

SSD6011

The Haymarket – Mixed Use residential development within the SW Plot

Submission by

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I object to the application on the following grounds:

- as a result of the combined effects of existing overshadowing and the proposed development, some single aspect apartments on the west façade and the south-west dual aspect corner apartments of The Peak which currently receive less than 2 hours direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June, will suffer additional overshadowing
- the proponent (and seemingly the consent authority) still does not accept, and certainly does not take into account for both overshadowing and loss of view, the basic fact that many north and west facing apartments at The Peak are single aspect.
- the proponent does not appreciate that the Podium on Level 6 of The Peak (which is part of The Peak Strata Pan 54036) is a community outdoor facility for Peak residents and that most of its usefulness in winter – when its sunny aspect is most needed -will be affected by overshadowing , which will worsen progressively as the day advances
- loss of views on the western façade of The Peak which, when considered together with the loss of views to most apartments on the northern and western facades of the same building as the result of the developments proposed for the SE and NE Plots, represents an unacceptable view loss. The proponents are maximising views for their own new buildings at the expense of those enjoyed by existing buildings

1. Excessive Overshadowing

a) West facing apartments

I own a dual aspect south-west facing apartment at the mid-levels of The Peak Apartments.

There is no sun at any time of the day through the south facing windows, so for the purpose of overshadowing, SW apartments are single aspect west facing apartments. There is no morning sun at any time of the year. At 1pm at the winter solstice, my living area receives a tiny amount of sun in the south-west corner of the room. It is far less than the one square metre required by section 4.2.3.1(2) of the Sydney Development Control Plan 2012 ("the DCP"). Therefore between the hours of 9am and 3pm, my apartment and all those with the same aspect do not receive 2 hours of direct sunlight on 21 June.

West facing apartments in the centre of The Peak's western façade do not receive a full 2 hours of direct sunlight between the hours of 9am and 3pm at the winter solstice either.

Therefore because these apartments do not currently receive a minimum of 2 hours of sunlight between 9am and 3pm on 21 June, the development proposed in this DA does not comply with section 4.2.3.1(3) of the DCP, which states:

"New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June."

The shadow studies, indicating both horizontal and vertical elevation, which have belatedly been provided with this Stage 2 DA, clearly show that at 2pm and again at 3pm on 21 June significant overshadowing occurs at the lower and middle levels of the western façade of The Peak.

It is clear that the guidelines do not envisage any trade-off between direct sunlight during the period 9am to 3pm and direct sunlight outside that period. It is therefore clear that this proposed DA does not comply with the guidelines set out in the DCP.

b) The Podium

At Appendix H SSD5878 Supplementary Design Report Section 6 Amendments, the proponent states that there will be NO IMPACT on any part of The Peak building between 9am and 1pm at the winter solstice. This is untrue. Additional overshadowing to the podium on Level 6 of the building starts at 9am and increases throughout the morning to 1pm (and continues to increase thereafter).

Contrary to statements in the same Appendix H referred to above about the podium roof, at 2pm and 3pm at the winter solstice almost the entire podium roof is overshadowed.

The Peak Apartments is a community of some 1,100 residents. The podium was designed, and approved by the consent authority, as an outdoor community facility for these residents. It faces north, so as to be useable for most of the day in all seasons. It contains a range of sporting facilities, a jogging track, tennis courts, a children's playground, a very well patronised BBQ area and a lovely garden. It is an unusual feature in apartment living, especially in the centre of the city, and as such, has a "wow factor" which is a significant selling point for The Peak apartments. The shadow studies show that some of the sporting facilities, located in the north west corner, and part of the jogging track will be in shadow from early morning at the winter solstice and that by early afternoon most of the facility will be in shadow.

A number of residents use the podium for Tai Chi exercises. Others use it for jogging or walking as well as for sport. It also currently provides warm and comfortable corners to sit in the sun, especially in winter. It is particularly popular for lunchtime BBQs. Under the current proposal, overshadowing in winter will render the facility unpleasant and useless for at least half the day.

The Peak apartments house a microcosm of the general population. While there are quite a lot of professionals who work 9am to 5pm weekdays, there are many people who are home during the day – whether they be students, who don't have lectures all day every day, people caring for small children, people who don't work and a significant number of retirees.

Many residents would be faced with increased power costs, (impacting heavily on the City of Sydney Green Apartment Initiative), reduced quality of life and possibly loss of property values as a result of the additional overshadowing to their apartments that this DA proposes.

c) Other factual errors in statements by the proponent about The Peak

Proponent statement	Location of statement	Actual Fact
<i>At mid-winter (22 June) By 4pm, approximately 45-50% of the western elevation is in shadow, however the shadow has substantially moved off the northern façade such that only approximately 15-20% of the façade remains in shadow.</i>	SSD5878 Response to Submissions and Amendments to Proposed Development Report, July 2013, Section 2.8 Overshadowing	That statement is false, as can be seen from the diagram. The proponent has confused the western and northern facades.
<i>All apartments in The Peak tower will continue to receive solar access for more than 2hrs during midwinter.</i>	SSD5878 Response to Submissions and Amendments to Proposed Development Report, July 2013, Section 2.8 Overshadowing	The proponent fails to address the direct sunlight specifically between 9am and 3pm as per the DCP guidelines.
<i>It is also noted that the apartments on the northern and western elevations of the building are dual aspect.</i>	SSD5878 Response to Submissions and Amendments to Proposed Development Report, July 2013, Section 2.8 Overshadowing	110 apartments on the northern and western elevations are single aspect only.
<i>At mid-winter (22 June) As the afternoon progresses the length and extent of shadow increases and by approximately 3pm approximately 40-45% of the western and northern tower elevations are overshadowed. By 4pm, approximately 45-50% of the western elevation is in shadow, however the shadow has substantially moved off the northern façade such that only approximately 15-20% of the façade remains in shadow.</i>	SSD5878 Appendix G. Response to Public Submissions. Proponent's Response	That statement is false, as can be seen from the diagram. The proponent has confused the western and northern facades.

Proponent statement	Location of statement	Actual Fact
<i>The extent of additional overshadowing to the northern and western elevations of The Peak is considered appropriate and reasonable. All apartments in The Peak tower will continue to receive solar access for more than 2hrs during midwinter.</i>	SSD5878 Appendix G. Response to Public Submissions. Proponent's Response	The proponent fails to address the direct sunlight specifically between 9am and 3pm as per the DCP guidelines.
Winter solstice - 22 June 4:00 – 15-20% of the Peak Tower northern elevation remains in shadow since 3pm;	SSD5878 Appendix H. Supplementary Design Report, Section 6. Amendments Winter solstice - 22 June	Actually 45-50% of the Peak Tower northern elevation remains in shadow since 3pm.
Winter solstice - 22 June 4:00 – A portion of the Peak Tower north elevation (15-20%) now receives direct sunlight when compared to the maximum building envelope model – portions of which were previously overshadowed at 3pm.	SSD5878 Appendix H. Supplementary Design Report, Section 6. Amendments Winter solstice - 22 June	The reduction compared with the maximum building envelope model can be seen from the diagram to be only about 5-10%.

2. Impact on views at the Peak Apartments

Summary

It is impossible to discuss the impact of the proposed Haymarket Precinct developments on views at The Peak on a plot by plot basis. The Peak apartments most affected by SSD 6011 will be those with a western aspect. However it is the **combined** effect of view loss from the proposed developments on the western and northern facades of The Peak, not only by the buildings on the SW Plot but also those on the NE and SE Plots, that make the proposals so inequitable.

The views from centrally located single aspect west facing apartments will be the most badly affected by the construction of the 40 storey building on the SW Plot. Up until this level, all these units, which are oriented north-west, will have their views of the Anzac Bridge and Rozelle Bay badly curtailed. At this point they still retain their views of Darling Harbour but these views will be completely obliterated at least up to Level 31 by the proposed future developments. These apartments will be simply looking at walls.

It is noted that the only photomontages of the effect of the new developments on the western facade of The Peak are from apartment 4209, which conveniently is high enough to retain good panoramic views. Why has this been allowed to happen? Apartments below this level will not be so lucky.

A good number of apartments in the NW and NE corners of the building which can now see the Anzac Bridge will have those views obliterated. Many of these apartments, especially at lower and mid levels, will also have no views of Darling Harbour and Sydney Harbour after the construction of the buildings on the SE and NE Plots.

No effort has been made in SSD 6011 to maximise view sharing between the new and existing developments and no concrete plans about how much view sharing will be possible and how it will be achieved is forthcoming.

Guidelines

Guidelines regarding the impact of a proposed development on outlook and views on existing and future residential amenity, set out in the section 4.2.3.10 of the Sydney Development Control Plan (DCP)2010, state:

- (1) Provide a pleasant outlook, as distinct from views from all apartments*
- (2) Views and outlooks from existing residential development should be considered in the design of the form of the new development*

The DCP defines outlook as “a short range prospect, such as building to building” while views are defined as “more extensive or long range to particular objects or geographical features.”

The current position

The Peak apartments affected by **all** the proposed Darling Harbour developments are situated on the N and W facades of the building. They consist of both dual aspect and single aspect apartments. The statement in the proponent's SSD5878 response to Submissions and Amendments to Proposed Development Report July 2013 Section 2.8 that “apartments on the northern and western elevations of the building are dual aspect” is incorrect. There are 110 single aspect apartments on these elevations and views from many of them will be severely disrupted by the proposed development.

All the affected apartments from about level 13 to level 45 currently have extensive, long range views towards Darling Harbour, Sydney Harbour and the Anzac Bridge/Rozelle Bay.

In their Design Report and Architectural Drawings Part 1 Appendix B p9 of SSD 6011, Denton Corker Marshall state about the buildings proposed in this DA: “the towers present to Darling Harbour and the CBD skyline and take maximum advantage of the natural amenity.” Just as Denton Corker Marshall proposes

orienting the towers in the new development to take maximum advantage of the site's very desirable and sought after views, the orientation of The Peak apartments was designed to take advantage of these same desirable views. Thus, the balconies and living areas of the north facing apartments at The Peak, whether they be NW, N only or NE aspects, have been designed to maximise the **northerly** view over Darling and Sydney Harbours. City skyline or Ultimo/Pymont are secondary views and are not readily seen from the living areas of the single aspect north facing apartments. Good northerly views can be currently obtained from about Level 17 but even for several levels below that, there are pleasant and expansive views with some water glimpses.

The central west facing single aspect apartments are oriented to the **north-west** and their balconies and living areas face excellent views over Darling Harbour, Anzac Bridge and Rozelle Bay from about Levels 13 or 15. In these apartments there is a side window in the living room which is oriented SW and takes in parts of Haymarket towards Sydney University. This, however, is not the principal orientation of these apartments.

The orientation of the SW dual aspect apartments is to the **west** to take in Anzac Bridge, Rozelle Bay and the expansive district view to the west. From the balcony only, there are good northerly views of Darling Harbour from about Level 17.

The effect of the new development

Denton Corker Marshall also state at p23 of their Design Report that "the massing and articulation of the towers maximises outlook and views." They are, of course, talking about the proposed towers.

Peak residents argue strongly that the advantages of the new amenity are at the expense of their existing amenity. It is, however, impossible to discuss the effect of the new development on views at The Peak on a plot by plot basis. It is the overall effect of the whole development that has the cumulative adverse impact.

Judging by the photomontages provided by the proponent, the effects of this development on property at The Peak are:

- northerly views of Darling and Sydney Harbours will be lost to all north facing apartments below at least level 31 due to the construction of buildings on the SE and NE plots
- north facing single aspect apartments below about level 31 will look out onto the solid walls of the new buildings. To go from expansive Darling Harbour views to this restricted view cannot be compliant with the intention of section 4.2.3.10 of the DCP. It is difficult to envisage from the montages provided how any view sharing for these centrally located apartments can be achieved under the current proposals

- north facing apartments above level 31 may have some views of the western side of Darling Harbour and Sydney Harbour but the current expansive view will be lost due to the construction of the proposed 40 storey building on the NE plot
- north-west and north-east facing dual aspect apartments will lose Anzac Bridge views up to about level 25
- west facing central single aspect units will lose all their Darling Harbour and Sydney Harbour views below about level 31 and Anzac Bridge views below level 25. Their orientation will also mean their dominant view will be to the solid walls of the new buildings at least to about level 31, although they will retain some westerly views over Ultimo/Pymont.
- SW dual aspect apartments will retain their views over Anzac Bridge and Rozelle Bay above level 25 but will lose all Darling Harbour views below level 31. Even above level 31, views to the NW and N will be at least partially impeded by the existence of the 40 storey buildings on the SW and NE plots. Good views of Ultimo/Pymont and to the south towards Botany Bay will be retained.

The Proponent's Response to Loss of View Objections in SSD 5878

The proponent's response to objections on the development's impact on views is found at an amended Appendix L to SSD 5878.

The proponent quotes, under section 2.4 p14 from the Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005 that **"The public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores."**(the proponent's highlighting in bold).

This is all very well, but as previously stated in submissions to SSD 5878, we are not talking about the public good here. The public will not benefit from a forest of high rise buildings at the southern end of Darling Harbour. Nor will it benefit from 1/3 of its currently available publicspace being resumed for private use. We are talking about one private good taking precedence over another private good. The proponent intends to profit from the sale of a very large number of highly desirable apartments with excellent and expansive views at the expense of an already existing apartment block which had, but will no longer have, such excellent and expansive views.

It is noted that in relation to the impact on views at The Peak, the proponent belatedly comments at p43 of the amended Appendix L to SSD 5878 that "future detailed development applications (Stage 2 DAs) will need to demonstrate consistency with the objectives and controls. The controls should "provide for flexibility and recognise that there are alternative solutions (supporting creativity and innovation) that can still achieve the overarching objectives." The proponent further states on p43 of Appendix L "There are

therefore opportunities at the detailed design stage of individual buildings in The Haymarket precinct for further consideration of view sharing to be made.”

These declarations remain very vague and no indication of the extent of view sharing and how this will be achieved is forthcoming in this DA, which is a Stage 2 DA.

Conclusion

Peak residents remain concerned that many apartments, which currently have very good views, will now be the subject of vastly inferior views or for some apartments in the centre of the building, no views at all. In comparison to the views to be afforded to residents of the new development, the view sharing arrangements are simply inequitable.

There is little confidence, in view of statements that all N and W facing apartments at The Peak are dual aspect, that the proponent and possibly even the consent authority have appreciated the layout and orientation of The Peak and thereby the cumulative effect that the whole development will have on its residents. This is despite visits by both parties to a number of Peak apartments.

SSD 6011, which is the detailed design stage for the SW plot, does not offer any new creative ideas or opportunities for view sharing. What can the proponent offer in amendments to this DA and in subsequent Stage 2 DAs, to achieve equitable view sharing arrangements between the new development and The Peak apartments?