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428
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STREET

Director, Infrastructure Projects
NSW Department of Planning & Infrastructure
23-33 Bridge St
Sydney NSW 2000

Karen.jones@planning.nsw.gov.au

12 March 2014

Dear Ms Jones

**CBD AND SOUTH EAST LIGHT RAIL PROJECT ["THE PROJECT"]
IMPACTS ON THE DYMCKS BUILDING: 424-430 GEORGE STREET, SYDNEY**

We confirm that we made a submission to the Department dated 16 December 2013 in relation to the above Project in response to the EIS. A copy of our submission is attached.

We met with the Project's Project Director, Mr Jeff Goodling, Mrs Barbara Filipowski and Ms Nina Blunck on Monday 3 March 2013.

At this meeting, Mr Goodling advised that the Department is in the process, or will imminently be, of drafting without prejudice conditions that will relate to the Project should it be approved.

As indicated in our submission and reiterated at our recent meeting with Mr Goodling, the construction of the light rail has the potential to severely adversely impact our flagship Bookstore and Stationery Store, our tenancies within the Dymocks Building (comprising approximately 120 specialty retail stores and small business tenancies located in the upper 11 levels of The Dymocks Building) and other Dymocks Bookstores throughout Australia, on an economic basis both in the short term and long term.

We also note that The Dymocks Building is uniquely impacted by the Project on the basis that it is the only business within the relevant section of George St which has *only one* pedestrian and vehicular access, namely off George St.

Therefore care needs to be taken when preparing proposed conditions of consent (and conditions of applicable construction contracts) to ensure that disruption to vehicular and pedestrian access and pedestrian travel routes are minimised when construction is proposed within close proximity to The Dymocks Building.

We accordingly seek an urgent meeting with you to discuss the conditions and the project generally.

Yours sincerely

Cathy Tiberio
Finance Director and Managing Director - Property



planning consultants

16 December 2013
Our Ref: 8733A.2KM.docx
Your Ref: SSI 6042

Ms Ingrid Ilias - Planner
NSW Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001

By Email: information@planning.nsw.gov.au

Dear Sir

**RE: SUBMISSION IN RESPONSE TO THE PUBLIC EXHIBITION OF THE EIS FOR
THE CBD AND SOUTH EAST LIGHT RAIL PROJECT ON BEHALF OF
DYMCKS BOOK ARCADE PTY LTD – 424-430 GEORGE STREET, SYDNEY**

1.0 Introduction

DFP has been commissioned by Dymocks Book Arcade Pty Ltd to independently review the Environmental Impact Statement (EIS) for the CBD and South East Light Rail (CSELR) Project with specific regard to the impacts on their landholding at **424-430 George Street**, Sydney (hereafter referred to the "Site" or "**The Dymocks Building**") and to prepare a submission to the Department of Planning and Infrastructure (DoPI) as appropriate.

Together with our Client, we met with the proponent – Transport for NSW (TfNSW) – on 11 December 2013 to discuss the CSELR Project and to attempt to understand and portray the potential implications for our Client.

Notwithstanding that we found those discussions instructive and that our Client is generally supportive of the project and its intended outcomes, we have serious concerns about the adverse impacts of the construction phase of the project on the operations undertaken from our Client's building – The Dymocks Building - and particularly the unavoidable and inevitable economic losses that will result.

In addition we have identified a number of potential adverse impacts arising from the operational phase of the Project which should be further assessed and refined.

With the assistance of Location IQ, M Raven North and Beatty Legal Pty Ltd, we have reviewed the EIS and supporting documents and on behalf of our Client, we hereunder outline our findings and the concerns of our Client which can be summarised as follows:

1. **EIS Adequacy** - The EIS does not adequately respond to the Director General's Requirements as it:
 - (a) does not adequately assess the adverse economic impacts of the construction or operational phases of the project; and
 - (b) is deficient with regard to the detail of construction management practices, access management and risk mitigation and management and contingencies;
2. **Light Rail Stop Locations** - Inadequate information and justification has been provided with regard to the number and location of light rail stops and it is considered that an additional stop should be provided close to the intersection of George Street and King Street; and

3. **Access and Economic Loss** - Construction will significantly diminish passing foot traffic the pedestrian and vehicular access to our Client's building, thereby resulting in adverse social and economic impacts by virtue of loss of trade and loss of rental income;
4. **Amenity and Economic Loss** - Construction is likely to result in adverse dust, noise and vibration impacts on the predominantly retail tenants within our Client's building, thereby diminishing the amenity for customers and employees and contributing to loss of trade and rental income;
5. **Property Damage** - Construction activities have the potential to cause damage to our Client's building, which is a local Heritage Item (constructed between 1928-1932) under Sydney Local Environmental Plan 2012;
6. **Services Disruption** - There is potential for significant disruption to essential utilities and services which would have adverse impacts on the trade of building tenants;
7. **Compensation, Offsets and Mitigation** – The proponent should liaise with our Client to determine a package of measures that will assist to compensate, offset or mitigate the damage to Client, their tenants and customers.

This submission provides a brief description of our Client's landholding and asset, the building's tenants, access arrangements and our detailed consideration of the above impacts.

Given the short timeframe provided to respond to the EIS and the inadequacies of the EIS, on behalf of our Client we reserve the right to make more detailed submissions at a future time.

2.0 Context – The Dymocks Building

2.1 Location

Our Client's building is located on the eastern side of George Street, Sydney, approximately midblock between King Street and Market Street (see **Figure 1**). The building address is **424-430 George Street** – also known as “**The Dymocks Building**”.



Figure 1: Site Location (Source: Six Maps, LPI, 2013)

A signalised pedestrian crossing across George Street is located just 10 metres to the north of the Site which provides an important midblock crossing point for pedestrians.

The Site is serviced by bus stops located just to the north of the Site on the eastern (southbound) and western (northbound) sides of George Street. These bus stops service dozens of bus routes which predominantly run between the Inner West and South West and Circular Quay.

2.2 Building History¹ and Description

The Dymocks story is well documented and began in 1879 when William Dymock commenced business as a bookseller in a rented room in Market Street, just around the corner from the Site. As the business grew, the bookstore was moved to larger and grander premises on the Site.

In 1922, the old Royal Hotel in George Street was purchased by Dymocks and architect F.H.B. Wilton designed a new building in the “Interwar Commercial Palazzo Style”. This building was constructed between 1928 and 1932 in the height of the Great Depression and is The Dymocks Building which still stands today.

The design of the building catered for specialty retail shops and businesses with the Dymocks Bookstore and Stationery Store located at the ground floor. The Ground Floor is still occupied by the Bookstore (which now stretches over three levels) and Stationery Store. This is the flagship Dymocks Bookstore in Australia, an icon and possibly the largest bookstore in the Southern Hemisphere.

In the 1980s The Dymocks Building was restored and is now home to approximately 120 specialty retail stores and businesses as well as the Dymocks Head Offices.

2.3 Tenants

As indicated, in addition to the Dymocks Bookstore and Stationery Store, there are approximately 120 shops and businesses located over the upper 11 levels of The Dymocks Building providing a range of services including Bridal, Jewellery, Health and Beauty, Training and Employment, Travel and Entertainment, Finance, Legal and Property and Fashion and Gifts.

Many of these tenants rely on the relatively quieter surrounds that the building offers compared to the hustle and bustle of modern mall-style shops although this does not diminish the importance for convenient and uninterrupted access from the street level.

The Dymocks Bookstore, Stationery and Head Offices occupy approximately 4,000m² and the other tenants occupy approximately 10,000m² of lettable floor space with vacancy being historically low at around 5% of the total lettable floor area.

2.4 Site Access

The Site has its sole pedestrian and vehicular access via George Street, unlike the majority of surrounding sites on the eastern side of George Street in this block which have alternate pedestrian access from Pitt Street Mall.

Pedestrian access consists of the main entry to the lift lobby, a northern adjoining entry to the bookstore and a southern adjoining entry to the stationery store.

Vehicular access to the building's loading dock is via a driveway off George Street to the south of the stationery store. This loading dock provides the primary loading/unloading facility for the Bookstore, Stationery Store and 120 tenants as there is no scope for deliveries directly from George Street. This access is unrestricted and is used throughout the course of the day and night.

¹ Source: Adapted from the www.thedymocksbldg.com.au website

3.0 Adequacy of the EIS

3.1 Economic Impacts

The EIS does not adequately assess the economic impacts of the construction or operational phases of the project nor does it describe how or when the proponent will engage with affected landowners through any post approval management plans.

The Economic Assessment (EA) (EIS, Technical Paper 4) predominantly assesses the macroeconomic impacts resulting from decreased congestion in the CBD and surrounding suburbs as a whole and the broader potential for economic benefits arising out of tourism to Sydney, general health and wellbeing from promoting walking and cycling and environmental improvements from reducing motor vehicles in the City.

At a microeconomic level the EIS relies almost exclusively on a presumption that there will be an increase in the value of land in the vicinity of the light rail and more acutely near light rail stops based on international experience (e.g. San Diego, Portland, Oregon, Dallas and California).

The presumption of increased land values also arises from the findings of a Retail and Economic Benefit Appraisal for the Pedestrianisation of George Street prepared by MacroPlanDimasi in 2013 which relies upon the rental uplift and lower capitalisation rates attributable to properties in the Pitt Street Mall in Sydney, as well as pedestrian malls in Brisbane, Melbourne, Adelaide and Perth.

However in our opinion, these examples cannot be directly compared to the proposal for several reasons. Firstly, the proposal will result in two pedestrian malls in very close proximity to one another – this is not the case in the cited examples. Secondly, the proposal is for a significant length of George Street to be pedestrianised – far greater than the cited examples. Furthermore, the rental incomes of properties in the cited examples are reflective of the presence of several retail anchors in close proximity to one another. This is not the case for the proposed George Street pedestrianisation.

In addition, whilst the EA suggests that international experience has been that land value uplift near stations can occur post-announcement and pre-construction, there is no modelling of the likely scenario in Sydney and indeed the suggestion in the EIS is that the uplifts experienced elsewhere have taken up to ten years or so to be achieved. This is a long time period to weather the short term and potentially significant economic losses associated with construction (see below).

The EIS does not provide any reasonable information describing the likely increase in pedestrian footfall along the pedestrianised zone or the period over which an increase can be expected. Increase in footfall is the single largest factor that drives retail sales in this type of CBD environment. George Street is already one of the busiest pedestrian environments in the Sydney CBD as it is the most direct route from north to south and provides a range of alternate transport opportunities including walking, cycling, private motor vehicle, taxis and buses.

As we understand the proposal, only walking and light rail will be permitted in the pedestrianised zone and light rail users will undoubtedly congregate near the light rail stops, not midway between them. The Dymocks building is not in close proximity to any proposed light rail stops and in fact, is in the longest non-station segment of the route through the entire CBD. Accordingly, an additional stop should be provided near the intersection of George and King Streets (see discussion at Section 4.0).

The EIS also suggests that the project offers opportunities for increased densities and agglomeration. However, the majority of land along this section of George Street has already been developed to its maximum potential and/or is incapable of being expanded due to built or environmental constraints such as heritage, streetscape, solar access and visual impact.

This is the case for The Dymocks Building which is a Heritage Item with no reasonable opportunity for increased floor space or change in the nature of its use due to the internal design and heritage features of the building.

With regard to the Construction phase of the project the EIS states (p.9-67):

“Changed behaviour during construction — This impact relates to the effect that a forced change in consumer behaviour (such as travel route or diversion) may have to longer-term trends. For example, an alternative pedestrian route during construction (that moves passing trade away from a given business) may result in a permanent change in behaviour or travel direction even when no longer enforced. This can negatively affect businesses from which trade was diverted and conversely may benefit others.”

In our opinion, there is likely to be a significant loss of passing trade during construction as pedestrians will seek to utilise other north-south routes instead of George Street. In addition, we understand that the midblock pedestrian crossing outside the Strand Arcade is to be closed during construction and therefore pedestrians on the western side of George Street will be unable to cross through the work zone and would bypass the Site with no visibility of the retail services it offers. This is contradictory to the Social Impact Assessment (Technical Paper 3) submitted with the EIS which indicates that this crossing will be kept open.

The work hoardings, reduced pedestrian areas, loss of passing vehicular traffic, closure of the pedestrian crossing and general nuisance and disturbance will be particularly problematic for the Bookstore and Stationery Store which currently enjoy unobstructed views and access from the street by pedestrians, cyclists, car passengers, taxi passengers and bus passengers.

Shopfront visibility has been important for the Bookstore and Stationery Store since the building was constructed in 1932. Dymocks estimate that the disruption and loss of visibility will result in a sales decline for the Bookstore and Stationery Store as follows:

- 35-55% whilst by construction activity occurs in George Street between King and Market Streets;
- 25-35% whilst the adjoining blocks are impacted by construction activity; and
- 15% whilst the city generally is impacted by construction activity.

Furthermore, the adverse amenity impacts arising from the noise, vibration and dust associated with construction activities is likely to reduce passing trade and is may also impact on the Client's tenancy base (see further discussion at Section 6.0).

Accordingly, the loss of passing trade and the potential lost rental income is likely to have a significant adverse economic impact on our Client. The EIS does not adequately assess this impact and does not provide for appropriate mitigation, management and/or compensatory measures to account for the irrevocable economic harm that will arise prior to any potential longer term benefits being realised.

3.2 Construction Management, Risk Management and Mitigation and Contingencies

The EIS is deficient with regard to the level of detail of proposed construction management practices, access management and risk mitigation and management and contingencies. The following subsections outline our concerns in these regards.

3.2.1 Construction Timeframe

The EIS suggests that construction is expected to commence in mid-2014 (subject to planning approval) and is anticipated to take approximately five to six years with commissioning and operation commencing in 2019–2020 (EIS, p.6-1) although the construction period for Mainline Works over a length of about 200 metres is anticipated to be a cumulative 19-24 weeks (4-6 months) (EIS, p.12-71).

Notwithstanding the information in the EIS, we understand from our meeting with TfNSW that the likely timetable for construction in the King-Market Street block of George Street is a commencement in late 2015 and that the anticipated timeframe for completion is around 9 months (39 weeks), rather than the 24 weeks suggested by the EIS.

Accordingly, there does not appear to be any consensus as to the likely timeframe of works and our Client is concerned that the timeframe of the major works is unknown and that it may be significantly longer than the 9 months suggested by TfNSW. The critical trading period for our Client is mid-October to mid-February and more acutely the lead up to Christmas, post-Christmas/New Year sales and back-to-school period. Accordingly, the programming is likely to coincide with the busiest retail period and have the worst impact in terms of disturbance and loss of trade.

M Raven North has advised our Client that 5 months should be sufficient to complete the works. Accordingly, if work is commenced immediately after Anzac Day (25 April 2015) it is reasonable to expect it to be completed by mid-October 2015 so as not to coincide with our Client's peak trading.

There also appears to be no allowance for penalties to the contractor should they exceed the period specified in the EIS and this does not incentivise early completion and minimal disturbance. We would suggest that penalties be imposed as part of the CEMP and that a Condition of Approval should be imposed requiring this to be the case.

In addition, the construction contract should include site rental (similar to motorway works) to ensure that there is an added incentive for the contractor to return the road reservation to the control of Council rapidly, thereby minimising public access restrictions.

The DoPI should require additional, more detailed information from the proponent in this regard and make it available for landowners to review prior to granting approval to the project. Ideally, this should be in the form of a Draft Construction Environmental Management Plan (CEMP) incorporating requirements to consult with affected landowners and also including a mechanism for alternative dispute resolution in the event that landowners are not satisfied with the construction program and management of impacts. The requirement for consultation with landowners and dispute resolution should also be a contractual obligation for the contractor.

3.2.2 Construction Hours

With regard to construction hours, the EIS states (p.6-14):

"To minimise disruption to traffic and for safety reasons, it is anticipated that construction works would be required outside of standard construction hours. Within the CBD, works may need to take place on a 24 hour basis.

...

Where reasonable and feasible, preference would be given to scheduling construction works within the standard construction hours of 7 am to 6 pm Monday–Friday and 8 am to 1 pm on Saturdays (particularly those activities generating high noise and/or vibration levels)."

We agree with the first paragraph above that work should be undertaken outside standard construction hours (i.e. typical retail trading hours) in the interests of minimising the impact on our Client and the tenants of The Dymocks Building during standard hours of daytime trade.

However, the second paragraph above suggests that daytime hours will be the default which we strongly object to on behalf of our Client.

The EIS acknowledges (p.12-57) that there are existing high background noise levels in this part of George Street during evening and night-time hours and our consideration is that there are few residential developments nearby and those that are, are typically modern buildings with double and triple glazing. Accordingly, high noise and vibration works in the vicinity of The Dymocks Building should be undertaken between 7pm to 8am to minimise disruption to retail/commercial landowners.

3.2.3 Substation, Primary Construction Compound, Laydown areas and Stockpiling Locations

The EIS does not indicate any proposed substations or primary construction compounds located near The Dymocks Building. Our Client supports this approach and seeks assurance that there will not be changes to the proposal in this regard.

The EIS is not explicit with regard to any proposed laydown areas and/or stockpiling in the vicinity of The Dymocks Building although at our meeting, TfNSW indicated that at no time would footways be used for storage of plant, equipment or materials and that all such items would be kept within the work hoardings which would generally be restricted to the current trafficable area of George Street.

Notwithstanding, we are of the opinion that the EIS should be more definitive in this regard and the DoPI should require the preparation of a Draft Construction Management Plan and an Access Management Plan and consultation with landowners on the same, prior to granting approval to the project.

A Condition of Approval should also be imposed requiring consultation with landowners regarding any changes to the intended substation, primary construction compound, laydown areas or stockpiling locations.

3.2.4 Emergency Evacuation

In regard to emergency evacuation, the EIS states (p.6-46)

"It is anticipated that emergency evacuation procedures for buildings located along the proposed CSELR alignment may need to be amended to account for the CSELR construction worksite and compounds. This would particularly be the case for buildings which utilise public open spaces affected by the CSELR proposal (such as Belmore Park) as emergency evacuation marshalling areas. Transport for NSW would consult with building owners/managers along the proposed CSELR alignment to assist with the redesign of emergency evacuation procedures for affected buildings."

Our Client expects the proponent to cover all costs associated with changes to emergency evacuation procedures for The Dymocks Building and any Project Approval should require this as a Condition of Approval.

3.2.5 Construction Management

In the absence of any information in the EIS with regard to construction management, M Raven North have provided a range of mitigation and management measures that should be required to minimise the impacts on The Dymocks Building, its tenants and customers.

These measures should be required as a Condition of Approval and/or be included in the CEMP and Access Management Plan and include:

- All materials unfixed are to be securely stored to prevent being misused;
- Regular patrols of works sites are to be undertaken when unmanned;
- Restrictions are to be placed on the storage of both new materials and waste material within the construction zone;
- Further detail is to be provided to the landowners for their agreement relating to proposed laydown areas, their size and their frequency of use;
- Stock piling of materials is not to cause disruption due to dust or block access / line of sight to The Dymocks Building;
- Haulage routes and timing of removal of waste are to be agreed with the landowners;
- Workers vehicles are to be excluded from the work site;
- Restrictions of contractors blocking access to The Dymocks Building at any time;

- Incident identification, management process and agreed escalation are to be agreed with the landowners;
- Construction works to be prohibited during specified events and during peak trading times and periods;
- A lane closure and lane hire type system (as applies to motorway construction) to be used to incentivise the contractor by only taking possession of work sites when required and to return the construction site to public access at the earliest available opportunity.

3.2.6 Ongoing Landowner Consultation

As indicated herein, the EIS defers a significant amount of detail relating to construction management, risk mitigation and management and contingencies to the post approval stage. Based on our meeting with TfNSW, we understand that these matters are to be negotiated directly between the proponent and the contractor.

In our opinion, landowners should be included in the discussions and negotiations in relation to these matters and the Project Approval and any CEMP and Access Management Plan should include a mechanism for alternative dispute resolution in the event that landowners are not satisfied with the construction program and management of impacts. At a minimum this consultation and the CEMP should include:

- Creation of a liaison group to assist in the consultation with landowners and to provide regular progress updates and early notification of proposed works;
- Engagement of a heritage specialist to oversee works and to ensure that special care is taken around significant buildings such as The Dymocks Building;
- Maintaining access to utilities together with incident management and corrective action plans where disruption has occurred;
- Access to a dedicated Liaison Officer throughout the currency of the project with documented powers for this person;
- Setting up of a protocol to regularly monitor dust, noise and vibration to determine if agreed levels are being exceeded and application of remedies and/or penalties if they are exceeded; and
- Imposition of levies on the construction works due to increased incidences of cleaning and maintaining of the building due to the generation of dust.

4.0 Light Rail Stop Locations

Inadequate information and justification has been provided in the EIS with regard to the number and location of light rail stops and it is considered that an additional stop should be considered close to the intersection of George Street and King Street.

The distance between the Wynyard and QVB stops is approximately 600 metres whilst the distance between the Grosvenor and Wynyard stops is only about 200 metres and the EIS says the minimum distance is 180 metres. Given the removal of bus stops which are within 10 metres of The Dymocks Building, it is only reasonable that a stop be located much closer than the QVB and Wynyard.

The intersection of George Street and King Street is the approximate midpoint between Wynyard and the QVB and provision of a stop in this location would be consistent with the EIS assertion that shorter distances between stops would assist wire-free running which is proposed along the George Street pedestrianized zone. Furthermore, this would be a more equitable distribution of the perceived economic benefits of the project if, as the EIS purports, land values tend to increase close to stops.

Our assessment is that the width of the George Street road reservation just south of King Street is similar, if not the same as the width of the road reservation at the proposed Wynyard stop and accordingly, we do not see this as a constraint to the provision of a "King Street" stop on this basis.

In addition, this location just south of King Street would be about 325 metres from Wynyard and about 275 metres from the QVB which is considered to be reasonable distances without be so close as to dramatically impact on running times.

Accordingly, the EIS should be amended to include an additional stop on the south side of the intersection of King and George Streets.

5.0 Access

The construction of the project will significantly diminish passing foot traffic, pedestrian and vehicular access to our Client's building, thereby resulting in adverse social and economic impacts by virtue of loss of trade and loss of rental income. The following subsections outline our concerns in this regard and include a summary of recommended mitigation and management measures that should be required as a Condition of Approval.

5.1 Vehicular Access

In regard to vehicular access the EIS states (p.5-10):

"Local access to properties would be maintained as well as access for emergency vehicles. A strategy would also be developed (through further detailed design by Transport for NSW and key stakeholders) to determine levels of access required by delivery vehicles, private vehicles accessing residences and taxis at night."

and (p.5-58):

"Emergency vehicles, property owners and occupiers, resident delivery and maintenance trucks would retain access to existing driveways and laneways within the pedestrian zone 24-hours a day. Larger delivery vehicles would be permitted during restricted hours to be determined during the detailed design of the proposal."

Furthermore, the EIS indicates that a controlled access lane is to be provided to the King-Market Street section of George Street during construction although access will be limited to 8.8m long vehicles.

The EIS does not indicate when the access strategy will be prepared or what alternative dispute resolution framework will exist if landowners are not provided with satisfactory outcomes.

The Dymocks Building currently has unrestricted access for loading/unloading and our Client expects that the same arrangements during and post construction.

5.2 Pedestrian and Customer Access

With regard to pedestrian access, the EIS states (p.6-44):

"For the majority of the main construction works, existing longitudinal pedestrian movements (i.e. pedestrian movements running parallel to the CSELR alignment) would be maintained along the footpaths. Transverse pedestrian movements (i.e. pedestrian movements crossing the CSELR alignment) would generally be maintained at existing pedestrian crossing facilities either at signals or controlled by traffic controllers. While the mid-block transverse pedestrian crossing at Martin Place would be maintained during construction, the mid-block crossings at the Strand Arcade, Queen Victoria Building and Event Cinemas (on George Street) would be closed during construction."

However, the EIS is contradictory with respect to the closure of the pedestrian crossing at the Strand Arcade as several technical papers suggest that this crossing will be only temporarily closed during construction or that it will be access controlled by the contractor.

As discussed in Section 3.1, this pedestrian crossing provides an important mid-block crossing in the vicinity of The Dymocks Building and will be even more important during construction when construction hoardings will limit sight lines to the Bookstore and Stationery Store from the western side of George Street. Accordingly, closure of this crossing during construction will mean that many pedestrians are likely to bypass The Dymocks Building.

In addition, the removal of bus access and bus stops in this section of George Street (less than 10 metres from The Dymocks Building) will mean that customers and employees will no longer be able to rely upon the direct access that buses provide. We understand that bus stops and bus services will be relocated to nearby streets although this will require additional walking time for customers and employees.

In addition, existing bus services provide for a vast number of bus routes to/from the Inner West and South West which are not destinations of the main CSELR alignment. Accordingly, the project will provide for only limited accessibility for different parts of the suburbs surrounding the CBD rather than broadening the scope of access.

Furthermore, the so-called replacement for bus services is a light rail with stops at Wynyard and at the Queen Victoria Building. These are not considered to be like replacements for a bus stop within 10 metres of the Site and accordingly, we do not believe that this has been considered in the design of the proposal or adequately addressed in the EIS.

Notwithstanding our reservations about the impacts of the proposal, we would expect that TfNSW would involve our Client in the preparation of the Access Strategy / Access Management Plan for the project and that such a plan would include measures such as:

- Clear demarcation of pedestrian and work zones;
- Minimal use of work hoardings and visual treatment of the same;
- No storage of plant, equipment or materials on the footway across The Dymocks Building frontage;
- Screening of construction activities;
- Maintaining clear pedestrian access and diversion of pedestrians past The Dymocks Building with suitable pavement at all times;
- Maintaining the pedestrian crossing access across George Street near the Strand Arcade – at least on a controlled basis;
- Advertising signage rights for The Dymocks Building on hoardings and other construction structures and way finding signage in surrounding streets; and
- Relationship with the new Light Rail Stop near King Street (see Section 4.0 above) including signage and wayfinding material.

6.0 Amenity

Construction is likely to result in adverse noise, vibration and dust impacts on the predominantly retail tenants within our Client's building, thereby diminishing the amenity for customers, tenants and employees and contributing to loss of trade and rental income. The following subsections outline our concerns in these regards.

6.1 Noise and Vibration

The EIS suggests (p.12-71) that noise levels during mainline works could be in the order of 108-118dB and for vibration levels to exceed the threshold of human comfort.

Accordingly, it is not appropriate that such activities are undertaken during the trading hours of tenants within The Dymocks Building, many of which should be considered as sensitive receivers to noise and vibration due to the nature of their trade.

For example, the Dymocks Bookstore provides a quiet respite from the busy street environment of the CBD akin to a public library. In addition, many tenants provide medical/therapeutic services (e.g. massage, acupuncture and psychology), education/training services or are jewellers, bridal specialists and the like, all of which rely on the quiet and private environment that The Dymocks Building offers.

Therefore, The Dymocks Building should be classified as an Educational Facility and included in Table 12.32 of the EIS and included as a sensitive receiver in the list of buildings at Table 14.3.1 of Technical Paper 11.

To mitigate these impacts we would expect that TfNSW will involve our Client in the preparation of the CEMP for the project and that this plan will include the following measures at a minimum:

- Excessive noise and vibration generating activities outside of the core trading hours of 8am to 6pm Monday to Sunday and after late night trading in peak trading periods;
- Installation of a temporary noise wall subject to the more detailed advice of an acoustic expert;
- All plant, equipment and vehicles to be shut down when not in active use;
- Alternate construction methods or low impact machinery to be used where possible;
- Noise not to exceed a level to be agreed with the landowner and to be stated in the CEMP. This should be 45dBA in accordance with the recommendations in the Noise Impact Assessment in the EIS for medical and training land uses;
- Vibration not to exceed a level to be agreed with the landowner and to be stated in the CEMP;
- Inclusion of agreed noise and vibration KPIs and penalties in contractual arrangements;
- Ongoing noise and vibration monitoring to be undertaken at the proponent's expense to ensure compliance;
- Respite periods where no activity is undertaken to be provided during extended noise and vibration generating activities, irrespective of level;
- The Project Approval and the CEMP to include a mechanism for alternative dispute resolution in the event that landowners are not satisfied with the management of noise and vibration impacts and the contractor's adherence to KPIs.

In addition, given the sensitive nature of tenant businesses within The Dymocks Building, the potential for adverse vibration impacts arising from the operational phase of the project should be addressed by utilising high resilience rail bedding adjacent to The Dymocks Building. This will reduce the vibrations of the passing trams and prevent any subsequent loss of amenity.

6.2 Dust

As acknowledged in the EIS, the construction activities associated with the project have the potential to generate particulate matter or dust emissions and if not managed properly, these could add to the cumulative adverse amenity impacts on tenants and customers of The Dymocks Building.

Accordingly, to manage dust emission impacts we would expect that TfNSW will involve our Client in the preparation of the CEMP for the project and that this plan will include the following measures:

- Excessive dust generating activities outside of the core trading hours of 8am to 6pm Monday to Sunday and after late night trading in peak trading periods;
- All plant, equipment and vehicles to be shut down when not in active use;
- Ongoing dust monitoring to be undertaken at the proponent's expense to ensure compliance;
- Respite periods where no activity is undertaken to be provided during extended dust generating activities;
- Minimise the time where sub soils are exposed;
- Use of watering down and wash facilities;

- Materials to be covered to minimise dust impacts;
- A programme of regular clean of the construction site and footpaths to be agreed with the landowner and included in the CEMP or a Dust Management Plan;
- The cost of all additional cleaning, maintenance and repair of The Dymocks Building arising from dust impacts to be borne by the proponent; and
- The Project Approval and the CEMP (or Dust Management Plan) to include a mechanism for alternative dispute resolution in the event that landowners are not satisfied with the management of dust impacts and the contractor's adherence to KPIs.

7.0 Damage

Construction activities have the potential to cause damage to our Client's building, which is a Heritage Item, constructed between 1928 and 1932. In this regard the EIS states (p.6-3):

"Subject to landowner or asset owner agreement, property condition surveys would be completed for various infrastructure (including residences, roads, buildings, heritage items, etc.) prior to the commencement of vibration intensive construction works (e.g. proximate piling, excavation or bulk fill or any vibratory impact works including jack hammering and compaction) and post-construction (unless property/infrastructure is otherwise determined as being not adversely impacted by a qualified geotechnical engineer). These property surveys would be undertaken to determine the existing condition of property/assets and to ensure that any damage resulting from the works is able to be identified and rectified. Landowner/asset owner consent would be obtained to access private property to complete these property surveys.

Where required, vibration monitoring would be undertaken during vibration intensive works to confirm vibration predictions."

The Dymocks Building has undergone significant restoration and refurbishment in the last five years and is currently undergoing further restoration works, particularly in regard to the façades, windows and other cosmetic improvements.

Our Client is concerned that the construction activities may cause damage to the building and that repairs would cause disturbance to tenants additional to the other adverse amenity impacts identified herein.

Accordingly, to manage dust emission impacts we would expect that TfNSW will involve our Client in the preparation of the CEMP for the project and that this plan will include the following measures:

- Excessive vibration generating activities outside of the core trading hours of 8am to 6pm Monday to Sunday and after late night trading in peak trading periods;
- Alternate construction methods or low impact machinery to be used where possible;
- Vibration not to exceed a level to be agreed with the landowner and to be stated in the CEMP;
- Inclusion of agreed vibration KPIs and penalties in contractual arrangements;
- Ongoing vibration monitoring to be undertaken at the proponent's expense to ensure compliance;
- Respite periods where no activity is undertaken to be provided during extended vibration generating activities, irrespective of level;
- Immediate cessation of activities in the event of damage to the building fabric;
- No excavation works in close proximity to The Dymocks Building alignment;
- No plant or equipment likely to fall onto the façade of The Dymocks Building to be used;
- Engagement of an independent property condition survey for The Dymocks Building by our Client at the proponent's cost;

- The Project Approval and the CEMP to include a mechanism for alternative dispute resolution in the event that landowners are not satisfied with the management of impacts on the fabric of The Dymocks Building and the contractor's adherence to KPIs;
- Any damage caused to The Dymocks Building as a consequence of construction activities to be rectified promptly to our Client's satisfaction and at the proponents cost.

8.0 Services Disruption

There is potential for significant disruption to essential utilities and services as a result of construction activities which would have significant adverse impacts on the trade of the Bookstore and Stationery Store and the other 120 tenants in the building.

It is not clear from the EIS what contingency (i.e. redundancy) will be put in place in the event of a service interruption and we request that this information is provided for our Client's review prior to any Project Approval being granted.

Our Client seeks assurances from the DoPI and the proponent that access to power, water, waste water, telecommunications and the like will be maintained throughout the course of construction and that compensation will be provided by the proponent in the event of any interruption. This should be a condition of any approval and an Incident Management Plan should be prepared in consultation with our Client prior to works commencing.

9.0 Compensation, Mitigation and Offsets

Whilst we are of the opinion that the economic losses that are likely to be sustained by our Client cannot be fully or adequately offset by physical and operational mitigation measures, there are a number of potential offsets which could lessen the impact including:

- Any reasonable expenses incurred by our Client in ensuring that the proponent and contractor abide by the requirements set out in this submission (such as legal, planning, structural, valuation and related services) to be met in full by the proponent;
- Advertising rights to be provided to our Client during and post construction on work hoardings, street furniture and the like including general advertising and wayfinding signage;
- Provision by the proponent at the proponent's expense of alternate temporary accommodation should the adverse amenity impacts during construction render occupation of The Dymocks Building untenable;
- Encouragement of contractors and proponent's project staff to obtain leases within The Dymocks Building for the duration of the project and beyond.

We recommend that a condition of approval be imposed requiring the proponent to prepare a strategy for such offsets as part of a Business Stakeholder Management Plan.

10.0 Conclusion & Recommendations

The owners of 424-430 George Street – The Dymocks Building – have commissioned DFP, Location IQ, M Raven North and Beatty Legal Pty Ltd to review the EIS for the CSELR and to make a submission in response on their behalf.

Notwithstanding that our Client is generally supportive of the CSELR project and its intended outcomes, we have identified a number of significant adverse impacts on The Dymocks Building, not least of which is the unavoidable and inevitable economic losses that will result from the construction phase and potentially the operational phase of the project.

The following subsections summarise our findings and recommendations which should be read in conjunction with the more detailed recommendations above.

10.1 Additional Information and Assessment

The following Additional Information and Assessment should be undertaken and landowners given an opportunity to comment on the same prior to Approval being granted:

- IA1. **Economic Impact Assessment** – Additional assessment of the economic impact of the proposal on local businesses should be undertaken and provided for stakeholder review. Specifically, this should include information regarding footfall along George Street before construction and modelling of changes during and after construction of the proposal and consequential impact of trading levels and occupancy rates.
- IA2. **Construction Timeframe** – Further clarity should be provided with regard to the construction timeframe of works within the King Street to Market Street block of George Street as the EIS and TfNSW are contradictory in this regard.
- IA3. **Construction Environmental Management Plan** – A Draft CEMP or at least the headline terms of a CEMP should be provided for stakeholder review.
- IA4. **Access Management Plan** – A Draft AMP or at least the headline terms of an AMP should be provided for stakeholder review.
- IA5. **Justification for Stop Locations** - Additional information and justification for the proposed Stop Locations should be provided for stakeholder review and specifically, information should be provided as to why a stop between Wynyard and the QVB is not included.

10.2 Design Changes

The following Design Changes should be undertaken prior to Approval being granted:

- DC1. **Additional Light Rail Stop** - An additional Stop ("King Street") should be included just south of the intersection of George and King Streets as the distance between the Wynyard and QVB stops is excessive and will be detrimental to the retail activities of landowners and business within this segment.
- DC2. **Track Type** – High Resilience Rail Bedding is to be used adjacent to The Dymocks Building, given the sensitive nature of tenant businesses and the potential for adverse vibration impacts.

10.3 Conditions of Approval

The following Conditions should be included in the Project Approval:

- CA1. All management plans prepared by the proponent dealing with any issues of access, noise, dust or vibration during construction must include provision for a simple alternative dispute resolution mechanism (such as mediation conducted by and through the Australian Commercial Disputes Centre) for the quick, cheap and confidential resolution of any claims or disputes between the both the proponent and its contractors and any land owners along the route of the project. The cost of providing this mechanism must be borne by the proponent.

Note: A condition of this kind should be imposed to avoid unnecessary and expensive litigation and the attendant potential delays to construction works.

- CA2. Construction in George Street in the block between King and Market Streets is to be carried out between 7pm and 8am Monday to Sunday to minimise the disturbance to retail and commercial businesses.
- CA3. Construction in George Street in the block between King and Market Streets is to be carried out between mid-February and mid-October to minimise the disturbance to the peak retail trading of mid-October to mid-February.

- CA4. At no time are footways be used for storage of plant, equipment or materials and all such items must be kept within the work hoardings which are to be restricted to the current trafficable area of George Street.
- CA5. Any changes to the substation, primary construction compound, laydown areas or stockpiling locations as depicted in the EIS are to be agreed with affected landowners prior to construction commencing.
- CA6. The proponent is to cover all costs associated with changes to emergency evacuation procedures for The Dymocks Building.
- CA7. The Construction Management measures listed in Section 3.2.5 of the submission by DFP Planning Consultants dated 16 December 2013 are to be included in a Construction Environmental Management Plan.
- CA8. Vehicular access to The Dymocks Building at 424-430 George Street shall not be restricted at any time without the express prior agreement with the landowner.
- CA9. Pedestrian, customer and employee access to the Dymocks Building is to be maintained at all times and all reasonable endeavours must be made to minimise the disturbance to that access including the measures listed in Section 5.2 of the submission by DFP Planning Consultants dated 16 December 2013.
- CA10. The pedestrian crossing across George Street near the Strand Arcade is to be maintained during construction. This is to be included in a Construction Environmental Management Plan and Access Management Plan.
- CA11. The EIS is to be amended to include The Dymocks Building in Table 12.32 as an Educational Facility and this Building is to be included as a sensitive receiver in the list of buildings at Table 14.3.1 of Technical Paper 11.
- CA12. To mitigate and minimise against adverse noise and vibration impacts, the measures listed in Section 6.1 of the submission by DFP Planning Consultants dated 16 December 2013 are to be included in a Construction Environmental Management Plan.
- CA13. To mitigate and minimise against adverse dust impacts, the measures listed in Section 6.2 of the submission by DFP Planning Consultants dated 16 December 2013 are to be included in a Construction Environmental Management Plan.
- CA14. The Proponent is to cover the cost of an independent property condition survey for The Dymocks Building.
- CA15. To mitigate and minimise against damage to The Dymocks Building, the measures listed in Section 7.0 of the submission by DFP Planning Consultants dated 16 December 2013 are to be included in a Construction Environmental Management Plan.
- CA16. All essential services and utilities to The Dymocks Building are to be maintained at all times and the Proponent shall cover any costs or damages that result from service interruption. In this regard, a Risk Management and Contingency Plan is to be prepared in consultation with the landowner prior to works commencing.

10.4 Ongoing Consultation

The following consultation measures must be adhered to:

- OS1. Landowners must be included in the discussions and negotiations in relation to the Construction Environmental Management Plan and Access Management Plan and this consultation must include the measures listed in Section 3.2.6 of the submission by DFP Planning Consultants dated 16 December 2013.



10.5 Compensation, Mitigation and Offsets

OF1. The Proponent must prepare a compensation, mitigation and offset package as part of a Business Stakeholder Management Plan in conjunction with landowners which should give consideration to the matters listed in Section 9.0 of the submission by DFP Planning Consultants dated 16 December 2013.

We would be please to discuss this submission further with DoPI and/or the Proponent and should you have any queries please do not hesitate to contact the undersigned.

Yours faithfully

DFP PLANNING CONSULTANTS

A handwritten signature in black ink, appearing to read 'K. Mackay', with a stylized flourish at the end.

**KENDAL MACKAY
PARTNER**

kmackay@dfplanning.com.au

A handwritten signature in black ink, appearing to read 'R. Hayer', with a stylized flourish at the end.

Reviewed: _____