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Our Ref: 20550A.2ER_Submission

The Secretary
NSW Department of Planning and Environment
320 Pitt Street,
Sydney NSW 2000.

Attention: Liza Miller [liza.miller@planning.nsw.gov.au]

Dear Liza

**Submission in relation to SSD 17_8876
Sydney Metro Pitt Street (South) Over Station Development**

Introduction

DFP Planning has been engaged by the Owners of SP51077, being the Princeton Apartments building at 304 – 308 Pitt Street, Sydney. We understand that individual owners of apartments within the Princeton building will also be making their own submissions in relation to this application.

The Princeton Apartments building is located immediately to the south of the site on which the metro over station development is proposed. The proposed development is located on Lot 1 DP62668, Lot 1 DP436359, Lot 1 DP60293 and Lot 1 DP59101. These four lots comprise the site of the proposed over station development. Lot 1 DP62668 is to the immediate north of the lot on which the Princeton Apartments building is located.

Notwithstanding that this is a concept development application, it is crucial that the fundamentals relating to the building envelope, particularly in relation to height, building footprint and building separations/setbacks, are fully resolved as part of this concept proposal. These elements of the building envelope are of most important considerations in terms of how any future over station development building will relate with adjoining developments. Therefore, in order to ensure a future building can be located on the site in a manner that negates any adverse impacts on adjoining development, an appropriate building envelope, regardless of the end of that building, must be established as part of this concept application.

In preparing this submission, we have reviewed the exhibition documentation available on the Department's Planning Portal website and also attended a briefing session by Sydney Metro to the Owners of SP51077 on 4 September 2018.

On behalf of the Owners of SP51077, we object to the concept development proposal for the over station development for Metro Pitt Street (South) for the reasons detailed in this submission.

1.0 Building separation

In relation to the separation between the building envelope for the over station development and Princeton Apartments, it is noted that the proposed separations of 3m and 12m do not comply with the design criteria as noted in Part 2F of the Apartment Design Guideline (ADG).

Part 2F of the ADG specifies the following minimum separation distances for residential apartment developments:

Minimum separation distances for buildings are:

Up to four storeys (approximately 12m):

- *12m between habitable rooms/balconies*
- *9m between habitable and non-habitable rooms*
- *6m between non-habitable rooms*

Five to eight storeys (approximately 25m):

- *18m between habitable rooms/balconies*
- *12m between habitable and non-habitable rooms*
- *9m between non-habitable rooms*

Nine storeys and above (over 25m):

- *24m between habitable rooms/balconies*
- *18m between habitable and non-habitable rooms*
- *12m between non-habitable rooms*

Princeton Apartments is an approved development which is built to the northern boundary of the lot on which Princeton Apartments is located – see **Figure 1** below.

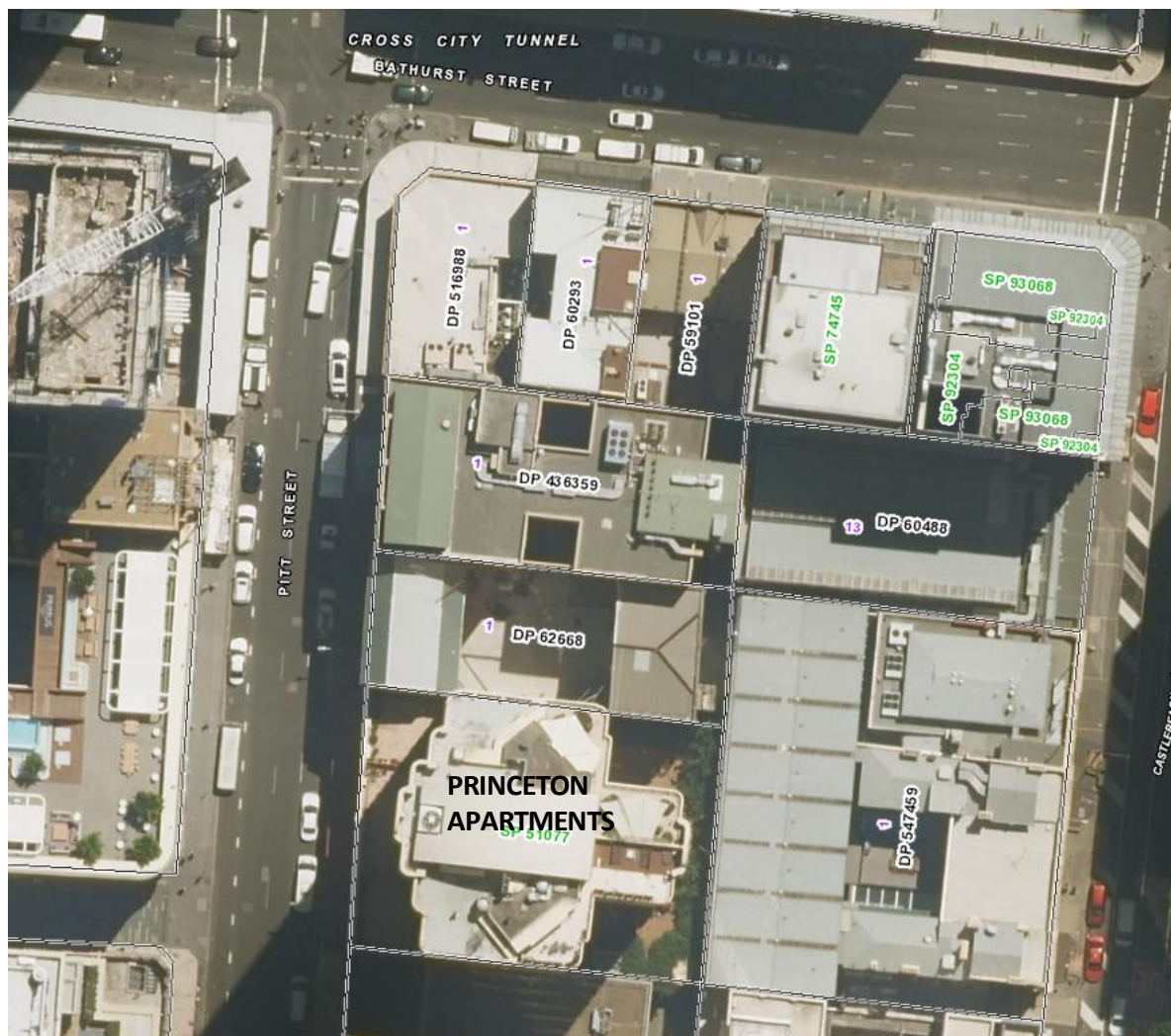


Figure 1 Aerial photograph of Princeton Apartments building in relation to Lot 1 DP62668

The plans submitted in relation to the concept scheme application propose a setback of 3m from the northern boundary of the Princeton Apartments site up to a height of RL71. Above RL71 the concept plans show a setback of 12m to the northern boundary of the Princeton Apartments site.

We note that the concept scheme contemplates either a residential or commercial use of the proposed tower. In the residential development scenario, the floor plans submitted with the application indicate that there will be habitable rooms (bedrooms and living rooms) with windows facing Princeton Apartments.

The architectural plans prepared for the application (Appendices D (residential option) and E (commercial option) do not include RLs therefore it is difficult to correlate the relationship of these setbacks from the Princeton Apartments building with the various residential levels within Princeton Apartments. Notwithstanding, it is considered that the setbacks proposed to the southern boundary of Lot 1 DP62668 are insufficient, particularly having regard to the objectives relating to the ADG building separation requirements.

In this regard, the ADG notes that the *Separation between buildings contributes to the urban form of an area and the amenity within apartments and open space areas*. It is also important to note that the ADG states that this is a **separation** requirement, not a setback provision. Therefore, where there is an existing **approved** building on an adjoining site, it is incumbent on the new development to provide the separation requirements.

In this instance, it is considered that the **maximum** building separation requirements of the ADG (i.e. –habitable to habitable) should be applied to the proposed over station development building envelope, regardless of whether the building is used for commercial or residential purposes, as the impacts on the amenity of residents in the Princeton Apartments will be similar.

Whilst we understand that in a 'greenfield' situation the building separation controls in Part 2F of the ADG are generally shared between developments, i.e. – in the case where a 12m building separation is required, each new building would be setback 6m from the common boundary for the first 4 storeys, with the separation increasing as the buildings increase in height, it appears the concept scheme is proposing to provide only its 'share' of the building separation notwithstanding that the approved Princeton Apartments building cannot provide a setback from its northern boundary.

As a result of the reduced building separation, the amenity of residents of Princeton Apartments will be adversely impacted.

The amenity issues associated with the reduced building separations are discussed below.

2.0 Loss of Solar Access

For the purposes of considering impacts on solar access to apartments within Princeton Apartments as a result of the concept building envelope, we have had regard to Appendix M of the Environmental Impact Statement (EIS) prepared for SSD 17_8876 – *Solar Impact Assessment on Adjoining Properties* prepared by Steven King and in particular the table at the end of that report. The table identifies the current solar access available to apartments within Princeton Apartments and the solar access that will be available post development.

Minimum solar access is typically assessed as being at least 2 hours of direct sunlight to living rooms and private open space area(s) between 9am and 3pm on June 21 however, the table in Appendix M includes solar access between 8am and 4pm in mid winter. No explanation is provided in the report as to why the time period has been extended to capture the additional 2 hours however it is considered that solar access before 9am and after 3pm should be disregarded for the purposes of assessing whether dwellings within Princeton apartments retain sufficient solar access.

In this regard, the report at Appendix M notes the following:

- 62 (53.4%) of the 116 apartments within the Princeton building currently receive 2 hours of solar access between 9am and 3pm on June 21.
- The overshadowing impact of the proposal reduces the number of apartments that will receive the minimum 2 hours of solar access to **5 out of 116 apartments** (4.3%). The report author, Steven King, notes that this *clearly cannot be said to ... conform with the ADG Design guidance*.

We are at a loss to understand how the statement in Section 8.7 of the EIS that the *severe increase in the proportion of apartments failing to meet the relatively stringent '2 hours standard' can be considered usual and expected* is a reasonable planning response to the

requirement in the Secretary's Environmental Assessment Requirements (SEARs) to *demonstrate ...measures to **minimise** potential overshadowing...impacts* [our emphasis].

The table to Appendix M in relation to Princeton Apartments appears to include solar access to bedrooms in the calculation of 'compliance' with the minimum of 2 hours of solar access. Whilst solar access to bedrooms is considered beneficial, in terms of assessing whether a dwelling has sufficient solar access, the ADG identifies that the solar access to living rooms (not **habitable** rooms) of a dwelling unit should be considered. We assume that discounting solar access to bedrooms will result in a worse outcome for Princeton Apartment dwelling units than that suggested in Appendix M.

As noted above, the tower element of the building envelope of the proposed above station development does not satisfy the building separation requirements of the ADG. It is considered that, as a minimum, the applicant should be requested to test solar access to the living rooms and private open space areas of Princeton Apartments in mid winter assuming the building separations are provided in accordance with the minimum habitable to habitable requirements of the ADG.

Notwithstanding, it is submitted that, given the number of apartments within Princeton Apartments that currently receive a minimum of 2 hours of solar access in mid winter does not meet the 70% benchmark as recommended in the ADG, **any** development on the adjoining property that reduces the number of Princeton apartments that receive at least 2 hours of solar access should not proceed.

3.0 Shadow Impacts on Hyde Park

Based on the information provided in the application, it appears the building envelope of the proposed over station development complies with the sun access plane controls contained in clause 6.17 of Sydney LEP 2012. However, it is noted that these controls relate to the maximum building height which might need to be reduced to ensure overshadowing of areas such as Hyde Park is not increased. In this regard, it is noted that one of the objectives of Clause 6.17 is *to ensure that buildings maximise sunlight access to the public places set out in this clause*.

A review of the overshadowing study at Appendix H to the EIS submitted with the DA indicates that there will be additional overshadowing of Hyde Park after 2.30pm from April to September inclusive. Therefore, we disagree with the statement in Section 8.3 of the EIS that the additional overshadowing impacts are *minor* and *negligible*. In our opinion, any increase in overshadowing of Hyde Park is an unacceptable outcome and clearly inconsistent with the objectives of Clause 6.17 of Sydney LEP 2012.

Given that the building envelope will result in additional overshadowing, it is not consistent with the outcomes envisaged in Clause 6.17 and should be reduced accordingly.

4.0 Privacy

Due to the reduced building separation, dwellings in Princeton Apartments will suffer from a loss of both visual and acoustic privacy. The EIS indicates that this can be dealt with as part of a future application and suggests measures such as the provision of louvres or screens could be used to address privacy impacts.

Given that the loss of privacy (both visual and acoustic) for residents of Princeton Apartments is likely to be significant, it is considered that information as to how privacy will be managed should be provided as part of this application.

The reduced separation between the proposed over station development and Princeton Apartments is a major contributor to the potential loss of privacy. The reduced separation will also result in a sense of oppression which is associated with a sensation of reduced privacy for residents of Princeton Apartments.

As a minimum, the tower element of the above station development should be setback from the southern boundary in accordance with the ADG separation distances for habitable to habitable rooms **and** if any windows are provided on the southern elevation of the proposed building, these should be provided as highlight windows only. It is also requested that no private open space areas be located on the southern elevation of the proposed building.

5.0 View loss

The positioning of the tower element of the proposed over station development, together with the footprint of the tower which broadens at its southern extent, results in a significant narrowing of the view corridor from dwellings in Princeton Apartments to the north east and a complete loss of view from north facing apartments in the Princeton. The built form of the proposed over station development is not a *slender building form* as described in Section 8.7 of the EIS and is significantly larger than the maximum 18m depth recommended in Section 2E of the ADG.

A reduction in the footprint of the tower element to satisfy the ADG, together with a reduction in the height of the tower and a repositioning of the tower to comply with the ADG minimum building separation requirements for habitable to habitable rooms, will likely reduce impacts on views from Princeton Apartments.

6.0 Sustainability

As noted in **Section 2** of this submission, the current development proposal will result in a significant reduction in solar access and daylight lux levels to dwellings in Princeton Apartments to the extent that residents will likely be required to rely on artificial lighting and heating.

This outcome is not only poor from a sustainability perspective, it is also contrary to the intent of the minimum solar access provisions of the ADG. In this regard, in relation to solar access the ADG notes the following:

Solar and daylight access are important for apartment buildings, reducing the reliance on artificial lighting and heating, improving energy efficiency and residential amenity through pleasant conditions to live and work.

Furthermore, in an effort to improve the sustainability performance of the Princeton Apartments, the owner's corporation is investigating options for alternative, renewable power sources, including solar panels. If the over station development proceeds in its current form, it will negate the opportunity for the Princeton to install solar panels as an alternative source of power generation.

7.0 Ventilation

The reduced separation between the proposed over station development and Princeton Apartments will reduce opportunities for Princeton Apartments to access north-easterly breezes. This will result in greater reliance on artificial cooling, resulting in reduced sustainability.

8.0 Acoustic Impacts

There are two matters of concern associated with this issue:

- a. The reduced separation between the Princeton Apartments building and the proposed over station building will inevitably result in increased acoustic impacts for residents of Princeton Apartments; and
- b. No details regarding service plant for the proposed over station building development have been provided in the application documentation and therefore it is not possible to understand how/if this will comply with relevant Australian Standards and the NSW Environment Protection Authority noise generation/emission standards.

It is requested that the applicant be required to provide details of the location and specifications of any plant, including air conditioning plant proposed for the over station development be provided to enable an assessment of potential acoustic impacts to be undertaken.

9.0 Heritage

The site of the proposed over station development is immediately proximate to two heritage items – the Edinburgh Castle Hotel (on the south eastern corner of the intersection of Bathurst Street and Pitt Street) and the Metropolitan Fire Brigade building at 211–217 Castlereagh Street, Sydney. In addition, there are a number of heritage items in the immediate vicinity of the site.

The Heritage Impact Assessment by Urbis (Appendix R to the EIS submitted with the DA), notes that *the proposal will result in a large increase in the scale of development at the site and in proximity to heritage items (most notably the Edinburgh Castle Hotel, which the site surrounds).*

We disagree with the conclusion in the Urbis assessment that impacts on these heritage items is mitigated due to the highly developed and commercial character of the area and that the *visual prominence* of the Edinburgh Castle Hotel will be retained.

In our opinion, in its current form, this proposal will dominate the setting within which these heritage items sit and further erode the heritage significance of these items such that their retention will be merely tokenistic. This could result in the highly undesirable outcome of these items not being seen as worthy of retention in the future.

With respect to the Metropolitan Fire Brigade building, if the proposed building envelope was set back from its eastern boundary (being the common boundary with the site on which the Metropolitan Fire Brigade building is located), this could have the benefit of not only reducing impacts on this heritage listed building, it might have the added benefit of increasing the width of the view corridor from the Princeton building to the north-east.

10.0 Environmental Impact Statement

The EIS submitted with the concept development application contains a number of inaccuracies and inconsistencies including the following:

- There are various references in the application to the *non-complying building form of the Princeton Apartments*.

The Princeton Apartments building is an approved development that was built in 1995 in compliance with planning controls. The ADG did not come into force until 2015 some 20 years after Princeton was built.

We do not agree with the contention in Section 8.2.5 that it is an unreasonable outcome to place the burden of compliance with the separation requirements on the proposed development.

The onus on later developments is to ensure that that subsequent development is appropriate having regard to its context and setting and that impacts on existing developments are acceptable.

As demonstrated in this submission, the impacts on dwellings in Princeton Apartments are unacceptable and clearly contrary to the Secretary's Environmental Assessment Requirements (SEARs) requirements to consider impacts on adjoining development.

- Section 4.9.1 of the EIS states that the fundamental principles for the over station development are to *deliver a high quality built form that...minimises privacy and solar access impacts on the surrounding residential uses.*

As demonstrated in this submission, the proposed development is clearly at odds with this statement.

- Section 8.4.2 of the EIS notes that northern facing windows in Princeton Apartments are *typically secondary windows*. This is incorrect as a number of north facing apartments in the Princeton building have north facing windows in the main living areas and bedrooms.
- The inconsistencies in the EIS in relation to commentary regarding solar access, overshadowing, privacy and acoustic impacts is discussed elsewhere in this submission.

Conclusion

On behalf of the Owners of SP51077, we appreciate the opportunity to review the development application for the over station development for the Pitt Street south Sydney Metro.

Whilst it is acknowledged that some development of the site which adjoins the Princeton Apartments site to the north is inevitable, it is considered that the concept design as set out in the application documentation is ill conceived and has not been designed having regard to the impacts on the amenity of residents of the adjoining Princeton Apartments and impacts on adjoining and nearby heritage items.

It is considered that insufficient information has been provided by the applicant to enable DPE to make an informed decision with respect to the application that the proposed development will not result in significant and adverse impacts on the natural and built environments, that the site is suitable for the proposed development and that the development is in the public interest.

Further, it is considered that the development proposal that has been submitted is not an appropriate response to the SEARs and in particular, the requirement to identify measures to minimise potential overshadowing, privacy and view impacts on surrounding development.

We look forward to the opportunity to review any amended development proposal that is submitted in response to this submission.

Should you have any questions regarding the matters raised in this submission, please do not hesitate to contact Ellen Robertshaw of DFP on 9980 6933.

Yours faithfully

DFP PLANNING PTY LTD



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Reviewed: _____

