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Mr Matthew Rosal,
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Dear Matthew,

Ritz Carlton MOD 13, Pyrmont – Response to Submissions

Members of Pyrmont Action's September submission on the Environmental Assessment Report, strongly opposed the construction of the Ritz Carlton hotel and residential tower on the current site leased by The Star Casino and Entertainment Complex from the Independent Liquor & Gaming Authority, on the grounds of its inappropriate scale compared with the scale of the relatively recent developments in the redeveloped Pyrmont Peninsula. Our reasons were:

In summary, Pyrmont Action Inc members made the following comments on MOD 13:

- *There is little public good rationale for the Ritz Carlton tower*
- *The project has substantial environmental impacts and therefore does not meet the SEARs requirements.*
- *The project is NOT a modification and should be assessed via the DA assessment process*
- *It sets an excessive height precedent for any future development in Pyrmont contrary to controls set by LEPs and DCPs.*
- *The development will add to the already cumulative excessive traffic congestion foreshadowed in new developments associated with the Bays Precinct.*
- *Public transport would need to be greatly improved to meet additional demand arising from this project*
- *The Neighbourhood Centre may alleviate the current shortfall in provision of community facilities, if its premises are accessible and affordable for local residents and workers in the long-term.*
- *The NSW Government must guarantee that Pyrmont properties currently in Government ownership (including public housing and parkland) are protected in perpetuity from lease or sale to private developers and that developments such as proposed in MOD13 are not exemplars for any future developments in Pyrmont in terms of scale.*

The Response to Submissions has responded to several of our concerns, but raised even more issues which lead us to continue in our opposition to the project:

- 1.0 Assessment Parameters – The proponent, in using out of date provisions in the Environmental Planning and Assessment Act 1979 and State Environmental Planning Policy (Major Projects) 2005 appears able, legally (if not morally), to



avoid meeting the requirements of Sydney LEP 2012. However, on p9 of the RtS, it is reported that the Star sought a declaration under the provisions of the now repealed Part 3A of the EP&A Act 1979 and the SEPP (Major Projects) 2005 "to enable upgrade and refurbishment works". It is further noted that "since the granting of the Major Project Approval in 2009 a total of 13 modification applications have been lodged and approved". It should be further noted that there has been little, if any, community opposition to these modifications because they fall within the definition of "upgrade and refurbishment". Clearly, MOD13 is **not** an upgrade and refurbishment, but a major new development, with far-reaching impacts on the amenity of Pyrmont, and beyond.

We note, further, on p53 of the RtS that, according to clause 3BA(4) of Schedule 2 of the EP&A Transitional Regulation dealing with a duly lodged section 75 modification application, 3 criteria have to be met. One of those criteria, has **not** been met: "it has not been determined by 1 September, 2018". The proponent contends that "in the absence of written notification from the Secretary, the proposal continues to be a valid modification application under section 75W of the EP&A Act 1979", even though it admits that the proposal was not so determined by 1 September, 2018. On this basis alone, MOD13 should be rejected.

- 2.0 Site Zoning - Under the terms of Sydney LEP 2012, the site is zoned Commercial. Yet MOD13 incorporates 204 residential apartments, clearly contravening this zoning. If the residential component of the project is removed, the scale of the proposed building would be more compatible with other developments in Pyrmont. Whilst it is argued in the RtS that the residential component will add to the housing stock for Sydney residents, based on past experience, it is much more likely that the apartments will be owned by overseas investors and, under new laws relaxing regulations relating to short term letting, they will be so rented by overseas visitors, not occupied by owners. As for meeting the direction set by The Eastern City District Plan vis a vis *providing housing supply, choice and affordability*... (p55, RtS) that is clearly an unsubstantiated proposition. It is highly unlikely that families with children will live above a casino and 24 hour drinking venue, especially in the light of the closure of the Star's childcare centre for staff some years ago on the grounds that it was deemed an unsuitable venue for the care of young children.

Additionally, the proposed tower, greatly exceeds the maximum height standard set in SLEP 2012, which restricts the height on the site to a maximum height of 28 metres. We do not accept that this proposal is a modification, as it is not an *upgrade or refurbishment* (p9, RtS) but an entirely new building which should be assessed under current planning laws.

- 3.0 Setting a Precedent - The proponent appears to be having it both ways in referencing the ICC Hotel (built) and the proposed (Response to Submissions on Concept Plan not yet finalized after 2 years) Harbourside tower as the justification for the height of the MOD 13 project REA p143). The as not yet approved tower



at Cockle Bay is also referenced as a precedent (RtS p33). The REA also states that Pyrmont is at the beginning of a transition and, in the RtS refers specifically to the proposed Bays Precinct transformation. As the architect for the Ritz Carlton (FJMT) is also developing the Master Plan for the Bays Market District, one can only surmise that it will propose more towers. Yet the RtS (p61) states that *"approval of the proposed tower, does not in itself set a precedent for the approval or future construction of further tall buildings in Pyrmont or elsewhere"*. Why then is the proponent using the height of the ICC tower and the proposed redeveloped Harbourside and Cockle Bay precinct as a precedent for the Ritz Carlton?? Further, on p93 of the RtS, it is stated *"...as detailed at length in ...the amended Urban Context report and amended Contextual Analysis provides a detailed description of the site's context including reference to both the Pyrmont Peninsula and the Darling Harbour Waterfront (and expanded Global Waterfront Precinct) (our emphasis), yet we are advised by Matthew Rosel, Dept of Planning and Environment, (email 13 December, 2018) the 'Global Waterfront Precinct' is not part of any existing strategic documentation or guidance. Instead, this is something the Proponent has envisaged as an 'emerging' character of the broader area."* As this does not appear to be an official measure, it should not be used to support the proponent's case for the tower responding to its context.

- 4.0 **SEARs:** As stated in 1.0 above, we continue to maintain that MOD13 is NOT a modification but should be assessed as a new development application. It cannot in any way be described as an *"upgrade"* or *"refurbishment"* of the existing development. On one count alone, it represents a change of use from *"commercial"* to *"residential"* by inclusion of 205 apartments in the proposal, therefore can't be an *"upgrade"* to what is currently a wholly commercial development. It is noted (p4, EAR) the SEARs require the proponent to *"demonstrate that the Proposal has limited environmental impacts beyond those already assessed for Project Approval MP 08_0098 and any subsequent modifications to that approval"*. This requirement is in accordance with the requirements of the remnant *Environmental Planning and Assessment Act 1979* Part 3A provisions. Throughout the RtS, the impacts of greatest concern have been dismissed as quantitatively and definitionally minimal. Yet, to the residents affected they represent a further loss of amenity, particularly of light and views, in this already densely built up area which is far from *"limited"*. We deal with each issue below:

- 4.1 **Overshadowing:** The RtS states that *"in accordance with Section 3.2.1.1 of Sydney DCP.... Overshadowing effects of new buildings on publicly accessible open space are to be minimized between the hours of 9am to 3pm on 21 June"*. Therefore it is deemed that the proposed tower *"does not impact on Pyrmont Bay Park"* as the maximum overshadowing at Pyrmont Bay Park occurs on the September equinox which isn't counted according to the DCP. Many members of both the local residential and worker population may still deem this reduction of sunlight in September to be a significant loss of amenity in a public space. Again, the subjective view of the proponent with regard to Union Square is that a 4.6%



reduction of sunlight occurring in winter months, "*is considered to be a limited environmental impact*". What is not mentioned in the RtS is that this reduction will also be experienced by residents of the Union Square heritage Georgian terrace houses the backs of which face north. Such a reduction is considered to be a substantial loss of amenity by these residents.

- 4.2 Traffic and Transport: We continue to have concerns about the impact any additional traffic will have on traffic using the roads surrounding The Star, all of which can only carry two lanes of traffic. It is noted that the road system surrounding The Star site is not designed for the amount of traffic generated by the size of its facilities and that it cannot compare with the access roads around casino complexes in Brisbane, Auckland, Adelaide and Melbourne which have 4 lanes, not 2 as in Pyrmont. We note the amelioration measures outlined in the EAR, but are concerned that the Local Area Commander of the Police Station serving The Star, located on the other side of Darling Harbour in Hay Street, considers that traffic issues are currently of the most concern to the LAC, eclipsing other crime issues. The worst congestion problems occur on Saturday night leading into Sunday. (meeting of The Star Neighbourhood Advisory Panel (SNAP) on 3 December, 2018). Despite all efforts to manage the anti-social behaviour associated with the queueing taxis, residents in close proximity to the Star have to endure dumping of waste and urination in their back yards, as well as the departure of noisy patrons of both The Star and the party boats from the area late at night and in the early morning. Members of the SNAP were advised that despite the efforts of The Star security and the LAC, as soon as the police leave the area, the taxi drivers resume their previous behaviours. As one of the few 24 hour venues in Sydney, The Star attracts many taxis in the early hours when the airport is closed. We also continue to be concerned about the cumulative impact of traffic, noting that when there are events at Darling Harbour, traffic in Darling Drive can be at a standstill, and if diverted to Harris Street can add to already congested intersections at Pyrmont Bridge Road and Pyrmont Street, impeding the movement of the few bus services operating (until around midnight) in the Pyrmont/Ultimo area. The Star would have to demonstrate that it can manage the existing traffic in its vicinity before we can have confidence that it can manage any additional traffic associated with MOD13 developments. We further note (RtS p69) that a Construction Pedestrian and Traffic Management Plan will be developed "*in consultation with the Sydney Coordination Office*" and ask that consultation also occurs with members of the local community, especially nearby residents who will be significantly affected.
- 4.3 Transport: To exacerbate the traffic woes, we note that Transport for NSW has required the proponent to remove all reference to light rail capacity and Sydney Metro West alignment and 2009 stations location within the amended RtS (p69). We ask, why? For years residents and workers of



Pyrmont have been asking for improvements in public transport for this area of high urban density, but the only changes have been to remove the monorail which provided direct access to the centre of the CBD, and remove the 443 bus to Circular Quay replacing it with the unreliable 389 which links Pyrmont to the Eastern suburbs via King Street. In peak hours the ferry service from Pyrmont Bay does not travel back to Circular Quay via Barangaroo, thus removing the only direct link to this ever-growing new precinct, with pedestrian links to Wynyard station. All requests for an increase in frequency on the existing light rail line, and its late night/early morning extension to Dulwich Hill have been refused. There is also strong support for a station on the proposed Sydney Metro West line to serve Pyrmont, in particular to assist staff and patrons of The Star, and, in the future, visitors to the new Sydney Fish Markets, to reduce the need to travel to and from these venues by car. So, we ask why is Transport for NSW not permitting public discussion of public transport solutions to current, and future road congestion in and around Pyrmont?

- 4.4 Glare: We continue to have concerns with regard to the potential loss of amenity to people living in east facing residences due to afternoon/early evening reflective glare whilst noting that it is estimated that the light coefficients will be in the range of 12 – 15%, also noting that SDGP 2012 General Provisions require that "*light reflectivity from building materials used on facades must not exceed 20%*" (RtS p78). Any increase in reflective glare exacerbates the existing loss of amenity. The same comment applies to any increase in nighttime ambient light.
- 4.5 Neighbourhood Centre: We note that our concern that there was no guarantee that the proposed Centre will provide community space for the locals in the future has been clarified with the statement that "*the tenure of the Neighbourhood Centre is proposed for 30 years from the date of issue of the Occupation Certificate*" (RtS p104). We welcome this clarification but remain concerned about the issue of affordability, also raised in our September submission on the REA. We also note that "*the relevance and usage of the Centre to the local community will be reviewed after the first 10 years of operation*" (RtS p104). Since our September submission, we have examined in more detail the proposed layout, function and use of each floor of the Centre (updated in the Design Development section 4.0, p42). There has been some improvement in the amount of useable space on levels 4 and 5 by the removal of the large circular stairwell in the centre of the floor and elaboration of the function of spaces at the back of each floor, but find it hard to understand how the spaces remaining, which have to accommodate 5 large circular columns supporting the structure above, can be used by the community for meetings, rehearsals or functions catering for more than a handful of people. The ground floor café will be a welcome addition to the amenity of Pyrmont but we prefer the initial



design in the REA incorporating steps leading up from Pirrama Road to the solid wall in the amended plan.

In summary, we continue to oppose MOD 13 for the following reasons:

- *The project is neither an upgrade nor refurbishment of the original development and subsequent modifications and therefore should not be assessed under provisions in the Environmental Planning and Assessment Act 1979 and State Environmental Planning Policy (Major Projects) 2005*
- *The project should be assessed under the provisions of the current Planning and Environment Act and the Local Environment Plan 2012 as a new development, not a modification*
- *MOD 13 greatly exceeds the maximum height standard set in SLEP 2012, which restricts the on the site to a maximum height of 28 metres.*
- *The site is zoned Commercial therefore the Residential component of the proposal does not meet the terms of the Sydney LEP 2012.*
- *MOD 13 clearly sets a precedent for future development in Pyrmont, noting that the proponent has used the ICC hotel and the proposal for the redevelopment of Harbourside at Darling Harbour and Cockle Bay as precedents for the 61-storey Ritz Carlton project*
- *The SEARs requires MOD13 to have limited environmental impact yet it will have a substantial impact on the local community in terms of overshadowing, reflective glare, loss of light and views, increase in nighttime ambient light levels and increased traffic congestion, with no consideration to improvements in public transport permitted to be discussed or assessed*
- *Whilst providing some improvements in community amenity, the affordability of access to the proposed Neighbourhood Centre is still undefined; and the usefulness of the spaces for community activities is constrained by large columns and stairwell*

We ask that the Department of Planning & Environment reject MOD13 in its current form and require a revised proposal to be developed without a residential component, to be assessed under the current planning and assessment laws as a new development application.

Yours sincerely,

Elizabeth Elenius, Convenor

cc Alex Greenwich MP, Minister for Planning & Environment, NSW Premier, Minister for Transport, Clr Clover Moore, Lord Mayor

