Our Ref: PRC:212686-2

CLINCH
LONG
WOODBRIDGE
LAWYERS

24 November 2017

NSW PLANNING & ENVIRONMENT

Objection Walsh Bay Arts and Cultural Precinct

We write on behalf of the Walsh Bay Precinct Association to object to the State Significant Development Application for the Walsh Bay Arts and Cultural Precinct (**the Proposal**). In our opinion, the traffic impacts and noise impacts of the Proposal have not been accurately assessed. Therefore, the Proposal is likely to have a much more significant negative impact on the existing owners, residents and tenants in the Walsh Bay Precinct than predicted in the proponent's Environmental impact Statement (**EIS**).

Traffic impact

The Transport Impact Assessment (**TIA**) is based on traffic surveys carried out in August 2016. These traffic studies are outdated, and do not reflect the current conditions at Walsh Bay which have been impacted upon by construction relating to major projects at Barangaroo and the Light rail construction over the past 12 months.

The TIA relies upon an assumed high level of use of public transport, with only 8% of visitors travelling to the precinct by private vehicle and 4% by taxi. How these assumptions have been arrived at is somewhat obscure. At p 22 the authors state that they have assumed that visitors will adopt comparable mode splits to employees of the site. If this is so, then the mode split based on Journey to Work (**JTW**) data should be 33% private vehicles, as set out in the table at p 21, so this cannot be the main source of the figures. Then on p 39 they state that they have also relied upon the Barangaroo Integrated Transport Plan to arrive at their estimate. The mode splits in the Barangaroo Integrated Transport Plan (Barangaroo Integrated Transport Plan at p 5) which include only 5% travel by private car, are targets rather than actual statistics, and targets for daytime commuters in an area of the city which is relatively well serviced by public transport. A much more accurate way of estimating the mode split of future attendees at the Walsh Bay venues during the evening peak would have been to base it on the current mode split of patrons attending existing venues in Walsh Bay at night. There has been no attempt to do this.

The assumption of a mode split of only 12% private car or taxi in Walsh Bay is unjustified. With the nearest train station and ferry terminal located about 1.5 km away, the train or ferry will only be an attractive option for patrons with good mobility wearing comfortable shoes, and a less attractive option late at night when patrons are leaving these venues. While buses are available, these are only convenient for people coming from the direction of the two bus routes which happen to service the site. Not only the challenges of public transport in Walsh Bay, but also the challenges of travelling on public transport and walking home late at night at the other end of the journey will be a factor leading many patrons to prefer private car or taxi transport to public transport for night-time events.

Level 5, 99 York Street Sydney NSW 2000
PO Box 1614 Queen Victoria Building NSW 1230
Liability limited by a scheme approved under Professional Standards Legislation

ABN 86 131 132 191
T +61 2 **9279 4888**
F +61 2 9279 4555
www.clinchlongwoodbridge.com.au

The TIA states that 41% of residents travel to and from Walsh Bay. These residents include the owners of residential units within the Walsh Bay Precinct. Such residents, the members of our association, will be negatively affected by increased congestion in Hickson Road if the development goes ahead. These residents are already experiencing long wait times at busy intersections and entering and leaving Walsh Bay car parks at peak times at the beginning and end of events. This level of congestion is likely to get worse with the increased capacity of venues produced by the Proposal.

Assessments in the TIA are based on three scenarios of traffic generation from the subject development. Two scenarios which will cause high traffic generation are the "peak" and "cumulative" scenarios. The peak scenario is described as one where there are concurrent events at all tenancies within the Precinct, whereas the cumulative scenario is where there are concurrent events at the Precinct, and existing Walsh Bay venues. The authors seek to minimise the significance of the cumulative scenario by saying that it is unlikely ever to occur, since it relies on almost every venue being at capacity (p 25). The contrary assumption that venues will *not* regularly operate at capacity seems bizarre. It would be wasteful in the extreme to build and operate performance spaces in such a prime location without expecting them to be fully utilised at peak times, for example on Saturday evenings.

The other scenario modelled in the TIA is the "event" scenario. This is based solely on two events, namely the Sydney Writer's Festival and the Biennale, and these have only been modelled for the weekend and day-time operation. However, the proposal for the event space in Pier 2/3 is for a "large heritage commercial events/arts space for... a wide range of commercial and artistic events" (TIA p 1) with hours of operation 6:00 am to 1:00 am 7 days per week, including public holidays (EIS p 41). Therefore, there is no warrant for the TIA to assume that future events will have the same operating hours as the Sydney Writer's Festival and the Biennale. This has likely led to a significant underestimation of the potential cumulative impacts.

The authors of the TIA state that there will not be a substantial impact in the everyday and peak scenario, while admitting that there will be a a 40% increase in traffic generation, in the cumulative scenario (TIA p 40). However, this is likely to be a substantial underestimate due to flawed assumptions about the mode split of patrons using Walsh Bay venues. If 33% of patrons travel to the venues by car and taxi (in line with the current JTW statistics for workers in this area), the impact would be more than double.

In relation to the so-called "rare" cumulative scenario, the TIA attempts to deal with the impact by saying that an event-specific transport management plan will be prepared. This may alleviate pedestrian safety concerns, but is unlikely to change the reality for residents of a very high level of congestion and unacceptably long delays in getting in leaving and returning home at night. There are also likely to be knock-on effects from the implementation of such plans, for example the restriction of on-street parking.

The TIA relies upon the development of new transport infrastructure to improve access to the Precinct (EIS p 11). There seems to be an implicit acknowledgement in this that the Walsh Bay area is currently inadequately serviced public transport. However, these services will not become available until well after completion of the Walsh Bay Development. The Sydney Metro, in particular, is not predicted to become operational until 2024, assuming that the government's current delivery schedule is met. Even then, these services will not be particularly close to the WBAPC. The light rail will terminate at to Circular Quay, 1.7 km away by foot, and the nearest Sydney Metro station will be at Barangaroo, a distance of 800m. Buses will remain the only mode of public transport stopping in close proximity to the development. A single bus leaving every 15-30 minutes

in the evening will not be sufficient to service potentially thousands of patrons arriving at and leaving the site simultaneously late at night. Rather, the lack of easily accessible public transport coming out of Walsh Bay at night is likely to lead a persistently high share of trips by car and taxi for the foreseeable future.

Construction noise impact

The Noise and Vibration Impact Assessment (**NVIA**) estimates that construction noise at sensitive receivers within Walsh Bay, including apartments and commercial tenancies, will be exceeded by up to 11 dB. This could have a major impact upon sensitive receivers, including the loss of income to commercial operators such as restaurants and function centres which rely on a good amenity for the attractiveness of their business. It is of concern that only soft management measures such as the implementation of construction management plans are proposed to mitigate these impacts. This is unsatisfactory for such a major development in a sensitive location. Instead, the proponent should be required by enforceable conditions of consent to abide by project-specific noise construction noise targets. Where impacts in excess of Noise Management Levels are predicted, affected receivers should be compensated.

A significant omission is the failure to model unshielded noise from on water construction activities, in particular, the proposal to use the vessel exclusion zone between Pier 2/3 and Wharf 4/5 as a construction compound (EIS, pp.95-96). No information has been provided about the period during which this area will be used, and what noise generating activities will be involved. Moreover, there is no assessment of its visual impact, particularly upon patrons of the commercial users in the Shore Sheds. It is highly unlikely that it can be shielded.

Operational noise impact

The modelling of function venue noise in the NVIA is obscure, and it is difficult to understand how the consultants have reached the conclusion that venue operation is predicted to comply with project specific noise goals at all sensitive receivers, in circumstances where it is admitted that the external facades of the venues provide almost no noise attenuation, such that the noise impact of indoor functions will be practically identical to the noise impact of outdoor functions (p 43). The NVIA assumes that patrons will not be affected by alcohol (p 33), and that music will only be played at very low levels (p 34). These assumptions are not realistic for functions which are predicted to include arts performances and cocktail parties. We note that existing hospitality venues in Walsh Bay are subject to conditions which prevent the use of outdoor spaces late at night.

Other assumptions underlying these predictions have not been clearly explained, therefore the conclusions are difficult to test.

The modelling of event noise based solely on the Sydney Writer's Festival and the Biennale is unlikely to accurately reflect the potential impact of other events, unless the proponent is willing to accept a condition that all events be spoken-word events, without the use of amplified music. In effect, the authors start with the assumption that the impact will be no worse than the impacts of current operation, which pre-determines the outcome. The only noise impact which has in fact been modelled is the noise of patrons talking on the wharf aprons (p 46). The NVIA states at p 45 that there will be a "curatorial framework" which will provide "less emphasis on traditional events such as concerts and large festivals", but the proponent has not said at any point that it will *not* hold a concert or

large festival. Therefore the purported assessment of event noise in the NVIA is of no value in assessing the likely impacts of the proposal.

It is unsafe to rely on soft measures such as management plans and guidelines to ensure compliance with operational noise criteria. In practice, it will be impossible for the Department to enforce the implementation of such measures. Instead, if the proposal is approved, it should be subject to the requirement for noise logging and maximum noise level limits.

If, as we have concluded, vehicle traffic has been significantly underestimated, the road noise assessment is flawed, and will need to be redone with more realistic assumptions. It should avoid averaging noise energy over lengthy periods, as that will provide a completely misleading assessment of impact. Traffic noise from entertainment venues should be assessed either as operational noise, even if generated on a public road, or by reference to criteria which assess the noise impact of traffic congestion when a major event or several venues disgorge patrons at the same time: 1 to 15 minute criteria should have been adopted to reflect the peak noise period and the incidental but annoying noises of car doors slamming, honking, loud shouts and hailing taxis should have been included in the noise assessment. Measurements of noise from similar entertainment conurbations should have been considered, for sound power levels, intermittency and so on. Congested traffic and free flowing traffic are like chalk and cheese in noise assessment, and the differences should have been explained and a worst-case impact assessment made. Otherwise, the EIS is simply misleading.

We accept that a 15 minute noise criterion was used for event noise (Table 34, Noise and Vibration Assessment), and that sleep disturbance was measured for 1 minute events, but query whether late night noise has been correctly modelled, in light of the admission that it will largely be "vocal noise". In fact, with vehicle pick-ups, the noise will be dominated by car braking and acceleration, the slamming of car doors, the hailing of traxis and vehicle congestion. Although these events will generate some high Lmax noises, it is the general hubbub interspersed with annoying noises which should have been assessed, not for sleep disturbance but for annoyance. The noise model used for road noise does not embrace these entertainment venue specific noises. Hickson Road was classified "freeway arterial/sub-arterial" (Table 35), that is, for free-flowing traffic and not the congested, stop-start type of traffic likely when events finish and hundreds (and possibly, thousands) of patrons are disgorged, and public road traffic noise which we have described would have been excluded altogether from the assessments of operational event noise. In effect, the most annoying evening to night noises have fallen between the two stools of industrial and traffic noise, and have not been assessed at all.

People management

An issue which overlaps with both traffic and noise impacts is the issue of people management. One of the Precinct Association's key concerns is that there has not been adequate planning for the increased number of patrons likely to attend the site during the operational phase. At times when both commercial venues and arts spaces are operating at maximum capacity, this has the potential to cause significant impacts. This is particularly so as the ground floor function space at Pier 2/3 may hold up to 1300 standing patrons per event. As far as we can see, there are no plans or conditions in place to manage potentially thousands of people leaving these venues at once, potentially intoxicated, and spilling out onto Hickson Road on foot where they face lengthy waiting times for buses and taxis. It is unsatisfactory to attempt manage these impacts by conditions on individual venues, since the greatest challenge will be managing cumulative

impacts. This is something which should be considered before the WBACP as a whole is approved, and if it is to be conditioned, should be the subject of precinct-wide conditions.

Yours faithfully
CLINCH LONG WOODBRIDGE

Executive Lawyer: Peter Clinch
Email: pclinch@clw.com.au