

19 May 2020

Our Ref: 17632

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

Dear Cameron Sargent,

SECTION 4.55(1A) MODIFICATION APPLICATION CROWN SYDNEY HOTEL RESORT (SSD 6957)

This application has been prepared by Ethos Urban on behalf of Crown Sydney Hotel Resort (Crown) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 6957 (Development Consent) relating to the approved Crown Sydney Hotel Resort located at 51a Hickson Road, Barangaroo, NSW.

The modifications relate to alterations and amendments to the approved scheme. An overview of the proposed modifications is provided in **Section 2.0**, with a full summary provided in **Section 3.0**.

While modifications are proposed to the approved development, all of the proposed changes are minor, and the modified design remains substantially the same as the originally approved development in that:

- The land use mix remains consistent with that of the approved development;
- The proposed modifications to the approval will not alter the external building form;
- The internal modifications proposed are minor in the context of the scale of the building;
- No changes to the approved parking numbers are proposed;
- No changes to the approved maximum GFA are proposed; and
- The anticipated environmental impacts are consistent with those of the approved development.

The development, as proposed to be modified, is therefore both essentially and materially of the same essence as that of the approved development and is considered to be substantially the same as the approved development. The modification of the Development Consent can therefore be made under section 4.55 of the EP&A Act.

The application identifies the Development Consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in Section 4.55(1A) of the EP&A Act. The application is accompanied by:

- Amended Architectural Plans prepared by Bates Smart (**Attachment A**);
- Design Statement and ADG checklist prepared by Bates Smart (**Attachment B**);
- BCA Statement prepared by McKenzie Group (**Attachment C**);
- Updated BASIX certificate prepared by Arup (**Attachment D**);
- Traffic and Parking Statement prepared by JMT Consulting, included at **Attachment E**;
- Allocation of car spaces per apartment, included at **Attachment F**;
- Intended use of car spaces statement prepared by Knight Frank, included at **Attachment G**; and
- Carparking and change of use statement prepared by Bates Smart Architects, included at **Attachment H**.

The statement should be read in conjunction with:

- Environmental Impact Statement (EIS) prepared by JBA Urban Planning Consultants Pty Ltd, dated July 2015;
- Response to Submissions report prepared by JBA Urban Planning Consultants Pty Ltd, dated October 2015; and
- Further Response to Submissions report dated 16 February 2016.

1.0 Consent proposed to be modified

Development Consent for a mixed-use building, known as Crown Sydney Hotel Resort, was granted by the Planning Assessment Commission on 28 June 2016..

A modification application (SSD 6957 Mod 1) was subsequently lodged which sought consent for various alterations, including internal and external changes to the design and layout of the building, redistribution of tourism, retail and residential GFA, an increase in residential apartments from 66 to 87, a commensurate increase in car parking from 610 to 641 spaces, and minor changes to the porte-cochere, outdoor seating areas and landscaping. The application did not seek to increase the maximum height of the building (RL 275m) or the maximum approved GFA (77,500sqm).

On 31 October 2019, Application SSD 6957 Mod 1 was approved by the Group Deputy Secretary. The modifications related to various alterations to the approved scheme including the reconfiguration of the internal layout and apartment layouts, resulting in changes to the GFA breakdown and increase in the number of residential apartments. The modification also included the reconfiguration of the basement car park resulting in a changes to the breakdown of car space allocation, additional residential bicycle parking spaces, minor design amendments to the ground level including landscaping, reconfiguration to the terrace layouts on Levels 3, 4 and 24, and the addition of an observation deck for the public within Level 66.

Subsequently, on 7 May 2020 a second modification under section 4.55(1A) (SSD 6957 Mod 2) was approved by a delegate of the Minister for Planning. The modification included the amalgamation of apartments on Levels 33, 37, 51, 60 and 61. The second modification resulted in a decrease in the total number of residential apartments from 87 to 81 as currently approved. The total maximum residential Gross Floor Area (GFA) of 22,600m², the approved total building GFA of 77,500m² and residential car spaces remain unchanged by this modification.

The Development Consent, as modified, includes:

- *site remediation, earthworks, excavation, structural and site preparation works;*
- *construction and fit-out of a 71-storey (RL 275 metre) tower including podium;*
- *construction of three basement levels;*
- *a total GFA of 77,500 sqm, comprising:*
 - *81 residential apartments;*
 - *hotel use (350 hotel keys/rooms) and ancillary guest and visitor facilities;*
 - *6,085 sqm restricted gaming facility GFA; and*
 - *6,700 sqm retail GFA.*
- *641 on-site car parking spaces and 207 bicycle parking spaces;*
- *public domain works and landscaping; and*
- *business and building identification signage and signage zones.*

The proposed modification that is the subject of this application represents the third modification to SSD 6957.

2.0 Proposed modifications to the consent

The proposed modification to the development consent comprises the amalgamation of some apartments in response to a specific buyer request in relation to apartments on Levels 48 and 49. These modifications result in a decrease in the total number of residential apartments from 81 to 76 as currently approved under SSD 6957 Mod 2.

The amendments result in a minor decrease in the total residential GFA, while staying within the approved total maximum residential GFA of 22,600m² and the approval total building GFA of 77,500m². The apartments proposed to be amalgamated are described in **Table 1** below.

Table 1 Proposed changes per level

Level	SSD 6957 MOD 1	Proposed
Level 48	<ul style="list-style-type: none"> 2 x 3 Bedroom Apartment 1 x 4 Bedroom Apartment 	<ul style="list-style-type: none"> 1 x 6 Bedroom plus study Duplex Apartment.
Level 49	<ul style="list-style-type: none"> 1 x 2 Bedroom Apartment 1 x 3 Bedroom Apartment 1 x 4 Bedroom Apartment 	

An example of the proposed changes is indicated below at **Figure 1** and **2** for Level 48. Proposed modifications are also indicated at **Attachment A**.



Figure 1 Approved Level 48

Source: Wilkinson Eyre

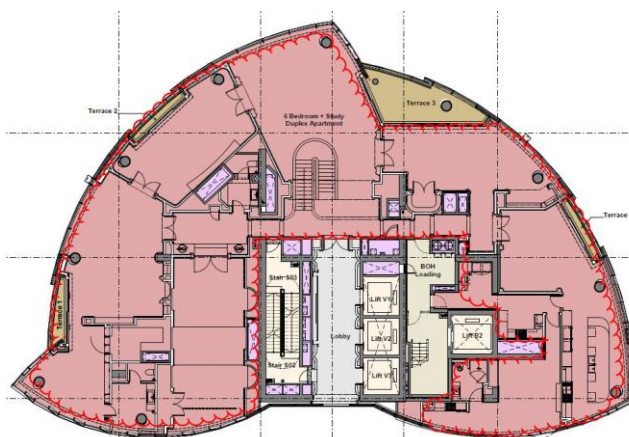


Figure 2 Proposed Level 48

Source: Wilkinson Eyre

An overview of the proposed modifications is provided in **Table 2** below, with a more detailed summary provided in the remainder of this letter.

Table 2 Summary of Proposed Modifications

Original Consent (SSD 6957)	Modified Consent (SSD 6957 MOD 1)	Modification Application (SSD 6957 MOD 2) (As approved)	Proposed Modification (this application)	Variation
site remediation, earthworks, excavation, structural and site preparation works;	N/A	NIL	As approved	NIL

Original Consent (SSD 6957)	Modified Consent (SSD 6957 MOD 1)	Modification Application (SSD 6957 MOD 2) (As approved)	Proposed Modification (this application)	Variation
construction and fit-out of a 71 storey (RL 275 metre) tower including podium;	N/A	NIL	As approved	NIL
construction of three basement levels;	NIL	NIL	As approved	NIL
a total approved GFA of 77,500sqm	NIL	NIL	As approved	NIL
<ul style="list-style-type: none"> 66 residential apartments; 	87 residential apartments	81 residential apartments	76 residential apartments	Reconfigured apartment mix within the forecasted residential GFA of current Development Consent. Proposed decrease of 11 apartments from the approved modification.
<ul style="list-style-type: none"> Hotel use (350 hotel keys/rooms) and ancillary guest and visitor facilities; 	349	NIL	As approved	NIL
<ul style="list-style-type: none"> 6,085sqm restricted gaming facility GFA; and 	NIL	NIL	As approved	NIL
<ul style="list-style-type: none"> 6,700sqm retail GFA 	NIL	NIL	As approved	NIL
610 on-site car parking spaces, comprising: <ul style="list-style-type: none"> 250 valet spaces 250 self-parking spaces 110 residential spaces 	641 on-site car parking spaces, comprising: <ul style="list-style-type: none"> 271 valet spaces 213 self-parking spaces 157 residential spaces 	NIL	As approved	NIL
188 bicycle parking spaces, comprising: <ul style="list-style-type: none"> 83 non-residential spaces 68 residential spaces 37 visitor (public) spaces 	207 bicycle parking spaces, comprising: <ul style="list-style-type: none"> As approved non-residential spaces 87 residential bicycle spaces As approved visitor (public spaces) 	NIL	As approved	NIL
35 motorcycle parking	NIL	NIL	As approved	NIL
public domain works and landscaping	NIL	NIL	As approved	NIL
business and building identification signage and signage zones	NIL	NIL	As approved	NIL

3.0 Modifications to the development

A detailed floor by floor account of the proposed amalgamations of apartments at each level of the development is provided in **Table 3** below.

Table 3 Proposed changes per level

Level	SSD 6957 MOD 1	Proposed
Level 48	<ul style="list-style-type: none"> 2 x 3 Bedroom Apartment 1 x 4 Bedroom Apartment 	<ul style="list-style-type: none"> 1 x 6 Bedroom plus study Duplex Apartment
Level 49	<ul style="list-style-type: none"> 1 x 2 Bedroom Apartment 1 x 3 Bedroom Apartment 1 x 4 Bedroom Apartment 	

The modifications set out in **Table 3** that require further explanation are described below and clouded within Architectural Plans at **Attachment A**.

3.1 Shift in Gross Floor Areas and Internal Layouts

A specific buyer request has led to the ongoing design development of the internal layouts. As a result, there is a minor decrease in GFA (see **Table 4**) which still remains within the maximum GFA as permitted under of the Concept Plan (Mod 8) (see **Table 5**).

Table 4 Approved and proposed residential GFA schedules

Residential GFA	Approved As per S4.55(2) Application (SSD 6957 Mod 2)	Proposed
Total GFA (sqm)	22,525	22,464
Maximum GFA (sqm)	22,600	22,600

Table 5 Approved target GFA as per the Concept Plan (Mod 8)

	Type of Use			
	Tourism GFA (sqm)	Retail (sqm) (maximum)	Residential GFA (sqm) (maximum)	Sub Total
Target GFA (sqm)	48,200	6,700	22,600	77,500

3.2 Reconfiguration of Internal Apartment Layouts

As detailed above, the proposed amendments involve the amalgamation of existing apartments on Levels 48 and 49, in turn necessitating changes to the internal arrangements of floor layouts on these levels. The proposed amendments principally involve a reshuffling of approved apartment layouts within the approved building, which has been driven by a specific purchaser request for amendments to provide a residential apartment product that they desire.

Based on the detailed design revisions of the internal apartment layouts, six (6) apartments are proposed to be amalgamated into one (1) apartment, of which is commensurate with the luxury residential market that is the target of the Crown development. Importantly, the proposed internal reconfigurations and amalgamation of apartments will not change the approved maximum residential GFA.

A summary of the approved and proposed dwelling mix is provided in **Table 6**. The residential revisions result in a minor decrease to the approved residential GFA, incorporated within the existing building envelope and remain within the maximum residential GFA provision of 22,600m², as prescribed by the approved Barangaroo Concept Plan.

Table 6 Modified dwelling mix/yield

SSD 6957			SSD 6957 Mod 1		SSD 6957 Mod 2 (Current Approval)		Proposed		Change compared to Current Approval	
Type	Number	%	Number	%	Number	%	Number	%	Units	%
Two Bed	28	42.5%	27	31%	25	30.8%	24	31.6%	-1	+0.8%
Three Bed	32	48.5%	45	51.7%	36	44.4%	33	43.4%	-3	-1.0%
Four Bed	5	7.5%	14	16%	19	23.5%	17	22.3%	-2	-1.2%
Five Bed	1	1.5%	1	1.1%	1	1.2%	1	1.3%	-	+0.1%
Six Bed	-	-	-	-	-	-	1	1.3%	+1	+1.3%
Total	66	-	87	-	81	-	76	-	- 6	-

4.0 Modification to Conditions

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

1. The description of the approved development is amended by the deletion of struck out words and the insertion of bold and underlined words as follows:

Development of the mixed-use Crown Sydney Hotel Resort, including:

- site remediation, earthworks, excavation, structural and site preparation works;
- construction and fit-out of a 71-storey (RL 275 metre) tower including podium;
- construction of three basement levels;
- a total GFA of 77,500sqm, comprising:
 - ~~84~~ **76** residential apartments;
 - hotel use (349 hotel keys/rooms) and ancillary guest and visitor facilities;
 - 6,085sqm restricted gaming facility GFA; and
 - 6,700sqm retail GFA.
- 641 on-site car parking spaces and 207 bicycle parking spaces;
- public domain works and landscaping; and
- business and building identification signage and signage zones

Part A

A2. The Applicant shall carry out the project generally in accordance with the:

....

f) Environmental Impact Statement entitled 'Section 4.55(2) Modification Application – Crown Sydney Hotel Resort (SSD 6957)', and accompanying appendices prepared by Ethos Urban (dated 24 May 2019), Response to Submissions prepared by Ethos Urban (dated 24 July 2019) and Revised Response to Submissions prepared by Ethos Urban (dated 4 September 2019)

g) Environmental Impact Statement entitled 'Section 4.55(1A) Modification Application – Crown Sydney Hotel Resort (SSD 6957)', and accompanying appendices prepared by Ethos Urban (dated 6 December 2019);

h) Environmental Impact Statement entitled 'Section 4.55(1A) Modification Application – Crown Sydney Hotel Resort (SSD 6957)', and accompanying appendices prepared by Ethos Urban (dated 18 December 2019);

h) i) The conditions of this consent;

h) j) Concept Plan Approval MP06_0162; and

h) k) The following drawings, except for:

- i) any modifications which are Exempt or Complying Development as identified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- ii) otherwise provided by the conditions of this consent.

Development in Accordance with Plans

A2. The Applicant shall carry out the project generally in accordance with the:

...

Table to be updated in line with modified plan dates and revision numbers (refer to Attachment A)

...

Part B

B38. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate No. ~~640026M_04~~ **640026M_05**, and an updated certificate issued if amendments are made. The BASIX certificate must be submitted to the PCA and Secretary with all commitments clearly shown on the relevant Construction Certificate Plans.

Part F

F9. All commitments listed in the BASIX Certificate No. ~~640026M_04~~ **640026M_05** (as referred to in Condition B38) for the development must be fulfilled prior to the issue of an Occupation Certificate.

Reason for Modification:

This condition is required to be updated to reflect the revised architectural plans for the development.

5.0 Minimal Environmental Impact

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 proposed modification is of minimal environmental impact. All modifications proposed within this application are internal and will have no perceptible environmental impact. An assessment of the anticipated impacts of the proposed modification is provided in the attached technical reports and in **Section 0** below. Due to minimal environmental impacts associated with the proposed modification it can be approved under Section 4.55(1A) of the EP&A Act.

6.0 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 land use mix remains consistent with that of the approved development;
- the proposed modifications to the approval will not alter the building form or function;
- the internal modifications proposed are minor in the context of the scale of the building;
- no changes to the maximum approved GFA are proposed;
- no changes to the approved parking numbers are proposed; and
- the anticipated environmental impacts are consistent or slightly improved than with those of the approved development.

The development, as proposed to be modified is therefore both essentially and materially of the same essence as that of the approved development and is therefore considered to be substantially the same as the approved development. The modification of the Development Consent can therefore be lawfully made under section 4.55 of the EP&A act.

7.0 Environmental assessment

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 and the reasons given by the consent authority for the grant of the original consent.

The EIS submitted with the original application (SSD 6957) assessed the potential impacts of the overall development with regard to the following key planning issues:

- | | | |
|---|-------------------------------------|---|
| • Consistency with Relevant EPIs, Policies and Strategies | • Social Impacts | • Building Code of Australia (BCA) and Access |
| • Barangaroo Concept Plan | • Economic Impact | • Structural Engineering |
| • Design Excellence | • Climate Change and Sea Level Rise | • Geotechnical |
| • Urban Design and Built Form | • Marine Ecology | • Contamination |
| • Residential Amenity | • Heritage | • Operational Waste Management |
| • Overshadowing Impacts | • Archaeology | • Ecologically Sustainable Development |
| • Wind | • Operational Noise and Vibration | • Sydney Observatory Impacts |
| • Reflectivity | • Navigation Impacts | • Construction Management |
| • Signage | • Fire Safety | |
| • Transport and Accessibility | • Stormwater and Drainage | |
| • Security and Safety | • Infrastructure and Utilities | |

The planning assessment of the proposed modified development remains generally unchanged with respect to the large majority of the above matters.

The proposal therefore remains consistent with those previously assessed and approved under SSD 6957 Mod 2. The following matters however warrant further assessment.

7.1 Compliance with Statutory Plans and Policies

An assessment of the proposed changes against the relevant statutory plans, including the Barangaroo Concept Plan, are provided below.

Table 7 Compliance with Relevant Statutory Plans and Policies

Instrument/ Strategy	Comments										
SEPP 65	The Design Verification Statement prepared by Bates Smart, regarding the proposed modifications to the residential components, addresses the principles of SEPP 65. An assessment of the proposal against the Apartment Design Guide is included within the SEPP 65 Design Verification Statement at Attachment B .										
State Environmental Planning Policy (State Significant Precincts) 2005	<p>The Barangaroo site is listed as a State Significant Precinct under Part 12 of Schedule 3 of <i>State Environmental Planning Policy (State Significant Precincts) 2005</i> (previously approved pursuant to Major Development SEPP).</p> <table> <tr> <td>Clause 8 - Zone B4 Mixed Use</td><td>The proposed uses within the development are not proposed to be altered and are all permissible with the B4 zone.</td></tr> <tr> <td>Clause 17 - Height of buildings (Maximum RL 41.5)</td><td>The proposed modifications do not alter the maximum RL of 275m, and therefore complies with the maximum permitted height development standard.</td></tr> <tr> <td>Clause 18 - Gross Floor Area Restrictions - Maximum 77,500m² (across Block Y)</td><td>The proposed development has a capped GFA of 77,500m² which complies with the maximum GFA development standard for the site.</td></tr> <tr> <td>Clause 19 - Design Excellence</td><td>The proposed development does not modify the design of the building, which continues to demonstrate Design Excellence in accordance with clause 19. All proposed modifications are internal.</td></tr> <tr> <td>Clause 23 – Development near zone boundaries</td><td>This clause applies to land within a 25m distance of a boundary of any 2 zones. In the case of the development, approval for parts of the terraces and balconies, and future food and drink premises over RE1 zoned land was given as part of the approved development. No modifications are proposed to the terraces and balconies and the development will continue to operate terraces and balconies in accordance this clause.</td></tr> </table>	Clause 8 - Zone B4 Mixed Use	The proposed uses within the development are not proposed to be altered and are all permissible with the B4 zone.	Clause 17 - Height of buildings (Maximum RL 41.5)	The proposed modifications do not alter the maximum RL of 275m, and therefore complies with the maximum permitted height development standard.	Clause 18 - Gross Floor Area Restrictions - Maximum 77,500m ² (across Block Y)	The proposed development has a capped GFA of 77,500m ² which complies with the maximum GFA development standard for the site.	Clause 19 - Design Excellence	The proposed development does not modify the design of the building, which continues to demonstrate Design Excellence in accordance with clause 19. All proposed modifications are internal.	Clause 23 – Development near zone boundaries	This clause applies to land within a 25m distance of a boundary of any 2 zones. In the case of the development, approval for parts of the terraces and balconies, and future food and drink premises over RE1 zoned land was given as part of the approved development. No modifications are proposed to the terraces and balconies and the development will continue to operate terraces and balconies in accordance this clause.
Clause 8 - Zone B4 Mixed Use	The proposed uses within the development are not proposed to be altered and are all permissible with the B4 zone.										
Clause 17 - Height of buildings (Maximum RL 41.5)	The proposed modifications do not alter the maximum RL of 275m, and therefore complies with the maximum permitted height development standard.										
Clause 18 - Gross Floor Area Restrictions - Maximum 77,500m ² (across Block Y)	The proposed development has a capped GFA of 77,500m ² which complies with the maximum GFA development standard for the site.										
Clause 19 - Design Excellence	The proposed development does not modify the design of the building, which continues to demonstrate Design Excellence in accordance with clause 19. All proposed modifications are internal.										
Clause 23 – Development near zone boundaries	This clause applies to land within a 25m distance of a boundary of any 2 zones. In the case of the development, approval for parts of the terraces and balconies, and future food and drink premises over RE1 zoned land was given as part of the approved development. No modifications are proposed to the terraces and balconies and the development will continue to operate terraces and balconies in accordance this clause.										

7.1.1 Barangaroo Concept Plan (Mod 8)

The development is located within Block Y of Barangaroo South and has been designed in accordance with the approved Concept Plan (Mod 8), as detailed below.

The approved Concept Plan identifies maximum GFA and height controls for each Development Block within Barangaroo South, including Block Y, within which development is to be located. The proposed development is required to comply with the Concept Plan, including but not limited to, a maximum amount of GFA allowed within Block Y. The proposed modification to the approved development does not alter the building's GFA and therefore will continue to comply with the requirement under the approved Concept Plan.

In addition, the approved Concept Plan requires future applications to demonstrate consistency with the proposed Built Form Principles and 'Barangaroo South Design Guidelines'.

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 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) and SSD 6957 MOD 2. 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.

As part of additional information requested during the assessment of SSD 6957 MOD 2, Crown sought legal advice from Corrs Chambers Westgarth 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*.

The advice confirmed that given the above considerations of the application's consistency with the Concept Plan, a reduction in the maximum permissible on-site car parking spaces to ensure strict compliance with Condition C4 of the Concept Plan Approval is not required to achieve general consistency with the Concept Plan Approval. General consistency is achieved irrespective of whether the car parking rates are reduced, for the reasons outlined within their letter. The same principles and legal advice is applicable for this modification application.

Given the above, the proposed modification subject of this application, remains generally consistent with the approved development as envisaged by the Concept Plan.

Numeric Concept Plan Controls

Table 8 provides a comparison of the development's compliance with the proposed Concept Plan (Mod 8) numerical controls.

Table 8 Compliance with Concept Plan Block Y GFA and Height Controls

Block Y Concept Plan Control	Approved	Proposed Modification	Compliance
Maximum GFA – 77,500m ²	77,500m ²	As approved	Compliant
Maximum Residential GFA – 22,600m ²	20,675m ²	22,464m ²	Compliant
Maximum height – RL 275	RL 275	As approved	Compliant

Design Guidelines – Part 4

Overall the modifications to the development remain compliant with the principles and controls by ensuring the retention of:

- a building mass that remains appropriate within the envelope;
- a street wall that defines the promenade;
- an articulated, well-proportioned and legible building mass;
- permeability and accessibility through Block Y;
- an articulated and legible rooftop; and
- high architectural quality facades that contribute to the building's articulation and mass.

Table 9 demonstrates the proposed modifications consistency with Part 4 of the Guidelines.

Table 9 Compliance with relevant design solutions in Part 4 of the Guideline

Concept Plan (Mod 8) Block Y Control	Proposed Development	Comment
5.1.2 Residential Amenity		
<i>Performance criteria – Residential development achieves a high level of internal amenity and minimises impact upon the amenity of other existing and proposed residential development, including allowing for adequate solar access, natural ventilation, private open space and acoustic and visual privacy</i>		
DS1 - The design of Residential Apartment Buildings is to have regard to the 'Rules of Thumb' in the Residential Flat Design Code	The residential components of the development have been designed in accordance with the Apartment Design Guide, which replaced the Residential Flat Design Code – refer to the accompanying Architectural Design Statement at Attachment B , that details the compliance with the ADG.	Consistent
DS2 - Landscape spaces for future residents are generally provided in the form of balconies, wintergardens and roof terraces	All of these elements are included for the benefit of residents and will serve to provide a high level of amenity for residents. It is noted that there are no wintergardens within the proposed development, all private amenity spaces are in the form of open balconies and terraces.	Consistent
DS3 - Living rooms and private open spaces for at least 70% of apartments across the site should receive a minimum of 2 hours direct sunlight between 9 a.m. and 3 p.m. in mid-winter(excluding south-facing units)	72.3% of the residential units achieve 2 or more hours of solar access during the mid-winter between the hours of 9am and 3pm.	Consistent

Concept Plan (Mod 8) Block Y Control	Proposed Development	Comment
DS4- The maximum number of single aspect apartments with a southerly aspect (SW-SE) is 10% of all apartments proposed <i>Note: where this cannot be achieved, development must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed</i>	No apartments within the proposed development are southerly facing single aspect apartments.	Consistent
<i>Performance criteria – Development encourages housing choice and affordability.</i>		
DS1 - A minimum of 2.3% of all approved residential GFA is provided as key worker housing	Key worker housing will be provided as part of other residential development within Barangaroo South. No change to this approved arrangement is proposed as part of this modification.	-
DS2 - Housing across the site should provide a variety of types, sizes and configurations	The development provides a wide variety of designs, layouts and bedroom numbers within units. The proposed modifications will alter the unit mix proposed as outlined above in Section 3.0 , with these amendments being proposed in direct response to a specific buyer request.	Consistent
DS3 - Wintergardens are encouraged in high-rise buildings where wind impacts do not support the provision of balconies. In such circumstances, wintergardens may not be considered GFA	No wintergardens are proposed as part of this application.	Consistent
5.1.3 Car Parking and Servicing		
<i>Performance criteria – Car parking and servicing balances on-site car parking to accommodate reasonable provision with encouraging alternative modes of transport to the private motor vehicle; is safe, functional and convenient; ensures buildings can be adequately serviced by service and delivery vehicles; and is located and designed to not visually dominate the public realm.</i>		
DS1 – Car parking is provided in accordance with the Barangaroo Concept Plan	The proposed modification will not alter the car parking as approved.	Consistent
DS2 – On-site parking areas comply with AS2890.1:2004	The proposed modification will not alter the car parking as approved.	Consistent
DS3 – For commercial buildings, a minimum of 1 shower for every 10 bicycle spaces is provided	No 'commercial/office' space is proposed for the development.	-
DS4 – Building servicing and loading facilities are designed to adequately cater for forecast building demand	No change is proposed to the servicing and loading areas, which continue to be suitable for the development.	Consistent
DS5 – Service/delivery areas accord with AS2890. 2:2002 subject to driveways complying with City of Sydney Council's requirements	No change is proposed to the servicing and loading areas, which continue to be suitable for the development.	Consistent
5.1.9 Building Articulation	The proposed changes will not affect the building's compliance with these design standards.	Consistent
5.1.10 Building Legibility		
5.1.11 Ground Floor Permeability and Accessibility of Public Realm		
5.1.12 Ensuring Quality of Rooftops		
5.1.13 Articulated Facades		

7.2 Parking and Traffic

Importantly, no changes to parking provision are proposed. Crown seek to retain the currently approved 157 residential car bays, for the following reasons:

- 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. Purchasers falling within this market are typically transitioning from large scale estate homes and expect similar volumes of large scale internal and storage spaces.
- The six apartments subject of this application have been purchased with the intent of the buyer to amalgamate and customise the living experience. The original entitlements and spatial allocations within the residential strata are a fundamental part of the reasoning behind amalgamation and 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 SSD 6957 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 proposed amalgamated apartment is almost fourteen times larger than the previously assumed average, at over 1,376 sqm. The residential product that is being provided within Crown Sydney therefore significantly differs from the residential density that was assumed for the site at the time of approving the original Concept Plan.

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 G**). The statement confirms that 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.

As demonstrated within the proposed parking allocation spreadsheet at **Attachment F**, the allocation of the parking associated with the proposed amalgamation does not affect any other residential apartments and the residential parking allocation otherwise remains consistent with that approved under the current approval (SSD 6957 MOD 2).

Taking into the consideration of the above, a Traffic and Parking Statement has been prepared by JMT Consulting and (Refer to **Attachment E**) which concludes 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. As such the parking and traffic impacts will be further improved by the proposed amalgamation, and will in fact result in a minor reduction in AM and PM peak hour traffic generation, due to the behavioural differences of one large amalgamated household when compared to the that of the approved size smaller apartments.

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.

As confirmed by Bates Smart in their statement at **Attachment H**, if some of the residential car spaces are converted to another use (i.e. 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. It is therefore not considered appropriate for the car spaces to be converted to another use to reduce the number of total residential car bays.

This application is consistent with the modification approved under SSD 6957 MOD 2, being for the amalgamation of residential apartments as a result of direct buyer requests, and including no changes to the total residential parking bays. This application is for the same purpose, however responds to a different specific buyer request in relation to one apartment. It is noted therefore that the matters for consideration in the assessment of this application remain consistent with that of SSD 6957 MOD 2.

It is noted that in their assessment report for SSD 6957 MOD 2, the Department of Planning, Industry and Environment (DPIE) note the following reasons for granting consent:

- the total maximum residential GFA does not exceed 22,600m² as required by the Concept Plan.
- the modifications to the internal layout of the apartments are minor and the residential apartments would continue to have a high level of residential amenity.
- the proposal continues to offer a variety of apartment types and sizes to cater for different household types
- retaining the approved number of car spaces would not result in adverse traffic impacts and is considered to remain generally consistent with the Concept Plan (Refer to **Section 7.1.1** for further details).

It is therefore noted that given the above considerations, this modification remains entirely consistent with the reasons for granting consent to the SSD 6957 original application as well as SSD 6957 MOD 2.

7.3 Residential Amenity

The proposed modifications include minor amendments to the internal layouts of apartments as outlined in **Section 3.0**. The proposed revisions to the layout are based on a specific buyer request. These revisions support a reduction in residential units that approved within SSD 6957 (Mod 1), which are within the maximum residential GFA provision of 22,600m² for the building, as prescribed by the approved Concept Plan.

The modified layout of Levels 48 and 49 will decrease the number of residential units than approved under SSD 6957 (Mod 1). The residential apartment will continue to demonstrate a good level of amenity by virtue of their superior location and views available across the harbour, including the Harbour Bridge and Sydney Opera House.

All residential units within this development are larger than the minimum area requirements provided by the ADG and that this additional area provides increased amenity to the residents.

A Design Verification Statement has been prepared by Bates Smart (refer to **Attachment B**) to assess the proposed changes against the provisions of *State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development* (SEPP 65). The statement confirms that the proposed modification will not alter the development's ability to achieve compliance with the provision of SEPP 65.

7.4 BCA

A BCA Report has been prepared by McKenzie Group (see **Attachment C**) which provides an assessment of the amended proposal against the BCA and confirms that the proposed amendments meet the relevant provisions of the Building Code of Australia 2016.

7.5 BASIX

Updated BASIX certificates have been prepared by Arup and is provided at **Attachment D**.

8.0 Conclusion

The proposed modifications to the approved development, as outlined in **Section 2.0**, comprise the amalgamation of apartments in response to a specific buyer request, resulting in reconfigurations to internal walls only on Levels 48 and 49.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact as they are entirely internal and have been required to respond to changing market demand.
- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the environmental impacts associated with the proposed modifications are consistent with those of the approved development and are considered to be satisfactory for the site;
- the proposed change to the quantity and mix of residential apartments are minor in the context of the entire building;
- the proposed modification will not change the approved maximum GFA; and
- the development (as proposed to be modified) continues to comply with the relevant statutory plans and policies, including the Barangaroo Concept Plan (Mod 8).

In light of the above, we therefore recommend that the proposed modification is supported by the Department of Planning and Environment.

Yours sincerely,



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