

27 August 2019

2190383

Mr Jim Betts
Secretary
Department of Planning & Environment
320 Pitt Street
SYDNEY NSW 2000

Dear Mr Betts,

**SECTION 4.55(1A) MODIFICATION APPLICATION (MOD 7) MP09_167
45 MACQUARIE STREET, PARRAMATTA**

This application has been prepared by Ethos Urban on behalf of Crown International Holdings Group Pty Ltd, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent MP09_167 relating to the 'V by Crown' building located at 45 Macquarie Street, Parramatta (the Site).

The modification relates to:

- the installation of external louvres at level 26 of the building, specifically pertaining to the rooftop bar portion of the site for the purposes of weather protection; and
- the installation of a mezzanine level associated with the Kumiho restaurant retail tenancy located on the corner of Hunter and Marsden streets.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. It should be read in conjunction with the Environmental Assessment Report prepared by JBA Urban Planning Consultants (now Ethos Urban) dated April 2010. This application is accompanied by:

- Architectural Plans prepared by Allen Jack+Cottier (**Appendix A**);
- Areas Schedule prepared by Crown Group (**Appendix B**); and
- Louvre Specification diagrams prepared by Vanguard (**Appendix C**).

1.0 Consent proposed to be modified

Development consent MP09_167 was granted by the (then) Minister of Planning on 28 October 2011 for the construction of a mixed-use residential development consisting of a 5-storey podium, two residential towers consisting of 23 and 17 storeys and associated 6 levels of basement carparking, pursuant to Part 3A of the EP&A Act. The consent has since been modified six times, as summarized in **Table 1** below:

Table 1 Summary of modifications to M09_167

MOD number	Modification summary	Approval date
MOD 1	Section 75W modification for the following: <ul style="list-style-type: none">• Amendment to Condition B4 of the project approval to allow for the payment of S94A contributions in stages	22 March 2012

MOD number	Modification summary	Approval date
MOD 2	Section 75W modification for the following: <ul style="list-style-type: none"> • Amendment of the floor space use within the mixed use development and amendment of the design including additional levels of residential accommodation • Modifications to the archaeological display area • Reduction in the building depth • Reduction in the height of the podium • Replacement of commercial floor space with serviced apartments and conference centre 	26 June 2014
MOD 3	Section 75W modification for the following: <ul style="list-style-type: none"> • Amendment to Condition A16 of the project approval to ensure it reflects the original wording of the condition in the draft set of conditions provided to the applicant 	19 August 2014
MOD 4	Section 75W modification for the following: <ul style="list-style-type: none"> • Addition of 7 storeys to Section D of the building • Addition of rooftop bar • Stratum subdivision • Minor reconfiguration of the archaeological display, plaza area and retail space • Other minor design development modifications 	5 November 2015
MOD 5	Section 75W modification for the following: <ul style="list-style-type: none"> • Reduction in height of Section D of the building • Clarification of the range of uses to take place in the Level 1 multi-purpose space • Stratum subdivision • Modification of the condition of approval and commitment in relation to the dedication of affordable housing apartments to Parramatta City Council 	31 May 2016
MOD 6	Section 75W modification for the following: <ul style="list-style-type: none"> • Conversion of 72 units from residential apartments to serviced apartments 	7 July 2016

2.0 Proposed modifications to consent

The applications seeks approval for:

- the installation of external louvres at level 26 of the development, specifically being located outside the landscaped roof terrace of the rooftop bar approved under MOD 4 (**Figure 1**). The louvres are primarily for the purposes of weather protection against the elements and will improve the overall amenity and experience for patrons using the bar. The louvres will be located on the eastern elevation of the building and accordingly will not be visible from the Old Government house located to the west of the development.
- the installation of a mezzanine level located at the Kumiho retail tenancy of the development above the ground floor (**Figure 3**). The exact area of the mezzanine is 62m², of which 40m² will be GFA area. The mezzanine requires internal modifications only and will not be discernible from the exterior of the building, with no external alterations proposed.

This modification application pertains to the installation of louvres and a small mezzanine only and does not propose any other changes to the built form and use of the building.

2.1 External louvres

The *Parramatta Local Environmental Plan 2011* (PLEP 2011) defines Gross Floor Area (GFA) as (emphasis added in **bold**):

The sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- But excludes:**
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and**
 - (j) voids above a floor at the level of a storey or storey above.

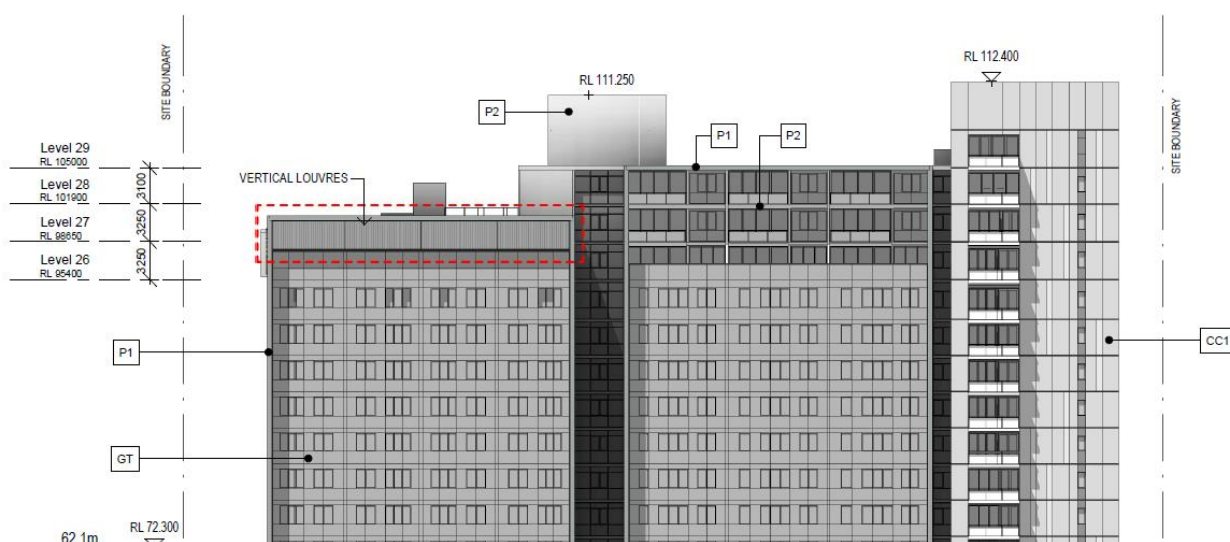


Figure 1 Eastern elevation of the building showing the location of the proposed louvres in red

Source: Allen Jack+Cottier

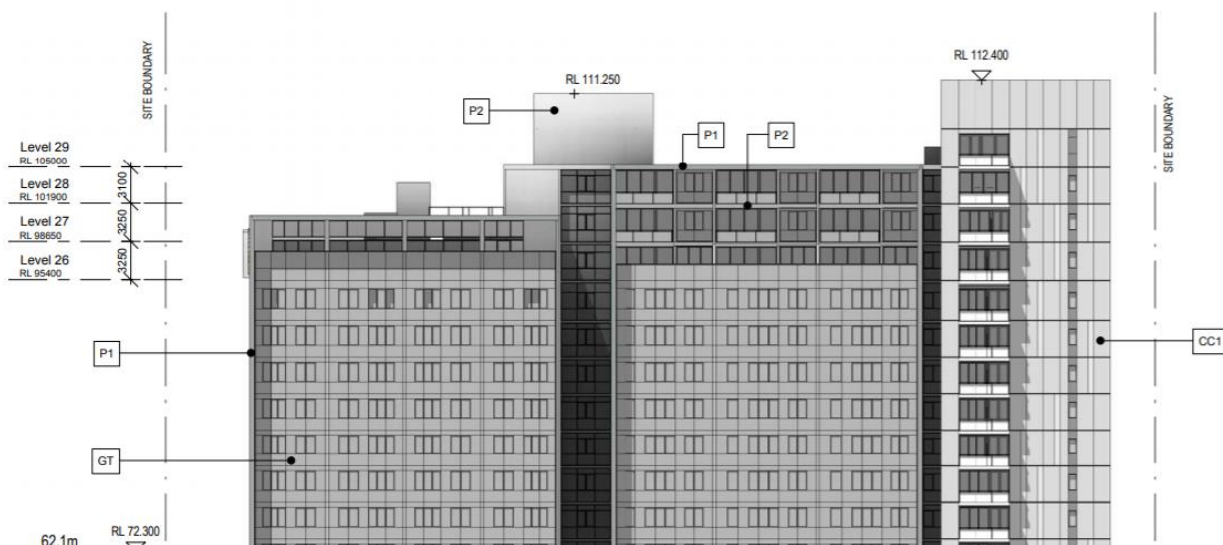


Figure 2 Approved eastern elevation of the building

Source: Allen Jack+Cottier

The installation of louvres would accordingly result in the reclassification of the rooftop terrace of the development from non-GFA area to GFA area as the louvres are fully enclosable and more than 1.4 metres high (**Figure 3**). This would result in an increase in GFA of 148.4m². This increase is only due to the reclassification of space and is not the result of any physical increase in floorspace on the site.

The reason for the installation of the louvres is to prevent water damage to the inside of the tenancy. This has impeded on and limited the function of the rooftop bar. By installing louvres, it would reduce the effect of the weather impacting the tenancy and improve the amenity.

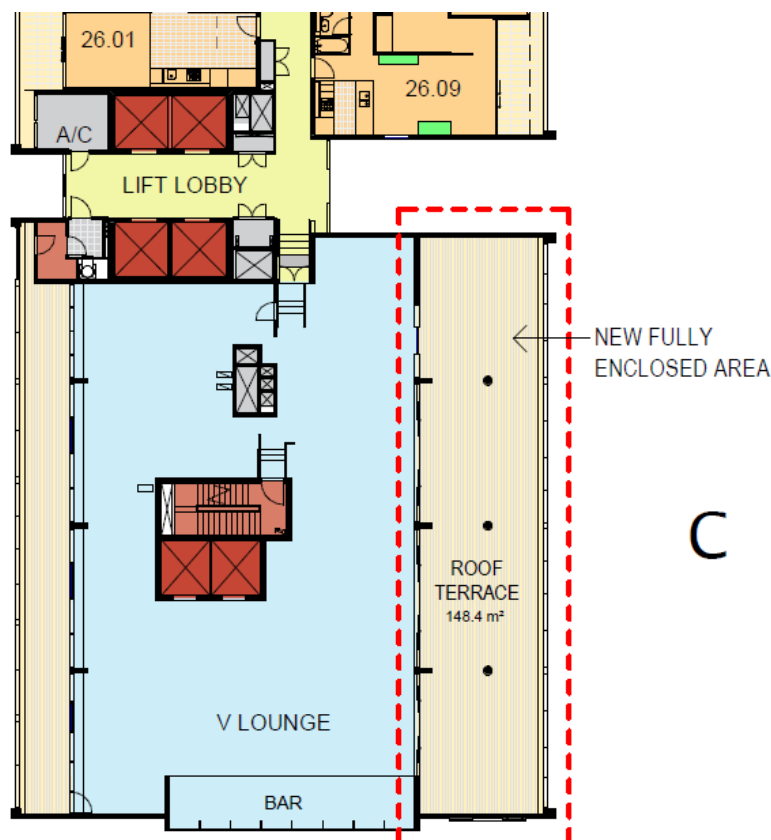


Figure 3 Excerpt from the Level 26 floor plan showing the roof terrace, which is to become fully enclosed area as a result of louvre installation

Source: Allen Jack+Cottier

2.2 Mezzanine

A mezzanine is proposed for the Kumiho restaurant retail tenancy of the development above the ground floor (**Figure 4**). The mezzanine will be 62m² in area, of which 40m² will be GFA area, with the rest consisting of a back of house services zone. The mezzanine is internal in nature only and no external changes to the development will occur as a result of the installation of the mezzanine. Access to the mezzanine will be provided by an existing staircase in the tenancy.

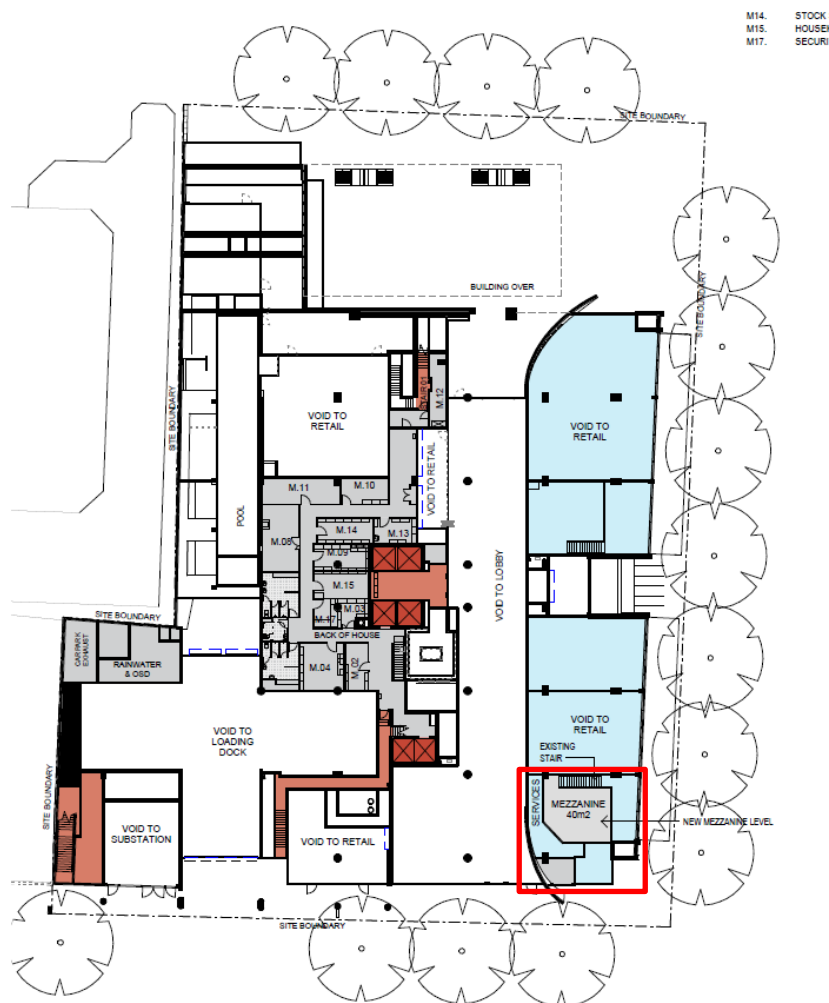


Figure 4 Location of the proposed mezzanine (red rectangle) in the mezzanine floor of the building.

Source: Allen Jack+Cottier

2.3 Gross Floor Area

The installation of the louvres and the mezzanine will result in a minor increase in the total Gross Floor Area (GFA) of the building, for the reasons described above. A numerical overview of the proposed increase is shown below in **Table 2**.

Table 2 Gross Floor Area summary

Use	GFA area
Total GFA of approved building, existing	47,145.4m ²
Installation of louvres (non-GFA to GFA area)	148.4m ²
Installation of mezzanine (new GFA area)	40m ²
Total GFA of approved building, as modified	47,333.8m²

2.4 Proposed modifications to conditions

The proposed modifications as described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in **bold italics**.

Schedule 2 Part A – Terms of Approval A1 – DEVELOPMENT DESCRIPTION

Except as amended by conditions of this approval (including Condition A16), project approval is granted for the following:

- 514 residential apartments, comprised of:
- 61 x studio apartments;
- 265 x 1-bedroom apartments;
- 171 x 2-bedroom apartments;
- 17 x 3-bedroom apartments;
- 72 serviced apartments;
- A 448m² archaeological interpretation centre;
- A 665m² conference centre;
- Construction and use of a new mixed use development with a maximum GFA of ~~47,145.4m²~~ **47,333.8m²**.
- Operation and use of six levels of basement car park accommodating 574 car parking spaces (inclusive of 11 stacked spaces), 14 motorbike spaces and 70 bicycle parking spaces.

Section 75W Modification

Schedule 2 Part A – Terms of Approval A2 – DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND DOCUMENTATION

The development shall be undertaken generally in accordance with:

- MP No. 09_167 and the Environmental Assessment except where amended by the Preferred Project Report dated February 2011, prepared by JBA Planning;
- Section 75W Modification to MP 09_0167 (MOD2), prepared by JBA Planning, dated November 2012 as amended by Preferred Project Report dated December 2013;
- Section 75W Modification to MP 09_0167 (MOD4), prepared by JBA Planning, dated October 2014 as amended by Response to Submissions dated 1 April 2015 and Design Amendments dated 7 July 2015 (updated 4 August 2015);
- Section 75W Modification to MP09_0167 (MOD5) prepared by JBA Planning and dated December 2015;
- Section 75W Modification to MP09_0167 (MOD6) prepared by JBA Planning and dated May 2016;
- ~~and~~
- **Section 4.55(1A) Modification to MP09_0617 (MOD 7) prepared by Ethos Urban and dated May 2019; and**
- The following drawings:

Drawing No.	Revision	Name of Plan	Date
Architectural Drawings prepared by Allen Jack+Cottier			
2000	40-12	Ground Floor	Undated
2001	10	Basement 1	Undated
2002	10	Basement 2	Undated
2003	10	Basement 3	Undated
2004	10	Basement 4	Undated
2005	10	Basement 5	Undated
2006	11	Basement 6	Undated

Drawing No.	Revision	Name of Plan	Date
2100	40-12	Mezzanine	Undated
2101	10	Level 1	Undated
2102	10	Level 2	Undated
2103	10	Level 3	Undated
2104	10	Level 4	Undated
2112	10	Levels 10-15	Undated
2117	2	Level 16 & 17	Undated
2118	11	Level 18	Undated
2119	11	Level 19	Undated
2120	10	Level 20	Undated
2121	10	Level 21 – 25	Undated
2126	40-12	Level 26	Undated
2127	40-13	Level 27	Undated
2128	11	Level 28	Undated
2129	11	Level 29	Undated
2200	10	Roof	Undated
3100	11	North Elevation	Undated
3101	11	South Elevation	Undated
3102	44-14	East Elevation	Undated
3103	11	West Elevation	Undated
3110	2-4	V LOUNGE ELEVATIONS	Undated
3111	2	Marsden St Signage	Undated
3200	11	Section	Undated
Signage	E	General Exterior Signage for the V by Crown Development	10/11/2015
Architectural Drawings prepared by Taylor Brammer Landscape Architects			
LA01	A	S75W Landscape Plan – Public Domain / Ground Floor	26/02/2014
LA02	B	S75W Landscape Plan – Level 1 / Pool	20/06/2014
LA03	A	S75W Landscape Plan – Level 3	20/06/2014
LA05	A	S75W Landscape Plan – Level 19	18/06/2014
LA06	A	S75W Landscape Plan – Level 26	20/06/2014
Stratum Subdivision Drawings			
150725 DSUB	9	PLAN OF PROPOSED SUBDIVISION OF LOT 100 IN D.P. 1173658 (SHEETS 1 TO 17)	11/04/2016
Stata Subdivision Drawings			
150725 DSP RESI 1	9	PLAN OF SUBDIVISION OF LOT 1 IN A PLAN OF SUBDIVISION OF LOT 100 IN D.P. 1212216 (SHEETS 1 TO 45)	11/04/2016
150725 DSP RESI 2	4	PLAN OF SUBDIVISION OF LOT 3 IN A PLAN OF SUBDIVISION OF LOT 100 IN D.P. 1212216 (SHEETS 1 TO 9)	08/01/2016

3.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed modifications to the development comprises only the installation of external louvres on the landscaped roof terrace associated with the outdoor bar use of the building, as well as the installation of a small mezzanine within the established Kumiho retail tenancy, with no further impacts on the public domain and exterior of the building. These are considered to be minor changes given the overall scale of the building;
- No changes in use composition have been proposed under this modification application, meaning that the previously assessed and determined operational impacts of the building will be generally consistent with that previously considered;
- The environmental impacts of the modified development in terms of operation, traffic generation, waste management and the like remain unchanged as a result of the proposed alterations;
- The proposed increase in GFA is only the result of 1) the reclassification of the landscaped roof terrace from non-GFA to GFA area as a result of louvre installation and 2) the installation of a small mezzanine, instead of any change in external building built form and/or envelope, and thereby remains consistent with the objectives of the GFA controls in the PLEP 2011; and
- The proposed modifications do not alter any of the key components of the approved development, being that of a mixed-use development at 45 Macquarie Street, Parramatta.

4.0 Environmental assessment

Section 4.55(1A) of the EP& Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under section 4.55(3), the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Environmental Planning Instruments

The original base DA approval and subsequent modifications assessed the development against the relevant Environmental Planning Instruments, the following of which remain unchanged as a result of the modifications being proposed:

- | | |
|---|---|
| - SEPP 55 – Remediation of Land | - Ecologically Sustainable Development |
| - SEPP 65 – Design Quality of Residential Apartment Development | - Heritage |
| - Residential Flat Design Code | - Classified Roads |
| - SEPP BASIX | - Development on Flood Prone Land |
| - SEPP Infrastructure | - Building Setbacks |
| - Zoning | - Street Frontage heights |
| - Height | - Ceiling heights |
| - Design Excellence | - Deep soil zones for Mixed Use Development |
| - Minimum Street Frontage | - Active Street Frontages |
| - Minimum Carparking | - Vehicle Entries |
| | - Access, Parking and Servicing |

- Unit Mix
- Controls for Heritage Area
- Environmental Management
- Civic Improvement Plan

The planning assessment of the proposed modified development remains unchanged with respect to the above matters, and thereby do not require further reassessment. The relevant matters that require further consideration are discussed in greater detail below:

4.2 Gross Floor Area

As discussed in **Section 2.3** above, there is to be a minor increase in Gross Floor Area (GFA) of 188.4m² within the approved development, for a total proposed GFA of 47,333.8m². Such an increase is only due to the addition of the minor mezzanine as well as the roof terrace being re-classified as GFA as opposed to non-GFA area due to the installation of the external louvres, as the roof terrace is to become fully enclosed.

It is important to note that the GFA increase is not due to any other changes in built form and does not represent a significant intensification of the proposed uses of the building.

4.3 Visual impact and views

The installation of external louvres on level 26 of the site will have no significant impact on the visual impact of the development beyond that originally considered under the base approval and subsequent modifications. The louvres will not hinder or obstruct any sight lines or otherwise have any additional effect on the visual form of the area.

Furthermore, the louvres will only be installed at the landscaped roof terrace of the rooftop bar on the eastern elevation of the building. It will not be visible from Old Government House, which is located to the west of the site on the opposite side of the building. Thereby, views from Old Government House are to remain unchanged.

The proposed mezzanine does not affect visual impact and views, being internal in nature only.

4.4 Social and economic impacts

The proposed modifications will have positive social and economic impacts in providing a more positive and appealing experience for patrons of the building. The louvres will be utilised for weather protection, including from wind, solar glare and precipitation, thereby allowing the roof terrace to be usable under all weather conditions and thereby maximising the efficiency and use of the area. The mezzanine will allow for greater space and amenity for customers of the Kumiho restaurant within one of the ground floor retail tenancies of the building.

This increase in amenity thus has positive social impacts on the success of the development. Positive economic impacts are also expected to occur as a result of the two tenancies becoming more viable spaces, thus making them more likely to contribute to the broader Parramatta economy.

4.5 Site suitability

The proposed development is suitable in the context of the site, given the following:

- The site is appropriately zoned to accommodate the proposal;
- The proposed louvres and mezzanine will support the operation of approved uses at the Site, being that of a rooftop bar and restaurant respectively;
- The proposed louvres and mezzanine will assist the development in achieving a high quality design and will integrate with and complement the design of the building; and
- The site does not have any planning or environmental constraints which would preclude the installation of louvres and a mezzanine.

4.6 Public interest

The proposed development is in the public interest. The proposed louvres will work to provide a greater level of amenity to patrons of the rooftop bar use of the site, and enable use of the roof terrace for all weather conditions, including high wind and rain, and thereby will enable greater and more efficient use of a facility that is open to the general public. The mezzanine will result in an improved restaurant layout and design that will benefit the customers of the Kumiho restaurant in the building.

5.0 Conclusion

This section 4.55(1A) modification application comprises:

- the installation of external louvres at level 26 of the building at 45 Macquarie Street, Parramatta, specifically pertaining to the rooftop bar portion of the development for the purposes of weather protection and preventing damages to the tenancy; and
- the installation of mezzanine level associated with the Kumiho retail tenancy located on the corner of Hunter and Marsden streets.

In accordance with section 4.55(1A) of the EP&A Act, the Minister or their delegate may modify the consent, given that:

- The proposed modification is of minimal environmental impact;
- The consent, as proposed to be modified, is substantially the same development as that originally approved; and
- The building's compliance with the key statutory plans and controls remains consistent as that originally approved.

In light of the merits of the proposed development, and in the absence of any significant environmental impacts, it is without hesitation that we respectfully recommend this application for development consent. We trust that this information is sufficient to enable assessment of the proposed modification application. Should you have any queries regarding this matter, please do not hesitate to contact ASzczepanski@ethosurban.com or 9956 6962.

Yours sincerely,



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