

7 March 2017

**NSW Planning Assessment Commission Determination Report
Stage 1B Basement and Associated Works, Barangaroo South (SSD 6960)**

1. INTRODUCTION

On 14 February 2017, the Planning Assessment Commission (the Commission) received from the Department of Planning and Environment (the Department) an application from Lend Lease Millers Point Pty Ltd (the Applicant) seeking approval for a State significant development application (SSD 6960) to construct the Stage 1B basement car park, interim public domain works and associated services and infrastructure (the Project) at Barangaroo South (the Site).

The application has been referred to the Commission for determination in accordance with the Minister for Planning's delegation dated 14 September 2011, because the City of Sydney Council objected to the Project.

Ms Lynelle Briggs AO, Chair of the Commission, nominated Annabelle Pegrum AM (Chair) and David Johnson to constitute the Commission to determine the application.

1.1 Summary of Development Application

This application seeks approval for a basement car park on the Site consisting of:

- excavation and remediation;
- construction of the Stage 1B basement over 4 levels to support future car parking;
- fit-out and use of common facilities in the basement;
- structural cores for future Stage 1B residential buildings;
- above ground structures;
- up to 26m² of gross floor area within level B1 for basement uses and additional GFA for end of trip facilities on level B0;
- interim public domain;
- interim roads;
- vehicular and pedestrian access;
- services and infrastructure;
- tree removal; and
- hours of construction.

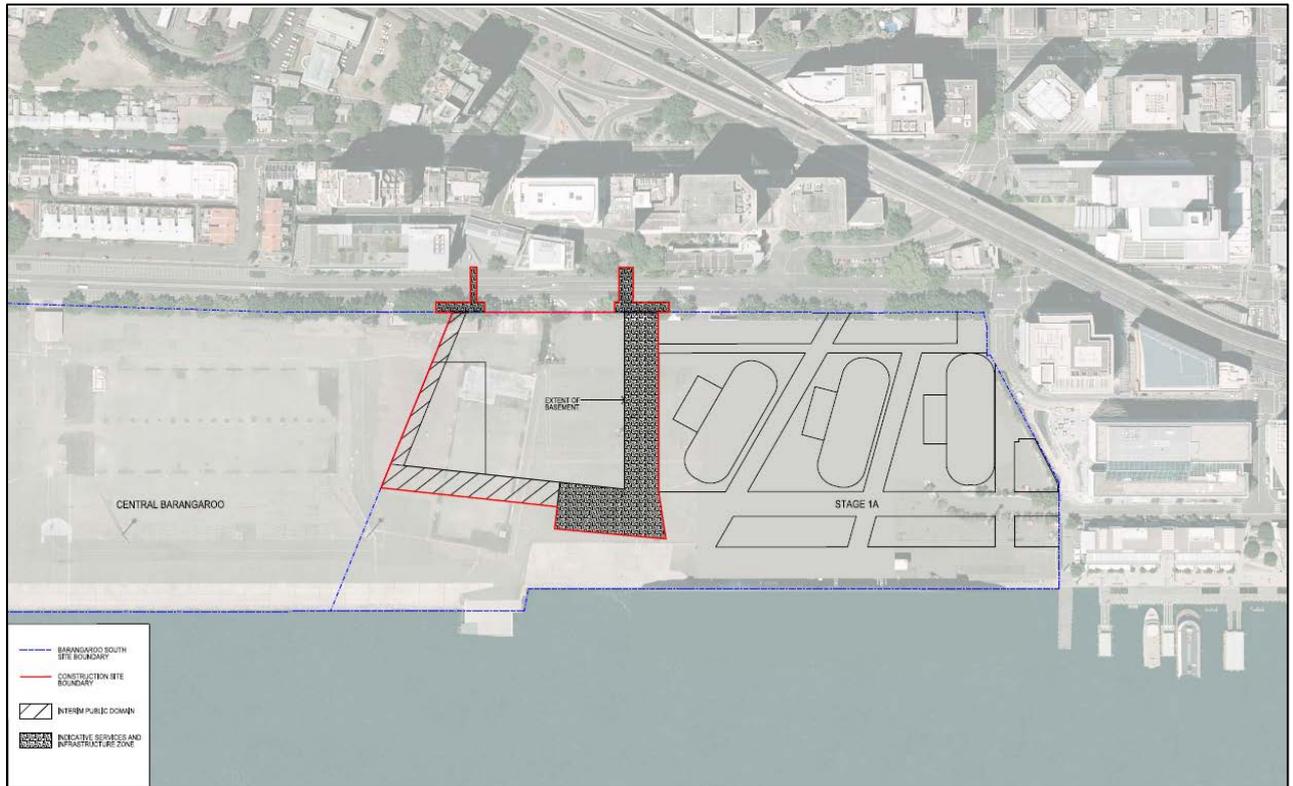


Figure 1: Extent of proposed Stage 1B basement and associated works (Source: EIS)

1.2 Project Background

The Stage 1B site is in the South Barangaroo development area and incorporates significant public realm components, most notably parts of Hickson Road, the future Hickson Park, Watermans Cove and Barangaroo Avenue. The Stage 1B site will accommodate the future Stage 1B residential buildings. The existing International Towers are located to the south of the site.

2. DEPARTMENT'S ASSESSMENT REPORT

The Department's assessment report identified the following key issues associated with this Project:

- contamination and waste management;
- public domain, deep soil zones and landscaping;
- transport and access;
- noise and vibration; and
- air quality.

The Department concluded that it *'is satisfied that, with the implementation of the recommended conditions ... impacts of the development can be mitigated and/or managed to ensure an acceptable level of environmental performance'* and that the development would be of *'significant benefit to the State without prejudicing the delivery of a high quality Hickson Park in accordance with the approved Concept Plan'*.

The Department recommended the application is approval, subject to conditions.

3. MEETINGS & CORRESPONDENCE

In order to more fully understand the application, the Commission met with the Department, the Applicant, and the City of Sydney Council. A summary of each of these meetings are included within **Appendix 1**. No

public meeting was conducted by the Commission as there was only one public submission made during the application exhibition period.

Briefing by the Department of Planning & Environment

On 27 February 2017, the Department briefed the Commission in relation to its assessment of the application.

Briefing from the Applicant

On 27 February 2017, the Applicant met with the Commission and provided a briefing on the application.

Meeting with City of Sydney Council (Council)

On 27 February 2017, the City of Sydney met with the Commission in relation to its areas of outstanding concern relating to the application.

4. COMMISSION'S CONSIDERATION

In its determination, the Commission has considered relevant matters under section 79C(1) of the EP&A Act. The Commission has had regard to information, including but not limited to the information contained within the following:

- the Department's Assessment Report and draft Conditions of Consent;
- information and presentations by the Applicant;
- the briefing by Council;
- advice and recommendations from government agencies; and
- the public submission.

The Commission considers the key matters relevant to this determination are:

1. deep soil zone and landscaping
2. interim public domain;
3. traffic and parking; and
4. construction hours.

The Commission is satisfied with the Department's assessment regarding the other key issues identified in its report, including contamination and waste management, noise and vibration, and air quality impacts. With regard to contamination and site remediation matters, the Commission notes that the Site includes a substantial area of the 'Remediation Site' declared by the Environmental Protection Authority (EPA) which is currently being remediated under the Stage 1 Block 4 remediation works approval (SSD 5897). The Commission also notes that these works and the Remediation Action Plan have been endorsed by the EPA-accredited Site Auditor, and as both the EPA and the Department are satisfied, the Commission agrees that this issue has been properly assessed.

In terms of noise impacts, the Commission understands that some exceedances of noise criteria are likely to occur at some nearby residential locations as a result of cumulative impacts from this development as well as other construction works in the area. However, levels will not exceed 'highly affected' criteria, all activities will be during daytime only and the Construction Noise & Vibration Management Plan (CNVMP) includes mitigation measures which the Applicant has committed to adopt. The Commission agrees with the Department's assessment that construction noise impacts can be minimised as far as reasonably practical and will be acceptable.

The Commission has also considered and agrees with the Department's conclusion that air quality impacts from the proposed development can be effectively managed with the recommended conditions.

The key matters identified by the Commission are addressed below:

4.1 Deep Soil Zone and Landscaping

Concerns were raised by Council regarding the incorporation of deep soil zones (DSZ) and landscaping.

Modification 8 (MOD 8) to the Concept Plan (MP06_0162) includes a condition for a deep soil zone (DSZ). In particular, Condition B3 contains reference to the *'provision of at least 2,000sqm of deep soil with a depth of at least 3m'* to ensure the open space can accommodate a variety of tree sizes. The Commission is cognisant that the implementation of Condition B3 was developed in the absence of clear guidelines around the soil depth requirements for the successful establishment of large mature trees.

The Applicant provided evidence to the Commission that in their expert's view, a 3m DSZ is not necessary to sustain mature trees and that 1.5m of soil would suffice. The Commission also received advice from Council suggesting that a 3m DSZ was not critical and that soil depth and breadth were equally important.

Irrespective, the Commission acknowledges this application is consistent with MOD 8 Condition B3 in that it provides for 2,000m² of DSZ. The Commission also notes that detailed design for Hickson Park incorporating the DSZ will be addressed in the assessment of the Stage 1B Public Domain Works application (SSD 7944).

The Commission had regard to Council concerns related to the proposed draft Condition A3(2) that affords flexibility to the Secretary of the Department regarding adjustments to the *'basement design to reflect the final form of deep soil zones in Hickson Park as determined by SSD 7944'*. The Commission was advised by the Department that any change to the DSZ would require an application for modification to the approved Concept Plan. The Commission was advised by the Applicant that, notwithstanding their view that a 3 m DSZ was not necessary to sustain tall trees on the site, they did not intend at this time to seek a modification to the DSZ condition in MOD 8.

Based on the evidence before it, the Commission considers that draft **Condition A3(2)** is ambiguous and redundant to this application and should be removed.

4.2 Interim Public Domain

The Project includes interim public domain works above the basement where Hickson Park will be located. These interim works will be utilised in the event that there are delays in the assessment and determination of the public domain application (SSD 7944), that provides for the permanent Hickson Park landscape works.

Concerns were raised by Council about the impact of the basement construction on the final design outcome of the future open space. In particular, the potential for the open space to be compromised in quality as a result of its location above the basement and that the future implementation of permanent works for Hickson Park could be delayed. Council suggested that public amenity for seating and shading should be provided as part of the interim works to accommodate public use in the immediate future. The Commission notes that the Applicant has not been required to provide detailed design drawings for the final landscaping to date.

The Commission understands the interim public domain will not be accessible until completion of the basement, in approximately 2020 and was advised by the Department and Applicant that SSD 7944 was well advanced and expected to go to public exhibition in the near future.

The Commission finds that the usability of the interim public domain will be compromised during the construction of the residential towers. The Commission considers that every effort should be made to make these areas conducive to public use in the event that permanent works are delayed. To this end the

Commission has included a new **Condition B14** which requires the provision of public amenity elements such as seating to the interim open space area should it remain in situ for a period exceeding 6 months. Subject to this condition, the Commission is satisfied with the proposed interim design.

4.3 Traffic and Parking

Concerns were raised by Council regarding the traffic impact that the Project will have during both construction and operational stages within the vicinity of the Project. In particular, the car parking rates and the capacity of the surrounding road intersections.

The Commission notes that the information submitted with the application includes a Transport Management and Accessibility Plan (TMAP) prepared by ARUP Consultants (2016) which concludes that the surrounding local road network has appropriate capacity to absorb the proposed increase in vehicle movements.

The Commission acknowledges that the Project has potential to impact upon the surrounding road network and intersections. The Commission has reviewed the relevant traffic studies and after careful consideration is satisfied that with the implementation of a Construction Traffic Management Sub-Plan as required by **Condition B25**, together with the mitigation measures under the Concept Plan, traffic can be managed effectively.

The Commission also finds that the development provides appropriate car parking for the expected residential and retail users of the future development.

4.4 Construction Hours

Concerns were raised about construction impacts particularly on homes near the Site. The EPA requested further justification for the proposed construction hours outside of their standard for Saturday as specified in the *Interim Construction Noise Guideline 2009*.

The Department assessment notes that the proposed construction hours are consistent with those applied for other developments in the city centre and with Council's standard hours. The Applicant has advised that the reduced hours on Saturday would be operationally unviable given the scale of the development and would extend the construction completion program.

The Commission finds that the construction hours as proposed are equal to those for other city developments, meet Council standards, are appropriate to the operational demands of the development and would not result in adverse amenity impacts on the surrounds.

5. COMMISSION'S FINDINGS AND DETERMINATION

The Commission has carefully considered the Applicants proposal, the Department's Assessment Report and the relevant matters for consideration under section 79C of the EP&A Act. The Commission has also noted the advice and recommendations to the Department from government agencies and organisations including the EPA, Sydney Water, DPI, NSW Fire & Rescue, RMS and TfNSW and had regard to public and Council concerns.

The Commission is satisfied that suitable monitoring, management and mitigation measures can be implemented to ensure an acceptable level of environmental performance and amenity to neighbouring properties during construction and the future operation of the basement.

The Commission has amended the conditions to remove draft **Condition A3(2)** and has added **Condition B14** to provide public amenity to the interim public domain works.

The Commission finds that the Stage 1B basement works will accommodate the future development of the proposed residential buildings in Barangaroo South and will not compromise the delivery of Hickson Park as set out in the approved Barangaroo Concept Plan.

For the reasons set out in this report, the Commission has determined to grant approval to the Stage 1B Basement for Barangaroo South (SSD 6960) subject to the conditions set out in the instrument of approval.



Ms Annabelle Pegrum AM
Commission Member (Chair)



David Johnson
Commission Member

This meeting is part of the determination process		
Meeting notes: Muriel Maher	Date: Monday, 27 February 2017	Time: 11:55am
Project: Stage 1B Basement, Barangaroo South, State Significant Development Application – SSD 6960		
Meeting place: Planning Assessment Commission Offices		
<p>Attendees:</p> <p>Commission Members: Annabelle Pegrum AM (Chair) and David Johnson</p> <p>Commission Secretariat: Muriel Maher (Senior Planning Officer), David Koppers (Team Leader) and David McNamara (Director)</p> <p>Department of Planning and Environment: Ben Lusher (Director Metro Assessments) and Cameron Sargent (Team Leader) and Andrew Hartcher (Senior Planning Officer)</p>		
The purpose of the meeting Briefing by the Department.		
<p>The Department provided a summary of the application illustrated by relevant plans and noted that a – consistent with concept plan approval. The Department also noted that the car parking basement for the Block Y (Crown) would be a completely separate application and that the Stage 1B basement and that of Block Y would not be interlinked other than for pedestrian access.</p> <p>The Department advised that:</p> <p><u>Deep Soil Zones (DSZ)</u></p> <ul style="list-style-type: none"> • The design of the car park reflects the requirements of Modification 8 (MOD 8); • Basement 1B sits within the Environment Protection Authority (EPA) Declaration Area 21122; • Separate consents for remediation of the site have been received; • The Applicant had been asked to review and consider the treatment of landscaping during the early stages of Barangaroo. The Applicant was of the view that the 3m DSZ was not necessary to grow tall mature trees. • Draft Condition A3 was designed to ensure that the DSZ would generally be coincident with tall tree planting; and • The Commission noted that the Department’s assessment report indicated that a modification may be under consideration by the Applicant regarding the DSZ. The Department advised that, to the best of its knowledge, the Applicant was no longer contemplating any such application; <p><u>Remediation</u></p> <ul style="list-style-type: none"> • The EPA is satisfied with the treatment of remediation, and the Commission noted that the site auditor has approved the remediation action plan (RAP); • The remediation for Stage 1C basement extends to a lower level than the existing block 4 approval; and • The Department also considers that the remediation measures are appropriate and noted that the basement will be constructed of concrete further reducing any opportunity for cross contamination. 		

Car parking

- The internal design detail for the car parking is not the subject of this application;
- The car parking is not inconsistent with the Concept Plan (CP);
- The application is not for a commercial car park but will primarily accommodate parking and services for residential and retail tenancies; and
- Traffic assessments have been completed for both the CP and for this application.

GFA

- The Commission requested confirmation that the basement Gross Floor Area (GFA) of 26m² nominated in the assessment report included the proposed 'end of trip facilities'.

Interim Landscaping

- This project involves interim landscape plans;
- The provision of the interim landscaping measures were designed to ensure that the Applicant could meet their contractual obligations and provide community access (should there be any delay in the delivery of the final landscape proposal for Hickson Park or for the Crown development); and
- The interim landscaping as proposed may not be implemented because the Hickson Park application (SSD 7944) was likely to be submitted in the near future and subject to public exhibition, would be determined ahead of the completion of interim works proposed in this application.

Noise and Construction Hours

- The EPA wanted the Saturday construction hours reduced to match its standard hours (8am-1pm), however the proposed hours (7am – 5pm) are consistent with the City of Sydney Council's standard construction hours and other approvals for development within the city; and
- The Applicant did not consider the EPA hours viable because mobilisation of works on such a large site would require a full day and restricted hours would extend construction by up to seven months.

Air quality

- The air quality plan submitted with the Environmental Impact Statement (EIS) includes contingencies to manage air emissions (particularly odours) and the Department has recommended conditions to deal with such occurrences; and
- Condition B22 addresses the requirement for an updated air quality and odour management sub-plan to be prepared compliant with the Environment Protection Licence.

Adaptive Management

- Condition B22 also requires proactive and reactive management strategies to be included; and
- The EPA will review air quality management.

Outcomes/agreed actions: The Commission requested the Department provide indicative basement GFA that included the end of trip facilities, and the implications of the potential removal of Condition A3 (2) to address any ambiguity around future modifications associated with the DSZ.

Meeting closed at 12:30pm

This meeting is part of the determination process		
Meeting notes: Muriel Maher	Date: Monday, 27 February 2017	Time: 2:30pm
Project: Stage 1B Basement, Barangaroo South, State Significant Development Application – SSD 6960		
Meeting place: Planning Assessment Commission Offices		
<p>Attendees:</p> <p>Commission Members: Annabelle Pegrum AM (Chair) and David Johnson Commission Secretariat: Muriel Maher (Senior Planning Officer), David Koppers (Team Leader) and David McNamara (Director)</p> <p>Applicant:</p> <p><u>Lendlease</u> Stewart Verity (Senior Development Manager, Barangaroo South); and Elizabeth Goodall (Development Manager)</p> <p><u>Barangaroo Delivery Authority (BDA)</u> Colin Sargent (Director, Design and Planning); and Tony Gulliver (Director, Barangaroo South)</p> <p><u>JBA</u> Brendon Hoskins (Planner)</p>		
The purpose of the meeting: Briefing by the Applicant		
<p>The Applicant advised that:</p> <p><u>Status of the future Public Domain SSD Application for Hickson Park</u></p> <ul style="list-style-type: none"> • Conditional approval was provided for the public domain area by the Barangaroo Delivery Authority (BDA) on 17 October 2016; • A proposed application was submitted by the Applicant for review to BDA on 2 December 2016 and commentary was received back on 22 December 2016; and • Accordingly, the Applicant is completing the design refinements and the Public Domain SSD application is nearing completion. <p><u>Deep Soil Zone</u></p> <ul style="list-style-type: none"> • The Applicant submitted their evidence that there was no need for a 3m deep soil zone (DSZ) to sustain tall, mature trees in Hickson Park and that 1.5m of soil would suffice; • Notwithstanding, this application (and the future one for Hickson Park) complies with the requirement for the 3m DSZ over 2000m² of the site; • The basement structural design is such that the DSZ is restricted in its location and will not be entirely coincident with the planting of the tall trees.; and • They were not proposing an application to modify the DSZ within the Barangaroo Concept Plan. <p><u>Landscaping</u></p> <ul style="list-style-type: none"> • They had noted the City of Sydney Council’s (Council) request to establish tree plantings early; • The timeframe to complete the ground slab would not accommodate the Council’s request; 		

- As per Stage 1A, trees would be purchased early and 'grown on' prior to planting; and
- The downdraft issue and solar access are all contributing factors in determining where tall trees and other plantings could be located on the site; and

Excavation

- No contract for excavation has been finalised to date;
- Diaphragm walls are required upfront to seal off the site and excavation would come at the later stages of construction;
- The entire site is reclaimed land; and
- The bedrock shelf is slanted towards the harbour. As such, contamination is expected to migrate downwards and on reaching the bedrock, flow from there towards the harbour.

Construction Hours

- The Department has supported the proposed construction hours; and
- Sunday hours are not permitted unless there are extenuating requirements approved in advance by the Secretary. The same condition applies to any variation on the approved restricted hours.

The Applicant gave a power point presentation providing an overview of the preliminary landscape plans for Hickson Park. The plans indicated that there is at least 1.5m in soil depth allocated for landscaping throughout the proposed soft landscaping areas.

Outcomes/agreed actions: The Commission requested confirmation regarding construction staging, tree procurement and structural or other impediments limiting the location of the deep soil zone.

The Applicant provided information regarding the soil depth study to the Commission.

Meeting closed at 3pm

Meeting with City of Sydney Council

This meeting is part of the determination process		
Meeting notes: Muriel Maher	Date: Monday, 27 February 2017	Time: 4:30pm
Project: Stage 1B Basement, Barangaroo South State Significant Development Application – SSD 6960		
Meeting place: Planning Assessment Commission Offices		
<p>Attendees:</p> <p>Commission Members: Annabelle Pegrum AM (Chair) and David Johnson Commission Secretariat: Muriel Maher (Senior Planning Officer) and David Koppers (Team Leader) City of Sydney Council: Chris Corradi (Area Planning Manager), Emma Washington (Landscape Assessment Officer and Kirsten Morrin (Principal Lawyer)</p>		
The purpose of the meeting Briefing by Council.		
<p>The Commission noted that they understood that a number of comments made by Council had now been addressed in the proposed draft conditions.</p> <p>Council advised that:</p> <ul style="list-style-type: none"> • They are satisfied with the service vehicle sweep paths and hours of works and the inclusion of end of trip facilities; • They remained concerned that no final landscape design for the public domain had been provided with the application to give confidence to Council and the community that Hickson Park, as proposed in the Concept Plan, could be delivered; • There is a substantial set down for the ground slab of the basement; however, there may be restrictions imposed on the landscape design as a result. In their view, the open space design should govern the basement design, not the other way around; • Their arborist also suggested that a 3m DSZ was not critical and that soil depth and breadth were equally important; • They were concerned that the final environment for Hickson Park would be too windy for appropriate public use; • The interim landscape measures proposed were not sufficient to afford public amenity and that (at a minimum) seats and some shading should also be provided; • Condition A3 suggested a subsequent application would defer the landscaping works to a later stage; and • They had concerns pertaining to excessive traffic impacts and the capacity of intersections, in particular Sussex and Erskine Street and Hickson Road, as a result of existing approvals. <p>The Commission advised Council that the 2,000m² of 3m DSZ is retained in the application. The Applicant had advised that they would not be seeking a modification regarding the DSZ.</p>		
Outcomes/agreed actions: The Commission would request further information from the Department regarding draft condition A3 and public amenity measures for the proposed interim landscape works.		
Meeting closed at 4:55pm		