

15 February 2017

File Number: SSD 7684
Our Ref: 2017/064739

Pilar Aberasturi
NSW Department of Planning and Environment
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Dear Pilar,

**CONCEPT PROPOSAL FOR THE REDEVELOPMENT OF COCKLE BAY WHARF
– 241 – 249 WHEAT ROAD, COCKLE BAY (SSD 7684)**

I refer to your email correspondence received 15 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 Application SSD 7684 for the concept proposal for the redevelopment the Cockle Bay Wharf site including the demolition of the existing improvements on the site and proposed building envelopes for the construction of a podium and tower up to 235m in height containing 85,000m² commercial and 25,000m² retail gross floor area and up to 12,000m² of public domain space. The City **strongly objects** to the proposal. The reasons for this are outlined below.

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

The proposal is inconsistent the aims of the SREP 2005 which state that the following principles be adopted:

- (a) *Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for public good.*
- (b) *The public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,*
- (c) *Protection of the natural assets of Sydney Harbour has precedence over all other interests.*

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 use resulting in a substantial and long term negative impact on the public domain, particularly in regard to overshadowing of the public domain.

The proposal does not 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.

The proposed podium and tower will compromise the public good, further privatising the public land of Darling Harbour and diminishing the public domain both qualitatively and quantifiably and its surrounds and the proposal should not be supported. Most importantly the proposal, which is visible from the waterways and foreshore, does not maintain, protect or enhance the unique visual qualities of Sydney Harbour nor increase the number of vantage points for viewing Sydney Harbour. These are key principles contained within the SREP which any redevelopment must achieve.

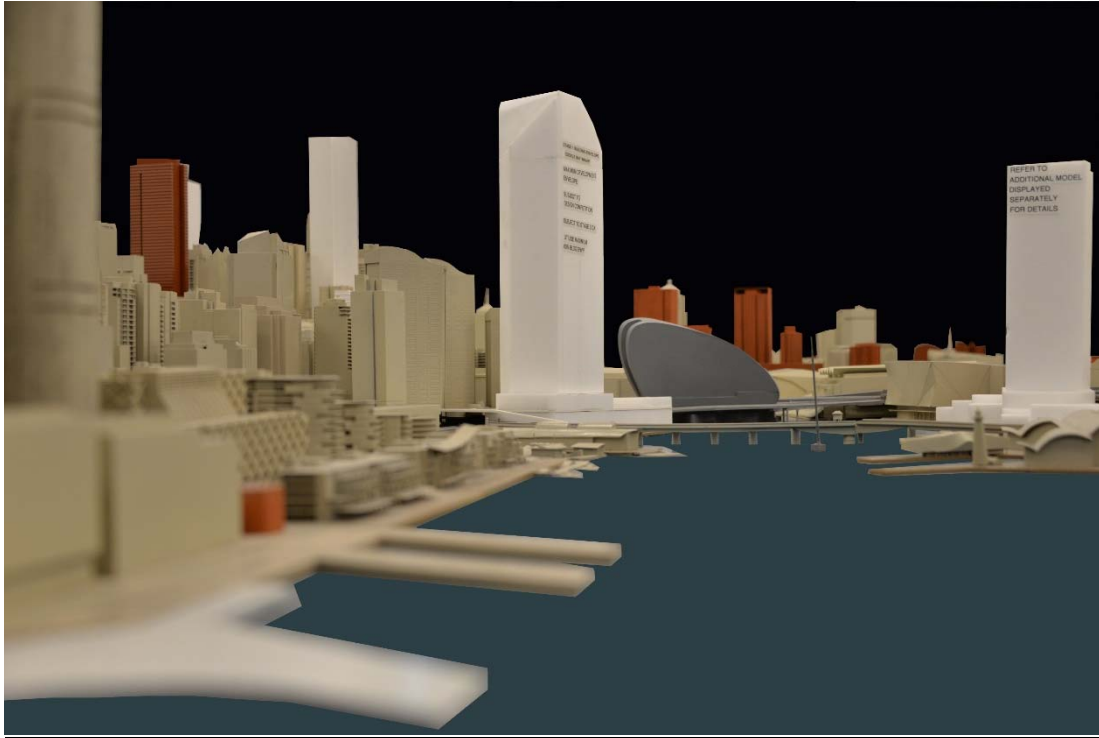
The proposal will significantly alter the skyline from numerous view-points, will have a dramatic effect on surrounding vistas and create additional shadowing and wind tunnelling effects on the public realm. These impacts will significantly outweigh any 'perceived' public good or benefit and the proposal should not be supported. Further details in regard to these impacts is discussed below:



Bulk and Scale

The form, scale and height of the podium and tower is overly bulky, resulting in a crude, overly broad and elongated wall to the harbour. It is noted that the applicant claims that the proposal is a 'flexible' envelope that has the ability to accommodate a range of building shapes and designs which 'may' only accommodate 60% of the proposed envelope.

It is naive to assume if the current envelope is approved at the current size proposed that the applicant will not then subsequently fill the envelope with as much floor space as possible in order to maximise profit from the FSR generated in net lettable area. The approach adopted by the applicant of an overly generous envelope is not supported. The impacts from the proposed envelope will detrimentally compromise the Harbour, its surrounds and other public areas as it does not provide certainty that the future design will achieve design excellence and will not result in detrimental and unreasonable impacts.



Notwithstanding, should this approach be supported by the State, the EIS states it is proposed to undertake a competitive design alternatives process in accordance with the City's Competitive Design Policy. Having regard to the scale of the development and prominence of the building's location within the context of the Darling Harbour waterfront and City skyline, it is strongly recommended that the development be subject to an architectural design competition. This would re-affirm the applicant's commitment to a "rigorous" design process and a future built form that "unambiguously exhibits design excellence".

In accordance with the City's Policy, a design competition would involve a minimum of five competitors and a jury comprised of equal numbers of proponent and consent authority nominees. Jury members must represent the public interest and include a majority of registered architects with urban design expertise.

Wind Impacts

The proposed development is expected to create windier conditions in the immediate locality than what is existing. As the subject site is already highly exposed to windy conditions, wind tunnel testing of the proposed podium and tower must be carried out to ensure that comfortable levels for seating/standing can be achieved. The applicant should adopt the Central Sydney Planning Strategy standards for determining comfort standards and ensure that all mitigation measures can be accommodated within the building envelope and does not rely on surrounding areas of the public domain. It

should be noted that the City's comments were disregarded in regard to the Lend Lease commercial towers at Barangaroo resulting in disastrous consequences to amenity with afterthought 'tack on' wind amelioration structures (not commensurate with design excellence) being constructed. Even once installed these do not improve the wind environment.

Overshadowing

The proposal will result in additional overshadowing of the western frontages of the foreshore, Tumbalong Park and the **proposed Town Hall Square** which is proposed to be protected in the draft *Central Sydney Strategy*. Significant investment has been made to secure and develop these highly and frequently used public realm areas and any overshadowing as a result of the proposed development is unacceptable.

At the winter solstice, the promenade between the development and the water offers visitors more than 6 hours of direct sunlight. With the construction of the proposed commercial tower, the amenity of this area will be severely compromised leaving the promenade in shade for most of the morning.

In regard to the Town Hall Square the City has analysed a grid of nine points and found that the northern and eastern parts are most affected and the southern and western parts are less affected. In the afternoon, the impacted times of the year will be in mid-Autumn (from the beginning of April to late April) and in mid-Spring (from mid-August to mid-September).

Presently the future square would receive approximately 3.75 hours of sun in the afternoon. The proposal will overshadow the square during these times of the year for various durations generally between 3.45pm to 4.30pm. This represents a loss of up to 20% of useful sun during these important times of year. Most affected is the north east corner of the square which will lose up to 25% of its direct after-noon sun at these times of year.

Loss of views and vistas along Druitt and Market Streets between the CBD and Darling Harbour.

Views along and down to the harbour along many east/west and north/south streets are longstanding and particularly characteristic of Sydney. These views have been partially disrupted by the construction of the Western Distributor and the Darling Walk complex but are still partially visible and should not be further disrupted.

The form of the proposed envelope permanently blocks any views from the CBD to Darling Harbour along the axes of Druitt and Market Street. The existing views will be walled off by the new building. This is unacceptable outcome and is inconsistent with provisions in the SREP 2005 (Sydney Harbour Catchment) and Sydney DCP that specifically require the maintenance, protection and enhancement of views to and from Sydney Harbour from public streets and the public domain.

The north and south extents of the podium and tower of the proposed development impinge on the extension of the street alignments of Druitt and Market Streets and do not enhance and preserve these view corridors between the CBD and Darling Harbour.

The form of the proposed pedestrian bridge links from Market Street to Pyrmont Bridge will provide a poor quality termination to Market Street and further erode the clarity of the public space in this area. No view analysis of this bridge has been

provided but the negative impacts are clearly appreciable from the drawings and physical model. It will cut across the west termination of Market Street and will have a significant and negative impact on the setting of the Shelbourne Hotel, the Corn Exchange and Pymont Bridge.

The pedestrian bridge links between the west end of Market Street, Pymont Bridge, Darling Park and the new development are poorly resolved and in no way improve views down Market Street to the harbour or facilitate other long-term opportunities to further improve this view. Any decked links between Darling Park and the proposed development must be confined to a line south of the extension of the south alignment of Market Street to Darling Harbour. Any links to Pymont Bridge must occur at the grade of the existing Pymont Bridge Deck in order to maintain its form, fabric and visual prominence.

Compromised public amenity

The proposal incorporates a bold intention for the public realm which is stated in the 'Precinct Vision Statement' as 'connecting harbour and city, (creating a) remarkable' landscape, (and forming) a grandstand to the harbour'. It proposes a land bridge from Market Street that floods the airspace above Wheat Road and the Western Distributor, ramping down to Pymont Bridge and terminating at level 3 of the proposed building. The purported stakeholder benefits include 'a network of public gardens and places for people'.

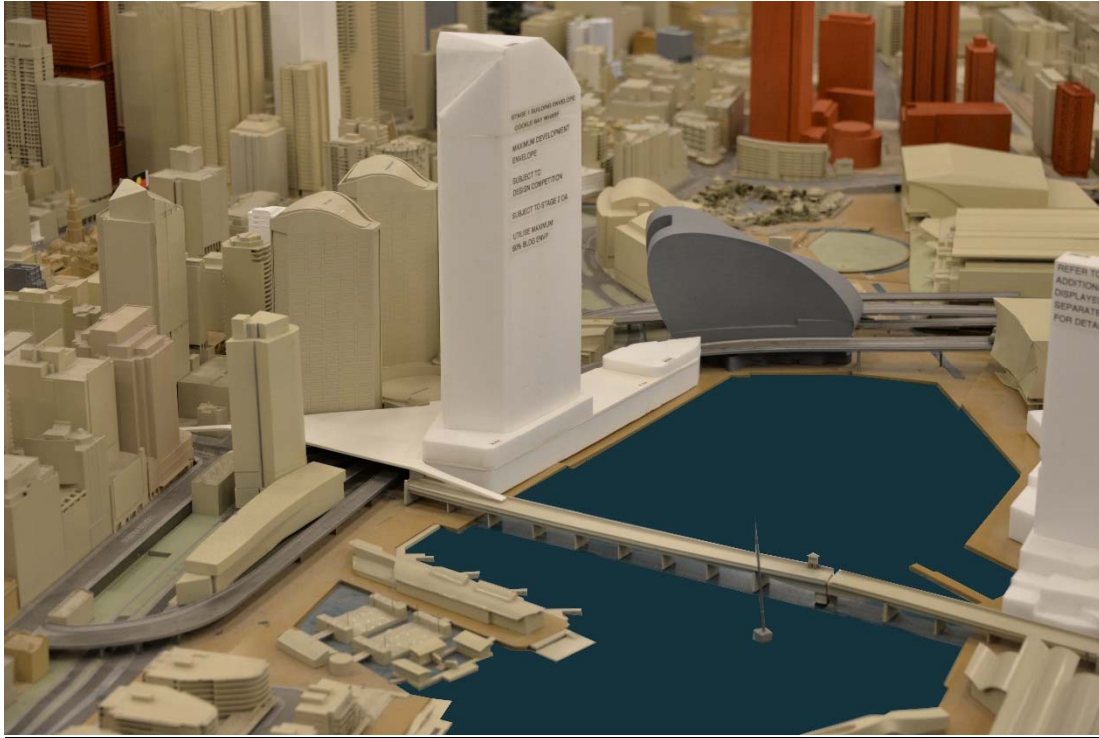
The proposed land bridge will effectively create a false topography that changes the relationship of the city edge with the water. This has three main implications:

1. The land bridge will falsify the ground plane, terminating three levels above the harbour. Pedestrians would have to pass through the building in order to reach the water, effectively privatising access to the waterside.
2. In order to cross the western distributor the land bridge must ramp up, reaching significantly higher levels than Pymont Bridge. This is likely to result in the proposed 'public gardens' being sloped or terraced, with an aspect that faces back towards the City rather than the water. This aspect is the antithesis to the natural topography, and compounds the existing issues at this end of Market Street.
3. The creation of private elevated gardens as a valuable 'public amenity' is questionable in this location as these areas are clearly part of the development and are private. It is far preferable to create quality spaces at ground level that relate to the water's edge, rather than garden spaces behind the building.

Priority is to be given to the connectivity of the public domain from Market Street to the waters' edge, ensuring wide, generous connections exist that are independent of the building. The public amenity of the promenade, as well as the spaces to the north and south ends of the building must be prioritised to ensure these spaces are designed as truly contributing to valuable 'public' amenity. Any gardens proposed to the western side of the building should be considered as secondary to the primary public resource of the waterside.

Podium Setback and Reduced width of the public domain

The proposal to decrease the existing width of the promenade to a 3m projection/articulation zone for the level above the ground floor is not supported and is strongly objected to. The net width of public access between the development and the water must be greater or equal to the existing. Any proposed podium envelope should be held fully to the inboard lease line.



The proposed envelope reduces the spatial setback of the building to less than that of the existing buildings. This is not appropriate as the pedestrian traffic along the east of Darling Harbour will certainly increase significantly due to this, and other proposed and approved developments such as the ICCC and the Ribbon (former IMAX) site. The full width of the space, if not more, is needed for reasonable circulation and emergency access as well as dealing with crowds and proposed events.

At present, outdoor dining in the Cockle Bay development is within the site boundary. This activates the adjacent public domain without cluttering or blocking it. The plans and views of the proposed envelope of the Public View Photomontages show the new envelope hard up to the boundary at grade and significantly overhanging it above grade. No spatial provision has been made for outdoor dining so it must be assumed that this will impinge on the existing public domain and reduce its effective width. This is incompatible with its current and future intensity of use. Ameliorating this problem by further filling in or decking over the harbour is unacceptable.

It is recommended that the effective width of the pedestrian public domain between harbour's edge and the boundary of the proposed development must be maintained. No additional filling-in or decking over the harbour is supported. All outdoor dining must be within the boundary of the site and must not impinge on the clear right of way of pedestrians. In order to preserve existing sun access and sky view, no over-hanging of the public domain is supported.

Relationship of the development with the adjacent Western Distributor.

Although the City of Sydney has identified the long-term desirability of the removal of the Western Distributor, it is likely to remain in place for at least the foreseeable future and is the key constraint and driver of the form and program of this proposed development.

The development must enhance the experience of drivers using the Western Distributor. Its east elevation, any associated over-decking and other interface works with Darling Park must comprise an architecturally resolved and 'finished' relationship with the road. The design of the development should also anticipate how the proposed building and its context could be appropriately modified if the above-grade Western Distributor were to be demolished during the projected service life of the proposed development.

Negative heritage impact of the proposed ramp connection to Pyrmont Bridge

The proposal shows an aerial pedestrian bridge extending from Market Street/ Darling Park over the eastern section of Pyrmont Bridge. This is an unacceptable impact on the form and fabric of Pyrmont Bridge. The clear rectangular form of the Pyrmont Bridge deck is one of Sydney's finest pedestrian promenades. In recent years, it has significantly benefitted from the demolition of the intrusive monorail line. The proposed link is wider and bulkier than the demolished monorail and would have a more negative impact on the heritage significance of the bridge. The structure of the new bridge link is not resolved and it is unlikely that it could be borne by the timber trusses of Pyrmont Bridge without intrusive and negative interventions into the existing fabric. The visual analysis of the Public View Photomontages demonstrate a very significant negative impact.

The section of the proposed bridge link that impinges on Pyrmont Bridge is to be deleted. Any pedestrian link to Pyrmont Bridge must be physically and structurally separate from Pyrmont Bridge and minimise visual and physical impacts to Pyrmont Bridge. Pedestrian connections to Pyrmont Bridge are to be at the grade of the existing main bridge deck.

Residential Uses

Residential uses should not be permitted on the site. If the envelope were to be approved (which the City does not support) a covenant should be registered on title prohibiting residential uses. The necessity of this is demonstrated by the proposed development at 'Harbourside' (SSD 7874). The applicant for that site originally proposed a commercial tower. However, notwithstanding all assertions made by the applicant that there would '*never*' be a residential tower scheme, the current scheme is now residential. (The City's response in regard to SSD 7874 should be read in conjunction with this letter).

Consultation

It is noted that the EIS prepared by JBA claims that consultation has occurred with the City and that the key issues raised have been responded to. The scheme that now forms part of the application has not materially changed as a result of any of the comments made by the City through consultation. The City's fundamental concerns in relation to this proposal have not been addressed.

Contributions

The EIS claims that embellishment works within the applicants' private development site will cost \$80 Million dollars (The City also notes that this is an unsubstantiated cost i.e. there is no QS Report). The EIS also claims that upgrades will include a new private park, new private 'public' art and ongoing maintenance of the private building. These are not public benefits. They are private benefits that are required as part of the proposed future development to the developers benefit. Nothing additional or over and above the actual requirements for a development site is being offered through a

Voluntary Planning Agreement. The proposed land uses described, which are all private and commercial, should in no way be linked to any offset in contributions.

Private View Loss

No actual detail of impacts on private view loss have been prepared. There is no discussion of which residential buildings will be impacted as a result of view loss (this is negligent and a gross oversight). There has also not been any assessment of the impact on those private views using the Planning Principle set out by the Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

No Land Owner's Consent

There is no evidence that landowner's consent has been obtained by the NSW Government (NSW Property) and this application cannot be approved without land owners consent. The Department of Planning should not progress the application.

Summary

Once again the City reiterates its **strong objection**. It is an overdevelopment of the site resulting in real and tangible environmental impacts with minimal public benefits and the applicant has failed to obtain landowner's consent.

Should you wish to speak with a Council officer about the above, please contact Christopher Corradi, Area Planning Manager (Major Projects), on 9246 7592 or at ccorradi@cityofsydney.nsw.gov.au

Yours sincerely,



Graham Jahn AM
Director
City Planning | Development | Transport