

[REDACTED]
[REDACTED] 08 Pitt Street
Sydney NSW 2000

11 September 2018

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

Dear Sirs,

**RE: Sydney Metro City & Southwest – Pitts Street (South) Concept
Development application for Over Station Development – SSD 8876**

I write to express my significant concerns and objection to the proposed Sydney Metro Concept DA – SSD 8876.

I live in the adjacent Princeton building located at 304-308 Pitt Street. The proposed development is a gross over development that will impact my living amenity through the loss of privacy and solar light with substantial overshadowing of my living area and to the majority of other owners in the building.

Despite the Secretary's Environmental Assessment Requirements ("SEAR") clearly outlining that the applicant was to address all Environmental Planning Instruments ("EPI") including, but not limited to SEPP 65 – Design Quality of Residential Flat Development and the Apartment Design Guide ("ADG") and Sydney LEP 2012, the applicant has clearly decided not to address the aforementioned EPI or has concluded that they simply will not comply.

Overshadowing and solar access

The application does not comply with section 3B of the ADG and contemplates huge, unacceptable overshadowing effects on Princeton. According to the applicant's Solar Access Impact study 5 out of 116 apartments (4.3%) in Princeton will receive the required access to direct sun as per the ADG if the development is approved. 57 people's homes will be substantially affected. Under the ADG a proposed new building should not reduce solar access to more than 20% of neighbouring properties. The applicant's proposal has more than double (49%) the permitted effect under the ADG.

The practical effects of the reduction in solar access include increased heating and lighting costs which in turn will increase our carbon footprint. The application also fails to take into account the impact of light scatter, which has resulted in a gross underestimation of the negative impacts on Princeton. The application must be amended to ensure neighbours do not lose their valuable winter sun.

Solar access has clearly not been enhanced as required by clause 4.2.3 of the City of Sydney DCP 2012. In my apartment, according to the applicant's solar access

comparison table I will lose direct sunlight to my living area for the entire defined assessment period. It should also be noted that this development will negate the opportunity for Princeton to install solar panels as an alternative source of power generation which was being considered prior to the receipt of this development application. Our building was actively considering ways to be more environmentally responsible which will not be possible if the development proceeds in its current form.

Separation requirements

The application does not comply with part 2F of the ADG. Minimum separation requirements for up to 4 storeys are 12m between habitable rooms and 9m for non-habitable rooms. The proposed separation distance of 3m is well below requirements. For storeys 5-8 the requirements are 18m between habitable rooms. The proposed separation distance of 3m is again well below requirements. Above 9 storeys the requirements are 24m between habitable rooms. As there are habitable rooms on the northern boundary of Princeton and the southern boundary of the development as shown on the applicant's floor plans the proposed 12m separation is non-compliant.

The applicant should know that where there are existing, approved buildings in place a new development must comply with minimum separation requirements, which the applicant has failed to do. The ADG state that separation between buildings contributes to the urban form of an area and the amenity within apartments and open space areas. Furthermore it states this is a separation requirement not a setback provision therefore full minimum separation distances must be enforced. Inadequate separation will lead to a range of undesirable issues including overshadowing, loss of privacy, loss of views, increased acoustic impacts, reduced access to airflow increasing reliance on artificial cooling, reduced sustainability and the risk of fires spreading. It should be noted that there is a distinct lack of detail regarding the location of plant and equipment in the proposal to allow us to understand whether the development complies with the relevant Australian Standards and the NSW Environment Protection Authority noise generation and emission standards.

Loss of views

A large proportion of apartments in Princeton would lose all views to the northern aspect if the development in its current form were to be approved. Additionally the development would cause substantial loss of views to residents of the Greenland building including eastern aspect views to Hyde Park.

Hyde Park overshadowing

It is quite shocking that a public body would propose to add additional overshadowing to Hyde Park for 6 months of the year. The Shadow Study provided by the applicant clearly shows additional overshadowing over Hyde Park as a direct result of the proposed development. In no circumstances should this be allowed and an independent study should be conducted to verify the extent of this overshadowing. Hyde Park is an extremely precious inner city open space that is used greatly by residents and visitors.

This park must be protected, as it is increasingly common for inner city residential buildings to have no private open space. Remaining access to sunlight must be protected especially in the vicinity of the ANZAC memorial where the proposed development casts all of the additional shadowing. To allow incidental overshadowing would set a dangerous precedent whereby the whole park could eventually be covered in shadow. This represents additional non-compliance with Sydney Local Environmental Plan 2012 and will have a considerable detrimental impact on public amenity. We have the chance to do the right thing and protect this landmark site. There can be reasonable development that casts no additional shadowing onto Hyde Park affecting the roughly 500,000 daily visitors and local residents.

Privacy

Princeton is a wholly residential development which does not include any offices or other commercial uses therefore privacy is a very important factor. The applicant's Environmental Impact Statement ignores the issue of privacy, merely mentioning that privacy issues can be addressed at a later stage. This represents a major oversight and is non-compliant with clause 4.3.2 of the City of Sydney Development Control Plan 2012 ("DCP").

Heritage and history

The development site is surrounded by heritage buildings such as the Edinburgh Castle Hotel, Castlereagh Street Fire Station and the Sydney Water Board. The design represents a stock standard corporate tower with no effort made to compliment the heritage nature of the location.

The Edinburgh Castle Hotel has operated from the site from 1885. The development surrounds the corner site of the hotel and does not propose adequate setback from the boundaries of this heritage building. At a proposed 35 storeys the development dwarfs the 3-storey Edinburgh Castle Hotel, which will remove any visual historical impact the hotel currently offers. The proposed envelope is an unusual, ugly shape due to the poor selection of the subject site, which wraps around two sides of the Edinburgh Castle Hotel.

In addition The Princeton building has considerable architectural merit. A large building mass in such close proximity would substantially detract from its quality and impact. It also does not appear that the spacing afforded to the Castlereagh Street Fire Station is adequate from the plans currently available to me.

The impacts on the heritage significance of the surrounding buildings would be adverse and entirely unnecessary in the circumstances.

Traffic and parking

The application proposes 34 new car parking spaces. There are currently no car spaces in the structures being demolished. Accordingly this will add to traffic congestion on Pitt Street. The purpose of the metro station is to reduce traffic but it appears this is being offset against the addition of car parking and associated vehicle access.

Response to assertions in development application

The application clearly does not comply with the SEAR, EPI, State Environmental Planning Policy No 65, Sydney LEP 2012 and the ADG. It also does not comply with the applicant's own Design Excellence Strategy and OSD Design Guidelines.

There are numerous references to an alleged covenant on Princeton's title regarding the potential for northern views to be affected by future developments. This is simply false and misleading. If the applicant had the basic foresight to conduct a simple title search they would have discovered that there is no covenant of this nature on Princeton's title. Furthermore the residents in Princeton are not aware of the existence of any covenant, nor are they aware of the alleged planning approval for Princeton being subject to such a covenant. In actual fact and contrary to the applicant's assertion in this regard, Princeton did have an easement for light over the applicant's title in 2012. This clearly contradicts the applicant's assertion that owners in Princeton should be aware from a legal perspective that development to the north could affect their views. A number of owners in Princeton bought their units in good faith and under the belief that a registered easement was in place to protect access to light.

Section 4.9.1 of the Environmental Impact Statement states that the baseline 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*". It is clear that the proposal is in no way compliant with this statement.

In section 8.4.2 northern facing windows in Princeton are referred to as "*typically secondary windows*." This is demonstrably false and shows a basic misuse of language. In my 3-bedroom apartment on the north side I have approximately 16m² of north facing windows in the main living area and bedrooms. I cannot conceive an interpretation of language that would regard these windows as "secondary".

Section 8.2.1 compares the application to the previous approval of a hotel at 302 Pitt Street. The reference is made to compare the approved 2.4m building separation. The applicant conveniently fails to note the fact that this approval was for a 16-storey commercial building. The use of this comparison is incompetent and misleading at best.

In section 8.2.5 an assertion is made to the extent that placing the burden of compliance with the separation requirements on the development is unreasonable. The very fact that the applicant considers compliance with the ADG as unreasonable is worrying and sets a dangerous precedent.

Repeated references are made to the "*non-complying building form*" of Princeton which demonstrates a fundamental lack of understanding of basic planning and legal concepts. Princeton is an approved development that was built in 1995 in compliance with all applicable planning requirements. The ADG came into force 20 years after Princeton was built in 2015. It is clear that Princeton does not require to comply with guidelines that were not in force at that time and cannot be applied retrospectively.

The ratings given to the overshadowing effects on Hyde Park in section 8.3 are incorrect and misleading with no definitions provided of what "*Minor*" or "*Negligible*" actually means. The effect shown in the applicant's own diagrams show

moderate additional overshadowing to Hyde Park for an entire 6 months of the year. It should also be emphasised that any overshadowing to Hyde Park should be unacceptable.

The reference to “*some additional overshadowing*” in section 8.3 is false and misleading. A similar error was made in the applicant’s “*Pitt Street South over station development (OSD) briefing*” to Princeton where it is stated that “*some units*” on the northern side will experience an increase in overshadowing. The word “*some*” in these instances should clearly be replaced with “*most*” or “*nearly all*”.

The overshadowing impact assessment in section 8.3 is incorrect. The reference to the development being a “*worse case scenario*” with the “*actual impact likely to be less*” is dangerously incompetent. The applicant surely cannot reasonably believe that a developer would elect not to build to the maximum extent allowed by an approved envelope in a development of this nature. The applicant seems to take the position of an astute developer in some circumstances and a naive public authority in other circumstances to suit the current argument.

In section 8.3 the words “*almost entirely confined within the areas already overshadowed*” and “*the impact of the proposed building envelope would be negligible*” again are false, misleading and demonstrate a dangerous level of incompetence.

The statement in section 8.4.2 that the proposed envelope is “*considered to be entirely reasonable*” which “*provides appropriate building setbacks*” is incorrect as it clearly breaches numerous planning controls. It is alarming (but not surprising given the above) that the applicant considers that breaching planning controls is “*entirely reasonable*”.

The quoted separation figures in section 8.6 are incorrect. The statement in section 8.7 that “*the expectation that the existing level of solar access would be retained in perpetuity is unreasonable as this would sterilise the adjoining site*” again shows basic misuse of language. A reasonable development on the site would not affect the level of solar access required under the ADG. It should also be noted that the previous approved application for a hotel to be developed on the site did not have a similar catastrophic effect on solar access to Princeton. The hotel was due to be built before the site was subject to compulsory purchase for the Sydney Metro.

The proposal is not a “*slender building form*” as alleged in section 8.7. The statement in section 8.7 that the location of Princeton is such that impact is “*insensitive to the height of the proposal*” is clearly incorrect and maintains the level of incompetence that can be seen throughout the application. Could a 10-storey development have the same impact as a 35-storey development?

Section 8.7 states that “*a severe increase in of the proportion of apartments failing to meet the relatively stringent ‘2 hours standard’ can be considered usual and expected*” does not represent genuine planning justifications and is also vague and unfounded. Section 8.7.2 states that the proposal would give rise to “*some impacts on solar access*” in Princeton. Non-compliance affecting 57 apartments is more than “*some*” impact.

In section 8.11 the applicant blatantly admits that they do not comply with the heritage aspects of the SEAR.

As a public agency Sydney Metro should be accountable to the public and have regard for the quality of life of Sydney's residents and should take full account of local concerns. They should not promote the development of high-rise buildings in tight proximity akin to the towering slums of certain cities in developing countries.

An important planning fundamental is "The Precautionary Principle." Allowing this development in its present form would be reckless and damaging, and would be heavily criticised by future generations. The application promotes a dangerous notion that residential amenity in current buildings can be removed to promote profit in newer buildings by a public body.

Response to the applicant's Design Excellence Strategy and OSD Design Guidelines

The following quotes from the design guidelines for over station developments (annexed to the application) demonstrate the applicant's blatant hypocrisy:

"these guidelines provide a consistent framework for design across the integrated station development" - consistency requires compliance with the defined framework;

"enhance the overall experience in the city" - overshadowing Hyde Park for 6 months a year does not enhance the overall experience;

"well integrated with the valuable inherited urban fabric of existing places" - the proposal does not integrate with current buildings, adjacent residences or heritage items;

"Design will ensure protection of the public domain, especially solar access to Hyde Park, and consideration of impacts on neighbouring uses";

"Consideration of privacy implications to surrounding residential buildings, including the Princeton Apartments" - as stated above privacy concerns have been entirely ignored;

"Where practicable, preserve sunlight access and views to the north for neighbouring properties" - the applicant's attitude seems to be that it is not "practicable" where profit can be made;

"Achievement of SEPP65 & ADG requirements" - it should be specifically noted that the applicant refers to these items as "*requirements*" but then acknowledges that they will not comply with same.

Consultation with community

I attended a meeting with representatives from the applicant as part of their requirement under the SEAR to engage with the surrounding residents. During this meeting I found the applicant's representatives to be extremely unhelpful in addressing my concerns. They clearly demonstrated a desire to package the proposed envelope to the maximum physical extent possible and sell it to the highest bidder.

It was mentioned in no uncertain terms to the attendees at the meeting that the applicant could have applied for a larger envelope and they were entitled to proceed

regardless of our objections. At one point in the meeting we were told “*there is no overshadowing to Hyde Park.*” Patronising language was also adopted such “*you need to understand...*”

It should be noted that at the meeting certain attendees requested further information which they felt was lacking in the application to which they were told that it would be provided to them. The information requested is not forthcoming.

I am of the view that the applicant has not sufficiently engaged with surrounding residents in accordance with the SEAR requirement.

Conclusion

As illustrated above there are significant impacts on the amenity of Princeton residences and the general public as a direct result of the applicant’s non-compliance with numerous planning controls.

I strongly object to the proposed concept Over Station development at Pitt Street South Metro Station and recommend that certain elements of the proposed development be reduced including an increase in building separation and a reduction in height. I would expect to see a suitable development application in accordance with the ADG and all other applicable planning requirements. The applicant’s own Design Excellence Strategy and OSD Design Guidelines submitted with their application should also be followed.

At a minimum the development application should be determined by an independent body to ensure it is considered on its objective merits and in accordance with applicable planning controls. These requirements should not have to be the subject of objections but the uniformly applied approach to all state significant developments.

We need a sensible approach to inner city planning to protect our beautiful city, take resident’s concerns into account and preserve rare public open spaces.

I trust that the above will be taken into consideration when determining the current development application.

Regards

