

ASSESSMENT REPORT

45-47 Macquarie Street and 134-140 Marsden Street, Parramatta (MP 09_0167 MOD 5)

1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval (MP09-0167) for a mixed use development at 45-47 Macquarie Street & 134-140 Marsden Street, Parramatta.

The request has been lodged by Crown Landmark Developments Pty Ltd pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to reduce the height of part of the approved building and to delete a total of five apartments. The proposal also seeks approval for strata and stratum subdivision and to modify conditions of approval.

2. SUBJECT SITE

The site is located in the Parramatta Central Business District bounded by Macquarie Street to the north; Hunter Street to the south; and Marsden Street to the east. The site is approximately 460 metres (m) north-east of Parramatta Railway Station and 500 m south-east of the World heritage-listed Old Government House and Domain (see **Figure 1**). The site also contains important archaeological relics of early European heritage.



Figure 1: Local Context Plan

(base source: Google Maps)

3. APPROVAL HISTORY

On 28 October 2011, Project Approval (MP 09_0167) was granted by the Planning Assessment Commission (Commission) for the construction of a mixed use development.

Key aspects of the approved development include:

- four tower blocks (Section A, B, C & D), ranging in height from 10 to 26 storeys;
- 367 residential apartments;
- commercial, retail and restaurant floor space;
- an archaeological interpretation centre; and
- basement parking over six levels for 535 car spaces.

The Development is currently under construction.

The Project Approval has been modified on four occasions, as outlined in **Table 1** below.

Table 1: Summary of Previous Modifications

| Modification Number | Modification Description |
|---------------------|---|
| Mod 1 | <ul style="list-style-type: none">• changes to allow the staged payment of Section 94 contributions; |
| Mod 2 | <ul style="list-style-type: none">• an increase in building height of Blocks A to D by 17.9 m to 102.5 m; increase gross floor area by 2,720 sqm and FSR to 8.67:1;• changes to the podium and tower facades;• increase in the number residential apartments to 477;• the introduction of serviced apartments;• an increase in the size of archaeological centre;• reconfiguration to basement parking layout and an increase in number of car spaces from 535 to 566; |
| Mod 3 | <ul style="list-style-type: none">• changes to the archaeological display area; |
| Mod 4 | <ul style="list-style-type: none">• an increase in building height of Block D by seven storeys;• an increase in GFA of 3,822 sqm;• an increase in the number of apartments by 114 from 477 to 591;• the deletion of 42 serviced apartments; expansion of the conference centre at the second floor;• expansion of the archaeological interpretation centre;• changes to the façade design;• the provision of a roof top bar above building in Section C;• an increase of eight car parking spaces (from 566 to 574) and reconfiguration of basement car parking levels;• stratum subdivision; and• the provision of signage. |

On 22 January 2016, the Commonwealth Department of Environment issued a controlled action approval under the *Environmental Protection and Biodiversity Conservation Act, 1999* (EPBC Act 1999) as the site is within the view curtilage of Old Government House and Domain. The approval was issued subject to a condition which limits the height of Section D of the building to 62.1 m.

4. PROPOSED MODIFICATION

On 17 December 2015, the Proponent lodged a section 75W modification application (MP09_0167 MOD 5) seeking approval to reduce the height of Section D of the approved development. The proposed modification is requested to ensure the approved development is consistent with the approval granted under the EPBC Act.

The modification also seeks approval to:

- modify the stratum subdivision to subdivide the entire building into six stratum lots;
- strata subdivide the residential component; and
- modify / delete specific conditions.

The original modification application also requested the use of the approved Conference Centre at Level 1 as a 'multi-purpose' space for a range of events and functions, including a 'place of worship'.

On 15 April 2016, the Proponent provided a Response to the Submissions (RtS) seeking the following changes:

- the withdrawal of the 'place of public worship' component;
- the removal of Condition E6 requiring consultation with Sydney Metro;
- modification to Condition G1 (c) in relation to the after-hours use of visitor parking; and
- strata subdivision of the residential apartments.

On 6 May 2016, the Proponent provided a further Response seeking the following additional changes to the scope of the application:

- minor changes to basement storage arrangements;
- removal of two approved lightning masts;
- details provided for sign SK01 (previously approved only as a 'signage zone');
- an updated Statement of Commitments; and
- retention of Condition E6 relating to consultation with Sydney Metro (previously sought to be removed in the RtS).

The final proposed modifications are outlined in **Table 2** below.

Table 2: Summary of Proposed Modifications

| Proposed Modifications | |
|-------------------------------|--|
| <i>Building Height</i> | <ul style="list-style-type: none"> • Reduce the height of the building in Section D (south-west wing) by 1.8 m, from 64 m to 62.1 m (see Figure 2). • Reducing the building height would result in the deletion of five - one bedroom apartments and one - two bedroom apartment at Level 18 in Section D; • Level 18 is now proposed to be converted to a rooftop terrace in lieu of the apartments. • The proposal would also result in the following minor changes to the south-western corner of the building in Section C: <ul style="list-style-type: none"> - the plant and circulation space would be converted to a studio apartment at Level 19; and - the one-bedroom plus study would be reconfigured to a two bedroom apartment at Level 18. • The proposal would result in a net reduction of five apartments, reducing the total number of apartments from 591 to 586. |
| <i>Subdivision</i> | <p><i>Stratum Subdivision</i></p> <p>The proposal seeks approval to modify the stratum subdivision from five stratum lots to six stratum lots as follows:</p> <ul style="list-style-type: none"> - Lot 1 - Residential (Sections A, B, C) - Lot 2 - Retail - Lot 3 - Residential (Levels 10-18 in Section D) - Lot 3 - Residential (Levels 2-9 in Section D) - Lot 5 - Conference Room - Lot 6 - Level 26 Bar <p><i>Strata Subdivision</i></p> <p>The proposal also seeks approval to strata subdivide the residential apartments in Stratum Lots 1 and 3.</p> |
| <i>Basement Storage</i> | Minor changes to location and configuration of storage arrangements at the basement levels, with overall quantum of storage unchanged. |
| <i>Signage</i> | Replacement of a 10m x 2m signage zone with a sign showing the Crown Group logo (refer figure 3). |

| | |
|--|---|
| <p>Removal of Masts</p> <p>Modification to Conditions and Statement of Commitments</p> | <p>Two lighting masts to be removed from the building.</p> <ul style="list-style-type: none"> • Condition B4A Affordable Housing Contribution <ul style="list-style-type: none"> • Changes are sought to the wording of the condition to provide additional details of the apartments to be dedicated to Council. • A minor change to the Statement of Commitments is also sought to reflect the Affordable Housing changes. <p>The following conditions (or relevant sub-clauses) are requested to be deleted:</p> <ul style="list-style-type: none"> • Condition B42 Deletion of Retail Signage Zone – as the requirements in relation to retail signage have now been satisfied. • Condition E19 GFA and Height Restriction – as the certification in terms of the Gross Floor Area (GFA) and building height is duplicated in Condition B38. • Condition G1(b) (S88B) Use of Car Spaces - as the requirement to allocate commercial car spaces to visitors after hours would result in an unnecessary burden on the future commercial operators. |
|--|---|

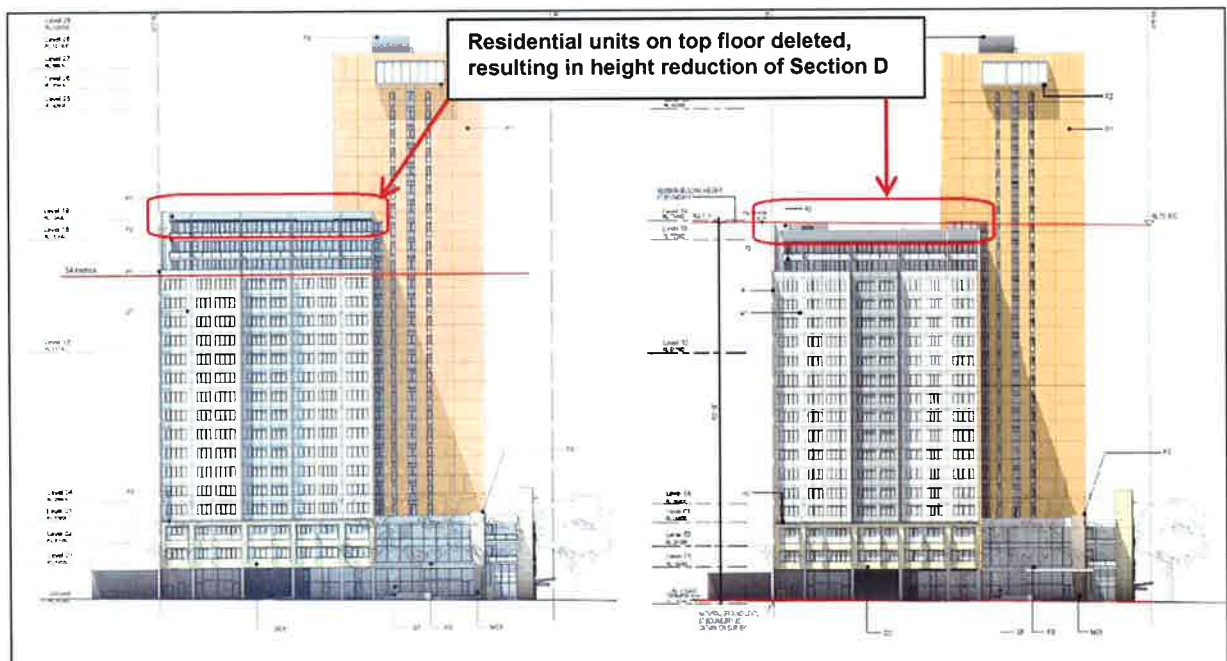


Figure 2: Hunter Street (southern elevation) - Comparison between approved (left) and proposed (right)

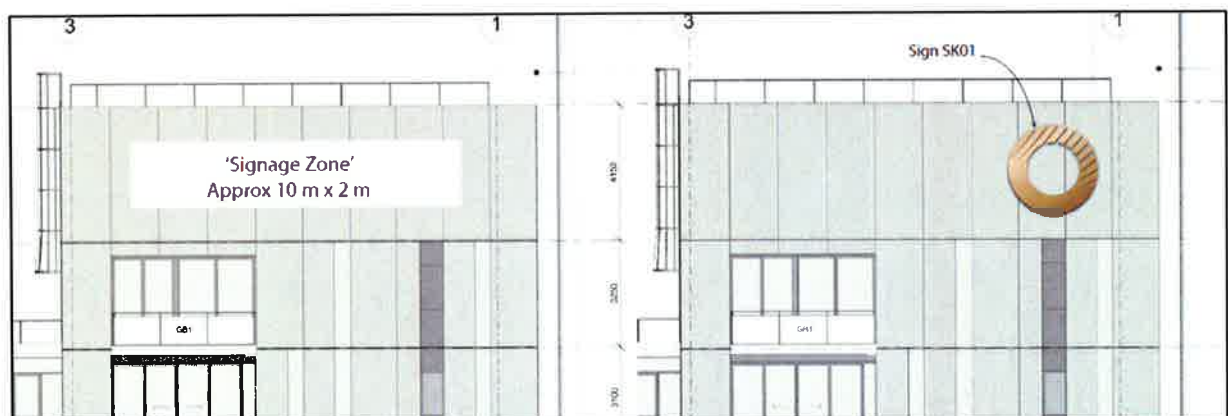


Figure 3: Proposed new building identification signage - Comparison between approved signage zone (left) and proposed sign (right)

5. STATUTORY CONSIDERATION

5.1 Section 75W

The application was originally approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former Section 75W of the Act.

The Department is satisfied that the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

5.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, under delegation dated 14 September 2011, the Planning Assessment Commission may determine the section 75W modification request.

6. CONSULTATION

The Department made the modification application publicly available on its website and consulted with Parramatta City Council (Council) and Roads and Maritime Services (RMS) about the proposed modification. The Department also notified landowners of the application.

Council raised no objection to the proposed modification. However, it considers the merits of the proposed 'place of public worship' should be assessed under a separate development application.

RMS raised no objection to the proposal.

One **public** submission was received objecting to the use of the Conference Centre as 'place of public worship' and its associated traffic, parking and amenity impacts on the surrounding area.

The Department is satisfied that the withdrawal of the 'Place of public worship' component of the application has addressed the concerns raised by Council and the member of the public.

7. ASSESSMENT

The key assessment issues are considered in **Table 2** below.

Table 2: Assessment of the Issues

| Issue | Consideration | Recommendation |
|------------------------|---|---|
| <i>Building Height</i> | <ul style="list-style-type: none">The proposal seeks to reduce the height of 'Section D' of the approved building from approximately 64 m to 62.1 m. This would also result in the deletion of five apartments.The previously approved modification (MOD 4) resulted in significant increases to the approved building height and it was deemed to be a 'controlled action', requiring separate assessment and approval under the EPBC Act, 1999, due to its potential impacts on the world heritage listed Old Government House.On 22 January 2016, the Commonwealth Department of Environment approved the proposal subject to a condition limiting the height of Section D of the building to 62.1 m.The proposed modification would ensure the approved development is consistent with the separate approval issued by the Commonwealth Department of Environment.There would be no change to Sections A, B or C of the | No additional conditions or amendments necessary. |

| Issue | Consideration | Recommendation |
|--|--|--|
| | <p>approved development.</p> <ul style="list-style-type: none"> The Department supports the proposed modification as it would not result in any additional impacts and would be consistent with the approval issued by the Commonwealth Department of Environment. | |
| <i>Compliance with SEPP 65 and ADG</i> | <ul style="list-style-type: none"> While the proposal would result in a net decrease of five units, the proposal also includes one new unit and one amended unit comprising: <ul style="list-style-type: none"> a new studio apartment (50 sqm) (in place of plant and circulation space now relocated); and a two bedroom apartment (79 sqm) (converted from a one-bedroom plus study apartment). The applicant advises that the modified proposal would continue to comply with the ADG in that: <ul style="list-style-type: none"> eighty one (81) per cent of apartments would continue to receive two hours of solar access to living rooms and private open space at midwinter; and sixty three (63) per cent would be naturally cross ventilated; the new rooftop terrace would increase the amount of communal open space and improve amenity for future occupants; and there would be no change to the quantum of storage space provided at the basement levels. The Department notes that the apartments comply with the minimum apartment sizes in the Apartment Design Guide (ADG) and would provide acceptable levels of amenity consistent with the ADG requirements. The Department also notes the approved apartment mix does not change and the development would continue to provide a diverse range of apartments. The Department's assessment therefore concludes that that the modified proposal would continue to provide adequate levels of internal amenity for future occupants. | No additional conditions or amendments necessary. |
| <i>Affordable Housing</i> | <ul style="list-style-type: none"> Changes are sought to Condition B4A of the approval (and associated minor change to the Statement of Commitments) to specifically identify the apartments to be dedicated to Council for affordable housing. The modification is sought to address concerns raised by Council regarding the internal amenity of the apartments to be provided for affordable housing. Council has advised the Department that it accepts the proposed changes, subject to some minor amendments to the wording of the condition. The Department is satisfied that the amended condition would ensure the apartments to be provided for affordable housing would have appropriate levels of amenity consistent with Council's requirements. The Condition is therefore recommended to be modified accordingly. | <p>The modifications to the condition proposed by the Proponent, as amended by Council's suggested changes, are recommended for inclusion in the approval.</p> <p>The updated Statement of Commitments is recommended for inclusion in the approval.</p> |
| <i>Parking</i> | <ul style="list-style-type: none"> The Parramatta Local Environmental Plan 2011 (LEP) sets maximum parking rates for development within the CBD to reduce traffic within the city centre. The net reduction of five dwellings would reduce the maximum number of spaces permitted by the LEP from 796 to 790. The Department notes the proposal does not seek approval to change the total number of car spaces (574) approved on the site. As the number of parking spaces remains well below that permitted by the LEP, the Department is satisfied that no changes to the parking provision are necessary as the | No additional conditions or amendments necessary. |

| <i>Issue</i> | <i>Consideration</i> | <i>Recommendation</i> |
|------------------------|--|---|
| | proposal already incorporates a suppressed car parking rate consistent with the intent of the LEP. | |
| <i>Visitor Parking</i> | <ul style="list-style-type: none"> • Subclause (b) of Condition G1 requires the car parking spaces allocated to the commercial component to be made available for visitors outside standard office hours. • The Proponent seeks to delete Subclause (c) as: <ul style="list-style-type: none"> ○ there is sufficient parking for visitors as part of the approved development; and ○ it would be an unnecessary burden on the future operators of the commercial tenancies to restrict parking after hours as there are a range of commercial uses that are likely to operate outside standard business hours, including the approved rooftop bar. • The Department considers that deleting the requirement for shared visitor car parking is acceptable given: <ul style="list-style-type: none"> ○ there is already sufficient visitor car parking spaces provided on the site; ○ the site is located in a highly accessible location close to public transport; and ○ the proposal would suppress the availability of onsite car parking spaces consistent with the intent of Council's LEP which sets maximum car parking rates. | Condition G1(b) is recommended for deletion. |
| <i>Subdivision</i> | <ul style="list-style-type: none"> • The proposal seeks approval to modify an approved stratum subdivision from five stratum to six stratum lots. • The stratum subdivision would not result in any physical changes to the building and it would be consistent with the approved uses on the site. • The proposal also includes strata subdivision of most of the residential component as the site is affected by heritage constraints and is therefore precluded from obtaining approval under a Complying Development Certificate. • The strata subdivision would not result in any physical changes to the approved building and would have no impact on heritage values. • The Department therefore supports the proposed stratum and strata subdivision as it would facilitate the development of the building and would not result in any adverse impacts. | Minor changes to conditions to reflect the changes are recommended for inclusion on the instrument of approval. |
| <i>Signage</i> | <ul style="list-style-type: none"> • Condition B42 requires two retail signage zones to be replaced by a single signage zone. • The proposal incorporates amended plans illustrating a single signage zone. The Department is therefore satisfied the amended plans achieve the requirements of Condition B42. • The proposal also seeks to incorporate a building identification sign showing the Crown Group logo. • The sign is located within an approved signage zone (refer to Figure 3) and the Department is satisfied it is consistent with the requirements of SEPP 64, as it is compatible with the design and character of the building, does not result in visual clutter and relates to the corporate use of the building. | The updated plans are recommended for inclusion in to the instrument of approval and Condition B42 is recommended for deletion. |

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that it would:

- be consistent with the separate approval granted under the EPBC Act 1999;
- maintain an acceptable level of internal amenity in accordance with SEPP 65 and the ADG;

- provide affordable housing apartments with acceptable levels of internal amenity;
- provide sufficient visitor parking; and
- not result in any additional impacts on the surrounding area.

Consequently, the Department considers the proposed modification is in the public interest, and should be approved subject to the conditions recommended in the Notice of Modification at **Appendix A**.

9. RECOMMENDATION

It is recommended that the Planning Assessment Commission, as delegate of the Minister for Planning:

- a) consider the findings and recommendations of this report;
- b) approve MP09_0167 MOD 5, under section 75W of the Environmental Planning and Assessment Act 1979; and
- c) sign the attached Notice of Modification (**Appendix A**).

Prepared by: Thomas Mithen
Consultant Planner

Endorsed by:



Anthony Witherdin
Acting Director
Modification Assessments

Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=09_0167

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=09_0167

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=09_0167

3. Response to Submissions and Further Addendum

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=09_0167