

11 September 2018

Ms Liza Miller  
Planning Officer  
Department of Planning & Environment  
320 Pitt Street  
Sydney NSW 2000

**Private and Confidential**

**NGI Management Pty Ltd**

**Suite 10, Level 1  
341 George Street  
SYDNEY NSW 2000**

Dear Liza

**Re: NGI Management Pty Ltd | Objection | State Significant Development SSD 17\_8876**

As the owner of the Edinburgh Castle Hotel, which is adjacent to the sites at 125-129 Bathurst Street, 131-135 Bathurst Street, 296-300 Pitt Street and 302 Pitt Street Sydney, NGI Management Pty Ltd objects to the State Significant Development SSD 17\_8876 (Sydney Metro Pitt Street (South) Over Station Development Concept Development Application (SSD 17\_8876)) for the reasons set out below.

1. It is our considered opinion that SSD 17\_8876 should be refused or the building envelope amended to comply with Sydney Development Control Plan 2012, which as explained further below, it does not currently do.
2. The Stage 1 envelope includes both residential and commercial tower options and contains insufficient information to enable a valid determination to be made. It is inappropriate for both residential and commercial land use options to be incorporated into a single State Significant Development application and for the consent authority to grant an ambiguous determination which contains no certainty as to the future use of the building.
3. The proposed tower form includes setbacks to Bathurst Street and Pitt Street, which fail to comply with required tower setbacks under Section 5.1.2.1 of Sydney Development Control Plan 2012 (as extracted below), which requires a setback of 8 metres above street wall height for both street frontages.

**5.1.2.1 Front setbacks**

- (1) Buildings must be set back a minimum weighted average of 8m above the required street frontage height. This setback may be reduced in part by up to 2m provided that the weighted average setback from the street frontage alignment is 8m as shown in Figures 5.4 to 5.6. No part of the building is to be setback less than 6m.
3. The proposed tower form includes no setback to the Edinburgh Castle Hotel and fails to comply with required tower setbacks under Sydney Development Control Plan 2012, which requires a setback of 3 metres to 12 metres, depending upon the use of the building.
4. The proposed residential tower envelope includes essential windows to bedrooms and other habitable rooms on the common boundary with the Edinburgh Castle Hotel (nil setback) and fails to comply with required tower setbacks under Section 5.1.2.2 of Sydney Development Control Plan 2012 (as

relevantly extracted below), which requires a setback of 6 metres below 45 metres, and of 12 metres above 45 metres.

#### **5.1.2.2 Side and rear setbacks**

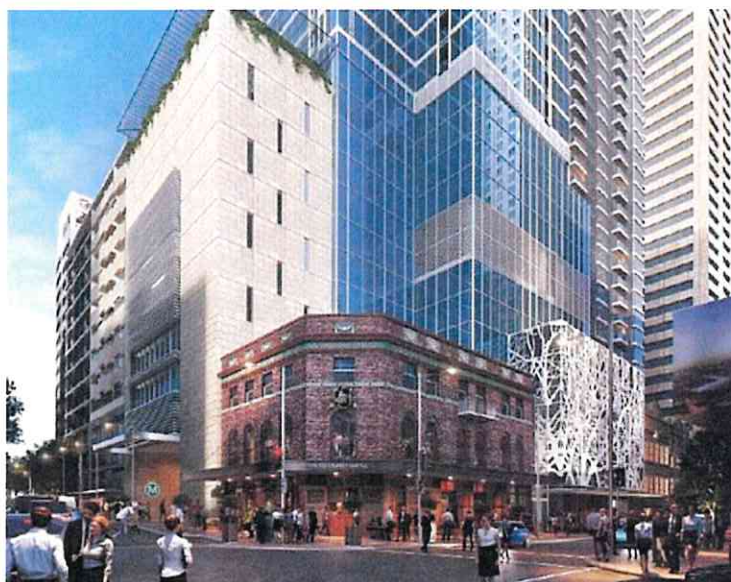
- (4) Up to a height of 45m, a minimum setback of 6m is required from the side or rear property boundary for principal windows or balconies for residential buildings, serviced apartments or hotels.
- (5) Above a height of 45m, a setback of 12m is required from the side or rear boundary for residential buildings, serviced apartments or hotels to ensure visual privacy is achieved between dwellings.

5. The proposed commercial tower envelope includes windows with no setback to the Edinburgh Castle Hotel and fails to comply with required tower setbacks under Section 5.1.2.2 of Sydney Development Control Plan 2012 (as relevantly extracted below), which requires a setback of a minimum of 3 metres.

#### **5.1.2.2 Side and rear setbacks**

- (1) Above a height of 45m, windows or balconies of commercial buildings are to be set back at least 3m from side and rear property boundary.
  - (2) Separate principal windows and balconies of residential buildings and serviced apartments from windows or balconies of commercial buildings by at least 9m. This separation is to be achieved by a setback from the side property boundary of at least:
    - (a) 6m for residential buildings, serviced apartments or hotels; and
    - (b) 3m for a commercial building.
  - (3) In new commercial buildings, windows at the same level as the principal living room windows or balconies of adjacent residential buildings, or above a height of 45m are to be set back from side and rear boundaries by at least 3m. Walls without windows do not need to be set back.
6. The development is designed to “borrow” its amenity (notably light and air) from the neighbouring Edinburgh Castle Hotel and to preclude its future development. This inappropriate configuration of the building and the placement of what appears to be two sheer glass curtain walls with nil setbacks is entirely inappropriate and unsympathetic to the adjacent heritage item (see image below).

The development represents an overdevelopment of the site with consequent heritage impacts which have not been adequately addressed as part of this application and specifically have failed to be addressed in any meaningful detail in the unauthored Heritage Impact Statement.





7. The development includes essential windows and the sole source of light and ventilation on the common boundary with the Edinburgh Castle Hotel, without the benefit of any statutory easement for light or air. As a consequence, this failure to provide adequate setbacks to the Edinburgh Castle Hotel essentially sterilises the development potential of the Hotel, in clear contravention of Sydney Development Control Plan 2012.

The development represents a wholly unreasonable, and non-complaint overdevelopment of the subject site and should be rejected.

We thank the Department of Planning and Environment for considering our submissions in respect of SSD 17\_8876.

Should you wish to discuss this matter further, please do not hesitate to contact the undersigned.

Yours sincerely



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