

Stage 1B (Stage 5) Subdivision, Barangaroo South – Response to Submissions

Attachment A – Detailed Record and Response to Submissions

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| City of Sydney Council | |
| Overall, the City of Sydney recommends that in the event of the application being recommended for approval, the following conditions are to be added: | |
| <ul style="list-style-type: none"> (1) LAND SUBDIVISION – SUBDIVISION CERTIFICATE A separate application must be made to Council or an accredited certifier to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979. | <p>In order for this condition to remain consistent with previous subdivision development consents at Barangaroo South, where the accredited certifier provides approval, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), the following amendments to the condition are recommended:</p> <p><i>(1) LAND SUBDIVISION – SUBDIVISION CERTIFICATE A separate application must be made to Council or an accredited certifier to obtain the approval of the relevant plan of subdivision and issue of the relevant a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979.</i></p> <p>The proposed amendments will achieve the intent of Council's proposed condition, and also respond to the proposed subdivision staging.</p> |

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| <ul style="list-style-type: none"> (2) SYDNEY WATER CERTIFICATE - SUBDIVISION Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to Council or the Principal Certifying Authority prior to a Subdivision Certificate being issued | <p>Other approved subdivisions at Barangaroo South, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision) have a condition addressing a Compliance Certificate which relates to Sydney Water requirements (Condition B5 of SSD 6381, Condition B9 of SSD 7478, Condition B7 of SSD 8997 and Condition B7 of SSD 9758). It is recommended that these conditions are considered in the proposed drafting of a new condition, as it will ensure consistency across the subdivision development consents, while achieving the intent of Council's proposed condition.</p> <p>For reference, Condition B4 of SSD 8997 reads as follows:</p> <p>COMPLIANCE CERTIFICATE <i>B7. Prior to issue of any Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water and shall be provided to the Certifying Authority demonstrating that the development has satisfied the detailed requirements of Sydney Water in respect to water and wastewater.</i></p> <p>The proposed amendments will achieve the intent of Council's proposed condition.</p> |

- (3) RESTRICTION ON RESIDENTIAL DEVELOPMENT A documentary Restriction on Use of Land is to be created over the residential lots in the Subdivision Plan (shown on the plan as Lots 601, 603, 605 and 607), pursuant to Section 88B of the Conveyancing Act 1919, appurtenant to Council, in terms to the satisfaction of Council requiring the apartments within that lot are to be used for permanent residential accommodation only and not for the purpose of short-term rental accommodation such as hotel, serviced apartments, boarding house, tourist and back-packer accommodation, with the Council being the authority to release, vary or modify the restriction.

This condition is largely supported, as it is consistent with the intention of the luxury housing apartment product and Key Worker Housing being delivered in Buildings R4A, R4B and R5 in Barangaroo South.

However, the proposed condition refers to 'short-term' rental accommodation, which is not a defined time period and may unduly burden permanent rental accommodation, and further the operation of the Key Worker Housing, or at the very least create uncertainty.

We therefore propose that any such condition reads as follows:

3) RESTRICTION ON RESIDENTIAL DEVELOPMENT

*A documentary Restriction on Use of Land is to be created over the residential lots in the Subdivision Plan (shown on the plan as Lots 601, 603, and 605 and 607), pursuant to Section 88B of the Conveyancing Act 1919, appurtenant to ~~Council~~ a **Certifying Authority**, in terms to the satisfaction of ~~Council~~ the **Certifying Authority** requiring the apartments within that lot are to be used for permanent residential accommodation only and not for the purpose of short-term rental accommodation such as hotel, serviced apartments, boarding house, tourist and back-packer accommodation, with the ~~Council~~ **Certifying Authority** being the authority to release, vary or modify the restriction. For the purposes of this Condition, 'short-term' means a period that is less than 3 months at any one time.*

(Note to DPIE: 3 months reflects the definition for Short Term rental accommodation per Section 54A of the NSW Fair Trading Act 1987).

Furthermore, consistent with previous subdivisions at Barangaroo South, it is requested that the term 'certifying authority' is adopted.

The proposed amendments will continue to achieve the intent of Council's condition.

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| <ul style="list-style-type: none"> (4) RESTRICTION ON USE OF CAR SPACES AND STORAGE SPACES - RESIDENTIAL A documentary Restriction on Use of Land is to be created over the lots in the Subdivision Plan that contain parking (nominally), pursuant to Section 88B of the Conveyancing Act 1919, appurtenant to Council, in terms to the satisfaction of Council requiring that the on-site car parking spaces and storage spaces, exclusive of service spaces, are not to be used other than by a resident, tenant or occupant of the lots, with the Council being the authority to release, vary or modify the restriction. | <p>For consistency with the other approved subdivisions at Barangaroo South being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), we request that the wording from these consents (specifically Condition B4 of SSD 6381, B3 of SSD 7478, B3 of SSD 8997 and B3 of SSD 9758) is applied in the condition drafting to manage the distribution and use of parking and storage spaces per the planning approvals of Building R4A (SSD 6964), R4B (SSD 6965), R5 (SSD 6966). This will ensure consistency across the Subdivision development consents, whilst achieving the intent of Council's proposed condition.</p> <p>For reference, Condition B3 of 8997 reads as follows:</p> <p><i>B3. Prior to the issue of a Subdivision Certificate for a stratum subdivision, a Statement of Compliance shall be provided to the Certifying Authority demonstrating that the proposed subdivision is consistent with relevant conditions of any relevant planning approval/development consent (to the extent that they are relevant and required for that stage) issued in respect to the building (or part of the building) proposed to be subdivided. This includes, but is not limited to, any conditions relating to the allocation of the following to the respective lot/s:</i></p> <p><i>(a) The number of bicycle spaces;</i> <i>(b) The number of car parking spaces;</i> <i>(c) The number of motor bike spaces;</i> <i>(d) The number of loading spaces;</i> <i>(e) The number of storage spaces and</i> <i>(f) Any services or infrastructure.</i></p> <p><i>The above car parking and motorcycle spaces are to be shown as part of the relevant stratum lot.</i></p> <p><i>The bicycle spaces, loading spaces, services and infrastructure can be on separate lots only if they are part of a shared basement and managed under the Building Management Statement required by Condition B12.</i></p> |

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| <ul style="list-style-type: none"> (5) PARKING ON COMMON PROPERTY AREAS No part of the common areas and traffic aisles in the basement levels, apart from drop-off or visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles, trailers or boats. Any strata subdivision of all or part of the building is to include an appropriate documentary restriction pursuant to Section 88B of the Conveyancing Act 1919, so burdening common property, with the Council being the authority to release, vary or modify the restriction. | <p>A condition of consent for parking on common property areas is not required as it is already dealt with under Clause 61.3 of the registered Building Management Statement submitted with the EIS.</p> <p>Clause 61.3 of the registered BMS provides that the car park ramps or access ways, being the common basement areas, cannot be used for the parking of vehicles. Accordingly, the recommended condition restricting parking on common property is not required.</p> |
| <ul style="list-style-type: none"> (6) EASEMENTS FOR ACCESS Appropriate Easements for Access (or similar) are to be created over any required corridors, passages, driveways, traffic aisles, stairs and lifts, within the development that are needed to provide access from (or across) one lot to another, pursuant to Section 88B of the Conveyancing Act 1919. The Easements are to be reciprocal in nature (where applicable), granting rights of access to persons and/or vehicles, and are to be created in appropriate terms acceptable to Council, with the Council being the authority to release, vary or modify the easement. | <p>Other approved subdivisions at Barangaroo South, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), have conditions for 'Access Easements' (B6a & B6b of SSD 6381, B5 & B6 of SSD 7478, B5 & B6 of SSD 8997, B5 & B6 of SSD 9758). We would recommend the use of these conditions in future drafting, as it will ensure consistency across the Subdivisions, whilst achieving the intent of the Council's proposed condition.</p> <p>For reference, Condition B5 & B6 of SSD 9758 reads as follows</p> <p>ACCESS EASEMENT – GROUND LEVEL:</p> <p><i>B5. Prior to, or upon, the registration of the first stratum plan, appropriate ground level access easement/s are to be created to provide access to each building from the public domain for respective building owner/s, tenant/s and visitors, as relevant to the stratum lot/s, to the satisfaction of the certifying authority. Each easement is to address construction staging, including any restrictions to access as a result of the construction activities including erecting hoardings.</i></p> <p><i>B6. Suitable easements for access or rights-of-way benefiting the public are to be created over the public domain areas of the residual lot at each stage in the stratum subdivision, to ensure public access to the site. The rights of public access are to be triggered by the issue of any occupation certificate for public domain works (temporary or permanent) within Barangaroo South.</i></p> |

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| <ul style="list-style-type: none"> (7) EASEMENT FOR USE OF LOADING DOCKS & GARBAGE ROOMS Appropriate Easement is to be created over any loading dock areas and garbage rooms, within the subdivision plan, pursuant to Section 88B of the Conveyancing Act 1919. The Easement is to burden the lot(s) containing the loading docks or garbage rooms and benefit those lots in the subdivision requiring use of these areas. The easement(s) must grant rights of access to and the use of the loading dock area (including the loading and unloading of service vehicles, delivery vehicles and the like) and/or garbage rooms, and is to be created in appropriate terms acceptable to Council, with the Council being the authority to release, vary or modify the easement. | <p>A condition of consent for use and access to loading docks and garbage rooms is not required as it is already dealt with under the Barangaroo South Management Statement (BMS). This is provided under Clause 62 and Clause 63 of the registered Building Management Statement submitted with the EIS.</p> <p>Accordingly, the recommended condition is not required.</p> |
| <ul style="list-style-type: none"> (8) EASEMENTS RELATING TO STRATUM LOTS Documentary reciprocal easements for services, drainage, support and shelter, and emergency egress (and other similar easements as required), affecting the whole of each lot if so desired, must be created over the lots in the subdivision, pursuant to Section 88B of the Conveyancing Act 1919 and to Council's satisfaction. | <p>Other approved subdivisions at Barangaroo South, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision) have the condition Easement Plan/s (B5 of SSD 6381, B4 of SSD 7478, B4 of SSD 8997, B4 SSD 9758). We would recommend the use of this condition in future drafting, as it will ensure consistency across the subdivisions, whilst achieving the intent of the City of Sydney proposed condition.</p> <p>For reference, Condition B4 of SSD 9758 reads as follows:</p> <p><i>EASEMENT PLAN/S</i></p> <p><i>B4. Prior to, or upon, the issue of the first Subdivision Certificate for the subdivision of Lot 214, the proponent is to provide the Certifying Authority with an easement plan/s for authority services and infrastructure in accordance with Condition B6 and Condition B7. Alternatively, the Certifying Authority must be satisfied that appropriate agreements or bonds are in place to provide for future easements.</i></p> <p><i>If it is proposed to create easements, rights of way, restrictions or covenants, an 88B Instrument must be provided.</i></p> |

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| <ul style="list-style-type: none"> (9) ADDITIONAL EASEMENTS Any other documentary easements or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision must be created over appropriate lots in the subdivision, pursuant to Section 88B of the Conveyancing Act 1919 and to Council's satisfaction. | <p>Other approved subdivisions at Barangaroo South, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), have conditions for Easements. This includes the Condition 'Easement Plan/s' (B5 of SSD 6381, B4 of SSD 7478, B4 of SSD 8997, B4 SSD 9758) and 'Access Easements' (B6a & B6b of SSD 6381, B5 & B6 of SSD 7478, B5 & B6 of SSD 8997, B5 & B6 of SSD 9758). We would recommend the use of these conditions in future drafting, as it will ensure consistency across the subdivisions, whilst achieving the intent of the Council's proposed condition.</p> <p>For reference, Condition B4, B5 & B6 of SSD 9758 states:</p> <p><i>EASEMENT PLAN/S</i></p> <p><i>B4. Prior to, or upon, the issue of the first Subdivision Certificate for the subdivision of Lot 214, the proponent is to provide the Certifying Authority with an easement plan/s for authority services and infrastructure in accordance with Condition B6 and Condition B7. Alternatively, the Certifying Authority must be satisfied that appropriate agreements or bonds are in place to provide for future easements.</i></p> <p><i>If it is proposed to create easements, rights of way, restrictions or covenants, an 88B Instrument must be provided.</i></p> <p><i>ACCESS EASEMENT – GROUND LEVEL:</i></p> <p><i>B5. Prior to, or upon, the registration of the first stratum plan, appropriate ground level access easement/s are to be created to provide access to each building from the public domain for respective building owner/s, tenant/s and visitors, as relevant to the stratum lot/s, to the satisfaction of the certifying authority. Each easement is to address construction staging, including any restrictions to access as a result of the construction activities including erecting hoardings.</i></p> <p><i>B6. Suitable easements for access or rights-of-way benefiting the public are to be created over the public domain areas of the residual lot at each stage in the stratum subdivision, to ensure public access to the site. The rights of public access are to be triggered by the issue of any occupation certificate for public domain works (temporary or permanent) within Barangaroo South.</i></p> |
| <ul style="list-style-type: none"> (10) STREET ADDRESSES OF LOTS In accordance with Clause 60(c) of the Surveying and Spatial Information Regulation 2017, the street addresses for each lot must be shown on the final plan of subdivision. | <p>Noted. This will be included on the final plan of subdivision.</p> |

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| Sydney Water | |
| The development is proposed to be serviced from the 250mm water main located in Watermans Quay which is supplied from the existing 300mm trunk main in Hickson Road. | Sydney Water’s submission represents a summary of the current water servicing and stormwater management for site. The comments are noted, and the servicing needs relevant to the proposal would be dealt through the subsequent Section 73 Compliance Certificate process required for the staged Subdivision. |
| Any works, if required, should align with the Site Servicing Strategy (Barangaroo South) as agreed with Sydney Water. | |
| Wastewater servicing should be available via a 225mm wastewater main (laid in 1924) on Hickson Road. A 450mm sewer branch (laid in 2004) is also located on Hickson Road. | |
| Any works, if required, should align with the Site Servicing Strategy as agreed with Sydney Water. | |
| A Recycled Water Plant has been installed within the Barangaroo South development. The RWP is privately owned and operates under the Water Industry Competition Act. Additional storage within the local sewerage network may be required to offset the peak load from the development if the RWP is offline, with the re-use of the Stage 1A temporary stormwater diversion pipework as emergency wastewater storage. | |
| Sydney Water notes that the Proponent has designed and constructed stormwater deviation works with input from Sydney Water. | |
| Public Submission | |
| There is a residential A, R5, Lot 607, with no details of how this will be structured from a management and purchase perspective. Will this be a strata plan lot, company title, or held by the Government or retained by the developer for rental purposes? As these residences are for essential workers, how will this be monitored for purchase and rental purposes? | Lot 607 relates to the Key Worker Housing (KWH) component for Building R5. The details of this particular housing component of Building R5 were approved under a separate application (SSD 6966), which includes the management of the KWH. The KWH will be entirely managed owned and managed by a registered Community Housing Provider, who will have various measures in place to ensure that the housing is only provided to key workers and utilised accordingly. |
| Further to this, please provide details of the size of each residential unit in Residential A R5 (Lot 607), and any parking associated with each one. | The details of the KWH are approved under SSD 6966, including the size and layout of these KWH apartments and any associated parking. |
| As there are extensive works proposed in the various lot divisions for provision of the various services, how will these be coordinated in order to minimize disruption to access along Hickson Rd for traffic and pedestrians, and affects on the amenity of Hickson Park and nearby residents? | The servicing of the lots resultant from the proposed subdivision is not proposed under this application. This application relates to the paper subdivision only. Any future applications for servicing will consider construction management strategies to minimise disruption. |
| Does the subdivision of lots enable best coordination of work to provide services and maintain them? | The servicing of the lots resultant from the proposed subdivision is not proposed under this application. This application relates to the paper subdivision only. All servicing has been or will be considered as part of separate planning applications. |
| Will any permanent structures be built in Hickson Park in relation to provision of the services? | The servicing of the lots resultant from the proposed subdivision is not proposed under this application. This application relates to a paper subdivision only. No built structures are proposed under this application. |

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| Will the proposed Substation be designed and positioned so as not to create a noise nuisance, negative visual impact or cause electromagnetic impacts on adjacent or nearby buildings? | The servicing of the lots resultant from the proposed subdivision is not proposed under this application. This application relates to a paper subdivision only. No physical works for a substation are proposed under this application. |
| What is the content of the section marked as 'On Hold' on the ground level of the plan? Why is it on hold and when will it be completed? | The 'On Hold' note refers to the Amenities Building in Hickson Park, which is currently under construction and not yet occupied/in operation. However, this is not relevant to the subdivision proposed under this application. Further, this application does not concern any physical works. |
| Will there be any night work associated with provision of service infrastructure? If so, can the lot subdivisions be reviewed to ensure access for trucks and equipment is such as to reduce noise to nearby residences to a minimum? | The servicing of the lots resultant from the proposed subdivision is not proposed under this application. This application relates to the paper subdivision only. All servicing has been, or will be, considered under separate applications |