

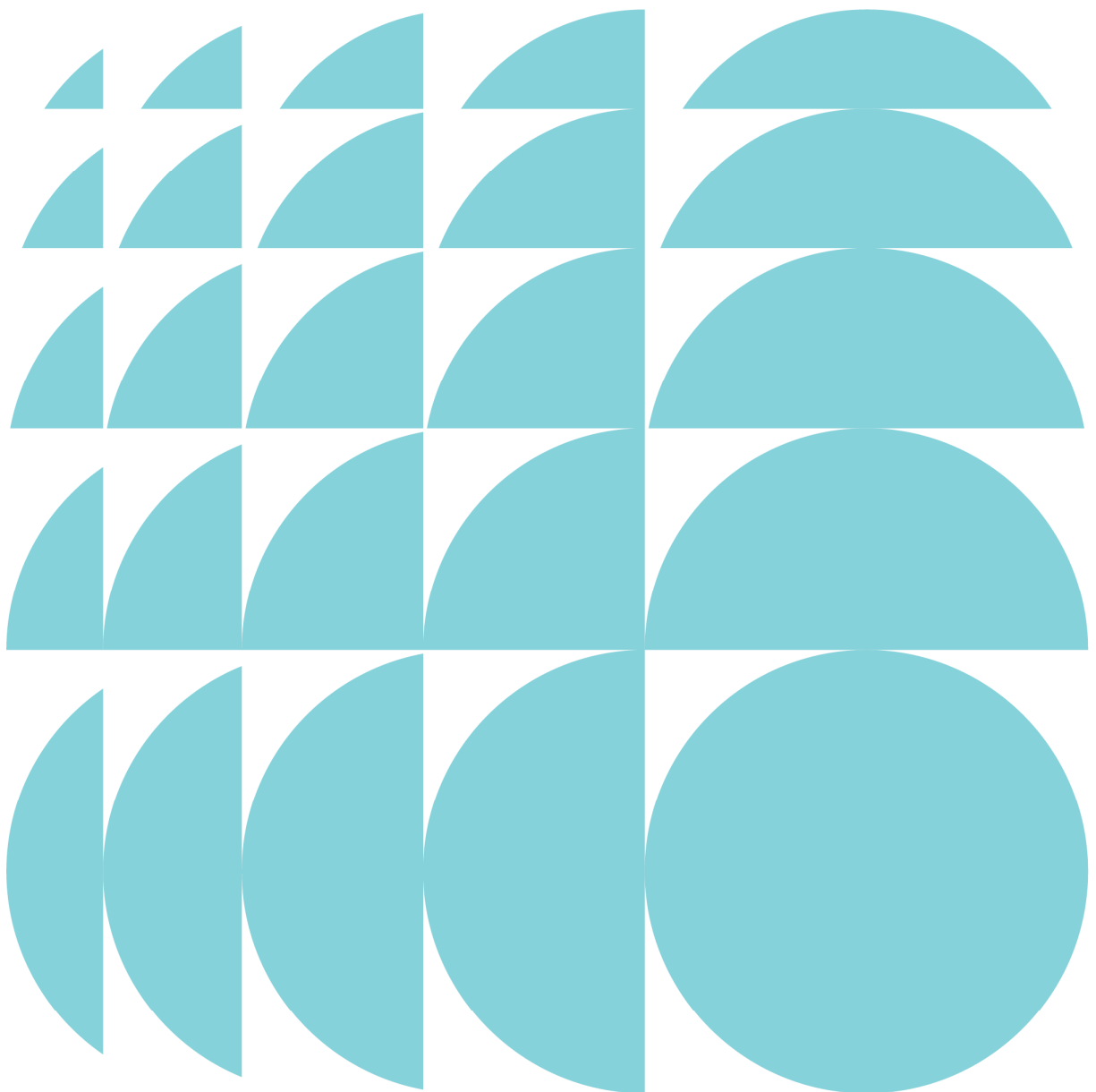
ETHOS URBAN

Visual Impact Assessment

338 - 348 Pitt Street, Sydney

Submitted to City of Sydney
On behalf of Hans Centre Sydney Pty Ltd

18 December 2019 | 219875



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Chris Bain	18 December 2019
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Terms and abbreviations

Terminology used in this report is shown in **Table 1**. Terminology is adapted from a number of NSW and national sources, including:

- Local Character and Place Guideline (NSW Government, 2019)
- Understanding Neighbourhood Character (Victorian Government, 2018)
- Guideline for landscape character and visual impact assessment, Environmental impact assessment practice note EIA-N04 (NSW Roads and Maritime Services, 2018).

Table 1: Terminology

Term	Meaning
Character	Character is a specific term that is defined the relationship of the physical elements of a place. This includes the public domain informed by matters such as streets and open space, the private domain informed by matters such as scale and architectural style and matters that cross both the public and private domains such as landform and vegetation. Important features have a particular influence on character
DA	Development application
Desired future character	The preferred future outcome for an area as identified by an applicable planning instrument
EP&A Act	Environmental Planning and Assessment Act 1979
L&E Court	Land and Environment Court
Magnitude	Refers to the physical scale of the project, how distant it is from a viewpoint and the contrast it presents to the existing condition
Place	Place is a broad term that is defined by the relationship between people and social, environmental and economic elements. These elements include land, built form, public domain, history, culture and tradition. Places are multi-layered and diverse environments within the broader context of society. Individual places can be described or understood by people in different ways and at different scales. It includes the sense of belonging a person feels to that place, the way people respond to the atmosphere, how it impacts their mood, their emotional response to that place and the stories that come out of peoples' relationship with that place.
Sensitivity	Refers to how sensitive the existing character of the setting is to the proposed nature of change'
SEPP	State Environmental Planning Policy
SSP SEPP	State Environmental Planning Policy (State Significant Precincts) 2005
SSD	State Significant Development
Visual impact	The nature of change created by the proposal as determined by considering the factors of sensitivity and magnitude. Visual impact can be positive, negative or neutral
VIA	Visual impact assessment

Executive Summary

This report is a visual impact assessment (VIA) prepared to accompany a State Significant Development Application (SSDA) for a proposed high-rise mixed-use development on land located at 338 Pitt Street, Sydney. The SSDA is subsequent to a stage 1 concept approval (D/2016/1509) for the site.

This VIA assesses the likely impact of the proposal on existing views obtained from both the public domain and private domain. In undertaking this assessment, the proposal draws from well-established principles and processes, including those articulated in the IEMA and the

Three locations in the public domain were selected for testing on the basis that they were representative of different types of visual settings in the surrounding context, being:

- from east Sydney
- within the CBD
- within Hyde Park.

When considered against the criteria of sensitivity and magnitude, the visual impact of the proposal at two of these locations was determined to be low (from east Sydney and within the CBD), while at one (within Hyde Park) it was determined to be medium. On this basis, the proposal is considered to have an acceptable level of visual impact on the selected views in the public domain.

Seven locations in the private domain from two nearby residential buildings (Hordern Towers and World Tower) were selected for testing on the basis that they were likely to be affected by the proposal. When assessed against the planning principles for view sharing handed down by the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (Tenacity), the visual impact of the proposal at these locations was determined to be severe or devastating. This is largely due to the loss of views to the north-east across large parts of eastern Sydney which take in 'iconic' elements such as Sydney Harbour and other valued elements such as Hyde Park.

While the Sydney Local Environmental Plan 2012 (SLEP 2012) includes a clause in its height controls covering view sharing, the draft Central City Planning Strategy (CSPS) and the draft City Plan 2036 makes it clear that:

- protection of private views should not impede the orderly and economic development of land within Central Sydney to meet the broader economic and social objectives of the City
- providing a higher level of protection for 'iconic' views within Central Sydney would be unreasonable given the concentration of landmark buildings and vistas and would place an undue constraint on future development
- it is not reasonable to expect 'more skilful design' to be able to mitigate potential impacts on private views given the more complex set of design constraints arising in the case of high-density buildings (unlike the low-scale development considered in Tenacity).

The proposal:

- provides for the orderly and economic development of land, in particular providing a hotel component to address an acknowledged shortfall of such space in the CBD
- is the result of a design excellence process conducted in accordance with the conditions of the stage 1 concept approval, and can therefore be considered to represent skilful design.

The strongest demonstration of skilful design is the separation of the building envelope into two slender, well separated towers which affords views to valuable townscape and landscape features in the distance.

Therefore, while the visual impact on existing private views is severe to devastating, this visual impact is acceptable considering the entirety of the existing planning framework, in particular the draft CSPA.

On this basis, it is not considered necessary to impose further mitigation measures on the proposal.

On the balance of relevant matters, it is not considered that there are grounds to warrant refusal of the proposal in its current form on visual impact grounds.

1.0 Introduction

1.1 Purpose

This report is a visual impact assessment (VIA) prepared to accompany a State Significant Development Application (SSDA) for land located at 338 Pitt Street, Sydney (the site). It has been commissioned by China Centre Sydney Pty Ltd and prepared by Ethos Urban. Its main purpose is to assess the likely visual impacts of the proposal on views obtained from both the public and private domains and address relevant Standard Secretary's Environmental Assessment Requirements (SEARs).

1.2 Scope

This is a visual impact assessment. While considering aspects of townscape, it does not provide a detailed townscape assessment. Due to the large number of positions in the visual catchment from which views can be obtained and the similar large number of receptors (including their attitudes towards change), the visual impact assessment does not purport to represent the attitudes every receptor. Rather, it makes informed judgement on what may be considered a reasonable general attitude. Given they are typically the most sensitive, assessment of the proposal on views obtained from the private domain only considers nearby permanent residential uses.

1.3 Method

The method following in preparing this report is derived from a number of key sources, in particular:

- **Public domain:** Guidelines for Landscape and Visual Impact Assessment (Landscape Institute and I.E.M.A., 2013) and Guideline for landscape character and visual impact assessment, Environmental impact assessment practice note EIA-N04 (NSW Roads and Maritime Services, 2018).
- **Private domain:** Principles of view sharing handed down by the Roseth SC of the Land and Environment Court in *Tenacity Consulting v Waringah* [2004] NSWLEC 140.

The photomontages relied upon by this VIA have been prepared in accordance with Land and Environment Court policy.

While the exact components of this method are detailed, overall it comprises:

- identification of existing visual character
- identification of likely visual effects
- assessment of the significance of these effects against sensitivity and magnitude factors
- assessment against relevant parts of the planning framework
- consideration of mitigation measures
- assessment of residual effects.

Appendix 1 of this report provides more detail on this method.

2.0 The site and its context

The site is located at the north-eastern corner of the intersection of Pitt Street and Liverpool Street. While comprising a number of lots, it is referred to as 338 Pitt Street, Sydney. The accompanying SEE provides further details on the lots, including their legal description. The site is located two street blocks back (approx. 150m) from the main eastern edge of the CBD delineated by Elizabeth Street and Hyde Park.

It has an area of 5,914sqm and has frontages to Pitt Street (90m), Liverpool Street (24m), Castlereagh Street (84m) and Dungate Lane (23m). Given this area and frontage, development on the site has the potential under the planning framework to be highly visible in its surrounds.

The site is currently occupied by a number of buildings, including:

- high rise commercial tower at 338 Pitt Street
- two-storey terrace-style building at 126 Liverpool Street
- high rise commercial tower at 324 Pitt Street and 233 Castlereagh Street
- three multi-storey commercial buildings at 245-247 Castlereagh Street and 249-253 Castlereagh Street 338 Pitt Street.

Under the Sydney Local Environmental Plan 2012 the following planning controls apply to the site:

- **Zone:** B8 Metropolitan Centre
- **FSR:** 15.11:1 max
- **Height:** 235m max.

The site context is a CBD setting. While varied in form, style and age, built form is dominated by high rise commercial towers typically built to the street alignment. Streets are narrow, and carry a large volume of through traffic. Due to the interaction of built form and carriageway, footpaths are narrow with minimal street furniture or street trees. Development Surrounding the site is a range of commercial, residential, retail, entertainment and tourist accommodation uses of varying ages and architectural styles. Development under construction (eg, the Greenland Centre) and subject to development applications (eg, Pitt Street metro station OSD) is substantial in height and scale, and indicates the area is transitioning to a key new tower cluster south of the Sydney Tower similar to that north of the tower which includes the landmark Deutsche Bank, Chifley and Aurora Place buildings.

3.0 The proposal

The proposal the subject of this development application is for a mixed-use development comprising retail, commercial, hotel in a podium and residential uses two towers having a height of 235m (66 storeys). The towers have a comparatively small floorplates compared to other buildings in the surrounding area. Combined with their height, the towers have a slender profile when viewed from all directions.

On 28 February 2019, the Central Sydney Planning Committee granted consent subject to conditions for a stage 1 concept proposal for a building envelope. These conditions required modifications relating to matters such as the siting, height and mass of buildings and a subsequent competitive design process to be conducted in accordance with a Design Excellence Strategy. The competitive design process was won by FJMT for the current proposal.

4.0 Planning instruments

In general, current planning instruments do enable consideration of visual impacts on view obtained from the public domain. However, this is not supported by a comprehensive and detailed view management framework. This leaves consideration of views to take place on a case by case basis.

While it is a well-established planning principle that people do not 'own' a view obtained from a place in the private domain, planning instruments and the Land and Environment Court do encourage consideration of views as part of making decisions on development applications.

4.1 Strategic Plans

Region Plan and District Plan

The framework underpinning visual impact assessment in the Region Plan is:

- Objective 28 – scenic and cultural landscapes are protected
- Strategy 28.1: Identify and protect scenic and cultural landscapes.
- Strategy 28.2: Enhance and protect views of scenic and cultural landscapes from the public realm.

The framework underpinning visual impact assessment in the District Plan is:

- Planning Priority E16: Protecting and enhancing scenic and cultural landscapes
- 63. Identify and protect scenic and cultural landscapes
- 64. Enhance and protect views of scenic and cultural landscapes from the public realm.

While the plan does not specify scenic and cultural landscapes the subject of this policy framework, the plan does reference the Harbour, the Sydney City skyline (including the Sydney Opera House and the Sydney Harbour Bridge). In terms of managing change, the plan states:

‘Renewal in the eastern urban parts of the District can also protect and maintain views to the coastline, harbours and waterways from public spaces’.

The key element in this framework is views of objects obtained from the public domain. There is no reference to views obtained from the private domain.

City Plan 2036

City Plan 2036 is the CoS’s Local Strategic Planning Statement. Consistent with the Region Plan and the District Plan, under Priority L2 ‘Creating great places’, City Plan 2036 refers to the draft Central Sydney Planning Strategy proposal to preserve significant view corridors. Significant view corridors constitute public views from public places, and include:

- the Town Hall tower viewed from Hyde Park
- the Lands Department tower viewed from Sydney Cove.
- the view from the signal station on Observatory Hill to the South Head Lighthouse
- the view down Bent Street from the steps of the Mitchell Library.

4.2 Environmental Planning Instruments

State Environmental Planning Policy

There are no SEPPs covering this site or proposal that are of relevance to visual impact assessment.

Sydney Local Environmental Plan 2012

The visual impact framework under the SLEP 2012 is as follows:

Clause	Type	Content
4.3 Height of buildings	Objective	(c) to promote the sharing of views

Clause	Type	Content
5.10 Heritage conservation	Objective	(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views
6.21 Design excellence	Matter for consideration	(c) whether the proposed development detrimentally impacts on view corridors

Sydney Development Control Plan 2012

The Sydney Development Control Plan 2012 (SDCP 2012) does not provide extensive guidance on views. However, it does provide guidance for outlook as follows:

Clause	Type	Content
4.2.3.10	Control	<p>Outlook</p> <p>(1) Provide a pleasant outlook, as distinct from views, from all apartments.</p> <p>(2) Views and outlooks from existing residential development should be considered in the site planning and massing of new development.</p> <p>Note: Outlook is a short range prospect, such as building to building, while views are more extensive or long range to particular objects or geographic features.</p>

4.3 Other

Central Sydney Planning Strategy

On 21 July 2017, the CSPC endorsed the draft Central Sydney Planning Strategy and resolved to submit the accompanying Planning Proposal to the Greater Sydney Commission with a request for a Gateway Determination.

The Strategy makes a number of specific statements and recommendations in relation to the balancing of private views and the facilitation of development within Central Sydney:

As old buildings are replaced with new ones, views are subject to change. Given the constantly changing built environment of Central Sydney, regulating for maintenance of private views is overly restrictive and complex. Maintaining existing private views inhibits change and would render Central Sydney uncharacteristically static.

Central Sydney has a privileged position on a peninsula in a harbour surrounded by water and parklands, containing a large number of highly significant structures and buildings of a height that vastly exceeds its surroundings. This means that the large majority of available views are considered “iconic”. This sets Central Sydney apart from other places; standard principles around views and the sharing of them are not applicable.

Development in a suburban context is flexible. Building adjustments to form are relatively simple through more skilful design. However, the scope is often not available within the confines of planning requirements to adjust the shape of a building in Central Sydney or move its location on the site. For example, tall commercial buildings consist of large regular floorplates and their complex structural requirements and high quality repeatable exterior cladding reinforces this regularity. For these buildings, better design to provide a better view is rarely possible.

The desire for views to the north favours the northern foreshore precincts and the ridges behind them, but in an increasingly dense and compact urban centre, the ability to protect private views comes secondary to the protection and enhancement of public views and the protection of outlook as a focus of the planning framework.

It is clear from these statements that protection of private views should not impede the future growth of Central Sydney. The Strategy includes specific language which rejects the application of the Tenacity planning principle in the context of Central Sydney, specifically in relation to the characterisation of affected views and the ability to rely on building design to minimise view impacts in a high-density urban context. In addition, the Planning Proposal includes a proposed amendment to the wording of clause 4.3 of LEP 2012 to make clear that the “promote the sharing of views” objective of this development standard should only apply to land outside of Central Sydney.

5.0 Visual impact

5.1 Existing visual environment

Due to its location and height, the proposal will be visible from a large area. From locations in the long range, the proposal will be seen as forming part of the overall broader Sydney CBD. This will particularly be the case for some locations to the east where landform, buildings and vegetation combine in such a way to afford clear views to the CBD. An example of such a location is Kings Cross, where Victoria Street intersects with William Street. In these views, the CBD is typically considered a valued townscape feature, and the proposals distance from the viewpoints effectively nullifies any issues related to overbearing scale which can at times affect towers when viewed from places in the medium or close range.

On this basis, this visual impact assessment has selected views in the medium and close range to investigate in detail. Within this range, there are two existing visual environments within the public domain that warrant consideration:

- **East Sydney:** From certain locations in the mid and long range to the east of the site, the proposal will be seen as part of an urban composition comprising Hyde Park and the CBD
- **Within the CBD:** From locations in the close range, the proposal will be seen as part of the CBD
- **Hyde Park backdrop:** From certain locations in the mid and long range to the east of the site, the proposal will be seen as part of the backdrop for Hyde Park.

Consideration of private views has been made for apartment on upper floors of the nearby Hordern Towers and World Tower apartment buildings. These buildings and apartment were selected as they currently enjoy expansive views to the north-east over valuable and iconic features such as Hyde Park and Sydney Harbour, including North Head and South Head.

5.2 Public views

5.2.1 Viewpoint 1: Whitlam Square

Viewpoint 1 is located at Whitlam Square at the north-east corner of the intersections of Liverpool Street, College Street, Oxford Street and Wentworth Avenue. **Table 1** outlines key attributes of this viewpoint relevant to visual impact assessment.

Table 2 Viewpoint 1: Key characteristics

Item	Comment
Category of view	Representative of East Sydney
Type of view	Partial panorama
Location relative to proposal	East

Item	Comment
Distance (approx.) from proposal	335m
Elevation relative to proposal	Above
Receptors	Pedestrians travelling west towards the CBD
Number of receptors	Large
Duration of view	Short – people in transit, with longer durations associated with waiting for traffic signals

Visual character

The existing view comprises the following main features:

- areas associated with movement, including footpath and roadways (Liverpool Street, College Street and Oxford Street)
- the CBD, including buildings along the northern side of Liverpool Street opposite Hyde Park and the more distant CBD proper
- Hyde Park, which can also be considered to include street trees along both side of Liverpool Street that serve to extent the 'green' character of the park northwards
- the sky
- iconic landmarks – Anzac Memorial and Sydney Tower.

These main features have the following composition:

- Foreground – areas associated with movement
- Mid ground – that part of the CBD comprising buildings on the northern side of Liverpool Street and Hyde Park
- Background – CBD proper and sky.

Within these main features and composition, the following are of note:

- areas associated with movement are a visually prominent feature of this view. This is due to the combination of its large area (approx. 50% of the view) occupying the entirety of the foreground and the similar dark grey colouring of the bitumen paved carriageway and the stone paved footpath
- Hyde Park provides visual relief for the built elements of the view
- while present in the view, only a glimpse of the culturally sensitive Anzac Memorial can be obtained, and the view does not form an important part of its setting / curtilage
- buildings on the northern side of Liverpool Street appears to form a continuous wall of large scale and height, and serve to draw the eye down Liverpool Street
- street poles, including lighting and signage, provide a degree of visual 'clutter'
- the CBD proper is immediately perceptible as a CBD scene comprising a collection of largely office towers. The dimensions of these towers, with a substantially greater height relative to width, provides for a clear rectangular shape with a strong vertical emphasis. The exception to this pattern is Sydney Tower, which has an anomalous shape. Within this overall rectangular shape, there is no consistency in detailed modulation, with some towers such as 201 Elizabeth Street appearing relatively unadorned while World Tower has a distinct stepped roofline. The towers are well spaced, resulting in the sky occupying a larger part of the background.



Figure 1 Viewpoint 1: Existing view

Source: Virtual Ideas

Visual Effects

The proposal would impact upon the following features:

- The CBD – introducing a highly visible new element with the effect of strengthening the role of the CBD in the view
- The sky – reducing the amount of visible sky.

The foreground and mid ground will not change. Importantly, the role of Hyde Park providing for visual relief for the built elements of the view remains intact.

The proposal has the same overall characteristics as the towers, in particular with its strong vertical emphasis, and will maintain the same composition of built form and sky.

When considered cumulatively with other approved and proposed developments in the vicinity, the proposal contributes to the creation of a distinct new node of height and scale for the CBD south of Sydney Tower.

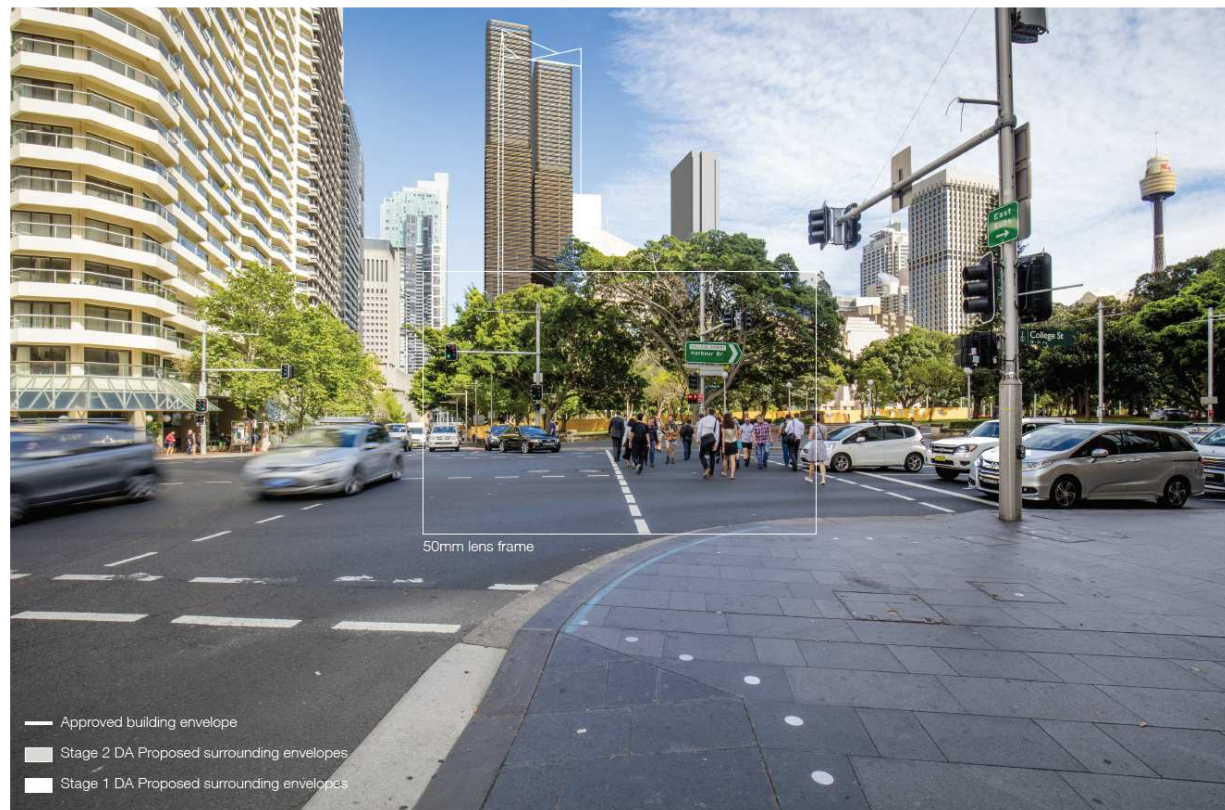


Figure 2 Viewpoint 1: Proposed view

Source: Virtual Ideas

Significance of Visual Effects

Sensitivity

Forming part of a main pedestrian route from the inner eastern suburbs to the CBD, this viewpoint is experienced by a large number of people on a daily basis. The primary activity of these people is in transit to other locations. Site visits undertaken shows that the number of people travelling east that are exposed to the view is highest during morning commute periods. The duration of their exposure is also short. Given the walk cycle compared to traffic movement cycle of the pedestrian crossing of College Street, most people will wait at the pedestrian signal on the eastern side of College Street for a short period of time before continuing this walk. While this affords the opportunity for greater time exposure to the view than would otherwise be the case for an unimpeded walk, it is likely that people engaged in this activity are not fully focussed on the view.

The view is not experienced by receptors who are typically correlated with higher levels of sensitivity such as residents. Similarly, while including visually interesting features such as Hyde Park, Sydney Tower and the CBD skyline, the composition of these features in the view is not correlated with high levels of value such as unrestricted, panoramic views.

For these reasons, the sensitivity of this viewpoint is considered to be low.

Magnitude

The proposal represents the addition of a large, visually prominent new feature in the view. However, it is consistent with the key characteristics of the CBD feature such as form, scale and line, and it will not result in a substantial change to the existing visual composition of features.

While the proposal is reversible following construction, given that it will represent an optimum development outcome for the site enabled under the current planning framework and a significant financial investment, subject to a number of conditions such as maintenance of the existing planning framework, sound economic

conditions and appropriate construct and maintenance, it is likely that the duration of the proposal when built will be long term.

For these reasons, the magnitude of the change is considered to be medium.

Significance

When combined, low sensitivity and medium magnitude is considered to represent a low level of significance.

5.2.2 Viewpoint 2: Liverpool and Kent Street

Viewpoint 2 is located on the southern footpath of Liverpool Street opposite its intersection with Kent Street. **Table 1** outlines key attributes of this viewpoint relevant to visual impact assessment.

Table 3 Viewpoint 2: Key characteristics

Item	Comment
Category of view	Representative of within the CBD
Type of view	Focal
Location relative to proposal	West
Distance (approx.) from proposal	225m
Elevation relative to proposal	Below
Receptors	Pedestrians travelling east within the CBD
Number of receptors	Large
Duration of view	Short. People at outdoor seating will experience longer duration views

Visual character

The existing view comprises the following main features:

- areas associated with movement, including footpath, on-road cycleway and roadways (Liverpool Street and George Street)
- varied mix of CBD buildings, ranging from the three storey Sir John Young Hotel to the high rise World Tower
- heritage buildings comprising the Sydney Hotel CBD, the former Bank of Australasia building and the Bar Century Building
- a stand of large mature trees in the forecourt of the Sydney Central Local Court
- the sky.

These main features have the following composition:

- Foreground – areas associated with movement and buildings, including a continuous cantilevered awning over the southern Liverpool Street footpath providing shade which contrasts with the remainder of the view which is in bright sunlight
- Mid ground – heritage buildings occupying the northern corners of the intersection of Liverpool Street and George Street, as well as the intersection itself
- Background –high rise commercial towers, including the current tower on the site, the stand of trees.

Within these main features and composition, the following are of note:

- the buildings in this view are highly varied and complex in scale, form and texture. This creates a complex and layered visual environment
- the placement of building relative to the streets, the narrow width of Liverpool Street and the general absence of vegetation (noting the Sydney Central Local Court trees) provide a dense, highly urban visual setting
- while not readily visible in this photo, the scale and height of the World Tower provides it with visual dominance in viewpoints further to the east and west of this location
- the slight change in alignment of Liverpool Street east of its intersection with Elizabeth Street combines with the existing building on the site to create a canyon effect that provides a strong sense of enclosure to the view and limits the depth of visible sky
- the red / orange colouring of the former Bank of Australasia building and the Bar Century Building buildings together with their similar scale, proportions and other elements makes them a fairly cohesive element that is noticeable in the view.

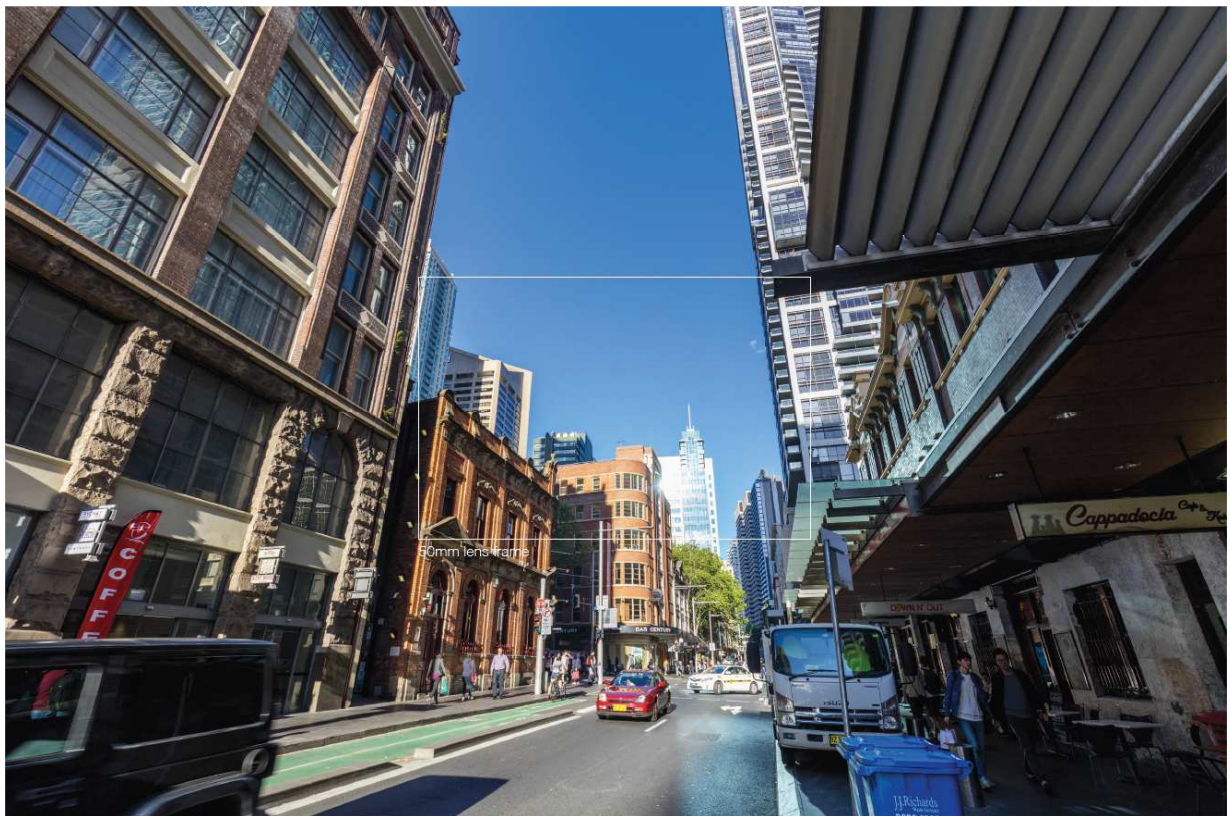


Figure 3 Viewpoint 2: Existing view

Source: Virtual Ideas

Visual Effects

The proposal would impact upon the following features:

- The CBD – the proposal involves replacement of the existing high-rise tower with a substantially greater scale and height. The southern edge of the new building will be setback from Liverpool Street further than the existing building. The combination of height and siting will strength delineation of the Liverpool Street alignment. Of note, the separation between these towers will be readily noticeable, as will the linking

element which is an unconventional element in the CBD and adds visual interest through its horizontality and shadow that creates a perception of greater depth to the elevation

- The sky – reducing the amount of visible sky.

While the foreground and mid ground will not change, the prominence of the background will increase.

The proposal has the same overall characteristics as towers in the vicinity, in particular with its strong vertical emphasis, and will maintain the same composition of built form and sky.

When considered cumulatively with other approved and proposed developments in the vicinity, the proposal contributes to the creation of a distinct new node of height and scale for the CBD south of Sydney Tower.

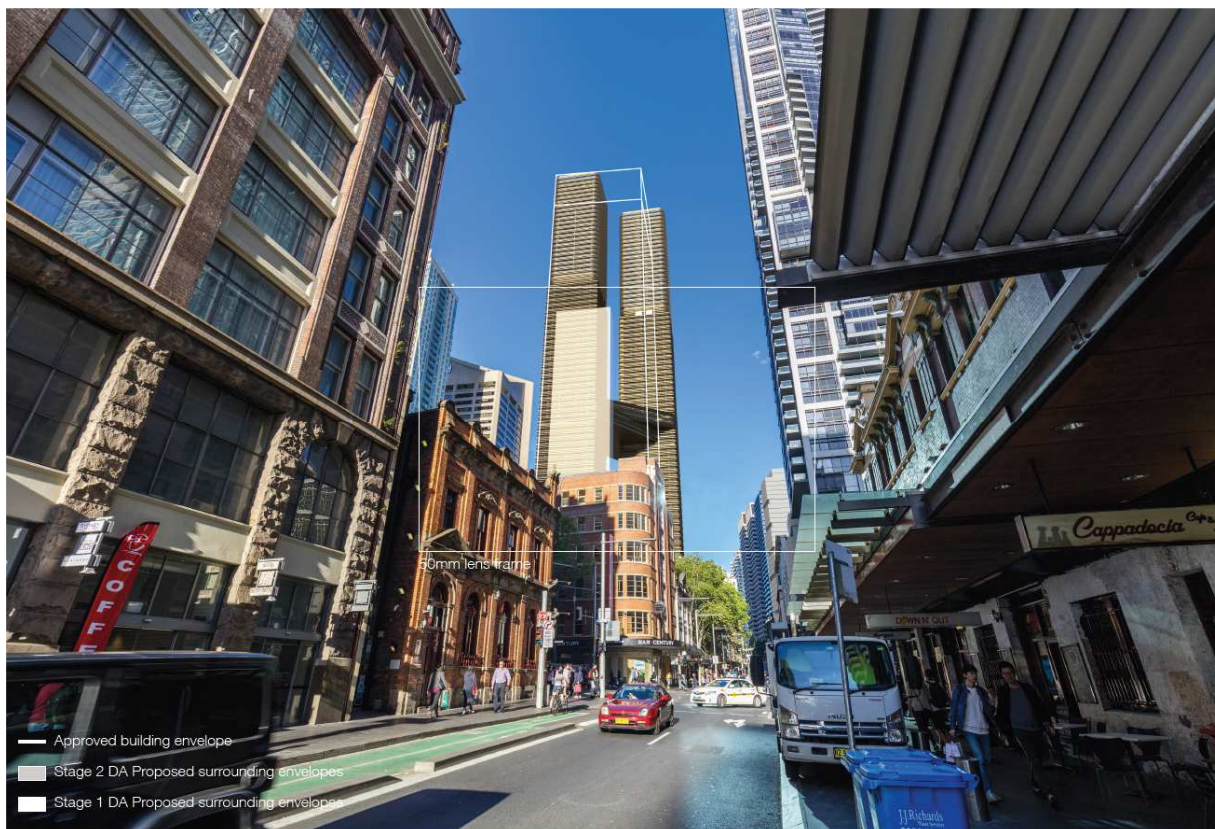


Figure 4 Viewpoint 2: Proposed view

Source: Virtual Ideas

Significance of Visual Effects

Sensitivity

While this viewpoint is experienced by a large number of people on a daily basis, the primary activity of this people is in transit to other locations. The duration of their exposure is also short. While there is some outdoor seating associated with food and drink premises which provides for longer duration views, it is likely that people engaged in this activity are not fully focussed on the view.

The view is not experienced by receptors who are typically correlated with higher levels of sensitivity such as residents. Similarly, the view does not feature 'iconic' features of Sydney such as the Harbour, and is not readily distinct from many other views obtained from similar parts of this part of the CBD.

For these reasons, the sensitivity of this viewpoint is considered to be low.

Magnitude

The proposal represents the addition of a large, visually prominent new feature in the view. However, it is consistent with the key characteristics of the CBD feature such as form, scale and line, and it will not result in a substantial change to the exiting visual composition of features.

While the proposal is reversible following construction, given that it will represent an optimum development outcome for the site enabled under the current planning framework and a significant financial investment, subject to a number of conditions such as maintenance of the existing planning framework, sound economic conditions and appropriate construct and maintenance, it is likely that the duration of the proposal when built will be long term.

For these reasons, the magnitude of the change is considered to be medium.

Significance

When combined, low sensitivity and medium magnitude is considered to represent a low level of significance.

5.2.3 Viewpoint 3: Hyde Park Pool of Reflection

Viewpoint 3 is located adjoining the eastern footway of the Pool of Reflection in Hyde Park. **Table 1** outlines key attributes of this viewpoint relevant to visual impact assessment.

Table 4 Viewpoint 3: Key characteristics

Item	Comment
Category of view	Representative of within Hyde Park
Type of view	Panorama
Location relative to proposal	East
Distance (approx.) from proposal	340m
Elevation relative to proposal	Above (slight)
Receptors	Pedestrians travelling north or south through Hyde Park; people sitting on benches, grass or other outdoor seating areas for rest, recreation and other similar activities; people who are visiting the Anzac Memorial
Number of receptors	Large
Duration of view	Short to long

Visual character

The existing view comprises the following main features:

- footpath areas for pedestrians and occasionally cyclists, skateboarders and other similar users
- an iconic landmark in the form of the Anzac Memorial, comprising the Pool of Reflection and the memorial building
- Hyde Pak, in particular a tall row of mature trees presenting a solid canopy line to the west of the Pool of Reflection
- the CBD, including buildings along the western side of Elizabeth Street and the northern side of Liverpool Street
- the sky.

These main features have the following composition:

- Foreground – footpaths areas
- Mid ground – Anzac Memorial, in particular the Pool of Reflection
- Background – high rise commercial towers, including the current tower on the site, the stand of trees.

Unlike the other views the subject of this study, this view affords clear view of an iconic landmark – the Anzac Memorial building. Landmarks are visually and / or culturally prominent. The backdrop to a landmark that is a building is an important consideration in visual impact assessment. The backdrop is that part of the background that is immediately behind the silhouette of the landmark building. Because the nature of the backdrop can impact the silhouette and therefore visual appreciation of the landmark, particular care should be undertaken when siting and designing new elements within the backdrop. This is particularly the case where a proposed new element would impact the silhouette of the building against the sky. The backdrop for the Anzac Memorial building in this view is 175 Liverpool Street and The Hyde apartment building.

Within these main features and composition, the following are of note:

- this view is dominated by the formal parkland character of Hyde Park and the Anzac memorial
- the presence of a large, artificial body of the water in the form of the Pool of Reflection is rare in the Sydney CBD context
- the setting provides for visual and physical respite from the broader CBD beyond
- the combination of these elements marks this view as different, and due to the presence of visual cues it is likely that many people will instantly appreciate this as a memorial setting
- while this parkland setting is a major element of the view, its interaction with background CBD places it in a highly urban broader setting
- the arrangement of features, including footpaths, the Pool of Reflection, the row of mature trees, arrangement of Elizabeth Street and the truncation of CBD buildings by the row of mature trees provides for a strong north-south horizontality in line in the viewpoint
- the CBD buildings in this view are highly varied and complex in scale, form and texture. This creates a complex and layered visual environment
- the general colouring of this view comprises softer, more natural colours, in particular the off white / cream of the footpath and the Anzac Memorial building.



Figure 5 Viewpoint 3: Existing view

Source: Virtual Ideas

Visual Effects

The proposal would impact upon the following features:

- the CBD – the proposal involves introduction of two high-rise towers with substantial scale and height. The separation between these towers will be readily noticeable, as will the linking element which is an unconventional element in the CBD and adds visual interest through its horizontality and shadow that creates a perception of greater depth to the elevation. Most of World Tower, which is of visual interest due to elements such as its staggered roofline, will no longer be visible in the view
- the sky – reducing the amount of visible sky.

While the foreground and mid ground will not change, the prominence of the background will increase.

The proposal has the same overall characteristics as towers in the vicinity, in particular with its strong vertical emphasis, and will maintain the same composition of built form and sky.

When considered cumulatively with other approved and proposed developments in the vicinity, the proposal contributes to the creation of a distinct new node of height and scale for the CBD south of Sydney Tower.



Figure 6 Viewpoint 3: Proposed view

Source: Virtual Ideas

Significance of Visual Effects

Sensitivity

The view affords a near panoramic view of the Anzac Memorial, including the Pool of Reflection and the building itself. While not iconic such as the Opera House or Harbour Bridge, this feature is of exceptional cultural importance. It is likely that a number of people visit this area will do so due to the presence of the memorial, either informally or part of organised events. In addition to this, many people who regularly use this area do so for the respite it offers from the business of the adjoining CBD. The sensitivity of these receptors is nonetheless offset by the overall setting, which is clearly urban. In many respects the perception of the CBD in background provides a visual anchor to the view, and is visually appealing.

For these reasons, the sensitivity of this viewpoint is considered to be medium.

Magnitude

The proposal represents the addition of a large, visually prominent new feature in the view. However, it is consistent with the key characteristics of the CBD feature such as form, scale and line, and it will not result in a substantial change to the existing visual composition of features.

While the proposal is reversible following construction, given that it will represent an optimum development outcome for the site enabled under the current planning framework and a significant financial investment, subject to a number of conditions such as maintenance of the existing planning framework, sound economic conditions and appropriate construct and maintenance, it is likely that the duration of the proposal when built will be long term.

For these reasons, the magnitude of the change is considered to be medium.

Significance

When combined, low sensitivity and medium magnitude is considered to represent a medium level of significance.

5.3 Private views

Courts hearing planning matters have acknowledged that private views can have considerable value. However, they have also made it clear that this does not mean that a person 'owns' a view, and as such as entitled to its retention.

Nonetheless, it is common in undertaking an assessment of private view impacts to address the planning principle handed down by the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (Tenacity). In *Tenacity*, Senior Commissioner Roseth sets out four steps that must be considered in assessing whether view sharing is reasonable.

The steps in *Tenacity* are:

Step	Item	Comment
1.	Assessment of views to be affected	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.
2.	From what part of the property the views are obtained	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.
3.	Extent of the impact	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
4.	Assess the reasonableness of the proposal that is causing the impact	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 following selection of images illustrate the existing and future views with the proposal. Shading has been applied to show the CSPC approved stage 1 building envelope.

The apartments selected are consistent with those considered by the Central Sydney Planning Committee at its meeting on 30 November 2017. They are considered to approximate a 'worst case' view loss scenario.

Of note to the private view assessment is the following extract from the Central Sydney Planning Committee planning report:

*'153. Although the view impacts are considered devastating in the most extreme cases assessed above, it is considered that **the expectation to retain these views is unrealistic**. Nonetheless, conditions have been recommended for the competition brief to incorporate the requirement for view losses to be minimised. Other recommended conditions discussed elsewhere in this report, to increase building separation, to reduce the bulk and massing of the tower and to reduce overshadowing impacts to public open space, among others, will shift the location and massing of the tower to the north-west and will also work to minimise view impacts.'* (Our emphasis added).

5.3.1 Hordern Towers

5.3.2 Viewpoint 1: Hordern Towers: Western apartment, Level 48



Figure 7 Viewpoint 1: Existing view

Source: Virtual Ideas

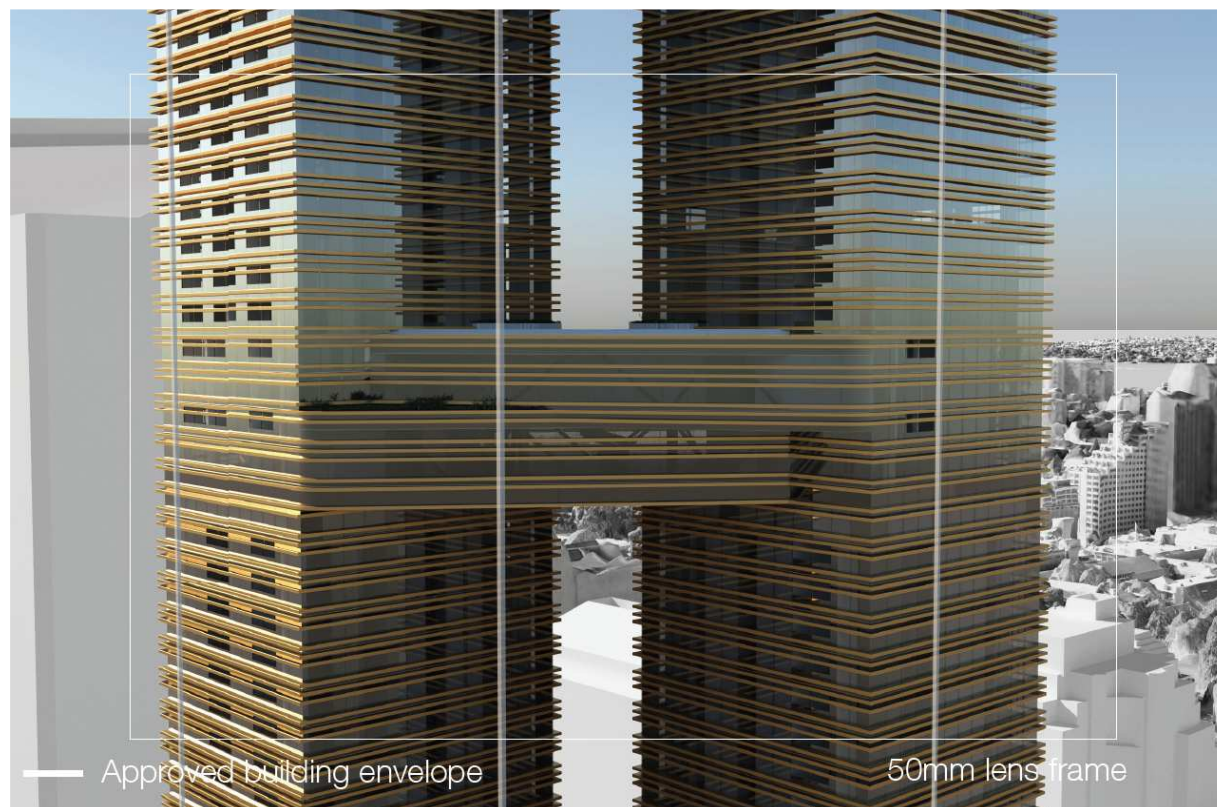


Figure 8 Viewpoint 1: Proposed view

Source: Virtual Ideas

Assessment of Tenacity steps 1 - 3

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
V1	<p>The existing view is highly valued. It contains:</p> <ul style="list-style-type: none"> Sydney Harbour stretching from Farm Cove to South Head, including Rose Bay, Cremorne Point and Bradley's Head Hyde Park, including St Mary's cathedral The Domain the Pacific Ocean land / water /sky interfaces. <p>The extent of these views allows and appreciation of the CBD and eastern Sydney visual character</p>	<p>This view has been simulated to represent a view from the edge of the building, which is a worst case scenario</p>	<p>The extent of the impact is devastating. It results in the loss of view of:</p> <ul style="list-style-type: none"> all of Sydney Harbour most of Hyde Park, including all of St Mary's cathedral most of the Pacific Ocean most of the land / water /sky interface

5.3.3 Viewpoint 2: Hordern Towers: Central apartment, Level 48



Figure 9 Viewpoint 2: Existing view

Source: Virtual Ideas

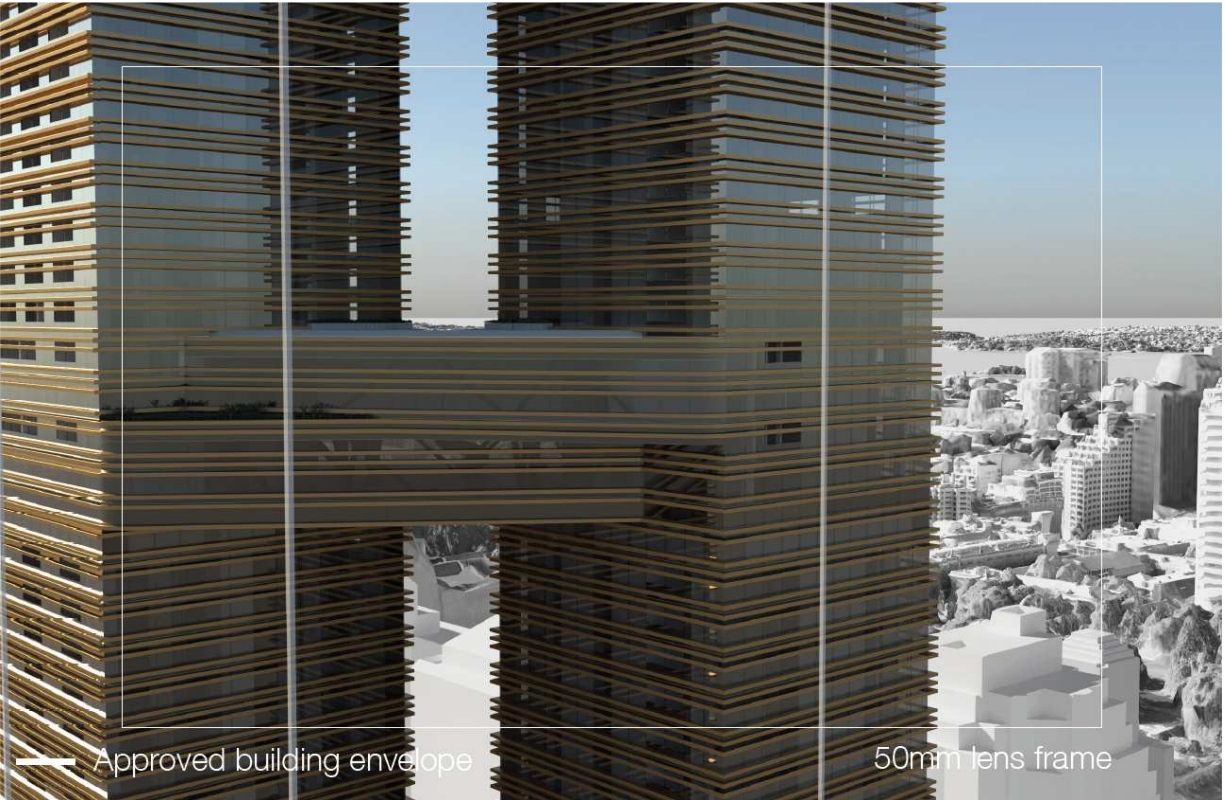


Figure 10 Viewpoint 2: Proposed view
Source: Virtual Ideas

Assessment of Tenacity steps 1 - 3

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
V2	<p>The existing view is highly valued. It contains:</p> <ul style="list-style-type: none">• Sydney Harbour stretching from Farm Cove to South Head, including Rose Bay, Cremorne Point and Bradley's Head• Hyde Park, including St Mary's cathedral• The Domain• the Pacific Ocean• land / water /sky interfaces. <p>The extent of these views allows and appreciation of the CBD and eastern Sydney visual character</p>	<p>This view has been simulated to represent a view from the edge of the building, which is a worst case scenario</p>	<p>The extent of the impact is devastating. It results in the loss of view of:</p> <ul style="list-style-type: none">• most of Sydney Harbour• most of Hyde Park, including all of St Mary's cathedral• most of the Pacific Ocean• most of the land / water /sky interface

5.3.4 Viewpoint 3: Hordern Towers: Eastern apartment, Level 48



Figure 11 Viewpoint 3: Existing view

Source: Virtual Ideas

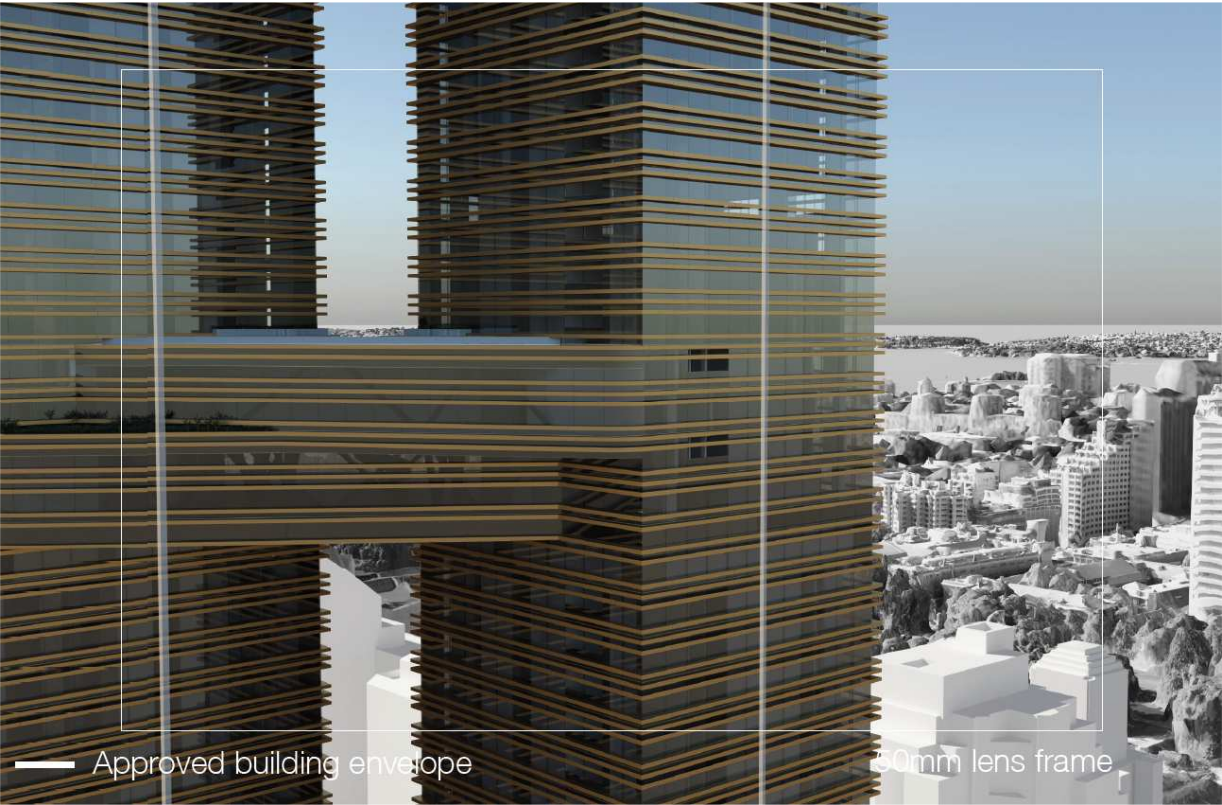


Figure 12 Viewpoint 3: Proposed view
Source: Virtual Ideas

Assessment of Tenacity steps 1 - 3

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
V3	<p>The existing view is highly valued. It contains:</p> <ul style="list-style-type: none">• Sydney Harbour stretching from Farm Cove to South Head, including Rose Bay, Cremorne Point and Bradley's Head• Hyde Park, including St Mary's cathedral• The Domain• the Pacific Ocean• land / water /sky interfaces. <p>The extent of these views allows and appreciation of the CBD and eastern Sydney visual character</p>	<p>This view has been simulated to represent a view from the edge of the building, which is a worst case scenario</p>	<p>The extent of the impact is devastating. It results in the loss of view of:</p> <ul style="list-style-type: none">• most of Sydney Harbour• most of Hyde Park, including all of St Mary's cathedral• most of the Pacific Ocean• most of the land / water /sky interface

5.3.5 Viewpoint 4: World Tower: Northern apartment, Level 59



Figure 13 Viewpoint 4: Existing view
Source: Virtual Ideas

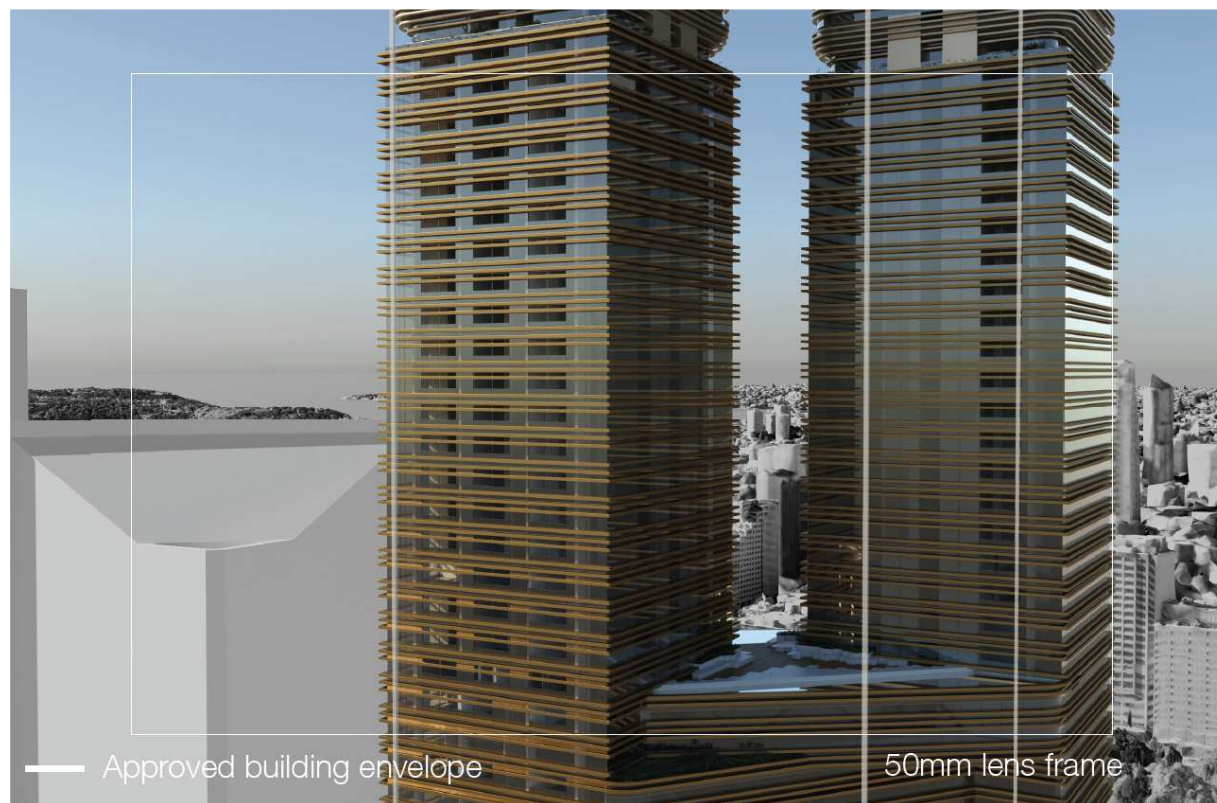


Figure 14 Viewpoint 4: Proposed view

Source: Virtual Ideas

Assessment of Tenacity steps 1 - 3

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
V4	<p>The existing view is highly valued. It contains:</p> <ul style="list-style-type: none"> the easternmost part of Sydney Harbour, including Rose Bay, Shark Island and South Head Bradley's Head Hyde Park, mainly south of Park Street the Pacific Ocean large part of the harbourside eastern suburbs, including landmark towers such as the Horizon and Icon land / water /sky interfaces. 	<p>This view has been simulated to represent a view from the edge of the building, which is a worst case scenario</p>	<p>The extent of the impact is devastating. It results in the loss of view of:</p> <ul style="list-style-type: none"> most of Sydney Harbour most of Hyde Park most of the Pacific Ocean most of the harbourside eastern suburbs most of the land / water /sky interface

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
	The extent of these views allows and appreciation of the CBD and eastern Sydney visual character		

5.3.6 Viewpoint 5: World Tower: North Eastern apartment, Level 59



Figure 15 Viewpoint 5: Existing view
Source: Virtual Ideas

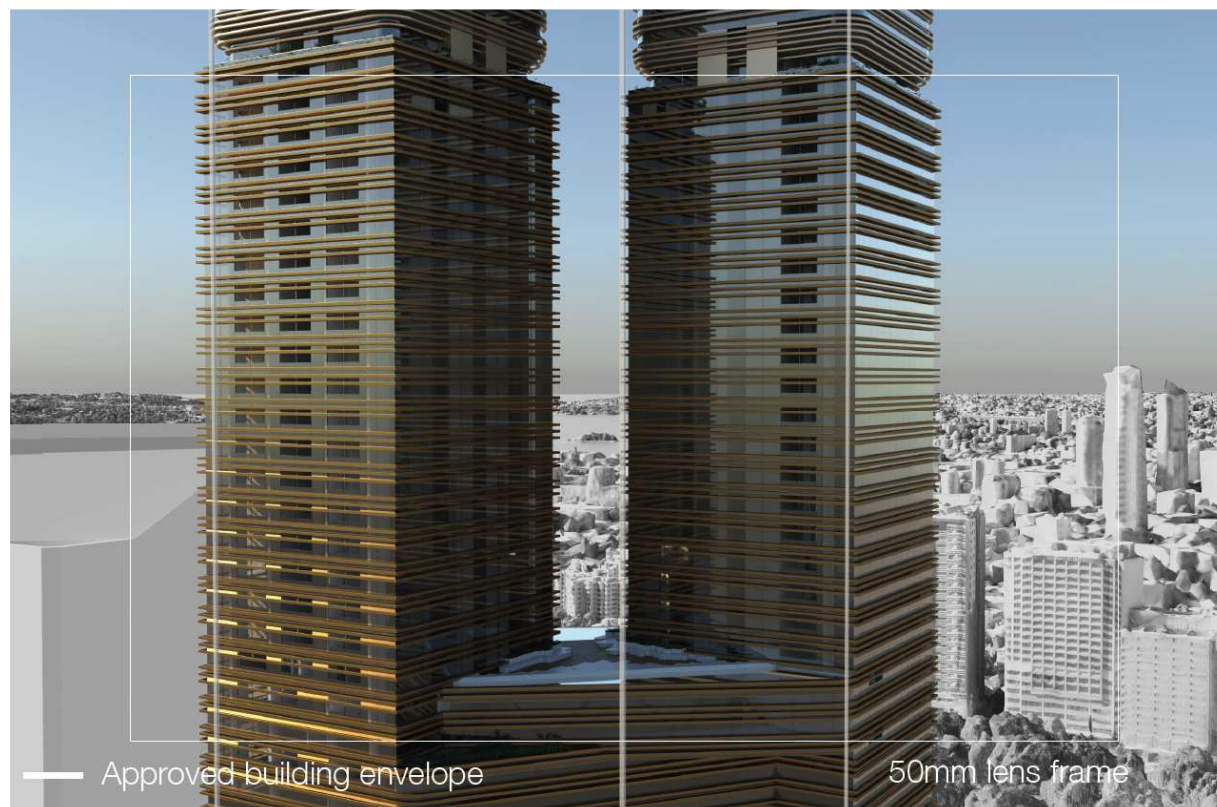


Figure 16 Viewpoint 5: Proposed view

Source: Virtual Ideas

Assessment of Tenacity steps 1 - 3

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
V5	<p>The existing view is highly valued. It contains:</p> <ul style="list-style-type: none"> the easternmost part of Sydney Harbour, including Rose Bay, Shark Island and South Head Bradley's Head Hyde Park the Pacific Ocean large part of the harbourside eastern suburbs, including landmark towers such as the Horizon and Icon land / water /sky interfaces. <p>The extent of these views allows and appreciation of the CBD and eastern Sydney visual character</p>	<p>This view has been simulated to represent a view from the edge of the building, which is a worst case scenario</p>	<p>The extent of the impact is severe. It results in the loss of view of:</p> <ul style="list-style-type: none"> most of Sydney Harbour most of Hyde Park most of the Pacific Ocean most of the harbourside eastern suburbs most of the land / water /sky interface <p>The extent of change is not considered to be devastating due to:</p> <ul style="list-style-type: none"> the separation of the towers enabling appreciation of the harbour or harbour landforms at three locations, including

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
			<div>retention of view of Shark Island will be retained</div> <ul style="list-style-type: none">strong appreciation of the harbourside eastern suburbs will be retained, including retention of views to landmark towers such as the Horizon and Icon

5.3.7 Viewpoint 6: World Tower: Central apartment, Level 59



Figure 17 Viewpoint 6: Existing view

Source: Virtual Ideas

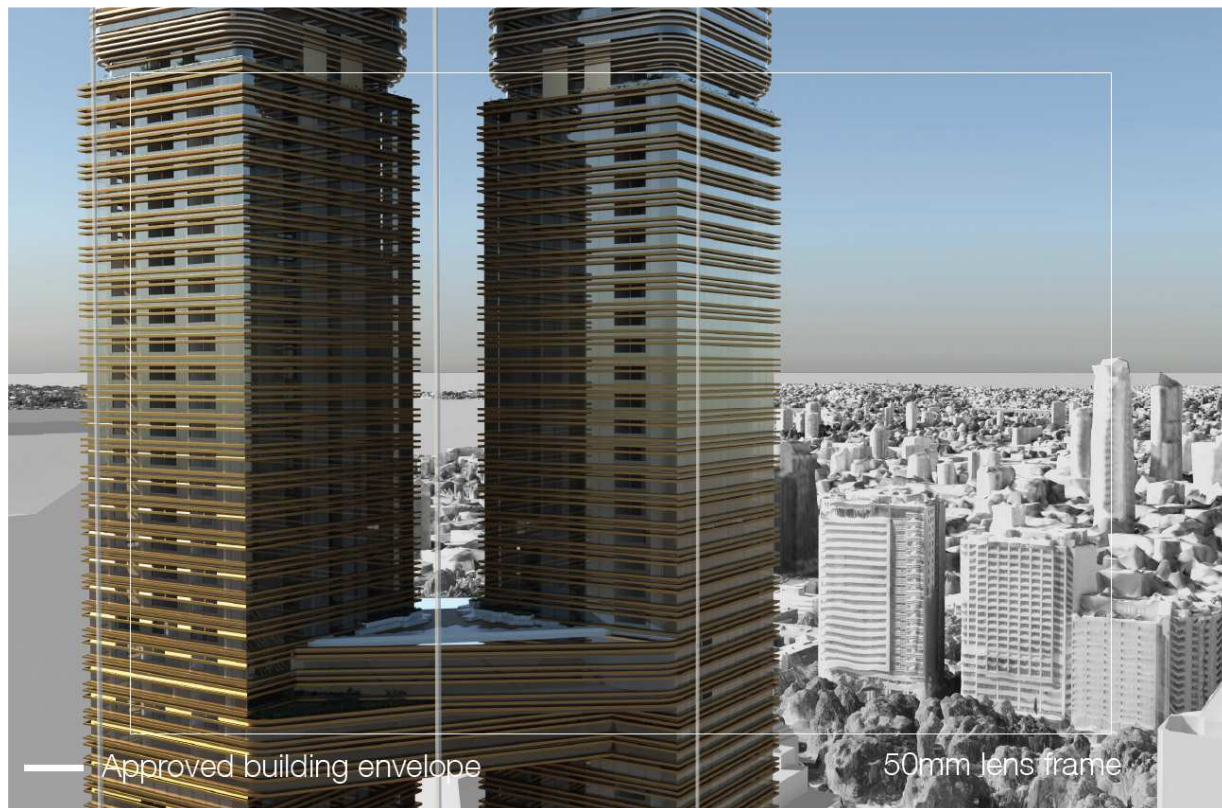


Figure 18 Viewpoint 6: Proposed view

Source: Virtual Ideas

Assessment of Tenacity steps 1 - 3

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
V6	<p>The existing view is highly valued. It contains:</p> <ul style="list-style-type: none"> the easternmost part of Sydney Harbour, including Rose Bay, Shark Island and South Head Bradley's Head Hyde Park the Pacific Ocean large part of the harbourside eastern suburbs, including landmark towers such as the Horizon and Icon land / water /sky interfaces. <p>The extent of these views allows and appreciation of the CBD and eastern Sydney visual character</p>	<p>This view has been simulated to represent a view from the edge of the building, which is a worst case scenario</p>	<p>The extent of the impact is severe. It results in the loss of view of:</p> <ul style="list-style-type: none"> most of Sydney Harbour a large part of Hyde Park a large part of the Pacific Ocean most of Woolloomooloo and Elizabeth Bay a larger part of the land / water /sky interface <p>The extent of change is not considered to be devastating due to:</p> <ul style="list-style-type: none"> the separation of the towers enabling appreciation of the

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
			<p>harbour or harbour landforms at three locations</p> <ul style="list-style-type: none"> strong appreciation of the harbourside eastern suburbs will be retained, including retention of views to landmark towers such as the Horizon and Icon retention of views to parts of Hyde Park, the Pacific Ocean and the land / water / sky interface

5.3.8 Viewpoint 7: World Tower: South Eastern apartment, Level 59



Figure 19 Viewpoint 7: Existing view

Source: Virtual Ideas

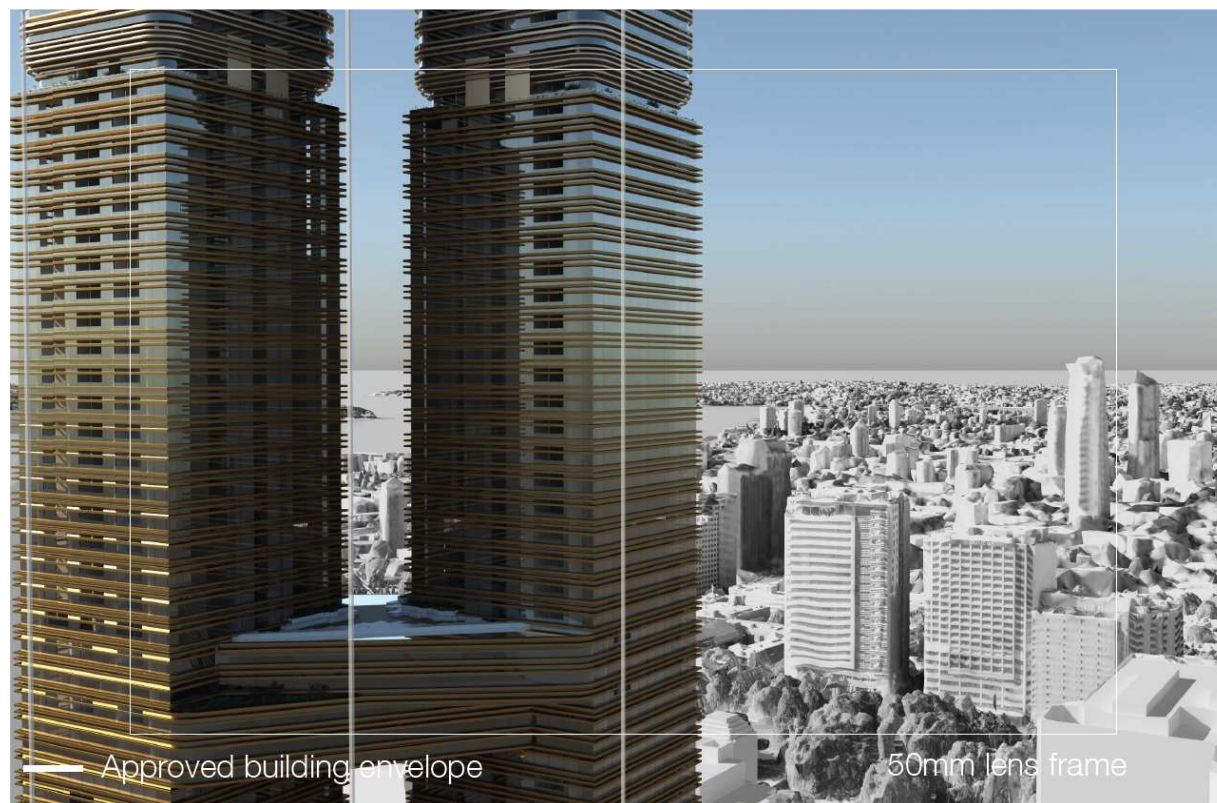


Figure 20 Viewpoint 7: Proposed view

Source: Virtual Ideas

Assessment of Tenacity steps 1 - 3

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
V7	<p>The existing view is highly valued. It contains:</p> <ul style="list-style-type: none"> the easternmost part of Sydney Harbour, including Rose Bay, Shark Island and South Head Bradley's Head Hyde Park the Pacific Ocean large part of the harbourside eastern suburbs, including landmark towers such as the Horizon and Icon land / water /sky interfaces. <p>The extent of these views allows and appreciation of the CBD and eastern Sydney visual character</p>	<p>This view has been simulated to represent a view from the edge of the building, which is a worst case scenario</p>	<p>The extent of the impact is severe. It results in the loss of view of:</p> <ul style="list-style-type: none"> most of Sydney Harbour a large part of Hyde Park a large part of the Pacific Ocean most of Woolloomoolloo and Elizabeth Bay a larger part of the land / water /sky interface <p>The extent of change is not considered to be devastating due to:</p> <ul style="list-style-type: none"> the separation of the towers enabling appreciation of the

Ref	Assessment of views to be affected	From what part of the property the views are obtained	Extent of the impact
			<p>harbour or harbour landforms at three locations</p> <ul style="list-style-type: none"> strong appreciation of the harbourside eastern suburbs will be retained, including retention of views to landmark towers such as the Horizon and Icon retention of views to parts of Hyde Park, the Pacific Ocean and the land / water / sky interface

5.4 Tenacity step 4

The current proposal is distinguished from the Tenacity case on one key point. Roseth SC specifically states in his judgement (at 25) that there are certainly circumstances that do not require any view sharing and where it may be entirely reasonable for a development to entirely block a view. The relevance and reasonableness of applying the Tenacity planning principle, made in the context of a three-storey building in a coastal suburban setting, to the current development proposal is therefore questionable. This is confirmed in the draft Central Sydney Planning Strategy which makes clear that there are a number of qualifications and other considerations which should be taken into account in the circumstances:

- protection of private views should not impede the orderly and economic development of land within Central Sydney to meet the broader economic and social objectives of the City
- providing a higher level of protection for 'iconic' views within Central Sydney would be unreasonable given the concentration of landmark buildings and vistas and would place an undue constraint on future development
- protection of public views should be prioritised above any consideration of private views within the Central Sydney area
- it is not reasonable to expect 'more skilful design' to be able to mitigate potential impacts on private views given the more complex set of design constraints arising in the case of high-density buildings (unlike the low-scale development considered in Tenacity)
- in a dense urban context, the preservation of a reasonable 'outlook' for existing residential apartments is a more appropriate planning objective (as opposed to the preservation of views).

It is also important to note that the proposal is the result of a design excellence process conducted in accordance with the conditions of the stage 1 concept approval. It can therefore be considered that the proposal represents a skilful design. The strongest demonstration of this is the separation of the building envelope into two slender, well separated towers which affords views to valuable townscape and landscape features in the distance.

Therefore, while it is considered that the Tenacity step for assessment of reasonableness is not strictly applicable to this proposal, the proposal nonetheless is the outcome of a skilful design.

6.0 Assessment against planning instruments

Region Plan and District Plan

The proposal protects views of the Anzac Memorial from the public realm. Due to its location within and compatibility with the overall characteristics of the Sydney CBD combined with its scale and visually interesting form, while noting this is a more subjective judgement the proposal can arguably be considered to also enhance views of the Sydney CBD from the public realm. In particular, it does strengthen the existing visual character of the CBD.

City Plan 2036

The proposal does not impact on any significant view corridors.

State Environmental Planning Policy

N/a.

Sydney Local Environmental Plan 2012

The visual impact framework under the SLEP 2012 is as follows:

Clause	Type	Content	Comment
4.3 Height of buildings	Objective	(c) to promote the sharing of views	<p>While it is considered that the relevance and reasonableness of applying the Tenacity planning principle to the proposal is questionable, the following comment is provided:</p> <ul style="list-style-type: none"> the proposal is the result of a design excellence process conducted in accordance with the conditions of the stage 1 concept approval the separation of the two towers provides a level of visual relief for some of the tested apartments, and preserves partial views of Sydney Harbour shifting the placement or reducing the extent of built form on the site within the bounds of what may be considered reasonable in a CBD setting is unlikely to result in any significant reduction in visual impact, and will certainly not reduce the assessed level of impact under the Tenacity steps
5.10 Heritage conservation	Objective	(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views	The proposal does not impact a heritage item or heritage conservation area (including associated fabric, settings and views)
6.21 Design excellence	Matter for consideration	(c) whether the proposed development detrimentally impacts on view corridors	The proposal does not impact any significant view corridors identified in the SLEP 2012

Sydney Development Control Plan 2012

N/a.

Central Sydney Planning Strategy

The proposal does not impact any significant view corridors identified in the CSPS.

As discussed, the CSPS makes it clear that the protection of private views should not impede the future growth of Central Sydney. The Strategy includes specific language which rejects the application of the Tenacity planning principle in the context of Central Sydney, specifically in relation to the characterisation of affected views and the ability to rely on building design to minimise view impacts in a high-density urban context.

7.0 Mitigation measures

It is not considered necessary to require modifications to the proposal in its current form to mitigate visual impact.

8.0 Residual impact

Given the unnecessary nature of mitigation measures, further residual impact assessment is not required.

9.0 Conclusion

When considered against the criteria of sensitivity and magnitude, the visual impact of the proposal at two of the three locations in the public domain was determined to be low – medium (from east Sydney and within the CBD), while at one (within Hyde Park) it is determined to be medium. On this basis, the proposal is considered to have an acceptable level of visual impact on the selected views in the public domain.

When assessed against the planning principles for view sharing handed down by the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (*Tenacity*), the visual impact of the proposal at the locations in the private domain was determined to be severe or devastating. This is largely due to the of views to the north-east across large parts of eastern Sydney which take in 'iconic' elements such as Sydney Harbour and other valued elements such as Hyde Park.

While the visual impact on existing private views is severe to devastating, this visual impact is acceptable considering the entirety of the exiting planning framework, in particular the draft CSPS.

On this basis, it is not considered necessary to impose further mitigation measures on the proposal.

On the balance of relevant matters, it is not considered that there are ground to warrant refusal of the proposal in its current form on visual impact grounds.

Appendix A. Method

Central to the assessment of visual impact are 4 main criteria:

1. sensitivity
2. magnitude
3. significance
4. consistency with applicable and relevant planning instruments.

This report adopts the meaning and method of sensitivity and change from the RMS Guide. In this regard:

- ‘sensitivity: refers to how sensitive the existing character of the setting is to the proposed nature of change’
- ‘magnitude: refers to the physical scale of the project, how distant it is and the contrast it presents to the existing condition’.

Sensitivity

Sensitivity is influenced by a number of factors. It is often important to identify not only what is happening at the viewpoint (eg use) but also what is being seen. Common influences of sensitivity include (refer to **Table 5**):

- distance from viewpoint (close, medium or long range);
- relative viewing level (level, below or above);
- number of viewers (few, moderate or many);
- use at the viewpoint (residential, business, recreation, industry, special use);
- purpose of being at the viewpoint (passing through such as a commuter or dwelling such as resident or a tourist);
- viewing period (short or long);
- dominant elements in the view (value and dominance of the valued feature); and
- view composition type (obstructed, general, focal or panoramic).

In particular, we give particular consideration to the value of the features in the view or the overall setting or context

In the case of Sydney, highly valued views are those of iconic landmarks that are representative of Sydney, including Harbour and other major natural waterbodies, the Sydney Opera House and the Sydney Harbour Bridge. Based on the findings of scenic amenity studies, other values features include water, parks, other natural features and visually interesting skylines such as that of the Sydney CBD, Parramatta or Chatswood. We also give consideration to dominance of the feature the view.

Overall setting that are often considered more sensitive in Sydney are heritage conservation areas or other mainly residential areas that have a cohesive, attractive character.

Table 5: Sensitivity

Rating	Common influences
High	Close range, below, many viewers, residential or recreation, dwelling, long period, highly valued and dominant, focal or panoramic
Medium	Medium range, level, moderate viewers, business or special use, passing through, short period, highly valued and not dominant, valued, general, focal or panoramic

Rating	Common influences
Low	Long range, above, few viewers, industry, passing through, short period, valued and not dominant, not-valued, obstructed or general
Negligible	The proposal cannot be seen

Magnitude

Considerations for magnitude include (refer to **Table 6**):

- the amount of new fabric visible compared to the existing situation, which may include a loss or addition;
- changes to the composition of the view;
- the prominence of the new fabric, or the extent to which its type, role, size, colour, materials and other elements are compatible with the existing view; and
- the ability of the view to absorb the change. For example, introduction of a new vertical element such as a tower into a context that is dominated by horizontal elements may limit the ability of the view to accommodate change. Conversely, background vegetation may significantly increase the ability of the view to accommodate change.

Table 6: Magnitude

Rating	Common influences
High	Large amount of fabric added or lost, high change to view composition in particular with regard to focus of view, highly prominent in the field of view
Medium	Moderate amount of fabric added or lost, moderate change to view composition, visible in the field of view but not prominent
Low	Limited amount of fabric added or lost, low change to view composition, visible in the field of view but not noticeable to the casual observer
Negligible	The proposal cannot be seen

Visual impact assessment is highly subjective. The rating tools in this report only suggest a value. It is important to note that each assessment requires a balanced consideration of each factor and their interrelationship with each other.

Significance

Consistent with the judgement handed down *Tenacity Consulting v Warringah* [2004] NSWLEC 140, the judgement handed down in *Rose Bay Marina Pty Limited v Woollahra Municipal Council and anor* [2013] NSWLEC 1046 notes the importance of context specific, qualitative assessment:

- ‘First, we observe that the analytic stage we propose does not mandate derivation of any formal assessment matrix. Consistency of evaluation of the acceptability of impacts on a public domain view is not a process of mathematical precision requiring an inevitable conclusion based on some fit in a matrix. However, some may find their preparation of a graduated matrix of assistance to them in undertaking an impact analysis’.

However, while acknowledging that context specific, qualitative assessment is key, the visual impact matrix shown in **Table 7** has been used to guide a more objective assessment of significance for this VIA.

Table 7: Visual impact matrix

		Magnitude			
		High	Medium	Low	Negligible
Sensitivity	High	High	High – Medium	Medium	Negligible
	Medium	High – Medium	Medium	Medium – Low	Negligible
	Low	Medium	Medium – Low	Low	Negligible
	Negligible	Negligible	Negligible	Negligible	Negligible

Consistency with applicable and relevant planning instruments

Even if the significance of a proposal is considered to be high when considered against sensitivity and magnitude, it may be acceptable based on applicable and relevant planning instruments, or can be made acceptable through the mitigation measures (either include in the proposal that forms the development application or through the consent authority applicant of or conditions of development approval).