibility, workability, and any potential unintended consequences of the proposed conditions.

3.2 Strategic context

17. The primary strategic framework for the Project is the Concept Plan, as discussed at section 2.2.2 above. The Commission has also considered the Project against the Greater Sydney Regional Plan – A Metropolis of Three Cities (2018), the Eastern City District Plan (2018), and Council’s Local Strategic Planning Statement – City Plan 2036 (2020).

3.3 Statutory context

18. As noted at paragraph 3 above, the Project constitutes SSD pursuant to section 4.36 of the EP&A Act and section 2.6(1) and Schedule 2, section 3 of the SEPP Planning Systems. Pursuant to the SEPP Eastern Harbour City, the proposed development is permissible with consent as an innominate use in the land use table of the B4 Mixed Use zone (AR Table 2).
19. The Project may require separate approvals. The Department included draft conditions in its recommended conditions of consent to satisfy requirements from the relevant government agencies responsible for these approvals (AR para 22-23).

3.4 Mandatory Considerations

20. In determining this Application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the listed matters as are of relevance to the development the subject of the Application (**Mandatory Considerations**).
21. The Commission finds:
- the Application is consistent with relevant environmental planning instruments;
 - the Site is suitable for the development;
 - the likely impacts of the Application are acceptable, subject to conditions of consent;
 - the Application is consistent with the relevant ecologically sustainable development principles;
 - the Application is consistent with the Objects of the EP&A Act; and
 - the Application in the public interest.

4. Engagement

4.1 The Commission’s Meetings

22. As part of the determination process, the Commission met with various persons as set out in Table 1. All meeting and site inspection notes were made available on the Commission’s website. Council declined the Commission’s invitation to meet and instead reiterated its submission made in objection during the Department’s exhibition period.

Table 1 – Commission’s Meetings

Meeting	Date	Transcript/Notes Available on
Site Inspection	23 January 2025	28 January 2025
Department	23 January 2025	28 January 2025

4.2 Public Submissions

23. The Department publicly exhibited the Application between 30 May 2023 and 26 June 2023, and notified occupiers and landowners near the Site about the public exhibition. The Department received advice from nine (9) government agencies, an objection from Council and one (1) public submission objecting to the Application (refer AR Table 4).
24. Due to the Project's nature, scale, likely impacts and low level of public interest during the Department's exhibition period, the Commission did not seek public submissions. The Commission extended an invitation to the member of the public who objected during exhibition to attend the Site inspection and/or have a meeting with the Commission. The submitter declined the offer to attend the Site inspection and did not take up the offer for a meeting with the Commission.

5. Key Issues

5.1 Consistency with Concept Plan

25. The public submission to the Department raised concern regarding the Project's consistency with the Concept Plan and that it would pre-empt the approval of Mod 9 currently before the Department for assessment (AR para 44).
26. The Applicant has advised that the Project does not depend on or pre-empt the approval of Mod 9 and that it is consistent with the Concept Plan. The Department undertook a detailed consideration of the Project against the Concept Plan (refer AR Appendix C). The Department is satisfied that the Project is consistent with the Concept Plan and does not depend on or pre-empt the changes proposed in Mod 9, for the following reasons (AR para 47):
 - the retaining wall is entirely within the approved development area of Central Barangaroo;
 - the wall will provide the necessary structural integrity along Hickson Road required for the future public domain works, the relocation of the sewer pumping station and the future redevelopment of Central Barangaroo, consistent with the Concept Plan as currently approved;
 - the works are necessary for the Site's development, regardless of the specific forms and layouts of future buildings that may occupy the Site;
 - no permanent excavation or basement enabling works for future development are proposed; and
 - the approved Concept Plan does not set out any specific requirements or limits for excavation, basement design or early works.
27. The Commission agrees with the Department's assessment and is satisfied that the Project is consistent with the Concept Plan and that it does not depend on, or pre-empt the changes proposed as part of Mod 9.

5.2 Stormwater

28. The Site and Hickson Road are subject to overland stormwater flows in a 1% Annual Exceedance Probability (**AEP**) storm event.
29. The Applicant proposes to construct a temporary 600mm pipe to divert stormwater around the Site, given the construction of the retaining wall will intercept two existing 600mm stormwater drains that cross Central Barangaroo from Hickson Road and join existing pipes beneath the future site of Harbour Park. The temporary pipe is proposed to run south along Hickson Road, turn west within the Site and follow the alignment of Barton Street within the Site, before re-joining the existing drain network beneath the future site of Harbour Park (AR para 49-50). The proposed stormwater network layout and anticipated flood level increase above existing conditions are shown at Figures 4 and 5 respectively of the AR.
30. In view of concerns raised by the Biodiversity Conservation and Science Group (**BCS**), the Department sought advice from the Chief Engineer, who reviewed the Applicant's flood modelling. The Chief Engineer concluded that the Applicant's modelling was acceptable and that the proposed stormwater system is an appropriate temporary solution and is fit for purpose (AR para 53-54).
31. The Commission viewed the general location and discussed the extent of the proposed stormwater works and overland flooding during its Site inspection with the Applicant on 23 January 2025.
32. The Commission agrees with the Department's assessment that the proposed temporary stormwater management system is acceptable, subject to conditions, noting the Chief Engineer's advice and that Council did not object to the proposed drainage works. The Commission has imposed conditions B27 and B29 in relation to stormwater management and updates to the drainage design. Condition B29 requires the Applicant to prepare a detailed stormwater management plan which must be submitted to and approved by Council's Public Domain Unit.

5.3 Community engagement

33. The Commission notes that the public objection to the Department raised concern that the Applicant had undertaken inadequate community consultation as per the requirements outlined in the *Undertaking Engagement Guidelines for State Significant Projects* (October 2022) (**Engagement Guidelines**) and the SEARs issued by the Department.
34. The Commission notes that the Engagement Guidelines state that the proposed engagement activities for a State significant project should be proportionate to the scale and likely impacts of the project and the likely interest the community might have in the project. The Engagement Guidelines also state that 'proportionate engagement' relates to the scale and likely impacts of the project, geographic reach of engagement, number of activities and stages of engagement.
35. The Applicant in its EIS stated that the Project is considered unlikely to generate significant community feedback. The Applicant's engagement "focused on stakeholders that share a direct interface with the early works zone and advising agencies and authorities that have an oversight requirement or interest in the project", and hence targeted pre-lodgement engagement with community members was not undertaken for the following reasons (EIS page 42):
 - the minor nature of the works, predominately below ground;
 - the containment of the works to a small portion of the Barangaroo precinct;
 - the likely low environmental and amenity impact on landholders; and

- the broader context of construction in the surrounding area (specifically for Barangaroo Metro Station) and the status of these ongoing works.
36. The Commission agrees with the Department that the level of pre-lodgement engagement undertaken is commensurate with the scale and impact of the proposed works and considers that this is consistent with the Engagement Guidelines. The Commission notes that the community was also provided the opportunity to make a submission on the Application to the Department during exhibition.
37. The Commission acknowledges that construction works have the potential to impact local amenity. The Commission has therefore imposed conditions C11 to C14 requiring the Applicant to prepare a Community Communication Strategy for the Project to provide mechanisms to facilitate communication between the Applicant, Council and the community during construction.

5.4 Other issues

38. The Commission agrees with the Department's assessment of other issues at Table 6 of the AR (Non-Aboriginal archaeology, Aboriginal cultural heritage, public domain levels and access, construction noise, traffic and parking, air quality, groundwater management, and community consultation). Subject to the imposed conditions relating to each of these issues, the Commission is satisfied that the Project's impacts are capable of being appropriately managed and mitigated.
39. Noting Council's concerns in its submission on the EIS, the Commission has imposed condition B28 which requires the Applicant to submit details demonstrating that the Project will align with the future finished levels and gradients of Hickson Road and adjacent footpaths. These details must be prepared in accordance with Council's Public Domain Manual and in consultation with INSW.

6. The Commission's Findings and Determination

40. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process). The Commission considered all of these views in making its decision.
41. The Commission has considered the Material before it as set out in section 3.1 of this report. Based on its consideration of the Material, the Commission finds that the Project is in the public interest and should be approved subject to conditions of consent. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.
42. The reasons for the Decision are given in the Statement of Reasons for Decision dated 29 January 2025.



Janett Milligan (Chair)
Member of the Commission



Simon Smith
Member of the Commission



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