

10 February 2017

File Number: SSD 7874  
Our Ref: R/2016/41

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Dear Michelle,

**Concept Proposal for the Redevelopment of Harbourside Shopping Centre, 2-10 Darling Drive, Darling Harbour – (SSD 7874)**

I refer to your email correspondence dated 13 December 2016 which invited the City of Sydney (“the City”) to make comments on the concept proposal for the above subject State Significant Development (SSD) application.

The City has reviewed the proposal and objects to the SSD for the concept proposal for the redevelopment of the Harbourside Shopping Centre to provide a new retail shopping centre, residential apartment tower and public domain improvements. We make the following comments:

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The proposal is in direct contravention of the Sydney Harbour Catchment SREP 2005, Part 1, which states:

- (2) For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles:*
- (a) Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,*
  - (b) the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores.’*

Part 2 ‘Planning Principles’ states that ‘*development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour*’ and ‘*the number of publicly accessible vantage points for viewing Sydney Harbour should be increased*’.

The proposal does not meet these aims or objectives and clearly puts private use before public good - resulting in a substantial and long term negative impact on the public domain. In particular, given the overshadowing of the public domain, these principles would rule out the proposed tower.

### **Darling Harbour Development Plan No.1 1985**

The subject site is governed by a deemed regional environmental planning instrument (EPI) published in 1985, the Darling Harbour Development Plan No.1. The objects of the plan are to:

- (a) *promote the development of the Darling Harbour area as part of the State's Bicentennial Program;*
- (b) *encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area, and*
- (c) *to make provision with respect to controlling development within that area.*

Australia's Bicentennial was 19 years ago. Almost every building delivered under the State's Bicentennial Program has since been demolished and replaced.

Notwithstanding the permissibility of residential accommodation on the site, residential use is not consistent with the objectives of the Plan. Further, any cumulative increase in residential floor space in Darling Harbour will prevent the objects of Darling Harbour Development Plan No.1 1985 from being achieved.

No Residential uses should be permitted on the site. The proposed development at 'Harbourside' originally proposed a commercial tower and notwithstanding all assertions made by the applicant that there would 'never' be a residential tower scheme. The current scheme is now residential.

In August 2016, the NSW Government Department of Planning published a report describing a comprehensive review of the NSW Government's Rezoning Review process. A key finding of the review was that in determining the Strategic Merit of a rezoning, the 'contemporary' nature of the relevant EPI will be considered when reviewing proposals. The review goes on to say:

*The planning controls for a site will be considered contemporary if they have been in force for less than 5 years. This aligns with the requirements of the new Part 3B of the Environmental Planning and Assessment Act 1979, which requires a review of strategic plans in the Greater Sydney Region every 5 years.*

The City submits that Darling Harbour Development Plan No.1 1985 fails the contemporary test by virtue of its age, its lack of strategic alignment with A Plan for Growing Sydney and the draft Central District Plan, and its failure to respond to or address contemporary land use and planning issues facing Sydney City.

Where Part 3B 'Strategic planning' of the EP&A Act 1979 requires the Greater Sydney Commission to review their regional plan every 5 years [section 75AE(4)], their district plans every 5 years [section 75AF(4)], and Council to review its LEP every 5 years, it is reasonable that Darling Harbour Development Plan No.1 1985 is held to the same contemporary test.

#### Strategic Merit Test in the public interest

In failing the contemporary test the application should be subject to the Strategic Merit Test applied on Gateway determinations as outlined in the NSW Government's Planning Circular PS-12-006 in the public interest, as follows:

***Is the proposal consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney***

***Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment***

For the purposes of the Strategic Merit Test the Greater Sydney Commission's draft Central District Plan (the District Plan) is the relevant district plan.

Section 1.1 of the District Plan states:

*While a draft District Plan or District Plan is not a mandatory matter for consideration in the determination of a development application, a consent authority may decide to consider a draft District Plan or District Plan to the extent it relates to the objects of the EP&A Act.*

The City submits that in the public interest, and meeting the objective of the Act to encourage 'the promotion and co-ordination of the orderly and economic use and development of land', that the permissibility of residential accommodation under Darling Harbour Development Plan No.1 1985 be put aside as Darling Harbour Development Plan No.1 1985 fails the contemporary test. Whether the proposal constitutes the orderly and economic use and development of land should be tested against contemporary evidence based strategic planning, namely the District Plan and the draft Central Sydney Planning Strategy.

The subject site is located within the Darling Harbour area which is identified as part of the 'Sydney City' strategic centre by the District Plan. The District Plan includes priorities which are to be considered in strategic planning activities and planning proposals as appropriate.

This submission addresses the District Plan's productivity priorities as specifically relevant to the Sydney City strategic centre and the assessment of the subject proposal. It is noted that the liveability priorities and sustainability priorities are also relevant. In relation to the liveability priorities, housing targets and housing supply the City points out that they are well positioned to meet known NSW Government housing targets for residential dwellings without the provision of housing on this site.

***Productivity priorities***

*Productive Priority 1: Creating opportunities for the growth of commercial floor space.*

*Productivity Priority 2: Support the growth of innovation and creative industries.*

*Productivity Priority 3: Manage growth and change in strategic and district centres and, as relevant, local centres.*

The City submits the residential proposal is inconsistent with these district priorities as it:

- fails to protect land for the future growth of employment related floor space;
- fails to protect land for the future growth of economic activity;
- fails to support the long term growth of important high value industries;
- fails to deliver on the strategic and district centre's job targets;
- erodes the economic viability of office development;
- erodes the ability for the strategic centre to continue to perform its important economic and tourism role, and
- erodes the ability to Sydney City to remain internationally competitive.

***Is the proposal consistent with a relevant local strategy that has been endorsed by the Department***

The City's draft Central Sydney Planning Strategy (the Strategy) is currently with the Department of Planning for endorsement. The Strategy is endorsed by the Central Sydney Planning Committee which include NSW Government members. The Strategy is referenced on page 48 of the District Plan as an action delivering on Action 1.1.1 of A Plan for Growing Sydney. In absence of contemporary planning controls for Darling Harbour, it is considered reasonable and in the public interest to consider the relevant aims, objectives and actions of the Strategy as it strongly aligned with NSW Government strategic intent.

The Strategy recognises the role of Central Sydney, including Darling Harbour, in the economic, cultural and social identity of the nation. Of particular relevance the Strategy aims to ensure a resilient and diverse economy, stating:

*The Strategy will facilitate and encourage metropolitan Sydney's productivity, recognising Central Sydney's role as an economic engine and premier employment hub that benefits New South Wales and the nation. By positioning itself for sustainable and purposeful population and employment growth, Central Sydney can promote itself as a city open to new opportunities. Central Sydney's economy is competitive, high yielding, high value and innovative.*

*Central Sydney is the home of Australian and international companies, renowned cultural and tourist destinations, and vibrant shopping and entertainment quarters. It attracts industry through its significant competitive advantages: strong infrastructure, a magnificent location, a high quality of life and a skilled workforce. As a global city, it attracts talented workers and provides opportunities for innovation. It is important to maintain this role and position as a desirable environment for global firms, faced with competition from elsewhere in the country and the Asian region.*

*As Central Sydney grows, this Strategy will guide and encourage investment, matching it to Sydney's needs. It will clearly define a pathway for investors and developers to contribute to the city. With limited physical space for Sydney to grow into, land use must be carefully managed with attention to urban density.*

*This Strategy is medium-term with an eye beyond 2036. Whether the current economic cycle favours residential or commercial investment, the best use of space in the city is one that supports economic growth and facilitates an increase in productivity. While residential investment contributes to attracting industry and individuals to Sydney as a liveable and people-friendly city, this Strategy prioritises space to be occupied by a variety of commercial, retail and hospitality businesses.*

*The Strategy envisions industries located in close proximity in the city, creating anchors for clusters of firms and organisations to complement and compete with each other. Regular engagement between them improves learning and innovation, draws customers and improves efficiency, including through ease of transport, movement and communication. The Strategy will protect and provide opportunities for these known industry-based precincts, such as finance, media, law and design, and those yet-unknown today, those emerging and those growing.*

The Strategy outlines why we need to plan for jobs growth in Central Sydney, details the rise of residential use and the associated problems, concluding a new planning approach for Central Sydney is required. It stated:

*For metropolitan Sydney to retain its global city status, and Central Sydney its primacy as Australia's commercial core, it is critical that economic and employment growth opportunities are protected. .... a business-as-usual approach cannot achieve this objective. Without intervention, there will be a shortage in the supply of employment floor space.*

*When Central Sydney moves again into a more favourable commercial development cycle, it is important planning controls are in place that facilitate an increase in employment floor space. In the short to medium term, land that is critical to supporting the growing economy must be protected from overwhelming residential demand to ensure access to jobs and services.*

The Strategy is in full alignment with A Plan for Growing Sydney and the draft Central District Plan whereas Darling Harbour Development Plan No.1 1985 serves no planning purpose in the public interest.

Key actions of the Strategy that are relevant to the subject proposal include:

*Action 2.13 - Limit access to Strategic Floor Space to strategic sites, to office premises, business premises, retail premises, hotel accommodation and community and cultural facilities*

*Action 2.14 - Ensure planning proposals that seek amendments to height and/or floor space ratio controls are for the purpose of employment development*

*Action 3.8 – Prepare a guideline to allow additional height for employment-related development where there is no additional overshadowing of protected places*

The City submits that the residential proposal is inconsistent with the aims, objectives and actions of the Strategy for the same reasons it is inconsistent with the District Plan.

Of note, Action 1.4 of the Strategy states - *Increase public confidence in local planning decisions by working with the NSW Government to transfer state-significant land back to the City of Sydney, including Darling Harbour.*

A request has been made to the Department of Planning to progress this action. The intent of this action is to:

- Streamline the administration of planning functions for all of Central Sydney;
- reflect the identity of Central Sydney as a single entity and projecting this image globally;
- require all EPIs within Central Sydney to conform to the Standard Instrument;
- have a united planning approach that responds the planning and land use philosophies of A Plan for Growing Sydney and the District Plan, and
- have a consolidated and consistent approach to land use planning with a focus on:
  - o employment floor space and jobs;
  - o design excellence;

- public domain improvements and connections.

***Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognized by existing planning controls.***

Darling Harbour Development Plan No.1 1985 is clear in its objectives to promote the development of the Darling Harbour area in 1985 as part of the State's Bicentennial Program by encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities.

It would be easy to demonstrate that a proposal is responding to a change in circumstances from 1985 given the limited scope of Darling Harbour Development Plan No.1 1985 and its objects.

What the District Plan and the Central Sydney Planning Strategy overwhelmingly show; however; is, based on data, research and reports from a number of sources, that the subject site should be reserved for employment related uses only and that permitting residential on this site is to do so in a vacuum of actual evidence based planning and based on short-term financial gain rather than long-term public benefit considerations.

The District Plan and the Central Sydney Planning Strategy provide the evidence that in response to changing circumstances not recognised by the existing planning controls, that, notwithstanding residential accommodation's permissibility on the site under Darling Harbour Development Plan No.1 1985, the proposed use should not be supported.

### **Urban Design**

While the demolition of the tired and out of date Harbourside Shopping Centre represents an opportunity for the re-generation of the retail structure and its replacement with one which will have a more engaging architectural presentation, an increased commercial functionality and better east-west pedestrian connections, it is considered that the proposed construction of a 40 storey residential tower at the northern end of the podium is a significant issue and concern.

### **Overshadowing**

Currently, the publicly accessible area of waterfront within the surroundings of the Harbourside enjoys almost unimpaired access to sunlight. At the winter solstice for example, the boardwalk along the Cockle Bay foreshore to the east of the proposed development and the pedestrian area to the south in front of the new Convention Centre and around the heritage listed Woodward Fountain offer visitors close to six hours of sunlight.

With the construction of the proposed residential tower which will rise 40 storeys to RL165.35, the pedestrian amenity of these areas will be severely compromised and will be in shade for the majority of the day. The diagrams provided with the application clearly illustrate the magnitude of the overshadowing impacts caused by the development.

The proposed building height might be generally compatible with the heights of the constructed, approved and proposed developments within the Darling Harbour precinct; however, the overshadowing impacts to the public realm that it causes are excessive.

### Design and Design Excellence

The City maintains that, in the absence of any planning controls for appropriate building height, floor space and design quality, the proposal should be subjected to the same rigorous processes under Sydney Local Environmental Plan 2012 as apply in the surrounds. This should have involved a competitive design process to embed design excellence in to the concept proposal, particularly for the tower concept, but also to find cutting-edge retail design concepts.

### **Public Access**

The net width of the publicly accessible (open) foreshore setback between the development and the water is not acceptable. The space needs to be greater or equal to the existing to provide an area that is not crowded or impeded by width.

As previously stated by the City, the proposal should address the original planning consideration and framework for Darling Harbour, being a 'Precinct for the people with open space and highly accessible and varied leisure activities'.

While this, concept proposal does not appear to include events it is noted that the outdoor cinema area shown on page 36 of the '*Public Domain Design Report*' shows the pedestrian boulevard to be fully obstructed. Pedestrian access along the waterfront should be maintained throughout all events. The walkway is to be clear and unobstructed at all times.

### **Wind Impacts**

The provided Wind Report is a desktop analysis only and does not include a wind tunnel test that Cermak Peterka Persen Wind Consultants have advised the City is essential for buildings of this type.

The report notes that westerly winds may create problematic conditions in the public domain; this is not acceptable. Any building form should only be considered when it has been subject to a wind tunnel test that demonstrates compliance with:

- distress criteria in all locations;
- pedestrian walking criteria on the west and north of the development;
- pedestrian standing criteria within 20m of the NE and SE corners of the building; and
- pedestrian sitting criteria elsewhere.

This has not been undertaken and is not acceptable.

### **Heritage**

The City strongly objects to the proposal due to a number of adverse heritage impacts, which are detailed below:

#### Setting and Views of Pyrmont Bridge

It is considered there will be an adverse impact upon the setting and views of Pyrmont Bridge due to the proposed setbacks, and the bulk and scale of the proposal.

The View Analysis provided demonstrates that the proposed relationship between the shopping centre and Pyrmont Bridge has a negative impact on the aesthetic values of the bridge due to the loss of sight lines to the bridge and the lack of setback between the bridge approaches and the proposed development.

The proposed 10 metre setback of the podium and the 50 metre setback of the tower from the Pyrmont Bridge is considered insufficient to retain its heritage significance. In addition, these setbacks are inadequate to recapture the setting of Pyrmont Bridge and its approaches or to enhance and recapture view corridors in each direction between the Pyrmont Bridge approaches and the southern areas of Darling Harbour and central Sydney.

Much of the justification in the heritage impact statement and the architect's design report is based upon a comparison of the proposal with the existing conditions. The existing development is highly intrusive upon views and on the setting of Pyrmont Bridge, and as such, it should not be used as justification for the proposed setbacks from the bridge.

The endorsed CMP Policy 10.0 advises as follows:

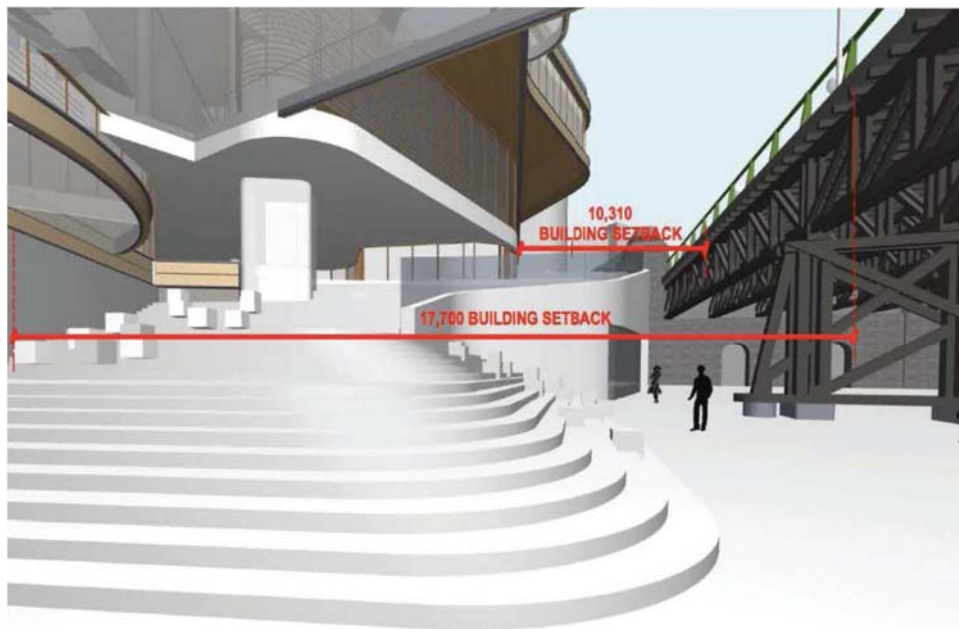
*Ensure that new works do not*

- *detract visually from the bridge or its harbour setting;*

Policy 5.4 Views and Vistas advises:

*Ensure that an appropriate visual setting is maintained for the Pyrmont Bridge, and that the bridge itself contributes to the character of Darling Harbour as a whole.*

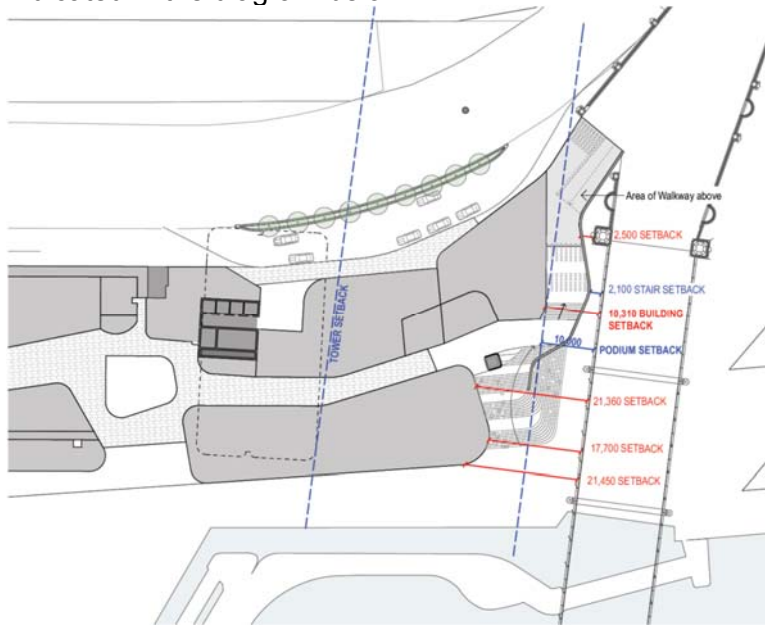
The proposed scheme is not consistent with the above policies. The diagram below from the architect's design report shows the upper podium levels breach the nominated 10.31 metre setback. The setting of the bridge remains compromised, and the space beneath the bridge remains insufficient, 'pit' like and overshadowed.



To be consistent with the above mentioned policies, it is necessary to enhance the view corridors in each direction between the Pyrmont Bridge approaches and the southern areas of Darling Harbour and central Sydney. This is only possible if the setbacks of the podium and the ribbon stair from the bridge are considerably increased.



The City suggests that the setback of the podium from Pymont Bridge should be defined by a 30 degree angle of separation between the two, as indicated in the diagram below. Such a separation would provide a setback at the eastern edge of the podium of approximately 30 metres in lieu of the 21.450 metre setback currently proposed, an increase of almost nine metres. The setback of the proposed stair from Pymont Bridge should be increased to a minimum of 5 metres. This advice is indicated in the diagram below.



It is therefore recommended that the heights and setbacks of the podium be re-evaluated in accordance with the above advice, assisted by further visual and modelling analysis, as well as shadowing analysis, and in consultation with the City of Sydney.

#### Proposed Access Bridge

The proposal to create direct pedestrian access between the proposed tower and the bridge as per the image below will result in extreme adverse heritage impacts upon the setting of the bridge and significant balustrade components of the bridge and should not be approved. Such a proposal erodes the understanding of a bridge spanning between two land mass points. It is considered that there are many other ways to resolve disabled access that must be explored which should be undertaken in consultation with the City of Sydney heritage specialists.



### Adverse impact upon views to the Pyrmont Bridge and the former Goldsborough Mort Woolstores

The View Analysis above provided from Barangaroo, demonstrates that the proposal will inhibit views of the Pyrmont Bridge and historic buildings along that ridgeline including the former Goldsborough Mort Woolstores. This will sever the visual connectivity between historic buildings along the Pyrmont Bridge that were built to service the Darling Harbour wharves and railway goods lines, and will contribute to the visual disconnection between the western precinct of central Sydney and Pyrmont that has occurred with recent State government approved developments around Darling Harbour. This disregard of the importance of maintaining visual connectivity stands in contrast to the architectural concepts of the Bicentennial projects including Cox's Exhibition Centre and Andrew's Convention centre.

### Conservation works to Pyrmont Bridge

The proposal to 'make good' the Pyrmont approaches and surfaces of the Pyrmont Bridge must be consistent with the endorsed CMP Policy 7.0 to '*Seek to conserve and maintain the surviving original fabric of the Pyrmont Bridge.*' The term 'make good' should be replaced with the term 'conservation' as defined by the Australian ICOMOS Burra Charter.

Previous poor repairs and synthetic stone reconstruction must be replaced by conservation works consistent with best practise. A schedule of conservation works, supported by specifications of works, should be compiled by a heritage diagnostic architect with proven experience in heritage conservation of Sydney sandstone buildings. Such an important landmark structure in Sydney should be conserved to a standard of excellence as has recently been undertaken at Sydney Town Hall Clock Tower project. The Minister's Stonework Advisory Group and the NSW Heritage Council Technical Advisory Group should advise on suitable consultants to undertake the project.

### Woodward Fountain

As discussed above, the proposed tower will overshadow the Woodward Fountain in the middle hours of the day during the winter months. Such overshadowing would have an adverse impact upon the heritage significance of this important landmark. The location and orientation of the tower needs to be reconsidered to avoid such impacts.

### Appropriation of public owned land

The sale of prime public land along a substantive section of the foreshore of Darling Harbour for private ownership is not supportable from a heritage perspective. Such land should remain in public ownership for future generations.

### Heritage Interpretation

A heritage interpretation strategy should be developed in close consultation with the City of Sydney and should include not only the interpretation of Pyrmont Bridge but also of this section of historical development of Darling Harbour and Pyrmont.

### Non Indigenous Archaeology and Aboriginal Heritage

It is noted that the Aboriginal Heritage report by Curio Projects concludes:

- *The study area does not contain any previously registered sites.*
- *The study area is located predominantly on reclaimed land along the western shoreline of Darling Harbour/Cockle Bay.*

- *The study area and surrounds were historically an integral part of the industrial use of Darling Harbour from the 1850s through to the 1970s, and were part of/adjacent to the Darling Harbour Railway Goods Yard and Railway tracks.*
- *The study area is located wholly across the soil profile of 'Disturbed Terrain', associated with the extensive land reclamation of the area in the 1870s and 1910s, and no natural soil profiles are likely to have been retained in this area.*
- *There is low to no potential for in situ Aboriginal archaeological deposits to be present within the study area.*
- *There is a low potential for Aboriginal archaeological deposits such as stone artefacts or shell middens to be located at the study area in a disturbed context.*

Although the requirements for Aboriginal heritage management in accordance with the NPW Act do not apply to SSD development, nevertheless, it should be managed according to best practise as described by the Act and that the Metropolitan Local Aboriginal Land Council and National Parks and Wildlife Service be consulted prior to further planning. Should unexpected finds related to Aboriginal culture be found, work should cease in the immediate vicinity of the find and the project archaeologist notified in accordance with an unexpected finds protocol established for the site.

The Non Indigenous Archaeology report by Curio itemises the potential for disturbance of state significant deposits. Again, although the requirements for archaeological management in accordance with the NSW Heritage Act do not apply to SSD development, nevertheless, it should be managed according to best practise as described by the Act, and in consultation with NSW Heritage.

### **Bicycle facilities**

The City recommends that bike lanes should be provided on both sides of Darling Drive whereby a northbound cycling lane would be provided on west side and a south bound lane on the eastern side, connecting with work by Lend Lease south of the site. Bike lanes should be physically separated from car traffic, either on-road or on-footpath.

The proposal involves a slip lane on the western side of Darling Drive to access the basement. Slip lanes are typically unsafe for walkers/riders and the design of this intersection should ensure maximum safety and visibility of pedestrians and bike riders. On the eastern side of Darling Drive, the proposal involves a drop-off point and these are also typically unsafe for walkers/riders - the design needs to ensure maximum safety and visibility of pedestrians and bike riders.

### **Health Issues**

The proposal is strongly objected to on Health concerns for the following reasons.

#### Contamination

The preliminary Environmental Site Investigation identifies that the site is likely contaminated land. Under the requirements of SEPP55 a Detailed Environmental Site Investigation (DESI) is required. The DESI must describe the site as suitable for the intended use, and or a Remedial Action Plan, peer reviewed by an accredited Site Auditor must be submitted describing how the site can be made suitable.

### Acid Sulphate Soils

The preliminary Environmental Site Investigation has identified the site as potentially containing acid sulphate soil. The City's acid sulphate soils plan shows that this is an acid sulphate soil class 1 site which triggers the requirement for an Acid Sulphate Soil Management Plan. This plan is required prior to any consent as it may influence the buildings design performance.

### **ESD**

The proposal, as it stands, does not give the City any confidence of strong environmental performance. The only method to lock this in is via explicit BASIX targets, which are detailed below and actual energy and water analysis of current development versus the proposed.

In its 2030 Plan, the City has progressive environmental performance targets for greenhouse gas emissions abatement, mains potable water conservation and resource recovery (reduced waste to landfill). Further, as a signatory to the Paris Climate Change Agreement, Australia has made a clear commitment to reduce carbon emissions. The building / construction sector is recognised as providing genuine low cost carbon abatement opportunities that need to be taken up if Australia is to make adequate progress toward meeting its commitments. The NSW government, via OEH, recently exhibited its Climate Change Framework that likewise recognises the opportunities of new development to perform better than current standards. Therefore there is fair expectation that the state government would set high environmental performance standards, robustly, for projects it has consent control over.

It is noted that Mirvac's own sustainability strategy *This Changes Everything*, and their Sustainability Plan (<http://www.mirvac.com/uploadedFiles/Main/Content/Sustainability/Overview/140130%20This%20Changes%20Everything.pdf>) (page 5) emphasise the priority the organisation places upon carbon abatement and water savings, and cites a carbon intensity reduction target of 20% for its own investment portfolio.

However, regarding the environmental performance of the proposal, Cundall's ESD report indicates a range of initiatives that are proposed for **possible** inclusion in the development and also refers to consideration of "4-Star Green Star Design & As Built v1.1 for residential, 4-Star NABERS Energy for Shopping Centres and 3-Star NABERS Water for Shopping Centres". While such certification is generally supported by the City, we seek a high degree of confidence that environmental performance well above current standards will be achieved at a high profile site where the State government controls consent.

It should be noted that, unlike a commercial office scenario, there is currently no NABERS Commitment framework for shopping centres to address the design and construction stage of a development. NABERS for shopping centres only comes into effect as a post-occupancy performance measure. Therefore, Cundall's reference to the development aiming for NABERS rating for energy and water at the design stage has no currency.

### Residential environmental performance standards – water and energy

The State government's regulatory tool for assessing and setting per capita targets for greenhouse gas and mains potable water consumption for proposed residential development across NSW is BASIX. Given that the government's Urban Growth agency has adopted progressive BASIX targets for its Parramatta Road planning

and Design guidelines

(<http://www.urbangrowth.nsw.gov.au/assets/Projects/Parramatta-Road/Publications-161109/Strategy-Documents/6.-Implementation-Tool-Kit-Planning-and-Design-Guidelines-November-2016.pdf>) (Page 49), the same targets should be applied to other residential development under its control: i.e. BASIX 40 for Energy and BASIX 50 for Water for apartment development six storeys or greater. BASIX 40 for energy equates to an intensity saving of 20% above minimum standards (i.e. BASIX mandated target, unchanged for a decade), this would actually align with Mirvac's own operational performance target.

Regarding 4-Star Green Star Design & As Built v1.1 for the residential component, it is critical that the applicant commits to maximise credit points in the Greenhouse Gas and Mains Potable Water Savings themes of the GreenStar process.

#### Retail environmental performance standards

Given the generally low minimum compliance standards of section J of the NCC, this proposal should be targeting at least 4-Star Green Star Design & As Built v1.1 – for the retail component, although a target of 5 star is more appropriate.

The proposed NABERS targets for energy and water for Shopping Centres are not appropriate – there is no NABERS tool for 'new build' retail development.

Instead to genuinely demonstrate actual carbon and water savings Mirvac should be accessing a full set of recent (three years) energy and water consumption data for the current site and designing to demonstrably reduce total energy (gas + electricity) and mains potable water consumption, that would be validated by NABERS Energy and Water ratings undertaken a year after full occupancy and operation of the combined retail areas.

In conclusion of all of the above, this development is not supported and is objected to by the City as it is not in the public interest.

The proposed use of the subject building as residential accommodation should be refused as the development does not constitute the orderly and economic use and development of land and fails to meet a Strategic Merit Test being land and fails to meet a Strategic Merit Test, being:

- (a) inconsistent with the Greater Sydney Commission's draft Central District Plan;
- (b) inconsistent with the City's local strategy, the draft Central Sydney Planning Strategy, and;
- (c) fails to appropriately respond to a change in circumstances not recognised by the existing planning controls being Darling Harbour Development Plan No.1 1985.

The proposal will result in excessive overshadowing impacts of areas of the public realm within the Darling Harbour touristic precinct, which is one of Sydney's major public attractions and will have significant impact on the heritage listed Pyrmont Bridge.

Darling Harbour is a precinct for the people which is owned and operated by a public authority with open space and highly accessible and varied leisure activities. The proposed residential use incompatible with the noisy major events that Darling Harbour hosts frequently. Permanent ownership of public land through strata-titled apartments is inconsistent with the intent and purposes of Darling Harbour.

In addition, the proposal lacks ESD initiatives and commitments, which should be provided at a minimum at such a showcase piece and in accordance with the applicants own ESD goals.

Should you wish to speak with a Council officer about the above, please contact Bridget McNamara, Senior Planner, on 9265 9333 or at [bmcnamara@cityofsydney.nsw.gov.au](mailto:bmcnamara@cityofsydney.nsw.gov.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G Jahn', written in a cursive style.

**Graham Jahn AM**  
**Director**  
City Planning | Development | Transport