



EPBC 2024/10005

Statement of Reasons for a Decision that the Action is Clearly Unacceptable under the *Environment Protection and Biodiversity Conservation Act 1999*

I, Kate Gowland, Branch Head, Environment Assessments (NSW, ACT), Department of Climate Change, Energy, the Environment and Water, delegate for the Minister for the Environment and Water, provide the following statement of reasons for my decision of 15 December 2025, under section 74B of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), that the proposed action by Southern Han Parramatta Pty Ltd to demolish existing buildings and structures, while enhancing, protecting and maintaining the three-state heritage listed cottages, to develop a mixed-use development over two towers (one 39 storeys and one 40 storeys) with approximately 1,505 square metres of open space and build-to-rent housing, at 16-22a Hunter Street, 23-29 Macquarie Street, and 14-16 O'Connell Street, Parramatta NSW (EPBC 2024/10005), would have clearly unacceptable impacts on a matter protected by a provision of Part 3 of the EPBC Act.

Legislation

Section 68 of the EPBC Act relevantly provides:

- 1) *A person proposing to take an action that the person thinks may be or is a controlled action must refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.*
- 2) *A person proposing to take an action that the person thinks is not a controlled action may refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.*

Section 74B of the EPBC Act relevantly provides:

- 1) *This Division applies to the referral of a proposal to take an action if, within 20 business days after the Minister receives the referral:*
 - a) *the Minister considers, on the basis of the information in the referral, that it is clear that the action would have unacceptable impacts on a matter protected by a provision of Part 3;*
and
 - b) *the Minister decides that this Division should apply to the referral.*
- 2) *If this Division applies to a referral, any other provisions of this Chapter that would, apart from this subsection, have applied to the referral cease to apply to the referral.*
- 3) *Subsection (2) has effect subject to paragraph 74D(6)(a).*

Background

Proposed action

- 1) I note that on 21 January 2025, Pacific Planning Pty Limited (**Pacific Planning**), on behalf of Southern Han Parramatta Pty Ltd (**Southern Han**), submitted a valid referral in accordance with the EPBC Act (**referral**).
- 2) The referral proposed to develop an area of land, situated at 16-22a Hunter Street, 23-29 Macquarie Street, and 14-16 O'Connell Street in Parramatta, NSW (**proposed action area**).
- 3) The proposed development includes the construction of two towers (one 39 storeys and one 40 storeys) with approximately 1,505 square metres (m²) of open space and build-to-rent housing, for mixed residential and commercial use. As part of this development, Southern Han proposes to demolish existing non-heritage buildings and structures, and retain, protect and maintain three state heritage listed cottages on the site (together, the **proposed action**).
- 4) I note that the referral supporting documents provide further information on the scope of proposed action:
 - a) The proposed action area combines a number of amalgamated lots on the western edge of the Parramatta Central Business District (**CBD**). The lots currently contain several commercial buildings, one with basement level carparking, vacant allotments, a right of way, and the three state-heritage listed cottages.
 - b) A significant design consideration of the proposed action has been the conservation and adaptive re-use of the state heritage listed cottages.
 - c) The proposed action will include:
 - i) A northern 40 storey tower and a southern 39 storey tower located on the northeast and southeast corners of the proposed action area, closest to the Parramatta CBD. The height of both towers exceeds 120 m each.
 - ii) Construction of approximately 315 dwellings, with the final number subject to detailed design.
 - iii) 5,829 m² of commercial floorspace.
 - iv) 959 m² of retail floorspace.
 - v) 622 m² of community floorspace.
 - vi) 1,505 m² of publicly accessible open space, particularly around the curtilage of the state heritage listed cottages.
 - vii) Basement levels, subject to archaeological interventions.
- 5) I note that Pacific Planning has stated in the referral its belief that the proposed action is likely to have an impact on the following Matters of National Environmental Significance:
 - a) World Heritage values of a World Heritage property (sections 12 and 15A)
 - b) National Heritage values of a National Heritage place (sections 15B and 15C).
- 6) Pacific Planning has stated in the referral that they do not consider that the impacts are significant.

- 7) The proposed action is located within the Highly Sensitive Area that borders the World and National Heritage listed Old Government House and Domain (**OGHD**). The Highly Sensitive Area was designated in order to maintain OGHD's views and landscape settings which are integral to maintaining the World and National Heritage listed values.
- 8) The department has received, and I have considered, advice from the Cultural Heritage Section (**CHS**) within the Department of Climate Change, Energy, the Environment and Water (**the department**), who have advised that they consider that the proposed development of two towers (at a height that exceeds 120 meters each) as part of the proposed action, will have a major, adverse, and permanent impact on the views and landscape settings that are integral to the Outstanding Universal Value (**OUV**) of the OGHD under the World Heritage listing, and is inconsistent with relevant World and National Heritage listed values. As such, the department considered, and I agree, that the visual impact of the proposed action on the OGHD is clearly unacceptable.

Evidence or other material on which my findings were based

- 9) In making my decision to apply Division 1A of Part 7 of the EPBC Act to the proposed action, I considered the following:
 - a) A brief prepared by the department dated 24 June 2025 outlining the department's recommendation of a clearly unacceptable decision.
 - b) The referral, and attachments to the referral.
 - c) Advice from the department's Cultural Heritage Section.
 - d) Objects of the Act (section 3 of the EPBC Act).
 - e) Principles of ecologically sustainable development (section 3A of the EPBC Act).
 - f) Australian World Heritage management principles (Schedule 5 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations)).
 - g) National Heritage management principles (Schedule 5B of the EPBC Regulations).
 - h) The *Australian Convict Sites Statement of Outstanding Universal Value* under the World Heritage Convention. Currently accessible at: <https://whc.unesco.org/en/list/1306/>
 - i) *Old Government House and the Government Domain, O'Connell St, Parramatta, NSW, Australia* National Heritage listing information in the National Heritage Database. Currently accessible at: https://www.environment.gov.au/cgi-bin/ahdb/search.pl?mode=place_detail;place_id=105957
 - j) The *Conservation Agreement for the protection and conservation of the World Heritage Values and National Heritage Values of the Australian Convict Sites, Old Government House and Domain, Parramatta New South Wales (Conservation Agreement)*. I note that the Conservation Agreement was also included as an attachment to the referral. As at the date of writing these reasons accessible at: <https://www.dcceew.gov.au/sites/default/files/env/pages/4b63db66-1d8e-4427-91d1-951aff442414/files/ca-nsw-convict-sites.pdf>
 - k) *Policy Statement on the Conservation Agreement for Old Government House and Domain, Parramatta (Policy Statement)*. Currently accessible at:

<https://www.dcceew.gov.au/sites/default/files/documents/policy-statement-old-govt-house.pdf>

- l) *Development in Parramatta City and the Impact on Old Government House and Domain's World and National Heritage Listed Values: Technical Report (Technical Report/Planisphere Report)*. I note that the Technical Report was also included as an attachment to the referral. Currently accessible at: <https://www.dcceew.gov.au/sites/default/files/documents/parramatta-report.pdf>
- m) *Operational Guidelines for the Implementation of the World Heritage Convention (Operational Guidelines)* (WHC.24/01 31 July 2024). Currently accessible at: <https://whc.unesco.org/en/guidelines/>
- n) UNESCO World Heritage Convention Decision 34 COM 8B.16 - Cultural Properties - Australian Convict Sites (Australia). Currently accessible at [UNESCO World Heritage Centre - Decision - 34 COM 8B.16](#)
- o) *Guidance and Toolkit for Impact Assessments in a World Heritage Context (Impact Assessment Guidance)*. Currently accessible at: <https://whc.unesco.org/en/guidance-toolkit-impact-assessments/>
- p) *The Convention Concerning the Protection of the World Cultural and Natural Heritage* (World Heritage Convention, Convention). Currently accessible at: [UNESCO World Heritage Centre - Convention Concerning the Protection of the World Cultural and Natural Heritage](#)
- q) A Protected Matters Search Tool report dated 15 December 2025.

Findings on material questions of fact

Old Government House and Domain

- 10) I note that OGHD is the oldest surviving public building on the Australian mainland, and the only early colonial Government House to have survived relatively intact. It provides a significant tangible link with the earliest days of the foundation of colonial development in Australia in 1788.
- 11) OGHD was included in the National Heritage list on 1 August 2007, and is listed under National Heritage criteria A, C, D and H.
- 12) OGHD is one of eleven serial listing component sites in the Australian Convict Sites World Heritage property (**ACS**), inscribed on the World Heritage List on 31 July 2010. The ACS is listed for its Outstanding Universal Value (**OUV**) under World Heritage criteria iv and vi. The ACS property serial listing constitutes an outstanding and large-scale example of the forced migration of convicts and illustrates the different types of convict settlement organised to serve the colonial development project by means of buildings, ports, infrastructure and the extraction of resources. OGHD is the only component site in the serial listing that is representative of the governance of the convict settlement.
- 13) I note the department's advice that there are several significant views from OGHD that are recognised by the World Heritage Committee as important in demonstrating OGHD's role as a centre of colonial administration, and contribute to maintaining the integrity of the convict

landscape and setting. These views and settings are integral to preserving several of the World and National Heritage values for which OGHD is listed.

- 14) I note that the purpose of OGHD's Highly Sensitive Area is to assist in protecting the significant views and settings which contribute to the protected values of the OGHD. I understand that the Highly Sensitive Area is an area which includes:
- a) OGHD's World Heritage listed area, with a buffer zone
 - b) OGHD's National Heritage listed area, and
 - c) an additional larger area adjacent OGHD, in which the proposed action is sited.
- 15) I note that the Highly Sensitive Area was identified from, and the continued management of the area is guided by, the following documents:
- a) **Technical Report.** The purpose of the Technical Report is to examine the relationship between future development in Parramatta City and the OGHD. One of the Technical Report's key objectives is to identify and assess important views and settings. Certain important views established by the Technical Report have been referred to in this Statement of Reasons. The Technical Report forms the basis for the delineation of the Highly Sensitive Area.
 - b) **Conservation Agreement.** The Conservation Agreement is an agreement entered into in 2015 by the Minister for the Environment on behalf of the Commonwealth of Australia, Minister for Planning on behalf of the State of New South Wales, and Parramatta City Council. The purpose of the Conservation Agreement is to provide for the protection and conservation of the World and National Heritage values of OGHD by implementing the findings of the Technical Report. The Conservation Agreement recognises that development within the Highly Sensitive Area that complies with the Highly Sensitive Area's planning controls is not likely to have a significant impact on matters protected under Part 3 of the EPBC Act and does not require approval under Part 9 of the EPBC Act.
 - c) **Policy Statement.** The Policy Statement provides a summary of the purpose and contents of the Conservation Agreement. It states that developments compliant with the planning controls do not need approval under the EPBC Act, that non-compliant developments need to be referred to the department for consideration under the EPBC Act, and that non-compliant developments will generally be refused under the EPBC Act and will only be approved in exceptional circumstances.
- 16) I noted the department's advice that the operative function of the Technical Report, Conservation Agreement planning controls, and Policy Statement are to provide a guide. I note and accept however, that these documents are a guide, and should not be applied inflexibly. I have not made my decision on the unacceptability of the impacts of the proposed action's impacts on the basis that the proposed action is non-compliant with the Technical Report, the Conservation Agreement or the Policy Statement. I have, as the EPBC Act requires, considered whether it is clear that the proposed action will have an unacceptable impact on OGHD's World and National Heritage values.

Impacts to World Heritage properties (s12 & s15A)

Impacted World Heritage criteria

- 17) The ACS is listed for its OUV under World Heritage criteria iv and vi.
- 18) I note and accept the advice from CHS that the proposed action as it stands would have a major, adverse, and permanent impact on the listed World Heritage values of OGHD as described under World Heritage criterion vi, and the Integrity and Authenticity section of the ACS property's Statement of Outstanding Universal Value (**SOUV**).
- 19) OGHD is included in the ACS World Heritage listing under World Heritage criterion vi. For listing under criterion vi, a property must be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance.
- 20) OGHD is included in the ACS World Heritage listing under criterion vi for the significance of the convict settlements:

'... They illustrate an active phase in the occupation of colonial lands to the detriment of the Aboriginal peoples, and the process of creating a colonial population of European origin through the dialectic of punishment and transportation followed by forced labour and social rehabilitation to the eventual social integration of convicts as settlers.'

- 21) To be considered of Outstanding Universal Value, a nominated property must meet conditions of integrity, and for cultural properties, authenticity. The Integrity and Authenticity section of the SOUV is a key component of a World Heritage property listing and can also describe any threats that may affect the property. A property's integrity and authenticity must be adequately managed and maintained. The following extract from the Integrity and Authenticity section of the SOUV highlights that the risk to the integrity of the ACS (and therefore OGHD) is from visual perspectives in urban settings:

'The structural and landscape integrity of the property varies depending on the site, and on the type of evidence considered. It has been affected by local history, at times marked by reuse or lengthy periods of abandonment. The integrity varies between well preserved groups and others where it might be described as fragmentary. Apart from certain visual perspectives in urban settings, the level of the property's integrity is well controlled by the site management plans.'

Impacts to World Heritage values

- 22) I note CHS' advice that the ACS serial listing constitutes an outstanding and large-scale example of the forced migration of convicts and illustrates the different types of convict settlement organised to serve the colonial development project by means of buildings, ports, infrastructure, and the extraction of resources.
- 23) OGHD is the only component site in the serial listing that is representative of the governance of the convict settlement, the interpretation of which is reliant on its setting and visual surrounds. The positioning of OGHD overseeing Parramatta is representative of convict governance to 'watch over' the surrounding settlement. The views contribute to the values as they were key vantage points established by early governors from which to view Parramatta from within the confines of Old Government House. These views remain largely intact at the site and are therefore integral to maintaining the site's ability to illustrate an active phase in the occupation

of colonial lands and the dialectic of punishment and transportation followed by forced labour and social rehabilitation to the eventual social integration of convicts as settlers.

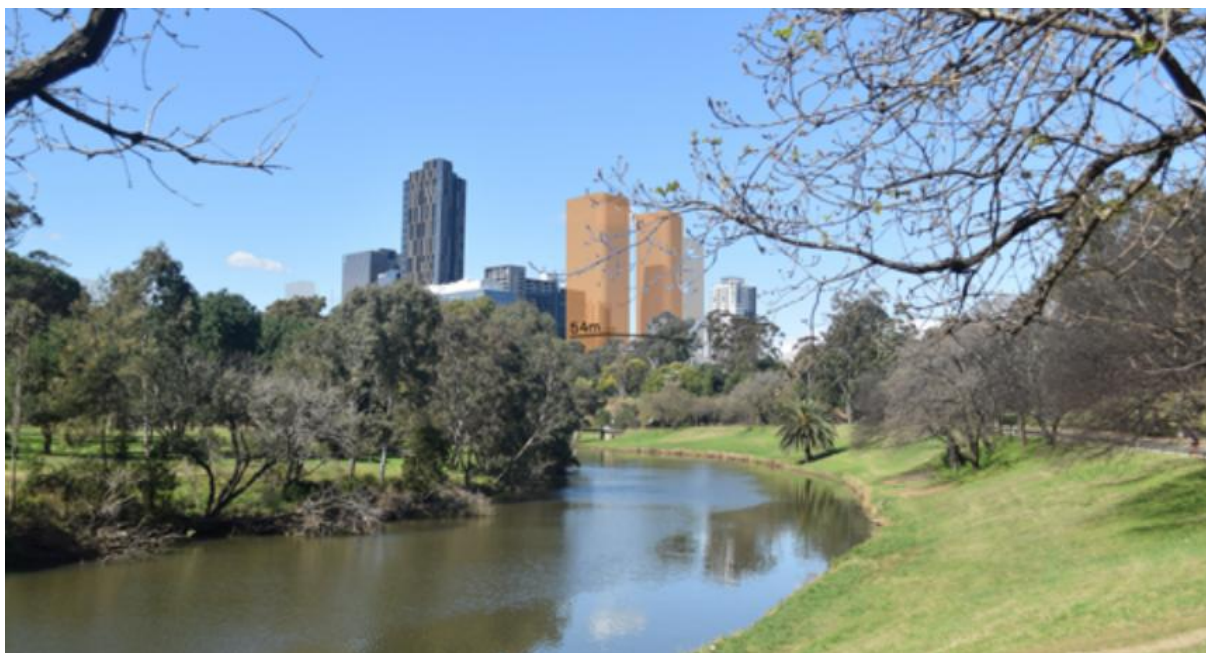
- 24) The proposed action's location in the Highly Sensitive Area places it within several of the important views identified in the Technical Report which are considered important for maintaining the property's landscape integrity and therefore the values relevant to criterion vi.
- 25) I considered the proponent's view analysis contained in the referral, which illustrates how the scale of the proposed action (two towers both in excess of 120 m in height) will impact several important views established by the Technical Report that form part of OGH's listed values relevant to criterion vi, and compromise the integrity of the landscape setting. Five of the figures contained in the view analysis are reproduced at Figures 1 to 5 below.
- 26) The proposed action will impact upon three views considered in the Technical Report to be of 'high' significance, and two views of 'moderate' significance:
- i) View 1 (Figure 1): Old Government House (**OGH**) towards the city – high significance. This view includes multi-layered elements including the layout of pathways and has a relationship with the alignment of George Street. It provides a sense of the landscape setting in the foreground of views through the juxtaposition of city and parkland.
 - ii) View 5 (Figure 2): Bath House area to city – high significance. This view contains strong layering of landscape elements including the bath house, the Redoubt and Observatory. It provides a strong sense of the relationship between OGH and Parramatta and the general landscape setting.
 - iii) View 8B (Figure 3): Parramatta River views – high significance. This view includes a strong layering of landscape elements including the river, partial river views towards Old Government Farm, exotic plantings and OGH which sits within a dominant location.
 - iv) View 1B (Figure 4): OGH courtyard towards the city – moderate significance. This view provides a strong sense of a multilayered landscape through the proximity of OGH and the central courtyard.
 - v) View 16: Mays Hill (Figure 5) – moderate significance. This view provides a strong layering of landscape elements, with Parramatta Park and the City visible.
- 27) I note that Figures 1-5 below from the view analysis show the proposed action's two towers as orange projections, with the black line on the orange towers showing the 54 m maximum building height prescribed by the Conservation Agreement planning controls. The view analysis notes that the photos were taken in 2022.



*Figure 1 The proposed action's anticipated impact on **View 1: OGH towards the city**, identified as being of high significance in the Technical Report.*



*Figure 2 The proposed action's anticipated impact on **View 5: Bath House Area to city**, identified as being of high significance in the Technical Report.*



*Figure 3 The proposed action's anticipated impact on **View 8B: Parramatta River views**, identified as being of high significance in the Technical Report.*



*Figure 4 The proposed action's anticipated impact on **View 1B: OGH courtyard towards city**, identified as being of moderate significance in the Technical Report.*



Figure 5 The proposed action's anticipated impact on **View 16: Mays Hill**, identified as being of moderate significance in the Technical Report.

- 28) It is evident from the view analysis that the two proposed towers will be intrusive into the viewsheds of both high and moderate value viewpoints. If constructed, the towers would crowd and dominate the skyline, obscuring significant portions of the sky, which would affect the current aesthetics at these valuable viewpoints. The impacts to these views compromise the integrity of the values described in criterion vi, as the proposed tower heights and their visibility from OGHD impede the interpretability of OGHD as a place of governance during colonial occupation, particularly the ability to understand the role of early governors to 'watch over' the colony from their elevated position within the landscape. Interpretation of these heritage values relies on these significant views and settings to the east.
- 29) I noted that cumulative impacts to OGHD from ongoing development in Parramatta are important to the analysis of impacts with respect to the World Heritage Convention. The *Guidance and Toolkit for Impact Assessments in a World Heritage Context (Impact Assessment Guidance)* developed by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Advisory Bodies to the World Heritage Committee under the framework of the World Heritage Convention notes on page 9 that:
- A proposed action should be assessed within its larger context and not in isolation. Multiple projects of the same type, or a combination of different projects over time, may cause cumulative impacts which compound the impacts of an individual proposed action.*
- 30) The buildings proposed by this referral, combined with the cumulative impact of the buildings already present surrounding the proposed action area, would significantly further crowd the important views identified in the Technical Report, as evidenced by the view analysis.

Additional considerations for World Heritage properties

Australian World Heritage management principles

- 31) I note that the Australian World Heritage management principles are in Schedule 5 of the EPBC Regulations 2000. The department considers, and I agree, that the proposed action would be inconsistent with principle 1.01, which states:

The primary purpose of management of natural heritage and cultural heritage of a declared World Heritage property must be, in accordance with Australia's obligations under the World Heritage Convention, to identify, protect, conserve, present, transmit to future generations and, if appropriate, rehabilitate the World Heritage values of the property.

- 32) CHS have stated that the height and visibility of the proposed action, and its impact on the visual setting of OGH, has the potential to impact the World Heritage values by compromising the property's landscape integrity, which would impact its interpretability as an intact convict settlement. I agree with this, and I consider that the proposed action would be inconsistent with the Australian World Heritage Management Principles to protect and conserve the World Heritage values of the property.

Obligations under the World Heritage Convention

- 33) The World Heritage Convention (Convention) aims to promote cooperation among nations to protect heritage around the world that is of such outstanding universal value that its conservation is important for current and future generations. It is intended that, unlike the seven wonders of the ancient world, properties on the World Heritage List will be conserved for all time.
- 34) I note that Article 4 of the Convention states:

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

- 35) The department considers that Australia would be acting inconsistently with the Convention if the proposed action were to proceed, because the proposed action will lead to the loss of listed values of the OGH to the extent that the ability to present and transmit the relevant values to future generations will be diminished.

Listing of OGH and Notification under the World Heritage Convention

- 36) I note that CHS advised, protecting a number of specific views and sightlines from OGH were included in the management plan which was submitted to the World Heritage Committee as part of the site's nomination package, along with advice on the legislative context that would form part of its management arrangements. In addition, the International Council on Monuments and Sites (**ICOMOS**) evaluation report for the property and the World Heritage Committee listing decision specifically mention concerns about visual impacts on the property's integrity, and the recommendation made by the Committee in its listing decision states that Australia should:

'...pay attention to managing the landscape values of the sites in or close to urban areas by studying the visual impact of their current environment and any projects liable to affect those values' (UNESCO World Heritage Convention Decision 34 COM 8B.16 - Cultural Properties - Australian Convict Sites (Australia)).

- 37) I note CHS' advice that as a result of the site's listing, the World Heritage Committee now expects these values to be protected and considers that developments that impinge on these values would be seen as endangering the OUV of the site.
- 38) CHS has stated in their advice that Australia is required to adhere to Paragraph 118bis of the *Operational Guidelines for the Implementation of the World Heritage Convention* (**Operational Guidelines**) which states (in summary), that States Parties shall ensure that Environmental Impact Assessments, Heritage Impact Assessments, and/or Strategic Environmental Assessments be carried out as a pre-requisite for development projects and activities that are planned for implementation within or around a World Heritage property.
- 39) I note the referral includes a self-assessment of impacts to World and National Heritage values. The department notes that the referral does not contemplate whether the proposed action would lead to the loss of OGHD's World Heritage values. CHS considers that the referral assessment is not an adequate Heritage Impact Assessment and does not adequately address the potential impacts on the World Heritage values of the OGHD and ACS in accordance with the Operational Guidelines, regardless, the department considers it is clear from the referral, what the nature and scale of the proposed action's impacts on OGHD would be.
- 40) CHS also highlight that the referral does not consider the Impact Assessment Guidance developed by UNESCO under the framework of the World Heritage Convention. CHS notes that page 27 of these guidelines state: 'It is not acceptable to lose, damage or alter OUV because OUV is irreplaceable', and further that, 'any loss of, or damage to OUV is unacceptable'.
- 41) CHS has stated that the proponent's self-assessment, contained in the referral documentation, is limited to the specified building heights and lacks detail about alternatives, such as lower height buildings which may have less of an impact on the site's values.
- 42) The department notes, and I agree, that the proposed action is inconsistent with the recommendations outlined in the Impact Assessment Guidance. The department notes, however, that the proponent has stated in the referral that they intend to conduct further assessment of impacts during the assessment stage, under the assumption that the proposed action will be determined a controlled action and be assessed via the EPBC Act bilateral assessment pathway with the NSW Government. This statement does not include any proposal that the buildings can, or could, be constructed to a lesser height. The department considers, and I agree, the referral is clear on the nature and scale of the proposed action's impacts on OGHD .

Impacts to National Heritage places (s15B & s15C)

Impacted National Heritage criteria

- 43) I note and accept the advice from CHS that the proposed action as it stands would have a major, adverse and permanent impact on the listed National Heritage values of OGHD as described under National Heritage criterion D.

44) National Heritage criterion D describes how OGHD has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of a class of Australia's natural or cultural places or a class of Australia's natural or cultural environments.

45) I note that the following statements under criterion D provide further background for the National Heritage listing relevant to the proposed action:

'Old Government House in its setting of the former Governor's Domain is significant as a cultural landscape of importance in Australia's history', and

'Uniquely for a site of this age in Australia, the pattern of use and living established by the early governors is still clearly legible in the house and the surviving historic elements in the landscape.'

Impacts to National Heritage values

46) I note CHS' advice that the proposed height and visual intrusiveness of the towers has the potential to cause an irreversible adverse impact on the site's setting and therefore the values identified under criterion D. This potential adverse impact is considered major and permanent. The National Heritage listing identifies that it is not only the house, but how it is set within the landscape, that is of significance as it uniquely demonstrates the establishment of the colony and the pattern of use on the landscape for the early governors.

47) The proposed action has the potential to impact views from within the OGHD identified in the Technical Report, which would compromise the National Heritage values associated with the place's views and setting.

48) I accept that the analysis of visual impacts provided at paragraphs 24) to 30), for impacts to World Heritage values, are also applicable to the discussion of visual impacts to National Heritage values.

49) These views and setting are protected as they demonstrate the pattern of use of OGHD over time, as they were a key vantage point established by early governors from which to view Parramatta from within the confines of Old Government House. The ability to understand and interpret the significance of this aspect of colonial governance may be lost if the setting and views are obstructed.

50) Inherent in the National Heritage value of the site is that the pattern of use and living established by the early governors is still clearly legible in the house and its surrounds, and therefore, the site is important as a significant cultural landscape with surviving historic elements. The height of the proposed action which would create visual bulk and intrude into the landscape setting, will severely degrade the site's value, to the extent that the pattern of use and living established by the early governors becomes illegible in the landscape. This will in turn lead to the loss of the broader cultural landscape aspects of the site.

National Heritage management principles

51) I note the National Heritage management principles are in Schedule 5B of the EPBC Regulations. The department considers the proposed action would be inconsistent with two principles:

- a) Principle 1 states *'The objective in managing National Heritage places is to identify, protect, conserve, present and transmit, to all generations, their National Heritage values.'*

The department considers, and I agree, the proposed action would be inconsistent with Principle 1, because the proposed action will lead to the degradation of listed values of the OGHD and because the values will be diminished to the extent that they are unlikely to be presentable and transmissible to all generations.

- b) Principle 4 states *'The management of National Heritage places should ensure that their use and presentation is consistent with the conservation of their National Heritage values.'*

I note that the department considers, and I agree, the proposed action is inconsistent with Principle 4, because if it were to proceed, it would lead to the degradation of National Heritage values of OGHD to the extent that the listed values would not be conserved.

Avoidance and mitigation of impacts to World and National Heritage values

- 52) I note CHS considers that the proposed action, as described in the referral, cannot be mitigated in a way that will avoid or reduce the major, adverse and irreversible impact that the proposed action is likely to have on the heritage values of the OGHD, specifically; the OUV, the setting of OGHD, and the defined significant views as identified and justified in the Technical Report.
- 53) I note the referral states that, as detailed project design has not yet occurred, mitigation measures will be considered further and in detail through a future design process, but outlines several proposed mitigation measures:
- a) Removal of elements not necessary for the building to function, including signage.
 - b) Detailing the facade design (e.g., utilising sympathetic colours, materials and external finishes that reduce distant visibility against the sky such as light colours, glass and reflective surfaces).
 - c) Breaking up the mass of the towers with facade articulation and different facade colours and materials vertically and horizontally.
 - d) Minimising large architectural roof embellishments such as over-sized spires, blades, etc.
 - e) The referral states that the design of the towers, being slender towers, will create important benefits for increasing urban densities. The proponent lists the following benefits of slender towers:
 - i) Overcoming the sense of tower bulkiness and overwhelming of the public domain.
 - ii) Providing opportunities for views of sky between buildings and a feeling of openness.
 - iii) Minimising overshadowing, particularly extended periods of overshadowing in comparison to long elevations of lower scale development; and
 - iv) Enabling good sunlight and daylight to the public domain.
- 54) The department notes the referral does not propose smaller height buildings as a mitigation. As outlined against the relevant values above, the towers' heights and position in the landscape are the basis of my decision that the impacts are clearly unacceptable. I therefore consider that the mitigation measures as described in the referral are not sufficient in reducing the impacts to World and National Heritage values to below an acceptable threshold.

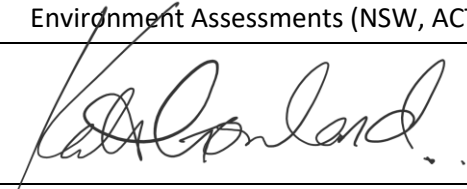
Conclusion on impacts to World and National Heritage values

- 55) Having regard to the nature and scale of impacts, I consider that proposed action would have clearly unacceptable impacts on the views and settings important to maintaining OGHD’s World Heritage values, protected under sections 12 and 15A of the EPBC Act, and National Heritage values, protected under sections 15B and 15C of the EPBC Act.
- 56) The proposed action would have a major, adverse and permanent impact on the listed World and National Heritage values of OGHD.
- 57) The proposed action’s two towers, both in excess of 120 m in height, adjacent to and within important sightlines of OGHD, would compromise the interpretability of the World Heritage property as the only place of convict governance on the ACS serial listing. The National Heritage values would also be impacted as the obstruction of the sightlines would prevent the integrity of the values that the place is listed for, being for the pattern of use and legibility in the landscape.
- 58) I consider that the proposed action, as it is described in the referral, cannot be mitigated in a way that will avoid or reduce the major, adverse and irreversible impact that the proposed action is likely to have on the heritage values of the OGHD.
- 59) The proposed action would therefore result in irreversible adverse impact to both OGHD’s World and National Heritage values and consequently lead to the loss of those values.

Reasons for decision

- 60) In making my decision I took account of the information contained within the referral, and the advice provided to me by the department.
- 61) In light of my findings, I was satisfied that the referred action would have clearly unacceptable impacts on OGHD’s World Heritage values, protected under sections 12 and 15A of the EPBC Act, and National Heritage values, protected under sections 15B and 15C of the EPBC Act.

name and position	Kate Gowland Branch Head Environment Assessments (NSW, ACT)
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Signature	
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date of decision	15 December 2025
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