

Ms Jane Anderson
Architectus Group Pty Ltd
Level 18 MLC Centre
19 Martin Place
Sydney NSW 2000

2 June 2020

Dear Ms Anderson

**Biodiversity Development Assessment Report Waiver Request
Sirius building, 2-60 Cumberland Street, The Rocks (SSD 10384)**

I refer to your correspondence received on 25 October 2019 and additional information on 3 April 2020 seeking to waive the requirement to submit a biodiversity development assessment report (BDAR) with the above State significant development under section 7.9(2) of the Biodiversity Conservation Act 2016 (BC Act).

I have reviewed your request having regard to Sections 1.5 and 7.3 of the BC Act and Clause 1.4 of the Biodiversity Conservation Regulation 2017, and have determined that the proposed development (SSD 10384), as described in your waiver request, is not likely to have any significant impacts on biodiversity values.

The delegated Environment Agency Head in the Energy, Environment and Science Group has also determined that the proposed development is not likely to have any significant impacts on biodiversity values in a letter dated 4 May 2020 and a copy of that letter is attached.

Therefore, a waiver under section 7.9(2) of the BC Act is granted for the proposed development and a BDAR is not required to accompany the SSD application.

If there are any amendments to the proposed development, this BDAR waiver determination will not be valid. You will need to either prepare a BDAR or lodge a new request to have the BDAR requirement waived.

Should you have any further enquiries, please contact Emily Dickson, Key Sites Assessments, at the Department on (02) 8275 1032.

Yours sincerely,



Anthony Witherdin
Director
Key Sites Assessments

As delegate of the Secretary



Our ref: DOC20/287248
Senders ref: SSD 10384

Emily Dickson
Key Sites Assessments
Planning and Assessment Group
NSW Department of Planning, Industry and Environment
4 Parramatta Square,
12 Darcy Street
PARRAMATTA NSW 2150

Dear Ms Dickson,

Request for Biodiversity Development Assessment Report Waiver for Sirius Site, 2-60 Cumberland Street, The Rocks (SSD 10384)

I refer to the request to waive the requirement for a Biodiversity Development Assessment Report (BDAR) to be submitted with the above State Significant Development Application for Sirius site, 2-60 Cumberland Street, The Rocks.

The power to determine whether an SSD is 'not likely to have any significant impact on biodiversity values', has been delegated to the Environment, Energy and Science Group (EES) Senior Executive.

I have reviewed the information provided by the applicant in the BDAR waiver application prepared by Cumberland Ecology dated 23 April 2020 and determined that the proposed development is not likely to have any significant impact on biodiversity values. The application, therefore, does not need to be accompanied by a BDAR.

The determination is attached for you to provide to the applicant.

Please note that if the proposed development is changed so that it is no longer as described in Schedule 1 of the determination, the applicant will need to lodge a new waiver request or prepare a BDAR.

Also attached for your information is the decision report prepared by EES. The decision report should not be provided to the applicant without EES approval.

If you have any questions about this advice, please do not hesitate to contact Bronwyn Smith, Senior Conservation Planning Officer on 9873 8604 or Bronwyn.smith@environment.nsw.gov.au

Yours sincerely

04/05/2020

Daylan Cameron
A/Director Greater Sydney
Climate Change and Sustainability
Environment, Energy and Science

23 April 2020

John Green
Development Manager
Sirius Developments Pty Ltd
52 Victoria Street
Paddington NSW 2021

Cumberland Ecology
PO Box 2474
Carlingford Court 2118
NSW Australia
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ABN 14 106 144 647
Web: www.cumberlandecology.com.au

Adaptive Reuse of the Sirius Building, 2-60 Cumberland Street, The Rocks NSW – Biodiversity Development Assessment Report Waiver Request

Dear John

The purpose of this letter is to assess the need for preparation of a Biodiversity Development Assessment Report (BDAR), utilising the Biodiversity Assessment Method (BAM), for the proposed State Significant Development (SSD) of the proposed adaptive reuse of the Sirius Building, including alterations and additions of the existing building for residential and commercial uses, (hereafter referred to as the 'project'). This assessment considers the entire land area covered by the Sirius Building located at 2-60 Cumberland Street, The Rocks NSW (the 'subject site'), with particular respect to the areas to be impacted by the project, such as the removal of some internal and external structures and cladding.

The site is State Significant and the Planning Minister is the consent authority. Sirius Developments Pty Ltd received Secretary's Environmental Assessment Requirements (SEAR's) (issued 20/11/2019) for the DA submission (SSD-10384) which indicate that a BDAR is required to accompany the DA. The Environment Energy and Science Group (EES) have indicated that they also require surveys and assessment for the potential presence of microbats in parts of the Sirius Building that are proposed to be demolished (letter dated 11 November 2019).

This letter has been prepared to provide information for the Planning Agency Head and the Environment Agency Head to assist them in determining whether the project is likely to have any significant impact on biodiversity values and whether a BDAR is required for the project.

It is expected that this letter will be issued to the NSW Department of Planning, Industry and Environment (DPIE), in order to request a BDAR waiver for the project.

The subject site is in a highly urban area and there is no native remnant vegetation present. Therefore, the biodiversity value of the subject site is very low, except for the potential presence of Microchiropteran bats in the buildings.

A detailed habitat assessment and microbat survey has been conducted within the subject site on 15 January 2020 as part of the Ecological Assessment (**Appendix A**). The results of the assessment indicate that some marginal potential habitat is present, primarily in the basement of the building within some crevices between sandstone rocks, and some sections of concrete, however, access to the basement areas is limited by perimeter mesh fencing. No evidence of microbats was recorded during the daytime or nocturnal survey using either visual inspection methods, or ultrasonic bat call recording.

The findings indicate that it is likely that no threatened or common microbats currently reside in the Sirius Building, and entry to the Biodiversity Offsets Scheme (BOS) is not triggered. However, it is recommended that a suite of mitigation measures are implemented as part of the Construction Environmental Management Plan, and should be conditioned, as outlined in **Appendix A**.

Our assessment is set out in **Appendix A**, which includes the methods and results of the targeted microbat survey and photographs are provided in **Appendix B**.

Based on our assessment of biodiversity at the Sirius Building, we recommend that a waiver for the preparation of a BDAR be sought from the Department of Planning and Environment.

Should you have any queries, please do not hesitate to contact myself, or Rebeca Violante, on (02) 9868 1933.

Yours sincerely



Vanessa Orsborn
Senior Project Manager/Ecologist
vanessa.orsborn@cumberlandecology.com.au

APPENDIX A :

BDAR Waiver Request

A.1. Introduction

Cumberland Ecology was commissioned by Sirius Developments Pty Ltd to undertake surveys and assessment for the potential presence of Microchiropteran bats (microbats), and determine the need for preparation of a Biodiversity Development Assessment Report (BDAR) to support the proposed adaptive reuse of the Sirius Building, located at 2-60 Cumberland Street, The Rocks NSW (the 'subject site').

The Sirius building is an apartment complex in The Rocks district of Sydney, New South Wales, Australia. Designed for the Housing Commission of New South Wales in 1978–1979 by commission architect Tao Gofers, the building is a prominent example of Brutalist architecture in Australia.

The subject site is in a highly urban area and there is no native remnant vegetation present. Therefore, the biodiversity value of the subject site is very low, except for the potential presence of microbats in the building.

A.1.1. Proposed Development

The proposed works are for the adaptive reuse of the existing Sirius building, including alterations and additions. The proposed works involve the substantial retention of the existing building to ensure the legibility of the original architectural form is maintained, with new additions added to the existing structure in the form of lightweight prefabricated pods clad in recycled copper. The scope of proposed works include:

- Alterations and additions to the Sirius building to facilitate use of the building for:
 - Residential accommodation;
 - Commercial premises, including retail and office floorspace; and
 - Basement car parking.
- Restoration of the existing concrete façade of the building and brickwork at the ground plane.
- Provision of a new through-site link between Cumberland Street and Gloucester Walk (which will require the demolition of part of the existing building at ground level).
- Upgrades to Gloucester Walk including landscaping and pedestrian access.
- Improvements to Cumberland Street including landscaping and an improved carpark entry.
- Addition of new lightweight prefabricated pods to the building, and associated demolition of limited areas of precast concrete.
- Addition of a new commercial structure fronting Cumberland Street and incorporating vehicle access to the basement car parking.
- Addition of new lift lobbies in the existing stair slots in the north and south wings.

Associated works are likely to include, however are not limited to:

- Minor demolition works;

- Minor earthworks;
- Structural upgrades;
- Upgrades to existing glazing;
- Services upgrades; and
- Landscaping works.

It is noted that design development is ongoing, and new innovative approaches to construction are being developed to address buildability and ensure the future sustainability of the proposed development.

A.1.2. Assessment Requirements for State Significant Development

The project is classified as Stage Significant Development under Schedule 2, Clause 6 of State Environmental Planning Policy (State and Regional Development) 2011, as the Capital Investment Value (CIV) exceeds \$10 million for the purpose of alterations or additions to an existing building.

Section 7.9 of the NSW *Biodiversity Conservation Act 2016* (BC Act), requires all development applications for State Significant Development to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless both the Secretary of the Department of Planning, Industry and Environment (DPIE) and the Co-ordinator-General of the Environment, Energy and Science group determine that the proposed development is not likely to have any significant impact on biodiversity values.

The main steps in the biodiversity assessment process for State Significant Development are as follows:

- The Planning Agency Head and the Environment Agency Head determines if the Biodiversity Offsets Scheme applies to the State Significant Development and specifies the environmental assessment requirements;
- The proponent engages an accredited person to assess the development site using the Biodiversity Assessment Method (BAM) and a BDAR is prepared;
- The approval authority considers any serious and irreversible impacts and determines whether there are additional and appropriate measures to minimise impacts;
- The approval authority sets an offset obligation as part of the Conditions of Approval; and
- The proponent meets their offset obligation and begins their development.

The Biodiversity Assessment Method (BAM) sets out clear and repeatable methods to conduct an assessment of direct and indirect impacts. The BAM is supported by the BAM Tool, which is a web-based tool that quantifies direct impacts using 'biodiversity credits'. Two types of credits are generated by the BAM Tool, ecosystem credits and species credits. Ecosystem credits are calculated based on a number of variables including landscape features, native vegetation and ecosystem credit species (species that are reliably predicted by habitat surrogates). Species credits are calculated based on the number of individuals (flora) or

the area of habitat (fauna) of species credit species (species that are not reliably predicted by habitat surrogates).

The BAM includes a requirement to prepare a BDAR for the development site. The BDAR must be prepared by an accredited assessor. A proponent is required to submit the BDAR as part of an Environmental Impact Statement for a State Significant Development. BDAR waiver request information requirements are set out in **Table 1** below, as per Table 1 of the BDAR Waiver Factsheet (DPIE 2019).

Table 1. BDAR Waiver Request Information Requirements

Requirements	Responses
Admin	
Proponent name and contact details	Sirius Developments Pty Ltd. See covering letter for contact person and address
Project ID (Information to identify which SSD or SSI project the request relates to and where the project is up to in the assessment process)	SSD-10384
Name and ecological qualifications of person completing TABLE 2	Vanessa Orsborn, Bachelor of Environmental Science. Australian Catholic University, 2005 BAM Accredited Assessor Training. Muddy Boots, 2017 (BAAS18166)
Site details	
Street address, Lot and DP, local government area	2-60 Cumberland Street, The Rocks NSW, Lot 100 and 101 DP264104
Description of existing development site, ie, the area of land that is subject to the proposed development application. If any part of the land is considered 'Category 1- exempt land' information must be provided to demonstrate how the land meets the criteria ³ that applies to Category 1 – Exempt Land.	The subject site includes a large residential building, known as the 'Sirius Building', that was built in the 1978-1979. The building is predominantly a concrete structure, of multi-storey apartments, some with balconies and terraces, and surrounding landscaping. A further description is provided in Section A.1.
Location map showing the development site in the context of surrounding areas and landscape features. Satellite image of site in context of adjoining sites.	See Figure 1 appending this letter
Site Map (to scale, ideally as a spatial shapefile)	See Figure 2 appending this letter
Proposed development	
Project Description providing enough information to enable an understanding of the nature and scale of the proposed development and any associated activities (including construction etc)	The proposed development involves the adaptive re-use of the Sirius Building. This will involve both internal and external works, but not demolition of the structure. Further description is provided in Section A.1.1 , and shown in the Site Plan attached at the end of the Figures.

Requirements	Responses
Proposed Site Plan	See the Site Plan attached at the end of the Figures.
Impacts on biodiversity values	
Complete TABLE 2 below on Biodiversity Values	See Table 2
For each biodiversity value, the proponent must either:	See Table 2
explain why the value is not relevant to the proposed development; or,	
where a biodiversity value may be relevant, provide an explanation of how impacts have been avoided and identify the likelihood and extent of any remaining impacts of the proposed development, including impacts prescribed under clause 6.1 of the BC Regulation.	
A biodiversity value is not relevant to a proposed development if the value is not present on the development site AND there is no potential for direct or indirect impacts on the biodiversity value if it occurs off-site.	See Table 2
Where one or more biodiversity values may be relevant to the proposed development, TABLE 2 is to be completed by a suitably qualified person with tertiary qualifications in natural sciences including subjects that relate to the observation and description of terrestrial biodiversity and landforms, and at least three years of work experience in environmental assessment including field identification of plant and animal species and habitats The person does not need to be an accredited person under the BC Act.	See Table 2
Attach any additional information required where biodiversity values are relevant to the site. E.g. Vegetation Map (indicating plant community types), Ecology Reports, Water Quality data, BioNet Atlas, Directory of Important Wetlands (DIWA), migratory bird flyway information.	Not applicable

A.2. Waiver of requirement to prepare a Biodiversity Development Assessment Report

Section 7.9 of the BC Act indicates that there are some circumstances in which the Planning Agency Head and the Environment Agency Head will determine that a proposed development is not likely to have a significant impact on biodiversity values and as such, a BDAR is not required to be prepared. Biodiversity values are defined under the BC Act and the *Biodiversity Conservation Regulation 2017* (BC Regulation), and include:

- Vegetation integrity—being the degree to which the composition, structure and function of vegetation at a particular site and the surrounding landscape has been altered from a near natural state;
- Habitat suitability—being the degree to which the habitat needs of threatened species are present at a particular site;
- Threatened species abundance—being the occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site;
- Vegetation abundance—being the occurrence and abundance of vegetation at a particular site;
- Habitat connectivity—being the degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range;
- Threatened species movement—being the degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle;
- Flight path integrity—being the degree to which the flight paths of protected animals over a particular site are free from interference; and
- Water sustainability—being the degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site.

For a waiver to be applied for future development at the subject site, it needs to be demonstrated that the above listed biodiversity values will not be significantly impacted.

A.3. Methods

A General Habitat Assessment was undertaken to determine habitat features where threatened microbat species could reside or forage within the existing building structures. The habitat assessment consisted of a search of potential roosts sites and was conducted during day-light hours, followed by a nocturnal survey for bats within the areas of suitable habitat.

Each method is described further below.

A.3.1. Roost searches

Searches of potential microbat roosts were conducted for two and a half hours during 15 January 2020. This involved visual searches for crevices that a bat may be able to access and roost in, with the aid of a torch where required. Due to the size of the building, and uniformity of apartments in different sections of the building,

representative apartments and building features (e.g. enclosed apartments without balconies, apartments with balconies, roof terraces, courtyards) were systematically checked. The full area of the basement was searched thoroughly, due to the potential habitat presented by sandstone rocks and the air-conditioning units.

Observations were made throughout the habitat assessment, including the presence of any fauna scats (such as bat droppings called 'guano') or smells that would indicate a colony of bats was present. Photographs of examples of potential roost sites are provided in **Appendix B**.

A.3.2. Echolocation call detection point surveys

Point searches using torches and a hand-held ultrasonic bat detector (Anabat) were conducted for one hour on 15 January 2020 after dusk. A single Anabat was used to check the most suitable habitat features determined during the roost searches. The Anabat was set to record throughout the nocturnal survey period, and held by an ecologist, while listening for positive activation. The ecologists that conducted the survey had previous experience in bat surveys and could recognize the frequency of sounds resonating from an Anabat that would indicate a bat call, rather than background noise.

A.4. Key Findings

Based on the findings of the habitat assessment on the subject site, the Sirius Building provides some potential foraging, shelter and breeding habitat for several native microbat species. Key habitat features recorded within the subject site include: crevices on the ceiling and walls; gaps in the concrete and brick wall, ventilation and air-conditioned structures, grates, gaps between sandstone in the basement and gaps on windows frames (external area). However, access to these habitat features was very limited for bats, as the building is well enclosed, and fine mesh fencing surrounds the potential entry points and the perimeter of the building.

No microbats were recorded during the survey, and no evidence of a breeding population of bats were identified, through visual, audio, or echolocation recording methods.

A.5. Impact Assessment

A.5.1. Impacts to Vegetation and Habitat

No native vegetation will be removed or impacted by the proposed development.

No threatened fauna species were recorded within the subject site during surveys. It is noted that the most likely threatened species to roost in abandoned buildings; Eastern Bent-winged Bat (*Miniopterus orianae oceanensis*) (OEH 2019a) or Little Bent-winged Bat (*Miniopterus australis*) (OEH 2019b) typically roost in large groups, particularly during the summer breeding period, and their presence is easily detected by sight and smell. For these reasons, it is not expected that any threatened microbats will be significantly impacted by the proposed redevelopment of the Sirius Building.

A.5.2. Biodiversity Values Assessment

The BC Act and the BC Regulation list a suite of biodiversity values that are relevant to assessments that must take place under the BC Act, as outlined in Table 2 of the BDAR Waiver Factsheet (DPIE 2019). To demonstrate

that the project will not impact upon biodiversity, **Table 2** systematically comments upon the relevance of each value.

Table 2 Biodiversity values assessment

Biodiversity Value	Assessment within subject land
BC Act - Part 1 Section 1.5 (2)	
(a) vegetation integrity—being the degree to which the composition, structure and function of vegetation at a particular site and the surrounding landscape has been altered from a near natural state,	Not applicable. No native vegetation will be removed as part of the proposed development.
(b) habitat suitability—being the degree to which the habitat needs of threatened species are present at a particular site,	As discussed above, the Sirius building has some potential to provide habitat for threatened species of microbats and they may roost within small crevices throughout the buildings. These highly mobile species may occasionally and opportunistically utilise the limited foraging resources of the subject land as part of a larger foraging range.
(c) biodiversity values, or biodiversity-related values, prescribed by the regulations.	See below.
BC Regulation - Part 1 Clause 1.4	
(a) threatened species abundance—being the occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site,	No threatened species were observed during the site inspection and none are known to occur.
(b) vegetation abundance—being the occurrence and abundance of vegetation at a particular site,	Not applicable
(c) habitat connectivity—being the degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range,	The potential habitat present for threatened microbats on the subject site is connected to adjoining areas of similar habitat in buildings in the area. However, foraging habitat is limited in the area, to the urban environment and does not provide connectivity to more intact habitats with native vegetation.
(d) threatened species movement—being the degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle,	As above, the subject land does not contribute to the movement of threatened species. Impacts within the subject site would not be expected to have any impact on the lifecycle of such species.

(e) flight path integrity—being the degree to which the flight paths of protected animals over a particular site are free from interference,	The Sirius Building re-development will increase the overall height of the building, although this is within the range of surrounding structures. Subsequently the project is not expected to impact upon free-flying animals (threatened or otherwise) by interfering with flight paths.
(f) water sustainability—being the degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site.	No watercourses are present on the subject site and therefore the proposed development is not expected to impact on nature hydrological processes. Sydney Harbour is located within 50m of the subject site, and there is potential for indirect impacts from run-off. Provided that adequate controls are in place, there are not likely to be significant impacts on the nearby marine environment.

A.6. Recommendations

It is recommended that a suite of mitigation measures are implemented as part of the development consent to protect native fauna during construction works. The mitigation measures should include provisions for microbat pre-clearing surveys, conducted within one week of demolition. If any roosting microbats are detected during pre-clearing surveys, a 'stop-works order' will be issued. A bat management plan will be prepared in consultation with the Environment, Energy and Science Group (EES), a division of the Department of Planning, Industry and Environment (DPIE), and a bat specialist, as required. The bat management plan will outline site specific measures to minimise the risk to microbats.

A.7. Conclusion

The project is considered highly unlikely to have significant impacts upon defined biodiversity values as impacts are limited to highly modified urban areas. No native vegetation will be removed, although some potential roosting habitat for microbats will be impacted.

When assessing impacts to potentially occurring threatened species from the project, there is limited justification for considering impacts to threatened species with the detail required under the BAM. The project may result in a small reduction of marginal roosting habitat for highly mobile, aerial threatened bat species, although no evidence of bats was recorded during detailed targeted surveys. Nevertheless, when assessing impacts likely from the project in its current form, there is very little likelihood of significant impacts to threatened species.

On the basis of our investigations, we believe that the preparation of a BDAR is not necessary due to the low likelihood of impacts to biodiversity. Therefore, we recommend that a waiver for the preparation of a BDAR be sought from DPIE for the proposed project, constituting an SSD.

A.8. References

DPIE. 2019. State Significant Development - Applying for a biodiversity development assessment report waiver.

OEH. 2019a. Large Bent-winged Bat - profile. Office of Environment and Heritage, Hurstville.

OEH. 2019b. Little Bentwing-bat - Profile. NSW Office of the Environment and Heritage, Hurstville.

APPENDIX B :

Photographs



Photograph 1: Crevice in the car park's ceiling



Photograph 2: Gaps in between sandstone blocks located in the basement



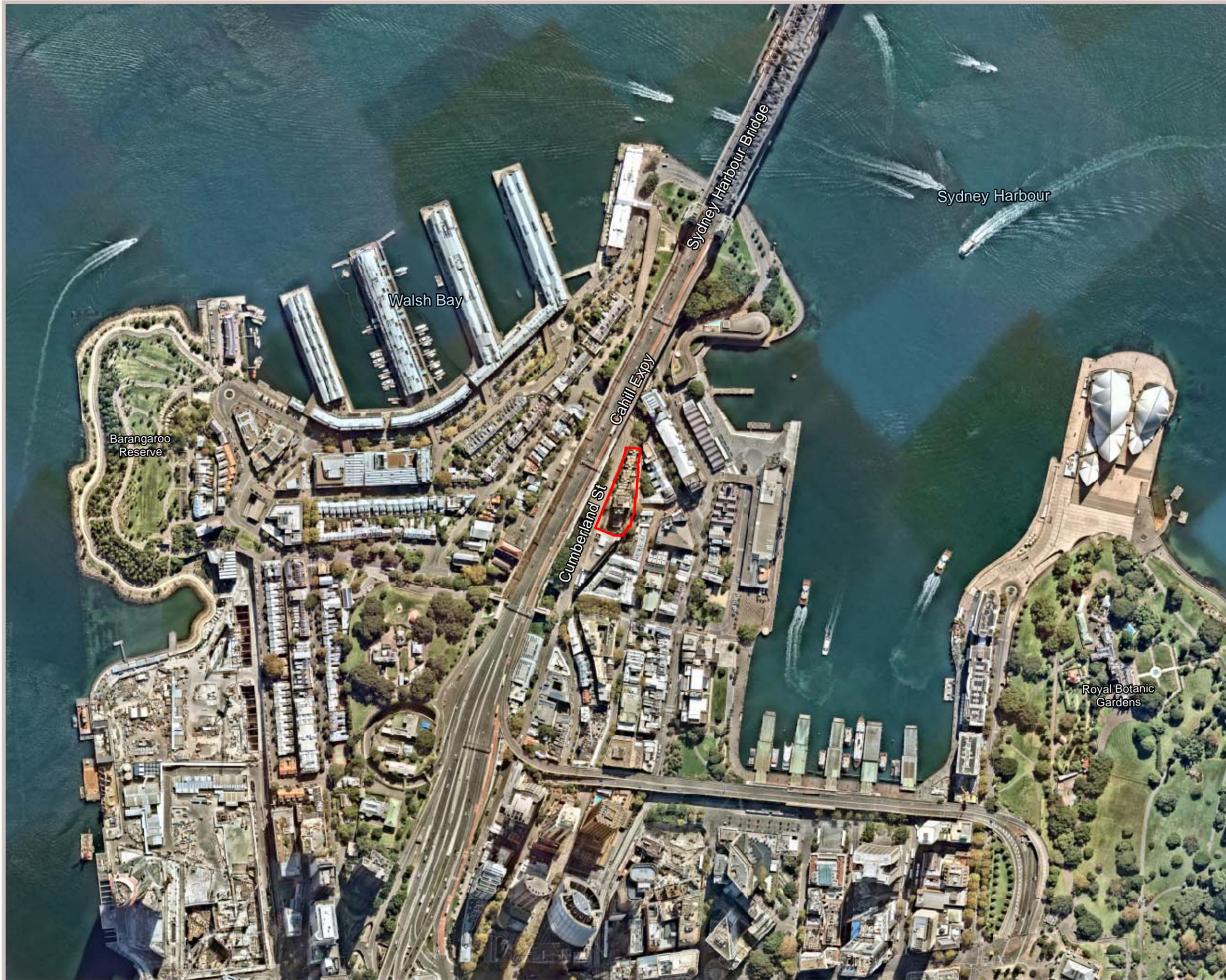
Photograph 3: gaps behind concrete window frame (external area)



Photograph 4: air-conditioned structure. unit 102



FIGURES



Legend
[Red Box] Subject Site

Image Source:
Image © Nearmap
Dated: 18/04/2020

Data Source:
Spatial Services © 2020
NSW Department of
Finance and Services

Coordinate System: MGA Zone 56 (GDA 94)



Figure 1. Location map



Legend
[Red outline] Subject Site

Image Source:
Image © Nearmap
Dated: 18/04/2020

Data Source:
Spatial Services © 2020
NSW Department of
Finance and Services



Coordinate System: MGA Zone 56 (GDA 94)



Figure 1. Site map

ISSUE	DATE	FOR
1	08.04.20	FOR INFORMATION
2	17.04.20	FOR INFORMATION

CONSULTANT

CONSULTANT

CONSULTANT

CONSULTANT

PROJECT MANAGER
DEDICO

CLIENT

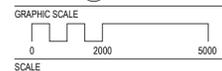
JDH CAPITAL
CLIENT NUMBER

PROJECT

SIRIUS
36-50 CUMBERLAND ST, THE ROCKS
BVN PROJECT NUMBER

1712011
DRAWING KEY

TRUE NORTH



1:200@A1
STATUS

FOR INFORMATION
DRAWING

LEVEL 03-05

AR-B-10-04

ISSUE
2



1 LEVEL 03-04
R-99-04

2 LEVEL 04-05
R-99-04