



TS/KS
09389
14 April 2016

Ms Fiona Gibson
Planner - Modification Assessments
NSW Planning and Environment
23-33 Bridge Street
SYDNEY NSW 2000

Dear Fiona

**ADDENDUM LETTER TO MP09_0167
45 MACQUARIE STREET, PARRAMATTA**

This letter has been provided by JBA, in relation to the V by Crown Group development at 45 Macquarie Street, Parramatta (the site). This letter is to be read as an addendum to Modification 5 (Mod 5) of Major Project MP09_0167 which is currently being assessed by the Department of Planning and Environment (Department). In short, this letter seeks the following changes to the scope of Mod 5:

- The withdrawal of the place of public worship element of the application.
- The deletion of Condition E6, which relates to the former West Metro project, and the requirements of which are accordingly obsolete and overly onerous to satisfy.
- A minor modification to Condition G1, which unreasonably restricts the use of non-residential car parking spaces, and which does not appear to have been applied for a planning reason.
- The addition of strata subdivision under the scope of Mod 5, as per the appended plans at **Attachment A**, prepared by Tasy Moraitis.

The proposed modifications will not result in any noticeable impact on the site or the surrounding area. The withdrawal of the place of public worship will in fact result in the development having a lesser impact than that contemplated under Mod 5 as it was originally submitted.

In addition, as the proposed place of public worship use has now been removed, it is not considered necessary to provide additional acoustic and traffic information, or a plan of management for this use, as requested in the Department's email of 10 March 2016. Furthermore, the issues raised by Parramatta City Council in its submission of 3 March 2016 which related to the place of public worship use no longer need to be considered.

Each of the proposed changes to Mod 5 have been further detailed at **Sections 1.0, 2.0, 3.0 and 4.0** below.

1.0 REMOVAL OF PLACE OF PUBLIC WORSHIP

The submitted modification application contains an element at Section 4.2.2 pertaining to clarification on the range of permissible at the approved 'multi purpose space', located at Level 1 of the development site. As a result of further commercial refinement in the V by Crown Group project, we now wish to withdraw this element of the originally submitted modification application,

and are as such no longer seeking clarification on the permissible uses in the multi-purpose space at Level1 of the approved development.

In line with the above change, the modification sought to the third dot point of Condition A1 will no longer be required. Instead, this point should read as approved, as follows:

A1 DEVELOPMENT DESCRIPTION

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

- A 665m² Conference centre;

2.0 REMOVAL OF CONDITION E6

Condition E6 relates to the former Sydney West Metro Project, and states as follows:

E6. Sydney Metro

Prior to the issue of any occupancy certificate, provide Sydney Metro with the drawings, reports and other information related to the design, construction and maintenance of the approved development to allow Sydney Metro to fully understand the interaction between the approved development and the Sydney Metro Line 1.

In March 2008, the NSW Premier announced the West Metro project which was intended to run from Central Station to Westmead via Parramatta. The Sydney Metro Authority was constituted to undertake initial investigations into the West Metro project.

Design development for the V by Crown development commenced in 2009 at which time the development of the West Metro was Group still being investigated by the Sydney Metro Authority.

In August 2009, a Major Project Application (MP09_0158) was lodged for the West Metro project. The interim corridor for the West Metro project ran through the southern section of the site as shown in the map below which was submitted with MP09_0158 (see **Figure 1** below).

The V by Crown Group project team met with the Sydney Metro Authority on 10 November 2009. Detailed information was provided to the Authority regarding the design of the proposed development, in particular the proposed basement design. The Authority provided details regarding the alignment of the interim corridor for the West Metro to assist the project engineers in preparing an appropriate development for the site.

On 19 January 2010, the project team again met with Sydney Metro Authority at which time the Authority indicated the proposed West Metro alignment avoided the proposed development at 45 Macquarie Street. However, there would still be a small amount of overlap with the West Metro's protection zone which could be resolved through engineering requirements.

However, in February 2010, the Premier announced the abandonment of the West Metro project and the Sydney Metro Authority was absorbed into the Infrastructure Division of Transport for NSW. MP09_0158 for the West Metro project was subsequently withdrawn.

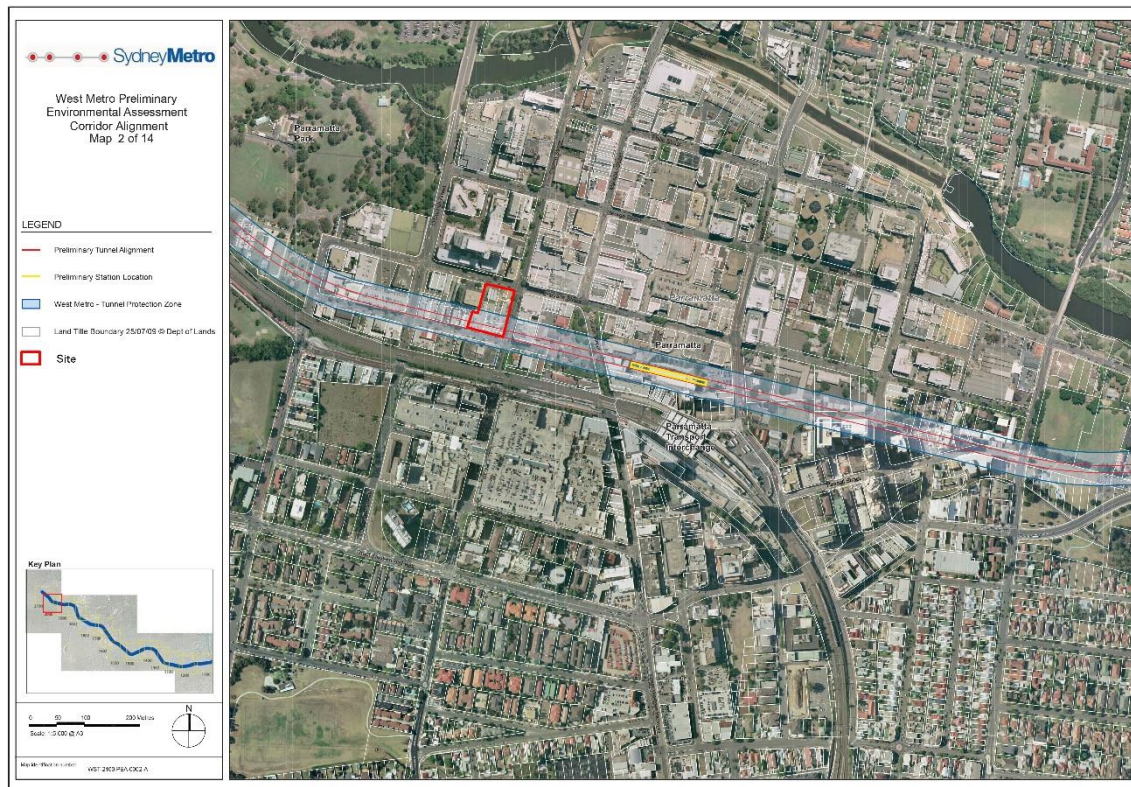


Figure 1 – West Metro Preliminary Environmental Assessment Corridor Alignment

Source: Sydney Metro Authority

Despite the abandonment of the project, Transport for NSW provided a submission during the consultation period for the V by Crown Group development. In response to Department of Planning and Environment applied Condition E6.

However, Condition E6 is no longer considered relevant to the V by Crown Group development as the West Metro corridor is no longer identified as an interim rail corridor, and the Sydney Metro Authority has been dissolved under the *Transport Administration Amendment Act 2010*.

Notably, Clause 88 of *State Environmental Planning Policy (Infrastructure) 2007* requires consultation with the relevant rail authority for development within or adjacent to an interim rail corridor. However, the West Metro alignment is no longer identified as an interim rail corridor under the Infrastructure SEPP, and therefore no further consultation is considered necessary.

It is therefore considered that the requirements of Condition E6 are redundant and do not need to be satisfied as:

- The Sydney Metro Authority no longer exists; and
- The Sydney Metro Line referred to in Condition E6 is no longer an interim rail corridor.

It is therefore requested that Condition E6 be deleted.

3.0 MODIFICATION TO CONDITION G1

Condition G1 of the Modification of Minister's Approval dated 5 November 2015 pertains to the use of car spaces at the site. It is proposed to delete part (b) of Condition G1 as set out below. Text to be added is in ***bold italics***, and text to be removed is in ~~***bold strikethrough italics***~~:

G1 (S88B) Use of Car Spaces

The following conditions apply to car parking:

- (a) the on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used by those other than an occupant, tenant or resident of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant, lessee or registered proprietor of a unit in the building;*
- ~~*(b) the on-site car parking spaces allocated to the commercial component of the development shall be available for use of visitors outside of standard office hours;*~~
- ~~*(c)(b) a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyancing Act 1919, to the effect of (a) and (b) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council; and*~~
- ~~*(d)(c) any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act 1973, as amended, burdening all utility car parking allotments in the strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking part – lots in the strata scheme.*~~

The above Condition G1 was added to the Modifying Instrument applying to MP09_0167 Modification 4 (Mod 4). We request that this condition be amended due to the following reasons.

- **Assessment Report** – Although Condition G1 was implemented as part of MP09_0167 Mod 4, there is no mentioning of the reasoning for this implementation in either any of the submissions received for the proposal, or the assessment report prepared by the Department. Similarly, no desire for additional visitor car parking at the site or for period limited timing of commercial car spaces was mentioned in either the assessment report or any submission received for the project. Accordingly, the condition appears to not have been imposed as a result of a concern from any individual stakeholder.
- **Irregular Hours of Operation** – Given that the range of ‘commercial uses’ at the site include various retail premises, as well as use of the rooftop bar, the proposed hours of operation will be irregular for the different tenancies in the building (i.e. not all businesses at the site will operate within standard business hours). It would be an unnecessary burden on future operators of the retail tenancies to be restricted in terms of their car parking to ‘office hours’ (presumed to be 9.00am-5.00pm, Mon- Fri). This is especially relevant in regards to uses such as the rooftop bar, where the proposed operating hours will likely necessitate employees / operators to travel during times that public transport availability is reduced.
- **Visitor Parking Demand** – Under the initial application, as well as subsequent modification applications, it has been determined that the visitor parking provided is sufficient for the purposes of the proposed development. The provision of additional visitor parking for only part of the day, including mostly during the off peak hours in the middle of the night when parking is likely to be available in designated visitor spaces, will be above the level of parking which is required, and unnecessary in the context of the development. The Traffic Statement submitted under Mod 4 determined that the level of visitor parking at the site would be sufficient without the use of commercial car spaces as visitor spaces outside of business hours.
- **Implementation** – In practice, it is likely to be difficult to implement this condition, as it would be hard for commercial operators to enforce the removal of visitors’ vehicles occupying car spaces during commercial hours. Similarly, it will be difficult to maintain the spaces for a visitor purpose outside of business hours. It has also proven difficult for this requirement to be written into commercial leases of the various spaces at the site to date, which is inhibiting leasing of the commercial space at the site.
- **Environmental Impacts** – The proposed condition modification will have no adverse impacts on the surrounding environment, and will result in the same physical development that is currently at the site. The proposed modification is considered to be suitable to the site, and is not contrary to the public interest.

4.0 STRATA SUBDIVISION

The strata subdivision of apartments within the proposed development is also sought under this addendum, for inclusion in Mod 5. This would usually be undertaken as complying development. However as the site is subject to a planning proposal which seeks to include the land within Schedule 5 Environmental Heritage of the *Parramatta Local Environmental Plan 2011*, this is unable to be undertaken as complying development on Stratum Lot 1 (Residential Lot 1). Therefore approval for strata subdivision of this stratum lot is sought as part of Modification 5 to MP09_0167.

In addition, strata subdivision can only be undertaken as complying development if completed within a five year period of the original approval being issued (this would mean a deadline of 28 October 2016). Accordingly, approval for strata subdivision within Stratum Lot 3 (Residential Lot 2) is being sought under Modification 5.

The proposed Plans of Strata Subdivision have been included at **Attachment A** of this letter, as prepared by Tasy Moraitis.

It is noted that stratum subdivision is sought as part of Modification 5 and was included in the original Environmental Assessment Report submitted to the Department. The stratum subdivision plans have also been included in this letter (**Attachment A**) for the Department's information.

5.0 CONCLUSION

In light of the above, we request that the three specified changes under the addendum letter be incorporated by the Department as part of their assessment of Mod 5. We understand that that proposal will need to be referred to Council for comment but believe that due to the minor scope of the changes re-notification will not be required. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or kshmuel@jbaurban.com.au.

Yours faithfully



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