

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-7539 Darlington Terraces Mixed Use Development
Applicant	The University of Sydney
Consent Authority	Minister for Planning and Public Spaces

Decision

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](#).

A copy of the Department of Planning, Industry and Environment's Assessment Report is available [here](#).

Date of decision

29 January 2021

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.
- all information submitted to the Department during the assessment of the development application.
- the findings and recommendations in the Department's Assessment Report.
- 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:

- the project is consistent with the Concept Approval for the site, which established the strategic need for the development.
- the project would provide a range of benefits for the region and the State as a whole, including provision of additional investment in educational infrastructure and housing within a highly accessible location.
- the project would provide capital investment of \$40 million in the region, and creation of 150 construction jobs.
- the project is permissible with development consent, and is consistent with NSW Government policies including:
 - A Metropolis of Three Cities – the Greater Sydney Region Plan
 - The Greater Sydney Commission's Eastern City District Plan
 - NSW Future Transport Strategy 2056
- 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. Conditions of consent are recommended to address key impacts associated with heritage impacts, amenity impacts, noise impacts and contamination.
- 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.
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 17 May until 15 June 2018 (30 days) and received 16 submissions, including one from the City of Sydney Council (Council), eight from government agencies, and seven from members of the community, of which six objected to the proposal and one made comments.

The key issues raised in the community submissions and considered in the Department's Assessment Report and by the decision maker include amenity impacts, heritage and character, operational management and safety, parking, traffic and access, and construction impacts as well as other matters as set out below.

<i>Issue</i>	<i>Consideration</i>
Amenity Impacts <ul style="list-style-type: none"> that the size of the new buildings and proximity to the neighbours would result in adverse amenity impacts including privacy, overshadowing, visual impacts noise impacts. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Building size and proximity to neighbours is in accordance with the building envelopes established by the CIP concept proposal approval. During the assessment process, the Applicant amended the plans to improve solar access outcomes for nos. 97 and 120 Darlington Road. The Department is satisfied the amended proposal would not result in unacceptable overshadowing impacts. Privacy impacts are addressed through design, including window treatments and screening. Since the submissions were made, visual impacts have been reduced due to changes to built form to reduce overshadowing. The Department is satisfied the proposal would not result in any unexpected or unacceptable visual impacts. The Noise Impact Assessment demonstrates that, subject to conditions to manage noise from the roof terraces and appropriate acoustic treatment of plant, the proposal would not result in any unacceptable operational noise impacts. <p><i>Conditions include</i></p> <ul style="list-style-type: none"> Where external ground levels including access paths or stairs adjacent to private properties would afford views of the neighbouring premises, their use is to be restricted to fire egress purposes only, with appropriate physical design, signage and management measures prior to occupation. Undertake a noise monitoring program of the mechanical plant within three months of occupation of the building to verify that the measured noise levels of the mechanical plant and use of the student terraces do not exceed the established noise criteria. Prohibit use of the terraces / outdoor areas after 10pm and prohibit music being played in these areas. Prepare an updated Operational Management Plan to ensure appropriate actions are taken to manage student behaviour and noise complaints.
Heritage and Character <ul style="list-style-type: none"> that the new buildings are out of character with the heritage values of the area and would have adverse impacts on the adjoining heritage listed terrace houses. heritage impacts due to the changes to the front of the terraces. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department considers the new buildings would not result in unacceptable heritage impacts noting: <ul style="list-style-type: none"> the buildings comply with the building envelopes that were approved under the concept proposal approval, having regard to the heritage values of the site including building heights which all sit below the ridge line of the adjacent terraces. the proposal results in an increased level of building separation between the proposed building and the existing terraces compared to that expected under the approved concept proposal approval, enabling better interpretation and views of the rear of the heritage listed items. the new buildings are considered to provide a modern interpretation, but complementary built form to the existing terraces and the laneway design enables interpretation of the original terrace row subdivision pattern. The Department notes while changes are required to three front entrances to provide equitable access, all other front gardens and their palisade fences and gates will be retained and restored.

	<ul style="list-style-type: none"> The original cast iron gates of the affected sites will be retained with a small section of the palisade fence removed to provide a wider, accessible entrance and a releveling of the garden paths to provide the required accessible gradient. The three widened doors will be detailed to replicate the original. The visual impact of these alterations across the full length of the Darlington Road terrace houses is relatively minor, and is considered acceptable.
Safety and Operational Management <ul style="list-style-type: none"> potential anti-social behaviour associated with the use of the premises. safety associated with accessing the site from the rear laneway. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Application was accompanied by an Operational Plan of Management which sets out staffing arrangements, safety and security measures and house rules. Staff and management will be present on site 24 hours a day. The Department considers the site would be able to be appropriately managed to any ensure antisocial behaviour is minimised and addressed and considers a more detailed Operational Plan of Management should be provided prior to occupation. Safety in the laneway would be significantly improved through the provision of a shared zone and traffic calming, incorporation of principles of CPTED into the building design, improved natural surveillance of the laneway and continuous CCTV monitoring the laneway entrances. <p><i>Conditions include</i></p> <ul style="list-style-type: none"> A requirement to prepare and comply with an updated and more detailed Operational Plan of Management to ensure appropriate actions are taken to manage student behaviour.
Parking and Traffic <ul style="list-style-type: none"> increased traffic congestion on roads, increased on street parking, increased pedestrian movements affecting traffic. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The application is accompanied by a traffic and transport assessment, which demonstrates that as the proposal includes no parking spaces, it will not generate adverse traffic impacts or affect the operation of the local road network. The assessment also demonstrates that the surrounding pedestrian footpath network is able to safely accommodate the increased pedestrian movements associated with the proposal. The Department considers that by co-locating residential accommodation within the University, the need for travel is reduced resulting in improved outcomes for traffic and transport.
Impacts to Rear Laneway <ul style="list-style-type: none"> concerns with one way movement of cars – direct all traffic towards the high traffic area. the need for a pick-up area in the laneway. the need for lighting to the laneway. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department considers the proposed one-way movement of cars in the laneway is appropriate and would result in reduced potential for traffic conflicts. Existing service bays along Darlington Lane on University land will provide for drop-off areas, in addition to existing bays on Codrington Street. Existing street lighting in the laneway will be retained and lighting from the proposal will improve light and visibility within the laneway.
Construction Impacts <ul style="list-style-type: none"> including dust, damage to adjacent property, the need for a dilapidation report and lane and potential loss of rear lane access to dwellings. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Some disruption to neighbours as a result of the construction activities, including some disruptions to rear lane access during the reconstruction of Darlington Lane, is inevitable. However, impacts can be appropriately minimised and managed with conditions of approval. <p><i>Conditions include</i></p> <ul style="list-style-type: none"> Standard conditions to ensure control of dust and emissions during construction. Requirements for noise mitigation and management during construction.

	<ul style="list-style-type: none"> • A requirement for a Construction Pedestrian and Traffic Management Plan that addresses how rear lane access to adjacent properties will be managed including communication with affected neighbours. • A requirement for dilapidation reports to be prepared prior to and post construction and to repair the full costs for repair of any damage caused by the development.
Tree Removal <ul style="list-style-type: none"> • concerns with removal of trees, including Tree 25. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department acknowledges that the Oak tree (Tree 25) makes a significant contribution to the landscape character of the area. • However, the proposed replacement planting of additional native trees in the public domain that will grow to taller heights than the Oak tree will ultimately result in a better outcome for the landscape character of the area as well as improved biodiversity and ecological outcomes. • Despite the removal of Tree 25 overall the proposal will result in improved tree canopy cover and improved tree plantings across the site and surrounding public domain, compared to the approved concept proposal approval and therefore can be supported.
Hazardous Materials and Safety <ul style="list-style-type: none"> • concerns with contamination, asbestos and safety of cladding material. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The application was accompanied by a Contamination Assessment which found no evidence of asbestos and concluded the site can be made suitable for the development subject to mitigation works including removal and disposal of shallow impacted fill material. • A Remedial Action Plan (RAP) was prepared which sets out how contaminated material would be removed and includes an unexpected finds procedure to ensure any contamination subsequently discovered, including asbestos can be appropriately assessed and dealt with. • The Department is satisfied that subject to the imposition of conditions, the site can be made suitable for the proposed use and intended purpose and will not result in unacceptable contamination risks. • The safety of cladding material is also addressed by a standard condition. <p><i>Conditions include</i></p> <ul style="list-style-type: none"> • Conditions relating to implementation of the RAP and verification following remediation works that the site has been made suitable for the development. • An advisory note in relation to handling of any asbestos waste if encountered during construction. • Requirements to demonstrate all cladding complies with Building Code of Australia requirements both prior to construction and on completion.
Stormwater <ul style="list-style-type: none"> • concerns with stormwater impacts. 	<p><i>Assessment</i></p> <p>A Stormwater Management Report and Plan has been prepared for the development which demonstrates that the proposal would result in improved stormwater management outcomes for the site as it would:</p> <ul style="list-style-type: none"> • provide stormwater drainage pipes, not currently provided to the site. • introduce rainwater reuse tanks and on-site detention to capture and reuse rainwater on the site, significantly reducing overland flows. • incorporate water sensitive urban design measures including landscaping and pits / filters to significantly improve the quality of water discharge from the site. <p><i>Conditions include</i></p> <ul style="list-style-type: none"> • Standard conditions requiring a detailed stormwater management system plan prior to construction, works as executed plans following construction, and a stormwater quality management plan.

<p>Developer Contributions</p> <ul style="list-style-type: none"> that contributions should be paid. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Following advice from Urban Growth NSW Development Corporation (UGDC) that contributions or works in kind towards public domain and infrastructure improvements should be provided, the Applicant did not seek an exemption to payment of these contributions. Contributions towards affordable housing provision have been waived, consistent with advice from UGDC in recognition that the application is on behalf of the Crown for the provision of lower cost accommodation. <p><i>Conditions include:</i></p> <ul style="list-style-type: none"> A requirement to pay contributions towards public domain and infrastructure upgrades in accordance with the Redfern-Waterloo Authority Contributions Plan 2006, or provide public domain works to the same value.
<p>Wind Impacts</p> <ul style="list-style-type: none"> concerns with wind impacts in the laneway. 	<p><i>Assessment</i></p> <p>The Department is satisfied that due to the low scale of the development, as all new buildings will be lower than surrounding development, and as the proposal incorporates new tree planting in the laneway, the proposal will not result in significant wind tunnel impacts to the laneway.</p>
<p>Consent Authority and Validity of CIP Approval</p> <ul style="list-style-type: none"> Council should be the consent authority as the development is not for educational purposes. the CIP approval has lapsed and therefore the proposal is not valid. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department has formed the view that the development of student accommodation facilities by the University, located on the University campus and for the use of the University students is development for the purpose of a tertiary institution (being an educational establishment) or is, at least, for a purpose ancillary to an educational establishment. Consequently, the proposal is considered to meet the requirements of SSD, as defined under the SRD SEPP and therefore the Minister for Planning and Public Spaces is the consent authority under section 4.5 of the EP&A Act. Works under several other applications approved under the CIP concept proposal approval were carried out within five years of that approval. Therefore the CIP concept proposal approval is operative and continues to apply to the site.