

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number and project name	SSD-7944-Mod-1 Barangaroo - Public Domain-Mod-1
Applicant	Lend Lease (Millers Point) Pty Limited
Consent Authority	Minister for Planning and Public Spaces

Decision

The Executive Director under delegation from the Minister for Planning and Public Spaces has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**the Act**) modified the consent subject to the recommended conditions.

A copy of the instrument of modification and conditions is available here.
<https://www.planningportal.nsw.gov.au/major-projects/project/13816>

A copy of the Department of Planning & Environment's assessment report is available here.
<https://www.planningportal.nsw.gov.au/major-projects/project/13816>

Date of decision

1 November 2019

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the reasons given by the consent authority for the grant of the original consent;
- the objects of the Act;
- the considerations under s 7.14(2), 7.16(3) and 7.17(2) of the Biodiversity Conservation Act 2016 (NSW);
- all information submitted with the modification application during the assessment and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report;
- the submissions made concerning the modification; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted was modified.

The key reasons for granting the modification are as follows:

- *Benefits* - the modification would provide a range of benefits for the region and the State as a whole, including a high-quality public domain;
- *Consistent with NSW Government Policy* - the modification is permissible with consent, and is consistent with NSW Government policies including the Greater Sydney Region Plan, Eastern City District Plan and State Environmental Planning Policies;
- *Impacts can be managed* - the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- *Community views considered* - the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and

- *Public interest* – weighing all relevant considerations, the modification is in the public interest as it would facilitate the development of the public domain which will have a wide range of positive social and economic benefits.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification from 20 June 2019 until 3 July 2019 (14 days) and received one submission from Council, five from Government agencies and one public submission making comments.

The key issues raised by Council, Government agencies and the public and considered in the Department's Assessment Report and by the decision maker include Hickson Park levels, Watermans Cove public pier, Watermans Quay, Wulugul Walk and Barangaroo Avenue. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<i>Preservation of Survey Marks (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant notes there are no existing permanent marks within the site and no City of Sydney streets in this development. • The Applicant requests the condition is not adopted by the Department. • The Department agrees with the Applicant and considers a condition is not necessary for the preservation of survey marks given there is none within the site. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No changes to the conditions are recommended.
<i>Protection of Survey Infrastructure (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant notes the current existing permanent marks are situated on Hickson Road, and external to the proposed works. • The Applicant notes future subdivisions of Barangaroo South Stage 1B will eventually place new permanent marks within the Stage 1B area. • The Applicant requests the condition is not adopted by the Department. • The Department agrees with the Applicant and considers a condition is not necessary for the protection of survey infrastructure as survey marks are located external to the proposed works. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No changes to the conditions are recommended.
<i>Public Domain Plan (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant notes the proposed condition for a public domain plan is not relevant as specific public domain works are covered as individual conditions in the original consent (SSD 7944). These include conditions relating to paving materials, road intersection and footpath design, trees and vegetation and lighting. • The Applicant notes the architectural drawings for the public domain modifications have been prepared by qualified and registered landscape architects Grant Associates. • The Applicant notes the public domain works will be undertaken in accordance with the approved plans as modified in this application. • The Applicant requests the Department does not adopt the condition requested by Council. • The Department agrees with the Applicant and considers a condition is not necessary for a public domain plan as the original consent (SSD 7944) already covers individual public domain works. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No changes to the conditions are recommended.
<i>Stormwater and Drainage – Major Development (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant considers relevant stormwater and drainage conditions including a water and stormwater management sub-plan and Sydney Water requirements and compliance is addressed in the original consent (SSD 7944). • The Applicant notes the Stormwater Management and Civil Infrastructure Plan prepared by Cardno comprehensively addresses items proposed by Council. • The Applicant notes there is no proposed connection into the Council drainage system. • The Applicant requests the condition is not adopted by the Department. • The Department notes the water and stormwater management sub-plan will be submitted to EPA and DPI for review and to the

	<p>Department prior to the commencement of works.</p> <ul style="list-style-type: none"> The Department agrees with the Applicant and considers an additional condition is not necessary for stormwater and drainage management as a condition requiring a water and stormwater management sub-plan and Sydney Water requirements and compliance is imposed in the original consent (SSD 7944). <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>On-site Detention (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant notes no on-site detention basins are proposed for the development. The Applicant requests the condition is not adopted by the Department. The Department agrees with the Applicant and considers a condition is not necessary for on-site detention as there are no on-site basins proposed for the development. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Stormwater and Drainage – Major Development (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant notes section 5 of the Stormwater Management and Civil Infrastructure Plan addresses water quality in the Barangaroo public domain and has been updated for the modification. The Applicant requests the condition is not adopted by the Department. The Department notes a condition requiring a stormwater quality assessment is not required in the original consent (SSD 7944). The Department agrees with the Applicant and considers a condition is not necessary for a stormwater quality assessment as the Applicant’s Stormwater Management and Civil Infrastructure Plan appropriately addresses stormwater quality. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Completion/ Works-As-Executed Documentation (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant requests the condition is not adopted by the Department. The Department notes a condition requiring a Completion/Works-As-Executed Documentation is not required in the original consent (SSD 7944). The Department considers a condition is not necessary for Completion/Works-As-Executed Documentation as the Applicant is not required to submit stormwater and drainage plans to Council and therefore the condition is not relevant. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Public Domain Lighting (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant notes the original consent (SSD 7944) already imposes a condition requiring a lighting plan, which was prepared by Speirs & Major. The Applicant notes the City of Sydney Smart Poles are specified in the design, and all lighting design is in accordance with Australian standards. The Applicant requests the condition is not adopted by the Department. The Department agrees and considers an additional condition is not necessary for public domain lighting given a lighting plan is already required. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Road Network and Geometric Road Design (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant notes the original consent (SSD 7944) requires they provide detailed design and construction documentation of all roads, intersections and footpaths. The Applicant requests the condition is not adopted by the Department. The Department agrees and considers an additional condition is not necessary for road network and geometric road design as it is already addressed in the original consent (SSD 7944) and is required to be approved by the relevant road authority. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Proposed material changes for seats/bollards on eastern and western edge of Hickson Park (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Council raised no further issues after reviewing the additional information in the RtS. The Department considers the change from sandstone to precast concrete to be valid due to the long-term benefits for the public

	<p>domain including improved appearance, less ongoing maintenance and greater durability.</p> <ul style="list-style-type: none"> The Department considers the spacing on the western edge of Hickson Park to be appropriate as it will improve accessibility into Hickson Park from the west. The Department considers the removal of the seats/bollards on the eastern edge to be acceptable and notes this design consideration will be addressed by Infrastructure NSW in the Hickson Road upgrade. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Raising the approved ground level up to 400 mm (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Council raised no further issues after reviewing the additional information in the RtS. The Department considers the temporary wall as part of the interim design solution accommodates for the future level raise of Hickson Road and will remain permeable for pedestrians. The Department is satisfied the temporary wall will act as a vehicle deterrent in the interim until the Hickson Road upgrade is undertaken, whereby Infrastructure NSW will provide a permanent design solution. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Increasing soil depths (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Council raised no further issues after reviewing the additional information in the RtS. The Department considers the proposal to meet the requirements of Condition B3(1)(c) for a deep soil zone of at least 3000 mm. The Department is satisfied the Applicant has considered mitigation measures to reduce the likelihood of anaerobic soil occurring. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Height of wall facing Barangaroo Avenue (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Council raised no further issues after reviewing the additional information in the RtS. The Department considers the modification will not amend the height of the retaining wall on Barangaroo Avenue and the view corridors will not be affected. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Proposed deletion of timber seating to the signature feature fig tree planters (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Council raised no further issues after reviewing the additional information in the RtS. The Department considers the deletion of timber seating on the precast planters in the Spirit of Tasmania Landing and between R4B and R5 to be acceptable. The Department considers the change of material to precast concrete to be an adequate mitigation strategy to reduce the likelihood of ongoing maintenance as a result of debris collection from fig trees. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Substitution of sandstone stairs with concrete along Watermans Quay, Wulugul Walk and Boardwalk Park (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant notes the stairs in Watermans Cove have been substituted from sandstone to precast concrete to differentiate the path of travel from adjacent sandstone bleacher seating, improve wayfinding for pedestrians and to address durability and maintenance concerns. Council raised no further issues after reviewing the additional information in the RtS. The Department considers the substitution to precast concrete to be justified as it will significantly improve wayfinding and reduce the likelihood for ongoing maintenance. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Available soil volume (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Council raised no further issues after reviewing the additional information in the RtS. The Department considers the modification to achieve the minimum 1000 mm depth required for trees on slab. The Department is satisfied the Applicant has rectified any errors in the 'Available Soil Volume' in the Design Report. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No changes to the conditions are recommended.
<i>Stormwater management (Council issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant noted stormwater modelling for the public domain has been undertaken and is included in the documentation comprising

	<p>their modification application.</p> <ul style="list-style-type: none"> • Further to this, the Applicant noted stormwater modelling will be undertaken with Infrastructure NSW to align with the future Hickson Road upgrade. • The Department considers the stormwater modelling undertaken by the Applicant addresses Council's concerns. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No changes to the conditions are recommended.
<i>Noise impacts (Community issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant notes a Noise Management Plan will be implemented for all works as per Condition C10 of the Consent. • Further to this, the Applicant notes the development and inclusion of noise reduction barriers, curtains and attenuating devices will minimise noise impacts. • The Applicant notes notifications to the local community will be distributed and a community hotline established. • The Department notes no out-of-hours works are proposed and considers the Noise Management Plan and the inclusion of noise reduction barriers, curtains and attenuating devices will mitigate associated noise impacts. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No changes to the conditions are recommended.
<i>Light spill (Community issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant notes there is no proposed modification to the lighting in this modification. • The Department considers the modification does not seek to amend lighting in the public domain and notes in respect of Barangaroo Avenue lighting, the City of Sydney Smart Poles are specified in the design, and all lighting design is in accordance with Australian standards. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No changes to the conditions are recommended.
<i>Bats taking residence (Community issue)</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant notes there are no additional fig trees proposed in this modification. • The Department considers mitigation measures are not necessary as the number of fig trees are not increasing in this modification. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No changes to the conditions are recommended.