

Development Consent

Section 4.16 of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning and Public Spaces, I approve the Development Application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development



Cameron Sargent
Acting Director
Key Sites and TOD Assessments

Sydney 26 April 2024

SCHEDULE 1

Application Number:	DA 23/7136 PAN 337621
Applicant:	The Trustee for Sirius Developments Unit Trust
Consent Authority:	Minister for Planning and Public Spaces
Site:	2–60 Cumberland Street, The Rocks (Lot 100 & 101 DP 264104) and public domain works (Lots 1 – 6, DP 776315 & Lot 7, DP 264080)
Development:	Installation and operation of directional and building identification signage for the Sirius building

DEFINITIONS

Applicant	The Trustee for Sirius Developments Unit Trust
BCA	Building Code of Australia
Certifying Authority	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	All physical work to enable operation including but not limited to the demolition and removal of buildings or works, the carrying out of works for the purpose of development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Day time	All periods except morning and afternoon twilight and night-time
Department	NSW Department of Planning, Housing and Infrastructure
Development	The development as described in Schedule 1 of this consent and detailed further in Condition A2.
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
Evening	The period from 6pm to 10pm
Feasible	Means what is possible and practical in the circumstances
Incident	An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Management and mitigation measures	The management and mitigation measures set out in this development consent.
Material harm	Is harm that: a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	NSW Minister for Planning and Public Spaces
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
Night time	The period following afternoon twilight and before morning twilight and sunrise.
Operation	The carrying out of the approved purpose of the development upon completion of construction.
Operator	The person or company responsible for the carrying out of the approved purpose of the development upon completion of construction.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee

Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Request for Additional Information	The Applicant's response to issues raised in submissions received in relation to the application and by the Department of Planning and Environment for consent for the development under the EP&A Act.
SEE	Statement of Environmental Effects prepared by FPD Planning dated 19 May 2023, including all appendices
Subject site	The site as described in Schedule 1
Council	City Of Sydney
PMNSW	Place Management New South Wales

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the SEE and request for additional information; and
 - (d) in accordance with the Sirius External Signage Strategy, prepared by Citizen, dated 11 December 2023, Issue 05, including any updates that have been approved by both PMNSW and Council.
- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a) above.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) or A2(d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c) and A2(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

LIMITS OF CONSENT

- A5. This consent will lapse five years from the date of consent unless the works associated with the project have physically commenced.

EVIDENCE OF CONSULTATION

- A6. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for consent; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

PRESCRIBED CONDITIONS

- A7. The Applicant shall comply with all relevant prescribed conditions of development consent under Part 4, Division 2 of the EP&A Regulation.

LEGAL NOTICES

- A8. Any advice or notice to the consent authority shall be served on the Planning Secretary.

APPLICABILITY OF GUIDELINES

- A9. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A10. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

STRUCTURAL ADEQUACY

- A11. All new structures, and any alterations or additions to existing structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA.

Notes:

- *Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.*

WIND LOADING

- A12. All approved signage must meet wind loading requirements as specified in Australian Standard AS 1170.1: Structural Design Actions – Permanent, Imposed and Other Actions and AS 1170.2: Structural Design Actions – Wind Actions.

OPERATION OF PLANT AND EQUIPMENT

- A13. All plant and equipment used on site, or to monitor the performance of the development must be:
- (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A14. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.

NON-COMPLIANCE NOTIFICATION

- A15. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The Certifying Authority must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A16. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A17. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

END OF PART A

PART B PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

PAYMENT OF LEVY FEE

- B1. Payment of the prescribed Long Service Levy Fee is to be made to Council prior to the issue of a Construction Certificate.

END OF PART B

PART C PRIOR TO COMMENCEMENT OF WORKS

NOTIFICATION OF COMMENCEMENT

- C1. The Planning Secretary must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Planning Secretary must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

COMPLIANCES

- C3. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

SERVICES

- C4. The Applicant shall comply with the requirements of any public authorities in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the development. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Applicant. Where areas are disturbed as a result of the provision of services to the development, these areas should be restored to the satisfaction of the asset owner.

ROAD OCCUPANCY PERMIT

- C5. A Road Occupancy Permit (ROP) must be obtained from any relevant Council for the occupation of any part of the footpath or road at or above on Local or Regional Roads including for the carrying out of work, storage of building materials and the like. A ROP can be obtained through the relevant Council, prior to carrying out the construction/restoration works.

END OF PART C

PART D DURING CONSTRUCTION

APPROVED PLANS TO BE ON-SITE

- D1. A copy of the approved and certified plans, specifications and documents incorporating conditions of consent and certification shall be kept on the subject site at all times and shall be readily available for perusal by any officer of the Department, Council or the Certifying Authority.

SITE NOTICE

- D2. A site notice(s) shall be prominently displayed at the boundaries of the subject site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority, Structural Engineer and contact details, including contact phone number. The notice(s) is to satisfy all but not be limited to, the following requirements:
- (a) minimum dimensions of the notice are to measure 841mm x 594mm (A 1) with any text on the notice to be a minimum of 30 point type size;
 - (b) the notice is to be durable and weatherproof and is to be displayed throughout the works period;
 - (c) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
 - (d) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the subject site is not permitted.

CONSTRUCTION HOURS

- D3. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive
 - (b) between 8:00 am and 1 pm, Saturdays.
- D4. No work may be carried out on Sundays or public holidays.
- D5. Works may be undertaken outside these hours where:
- (a) the delivery of materials or works is required outside these hours by the Police, TfNSW or other authorities;
 - (b) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm.
 - (c) it is required in accordance with a Road Occupancy Licence or at the direction of the Transport Management Centre (TMC).
- D6. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.

CONSTRUCTION NOISE MANAGEMENT

- D7. The development shall be constructed with the aim of achieving the construction noise management levels detailed in the Interim Construction Noise Guideline (Department of Environment and Climate Change, 2009).
- D8. Any noise generated during the construction of the development must not be offensive noise within the meaning of *the Protection of the Environment Operations Act, 1997*.

SAFE WORK NSW REQUIREMENTS

- D9. To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Safe Work NSW requirements.

HOARDING REQUIREMENTS

- D10. The following hoarding requirements shall be complied with:
- (a) no third party advertising is permitted to be displayed on the subject hoarding/fencing; and

- (b) the construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

NO OBSTRUCTION OF PUBLIC WAY

- D11. The public way (outside of any construction works zone) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the relevant Authority to stop all work on site.

END OF PART D

PART E PRIOR TO COMMENCEMENT OF USE

PROTECTION OF PUBLIC INFRASTRUCTURE

- E1. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
 - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

ROAD DAMAGE

- E2. The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Applicant.

STRUCTURAL INSPECTION CERTIFICATE

- E3. A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to commencement of use. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the Department and the Council after:
- (a) the site has been periodically inspected and the Certifier is satisfied that the structural works is deemed to comply with the final design drawings; and
 - (b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

END OF PART E

PART F POST COMMENCEMENT OF USE

SIGNAGE STRATEGY

- F1. Any signage on the site must be installed in accordance with the signage strategy approved in Condition A2(d). The strategy may be reviewed and updated with prior approval from both PMNSW and Council. The strategy must continue to include information and scale drawings of the exact locations, type, construction, materials and total number of signs.
- F2. The design of all approved signage must comply with the following:
 - (a) The signage is not to contain highly reflective materials, colours and finishes.
 - (b) The signs are not permitted to display on-premises advertisements or third party advertisements.

PERMITTED LUMINANCE LEVELS

- F3. The luminance levels of any illuminated signage must comply with Australian Standard AS 4282-2019 Control of the Obtrusive Effects of Outdoor Lighting. At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.

END OF PART F

ADVISORY NOTES

APPEALS

AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*.

OTHER CONSENTS AND PERMITS

AN2. The Applicant shall apply to the Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other consents under Section 68 (Consents) of the *Local Government Act 1993* or Section 138 of the *Roads Act 1993*.

RESPONSIBILITY FOR OTHER CONSENTS AND AGREEMENTS

AN3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

MOVEMENT OF TRUCKS TRANSPORTING MATERIAL

AN4. The Applicant must notify the TfNSW Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting material from the subject site, prior to the commencement of works.

DISABILITY DISCRIMINATION ACT

AN5. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

AN6.

- (a) The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an consent from the Commonwealth Environment Minister.
- (b) This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act, 1979*. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth consent and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.