

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
Application number and project name	SSD-10384 Alterations and additions to the Sirius building
Applicant	The Trustee for Sirius Developments Unit Trust
Consent Authority	Minister for Planning and Public Spaces

Decision

The Director, Key Sites Assessments under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is available [here](#).

A copy of the Department of Planning and Environment's Assessment Report is available [here](#).

Date of decision

18 June 2021

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 objects of the Act;
- all information submitted to the Department during the assessment of the development application;
- the findings and recommendations in the Department's Assessment Report;
- 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 key reasons for granting consent to the development application are as follows:

- the project would provide a range of benefits, including 200 construction jobs a day and 20 full time equivalent operational jobs, a new through site link and public domain improvements to Cumberland Street, Gloucester Walk and the northern pocket park;
- the project substantially retains the existing Sirius building and provides a high standard of architectural, urban and landscape design
- the project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Region Plan and Eastern City District Plan
- 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
- 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
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 20 November 2020 until 17 December 2020 (28 days) and received 21 submissions, including 4 objections, 4 in support and 13 providing comments. The application was subsequently amended by the Response to Submissions (RtS), Further RtS (FRtS) and additional information. The RtS, FRtS and additional information were published on the Department's website and five submissions were received, two from Council and three from government agencies, all providing comments.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include amenity impacts (overshadowing, privacy, noise and views), excavation and construction impacts, lack of social housing and preference for restoration without new additions. Other issues are addressed in detail in the Department's Assessment Report.

Table 1 | Summary of the Department's consideration of key community views

Issue	Consideration
Loss of amenity (privacy, overshadowing, views, noise)	- Public submissions raised concerns about amenity impacts from the proposal including additional overshadowing, loss of privacy and views and increased noise - The Department has undertaken a detailed assessment of the amenity concerns raised in submissions in Section 6.4 - The proposal would not result in adverse amenity impacts to adjoining properties as: - building separation is provided in accordance with the ADG requirements to maintain privacy and privacy louvres have been provided to further minimise opportunities for overlooking - Adjoining residential properties continue to receive at least 2 hours of solar access in mid winter to habitable rooms - The proposal does not adversely impact any existing significant views - The proposal will comply with the relevant noise emissions criteria and internal noise criteria can be met for apartments facing the Mercantile Hotel. <i>Recommended Conditions</i> - Require the mechanical plant complies with the relevant noise emissions criteria.
Nil setback to 88 Cumberland Street	- Public submissions raised concerns the nil setback to 88 Cumberland Street is inappropriate. - The Department has considered the proposed setback in Section 6.4 and considers it is satisfactory as it is only the commercial Cumberland Street building that has a nil setback, which is consistent with the existing planning controls and the pattern of setbacks between commercial buildings in the street. <i>Recommended Conditions</i> - No conditions necessary.
Basement excavation impacts	- Public submissions raised concerns about impacts of the basement excavation to adjoining properties. - The Applicant has provided a Construction Management Plan that addresses the concerns raised about construction impacts including requirement for preparation of a dilapidation report prior to construction commencing and management of noise and vibration impacts. - In addition, the Applicant met with the adjoining property owner to discuss construction methodology for excavation works. <i>Recommended Conditions</i> - Pre and post construction dilapidation reports - Construction Noise and Vibration Management Sub-Plan
Construction management measures to protect amenity	- Public submissions requested conditions be imposed to protect the amenity for residential and commercial tenants surrounding the site during construction. - The Applicant has provided a Construction Management Plan that addresses the concerns raised about construction impacts including the management of noise and vibration impacts. - The Department has considered the Applicant's draft CMP and considers construction impacts of the proposal can be appropriately managed. - The Department has recommended conditions including a Construction Environmental

Issue	Consideration
	Management Plan to manage and mitigate potential environmental impacts and a Community Communication Strategy to provide mechanisms to facilitate communication between the Applicant and the community. <i>Recommended Conditions</i> • Construction Environmental Management Plan • Construction Noise and Vibration Management Sub-Plan • Community Communication Strategy
Loss of property values	• Public submissions raised concerns the proposal would adversely affect property values. • The Department has assessed the merits of the modification in detail at Section 6 and concludes it is appropriate as it retains the existing built form, the new additions are compatible with surrounding development and it includes high-quality landscaping and public domain upgrades to Cumberland Street, Gloucester Walk and the northern pocket park. The Department also concludes the proposal is unlikely to have adverse amenity impacts to neighbouring properties. • The Department is therefore satisfied the proposal is unlikely to result in any adverse impacts on property prices. <i>Recommended Conditions</i> • No conditions necessary.
Provision of social housing and Greater Sydney Commission (GSC) requirements for social housing	• Concerns were raised in public submissions that the proposal does not provide any social housing. Concern was also raised the GSC requirements for social housing were not met. • The NSW Government divested the site as part of its Future Direction in Social Housing Strategy to fund new social housing across Sydney. • The Department has considered the strategic merits of the proposal in Section 3 and the directions of the GSC Greater Sydney Region Plan and the Eastern City District Plan. • The Department is satisfied the proposal is consistent with the directions of the Region Plan and Eastern City District Plan as it provides housing supply in a central location with excellent access to jobs, services and public transport and will refurbish the existing Sirius building, enhance the public domain while recognising and conserves the history of the site and The Rocks. • The Department is satisfied the sale of the site for social housing has previously been addressed and SSP SEPP site specific planning controls do not require any social or affordable housing at the Sirius site. <i>Recommended Conditions</i> • No conditions necessary.
Funds from the sale won't be used for social housing	• Concerns were raised in public submissions that funds from the sale of the site would not be used to fund social housing • The NSW Government divested the site as part of its Future Direction in Social Housing Strategy to fund new social housing. Funds from the sale of the Sirius building will be used for 338 new social homes across NSW. <i>Recommended Conditions</i> • No conditions necessary.
Provide a residency program associated with arts organisation	• Public submissions suggested the proposal should include a residency program associated with an arts organisation. • The proposal is for a mixed-use building and is consistent with the zoning and planning controls applying to the site, as discussed in Appendix B. • The Applicant has also prepared a Public Art Strategy which acknowledges the social and cultural history of the building and explores opportunities for collaboration with the Museum of Contemporary Art, as discussed at Section 6.6. • The Department is satisfied the proposal will provide a cultural contribution to the local area. <i>Recommended Conditions</i> • Public Art Strategy.

Issue	Consideration
Exceeds the site-specific planning controls	• The Department has assessed the proposal against the controls in the State Significant Precincts (SSP) SEPP in Section 6.3 and Appendix B. • The site-specific planning controls in the SSP SEPP provide flexibility for the demolition or the retention of the existing building. Where the building is retained, the SEPP controls allow flexibility for the building height and floor space to be varied if it can be demonstrated a better outcome is achieved and significant views are protected. • The Department supports the variations to the building height and GFA development standards as the resulting built form respects and retains the existing Sirius building, exhibits design excellence and does not result in any significant adverse impacts. <i>Recommended Conditions</i> • No conditions necessary.
Height increase	• Public submissions raised concerns the height increase should not set a precedence for building height in The Rocks • The Department has considered the proposed height in Section 6.3 and considers it results in an appropriate built form and does not result in any significant adverse amenity impacts. • Any applications in the surrounding area will be assessed according to the controls that apply, a detailed assessment of merits and analysis of any environmental impacts. <i>Recommended Conditions</i> • No conditions necessary.
Vision of Sirius building lost	• Public submissions raised concerns the vision of the Sirius building is lost in the redevelopment and they prefer restoration without any new additions. • The Department acknowledges the community's concerns; however the proposal seeks to substantially retain and restore the existing Sirius building. • The proposal is the result of an architectural design competition (endorsed by the Government Architect NSW) and exhibits design excellence as it provides an architecturally sensitive approach that retains the existing building and key design elements, including the rise and fall of the built form and modular appearance. • The proposal provides public benefits including active street frontages, a new through site link and improvements to the public domain at Cumberland Street, Gloucester Walk and the northern pocket park. • The proposal also includes a heritage interpretation strategy, schedule of conservation works and Public Art, which will reflect the sites social and cultural history. <i>Recommended Conditions</i> • Heritage Interpretation Plan • Schedule of Conservation Works • Public Art.
Record the site's history and Green Ban movement	• Public submissions raised concerns about the recording of the site's history, including the Green Ban movement and opportunity to tell these stories in public spaces • The proposal includes commitments to prepare and finalise a Heritage Interpretation Strategy and a Public Art Strategy for the site, as discussed in Section 6.2 and 6.6. • The Public Art Strategy brief seeks responses which convey the social and cultural history of Sirius, which will be further refined through the detailed design of the proposal. The Art will be in a publicly accessible area. • The Heritage Interpretation Strategy has identified four themes including, history of the green ban movement, public housing, early history of the site and pre and post-colonial Aboriginal land use. The final interpretative elements and their location will be finalised as the strategy is prepared, in consultation with Council and key community groups. • The Department is satisfied the proposal will provide meaningful stories about the site history, with art and interpretative elements to be provided in the public domain. <i>Recommended Conditions</i> • Heritage Interpretation Plan • Public Art.

Issue	Consideration
Provide public access to the Phillip Room	- Public submissions raised concerns that public access should be retained to the Phillip Room - The Department has considered this in Section 6.2, and notes the Applicant is committed to the retention and restoration of the Phillip Room and will pursue opportunities to provide public access - The Department acknowledges the community's desire for public access to the Phillip Room however notes the building is for private residential use and is identified as communal space for residents of the building. - Nonetheless, the Department recommends the Heritage Interpretation Strategy address how public access can be provided to the Phillip Room. <i>Recommended Conditions</i> - Heritage Interpretation Plan.
Adequacy of consultation	- The Applicant has confirmed it consulted with community and stakeholders prior to and following lodgement of the application. - The Department exhibited the EIS and notified surrounding properties in writing and made the RtS and FRtS available on its website and is satisfied the community has had sufficient opportunity to comment on the proposal. <i>Recommended Conditions</i> - No conditions necessary
Support	- Public submissions supported a variety of elements including the additional public space, retention of the existing building and Phillip Room, new through site link, new commercial spaces, the smaller vehicle entrance and new lighting. - The Department considers the proposal exhibits a high standard of architectural, urban and landscape design and provides public benefits including the new through site link and public domain and will make a positive contribution to the surrounding area. <i>Recommended Conditions</i> - No conditions necessary