

Wednesday 23 October 2013

The Director General
NSW Department of Planning and Infrastructure
23-33 Bridge Street
Sydney NSW 2000

Architecture
Urban Design
Planning
Interior Architecture

Attention: Mr Mark Brown
Senior Planner, Metropolitan and Regional Projects South

RE: Proposed IMAX, Darling Harbour redevelopment (SSD 5397)
Submission to proposed development

Dear Sir,

This submission is prepared on behalf of the PARKROYAL Hotel, Darling Harbour (150 Day Street, Sydney), in relation to the proposed entertainment, retail and commercial redevelopment of the IMAX site.

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In principle, the PARKROYAL is generally supportive of maintaining the IMAX Cinema at Darling Harbour, and increasing the retail and commercial activities in the Darling Harbour Precinct, which will generally have a positive impact on the Hotel and the general attractiveness of Darling Harbour as a destination. Notwithstanding this, concern is raised with respect to the Visual Impact Assessment provided, and the view impacts from the hotel's rooms and public areas, particularly to Darling Harbour and the broader regional view to Western Sydney.

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This submission provides an assessment of the proposed development against the tenacity principles for view sharing established by the NSW Land and Environment Court. The submission also identifies additional impacts on the PARKROYAL and makes recommendations on the preferred project design, the assessment of the application, and suggests conditions of consent.

Under the Director General's Requirements, the applicant is specifically required to address the following under Visual Impact:

*Comparative analysis of the existing and proposed footprint and building height.
Justification and an assessment of the proposed height, **view impacts** and potential
overshadowing of the public domain.*

The applicant has submitted a Visual Impact Assessment which assesses the visual impact of the proposed development from the public domain, but makes no assessment of the visual impact of the proposed development from properties in vicinity, including the Park Royal Hotel.

Having undertaken an inspection of the current available views from various rooms (images provided at **Attachment A**) and areas of the PARKROYAL Hotel, it is evident that the visual impact will be significant, particularly given the hotel relies on views toward Darling Harbour for amenity of its guests.

Tenacity Principles

Commissioner Roseth SC in the case *Tenacity Consulting v Waringah [2004] NSWLEC 140* adopted four principles for view sharing and impact on neighbours. These principles have not been considered in relation to private view loss as part of the Visual Impact Assessment submitted by the applicant as part of the proposed development.

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Principle 1: The assessment of views to be affected

Principle 1: The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Architectus assessed the existing outlook to the proposed development from the Club Lounge and Room 927 (Level 9); Rooms 525 and 516 (northern and southern ends of Level 5) and the Restaurant Level (Mezzanine Level).

In total, the PARKROYAL has 155 rooms facing Darling Harbour (91 with water views and 64 with Darling Harbour outlook).

From Level 9, extensive views are currently available toward Darling Harbour, including water views and Darling Harbour outlook. The existing IMAX development is also prominent towards the west. From these levels, the proposed development will be clearly visible and impede on western looking views, but is not likely to significantly impact on water views toward Darling Harbour.

From Level 5, views toward Darling Harbour and the waterway become more impeded by surrounding development, including the existing IMAX building. At this level, the proposed development is likely to have a more pronounced impact on views and will potentially only leave glimpse, if any, views of the water. The potential view loss from rooms on Level 5, particularly at its southern portion, will likely result in a significant loss of amenity to these rooms, currently marketed and identified as 'harbour view rooms'.

From the Restaurant Level, the proposed development is likely to result in a complete loss of existing water views, with views currently only minimally provided from the lounge area of the restaurant. As per the above, the visual impact assessment for the proposed development should take into consideration the potential view loss from the hotel, including from its restaurant.

In summary, the proposed development is considered to have significant impact with respect to the potential loss of harbour / water views from hotel rooms which are currently 'Harbour View' rooms. These rooms are considered premium rooms and attract a higher rate per night.

Principle 2: Part of the affected properties from which the views are obtained

Principle 2: The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

As previously noted, the PARKROYAL has 155 rooms facing Darling Harbour (91 with water views and 64 with Darling Harbour outlook).

From Levels 5 and 9, the view of Darling Harbour is viewed from both sitting and standing positions from within the Harbour View rooms. This outlook from Level 9 is unlikely to be detrimentally affected, however from Level 5 and from the restaurant; views currently provided to the harbour are likely to be detrimentally impacted. Given these views are standing views (as well as sitting in some cases), it is considered these views are of significant value to the hotel and should be protected as much as practicable.

Principle 3: Extent of impact

Principle 3: The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

From Level 9, the extent of impact is considered to be minor, given extensive views across Darling Harbour are currently provided to the Club Lounge and west facing hotel rooms at this level.

From Level 5, the extent of visual impact is likely to be severe, given the projection of the proposed development eastward, which will likely impede on a large proportion of the Darling Harbour views provided to the east facing rooms at this level.

From the Restaurant Level, the impact is also considered severe, given the proposal is likely to remove any remaining view toward Darling Harbour, in particular the water, from the restaurant.

It is recommended the applicant clearly assess the impact of the proposed development on view loss, and should the view loss be considered severe or devastating, opportunity should be explored to reduce this impact.

Principle 4: Reasonableness of the proposal

Principle 4: The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. 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. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The proposed development is considered reasonable in terms of the need to provide enhanced entertainment, retail and commercial uses which will complement the revitalisation of Darling Harbour. Notwithstanding this, the buildings extension of its current footprint to go across Harbour Street will have significant impact on view loss, particularly from the hotel and other surrounding residential properties. It is important that the extent of projection over Harbour Street be minimised, to in turn minimise the impact of view loss.

Other concerns regarding the proposed development

The PARKROYAL also has a number of concerns in relation to the proposed development. These concerns relate to reflectivity, and signage.

The applicant should clarify the potential reflectivity impacts of the proposed development on the surrounding area, as there may be glare issues to the PARKROYAL. The extent and tint of glazing associated with the Ribbon may result in undue reflectivity impacts toward the PARKROYAL Hotel rooms as well as the Club Lounge and Restaurant (particularly around breakfast and lunch times). High reflectivity toward these parts of the hotel will have significant impact on the amenity of hotel rooms and the club lounge and restaurant. It is recommended that further reflectivity analysis be undertaken from the Club Lounge and Restaurant of the hotel, to ensure reflectivity does not exceed 20%.

The proposed location, type and illumination of future signage are not indicated in this development application. High level illuminated signage on the eastern face of the development will likely have detrimental impacts on the amenity of west facing hotel rooms. The plans should identify locations for future signage, and conditions should be imposed to restrict the illumination and size of signage to ensure there is no detrimental impact on hotel patrons and the surrounding area.

Conclusion and recommendations

The PARKROYAL Hotel supports proposals that will add to the revitalisation and renewal of Darling Harbour, including the IMAX redevelopment. Such proposals will add to the dynamic and attractiveness of the Darling Harbour precinct, positively benefiting the PARKROYAL Hotel. Notwithstanding this, it is recommended that the following be taken into consideration prior to determination of this proposal:

1. The applicant should revise the Visual Impact Assessment to include the impact of the proposed development on view loss from surrounding private property, including the PARKROYAL Hotel. In particular, the applicant should demonstrate the impact of views from hotel rooms at various levels and ensure that the proposed development does not result in a detrimental loss of water views from 'Harbour View Rooms' of the hotel. Should the view loss be severe or devastating, the proposed development should be revised to reduce these impacts – particularly where it projects over Harbour Street.
2. A reflectivity study should be undertaken to ensure the proposed reflectivity does not exceed 20%, particularly from the hotel rooms, Club Lounge and Restaurant – where patrons spend prolonged periods of time at breakfast and lunch – when reflectivity is likely to be highest.
3. The proposed location of signage should be identified on the architectural drawings. The size of signage should be such that it does not detract from the overall building design and the outlook provided to west facing hotel rooms, the Club Lounge and the Restaurant of the PARKROYAL Hotel.
4. Conditions should be imposed to ensure the illumination of signage is controlled and maximised at such a level that does not cause a nuisance to occupants and users of the PARKROYAL Hotel.

The PARKROYAL Hotel management is willing to assist with providing access to various parts of the hotel as required to undertake the above recommended assessment. Should you wish to discuss any of the above matters further, please feel free to contact the undersigned or Camille Lattouf on 82528400 or camille.lattouf@architectus.com.au.

Yours sincerely,



Michael Harrison
Director, Urban Design and Planning
Architectus Group Pty Ltd

Attachment A: Existing views



Figure 1: Existing view from the Club Lounge (Level 9)



Figure 2: Existing view from Room 927



Figure 3: Existing view from Room 525



Figure 4: Existing view from Room 512



Figure 5: Existing view from restaurant