



Our ref: 107016

7 November 2020

Owners of Strata Plan 49249
One Darling Harbour
50 Murray Street
Sydney NSW 2000

C/- Beatty Legal Pty Ltd
Attention: Ballanda Sack
Suite 2303
Governor Macquarie Tower
One Farrer Place
Sydney NSW 2000

Dear Sirs,

SSD 7874 Redevelopment of the Harbourside Shopping Centre Submission on Visual Effects and Impacts of proposed further amended application

1.0 Background

Richard Lamb and Associates (RLA) have been engaged by the Owners Strata Plan 49249 (the owners) at One Darling Harbour also known as 50 Murray Street, Sydney, to review, analyse and assess the potential visual effects and impacts on views of an amended Concept Proposal for the redevelopment of the Harbourside Shopping Centre in Darling Harbour, SSD 7874.

The author of this submission is Dr Richard Lamb, Principal and Managing Director of RLA. RLA prepared a submission for One Darling Harbour to the original application and a further submission on an amended proposal. An updated full CV for Dr Lamb can be found on our website www.richardlamb.com.au accessed from a tab on the Home page.

2.0 Purpose of Report

This submission provides an independent review of the content and conclusions made in the following documents accompanying the supplementary modified Masterplan which are relevant to views and view sharing with One Darling Harbour:

1. Appendix A: Harbourside Shopping Centre (SSD 7874), Consolidated Agency, Government and Organisation Response to Submissions, dated .
2. Visual and View Impact Analysis, Harbourside Shopping Centre Redevelopment, prepared by Ethos Urban, dated 12 October, 2020.
3. Harbourside Private View Photomontage and 3D Report, prepared by Virtual Ideas, dated September, 2020.
4. Harbourside Stage 1 DA, Supplementary Design Report, prepared by FJMT, dated September, 2020.
5. FJMT Original Design A, Stage 1 Design Report, Part 6.

3.0 Proposed Modified Development

The further modified application for a SSDA1 envelope results in a similar podium/tower envelope increasing in height to a top level of RL166.95. The tower element is proposed to be located in essentially the same location. A portion of the podium at the north adjacent to Pyrmont Bridge formerly proposed to be at RL30.50 is proposed to be reduced in height to RL13.75. A recess is also proposed on the west podium adjacent to Bunn Street. The overall GFA of the proposal is unchanged. In effect, the GFA 'lost' by reducing part of the height of the podium to produce a publicly accessible space, referred to as Guardian Square, and the recess in the west podium has been relocated to the tower. There no change to the development potential of the site although the residential GFA has increased by 400m². The increased height sought for the tower in the further amended proposal does not cause further view loss for One Darling Harbour.

The recess in the western podium has no implications in terms of view sharing for One Darling Harbour. The reduction in height of the podium to provide the proposed Guardian Square is of benefit to the public domain and the merit of the application. While the provision of this public benefit assists with mitigating view sharing impacts on views from a small number of apartments in One Darling Harbour, those benefits do not in my opinion outweigh the impacts that remain on a much larger number, for reasons set out below.

3.1 Effects of massing on views from One Darling Harbour

The minor overall benefits of the proposed amended massing, on views from One Darling Harbour, is evident in the perspective showing the proposed massing as seen from the Cockle Bay shore of Darling Harbour on Page 5 of the FJMT Supplementary Design Report and also in the aerial perspective comparing the March 2020 and September 2020 proposals on Page 6. While it is claimed that the proposal for the Guardian Square is intended to respond to view sharing principles with One Darling Harbour (see Image 34 of the Supplementary Design Report), the primary intentions are to provide a link to Harris Street and a public space at grade with the Pyrmont Bridge. While these are public benefits, the benefit in view sharing with One Darling Harbour, compared to the March 2020 proposal, is primarily restricted to views through an oblique slot in the podium that is orientated toward the north-east.

While a small number of apartments at the lowest levels would benefit in terms of view sharing, a larger number at many more levels above would suffer view loss in excess of the effects of the existing shopping centre. I have attached a markup on Image 31 of the Supplementary Design Report that demonstrates the part of the northern podium that continues to cause excessive impacts on view sharing. A more reasonable design would reduce the height of this part of the podium further to produce satisfactory view sharing with One Darling Harbour.

4.0 Private view photomontage and 3D report (Virtual Ideas)

I was previously critical of the assessment of potential impacts on private views from apartments in One Darling Harbour, firstly because of the minimal or absent coverage of levels that would be significantly affected by view loss and secondly, failure to adopt the appropriate planning principle for view sharing, *Tenacity Consulting v Warringah [2004] NSWLEC 140*.

The first of these concerns is now met by the documentation accompanying the further amended proposal, as CGIs have been prepared for three view orientations from every unit with potential views over the site by Virtual Ideas in the private view photomontage and 3D report. The methodology adopted by Virtual Ideas is the same as before and is acceptable. The documentation indicates that the CGIs are generally reliable indications of the items that would be either lost or remain in the views. What they lack is the reality of features that enliven the real views and would give them higher scenic quality and value to residential viewers, which are evident in the few locations from which photorealistic photomontages have been prepared, which is the same minimal number as before.

It is important however to also note, that the proposal is not for the exemplar buildings, podiums and connections across Darling Drive, but is for an envelope that exceeds the exemplars in the graphics, in particular in relation to the impact of the likely bulk of the podium in east views and of the tower seen in the south-east views. Apartments from the centre to the north end of the building would be more affected by the extent to which the envelope and in particular the envelope of the podium proposed extends beyond the profiles of the exemplar design in the graphics. Assessment of view sharing is in relation to the proposed envelopes, should only be in relation to the impacts of the envelopes.

5.0 Visual and view impact analysis (Ethos Urban)

The second criticism noted above in Section 4.0, that the documentation of view sharing had not previously adopted the *Tenacity* planning principle for assessment of view sharing has now been addressed in the Ethos Urban visual and view impact analysis report (VVIA) in Section 5. The assessment is stated to be in relation to the proposed envelopes.

As previously stated, I consider that the placement of the tower component is more skilful than in the original application and that it has view sharing benefits.

The locations of apartments assessed is shown on Figure 16. Red dots indicate 3D view locations included in the Virtual Ideas private view photomontage and 3D report. The blue dots indicate photomontage locations, which have not changed. As noted below Figure 16,

the 'images', which are referred to are predominantly CGIs, which represent views from the terraces/balconies and illustrate the maximum extent of views available. As most of the apartments in One Darling Harbour are 3-bedroom apartments and no internal views have been assessed, the likely impact on living areas, which are identified as of special significance in Step 3 of *Tenacity* and therefore to be given weight in determining the reasonableness of view sharing in Step 4, have therefore been systematically under-estimated. This is implicitly conceded in Section 5.3.1.

I prepared a table comparing Ethos Urban's assessment of extent of impacts with my own. The table is appended. There are three view orientations that have been analysed in the CGIs, but Ethos Urban have made a single assessment, I assume by averaging across or giving different weights to the impacts on each one. I have therefore made an overall impact of the extent of impact in the table. However, I have also included a column in the table that shows my assessment of the impacts on views to the south-east, which I consider have been under-estimated by Ethos Urban.

In my analysis, 49 apartments would have an extent of view impact of either moderate-severe or severe. The Ethos Urban assessment has 24 apartments with this extent of impact.

I therefore don't agree with the overall levels of view impacts that are summarised in Section 5.3.2 of the VVIA and therefore many of the individual assessments that are tabulated in Table 12. For example, for the northern portion of the building, it is stated that at low-rise levels, the view impact would be minor-moderate (despite the podium being noted as being higher than the existing shopping centre). Only 5 apartment may benefit from the lower part of the proposed podium in the low rise category. The impacts would be severe for others, as what remains of the valued items in the view would be expunged for these apartments, in most cases by the increased podium level of the proposal compared to the existing shopping centre.

I disagree with the overall levels of view impact claimed for the central portion of the building also, with the VVIA stating that the impacts to low rise apartments would be moderate-severe. The impacts would in my opinion be severe. In my opinion the view impact extents in the VVIA assessed are generally too low, as they appear to have given too much weight to part of the view that is unaffected in some cases and which is largely irrelevant, as the proposal is not visible in those views (the view north-east) and insufficient weight to loss of whole views, land-water interfaces, the spatial characteristics of the views impacted by the podium and the effects of the tower in views toward the south-east. I think more weight should be given overall because the CGIs do not consider the potential impacts on internal views, which would be far more restricted and focussed and where the entire scenic content of the view other than the horizon could be lost in many cases.

The spatial characteristics of the views across Darling Harbour and the composition of the whole view extending from the Barangaroo shore to the south end of Cockle Bay, including Pyrmont Bridge, the land-water interface, the continuous public foreshore and active retail frontage and the open prospect of the view east and south-east is highly valued from One Darling Harbour. Loss of those elements should be given the greatest weight. Retaining the view of the background horizon of high-rise buildings in the CBD and Centrepont Tower is of lesser significance, should be given less weight and in any event it is achieved in most views.

The VVIA also states, in the middle of the summary of view impacts on the central portion of the One Darling Harbour building, that the extent of view loss, even though it is conceded to be moderate-severe in extent, is nevertheless, reasonable. Why this discussion appears in the analysis of the extent of impacts on one part of the building, instead of the conclusions, is not clear. It effectively pre-empted the findings of the whole VVIA in relation to One Darling Harbour.

The justification is that any reasonable development would have a comparable level of impact to that proposed. I have noted that the same statement is made in relation to the previous application and that this is an ambit claim that is made without any evidence whatsoever. The VVIA notes correctly that there are no planning controls over building heights, GFA, etc. The standard for reasonableness as I have previously stated has therefore to be established in relation to the environmental impacts of the proposal on view sharing, including application of the appropriate planning principle, not compliance with Mirvac's Key objectives, which may be contrary to the need to achieve a reasonable view share.

Similarly, I disagree with both the extent of impact claimed for the lower and mid rise levels of the southern portion of the building and the justification for the assessment of the reasonableness of the impacts, which is repeated verbatim, including typological errors, from the discussion about the central portion of the building.

6 Ethos Urban response to RLA 50 Murray Street submission

Ethos Urban provided a specific response in support of the current application referring to statements made in my submission in relation to view sharing on the February 2020 application. As there is now a new application, their statements of agreement or otherwise with the former submission are irrelevant.

Leaving that aside, the current application has been amended in ways that mean that the fundamental concerns I had with methodology, comprehensiveness of assessment and justification for conclusions in relation to view sharing have been addressed. For example, views from all apartments in One Darling Harbour have been considered, the planning principle in *Tenacity* has been applied in reaching the conclusions in the VVIA and quantification has been provided as regards the elements of the proposal that would cause view loss.

I do not however agree with the qualitative assessment of extent of impact on view sharing, notwithstanding the full coverage of views from apartments with an easterly aspect. I consider as noted above and detailed in Table 1 that the extent of impact has been underestimated and therefore that the number of levels and apartments affected in One Darling Harbour has also been under-estimated.

I also disagree fundamentally with the justification for the reasonableness of impacts on views. On my assessment, many levels and apartments are affected by severe impacts. Even if I accepted Ethos Urban's assessment, that half the number of apartments I assessed to have that extent of impact are affected by moderate-severe or severe impacts, I cannot see how that can be claimed to be reasonable, in fact essentially ignored, as it is by Ethos Urban. The justification given is that view losses such as are caused by the proposal are inevitable and that they are reasonable because they are in compliance with Mirvac's Key

objectives for the site. In effect, this dismisses the need for assessment of view sharing impacts. Indeed, it would justify increasing the height of the podium further.

The changes made to the form and height of the podium at the north adjacent to Pyrmont Bridge provides some view improvement for a very small number of low rise apartments in One Darling Harbour. A much larger number of apartments will suffer view loss, up to at least Level 7 on my estimation, that is caused by the height of the proposed podium further to the south of the alignment of the southern edge of the potential plaza space.

The shape of the area in plan that is proposed to be included in the potential future plaza is such that it is of limited benefit in view sharing however, as it is at its narrowest toward One Darling Harbour and the part that extends more widely to form the plaza and link to Harris Street is largely out of view, blocked for most apartments by the higher part of the north-east section of the podium. The main reasons for the shape of the 'cut out' on the podium appear not to be primarily to achieve view sharing, although there is a minor benefit there, but are the alignment with a formal link to Harris Street, space for a link across Darling Drive to One Darling Harbour and a link to the foreshore.

The lower podium is an improvement to views from One Darling Harbour that is appreciated, but the benefit should be extended by moving the south boundary of the lowered section of the podium further south and on an alignment more directly easterly, for example to the alignment of the next step in height in the podium that is proposed further to the south.

I have noted the part of the podium that is still of concern with regard to view sharing with One Darling Harbour on Figure 1 below, by means of a transparent yellow fill on a graphic adapted from Image 31 from the FJMT Supplementary Architectural Design Report. The slot in the podium benefits a small number of apartments, whereas the height of the part of the podium shaded yellow causes continuing unreasonable view loss for a much larger number. Reconsideration of the height of this part of the podium could provide a satisfactory outcome for One Darling Harbour in terms of view sharing.

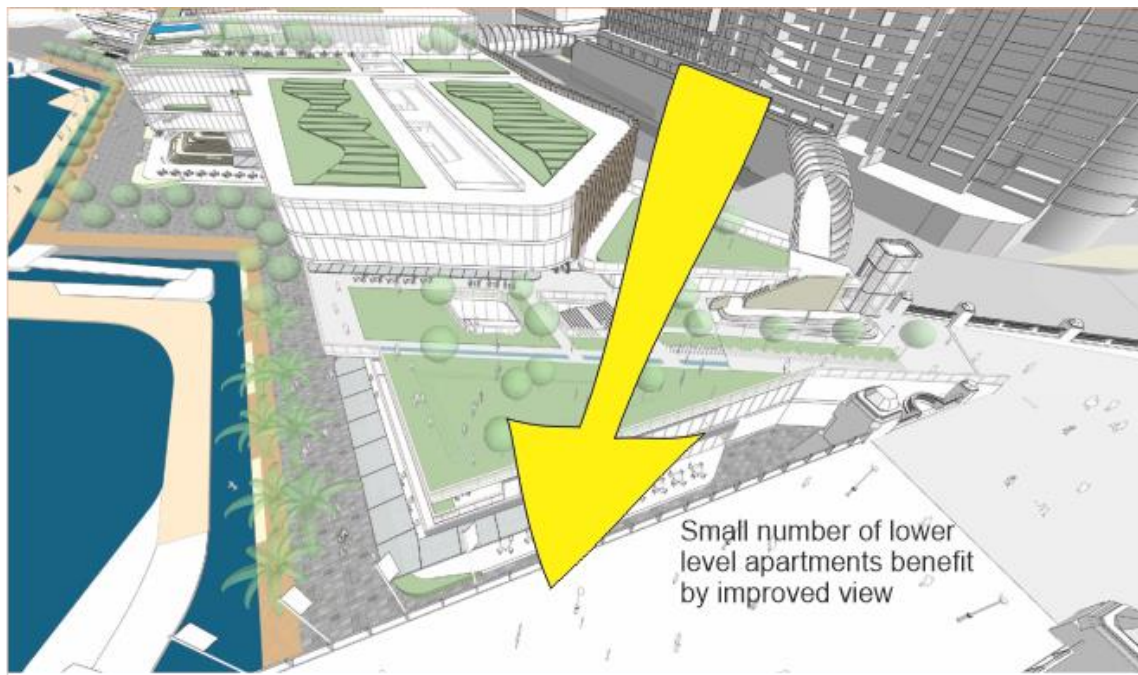


Image 31 Illustrative Scheme: Guardian Square

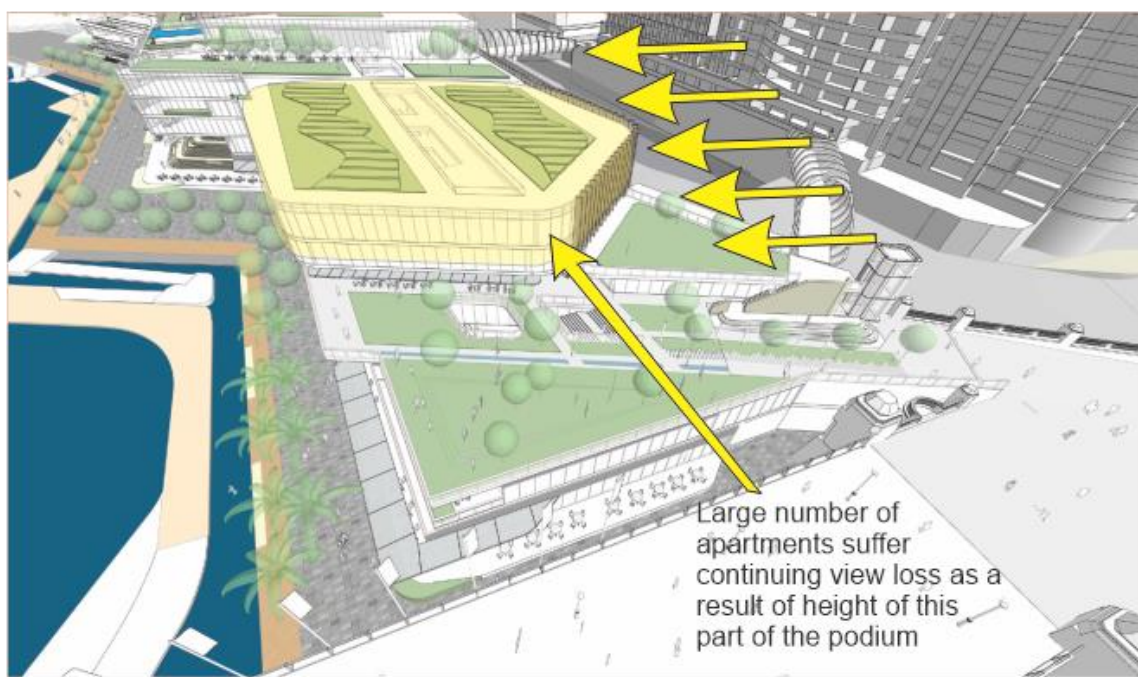


Image 31 Illustrative Scheme: Guardian Square

Figure 1
Principle for more appropriate view sharing
(Adapted from part of Page 3, FJMT Supplementary Architectural Design Report)

6 Principles for reasonable view sharing

6.1 Independent Urban Design Review

The Independent Urban Design Review comments of Emeritus Professor Peter Webber in February and May 2018 relevant to view sharing state and in my opinion remain relevant:

- a) *The observation deck should not cause any additional obstruction of views from the west by comparison with the roof profile of the existing building.....*
- c) *The fifth level of the podium extends for approximately one third of the full length of the site and is not acceptable due to its significant intrusion on views from the west.*

In May, 2018 in relation to the podium, Professor Webber stated:

The negative impact on views from the lower level apartments in 50 Murray Street caused by the top two floors at the northern end of the podium is not acceptable: such impact should not exceed those due to the existing building.

Changes have occurred to the proposal in the meantime, however I remain in agreement with the principle embodied, which is that the podium that is primarily the cause of view loss to One Darling Harbour in the views to the east should not exceed the height of the existing building.

I agree that there may be competing objective for the redevelopment of the site and that some view loss is an inevitable outcome of a podium/tower concept. However, this has already been accepted by One Darling Harbour in consultation with the Applicants. One Darling Harbour accepted the result that there would be significant view loss to most apartments in One Darling Harbour in views to the south-east, including loss of view of significant valued items.

Ethos Urban's approach on behalf of the applicant is to simply reject the principle above, notwithstanding at the least, on their estimation, 24 apartments with an easterly orientation would be affected by moderate-severe or severe view impacts. On my estimation the number appropriately assessed would be more than double that, at 49. As the application is not subject to any development controls against which the reasonableness can be tested, the test is whether it has unacceptable impacts on views, not whether it matches some theoretical target of profitability or yield. The principle above is a reasonable starting point. It is not expected that there would be no additional view loss for all apartments. But a more reasonable outcome must surely be possible than significant impacts on 49 apartments.

If it is true that the cut out in the northern part of the podium is really intended to foster better view sharing, there is clearly the potential to extend that means of achieving this by cutting the northern extent of the main northern section of the podium further back. There was no loss of GFA involved in making the concessions associated with the Guardian Square podium, so there would seem to be none involved in cutting the height and bulk of the podium back further, to achieve a more equitable view sharing outcome.

A full analysis and assessment of view loss has now been provided, as required by the Department of Planning, Industry and Environment, which stated in relation to the podium:



Provide a visual analysis model that compares the existing shopping centre with the proposed building envelopes. Illustrate the change in the building bulk and massing as viewed from the potential vantage points (including properties on Murray Street, Bunn Street, Pyrmont Bridge and the waterfront promenade on both eastern and western side of Cockle Bay).

In my opinion the visual analysis model provided is now adequate to illustrate the changes proposed in views from One Darling Harbour. It is unfortunate that the comprehensive assessment remains dismissive of the significance of impacts and does not provide any adequate justification for the extent of view loss that would be caused or why it should be considered reasonable, even if the impacts on views caused by the higher section of the northern podium and the tower are ignored.

7 Conclusions

The proposed modified application which locates the tower element of the proposal further south, sandwiched between the Bunn Street axis and the ICC Hotel, provides a significantly better and a more skilful outcome in terms of view sharing with upper level units in One Darling Harbour.

The documentation of views with the application is now satisfactory in relation to view sharing with One Darling Harbour. I disagree with the assessment of both the extent of impacts on views and the reasonableness of the proposal.

The cut back of the podium at the north end to provide space for the potential Guardian Square has benefits for a small number of units, some with a significant improvement in view. 49 apartments would be affected by moderate-severe or severe impacts. The assessment provided by the applicant has under-estimated the extent of impact and thereby the number of units affected.

Even if I agreed with the applicant's assessment of the ultimate number of apartments affected, I cannot agree that moderate-severe or severe impacts caused by the proposal compared to that of the existing buildings is reasonable.

In my opinion there is further scope to spread the improved view sharing outcome provided by the lowered section of the podium to benefit a more equitable number of apartments, by reconsidering the height and footprint of the northern section of the podium.

Yours sincerely

A handwritten signature in black ink that reads 'Richard Lamb'. The signature is stylized with a large, looped 'R' and a cursive 'L'.

Dr Richard Lamb

Table 1: Comparison of RLA and Ethos Urban ratings of extent of impact

	Overall Extent of impact	Overall Extent of impact	Impact on SE views
Apartment	RLA	Ethos Urban	RLA
101	Severe	Moderate	Seveve
109	Minor	Negligible	Seveve
110	Minor	Negligible	Seveve
111	Minor	Negligible	Seveve
201	Severe	Severe	Seveve
202	Severe	Severe	Seveve
203	Severe	Severe	Seveve
204	Severe	Severe	Seveve
212	Minor	Negligible	Seveve
213	Minor	Negligible	Seveve
214	Severe	Severe	Seveve
301	Severe	Mod/Sev	Seveve
302	Severe	Mod/Sev	Seveve
303	Severe	Mod/Sev	Seveve
304	Severe	Mod/Sev	Seveve
305	Severe	Mod/Sev	Seveve
313	Mod/Sev	Min/Mod	Seveve
314	Mod/Sev	Min/Mod	Seveve
315	Severe	Mod/Sev	Seveve
401	Severe	Mod/Sev	Seveve
402	Severe	Mod/Sev	Seveve
403	Severe	Mod/Sev	Seveve
404	Severe	Mod/Sev	Seveve
412	Mod/Sev	Min/Mod	Seveve
413	Mod/Sev	Min/Mod	Seveve
414	Severe	Mod/Sev	Seveve
501	Severe	Mod/Sev	Seveve
502	Severe	Mod/Sev	Seveve
503	Severe	Mod/Sev	Seveve
504	Severe	Mod/Sev	Seveve
512	Mod/Sev	Min/Mod	Seveve
513	Mod/Sev	Min/Mod	Seveve
514	Severe	Mod/Sev	Seveve
601	Mod/Sev	Mod/Sev	Seveve
602	Severe	Mod/Sev	Seveve
603	Severe	Mod/Sev	Seveve
604	Severe	Mod/Sev	Seveve
612	Mod/Sev	Min/Mod	Seveve
613	Severe	Min/Mod	Seveve
614	Severe	Mod/Sev	Seveve
701	Mod/Sev	Moderate	Seveve
702	Mod/Sev	Moderate	Seveve
703	Mod/Sev	Moderate	Seveve
704	Severe	Moderate	Seveve
712	Mod/Sev	Minor	Seveve
713	Mod/Sev	Minor	Seveve

Table 1: Comparison of RLA and Ethos Urban ratings of extent of impact

	Overall Extent of impact	Overall Extent of impact	Impact on SE views
Apartment	RLA	Ethos Urban	RLA
714	Severe	Minor	Seveve
801	Moderate	Minor	Mod/Sev
802	Severe	Minor	Mod/Sev
803	Severe	Moderate	Mod/Sev
804	Severe	Moderate	Mod/Sev
812	Moderate	Minor	Mod/Sev
813	Moderate	Minor	Mod/Sev
814	Moderate	Minor	Mod/Sev
901	Moderate	Minor	Mod/Sev
902	Moderate	Minor	Moderate
903	Moderate	Moderate	Moderate
904	Mod/Sev	Moderate	Moderate
912	Moderate	Minor	Moderate
913	Moderate	Minor	Mod/Sev
914	Moderate	Minor	Moderate
1001	Moderate	Minor	Moderate
1002	Moderate	Minor	Moderate
1003	Moderate	Moderate	Moderate
1004	Mod/Sev	Moderate	Seveve
1012	Moderate	Minor	Mod/Sev
1013	Moderate	Minor	Mod/Sev
1014	Moderate	Minor	Mod/Sev
1101	Moderate	Minor	Moderate
1102	Moderate	Minor	Moderate
1103	Mod/Sev	Moderate	Mod/Sev
1104	Mod/Sev	Moderate	Mod/Sev
1112	Minor	Minor	Min/Mod
1113	Minor	Minor	Min/Mod
1114	Minor	Minor	Minor
1201	Moderate	Minor	Min/Mod
1202	Moderate	Minor	Min/Mod
1203	Moderate	Moderate	Min/Mod
1204	Moderate	Moderate	Seveve
1212	Moderate	Minor	Mod/Sev
1213	Minor	Minor	Moderate
1214	Minor	Minor	Minor
1301	Minor	Minor	Minor
1302	Minor	Minor	Moderate
1303	Moderate	Moderate	Mod/Sev
1311	Minor	Minor	Moderate
1312	Minor	Minor	Minor
1313	Minor	Minor	Minor
1401	Minor	Minor	Minor
1402	Min/Mod	Minor	Min/Mod
1403	Min/Mod	Minor	Moderate
1410	Minor	Minor	Moderate

Table 1: Comparison of RLA and Ethos Urban ratings of extent of impact

	Overall Extent of impact	Overall Extent of impact	Impact on SE views
Apartment	RLA	Ethos Urban	RLA
1411	Minor	Minor	Min/Mod
1412	Min/Mod	Minor	Min/Mod
1501	Min/Mod	Minor	Min/Mod
1502	Moderate	Moderate	Seveve
1509	Minor	Minor	Min/Mod
1510	Minor	Minor	Min/Mod
1511	Minor	Minor	Min/Mod
1601	Minor	Minor	Min/Mod
1602	Moderate	Minor	Moderate
1609	Min/Mod	Minor	Moderate
1610	Min/Mod	Minor	Min/Mod
1611	Min/Mod	Minor	Min/Mod
L17 communal	Minor	Negligible	Minor