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Date: 14 December 2017
Our Ref: PR136081
Via: Email to Council

Attn: Bridget McNamara
City of Sydney Council
GPO Box 1591
Sydney NSW 2001

Dear Bridget

201-217 Elizabeth Street, Sydney (DA 2017/349): Letter of Objection, amended development

This letter of objection to the proposed amended development at 201-217 Elizabeth Street, Sydney has been prepared on behalf of Mrs Dawn Bruce of Apartment 3102, 197 Castlereagh Street, Sydney.

Mrs Bruce lives on the 31st floor of the apartment building directly to the west of the existing building at 201-217 Elizabeth Street, Sydney (Lot 1 DP 866008) which is proposed for redevelopment.

Mrs Bruce has lived in her apartment for approximately 2½ years. She was not aware until early this year of the proposal to redevelop the site opposite, at 201-217 Elizabeth Street, despite undertaking careful due diligence prior to purchase of her apartment, including discussing with Council any proposed redevelopments that could impact upon her property.

There are a number of issues which have been identified as a result of the amendment to the proposed development (the proposed central option) which will impact upon Mrs Bruce (and others in her apartment building). These include:

- Loss of views;
- Loss of privacy; and
- Construction impacts.

These issues are addressed in the following sections.

Loss of views

The proposed new central location for the building is expected to reduce the impact upon Mrs Bruce's view however a view analysis from her apartment or a comparable apartment has not been carried out.

The closest comparable private view analysis has been undertaken from apartments 1402, 2601 and 3501 within 197 Castlereagh Street. Apartment 1402 is affected by the building podium

which will not impact upon Mrs Bruce's apartment no. 3102. Apartments 2601 and 3501 are in a different location within the building from apartment 3102 therefore the impacts upon those views will be different from the impacts upon Mrs Bruce's views.

RPS undertook a site visit to Mrs Bruce's apartment on Wednesday 19 April 2017 at 2pm and took the photos below. These photos were taken from the balcony and lounge room of Mrs Bruce's apartment on level 31. The yellow shading indicates the loss of views that was expected to have occurred as a result of the previously proposed northern option.

The first objection lodged on behalf of Mrs Bruce to the northern option looked at the Planning Principle of view sharing which is addressed on the Land and Environment Court website. The key decision in this regard is *Tenacity Consulting v Warringah Council* (decision dated 7 April 2004). The decision adopted a four-step assessment to determine when view sharing is reasonable.

The steps are as follows:

1. *An assessment of the value of views to be affected by reference to their nature, extent and completeness.*

In Mrs Bruce's case, the views that would have been affected by the northern option were iconic Sydney views encompassing Hyde Park, St Mary's Cathedral, the Botanic Gardens, the Art Gallery of NSW, Woolloomooloo Wharf, Garden Island, Sydney Harbour and the Headlands. It is difficult to determine the extent of view loss as a result of the proposed central option because a view analysis has not been carried out from Mrs Bruce's apartment or a comparable apartment at 197 Castlereagh Street.

The *Tenacity Consulting vs Warringah Council* decision referenced above identifies iconic views as being highly valued. In addition, water views are valued more highly than land views. Whole views are identified as more highly valued than partial views.

As can be seen from the photos below, Mrs Bruce's views are whole views of an iconic landscape. Sydney Harbour is part of her view and therefore it is expected that loss of water views would occur. The views are extensive and it is yet to be determined how much of Mrs Bruce's view would be lost if the development were to go ahead as proposed in the amended documentation. However, it is noted that the tower envelope of the proposed central option is located further north than the existing building envelope by 8m at its northernmost point. Therefore, it is anticipated that the impacts upon Mrs Bruce's views will be significantly adverse as a result of the proposed central option.

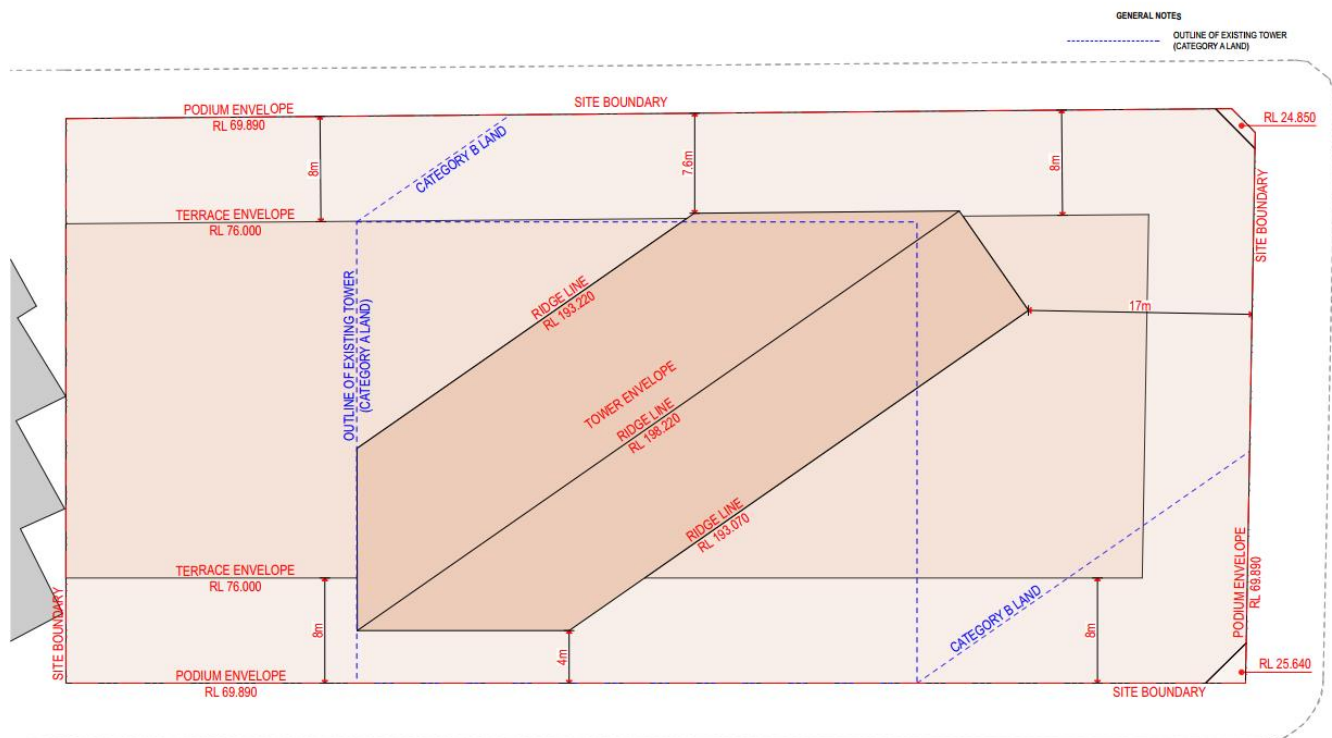


Figure 1 Proposed Envelope

Source: Francis-Jones Morehen Thorp architects

2. *A consideration of how views are obtained and what part of the property the views are obtained from.*

Again, it is difficult to determine this in relation of loss of views from Mrs Bruce's apartment without a view loss analysis being provided for her apartment. However, based on view loss determined for the northern option, and given that the central option tower envelope is still 8m further north than the existing building, it is expected that Mrs Bruce may suffer loss of views from:

- her balcony, both sitting and standing views;
- from her lounge room, again both sitting and standing views;
- from her kitchen; and
- from her bedroom, which is located immediately to the north of the lounge room.

The Tenacity vs Warringah decision includes that views from living areas are considered more significant than views from bedrooms or service areas, however views from kitchens are highly valued because people spend so much time in them. The decision also identifies that standing views are easier to protect than sitting views. Views from the front of properties are also easier to protect than those from the side or rear of properties.

3. *A qualitative assessment of the extent of the impact in terms of severity particularly as to whether that impact is negligible, minor, moderate, severe or devastating.*

The decision advises that it is more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating rather than quantitatively. In Mrs Bruce's case, the view loss from the central option cannot be assessed accurately

without the view analysis specifically including her apartment. Her current view is a highly impressive vista of many Sydney icons which she has expected to enjoy in perpetuity.

RPS considers that the proposed amended redevelopment will still cause a severe impact upon Mrs Bruce's views, with the associated loss of property value that would result and significant impacts upon Mrs Bruce's enjoyment of her property.

4. *An assessment of the reasonableness of the proposal causing the impact particularly in terms of compliance with applicable planning controls and whether a different or complying design must produce a better result. 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.*

The EIS identifies that the site is subject to the Hyde Park West sun access plane as defined under clause 6.17(10) of the SLEP 2012. The site is also identified as part Category A and part Category B and is subject to clause 6.18.

The tower element of the proposal exceeds the sun access plane and as it is partially located on Category A land and partially Category B land it is considered prohibited by clause 6.17(2).

The proposed amended development with a central tower results in non-compliance with this sun access plane planning control. The impact upon Mrs Bruce and others in the apartment building is therefore considered unreasonable as a complying design (Option 2 within the Environmental Impact Statement prepared by JBA dated March 2017) would produce a far better result for these neighbours.

RPS considers that the Visual and View Impact Analysis prepared by Ethos Urban dated November 2017 and provided with the amended documentation does not sufficiently demonstrate the view loss that will be incurred to Mrs Bruce's property as a result of the proposed central option for the redevelopment of 201 Elizabeth Street. The diagrams provided in the assessment do not show the views that would be obscured by the proposed building. However, it is expected that there will be significant loss of views from Mrs Bruce's apartment as the tower of the proposed central option is 8m further north than the existing tower on the site.

Our earlier submission requested that the central option be considered in more detail. However, the revised documentation does not assess view loss affecting Mrs Bruce's apartment 3102 at 197 Castlereagh Street.



Figure 2 View from Mrs Bruce's balcony

Note: The yellow shading indicates the extent of the view loss from the previous northern option.



Figure 3 View from Mrs Bruce's lounge room

Note: The yellow shading indicates the extent of the view loss from the previous northern option.

Loss of privacy

The location of the proposed central option is considered to be an improvement on the originally proposed northern option in terms of privacy impacts because the tower of the central option is only 0.4m closer to 197 Castlereagh Street than the existing building on the site.

The previous northern option tower envelope extended right to the site boundary and was therefore 7.6m closer to 197 Castlereagh Street than the central option tower envelope that is now proposed, and 8m closer than the existing tower. Given the change of use that is proposed from commercial (office) uses within the tower component, to residential within the tower component, this greater distance is viewed as a positive change as privacy impacts will be reduced as a result of the greater separation distance between the two buildings. However, the northern option sites the tower envelope 8m further north than the existing tower, therefore the feeling of being crowded in by the new building which resulted from the previously proposed northern option continues to be an issue for the central option.

There are still concerns regarding the change from commercial to residential use of the tower and the impacts this would have on privacy for Mrs Bruce. The design of the new building must ensure that privacy impacts are addressed and the impacts minimised to the greatest extent possible, through internal room layout, window placement and treatment and so on.

Construction impacts

There will be significant and ongoing construction impacts upon the residents of Mrs Bruce's building. The EIS advises that construction is likely to take in the order of 3-4 years. That is a long period of time for residents to endure the noise and dust that comes with a construction site, as well as the disruptions to access, both vehicular and pedestrian, that would result. It is imperative that careful control of construction works are put in place by way of a Construction Management Plan, including hours during which construction can take place, if redevelopment of 201 Elizabeth Street takes place.

It is noted that the Response to Submissions document prepared by Ethos Urban dated 2017 includes a mitigation measure that a preliminary CMP will be prepared in consultation with key stakeholders and submitted with the Stage 2 SSDA. In addition, a CTMP will be prepared prior to CC. These measures are fully supported and are the typical expectation for a development proposal of this sort.

Conclusion

RPS seeks, on Mrs Bruce's behalf, the following:

- Move the tower component of the proposed building envelope so that it is no further north than the existing building on the site.
- If a development is approved, ensure that a detailed Construction Management Plan and Construction Traffic Management Plan are prepared prior to CC.
- If a development is approved, ensure that the design of the new building minimises privacy impacts on neighbouring residents to the greatest extent possible, through internal layout, window placement and treatment and so on.



Yours sincerely

RPS

A handwritten signature in blue ink, appearing to read 'L. Bochner', on a light-colored rectangular background.

Louise Bochner
Director of Planning

cc: Mrs Dawn Bruce, Apartment 3102, 197 Castlereagh Street, Sydney, NSW 2000