

Our Ref: AFP.136743



13 December 2013

NSW Department of Planning and Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

By email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

Dear Sir

## **CBD and South East Light Rail Project Re Submission from the Owners of the Tower Apartments**

We act for the Owners of Strata Plan 61896 (**the Owners**), known as the Tower Apartments, located above the Westfield Building and the Swissotel on the corner of George and Market Streets (**the Building**).

The Tower Apartments comprise 100 residential apartments. Pedestrian access to the Building is via the entrance to the Swissotel on Market Street. Vehicle access is via George Street. The Tower Apartments has dedicated basement parking for 100 residential cars, accessible 24 hours a day, 7 days a week (excluding Anzac Day and other special events). Deliveries, rubbish collection, removalist vehicles and service providers use the parking or loading dock facilities, shared with Westfield.

We make these submissions for and on behalf of the Owners.

### **Context of submissions**

Firstly, the Owners of Strata Plan 61896 support the proposed CBD and South East Light Rail Project (**the Project**). They believe it will significantly improve reliability and efficiency of travel within the CBD and travel to and from the CBD to popular precincts in the South East, including Moore Park, Centennial Park, UNSW and the Royal Randwick Racecourse. They also support the environmental benefits arising from the Project, including the elimination of hundreds of buses from the CBD, to be replaced with the more environmentally sustainable light rail network.

Pedestrianisation of the sections of the city in front of Town Hall, Queen Victoria Building and Martin Place will also have a positive impact on the city and improve both people flows and quality of life for Sydneysiders.

It is in the context of this general support for the Project that the Owners wish to make certain critical submissions regarding the Project.

### **Submissions**

#### ***Issue 1: shared pedestrian and vehicle zone (between George and Market Streets)***

The Owners object to the absence of any defined or dedicated laneway for vehicles required to

T 61 2 8281 4565  
F 61 2 8281 4567  
E [law@cbp.com.au](mailto:law@cbp.com.au)  
I [www.cbp.com.au](http://www.cbp.com.au)

Level 42, 2 Park Street  
Sydney NSW 2000  
Australia  
ABN 38 941 300 979

GPO Box 214  
Sydney NSW 2001  
Australia  
DX 280 Sydney

**Colin Biggers  
& Paisley**  
Brisbane Melbourne  
& Sydney  
ADVOC network member

drive south along George Street - between King Street and Market Street – to access the Building, as currently contemplated by the EIS.

The Owners are fully aware of the legal obligations and “priorities” imposed on drivers within shared zones, as generally set out in various Government codes and guidelines. We refer, for example, to Transport for NSW’s policy document entitled “Safer Speeds: Policy Guidelines”, published July 2012, Version 1.0. That document, at Section 7 (Table 1), sets out the following legal priorities:

- Pedestrians have priority.
- Drivers must give way to pedestrians.
- Pedestrians must not cause a traffic hazard by moving into the path of a driver and must not unreasonably obstruct the path of any driver or another pedestrian.

The first and second priorities are not controversial. It must always be the case that vehicles give way to pedestrians in shared zones (or any zone for that matter). However, the third priority - that pedestrians must effectively “cooperate” with drivers of vehicles and not otherwise interfere with vehicle movement - is meaningless and unenforceable in the context of the sheer volume of pedestrians moving along George Street at any given time.

The Department is fully aware that this is one of the busiest pedestrian streets in Australia, if not the busiest. This represents no ordinary vehicle/pedestrian sharing concept, and has not been thought through in terms of the practicality of actually driving through crowds of people or in terms of pedestrian safety.

The experience for drivers in the shared zone along George Street - between King Street and Market Street - will be a very different experience to that concluded by the Department and its consultants in the EIS, who assert that the arrangement in the shared zone will be “acceptable” or “workable”. That is patently incorrect.

The shared zone, without any effective segregation or delineation for vehicle movement (whether via the use of balustrades, road markings, dedicated lane, etc), will involve drivers:

- turning right into George Street, into a crowded pedestrian shared zone.
- manoeuvring vehicles “with” pedestrians heading south along George Street and, at the same time, “against” pedestrians - moving in the opposite direction - heading north along George Street.
- navigating vehicles “around” pedestrians crossing George Street, from left to right or vice versa, or simply stopping to take photographs and the like.
- proceeding at no greater speed than able to do so having regard to the pedestrians approaching them or moving with them, taking into account any number of variables (mothers with prams, elderly or disabled people moving slowly, skateboard riders, etc).

In short, drivers entering the shared zone from King Street en route to the Building, during peak pedestrian hours (from 7am to 7pm most working days and every weekend), can expect a slow, cautious and ultimately risky “crawl” through crowds of pedestrians towards the driveway to the Building.

The foregoing problems will be significantly exacerbated after dark, with drivers having to face the added burden of travelling along George Street in a southerly direction for some 150m to the entrance of the Building while navigating evening revellers and the less predictable behaviour of intoxicated pedestrians.

These journeys will present a significant risk to pedestrians and drivers alike.

Recommendation

The Owners contend that the most practicable and cost effective solution would be to retain a dedicated laneway along George Street - between King Street and Market Street - for resident vehicle use (permit controlled), delivery trucks, police vehicles and emergency vehicles.

This solution does not require the dedicated laneway to look like a "road" in the conventional sense, and we would expect such a laneway to aesthetically blend in with the pedestrian zone so far as possible.

The Owners do not contend that there is one solution to the dangers and risks posed by the unfettered and unrestricted shared zone contemplated by the EIS, but they do consider the above solution to offer significant advantages.

Importantly, to state the obvious, the existence or otherwise of a dedicated vehicle lane along George Street - between King Street and Market Street - will have absolutely no impact or bearing on the operation of the light rail network or the Project generally.

**Issue 2: continuity of vehicle access during the construction phase**

Vehicle access to the Building is fundamental to the Owners, and the uncertainty posed by the Project, during its construction phase and beyond, is likely to have a very significant and immediate impact on property values within the Tower Apartments (more so than surrounding commercial and retail properties).

The Owners acknowledge that the EIS is a document prepared in support of a large scale infrastructure proposal, with much of the detail deferred to the construction and implementation phase.

In relation to individual building access, for example, the EIS provides (at p.12-23 of Chapter 12):

*Any access restrictions required for the CSELR proposal would be subject to **further consultation** between the affected parties, Transport for NSW and City of Sydney. A case by case consideration of each affected property access would be undertaken during detailed design (in consultation with the affected parties) to determine the access restrictions required along the proposed CSELR route.*

*[emphasis added]*

The Minister will appreciate the Owners' concerns regarding these deferred negotiations with property owners and other stake holders regarding Building access. They represent an agreement to try and resolve access issues at a later point in time (with such negotiations, invariably, required to be undertaken with head contractors and not the Department), without any express legal recourse to challenge the terms of the Project approval should the outcome of these negotiations prove unsatisfactory to the Owners.

Recommendation

The Owners contend that the "commitments" set out in the EIS – pertaining to further negotiations with residential owners along George Street - must be comprehensively enshrined in the conditions of approval.

Those conditions must ensure that access outcomes are achieved to the reasonable satisfaction of the Owners.

If, for whatever reason, the construction activities associated with the Project result in the 'lock out' of resident vehicles or delivery vehicles from the Building for any material period of time, then the conditions must mandate that alternative undercover parking – in close proximity to the Building – be made available for the Owners for the duration of the 'lock out'.

The Owners accept that they will experience some access inconvenience as a consequence of the Project (which, as noted, they generally support), but cannot accept a situation where they are effectively 'locked out' of their premises with no reasonable alternative provided.

### ***Issue 3: management of vehicle access at the entrance way to the Building***

The current vehicle access arrangements to the Building are well known to the Department. They involve a left-in, left-out vehicle entry point on George Street, some 40 metres from the corner of Market Street. The entrance to the driveway is sufficiently wide to permit cars passing, but not the passing of larger trucks or delivery vans. In those circumstances, trucks are required to wait (on George Street or within the Building's basement loading dock, as the case may be) until such time as the other truck or vehicle has moved from the ramp.

Once the access way is clear, the ritual of driving across the George Street footpath takes place. That ritual involves waiting for a break in the stream of pedestrians passing by. This can take two to three minutes and sometimes considerably longer. During busier pedestrian periods it effectively requires a driver to "nudge forward" - pushing through the passing crowd. Pedestrians do not, as a general observation, instinctively stop to permit vehicles crossing the footpath; to the contrary.

The corollary to this critical concern is the inevitable congestion in vehicle movement along George Street as a consequence of the construction zone immediately in front of the Building's only access way. That, in turn, is going to exacerbate two issues:

- the waiting time for drivers seeking to enter and exit the Building
- the queues of delivery vehicles waiting on George Street (to enter the Building) or within the basement of the Building (to exit the Building).

Again, the Owners acknowledge that the EIS is not intended to be an overly prescriptive document. However, these critical Building access issues – which will affect some 200 people that occupy the Tower Apartments on a day to day basis – need to be addressed as part of the Project approval process.

### **Recommendation**

The Owners submit that a condition must be imposed on the terms of any approval granted by the Minister requiring Building access management issues to be specifically addressed. We contemplate that the condition will require traffic controllers at the entrance to the Building, complimented by pedestrian control signalling lights (presumably implemented by the head contractor employed to procure the Project).

### **In summary**

The submissions presented by the Owners relate ostensibly to public safety and Building access issues.

The Owners do not wish to be the effective 'guinea pigs' of a pedestrianised George Street, without precedent in Australia, requiring Owners to manoeuvre vehicles across some 150m of a fully shared pedestrian zone to reach the entrance of the Building.

Also, the Owners do not wish to be embroiled in ongoing disputes with the Department or the head contractor engaged by the Department to procure the Project over the coming years (during

the construction phase of the Project). It is for this reason that they require the specific terms of the Project approval to adequately and sufficiently address the critical public safety and Building access issues raised in this submission.

We respectfully ask the Minister and the Department to give serious consideration to these submissions.

Yours faithfully



**Anthony Perkins**  
Partner  
Email: [afp@cbp.com.au](mailto:afp@cbp.com.au)  
Direct Line: +61 (02) 8281 4606