



Crown Sydney Hotel Resort – Stratum Subdivision

State Significant Development Assessment SSD 10429

October 2020



Published by the NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Crown Sydney Hotel Resort – Stratum Subdivision

Subtitle: State Significant Development Assessment SSD 10429

Cover image: *Photomontage of Crown Sydney Hotel Resort (Source: Applicant)*

© State of New South Wales through Department of Planning, Industry and Environment 2020. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (October 2020) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Glossary

Abbreviation	Definition
Applicant	Crown Sydney Property Pty Ltd
BDAR	Biodiversity Development Assessment Report
BMS	Building Management Statement
CBD	Central Business District
Concept Plan	Approved Barangaroo Concept Plan for the redevelopment of the site (MP06_0162)
Council	City of Sydney Council
CSHR	Crown Sydney Hotel Resort
Department	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
GSC	Greater Sydney Commission
GFA	Gross Floor Area
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
RtS	Response to Submissions
SEARs	Planning Secretary's Environmental Assessment Requirements
Secretary	Planning Secretary under the EP&A Act, or nominee
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development

Executive Summary

Introduction

This report provides an assessment of a State significant development (SSD) application lodged by Crown Sydney Property Pty Ltd (the Applicant) seeking consent for the stratum subdivision of the Crown Sydney Hotel Resort (CSHR) at Barangaroo. The site is located in the City of Sydney local government area (LGA).

The proposal involves the staged subdivision of the CSHR to separate the hotel and casino uses from the residential uses at the site. The application seeks to divide existing Lot 501 into two strata by creating Lot 1 – CSHR and Lot 2 – Crown Residential apartments.

The application is SSD because it constitutes the subdivision of land within the Barangaroo Site, under clause 3(2) of Schedule 2 of the State Environmental Planning Policy (State and Regional Development) 2011. The Minister for Planning and Public Spaces (Minister) is therefore the consent authority.

Engagement

The Department publicly exhibited the application for 28 days from Thursday 16 July 2020 to Wednesday 12 August 2020. The Department received a total of five submissions, comprising three submissions from government agencies, one submission from City of Sydney Council (Council) and one submission from a member of the public who objected to the proposal, on the grounds the application was not necessary.

Council's comments included recommended conditions of consent relating to restrictions on residential development, use of car spaces and storage spaces, parking on common property areas and easements for access. Sydney Water recommended conditions of consent relating to general infrastructure requirements.

Assessment

The Department has carefully considered the merits of the application in accordance with the relevant matters under section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act). The Department considers the proposal is acceptable as:

- it would facilitate the orderly use, management and operation of the hotel and residential components of the approved CSHR
- the proposed stratum lots are consistent with the approved floor plans and uses outlined in the development consent for the CSHR (SSD 6957) and the Barangaroo Concept Plan (MP 06_0162)
- the proposed easements would be managed in accordance with the terms set out in the Section 88B Instrument which are considered appropriate
- it would not result in any adverse environmental or amenity impacts
- the use of the CSHR would be managed in accordance with the existing conditions in the development consent for CSHR (SSD 6957)
- conditions of consent are recommended to enforce restrictions on the type of residential use permitted in Lot 2, the use of residential car parking spaces, the use of the hotel/casino car parking spaces and on parking in common property areas

- conditions are recommended to create easements for the loading dock and refuse room and easements to enable emergency egress and maintenance of services.

Conclusion

The Department considers the development is acceptable as it would facilitate the orderly use, management and operation of both the hotel and residential uses at the site.

The Department's assessment concludes the site is suitable for the proposal and the proposal is in the public interest. It is therefore recommended the application be approved, subject to conditions.

Contents

1	Introduction	1
1.1	Site Context.....	1
1.2	The Site	1
1.3	Surrounding Site Context	2
2	Project.....	4
2.1	Description of the development.....	4
2.2	Related development	5
3	Strategic context.....	6
3.1	Greater Sydney Region Plan	6
3.2	Eastern City District Plan	6
4	Statutory Context.....	7
4.1	State significance	7
4.2	Permissibility	7
4.3	Consistency with the Concept Approval	7
4.4	Mandatory Matters for Consideration.....	7
4.5	Biodiversity Development Assessment Report	8
5	Engagement.....	9
5.1	Department's engagement.....	9
5.2	Summary of submissions	9
5.3	Key issues – Government agencies.....	9
5.4	Key issues – Council and Community.....	10
5.5	Response to submissions	10
6	Assessment	11
6.1	Stratum subdivision	11
7	Evaluation.....	13
8	Recommendation.....	14
9	Determination.....	15
	Appendices	16
	Appendix A – List of referenced documents	16
	Appendix B – Community Views for Draft Notice of Decision	17
	Appendix C – Statutory Considerations.....	18
	Appendix D – Recommended Instrument of Consent	25

1 Introduction

This report provides an assessment of a State significant development (SSD) application (SSD 10429) lodged by Crown Sydney Property Pty Ltd (the Applicant) for the stratum subdivision of Crown Sydney Hotel Resort (CSHR).

The application is seeking to separate the hotel and casino uses from the residential apartments by dividing Lot 501 into Lot 1 – CSHR and Lot 2 – Crown Residential apartments.

1.1 Site Context

The site is located at Barangaroo South on the north-western edge of the Sydney Central Business District (CBD) within the City of Sydney local government area (LGA).

Barangaroo has a total area of approximately 22 hectares and has been divided into three redevelopment areas (from north to south), comprising the Headland Park (now known as Barangaroo Reserve), Barangaroo Central and Barangaroo South (**Figure 1**).



Figure 1 | The location of Barangaroo and the three Barangaroo development precincts
(Source: NearMap)

1.2 The Site

The site is located in the north-west corner of Barangaroo South within Lot 501 (**Figure 2**). The site has a total site area of 12,651 m² and comprises the following components:

- the Crown building site area of (approximately 6,204 m²)
- the underground basement works beyond the building (approximately 5,062 m²)
- a ground level licensed area (approximately 1,385 m²).

The site is currently under construction.

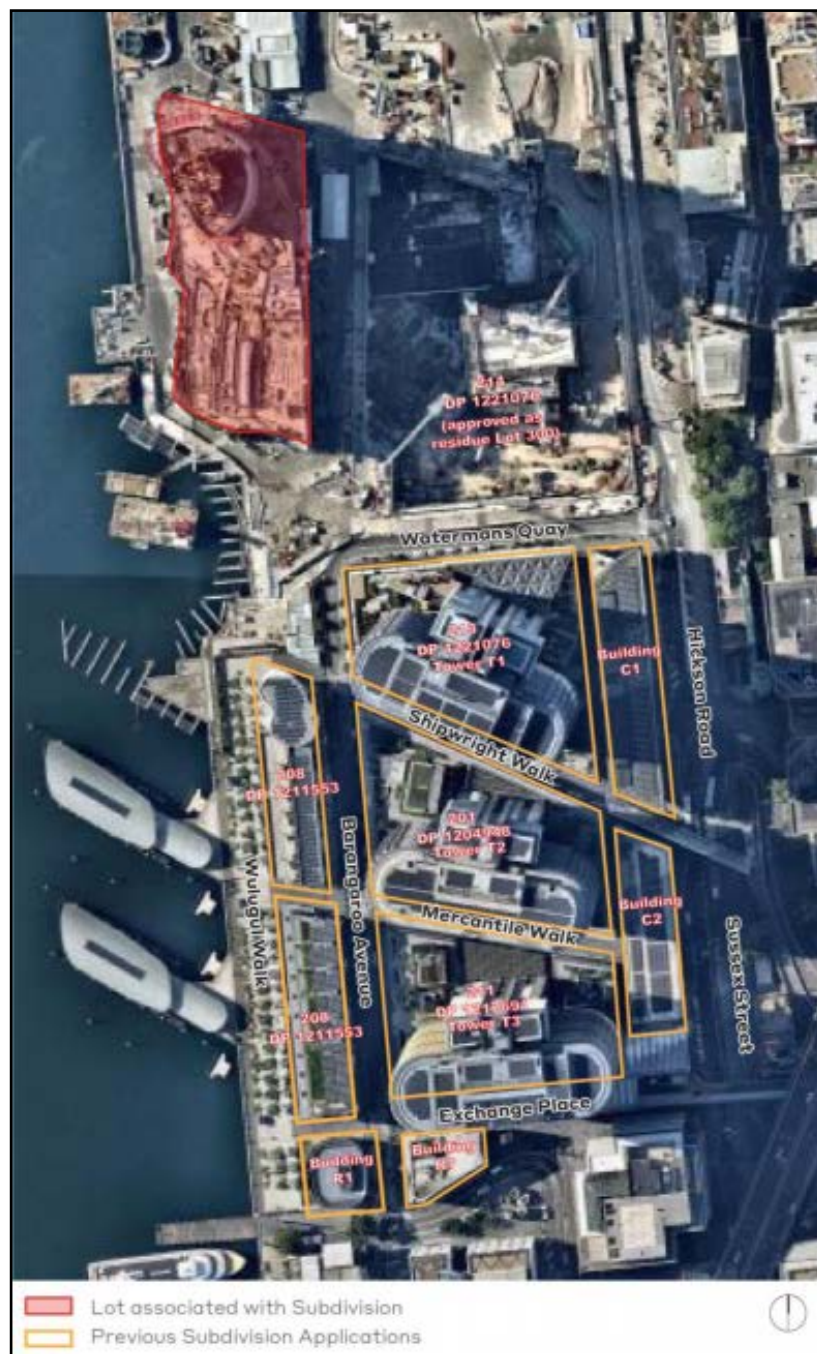


Figure 2 | The site is shown by the red shading (Source: Applicant)

1.3 Surrounding Site Context

The site is surrounded by the following development at Barangaroo South, Headland Park and Barangaroo Centre (**Figure 3**), including:

- residential Buildings R4A and R4B (under construction)
- stage 1B basement car park (under construction)
- stage 1B permanent public domain works (under construction)
- blocks 4 and 5 and Hickson Road remediation works (complete)
- Barangaroo ferry hub (complete)
- commercial Buildings C1, C2, C3, C4 and C5 (complete)
- residential buildings R8 and R9 (complete)
- stage 1A basement car park (complete)
- stage 1A permanent public domain works (complete)
- retail Buildings R1 and R7 (complete)
- Barangaroo Reserve (former Headland Park – complete)
- Barangaroo Central foreshore promenade (complete).



Figure 3 | Barangaroo construction and completed projects plan (Source: NearMap)

2 Project

2.1 Description of the development

The development seeks approval for the stratum subdivision of CSHR (Lot 501) to create the following stratum lots:

- Lot 1 – CSHR
- Lot 2 – Crown residential apartments.

As shown in **Figure 4**, Lot 1 (CSHR) would generally occupy the lower section of the building from Basement Level 3 to Level 32 but also include Level 66 to Level 71. Most of the basement car parking is also contained in this lot. Lot 2 (Crown residential apartments) would contain the residential component of the building and occupy Level 33 to Level 65. Parking for this lot is contained on Basement Level 2.

No physical works are proposed to be carried out as part of the application.

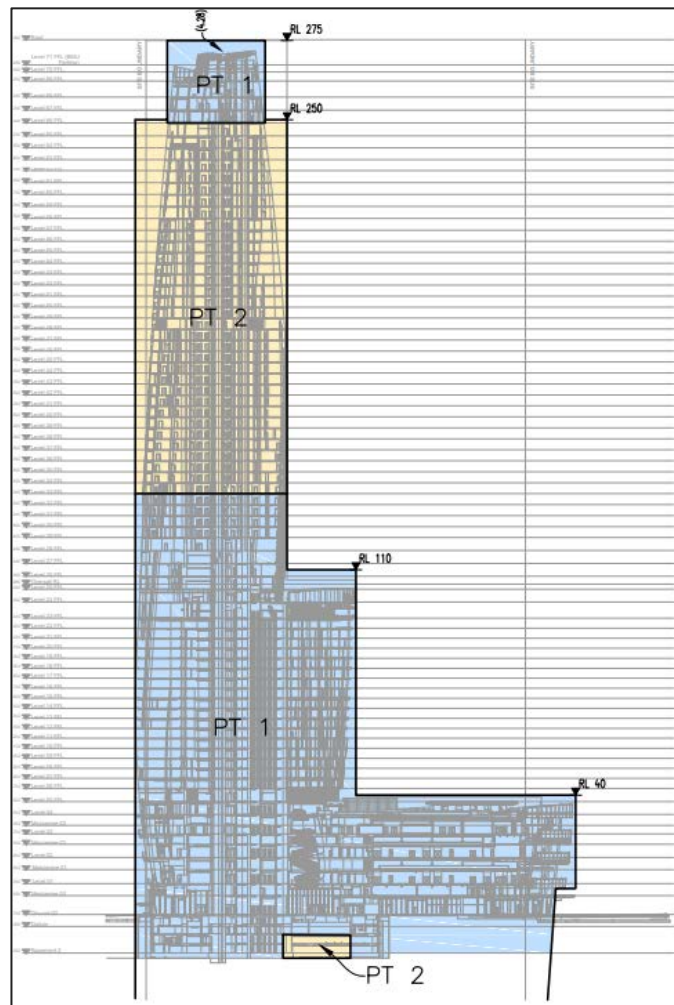


Figure 4 | The proposed stratum subdivision with Lot 1 shown in blue and Lot 2 shown in yellow
(Source: Applicant)

2.2 Related development

Barangaroo Concept Plan

On 9 February 2007, the then Minister for Planning approved the Barangaroo Concept Plan (Concept Plan) (MP 06_0162) for the renewal of the Barangaroo site for a mix of uses including residential, retail, commercial and public recreation.

The Concept Plan established nine development blocks, gross floor area (GFA), building height and public open space/public domain areas. The Concept Plan also includes Built Form Principles and Urban Design Controls to guide future development.

The consistency of this development application with the Barangaroo Concept Plan is discussed in **Section 4.3** of this report. In summary, eight modifications have been approved since the Concept Plan was approved.

SSD 6957 – Crown Hotel Resort Sydney

On 28 June 2016, the Independent Planning Commission (former Planning Assessment Commission) approved the development of the CSHR comprising:

- site remediation, earthworks, excavation, structural and site preparation works
- construction and fit-out of a 71-storey tower including podium
- construction of three basement levels
- a total GFA of 77,500 m², comprising:
 - o 66 residential apartments
 - o hotel use (350 hotel keys/rooms) and ancillary guest and visitor facilities
 - o 6,085 m² restricted gaming facility GFA
 - o 6,700 m² retail GFA
- 610 on-site car parking spaces and 188 bicycle parking spaces
- public domain works and landscaping
- business and building identification signage and signage zones.

The development consent has been modified on three occasions.

3 Strategic context

3.1 Greater Sydney Region Plan

The 'Greater Sydney Regional Plan – A Metropolis of Three Cities' sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth and change for Greater Sydney and includes 10 directions.

The City of Sydney LGA is located within the Eastern City. The proposed development supports the directions and objectives of the Plan, in particular by facilitating the orderly development of the Barangaroo South area.

3.2 Eastern City District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local council and planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The development is consistent with the Eastern City District plan by helping grow a stronger and more competitive CBD (Planning Priority E7) through the orderly and efficient development of the CSHR at Barangaroo South.

4 Statutory Context

4.1 State significance

The proposed development is SSD in accordance with clause 4.36 of the EP&A Act as it comprises subdivision of land at Barangaroo under clause 3(2) of Schedule 2 of the State Environmental Planning Policy (State and Regional Development) 2011.

Therefore, the Minister for Planning and Public Spaces is the consent authority for the development.

The application can be determined by the Executive Director, Regions, Industry and Key Sites under delegation as:

- a political disclosure statement has not been made
- there are less than 50 public submissions (other than Council) in the nature of objections
- the Council of the area in which the development is to be carried out has not made an objection under the mandatory requirements for community participation in Schedule 1 of the Act.

4.2 Permissibility

Land within the Barangaroo site may be subdivided with consent under clause 16(1), part 3 of Appendix 9 of the State Environmental Planning Policy (State Significant Precincts) 2005.

4.3 Consistency with the Concept Approval

In accordance with Clause 3B of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, the Department has considered the application is consistent with the Concept Plan as it:

- is consistent with the use of the CSHR as approved in SSD 6957 and is consistent with the use outlined in the Concept Plan
- would not alter maximum gross floor area (GFA) or height controls specified in the Concept Plan (as modified)
- complies with all relevant Built Form Principles and Urban Design Controls of the Concept Plan
- would not impact on the delivery of a high quality Hickson Park and surrounding public domain.

4.4 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining a development application. These are summarised as:

- the provisions of environmental planning instruments (including draft instruments), development control plans, planning agreements, and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation)
- the environmental, social and economic impacts of the development
- the suitability of the site
- any submissions, and

- the public interest, including the objects in the EP&A Act and the encouragement of ecologically sustainable development (ESD).

The Department has considered these matters in its assessment of the project, as well as the Applicant's consideration of environmental planning instruments in its EIS, as summarised in **Section 6** of this report. The Department has also considered the relevant provisions of the EP&A Act, including environmental planning instruments in **Appendix C**.

4.5 Biodiversity Development Assessment Report

On 7 April 2020, the Environment, Energy and Science Group (EESG) of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage) granted a waiver to the requirement to submit a Biodiversity Development Assessment Report (BDAR) under the *Biodiversity Conservation Act 2016*. On 16 April 2020, the Department also granted a waiver as the proposal is unlikely to have any significant impacts on biodiversity values as the site does not contain any native vegetation or significant habitat for threatened species and does not involve any physical works.

5 Engagement

5.1 Department's engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from Thursday 16 July 2020 to Wednesday 12 August 2020 (28 days). The application was made publicly available on the Department's website.

The Department placed a public exhibition notice in The Daily Telegraph and The Sydney Morning Herald on Wednesday 15 July 2019, and notified adjoining landholders, City of Sydney Council (Council) and relevant government agencies in writing.

The Department has considered the comments raised by Council, government agencies and the public submission in the assessment of the application (**Section 6** and **Appendix B** of this report).

5.2 Summary of submissions

The Department received a total of five submissions, comprising three submissions from government agencies, one submission from Council and one submission from the public.

Council and the three government agencies provided comments. The submission received from a member of the public objected to the application. Copies of the submissions may be viewed at **Appendix A**.

5.3 Key issues – Government agencies

The key issues raised by Government agencies are summarised in **Table 1** below.

Table 1 | Government agency submissions

Government Agency	Comments
Transport for NSW (Roads and Maritime Services) (TfNSW (RMS))	Reviewed the application and made no further comment
Sydney Metro	The application would have a negligible impact on the Sydney Metro City and the Sydney Metro Southwest corridors.
Sydney Water	- The water and wastewater servicing requirements have already been provided under the Notice of Requirements for the feasibility application which has been lodged by the Applicant - Detailed water metering requirements would be provided at the Section 73 application stage

5.4 Key issues – Council and Community

Council Key Issues

Council's submission noted that although most of the easements required for the orderly operation of the lots were noted on the submitted plans, a number of additional restrictions should be applied. Council therefore recommended a series of draft conditions of consent including:

- requirements for a subdivision certificate and a Sydney Water compliance certificate
- a restriction on the type of residential uses permitted to ensure Lot 2 is used for permanent residential accommodation only
- a restriction on the use of residential car parking spaces and storage spaces to ensure the Lot 2 car parking spaces are used by a resident, tenant or occupant only
- a restriction on the use of hotel/casino car parking spaces to ensure Lot 1 car parking spaces are used by hotel/casino guests, function patrons and staff only
- a restriction to prevent parking on common property areas in the basement
- a requirement for additional easements relating to access requirements, loading dock operation, refuse room easement and the stratum lots
- a requirement for the street address of each lot to be shown on the final plan of subdivision.

Community Key Issues

The Department received one submission from a member of the public which objected to the proposal. The submitter objected on the basis the application was deemed unnecessary.

5.5 Response to submissions

The Department placed a copy of the submissions received on its website and requested the Applicant provide a response to the issues raised by Council and the public objection. The Applicant provided a Response to Submissions (RtS) for the proposal.

The RtS addressed Council's recommendation to impose conditions relating to certificates, restrictions and easements. In relation to Council's recommended requirement for a subdivision certificate, the Applicant sought to modify the proposed wording to enable the application to be made to the 'Certifying Authority' rather than exclusively prescribing Council. The Applicant proposed an equivalent change to the proposed conditions of consent relating to restrictions and easements. The Applicant noted this would ensure consistency with the previous Barangaroo Subdivision applications while still achieving the intent of Council's recommended conditions.

In response to the public objection, the Applicant advised the submission had misinterpreted the nature of the proposal and confirmed the subdivision is fundamentally necessary for the viable operation of the approved uses at the site.

The RtS was made publicly available on the Department's website and no public submissions were received.

6 Assessment

The Department has considered the proposal, the issues raised in submissions and the Applicant's RtS in its assessment of the application. The Department considers the key issues associated with the proposal below.

6.1 Stratum subdivision

The proposed subdivision seeks to separate the approved hotel and casino uses from the approved residential uses at the site, as outlined in detail in **Section 2** of the report. To support the proposed subdivision, the Applicant provided Draft Plans of Subdivision, a Draft Section 88B Instrument and an Infrastructure Utilities Report.

The Department has assessed the merits of the proposed subdivision as well as comments received in submissions and considers the proposed stratum subdivision is acceptable as:

- it would facilitate the orderly and logical use, ownership and management of the hotel and the residential components of the site
- it is consistent with the use outlined in the development consent for the CSHR (SSD 6957) and the Barangaroo Concept Plan (**Section 2.2**).
- the proposed easements would ensure appropriate ongoing arrangements for access, services and the use of loading docks, lifts and facilities
- the use of the proposed easements would be managed in accordance with the terms set out in the Section 88B Instrument which are considered appropriate
- the use of the CSHR would be managed in accordance with the existing conditions in the development consent for CSHR (SSD 6957)
- the updated Building Management Statement will adequately address the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the CSHR (**Appendix C**)
- it would not involve any physical works and would not result in any adverse environmental impacts.

Council did not object to the proposal but it recommended conditions of consent to enforce a number of restrictions and to ensure suitable easements are created (**Section 5.4**).

The Applicant accepted the intent of the proposed conditions but sought to ensure the Certifying Authority, not Council, could release, vary or modify the conditions relating to restrictions.

However, given the Department is a prescribed authority and is the determining the application under the Minister's delegation, it is considered appropriate that the Department be the relevant authority to release, vary or modify land title restrictions. The Department therefore recommends conditions of consent referencing the Secretary as the appropriate authority to release, vary or modify restrictions relating to:

- residential development (Condition A8)
- residential car parking (Condition A9)
- car parking spaces – hotel/casino (Condition A10)
- parking on common property areas (Condition A11).

The Department also recommends conditions of consent relating to the creation of easements to enable:

- the use of the loading dock area (Condition A12)
- the use of the refuse room (Condition A13)
- services, drainage and emergency egress for stratum lots (Condition A14).

Subject to the recommended conditions, the Department is satisfied the proposed stratum subdivision is acceptable.

7 Evaluation

The Department has reviewed the EIS, RtS and assessed the merits of the development, taking into consideration advice from Council and government agencies. Issues raised by Council and the public have been considered (as outlined in **Appendix B**) and all environmental issues associated with the development have been thoroughly addressed.

The Department has considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ESD.

The Department has carefully considered the impacts associated with the development, and considers it should be approved for following reasons:

- it would not result in any adverse environmental or amenity impacts
- it would facilitate the orderly and logical use, ownership and management of the hotel and residential components of the CSHR
- it is consistent with the use outlined in the development consent for the CSHR (SSD 6957) and the Barangaroo Concept Plan
- the use of the proposed easement would be managed in accordance with the terms set out in the Section 88B Instrument which are considered appropriate
- the use of the CSHR would be managed in accordance with the existing conditions in the development consent for CSHR (SSD 6957).

The Department's assessment therefore concludes the proposal is in the public interest and recommends the application be approved, subject to the recommended conditions.

8 Recommendation

It is recommended that the Executive Director, Regions, Industry and Key Sites, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of SSD 10429, subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (Appendix D).

Recommended by:



Tim Green
Planning Officer
Key Sites Assessments

Recommended by:



Cameron Sargent
Team Leader
Key Sites Assessments

Recommended by:



Anthony Witherdin
Director
Key Sites Assessments

9 Determination

The recommendation is **Adopted** / ~~Not adopted~~ by:

A handwritten signature in blue ink that reads "Sargeant". The first letter 'S' is large and stylized, with the rest of the name written in a cursive script.

30/10/2020

Anthea Sargeant

Executive Director

Regions, Industry and Key Sites

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department's website as follows:

Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/27076>

Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/27076>

Submissions Report

<https://www.planningportal.nsw.gov.au/major-projects/project/27076>

Appendix B – Community Views for Draft Notice of Decision

Issue	Consideration
Recommended conditions relating to restrictions on residential development, use of car spaces and storage spaces, parking on common property areas and easements for access (Council)	The Department considers the intent of the conditions recommended by Council are appropriate and have therefore included these in the conditions of consent. For consistency with previous stratum subdivisions at Barangaroo, Council's conditions have been slightly modified to note that the Planning Secretary is the relevant authority to modify or remove conditions relating to restrictions and easements.
Need for the stratum subdivision (Public issue)	The Department considers the development is acceptable as it would facilitate the orderly and logical use, ownership and management of the hotel and residential components of the CSHR. The Department's assessment therefore concludes the proposal is in the public interest and recommends the application be approved, subject to the recommended conditions.

Appendix C – Statutory Considerations

In line with the requirements of section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the Department's assessment of the project has provided a detailed consideration to a number of statutory requirements. These include:

- the objects found in section 1.3 of the EP&A Act; and
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered all of these matters in its assessment of the project and has provided a summary of this assessment in **Tables 1** and **2** below.

Table 1 | Consideration of the objects of the EP&A Act

Objects of the EP&A Act	Summary
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposal does not involve any physical works and would have no impact on the State's natural and other resources. The proposal would enhance the social and economic welfare of the community as the CSHR would benefit the NSW economy.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The principles of Ecologically Sustainable Development (ESD) are considered following Table 2 .
(c) to promote the orderly and economic use and development of land	The proposal promotes the orderly and economic use and development of the land as it reflects the use outlined in the development consent for the CSHR (SSD 6957).
(d) to promote the delivery and maintenance of affordable housing	Not applicable.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The proposal does not involve any physical works and therefore would not impact on any threatened species, ecological communities or their habitats.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The proposal does not involve any physical works and therefore would not impact on any built or cultural heritage.
(g) to promote good design and amenity of the built environment	Not applicable.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal would be managed in accordance with the new annexure to the BMS and is discussed further in Section 6.2 of this report.

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The development is SSD and therefore the Minister is the consent authority. The Department consulted with Council and other relevant government agencies on the proposal.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	Section 5 of this report sets out details of the Department's engagement on the proposal.

Table 2 | Consideration of the matters listed under section 4.15(1) of the EP&A Act

Section 4.15(1) Evaluation	Summary
(a)(i) any environmental planning instrument	The proposed development complies with the relevant legislation, as addressed in Section 4 of this report and the consideration of other relevant EPIs provided below this table.
(a)(ii) any proposed instrument	See below.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 where relevant.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&A Regulation</i>	The application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation), including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.
(a)(v) Repealed	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has assessed the likely impacts of the proposal and considers they are acceptable and/or have been appropriately managed by recommended conditions (refer to Section 6 and Appendix D of this report).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 4 and 6 of this report.
(d) any submissions	Consideration has been given to the submissions received during the EIS exhibition period. See Sections 5 and 6 of this report.
(e) the public interest	The proposal is considered to be in the public interest as it would facilitate the orderly and logical use, ownership and management of the hotel and residential components of the CSHR.

Other Policies

Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) the precautionary principle
- (b) inter-generational equity
- (c) conservation of biological diversity and ecological integrity
- (d) improved valuation, pricing and incentive mechanisms.

The Department has considered the proposed development in relation to the ESD principles. Whilst these principles have little relevance to the subdivision application given no physical works are proposed, the Department notes, in general, the redevelopment of Barangaroo has been designed to incorporate Australian best practice sustainability initiatives during construction and operation.

In addition, the Department considers the precautionary principles and inter-generational equity principles have been applied in the decision-making process via a thorough and rigorous assessment of the environmental impacts of all development which has been approved at Barangaroo.

Environmental Planning Instruments (EPIs)

EPIs considered as part of the assessment of the proposed development are:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)
- Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (Sydney Harbour Waterways DCP).

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP aims to identify development that is of State significance due to its size, economic value or potential impact.

The proposal is SSD under section 4.36 of the EP&A Act as it comprises subdivision of land at Barangaroo under clause 3(2) of Schedule 2 of the SRD SEPP. Therefore, the Minister for Planning and Public Spaces is the consent authority.

State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)

The SSP SEPP seeks to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State (State Significant Precincts) for the benefit of the State.

The Barangaroo site is listed as a State Significant Precinct under Appendix 9 of the SSP SEPP. Land within the Barangaroo site may be subdivided with consent under clause 16(1), part 3 of Appendix 9 of the SSP SEPP.

The proposal does not involve any physical works and as such other key controls in the SSP SEPP relating to height, gross floor area, the need for the building to exhibit design excellence and be subject to a design competition are not relevant to the proposed subdivision.

The SSP SEPP also requires that prior to issuing consent for stratum subdivision, the consent authority must consider whether the related BMS adequately addresses the ongoing maintenance, upgrading, redevelopment and structural adequacy of the part of the building within each proposed stratum lot.

In order to ensure the new annexure to the BMS is consistent with the provision of the State Environmental Planning Policy (State Significant Precincts) 2005 and the statutory requirement of Schedule 8A of the *Conveyancing Act 1919*, the Department has recommended a condition of consent requiring the new annexure to the BMS to be updated to satisfaction of the Certifying Authority at the subdivision certificate stage.

This condition requires the new annexure to the BMS to adequately address the following matters which are relevant to the approved developments in Barangaroo South:

- the use, operation and arrangements for the supply of services, maintenance and upgrading of infrastructure of each stratum lot within the subdivision
- the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the subdivision
- any other matters which the Certifying Authority considers relevant and pertinent to the issue of a Subdivision Certificate.

Subject to the recommended conditions, the Department considers the new annexure to the BMS will adequately address the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot within the CSHR.

The proposed development would facilitate the orderly and logical use, ownership and management of the hotel and residential components of the CSHR. Given the above, the Department's assessment concludes the proposal is consistent with the SSP SEPP.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

The application was referred to TfNSW (RMS) and Sydney Metro. Both agencies did not raise any objections to the proposed development.

The Department considers the proposed development to be consistent with the ISEPP.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)

Consideration of the relevant controls in the SREP are addressed in **Table 3** below.

Table 3 | Consideration of the SREP

Criteria		Department's assessment	Compliance
Part 3 Foreshores and Waterways Area			
Clause 17 Zoning W1 Maritime Waters	Land is divided into a number of zones as shown on the zoning map.	Although the W1 Maritime Waters zone is adjacent to the site, no works will be carried out in the zone.	Yes
Clause 20 Matters for consideration	The matters referred to in Division 3 must be considered by the consent authority.	The Department has considered the relevant matters in Table 2 .	Yes
Clause 21 Biodiversity, ecology & environmental protection	The consent authority must take into consideration the matters listed in the clause in relation to biodiversity, ecology and environmental protection.	The proposal does not include any physical works and would have no impact on biodiversity, ecology or the natural environment.	Yes
Clause 22 Public access to, and use of, foreshores and waterways	The consent authority must take into consideration the matters listed in this clause in relation to public access to, and use of, the foreshores and waterways.	The proposal does not include any physical works and would not impact on public access to the foreshores and waterways.	Yes
Clause 23 Maintenance of a working harbour	The consent authority must take into consideration the matters listed in relation to the maintenance of a working harbour.	The proposal does not include any physical works and would not impact on the maintenance of a working harbour.	Yes
Clause 24 Interrelationship of waterway and foreshore uses	The consent authority must take into consideration the matters listed in relation to the interrelationship of waterway and foreshore uses.	The proposal does not include any physical works and would not impact on waterway and foreshore uses.	Yes
Clause 25 Foreshore and waterways scenic quality	The consent authority must take into consideration the matters listed in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.	The proposal does not include any physical works and would therefore maintain the scenic quality of the foreshores and waterways.	Yes

Clause 26 Maintenance, protection and enhancement of views	The consent authority must take into consideration the matters listed in relation to the maintenance, protection and enhancement of views.	The proposal does not include any physical works and therefore would not impact on views.	Yes
Clause 29 Foreshores & Waterways Development Advisory Committee	A consent authority must not grant consent to a DA unless it has referred and considered the views of the Advisory Committee.	The proposed development is of a type that does not require referral to the Advisory Committee.	Yes
Part 4 Strategic Foreshore Sites			
Clause 40 Strategic Foreshore Areas	Division 1 – Requirements for Masterplans. The Division applies to development that is carried out on a strategic foreshore site.	Barangaroo is identified as a strategic foreshore site on Sheet 1 (City Foreshore Area).	Yes
Clause 41 Strategic Foreshores Areas	Sub-clause 4 generally states a Master Plan does not have to be development for a strategic foreshore site unless the Minister so directs.	The Minister has not directed that a Master Plan be prepared for the Barangaroo site. Notwithstanding this, the proposal would be consistent with the approved Barangaroo Concept Plan (as modified).	Yes
Part 5 Heritage Provisions			
	List the matter to be taken into consideration by the consent authority before granting consent under Part 4 of the EP&A Act. The part applies to land and items identified on the Heritage Map.	There are no heritage items on the Barangaroo site listed in Schedule 4 of the SEPP. As such, Part 5 does not apply.	Yes

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (Sydney Harbour Waterways DCP)

The site of the building is within the defined Foreshores and Waterways Area of the DCP and is therefore subject to the controls in the DCP. The DCP includes aims and performance criteria in relation to ecological assessment, landscape assessment and design guidelines for development within the area.

The location of the proposed stratum subdivision is not affected by any ecological or specific landscape character area (Part 2 and Part 3) and no physical works are proposed. As such, the design guideline provisions of the DCP are no relevant to the subject application.

Appendix D – Recommended Instrument of Consent

The recommended conditions of consent can be found on the Department of Planning, Industry and Environment's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/27076>