

OBJECTION TO CONCEPT PROPOSAL FOR THE REDEVELOPMENT OF THE HARBOURSIDE SHOPPING CENTRE STAGE I, DA – SSD7874

PREPARED FOR THE RESIDENTS OF ONE DARLING HARBOUR,
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INTRODUCTION

1. The concept proposal for the redevelopment of the Harbourside Shopping Centre has been lodged with the NSW Department of Planning & Environment. It is proposed to be on public exhibition until the 14th February, 2017.
2. This submission and objection to the proposal is made on behalf of the permanent residents of One Darling Harbour (also known as 50 Murray Street), Pyrmont. One Darling Harbour have been given an extension of 14 days to lodge their submission.
3. The Department has stated that the key components of the proposal include.
 - A height of up to 15.5m to 30.5m (approximately five storeys) for the redevelopment of the shopping centre
 - A height of up to 166.53m (approximately 40 storeys) for the residential apartment tower
 - An area of 87,000m² for retail (52,000m²) and residential (35,000m²)
 - Basement parking for approximately 295 spaces
 - Public walk ways and public parks and thoroughfares
 - Remediation, infrastructure, flooding and a strategy to achieve efficient heating and cooling and water usage.
4. It needs to be noted that the height of the shopping centre is not 15.5m to 30.5m as stated by the Department. That relates to the roof levels of the shopping centre. The actual height of the shopping centre is from the pedestrian concourse on the eastern side of the proposal (about R.L. 2.3) to the roof of the shopping centre (at R.L. 30.5). This means the proposed shopping centre has a height up to 28m, which equates to a 9 storey residential building.

RESIDENTS CONCERNS ABOUT THE PROCESS

5. The residents of One Darling Harbour are extremely concerned about this proposal within the Darling Harbour Precinct because unlike in virtually every other part of the state they have been excluded from the process of providing input into the preparation of a Local Environmental Plan or a Development Control Plan for the very precinct in which they live. There are no planning controls or development standards which apply at Darling Harbour because the NSW Government has decided that the residents of Pyrmont should not have any input into the planning controls which should apply.
6. It is required by the EP&A Act that when an LEP is being prepared that it be placed on public exhibition for interested parties to make submissions concerning it. The draft LEP would normally contain development standards relating to maximum heights and densities of development which may be permitted. The adjoining Pyrmont area is evidence of the control which would normally be placed in an LEP, where the development standards imposed, and which residents were able to comment upon before they were imposed, concern height (for which a 24 to 35 metres maximum height limit is imposed) and floor space ratio (for which a 3.5:1 and 4.0:1 maximum FSR is imposed).

7. The issue here is that the local residents have not been consulted in the preparation of LEP standards or DCP controls and proponents of development have the opportunity to lodge ambit development applications with the community left wondering where the community consultation process went. Without development standards being in place, proponents of development make their own controls, and in this application they have.

THE MAJOR PROBLEMS WITH THE CONCEPT PROPOSAL

The Issue of Loss of Iconic Views

8. The EIS spends considerable space identifying the public areas around the site from which the site can be seen and then discusses those views. Some discussion then follows concerning the private views affected by the proposal.
9. Unfortunately, the loss of views is discussed as though the people affected are all similar, with a similar attitude towards view loss. Of course this is naïve as permanent residents have a totally different attitude to view loss compared to itinerant occupants of hotel rooms or occupants of a commercial office building.
10. Furthermore, the EIS makes very generalized statements or comments about the loss of views. Nowhere is it acknowledged that the existing residential views from One Darling Harbour are of icons with water views and are panoramic views. The EIS does not identify how many properties and to what extent views are affected or lost from One Darling Harbour, except from a few selected units. Nowhere are the principles of *Tenacity Consulting Pty Ltd v Warringah Council* (2004) discussed, even though the Land & Environment Court has specified that these principles should be addressed in the absence of specific view sharing standards.
11. This is a glaring gap in the application as One Darling Harbour has many units adversely affected by the proposal, with many on the lower residential levels losing all or the predominant part of their iconic view. These residents have a right to know how their properties are proposed to be affected and what the degree of that affectation is. The proponent has a responsibility to advise them in the application. Identifying view loss from only 4 units, when 29 units are greatly affected at the lower levels by the podium structure, is not reasonable. All other east facing apartments on the higher levels are also significantly affected. The fact is that in One Darling Harbour 92 units have their iconic view badly affected, many of them by the proposed tower alone, which splits the iconic view of many units in two pieces, with the tower being central to the remaining view. The Diagrams in Appendix I illustrate the extent to which views will be lost.
12. The EIS analyses three options for the tower site.
13. The benefits of all three options include a comment that each will “enhance view sharing opportunities for existing development to the west.” It is apparent that all options will severely affect views, with the northern option having the greatest and a drastic effect on private resident views from One Darling Harbour units.
14. The impact of this loss of views is discussed in the investigation of Dr Richard Lamb, attached to this submission.

15. In addition, the podium structure must have a balustrade around it, and any planting on the roof decks will further affect view loss from One Darling Harbour.

The Impact Of The Residential Tower On The Heritage Of Pyrmont Bridge

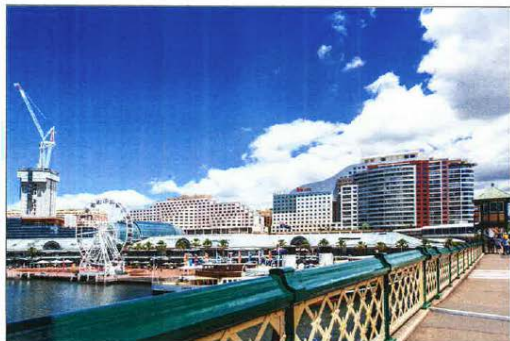
The EIS (Heritage Impact Statement)

16. The report states in the conclusion that “the tower will have only a minor-moderate impact on the backdrop to the Pyrmont Conservation Area and the local items within the vicinity of the site when viewed from Pyrmont, as currently, the views to and from the bridge and Pyrmont area already obstructed by the existing hotels and residential development”.
17. A “minor-moderate” impact would usually be enough to require the relocation of the tower. The conclusion says nothing about the visual impact of the tower on the bridge or the extent to which such a high and large tower and its proximity to the bridge will dominate the view of Pyrmont Bridge.
18. It is noticeable that the comment in the conclusion relates only to the site “when viewed from Pyrmont”. Any view of the proposal from the east shows the dramatic effect the tower building has because of its proximity close to Pyrmont Bridge. (See extract from the EIS Photomontages following). The images of the tower building do not identify the extent (height) of the tower, as the tower dominates everything in the immediate context and is inappropriate in the location shown having regard to the proximity to Pyrmont Bridge.

VIEW OF RESIDENTIAL TOWER & PODIUM RELATIONSHIP TO PYRMONT BRIDGE

13 - Pyrmont Bridge West

RL - 14.800 **virtualideas**



24mm - Original Image

Photo Date - 2nd February 2016



24mm



50mm - Original Image



50mm

Harbourside - Public Ground View Photomontages

NOTE: - THESE IMAGES ARE FOR INFORMATION ONLY
- THEY HAVE BEEN PREPARED FOR VISUALISATION PURPOSES ONLY
- THE EXACT HEIGHTS AND POSITIONS OF THE PROPOSED BUILDINGS ARE NOT TO BE TAKEN AS A GUARANTEE

ENVIRONMENTAL DEVELOPMENT WITH A LONG-TERM VIEW FOR INFORMATION AND PLANNING
PROPOSAL AND ANALYSIS ARE NOT TO BE TAKEN AS A GUARANTEE
IMPACTS ON THE ENVIRONMENT ARE NOT TO BE TAKEN AS A GUARANTEE

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- 19.** The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, which includes the subject land within its area, includes in Clause 59 matters to be assessed before a decision on development is made. The Clause states:

“59 Development in vicinity of heritage items

- (1) Before granting development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item.
- (2) This clause extends to development:
 - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
 - (b) that may undermine or otherwise cause physical damage to a heritage item, or
 - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item.”

- 20.** In addition to this comment, the SHFA Design and Development Panel, whose recommendations the proponent was required by the SEARS to address in its EIS, stated in their response to the earlier concept proposal that “The relocation of the tower further south was suggested”. The applicant appears to consider that moving a 166 metre high building 25 metres to the south is a satisfactory response to the SHFA Panel. In our submission it is a token movement and is not sufficient.

- 21.** This attitude is further enhanced by the SHFA Design and Development Panel that “The location of the tower relative to Pyrmont Bridge was raised as it presents an unsatisfactory relationship”. It is surprising to read that the applicant considers moving the 166 metre high tower only 25 metres to the south changes the relationship with the Bridge from being “unsatisfactory” to one which “will enable a positive outcome”.

- 22.** The final comment of the SHFA Design and Development panel is that “Pyrmont Bridge is one of the few heritage items in Darling Harbour, and needs to be reinforced, not diminished, so it reads as a strong, independent historic structure”. It cannot be accepted that the tower building, which dominates the Pyrmont Bridge because of its proximate location, will result in the Bridge being seen as a “strong, independent historic structure”.

The Impact Of The Residential Tower On Sydney Harbour And Cockle Bay

- 23.** In 2006 a Darling Harbour Building Heights study by Tony Caro included a diagram which showed building heights increasing as buildings moved away from the Harbour. While the Study did not discuss the heritage of Pyrmont Bridge, it did indicate that where the proposed tower is now located, that a height limit of 0 to 5 metres (adjacent to Cockle Bay) and 5 to 30 metres (adjacent to the Western Distributor) should apply. There are no grounds upon which ignoring this standard is justified in the E.I.S.

- 24.** A Darling Harbour South Masterplan of 2010, prepared by JPW, states that the overall height of built form steps up as it rises away from the valley floor towards the Ultimo Pyrmont Ridge and more significantly towards the city ridges of George Street and Hyde Park. The proposed tower building ignores this design principle.
- 25.** In 2012 a study titled “The Western Harbour Precinct Design Guidelines by Woods Bagot referred to building height adjacent to the waters of Darling Harbour. It said that low lying buildings were to front the water and to embrace the public realm and provide an important human scale to the waterfront. The principle is shown in a diagram from the Woods Bagot report. (see Appendix III).
- 26.** Indeed, the location of the proposed tower, with no low rise building between it and Cockle Bay, ignores the long standing principle of requiring a low rise building at the base of tower buildings, with the tower building being set back a much greater distance than the 10-12m proposed from Cockle Bay.
- 27.** The SREP (Sydney Harbour Catchment) 2005 includes the site within the area covered by the SREP. The SREP has as its first aim the following.
- “(1) This plan has the following aims with respect to the Sydney Harbour Catchment:
- (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognized, protected, enhanced and maintained:
 - (i) as an outstanding natural asset, and
 - (ii) as a public asset of national and heritage significance,
- for existing and future generations.”
- 28.** The SREP identifies the whole Sydney Harbour Catchment, including its foreshores and waterways, as “a public asset of national and heritage significance.” Nowhere in the Heritage Impact Statement is there any discussion of the waterway and foreshore of Darling Harbour being of “national and heritage significance.” It is submitted that as stated by the SREP, the location of the foreshore of Cockle Bay is such a location and further that the tower building proposed would significantly impact on the “national and heritage significance” of Cockle Bay because of its height, scale difference to existing buildings and its proximity to the waters of Darling Harbour. It would introduce a jarring element into the locality which would destroy the principles which have applied at Darling Harbour for at least 28 years.
- 29.** The aims of the SREP then go on to state in Clause 2:
- “(2) For the purpose of enabling these aims to be achieved in relation to the Foreshores and Waterways Area, this plan adopts the following principles:
- (a) Sydney Harbour is to be recognized as a public resource, owned by the public, to be protected for the public good,
 - (b) the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,
 - (c) protection of the natural assets of Sydney Harbour has precedence over all other interests.”

30. The EIS attempts to make much of the comment that:

“the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour and its foreshores.”

31. However, the proposed shopping centre and residential tower is not being put forward for the “public good”. It is a private development being put forward to enhance the coffers of the proponent. The residential tower, in particular, must be seen as creating no public benefit whatsoever. It is simply there for profit. It needs to be relocated away from Pyrmont Bridge and away from the foreshore area, or alternatively removed altogether. Whatever occurs, it must be dramatically reduced in height and relocated much further away from the heritage Pyrmont Bridge and further away from Darling Harbour waterway.

32. Unusually the subject Darling Harbour area is not zoned under the SREP, but the provisions of the Plan still apply.

33. Sydney Harbour itself is probably the most significant heritage item of Sydney. The fact that it is not on a heritage list is probably because it is extremely large and because it is covered by the Sydney Harbour Catchment – SREP 2005.

34. Yet even though it is such a significant item, and is identified as being of national and heritage significance, there is not one comment in the heritage report about the impact of the tower and retail complex upon Sydney Harbour (Darling Harbour and Cockle Bay). The REP has the following to say concerning “Heritage Items”.

35. **“Heritage Items:** The Sydney Harbour REP has heritage provisions to conserve and protect those heritage items in the waterway and within the land-water interface that area not covered by council’s planning instruments.”

36. In terms of implementing the REP the document has this to say.

“Implementing the Harbour REP

The Harbour REP will be used by councils for the preparation of environmental planning instruments, consent authorities for the assessment of development applications that fall within the foreshores and waterways area, proponents in the preparation of their development applications and plans and the Minister for the assessment of state significant development.”

37. It is to be noticed that the tower building proposal is far closer to Darling Harbour than any other tower building around this precinct of Sydney Harbour. It is also only one sixth the distance from the Harbour than the ICC Hotel Building, which is about 80 metres distant and further west than the adjoining Harbourside site. There is a very real question which must be asked as to why a tower building should be considered appropriate at all in such close proximity to Darling Harbour and to Pyrmont Bridge.

38. To justify the location of the tower building by comparing it with the ICC Hotel (as the EIS does) is not valid as shown in the following table.

Attributes of the proposed tower building	Attributes of the ICC Hotel
50m from the heritage Pyrmont Bridge	250m from the heritage Pyrmont Bridge
166m high	133m high
10-12m from the waters of Darling Harbour	80m from the waters of Darling Harbour
No separation building between tower & Darling Harbour – No low rise building.	Low rise building between tower and Darling Harbour

Urban Design Considerations

39. The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 contains numerous specific planning controls which relate to the subject development site, being within the Sydney Harbour Catchment, as shown on the Zoning Map forming part of the SREP.
40. As set out earlier in this submission, the Sydney Harbour foreshores are to be recognized, protected, enhanced and maintained as a public asset of national and heritage significance. Clause 15 of the SREP goes on to state:
- “(a) Sydney Harbour and its islands and foreshores should be recognized and protected as places of exceptional heritage significance.”
41. As previously stated, in my reading of the EIS for the proposed development there is no mention of the heritage value of Sydney Harbour nor of the impact of a 166 metre residential tower only a few metres from the foreshore of Cockle Bay.
42. On the western side of Darling Harbour the only tower building which remotely approaches the height of the proposed tower is the ICC Hotel, which is 33 metres lower in height than the proposed tower and is set 80 metres back from the Cockle Bay water behind the low rise existing Harbourside Shopping Centre. There is no comparison between the ICC Hotel and the proposed tower in respect of the impact on the Darling Harbour waterway in relation to height, set back from the Harbour and provision of a low rise building between the tower and the Harbour.
43. The SREP in clause 13(f) also states that:
- “Development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour.”

The principle is repeated in Clause 14(d) of the SREP. The proposed residential tower not only can be seen from Sydney Harbour, it will dominate the view from any location close to it. Being located only a few metres from the Harbour and being 166 metres in height it stands in stark contrast to other development on the western side of Darling Harbour. The principles of height and relationship with Darling Harbour Authority, will be completely overturned by the residential tower. Images of the tower included in the EIS illustrate the extent to which the tower will dominate its context.

- 44.** Clause 25 of the SREP, dealing with foreshore and waterways scenic quality puts forward matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.
- “(a) the scale, form, design and siting of any building should be based on an analysis of:
- (i) the land on which it is to be erected, and
 - (ii) the adjoining land, and
 - (iii) the likely future character of the locality,
- (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,”
- 45.** An analysis of the land on which the development is proposed identifies the site as one which is located very close to Pyrmont Bridge and the waters of Darling Harbour. This should have produced some concern as to the appropriateness of any tower building.
- 46.** Secondly, the height of buildings in the immediate locality, and the various recent reports dealing with heights, should have provided some insight into what form and height of building would be appropriate on the site. The principle of stepping down in building height as the waterways of Sydney Harbour are approached, appears to have been completely ignored, even though it is a well-established principle. In addition the development standards of the Sydney City Council in Pyrmont should provide some understanding of the “likely future character of the locality”. The Council’s proposals for the locality do not extend to 166 metre high towers with any such tower being totally uncharacteristic of the locality. The proposal seeks to rely upon the ICC Hotel to justify the height and location of the residential tower. However, there is no justification within the E.I.S. as to why the proposed tower is considerably higher than the ICC Hotel or why it needs to be separated from it to the extent proposed. The E.I.S. comments on the separation but nowhere attempts to justify why a relationship similar to buildings in the CBD would be inappropriate. The argument for separation in the EIS is flawed.
- 47.** Any building on this site should be lower than its neighbours, and protect iconic views from residential properties, to satisfy the stepping down principle relating to foreshore development.
- 48.** Clause 26 of the SREP deals with maintenance, protection and enhancement of views. It states:
- “(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.”
- 49.** It would not be possible for anyone to suggest that a 166 metre high tower 50m from Pyrmont Bridge and a few metres from Darling Harbour will not adversely affect views from Sydney Harbour nor adversely affect views from Pyrmont Bridge.
- 50.** Even the applicant’s heritage consultant admits that the tower will have a “minor-moderate” impact upon the Pyrmont Conservation Area when viewed from Pyrmont.

51. No comment is made about the impact on views as seen from Darling Harbour or Pyrmont Bridge. In our opinion the impact of the proposed tower on the views from Darling Harbour and Pyrmont Bridge will be very significant. The tower is so high than in many of the images provided, the upper levels of the tower are completely lost.
52. There is also the matter of the cumulative impact of the proposal, coupled with the proposed for the 241-249 Wheat Road, Cockle Bay to close in the openness and valley floor of Cockle Bay from the South.
53. Historically, Darling Harbour has been progressively made less open by a filling of the Bay so that it is now only a token of its former water area. The two towers now proposed on the eastern and western foreshores, very close to the Harbour, would have the cumulative impact of closing in the Bay even further. This result would encourage further tower development around the Bay which would result in a further destruction of the Bay and the character of the locality. It would also ignore the planning standards for Pyrmont put forward by the Sydney City Council.
54. If tower buildings are to be permitted at all around the western foreshores of Darling Harbour they need to be appropriately set back from the water area, with a low rise building located between the tower and the Harbour. They also need to have regard to existing development standards on adjoining Pyrmont land and the likely future character of the locality.
55. The present ambit claim development application is not consistent with the planning principles of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 nor is it consistent with the existing planning standards for Pyrmont, and, in its present form, should be refused.
56. In 2016 the Sydney Harbour Foreshore Authority, then administering development within Darling Harbour, including the subject site, produced a document titled "Draft Darling Harbour Urban Form Strategy". Within this document is a section specifically dealing with the Harbourside Shopping Centre site. The document had this to say concerning redevelopment of the site.

"Harbourside Shopping Centre

The Harbourside Shopping Centre opened in 1988 and sits beside the new ICC Sydney Conference Centre and ICC Sydney hotel. The original basic design principles for this building remain relevant today:

"Three levels of visible activity were seen as important in creating the sense of bustle and festivity, people promenading on the lowest level, people dining on the shaded terrace and overlooking the promenaders, and on the upper deck were restaurants overlooking the over lookers and all focusing on the water of the harbour." (Barry Young, 'Darling Harbour: A New City Precinct' in G Peter Webber (ed), 1988, The Design of Sydney: Three Decades of Change in the City, Sydney).

Landowner guidelines:

- Maintain a balance between built form of foreshore buildings on the eastern and western side of Cockle Bay.

- Design buildings which are restrained and unpretentious and subordinate to the landmark ICC Sydney buildings on the south western side of Cockle Bay.
- Any upgrade or redevelopment should address a preferred 18 metre foreshore building height; any additional height should be setback and designed to read as a separate element.
- Ensure no net reduction in the amount of sunlight access to the public promenade.
- Set back buildings and outdoor eating areas at least 20 metres from Cockle Bay to provide adequate public access and gathering opportunities.
- Present an attractive and active frontage to the public foreshore promenade to enhance the visitor experience.
- Enhance pedestrian access and views from Dunn Street to the waterfront.
- Improve the interface with the approaches to the Pyrmont Bridge, and respect its heritage significance including its visual setting.
- Improve back-of-house arrangements and the appearance of the Darling Drive frontage; consider active building interface with the street.
- Address view sharing for neighbouring residential buildings.”

57. The Urban Form Strategy sets out principles for redevelopment of Harbourside which are not followed by the proposed development. The proposal is dramatically different in the following respects.

- It is not unpretentious and subordinate to the landmark ICC Sydney buildings.
- It does not provide an 18m high foreshore building adjacent to the foreshore. The proposed shopping centre is proposed to extend to a height of 30m and the tower to extend to 166 metres immediately adjacent to the foreshore.
- The proposal creates very significant additional overshadowing of the public promenade, both by the tower building and by the height of the podium shopping centre. It does not “ensure no net reduction in the amount of sunlight access to the public promenade”.
- The proposal is not set back at least 20m from Cockle Bay. It is only 10-12 metres from Cockle Bay and part of the public promenade space is taken up by outdoor seating and dining areas with planters taking up further public space.
- The proposal does not present an attractive frontage to the public foreshore promenade, with the tower building dominating that space.
- The proposal does not improve the interface with the approaches to Pyrmont Bridge. It dominates the view. In addition, it does not respect the heritage significance of Pyrmont Bridge or its visual setting.
- The proposal comments about the impact on views from neighbouring residential buildings, including One Darling Harbour, but then glosses over the extent of impact on the iconic views by commenting that it is inevitable anyway. The principles of SHFA do not agree with this attitude.

58. For all of the reasons set out above, the proposed development should be refused, with advice to the applicant that a dramatic modification of the proposal will be required before it can be further considered.

The Impact of the Residential Tower on Solar Access to the Pedestrian Promenade

59. The residential tower building is located where its impact on the pedestrian promenade adjoining Cockle Bay will be greatest during the noon to 2:00pm period.
60. The Sydney Local Environment Plan 2012 has a provision in Clause 6.19 which relates to overshadowing of specified public places between 14 April and 31st August in any year. Specifically it prohibits development which creates additional overshadowing of the nominated places at specified peak times. If the Darling Harbour precinct had been included within the control of the City of Sydney Council it is highly likely that the Darling Harbour precinct would have been protected from overshadowing by this provision, at least between 12 noon and 2:00pm. Relevantly, the SHFA draft Urban Form Strategy 2016 also requires no net reduction in solar access to the public promenade at Darling Harbour and specifically on the Harbourside site (see paragraph 64).
61. It is to be noted that while the EIS attempts to rely on the scale and proximity of city buildings for some of its arguments, the Sydney Council attitude to overshadowing is not discussed.
62. On page 92 of the EIS two comments are made which require discussion.
- “Overshadowing of this waterfront promenade during the afternoon period on the winter solstice would be expected with any reasonable built form outcome on the Site, given the proximity of the promenade on the eastern side of the building form. The overshadowing expected to result from the tower envelope is restricted to a small proportion of the overall Darling Harbour public domain, with a significant area of waterfront public domain still within direct sunlight between 1:00pm and 3:00pm on the winter solstice.
 - “The Concept Proposal represents a maximum building envelope for the future podium and tower development. The details designs of the building will be contained within the proposed maximum envelope, ensuring that any potential overshadowing impacts are minimised from those being considered within this assessment.”
63. The response raised by the applicant to overshadowing of the pedestrian promenade public place is a response which the Sydney City Council would not accept. The Sydney LEP 2012 simply states that “development consent must not be granted to development that results in any part of a building causing additional overshadowing, at any time between 14 April and 31st August in any year”. Therefore to suggest that overshadowing would be expected is an argument in support of that overshadowing. It does not reflect the importance of the public place during the lunch period of the day. A perspective (Image 123) is a clear illustration of the impact of the tower upon the pedestrian promenade. It is also a clear indication that the ICC Hotel building does not overshadow the promenade at least until after 3:00pm in winter, thus producing a significant difference between the impacts of the proposed tower and the ICC Hotel building.

“PART OF IMAGE 123 HIGHLIGHTING EXTENT OF OVERSHADOWING”



64. In addition to these arguments, the 2016 Draft Darling Harbour Urban Form Strategy prepared by SHFA has an image with a caption underneath which states “Sunlight access to the promenade must not be reduced”. The proposal ignores this principle. The image is shown below.



Sunlight access to the promenade must not be reduced

65. The analysis illustrates that the further south a tower building is located, the less impact it will have on overshadowing the important public promenade.
66. There is a further matter which affects shadow. There is much discussion in the EIS about the design of the tower building creating a slim elevation to the east-west. Nowhere is it acknowledged that this slim east-west residential tower creates a wider shadow on the pedestrian promenade. In addition the above image does not illustrate the podium building accurately, as the podium extends up to Pyrmont Bridge.
67. It is clear that if there is to be a tower building at all, it should not be on the northern part of the Harbourside site where the heritage impact is increased and where the overshadowing impact is greatest. In addition, the view impact on permanent residential properties is greatest and the proximity to the waters of Darling Harbour is inappropriate and results in amenity destruction.

The Relationship of the Podium Building with Pyrmont Bridge

68. The E.I.S. contains comments that would lead the reader to believe the Podium Building is set back significantly from Pyrmont Bridge as do some of the images. However, a detailed reading of the EIS shows that it is not set back where the podium building is well above the level of Pyrmont Bridge.
69. Adjacent to the Harbourside site the surface level of Pyrmont Bridge is about R.L. 11.8 metres above mean sea level. At the same location the podium building abuts the Bridge at RL 13.5 and RL 17.5 as shown on the attached diagram which forms part of Image 91 within the EIS. The E.I.S. on page 7 states:

“Furthermore, expert design and heritage advice has resulted in the northern envelope being setback further from the Pyrmont Bridge when compared to the existing situation. This increased setback will allow for improved pedestrian connectivity, as well as an enhanced ability to appreciate the significance of Pyrmont Bridge.”

70. This “expert design and heritage advice” has clearly misunderstood the resulting podium envelope. The northern envelope is not set back further from Pyrmont Bridge when compared to the existing situation. It simply allows pedestrian steps to be provided within the northern facade of the podium.

Other Significant Problems With The Concept Proposal

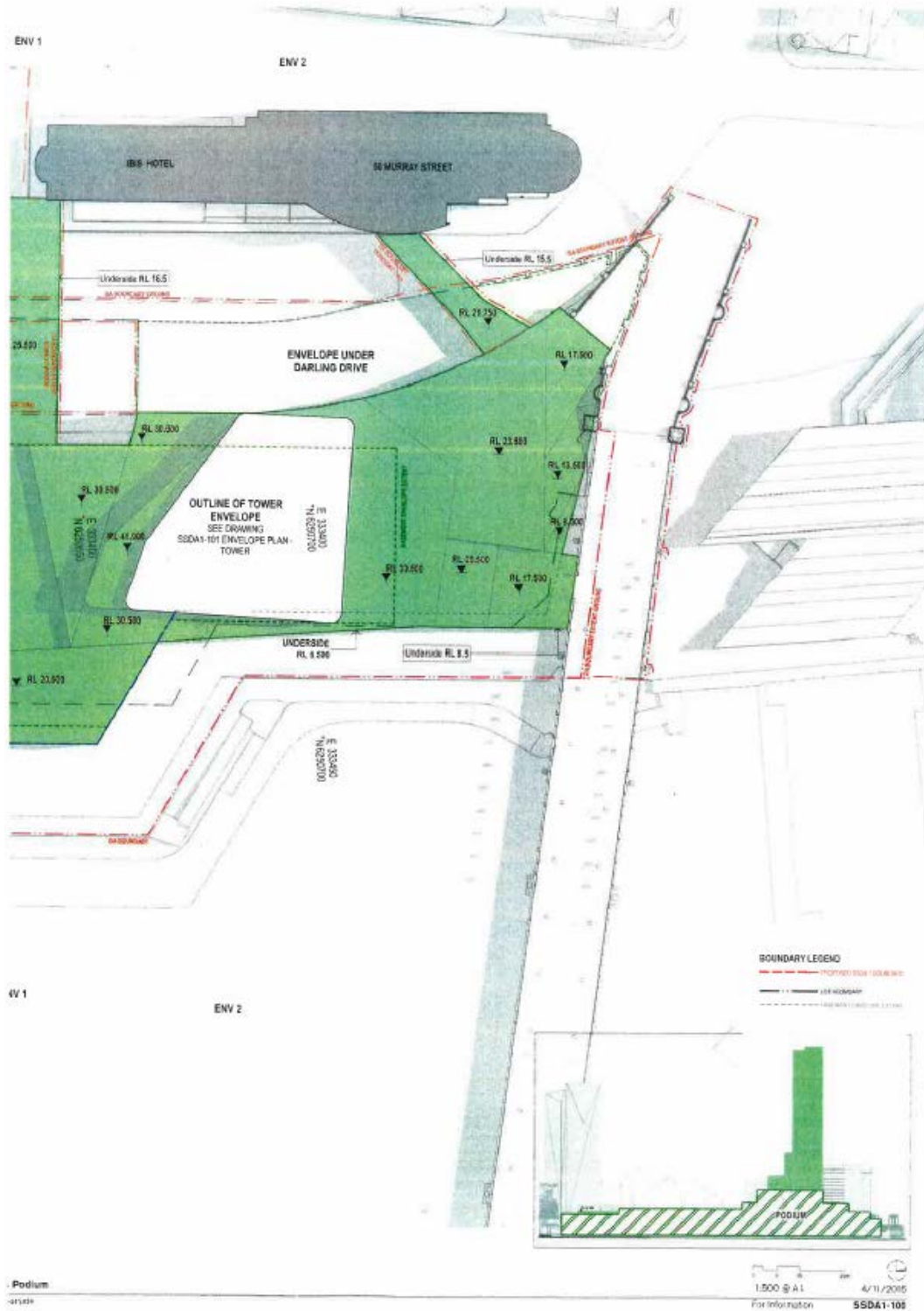
The Doubling of Retail Floor Space Is Not Justified

71. The Concept Proposal embraces 52,000sqm of retail and associated space. This more than doubles the amount of retail space on the site and the extent of this floor space is not justified, other than by a wish list of retail types.
72. Included in the wish list are some uses which are not considered to be appropriate within the Darling Harbour context. The proposal to include “apparel stores — including clothes, shoes and accessories” is not appropriate unless it is for tourists. Darling Harbour is a tourist precinct and retail uses within the area should reflect this intention and promote tourism. Under no circumstances should the development include retail goods which are provided more fully in the Sydney CBD such as those suggested above.
73. The Concept Proposal also includes a provision which significantly increases the floor to ceiling heights of the retail outlets. This is presumably to satisfy the special requirements of the luxury precinct within the retail component including tenants such as Rolex and Louis Vuitton. This significantly increases the bulk of the podium building. It is assumed that a 6m (about) floor to ceiling height is not required through the whole retail area and that a component of the podium building could be reduced in height to retain views from residential properties in One Darling Harbour.

The Evaluation of the Southern, Central and Northern Locations of the Single Tower Option is Flawed

74. On page 11 of the EIS a table is provided evaluating the benefits and disadvantages of a single tower option in the southern, central and northern parts of the Harbourside site. It is our opinion that the evaluation is biased in favour of a northern location. This considered bias is evident when other benefits and disadvantages not provided in the EIS are considered. The table set out in Appendix II compares the benefits and disadvantages for each tower location given in the EIS with an evaluation undertaken by Ingham Planning which has attempted to provide an objective assessment.
75. It is clear from the objective evaluation in Appendix II that the northern location for a tower (if one is appropriate at all) is not the location which would result in an acceptable development.

**PLAN VIEW OF NORTHERN PART OF CONCEPT PROPOSAL SHOWING
RELATIONSHIP OF PODIUM BUILDING TO PYRMONT BRIDGE**



76. Within the EIS there is a continuing comment rebutting any notion of the Residential tower being located close to the ICC Hotel for “urban design reasons”.
77. The justification for this attitude is not clear, particularly as the tower proposal attempts to be justified on the grounds that it is an extension of the CBD where tower buildings are located with close proximity to each other. However, the images in the EIS showing the relationship between the ICC Hotel and the proposed residential building indicate that they are not related to each other at all, and to have any relationship which could be read as positive, they need to be much closer together.
78. The EIS states, having regard to the table on Page 11, that:
- “In balancing the above benefits and disadvantages, it was determined that the most appropriate outcome would be the northern tower option. A key benefit of this option was the ability for a commercial address to be achieved, with the tower having direct access to the prominent corner of Darling Drive and the Pyrmont Bridge forecourt.”
79. The “key benefit” identified is no longer relevant. The reality is that any objective evaluation of the best location for a tower would probably come to the conclusion that the site is not an appropriate location for a tower at all. If a tower is to occur, an objective evaluation would place it as far to the south as possible and as far away from the waters of Cockle Bay as possible.
80. It is our submission that the evaluation of the 3 options discussed in the EIS is biased and should not be relied upon in any determination of the present concept proposal.
81. This comment about a key benefit of the northern option being “the ability for a commercial address to be achieved” indicates that the northern option is no longer required. The commercial building has gone and the key benefit identified no longer requires or deserves satisfaction.
82. The EIS described the analysis of the three tower options as being “rigorous”. The analysis undertaken here, shows that in relation to the present concept, it is biased. Indeed much of the discussion about the tower options relates to a previous concept proposal which no longer exists.

The Consultation Process with Residents

83. The EIS professes to have consulted widely with all stakeholder groups including resident groups and to have changed the tower use and the tower location as a result of the consultation process.
84. The residents of One Darling Harbour attended all of the meetings discussing the proposal available to them, and were most concerned about the tower being proposed and about the impact of the development on the existing iconic views of One Darling Harbour and the City which would be removed or affected adversely by the proposal.
85. Unfortunately, the concept proposal does not reflect any of the residents’ concerns, with the tower being moved only 25m to the south apparently to address heritage matters.

86. The concerns and objections of residents of ODH are still valid. The proposal should be refused or modified substantially to reflect those concerns.

The Encroachment Into the Pedestrian Promenade

87. The public pedestrian promenade is proposed to be encroached by three matters.
- I. Tables and seating for eating and drinking are proposed;
 - II. Planters are proposed to separate the tables and chairs from the public walking area;
 - III. An alcohol drinking rail is proposed at the water's edge of Cockle Bay associated with a bar on the Harbourside land.
88. The public promenade area is narrow and needs expansion rather than contraction. The SHFA principles put forward 20m as an appropriate promenade width. The City Council suggests 30m. The proposal provides only 10-12m in places.
89. The public space adjacent to the Harbour should not be encroached upon for any private use. With an area of over 2 hectares there is no reason why additional land should be required. The removal of these activities is a matter of appropriate design. All of the activities appropriate for the Harbourside site can be located on the Harbourside land.

Conclusion

90. The proposed development is inappropriate for the Harbourside site for the following reasons.
- a) The proposed tower is too close to Pyrmont Bridge and will have a negative impact upon the heritage values of the Bridge. It will dominate the Bridge.
 - b) The proposed tower is too close to Cockle Bay and will have a negative impact upon the water's of Darling Harbour. It will close in the Valley floor of Darling Harbour and would result in a principle for development on the foreshore which would overturn 30+ years of ensuring stepping of buildings occurred from the valley floor to the ridges of the City and Pyrmont.
 - c) The proposed development creates significant overshadowing of the pedestrian boulevard east of the site in a location where a 2016 SHFA document states that "sunlight access to the promenade must not be reduced". This loss is created by both the tower and the podium.
 - d) The proposed development creates a loss of the significant iconic city view for all east facing units of One Darling Harbour, together with a further loss of views of Pyrmont Bridge for many.
 - e) The proposed development ignores the principle of stepping development away from the foreshore of Darling Harbour and retaining the visual attributes of a valley floor, enunciated by at least 4 Darling Harbour studies since 2006. The latest in 2016 by SHFA is a study which could only be ignored by the applicant if they believe an ambit claim might just be successful. We submit this ambit claim should fail and fail completely.
 - f) The proposed development seeks approval for 52,000 sq.m. of retail space. The development on exhibition at Cockle Bay Wharf proposed about 25,000 sq.m. of additional retail space. All of this retail space is not desirable for Darling Harbour. It is appropriate for the subject development to reduce its retail component and produce a podium within the parameters set out by SHFA in

2016. This would also help to reduce or eliminate the loss of iconic views from some of One Darling Harbour residences.

- g) If a tower building is proposed at all, it should be:
- towards the southern end of the site;
 - located much further away from the waters of Darling Harbour; and
 - lower and subordinate to the ICC Hotel building. There is no reason why the ICC Hotel and any new tower cannot be located adjacent to one another as occurs in most parts of the city. This is on the assumption that a tower is appropriate at all.
- h) Public space, and particularly the public pedestrian promenade, should not be encroached upon for any purpose associated with the development.

91. For all of the matters discussed and considered in this submission, the present development application should be refused.

A handwritten signature in black ink, appearing to read 'Neil Ingham', with a stylized flourish at the end.

Neil Ingham LFPIA, postgraduate DipTCP(Syd) R.S. (NSW – retired)

APPENDIX I

DIAGRAMS EVALUATING VIEW LOSS FROM RESIDENTIAL UNITS WITHIN ONE DARLING HARBOUR

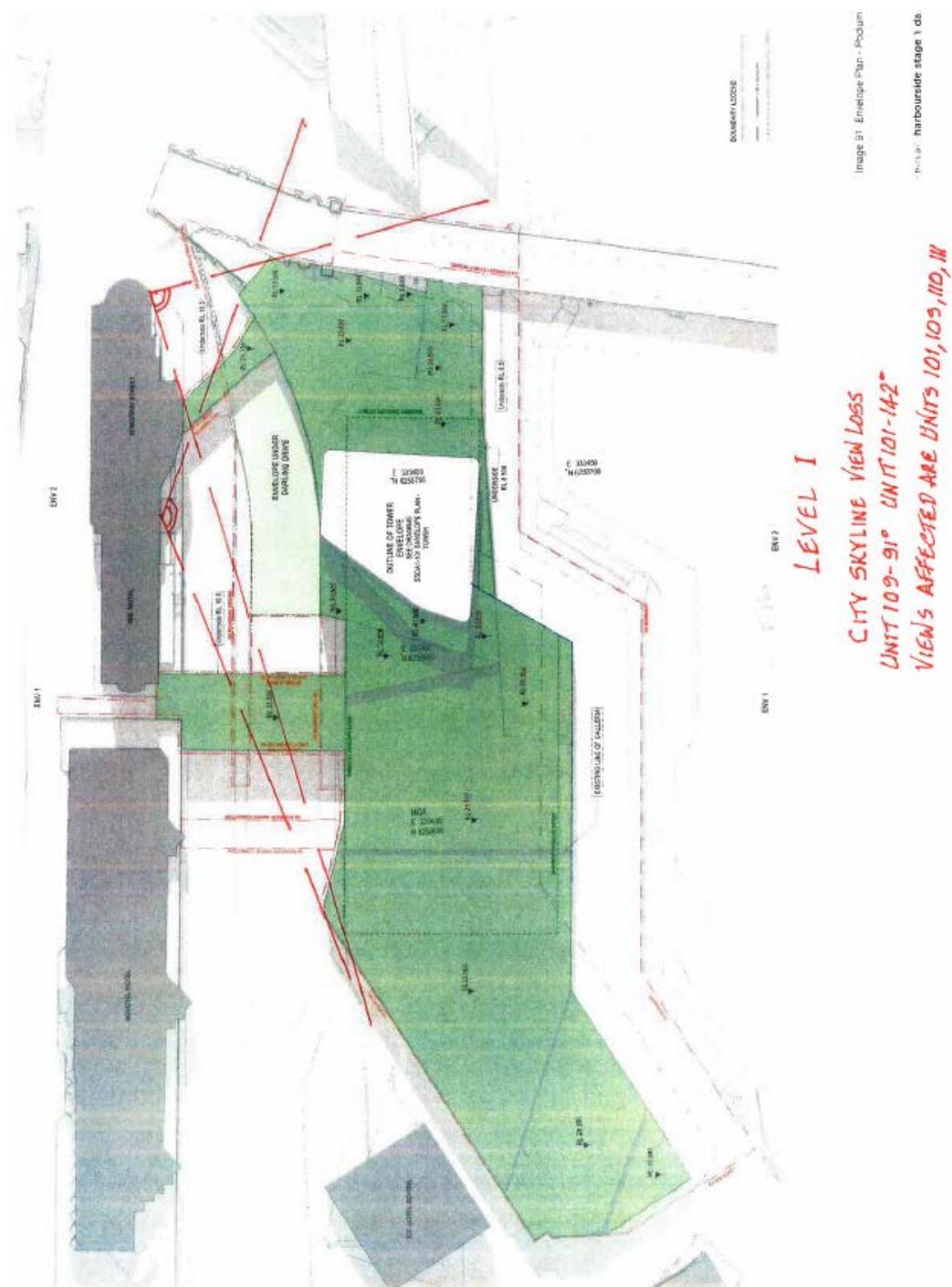


Image 31 Envelope Plan - Podium

Unit 101 - Harbourside stage 1 da

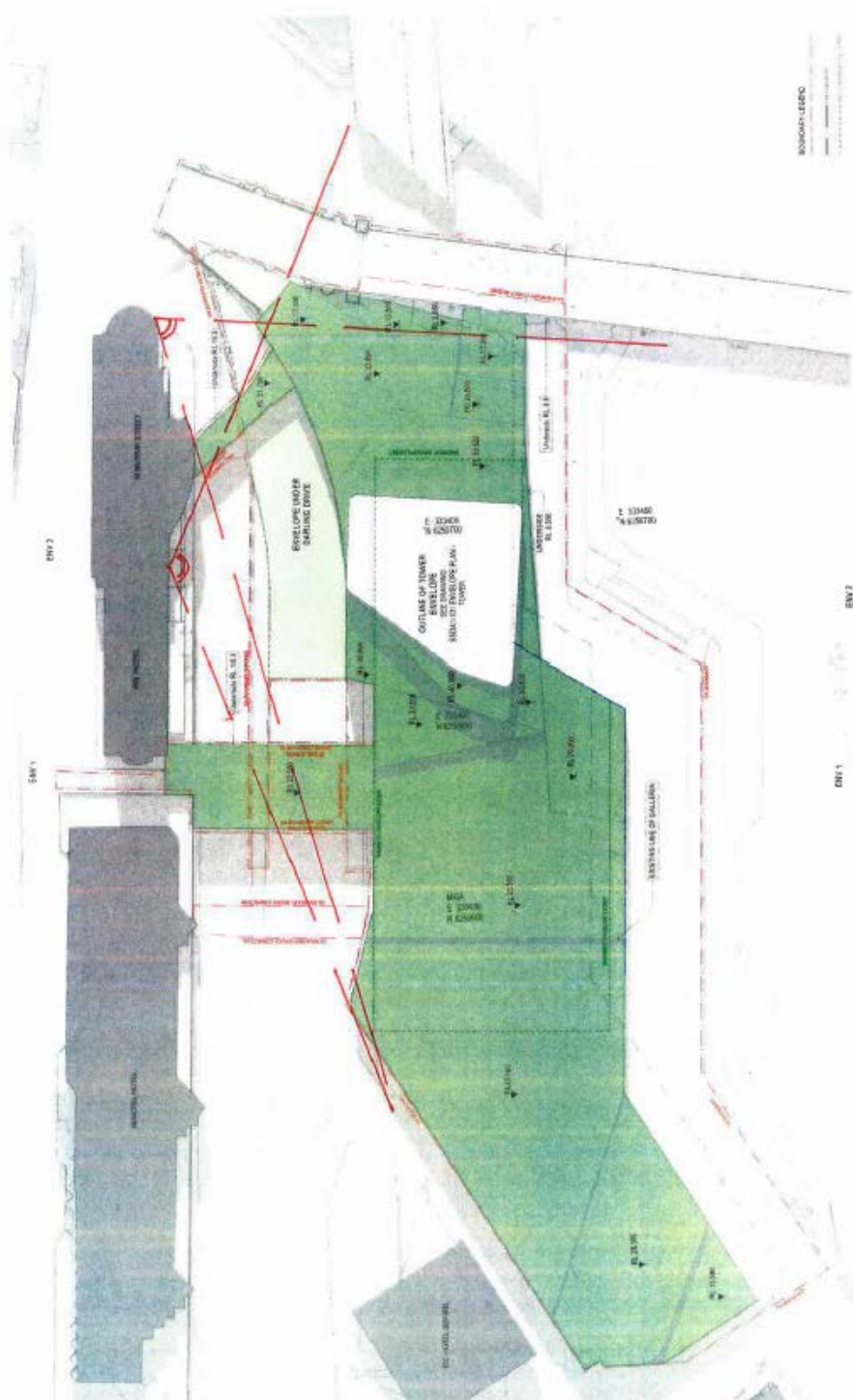
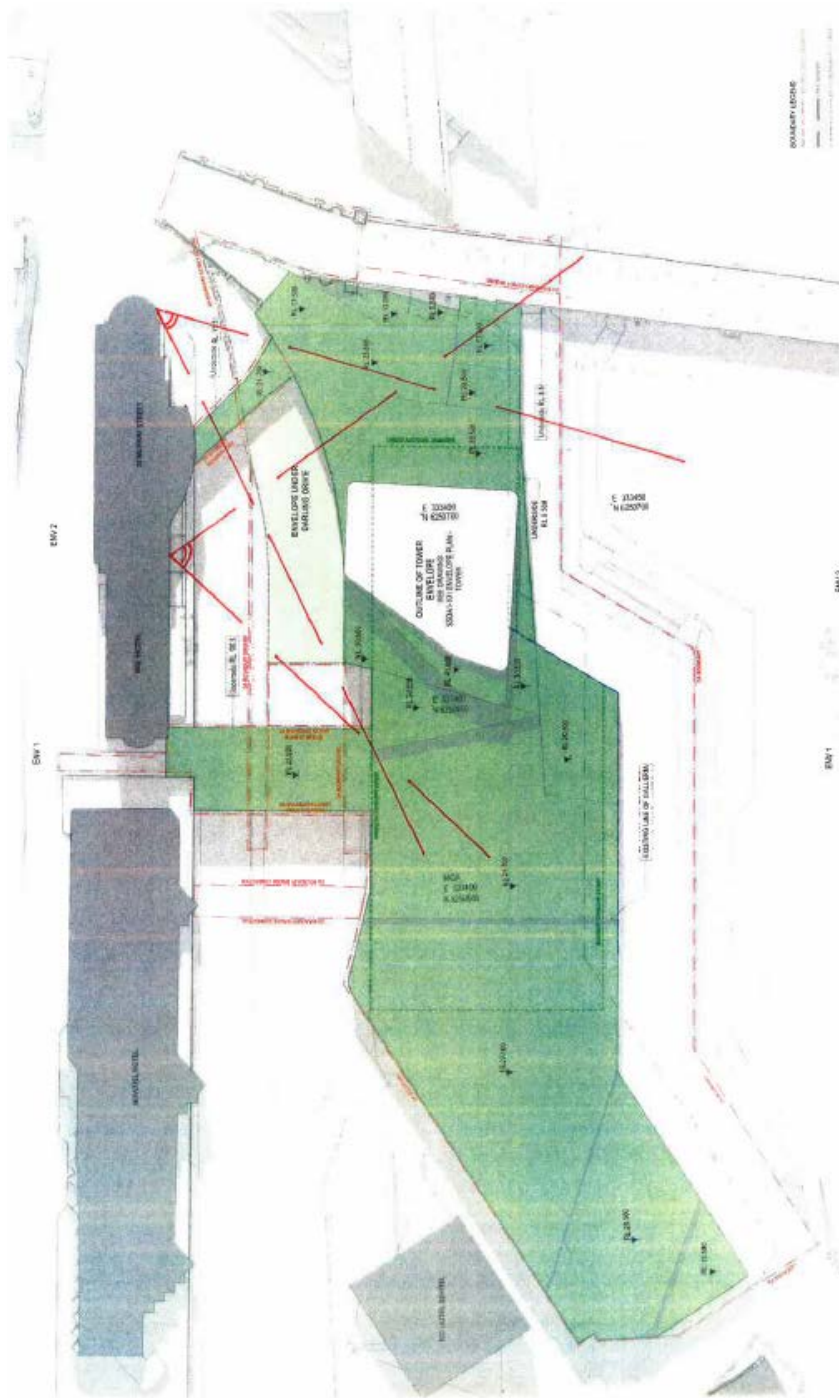


Image 91 Envelope Plan - Podium



ENVELOPE

VIEW LINE

LEVEL A

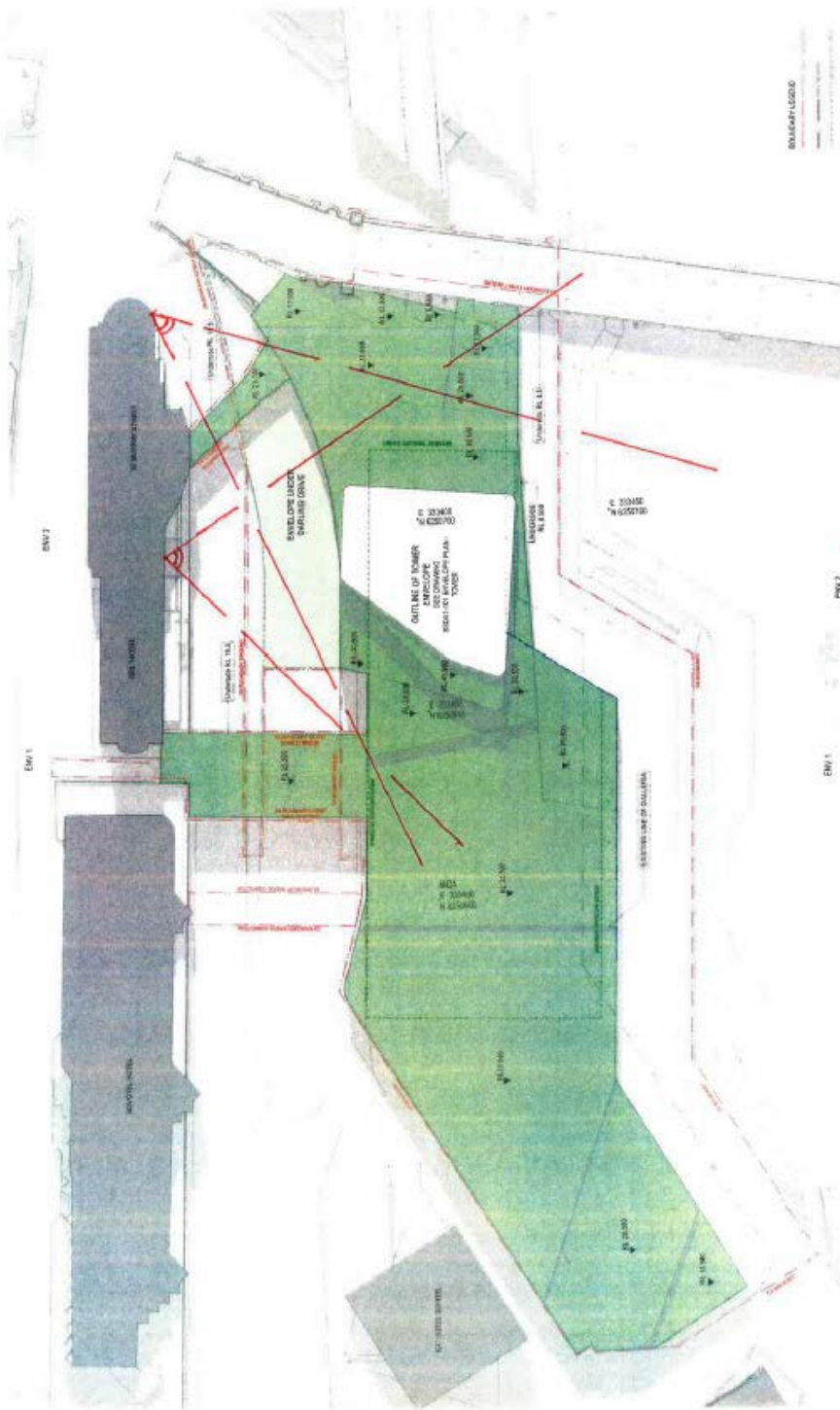
VIEWS AFFECTED

UNIT 412-47 UNIT 404-79

AFFECTED UNITS 412.413.414.401.402.403.404

Image 01: Envelope Plan - Podium

Image 02: Envelope Plan - Podium



LEVEL 5

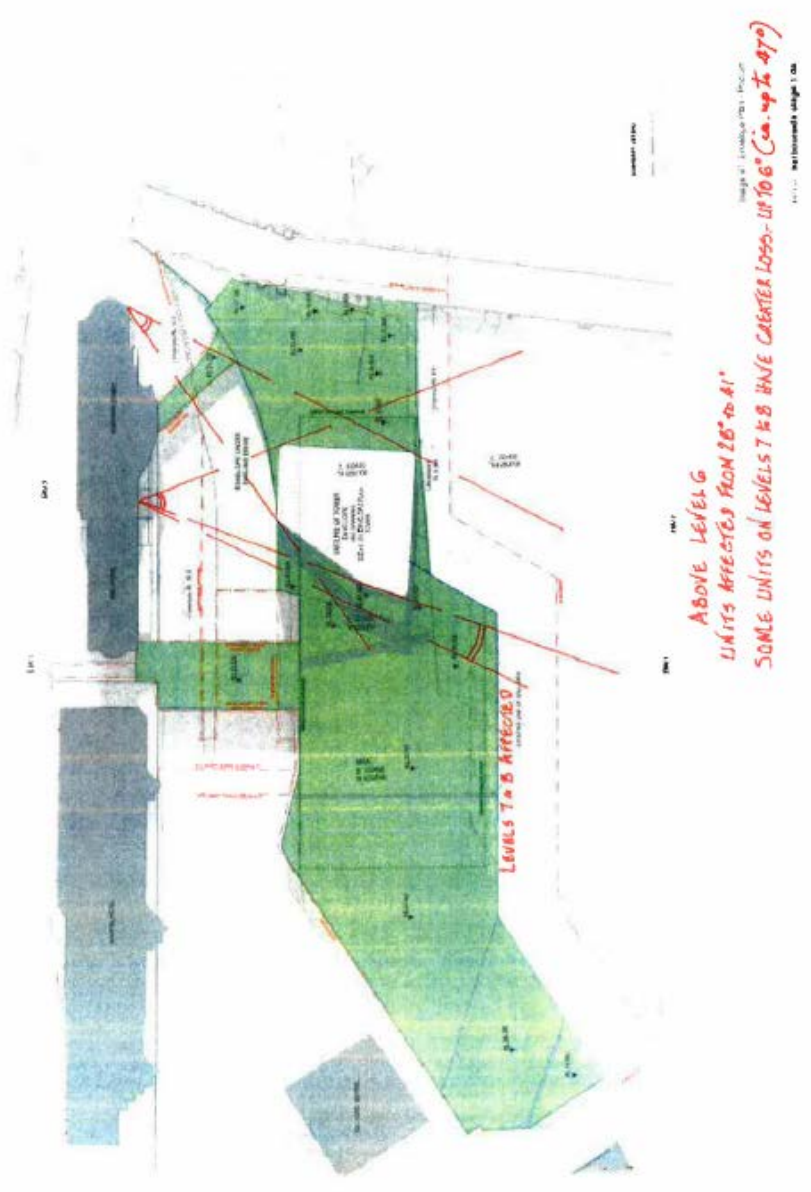
VIEWS AFFECTED

UNIT 512-47° UNIT 504-79°

AFFECTED UNITS 512, 513, 514, 501, 502, 503, 504

Image 9: Envelope Plan - Podium

Image 10: Harbourside stage 1 da



APPENDIX II

EVALUATION OF E.I.S. SUGGESTED BENEFITS AND DISBENEFITS OF ALTERNATIVE TOWER LOCATIONS COMPARED WITH AN OBJECTIVE EVALUATION

Southern Tower Location Assessed - (Benefits Identified)

EIS Southern Option (Page 11)	Southern Option Assessed by Ingham Planning
Sufficient floor plates for commercial uses	Not relevant.
Ability to provide a large northern accessible roof terrace on the podium rooftop	Ability to provide a large northern accessible roof terrace on the podium rooftop.
Faster moving shadow over the Cockle Bay water	Less shadow impact over the Cockle Bay water.
Enhance view sharing opportunities for existing developers to the west	Enhanced view sharing opportunities for existing developments to the west.
Enhanced ability to capture views from the Site; and	Ability to capture views from the site.
Ability to provide enhanced east-west pedestrian connections.	Ability to provide enhanced east-west pedestrian connections.
	Location of tower so that it does not affect the heritage of Pyrmont Bridge.
	Location of tower to minimise the shadow impact on the pedestrian promenade.
	Potential to form a grouping of tower buildings near the ICC Hotel.
	Improved access to Town Hall station.
	Negligible impact on views from residential properties.
	Street address for residential tower appropriate.
	Reduced view impacts compared to other options.
	Ability to provide east-west pedestrian connections.

Disadvantages Identified

EIS Southern Option (Page 11)	Southern Option Assessed
Close proximity to ICC Hotel, potentially resulting in reduced view sharing and overshadowing impacts;	Close proximity to ICC Hotel potentially resulting in a grouping of tower buildings more similar to the CBD.
Potentially creating a 'crowded' presentation of buildings on the skyline when viewed with the ICC Hotel.	Reduced view impacts compared to other locations.
No ability to provide street address to the commercial tower, with a significant separation from the Pyrmont Bridge; and	Not relevant.
Increased overshadowing of public domain to the south of the Site.	Reduced shadow impacts compared to other locations.
	Street address for residential tower appropriate.
	Increased overshadowing to south of the Site, but, improved compared to Central & Northern options.
	Tower too close to Cockle Bay.

Central Tower Location Assessed - Benefits Identified

EIS Central Option (Page 11)	Central Option Assessed by Ingham Planning
Sufficient floor plates for commercial uses	Not relevant.
Faster moving shadow over the Cockle Bay water;	Less shadow impact than northern location over Cockle Bay water
Enhance view sharing opportunities for existing developments to the west;	More enhanced view sharing opportunities than for northern location.
Enhanced ability to capture views from the Site;	Ability to capture views from the Site.
Ability to provide enhanced east-west pedestrian connections; and	Ability to provide east-west pedestrian connections.
Enhanced building separation to the ICC Hotel, creating a positive relationship and minimizing potential impacts.	Building separation to ICC Hotel. Relationship more comparable to CBD location.
	Tower removed from impacting the heritage values of Pyrmont Bridge.
	Tower location reduces the shadow impact on the pedestrian promenade compared to the northern location.
	Reduced impact on views from residential properties compared to northern location.
	Street address for residential tower appropriate.
	Ability to provide extensive roof terraces north and south of tower.

Disadvantages Identified

Closer proximity to ICC Hotel, potentially resulting in reduced view sharing and overshadowing impacts;	Not correct.
No ability for east-west view corridor to be created at the Bunn street pedestrian connection.	East-west view corridor is a design issue but can be provided. It is not a disadvantage.
Positioning of the tower divides the Site in two, restricting the retail below due to the requirement of services through the central portion of the future shopping centre.	The division of the site to provide for services through the podium building is also a design issue. It is not a disadvantage.
Negative implications on the potentially accessible roof terrace of the podium roof top, with awkward access around the base of the commercial tower; and	Accessibility around or through the tower building is also a design issue. It is not a disadvantage.
No ability to provide street address to the commercial tower, with a significant separation from the Pyrmont Bridge.	Not relevant. The tower is a residential tower.
	Tower located too close to Cockle Bay.

Northern Tower Location Assessed Benefits Identified

EIS Northern Option (page 11)	Northern Option Assessed by Ingham Planning
Sufficient floor plates for commercial uses.	Not relevant.
Ability to provide a large southern accessible roof terrace in a stepped form on the podium rooftop.	Ability to provide a large southern accessible roof terrace similar to the southern and central options.
Faster moving shadow over the Cockle Bay water.	Greater shadow than Central and southern options. Not faster moving shadow.
Enhance view sharing opportunities for existing developments to the west.	Not true.
Enhanced ability to capture views from the Site.	Ability to capture views from the Site similar to the southern and central option.
Ability to provide enhanced east-west pedestrian connections.	Ability to provide east-west pedestrian connections, but similar to southern and central locations.
Enhanced building separation to the ICC Hotel, creating a positive relationship and minimizing potential impacts;	Separation with ICC Hotel is greater, but with questionable benefit. Impacts are not minimized, they are significantly greater.
Ability to provide commercial address to the tower at the edge of the Pymont Bridge; and	Not relevant.
Large proportion of shadow contained within the Site.	Not a benefit compared to southern and central locations.
	Street address for residential tower appropriate.

Disadvantages Identified

No ability for view corridor to the city from the future Bunn Street connection; and	No ability for view corridor to the city from the future Bunn Street connection.
Commercial tower overshadows the future publicly accessible roof terrace.	Residential tower overshadows the future publicly accessible roof terrace.
	Tower building (and podium building) create a significant loss of views for One Darling Harbour permanent residents.
	Northern location is identified as having a negative impact on the heritage of Pymont Bridge.
	Northern location increases the shadow impact on the pedestrian promenade during the winter months.
	Northern location increases the shadow impact on Cockle Bay.
	Tower too close to Cockle Bay.

APPENDIX III

URBAN DESIGN GUIDELINES OF SICEEP AT 2012 SHOWING BUILDING HEIGHTS AROUND DARLING HARBOUR

04 Height and Massing

AN EXAMPLE OF TALLER BUILDING LOCATIONS AND OPPORTUNITIES AT COCKLE BAY AND SOUTH DARLING HARBOUR TO RESPECT VIEW CORRIDORS AND THE HEIGHT DATUMS AROUND VALLEY FLOOR

