

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-9758 Stage 1B (Fourth Stage) 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/11511>

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

<https://www.planningportal.nsw.gov.au/major-projects/project/11511>

Date of decision

20 December 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 7.14(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 would 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 changes to the project and the 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 19 September 2019 until 16 October 2019 (28 days) and received one submission from Council.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include subdivision layout and structure and adequacy of the Building Management Statement. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
Restriction on residential development - Documentary restriction on use of land created over Lot 501 to ensure residential component is not used for short-term accommodation - No certainty Lot 501 will be subject to future stratum or strata subdivision, and therefore chance restriction will never be created	<i>Assessment</i> - The Department considers Condition G15(a) of SSD 6957 appropriately creates a restriction on residential development for the Crown Resort, and therefore Council's proposed condition is not required. <i>Conditions</i> Conditions include: - No additional conditions or amendments are necessary.
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	<i>Assessment</i> - The Department considers a restriction on the use of car parking and storage spaces is already addressed by Conditions B3 and G5 of SSD 8997 for the Crown Resort Hotel. - Notwithstanding, the Department has recommended a condition requiring a Statement of Compliance be provided prior to an issue of a Subdivision Certificate to verify compliance with these conditions. <i>Conditions</i> Conditions include: - A condition for a 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	<i>Assessment</i> - The Department considers Condition G6 of SSD 6957 and the registered and updated BMS would effectively manage parking on common property areas in the basement and lower levels. - The Department considers a condition is not necessary as the management and operations already in place adequately address Council's recommendation. <i>Conditions</i> Conditions include: - Updated BMS is recommended.
Easements relating to stratum lots - Council requested documentary reciprocal easements for services, drainage, support and shelter, and emergency egress for each lot - Council requested any other documentary easements, or any other encumbrances and indemnities required for joint or reciprocal use must be created over appropriate lots	<i>Assessment</i> - The Department considers imposing the same condition as SSD 8997 requiring Easement Plan/s is acceptable as it will create consistency with other subdivision consents and will meet Council's recommendation for a condition. - The Department considers standard easement conditions are required to achieve the intent of Council's proposed condition. <i>Conditions</i> Conditions include: - A condition for an Access Easement – Ground Floor is recommended.
Sydney Water Certificate – Subdivision - Council requested a Condition requiring a Section 73 Compliance Certificate is to be obtained from Sydney Water Corporation - The certificate is to then be submitted to Council or the Principal Certifier prior to the subdivision being issued	<i>Assessment</i> - The Department considers a condition requiring a Section 73 Compliance Certificate is necessary to meet Sydney Water's requirement. <i>Conditions</i> Conditions include: - A condition for a Compliance Certificate is recommended.