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Mr Tim Green  
Department of Planning and Environment  
302 Pitt Street  
Sydney NSW 2000

3 July 2019

Dear Tim Green,

## **Submission to SSD9694, 301 and 305 Kent Street, Sydney**

This submission has been prepared by Kent Street Pty Limited and Perpetual Trustee Company Limited (**co-owners**), the co-owners of the buildings at 309 and 321 Kent Street, Sydney (**asset**) in response to State Significant Development 9694 (**SSD-9694**) at 301 and 305 Kent Street Sydney (**SSD Site**) currently on public exhibition from 6 June 2019 until 3 July 2019.

We have reviewed the exhibited documents associated with the SSD submission for SSD-9694, as available on the Department of Planning and Environment (**DoPE**) website. The co-owners have several concerns in relation to the proposed development and its potential impact on our asset. Specifically, these concerns relate to:

- The proposal has a non-compliant building side setback at the north western boundary with No.33 Kent Street. This non-compliance has impacts on the amenity of the asset in that it further obstructs its northern aspect.
- Conditions of consent are recommended to limit any amenity impacts at the southern boundary of the proposed building envelope with the asset.
- Further clarification is requested of the proposed taxi and coach drop-off and pick-up zone as part of the architectural reference scheme.
- It is unclear as to whether the future detailed design of the hotel is capable of meeting design excellence outcomes for the site and the wider precinct noting that No 41-45 Erskine Street (at the corner of Erskine and Kent Street) is not included in the land subject to the SSDA.

Each of these concerns relating to SSD-9694 have been addressed in each of the following sections of this letter.

### **1. Asset at 309 and 321 Kent Street, Sydney**

The co-owner's asset directly adjoins the boundary of the SSD Site to the south. The asset has recently been the subject of substantial refurbishment works that were approved under DA D/2017/4528 which comprise:



*“Alterations to two existing commercial buildings, including extended commercial office levels between Levels 1-3, the addition of a terrace at Level 4, and an extension to the existing childcare centre at 309 Kent Street, and the refurbishment of the plaza forecourt and retail and lobby spaces at 321 Kent Street”.*

## 2. Submission Points of Concern

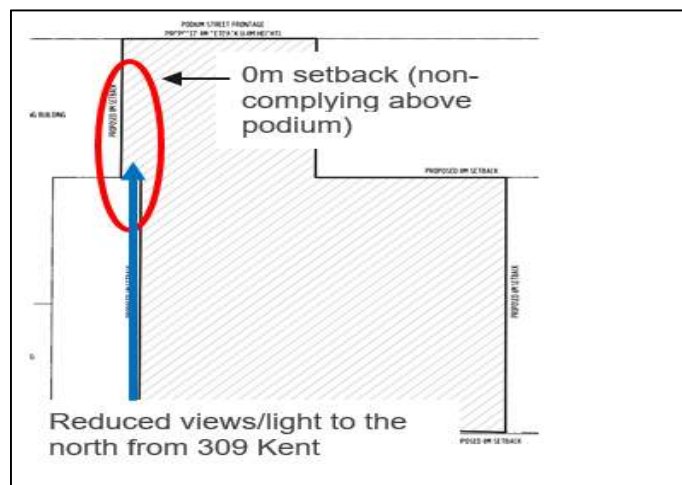
Whilst the SSD submission is largely acceptable and a robust application has been prepared, there are a few areas of concern that have the ability to have an adverse impact on the asset. This submission details these concerns and provides recommendations to the DoPE which aim to result in an improved development envelope protecting the environmental amenity of the asset and representing an improved urban design outcome.

### 2.1 Building Setback Non-compliance

Pursuant to Clause 11 of *State Environmental Planning Policy (State and Regional Development) 2011*, the application of local development control plans is excluded when assessing SSD applications. Notwithstanding, in the circumstances of Central Sydney, the applicable Development Control Plan (Sydney Development Control Plan 2012) (the DCP) remains relevant when assessing the proposal against key controls relating to built form, bulk and scale, and setbacks to adjoining development given these controls are readily and consistently applied.

Section 5 of the DCP includes specific controls relating to Central Sydney in which the SSD site is sited. Assessment of the proposal against the controls in the DCP has found that the proposed building envelope is non-compliant with Part 5.1.2 (Building Setbacks) which in our opinion would have an impact on the existing amenity of the asset.

The proposed building envelope presents a non-compliant setback to the boundary with No. 33 Erskine Street at the site's north-western corner (see figure below). Under the SDCP, a 6m setback would be required to the north west boundary above 45 metres.





We submit that the proposal should be amended to include a compliant building setback to No. 33 Erskine street for the following reasons:

- The DCP states that the objectives of side and rear setbacks are to allow ventilation, daylight access, view sharing, increased privacy and to reduce adverse wind effects. This reduced setback does not achieve adequate satisfaction of these objectives particularly in relation to daylight access.
- This non-compliance has an additional adverse impact on the amenity of the asset in that its north facing aspect will be further obstructed by the proposed building envelope.
- A non-compliant setback for this portion of the western boundary reduces the potential future development outcomes for No.33 Erskine Street.

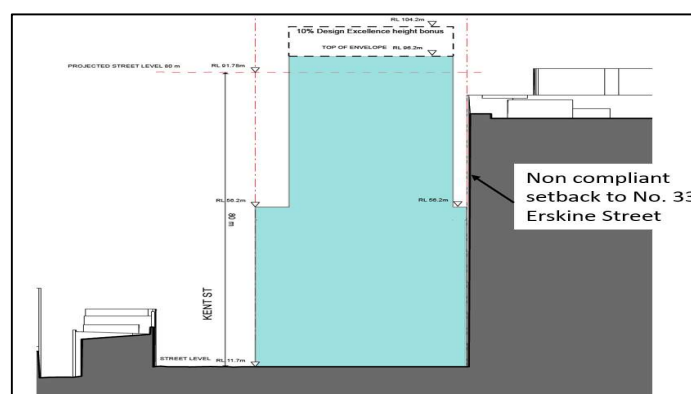
## 2.2 Future relationship at the Southern Boundary with the Asset

Whilst the setbacks to the southern boundary with the asset are compliant, it is recommended the DoPE include conditions of consent, should the SSDA be approved, to limit any amenity impacts of the future development to the asset.

In addition, it is unclear whether the future detailed design of the hotel would be capable of meeting internal amenity requirements such as ventilation and access to sunlight. There does not seem to be lighting into the corridors from the north for example.

Consequently, we recommended conditions of consent to be implemented by DoPE to limit amenity impacts of the future detailed design of the hotel and also to ensure the relationship between the subject site and the asset are appropriate. Recommended conditions include:

- No windows are to be constructed to the southern elevation of the future detailed design of the hotel.
- A condition of consent imposed to ensure there is no conversion of the hotel to serviced apartments.
- The façade to the southern boundary (to the asset) be constructed of high-quality suitable materials, finishes and textures so as to limit a shear wall perception from the asset given there are windows on the asset' northern boundary. It is strongly recommended that the co-owners be consulted during the detailed design of any proposed façade treatment.





## 2.3 Taxi and Coach Drop off Zone

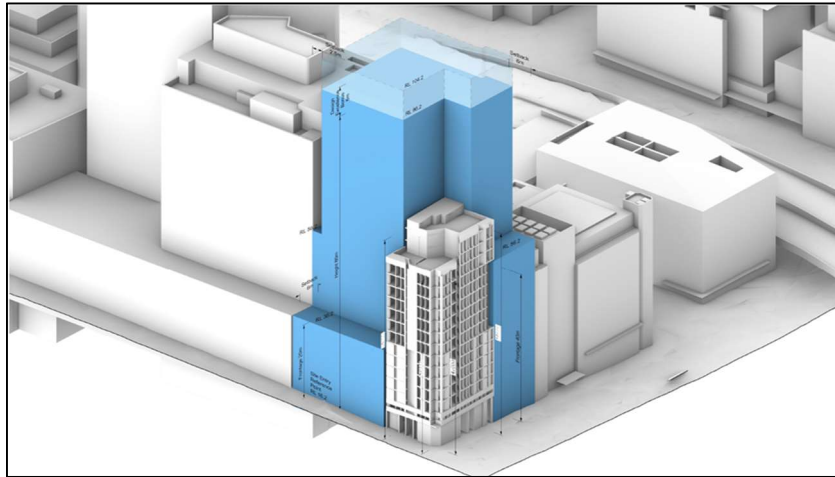
We request further details of the taxi pick-up and drop-off zone proposed at the lower ground level accessed from Erskine Street identified in the architectural reference scheme. Whilst we support an internal area for drop-off and pick-up, it is unclear as to whether Kent Street would be the preferred set down location for future Hotel guests. It is noted that the SSD site's Kent Street frontage is a left turn only lane and any illegal set down would cause vehicles banking up along Kent Street and in turn obstructing the assets vehicle access driveway.

Future detailed design of the hotel should include suitable measures such as wayfinding to ensure that guests are not dropped off along Kent Street to avoid any amenity impacts.



## 2.4 Design Excellence

No. 41-45 Erskine Street is not amalgamated with the land the subject of the SSDA (resulting in an irregular L-shaped lot) which has flow on effects to the design excellence outcomes for the site and the immediate precinct. It is also noted that a previous scheme on the subject land resulted in a consolidated outcome. The approved development at No.41-45 Erskine is also a hotel development and as such it is unfortunate that a combined outcome could not be achieved given the proposed land use is consistent. A future SSD application would be required to demonstrate the proposal's consistency with design excellence provisions, and it is questionable that such an application would result in the achievement of design excellence.



The proposal should adhere to the Government Architect NSW State Design Review Panel process to ensure a good built form environment and urban design outcome. It is also noted that the use of the Panel does not replace the need for the applicant to satisfy the relevant design excellence provisions in an Environmental Planning Instrument, including where a competitive design process may be required, as is the case in the SLEP 2012.

### 3 Conclusion

This submission letter has been prepared by the co-owners of the buildings at 309 and 321 Kent Street, Sydney in response to SSD-9694 at 301 and 305 Kent Street Sydney on public exhibition from 6 June 2019 until 3 July 2019.

We have reviewed the public exhibition documents associated with SSD-9694 and have requested a number of measures including recommended conditions of consent should the SSD be approved to rectify identified concerns as detailed in this letter.

The co-owners encourage a continual dialogue with the adjoining site and would appreciate being informed of future amendments to the scheme.

In making this submission, we confirm that we have not made any political donations in accordance with Section 10.4 of the *Environmental Planning and Assessment Act 1979*. I trust that the DoPE will consider this submission as part of the exhibition process. Should you have any queries regarding this submission letter, please do not hesitate to contact the undersigned.

Sincerely,

Matt Dingwall

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