

21 April 2020

Cameron Sargent  
Team Leader  
Department of Planning, Industry and Environment  
320 Pitt Street  
Sydney 2000

Dear Cameron Sargent,

**RE: REQUEST FOR COMMENT ON CONDITIONS - Barangaroo - Crown Hotel Resort -Mod-2 (SSD-6957-Mod-2)**

The Department of Planning, Industry and Environment (the **Department**) has drafted conditions of consent for the Barangaroo – Crown Hotel Resort Mod 2 (**Mod 2**), and invited the applicant to review and provide any comments to the Department.

This letter has been prepared by Ethos Urban on behalf of the applicant, Crown Sydney Hotel Resort (**Crown**), and outlines Crown's comments regarding the draft conditions of consent.

This letter should be read in conjunction with the following documents:

- Legal Advice prepared by Corrs Chambers Westgarth, included at **Attachment A**;
- Traffic and Parking Statement prepared by JMT Consulting, included at **Attachment B**;
- Allocation of car spaces per apartment, included at **Attachment C**;
- Intended use of car spaces statement prepared by Knight Frank, included at **Attachment D**; and
- Carparking and change of use statement prepared by Bates Smart Architects, included at **Attachment E**.

It is noted that the Department has amended the conditions to reduce the total number of approved on-site car parking spaces from 641 to 626. Specifically, the draft approval reduces the total number of approved residential parking spaces from 157 to 142 (a reduction of 15 residential car parking spaces).

For reasons outlined below, Crown requests that the Department reconsider this reduction in parking and instead maintains the currently approved 157 spaces.

## **1. Consistency with Concept Plan**

Crown Sydney Hotel Resort building is located within Block Y, as identified by the Barangaroo Concept Plan (MP06\_0162) (**Concept Plan (MOD 8)**). The conditions of the Concept Plan outline a number of requirements relating to future development on the site, including maximum GFA for each use, minimum open space, building envelope and built form principles and controls, maximum building heights, a statement of commitments, public domain interface requirements, transport and parking controls, public access requirements and environmental assessment and consultation requirements.

With regards to achieving consistency with Concept Plan (MOD 8), we note that this requirement is set out in clause 3B(2)(d) within Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*. This clause states (**our emphasis**):

(d) a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is **generally consistent** with the terms of the approval of the concept plan,

We are of the view that the development, as proposed to be modified under SSD 6957 MOD 2, remains generally consistent with the existing approval for Block Y under Concept Plan (MOD 8). We form this view as:

- the proposed modification to the approved development is for minor internal works only and will not result in any amendments to the building's exterior design;
- the internal nature of the proposed modifications means that it will continue to deliver an outcome that is unchanged from and, therefore consistent with, the approved building form, the approved building envelope, building form, building height, maximum GFA (including maximum residential GFA), architectural design, public domain interface and public access requirements;
- the minimum open space requirements are unchanged from and consistent with the Concept Plan (MOD 8);
- the specific modifications required to facilitate the proposed amalgamation of residential apartments do not alter the general uses and their composition within the building, which remain the same;
- the proposed modifications continue to comply with the relevant design controls including the proposed Built Form Principles and 'Barangaroo South Design Guidelines';
- the proposal does not result in any new or additional environmental impact on the surrounding area, and it will continue to comply with environmental assessment and consultation requirements outlined within the terms of approval;
- the basement car park has already been constructed and the level of excavation and physical works required for the proposed basement carparking remain entirely consistent with that described within the approved Concept Plan (MOD 8);
- the proposed use of the basement for car parking remains consistent with its approved use for parking, storage, servicing and other ancillary functions associated with the building. The proposed modification will therefore not compromise the ability of the basement to perform its primary functions;
- the Traffic Impact Assessment prepared by JMT Consulting confirms that the proposal will generate fewer trips than that assessed and approved under the Concept Plan (MOD 8). On this basis the proposal remains consistent with the Concept Plan (MOD 8) approval in this regard; and
- the proposed parking solution does not result in an outcome that goes against the Statement of Commitments for the Concept Plan (MOD 8), noting that Commitment 49 does not set out a requirement for four (4) bed apartments occurring within the Precinct.

Given the above, it is our view that the proposed development remains generally consistent with the approved development as envisaged by the Concept Plan.

Crown has sought legal advice from Corrs Chambers Westgarth (**Attachment A**) with regards to whether Mod 2 the remains generally consistent with Concept Plan as required by clause 3B(2)(d) of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

## 2. Crown Sydney Hotel Resort development

Crown Sydney Hotel Resort is a hospitality branded luxury development, which offers only premium residential apartments that provide residential amenity well in excess of average standards. The development sets itself apart in the standard it delivers, catering to a specific high-end market largely unique in this city. Purchasers falling within this market are typically transitioning from large scale estate homes and expect similar volumes of large scale internal and storage spaces.

Each of the 15 apartments, which are the subject of the Mod-2 application, have been purchased with the intent of the buyer to amalgamate and customise the living experience. This amalgamation will result in nine (9) individual apartments with larger and enhanced living areas, fewer bedrooms, and less density in the residential strata of the building. The original entitlements and spatial allocations within the residential strata are a fundamental part of the reasoning behind amalgamation. This decision is no different than purchasing multiple apartments within an existing building and modifying demising walls to create a larger consolidated apartment with enhanced living areas.

At the time of the original SSD6957 approval, the Concept Plan did not envisage such large-scale apartments of 4+ bedrooms. The East Darling Harbour - Concept Plan Transport Report (20 September 2006), which accompanied the Concept Plan, undertook its traffic and parking assessment on the assumption that apartments would be an average of 100 sqm GFA per apartment. However, the average apartment size within the Crown Hotel Resort is more than double that, being 262 sqm. It is additionally noted that the proposed amalgamated apartments of 4+ bedrooms within the Crown Sydney building are four times larger than the previously assumed average, at over 400 sqm each. The residential product that is being provided within Crown Sydney therefore significantly differs from the residential density that was envisaged for the site at the time of approving the original Concept Plan.

All apartments retain the same parking rates as those set out in Mod-1, with the exception of a few large-scale apartments. As demonstrated within the proposed parking allocation spreadsheet at **Attachment C** and **Table 1**, all apartments proposed to receive car spaces above the approved rates are larger than 410 sqm (and up to 855sqm in size). All 2 and 3 bedroom apartments provide parking in accordance with the Concept Plan, and are more in line with apartment sizes envisaged under the Concept Plan.

**Table 1** below indicates the proposed allocation of residential car parking spaces for these specific large-scale apartments.

**Table 1 Summary of proposed allocation of parking between Mod-1 and Mod-2**

| Mod-1 Apartment Type   | Mod-1 Allocated Car Parking Spaces                                  | Mod-2 Proposed Apartment Type | Mod-2 Proposed Allocated Car Parking Spaces | Mod-2 Proposed Sizes of Apartments (sqm)                                                       | Comments                                                                                 |
|------------------------|---------------------------------------------------------------------|-------------------------------|---------------------------------------------|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| 4 bed                  | 2                                                                   | 4 bed                         | 2 per apartment                             | Under 400 m <sup>2</sup>                                                                       | Applicable to all 4 bed apartments other than those set out below                        |
| 2 x 3 Bed<br>2 x 2 Bed | 6 in total:                                                         | 2 x 4 Bed (L33 full floor)    | 3 per apartment                             | <ul style="list-style-type: none"> <li>462 m<sup>2</sup></li> <li>422 m<sup>2</sup></li> </ul> | Mod-2 Proposed amalgamation across a full floor of 4 apartments into 2 by one purchaser. |
| 1 x 3 Bed<br>1 x 2 Bed | 3 in total:<br>2 for 3 Bed apartment<br>1 for 2 Bed apartment       | 4 Bed + Study (L37)           | 3 per apartment                             | <ul style="list-style-type: none"> <li>410 m<sup>2</sup></li> </ul>                            | Mod-2 Proposed amalgamation of 2 apartments into 1                                       |
| 2 x 3 Bed<br>1 x 2 Bed | 5 in total:<br>2 for each 3 Bed apartment;<br>1 for 2 Bed apartment | 4 Bed + Study (L51)           | 4 per apartment                             | <ul style="list-style-type: none"> <li>456 m<sup>2</sup></li> </ul>                            | Mod-2 Proposed amalgamation of 2 apartments into 1                                       |

| Mod-1 Apartment Type       | Mod-1 Allocated Car Parking Spaces        | Mod-2 Proposed Apartment Type    | Mod-2 Proposed Allocated Car Parking Spaces | Mod-2 Proposed Sizes of Apartments (sqm)                                                           | Comments                                                                  |
|----------------------------|-------------------------------------------|----------------------------------|---------------------------------------------|----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| 2 x 3 Bed                  | 4 in total:<br>2 for each 3 Bed apartment | 4 Bed + Study (L60 full floor)   | 4 per apartment                             | <ul style="list-style-type: none"> <li>550 m<sup>2</sup></li> <li>525 m<sup>2</sup></li> </ul>     | Mod-2 Proposed amalgamation of 2 apartments into one full floor apartment |
| 2 x 3 Bed                  | 4 in total:<br>2 for each 3 Bed apartment | 4 Bed + Study (L61 full floor)   | 4 per apartment                             | <ul style="list-style-type: none"> <li>502.1 m<sup>2</sup></li> <li>478.6 m<sup>2</sup></li> </ul> | Mod-2 Proposed amalgamation of 2 apartments into one full floor apartment |
| 5 Bedroom Duplex Penthouse | 3                                         | 5 Bedroom Duplex Penthouse (L64) | 3 per apartment                             | <ul style="list-style-type: none"> <li>855 m<sup>2</sup></li> </ul>                                | Remains unchanged from Mod 1 Allocation                                   |

Furthermore, the Commission acknowledged within the assessment of the Concept Plan MOD 8 that the patrons of the hotel and VIP Restricted Gaming Facility will be predominantly car based given the nature of the development, and that car parking will be expected for patrons of a 6 star development. The same parking expectations can be considered relevant for the residents of these larger residential apartments.

### 3. Other benefits to be provided

In addition to the car parking spaces allocated per apartment set out above, the following additional car parking allocation will be provided for the use and benefit of all residents:

- 3 dedicated shared use electric vehicle charging bays;
- 1 dedicated car wash bay; and
- 2 dedicated visitor car parking bays.

It is additionally noted that some of the 157 car spaces are required for dedicated 'fuel efficient' parking spaces equipped with electric charging stations, as a result of some purchaser's specific requirements.

### 4. Use of car parking spaces

Knight Frank, Crown's nominated residential sales agent, has prepared a statement outlining the proposed use of residential car spaces, both generally within the demographic of buyers applicable to Crown Sydney, and also specifically in relation to the existing and future purchasers of the Crown's residential apartments (Refer to **Attachment D**).

As Knight Frank confirm in their statement, buyers within the demographic applicable to Crown Sydney own multiple cars for everyday use. Typically, purchasers of these apartments will own 3 everyday cars that they use interchangeably. In addition, it is also common for this category of buyer to own classic cars as an investment, with Knight Frank highlighting that, on average, 5% of investment portfolios of the target demographic for Crown Sydney purchasers include collectables such as Classic Cars, while 30% of this demographic stated their allocation of investment into Collectables would increase in the near future.

More specifically, in relation to the actual purchasers of Crown Sydney, Knight Frank confirms that, on average, Crown Sydney's purchasers own 3 everyday cars and approximately 50% of purchasers also own collectible cars for investment.

In this market, the use of everyday cars and ‘collectible’ cars by a resident will likely only generate trips occasionally and be used interchangeably, rather than each car being used for daily commuting purposes. Residential car bays in the Crown Sydney Hotel Resort in this sense are used as secure storage for those ‘collectable’ and interchangeable vehicles. Given the demand for these large size apartments, particularly the ones proposed to be amalgamated under Mod 2, it is understood that additional space is likewise required to be allocated to these apartments for the storage of such ‘collectable’ cars. Importantly, Knight Frank advises that parking and storing of cars has been a key concern for those intending to purchase a residence at Crown Sydney.

It can therefore be concluded with a reasonable level of certainty that the proposed parking, although above the approved parking rates within the Concept Plan, will predominantly be used for storage purposes only and will not generate additional trips or environmental impact.

Further, we note that under the *Standard Instrument—Principal Local Environmental Plan*, the definition of a parking space ‘means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park’. Therefore, as the car bays are not generally utilised for daily transportation vehicles, but rather as storage spaces, the storage of these ‘collectible’ cars must be defined as a parking space for the purposes of this application.

## 5. Construction of Crown Sydney Hotel Resort

Construction of the Crown Sydney Hotel Resort commenced June 2016 and is currently at an advanced stage, with the core topped out at Level 69. The basement levels are nearing completion with final painting and area finishes being completed and services being activated.

Given the advanced state of the development, the basement and in particular, the designated residential car parking area, has already been constructed. As the space already exists, any additional GFA resulting from a reduction in car bays is not able to be reallocated or redeveloped by Crown, and the area would effectively be unused excess space. Such space, if left over, would inevitably likely be used for storage of items by residents, including cars, but would occur in an informal and uncoordinated way, much to the detriment of the basement itself. Indeed, haphazard use of this space itself could undermine and/or compromise the orderly functioning of the basement due to no clear structure or ownership. The proposed retention of this area as parking, and allocation to specific apartments will allow for a clear ownership structure and managed approach to this space, which importantly will help negate any potential strata management issues in the future and ultimately be to the benefit of all residents in the building.

Furthermore, the Basement as currently built was constructed in accordance with the approved plans which were predicated on all areas being used as car parking. This enabled the basement to be considered a single fire compartment across the three levels in accordance with the BCA. On this basis the provision of building services throughout the basements was greatly simplified as there were generally no fire rating requirements to be considered. To achieve this, the basement design had to meet specific requirements under the BCA - namely making use of a provision which limits areas of another (minor) use or classification in carparking areas (Class 7a) to 10% of the floor area. The 10% limit for minor uses has been reached for Basement level 2 which contains the Residential Parking.

As confirmed by Bates Smart in **Attachment E**, if some of the residential car spaces are converted to another use (ie. storage) this would result in ‘minor use space’ pushing beyond the 10% threshold under the BCA. Where the 10% threshold is exceeded all minor use spaces on that level would require fire separation from carparking areas – not just those areas which exceed the limit. This would force Crown to redesign the basements entirely to satisfy BCA fire safety requirements. Due to the advanced state of construction and services installation this would necessitate an extensive reworking of building services both at this level and throughout the other basement levels.

## 6. Traffic movements and impacts

Crown has engaged Joshua Milston of JMT Consulting, the original traffic engineer who has long-standing experience with the Barangaroo precinct going back to the original Mod-4 Concept Plan approval, to prepare a Traffic and Parking Statement which is provided at **Attachment B**.

Under the Crown Sydney Hotel Resort SSD 6957 Mod-1, a maximum of 87 residential apartments were approved, with a maximum of 157 residential car parking spaces. This volume of parking and resulting traffic movements was assessed for the proposed development, and it was found that this volume of parking provision is acceptable and will not have adverse impacts on the broader Barangaroo street network. Should the 157 residential car parking spaces remain under this Mod-2, the amalgamations will not result in additional traffic generation, and it remains the relevant assessment for the volume of parking that is acceptable without creating any adverse impacts on the broader Barangaroo street network.

JMT Consulting conclude that, even taking the most conservative approach to forecasting traffic generation, the proposal (retaining the currently approved 157 residential car bays) still results in less traffic movements when compared with that considered for both the original and current project approval. In addition, JMT Consulting note that:

- the amalgamations will result in a reduction in total traffic movements, given that people from the same household are more likely to carpool rather than if those apartments were under the ownership of separate (unamalgamated) apartments;
- the proposed modification, including 157 residential car parking bays, results in less traffic movements and improved traffic and environmental impacts compared to the original approval for the site;
- should the number of residential car bays be reduced to 142, the benefit to the adjacent road network would be negligible and in the order of 1 less vehicle per hour; and
- utilising the recommended Transport for NSW approach to forecasting traffic generation, there would be no change in traffic movements (and traffic impacts) by maintaining the number of proposed residential car bays when compared to reducing the number of residential car bays to 142. In the above context the proposed modification (including 157 residential car bays) will not result in any additional impacts on the traffic and transport network compared to the current approval for the site.

One of the main reasons the Department approved increasing the parking spaces for Block Y within Concept Plan Mod 8 beyond the City of Sydney LEP rates, was that the traffic impacts arising from the additional parking numbers were not considered significant. Indeed, this scenario remains under the proposed arrangement and we believe that the Department is able to form the same view as it relates to these proposed amendments, given the lack of resulting traffic impacts.

## 7. Similar Precedents

JMT Consulting's report at **Attachment B** confirms that there are existing precedents in the Sydney CBD that have allowed parking above the rates provided in the City of Sydney LEP or DCP.

For the Sydney International Convention Exhibition and Entertainment Precinct (SSD 5878), Darling Harbour, Sydney - 'The Haymarket', the recommended parking rate as per the City of Sydney LEP was 0.47 spaces per dwelling, whereas the approved parking rate for the development was 0.7 spaces per dwelling.

The justification for the approval of this higher parking rate was twofold in that the approved parking rates reflected the anticipated level of car ownership for residents within the building; and the traffic impacts arising from the additional parking numbers were not considered significant. In its report, JMT Consulting confirms that each of these factors are equally applicable to the Crown Sydney Hotel Resort.

For the partial retention/major refurbishment of existing buildings (including the basement car parking areas) within the 'Quay Quarter Sydney' precinct, 50 Bridge Street Sydney (D/2015/929) & 33 Alfred Street Sydney (D/2017/500), the majority of parking spaces were retained, resulting in over 200 parking spaces being provided for the sites, whereas application of the City of Sydney LEP parking rates would have resulted in only approximately half of this number. This was as a result of the impracticality of removing car parking spaces given no changes were made to much of the existing basement structure. The same is the case for the Crown Sydney Hotel Resort, where the construction is at such an advanced stage and the car parking area for residents has long been completed.

## Conclusion

Given the above, we respectfully request that the Department retain the number of car spaces at 157 as per the existing approval for this modification application. We trust the above letter details the information that you require to continue with your assessment of the proposed SSD 6957 Mod-2. Should you have any queries or wish to discuss any of the above, please do not hesitate to contact the undersigned.

We can confirm that aside from the condition related to parking, Crown does not have any further objections to the proposed draft conditions.

Yours sincerely,



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