

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 8997 Stage 1A (Third Phase) Subdivision
Applicant	Lend Lease (Millers Point) Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

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

A copy of the development consent and conditions is available here.

<https://www.planningportal.nsw.gov.au/major-projects/project/11036>

A copy of the Department of Planning, Industry and Environment's Assessment Report is available here.

<https://www.planningportal.nsw.gov.au/major-projects/project/11036>

Date of decision

10 October, 2019

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- the considerations under s 7.17(2) 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. Additional reasons for making the decision are also recorded in the Department's Assessment Report.

The key reasons for granting consent to the development application are as follows:

- *Benefits* – the project will provide a range of benefits for the region and the State as a whole, including the orderly development and occupation of development plots and buildings within Barangaroo South;
- *Consistent with NSW Government Policy* – the project is permissible with development consent and is consistent with NSW Government policies including the Greater Sydney Region Plan, Eastern City District Plan and State Environmental Planning Policies;
- *Impacts can be managed* - 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;
- *Community views considered* - the issues raised by the community during consultation and in submissions have been considered and adequately addressed through recommended conditions of consent; and
- *Public interest* – weighing all relevant considerations, the project is in the public interest as it would facilitate future developments which will have a wide range of positive social and economic benefits.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 9 May 2019 until 5 June 2019 (28 days) and received one submission from Council and one submission from TfNSW (RMS).

The key issues raised by Council and considered in the Department's Assessment Report and by the decision maker include compliance with SEARs, restriction on use of car and storage spaces, parking on common property areas and basement access. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
Compliance with SEARs - Information not provided in 3. Plan of Subdivision - No details of any covenants, easements, notations, rights of way or the like proposed - Information does not include a draft Section 88b instrument and a Building Management Statement (BMS)	Assessment - The Department notes details of easements and covenants are identified in the revised Plan of Proposed Subdivision Ground Level South - Sheet 5. - The Department notes a draft Section 88b instrument and a Building Management Statement (BMS) was provided by the Applicant in the RtS. - Documentary reciprocal easements for services, drainage, support and shelter, and emergency egress, affecting the whole of each lot if so desired, must be created over the lots in the subdivision. - The Department considers the information provided meets the requirements in the SEARs issued 15 January 2018. Conditions Conditions include: - Subdivisions plans cited in consent. - Updated BMS is to be prepared.
Restriction on use of car spaces and storage spaces - Documentary restriction on use of land created over the lots in the subdivision plan - Risk of car parking spaces and storage spaces used by unauthorized occupants or tenants of building	Assessment - The Applicant noted other approved Barangaroo South subdivision conditions (B4 of SSD 6381 and B3 SSD 7478) address the distribution and use of car parking. - Condition B3 of SSD 7478 - Statement of Compliance must be provided prior to an issue of a Subdivision Certificate for a stratum subdivision. - The requirement of a Statement of Compliance would ensure the proposed subdivision is consistent with relevant conditions including allocation of bicycle spaces, car parking spaces, motor bike spaces, loading spaces and any services or infrastructure to the respective lot/s. - The Applicant notes a condition alike Condition B3 of SSD 7478 can be expanded to include storage spaces to the respective lot/s. - The Department considers the need for a restriction on use of car spaces and storage spaces to be valid. Conditions Conditions include: - Statement of Compliance is to be provided for car parking spaces and storage spaces.
Parking on common property areas - Condition imposed to manage the parking on common property areas in the basement and lower levels - Council concerned with parking of storage vehicles or boats in common spaces	Assessment - Clause 61.3 of the Building Management Statement (BMS) states car park ramps or accessways cannot be used for parking of vehicles. - The Department considers the BMS effectively manages parking on common property areas in the basement and lower levels. - The Applicant notes permanent bollards are used to prevent parking of vehicles or boats in common spaces. - Security officers are also present 24 hours a day, 7 days a week in the basement and lower levels to ensure for efficient operation. - The Department considers the registered BMS and operational practices in place in the basement and lower levels effectively manages the common areas. - The Department considers a condition is not necessary as the management and operations in place adequately address Council's concerns. Conditions Conditions include: - Updated BMS is to be prepared.
Basement access Appropriate easements for access (vehicular and pedestrian) shall be created within the basement areas of building to provide for access within those lots and to and from the adjoining lands and roads.	Assessment - In the BMS, Shared Facility 5.2.1 Basement Vehicle and Access and Shared Facility 5.7 Accessways and Exits detail access throughout the basement as well as to and from adjoining roads. - The Applicant considers the condition recommended by Council is not required as the BMS and management and operational systems are in place to manage basement accessibility. - The Department considers a condition does not need to be imposed as the BMS adequately addresses the easements for access in the basement and to and from adjoining lands and roads. Conditions Conditions include: - Updated BMS is to be prepared.