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ENGINEERING
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CERTIFICATION
PROJECT MANAGEMENT

ABN 26 134 067 842

Our Ref:250815

12 November 2025

Michelle Niles
NSW Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Michelle,

Submission to SSD-80211463 – Mixed-use development with in-fill affordable housing at 164-194 William Street, Woolloomooloo

This letter has been prepared by Barker Ryan Stewart (BRS) on behalf of the Owners Corporation of SP70059 ('Top of the Town'), located at 227 Victoria Street, Darlinghurst.

The submission is in response to the NSW Department of Planning, Housing and Infrastructure's (DPHI) notice and invitation for feedback on the State significant development application (SSDA), SSD-80211463, as part of the SSDA's public exhibition. Our clients object to the proposed mixed-use development at 164-194 William Street, Woolloomooloo (Lot 1 DP816050 and Lot 52 DP1049805). An aerial photograph in **Figure 1** below identifies the relationship of our clients' property to the subject property.

The proposed development will be located between SP70059 and iconic Sydney visual landmarks including the Sydney Harbour Bridge, the Sydney Opera House, the Sydney CBD cityscape, and The Domain.

BRS have undertaken a review of the exhibited SSDA materials on behalf of our clients. It is understood that the subject SSDA proposes the following:

- Demolition of existing structures and excavation for 4 basement levels.
- Construction of a four (4) building mixed-use precinct with towers ranging between 6 to 18 storeys in height, including:
  - 33,036 m^2 GFA (FSR of 5.16:1)
  - 167 market apartments
  - 60 affordable housing apartments to be managed by a community housing provider for 15 years (15% of GFA)
- Ground floor retail
- First floor retail along William Street
- Four (4) levels of basement parking
- Vehicle and loading access from Forbes Street
- A 1,356 m^2 public park
- A new laneway connecting Judge Lane to Dowling Street
- Public domain works and through-site links

This proposal comprises a significant intensification of a prior concept development application, D/2022/139, approved by the City of Sydney on 8 April 2024. The approved concept included towers between 5 to 10 storeys which rose to a maximum height of RL 57.9 along William Street. The proposed development now extends to a roof height of RL 85.82 along the same frontage at its highest point, representing a significant 32.5% increase in building height from the previous application. Approved D/2022/139 would be relinquished as part of the SSDA.

Our client raises concerns with the proposed application and the development outcomes it would facilitate, including the following:

- **View loss** – The proposal presents cumulative adverse impacts on views from residences in SP70059 and neighbouring properties of iconic landmarks, green spaces and water. The approved concept envelope under D/2022/139 would already obstruct views of The Domain and Sydney city. The proposed development represents a significant increase in scale from that concept DA. This is considered to be inconsistent with relevant NSW Land and Environment Court (LEC) planning principles on view sharing.
- **Land value / financial impacts** – The proposed amenity and view loss impacts are likely to result in a significant loss of land value for our clients' property, not only to those directly affected by view loss, but indirectly to other landowners of SP70059 also, incurring a significant financial impact.
- **Non-compliances** – The proposal features various statutory non-compliances which, when considered alongside its anticipated impacts, undermine its merit.

Detailed discussion of these issues is provided below.

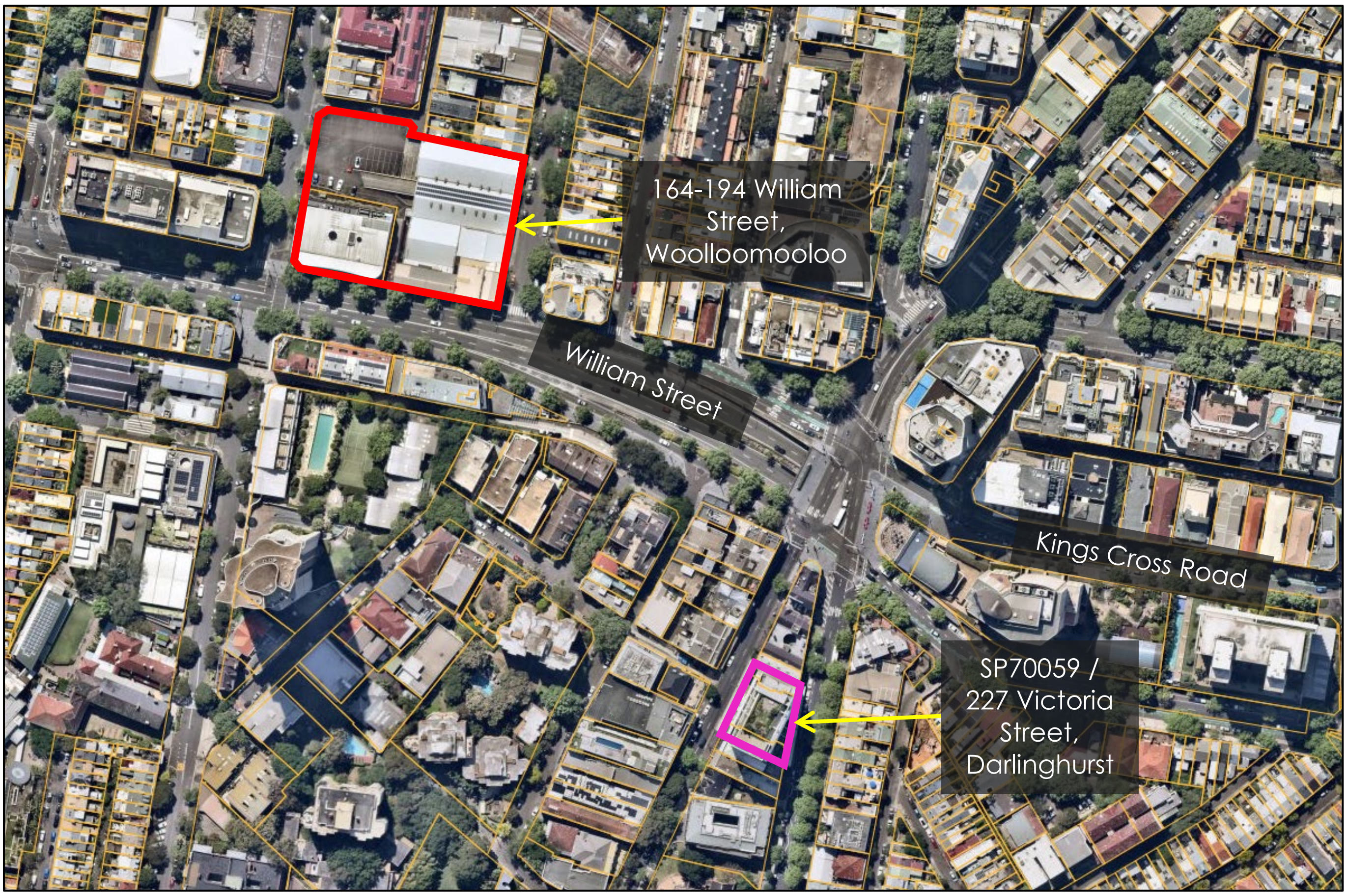

Figure 1: Aerial photo of subject site and surrounds (Nearmap, dated 05/10/2025)

View Loss

The greatest concern of our clients is the impact of the proposal on landscape views. View loss can result in impacts on the amenity, use and enjoyment of property and the value of property and is therefore of great concern.

Extracts from the submitted Visual Impact Assessment (VIA) are provided in **Figures 2** and **3** below, indicating impacts on views from Level 9 units located on north and south viewpoints of SP70059's western Darlinghurst Road frontage. These are 3D renders prepared by the applicant to identify proposed impacts. The envelope approved under D/2022/139 is shown in blue and the proposed envelope under SSD-

80211463 in green. Other indicative viewpoints provided for SP70059 in the VIA are from lower Levels 5 and 7 of the building, which will experience increased visual impacts from those on Level 9 (notwithstanding, the VIA claims that visual impacts resulting from the proposal will be 'negligible-to-minor').

It is made evident that the proposed envelope will block residents' views of green spaces, water and landscape transitions such as The Domain and the harbour landscape. The framing of the figures does not provide a complete picture of the resulting view impacts, given the proposed envelope is cropped in some of the images in the VIA, as shown in **Figure 3**. Therefore, it is not made clear to what extent the proposal will impact views of other iconic harbour landmarks such as the Sydney Harbour Bridge, Royal Botanic Garden, or Sydney Opera House. This absence of absolute clarity of impacts is not considered appropriate from the perspective of existing developments which will be adversely impacted by the proposal. It is unclear whether this was an oversight or intentional to obfuscate the full visual impacts of the proposed built form on existing developments.

These are locally significant and *iconic views* as defined by relevant NSW LEC planning principles (i.e. those established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 ['Tenacity']) and the loss of existing views of these landmarks is considered to be severe in terms of impact to residents. Obstructing views of key visual landmarks will additionally impact residents' and visitors' wayfinding and orientation within the city and contribute to a visual sense of urban sprawl.

The SSDA identifies that the proposed 18 storey building massing and scale was considered at the design stage to 'enhance' view sharing and solar access, however from the point of view of surrounding residents it is unclear how this could be the case when compared with the approved 10 storey concept envelope or a non-development scenario.

The Environmental Impact Statement (EIS) submitted as part of the SSDA is generally dismissive of visual impacts identified as resulting from the proposal. It is erroneously claimed that the view loss impacts are 'improved' as a result of the proposed 'modest' uplift and that visual impacts had 'already been assessed and approved during the concept stages', despite the proposal now encompassing a 32.5% increase in building height from the concept which was approved prior. The primary argument for the proposal's visual bulk and impacts appears to be reliant on that the massing of the building could have been designed to be blockier and even less sympathetic to those whose views are being obstructed or lost. This is all despite the EIS itself confirming that community engagement identified loss of views and amenity as a key potential impact and area of interest for the community. This appears to be a strong indicator that the proposal is not in the public interest in its submitted form.

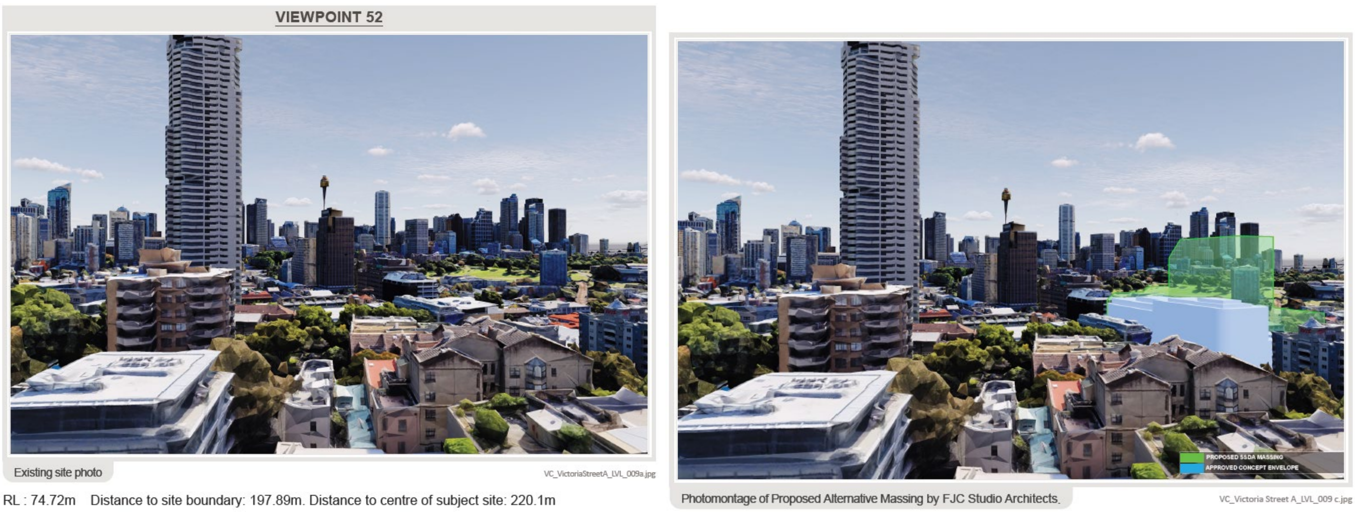

Figure 2: Extracts from VIA, showing 3D model comparison of existing to proposed views from SP70059 Level 9 north (Urbaine Design Group, 2025; via public exhibition)

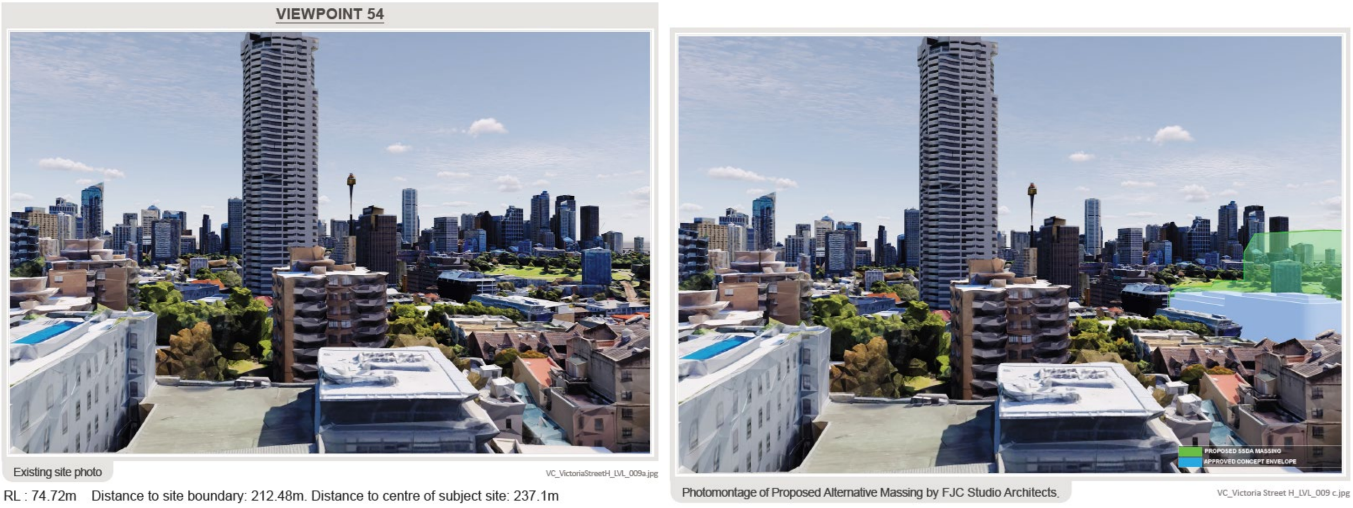

Figure 3: Extracts from VIA, showing 3D model comparison of existing to proposed views from SP70059 Level 9 south (Urbaine Design Group, 2025; via public exhibition)

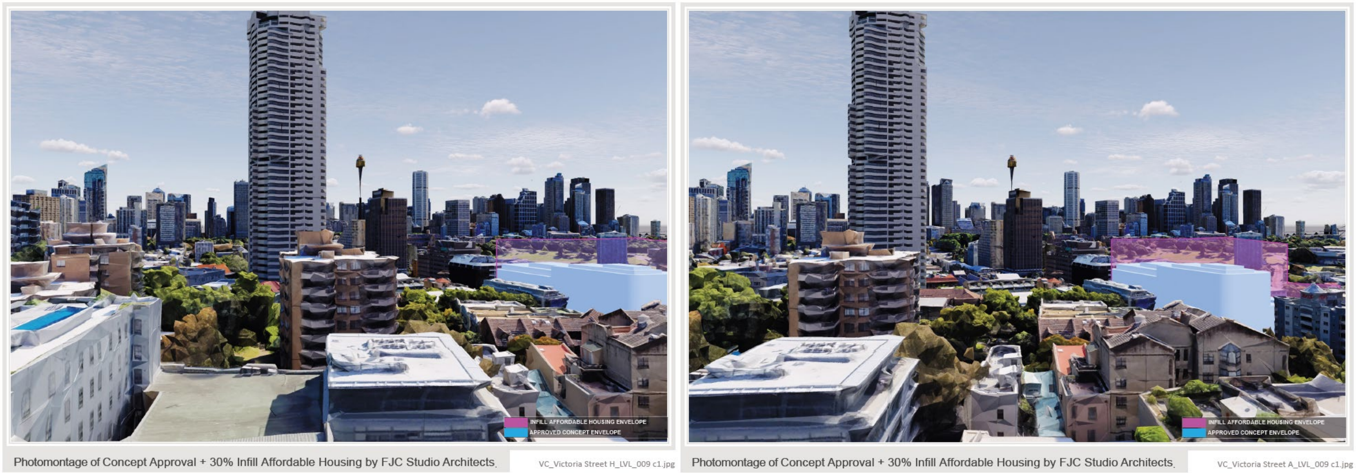

Figure 4: Extracts from VIA, showing 3D model of proposed views in an approved concept + affordable housing uplift scenario from SP70059 Level 9 (Urbaine Design Group, 2025; via public exhibition)

The VIA does not accurately capture and consider the loss of views from SP70059 to the city and The Domain, assessing the proposed impacts as being 'minor' visual impacts, or 'minor-to-moderate' for centrally located Level 9 apartments. These views are assessed by the same VIA as being of 'medium-to-high' or 'high' value. This is notable given there are surrounding properties which will be much more significantly impacted than SP70059.

These impacts are cumulative, building upon the substantial visual impacts that were already to occur should the approved concept envelope be realised.

Whilst it is acknowledged that *State Environmental Planning Policy (Housing) 2021* ['Housing SEPP'] provides opportunities for an additional 30% increase to the maximum building height and 30% maximum floor space of a site to be permitted where a development delivers a minimum in-fill affordable housing component, it should be noted that provisions permitting maximum building height, floor area, and scale do not serve as an entitlement for an applicant to achieve that maximum without regard to the surrounding context.

As shown in **Figure 4** above, the submitted VIA identifies the anticipated visual impacts of the approved D/2022/139 concept envelope plus that of potential additional uplift resulting from in-fill affordable housing provision. Whilst this would still present an adverse impact on the amenity of neighbouring viewers who would lose substantial views of The Domain, it would be a reduced impact from what is now being proposed and which would maintain views of the Sydney CBD cityscape for viewers at higher elevations (those being the least impacted viewers compared to those at lower floors). Given in-fill affordable housing could be achieved as part of the development with a reduced visual impact and scale, the provision of an in-fill affordable housing component is not sufficient justification for the excessive building scale and height now being proposed. Whilst the provisions of the Housing SEPP incentivise the provision of affordable housing through facilitating increased yield for developers, the proposal does not attempt to achieve this in an amenable and contextually appropriate manner. This attempted justification for the increased scale of the proposal from the approved concept fails to position itself as altruistic in nature, given the EIS indicates in its discussion of feasible alternatives that the affordable housing component would not be pursued by the applicant without the incentive of additional market units.

The asserted assessment of the proposed impacts on residents of SP70059 by the applicant as being 'negligible-to-minor' is questionable. For instance, the visual impacts afforded to another neighbouring property at 1 Tewkesbury Avenue, Darlinghurst, were also asserted to be negligible despite those residents' views of the public harbour landscape being indicated to be removed completely by the approved concept and the proposed increased envelope (as shown by **Figure 5** below).

An appropriate justification of the proposal should be prepared by the proponent in accordance with relevant NSW LEC planning principles established by Tenacity in order to demonstrate why the proposed development and its impacts has sufficient merit above a non-development scenario or an alternative option, such as the pursuit of the approved concept under D/2022/139 in a detailed development application which may incorporate affordable housing provision.

The judgement in Tenacity established a four-step process for considering view impacts and whether they are reasonable. NSWLEC Senior Commissioner Dr John Roseth interpreted these as follows in 2005:

> *The first step requires the assessment of views that the proposal will affect. It establishes a value system for assessing different kinds of views. Water views are valued more highly than land views; iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

As above, the proposed envelope will impact all of the above-listed types of views for residents of SP70059.

> *The second step is to consider how reasonable it is to expect to retain the views. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position is also relevant. Many people who now have a view sitting on their lounge suites consider that they have lost the view if they have to stand up to see it. Yet, it is difficult to retain a sitting view as it may require that the adjoining property forgo most of its development potential.*

The views which will be primarily impacted from SP70059 are those directly from private spaces, windows, and balconies on middle to upper levels, facing west.

The applicant received approval for a mixed-use development on the site (D/2022/139) which would impact views for properties located to the east and south-east of the site, although to a much lesser extent than the current proposal. Existing developments are already impacted by cumulative visual impacts and view loss by large towers such as SP58068.

> *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

SP70059 will lose all views of The Domain and interfaces between the Sydney skyline and the harbour. The VIA is unclear to what extent views of the Sydney Harbour Bridge and Opera House will be impacted, owing to its framing. In accordance with the value set established in the first step, the proposed impacts are asserted to be severe in conjunction with the cumulative obstructive impacts of existing and proposed developments within the locality.

> *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

Contrary to the claims of the submitted EIS, the proposed impacts are not reasonable. The proposed building envelope features a number of acknowledged statutory non-compliances which undermine the merit and reasonability of its resulting visual impacts. Alternative development options are available, such as pursuing the approved concept envelope, and the applicant has proposed to pursue a larger building with increased unit yield over a more appropriate design.

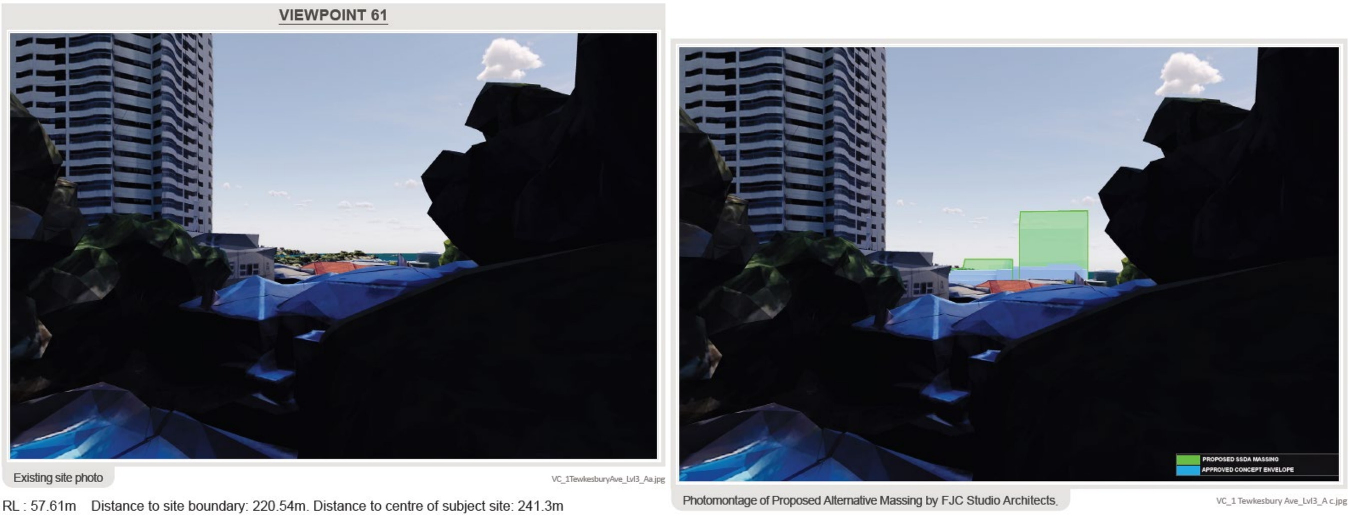

Figure 5: Extract from VIA, showing 3D model comparison of existing to proposed views from 1 Tewkesbury Ave, Darlinghurst (Urbaine Design Group, 2025; via exhibition)

Land Value / Financial Impacts

In the context of the current Sydney real estate market, the proposed development would likely result in a significant financial impact on surrounding landowners and tenants.

The view loss discussed above would incur impacts on not only those units within SP70059 experiencing view loss or visual impacts, but also indirect impacts on other landowners through reduced property values and amenity impacts. The view loss described is of great concern in relation to the resale values of existing real estate in the locality.

Non-Compliances

The SSDA acknowledges that the proposed envelopes, even when considering the additional uplift permitted under the Housing SEPP through the inclusion of 60 affordable housing units, exceeds statutory building height and floor space ratio controls.

The variations are significant – the building will exceed the applicable maximum building height control by 20m at its highest point and the applicable maximum floor space ratio control by 57%.

The submitted Clause 4.6 Variation Reports for the above non-compliances each claim that a compliant envelope would result in 'greater bulk and amenity impacts, whereas the proposed massing redistributes height to preserve solar access, minimise overshadowing, and enable equitable view sharing'. Given the proposal will have significant visual impacts on the locality, particularly when compared to the approved concept, it is unclear that these variations have merit.

It is considered that the proposed development now being exhibited does not appropriately consider its context and will represent an overdevelopment of the site. As discussed above, the proposed visual impacts and view loss are beyond what can be considered reasonable within the principles of the Tenacity judgment. The SSDA's justification of the increased building scale and impacts rather than any alternative options based on the provision of affordable housing is notably insufficient from a merit perspective, given it is simply utilising statutory incentives.

This is not an altruistic proposal, and further justification needs to be provided by the applicant for the design's merit than just the permissibility of the increased scale under the Housing SEPP. The EIS identifies that view loss and amenity impacts were a key concern of the community during community engagement, and further work needs to be done to adequately address these matters and ensure the proposal is in the public interest.

It is recommended that the proposal be refused, or withdrawn by the applicant to be subject to an appropriate redesign of building scale and massing, or that the applicant reconsider pursuing the detailed development of the approved concept, which presented a relatively reduced impact on the surrounding locality and could be subject to uplift for the purposes of affordable housing as identified in the SSDA.

If you wish to discuss this submission to the SSDA further or have any questions, please contact the undersigned or our office.

Kind regards,

William Clark | Town Planner
Barker Ryan Stewart Pty Ltd

Lisa Wrightson | Planning Manager
Barker Ryan Stewart Pty Ltd