

Contact: Clare Harley
Phone: 9367 9226



27 August 2015

ABN: 92 379 942 845
7-15 Wetherill Street, Leichhardt NSW 2040
PO Box 45, Leichhardt NSW 2040
Phone: (02) 9367 9222 Fax: (02) 9367 9111
TTY: 9568 6758
Email: leichhardt@lmc.nsw.gov.au
www.leichhardt.nsw.gov.au

Secretary
Department of Planning and Environment
GPO Box 39,
Sydney NSW 2001

Dear Ms McNally,

RE: State Significant Development Applications for:

- **Stage 1C Basement Excavation (SSD6956) and**
- **Crown Sydney Hotel Resort (SSD 6957) 51A Hickson Road Road, Barangaroo.**

I am writing to advise you that Leichhardt Council considered an item in relation to the subject matter at its meeting on 25th August 2015. In doing so Council resolved to make a submission (copy attached):

- 1) opposing both State Significant Development Applications for Stage 1C: earthworks, excavation, site remediation and structural works-SSD 6956; and Crown Sydney Hotel Resort: a mixed use hotel, commercial, VIP gaming and residential development, including basement car park-SSD 6957 for the following reasons:
 - a. the State Significant Development Application represents a significant departure from the 2007 Approved Concept Plan and as such the development is no longer "substantially the same development" as was originally approved.
 - b. MOD 8 to the Concept Plan has not been approved. Therefore, the Concept Plan as it stands and against which the State Significant Development Applications must be assessed, is as modified by MOD 7.
 - c. there must be greater transparency and separation in the planning process for this significant site.
 - d. the process to date for approvals at Barangaroo, while complying with the requirements of the now repealed Part 3A of the EP&A Act, are considered unreasonable, not well understood by the community and not conducive to meaningful future, detailed design consultation with the public.
 - e. the uses as described in the State Significant Development Application 6957 for the Crown Sydney Hotel Resort are currently prohibited under Part 12, Division 3 (9) of *State Environmental Planning Policy (Major Development) 2005*.

- f. the proposed form of the Crown Sydney Resort Hotel, at a height of 275 metres and immediately adjacent to the waters' edge ignores the CBD's morphology and is contrary to the long term planning for the CBD which sees tall buildings scaling down to the waters' edge.
- g. the proposal fails to achieve any meaningful key worker housing outcomes.
- h. the Environmental Impact Statement for SSDA 6957 (Crown Sydney Hotel Resort) does not provide sufficient detail regarding the size and characterisation of the gaming facility to allow for adequate consideration and comment in relation to this component of the development.
- i. the EIS does not provide an assessment on the impact of the proposal on the setting and context of the World Heritage listed Sydney Opera House and therefore cannot be supported.
- j. there will be a parking shortfall of some 300 basement parking spaces.
- k. if MOD 8 is approved there will remain substantial inconsistencies between it and the current Crown State Significant Development Applications.

If you require any further information please do not hesitate to Clare Harley, Manager Environment and Urban Planning on 9367 9226.

Yours sincerely,



Peter Conroy
Director
Environmental and Community Management

Submission to NSW Department of Planning and Environment

by Leichhardt Council in relation to:

State Significant Development Applications for

- **Stage 1C: earthworks, excavation, site remediation and structural works-SSD 6956; and**
- **Crown Sydney Hotel Resort: a mixed use hotel, commercial, VIP gaming and residential development, including basement car park-SSD 6957**

Leichhardt Council has maintained an interest in the Barangaroo site since its inception and has previously considered matters which have been referred to Council, by the Department of Planning and Environment, including the Barangaroo Concept Plan, Modifications to the Concept Plan and the August 2011 Sussex Penn Review. As the current State Significant Development Applications appear to have been prepared on an assumption that MOD 8 to the Concept Plan and an amendment to the *State Environmental Planning Policy (Major Development) 2005* will be approved matters raised by Leichhardt Council in its May 2015 submission remain relevant and have been included and expanded upon in this submission.

At the August meeting (25th August 2015) Council resolved to:

- 1) oppose the State Significant Development Applications for Stage 1C: earthworks, excavation, site remediation and structural works-SSD 6956; and Crown Sydney Hotel Resort: a mixed use hotel, commercial, VIP gaming and residential development, including basement car park-SSD 6957 for the reasons outlined below:
 - a) State Significant Development Application SSD 6957 (SSD 6957) for the Crown Sydney Hotel Resort represents a significant departure from the 2007 Approved Concept Plan, so that the development is no longer “substantially the same development” as originally approved.

The 2007 original Approved Concept Plan included a maximum GFA of 388,300m². The gradual amendments to the Concept Plan, over the past eight (8) years means that the total development floor space, at Barangaroo, represents an overall increase in gross floor area (GFA) of 217,611m². Under SSD 6957, the total GFA on the entire Barangaroo Site is proposed to be 605,911m². This represents a 64% increase in GFA across the Site, through modifications, rather than as a whole new approval process. In addition, there has been an incremental “creep” in building height across the Site. The tallest building under the 2007 original Concept Plan (as approved) was 180m. SSD Application 6957 includes a maximum building height of 275m.

Component Uses	Concept Plan as approved (Feb 2007) (sqm)	Concept Plan as approved by MOD 2 (Feb 2009) (sqm)	Concept Plan as approved by MOD 4 (Dec 2010) (sqm)	Concept Plan as proposed by MOD 8 (sqm)	Change (sqm) between 2007 approval and MOD 8
Residential (max)	100,000	83,575	128,763	183,028	83,028
Tourist (max)	30,800 (min)	50,000	50,000	76,000	45,200
Retail (max)	39,000	39,000	39,000	34,000	-5,000
Community (min)	2,000(min)	2,000(min)	12,000 (min)	12,000	10,000
Passenger Terminal (Max)	8,500	8,500	0	0	-8500
“Active Uses” in Public Recreation Zone (max)	3,000	3,000	4,500	5,000	2,000
Commercial (difference of above)	205,000	314,925	329,702	295,883	90,883
TOTAL	388,300	501,000	563,965	605,911	217,611

Table 1

- b) MOD 8 to the Concept Plan has not been approved and so the Concept Plan as it stands and against which the State Significant Development Applications must be assessed is as modified by MOD 7. The final form of the Concept Plan as modified by MOD 8 is not yet known. It follows that if there are material variations between the current Environmental Impact Statement for the State Significant Development Applications, and MOD 8 as ultimately approved the Environmental Impact Statement may become an inadequate assessment of whether or not the Crown State Significant Development Applications are generally consistent with the Concept Plan as modified.

Whilst there is no impediment to a State Significant Development Application being lodged prior to the necessary amendments to the Concept Plan and the SEPP the consequences of that process should be considered. The Crown Sydney Hotel resort is a most significant development in a prominent location and has been a matter of interest to many in the community. The EIS does not make it sufficiently clear that MOD 8 has not been approved, nor

the SEPP amended. As such, the community may be less likely to make a submission because they believe approval to be a foregone conclusion or that the development application is in full compliance with the Concept Plan.

- c) The State Government is the landowner and assessment authority. This brings significant risks, perceptions of bias and lack of independent scrutiny of the planning process. There must be greater transparency and separation in the planning process for this significant site. Consent appears to be a foregone conclusion based upon the Government's award of the gaming licence and from the presumption that the prohibition from the intended use will be removed by later amendment to the relevant Environmental Planning Instrument.
- d) The process to date for approvals at Barangaroo, while complying with the requirements of the now repealed Part 3A of the EP&A Act, are considered unreasonable, not well understood by the community and not conducive to meaningful future, detailed design consultation with the public. As a result, a new approval process, not further incremental increases by way of modifications, should be undertaken for the Barangaroo Site. Council seeks the support of the NSW Department of Planning and Environment in pursuing this line of action.

Zoning

- e) The current zoning of the subject land is RE1 – Public Recreation. The uses as described in the State Significant Development Application 6957 for the Crown Sydney Hotel Resort are therefore currently prohibited under Part 12, Division 3 (9) of *State Environmental Planning Policy (Major Development) 2005*. Council notes that an amendment to the *State Environmental Planning Policy (Major Development) 2005* proposes a change of the zoning of the subject land to B4 – Mixed Use. The proposed zoning closely reflects the built form proposed in MOD 8 and in SSD 6957. The B4-Mixed Use zone would permit the proposed uses. However, the proposed amendments to the Concept Plan and to the SEPP have not and, indeed, may not be approved. The information in the EIS that is on exhibition indicates that the State Significant Development applications are compliant with Concept Plan and the relevant SEPP. In reality the Crown Sydney Hotel resort is prohibited and is inconsistent with Concept Plan.

As such the documentation contains fundamental flaws including a failure to assess the proposal under the requirements of the statutory planning regime that is in place and therefore an inconsistency with the requirements of the SEARS as well as inconsistency with the requirements of the *Environmental Planning and Assessment Act* itself.

It is partly as a result of this issue that the Council submits there is a lack of transparency in the application. The Environmental Impact Statement accompanying the application assumes that the change to the Environmental Planning Instrument which governs the zoning is a foregone conclusion.

Design

- f) The EIS for the SSDA for the Hotel refers to the design being in accordance with Concept Plan (MOD 8) and the Barangaroo South Guidelines. Neither of those documents have been approved – in fact, the current guidelines are the 'Built Form Principles and Urban Design Controls'. The proposed form of the Crown Sydney Resort Hotel, at a height of 275 metres and immediately adjacent to the waters' edge ignores the CBD's morphology and is contrary to the long term planning for the CBD which sees tall buildings scaling down to the waters edge. Leichhardt Council support's the City of Sydney's response to the Sussex Penn review (City of Sydney, 'Submission to Independent Review into Barangaroo 20 June 2011'). The City of Sydney's position is that *"...twenty years of Sydney planning have centred on the principle of preserving a lower scale transition from the taller CBD buildings to the water's edge."*

Key worker housing

- g) The proposal also fails to achieve any meaningful key worker housing outcomes. A target of 2.3% of residential gross floor area for key worker housing falls well short of affordable housing targets in surrounding local government authorities, including Leichhardt Council's policy to achieve 10% affordable housing for major developments. The Proponent is requesting an increase in GFA across Barangaroo South, with no commitment to increase the percentage of key worker housing. This is an unacceptable outcome for the future community of the precinct.

Gaming facility

- h) The Environmental Impact Statement for SSDA 6957 (Crown Sydney Hotel Resort) does not provide sufficient detail regarding the size and characterisation of the gaming facility to allow for adequate consideration and comment in relation to this component of the development. Furthermore, the proposal does not include a detailed Social Impact Assessment for the proposed casino use and mixed development. The social consequences of a mixed use proposal, including residential accommodation, commercial and retail premises and a casino should be considered at the Concept Plan stage of the development, as would be a requirement for a Planning Proposal to rezone a site that includes a casino use, under Section 55 of the EP&A Act. The proposal has been

portrayed as seeking to attract “high end” gamers however there appears to be no attempt to curtail the use of the facility by gamblers in lower socio economic groups. The State Government must consider the relationship of these elements to each other and, of even more consequence, the negative effects on the local area.

Impact on the setting of the Opera House

- i) The original Concept Plan was approved in February 2007. In June 2007, the Sydney Opera House was included on the UNESCO World Heritage List under the World Heritage Convention. The Proponent’s EIS does not provide an assessment on the impact of the proposal on the setting and context of the Sydney Opera House and therefore cannot be supported.

Traffic and Parking

- j) The Crown State Significant Development Applications notes that there will be a parking shortfall of some 300 basement parking spaces. The traffic study section of the Environmental Assessment at section 4.1.1, Figure 24 confirms that the development will contain this significant shortfall. Whilst this position is consistent with the information provided in Modification NO. 8 (MOD 8) of the Concept Plan it is noted that the Concept Plan is not approved. Both documents state that this matter will be dealt with by a “future DA”. This is a deficiency in the material accompanying the Crown State Significant Development Applications.
- k) the Proponent should be required to provide information about the nature of the shared arrangements for managing the parking provision shortfall so that it can be the subject of proper assessment in this process.

Inconsistencies with the MOD 8 Concept Plan

- l) Notwithstanding, if and when MOD 8 is approved there will remain substantial inconsistencies with the current Crown State Significant Development Applications. For example the Concept Plan encourages wintergardens on the building and none are provided.
- m) MOD 8 to the Concept Plan would, if approved, require a minimum of 2.3% of approved residential Gross Floor Area to be key worker housing. None is provided in the proposed building. These inconsistencies are identified at page 60 of the Environmental Impact Statement for the State Significant Development Application.