

Development Consent – Key Sites

Section 4.38 of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning and Public Spaces under delegation executed on 16 February 2015, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development

Anthea Sargent
Executive Director
Key Sites and Industry Assessments

Sydney

2020

File: EF20/2155

SCHEDULE 1

Application Number:	SSD 10429
Applicant:	Crown Sydney Property Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Site:	Lot 501 DP 1264241
Development:	Subdivision of Crown Sydney Resort to separate hotel and residential uses

DEFINITIONS

Applicant	Crown Sydney Property Pty Ltd, or any person carrying out any development to which this consent applies
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
Certifying Authority	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Council	City of Sydney Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning, Industry and Environment
Development	The development described in the EIS and Response to Submissions, including the works and activities comprising the stratum subdivision of Crown Sydney Hotel Resort, as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled Crown Sydney Hotel Resort Stratum Subdivision Application, prepared by Ethos Urban dated 17 June 2020, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence under the POEO Act
Feasible	Means what is possible and practical in the circumstances
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: - involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or - results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
OEH	NSW Office of Environment and Heritage
Operation	The use of the hotel and residential uses at Crown Sydney Hotel Resort after the subdivision has occurred.
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Secretary	Planning Secretary under the EP&A Act, or nominee

POEO Act*Protection of the Environment Operations Act 1997***Reasonable**

Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.

Response to submissions

The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.

RMS

NSW Roads and Maritime Services

DRAFT

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the EIS and Response to Submissions;
 - (d) in accordance with the management and mitigation measures.

Subdivision Drawings			
Name of Plan	Sheet No.	Date	Issue
LOCATION PLAN	Sheet 1 of 14	11 JUNE 2020	20
BASEMENT LEVEL 3 AND BELOW	Sheet 2 of 14	11 JUNE 2020	20
BASEMENT LEVEL 2	Sheet 3 of 14	11 JUNE 2020	20
BASEMENT LEVEL 1	Sheet 4 of 14	11 JUNE 2020	20
GROUND LEVEL	Sheet 5 of 14	11 JUNE 2020	20
LEVEL 1	Sheet 6 of 14	11 JUNE 2020	20
LEVEL 2	Sheet 7 of 14	11 JUNE 2020	20
LEVEL 3	Sheet 8 of 14	11 JUNE 2020	20
LEVEL 4	Sheet 9 of 14	11 JUNE 2020	20
RL 40 TO 110	Sheet 10 of 14	11 JUNE 2020	20
RL 110 TO RL 133.9	Sheet 11 of 14	11 JUNE 2020	20
RL 133.9 TO 250	Sheet 12 of 14	11 JUNE 2020	20
RL 250 TO 275	Sheet 13 of 14	11 JUNE 2020	20
ELEVATION	Sheet 14 of 14	11 JUNE 2020	20

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition 0(a).
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

STAGED STRATUM SUBDIVISION

- A5. The Project may be subdivided in stages, generally as follows:
- a) Stratum subdivision of Lot 501 into two lots. The two stratum lots comprise:
 - i. Lot 1 – Crown Sydney Hotel Resort
 - ii. Lot 2 – Crown Residential Apartments

Note: Future stages of subdivision to create additional lots are to be subject to a separate approval, as relevant.

DEVELOPMENT EXPENSES

- A6. It is the responsibility of the Applicant to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this consent.

LIMITATION OF CONSENT

- A7. This consent does not authorise the carrying out of any construction work.

RESTRICTION ON RESIDENTIAL DEVELOPMENT

- A8. A documentary Restriction on Use of Land is to be created over the residential lot in the Subdivision Plan (shown on the plan as Lot 2), pursuant to Section 88B of the Conveyancing Act 1919, in terms to the satisfaction of the Secretary, 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 Secretary being the authority to release, vary or modify the restriction.

RESTRICTION ON USE OF RESIDENTIAL CAR PARKING SPACES AND STORAGE SPACES

- A9. A documentary Restriction on Use of Land is to be created over the residential lot in the Subdivision Plan (shown on the plan as Lot 2), pursuant to Section 88B of the Conveyancing Act 1919, in terms to the satisfaction of the Secretary, 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 (or any of their guests) of the apartments situated within Lot 2, with the Secretary being the authority to release, vary or modify the restriction.

RESTRICTION ON USE OF CAR PARKING SPACES – HOTEL/CASINO

- A10. A documentary Restriction on Use of Land is to be created over Lot 1 in the Subdivision Plan, pursuant to Section 88B of the Conveyancing Act 1919, in terms to the satisfaction of the Secretary requiring that:
- (a) The on-site car parking spaces used in connection with the hotel/casino must only be used guests or patrons of the hotel/casino, and staff of the part of the building contained within Lot 1 and not be used for public car parking

PARKING ON COMMON PROPERTY AREAS

- A11. 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 Secretary being the authority to release, vary or modify the restriction.

EASEMENT FOR USE OF LOADING DOCK

- A12. An appropriate Easement is to be created within the loading dock area, located within Lot 1, pursuant to Section 88B of the Conveyancing Act 1919. The Easement is to burden Lot 1 and benefit Lot 2 in the subdivision, granting 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 is to be created in appropriate terms acceptable to the Secretary, with the Secretary being the authority to release, vary or modify the easement.

EASEMENT FOR USE OF REFUSE ROOM

- A13. An appropriate Easement is to be created over the refuse room, located within Lot 1, pursuant to Section 88B of the Conveyancing Act 1919. The Easement is to burden Lot 1 and benefit Lot 2 in the subdivision, granting rights of access to and the use of the refuse room, and is to be created in appropriate terms acceptable to the Secretary, with the Secretary being the authority to release, vary or modify the easement.

EASEMENTS RELATING TO STRATUM LOTS

- A14. 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 the satisfaction of the Secretary.

ADDITIONAL EASEMENTS

- A15. 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 the satisfaction of the Secretary.

STREET ADDRESSES OF LOTS

- A16. 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.

APPLICABILITY OF GUIDELINES

- A17. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A18. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A19. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.
- A20. Subsequent notification must be given and reports submitted in accordance with the requirements set out in the attached.

NON-COMPLIANCE NOTIFICATION

- A21. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A22. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A23. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A24. Within three months of:
- (a) the submission of a compliance report under Condition B3;
 - (b) the submission of an incident report under Condition A20;
 - (c) the approval of any modification of the conditions of this consent; or
 - (d) the issue of a direction of the Planning Secretary under condition A2 which requires a review,
- A25. the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.
- A26. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

Note: This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.

PART B PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

REQUIREMENTS OF EP&A ACT 1979 – APPLICATION FOR A PART 6 CERTIFICATE

- B1. In undertaking the subdivision approved under the consent, the Applicant must comply with the requirements of Part 6 the *Environmental Planning and Assessment Act 1979* in relation to the issue of a Subdivision Certificate.

For the purposes of this approval, the issue of a Subdivision Certificate/s is restricted to the subdivision defined by Condition A1.

LAND SUBDIVISION - SUBDIVISION CERTIFICATE

- B2. A separate application must be made to Council or the Certifying Authority 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*

STATEMENT OF COMPLIANCE – COMPLETION IN ACCORDANCE WITH A PROJECT APPROVAL/DEVELOPMENT CONSENT

- 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:

- (a) The number of bicycle spaces;
- (b) The number of car parking spaces;
- (c) The number of motor bike spaces;
- (d) The number of loading spaces;
- (e) The number of storage spaces and
- (f) Any services or infrastructure.

The above car parking and motorcycle spaces are to be shown as part of the relevant stratum lot.

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.

EASEMENT PLAN/S

- B4. Prior to, or upon, the issue of the first Subdivision Certificate for the subdivision of Lot 501, 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.

If it is proposed to create easements, rights of way, restrictions or covenants, an 88B Instrument must be provided.

ACCESS EASEMENT – GROUND LEVEL

- 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.

COMPLIANCE CERTIFICATE – SYDNEY WATER

- B6. Prior to issue of any Subdivision Certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation 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. 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.

- B7. Prior to the issue of each Subdivision Certificate (as relevant), a Compliance Certificate is to be issued certifying that a registered surveyor has confirmed that the parcel boundary of the stratum plan corresponds with floors, external walls and ceilings of the relevant building/structures as constructed or alternatively, has the benefit of an appropriate easement or is the subject of appropriate provisions in the Building Management Statement, required by Condition B8, to enable the registration of the plan.

UPDATED BUILDING MANAGEMENT STATEMENT

- B8. Prior to the first Subdivision Certificate for the stratum subdivision of the development, an updated Building Management Statement must be prepared as prescribed by Schedule 8A of the *Conveyancing Act 1919*. The Building Management Statement is to apply to the development as a 'united building'. The Building Management Statement must be submitted to the satisfaction of the Certifying Authority and is to include details in relation to the following matters:
- (a) the use, operation and arrangements for the supply of services, maintenance and upgrading of infrastructure of each stratum lot within the subdivision;
 - (a) the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the subdivision; and
 - (b) any other matters which the Certifying Authority considers relevant and pertinent to the issue of the Subdivision Certificate.
- B9. Prior to the issue of any subsequent Subdivision Certificate for the stratum subdivision of the development, a modified Building Management Statement for the development as an 'united building' OR a new Building Management Statement must be prepared in the approved form prescribed by Schedule 8A of the *Conveyancing Act 1919*. The Building Management Statement must be submitted to the satisfaction of the Certifying Authority and is to include relevant details in relation to those matters listed at Condition B8 above.

AUSGRID ELECTRICAL INFRASTRUCTURE

- B10. The applicant shall liaise with Ausgrid in order to finalise any easements, leases and / or rights of way in favour of Ausgrid

END OF SECTION

INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A21 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.