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January 22, 2020

VIA IZIS AND HAND DELIVERY

Foreign Missions Board of Zoning Adjustment
for the District of Columbia
441 4th Street, NW, Suite 210S
Washington, DC 20001

**Re: Application for a Modification of Consequence
FMBZA Order No. 19557 – Embassy of Australia
1601 Massachusetts Avenue, NW (Square 181, Lot 162)**

Dear Members of the Board:

This Modification of Consequence application is submitted on behalf of the Government of the Commonwealth of Australia, represented by the Australian Embassy, Washington DC (the “Applicant”) in support of its request to modify the architectural drawings approved by FMBZA Order No. 19557 for the construction of a new chancery building for the Embassy of Australia in the MU-15 zone at 1601 Massachusetts Avenue, NW (Square 181, Lot 162) (the “Site”). Based on the meeting schedule of the affected Advisory Neighborhood Commission (“ANC”), the Applicant respectfully requests that the application be considered at the FMBZA’s February 19, 2020 public meeting.

This application is submitted pursuant to Subtitle Y § 703 of the 2016 Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”). Pursuant to 11-Y DCMR § 703.4, the term Modification of Consequence “shall mean a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board.” As set forth herein, the Applicant proposes to refine several components of the architectural elements and open spaces previously approved by the Foreign Missions Board of Zoning Adjustment (the “FMBZA”) and is therefore properly submitted as a Modification of Consequence.

The FMBZA has exclusive jurisdiction to review the proposed modification pursuant to Section 206 of the Foreign Missions Act (22 USC § 4306) (the “Act”) and 11-X DCMR Chapter 2, including public space approval and historic preservation approval pursuant to 11-X DCMR §§

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201.8 and 203.7. The Act makes clear that provisions of law other than the Act “shall apply to chanceries only to the extent that they are consistent with this section.” 22 USC § 4306(j). Further, “no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this Chapter.” 22 USC § 4307. The final determination made by the FMBZA concerning the location, replacement, or expansion of a chancery “shall not be subject to the administrative proceedings of any other agency or official” except as provided by the Act. 22 USC § 4306(c)(3). Pursuant to 11-Y DCMR § 203.1, applications to the FMBZA are subject to the procedures of Subtitle Y. Accordingly, this application is properly submitted as a Modification of Consequence pursuant to 11-Y DCMR § 703.

Attached hereto as Exhibit A is a letter from the Applicant authorizing the law firm of Holland & Knight LLP to file and process this application. Attached hereto as Exhibit B is a letter from the United States Department of State certifying that the Embassy of Australia has complied with § 205 of the Act, and indicating its approval of the Embassy submitting the application to the FMBZA. Pursuant to 11-Y DCMR § 1600.1(e), a check in the amount of \$22,308 is also included for the filing fee.

I. Background

Pursuant to FMBZA Order No. 19557, dated September 13, 2017, and effective on December 4, 2017 (Exhibit C), the FMBZA granted approval to remove the existing Australian chancery building located at the Site and replace it with a new chancery building.¹ The new building was approved to contain chancery office space, conference and meeting rooms, consular services, and accessory space. The approved building had a maximum height of 88 feet to the top of the parapet and an overall density of approximately 4.39 floor area ratio (“FAR”).

II. Proposed Modification of Plans

As shown on the revised and comparative architectural drawing sheets attached as Exhibit D (the “Revised Plans”), and pursuant to 11-Y DCMR § 703.4, the Applicant requests a Modification of Consequence to refine certain components of the architectural elements and open spaces from the final design approved by the FMBZA. Specifically, the Applicant proposes the following four modifications: (i) refinements to the final detailing of the building façade materials; (ii) an increased height for one of the three approved public art “zones” in public space adjacent to the building to accommodate the final artwork selected for that location; (iii) removal of one street tree in public space on Massachusetts Avenue to achieve compliance with the District’s tree spacing requirements; and (iv) the addition of exterior “Embassy of Australia” signage with up-lighting on the knee wall adjacent to the building’s main entrance.

1. Façade Modifications

As shown on the proposed building renderings and elevations of the Revised Plans, the Applicant proposes minor modifications to the approved building façade by simultaneously

¹ “Chancery” is defined in the Zoning Regulations and in the Foreign Missions Act as “[t]he principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes.” 11B DCMR § 100.2; 22 USC § 4302

simplifying its geometry while maximizing its articulation. The primary reason for the modification is the Applicant's inability to achieve the building's blast and security requirements while maintaining the folded glass design originally approved for the building.

Following approval of the original FMBZA application, the Australian design team worked with a U.S.-based façade contractor to bring the approved façade design into reality. As a result of this coordination, the Applicant learned that it could not utilize the folded glass and metal façade technique while also complying with the blast and security requirements needed for the chancery use. Therefore, the Applicant proposes to substitute the folded glass and metal façade with a flat glass façade with a folded metal rain screen. The folded metal panels will be produced in a variety of geometries and will be placed in several different configurations to create a similar effect to the folded glass and metal façade approach. The flaming of the metal panels has also significantly progressed, such that they now include a drift of color across each panel. This solution significantly reduces the complexity in engineering and manufacturing the façade while still maintaining the original design intent.

In addition, the Applicant proposes to reduce the metal panel concentration at the building's entry to create a more open and inviting building entrance. Doing so is an important design aesthetic since it represents the openness of the Australian culture. The Applicant also reduced the extent of the metal panels located on the north and west façades. Although the modifications appear more noticeable on the building elevations (Sheets P-303-304), in reality those elevations will only be visible at an oblique angle and are otherwise largely concealed by existing adjacent buildings. As a result, the Applicant concentrated the metal paneling on the visible east side of the north elevation and southern side of the west elevation. When viewed at an oblique angle, the positioning of the panels will create an illusion that the extent of the paneling previously approved has been maintained. While this appearance is not clear from the building elevation sheets, it is depicted more realistically on the renderings.

In addition, the Applicant has revised the color of the louvres at the building's northwest corner and west elevation from copper to a dark powdercoat finish. Similar to above, these portions of the building will only be able to be viewed obliquely and the change will therefore be minimally visible to the public.

Overall, the Applicant's proposal to revise the geometry of the façade has allowed for the maintenance of the building's original design aesthetic while creating a more refined and buildable solution.

Although not located on the façade itself, the Applicant also proposes to modify the shape and material of the bollards located in front of the building's main entrance. There is no change to the number or locations of the proposed bollards compared to what was approved. However, the bollards have changed from painted steel in a circular format to stone clad in a square format. The square, stone-clad bollards will be the same material as the adjacent anti-ram wall and will therefore suggest a gateway into the building, appearing as fragments of the anti-ram wall. The revised design will provide a more refined design aesthetic at the building entry while also disguising the anti-ram methodology around the building perimeter.

Finally, as shown on Sheet P-303 of the Revised Plans, the Applicant reoriented the louvers for the bicycle shelter adjacent to the building's north elevation from vertical to horizontal. This was done for weatherproofing reasons to ensure that bicycles parked in the enclosure do not get wet during inclement weather.

2. Public Art Zone

As shown on the approved site plan (Sheet P-102), the FMBZA approved three art "zones" in public space along the Site's 16th Street frontage. Two of the art zones measured 22'-0" wide x 10'-8" long and one of the art zones measured 6'-7.5" wide x 10'-8" long. All three art zones were approved at 3 meters tall (approximately 9.8 feet) and were intended to showcase Australian art of cultural significance that had not yet been designed as of the FMBZA approval. Thus, the FMBZA approved three art "zones" at the specific dimensions shown on the site plan, with the intent that the final artwork selected would be able to fit within the approved dimensions.

Following FMBZA approval, the Applicant released a request for proposals for the design and creation of the public art pieces. The winning proposal for the southern-most art zone was from a collaboration between Callum Morton, an internationally-exhibited Australian artist, and Monash Art Projects, a design firm specializing in the creation of site-specific public art. As shown on the building renderings, and specifically on the "Proposed Courtyard 1 Sculpture" sheet of the Revised Plans, the selected art piece is a sculpture made of bronze cast, steel framing, and colored mirror paneling. The sculpture is intended to be a visual reference to Bull Allen, an Australian soldier who received a Silver Star by the United States after rescuing twelve wounded American soldiers. The materials tell the story of the geological, economic, and social history of the places where Bull Allen lived and are designed with a robust and durable finish to withstand the District's weather conditions.

The sculpture has a length and width that fits within the approved art zone. However, the sculpture will be approximately 18'-0" tall, which exceeds the art zone's approved height of 3 meters (9.8 feet). Therefore, the Applicant requests that the FMBZA approve an increase to the height of this southern-most art zone to accommodate the proposed sculpture. As shown on the renderings, the 18'-0" tall sculpture fits well within the proposed art zone space even with the increase in height, and will not significantly change the character or scale of the art zone within the streetscape as previously approved. The sculpture will also not create any adverse impacts on views up or down 16th Street. For greater context, a section showing the proposed sculpture in relation to the surrounding public space elements is included at Sheet P-411 of the Revised Plans.

3. Street Trees

As shown on Sheet P-102, the approved site plan included four new street trees in public space along the Site's Massachusetts Avenue frontage. The Applicant proposes to eliminate one of the approved street trees and instead provide three trees in this location. The modification is a result of the District's Urban Forestry Administration's ("UFA") tree spacing requirements and restrictions on locating trees within certain distances of intersections, public space fixtures, and utilities. When more critically evaluated against UFA's guidelines following FMBZA approval, the Applicant determined that it could not fit all four trees within the streetscape and also meet all

of UFA's spacing requirements. Therefore, the Applicant eliminated the one tree that would have been located too close to the existing storm drain inlet on Massachusetts Avenue.

The Applicant met with DDOT prior to filing this application to evaluate UFA's preference for providing three trees in compliance with UFA guidelines, or providing the four approved trees and therefore be non-compliant with UFA's spacing standards. DDOT indicated its preference for complying with UFA standards, which are specifically intended to reduce conflicts between street trees and utilities. Therefore, the Applicant requests the modification described above and shown on the proposed site plan (Sheet P-102 of the Revised Plans).

4. Signage

Finally, the Applicant requests approval to provide external building signage stating "Embassy of Australia." No signage was included in the plans previously approved by the FMBZA.

The sign would be installed on the portion of the 3-foot anti-ram wall that is located adjacent to the main building entrance. The sign would be made of bronze brass letters at a maximum of approximately 5.5" tall and 1.25" deep, and would occupy approximately 11.5' in width along the wall. The continuous landscape hedge approved to be located on the outside of the anti-ram wall would stop short of the end of the wall to accommodate the proposed signage. The landscape hedge would be planted to cover the entirety of the wall's height, in accordance with the design requested by DDOT. Discreet linear up-lighting would be provided to illuminate the signage. Renderings showing the proposed signage are included in the Revised Plans.

III. Community Support

The Property is located within the boundaries of ANC 2B05. The Applicant notified the Single Member District ("SMD") Commissioner for ANC 2B05, the chair of ANC 2B, and the chair of the ANC's Zoning, Preservation, and Development ("ZPD") committee of its request to modify the approved FMBZA drawings prior to filing this application. The Applicant will be formally presenting the modifications at the February 5th and 12th meetings of the ZPD committee and the full ANC, respectively. Based on the timing of those meetings, the Applicant respectfully requests that the FMBZA schedule this case on its February 19, 2020 consent calendar agenda.

IV. Compliance with Applicable Sub-sections of 11-Y DCMR § 703

The Applicant's request for a Modification of Consequence of FMBZA Order No. 19557 complies with the relevant subsections of 11-Y DCMR § 703 as follows:

- **Subtitle Y § 703.2** – *The procedure shall allow the Board, in the interest of efficiency, to make, without public hearing, technical corrections, minor modifications, or modifications of consequence to previously approved final orders including any plans approved in such orders.*

The Applicant requests that the FMBZA approve a Modification of Consequence to the plans approved in BZA Order No. 19557.

- **Subtitle Y § 703.4** – *For purposes of this section, the term “modification of consequence” shall mean a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board.*

The application complies with the definition of a Modification of Consequence because it requests a refinement to the architectural elements and open spaces from the final design approved by the FMBZA.

- **Subtitle Y § 703.5** – *Any party to a previously filed case in which an order has been issued may make a motion in writing to have a matter placed on the Consent Calendar.*

The Applicant herein requests that the matter be placed on the Consent Calendar.

- **Subtitle Y § 703.6** – *An application for a technical correction, minor modification, or modification of consequence approval shall be made in an appropriate manner provided by the Director. The applicant shall furnish two (2) copies of all information required by the form at the time of filing the application, including the following:*

- a. A completed application form;*
- b. The nature of, reason(s), and grounds for the technical correction, minor modification, or modification of consequence;*
- c. A copy of any Board final order, map, plan, or other action or relief proposed to be modified or corrected; and*
- d. Proof of service to all parties.*

Consistent with Subtitle Y § 703.4, a copy of the application form has been completed on IZIS and is included in the case record. The nature of the Modification of Consequence is described herein and shown on the Revised Plans attached hereto as Exhibit D. A copy of FMBZA Order No. 19557 is attached hereto as Exhibit C. This request was served on all parties to the original application, as evidenced by the attached Certificate of Service. The only party to the original application was ANC 2B.

- **Subtitle Y § 703.7** – *No application for technical corrections, minor modifications, or modifications of consequence shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Y, Chapter 16.*

A filing fee of \$22,308 is enclosed herewith, in accordance with 11-Y DCMR § 1600.1(e). This fee represents 26% of the original filing fee, which was \$85,800.

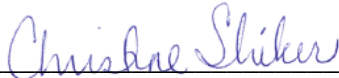
- **Subtitle Y § 703.14** – *The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.*


The final date of FMBZA Order No. 19557 is September 13, 2017, and it became effective on December 4, 2017. The Applicant filed a building permit application for the approved project on March 29, 2019.

As noted above, we would appreciate your consideration of this matter at the February 19, 2020 public meeting. Should you have any questions or need additional information, please do not hesitate to have Office of Zoning staff contact us.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
Christine M. Shiker

By: 
Jessica R. Bloomfield

Enclosures

cc: Certificate of Service
Joel Lawson, D.C. Office of Planning (w/enclosures, via Email and Hand Delivery)
Karen Thomas, D.C. Office of Planning (w/enclosures, via Email and Hand Delivery)
Evelyn Israel, DDOT (w/enclosures, via Email and Hand Delivery)
Timothy Maher, D.C. Office of Planning (w/enclosures, via Email and Hand Delivery)
Steve Callcott, Historic Preservation Office (w/enclosures, via Email and Hand Delivery)

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2020 copies of this application for a Modification of Consequence were served on the following, with hard copies sent on the following business day.

Jennifer Steingasser
D.C. Office of Planning
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