

# MODIFICATION ASSESSMENT REPORT TO SYDNEY CENTRAL CITY PLANNING PANEL

Panel Reference	PPSSCC-12	
DA Number	DA/1066/2016/D	
LGA	City of Parramatta Council	
Proposed Development	Section 4.55(2) modification to approved mixed-use tower	
	development, specifically 1 additional level (no height change,	
	achieved by reduction in floor level heights), 10 fewer hotel	
	rooms, addition of 7 two-storey serviced apartments, relocation	
	of bar from roof levels to mid-tower, relocation of ballroom from	
	base to mid-tower, minor external changes, revised internal	
	layout and revised landscaping. The original application was	
	Nominated Integrated Development under the Water	
	Management Act 2000 and the National Parks and Wildlife Act	
	1974.	
Street Address	2 - 10 Phillip Street, PARRAMATTA NSW 2150	
	(Lots 1 & 2 DP 986344 and Lot 1 DP 228697)	
Applicant	GJC Property Holdings Pty Ltd / Coronation Parramatta Pty	
	Ltd	
Owner	GJC Property Holdings Pty Ltd / Coronation Parramatta Pty	
	Ltd	
Date of DA lodgement	18 June 2019	
Number of Submissions	Four	
Recommendation	Approval subject to conditions	
Regional Development		
Criteria (Schedule 4A of		
the EP&A Act)	Section 4.55(2) modification to an application with a capital	
	investment value of more than \$20 million (criteria at time of	
	lodgement).	
List of all relevant	Environmental Planning and Assessment Act 1979 and	
s4.15(1)(a) matters	Regulations 2000	
	State Environmental Planning Policy No. 65 – Design	
	Quality of Residential Apartment Development &	
	Apartment Design Guide	
	Parramatta Local Environmental Plan 2011	
	Parramatta Development Control Plan 2011	
List all documents	Attachment 1 – Architectural Drawings	
submitted with report	Attachment 2 – Landscaping Drawings	
Report prepared by	Alex McDougall	
Report date	27 November 2019	

DA/1066/2016/D Page **1** of **14** 

## 1. Executive Summary

The proposal seeks various modifications to development consent DA/1066/2016, construction of a mixed use tower at 2-10 Phillip Street Parramatta, under Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

The modifications include, but are not limited to, the following:

- Revised forecourt landscaping
- Revised hotel entry portal and internal feature stair
- One additional level (no overall change in height, reduced floor to ceiling heights)
- 10 fewer hotel rooms
- Addition of 7 two-storey serviced apartments at penthouse levels
- Hotel rooftop bar moved from levels 56/57 to level 18
- Hotel ballroom moved from level 3 to level 20
- Mid-tower 'cutout' level moved down 3.1m
- Revised roof plant enclosure

The modifications would have negligible amenity impacts on occupants or adjoining/nearby properties, would maintain compliance with the relevant planning controls and would maintain the design excellence of the building. As such, the proposed modifications are considered to be acceptable and approval is recommended subject to modified conditions.

# 2. Key Assessment Issues

#### **Environmental Planning and Assessment Act 1979**

Section 4.55(2)(a) – The proposal includes a new use, serviced apartments. As this use is under the same category as the approved hotel use, namely *tourist or hotel accommodation*, it is considered to be substantially the same as the approved development.

#### Parramatta LEP 2011

Clause 7.13 - The applicant has indicated that the proposed suites at the upper levels shall be used as serviced apartments. Given the FSR bonus under this clause can only be used for the purposes of hotel or motel accommodation or commercial premises these units cannot be used for residential purposes. As such a condition is included requiring them to be used only for short term accommodation on a commercial basis.

### 3. Site Description, Location and Context

#### 3.1 Site

The site has a frontage of 49.23m to Phillip Street (southern boundary), 42.22m to Marsden Street (western boundary) and 45.59m to a Council owned informal and unnamed lane to the east of the site. The site has a total area of 2,307m². The site exhibits a slight fall of approximately 1.1m from a height of 9.9m AHD on the south-western corner of the site to a low of 8.8m AHD on the eastern side of the site.

There are a mixture of uses in the locality – residential (north), retail (east and south-east) and government (south and south-west). The site is located within the Parramatta CBD.

Demolition works on the site have been completed. The site now contains a church building and the façade of the associated hall building. The former church and hall buildings were previously in use as a restaurant.

DA/1066/2016/D Page **2** of **14** 

The church and hall building (see Figure 2 below) are subject to a local heritage listing. The site is surrounded by a significant number of heritage items (see Figure 3 below). Of particular interest is Old Government House and Parramatta Park which are located 500m and 200m to the west of the site respectively. Old Government House is recognised in local, state, federal and world heritage listings.



Figure 1. Aerial view of site and locality (subject site in red).



Figure 2. Subject site as viewed from the corner of Marsden Street and Phillip Street.

DA/1066/2016/D Page **3** of **14** 

The site is also identified by Council mapping to be of potential archaeological and Aboriginal cultural heritage significance. Parramatta River is nearby, to the north of the site, and as such the site is affected by flooding and acid sulphate soils. The site is subject to 1:20 year floods, a high probable maximum flood level and medium hazard flood speed risk.

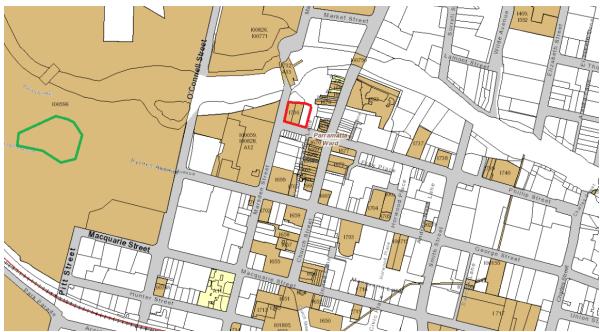


Figure 3. Heritage items in the vicinity of the site (heritage items in yellow, subject site in red, Old Government House buildings in green)

# 3.2 Site History

Reference	Description	Status
DA/1066/2016/A	Section 4.55(1A) Modification to approved 55- storey mixed use tower comprising 314 residential apartments, 260 hotel rooms with associated function/conference facilities, 9 levels of basement parking, adaptive reuse of existing church hall buildings and retention of church building.	Approved 19/02/19
	The modifications include internal layout reconfigurations of ground, hotel and commercial levels, the addition of a ground floor cafe, relocation of the ballroom to level 3 and minor external alterations to the curtain wall grid and the deletion of the hotel entrance awning.	
DA/1066/2016/B	Section 4.55(1A) modification to approved mixed- use tower development, specifically amendments to Condition 30 to stage developer contribution payments. The original application was Nominated Integrated Development under the Water Management Act 2000 and the National Parks and Wildlife Act 1974.	Withdrawn
DA/1066/2016/C	Section 4.55 (1A) Modification to approved 55-storey mixed use tower comprising 314 residential apartments, 260 hotel rooms with associated function/conference facilities, 9 levels of basement parking, adaptive reuse of existing church hall buildings and retention of church building. The modifications include amending condition 30 to reduce section 7.12 developer contributions based on updated Quantity Surveyor report.	Approved 11/07/19

Table 1. Applications relating to the proposal.

DA/1066/2016/D Page **4** of **14** 

## 4. The Proposal

The application seeks approval for the following modifications:

- Basement
  - Sub-basement added (lift pits and plant)
  - Revised layout (inc. carpark exhaust)
- Ground Floor
  - Revised forecourt landscaping
  - Revised floor levels (café raise 100mm)
  - Revised hotel entry portal and awning
  - Revised feature staircase
- Tower
  - o Reduction in residential floor to floor heights from 3.2m to 3.12m (-2.5%)
  - One additional level (no overall change in height)
  - o Revised column layout
  - Revision of windowless study rooms to eliminate potential for conversion to bedrooms
  - Hotel rooftop bar moved from levels 56/57 to level 18
  - 10 fewer hotel rooms
  - Addition of 7 two-storey serviced apartments at penthouse levels
  - o Hotel ballroom moved from level 3 to level 20
  - Mid-tower 'cutout' feature moved down 3.1m
  - Revised roof plant enclosure

The proposal also includes a modification to the acoustic conditions to rectify an error.

The modifications above result in the following numerical changes to the proposal:

	Approved	Proposed	Difference
USE			
Residential - Apartments	314	314	0 (N/A)
Commercial - Hotel Rooms	260	250	-10 (-3.8%)
Commercial - Serviced Apartments	0	7	+7 (N/A)
GFA			
Residential	24,198m <sup>2</sup>	24,206m <sup>2</sup>	+8m² (+0.03%)
Commercial	14,604m <sup>2</sup>	14,610m <sup>2</sup>	+6m² (+0.4%)
Total	38,802m <sup>2</sup>	38,816m <sup>2</sup>	+14m² (+0.4%)

Table 2. Comparison of GFA between approval and proposed modified development.

The applicant made the following revisions to the application in response to concerns raised by Council officers, the Design Excellence Jury and the Sydney Central City Planning Panel:

- Deleted proposed additional residential units and replaced with serviced apartments.
- Reduced lift overrun height
- Provided revised design to plant enclosure at roof level.

#### 5. Referrals

The following referrals were undertaken during the assessment process:

#### 5.1 Sydney Central City Planning Panel Briefing (07/08/2019)

The matters raised by the Panel at its Briefing meeting are addressed below:

DA/1066/2016/D Page **5** of **14** 

Issues Raised	Comment
Floor space reallocation inconsistent with Strategic intent of site-specific planning controls	The applicant deleted the proposed residential units and replaced them with serviced apartments. A condition is included requiring that serviced apartments only be used as short-term accommodation on a commercial basis.
Reduced internal amenity	The minor reduction in floor to floor height is not considered to have an unacceptable impact on the amenity of future occupants for the reasons outlined in Section 6.2.4 below.
Inconsistent housing mix	Not applicable due to deletion of residential units.
Lift overrun objectionable - inconsistent with design excellence approval	The lift overrun has been reduced to its original height, reduced in bulk, and incorporated within revised screening which has received design excellence from the jury.

Table 3. SCCPP briefing notes and response.

#### 5.2 Internal

Authority	Comment
Trees & Landscaping	No objection.
Sustainability	No objection.
Engineering	No objection.
Strategic Planning	Noted site-specific planning proposal for the site explicitly sought to exclude any additional residential floor space over that which was designated for the site. No longer relevant as the additional residential accommodation has been deleted.
Environmental Health	Draft revised acoustic conditions are appropriate for the proposed uses.
Traffic & Transport	No objection.

Table 4. Internal Referral Responses.

#### 5.3 External

Authority	Comment
Water NSW	No Response.
Office of Environment and Heritage	Noted that there was an existing AHIP issued for the site under the terms of the original General Terms of Approval. Noted they have no comment on the modifications.
Design Competition Jury	No objection subject to a condition requiring final sign off of the entrance awning.
Endeavour Energy	No objection.

Table 5. External Referral Responses.

# 6. Environmental Planning and Assessment Act 1979

The sections of this Act which require consideration are addressed below:

## 6.1 Section 4.55(2): Evaluation

The development consent has not expired and as such seeks to benefit from Section 4.55(2) 'Other Modifications' of the EPAA Act 1979 subject to the following requirements:

Section 4.55(2)(a) - Substantially the same development

While the proposal introduces a new use (*serviced apartments*) this use is also defined under the same category as the approved use (*hotel or motel accommodation*) in PLEP 2011, both being *tourist and visitor accommodation*.

DA/1066/2016/D Page **6** of **14** 

The proposal is considered to be substantially the same development in that the general function, location, scale and form of the building would not materially change.

Section 4.55(2)(b) - Consultation with Authorities

The original application was integrated development under the Water Management Act 2000 and the National Parks and Wildlife Act 1974. The application includes additional exaction and as such was re-referred to both Water NSW and the NSW Office of Environment and Heritage. No response was received from Water NSW. The NSW Office of Environment and Heritage noted that there was an existing AHIP issued for the site under the terms of the original General Terms of Approval and stated they had no comment on the modifications. As there were objections received from these bodies, the consent authority has the authority to determine the application.

Section 4.55(2)(c) and (d) – Notification/Submissions

See Section 11 below.

Section 4.55(3) – Relevant Considerations

Under Section 4.55(3) of the EP&A Act 1979 in determining an application for modification, in addition to relevant matters under section 4.15 (see Section 6.2 below), the consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. The reasons for granting approval to the original development application as stated by the Sydney Central City Planning Panel are assessed below:

modified, ellence and site-specific
leight, scale lopment are
tions do not
age fabric.
odified, will
e uses.
ned in this
nodifications
o have an the amenity
or nearby
Í
tions do not
tions do not
1
ned in this d
d modified

DA/1066/2016/D Page **7** of **14** 

Re	eason for Approval	Consistency
		development is considered to be in the public interest.
8.	The Panel unanimously approves the application, subject to the conditions in the Council report with amended Condition 28 (Car Parking Allocation) and two additional conditions requiring a peer review of the engineering design for the retention of the front part of the hall and a peer review of the detailed geotechnical	The proposed modifications do not affect these conditions.
	report as required in Condition 114. The applicant has agreed with all of Council's suggested conditions.	

Table 6. Assessment of modification application's consistency with Sydney Central City Planning Panel's Reasons for Approval of DA/1066/2016.

# 6.2 Section 4.15: Evaluation of Proposed Modifications

This section of the report assesses the proposed modifications against the relevant planning instruments.

#### 6.2.1 Use

The proposed serviced apartments are permissible in the zone and are considered to be in keeping with the objectives of the zone in that they:

- a) Are compatible with the other uses on site, namely residential and hotel accommodation.
- b) Will encourage an active and vibrant neighbourhood by providing another shortterm accommodation offer.
- c) Support the higher order B3 zone as an option for short-term residents.

## 6.2.2 Revised Basement Layout

The revised basement layout is considered to be acceptable for the following reasons:

- Council's traffic team have reviewed the drawings and consider the basement capable of meeting the relevant Australian Standards.
- The integrated referrals (see Section 5.2 above) raised no concern with the additional excavation required for the lift pit/plant.
- While the end-of-trip facilities are no longer collocated with the commercial cycle parking spaces, a short walk separates them.

# 6.2.3 Revised forecourt landscaping

The proposal includes a revised forecourt design. A comparison between the approved forecourt and the proposed forecourt is provided below.

DA/1066/2016/D Page **8** of **14** 

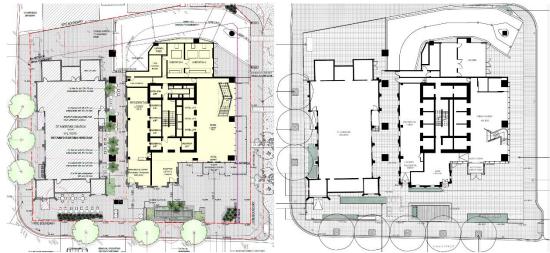


Figure 4. Approved Landscaping (left) vs. Proposed Landscaping (Right)

The landscape plan was reviewed by Council's tree and landscape officer and was found to be acceptable subject to the existing conditions.

# 6.2.4 Revised ground floor levels

The proposal seeks to increase the floor level of the ground floor café by 0.1m from 9.3m to 9.4m AHD. The proposal maintains accessibility via internal ramps.

## 6.2.5 One additional level (no overall change in height)

The proposal seeks to add an additional floor, without adding any additional height, by reducing the residential floor-to-floor height from 3.2m to 3.12m.

The reduction in floor-to-floor height maintains a 2.8m floor-to-ceiling height and as such is consistent with the 2.7m minimum floor to ceiling height control set out in Objective 4C-1 of the ADG.

There is no storey control applicable to the subject site. As such, the additional level does not, in and of itself, constitute a breach of any control.

#### 6.2.6 Revised column

The revised columns have negligible impact on the layout of the basement parking, hotel use and residential units. They do however result in a small reduction in the GFA of each level.

#### 6.2.7 Use Relocations

The proposal includes the following relocations within the building:

- Hotel rooftop bar moved from levels 56/57 to level 18
- Hotel ballroom moved from level 3 to level 20

These relocations are considered to be acceptable for the following reasons:

- Moving the ballroom from the lower levels to the mid-tower levels would likely reduce the potential for noise and privacy conflicts between the site and the adjoining residential building to the north.
- The design excellence jury were satisfied that the location of the bar at roof level was not necessary to ensure the design excellence of the building. The

DA/1066/2016/D Page **9** of **14** 

bar will still be located well above the adjoining residential properties and as such will not affect their acoustic or visual privacy.

## 6.2.8 Floor Space Ratio

The proposal includes 1 additional level, a reduction of 10 hotel units and introduction of 7 serviced apartments.

The LEP map provides a base FSR of 10:1 and the design competition bonus allows an additional 15% bonus (1.5:1). Further, Clause 7.13 of Parramatta LEP (a site specific clause) includes the following clauses:

- (2) The consent authority may, despite any other provision of this Plan, grant consent to the erection of a building on land to which this clause applies that has a floor space ratio that exceeds the maximum floor space ratio shown for the land on the Floor Space Ratio Map by an amount of up to 5.5:1, but only if the consent authority is satisfied that the additional floor area will be used only for the purposes of hotel or motel accommodation or commercial premises.
- (3) The consent authority must not grant consent to the erection of a new building on land to which this clause applies unless the consent authority is satisfied that part of the building will be used for the purposes of commercial premises and that part will have a minimum gross floor area that equates to a floor space ratio of 1:1.
- (4) Gross floor area that is to be used for the purposes of commercial premises may be counted only for the purposes of satisfying subclause (2) or (3), but not for the purposes of satisfying both those subclauses.

As such, the allowable FSR/GFA is as follows (based on the site area of 2,307m<sup>2</sup>):

Residential: Max 10.5 / 24,224m²
 Commercial: Max 6.5:1 / 14,996m²

• Total: Max 17:1 / 39,220m<sup>2</sup>

The approved building (as modified by DA/1066/2016/A) has the following use split:

Residential: 10.49:1 / 24,198m²
 Commercial: 6.33:1 / 14,604m²
 Total: 16.82:1 / 38,802m²

The proposal would have the following split:

Residential: 10.49:1 / 24,206m²
 Commercial 6.33:1 / 14,610m²

• Total: 16.8:1 / 38,816m<sup>2</sup>

As such the proposal complies with the FSR development standards for the site. If the serviced apartments were sold for use as residential units the proposal would not comply with the FSR standards. As such, a condition has been included to clarify that the serviced apartments must be used for short-term accommodation on a commercial basis.

The proposal includes an additional level but only results in a GFA increase of 14m<sup>2</sup>. The additional net floor space is taken up by plant and column size.

DA/1066/2016/D Page **10** of **14** 

### 6.2.9 Parking

Clause 7.13 of Parramatta LEP 2011 sets maximum car parking rates for the site based on the number and type of residential units and the quantum of hotel/commercial floor space.

The approved configuration allowed for a total of 160 residential spaces and 17 hotel/commercial spaces. These maximums are enforced by condition 1 'Approved Plans and Supporting Documentation' and condition 28 'Car Parking Allocation'.

The additional commercial floor space is not sufficient to increase the allowance of commercial parking. Accordingly, the applicant does not propose additional parking spaces.

#### 6.2.10 Study Rooms

The original consent included conditions 46 and 47 which required amendments to units with windowless study rooms to ensure they could not easily be converted to substandard bedrooms.

The applicant has revised the layout of these units to achieve the objectives of the controls and thus seeks deletion of the conditions (see Figure 5 below).



Figure 5. Proposed study rooms in unit types 4, 5, 7 & 9 (from left to right).

The revised floor plans achieve the objectives of the conditions and as such the conditions can be deleted.

#### 6.2.11 Design Excellence

The application includes moving the tower 'cutout' level down 3.1m, revising the hotel entry portal and awning, revising the internal feature stair, and revising the roof plant enclosure.

The design excellence jury found that these changes to the form of the tower to be minor and not sufficient to revoke their design excellence certification. As such the proposal is considered to maintain design excellence as per Clause 7.10 of the PLEP 2011.

The external changes are substantially within the approved envelope and as such will not have further amenity impacts on adjoining or nearby properties.

DA/1066/2016/D Page **11** of **14** 



Figure 6. Approved West Elevation (left) vs. Proposed West Elevation (Right)

#### 6.2.12 Conditions

The proposal includes rectification of an error in the application of acoustic conditions to the original consent. Revised conditions have been recommended by Council's acoustic officer and have been included in the draft modified consent.

# 7. Planning Agreements

The proposal does not affect the existing planning agreement.

## 8. The Regulations

The proposed modifications would not impact on the relevant regulations, compliance with which is conditioned in the original consent.

# 9. The Likely Impacts of the Development

As outlined in this report, the modified development is not considered to result in any unacceptable impacts.

# 10. Site Suitability

The proposed modifications results in no changes to the original assessment that the proposed site is suitable for the proposed uses.

## 11. Submissions

The application was advertised and notified in accordance with Appendix 5, Section A5.5.2.3 of Parramatta DCP 2011 for a 21-day period between 17 July and 7 August 2019. A total of 4 submissions were received. Two of the submission were received from NSW Police. The public submissions raised the following issues:

Issues Raised	Comment
Any changes which impinge on the heritage item should be rejected.	The proposal does not include any changes to the retained heritage elements.
Additional residential at expense of hotel not appropriate.	The application has since been revised by way of deleting the additional residential units and now includes additional serviced apartments only.

DA/1066/2016/D Page **12** of **14** 

The proposal would result in higher traffic generation.	No additional parking is proposed. The new use, serviced apartments, is considered to have a similar traffic generation to the hotel floor space which it replaces. As such the net change to traffic is considered likely to be negligible.
The proposal does not meet the objectives of the Water Management Act 2000.	The original development application was integrated development under the Water Management Act 2000. Water NSW provided General Terms of Approval for the application. The subject modification application was referred to Water NSW; no response was received. The application is not considered to make a material change to the water/wastewater demand of the subject site. Regardless, approval under the Environmental Planning & Assessment Act 1979 does not exempt the applicant from compliance with any relevant provisions of the Water Management Act 2000.
The BASIX score is not accurate.	As the proposal has been revised to delete any new residential units and the only changes to the approved residential units are minor, a revised BASIX certificate is not required. The BASIX report for the original application was reviewed by Council's independent ESD consultant and found to be acceptable.
The revised proposal would result in an unacceptable fire risk to occupants and the retained heritage.	Conditions on the existing consent require compliance with the Building Code of Australia which sets requirements for fire safety. The proposal does not include any changes to the design of the building likely to increase fire risk to the retained heritage elements.
Use of the bar and ballroom may compromise the acoustic amenity of residents.	The existing and proposed modified acoustic conditions are consider sufficient to ensure the proposed relocated bar and ballroom do not have an unacceptable impact on the amenity of occupants.
Original application's impact on heritage unacceptable.	The proposal does not include any additional loss of heritage fabric.

Table 7. Public Submissions and comments.

The Police submissions raised the following issues:

Issues Raised	Comment
The NSW Police did not object to the	• •
licenses premises but recommended	area. As such there is not considered to be a reasonable
the following conditions:	nexus between the proposed modifications and the new
1. Preparation of a Plan of	•
Management	consent. Further, the applicant will be required to obtain a
<ol><li>Exclude members of gangs</li></ol>	liquor license for the proposed use to which these conditions
3. CCTV	can be attached.
4. 14 days' notice of events to	
police.	
The NSW Police will not comment on	Noted.
structural changes to the	
development.	

Table 8. Police Submissions and comments.

# 12. Public Interest

The proposed modifications result in no issues which are contrary to the public interest.

# 13. Disclosure of Political Donations and Gifts

No disclosures of any political donations or gifts have been declared by the applicant or any organisation / persons that have made submissions in respect to the proposed development.

DA/1066/2016/D Page **13** of **14** 

## 14. Development Contributions

Section 7.12 of the Environmental Planning and Assessment Act 1979 provides for the collection of developer contributions by planning authorities. The proposed development is subject to developer contributions per Parramatta Civic Improvement Plan (CIP) (Amendment No. 4). The CIP requires a contribution equal to 3% of the cost of works. The original application had a cost of works of \$238,718,242 generating a contribution payable (inc. indexation) of \$7,180,167.31.

The applicant submitted a revised cost of works as part of DA/1066/2016/C of \$207,711,436 generating a contribution payable (inc. indexation) of \$6,231,343.08.

A further revised cost of works as part of the subject application of \$211,295,299 generates a contribution payable of \$6,338,858.97 (subject to indexation). The difference, in cost of works of \$3,583,863 is considered to be roughly proportional to the cost/storey overall and as such is considered to be acceptable.

As such, Condition 30 'Section 7.12 Contributions' is revised accordingly.

# 15. Summary and Conclusion

The application has been assessed relative to Sections 4.15 and 4.55(2) of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. It is considered that the proposal as modified would be substantially the same development and be consistent with the relevant planning controls. The proposed modifications would have a negligible impact on the amenity of occupants, adjoining/nearby properties and the public domain. As such, approval is recommended subject to modified conditions of consent.

## 16. Recommendation

- That, pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the Sydney Central City Planning Panel, as the consent authority, grant consent to modify Consent Reference DA/1066/2016 (as amended) at 2 - 10 Phillip Street, PARRAMATTA NSW 2150 (Lots 1 & 2 DP 986344 and Lot 1 DP 228697) subject to the revised conditions contained in Appendix 1.
- 2. That objectors be notified of the decision.

DA/1066/2016/D Page **14** of **14**