

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-35370706 Uniting Charlestown
Applicant	UNITING (NSW.ACT)
Consent Authority	Minister for Planning and Public Spaces

Decision

The A/Director, State Significant Acceleration under delegation from the Minister for Planning has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to conditions.

A copy of the development consent, conditions and the Department of Planning and Environment's assessment report is available [here](#).

Date of decision

1 December 2023

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 2021;
- the objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of the *Biodiversity Conservation Act 2016* (NSW);
- all information submitted to the department during the assessment of the development application;
- the findings and recommendations in the department's assessment report; and
- 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 for the region and the State as a whole, including a significant contribution to housing availability and diversity within Charlestown to meet the changing needs of an ageing population, creation of a publicly accessible landscaped through site link and the creation of 620 construction jobs and 150 full time equivalent operational jobs;
- the project is permissible with development consent, and is consistent with NSW Government policies including the Greater Newcastle Metropolitan Plan 2036 and the Lake Macquarie City Housing Strategy 2021;
- 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 conditions of consent. Engagement on the project is considered to be in line with *Undertaking Engagement Guidelines for State Significant Projects*, including the community participation objectives outlined in these guidelines.
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The applicant engaged with the community during the preparation of the environmental impact statement (EIS) as a requirement of the Secretary's environmental assessment requirements. The EIS detailed the findings of the engagement and how it influenced the scope and design of the project.

Once the EIS was submitted to the department it was placed on exhibition from 25 November 2022 until 13 January 2023. Eight unique submissions on the proposal were received, including a submission from Council providing comments and seven public submissions (six objecting and one providing comments).

The key issues raised by the community and considered in the department's assessment report and by the decision maker include built form, visual and acoustic impacts, traffic and parking, vegetation removal and residential amenity. Other issues are addressed in detail in the department's assessment report.

Table 1 | Department's consideration of key issues raised in submissions

Issue	Consideration
- Excessive height and bulk - Overdevelopment of the site	- The Department acknowledges that the proposed development exceeds the maximum permissible building height in several areas. The Applicant has submitted a Clause 4.6 with the development. - The proposal has been subject to extensive review and evolution under the guidance of the Lake Macquarie Urban Design Review Panel and State Design Review Panel and both panels support the built form and height as it results in a high-quality urban form and appropriate amenity for future residents of the site as well as adjoining dwellings - The proposal has acceptable amenity impacts and is consistent with the key strategic documents such as the Lake Macquarie 2031 Community Strategic Plan which envisions the site as a strategic growth centre. - The Department concludes that the height, scale, and density of the development is consistent with the future envisioned character for the site and precinct and the proposal would not unreasonably impact on the surrounding area.
Removal of native trees	- The Applicant submitted a Tree Assessment Report which assessed the impact of the proposal on the 270 trees which currently exist on the site, which includes 140 trees proposed to be removed and 77 threatened trees which require modifications in order to be retained. - The Department notes that the site was replanted with a mixed of native and exotic vegetation as the site was cleared of vegetation as part of its previous uses. The Department also notes that the SBDAR prepared by the Applicant concludes that the site does not contain biodiversity values. - The Department considers the removal of native trees on the site are acceptable as the trees that are proposed to be removed generally have poor to average structure or health or are located within or in close proximity to the building footprint, and compensatory planting is proposed to ensure sufficient trees are on site.
- Exceedance in project noise trigger levels - Increased noise impact to surrounding development	- The Applicant's Acoustic Assessment demonstrates several exceedances on the project noise trigger levels both during construction and operation. The Acoustic Assessment also identifies numerous mitigation measures to minimise noise impacts to surrounding developments. - The Department notes that as the site is surrounding by residential development, some noise exceedance during construction would be unavoidable and have therefore recommended conditions to ensure the mitigation of noise impacts to surrounding developments. - The Department also notes that the operation of the loading docks for

	Building A, B and D will exceed the project noise trigger levels and have recommended conditions to ensure the management of noise at the loading docks. The Department is satisfied that the construction and operation noise impacts can be appropriately managed to minimise disruption to nearby amenity subject to conditions.
Visual impacts	- The Department acknowledges that the proposal will be highly visible from close and mid distant views around the site. - The Applicant's Visual Impact Assessment demonstrated that the proposed development provides separation between the four towers which will enable the retention of north/south view lines through the site towards the horizon and sea and was consistent with the <i>Lake Macquarie Scenic Management Guidelines</i>. - The Department is satisfied that the visual impacts of the proposal are acceptable as the height, bulk and scale is consistent with the desired future character of Charlestown Town Centre, the proposal achieves a high standard of design quality and incorporates building separation and landscaping to enhance the visual appearance of the development.
Increased traffic congestion	- The Applicant's Traffic Impact Assessment (TIA) demonstrates that all key intersections will continue to operate at an acceptable level of service. - The TIA also demonstrated that the surrounding local roads would continue to remain below the threshold of 300 vehicles per hour which is the maximum for a local residential street, and in most instances, below the threshold of 200 vehicles per hour which is the environmental goal for a local residential street. - The Department is satisfied that the projected increase in traffic activity resulting from the development is unlikely to have any unacceptable traffic implications in terms of road network or environmental capacity, nor will any infrastructure upgrades be required.
Insufficient car parking	The Department considers the proposed car parking arrangements to be satisfactory as they are consistent with and substantially exceed the relevant requirements of the TfNSW Guide to Traffic Generating Developments and the Housing SEPP.
Overshadowing of neighbouring property	- The Applicant provided overshadowing diagrams which demonstrate that: - Adjoining residential properties to the east will not be affected by overshadowing between 9am and 12noon, mid-winter - Neighbouring properties to the south will not be affected by overshadowing between 9am and 12pm. - The Department is satisfied that the proposed development would not result in any significant impacts on the amenity of neighbouring properties arising from overshadowing as all neighbouring properties continue to receive at least three hours of sunlight between 9am and 3pm on June 21 in line with the ADG and the Lake Macquarie DCP 2014 Part 3 – Development within Residential Zones.
Concern regarding fire safety for aged care residents.	- The subject site is not located within fire prone land. Department referred the proposal to Fire and Rescue NSW who raised no objections in relation to the proposal. - The Department has imposed conditions of consent which require fire sprinklers and alarms to be installed as per Australian Standards.
Non site-specific	The Department is satisfied that the proposed mitigation measures are

mitigation measures

appropriate for the proposed development and have been recommended to be included within plans identified in the conditions of consent.
