



Our ref: 107016

8 May 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 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. 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 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.
2. Appendix D, SSDA Design Report Revision E, prepared by Aspect Studios, dated March 2020.
3. Appendix C: Supplementary Architectural Design Report by Francis-Jones Morehen Thorp (FJMT), Part 3.
4. Appendix E, Amended Proposal VVIA, Part 1, prepared by Ethos Urban, dated 26 February, 2020
5. Appendix E, Amended Proposal VVIA, Part 3, private domain photomontages, prepared by Virtual Ideas.
6. Appendix E, Amended Proposal VVIA, Part 4, view sharing report, prepared by Virtual Ideas.
7. Stage 1 DA Harbourside design drawings dated 11 February 2020, prepared by FJMT.
8. FJMT Original Design A, Stage 1 Design Report, Part 6.

The purpose of this report has been to investigate the scope, comprehensiveness, accuracy and the veracity of the analyses, assessments and conclusions provided in relation to visual effects and impacts on private domain views from One Darling Harbour.

3.0 Proposed Modified Development

The modified application is for a Stage 1 Concept Proposal to redevelop the existing Harbourside Shopping Centre situated approximately between Pyrmont Bridge to the north and the ICC Sydney adjacent to it to the south.

The Concept Proposal seeks approval of a building envelope that will allow for a podium of up to five storeys in height up to a height of RL31m and a tower with a top level of RL153.75m. The tower element is proposed to be relocated further to the south toward the ICC Hotel and south of an axial connection with Bunn Street, with greater separation between the northern part of the podium and Pyrmont Bridge.

The tower component of the development is now proposed to be approximately 135m from Pyrmont Bridge, 77.635m from the ICC Hotel and 91,635 at its closest from One Darling Harbour. Moved significantly further south than in the original application in response to submissions from agencies, organisations and private owners such as One Darling Harbour, the location of the tower improves the average level of impact on views from One Darling Harbour in relation to the tower element.

However, closer examination of the massing proposed in the Concept Proposal reveals that it would have significant impacts on view sharing with One Darling Harbour, for reasons set out below.

3.1 Effects of massing on views from One Darling Harbour

The proposed podium directly east of One Darling Harbour will have a height predominantly to RL25m, or 7.55m higher than the existing ridge of the Harbourside building. The podium is of up to six commercial storeys in height above the decking level. The commercial floor to floor heights proposed are greater than in the existing Harbourside building. Therefore, even if it was of the same number of levels as the existing Harbourside building east of One Darling Harbour, the podium will cause greater view loss than the existing building.

The envelope of the podium has no articulation in the section directly east of One Darling Harbour and is flat, whereas the existing Harbourside building has a pitched roof, allowing downward views over it from some residential apartment levels in One Darling Harbour. Thus the impacts of the envelope on views from levels of One Darling Harbour would be underestimated in the modified application for those levels with similar or somewhat higher eye heights to the ridge of the existing Harbourside building.

The reason for this underestimation is that the trailing edge of the podium, toward the water, is both higher than the existing ridge of the Harbourside building and also extends horizontally into the view line, whereas the existing built form of the Harbourside building slopes down beyond the ridge. This allows views to exist toward the land-water interface and the water in Cockle Bay downward over the sloping roofs, for levels of apartments in One Darling Harbour that are currently above the ridge height of the Harbourside building, views from which would be blocked by the proposed podium.

The podium is also proposed to step upward on the north side of the base of the tower to a maximum of RL31m north of the tower. This part of the podium, at 13.6m higher than the ridge of the existing Harbourside building, will have significant impacts on views to the south-east from One Darling Harbour. For the northern part of the podium therefore, the proposed podium varies from 7.6m to 13.6m higher than the ridge of the Harbourside building. This is equivalent to approximately 2.5 – 4.5 residential storeys. Clearly, apartments in One Darling Harbour over a significant part of the building will experience significant view loss caused by the height and the massing of the podium.

This is proven by the applicant's Supplementary Architectural Design Report which shows in Image 66 at Page 45 a comparison between the effect of the existing Harbourside building on views and the effect of the podium, at Level 4 of One Darling Harbour. All of the Harbour water view, all of the Pyrmont Bridge and all of shore on the east side of Cockle Bay would be lost, if the computer-generated images (CGIs) are accurate.

In image 65, a comparison is made between the effect of the existing Harbourside building on the view and the effect of the podium, on the view from Level 8 of One Darling Harbour. In the existing view, the whole of the waters in Cockle Bay and Pyrmont Bridge are visible, whereas in the proposal, the northern part of the podium blocks most of the water, part of Pyrmont Bridge and a section of the eastern shore of Cockle Bay.

Even at Level 12 (Image 67), the higher and more easterly location of the massing and leading edge of the podium blocks the view of the foreshore and part of Pyrmont Bridge in the view from One Darling Harbour, whereas the foreshore and the Bridge are currently fully visible as a scenic composition.

The fact that the proposed envelope will block water views from One Darling Harbour up to at least Level 7 is demonstrated in the Design Report in Image 53 at Page 41, where the CGI shows that the northern part of the podium blocks virtually all of the water views.

This finding is however also inconsistent with the Design Report itself, which in the section titled Design Evolution – View Sharing Analysis, at Page 40, shows an elevation of the western shore of Cockle Bay including One Darling Harbour, against which four envelope scenarios for the development are shown. Leaving aside the gratuitous nature of this analysis, the proposal is shown on the right in orange outline and fill with the elevations of One Darling Harbour behind.

The colour key above is to parts of the building that are affected by view loss and its significance. Red colour indicates a part of the building where there is a high impact. There are no apartments coloured red. No view loss caused by the proposal to One Darling Harbour is therefore rated as high impact. Orange indicates parts of the building where there is a significant impact. Logic dictates that anything shaded red or orange must experience a significant impact. However, there is no explanation of the difference between a high impact and a significant impact. None of the apartments in One Darling Harbour are shown shaded in orange either, as experiencing a significant impact. This is an extraordinary conclusion, given that it is clear that at least three levels of One Darling Harbour above those affected by blocking of views by the Harbourside building in the existing environment will lose all their water views.

In addition, as pointed out above and as demonstrated by the applicants' own CGIs, levels above these will also lose views of water, up to approximately Level 7. This is proven by Image 54 in the Design Report at Page 41, which shows the impact predicted for the envelope on views from Apartment 504 in Level 5 and by Image 53 that shows the impact of the envelope of the proposal on views from Apartment 701 on Level 7. What will be visible instead of water, land-water interface and a view of significance scenic value will be a view dominated by the back and top of the podium in the foreground. One would reasonably ask, what is it that constitutes a significant impact in this analysis? In my opinion, the impacts on views, as was the case with the original application, have been underestimated and undervalued.

4.0 VVIA by Ethos Urban in relation to One Darling Harbour

This report is confined to consideration of view impacts on One Darling Harbour. However, one aspect of the structure and assumptions of the Ethos Urban report is of particular relevance, being the weight to be given to impacts on views from the private domain. The report seeks comfort in various irrelevant instruments and policies for the claim that impacts on private views should be ignored or minimised.

The report begins with a list of environmental planning instruments, policies and guidelines, most of which it also acknowledges correctly are irrelevant, as they do not apply to Darling Harbour, for example the NSW SICEEP Urban Design and Public Realm Guidelines, The Sydney DCP 2012, the Draft Central Sydney Planning Strategy and principles and strategies of the Darling Harbour Strategic Framework.

The report notwithstanding 'cherry picks' through these instruments and policies that it agrees are irrelevant, looking for evidence that supports dismissing impacts on views from the private domain. For example, it takes comfort from the Sydney DCP 2012, which is not only irrelevant and has no statutory weight, but nevertheless makes sweeping claims about overall City Council policy with no justification, for example, in Section 3.5 at Page 19:

The current planning objectives, strategies, principles and development controls for the Sydney CBD have also long recognised that 'outlook' as distinct from 'views' is the appropriate measure of residential amenity within a global CBD context.

The report goes on in Section 3.6 to discuss the irrelevant Draft Central Sydney Planning Strategy and proposed draft amendments to the Sydney LEP 2012 and the Sydney DCP 2012.

As there are no controls that currently apply to impacts on views in the private domain, the assessment of the environmental impacts has to follow the principles and provisions of s.4.15 of the EP&A Act for assessment, that apply to the assessment of the impacts of any development. The relevant principles include *Tenacity*, *Pafburn*, or *Davies* in relation to view impacts. Further, as there are no controls, the Land and Environment Court of NSW planning principles are relevant, as confirmed in *Bastas Architects v Willoughby City Council [2008] NSWLEC 1360*. The VVIA by Ethos Urban does not adopt an analysis or an assessment based on any of these relevant principles and uses a subjective scale of the severity of impact that is unexplained, in assessing impacts on views from One Darling Harbour and other residential properties.

The VVIA in Section 1.2 Overview of the Amended Concept Proposal notes at Page 5:

One of the key drivers for amending the Concept Proposal has been in response to submissions made with respect to view impacts to 50 Murray Street.

It would be reasonable to expect that as a result of this key driver of modifications to the proposal, that a higher level of scrutiny of the likely visual impacts and impacts on view sharing of the proposal with One Darling Harbour would be undertaken by the proponent for the modified application. The impacts of the podium and of the tower on view sharing were underestimated in the original proposal. In the modified proposal, essentially the same views from the same unrepresentative levels in One Darling Harbour are analysed as was the case for the original application, ensuring that some of the deficiencies in coverage and lack of acknowledgement of the extent to which views would be impacted in One Darling Harbour by both the podium and the tower element are perpetuated in the current proposal.

In Section 1.2 Overview of the Amended Concept Proposal at Page 7, in relation to the reduction in height of the podium it is stated:

A portion of the podium height at its northern extent has been partly reduced from 30.5 RL to RL 25. The reduction in height provides for improved view sharing from 50 Murray Street.

This claim is not borne out by the private view photomontage report or the view sharing reports (see separate analyses below). The facts are that the podium height in the proposed amended application will cause view loss to levels of One Darling Harbour which currently have views over the existing Harbourside Shopping Centre building. The claimed improvement is also theoretical, because the statement is made by comparing one

theoretical proposal for the height of the podium (the original application) with another (the proposed amended application). The quantum of the improvement, if there is one, is meaningless, as the additional impact on views caused by either of the proposals has not been justified.

The height proposed in the modified application, even of the part that is now proposed to be at RL 25, causes significant view loss in excess of what is caused by the existing shopping centre, as shown in the analyses of the photomontage and view sharing reports later in this report and is unnecessary and unreasonable.

The Visual Analysis in relation to One Darling Harbour, is in Section 5.1.4 at Pages 43-51.

It is difficult to understand how the likely impacts on views from One Darling Harbour would be affected and also how the proposed building envelopes fit into the existing context, because of the distortion of images provided by Virtual Ideas that are included in the Ethos Urban report and other reports (for examples Figure 2, 14 and particularly Figure 15). Figure 15 is also at Page 9 of the Aspect Studios SSDA Public Domain Design report.

In Figure 15, the northern part of the podium which is partly adjacent to Pyrmont Bridge, appears to be severely tilted upward from west to east, such that a person walking from west to east inside the building would be walking uphill. That cannot be correct or an accurate representation of the likely appearance of the building. The trailing edge of the podium seen from One Darling Harbour would be significantly higher than the leading (western) edge, if this element of the proposed envelope is correctly represented in the photomontage. The podium appears to be more level moving southward, but the southern section adjacent to the tower appears to be tilted downward toward the waterfront.

The model appears to be less distorted in Figure 2 at Page 7. However the upper surface of the podium between Pyrmont Bridge and the Bunn Street axis north of the tower is clearly tilted toward the south in this case, whereas, in the CGIs prepared for views from the upper levels of One Darling Harbour in the Virtual Ideas view sharing report, as noted later in this report, the model appears to be tilted in the reverse direction (that is, tilted toward the north). An example is the amended Concept Proposal view, Figure 20 at Page 48. While it is conceded that these graphics are indicative, it appears that more work has gone into making them look attractive than toward getting them to be accurate.

At the top of Page 44 it is stated:

These key design changes (relocating the tower element future south and within the centre of the site together with reducing the height of the podium) have the express effect of significantly reducing impacts on view experienced by those apartments on the eastern elevation of 50 Murray Street (refer to Figures 15 and 16) (my emphasis).

A person referring themselves to Figure 15 would get a very misleading impression of the likely appearance of a future building or the impact on views from One Darling Harbour, for the reasons above. The aerial view with its distortions does not provide any useful assessment of impacts on the views. Figure 16, which is also referred to, is a selected part of an image from the design report which is analysed in more detail later in this report, but is without a key that describes what the colours and outlines mean. However, what the figure does show is that there would be a substantial increase in view loss for One Darling Harbour

compared with the existing situation, regardless of the form of the item causing the most significant view loss (the podium).

As this effect is shown even in the abstract representation in Figure 16, one would be justified in asking, why were no apartments, for example at Levels 3, 4 or 6 on the east side of One Darling Harbour that are at or below the orange line in Figure 16 not assessed, if the express intention of the proposal is to significantly reduce impacts on the building?

The answer seems to be that the applicant doesn't consider a significant view loss, including view loss rated as severe in extent of impact on some of the apartments and on levels above those affected by views of the Harbourside building, to be of concern. This is confirmed by a statement at Page 48:

The overall view impact to low-rise apartments is considered to be moderate-severe. This impact needs to be considered in context however, especially that any reasonable redevelopment proposal of the subject site (noting there are no planning controls that apply in terms of built form) would have a comparable level of impact to that proposed. The impact is also considered reasonable given Mirvac's key objective to rejuvenate a tired and outdated retail centre with a modern offering that continues the transformation of Darling Harbour and significantly contributes towards the tourist and visitor economy.

In my opinion, both premises on which this argument is founded are without foundation. There are no clear public benefits in there being a residential tower in the proposal and there is no justification for the additional impact on views caused by the height or massing of the podium.

As a matter of logic also, in relation to the claim quoted above, as there are no controls, it is impossible to make the statement validly that any reasonable development would have the same effects, as there is no benchmark against which to judge this. Professor Webber, in the Consolidated Agency Response to Submissions, as the independent Urban Design Review, suggests a benchmark, which is that no additional impact on the views from One Darling Harbour in excess of what is caused by the existing Harbourside building is a standard which the podium north of the proposed tower in the proposal should achieve. I agree with that benchmark and that it is a reasonable one to achieve. The proposal does not achieve it.

The VVIA repeats a different version of the same argument refuted above, in the Summary, at about 0.5 of Page 50, as follows:

While partial water and CBD skyline view are reduced or removed by the building, it is important to acknowledge that this reduction in view is not simply the result of the height or bulk of the proposed building in itself. Given the position of the Site in relation to the One Darling Harbour building, other redevelopment options would have a similar impact on views or would increase impacts to other buildings in the vicinity of the Site.

Both premises in this claim are also invalid. The reduction of view is directly attributable to the height and bulk of the proposed envelope and where it is placed. If the impacts are unavoidable, as implied, this proves that the site is inappropriate for the proposal.

The claim that other development options would have similar impacts is also without foundation. In point of fact, if the environmental impacts had been adequately assessed, it

would be concluded that the proposed development and similar versions in different locations would be likely to be equally unacceptable, for the same reasons.

4.1 Summary in relation to VVIA by Ethos Urban

The VVIA is dismissive of visual impacts and view loss, basing this on the premises that impacts are unavoidable and no worse than other permissible proposals. Neither of these premises is tenable.

The examples given in the figures in the document that support the statements that the impacts are acceptable without exception show the maximum impacts of the original tower location on individual views where the tower would be in the centre of the view from One Darling Harbour. The analysis lacks balance as a result. It does not present views of levels in One Darling Harbour from which there would be greater view loss than in the current situation. There are no images that compare the existing view to the view impacted by the proposal.

The VVIA makes much of the intention to minimise view impacts on One Darling Harbour in the amended proposal, however the coverage of analysis of views from the building has similar deficiencies as were found in the original proposal. I agree that the placement of the tower leads to lesser impacts on that aspect of the views from the building. However, the analysis and assessment of impacts on views from low to medium-rise apartments is inadequate, in particular with regard to the impact of the height and massing of the podium.

In my opinion the height and the east-west depth of the northern section of the podium causes significant view loss that has not been acknowledged and should be reconsidered, if the overall strategy for redevelopment, with a podium-tower building is accepted. These features of the proposal do not achieve a reasonable view sharing outcome.

5.0 Analysis of private view photomontage report

Appendix E Part 3 by Virtual Ideas contains photomontages of the modified application in relation to private views. The appendix begins with a standard description of the modified proposal and a description of the methodology adopted in preparing the photomontages. The report contains no assessment of the nature, extent or significance of impacts on the views that are depicted.

No new photography since 2016 was undertaken for the majority of the images used. 3D models of buildings constructed, under construction, approved but not constructed and submitted for SSDA approval have been added electronically to the images. The latter (ie. SSDA applications) are irrelevant in my opinion and should be ignored.

The methodology adopted is generally acceptable given the practical constraints as is the convention of using a 24mm camera focal length for the images. The photomontages depict an acceptable but variable level of accuracy, as the levels from which the images have been captured have only in some cases been surveyed.

The addition of a crop area that would represent the view using a 50mm lens equivalent is appreciated, because this focal length would be more relevant to internal views and can

assist the consent authority in determining the likely impact on those views, compared to the external views that are the only ones represented in the photomontage report.

A markup of what is described as surveyed private view positions in One Darling Harbour is shown at Page 10. However, it appears that the locations with red dots, the apartment numbers for which are shown, have been surveyed, whereas those with blue dots have been assumed based on other information. Notably, there are no views from the apartments marked by blue dots in the photomontage report.

As a result, there are no views from One Darling Harbour shown in the report, between Levels 5 and 13 and there are three from Level 2, where the existing Harbourside building blocks views of the Harbour. The Design Report showed that views of items valued in Step 1 in *Tenacity* would be lost to apartments up to at least Level 8. The coverage provided by the photomontage report therefore, which contains no views between Levels 5 and 13, is of virtually no use to the consent authority as the basis on which to analyse the effect of the proposal on view sharing from the private domain in One Darling Harbour.

In the report I prepared for One Darling Harbour on the original application, I provided photographs, block photomontages and assessments from apartments on Levels 6, 7, 9, 13 and 15 (Apartments 604 and 613 on Level 6, 701 on Level 7, 902 and 913 on Level 9, 1302 on Level 13 and Apartment 1509 on Level 15). The photomontages report assessed only two of these (Apartments 1302 and 1509), one on Level 5 (Apartment 504) and added three, all on Level 2 (201, 204 and 212).

Leaving the lack of adequate coverage aside, at Level 2 (Apartments 201 and 204) the existing Harbourside building blocks views of the Harbour waters, retaining the shoreline on the east side of Cockle Bay and the composition provided by CBD buildings beyond. In the view from both Units 201 and 204, the Pyrmont Bridge is presently visible. The podium proposed in the modified development blocks out all of these items, leaving a partial view of CBD buildings only.

In the view from Apartment 212, a partial view of the western approach to Pyrmont Bridge would be retained, the rest of the view east and south-east being blocked out by the proposed development. In relation to Level 2 therefore, the higher podium causes substantial view loss in excess of what is caused by the existing Harbourside building to One Darling Harbour.

Only one view from a Level 5 apartment is shown (Apartment 504). The current north-east, east and south-east views include Pyrmont Bridge, Harbour waters, the eastern shoreline and land-water interface of Cockle Bay and a panoramic view between south Barangaroo and Haymarket. The podium of the proposed development would block views of all of the water and foreshores and destroy the composition of the whole view, which depends on the continuous presence of the land-water interface, the combination of which is referred to as highly valued in Step 1 of *Tenacity*.

If the composition of the 50mm focal length view is considered, for example in the east view from Apartment 504 at Page 14, which may be more representative of a view from the interior of the apartment, it is evident that the difference in composition and scenic quality of the view, caused by the height and horizontal extent of the podium in the view is dramatic. No highly valued items of the view would remain. Clearly, views from levels to at least Level 5 would be severely affected with regard to view sharing, however this is not acknowledged in

the Design Report. As already noted above, the photomontage report makes no assessment of the effects of the proposal on the views.

Not surprisingly perhaps, at Level 13 (Apartment 1302) and Level 15 (Apartment 1509) the proposed development has lesser impacts on view sharing in the view north-east or east. I noted however, that there appears to be significant distortion in the CGI images of the podium in the views, as the upper surface does not appear to be level and is sloping significantly to the north, as particularly evident in the east views on Page 15 and 16. Clearly the photomontages are more indicative than realistic.

5.1 Summary in relation to view photomontage report

The methodology for photomontage preparation is accepted but the coverage provided of levels and apartments in different parts of one Darling Harbour that would experience view loss is inadequate and unrepresentative of the likely location and extent of impacts.

For example, there are three view places represented at Level 2, where there are severe impacts and none at Levels 3 or 4, which would be equally seriously affected by view loss. The absence of assessment of these levels is a significance flaw in the documentation, as these levels and Level 5 are likely to experience the greatest view loss, which is caused primarily by the podium of the proposal.

Only one apartment at Level 5 is represented. None other are represented between Levels 5 and 13, with one represented at Level 15. Levels 13 and 15 are significantly less affected by view loss other than from the tower element. As the tower is significantly taller than One Darling Harbour, every level of the building would be affected to a similar extent by view loss caused by the tower. As such, the impact on of the podium is more relevant to a larger number of apartments, particularly those that are above a level equivalent to the height of the existing Harbourside building.

The photomontage report under-represents view locations that would be affected, under-represents the extent of view to be lost as a result and is of minimal value to determining an appropriate height and massing for the podium in relation to view sharing. The evidence in the Design Report itself and in the Stage 1 DA Harbourside drawings of the east elevation is that the height of the podium will have severe to devastating impacts on views from One Darling Harbour from Level 2 and six levels above that have been ignored.

6.0 Analysis of private view sharing analysis report

Appendix E Part 4 by Virtual Ideas contains CGIs of the modified application in relation to a selection of private views. The appendix begins with a standard description of the modified proposal and a description of the methodology adopted in preparing the CGIs. Although it is titled a view sharing analysis report, it contains no assessment of the nature, extent or significance of impacts on the computer generated images that are depicted, nor any reference to the planning principle for view sharing in *Tenacity*. The view sharing analysis report is simply a series of images, not an analysis, and it is of no value with regard to the determination of impacts on view sharing.

CGIs relevant to One Darling Harbour are confined to three virtual view points, two at Level 9 and one at Level 13. There is a key plan at Page 36 to the locations of the virtual cameras. They are the locations of the blue dots on same plan shown in Appendix E Part 3, photomontage report, at Page 10. The locations and RLs of the virtual camera have been extrapolated from other data and have not been surveyed.

I inspected views from One Darling Harbour on January 31st 2017 from apartments; 201, 501, 504, 513, 604, 613, 701, 902, 913, 1302 and 1509. The analysis in my report included assessment of 9 apartments between Levels 2 and 9 in One Darling Harbour. My report was critical of the lack of coverage of likely view sharing impacts on the lower and mid-rise levels of One Darling Harbour, which were most likely to experience the greatest overall view loss.

I determined that based on the Virtual Ideas location map and RLs shown for P1, P2 and P3 (CGI locations) provided with the original application that these were at or close to apartments 902, 912, and 1302 respectively.

The CGIs in the private view sharing analysis report are from the same locations as for the original application, with none between levels 5 and 9 and as a result, the places modelled are not representative of the parts of the building that would experience the greatest impact on view sharing.

The CGIs for the lowest view place represented at the north end of One Darling Harbour at Level 9 in the report (P1a, P1b and P1c)(probably near apartment 902) are on un-numbered pages in the report (Pages 12, 13 and 14 of the PDF document, respectively).

The proposal is of minimal visibility in the north-east view (P1a). In the east view (P1b), the podium of the proposal blocks most of the water view between One Darling Harbour and the Cockle Bay shoreline. In the view south-east, most of the water view is lost and the tower blocks out the view of the Haymarket area. The CGI confirms that view loss extends far above the height in One Darling Harbour that is identified in the Design Report as experiencing significant view loss.

CGIs for a more central apartment at Level 9 (P2a-P2c)(interpreted as near apartment 912) are at Pages 15-17 of the PDF document, respectively. In the north-east view, the podium blocks the view of a significant part of Pyrmont Bridge and most of the Harbour waters toward the Cockle Bay shoreline. The model of the podium surface does not appear to be horizontal. Was it correct, it is possible that more of the Pyrmont Bridge or alternatively more of the water in the view would be lost to view. In the view south-east, most of the water view is lost and the tower blocks the view of the southern CBD and Haymarket.

CGIs for a southern end apartment at Level 13 (P3a-p3c)(interpreted as near apartment 1302) are at Pages 18-20 of the PDF document, respectively. The roof of a stack of apartments that have a wider footprint to the east than the apartment modelled, blocks the downward view in the foreground and as a result, in views P3a and P3b, there is little of the proposal causing view loss. In the south-east view, the tower blocks the view of the southern CBD and Haymarket Area.

6.1 Summary in relation to view sharing analysis report

In summary, in relation to this report, there is no useful information provided that could assist the consent authority in understanding or assessing the locations affected by impacts on view sharing in One Darling Harbour, the extent of the effect on the views, or the extent of the effect on the building as a whole. The view sharing analysis report repeats assessment of the same notional apartments in One Darling Harbour as in the original application and therefore suffers from the same the lack of adequate coverage in relation to view sharing that was a feature of the original application.

As noted in my report on the original application, potential visual effects and impacts on view sharing should be assessed against the guidance provided in the planning in *Tenacity*. Planning principles are intended to guide assessment of environmental impacts in situations where the planning controls relation to view sharing and view loss are either insufficient or absent, as confirmed in the judgment in *Bastas*.

The existing controls are silent on the issue of view loss and view sharing. Therefore, in my opinion, the potential effects and impacts of the view loss caused by the proposed building envelope should be assessed in the context of the *Tenacity* planning principle. The view sharing analysis report does not provide an assessment against *Tenacity* or any other instrument, provision or guideline.

7 Submissions in relation to view sharing

7.1 Independent Urban Design Review

The Independent Urban Design Review comments of Emeritus Professor Peter Webber in February and May 2018 in the Harbourside Shopping Centre (SSD 7874) Consolidated Agency, Government and Organisation Response to Submissions relevant to view sharing state in relation to the podium and waterfront:

- 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; it appears that this is not the case as proposed but the extent of the additional height needs clarification.*
- b) *The top terrace observation deck would offer excellent outlook but its value for other public activities would be limited given that any planting, screening of structures on the deck would impact views.*
- 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 significance intrusion on views from the west.*

Professor Webber in discussing the observation deck is referring to the upper level of podium at the north end. I agree with each of these points made by Professor Webber. I note also that they go in essence to the height of the podium, its massing and the potential for addition structures and vegetation on the roof level of the podium to have additional impacts on views from the west, ie, from One Darling Harbour.

The analysis for which Professor Webber calls at the end of the section discussing the podium and waterfront has not been satisfactory, but based on my analysis of what has been presented for the modified application, it would show that views from levels up to and above Level 5 of One Darling Harbour would be affected by view loss. The height of the podium on that ground has certainly not been clarified, which is to say, justified.

In relation to the impact on views, Professor Webber said in February, 2018:

Views would be serious in relation to the residential apartments at 50 Murray Street and the adjoining Ibis Hotel.

Professor Webber clearly intended to say that impacts of views would be serious and I agree with this comment. This is the case with the current application.

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.

I agree with this principle and further consider that the ultimate height of the podium should be assessed with the aid of accurate photomontages showing the likely impacts on the levels of One Darling Harbour that would be affected

Professor Webber repeats his concern with the height of the podium in the Summary at the end of the section discussing the podium and waterfront in May 2019, as follows:

I consider that on this basis the revised submission is supportable in principle, subject to the issues raised above being addressed with the height of the northern part of the podium being of critical concern.

I agree with Professor Webber's concerns with regard to the height of the podium. A full analysis and assessment of view loss is required that addresses the levels of One Darling Harbour that are affected, rather than the selective and largely irrelevant locations chosen for photomontages and CGIs in the current documentation.

Both the overall height of the podium and its modelling, in particular the east-west width, which determines the location in the views of the trailing edge of the podium, should be assessed and the height and massing of the podium, if it is to be approved, justified and amended, so as to minimise view loss.

6.1 NSW Department of Planning and Environment

The department states 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 inadequate to compare the existing shopping centre with the proposed building in views from One Darling Harbour (50 Murray

Street) for reasons set out above. The modelling, particularly of the podium, on views from One Darling Harbour, is inadequate, selective, dismissive of the significance of impacts and inconsistent in itself.

8 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 outcome in terms of view sharing with upper level units in One Darling Harbour. However, the tower will impact on views from apartments at all levels with views to the south-east.

The height, width, depth (east to west) and proximity of the podium to One Darling Harbour remain as significant concerns, as the bulk of the envelope, no matter what the articulation may be when subject to later DAs, will cause severe to devastating view loss to lower levels of One Darling Harbour (Levels 1-6 and possibly higher). View loss as a result of the depth of the podium envelope and its maximum height at the south adjacent to the tower will not be confined to these levels. View loss will extend to at least Level 9, as the proposed envelope would block all or most of the view of water in Cockle Bay, in views from some apartments.

The documentation with the application (photomontages and view sharing analysis reports) is inadequate in relation to view sharing with One Darling Harbour. It adopts similar scope and coverage to the original application, which was inadequate. At many levels in One Darling Harbour, there is no information in the photomontages or view sharing analysis reports that shows the likely effects of the proposed envelopes on views (ie. Levels 3, 4, 6, 7, 8, 10, 11, 12 or above 13). Three view places are represented by photomontages in a level where the existing Harbourside building already has a significant impact on access to the view (Level 2), but there is no information for the two levels directly above this (Levels 3 and 4), the impacts on which are likely to be significantly greater.

Only one apartment, represented by photomontages at Level 5, has been assessed in any way, between Level 2 and Level 9. Impacts on Level 9 are represented only by CGIs showing theoretical view impacts. View loss would be significant, even if only the northern part of the podium is considered, up to at least Level 7. The impact on views from this level is shown in the Design Report but it does not appear in the photomontages or view sharing analysis reports. The southern section of the podium north of the base of the tower will cause significant view loss impacts up to Level 9.

The podium that is proposed is six storeys in height, with a super-height ground level commercial floor to ceiling height and greater floor to ceiling heights at every level than the existing Harbourside building. It will be significantly taller than that building even if it was confined to the same number of commercial levels.

As stated in the urban design review by Emeritus Professor Webber, the height of the northern section of the podium is critical and should not cause view loss in excess of what is caused by the existing building.



The height, depth from east to west, massing and height of the podium adjacent to the north edge of the tower needs to be properly justified, based on accurate, comprehensive and representative photomontages or CGIs, based on surveyed view locations. Only when adequate information is provided, can a full assessment of view sharing be undertaken. Currently there is no adequate assessment of view sharing provided in the documentation assessed in this report.

The height and massing of the podium cannot be left to the DA stage to be resolved, as the impacts on One Darling Harbour have not been adequately assessed and at this stage the height and massing of the podium cannot be justified.

Yours sincerely

A handwritten signature in black ink that reads 'Richard Lamb'.

Dr Richard Lamb