

28 August 2020

Our Ref: 17632

Cameron Sargent
Department of Planning, Industry and Environment
320 Pitt Street
Sydney NSW 2001

Dear Mr Sargent,

RESPONSE TO SUBMISSIONS – CROWN SYDNEY HOTEL RESORT - STRATUM SUBDIVISION (SSD-10429)

This submission has been prepared on behalf of the applicant, Crown Sydney Property Pty Ltd, in response to submissions received in relation to State Significant Development Application SSD -10429 relating to the proposed stratum subdivision of the Crown Sydney Hotel Resort building (approved under SSD 6957) located at 1-11 Barangaroo Avenue (previously known as 51a Hickson Road), Barangaroo, NSW.

The application was placed on exhibition between Thursday 16 July 2020 and Wednesday 12 August 2020. One public submission and four agency submissions were received. Submissions were received from the following agencies:

- Transport for NSW (Roads and Maritime Services Division)
- City of Sydney Council
- Sydney Water
- Sydney Metro

By letter dated 21 August 2020 the Department of Planning, Industry and Environment (DPIE) requested that the applicant provide a response to the issues raised in the submissions received during the exhibition period, in accordance with clause 82(2) of the *Environmental Planning and Assessment Regulation 2000*.

This submission provides a detailed response to the issues raised within all submissions received in relation to the stratum subdivision application, and should be read in conjunction with the original SSD application and its supporting documents.

Responses to each key issue raised within the submissions are set out below.

1.0 Agency Submissions

Three of the four agency submissions did not raise any specific concerns with the proposed application or note any unanticipated environmental impacts. Crown Sydney Property acknowledge and accept the comments received from Sydney Metro, Sydney Water and Transport for NSW. While City of Sydney likewise did not raise any objections, a number of conditions of consent were recommended.

A detailed response to those comments that were raised by City of Sydney are included below. Where amendments to the recommended conditions are proposed, words proposed to be inserted are shown in ***bold italics*** and words proposed to be deleted are shown in **~~bold strikethrough~~**.

1.1 City of Sydney

City of Sydney recommends that in the event of the application being recommended for approval, the following conditions are to be added:

(1) LAND SUBDIVISION – SUBDIVISION CERTIFICATE

A separate application must be made to Council or an accredited certifier to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979.

Response:

Noted. However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*A separate application must be made to the **Certifying Authority Council or an accredited certifier** to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979*

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(2) SYDNEY WATER CERTIFICATE - SUBDIVISION

***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.*

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.

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.

The Section 73 Certificate must be submitted to Council or the Principal Certifying Authority prior to a Subdivision Certificate being issued.

Response:

Noted. No further comments.

(3) RESTRICTION ON RESIDENTIAL DEVELOPMENT

A documentary Restriction on Use of Land is to be created over the residential lot in the Subdivision Plan (shown on the plan as Lot 2), pursuant to Section 88B of the Conveyancing Act 1919, appurtenant to Council, in terms to the satisfaction of Council requiring the 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.

Response:

Noted. The s88B instrument can be reworded to specifically comply with the wording of this condition.

However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*A documentary Restriction on Use of Land is to be created over the residential lot in the Subdivision Plan (shown on the plan as Lot 2), pursuant to Section 88B of the Conveyancing Act 1919, ~~appurtenant to Council~~, in terms to the satisfaction of **the Certifying Authority Council** requiring the 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 **Certifying Authority Council** being the authority to release, vary or modify the restriction.*

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(4) RESTRICTION ON USE OF CAR SPACES AND STORAGE SPACES - RESIDENTIAL

A documentary Restriction on Use of Land is to be created over the residential lot in the Subdivision Plan (shown on the plan as Lot 2), pursuant to Section 88B of the Conveyancing Act 1919, appurtenant to Council, in terms to the satisfaction of Council requiring that the on-site car parking spaces and storage spaces, exclusive of service spaces, are not to be used other than by a resident, tenant or occupant of the apartments situated within Lot 2, with the Council being the authority to release, vary or modify the restriction.

Response:

Noted. The final stratum plan and s88B instrument can be updated to comply with the wording of this condition. However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*A documentary Restriction on Use of Land is to be created over the residential lot in the Subdivision Plan (shown on the plan as Lot 2), pursuant to Section 88B of the Conveyancing Act 1919, ~~appurtenant to Council~~, in terms to the satisfaction of **the Certifying Authority Council** requiring that the on-site car parking spaces and storage spaces, exclusive of service spaces, are not to be used other than by a resident, tenant or occupant **(or any of their guests)**, of the apartments situated within Lot 2, with the **Certifying Authority Council** being the authority to release, vary or modify the restriction.*

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(5) RESTRICTION ON USE OF CAR SPACES – HOTEL/CASINO

A documentary Restriction on Use of Land is to be created over Lot 1 in the Subdivision Plan, pursuant to Section 88B of the Conveyancing Act 1919, appurtenant to Council, in terms to the satisfaction of Council requiring that:

(a) The on-site car parking spaces are not to be used other than by hotel/casino guests, function patrons and staff of the part of the building contained within Lot 1.

(b) Car parking spaces used in connection with hotel/casino function areas are to be available only to patrons while using the function facilities and must not be used for public car parking,

with the Council being the authority to release, vary or modify the restriction.

Response:

Noted. The final stratum plan and s88B instrument can be updated to comply with the wording of this condition.

However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*A documentary Restriction on Use of Land is to be created over Lot 1 in the Subdivision Plan, pursuant to Section 88B of the Conveyancing Act 1919, ~~appurtenant to Council~~, in terms to the satisfaction of **the Certifying Authority Council** requiring that:*

*(a) The on-site car parking spaces **used in connection with hotel/casino** are not to be used other than by **patrons, guests of the hotel/casino**, ~~guests, function patrons~~ and staff of the part of the building contained within Lot 1, **and must not be used for public car parking**,*

~~(b) Car parking spaces used in connection with hotel/casino function areas are to be available only to patrons while using the function facilities and must not be used for public car parking,~~

with the Council being the authority to release, vary or modify the restriction.

These proposed amendments removes repetitive, unnecessarily restrictive and ambiguous wording, however will continue to achieve the intent of Council's proposed condition.

(6) PARKING ON COMMON PROPERTY AREAS

No part of the common areas and traffic aisles in the basement levels, apart from drop-off or 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, trailers or boats. Any strata subdivision of all or part of the building is to include an appropriate documentary restriction pursuant to Section 88B of the Conveyancing Act 1919, so burdening common property, with the Council being the authority to release, vary or modify the restriction.

Response:

Noted. The final stratum plan and s88B instrument can be updated to comply with the wording of this condition. However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*No part of the common areas and traffic aisles in the basement levels, apart from drop-off or 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, trailers or boats. Any strata subdivision of all or part of the building is to include an appropriate documentary restriction pursuant to Section 88B of the Conveyancing Act 1919, so burdening common property, with the **Certifying Authority Council** being the authority to release, vary or modify the restriction.*

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(7) EASEMENTS FOR ACCESS

Appropriate Easements for Access (or similar) are to be created over any required corridors, passages, driveways, traffic aisles, stairs and lifts, within the development that are needed to provide access from (or across) one lot to another, pursuant to Section 88B of the Conveyancing Act 1919. The Easements are to be reciprocal in nature (where applicable), granting rights of access to persons and/or vehicles, and are to be created in appropriate terms acceptable to Council, with the Council being the authority to release, vary or modify the easement.

Response:

Noted. The final stratum plan and s88B instrument can be updated to comply with the wording of this condition.

However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition.:

*Appropriate Easements for Access (or similar) are to be created over any required corridors, passages, driveways, traffic aisles, stairs and lifts, within the development that are needed to provide access from (or across) one lot to another, pursuant to Section 88B of the Conveyancing Act 1919. The Easements are to be reciprocal in nature (where applicable), granting rights of access to persons and/or vehicles, and are to be created in appropriate terms acceptable to **the Certifying Authority Council**, with the **Certifying Authority Council** being the authority to release, vary or modify the easement.*

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(8) EASEMENT FOR USE OF LOADING DOCK

An appropriate Easement is to be created within the loading dock area, located within Lot 1, pursuant to Section 88B of the Conveyancing Act 1919. The Easement is to burden Lot 1 and benefit Lot 2 in the subdivision, granting rights of access to and the use of the loading dock area (including the loading and unloading of service vehicles, delivery vehicles and the like), and is to be created in appropriate terms acceptable to Council, with the Council being the authority to release, vary or modify the easement.

Response:

Noted. The final stratum plan and s88B instrument can be updated to comply with the wording of this condition. However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition.:

*An appropriate Easement is to be created within the loading dock area, located within Lot 1, pursuant to Section 88B of the Conveyancing Act 1919. The Easement is to burden Lot 1 and benefit Lot 2 in the subdivision, granting rights of access to and the use of the loading dock area (including the loading and unloading of service vehicles, delivery vehicles and the like), and is to be created in appropriate terms acceptable to **the Certifying Authority Council**, with the **Certifying Authority Council** being the authority to release, vary or modify the easement*

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(9) EASEMENT FOR USE OF REFUSE ROOM

An appropriate Easement is to be created over the refuse room, located within Lot 1, pursuant to Section 88B of the Conveyancing Act 1919. The Easement is to burden Lot 1 and benefit Lot 2 in the subdivision, granting rights of access to and the use of the refuse room, and is to be created in appropriate terms acceptable to Council, with the Council being the authority to release, vary or modify the easement.

Response:

Noted. The final stratum plan and s88B instrument can be updated to comply with the wording of this condition. However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*An appropriate Easement is to be created over the refuse room, located within Lot 1, pursuant to Section 88B of the Conveyancing Act 1919. The Easement is to burden Lot 1 and benefit Lot 2 in the subdivision, granting rights of access to and the use of the refuse room, and is to be created in appropriate terms acceptable to **the Certifying Authority Council**, with the **Certifying Authority Council** being the authority to release, vary or modify the easement.*

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(10) EASEMENTS RELATING TO STRATUM LOTS

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.

Response:

Noted. However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*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 the satisfaction of the Certifying Authority.***

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(11) ADDITIONAL EASEMENTS

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.

Response:

Noted. However, to ensure consistency with the conditions of consent for SSD 6381 (Stage 1 Subdivision), SSD 7478 (Stage 2 Subdivision), SSD 8997 (Stage 3 Subdivision) and SSD 9758 (Stage 4 Subdivision), Crown proposed the following amendments to the wording of the condition:

*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 the satisfaction of the Certifying Authority.***

These proposed amendments will continue to achieve the intent of Council's proposed condition.

(12) STREET ADDRESSES OF LOTS

In accordance with Clause 60(c) of the Surveying and Spatial Information Regulation 2017, the street addresses for each lot must be shown on the final plan of subdivision.

Response:

Noted. The current registered address is 1-11 Barangaroo Avenue, Barangaroo, NSW 2000. No further comments.

2.0 Public Submissions

One public submission was received in relation to the proposed stratum subdivision application. A response to this submission is detailed below.

"There has been no evidence provided as to why this is required. It wasn't required before so why is it required now. The EIS states "Option 2: Do Nothing - The Crown Sydney Hotel Resort has always proposed to include part hotel and part residential uses, as envisaged under the Barangaroo Concept Plan. The redevelopment of Barangaroo and the ongoing operations of approved buildings is contingent on the ability for the individual buildings to be

released to the market, critical in achieving the desired future outcome for Barangaroo South. Not creating the proposed strata would significantly hinder the establishment and operation of the Crown Sydney Hotel Resort." This statement suggests that this is dealing with different building when it's dealing with an individual building. It also just states it will "significantly hinder" the operation etc without any detail, where is the evidence or argument for this?"

Response:

The submitter has misinterpreted the requirement for the application in order to facilitate the stratum of subdivision of the Crown Sydney Hotel Resort development. This application is in reference to an individual building, and is required as the various uses within the building cannot operate without the appropriate subdivision of the spaces that are to be operated separately and independent of each other. The proposed stratum subdivision and s88B instrument will protect the rights of all users of the buildings, facilitating the legal management of elements such as easements, car parking rights, and restrictions to prevent unintended uses in relation to the building. The residential apartments within the building approved under SSD 6957 cannot operate as such without further strata subdivision, and without the benefits and restrictions associated with the proposed residential stratum lot.

3.0 Conclusion

The majority of the concerns raised by agencies have been addressed or can readily be addressed in the finalisation of the Stratum Plan and s88B Instrument. This response letter provides additional clarity in relation to the stated concerns, and raises no further objections.

We thank you for the opportunity to respond to your request and the submissions and look forward to working with the DPIE in its ongoing assessment and determination of this application.

Yours sincerely,



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