

Our Ref: ARB:MSS:204
Your Ref:

7 August 2018

BY EMAIL: matthew.rosel@planning.nsw.gov.au

Mathew Rosel
Planner
Department of Planning and Environment

Copy: Anthea Sargeant
By email: anthea.sargeant@planning.nsw.gov.au

Dear Mr Rosel

Re: Objection to SSD 7684: Cockle Bay Wharf Redevelopment (Concept Proposal) ("Application") as modified by Response to Submissions Report

We act for the owners of Strata Plan 49259 comprising the major residential development known as One Darling Harbour.

We refer to the exhibition of the Application as modified by the proponent's Response to Submissions report dated 5 July 2018 (**RTS Amended Proposal**).

Our client hereby objects to the RTS Amended Proposal.

Our client's submission is founded on the matters set out below, the **attached** further submission of Ingham Planning prepared by Mr Neil Ingham on behalf of our client and our initial letter of objection dated 14 February 2017 and the two prior submissions of Mr Ingham (made on behalf of our client) dated 14 February 2017 and 21 November 2017.

In addition to the matters raised by Mr Ingham we make the following submissions:

1. The RTS Amended Proposal remains incompatible with the principles and objectives of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (2005 SREP)* in that it fails "*to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour area recognized, protected, enhanced and maintained:*
 - i. as an outstanding natural asset, and*
 - iii. as a public asset of national and heritage significance,**for existing and future generations.*" (Clause 2(1)(a), 2005 SREP)
2. It is entirely at odds with the objectives of the *Environmental Planning and Assessment Act 1979* and the core principle of the 2005 SREP that "the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores", that development of this scale in this significant (and strategically important) location proposed by a private proponent, solely for its commercial gain, may be considered by a consent authority without the benefit of detailed planning controls developed in consultation with the community. As set out in the RtS document the

process for developing planning controls for the site involved deliberations of the “Design Committee” (being a body convened by the proponent comprising representatives of each of the co-owners (comprising the proponent) and experts engaged by the proponent the proponent) and three workshops with member of the Design Committee and Mr Webber (an independent urban designer appointed by the DPE). Details of Mr Webber’s scope of engagement and the views he expressed at the workshop are unclear. Similarly, it is unclear whether Mr Webber supports the ultimate proposal and is of the view that it is consistent with SREP 2005 and its requirement that development in the Foreshores and Waterways Area be for the benefit of the public.

As set out in our letter dated 14 February 2017:

- a. Government cannot delegate responsibility for identifying and developing a strategic vision for this area to private proponents. The idea that a private proponent through a concept plan and subsequent master plan (subordinate to that concept plan) can be delegated authority to plan and develop a site considered by the State to be of strategic significance without any detailed specific planning criteria is an open invitation for ambit development claims.
 - b. Unless and until a master planning process with legitimate opportunities for public consultation and with the clear objective of ensuring that development is in the public interest is undertaken, no consent authority (or Court on review) could be satisfied that the aims of the SREP have been met.
3. The height, bulk and scale of the development and the proximity of the tower to the waterfront remains inconsistent with the 2005 SREP and accepted principles of urban design. The adverse impact of the proposal on the waterfront is evident in the images in Figures 27, 28 and 34 of the RTS: Appendix D Supplementary VVIA Report. The RTS has incorrectly characterised our client’s submission as limited to “Statutory and Strategic”¹. Our client also objects to the proposal on the basis of “Urban Design and Built form”, “Visual Impact”, “Public Domain” and “Public Interest”. The minor amendment of the design has not altered our client’s submissions on these issues.

The approval of a “concept plan” like the present scheme will have long term adverse consequences for the precinct and will leave the State and its agencies open to claims of neglect or worse.

¹ Ethos Urban – Response to Public Submissions Table 1



Yours faithfully
Beatty Legal



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