



KEYLAN
consulting pty ltd

Suite 2, Level 1
1 Rialto Lane
Manly NSW 2095

1 August 2019

Mr David McNamara
Director, Key Sites Assessments
NSW Department of Planning, Industry and Environment
320 Pitt Street
Sydney NSW 2000

Attention: Rodger Roppolo, Key Sites Assessments
rodger.roppolo@planning.nsw.gov.au

Dear Mr McNamara

Response to Submissions

State Significant Development Application – Shade Structures at the Overseas Passenger Terminal (Tenancy 5), Circular Quay West in The Rocks (SSD 9334)

This Response to Submissions (RtS) has been prepared on behalf of Jimmy's on the Mall Pty Ltd (the Applicant) to address the submissions received on the above State significant development (SSD) application – SSD 9334.

We are advised by the Department that the application received a total of eight submissions including one submission from City of Sydney Council (Council), six submissions from government authorities and one submission from the public.

The submissions received from government authorities included:

- Transport for NSW
- Roads and Maritime Services
- Office of Environment & Heritage
- Environment Protection Authority
- Port Authority of NSW
- Place Management NSW

A response to the issues raised by Council and the government authorities is provided at **Appendix A**. A response to the issues raised in the public submission is provided at **Appendix B**. Revised plans for the project, prepared in response to the issues raised in the submissions is provided at **Appendix C**.

We trust that the RtS provides all the information required for the Department to finalise its assessment and make a determination on the SSD application.

Please do not hesitate to contact Brent Devine, Senior Planner on (02) 8413 0403 or via email at brent@keylan.com.au should you wish to discuss any aspect of this project.

Yours sincerely

Dan Keary BSc MURP MPIA
Director

Michael Woodland BTP
Director

Appendix A

Response to Council and Government authority submissions (SSD 9334)

Ref.	Agency and issues raised	Response
A	City of Sydney Council	
A1	It is understood that SSD 9334 relates to construction of operable shade structures at the outdoor dining area associated with Tenancy 5 of the OPT building, which requires a variation to the Sydney Redevelopment Authority Scheme (SCRA) to enable development consent to be granted for the proposal.	<p>Noted.</p> <p>A SCRA Scheme Variation request is included as part of the application (refer Appendix B of the Environmental Impact Statement (EIS)).</p> <p>Appendix B of the EIS also includes correspondence from the Department of Planning and Environment (dated 30 January 2019) advising it is appropriate to prepare a draft variation to the SCRA Scheme as part of the proposal.</p>
A2	The proposed operable awnings (A3 and A4) that extend from the building facade are considered to be suitably integrated with the existing building resulting in minimal visual impacts.	Noted.
A3	<p>With respect to the two retractable free standing shade structures (A1 and A2), the City would like to draw the Department's attention to those aspects of the proposal that appear to require further resolution:</p> <ul style="list-style-type: none"> Parts of the shade structures 'A2' and 'A3' overlap, which contradicts the elevation where they appear to be at the same height. How do they integrate with each other and will this affect their operability? 	<p>There is a small overlap for shade structures A2 and A3. Proposed structure A3 (which will be mounted to the existing deck) would be positioned approximately 250mm lower than shade structure A2. There will be no impact on the operability of either structure.</p> <p>The overlap of structures A2 and A3 are shown in the revised plan set at Appendix C (refer plans TSL DD-100-SK02 C and TSL DD-100-SK12 A).</p>
A4	<ul style="list-style-type: none"> The view analysis image labelled 'View 1 – Proposed' is somewhat misleading as the proposed structures are shown to be in the shade and a grey colour. Perhaps they are shown in a retracted position which is less helpful. The application indicates that the fabric will be an off-white colour, which should be properly reflected in the view analysis material submitted. 	<p>The view analysis image is an indicative view only and is considered to provide an appropriate representation of the proposed shade structures, as viewed from the eastern side of Sydney Cove.</p> <p>Notwithstanding, a revised view analysis showing the shading fabric as an off-white colour has been prepared and is submitted as part of the RtS (refer revised plan set at Appendix C). The revised view analysis demonstrates that there will be a negligible visual impact.</p>

Ref.	Agency and issues raised	Response
A5	<ul style="list-style-type: none"> The detail submitted indicates that the column and steel member sizes for the free standing structures is yet to be confirmed by the manufacturer and engineer. At this stage the thickness of the columns should be known so their likely appearance is fully understood. 	<p>Shade structures A1 and A2 will each consist of central steel columns and beams with steel and aluminium outriggers to form a butterfly roof. The central columns will be approximately 250mm x 8mm and the spine beams approximately 250mm x 6mm. The thickness of the columns and beams are detailed in the revised plan set at Appendix C.</p>
A6	<p>The City are of the view that the shade structures 'A3' and 'A4' will likely contribute to visual clutter especially if left unretracted for prolonged periods.</p>	<p>Awnings A3 and A4 will provide the benefit of sun shade and weather protection on the northern deck. The slim profile and simple design of the awnings will minimise any visual impact. The awnings are fully cantilevered and do not incorporate the use of columns to order to minimise visual clutter.</p> <p>Pull down blinds are not included as part of the design of the awnings. When not required for sun shade or weather protection, the awnings are designed to retract into a slim and visually unobtrusive metal casing. The awnings will only be extended during the day and will be retracted during the evening (expect during wet weather).</p> <p>Further, it is considered that any sun-shading alternative (such as shade umbrellas) are likely to be more visually obtrusive than what is proposed as part of the application.</p>
A7	<p>Should the Department be minded to approve some or all of the proposed structures, they are advised to impose all of the recommendations of the Heritage Impact Statement as conditions of consent.</p>	<p>The Heritage Impact Statement (HIS) prepared by GML (August 2018) and included at Appendix D of the EIS outlines the following recommendations:</p> <ul style="list-style-type: none"> the structure of the proposed sunshades should be finished to match the structure of the OPT in colour; the shade fabric should be visually recessive and not contain any logos, text of advertisements; all materials and finishes should be selected for durability in a harbourside environment; and should any archaeological features be uncovered, such as seawalls or in situ wharves, works should stop immediately and a qualified

Ref.	Agency and issues raised	Response
		<p>archaeologist should be contacted to appropriately record any features before removal.</p> <p>The Applicant will ensure compliance with the recommendations provided in the HIS and any other conditions of approval as they relate to the mitigation of heritage impacts.</p>
A8	<p>It is noted that no signage, lighting, heaters or the like are proposed to be attached to the proposed shade structures as part of this application.</p>	<p>Noted. The Applicant accepts for this to be included as a condition of consent.</p>
B	Transport for NSW	
B1	<p>Thank you for your letter dated 7 May 2019, requesting Transport for NSW (TfNSW) provide comment on the above.</p> <p>Sydney Light Rail Project and Sydney Metro City and Southwest</p> <p>As you are aware, the Minister for Planning approved Sydney Light Rail Project on 4 June 2014. The Minister for Planning also approved Chatswood to Sydenham section of the Sydney Metro City and Southwest corridor on 9 January 2017. It is advised that construction of these projects is underway and will be carried out in accordance with the existing approvals and any modifications subsequently approved.</p>	<p>Noted.</p>
B2	<p>Construction Pedestrian and Traffic Management</p> <p>Several construction projects, including the Sydney Light Rail Project and Sydney Metro City and Southwest, are likely to occur at the same time as this development within the CBD. The cumulative increase in construction vehicle movements from these projects could further have the potential to impact on general traffic and bus operations in the CBD, as well as the safety of pedestrians and cyclists particularly during commuter peak periods.</p> <p>TfNSW requests that the applicant be conditioned to the following:</p>	<p>A Traffic Management Plan (TMP) prepared by Xenia Constructions (NSW) Pty Ltd is submitted as part of the application (refer Appendix I of the EIS).</p> <p>The project would generate a demand of a maximum of 3 to 4 construction vehicle movements per day which is considered negligible in the context of total daily vehicle movements in the area surrounding the site, including The Rocks and Sydney central business district.</p>

Ref.	Agency and issues raised	Response
	<ul style="list-style-type: none"> The applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with the Port Authority of NSW the Sydney Coordination Office within TfNSW. The CPTMP needs to specify, but not limited to, the following: <ul style="list-style-type: none"> Location of any proposed work zone(s); Location of any crane(s); Haulage routes; A detailed plan identifying all construction vehicle access arrangements; Estimated number of construction vehicle movements, including measures to reduce the number of movements during the AM and PM peak periods; Measures to avoid construction worker vehicle movements within the CBD; Construction program; Proposed construction hours; Consultation strategy for liaison with surrounding stakeholders, including other developments; Any potential impacts to general traffic, cyclists, pedestrians and bus and light rail services within the vicinity of the site from the construction of the development; Cumulative construction impacts of the development, Sydney Light Rail Project, Sydney Metro City and Southwest and other developments. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the CBD road network; and Proposed mitigation measures. Should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP. 	<p>The TMP documents the proposed management of construction traffic, identifies the key risks and provides a framework for the implementation of procedures relating to traffic management. In summary, the TMP:</p> <ul style="list-style-type: none"> identifies the site constraints; identifies the construction traffic routes to and from the site (being Circular Quay West via George Street) and the site access point (via the Circular Quay West roundabout); considers the cumulative construction traffic impacts including construction traffic attributed to the Sydney Light Rail Project and Campbell Stores redevelopment; considers control measures to ensure the safety of pedestrians; confirms that any road closures and permits will be coordinated with Ports NSW and project stakeholders; and outlines management procedures and responsibilities. <p>It is considered that the TMP submitted as part of the application adequately addresses any construction traffic management issues at the site and the surrounding area, particularly as the development will result in only 3 to 4 vehicle movements per day during the period of construction.</p>
B3	<ul style="list-style-type: none"> The applicant shall submit a copy of the final plan to the Coordinator General, Transport Coordination within TfNSW for endorsement, 	<p>Noted. The Applicant accepts for this to be included as a condition of consent.</p>

Ref.	Agency and issues raised	Response
	prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier.	
B4	<ul style="list-style-type: none"> Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the applicant shall provide the builder's direct contact number to small businesses adjoining or impacted by the construction work and the Transport Management Centre and Sydney Coordination Office within TfNSW to resolve issues relating to traffic, public transport, freight, servicing and pedestrian access during construction in real time. The applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction. 	Noted. The Applicant accepts for this to be included as a condition of consent.
B5	TfNSW requests that the applicant consults with the Sydney Coordination Office within TfNSW in relation to the above issues. TfNSW would be pleased to consider any further material forwarded from the applicant.	Noted. The Applicant accepts for this to be included as a condition of consent.
C	Roads and Maritime Services	
C1	<p>Roads and Maritime has reviewed the submitted application and recommends the following requirement be included in any determination issued by the Department:</p> <ol style="list-style-type: none"> 1) A Construction Pedestrian Traffic Management Plan (CPTMP) should be submitted in consultation with the TfNSW Sydney Coordination Office (SCO), Roads and Maritime, and City of Sydney Council, prior to the issue of a Construction Certificate. The CPTMP needs to include, but not be limited to, the following: construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control, taking into consideration the cumulative traffic impacts of other developments in the area. 	<p>Refer to the response to TfNSW's submission regarding pedestrian and construction traffic management (table reference B2).</p> <p>It is considered that the TMP submitted as part of the application adequately addresses any construction traffic management issues at the site and the surrounding area. The development will result in only 3 to 4 vehicle movements per day during the period of construction, which is considered negligible in the context of total daily vehicle movements in the area surrounding the site, including The Rocks and Sydney central business district.</p>

Ref.	Agency and issues raised	Response
D	Office of Environment & Heritage	
D1	<ul style="list-style-type: none"> The design of the proposed free-standing structures visually references the larger awning shade structure on the western façade of the OPT. This will assist in connecting the new shade structures to the broader OPT building. 	Noted.
D2	<ul style="list-style-type: none"> The addition of the proposed free-standing shade structures will increase visual clutter within this area and will partially obscure views to the surrounding buildings. We also consider that the awnings will have a larger impact on views to the Sydney Opera House than what is suggested within the submitted documentation. This includes views towards the Opera House from the public stairs adjacent to the Campbell's Stores. 	<p>As addressed in response to Council's submission (table reference A6), the shade structures have been designed to sensitively integrate with the OPT building and to read as minor, low impact structures. While the shade structures represent additional built form elements, their slender design and simple form being freestanding structures with few columns will minimise visual clutter and any potential visual impact.</p> <p>Impacts on views to the Sydney Opera House (SOH) including views from the public stairs adjacent to Campbell's Stores are addressed in table reference D3 below.</p>
D3	<ul style="list-style-type: none"> To minimise these visual impacts to the Sydney Opera House, it is recommended that free-standing awnings are reduced in length on the northern side by one bay. To further minimise impacts, it is recommended that no pull-down blinds are connected to awnings to assist in the retention of views and vistas to the Sydney Opera House. 	<p>The HIS submitted as part of the application (Appendix D of the EIS) assessed the impact of the proposal on the SOH and in accordance with the requirements of the Conservation Management Plan for the SOH.</p> <p>The HIS determined that the proposed shade structures will be of sufficient distance from the SOH to have a minimal effect on the building's setting and context. Further, the relatively small scale of the shade structures represents a minor change to the built environment of Circular Quay and to the physical setting of the SOH which will retain its landmark qualities and continue to be perceived as a 'freestanding sculptural form'.</p> <p>Notwithstanding the above, and to address the concerns raised by OEH, the Applicant has reduced the length of the awnings for structures A1 and A2 on the northern side by one bay to further reduce any impacts on views to the SOH. Refer to the updated View Impact Analysis in the revised plan set at Appendix C.</p>

Ref.	Agency and issues raised	Response
		<p>In regards to view impacts to the SOH from the public stairs adjacent to Campbell's Stores, the HIS submitted as part of the application acknowledged that views to the SOH will be impacted to a small degree as the shade structures would partially obstruct views of the southern part of the SOH.</p> <p>View impacts from the public stairs adjacent to Campbell's Stores toward the SOH are addressed by reducing the awning length for structures A1 and A2 as part of this RtS. The reduced view impacts are shown in the view analysis provided in the revised plan set at Appendix C.</p> <p>In summary, the HIS considered the potential impacts of the development to be acceptable and that the Outstanding Universal Value of the SOH will be preserved.</p>
D4	<ul style="list-style-type: none"> The proposed works are located within an area of low archaeological potential and will be confined to the piling and pad footings for the shade structure columns. No other excavation is proposed. 	Noted.
D5	<p>Should the application be approved, the following conditions are recommended.</p> <p><u>New Works</u></p> <p>1) The proposed two free-standing awnings should be reduced in length on the northern side by one bay to minimise visual impacts to the SOH.</p>	<p>The two free-standing awnings (structures A1 and A2) have been reduced in length on the northern side by one bay to comply with OEH's recommendation. Refer to the updated View Impact Analysis in the revised plan set at Appendix C.</p>
D6	<p>2) No pull-down blinds shall be attached to the awning structure. This is to ensure the open form of the structure is maintained and to minimise visual impacts.</p>	Noted. The Applicant accepts for this to be included as a condition of consent.
D7	<p><u>Archaeology</u></p> <p>3) The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the</p>	Noted. The Applicant accepts for this to be included as a condition of consent.

Ref.	Agency and issues raised	Response
	affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.	
E	Environment Protection Authority	
E1	<p>On the basis of the information provided, the proposal does not constitute a Scheduled Activity under Schedule 1 of the Protection of the Environment Operations Act 1997 (the POEO Act). The EPA does not consider that the proposal will require an Environment Protection Licence (EPL) under the POEO Act. The EPA understands that the proposal is not being undertaken by or on behalf of a NSW public authority. The EPA is therefore not the appropriate regulatory authority for the proposal.</p> <p>Accordingly, the EPA has no further comment regarding the proposal and has no further interest in this matter.</p>	Noted.
F	Port Authority of NSW	
F1	Port Authority won't be providing additional comments on SSD 9334, beyond those in our Permission to Lodge.	Noted.
G	Place Management NSW	
G1	The proposed awning structures are generally supported.	Noted.
G2	It is assumed that the existing black umbrellas in the outdoor seating area will be removed once the new awning structures are introduced.	The existing umbrellas in the outdoor seating area will be removed once the new shade structures are in place. The Applicant accepts for this to be included as a condition of consent.
G3	The awning columns/supports are to be painted in a sympathetic colour that matches the rest of the OPT superstructure.	Noted. The Applicant accepts for this to be included as a condition of consent.

Ref.	Agency and issues raised	Response
G4	No third party advertising should be permitted on the new awning structures.	Noted. The Applicant accepts for this to be included as a condition of consent.
G5	No drop down blinds are to be installed to the proposed awnings.	Noted. The Applicant accepts for this to be included as a condition of consent.

Appendix B

One public submission was received on the application. The submission was provided by Tallawoladah Pty Ltd. Paragraph 91 of the submission provided a summary of the key issues and concerns that were raised. These issues are addressed in the table below.

Response to public submission (SSD 9334)

Ref.	Agency and issues raised	Response
A	Public submission from Tallawoladah Pty Ltd	
A1	90. TAL says that Jimmy's application should be rejected in that: - i. An unnecessary health hazard will be created by the fabric awning;	The Applicant commits to regular cleaning and maintenance procedures for the retractable fabric awnings in order to remove bird droppings and maintain public health. It is proposed to clean the fabric on a fortnightly basis with a high-pressure hose and eco-friendly detergent. The Applicant accepts for the Department to introduce a condition of consent to this affect.
A2	ii. Create unnecessary physical clutter and adversely impact the current views enjoyed by TAL at Campbell Cove;	As addressed as part of Council's submission (Appendix A , reference A6), the shade structures have been designed to sensitively integrate with the OPT building and to read as minor, low impact structures. While the shade structures represent additional built form elements, their slender design and simple form being freestanding structures with few columns will minimise visual clutter and any potential visual impact, including visual impacts from Campbell's Cove. Further, view impacts from the Campbell's Stores toward the SOH are addressed by reducing the awning length for structures A1 and A2 as part of this RtS. The reduced view impacts are shown in the updated View Impact Analysis provided in the revised plan set at Appendix C .
A3	iii. A further structure will impede pedestrian thoroughfare;	The free-standing shade structures will be located within the outdoor seating area (the lease area) of Tenancy 5 of the Overseas Passenger Terminal (OPT) and will have a negligible impact on the existing pedestrian thoroughfare or public domain areas surrounding the site.

Ref.	Agency and issues raised	Response
A4	iv. Umbrellas currently used by Jimmy's are practical and efficient;	The free-standing shade structures provide a more contemporary solution for the site than the existing umbrellas. Further, the umbrellas are considered to be more visually intrusive than the shade structures proposed as part of the application.
A5	v. Additional construction work in the area is needless now that major construction work and projects are concluded to finally allow the public to enjoy the precinct around the rocks for entertainment and eateries;	<p>A CEMP has been submitted as part of the application (Appendix H of the EIS). It is considered that the CEMP addresses the concerns relating to the ongoing use of the surrounding public domain area and nearby retail uses. In summary, the CEMP:</p> <ul style="list-style-type: none"> • identifies the aspects of the works that may potentially impact on the environment and how these will be managed; • allocates the roles and responsibilities for employees and sub-contractors who will be working on the project; • ensures that the project meets planning approval, legal, environmental, stakeholder and other related requirements; • minimises environmental impacts of the proposed works; and • provides all personnel and sub-contractors with information, systems, procedures and documentation necessary to undertake the project in accordance with environmental requirements. <p>The Applicant will consider any additional requirements to be included as part of the CEMP, should they be required as conditions of consent.</p>
A6	vi. The views for the southern and eastern bays of TAL will be seriously impeded and obstructed;	<p>The HIS submitted as part of the application (Appendix D of the EIS) states that the proposed shade structures will not interrupt the relationship between Campbell's Stores and the harbour and are a sufficient distance from the Campbell's Stores building to have a minimal impact on the setting of the building. Further, view impacts from the Campbell's Stores toward the SOH are addressed by reducing the awning length for structures A1 and A2 as part of this RtS.</p> <p>The reduced view impacts are shown in the updated View Impact Analysis provided in the revised plan set at Appendix C.</p>

Ref.	Agency and issues raised	Response
A7	vii. The variation to the Scheme would be prejudicial to TAL now that it has concluded major development of Campbell Stores without the benefit of such variation to increase its own outdoor seating for patrons with awning or canopies;	<p>The request to vary the Sydney Cove Redevelopment Authority (SCRA) Scheme has been prepared in accordance with clause 4(1) of the <i>Environmental Planning and Assessment (Sydney Cove) Savings and Transitional Regulation 1999</i> (the Regulation). Specifically, clause 4(1) of the Regulation allows for an application to the Minister for a variation of the proposed SCRA Scheme to enable development consent to be granted to a proposed development.</p> <p>The Department advised in a letter to the Applicant, dated 30 January 2019, that it has formed the view that it is appropriate to prepare a draft variation to the SCRA Scheme for the proposed shade structures at Tenancy 5 of the OPT (refer Appendix B of the EIS).</p> <p>This SSD application and the accompanying SCRA Scheme variation request does not preclude TAL from preparing its own application to the Minister for any future variations to the SCRA Scheme.</p>
A8	viii. The current application, if approved, will be at the commercial advantage of Jimmy's;	<p>The provision of shade structures at the site will ensure weather protection and the comfort of patrons using the outdoor dining area of the premises. The application is not expected to result in a commercial disadvantage to surrounding businesses in the locality.</p>
A9	ix. Most of the reports are stale, unhelpful, provide narrative and editorialise issues rather than dealing with the substantive issues and facts relevant to the application by Jimmy's.	<p>The technical reports and information submitted as part of the EIS have been prepared by suitably qualified professionals and are provided in order to enable the Department to undertake an assessment and make a recommendation for determination on the project.</p> <p>Any additional information required by the Department to finalise its assessment can be provided by the Applicant.</p>

Appendix C

Revised Plans – Sun Shade Structures and Awnings, Tenancy 5 of the Overseas Passenger Terminal

Prepared by Greenlight Design