

Appendix A. Record and Response to Submissions

Extracts from the City of Sydney submission (being the only submission received) during the exhibition period of SSD 9758, and a response to each of the matters raised, has been outlined in the **Table** below.

List of Abbreviations

BMS	Building Management Statement
Council	City of Sydney

Council Comment	Response
Easement for access	
<i>An Easement for Access (shown on the plans) will give legal access to the lot (otherwise it would have been land locked). It appears that Easements have been created covering services as well, although a general condition has been included requiring the creation of any easements necessary for the orderly operation of the lots.</i>	Easements are proposed for Lot 501, being the 'master' Crown Resort Lot which support the approved Crown Resort DA. In response to the proposed general condition, we would recommend adopting the easement conditions currently provided by existing subdivision consents at Barangaroo South, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision) and SSD 8997 (Stage 3 Subdivision). Further detail on this issue is provided at '<i>Easements Relating to Stratum Lots</i>' and '<i>Additional Easements</i>' below.
Restrictions on residential apartments and parking	
<i>It is recommended that Restrictions be imposed upon the residential apartments, parking and the like. This could be done if the building is further subdivided in stratum but as it is unclear if and when this will happen it is appropriate to impose a condition requiring their creation now.</i>	Once the Stratum Subdivision to create Lot 501 is approved (providing for the 'master' Crown Resort Lot), further Stratum and Strata Subdivision will be undertaken of this Lot by Crown Sydney Property Pty Ltd, separate to this planning application, to create a residential stratum lot (subject to further strata subdivision) and a resort stratum lot containing other elements of the development. This proposed restriction on the lot at this stage is therefore premature, and will be more appropriately dealt with at the future Stratum Subdivision phase by Crown, where this matter can be appropriately incorporated. Further detail on this issue is provided at '<i>Restrictions on residential development</i>' and '<i>Restriction on the use of car spaces and storage spaces</i>' below.
Car share spaces	
<i>If there are any car share spaces, it should be ensured that any car parking spaces designated as a car sharing space are to be used only for the purpose of a car share operation.</i>	Similar to the above, this application seeks to create Lot 501 only (being the 'master' Crown Resort Lot. The car share restriction proposed by Council can be incorporated during further subdivisions of this Crown Resort Lot which will be undertaken separately by Crown Sydney Property Pty Ltd. Accordingly, any car share restriction is not considered appropriate to be conditioned at this stage of the subdivision.
Restriction of residential development	
<i>A documentary Restriction on Use of Land is to be created over Lot 501 in the Subdivision Plan, pursuant to Section 88B of the Conveyancing Act 1919, appurtenant to the Authority administering the site (or whatever Authority succeeds it), in terms to the satisfaction of the Authority administering the site requiring that the residential apartments within that lot are to be used for permanent residential accommodation only and not for the purpose of short-term rental accommodation such as hotel, serviced apartments, boarding house, tourist and back-packer accommodation, with the Council being the authority to release, vary or modify the restriction.</i>	This application seeks consent for Stratum Subdivision to create the 'master' Crown Resort Lot. The proposed condition on the restriction on residential development relates to future Stratum and Strata Subdivision of the Crown Resort. Notwithstanding this and more importantly, the restriction proposed by Council is already conditioned on the Crown Resort consent (being SSD 6957) and places a restriction on residential development, ensuring that the accommodation portions (being the residential apartments) are used for permanent residential accommodation only.

Council Comment	Response
	Relevantly, Condition G15(a) of SSD 6957 states: <i>The restriction applies to the components of the building approved for residential use:</i> <i>(a) the accommodation portions of the building must be used as permanent residential accommodation only and not for the purpose of hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the Sydney Local Environmental Plan 2012.</i> Crown Sydney Property Pty Ltd will be preparing further planning applications for the future stratum and strata subdivision of the Crown Resort. This issue (and proposed condition) would therefore be better considered at these future subdivision stages. If a Restriction on Use of Land is required, it should be reflected on the Stratum Subdivision of the Crown Lot. Accordingly, the recommended condition is considered not required for this development consent. In addition, it is considered unwarranted that Council be specifically noted as “being the authority to release, vary or modify the restriction”. We note that this will result in an inconsistency with the wording of the first part of the condition. In this circumstance ‘the Authority’ will be the Consent Authority, and therefore any conditions should refer to ‘the Consent Authority’ only. This will avoid confusion or inconsistency with existing approvals whilst achieving the intent of Council’s proposed condition.
Restriction on use of car spaces and storage spaces	
<i>A documentary Restriction on Use of Land is to be created over Lot 501 in the Subdivision Plan, pursuant to Section 88B of the Conveyancing Act 1919, created appurtenant to the Authority administering the site (or whatever Authority succeeds it), in terms requiring the storage spaces and on-site car parking spaces within Lot 501 (including spaces within the car stacker), exclusive of service and visitor car spaces, are:</i> <i>(a) In the case of car spaces and storage spaces allocated to residential apartments, not to be used other than resident of the subject building for parking of vehicles related to residence in the unit with which the space is associated,</i> <i>(b) In the case of car spaces and storage spaces allocated to the hotel use, not to be used other than by hotel guests, function patrons and staff of the hotel. In addition, car parking spaces used in connection with hotel function areas are to be available only to patrons while using the function facilities and must not be used for public car parking,</i> <i>(c) In the case of car spaces and storage spaces allocated to a commercial use, not to be used other than by an occupant or tenant of the subject building.</i> <i>The Authority administering the site (or whatever Authority succeeds it) is to have the authority to release, vary or modify the restriction.</i>	Similar to the above, this application seeks consent for the Stratum Subdivision to create the ‘master’ Crown Resort Lot. The proposed condition on the restriction on use of car spaces and storages spaces relates to future subdivision phases of the proposed Crown Resort Lot and can be appropriately dealt with at that stage. In addition, an existing condition on the Crown Resort consent (being Condition G5 of SSD 6957) already restricts residential car parking spaces to residents only. Crown Sydney Property Pty Ltd will be preparing further planning applications for the future stratum and strata subdivision of the Crown Resort which is consistent with the approved development. This issue (and proposed condition) would therefore be better considered at these future subdivision stages. Accordingly, a condition restricting the use of car and storage spaces is not appropriate for this application. If the Department wishes to include a suitable condition on the consent of this application, we would recommend the use of the Condition titled <i>Statement of Compliance – Completion in Accordance with a Project Approval/Development Consent</i> currently provided under Conditions B4 of SSD 6381 (Stage1 Subdivision), B3 of SSD 7478 (Stage 2 Subdivision) and B3 of SSD

Council Comment	Response
	8997 (Stage 3 Subdivision). This would provide consistency with the other approved subdivisions at Barangaroo South, whilst achieving the intent of Council, without use of their proposed wording. <i>For reference, Condition B3 of SSD 8997 relevantly states:</i> <i>B3. Prior to the issue of a Subdivision Certificate for a stratum subdivision, a Statement of Compliance shall be provided to the Certifying Authority demonstrating that the proposed subdivision is consistent with relevant conditions of any relevant planning approval/development consent (to the extent that they are relevant and required for that stage) issued in respect to the building (or part of the building) proposed to be subdivided. This includes, but is not limited to, any conditions relating to the allocation of the following to the respective lot/s:</i> <i>(a) The number of bicycle spaces;</i> <i>(b) The number of car parking spaces;</i> <i>(c) The number of motor bike spaces;</i> <i>(d) The number of loading spaces;</i> <i>(e) The number of storage spaces and</i> <i>(f) Any services or infrastructure.</i> <i>The above car parking and motorcycle spaces are to be shown as part of the relevant stratum lot.</i> <i>The bicycle spaces, loading spaces, services and infrastructure can be on separate lots only if they are part of a shared basement and managed under the Building Management Statement required by Condition B12.</i>
Parking on common property areas	
<i>No part of the common areas in the basements and lower levels, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats. Any strata subdivision(s) of the lots in this subdivision plan is to include an appropriate documentary restriction pursuant to Section 88B of the Conveyancing Act 1919, so burdening common property, with the Authority administering the site (or whatever Authority succeeds it) being the authority to release, vary or modify the restriction.</i>	A condition of consent for parking on common property areas is not required as it is already dealt with under Condition G6 of the Crown Resort consent (SSD 6957) and under Clause 61.3 of the registered BMS that includes Crown (noted as H1 in the BMS) as a future member. Condition G6 of SSD relevantly states: <i>No part of the common property, apart from the visitor vehicle spaces, (which are to be used only by visitors to the building) and service vehicle spaces (which are to be used only by service vehicles) is to be used for the parking or storage of vehicles or boats.</i> Clause 61.3 of the registered BMS provides that the car park ramps or access ways, being the common basement areas, cannot be used for the parking of vehicles. A copy of the BMS is attached as Appendix B for information purposes. Accordingly, the recommended condition restricting parking on common property is not considered necessary for this application.

Council Comment	Response
	If a requirement for a restriction on the use of land is required, it should be placed on the Stratum Subdivision by Crown.
Easements relating to stratum lots	
<i>Documentary reciprocal easements for services, drainage, support and shelter, and emergency egress (and other similar easements as required), affecting the whole of each lot if so desired, must be created over the lots in the subdivision, pursuant to Section 88B of the Conveyancing Act 1919 and to Council's satisfaction.</i>	Other approved subdivisions at Barangaroo South, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision) and SSD 8997 (Stage 3 Subdivision) have the condition Easement Plan/s (B5 of SSD 6381, B4 of SSD 7478 and B4 of SSD 8997). We would recommend the use of this condition in future drafting, as it will ensure consistency across the subdivisions, whilst achieving the intent of the Council proposed condition. <i>Condition B4 of SSD 8997, as reference, follows:</i> EASEMENT PLAN/S <i>B4. Prior to, or upon, the issue of the first Subdivision Certificate for the subdivision of Lot 214, the proponent is to provide the Certifying Authority with an easement plan/s for authority services and infrastructure in accordance with Condition B6 and Condition B7. Alternatively, the Certifying Authority must be satisfied that appropriate agreements or bonds are in place to provide for future easements.</i> <i>If it is proposed to create easements, rights of way, restrictions or covenants, an 88B Instrument must be provided.</i>
Additional easements	
<i>Any other documentary easements or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision must be created over appropriate lots in the subdivision, pursuant to Section 88B of the Conveyancing Act 1919 and to Council's satisfaction.</i>	Other approved subdivisions at Barangaroo South, SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision) and SSD 8997 (Stage 3 Subdivision) include relevant conditions which relate to and accommodate other easements. These include easements for access and utility providers. For example, Condition B5, B6 and B11 of SSD 8997 (Stage 3 Subdivision) states: ACCESS EASEMENT – GROUND LEVEL: • Condition B5. <i>Prior to, or upon, the registration of the first stratum plan, appropriate ground level access easement/s are to be created to provide access to each building from the public domain for respective building owner/s, tenant/s and visitors, as relevant to the stratum lot/s, to the satisfaction of the certifying authority. Each easement is to address construction staging, including any restrictions to access as a result of the construction activities including erecting hoardings.</i> • Condition B6. <i>Suitable easements for access or rights-of-way benefiting the public are to be created over the public domain areas of the residual lot at each stage in the stratum subdivision, to ensure public access to the site. The rights of public access are to be</i>

Council Comment	Response
	<i>triggered by the issue of any occupation certificate for public domain works (temporary or permanent) within Barangaroo South.</i> • Condition B11. <i>The applicant shall liaise with Ausgrid in order to finalise any easements, leases and /or rights of way in favour of Ausgrid.</i> We would recommend the use of these similar conditions in future drafting, as it will ensure consistency across the subdivision consents, whilst achieving the intent of Council's proposed condition.
Sydney Water Certificate	
<i>Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.</i> <i>Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.</i> <i>Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.</i> <i>The Section 73 Certificate must be submitted to Council or the Principal Certifier prior to a Subdivision Certificate being issued.</i>	Other approved subdivisions at Barangaroo South, being SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision) and SSD 8997 (Stage 3 Subdivision) have the condition Compliance Certificate which relates to Sydney Water requirements (B5 of SSD 6381, B9 of SSD 7478 and B7 of SSD 8997). We would recommend the use of this condition in future drafting, as it will ensure consistency across the subdivision development consents, whilst achieving the intent of the City of Sydney proposed condition. Condition B4 of SSD 8997, as reference, reads as follows: COMPLIANCE CERTIFICATE <i>B7. Prior to issue of any Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water and shall be provided to the Certifying Authority demonstrating that the development has satisfied the detailed requirements of Sydney Water in respect to water and wastewater.</i>