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Your Ref: SSD-7874

David Glasgow  
Principal Planning Officer – Key Sites Assessments  
Department of Planning, Industry and Environment

By Planning Portal

Dear David

**Additional Response to Submissions – Harbourside Shopping Centre Redevelopment**

Thank you for your correspondence dated 16 October 2020 requesting for the City of Sydney Council (“the City”) to comment on the additional Response to Submissions (RTS) for the Harbourside Shopping Centre Redevelopment concept proposal.

The changes reflected in the RTS include amendments to the building envelope in redistributing bulk from the podium to the height of the tower. Consequently, an adjustment to the land use spilt between non-residential and residential uses is proposed as well as revised landscaped open space areas are indicated to include a new publicly accessible open space referred to as Guardian Square.

The City’s concerns raised in previous correspondence dated 7 May 2020 remain unchanged. Fundamentally, the amended concept proposal exacerbates the privatisation of public land and still presents unresolved issues and unacceptable environmental impacts.

Accordingly, the City **maintains objection** to the proposal for the reasons outlined in previous correspondence. The following matters are raised with respect to the RTS in addition to those previous stated as follows:

**1. Draft Pyrmont Peninsula Place Strategy (Draft PPPS)**

The amended proposal seeks to respond to the strategic visions, directions, special considerations and anticipated public benefit opportunities envisioned by the Draft PPPS.

Specifically, the Harbourside site is identified in the Draft PPPS to be located in the Tumbalong Park sub precinct. Within this sub precinct, the Strategy identifies Harbourside as a ‘key site’, having the potential to deliver strategic change in the peninsula combined with broader public benefits of connecting and activating the public domain and contributing to the delivery of the 10 Directions and 5 ‘Big Moves’ projected by the Draft PPPS.

Whilst the City generally supports the intent of the Draft PPPS in carrying out a place-based, people focused review of the planning potential of the Pyrmont Peninsula, it is inappropriate to draw conclusions on building height and public

benefits of key sites, such as the Harbourside site, when sub-precinct master planning and moreover, consideration of a precise planning framework, has not been established.

Notwithstanding the above, this submission will address the proponent's response to the considerations made under the Draft PPPS for the Harbourside site, respectively. The following matters are raised:

**a. Land Use – Residential Accommodation**

Under the Draft PPPS, Tumbalong Park *“will be an integral part of the globally recognised tourism and visitor destination, Darling Harbour, and a meeting place for innovators, entrepreneurs and businesses”*. The nominated priorities of the sub precinct involve creating new space for jobs in tourism and entertainment and supporting services, such as shops, restaurants, cafes and bars and transport to create smaller activity areas and a dynamic and safe night-time economy. The sub-precinct is to provide limited residential development without compromising the tourism, entertainment, and commercial functions. The Draft PPPS further sets out the special considerations of Harbourside as a key site in prioritising the delivery of employment, entertainment, and tourism floor space.

The amended building envelope redistributes the bulk from the northern portion of the podium to the height of the tower. This results in an increase to the proposed residential land use spilt, which would occupy approximately 48% of the proposed land uses.

Effectively, residential floor space would occupy half of the floor space of the development. The proposal blatantly contradicts the strategic vision of this site and does not prioritise the delivery of employment, entertainment, and tourism floor space. Whilst the RTS makes loose assertions for the retail and commercial non-residential uses utilising the remaining 52% of the development floor space, the proposal would compromise the full potential of the site in exercising tourism, entertainment, and commercial functions that commensurate with the globally recognised identity of the Darling Harbour precinct.

The RTS omits reference to the Harbourside site forming part of the 'cultural ribbon' that is indicated in the Draft PPPS as 'Big Move 2' in realising a *‘vibrant 24-hour cultural and entertainment destination’*. This cultural ribbon seeks to continue the existing cultural entities located along the foreshore, which include the Sydney Opera House, the Museum of Contemporary Arts, The Rocks, Barangaroo Headlands, Walsh Bay, Powerhouse Museum, Australian National Maritime Museum, the ICC and the Lyric Theatre.

The Harbourside site presents an opportunity to reinforce cultural and entertainment assets that contribute to a vibrant 24-hour economy and *“provide new space for entertainment, events and cultural attractions as part of a catalyst site redevelopment, including diversifying night-time experiences”*.

The City strongly disagrees with the proponent's assertion that the residential uses would not prejudice the 24-hour operation of the precinct as it is located a significant distance above ground. Tourism and

entertainment land uses generate substantial noise and are at odds with the acoustic privacy requirements for residential development. The site is also located within close proximity to the Western Distributor. The existing noise environment is not compatible for residential use and would diminish the enjoyment of the foreshore and Darling Harbour precinct as a public asset for leisure, recreation, entertainment, culture, education, and commerce.

Reference must also be made to Direction 9 of the Draft PPPS, which is to provide *great homes that can suit the needs of more people* within the peninsula. The Place Strategy nominates housing growth to be focused primarily in residential areas, across the ridgeline village and along the western side of the peninsula at Pyrmont Village, Pirrama, Blackwattle Bay, Wentworth Park and Ultimo (northern) sub precincts. The Strategy also specifies that residential development should not undermine the vision of other areas as a job hub and economic driver of Sydney that does not compromise the delivery of new commercial and employment floor space in line with the Eastern Sydney District Plan priority E7 – growing a stronger and more competitive Harbour CBD.

As expressed in previous correspondence and as Draft PPPS envisions, there are other suitable locations that can provide housing across the Pyrmont peninsula. It is emphasised that consideration must be made to the economic priorities of the Central Sydney, including the Darling Harbour precinct, in contributing towards Sydney being a global city with a commercial core to support and protect economic and employment growth opportunities. The Eastern Sydney District Plan, Sustainable Sydney 2030 and the draft Central Sydney Planning Strategy set out economic targets, visions and aims for the efficient use of land with floor space that is not committed to residential uses. This is to ensure that planning for job growth in Central Sydney is protected.

It is evident that providing new space for entertainment, events and cultural attractions is not the catalyst driving the redevelopment of the Harbourside site. The proposal does not achieve the strategic vision of the Tumbalong Park sub-precinct and special considerations for Harbourside as a global tourist and visitor destination that prioritises the delivery of employment, entertainment, and tourism floor space under the Draft PPPS.

The strategic vision of the Draft PPPS is aligned with the aims of the Sydney Regional Environmental Plan (Sydney Harbour Catchment 2005) in maintaining the Darling Harbour precinct as a public asset of national and heritage significance that encourages leisure activities within the harbour foreshore. Additionally, the Draft PPPS is aligned with the objectives of the Darling Harbour Development Plan No. 1 in encouraging the development of a variety of tourist, educational, recreational, entertainment and commercial facilities.

The conversion of public land for private use fails to recognise the principles and contradicts the spirit of the SREP of Sydney Harbour being a public resource that is owned by the public and is to be protected for the public good. The proposal does not satisfy the objects of the Darling Harbour Development Plan No. 1 and is not in the public interest.

## **b. Public Benefits**

The Draft PPPS specifies that each key site must deliver public benefits that contribute to both peninsula-wide and sub precinct outcomes over and above the necessary infrastructure to support growth. The RTS confirms the following public benefits to be secured by the concept proposal:

### **i. Publicly Accessible Open Space**

A minimum total area of 8,200sqm of publicly accessible open space is proposed to be provided and upgraded across and adjoining the site. Within this area, the following commitments are made:

- Guardian Square (1,500sqm)
- A widened and upgraded waterfront promenade (4,800sqm)
- Bunn Street Bridge
- Event Stairs
- Ribbon Stairs
- Central through-site link
- Upgrade of existing northern pedestrian bridge
- New paving to Pymont Bridge
- Activation works

Such improvements are supported in principle and are considered essential to support the increased and anticipated development intensity of the site. Many are basic requirements that should be delivered as part of any redevelopment.

However, as proposed some public benefits appear tokenistic as they do not sufficiently integrate and correlate with the existing public domain levels and appear as stand-alone elements made to serve the development. Of greatest concern is that none of the abovementioned public domain elements intended for public benefit are embedded in the building envelope drawings. As such, there is no certainty that these will be delivered and secured.

In addition to the above, the genuine offering of these spaces for public benefit are challenged with respect to the accessibility, viability, and usability as public open space with landscaping and tree planting. This is discussed in detail later in this submission.

### **ii. Monetary Contribution towards Affordable Housing**

The RTS reiterates that a monetary contribution of \$5.2 million is proposed to be provided towards affordable housing. It is acknowledged that the submission by City West Housing on the Draft PPPS states the preference to receive monetary contributions from developers to deliver standalone affordable housing development. Any monetary contribution for affordable housing must be appropriately levied and secured in any future development.

### **c. Height**

The increased height of the building envelope is established from the Draft PPPS. There are three special considerations envisioned for the Harbourside site, which include protecting solar access to the harbour foreshore public domain, prioritise the delivery of employment, entertainment and tourism floor space and towers below RL170.

Of the three abovementioned special considerations, the tower below the height of RL170 is solely delivered as part of this proposal. As previously mentioned, the proposal does not prioritise the provision of employment and tourism floor space. The proposal does not protect solar access to the harbour foreshore public domain (as discussed in the Overshadowing discussion below).

The optimisation of height is to go hand in hand with the delivery of the other special considerations for the Harbourside and must not be considered in isolation. The Draft PPPS is preliminary and no testing or rationale has been provided in the document that justifies the maximum height of RL170. Accordingly, establishing the height of the development in consideration of the draft PPPS is premature. The application must establish an appropriate height of the tower through first principles with community and stakeholder consultation.

## **2. Urban Design and Design Excellence**

### **a. Wind Impacts**

Concern is raised regard the unaccepted wind impacts to some aspects of the development. The submitted Wind Assessment Report describes the wind conditions as exceeding the Lawson distress criterion with an able-bodied rating for both the building envelope and indicative designs. This is not suitable for pedestrians that have mobility impairments, the elderly, or children.

The Report also highlights that the envelope creates issues in several instances that must be rectified through detailed architectural and landscape design. For example, the only outdoor communal open space on Level 4 is deemed suitable for 'business walking' only and fails the 'distress criteria'. This is unacceptable, even at this stage. The building envelope and allocation of accessible outdoor space must respond to this. Landscape design and vegetation can be employed to mitigate adverse wind conditions, but the architectural section drawing submitted with the application indicates soil depths are suitable for groundcovers only, if at all. This should be amended to again allow for both trees and shrubs at soil depths ranging between 450mm-1000mm.

### **b. Design Excellence**

The submitted Design Excellence Strategy confirms that a competitive design process will integrate the tower, podium, and the public domain. This is supported to ensure that the competitive process is set up to select the highest quality architectural, public domain and urban design solution for the site.

It is unclear if the competitive design process chosen is an Architectural Design Competition or a Competitive Design Alternatives Process. Having regard to the scale of the development and prominence of the building's location within the context of the Darling Harbour waterfront, the City strongly recommends that the development be subject to an architectural design competition, involving would involve a minimum of five competitors.

The City recommends that the Strategy be amended to include a new section on Observers. The City will nominate at least one independent person as observer of the Competition and Design Integrity Process. The observer must be invited to attend all meetings involved with the Competition and Design Integrity Process and provided a minimum 2 weeks' notice. This is in line with the Draft Government Architect's Design Excellence Competition Guidelines.

**c. Public Domain Interface**

Insufficient and inconsistent information is provided for existing ground levels including the foreshore promenade and surrounding streets to adequately understand the relationship of the development and immediate context. Refer to Public Domain discussion below.

**d. Building Envelope**

There is insufficient information submitted for the building envelope. As previously mentioned, the drawings do not show any of the abovementioned public domain elements including Guardian Square, Event Stairs and Ribbon Stairs. These are to be included in the building envelope plans, elevations and sections to ensure delivery.

The tower to the west does not have an upper level setback from the podium. The wind report indicates that the building envelope has a poor comfort rating at the base of the tower along Darling Drive and the indicative scheme shows that it is only suitable for walking near the base of the tower along Darling Drive.

Overall, the building envelope is excessive and extends closer to both the Pyrmont Bridge and the edge of the promenade. The podium needs to be pushed back to the existing lot boundary of Harbourside and the tower setback from both the eastern and western ends above the podium. A greater setback is also required from the Pyrmont Bridge to provide some curtilage from the heritage item. The height of the podium especially adjacent to the Pyrmont Bridge is to be lowered to ensure views to the water from the Bridge.

**e. Overshadowing**

The RTS has provided more fine-grained intervals (15 minutes) for overshadowing, the previous submission showed hourly intervals. This demonstrates that overshadowing of the Promenade starts at 12.30pm and continues until 3pm.

For at least half of lunch time at mid-winter the Promenade is in full shade. The proponent is proposing a 'regularised waterfront setback'. However, if the existing lot boundary of 29m from the water's edge is maintained, the

overshadowing caused by the building envelope will be negligible at 12.30pm and only occupy half the width of the promenade at 12.45pm, three-quarters at 1pm and so on, thus optimising the lunch time sun at mid-winter. Additionally, if the tower was setback 37m from the (29m from the water's edge plus 8m upper level setback), this would further reduce the overshadowing of the promenade at mid-winter at lunch time as the tower building envelope begins to cause overshadowing of the promenade from 1.00pm.

No new lot boundaries have been shown, however, the development area has increased and with it the overshadowing of the promenade appears to have increased. There is insufficient information provided regarding overshadowing of neighbouring buildings. This is to be demonstrated by filling in the City of Sydney 'Solar Access Tally at 15-minute Intervals' spreadsheet.

### **3. Heritage**

It is acknowledged that the amended building envelope responds to the City's recommendation for a lowered podium height to the north of the development. It is also noted that the lowered podium follows a 30-degree angle sightline and separation from the Pyrmont Bridge.

However, the amended envelope demonstrates a tiered podium to the north with varying levels of RL 25 and RL13.25. The RL 13.25 lower tier is still considered excessive and blocks sightlines from the Bridge. To enable clear site lines and uninterrupted views from the west, the lower tier is recommended to be further reduced to be no higher than the Bridge surface, at approximately RL 11.5.

Further, to improve the relationship of the development with surrounding buildings, the north-east corner of the podium should replicate the slanted building alignment of the Maritime Museum so as to increase the openness of the underbridge public open space.

### **4. Transport and Access**

The RTS does not alleviate the City's previous concerns raised regarding transport and access of the development. The application proposes to lease 255 spaces for the commercial and retail parking from a neighbouring site. Further, no change is made to the initially proposed number of 306 car parking spaces.

The City reiterates that given the highly accessible location of the site, car parking must be constrained and be aligned with the sustainable transport objectives of Sustainable Sydney 2030 and Transport for NSW's Movement and Place framework.

No improvements to cycleway connections are being proposed. Additionally, the proposal still falls short on loading provisions. All loading and servicing should be accommodated onsite and the site should not rely on kerbside loading.

### **5. Landscape and Biodiversity**

It is impossible to understand the intended soil depths for any of the green roofs proposed in the amended proposal, noting that soil depths have a knock-on effect on parapets and balustrades. Although this is a concept proposal, the design relies

heavily on predominately inaccessible green roofs to mitigate the expansive flat roofs to the podium. Indicative spot levels should be provided on all landscape plans to clarify the design intent and feasibility.

The accompanying Public Domain Report, prepared by Aspects Studio, states that the inaccessible roof areas must remain so because of the strict building envelope constraints. It is also indicated that no trees are proposed on the green roofs as they would interrupt the sight lines and harbour views from the apartments behind. The City has significant canopy cover targets, and the proposed green roofs are extensive in area. To not plant trees in this space, even in select, scattered groups, is a missed opportunity.

The City reiterates that soil depths should vary between 450mm-1000mm across these roofs to support a diversity of planting and realise a valuable urban ecology within the CBD environment. Whilst it is acknowledged that providing accessible green roofs would have knock-on implications for shade structures and balustrades, it is reiterated that some of the inaccessible green roof should be made accessible and at the very least, to the northern roof. Should these roofs remain inaccessible, it should facilitate substantial biodiversity and habitat creation and should be developed in consultation with an ecologist. This should result in a much more biodiverse plant list as well as physical habitat features where appropriate.

Having regard to the impacts of Covid-19, the demand for usable and accessible public open space for increased health and well being is even more critical. These benefits extend beyond the site boundaries and surrounding buildings. Increased canopy coverage as a result of the proposed development is the interest of the public. The addition of these trees can be considered in the view studies to minimise impact to surrounding buildings views. While a factor, it does not automatically preclude the planting of trees as they can be ongoingly managed into the future regarding views. At a minimum appropriate soil volumes and depth for small trees, at a minimum of five metres in height, must be specified for the inaccessible rooftops and enough trees to provide 30% canopy coverage.

#### **a. Tree Management**

The RTS confirms that trees are proposed along the foreshore promenade in an area designated as 'The Boulevard'. The planting palette for this avenue has only included palms as its potential mature trees. The planting palette must be updated to include medium to large canopy trees with a minimum 10 metre height and with canopy spreads of at least eight metres, in order to provide for adequate canopy coverage in these areas. Palms are not considered as effective canopy trees and these public domain areas should provide a minimum of 50% canopy coverage.

It is recommended that *Phoenix canariensis* is deleted from the proposed palm groves as it is susceptible to fungal attack and not sustainable. It is noted that the design has included the existing palm trees for transplantation and use onsite to be specified in the detailed design.

### **6. Public Domain**

The comments raised in the City's previous response regarding the public domain remain unchanged. It is reiterated that the selection of external finishes to the public domain must be coordinated with those existing and proposed under the



current Darling Harbour upgrade works. The use of Austral Verde for paving is not recommended due to the limits of supply of the stone. The City prefers Austral Black as a paving material in the CBD area as per the City of Sydney Streets Design Code.

The following comments are made regarding the proposed public spaces:

**a. The Boulevard**

The existing harbour foreshore contains a variety of spaces of differing widths and characters along the harbour foreshore that reads as part of Darling Harbour and not part of Harbourside. The proposed upgrades to this space, referred to as 'The Boulevard', will remove this by creating a consistent width walkway that lays the current spaces, particularly the widened multifunctional space that faces east. This existing space addresses the need for hosting gatherings of people and events while providing key views that take in all of Darling Harbour.

**b. The Stairs**

There are two east-west stairs proposed: The Ribbon Stairs, located at the northern end of the site, and the Event Stairs. The existing stairs located between the Pyrmont Bridge and Harbourside appear to be demolished as part of this proposal.

The Ribbon Stairs appear to be a substitute for the existing stairs that run alongside the Pyrmont Bridge. These existing stairs offer independent access from the development and should be retained in addition to any new stairs incorporated as part of the development. The existing stairs also provide a purpose to the area between the bridge and the development. It is imperative that these stairs have a civic grade.

The indicative design illustrates that the path to the 'Ribbon Stairs', and therefore down to the harbour from Pyrmont Bridge, is not directly aligned. This may result in difficult wayfinding and may make the connection less public in nature. A clear, direct path and line of sight should be formed between Pyrmont Bridge, the Ribbon Stairs, and the harbour. This may require a realignment of the steps.

**c. Guardian Square**

The introduction of Guardian Square is a positive element. However, it is located over 2 levels, which do not relate to the surrounding existing public domain levels. One level (+17.6) appears to be aligned with the Murray Street bridge and the lower level (+13.75) with the existing levels at the western end of the Pyrmont Bridge.

The levels of the upper and lower levels of Guardian Square appear to be determined by the retail levels in the podium, connecting with the retail rather than seamlessly connecting with the adjacent public domain. A photomontage from the western end of the Pyrmont Bridge would be helpful in describing the relationship of Guardian Square with the Pyrmont and Murray Street Bridges as well as the levels relative to the existing structures. It may also inform if the alignment of the building is appropriate to the context, especially in relation to the heritage elements of the Pyrmont

Bridge. The existing arrangement tries to fit the built form between the two alignments of the Bridge's balustrade.

However, more information is required for the levels and gradients as this is not clearly documented. The levels provided for the Murray Street bridge includes only the RL for the underside (+15.5) and for the top of the structure (+21.75). Assuming that the existing top of slab of the bridge is approximately 450-500mm above the underside, this results in a level for the existing bridge of approximately +16.0 and is 1.6m lower than the proposed upper level of Guardian Square.

The area between Murray Street and the Pyrmont Bridge is graded, It is not clear if at the interface of the Pyrmont Bridge and the site, if the RL is +13.75 at the lower level of Guardian Square. However, the photomontages show that the lower part of Guardian Square is approximately one storey higher than the Pyrmont Bridge with a ramp up to this level of +13.75.

There is a lack of equitable access demonstrated. There appears to be a lift at the end of the Murray Street Bridge in the photomontages and the indicative plan, but this is not shown in the building envelope drawings and it is not clear if this is a new or the existing lift. Stair access only will be limiting for those that are movement impaired or with prams and requires them to enter the shopping centre to access escalators and other lifts.

#### **d. Bunn Street Connection**

A connection is provided across the Western Distributor from Bunn Street in Pyrmont. However, this is not a physically nor visually direct connection and does not optimise the opportunities to create views through the site.

This connection becomes the Event Stairs which measures approximately 9m in the indicative scheme. This stair is not an open void for its entire length in the indicative scheme as it covered at Level 3 to connect the podiums. In contrast, the Bunn Street connection through the site measures approximately 20m. At Level 3, this area connecting the podiums should be as bridge-like as possible over the Event Stairs to ensure legibility of the Bunn Street connection and spatial priority over the podium. A photomontage from the Bunn Street connection is required to understand its legibility from both Pyrmont and through to Cockle Bay.

### **7. Environmentally Sustainable Design (ESD)**

The recent ESD Report, prepared by Cundall, states that the development would target higher NABERS and Green Star Ratings for the various parts of the development. Whilst this is positive, it is reiterated that the development must showcase best practice sustainable building principles and demonstrate environmental performance. The requirement for NABERS Energy Commitment Agreements for Office and Retail components should be formalised with the NSW Office of Environment and Heritage and demonstrate an on-site renewable energy commitment reflecting the NSW Government's Net Zero Emissions by 2050 Target.

The concept development, as proposed, has not adequately addressed the City's concerns and presents an inappropriate land use and associated environmental impacts

that would diminish Darling Harbour's global prominent status as a tourist and entertainment destination and moreover, a precinct for all of greater Sydney.

It is reiterated that the proposal is a manifest contravention to the objects of the Environmental Planning and Assessment Act 1979. The conversion of public land for private use fails to recognise the principles of the SREP of Sydney Harbour being a public resource that is owned by the public and is to be protected for the public good. Moreover, the proposal fails to achieve the strategic vision of the Tumbalong Park sub-precinct and special considerations for Harbourside as a global tourist and visitor destination that prioritises the delivery of employment, entertainment and tourism floor space under the Draft Pyrmont Peninsula Place Strategy.

The City implores that the land be maintained for the purposes of employment, entertainment, cultural, recreational, commercial and tourist land uses.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A-T', with a long horizontal stroke extending from the top of the 'T'.

**Andrew Thomas**  
**Acting Director**  
City Planning | Development | Transport