

THE ASTOR

123 – 125 MACQUARIE STREET, SYDNEY NSW 2000

12 May 2021

Mr Jim Betts

Secretary of the Department of Planning, Industry and Environment
Submitted via the major projects web portal

Attention: Karl Fetterplace

**Objection to SSDA 10464 50-52 Phillip Street
New Hotel/Residential Building Stage 1 Concept DA**

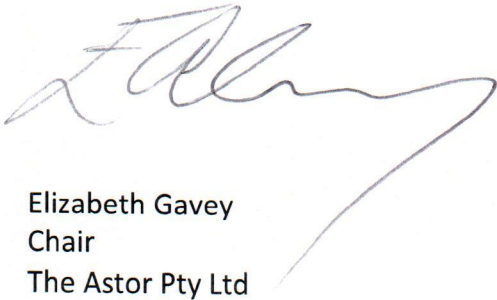
Thank you for the opportunity to comment on the above proposal currently on public exhibition. Completed in 1923, The Astor, Macquarie Street, Sydney, designed by architects, Esplin & Mould, was the first company title residential apartment building in NSW. Being a company title building, the Board of The Astor Pty Ltd is responsible for the stewardship of the property, delivering value and benefit to its shareholders (the owners of apartments in The Astor) and its corporate governance. We write to you in response to the public exhibition of the above proposal to object to it for the reasons set out in the attached schedule.

The Board is not opposed to development in-principle, and supports in-principle initiatives to conserve the former Public Works building at 50 Phillip Street, including potentially as a hotel – but not at any cost. In this instance, the Board is unanimously of the opinion that the proposed development's adverse impacts will far outweigh any benefits. As a result, we strongly urge the Department, the Independent Planning Commission and the Minister to refuse consent.

We do not make this request lightly – we have expended considerable resources seeking professional expert advice in relation to the proposal to test our initial reactions, to inform our submission, and to identify any opportunities for design amendments that might mitigate potential impacts of the proposal should it, contrary to our requests, ultimately be approved. That advice confirmed our concerns that the proposal will give rise to significant adverse impacts on our residents and their amenity, our building, and the broader heritage setting in which The Astor, the former Public Works building and the Chief Secretary's building are located. These are summarised in the attached schedule, which forms a key part of our submission. We have also attached the independent review of the heritage impacts of the proposal we commissioned as a part of our submission, to assist the department with its assessment. Regrettably, on balance, we strongly believe that mitigation of the proposal's considerable impacts cannot occur with the proposal in anyway resembling its current form and are of such significance that it should not be approved.

Thank you again for the opportunity to comment on this proposal. We would welcome any opportunities for further consultation should the applicant propose any design amendments.

Yours sincerely



Elizabeth Gavey
Chair
The Astor Pty Ltd

Attachments:

1. Schedule 1 – Objection to SSD 10464 50-52 Phillip Street New Hotel/Residential Building Stage 1 Concept DA by the Astor Board - Key issues/impacts and preferred action
2. Heritage Impacts of the Proposed Development at 50-52 Phillip Street, Sydney prepared by Duncan Marshall for the Astor Board (including peer review of the heritage impact statement by GBA Heritage and the visual impact assessment prepared by Ethos Urban for the proposal)

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Schedule 1 – Objection to SSD 10464 50-52 Phillip Street New Hotel/Residential Building Stage 1 Concept DA by the Astor Board - Key issues/impacts and preferred action

Issue/Impact	Description of Impact	Requested Action
1 Adverse Impacts on Heritage of the Astor	<ul style="list-style-type: none"> • The proposed building will adversely impact the character and appreciation of the urban context which reflect the prestige address and design of the Astor • The proposed building will <ul style="list-style-type: none"> – dominate the skyline and immediate urban setting of the Astor, and; – erode the appreciation of the Astor as an early high-rise design. 	We request the Department refuse consent for the application due to the adverse heritage impacts on the Astor
2 Adverse Impacts on Nearby Heritage Items	<ul style="list-style-type: none"> • The proposed building will be a massive intrusion into the historic site containing 50 Phillip Street; • The proposed building will dramatically change the historical and contemporary appreciation of 50 Phillip Street – the proposed building will extend over more than half the length of the historic Phillip Street elevation; • While some of the proposed building is either located on 52 Phillip Street or above 50 Phillip Street, the proposal also involves a massive structural column inserted into a light well at the rear of 50 Phillip Street, and; • The proposed infill structures at the back of 50 Phillip Street will erode the integrity of the heritage building stock. 	We request the Department refuse consent for the application due to the significant heritage impacts.
3 Adverse Impacts on the Heritage Context	<ul style="list-style-type: none"> • The proposed building will intrude into the appreciation of the broader complex which includes 121 Macquarie Street; • The proposed building will dramatically erode the contribution of 50 Phillip Street as part of the dominant element in the Victorian streetscape; • The proposed building erodes the appreciation of 50 Phillip Street as a free-standing building, and its role as a backdrop to the First Government House site; • The proposed building and its massive intrusion into the historic site containing 50 Phillip Street impacts an important part of the National Heritage listed colonial townscape, and; • The proposed building will dramatically change the historical and contemporary appreciation of 50 Phillip Street, and will also intrude into the appreciation of the broader complex, which includes 121 Macquarie Street. 	We request the Department refuse consent for the application
4 Adverse Impacts on Residential Amenity of Astor Apartments	<p>The proposal will:</p> <ul style="list-style-type: none"> • Diminish and foreshorten views from the western apartments and the rooftop communal open space; • Diminish the privacy and utility of western apartments, and; • Change and intensify the use of Phillip Lane with adverse noise, traffic and safety impacts. 	We request the Department refuse consent for the application
5 Uncertainty regarding the final design	The providing of an envelope within which buildings of any shape, colour, fabric, materiality, finishes, proportions or design might emerge, is not sufficient to make a proper assessment of	While building envelopes may be suitable for Stage 1 applications in many

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		impacts in such a significant heritage context – it cannot be made on the basis of an envelope alone. If the Department were to do so, we say not only would it be erring, but it would also be acting in a manner contrary to the NSW Land and Environment Court Planning Principle established in the judgment for Anglican Church Property Trust v Sydney City Council [2003] NSWLEC 353 at 58-59, destabilising the very planning system that it is charged with managing.	circumstances, they are not suitable for the development of important heritage sites and we ask the Department to refuse consent to any application in this location for an envelope in the absence of certainty regarding the final design given the highly significant heritage context.
6	Lack of slip in the proposed envelope	The EIS describes that the envelope contains the gross floor area equating to a 15:1 floor space ratio. The NSW Apartment Design Guide at Section 2B describes that building envelopes should be 25-30% greater than the achievable floor area to allow for building components that do not count as floor space but contribute to building design and articulation. But the EIS is vague on the difference in volume between the envelope and the gross floor area. Any lack of slip in the envelope is likely to limit any potential for design expression in Stage 2. Once a building envelope is given Stage 1 consent, economic pressures are likely to ensure that the detailed building designed for Stage 2 will fill the envelope increasing the likelihood of a bland design that looks like the envelope rather than a properly articulated building.	We request the Department refuse consent for an envelope on this site in the absence of certainty about the Stage 2 design.
7	Inappropriate timing for the Design Competitive Process	For the complexity of the site and its constraints, we say that the time for design alternatives is in the design of the envelope rather than Stage 2. Further, with the envelope set and the EIS and design report seeking to constrain the materiality of Stage 2 (glass tower, masonry base) we seriously question what scope there is for a bona fide design competitive process.	We request that if the Department is of a mind to approve an 'envelope-only' at Stage 1, that it should be based on a design competition rather than at Stage 2 when all the potential variables for design input are already locked down.
8	Failure to demonstrate Good Design	<ul style="list-style-type: none"> • The tower envelope is 100% a function of the site boundary and the sun access planes with the limits of the structural cantilever rather than a genuine exploration of what tower form, if any, achieves the best fit for its context on the edge of the city skyline and the best compatibility with the nationally significant heritage setting. • The lower levels are a function of the huge structural requirements of the core needed to cantilever such an overwhelming form rather than a genuine exploration of what form best provides a high quality and harmonious fit with the nationally significant heritage context. 	We request the Department refuse consent for the application

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		<ul style="list-style-type: none"> While we recognise that the indicative design architects are well renowned, we believe that they have been asked to design something that is flawed as a concept. 	
9	Poor Self Assessment under the EPBC Act	We consider the heritage impacts of the proposal to constitute a significant impact within the meaning of the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> requiring a referral under Part 7 of the Act. The applicant has not referred the proposal, preferring to do this at Stage 2, however it is our strong view that the current stage seeks approval for most of the major impacting elements of the proposal and should be referred.	We request that the Department either obtain independent heritage advice on this matter or alternatively to require the applicant to refer the matter to the Commonwealth now, at stage 1.
10	Failure to provide information required by the SEARs	The Environmental Impact Statement's Visual Impact Assessment is inadequate as it fails to provide any analysis or depictions of view impacts from nearby residential uses, the nearest of which is the Astor, contrary to the Secretary's Environmental Assessment Requirements. It is unreasonable to expect residents to evaluate the proposal when potential impacts already foreshadowed in the SEARs are not then described in the EIS.	We request the Department to stop the clock on the assessment of the proposal until this information is provided and that when it is, it should be notified to affected persons for 28 days to allow them time to comment on it.
11	Heritage Assessment	<p>We disagree with many of the findings of the heritage impact assessment, particularly:</p> <ul style="list-style-type: none"> its assumption that tall buildings next to heritage items are acceptable on the basis that the city already has many such examples, and; its lack of concern regarding the encroachment of the proposed tower over 50 Phillip Street. 	We request the Department to require an independent Heritage Assessment to be undertaken to determine if the conclusions of the HIS are representative, and that it not determine the application until it has the benefit of this independent perspective.
12	The Proposal fails to demonstrate Orderly and Economic Development of Land	<p>The objects of the Act include seeking orderly and economic development of land, however:</p> <ul style="list-style-type: none"> The proposal is fundamentally flawed as a concept, with an absurd structure overwhelming a heritage item in an inharmonious, ungainly way and that tower, unnecessarily stretched, to a maximum height, with at least 20m non-habitable transfer floors. The purported justification of this is to provide funds to conserve and adaptively reuse 50 Phillip Street despite the severe adverse heritage impacts arising. However recent changes to the City's Heritage Floor Space scheme, which allow Government owned buildings to participate in the scheme, could provide significant funding for its conservation without needing a ridiculous and offensive tower. Consideration of alternative funding to conserve 50 Phillip Street is a serious omission 	We request the Department refuse consent for the application

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		<p>from the consideration of alternatives required in the EIS, and;</p> <ul style="list-style-type: none"> • One does not require architectural training to see that a far more appropriate site for a tower would be obtained from amalgamating 52 Phillip street and the site to immediate south – 52 Phillip Street is too small for the proposed tower, with heritage items in such near proximity that a tower development has to overhang them and pretend it has no impact on them while it consumes an undisclosed but undoubtedly significant proportion of the project budget producing the outrageous amount of structure required to hold it up (and diverting these funds from public benefits such as heritage conservation works) – the cost of the cantilever structure compared to a more traditional tower structure should be disclosed and evaluated as part of the EIS consideration of alternatives, and; • The EIS should consider an alternative tower that did not encroach over the 50 Phillip Street site. 	
13	Treatment of Phillip Lane – nil active frontage and likely CPTED risk	<p>The lack of activation of Phillip Lane is a major failing of the design which includes an extremely tight driveway the turning circles of which seem optimistic at best and a 100% inactive frontage containing only blank walls screening vehicle access ways, a loading dock and a substation that does not appear to meet Ausgrid access guidelines. While we accept the service nature of Phillip Lane, it is our view that 100% inactive uses is not an outcome that is in accordance with accepted community standards and does not represent good design and is completely at odds with the Crime Prevention Through Environmental Design statement provided in the EIS.</p>	<p>We request the Department not to approve the proposal unless it achieves active uses for at least 20% of the Phillip Lane frontage.</p> <p>We request the Department not to approve any private car parking reducing excavation risk, construction noise and providing long term environmental benefits.</p> <p>We request the Department not to approve the proposal unless it relocates the loading dock to be internal to the site instead of occupying a large frontage of Phillip Lane.</p>
14	Inadequate separation between the proposed lower podium infill on Phillip Lane and the residential uses of the Astor	<p>The separation distance between the existing residential apartments of the Astor at the lower levels and the proposed new podium envelope fails to achieve the 12m required by the NSW Apartment Design Guide. Despite the indicative design, in fact the Stage 1 application does not provide certainty regarding the use of these spaces. Accordingly the assessment in the EIS regarding visual privacy is fundamentally flawed and the envelope should not include any new building massing on Phillip Lane unless it is set</p>	<p>We request the Department not to approve the proposal unless it achieves at least 12m separation from windows of the Astor up to level 4, 18m from levels 5-9 and 24m above that</p>

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		back 12m from the Astor's windows. A design which at Stage 1 has separations less than those the ADG identifies as good design practice and which is already resorting to screening to achieve privacy instead of achieving adequate separation is indicative of poor design and should not be approved.	for any new building forms.
15	Privacy impacts on the rooftop communal open space of the Astor	The EIS has not considered the potential for privacy impacts between the proposed tower and the rooftop communal open space of the Astor. It notes that the first hotel floor is at RL71.80m and the last residential floor of the Astor is at RL69.75m. In other words, the rooftop of the Astor and the hotel's lowest rooms are essentially on the same level. The downward sloping facade of the tower's lower forms will also inappropriately focus views from the space behind towards the Astor rooftop exacerbating privacy concerns despite the separation distance. Astor residents and visitors should be able to use the existing rooftop space without feeling scrutinised.	We request the Department not approve the application unless the design is amended to provide greater vertical separation between the Astor rooftop communal open space and to not include any habitable rooms with downward sloping glazing directed towards the Astor rooftop.
15	Impacts likely to arise in the event of continuing or new public health orders in response to Covid-19 or a new pandemic	The EIS has not considered the potential for additional impacts on residential amenity arising out of the response to Covid-19. In particular it has not considered issues of construction noise and respite for residents in the event that NSW Public Health Orders once again require NSW residents to stay at home for a prolonged period (whether in response to Covid-19 or a new as yet unidentified pandemic, which could emerge tomorrow) while allowing construction to occur for extended hours including on Sundays. Nor has it considered the increased risk to persons living in the area by the movement of workers (during both the construction and operational phases of the proposal) or by hotel staff and guests, or hotel air handling systems (especially if the hotel is used for quarantine purposes) during an airborne pandemic.	We request the Department not approve an EIS that has failed to properly consider the likely impacts of the proposal, and that mid-Covid-19 as we find ourselves, with continuing lockdowns threatened as recently as last week in Sydney, it is not good enough and not credible that pandemic response impacts have been omitted from the assessment.