

Harbourside Shopping Centre

Submission to SSD 16_7874

Submitted to NSW Department of Planning & Environment
On Behalf of AAPC Limited (Novotel & Ibis Hotel)

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February 2017 | P-17022

Report Revision History

Revision	Date Issued	Prepared by	Reviewed by	Verified by
01	31/01/17	Carlo Di Giulio <i>Associate Planner</i>	David Ryan <i>Executive Director</i>	David Ryan <i>Executive Director</i>
02	6/02/17	Carlo Di Giulio <i>Associate Planner</i>	David Ryan <i>Executive Director</i>	
03	10/02/17	Carlo Di Giulio <i>Associate Planner</i>	David Ryan <i>Executive Director</i>	

This document is preliminary unless approved by a Director of City Plan Strategy & Development

CERTIFICATION

This report has been authorised by City Plan Strategy & Development, with input from a number of other expert consultants, on behalf of the Client. The accuracy of the information contained herein is to the best of our knowledge not false or misleading. The comments have been based upon information and facts that were correct at the time of writing this report.

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A	Recommended amendments to plans	CPSD

1. Executive Summary

This submission is provided by City Plan Strategy & Development P/L (CPSD) on behalf of AAPC Limited, the operators of the Ibis and Novotel hotels at 80 and 50 Murray Street, Sydney.

This submission objects to the proposed Harbourside Shopping Centre redevelopment because of severe to moderate impacts to existing views from the Ibis and Novotel hotels.

Hotels are an important part of the tourism industry, which is important to the local and metropolitan Sydney economy. Views are important to the viability of city based hotels as well as sensitive and susceptible to disruption. View impacts can affect both their attractiveness to tourists and their viability in general.

Our assessment of the application concludes that the extent of view loss for the Ibis hotel is severe and moderate to severe for the Novotel hotel.

The cause of the view loss is largely because of the proposal's private residential land use (i.e. the tower). The public interest is better served by protecting commercial (i.e. tourist) related views in favour of private residential views. This is because a far greater public benefit is achieved by maximising the hotel's visitors to the cultural benefits of Darling Harbour, as opposed to views for permanent residents. That is, there are far more obvious direct and multiplier positive economic and social impacts gained from maximising a tourist's experience, whilst benefits from permanent residents are short term and to the benefit of a few.

We also submit that the history of the Novotel hotel should be given weight in the assessment of the proposal. It's development in the late 1980's was pioneering and helped reposition Darling Harbour from its former warehouse land use into a world class entertainment precinct. This visionary development was the catalyst for redeveloping the remainder of the precinct. The key to Novotel's success to date has been its unique visual perspective of the Sydney CBD skyline. To now remove those views is to ignore the legacy that this original development has provided to the Darling Harbour precinct.

Our assessment also provides that substantial improvements could be achieved through more sensitive design. To achieve such design, more detailed and comprehensive view analysis is required.

In the absence of more detailed analysis, we consider it necessary to reduce the whole height of the proposed podium by two (2) levels and reduce the extent of 'stepping' towards the lower end of the proposed tower, as indicated in **Appendix A** to this submission.

2. Introduction

City Plan Strategy & Development P/L (CPSD) acts on behalf of AAPC Limited, the operators of the Novotel and Ibis Hotels located at 80 Murray Street and 50 Murray Street, Sydney. CPSD provides this submission in relation to the proposed Harbourside Shopping Centre redevelopment currently under consideration by the NSW Department of Planning & Environment (DPE).

In summary, this submission objects to the proposed development, in its current form, due to its impacts on existing views from the Novotel and Ibis Hotels. As will be demonstrated below, we believe the view impacts are moderate to severe as they will affect existing views of water (i.e. Darling Harbour) as well as the Sydney city skyline, including Sydney Tower. It should be recognised that capturing such views for hotels guests was and remains a key commercial consideration when deciding the location for each of the hotels. As such, we believe further emphasis should be placed on maintaining their existing views.

We will examine the impacts of the proposal in relation to the Novotel and Ibis hotels. We then identify where we believe it would be inconsistent with related development controls or objectives as provided by the relevant environmental planning framework.

The significant contribution of the hotel industry, and specifically the Novotel and Ibis hotels, to the local economy and tourism industry is outlined in the following section. The significance of this contributions adds additional weight as to why view impacts to the industry and to the Ibis and Novotel hotels require specific attention.

3. Importance of Hotel Industry

We submit that an important consideration in the assessment of the proposal is the contribution of the tourism industry to both the Australian and Sydney economic and social environments. For example*:

- In 2014/15, tourism represented 3.0% of Australia's GDP, contributing A\$47.5 billion to the national economy and employing 580,800 people – or 5% of the workforce;
- Domestic tourism is a significant part of the tourism industry, representing 73% of the total direct tourism GDP;
- The Australian Government released the 2020 Tourism Industry Potential on 15 November 2010, and estimates the Australian tourism industry to be worth up to \$140 billion in overnight expenditure. This growth will largely be due to key emerging markets, including the China market, which is estimated to be the largest economic contributor to the Australian tourism industry by 2020;
- In 2014/2015 tourism contributed \$37.1 billion to the NSW economy and employed 269,600 people – 4.7% of all jobs in NSW.
- In 2013/14, tourism consumption in Sydney reached \$17.0 billion.

Further, the Ibis and Novotel Hotels in question hosted 434, 227 guests during 2016, whilst they directly employ 341 people.

In addition to the economic benefits of the hotel industry, the Novotel hotel in particular has provided a significant cultural contribution to the Darling Harbour precinct. Specifically, the development of the Novotel was pioneering during the late 1980's and helped to reposition Darling Harbour, converting it from its former warehouse land use into a world class entertainment precinct. This visionary development was the catalyst for redeveloping the remainder of the precinct and central to the hotel's success was its unique perspective of the Sydney CBD skyline. To now remove those views is to ignore the legacy that this original development has given the Darling Harbour precinct.

With the new International Convention Centre (ICC) now opened, Darling Harbour has established itself as an convention, accommodation and entertainment precinct, and the hundreds of thousands of international visitors through the ICC are seeking a view of the city that is unique – to block this for the benefit of what is a limited number of residents is a major detraction for the city's international reputation and damaging to the reputation of Sydney as a true global city.

It is clear from the above that the industry and the hotels in question make a substantial public contribution. We submit that this contribution, and the elements which allow them to make such contributions, including their iconic views, should take precedence over private interests such as dwellings, or the tower component of the proposal.

** Data provided by Accor*

4. Assessment of View Impacts

4.1 Ibis Hotel View Impacts

We have reviewed the View Impact Assessment (VIA), prepared by JBA Urban Planning Consultants Pty Ltd (JBA). In our opinion, the VIA identifies that the proposed development would severely impact upon existing views from the Ibis Hotel towards iconic elements such as Darling Harbour (including the harbour itself), Pyrmont bridge, Sydney Tower as well as the Sydney City skyline.

Specifically, the VIA indicates that existing water views from the Ibis Hotel from RL 36.00 (i.e. Level 6) will be severely impacted by the proposed redevelopment. Views of the Pyrmont Bridge would also be completely obstructed at this RL. Therefore, views of Darling Harbour and Pyrmont Bridge, from ground level up to level 6 would be severely affected. This is a significant number of hotel rooms which would have their views severely affected. Further, whilst the VIA provides that most views from RL 47.959 could be retained, no analysis of impact is provided between this RL (i.e. 47.959) and level 6 (i.e. RL 36.00).

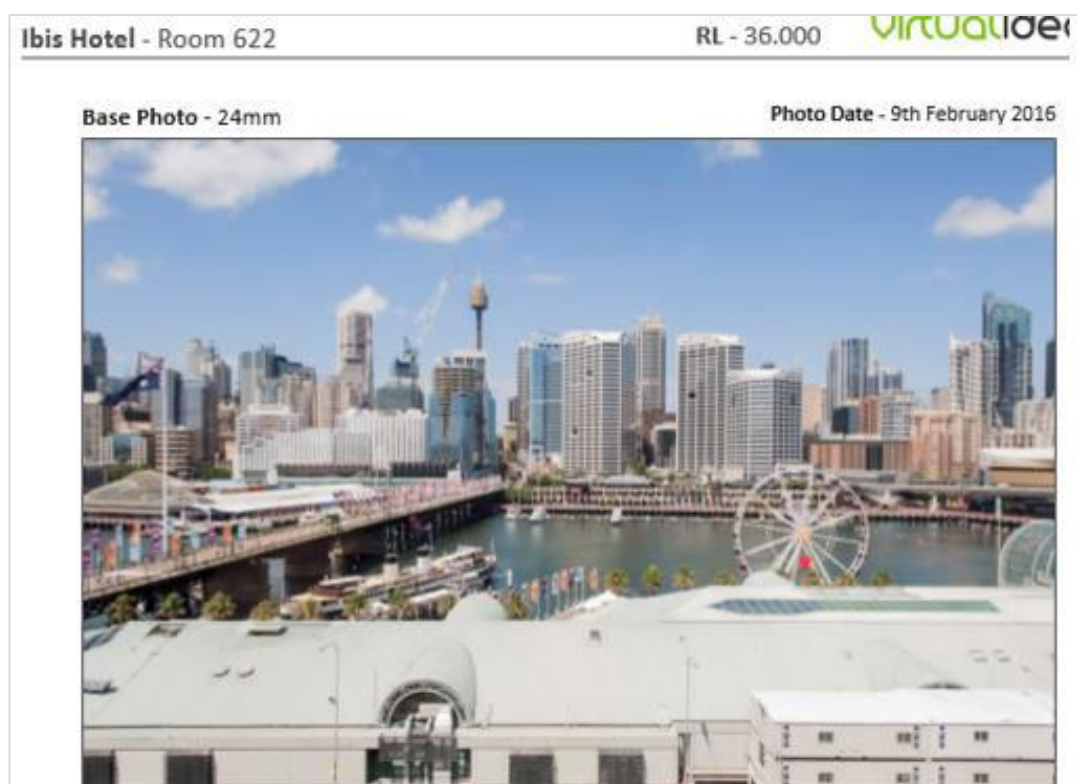


Figure 1: Existing view from RL 36.00 (Source: JBA VIA - Appendix C)

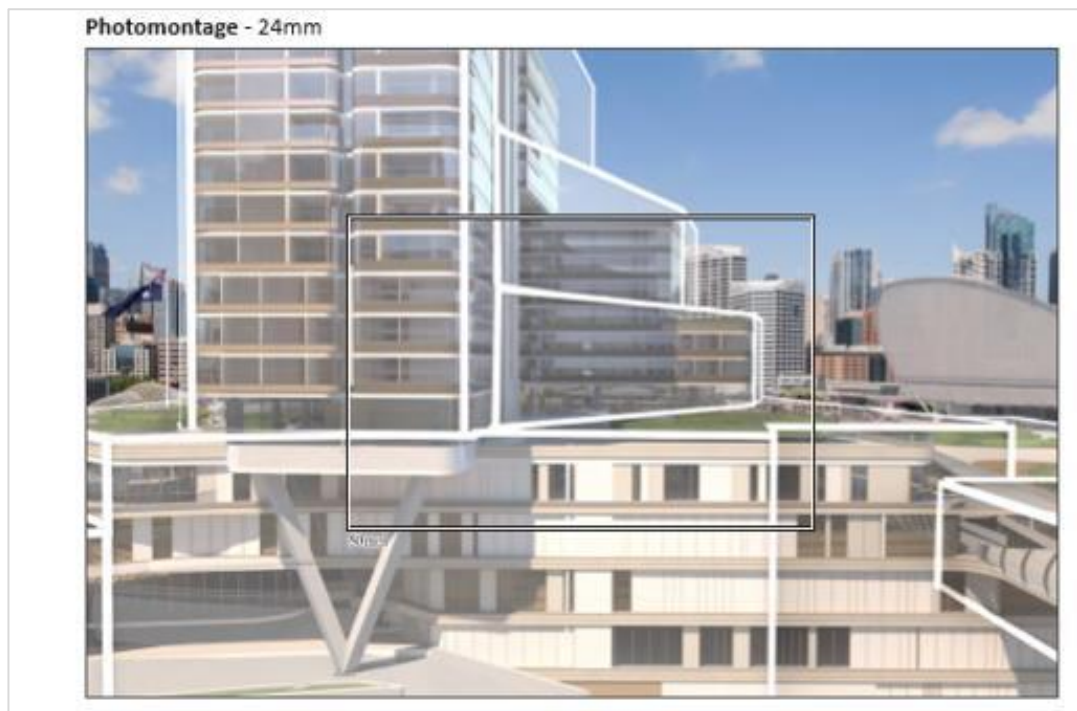


Figure 2: Proposed view from RL 36.00 (Source: JBA VIA - Appendix C)

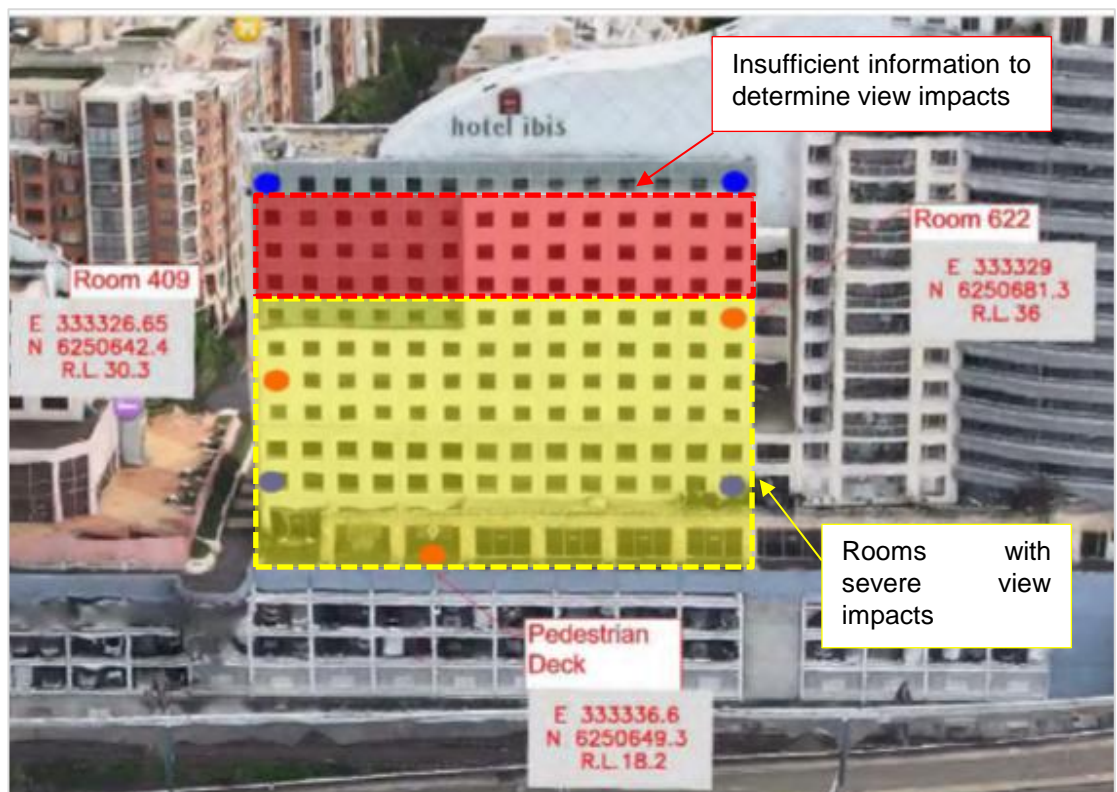


Figure 3: Extract from VIA with yellow highlighted area indicating hotel rooms below RL 36.00 which would have existing views of Darling Harbour and Pyrmont Bridge severely affected. Insufficient information is available in the VIA to determine the specific impacts within the red highlighted area, but they are likely to be substantial impacts (Source: JBA VIA - App C)

Although the VIA does not confirm, we are also of the opinion the proposal would severely impact existing city skyline views from the ground floor restaurant at the Ibis Hotel. The photomontage prepared for RL 18.2 (extract below) in Appendix C of the VIA indicates that at least the northern end of the Sydney CBD skyline, with the exception of existing towers at Barangaroo, would be lost. Given the Ibis Hotel's restaurant looks directly east, we therefore assume the view towards most of the CBD skyline (north and south) would be lost.



Figure 4: Proposed north eastern view from RL 18.200 at Ibis Hotel, or ground level restaurant (Source: JBA VIA - App C)



Figure 5: View directly east from Ibis Hotel ground floor restaurant (Source: CPSPD)

Given the significance and completeness of the view, and location from which it is accessed (i.e. Ibis Hotel's main restaurant), we're of the opinion it should be specifically analysed as part of the VIA. Any analysis should be cumulative, and consider impacts from the proposed IMAX redevelopment and new International Convention Centre (ICC).

4.2 Novotel Hotel View Impacts

In relation to the Novotel Hotel, the VIA indicates most impact would occur at RL 21.200 or the hotel's ground level. The restaurant at this level currently benefits from expansive city skyline views as indicated in the photograph below.



Figure 6: Existing Sydney CBD skyline views from Novotel Hotel (Source: CPSPD)

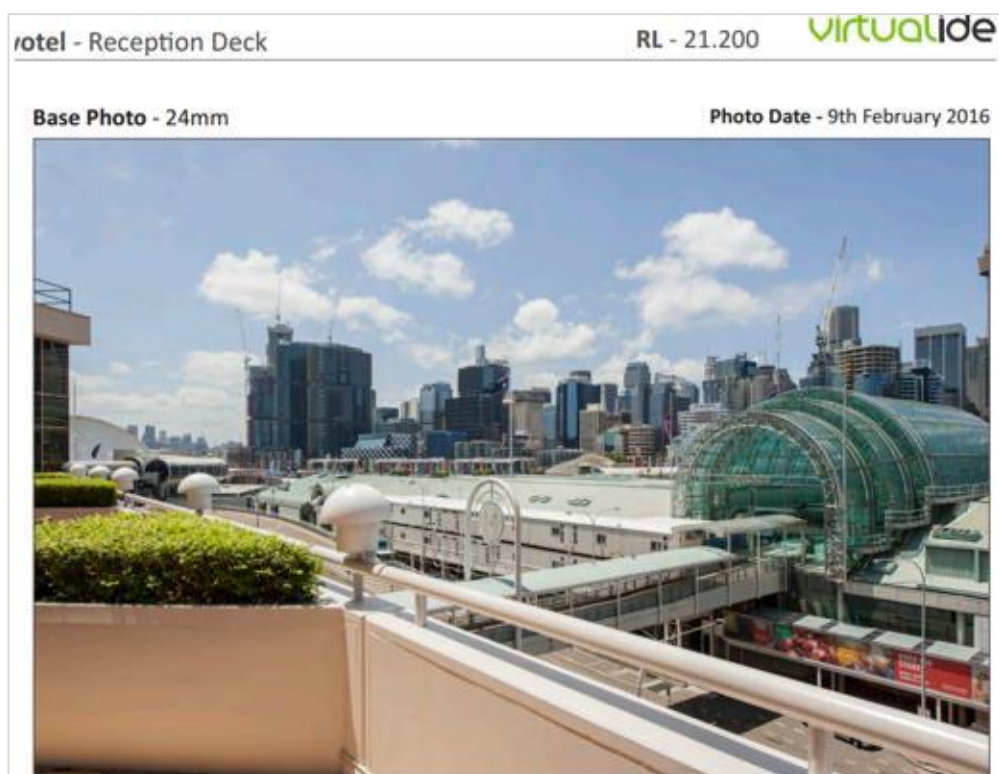


Figure 7: Existing north easterly views from Novotel restaurant (Source: JBA VIA - App C)

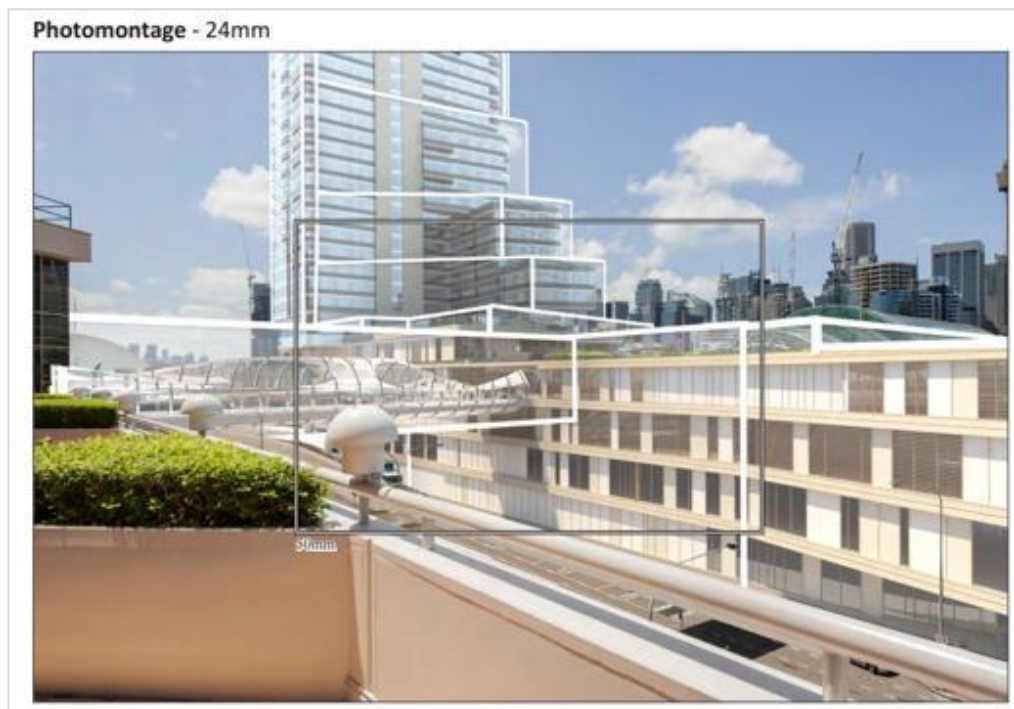


Figure 8: Proposed north easterly views from Novotel restaurant (Source: JBA VIA - App C)

The VIA indicates views of the Sydney CBD skyline from the restaurant would be moderately affected. We are of the opinion any view impacts should be further analysed in a directly east facing direction (as provided in Figure 4). In our opinion, this view is of greater significance given it shows the Sydney Tower and its context in full. Further, it would allow an assessment of cumulative impacts associated with the ICC and the proposed IMAX redevelopment.

Similarly, photomontages prepared for RLs 34.093, 36.150 and 44.500 indicate moderate impact to existing water views (i.e. Darling Harbour) from the Novotel's east facing hotel rooms.

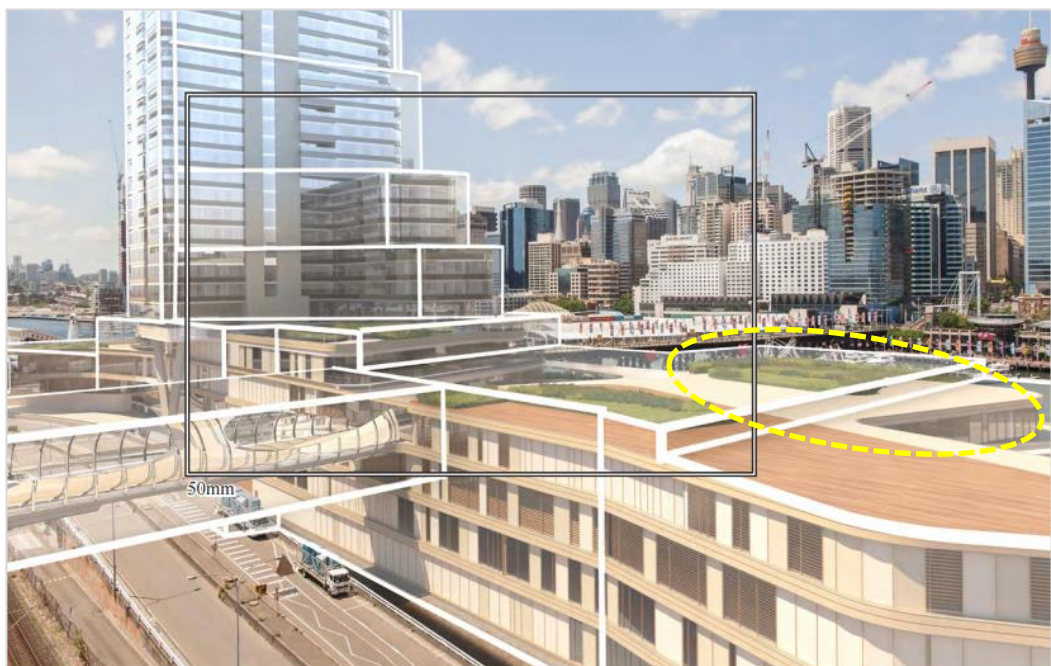


Figure 9: Photomontage for RL 36.150 with approximate loss of water views from Novotel outlined in yellow (Source: JBA VIA - App C)

5. Statutory Planning Assessment

Having initially assessed the level of view impact of the proposal from the Ibis and Novotel Hotels, we then review such impact against the relevant environmental planning framework. This submission focuses on compliance or otherwise with view related controls or objectives of the framework.

5.1 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

The view related clauses in the Sydney Harbour Catchment SREP 2005 are as follows:

Sub clause 15(e) significant fabric, settings, relics and views associated with the heritage significance of heritage items should be conserved,
Sub clause 26(a) - (c) The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows: (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour, (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items, (c) the cumulative impact of development on views should be minimised.
Sub clause 53(b)) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with heritage significance of heritage items, and

Table 1: Relevant extracts from SREP 2005

Our assessment of the proposal's view impacts is that the proposal would not satisfy the abovementioned matters for consideration. In particular, views towards Pyrmont Bridge would be severely obstructed from both the Ibis and Novotel hotels. We submit that the overall height of the podium and 'stepped' building envelope towards the bottom of the proposed tower does not adequately minimise impacts on views and vistas to public places and landmarks.

It is also submitted that the VIA does not adequately consider cumulative view impacts. Further consideration of directly east facing view impacts from the Novotel and Ibis Hotels should be provided in light of the ICC and the IMAX redevelopment.

5.2 Sydney Local Environmental Plan 2012 (SLEP 2012)

It is acknowledged that the SLEP 2012, and its supporting policies, including the Sydney Development Control Plan 2012 and the Central Sydney Planning Strategy, currently do not apply to the subject site. Nevertheless, the proposal would have an obvious impact on land affected by SLEP 2012. In this case, we are of the opinion the controls are worthy of consideration.

Clause 4.3(1)(c) of SLEP 2012 - Height of Buildings (c) to promote the sharing of views,
Draft Clause 4.3(1)(c) of SLEP 2012 - Height of buildings (c) <i>To promote the sharing of views (outside of Central Sydney).</i>

Table 2: Extracts from SLEP 2012

It is clear that both the existing and draft SLEP 2012 promotes the sharing of views. It is acknowledged that the draft instrument seeks to adopt view sharing "outside of Central Sydney". The site the subject of the proposed development as well as the Ibis and Novotel Hotels are outside of Central Sydney. Therefore, the objective to promote view sharing would apply, had the instruments (in either current or draft format) applied to Darling Harbour.

Further, in reviewing the Central Sydney Planning Strategy, we understand the distinction between view sharing for land within and outside of Central Sydney was made because of the importance of facilitating employment based development within Central Sydney. In our view, the proposed development should be categorised more so for the purposes of residential and entertainment development and should therefore not be afforded any exemptions for established view sharing principles.

It has been demonstrated earlier in this submission that the proposal's impacts on views from the Ibis and Novotel hotels range from moderate to severe (the latter being the case for most of the Ibis hotel in particular). Such impacts would not be consistent with established view sharing principles. We submit that a reduction of the podium's proposed height and the 'stepped' nature at the bottom of the proposed tower would assist with achieving the outcomes sought by such principles.

5.3 NSW Land & Environment Court Planning Principles

The NSW LEC's Planning Principles are an established component of environmental impact assessment. We submit that the view sharing principles established in *Tenacity Consulting v Warringah [2004]* are relevant to the proposal. Similarly, we submit that the planning principle for assessing impacts on neighbouring properties in *Davies v Penrith City Council [2013]* are also relevant. Below we provide an assessment of the proposal against each of the principles.

5.3.1 View Sharing

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg 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, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

We submit that the east facing elevation of both the Novotel and Ibis Hotels, and their related rooms and restaurants, currently have access to waters views of Darling Harbour (land and water interface) as well as the Sydney CBD skyline, including Sydney Tower. Prior to the development of the ICC, such views were whole views. Regardless of the ICC, the views remain expansive.

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.

We submit that the eastern boundary of 50 and 80 Murray Street (the allotments on which the Ibis and Novotel hotels are located), is the front boundary. Therefore, their views towards Darling Harbour and the Sydney CBD skyline are accessed across their front boundary. Such views are enjoyed from both a standing and sitting position (see photograph of view on following page).

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.



Figure 10: East facing photograph from level 4 at Ibis Hotel, taken from standing position (Source: CPSPD)

Views from the Ibis and Novotel Hotels are currently accessed from the living rooms and bedrooms of their suites, as well as their restaurants. As has been demonstrated earlier, the impact on existing views from the Ibis Hotel will be severe, whilst impact on existing views from the Novotel Hotel will be severe to moderate. Importantly, in the case of the Ibis Hotel, the impact occurs from ground to at least level six (and likely to Level 8).

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 relevant environmental planning instruments do not include planning controls such as controls for height and floor space ratio. Rather, they provide only land use controls as well as design related objectives.

We submit that it would be unreasonable for any podium component of any redevelopment of the existing Harbourside Shopping Centre to be higher than the existing building envelope. In this regard, it is noted that the proposed podium is higher than the existing envelope. As has been demonstrated in **Section 4** of this submission, the proposal's podium obstructs existing views from the restaurants of both the Novotel and Ibis Hotel.

Conclusion

Overall, our assessment of the proposal in accordance with the abovementioned planning principles indicates that the view impacts would be unreasonable. Views to be impacted are of a high value, including of iconic items. The views are accessed across front boundaries and from standing positions.

Accordingly, we submit that the proposal should adopt greater design sensitivity to achieve reasonable view sharing. Specifically, amendments could be made to the proposed podium as well as the 'stepping' at the lower end of the proposed tower.

5.3.2 Criteria for assessing impact on neighbouring properties

How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?

The proposal's impact on the amenity of the Ibis and Novotel hotels would be substantial. As indicated earlier, the proposal would result in moderate to severe impacts on existing views from both hotels. In the case of the Ibis hotel, much of the views in those suites and the restaurant between ground level and level six (6) will be lost. Due to insufficient information, further views may be lost between levels seven (7) to nine (9).

View loss from the Novotel hotel as a result of the proposal is moderate to severe. In particular, views of the Sydney CBD's northern skyline, including Barangaroo, will be obstructed. It is important to note that views from the Novotel have already been obstructed by the ICC. Subsequently, we believe the cumulative impact is unreasonable.

How reasonable is the proposal causing the impact?

As has been stated earlier in this submission, we submit that the proposed podium, being taller than the Harbourside Shopping Centre's existing envelope, is unreasonable. Further, given the high value of views from the Ibis and Novotel hotels (as well as other existing developments), the extent of 'stepping' towards the lower end of the tower is unreasonable in our view.

How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?

The hotels in question differentiate themselves from other hotels in and around the Sydney CBD because of their current views. As informed by Accor, they charge a premium to visitors because of such views. Given the proposal's impact on existing views are moderate to severe, their differentiation would be substantially affected. Ibis and Novotel hotels are therefore particularly vulnerable to the likely impacts.

Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?

We submit that the height of the proposed podium, as well as the extent of 'stepping' towards the lower end of the proposed tower is suboptimal insofar as it impacts both hotels.

Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?

As has been stated earlier in this submission, the relevant environmental planning framework does not provide any numerical planning controls such as maximum building heights or the like. It does provide a range of objectives and merit based outcomes however. As has also been stated earlier, we submit the proposal would be inconsistent with various objectives prescribed by the Sydney Harbour Catchment SREP.

Conclusion

The Ibis and Novotel hotel rely heavily on their existing views of Darling Harbour and the Sydney CBD skyline, including Sydney Tower. It is therefore particularly vulnerable to the view impacts from the proposed redevelopment. As indicated by the planning principles, we submit that access to such views should be afforded considerable weight. Accordingly, the proponent should undertake further analysis to identify the full extent of view impacts, and make relevant design amendments as suggested earlier in this submission.

5.4 Infrastructure NSW SICEEP Urban Design and Public Realm Guidelines

In our view, the following extract of the guidelines seek to maximise views to key features in the Darling Harbour locality, such as the Pyrmont bridge, for the broader public benefit, as opposed to a selected development.

Both the Ibis and Novotel hotels currently provide for views of the Pyrmont Bridge, which is arguably a socially and historically element in the Darling Harbour locality. Both hotels are designed to maximise the views of their visitors to the bridge, thereby imparting its importance. This provides economic benefits as visitors may relay such views to other potential visitors.

As identified earlier, the proposed development's obstruction of views to the bridge would be moderate to severe. Further, the proposed development is largely for private (residential) purposes and would not impart the bridge's value to visitors as much as the Ibis and Novotel does.

V. Context and Design Excellence

- protecting and reinforcing views of significant heritage buildings and structures within the Public Realm;

Table 3: Extracts from SICEEP Guidelines

6. Conclusion

We submit that the proposed development would result in severe impacts on existing water (i.e. Darling Harbour) and Sydney CBD skyline views (including Sydney Tower) from the Ibis Hotel and moderate to severe impacts on the Novotel Hotel.

In our opinion, the extent of the view loss would be inconsistent with the relevant matters for consideration in the Sydney Harbour Catchment SREP 2005. Although it does not apply to the land in question, the extent of view loss would be inconsistent with the building height related objectives provided in both the existing and draft SLEP 2012. Subsequently, the view impacts are not in keeping with established view sharing principles.

Further, the Ibis and Novotel hotels are particularly sensitive towards any view impacts. Therefore, as outlined by relevant NSW LEC planning principles, considerable weight should be afforded to their existing views.

In light of the above, we recommend further comprehensive view impact assessment in relation to both the Ibis hotel and the Novotel hotel. The more comprehensive analysis is required to inform a redesign of the current proposed development that is more sensitive to its impacts on the hotels. In the absence of more comprehensive analysis, and based on the current VIA, we would have to recommend reducing the height and bulk of the podium as well as the lower end of the proposed tower. Specifically, we recommend reducing the height of the podium by two (2) levels as well as removing the 'stepping' at the lower levels of the proposed tower (as demonstrated in **Appendix 1**).