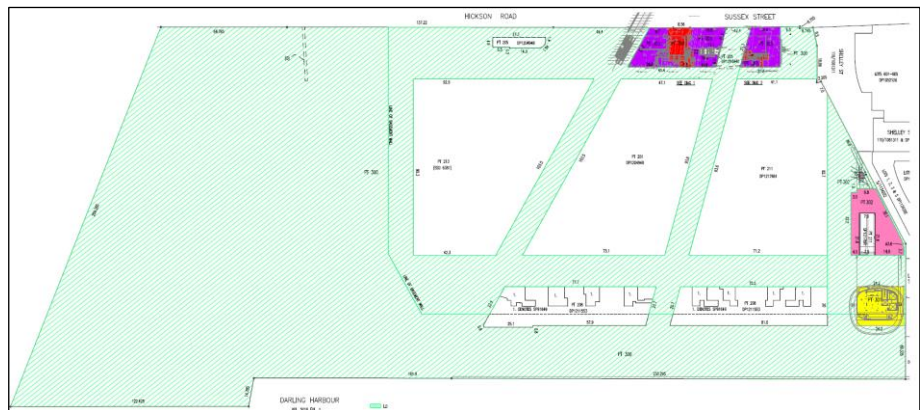


**STATE SIGNIFICANT DEVELOPMENT:
(SSD 7478)
Stage 1A (Second Stage) Stratum
Subdivision – Barangaroo South**



Environmental Assessment Report
Section 89H of the
Environmental Planning and Assessment Act 1979

September 2017

ABBREVIATIONS

Applicant	Lend Lease (Millers Point) Pty Ltd
Agency	NSW Planning and Environment
CIV	Capital Investment Value
Consent	Development Consent
Council	The City of Sydney Council
Department	Department of Planning and Environment
DCP	Development Control Plan
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
GFA	Gross Floor Area
ISEPP	State Environmental Planning Policy (Infrastructure) 2007
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
POEA Act	<i>Protection of the Environment Administration Act 1991</i>
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of Planning and Environment, or delegate.
SEPP	State Environmental Planning Policy
SSD	State Significant Development
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSP SEPP	State Environmental Planning Policy (State Significant Precincts) 2005
TfNSW	Transport for New South Wales

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EXECUTIVE SUMMARY

This report provides an assessment of a State significant development application (SSD 7478) lodged by Lend Lease (Millers Point) Pty Ltd (the Applicant) seeking consent for the second stage of the Stage 1A stratum subdivision at Barangaroo South, within the City of Sydney Local Government Area.

The proposal is SSD because it constitutes subdivision of land within the Barangaroo site, under clause 3(2) of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore, the Minister for Planning is the consent authority for the development.

The application was publicly exhibited for 30 days between 4 August 2016 and 2 September 2016. The Department of Planning and Environment (Department) received a total of three submissions, including two from public authorities and one from the public, none of which objected to the proposal.

Council stated it did not wish to comment on the proposal. Transport for NSW (TfNSW) did not object to the proposal but noted the subdivision is affected by the Sydney Metro corridor as identified in State Environmental Planning Policy (Infrastructure) 2007 and recommended conditions of consent to ensure the subdivision layout is consistent with this corridor. The public submission did not object to the proposal but requested clarification regarding a range of issues not within the scope of the subject application.

The Applicant submitted a Response to Submissions report to address issues raised in submissions, including revised plans and drawings in order to ensure the subdivision layout would be consistent with the future Sydney Metro alignment, and agreed to the imposition of related conditions suggested by TfNSW.

The Department has considered the above issues in its assessment, along with all relevant matters under section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the objects of the EP&A Act and the principles of ecologically sustainable development. The Department considers the key assessment issues associated with the proposal to be subdivision layout and structure, particularly in respect of the Sydney Metro, easements and restrictions on title, adequacy of the Building Management Statement and staged registration of the Plans of Subdivision.

The Department's assessment concludes the subdivision pattern is compatible and consistent with project approvals/development consents issued for development at Barangaroo South, the easements and restrictions on title would be appropriate, and the application would enable the staged registration of subdivision plans in an orderly manner. It is also considered the condition proposed to request a modified Building Management Statement would adequately address the ongoing maintenance, upgrading, redevelopment and structural adequacy of buildings/development within each proposed stratum lot. The Department has also recommended key conditions to ensure the proposed subdivision is consistent with the future plans for the Sydney Metro.

The Department concludes the proposal is in the public interest and recommends the application be approved subject to the recommended conditions.

1. BACKGROUND

1.1 Introduction

This report provides an assessment of State significant development application (SSD 7478) lodged by Lend Lease (Millers Point) Pty Ltd (the Applicant) seeking consent for the second stage of the Stage 1A stratum subdivision at Barangaroo South.

1.1.1 The Site

Barangaroo is located on the north-western edge of the Sydney CBD and is bounded by the Sydney Harbour foreshore to the north and west, Hickson Road and Millers Point to the east, and Kings Street Wharf/Cockle Bay/Darling Harbour to the south. The Barangaroo precinct is divided into three redevelopment areas (from north to south): Headland Park; Barangaroo Central; and Barangaroo South (**Figure 1**).

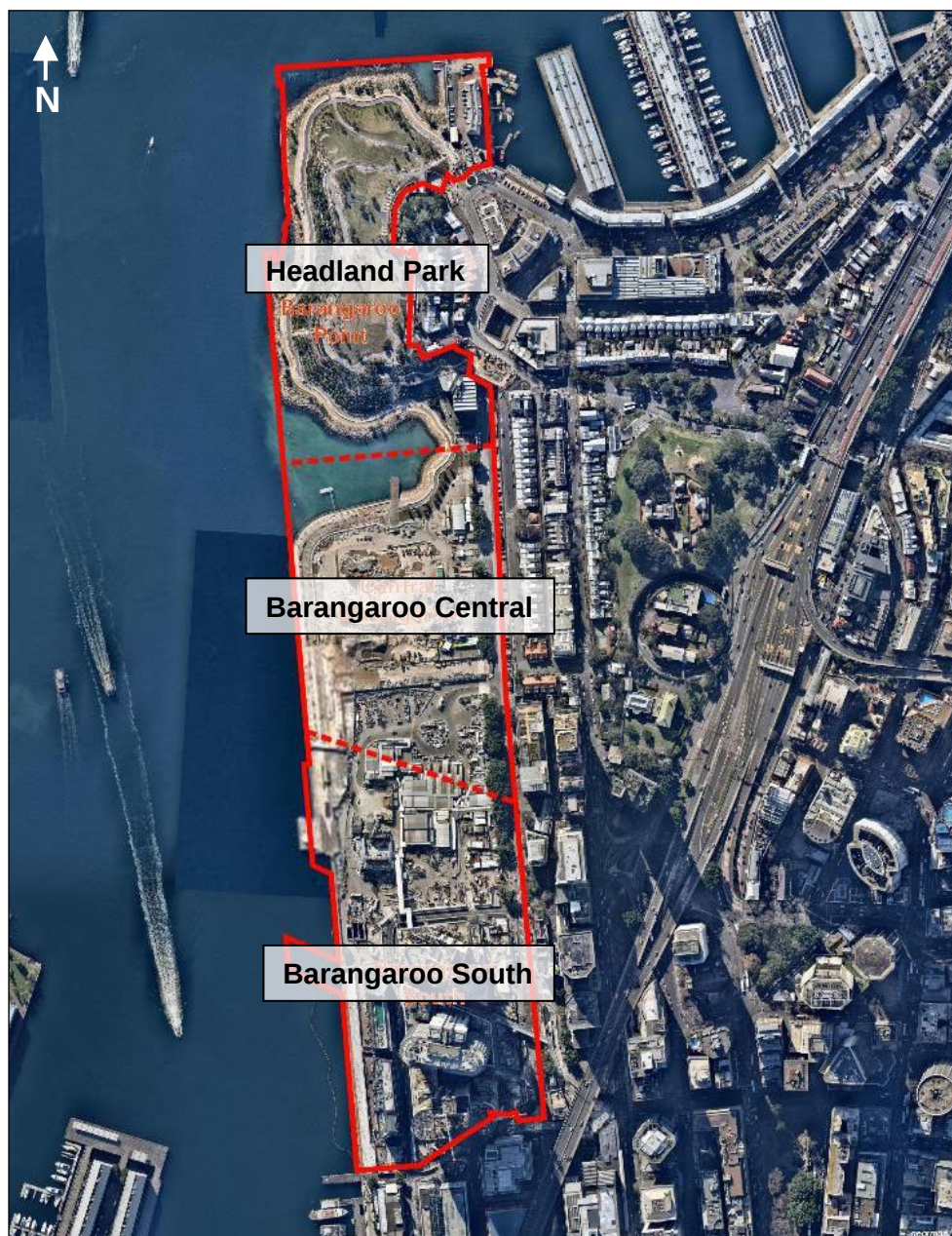


Figure 1: Site context plan (Source: Google)

The Barangaroo site (the subject of this application) has been subdivided into two allotments (Lot 100 and Lot 101) as shown in **Figure 2**.

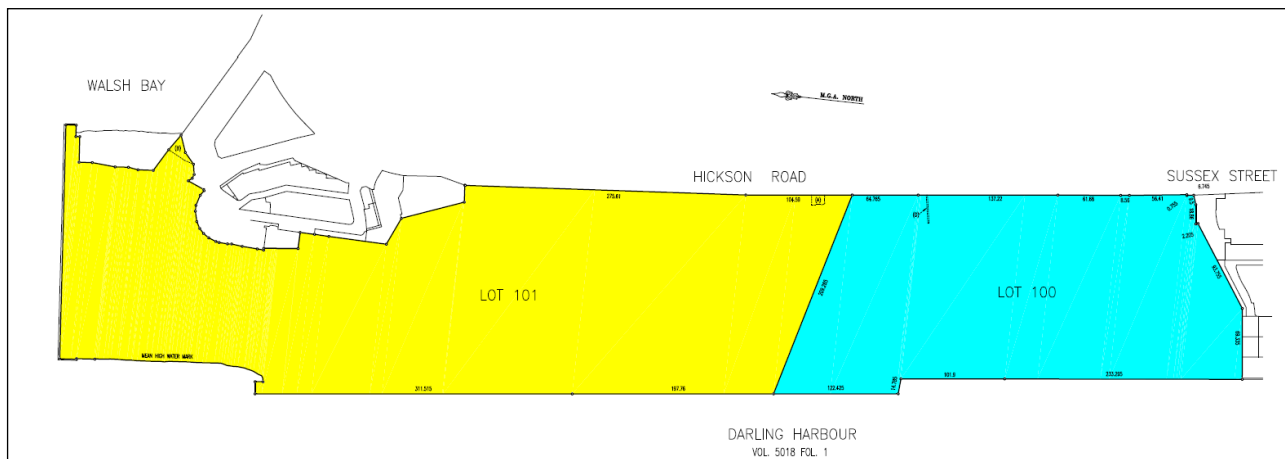


Figure 2: Approved Torrens Title subdivision to create Lots 100 and 101 (Source: GeoStrata)

1.2 Approval History

1.2.1 Barangaroo Concept Plan

On 9 February 2007, the then Minister for Planning approved the Barangaroo Concept Plan (MP 06_0162) which included a set of built form principles to guide development within the mixed use zone.

The detailed planning history of modifications to the Concept Plan for Barangaroo is provided at **Appendix B**. In summary, eight modifications have been approved since the Concept Plan was originally approved.

The consistency of the subject application with the Barangaroo Concept Plan is discussed in detail in **Section 3.6** of this report.

1.2.2 Stage 1A (First Stage) Stratum Subdivision

On 16 December 2014, the then Executive Director, Industry and Infrastructure Assessments approved the first stage of the Stage 1A Stratum Subdivision (SSD 6381) to allow:

- consolidation of Lots 3, 4 and 5 DP 876514 and the subdivision of the consolidated lot into two Torrens title lots (**Figure 2** and **3**) being:
 - Lot 100 comprising Barangaroo South (Stage 1A and 1B)
 - Lot 101 comprising Barangaroo Central & the Headland Park
- staged stratum subdivision of Lot 100 in four stages to create nine stratum lots for the approved buildings and infrastructure within the Stage 1A area as well as a residue lot for the public domain and the remainder of Stage 1A and Stage 1B (**Figure 3**).

It was noted that further subdivision of the Stage 1A and 1B residue lot (now known as Lot 214 - **Figure 3**) would be the subject of a separate future development application.

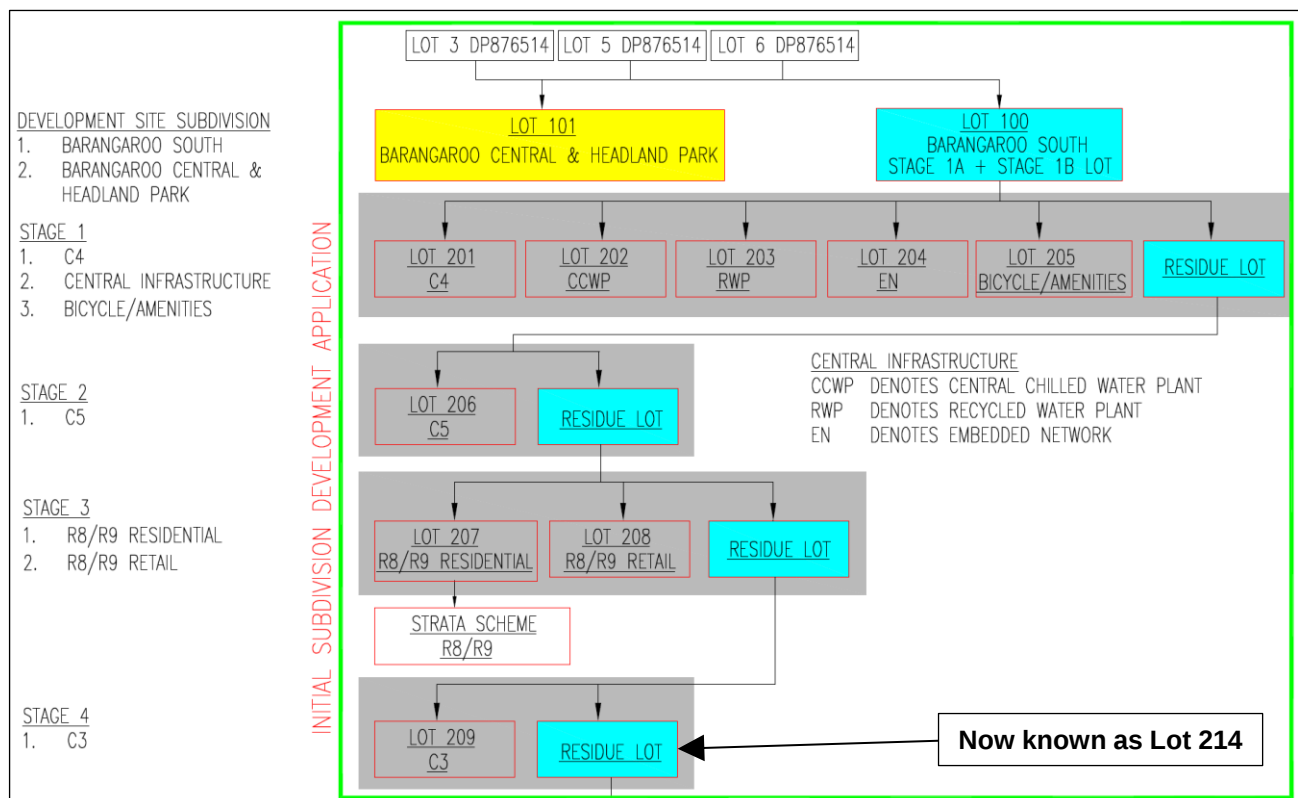


Figure 3: Approved Torrens Title subdivision to create Lots 100 and 101 (Source: GeoStrata)

2. PROPOSED DEVELOPMENT

2.1 Description of proposal

The application seeks approval for staged stratum subdivision of the current residue lot (Lot 214) at Barangaroo South into six stratum lots as outlined in **Table 1** below.

Table 1: Proposed stratum lots

Lot 301	Building R1
Lot 302	Building R7
Lot 303	Building C2 – Retail
Lot 304	Building C2 – Residential
Lot 305	For future Metro allotment Lot – A
Lot 306	For future Metro allotment Lot – B
Lot 300	Residue allotment

These lots are required to accommodate the approved buildings R1, R7 and C2 (incorporating separate retail and commercial stratus), as well as the future Sydney Metro (Lot A and B) and a residue lot.

The proposed subdivision is illustrated in **Figure 4** to **Figure 10** below.

The application does not seek approval for any physical works.

Consistent with the approach adopted for the Stage 1A (First Stage) Stratum Subdivision (SSD 6381), approval is sought for stratum subdivision to occur in a staged manner. This will allow the creation and registration of allotments to occur as required to fit with the construction and occupation program for Barangaroo South without the need for separate on-going applications.

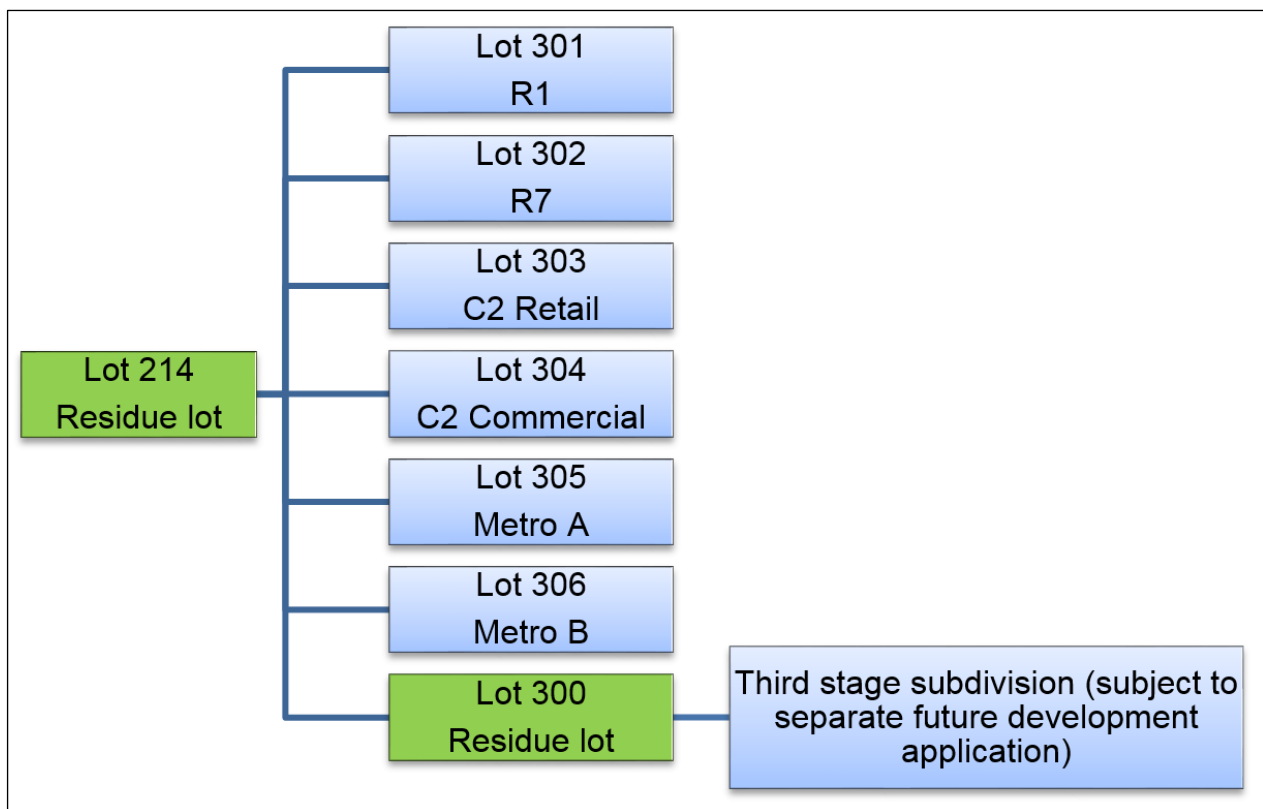


Figure 4: Proposed stratum subdivision (Source: Department of Planning and Environment)

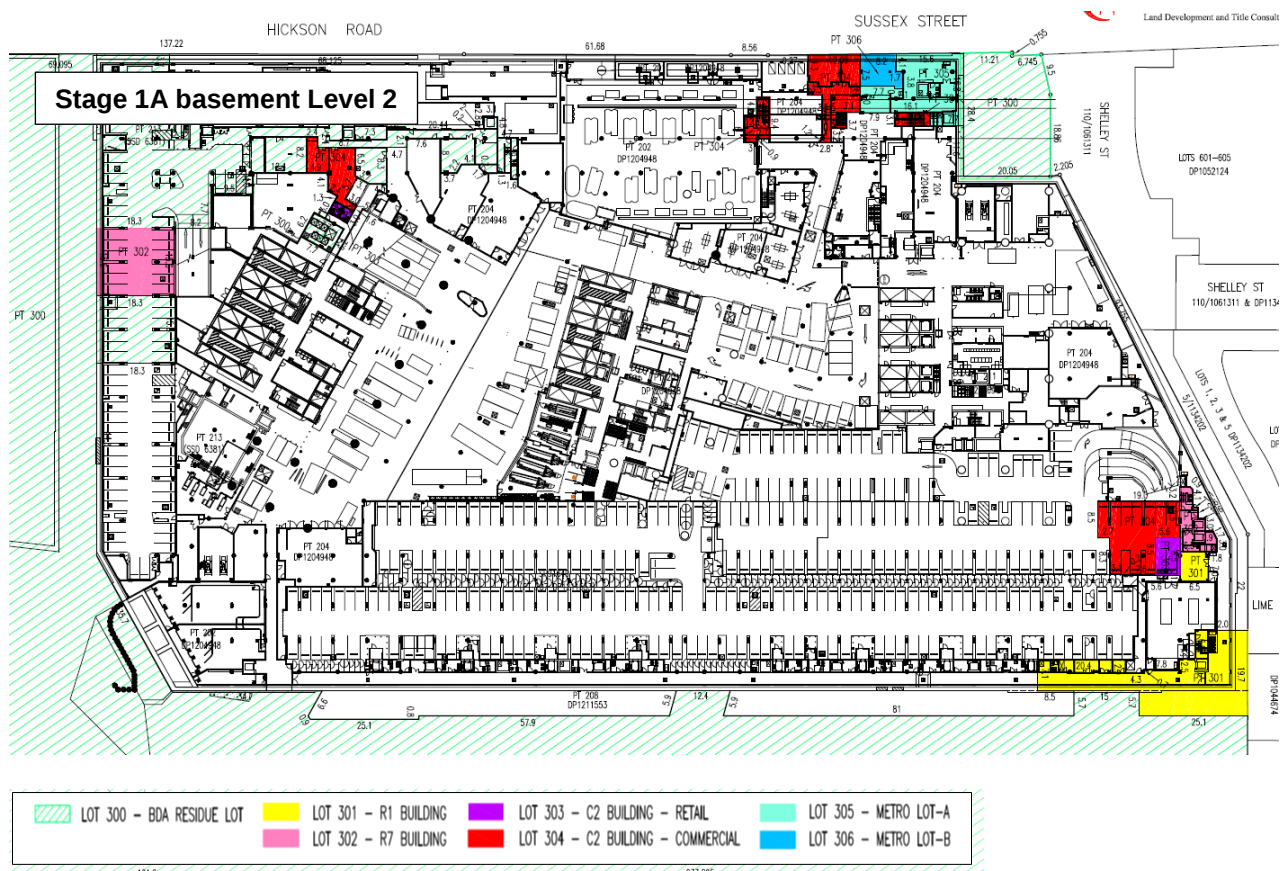


Figure 5: Proposed plan of subdivision for Stage 1A basement Level 2 at Barangaroo South (Source: Rts)

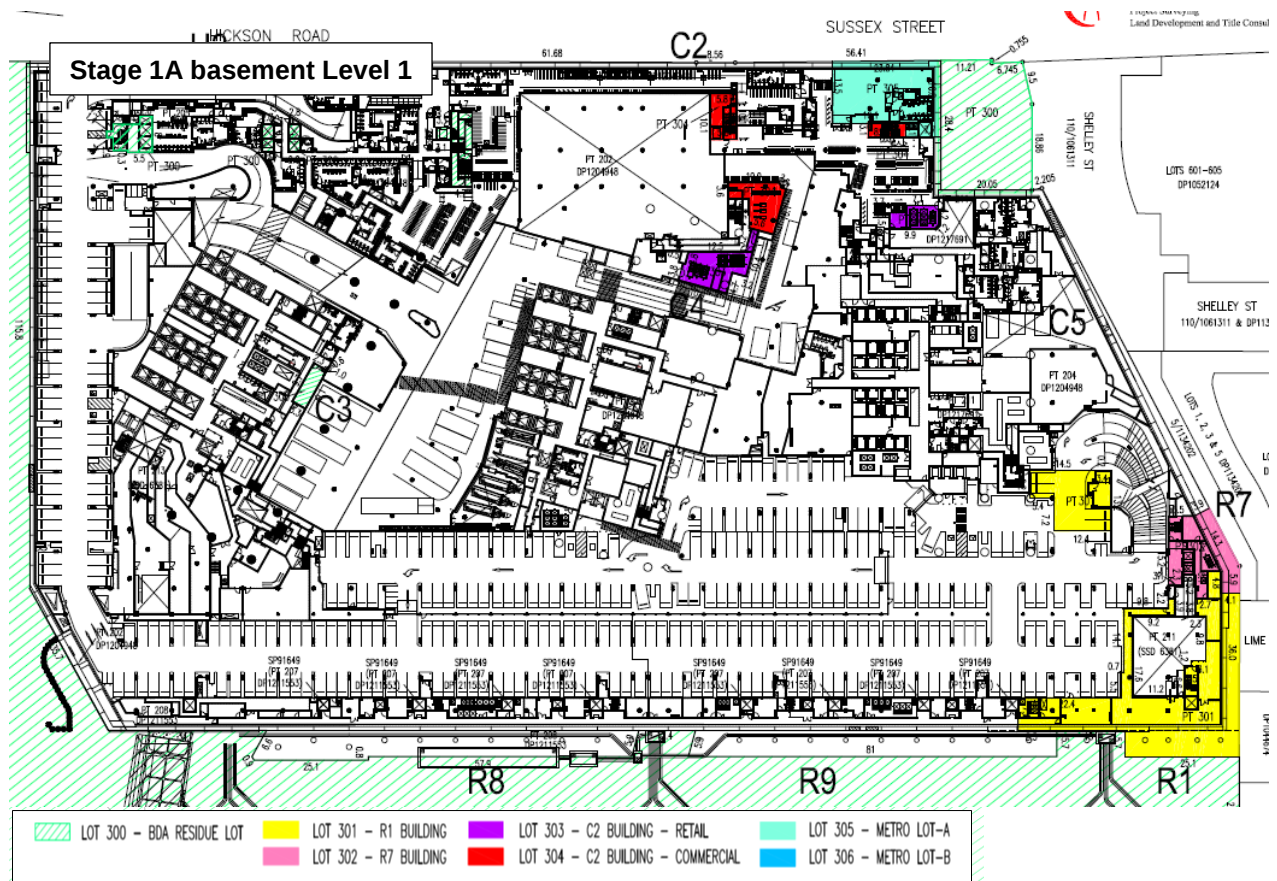


Figure 6: Proposed plan of subdivision for Stage 1A basement Level 1 at Barangaroo South (Source: RtS)

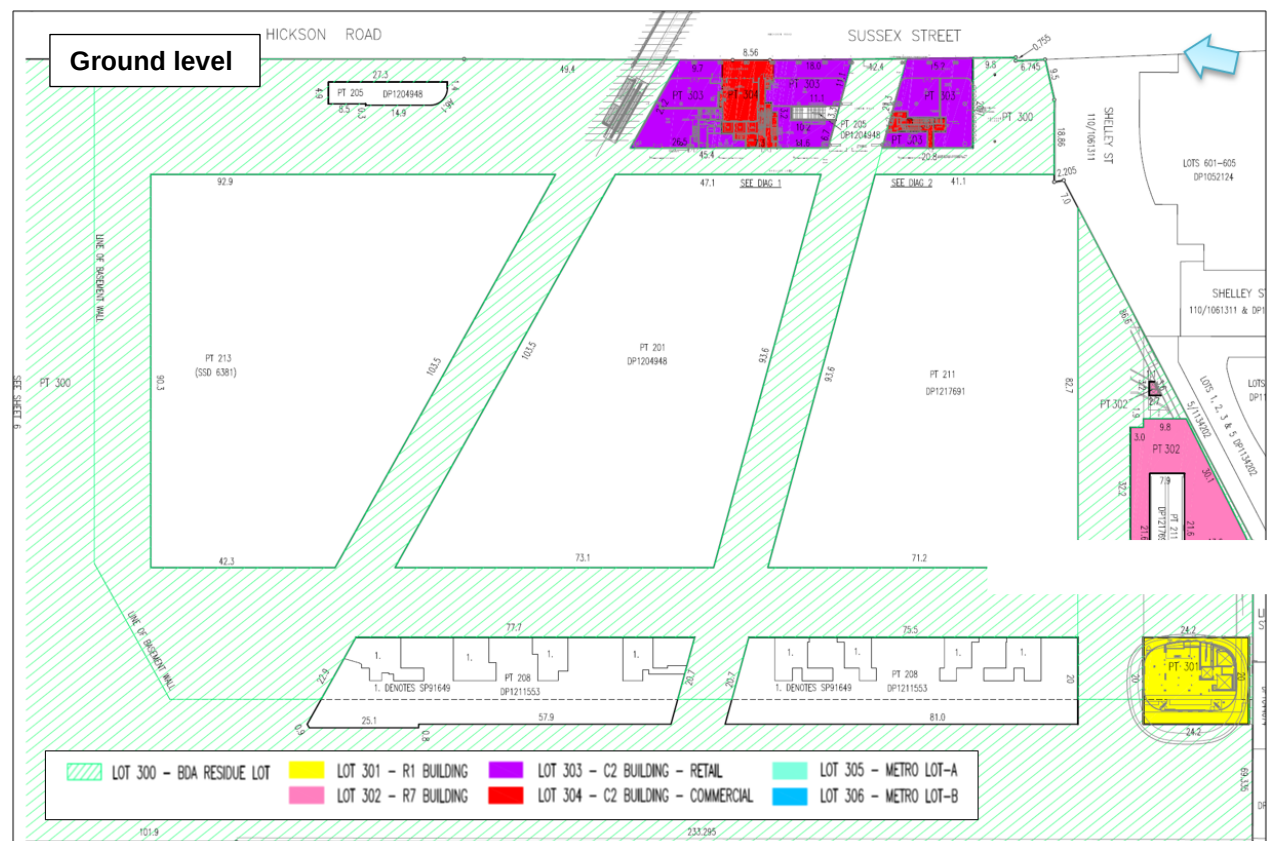


Figure 7: Proposed plan of subdivision for Stage 1A ground level at Barangaroo South (Source: EIS)



Figure 8: Proposed plan of subdivision for Stage 1A Level 1 at Barangaroo South (Source: EIS)

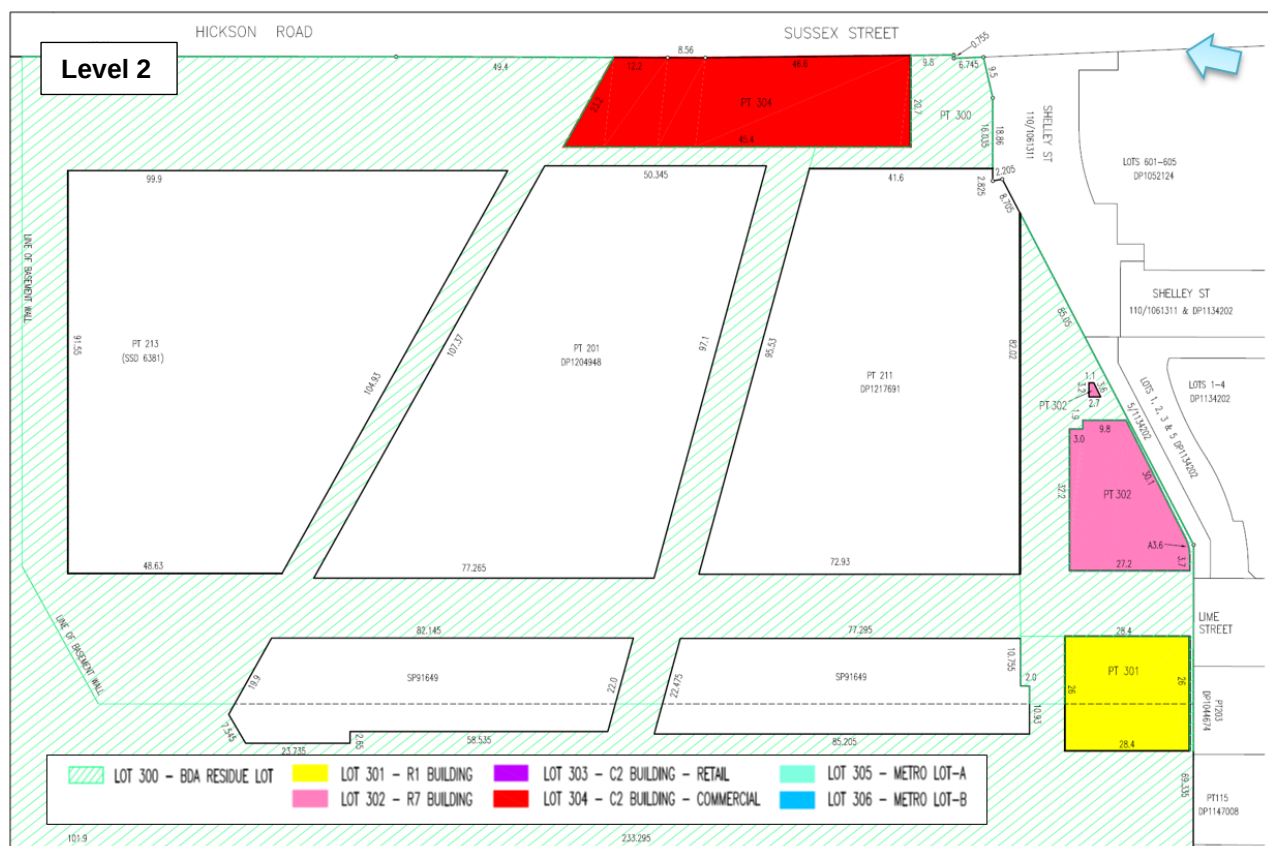


Figure 9: Proposed plan of subdivision for Stage 1A Level 2 and above at Barangaroo South (Source: EIS)

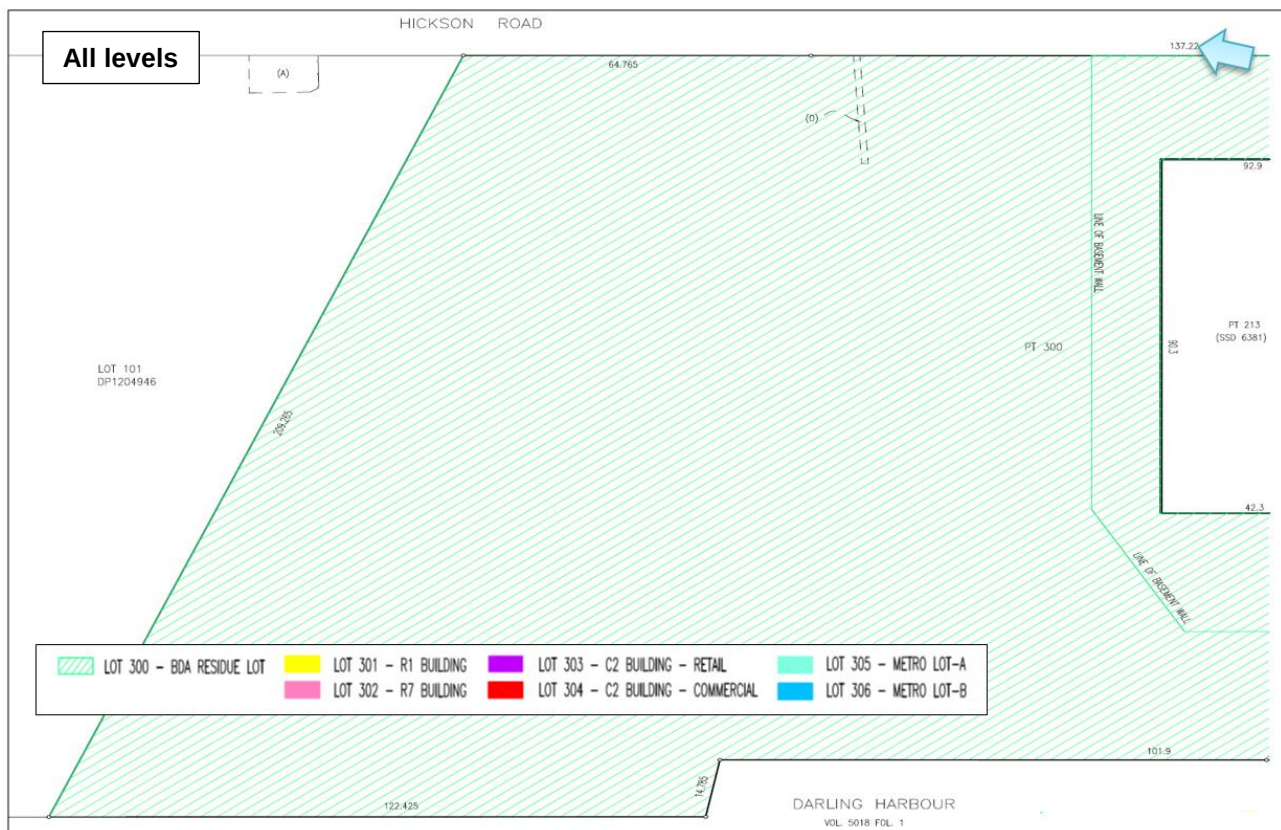


Figure 10: Indicative plan of subdivision for remainder of Stage 1A residue lot (all levels) at Barangaroo South (Source: EIS)

3. STATUTORY AND STRATEGIC CONTEXT

3.1 State Significant Development

The proposal is SSD pursuant to section 89C of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it constitutes subdivision of land within the Barangaroo site, under clause 3(2) of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore, the Minister for Planning is the consent authority for the development.

Clause 10 of the SRD SEPP allows a subdivision certificate to be issued by an Accredited Certifier for a subdivision that is SSD.

3.2 Permissibility

Land within the Barangaroo site may be subdivided with consent under clause 16(1), Part 12 of Schedule 3 of State Environmental Planning Policy (State Significant Precincts) 2005.

3.3 Delegated Authority

The application is able to be determined by the Executive Director, Key Sites and Industry Assessments under delegation as:

- the relevant council has not made an objection
- a political donation disclosure statement has not been made
- there are less than 25 submissions in the nature of objection.

3.4 Environmental Planning Instruments

Under section 79C of the EP&A Act, the consent authority, when determining a development application, must take into consideration the provisions of any environmental planning instruments (EPIs) and draft EPIs (that has been subject to public consultation and notified under the EP&A Act) that apply to the proposal.

The following EPIs apply to the site:

- 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 Development Control Plan 2005 (Sydney Harbour Waterways DCP).

Detailed consideration of the provisions of all EPIs that apply to the proposed development is provided in **Appendix C** of this report. The Department considers the proposed development complies with the relevant provisions of these EPIs.

3.5 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the EP&A Act, as set out in section 5 of the Act. The application is considered to be consistent with the objects of the Act as the application would promote the orderly and economic use of the site. The Department has considered the objects of the EP&A Act (**Table 2**) and is satisfied the proposal complies with all relevant objects.

Table 2: Consideration of the proposal against the objects of the EP&A Act

Objects of the EP&A Act	Consideration
<i>(a) to encourage:</i>	
<i>(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment</i>	The proposal does not involve any physical works and would have no impact on natural and artificial resources. The proposal will enhance economic and social welfare by facilitating the development of Barangaroo as significant benefit to the NSW economy.
<i>(ii) the promotion and co-ordination of the orderly and economic use and development of land</i>	The proposal would encourage the orderly development of land by ensuring the site reflects the layout and uses of approved developments at Barangaroo South.
<i>(iii) the protection, provision and co-ordination of communication and utility services</i>	The proposal does not involve any physical works and would have no impact on communication or utility services.
<i>(iv) the provision of land for public purposes</i>	The proposal does not involve any physical works. As such, there is no opportunity to provide land for public purposes.
<i>(v) the provision and co-ordination of community services and facilities</i>	The proposal does not involve any physical works. As such, there is no opportunity to provide and coordinate community services and facilities.
<i>(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats</i>	The proposal does not involve any physical works and would have no impact on native animals and plants, including threatened species.
<i>(vii) ecologically sustainable development (ESD)</i>	Section 3.8 of this report considers the proposal against the principles of ESD.

(viii) the provision and maintenance of affordable housing	The proposal does not involve any physical works. As such, there is no opportunity to provide affordable housing.
(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State	The proposal is SSD in accordance with the SRD SEPP. The Department consulted with Council and other relevant agencies on the proposal.
(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.	Section 4 sets out details of public exhibition on the proposal.

3.6 Compliance with Clause 3B of Schedule 6A of the EP&A Act

Clause 3B(2)(d) of Schedule 6A the EP&A Act specifies that a consent authority must not grant consent under Part 4 unless it is satisfied that a development is consistent with the terms of the approval of a Concept Plan. The Department has considered the proposed development and is of the opinion the proposal is consistent with the Barangaroo Concept Plan as it:

- complies with all relevant Built Form Principles and Urban Design Controls of the Concept Plan
- would ensure the site reflects the layout and uses of approved developments at Barangaroo South and is permissible with consent on the subject site
- would facilitate the orderly development of Barangaroo South as identified in the Concept Plan.

3.7 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the Environmental Planning and Assessment Regulation (EP&A Regulation) cited in this report, the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) have been complied with.

3.8 Ecologically Sustainable Development

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

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 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.

3.9 Secretary's Environmental Assessment Requirements

The EIS addresses compliance with the Secretary's Environmental Assessment Requirements. These matters have been sufficiently addressed in the EIS to enable the Department to undertake a proper assessment of the proposal in accordance with the EP&A Act.

3.10 Strategic Context

The Department considers the proposal is consistent with the following State/regional/local strategies:

- the objectives of *NSW 2021* (the State Plan), including the creation of a new liveable centre within the Sydney CBD, and the creation of additional jobs
- the objectives of *Towards our Greater Sydney 2056* and *A Plan for Growing Sydney*, including the following key directions and actions:

- facilitate the delivery of Barangaroo as an emerging major tourism and entertainment precinct which would expand upon and diversify Sydney's Cultural Ribbon
- promote new development to accommodate an additional 102,000 new jobs within the Sydney Central subregion
- facilitate the delivery of Barangaroo as part of Global Sydney
- the relevant priorities and actions of the Greater Sydney Commission's *Draft Central District Plan*, in particular by providing:
 - a 'Productive City' by driving economic growth and contributing to job targets
 - a 'Liveable City' by facilitating construction of residential development at Barangaroo South.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with section 89F of the EP&A Act and clause 83 of the EP&A Regulation, the Department publicly exhibited the application from 4 August 2016 until 2 September 2016 (30 days). The application was exhibited on the Department's website, at the Department's Bridge Street Office and at the City of Sydney Council's office.

The Department placed a public exhibition notice in the *Sydney Morning Herald* and *Daily Telegraph* on 3 August 2016, and notified adjoining landholders and relevant State and local government authorities in writing.

The Department received a total of three submissions, comprising two submissions from public authorities and one submission from the general public, none of which objected to the proposal. A summary of the issues raised in the submissions is provided at **Section 4.2** of this report and copies of the submissions may be viewed at **Appendix A**.

The Department has considered the comments raised in the public authority and public submissions during the assessment of the application (**Section 5**) and by way of recommended conditions in the instrument of consent at **Appendix D**.

4.1.1. Public Authority submissions

Table 4: Summary of public authority submissions to the EIS exhibition

City of Sydney Council (Council)
Council advised it had no comment on the proposal.
Transport for NSW (TfNSW)
TfNSW did not object to the proposal, subject to conditions to ensure it would not have any adverse effects on the viability of the Metro, noting the subdivision is affected by the Sydney Metro tunnel corridor. The conditions include the requirement for a covenant to ensure TfNSW would be consulted regarding development that may interfere with the design, construction or operation of the Metro, and have been included in the draft consent.

4.1.2. Public submissions

The one public submission received made comment, but did not object to the application. The submission requested clarification regarding the proposed access arrangements for the Barangaroo Metro Station. The Sydney Metro City & Southwest Chatswood to Sydenham was approved on 9 January 2017. There are two proposed station entrances at Barangaroo – a northern entrance near the Northern Cove and a southern entrance in Barangaroo Central. The Department notes, however, the Sydney Metro lots proposed as part of the subject application are to the south of the proposed entrances and will not create lots for public access into Barangaroo Metro Station.

The remainder of the matters raised in the submission, including State and Commonwealth anti-discrimination legislation, braille signs, zebra crossings and bus stops along Hickson Road are not considered to be within the scope of the subject application as no works are proposed. These matters, where relevant, would be considered as part of any future application(s) for the upgrade of Hickson Road.

4.2 Response to Submissions

On 14 December 2016, the Applicant lodged its Response to Submissions report (RtS) for the proposal to address issues raised in submissions. The RtS included additional documents to address issues raised by TfNSW including:

- revised plans proposing minor changes to the subdivision layout in order to ensure consistency with the future Sydney Metro alignment
- additional drawings to demonstrate the proposed lot boundaries are consistent with the Sydney Metro corridor.

The RtS was referred to TfNSW on 15 December 2016 and TfNSW recommended the conditions of consent outlined in **Section 4.2**. The Applicant informed the Department on 6 February 2017 it had suggested to TfNSW an alternative wording to the proposed conditions. The Applicant subsequently confirmed on 29 August 2017 it accepts the application of TfNSW's conditions as originally suggested.

The Department considers the RtS satisfactorily addresses those issues raised in the submissions. Key issues are further considered in **Section 5** of this report and/or addressed by way of recommended conditions at **Appendix D**.

5. ASSESSMENT

5.1 Section 79C Evaluation

Table 5 identifies the matters for consideration under section 79C that apply to SSD. The EIS has been prepared by the Applicant to consider these matters and those matters detailed in the SEARs.

Table 5: Section 79C(1) Matters for Consideration

Section 79C(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPI's is provided within Section 3.4 and Appendix C of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan (not applicable to SSD)	Under clause 11 of the SRD SEPP, development control plans do not apply to SSD. Notwithstanding this, consideration has been given to the relevant provisions of the Sydney Harbour Foreshores & Waterways DCP at Appendix C . The proposal is consistent with the relevant provisions of this DCP.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	The development application meets the relevant requirements of the Regulation, including the procedures relating to development applications (Part 6 of the Regulations), public participation procedures for SSDs, and Schedule 2 of the Regulation relating to environmental impact statements.

(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	Satisfactorily complies. See Section 5 of this report
(c) the suitability of the site for the development	The proposal for and stratum subdivision of Barangaroo South aligns with the approved development at Barangaroo. The proposal is consistent with the Barangaroo Concept Plan and has been assessed as being suitable for the site.
(d) any submissions	Consideration has been given to submissions received during the exhibition period. See Section 4 and Section 5 of this report.
(e) the public interest.	The application is considered to be in the public interest as it will facilitate the staged occupation of Barangaroo South.
Biodiversity values exempt if: (a) On biodiversity certified land? (b) Biobanking Statement exists?	Not applicable Not applicable

5.2 Key and Other Issues

The Department considers the key environmental assessment issues associated with the proposal are:

- subdivision layout and structure
- easements and restrictions on title
- adequacy of the Building Management Statement
- staged registration of the Plans of Subdivision
- consistency of the subdivision with future Sydney Metro.

5.3 Subdivision layout and structure

The Department has considered the proposed land subdivision layout having regard the extent of the Barangaroo site and the development which has been approved in Barangaroo South (i.e. basement carpark and buildings R1, R4A, R4B, R7, C2, C3, C4, C5 and R8/9), as relevant to this subdivision application.

The Department considers the application appropriately reflects the re-development area and the buildings referenced in the application. On this basis, the Department considers the subdivision pattern is compatible and generally consistent with the extent of the Barangaroo development site, the Barangaroo Concept Plan and project approvals/development consents issued for the each building in Barangaroo South.

5.4 Easements and restrictions on title

The application proposes that easements will be created for the following:

- access at public domain level (residue Lot 300)
- public utility services.

All access and servicing arrangements in relation to facilities in the basement of the building will be addressed through the Building Management Statement, with the exception of ground level access, which will be addressed by easements. Subject to suitable easements for public access being created over the public domain (Lot 300), the Department supports this aspect of the application.

The Department has recommended conditions requiring the above easements be created for public access and utility services.

5.5 Adequacy of the Building Management Statement

Schedule 8A of the *Conveyancing Act 1919* sets out the prescribed matters which must be included in a Building Management Statement (BMS). Specifically, Schedule 8A requires the BMS not be inconsistent with any condition imposed on a development consent relating to the building or the site to which the BMS relates.

In addition to the above, the SSP SEPP requires that prior to the issuing of consent for a 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.

The Applicant provided a copy of the current BMS, which was registered with Land and Property Information on 18 May 2017. Given the complexity of the BMS and its application to all of Barangaroo South, the Department acknowledges the BMS is in draft form and that the final version of the BMS may vary (and will be amended over time). Notwithstanding this, for the purposes of addressing the requirements of the SSP SEPP, the Department considers the drafting of the BMS and the Applicant's disclosures in respect to the form and content of the BMS will adequately address the ongoing maintenance, upgrading, redevelopment and structural adequacy of development within Barangaroo South, as relevant to each stratum lot.

In order to ensure the final form of the BMS is consistent with the provisions of the SSP SEPP and the statutory requirements of Schedule 8A of the *Conveyancing Act 1919*, the Department has recommended a condition of consent requiring the BMS to be submitted to the satisfaction of the Certifying Authority at the subdivision certificate stage for each stratum subdivision. This condition also requires the BMS adequately address the following matters which are relevant to the approved developments within 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 the Subdivision Certificate.

Subject to compliance with this condition, the Department considers the form and content of the BMS will satisfy the relevant statutory requirements, noting the BMS will ultimately be registered on title by Land and Property Information. This will mean the BMS will be binding on each person who owns each lot and any other party with a registered interest in each lot.

5.6 Staged registration of Plans of Subdivision

The application seeks approval for the staged registration of the stratum plans of subdivision. The current stratum staging proposed, as illustrated in **Figure 4**, reflects the developers intention to progressively complete buildings C2, R1 and R7, create lots for the Sydney Metro and create the associated titles for all lots.

The Department notes the issue of a Subdivision Certificate for development (i.e. C2, R1, R7 or the Sydney Metro) will not be linked to the issue of an Occupation Certificate. As such, all relevant pre-conditions for the issuing of an Occupation Certificate contained in the respective project approval/development consent will still need to be complied with prior to the occupation of each development.

As stated in **Section 3.1** above, clause 10 of the SRD SEPP permits subdivision certificates to be issued by an Accredited Certifier for a subdivision that is SSD. The recommended conditions of consent have been tailored to reflect this provision.

Having regard to the above, the Department supports this aspect of the application, noting this approach will enable the staged registration of the plans of subdivision with Land and Property Information in an orderly manner.

5.7 Consistency of the subdivision with the future Sydney Metro

The Department considers the proposed Sydney Metro corridor alignment will be adequately protected in any future subdivision relating to this residue lot, due to the proposed imposition of the conditions suggested by TfNSW. This condition includes the requirement for a covenant to ensure TfNSW is consulted regarding development that may interfere with the design, construction or operation of the Metro.

6. CONCLUSION

The Department has carefully assessed the merits of the proposal, taking into consideration the issues raised in submissions, and considers the potential impacts of the proposal are satisfactorily addressed in the Applicant's EIS, RtS and through the Department's recommended conditions.

The Department's assessment concludes the subdivision pattern is compatible and consistent with project approvals/development consents issued for development at Barangaroo South. It is considered easements and restrictions on title would be appropriate and the proposed BMS would adequately address the ongoing maintenance, upgrading, redevelopment and structural adequacy of buildings/development within each proposed stratum lot. Further, the application will enable the staged registration of subdivision plans in an orderly manner. The Department has also recommended key conditions to ensure the proposed subdivision is consistent with the future plans for the Sydney Metro.

The Department considers the proposal to be in the public interest and recommends the application be approved, subject to the recommended conditions.

7. RECOMMENDATION

In accordance with section 89E of the *Environmental Planning and Assessment Act 1979*, it is recommended that the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- a) **consider** the findings and recommendations of this report
- b) **approve** the SSD application (Stage 1A (Second Stage) Stratum Subdivision – Barangaroo South - SSD 7478) subject to conditions
- c) **signs** the attached development consent and recommended conditions of consent (see **Appendix D**).

Prepared by: Karl Fetterplace
Senior Planner, Key Sites Assessments

Recommended by:



Andy Nixey
Acting Team Leader
Key Sites Assessments

Recommended by:



Cameron Sargent
Acting Director
Key Sites Assessments

DECISION

Approved by:



Anthea Sargeant 26/9/17
Executive Director
Key Sites and Industry Assessments
as delegate of the Minister for Planning.

APPENDIX A SUPPORTING INFORMATION

The supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows.

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7478

APPENDIX B BARANGAROO CONCEPT PLAN – PLANNING HISTORY

Barangaroo Concept Plan (MP 06_0162)

On 9 February 2006, the then Minister for Planning approved the Barangaroo Concept Plan (MP 06_0162) which allowed for:

- mixed use development involving a maximum of 388,300 m² of gross floor area (GFA) contained within eight blocks on a total site area of 22 hectares (ha)
- approximately 11 ha of new public open space/public domain, including a 1.4 kilometre (km) public foreshore promenade
- a maximum of 8,500 m² GFA for a passenger terminal and a maximum of 3,000 m² GFA for active uses that support the public domain within the public recreation zone
- built form design principles, maximum building heights and maximum GFA for each development block within the mixed use zone
- alteration of the existing seawalls and creation of a partial new shoreline to the Harbour
- retention of the existing Sydney Ports Corporation Port Safety Operations and Harbour Tower Control Operations including employee parking
- an underground car park beneath the northern headland park, containing approximately 300 car parking spaces.

The capital investment value (CIV) of the approved Concept Plan was \$1.5 billion with up to 16,000 operational jobs.

The following outlines the subsequent 7 modification approvals to the Concept Plan:

MP 06_0162 MOD 1

On 25 September 2007, the then Executive Director, Strategic Sites and Urban Renewal, as delegate of the Minister for Planning, approved a minor modification to the approved Concept Plan to correct minor typographical errors and re-wording of the design excellence terms. This modification did not alter the maximum GFA or mix of uses.

MP 06_0162 MOD 2

On 16 February 2009, the then Minister for Planning approved a second modification to the Concept Plan to increase the GFA of commercial uses by 120,000 m² in Blocks 2, 3, 4 and 5, to a total overall GFA of 438,000 m². The modification increased the total maximum GFA for Barangaroo to 508,300 m² (an increase of 120,000 m² or 31 per cent over the whole site).

MP 06_0162 MOD 3

On 11 November 2009, the then Minister for Planning approved a third modification to the Concept Plan, generally meeting the requirements of the Concept Plan approval relating to the northern headland and northern cove, with other changes as follows:

- the reinstatement of a headland at the northern end of the site with a naturalised shape and form including a build-up of height and a landscaped connection to physically link Clyne Reserve to allow direct pedestrian access from Argyle Place
- an enlargement of the northern cove to achieve a greater naturalised shape, form and edges (note this modification and the one above were required modifications in the terms of the original Concept Plan, contained in Modification B1 and B2, and following recommendations made in the jury report regarding the original winning competition scheme)
- the consequential re-alignment of Globe Street to turn right towards Hickson Road immediately south of the enlarged cove, rather than continuing north around the headland
- the consequential removal of development Block 8 and part of Block 7 and redistribution of the associated land use mix
- the demolition of three heritage items being the Sandstone Seawall; the Sydney Ports Harbour Control Tower; and the MWS & DB Sewage Pumping Station
- amendments to the Statement of Commitments relating to the preparation of relevant plans and strategies so work can commence in stages.

This modification slightly reduced the approved GFA and mix of uses, with a resulting total GFA of 501,000 m² (comprising 489,500 m² of mixed uses and 11,500 m² for the passenger terminal and active uses in the open space zone).

MP 06 0162 MOD 4

On 16 December 2010, the then Minister for Planning approved a fourth modification to the Concept Plan. The modified Concept Plan provided for the following:

- a maximum of 563,965 m² mixed uses GFA, including residential, commercial and retail uses which includes:
 - a maximum of 128,763 m² of residential uses
 - a maximum of 50,000 m² of tourist uses GFA
 - a maximum of 39,000 m² of retail GFA
- a maximum of 4,500 m² of active uses GFA (3,000 m² of which will be in Barangaroo South)
- a minimum of 12,000 m² of community uses GFA (10,000 m² of which will be in Barangaroo South)
- approximately 11 hectares of new public open space/public domain, with a range of formal and informal open space serving separate recreational functions and includes a 2.2 km public foreshore promenade
- built form principles, maximum building heights and GFA for each development block within the mixed use zone
- public domain landscape concept including parks, streets and pedestrian connections
- alteration of the existing seawalls and creation of a portion of the new shoreline to the Harbour.

In order to accommodate the changes made to the Concept Plan, Schedule 3 of Part 12 of the former State Environmental Planning Policy (Major Development) 2005 was concurrently amended. The amendment rezoned parts of the Barangaroo site and the adjoining areas from 'RE1 Public Recreation' and 'W1 Maritime Waters and Transport' to 'B4 Mixed Use' and 'RE1 Public Recreation'. Modifications to the distribution of GFA and building heights were also included in the amendment.

MP 06 0162 MOD 5

This modification was lodged in February 2011, and proposed modifications to clarify the outcomes with respect to the distribution of community uses GFA across the Barangaroo site, and to correct a number of minor typographical errors. This application was subsequently withdrawn on 22 March 2011.

MP06 0162 MOD 6

On 25 March 2014, the Planning Assessment Commission (Commission) approved a modification application to modify the Barangaroo Concept Plan for Barangaroo South. The proposed modifications, as publicly exhibited, sought approval for the following:

- the realignment of the development block boundaries for Blocks 3, 4A and 4B
- revisions to the Urban Design Controls to reflect the changes to the Block boundaries for Blocks 3, 4A and 4B
- change the requirement for a 'minimum' of 12,000 m² of community uses gross floor area (GFA) to be delivered to a 'maximum'
- allow architectural roof elements and building management units to be excluded from the maximum height limit definition
- specify the car parking rates for 'other' uses thus removing the requirement to comply with City of Sydney Council's current car parking rates.

MP06 0162 MOD 7

On 11 April 2014, the then Minister for Planning and Infrastructure approved a seventh modification to the Concept Plan to allow the construction, operation and maintenance of a concrete batching plant to supply concrete for the construction of future development under this Concept Plan at Barangaroo South.

MP06 0162 MOD 8

On the 28 June 2016, the Commission approved an eighth modification to the Concept Plan, providing for the following modifications:

- increase in the maximum total gross floor area (GFA) from 563,965 to 594,354 m², and increase in maximum GFA contained in the development blocks from 549,465 to 579,354 m²
- increase in height from RL 170 m to RL 275 m and GFA from 33,000 to 77,500 m² for Block Y
- increase in height from RL 41.5 m to RL 250 m and GFA from 8,150 to 86,979 m² for Block 4A
- decrease in height from RL 175 m to RL 107 m and GFA from 29,900 to 19,158 m² for Block 4B; decrease in height from RL 80 m to RL 25 m and GFA from 9,400 to 1,927 m² for Block 1 and deletion of Block 4C
- decrease in GFA from 209,213 to 197,280 m² for Block 2, and decrease in GFA from 142,669 to 129,934 m² for Block 3
- amend development block configurations for Block Y and Blocks 4A and 4B
- increase GFA outside of blocks from 14,500 to 15,000 m²
- amend GFA allocated for various land uses (residential, tourist, retail, active)
- amendment of Barangaroo site boundary, relocation of pier and reduction in the Southern Cove (now Watermans Cove)
- amendment of Built Form Principles and Urban Design Controls.

APPENDIX C CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENT(S) AND DCP(S)

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

The aims of this SEPP are to identify SSD and State significant infrastructure and provide the necessary functions to joint regional planning panels to determine development applications.

The proposal is a SSD pursuant to section 89C of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it constitutes subdivision of land within the Barangaroo site, under clause 3(2) of Schedule 2 of the SRD SEPP. Therefore, the Minister for Planning is the consent authority for the development.

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

The SSP SEPP aims to facilitate the development of important urban, coastal and regional sites of economic, environmental or social significance to the State for the benefit of the State.

The Barangaroo site is listed as a State Significant Precinct under Part 12 of Schedule 3 of the SSP SEPP. Land within the Barangaroo site may be subdivided with consent under clause 16(1), Part 12 of Schedule 3 of the SSP SEPP.

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

The proposed development would facilitate the orderly development of the Barangaroo site in accordance with the approved Concept Plan at significant benefit to the State.

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.

While the proposal involves no physical works, the stratum subdivision sets aside two lots for the future Sydney Metro at Barangaroo.

Clause 88A of the ISEPP applies to major development within the Metro Corridor. Clause 88A requires the consent authority to notify Sydney Metro (i.e. TfNSW) on receipt of an application within the rail corridor and take into account any submissions made by TfNSW prior to determination. The consent authority must not grant consent to major development on land within the rail corridor which would have an adverse effect on the viability of the proposed Sydney Metro, including by increasing the likely cost of development.

The Department has considered the issues raised by TfNSW in detail in **Section 5** of this report. This assessment has found the future Sydney Metro corridor alignment would be protected through the imposition of the conditions suggested by TfNSW.

The Department therefore considers the relevant requirements of the ISEPP have been met and the proposed development would not have an adverse effect on the viability of the proposed Sydney Metro.

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

Consideration of the relevant clauses in the SREP is addressed in **Table 5** below.

Table 5: Consideration of SREP (Sydney Harbour Catchment) 2005

SREP (Sydney Harbour Catchment) 2005	Criteria	Department Comment / Assessment	Complies
Part 3, 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.	N/A
Part 3, 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 below.	YES
Part 3, 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
Part 3, 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
Part 3, 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.	N/A
Part 3, Clause 24 Interrelationship of waterway and foreshore uses	The consent authority must take into consideration the matters listed in this clause 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.	N/A
Part 3, 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 waterway.	YES
Part 3, Clause 26	The consent authority must take into	The proposal does not include any physical	YES

Maintenance, protection and enhancement of views	consideration the matters listed in relation to the maintenance, protection and enhancement of views.	works and therefore would not impact on views.	
Part 3, 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.	N/A
Part 4, clause 40 Strategic Foreshores Areas	- Division 1 - Requirements for Masterplans. - This 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
Part 4, clause 41 Strategic Foreshores Areas	Sub-clause 4 generally states a Master Plan does not have to be developed 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).	N/A
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. - This 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.	N/A

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (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 not relevant to the subject application.

Local Environmental Plans

No Local Environmental Plans apply to the site.

