

An abstract graphic in shades of olive green and white. It features a stylized, angular shape on the left that resembles a building or a map of a landmass. To its right, a thick, white, curved line sweeps across the frame, ending in a small, white, rectangular shape that looks like a flag or a sign.

VISUAL IMPACT - REPORT IN RESPONSE TO SUBMISSIONS FOUR POINTS HOTEL EXPANSION

161 SUSSEX STREET - DARLING HARBOUR

FEBRUARY 2013





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1.1 INTRODUCTION

This report has been commissioned on behalf of GL Investment Co Pty Ltd ATF GL No 1 Trust for the redevelopment of the Four Points Hotel by Sheraton at 161 Sussex Street, Sydney.

A Development Application for this site has been exhibited by the Department of Planning and Infrastructure (exhibition ended October 2012). GMU provided a Visual Impact Assessment as part of this application that focussed on views from the public realm and private view impacts from the Berkeley Apartments located at 25 Market Street.

The Department of Planning and Infrastructure (DoP&I) has requested that the applicant provide additional information in response to issues raised in submissions received during the exhibition.

This report provides information in response to the issue raised within Attachment 1 to the letter dated 20 November 2012 to "Provide further justification of view losses to the Astoria Tower, in the event that the adjacent car park is not redeveloped or increased in height".

For information regarding the broader visual analysis or the visual objectives of the proposal as they relate to current controls, see GMU's Visual Impact Assessment (June 2012) which formed part of the original application.

1.2 PROPOSED PROJECT

The proposal consists of an extension and addition to the existing Four Points hotel structure. The addition consists of two elements:

- a twenty five (25) storey tower; and
- a lower podium extending above and along the M4 Western Distributor.

The view impacts in question relate primarily to the tower extension.

Uses within the proposed development include hotel rooms and suites, commercial office space, convention space, back of house areas, meeting rooms and pre-function spaces.

There is no height control applicable to the site as the boundary of the Sydney LEP 2012 does not include the subject site. Land on the eastern side of Sussex Street is subject to the Sydney LEP 2012 which sets a height limit of 80m for this area, which may be increased up to 10% under the Sydney LEP controls.



Axonometric view (looking east) indicating the proposed development (Courtesy Of Scharp)

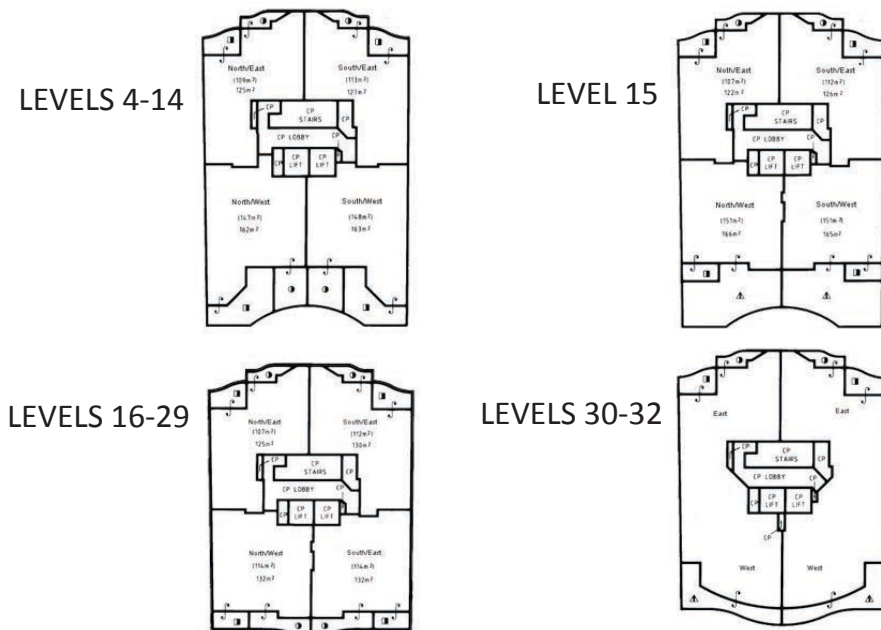


1.3 THE ASTORIA TOWER

THE ASTORIA TOWER

The 'Astoria Tower', located at 222-228 Sussex Street, is a 33-storey apartment tower (including ground level, excluding plant rooms). GMU understand that storey/level numbers used within the building generally exclude the ground floor level (i.e. Level 1 is above the ground floor) and we therefore reference storeys/levels in this way. GMU understand that levels 3-29 of the tower generally provide four two-bedroom apartments per floor, where levels 30-32 provide two three-bedroom apartments per floor.

The building provides a setback from the street above Level 14 (approx. 45m above street height) and a further street setback above Level 29. No setbacks have been provided to either the northern or the southern side boundaries where windows to internal spaces have been built directly on the boundary. According to an existing covenant, these windows are to be sealed in the event of construction on the adjacent property, which will be discussed in further detail in the following section of this report.



Typical floor plates of the 'Astoria Tower'

source: http://www.mypage.com/sydney_buildings/astoria_tower/astoria_tower.htm



Astoria Tower northern elevation (source: Bing)

VIEWS FROM THE ASTORIA TOWER

Apartments within the Astoria Tower currently enjoy a range of existing views. These can be broadly categorised as:

- A) Direct views to the west to Cockle Bay and Pyrmont - available through a view corridor between the northern and southern tower of the Darling Park Complex.
- B) Oblique views of Darling Harbour - available to the north, across side boundaries and the adjacent development site.
- C) Direct views to the east toward the CBD including the Queen Victoria Building, other skyline elements and glimpsed distance views between towers - available to the east.
- D) Other views of the CBD, streetscape and skyline, including those to the south.

The views in question are mainly the oblique views to the north from the side boundary over the adjacent unit, which are oriented towards the proposed development at 161 Sussex Street shown on the adjacent map as category 'B' views.

The minimum distance from the Astoria Tower to the proposed tower is approximately 130m.

THE EXISTING WINDOW COVENANT AND TENACITY PLANNING PRINCIPLE

GMU understand that a legal and binding covenant was placed upon all contracts for units within the Astoria Tower apartments at the time of its construction that applies to the units in perpetuity. This covenant permits Sydney City Council to seal or enclose all windows along the northern and southern side boundaries in case of development on adjoining sites. This has already taken place along the southern boundary of the Astoria Tower where windows have been sealed up to Level 24 as stated in an instrument setting out terms and conditions of easements applicable to plan SP53413 LOT 1 in DP. 624210 and covered by Council's Certificate No. 32/96 of 19.9.1996. The expectation that existing views from windows along the northern boundary can be retained in the long term is unreasonable.

The New South Wales Planning Principle for view sharing - (Tenacity Consulting v Waringah [2004] NSWLEC 140) places specific importance on the difficulty of protecting views along the side boundaries of properties, stating that "the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries" and that "the expectation to retain side views... is often unrealistic". This will be an important consideration in the analysis of views from these locations.



1.4 SUMMARY OF ISSUES RAISED IN SUBMISSIONS

GMU understand that objections to the proposal come from the following unit numbers and locations within the Astoria Tower:

Unit number	Level	Aspect	Notes
1	3	North-west	Objection does not include issues relating to loss of private views.
4	3	South-west	Objection does not include issues relating to loss of private views.
25	9	North-west	
35	11	South-east	Objection does not include issues relating to loss of private views. Location of apartment has no potential outlook toward proposal.
46	14	North-east	
73	21	North-west	
90	25	North-east	
97	27	North-west	
100	27	South-west	
106	29	North-east	
113	32	North	
115	Unknown*		Objection does not include issues relating to loss of private views.
not stated	Unknown		

* Information provided to GMU regarding the Astoria Tower apartment does not include the location of this unit.

Resident's units that have objected to the proposal are located across the entire range of heights within the building, with the majority of those objecting due to loss of private views being on the upper storeys of the tower above the ninth floor.

The majority of objections were submitted in a standardised 'check box' format. This standard form includes two issues which directly reference view loss:

- "I will lose my view, my amenity and the 'boxed in' feeling and loss of sun will impact on my health"; and
- "It's not fair - the hotel will charge guests a room rental for the view but will not compensate me for 'stealing' it".

Written submissions also reference similar issues, noting the loss of views to Darling Harbour, water views and views to Sydney Aquarium.

1.5 DEVELOPMENT POTENTIAL OF ADJACENT PROPERTY

The DGRs issued by the DoP&I required the Visual Impact Assessment of the Astoria Tower apartments to be conducted “in the event that the adjacent car park is not redeveloped or increased in height”. Therefore, a discussion of the redevelopment potential of the next door site is included over the following pages as a reference only.

Adjacent to the proposal to the north is a large site with frontage to Sussex Street, Market Street and Kent Street. This site presently contains the BT Tower office building (11 Market Street) on its far northeastern corner. Along Sussex Street the site provides a nine storey parking structure with no highrise built form above (see photograph overleaf). The majority of existing northern views from the Astoria Tower apartments occur across this site above the existing carpark (see diagram adjacent).

This site could potentially be redeveloped in future as there is economic pressure in the CBD to provide additional development and the space above the multi-storey carpark could allow for development whilst providing adequate setbacks from the BT office tower. To prioritize side views in these circumstances could effectively sterilize development on the carpark site as well as the subject site for side boundary windows which today would not be allowed due to resident reactions when covenants are enacted.

A diagram showing one potential development scenario (a subdivided site with a new residential tower) is shown overleaf. The built form envelope shown in this scenario has a 45m podium (matching that of the Astoria) with a tower block above generally designed to satisfy the Development Control Plan (DCP) 2012 setback controls. The maximum height for a building on this site under the current policy is 80m.

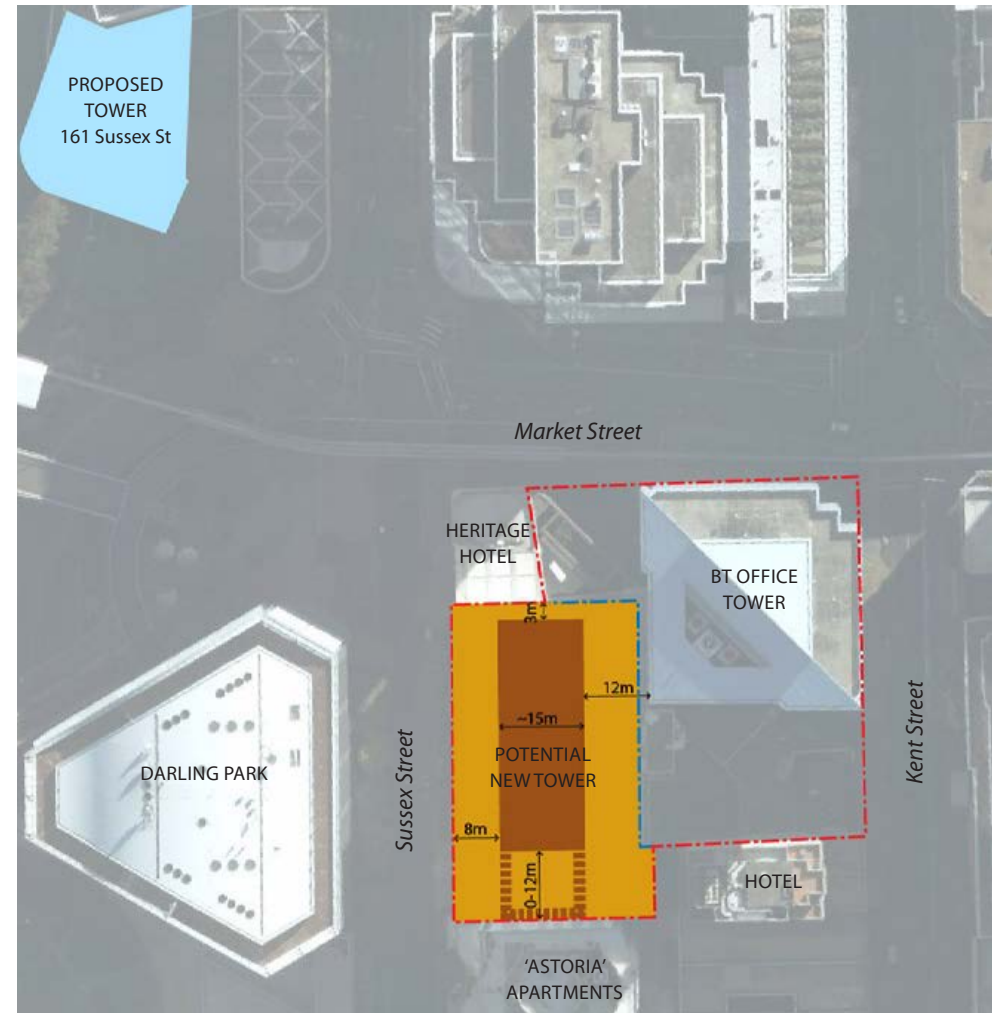
The existing covenant to windows on the side boundaries of the Astoria Tower means that Council is likely to require sealing of all windows along the northern facade to provide privacy and amenity to any new development whether or not a setback is provided. This has already occurred on the southern facade of the Astoria Tower where windows are sealed up to Level 24 even though a setback was provided on the adjacent site. Development scenarios for the carpark site may also seek to build ‘to boundary’, directly abutting the northern wall of the Astoria Tower apartments.

The indicative development scenario overleaf demonstrates that the existing carpark could seek alterations and additions to provide a highrise built form whilst respecting height and setback controls. For this reason, as well as the premise that temporary windows in such a location should not be able to sterilize development sites in a CBD environment; we believe that the expectation that views from northern windows of the Astoria Tower can be retained is unrealistic and potentially unreasonable.





Existing view from the north showing nine storey parking structure with Astoria Tower behind



- Site boundary
- Potential site subdivision line
- Other development
 - Existing BT Tower offices
 - Proposed tower - 161 Sussex Street
- Indicative development
 - Built form to 45m (assuming non-residential, no windows to facades except Sussex Street)
 - Built form to 80m (assuming residential development with windows to facades)
 - DCP setbacks

INDICATIVE DEVELOPMENT
POTENTIAL OF ADJACENT SITE

0 5 10 20 50m

2 - METHODOLOGY OF VIEW ANALYSIS

2.1 METHODOLOGY OF VIEW ANALYSIS

METHODOLOGY OF ASSESSMENT

Following discussions between the Applicant and the Department of Planning and Infrastructure, a preference was expressed to GMU that the visual impact assessment for the Astoria Tower apartments should include comprehensive, general testing of the potential impact of the proposal on all existing apartments. This is set out in Chapter 3 of this report. GMU requested that further analysis of visual impacts be completed with regard to the impacts of the proposal on the apartments of individual objectors and this is discussed in Chapter 4 of this report.

In assessing the view impacts of the proposal, GMU has followed the following methodology:

- 1. Identification of affected viewing locations;
- 2. Ascertain viewing field for affected locations;
- 3. Ascertain other available views to units;
- 4. Assess development adjoining affected building and between view and building; and
- 5. Test view characteristics against the New South Wales Land and Environment Court planning principle on view sharing (Tenacity Consulting v Waringah [2004] NSWLEC 140), including assessing the acceptability or not of the view loss.

In assessing the views, GMU has relied on existing and proposed rendered views provided by Scharp Creative Studio as access to the affected units was not able to be arranged for GMU by the Applicant.

Part of the methodology includes a sieving and selection of a representative selection or sampling of existing unit/apartment views from various points, heights and aspects of the existing development. This includes heights at lower levels, mid-range and upper storeys.

VIEW SIGNIFICANCE

The *view significance* is the importance of the view from the view location. This relates to the first steps outlined in the New South Wales Land and Environment Court planning principle on view sharing (Tenacity Consulting v Waringah [2004] NSWLEC 140): the 'assessment of the view to be affected' and consideration of 'what part of the property the views are obtained'. Key factors which may influence the significance of the view location include:

- Whether the view includes landmarks, iconic buildings, water and/or land-water interfaces;
- Whether the view is open or enclosed, whole or partial;
- Whether the view can reasonably be expected to be retained;
- The location from which the view is obtained (e.g. the impacts on views from living areas is more significant than those from bedrooms or service areas); and
- Whether the view is the primary view from this location.

A description of the categories used in identifying view significance is provided below.

View significance	Description
LOW	Non-notable views such as streetscape views without notable distance or horizon elements such as landmark, iconic buildings, water and/or land-water interfaces.
LOW-MEDIUM	
MEDIUM	Primary views with few valuable features; secondary views with some valuable features; or primary views with valuable features which cannot be considered likely to be retained in future (i.e. landmarks, water views, etc.).
MEDIUM-HIGH	
HIGH	Open, iconic and permanent views such as those to Sydney Harbour, Sydney skyline or land-water interfaces.

VIEW IMPACT

The *impact* of the proposal is a qualitative assessment of the change within the view. It should be noted that severe change within a view is not necessarily a negative outcome but it does indicate, for instance, a larger amount of perceivable change within the view frame that is not negligible or minor. For some view locations that do not contain water views or iconic elements a well designed building may provide a new visual focus or iconic form in effect creating a new iconic view.

Key factors which may influence the impact of the proposal on the view include:

- Consideration of the value of elements within the existing view which are obscured by the proposal as compared to the value of elements added;
- Overall potential visibility of the proposal, including its distance and elevation from the view location, as well as whether the proposal will be a primary visual element within the view, or secondary;
- The proposal's response to the view, whether it fits within its context or stands out prominently, including the effects of its materiality, visual composition and overall appearance;
- Whether the proposal enhances the view; and
- The context within which the proposal will be seen, whether a skyline, adjacent to neighbouring buildings or as an object within space.

A description of the categories used in identifying view impact is provided below. These are based on the categories outlined in the New South Wales Land and Environment Court planning principle on view sharing (Tenacity Consulting v Waringah [2004] NSWLEC 140).

Impact	DESCRIPTION
NEGLECTIBLE	The proposal may be visible in part, however any change from the existing view is either unnoticeable or barely discernible.
MINOR	The proposal does not substantially change the scale and quality of the view. The proposal may obscure view elements of limited importance such as open sky and less prominent built form.
MODERATE	The proposal may provide some change in scale from other elements within the view. The proposal may obscure view elements of some importance including sky and small areas of horizon.
SIGNIFICANT	The proposal may provide a change in the focus and scale of the view. The proposal may obscure some view elements of importance whilst retaining others.
SEVERE	The proposal may be prominent within the view, substantially changing its focus, scale or character. The proposal may obscure important view elements.
DEVASTATING	The proposal is the most prominent element within the view, significantly changing the scale of view and obscuring important views of major iconic elements such as the Sydney Harbour Bridge or Opera House.

ACCEPTABILITY

The *acceptability* is whether the impact of the proposal within the view is positive or adverse and whether that impact is reasonable given the earlier considerations. It relates to the view significance and impact on the view, as well as the quality of impact. This has been determined with regard to the fourth step outlined in the New South Wales Land and Environment Court planning principle on view sharing (Tenacity Consulting v Waringah [2004] NSWLEC 140), to 'assess the reasonableness of the proposal that is causing the impact'. A proposal is more likely to have a beneficial quality if it:

- complements or dramatically contrasts with the character of its setting appropriately subject to the role and location of the site within the view;
- follows the relevant planning objectives or new strategic approach for an area; and/or
- improves the overall visual quality of the view.

These issues are discussed in the text description of each view.

A description of the categories used in identifying acceptability is set out below.

ACCEPTABILITY	DESCRIPTION
ACCEPTABLE	The impact of the proposal is beneficial, balanced, or in the case that it is adverse, its effects are not excessive and have been minimised by the proposal given the relativity of the site and view as well as the reasonableness of the impact.
ACCEPTABLE WITH MITIGATION MEASURES	The proposal has some adverse effects, however these can be eliminated, reduced or offset to a large extent by specific measures.
UNACCEPTABLE	The adverse effects are considered too excessive and are unable to be practically mitigated.

3 - ASSESSMENT OF GENERAL VIEWS

3.1 INTRODUCTION AND SELECTION OF VIEWS

A broad range of views have been selected for the general testing set out in this chapter. These cover the full height and width of the residential floors of the building from which the proposal may be visible. The study focusses on important view locations (enclosed and open balconies and living areas) where possible.

Across the height of the building, views have been selected from:

- Level 3 - the lowest residential level within the tower;
- Level 9 - the lowest residential level with existing windows on the northern facade;
- Level 23 - mid-level within the tower; and
- Level 32 - the highest residential level within the tower.

Across the width of the building, views have been selected for each apartment from the following locations where they have the potential to be affected:

- balconies (enclosed or open); and
- a minimum of 1 window facing the northern facade, with a preference for a living area i.e. Family, living or dining (from seated and standing positions).

The majority of views selected are side views through windows which abut the side (northern) boundary of the site. As described above (see Section 1.3 of this document), these windows are affected by a covenant which means they may be required to be blocked at the discretion of Sydney City Council. Due to the existing covenant, there must be considered to be an expectation by the owners of these apartments that these side views are of a temporary nature and that permanent retention of the views in a CBD environment is highly unlikely. Therefore the view significance is lower than in circumstances where permanent windows are located adjacent to side boundaries.

Views from the north-eastern balcony are included in this analysis, however their significance is limited as they are only available from a limited area at the outer edge of the balcony, close to the northern corner and are not in a visually significant location. These balconies face east and have alternative primary views to the CBD, away from the proposal.

The diagram and floor plans overleaf show the location and levels for the views chosen.

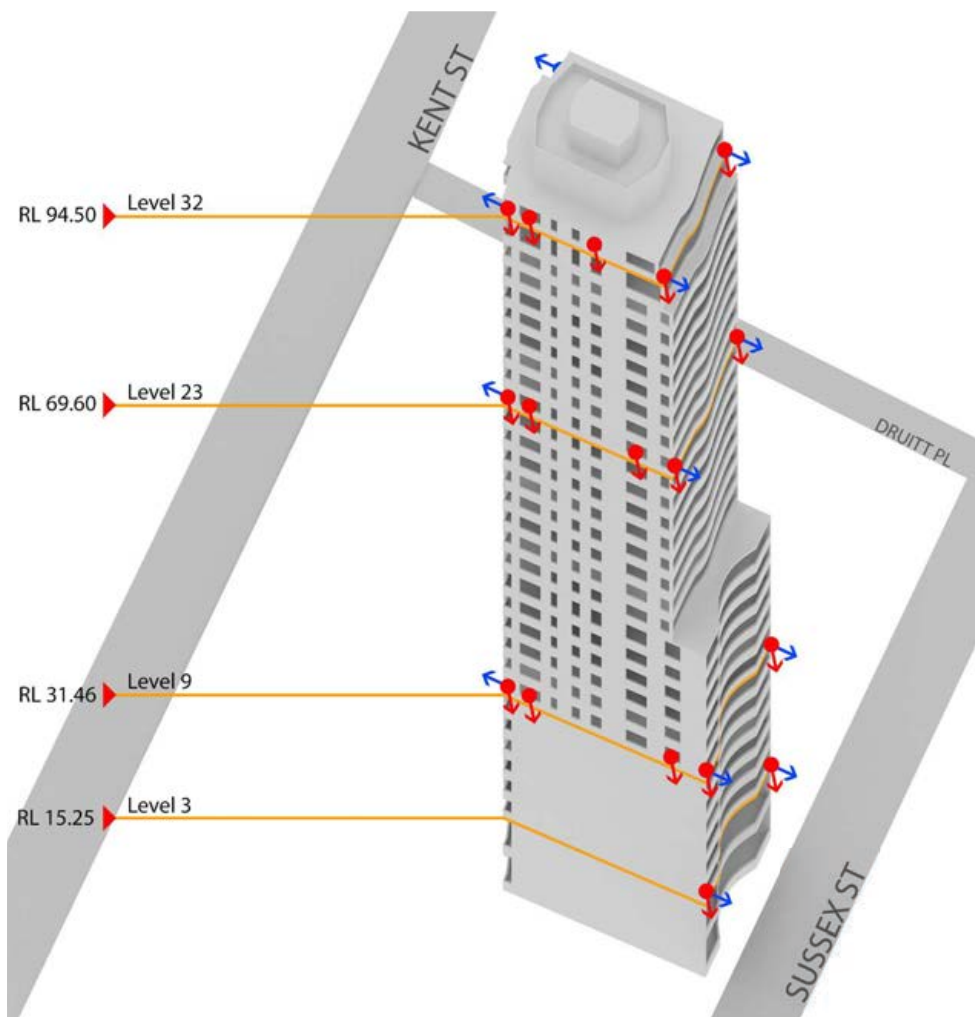
FORMAT OF ASSESSMENT

The selected apartments' images presented in the view analysis have been grouped by location across the facade of the building. Views from different heights at a similar location across the facade are presented continuously within the same chapter for ease of reference where possible. 'Existing' and 'proposed' (before and after) computer generated perspectives are shown adjacent to each other, with key alternative views from the same location, where these are available.

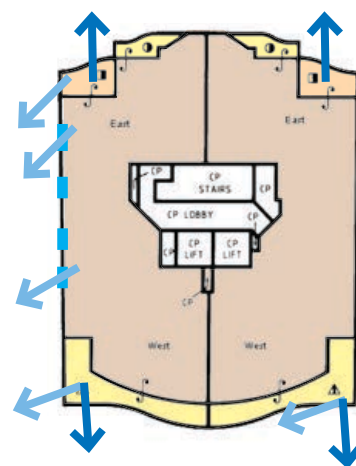
Enclosed and open balcony views are shown from a standing position only and internal views are shown from both seated and standing positions. The eye level at a standing position has been calculated at approximately 1630mm and the seated position at approximately 1230mm.

For each group of views, an analysis of the view itself, how it is gained and the impact of the proposal on each view is presented. This analysis is structured to describe the impact and quality of impact, leading to an overall conclusion as to the acceptability or not of the proposal on the quality of the view.

The analysis of each view concludes with a categorized summary of the view significance, the proposal's impact, its overall acceptability and any mitigation measures that may be proposed. A description of the 'view significance', level of 'impact' and level of 'acceptability' (as described in Section 2.1 of this report) is shown adjacent to each view.



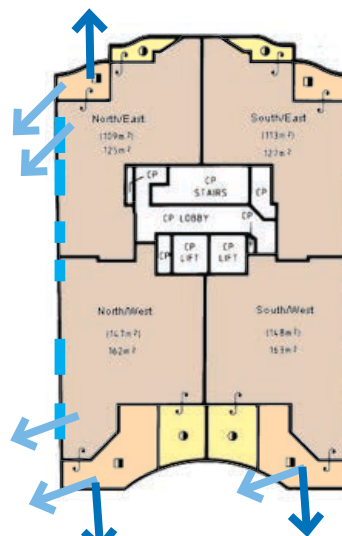
- Red dot: Views to the proposal
- Blue arrow: Views away from the proposal (to CBD and Darling Harbour)



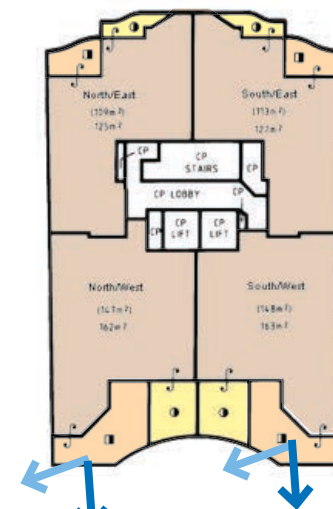
LEVEL 32



LEVEL 23



LEVEL 9



LEVEL 3

- Blue dashed line: Approx. location of windows on northern facade (excluding enclosed balconies)
- Blue arrow: Investigated views
- Blue arrow: Alternative retained views shown

- Light brown: Internal areas
- Orange: Enclosed balconies (full height glass)
- Yellow: Open balconies



INDICATIVE PLAN OF VIEWS INVESTIGATED

Adapted from plans at http://www.mypage.com/sydney_buildings/astoria_tower/astoria_tower.htm

LOCATION OF VIEWS INVESTIGATED

Courtesy of Scharp Creative Studio

3.2 SOUTHWEST BALCONY VIEWS (VI-V4)

VI - LEVEL 3

Description of view:

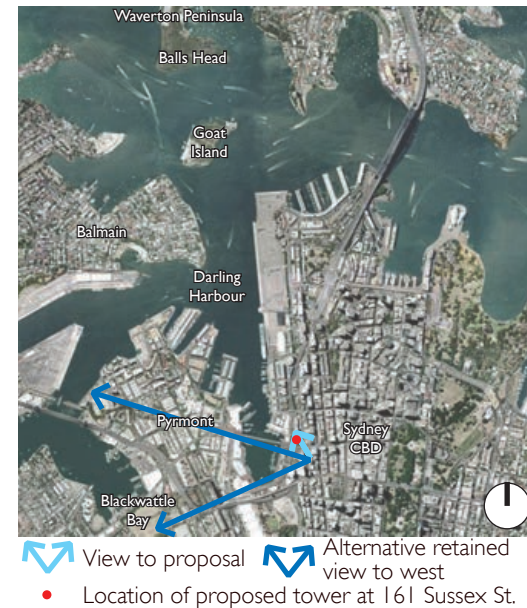
The view in question is from the enclosed balcony of the southwestern unit and it is an oblique view looking north towards the proposal characterized by the cityscape along Sussex Street. Due to its relative low level compared to other development on either side of that street, the view is a street view enclosed by major built form. It does not include views to the water or Sydney Harbour. Therefore the view is considered to be of low significance. The apartment has a further view available to the west between the Darling Park towers that is a higher quality view.

Impact of proposal:

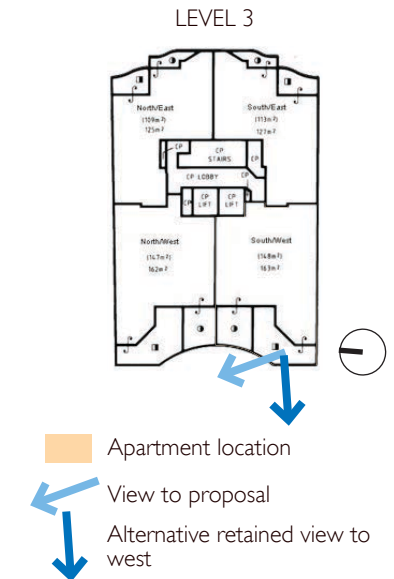
A small part of the proposed tower is visible from the balcony view. It obscures the side facade of the existing Four Points hotel building. The proposal reduces a small portion of the available sky and replaces the side facade of this building within the view. The impact is therefore negligible as one built form replaces another and there are no icons or major distinctive elements obscured by the proposal. The majority of the view is maintained. The proposal's view impact is considered acceptable.

VI –
SIGNIFICANCE: LOW
IMPACT: NEGLIGIBLE
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



VI

View from enclosed balcony within southwest apartment, Level 3



Existing view



Proposed view



Alternative retained view to west between Darling Park towers

V2 - LEVEL 9

Description of view:

View 2 (V2) is from the enclosed balcony on the southwestern unit on Level 9. The view in question is not the primary view for this unit. The unit also benefits from a primary view between the Darling Park towers across Cockle Bay and Pymont Peninsula to the west (shown opposite). This view would include water views above the podium level of the Darling Park development. The view towards the proposal is secondary. Due to its relative low level compared to other development on either side of that street, the view is a street view enclosed by major built form. It does not include any iconic elements or water views. The view is characterised by a streetscape and therefore is considered of low significance.

Impact of proposal:

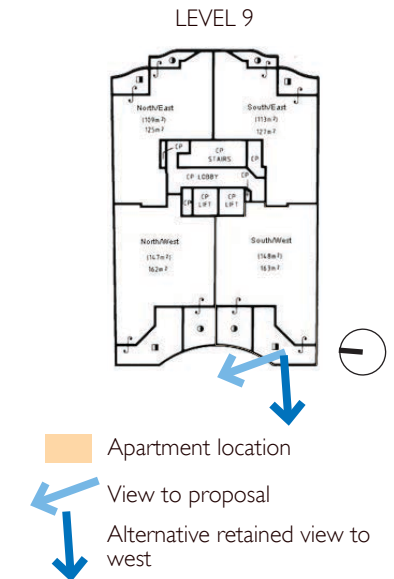
A small part of the proposed tower will be visible from the enclosed balcony view. It obscures the side facade of the existing Four Points hotel building. The proposal reduces a small area of sky and replaces the side facade of this building within the view. The impact is therefore negligible as one built form replaces another and there are no icons or major distinctive elements obscured by the proposal. The majority of the view is maintained. The proposal's view impact is considered acceptable.

V2 –
SIGNIFICANCE: LOW
IMPACT: NEGLIGIBLE
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:

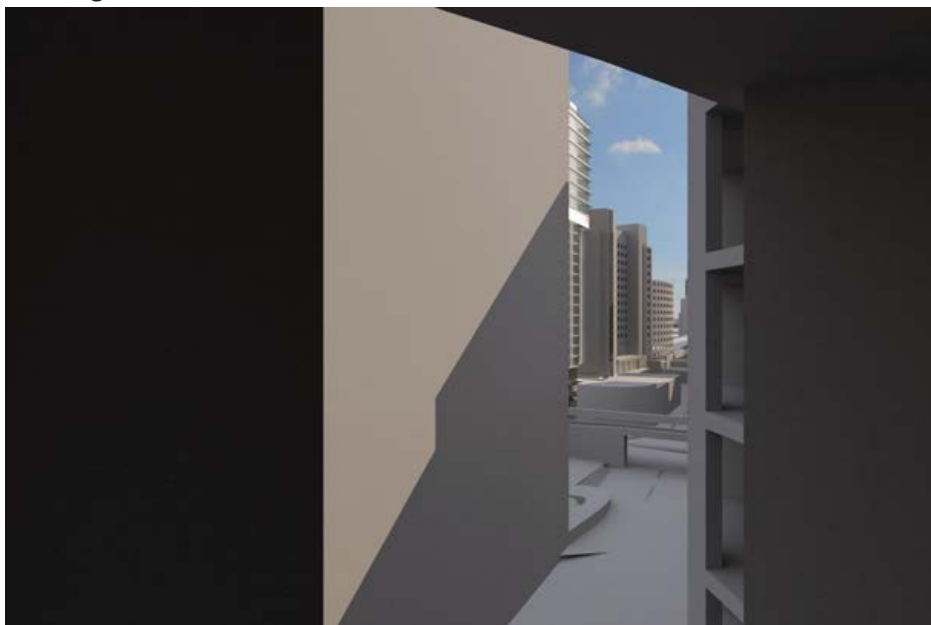


V2

View from enclosed balcony within southwest apartment, Level 9



Existing view



Proposed view



Alternative retained view to west between Darling Park towers

V3 - LEVEL 23

Description of view:

The view from this level is from the southwestern enclosed balcony in Level 23. This is an oblique view towards the proposal, which is secondary to the primary view towards Cockle Bay and the Pyrmont Peninsula visible between the Darling Park towers. The primary view enjoys substantial water and district views including iconic elements such as the Anzac Bridge (shown on the opposing page). The view towards the proposal is an oblique view which includes a limited area of distant water. It is a highly constrained view due to the existing massing of the northern tower at Darling Park towers. The view is considered to be of low to medium significance.

Impact of proposal:

As seen in the existing and proposed views, a small proportion of the eastern facade of the proposed tower will be visible behind the northern tower of the Darling Park development. The overall level of change to the view reduces the area of water closer to the viewer but maintains the narrower long distance views of the Harbour. Given the angle of view and the retained primary view available to this unit, the impact is considered to be moderate and acceptable.

V3 –

SIGNIFICANCE: LOW-MEDIUM

IMPACT: MODERATE

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V3

View from enclosed balcony within southwest apartment, Level 23



Existing view



Proposed view



Alternative retained view to west between Darling Park towers

V4 - LEVEL 32

Description of view:

View 4 (V4) is from the open balcony on Level 32. This view is not the primary view from this location. The primary view is directly west between the Darling Park towers across Cockle Bay and the Pyrmont Peninsula. It contains substantial water and district views including iconic elements such as the Anzac Bridge and the lower edge buildings along Darling Harbour. This unit also enjoys views to the CBD including iconic elements such as the Centrepont tower and the heritage roof elements of the Queen Victoria Building. The view in question towards the proposal is an oblique view. It currently includes close and distant water views to the Harbour, Goat Island and the lower North Shore. The view is highly constrained by the Darling Park towers. The view is considered to be of medium significance, especially when compared to the direct views available to the west and to the CBD.

Impact of proposal:

A portion of the proposed tower's eastern facade will be visible in part behind the existing northern tower of the Darling Park development. A portion of the view containing the closer water is obscured which reduces the extent of water view available and obscures the tip of the Balmain peninsula. The view still retains the distant view toward Goat Island and the Balls Head Reserve. Given the prominent and primary views to the west and east (CBD) unaffected by this development as well as the potential retention of water and land elements in the oblique affected view, the proposal's impact is considered to be moderate. Some reduction in the view is considered to comply with the principles of view sharing. Therefore, the impact is moderate and acceptable.

V4

SIGNIFICANCE: MEDIUM

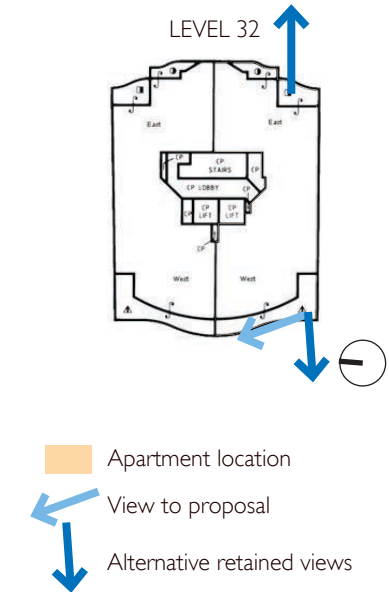
IMPACT: MODERATE

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V4

View from western open balcony within south apartment, Level 32



Existing view



Proposed view



Alternative retained view to west between Darling Park towers



Alternative retained view to east towards CBD (eastern balcony)

CONCLUSION TO SOUTHWESTERN BALCONY VIEWS

The previous views from the southwestern locations include three enclosed balcony views on Levels 3, 9 and 23. The view from Level 32 is from an open balcony with a glass railing. All these views are oblique views which are secondary to the direct views to the west towards Cockle Bay and the Pymont Peninsula and to the east for Level 32. While the lower level views are characterised by cityscapes, the upper views toward the proposal contain water glimpses and distant views to the Sydney Harbour and the lower north shore i.e. Balls Head Reserve and the Waverton Peninsula. These impacts on these views vary from negligible to moderate with all the affected units having an unaffected primary view to Cockle Bay and the Pymont Peninsula. The upper levels 23 to 32 where some of the views experience reduced glimpses of the water, retain distant scenic elements including Goat Island and views of Balls Head Reserve, which adheres to the principles of view-sharing and therefore the level of impact is considered to be acceptable.

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3.3 NORTHWEST BALCONY VIEWS (V5-V8)

V5 - LEVEL 3

Description of view:

View 5 is from the enclosed balcony of the northwestern unit on Level 3. The view in question is an oblique view looking north towards the proposal and it is characterized by the cityscape along Sussex Street. Due to its relatively low level compared to other development to either side of the street, it does not have views to the water or Sydney Harbour. The views are to the side and frontage of Sussex Street developments as well as to the sky. The view is considered to be of low significance. An alternative view is also available from this location between the Darling Park towers to the sky and the lower edge buildings along the western edge of Cockle Bay (shown on the opposing page). Both views are already constrained by the development on the other side of Sussex Street.

Impact of proposal:

A small portion of the eastern elevation of the proposed tower will be visible from the enclosed balcony views. It will obscure the side of the existing building which is currently seen in the view. The new proposal will also reduce a small area of available sky; however, the majority of the view will still be maintained and where built form is obscured the new proposal will replace it with a similar visual impact. Therefore, the impact is minor and acceptable.

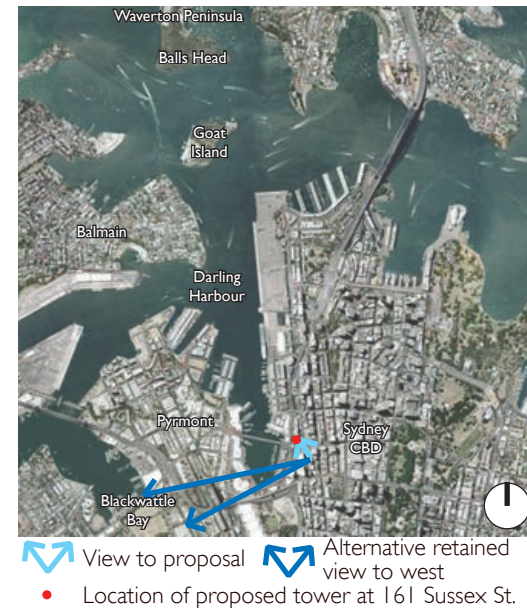
V5

SIGNIFICANCE: LOW

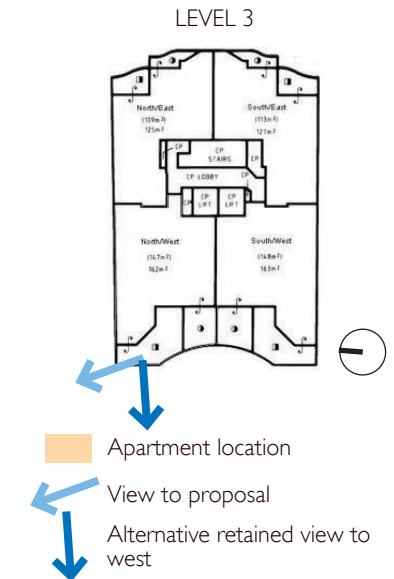
IMPACT: MINOR

CONCLUSION: ACCEPTABLE

Key plan of view:

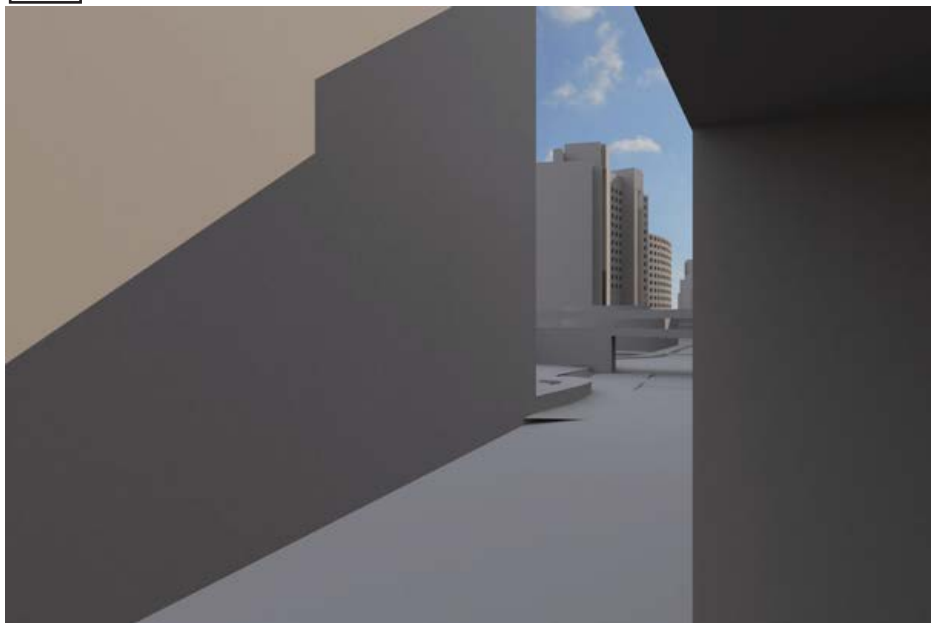


Location of view:



V5

View from enclosed balcony within northwest apartment, Level 3



Existing view



Alternative retained view to west between Darling Park towers



Proposed view

V6 - LEVEL 9

Description of view:

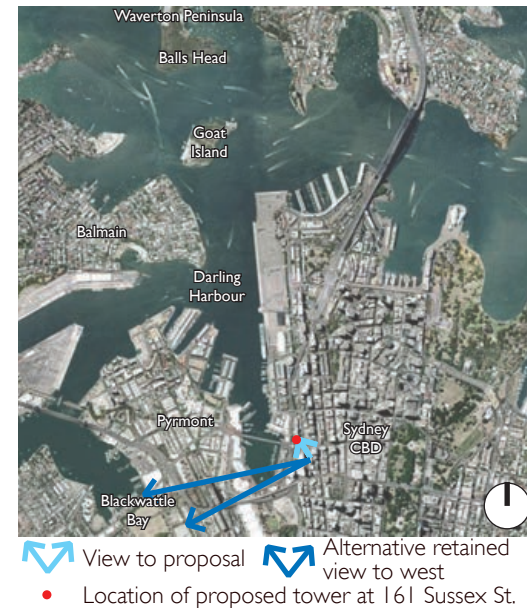
View 6 is from the enclosed balcony of the northwestern unit on Level 9. The view in question is an oblique view looking north towards the proposal and it is characterized by the cityscape along Sussex Street and the side facade of the existing Four Points hotel. Due to the relative level of the view compared to other adjacent development to either side of the street, this view does not contain any iconic or water elements. The view is considered to be of low significance. An alternative view is also available from this location between the Darling Park towers with water glimpses and views to the lower edge buildings along the western edge of Cockle Bay.

Impact of proposal:

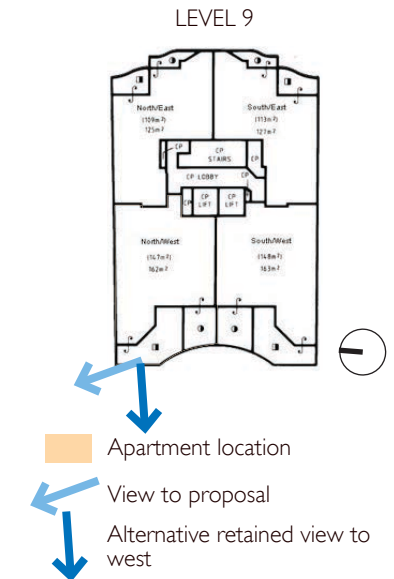
A small portion of the eastern elevation of the proposed tower will be visible from the enclosed balcony view of this unit. It will reduce a small area of available sky and obscure the side of the existing Four Points hotel. The visual quality of the view remains reasonably consistent as built form replaces built form and the majority of the view will still be maintained. Therefore, the impact is minor and acceptable.

V6 –
SIGNIFICANCE: LOW
IMPACT: MINOR
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V6

View from enclosed balcony within northwest apartment, Level 9



Existing view



Alternative retained view to west between Darling Park towers



Proposed view

V7 - LEVEL 23

Description of view:

View 7 (V7) is from the enclosed balcony of the northwestern unit on Level 23. The existing view contains close and distant water glimpses and long distance views of the harbour above the existing building of the Four Points Hotel. While the enclosed balcony view is considered to be of medium significance, this location also has alternative views of similar or higher significance directly to the west between the Darling Park towers (shown on the opposing page).

Impact of proposal:

The proposed tower will be visible within this view. The tower will be seen on the left hand side of the existing view and will obscure the closer water view of Darling Harbour and some of the distant water views currently enjoyed. A small horizon view including distant water glimpses will be retained within the view. The impact on the view is significant.

In determining the acceptability of this impact a number of considerations need to be taken into account. These considerations are:

- The view is an oblique view gained across a side boundary albeit across the front portion of the adjacent site.
- The balcony benefits from a direct western view to Darling Harbour which also contains water and distant district views which will be unaffected.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The covenant on the side boundary windows includes as we understand it the side windows to the balconies and as such this would be reasonably expected to be a temporary view. This covenant combined with the location of the window hard on the side boundary makes the view highly vulnerable.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. It would severely restrict development opportunities throughout the city should such a precedent be established.
- The reasonableness of windows covered by the covenant to reduce or constrain the development opportunities available on at least 2 sites between it and the water when all owners of these apartments would or should have known at the time of purchase that the view currently enjoyed would be temporary and able to be lost at any time. The impact to the subject site if these views were required to be retained would effectively require removal of the top 8 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the subject land undevelopable. It would also severely limit the development options on the car park site.

Therefore, the view impact is considered to be acceptable.

V7 –

SIGNIFICANCE: MEDIUM

IMPACT: SIGNIFICANT

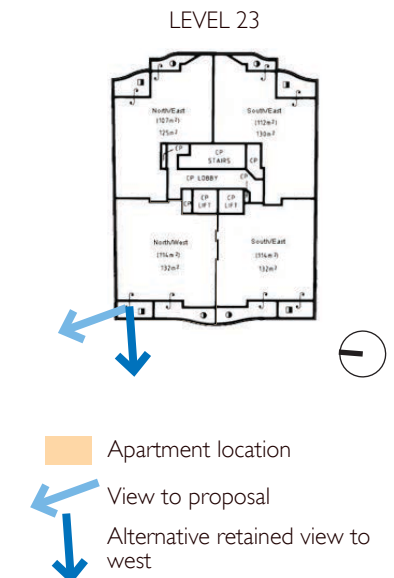
CONCLUSION: ACCEPTABLE

Key plan of view:



- View to proposal
- Alternative retained view to west
- Location of proposed tower at 161 Sussex St.

Location of view:



V7

View from enclosed balcony within northwest apartment, Level 23



Alternative view to west between Darling Park towers



Proposed view

V8 - LEVEL 32

Description of view:

The view from this level is from an open balcony on Level 32. This apartment includes views directly to the west between the Darling Park towers and to the east across the CBD (shown on the opposing page). The view in question towards the proposal currently includes broad water views of Darling Harbour and distance views of the Balls Head Reserve and Goat Island. This balcony view is considered to be of high significance as the water and land interface views are valuable. The alternative views available to the unit are also of water, distant districts and the city skyline. The affected view is seen only obliquely where the view through the Darling Park towers is more direct and thus can be seen as the primary view from this location.

Impact of proposal:

As seen in the before and after images the proposed tower will be partially visible within the oblique view to the lower left hand side of the view. The proposal will reduce the width of the current water view and will obscure the outlook to the closer area of water within Darling Harbour. Key features within the view will be retained including Goat Island, Balls Head and the northern entry to Darling Harbour as well as the water body beyond and the overall horizon line. The impact is considered significant.

In determining the acceptability of this impact a number of considerations need to be taken into account. These considerations are:

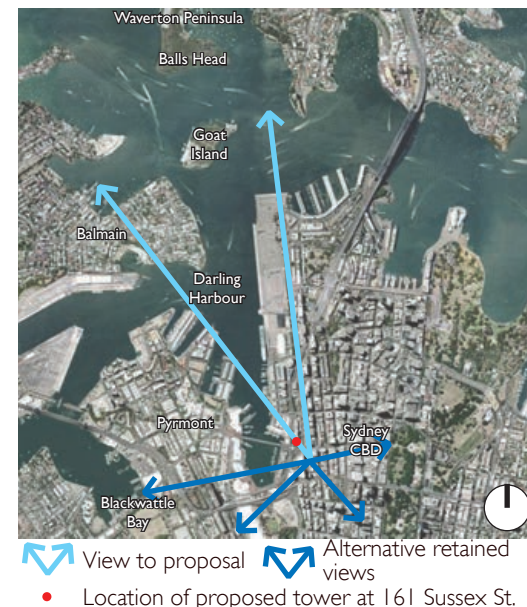
- The view is an oblique view gained across a side boundary albeit across the front portion of the adjacent site.
- The balcony benefits from a direct western view to Darling Harbour which also contains water and distant district views which will be unaffected. As a dual aspect apartment it also benefits from city views to the rear of the lot.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- A significant portion of the existing view is retained, including key features such as Goat Island and Balls Head.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. It would severely restrict development opportunities throughout the city should such a precedent be established.
- The reasonableness of views to reduce or constrain the development opportunities available on at least two sites between it and the water. The impact to the subject site if these views were required to be retained would effectively require removal of the top 6 floors including plant for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the subject land undevelopable. It would also severely limit the development options on the car park site.

Even though the impact to this view is significant, the other existing alternative views are retained. The side boundary location, vulnerability of the view, impact to the development potential of adjoining sites should it be required to be retained (which would then apply for the height of the building) as well as the lack of view controls and the covenant on these windows indicates that it is not reasonable to expect to retain these views.

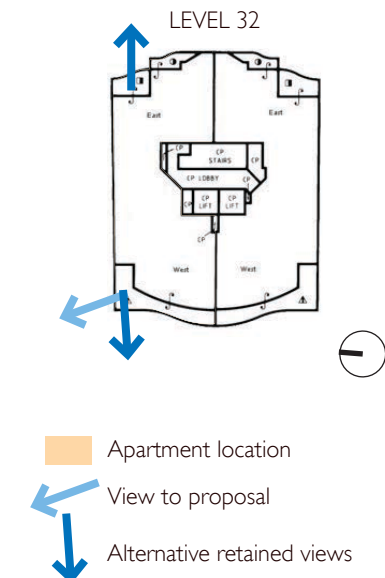
Whilst it is understood that residents will be concerned and would prefer to retain these views on balance, it is considered that the impact is reasonable and acceptable. It is positive that some of the water glimpses and land water interface distance views are able to be retained. It is acknowledged that more of this view could be retained if the higher floors of the proposal were setback further from the north. This would allow the tip of the peninsula to be retained however to retain all water would severely restrict the opportunities for the subject site.

V8 –
SIGNIFICANCE: HIGH
IMPACT: SIGNIFICANT
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V8

View from western open balcony within north apartment, Level 32



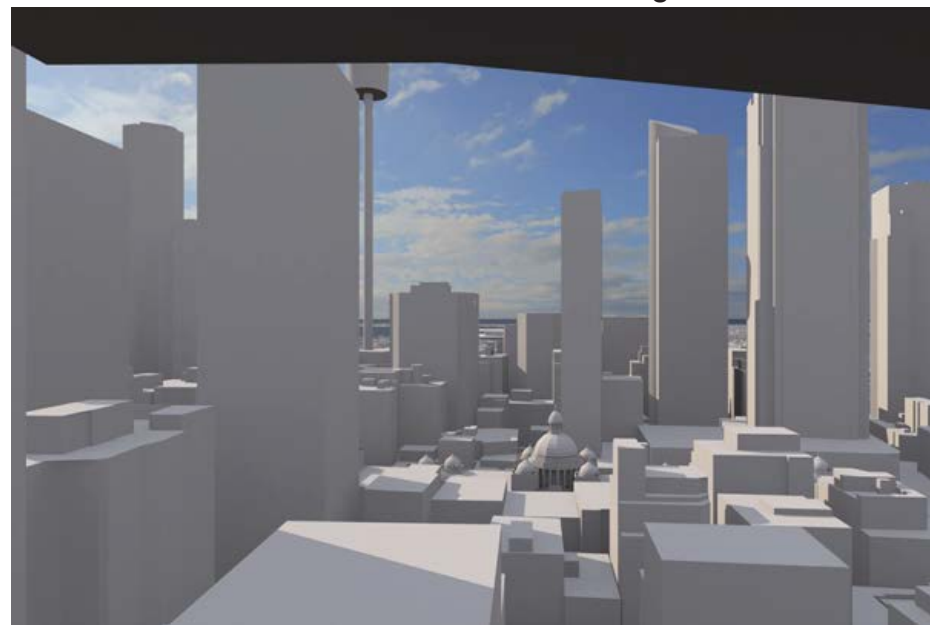
Existing view



Proposed view



Alternative retained view to west between Darling Park towers



Alternative retained view to east across CBD

CONCLUSIONS TO NORTHWESTERN BALCONY VIEWS

The views from the northwestern locations includes three of the enclosed balcony views on Levels 3, 9 and 23. The view from Level 32 is from an open balcony with a continuous glass balustrade. The majority of these views are supplementary to the alternative direct views to the west towards Cockle Bay and the Pymont Peninsula and to the CBD for Level 32. While the lower level views are characterised by streetscapes, the upper views toward the proposal do contain water glimpses and distant views to Sydney Harbour and the Lower North Shore i.e. Balls Head Reserve and the Waverton Peninsula. The impacts on these views vary from minor to significant. All the affected units on upper levels have a primary view towards Cockle Bay and the Pymont Peninsula with the upper units having additional alternative views to the CBD. The upper Levels 23 to 32 will experience reduced glimpses of the water. They will retain distant scenic elements within the view including Goat Island and Balls Head Reserve.

It is clear that there will be a reduction in the view quality for the upper units in particular for these oblique views. As discussed under each view this impact is considered to be expected and acceptable due to the existing covenant on affected windows which anticipated exactly such an outcome. These windows and views are highly vulnerable due to their location hard on the boundary. The affected locations also retain a high level of view amenity through the retention of views to the west between the Darling Park towers which include Cockle Bay. Given these and other considerations discussed under each view it is not considered reasonable to expect to fully retain these views. The proposal does allow retention of some water glimpses and distant vistas which is a positive outcome.

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3.4 NORTHWEST LIVING AREA VIEWS (V9-V14)

V9 & V10 - LEVEL 9

Description of view:

Views 9 and 10 are views from living areas within the northwestern unit of the tower immediately above the adjacent car park structure. The views tested correspond to seating views (V9) and standing views (V10). Both the standing and the seating living area views from this level are dominated by the roof of the existing car park structure, which is quite prominent outside the window frame. While there is a small glimpse of the Darling Harbour between the existing northern tower of the Darling Park development and the existing Four Points Hotel, this is too narrow to be of any great significance. The view is mainly a streetscape view and is considered to be of low significance. This apartment also benefits from the alternative retained views previously discussed in V6.

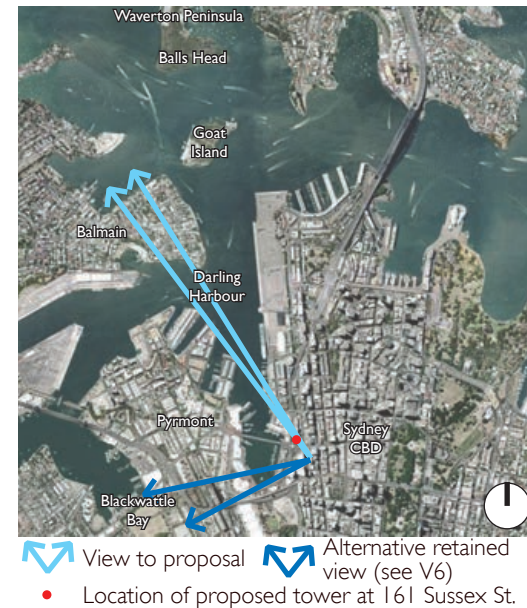
Impact of proposal:

The eastern elevation and part of the southern elevation of the proposed tower will be visible within this view. Due to the angle of view from the seated position the tower is seen with sky available above the tower. There is a perceptible amount of change within the views due to the change in built form scale closer to the viewer and the small view corridor to Darling Harbour is lost. The view is predominantly a streetscape view and will still retain a substantial amount of sky. The impact is considered moderate.

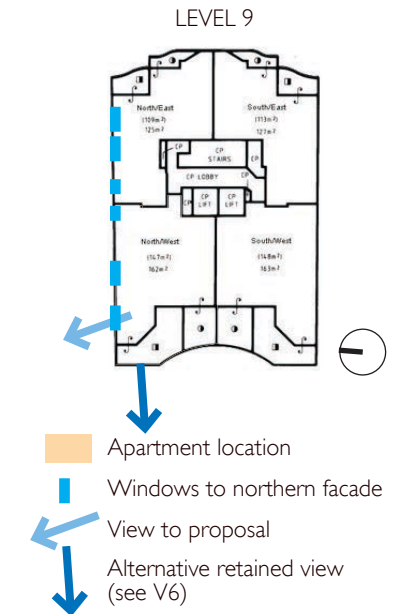
This view must be considered temporary due to the covenant affecting the window and the location of the view, across a side boundary. The retention of the narrow water view from this location in the long term is unlikely. The apartment also retains alternative views to the west from its open and enclosed balconies (see V6). Therefore, this impact is acceptable.

V9,V10 –
SIGNIFICANCE: LOW
IMPACT: MODERATE
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V9

Seated view from living area within northwest apartment, Level 9



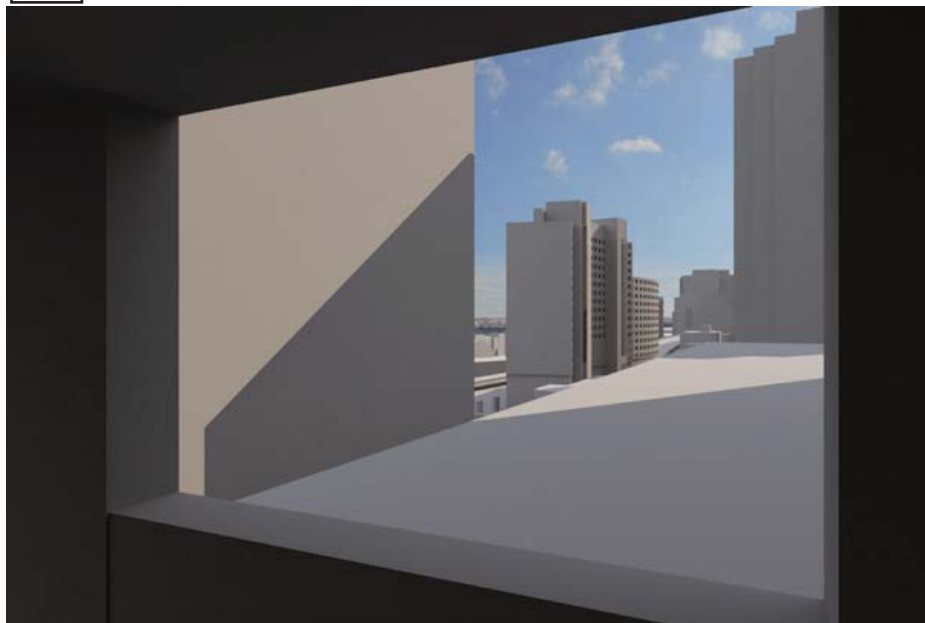
Existing seated view



Proposed seated view

V10

Standing view from living area within northwest apartment, Level 9



Existing standing view



Proposed standing view

VII,V12 - LEVEL 23

Description of view:

Views 11 and 12 are views from living areas along the side boundary of the northwestern unit on Level 23 over the adjacent property to the north. The views modelled include a seated view (V11) and a standing position (V12) within the same apartment. This apartment also benefits from the views to the west discussed previously between the Darling Park towers towards the Pymont Peninsula (similar to V7). The primary view for this apartment must be considered to be the view gained through and across the main balcony. The side view is a secondary view. The seated and standing views include water and long distance views. The living area standing view is considered to be of a medium-high significance. The seated view has a less expansive view over the built form of Cockle Bay. This view is considered to be of medium significance.

Impact of proposal:

The eastern and part of the southern elevation of the proposed tower will be visible at the left edge of the existing view. The proposal will obscure existing views to the foreshore, Balmain and the Harbour; however, a small area of horizon and water will still be visible above the existing Four Points hotel.

The impact on the view is considered to be significant due to the loss of the harbour and water within the view. In determining the acceptability of this impact a number of considerations need to be taken into account. These considerations are:

- The view is an oblique view gained across a side boundary.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The balcony to the living area benefits from a direct western view to Darling Harbour which also contains water and distant district views which will be unaffected and must be considered its primary outlook
- The covenant on the side boundary windows such as this one means that owners would be aware that this view is temporary only This covenant combined with the location of the window hard on the side boundary, makes the view highly vulnerable and it is likely that windows in the main bulk of the building would be required to be infilled to maintain privacy or allow development against the side wall of the Astoria Tower in the future.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. This is particularly the case for views across a side boundary. In addition retention of such views would severely restrict development opportunities throughout the city should such a precedent be established.
- The reasonableness of windows covered by the covenant to reduce or constrain the development opportunities.
- The window is setback within the main bulk of the building which given the likely location of any adjoining development would make it highly vulnerable to view loss due to any future development on the adjacent site as well as the site of the proposal.

- The impact to the subject site if these views were required to be retained would effectively require removal of the top 10-11 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the car park land and subject site undevelopable. This would be a serious precedent and outcome for the city as a whole due to ramifications for other such circumstances.

Even though the impact to this view is significant the other existing view from the primary façade of the apartment is retained. The side boundary location, vulnerability of the view, impact to the development potential of adjoining sites as well as the lack of view controls and the covenant on these windows indicates that it is not reasonable to expect to retain these views.

Whilst it is understood that residents will be concerned at the loss of the view on balance it is considered that the impact is reasonable and therefore acceptable.

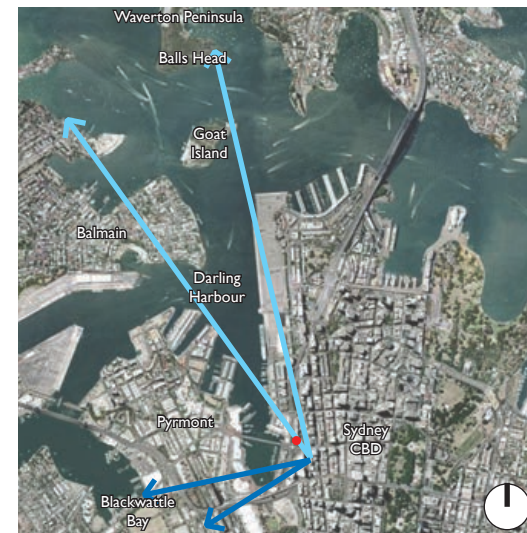
VII,V12 -

SIGNIFICANCE: MEDIUM (V11), MEDIUM TO HIGH (V12)

IMPACT: SIGNIFICANT

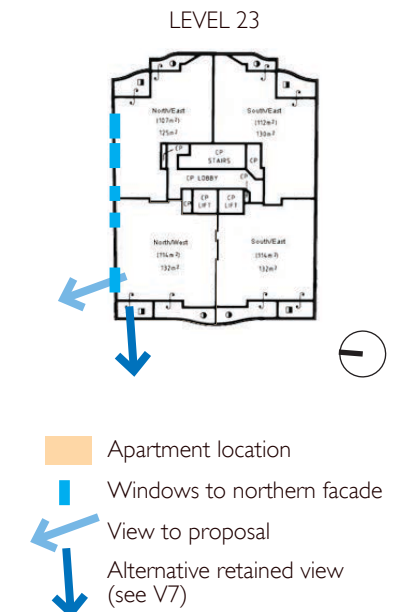
CONCLUSION: ACCEPTABLE

Key plan of view:



- View to proposal
- Alternative retained view (see V7)
- Location of proposed tower at 161 Sussex St.

Location of view:



VII Seated view from living area within northwest apartment, Level 23

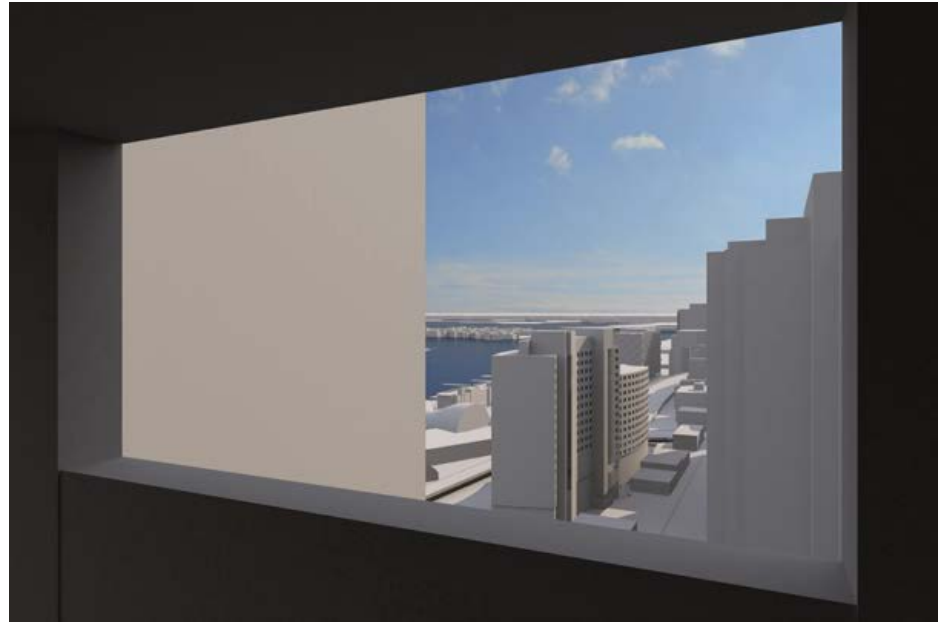


Existing seated view

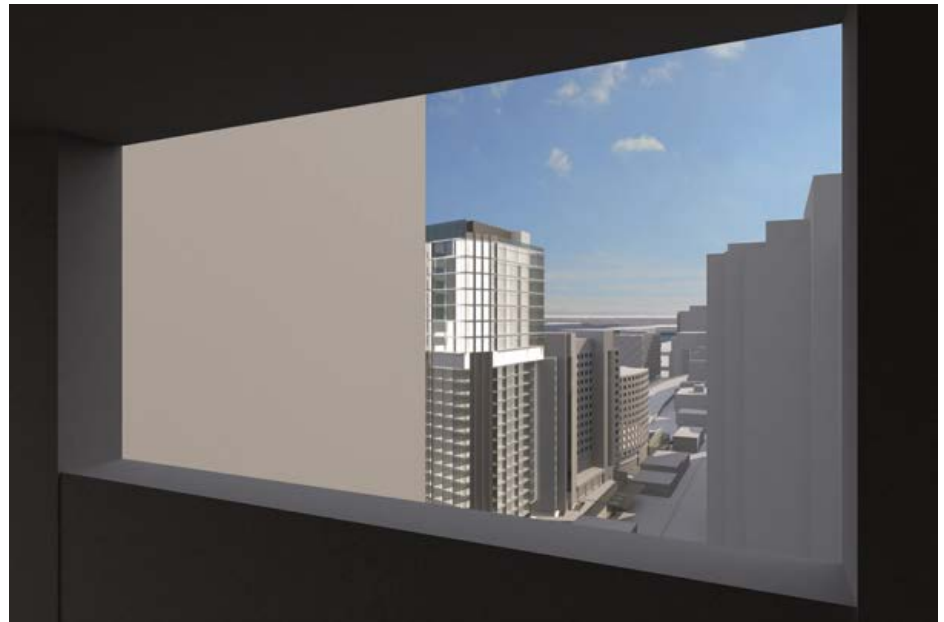


Proposed seated view

VI2 Standing view from living area within northwest apartment, Level 23



Existing standing view



Proposed standing view

VI3,VI4 - LEVEL 32

Description of view:

Views 13 and 14 are views from the living area on the northern unit on Level 32 across the northern boundary and over the adjacent property to the north. The windows providing these views are deep within the lot and plan. The views modelled include a seated position (VI3) and a standing position (VI4) within the same apartment. This apartment also benefits from views from the balcony directly to the west between the Darling Park towers and to the east across the CBD (see V8 and V23). The living area standing view is considered to be of high significance as it contains valuable water view and distance views to the Balmain Peninsula, Goat Island and northern shore including Balls Head Reserve. The seated view is considered to be of a medium to high significance.

Impact of proposal:

Parts of the proposal's eastern and southern elevations will be visible within the view adjacent to the Darling Park Tower. The proposal obstructs part of the existing view to the foreshore, Balmain and Sydney Harbour. Key features of the existing views including Goat Island, Balls Head, and the northern entrance of Darling Harbour are still retained. The horizon is still visible above the proposal from both seating and standing positions.

The impact on the standing view is considered severe due to the extent of water lost within the view. The impact on the seated position is considered significant as it affects a lesser proportion of the view. In determining the acceptability of this impact a number of considerations need to be taken into account. These considerations are:

- The view is an oblique view gained across a side boundary.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The balcony to the living area benefits from a direct western view to Darling Harbour which also contains water and distant district views which will be unaffected and must be considered its primary outlook. The apartment also contains views to the CBD from its balcony to the east and therefore retains a high level of view amenity.
- The covenant on the side boundary windows such as this one means that owners would be aware that this view is temporary only. This covenant combined with the location of the window hard on the side boundary, makes the view highly vulnerable and it is likely that windows in the main bulk of the building would be required to be infilled to maintain privacy or allow development against the side wall of the Astoria Tower in the future.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. This is particularly the case for views across a side boundary. In addition retention of such views would severely restrict development opportunities throughout the city should such a precedent be established.
- The reasonableness of windows covered by the covenant to reduce or constrain the development opportunities.

- The window is setback within the main bulk of the building which given the likely location of any adjoining development would make it highly vulnerable to view loss due to any future development on the adjacent site as well as the site of the proposal.
- The impact to the subject site if these views were required to be retained would effectively require removal of the top 8 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the car park land and subject site undevelopable. This would be a serious precedent and outcome for the city as a whole due to ramifications for other such circumstances.

Even though the impact to these views are significant and severe, the other existing views from the primary façades of the apartment are retained. The side boundary location, vulnerability of the view, impact to the development potential of adjoining sites as well as the lack of view controls and the covenant on these windows indicates that it is not reasonable to expect to retain these views.

Whilst the proposal does obscure the closer harbour view, a significant body of water and distant view is retained. Given these are side boundary windows and vulnerable to being infilled, the impact is considered acceptable particularly considering how deep within the site they are located.

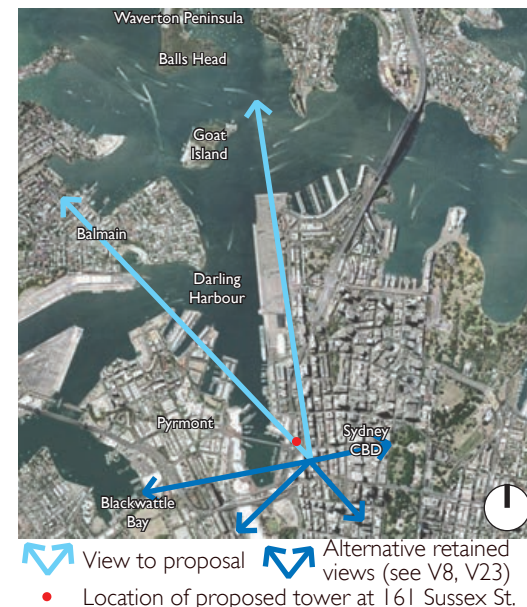
VI3,VI4 -

SIGNIFICANCE: MEDIUM TO HIGH (VI3), HIGH (VI4)

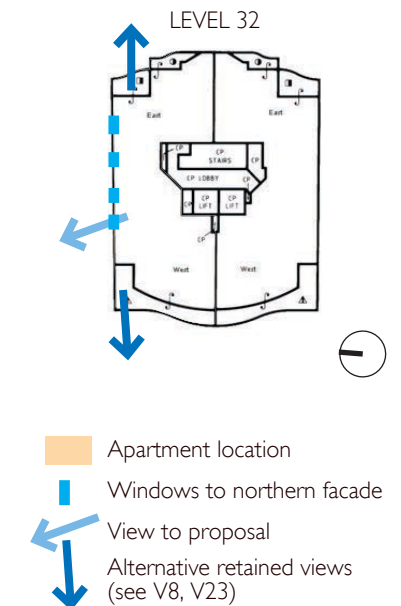
IMPACT: SIGNIFICANT (VI3), SEVERE (VI4)

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V13 Seated view from western part of living area within north apartment, Level 32



Existing seated view



Proposed seated view

V14 Standing view from western part of living area within north apartment, Level 32



Existing standing view



Proposed standing view

CONCLUSIONS TO NORTHWESTERN LIVING AREA VIEWS

The views from the northwestern living areas include typical seated and standing views for Levels 9, 23 and 32. While the lower level views are considered to be of low significance, the upper views toward the proposal do contain water glimpses and distant views to the Sydney Harbour and the Lower North Shore i.e. Balls Head Reserve and the Waverton Peninsula. These views therefore are of medium to high significance.

The impacts on these views vary from moderate to significant and severe. All the significantly or severely affected units retain additional alternative views to the west and for Level 32 also to the CBD. There will be a reduction in water view for all affected units, however upper levels will retain distant scenic elements within the view including Goat Island and Balls Head Reserve. The affected apartments also retain a high level of view amenity through primary views to Darling Harbour from their balconies to the west and to the city to the east. The covenant on the affected windows demonstrates that they were never intended to be permanent. Their location, across a side boundary further demonstrates that any expectation to retain these views is unrealistic. The impacts are considered to be expected and acceptable due to the existing covenant on these windows which anticipated exactly such an outcome. The proposal does allow retention of some water glimpses and distant vistas which is a positive outcome.

Given these and other considerations discussed under each view it is not considered reasonable to expect to retain these views. The view impacts are therefore considered acceptable.

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3.5 NORTHEAST LIVING AREA VIEWS (V15-V20)

V15,V16 - LEVEL 9

Description of view:

Views 15 and 16 are views from the internal living area of the northeastern unit on Level 9. These views are from windows located immediately above the adjacent car park structure. The views tested correspond to seated views (V15) and standing views (V16). Both the standing and the seated living area views from this level are dominated by the roof of the existing adjacent car park structure, which is quite prominent outside the window frame. While the view can be characterised as a city/streetscape view, there are very constrained water glimpses of Darling Harbour between the existing northern tower of the Darling Park development and the existing Four Points Hotel. Although this is a framed view and it does not show any iconic elements or extensive water area, this view is considered to be of medium significance as it is the only water glimpse available to this unit. This apartment also contains views to the east across the CBD (see V21).

Impact of proposal:

From the seated and standing position, the tower will rise into the view cone and it will reduce the amount of available sky as well as changing the scale of development within the view. In both instances it will obscure the available view corridor to the water glimpses and development on the western side of Darling Harbour. The impact on the views is considered to be moderate due to the amount of perceivable change within the view.

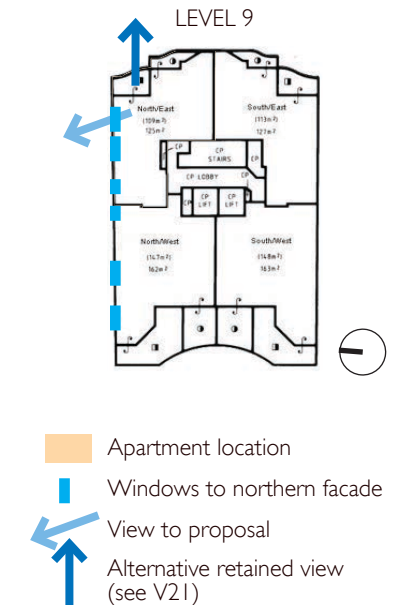
This view must be considered temporary due to the covenant affecting the window and the location of the view deep within the site, across a side boundary. The proposal also allows for a retention of a small area of the water view. The unit also retains alternative CBD views to the east. Given these considerations, this impact is considered to be acceptable.

V15,V16 –
SIGNIFICANCE: MEDIUM
IMPACT: MODERATE
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V15 Seated view from living area within northeast apartment, Level 9

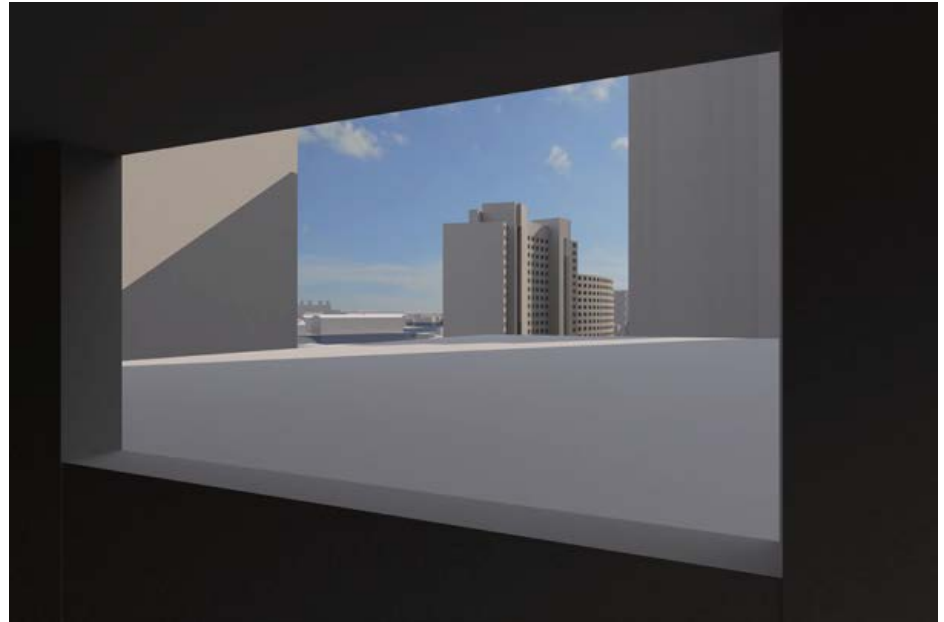


Existing seated view

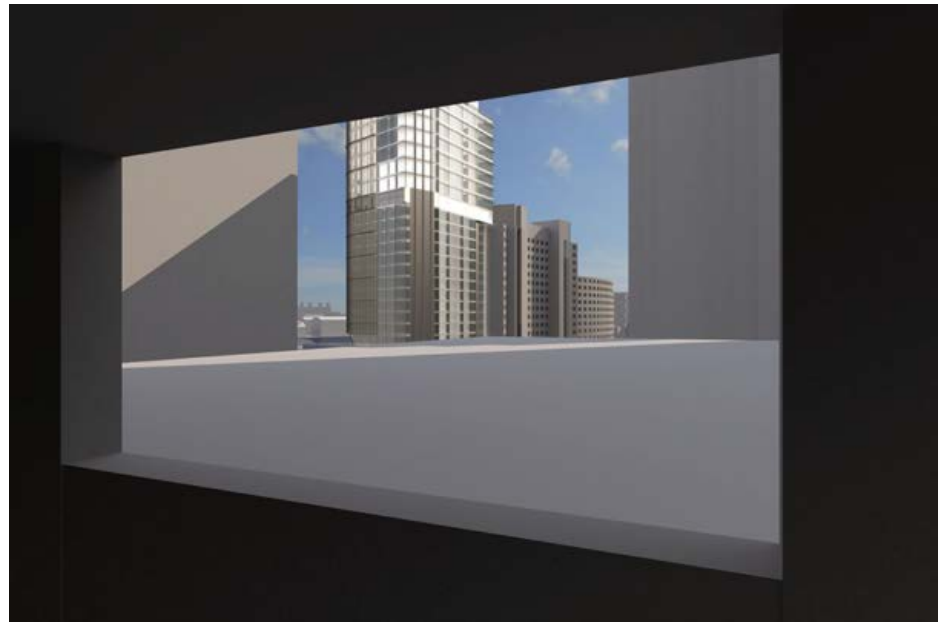


Proposed seated view

V16 Standing view from living area within northeast apartment, Level 9



Existing standing view



Proposed standing view

VI7,VI8 - LEVEL 23

Description of view:

Views 17 and 18 are views from living areas on the northeastern unit on Level 23 over the adjacent property to the north. The views modelled include a seated position (VI7) and a standing position (VI8). This apartment also contains vistas to the east across the CBD (see V22). This view is considered to be a secondary view as it is a side view through a smaller window with the primary view and outlook available to the rear of the site across the apartment's balcony. The view although secondary contains water and long distance foreshore elements including Goat Island and the horizon line in the distance. The standing view is of medium to high significance. The seated views have less foreground and a greater area of sky visible within the view and therefore are considered of medium significance.

Impact of proposal:

The upper levels of the proposed tower will be highly visible within both views, adjacent to the existing massing of the Darling Park tower. The proposal will significantly reduce existing views to the foreshore, Balmain and Sydney Harbour. Narrow view corridors to the Harbour will be available to the left of the tower and glimpses of the horizon will still be visible to the left and right of the tower.

The impact on the seated views is considered significant due to the level of change within the view and the extent of the loss of the water body and western foreshore. The impact on the standing view is also significant for similar reasons. However, this apartment retains its primary outlook to the east across the CBD (see V21). As with views discussed earlier, the impact also needs to be considered in light of the covenant on these windows, the extent to which they rely on a view across the majority of the adjacent site and their location right on the boundary.

Given these considerations the impact is acceptable.

VI7,VI8 –

SIGNIFICANCE: MEDIUM (VI7), MEDIUM TO HIGH (VI8)

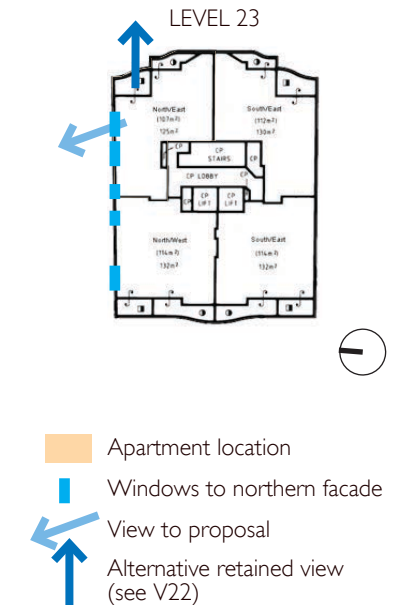
IMPACT: SIGNIFICANT

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V17 Seated view from living area within northeast apartment, Level 23



Existing seated view



Proposed seated view

V18 Standing view from living area within northeast apartment, Level 23



Existing standing view



Proposed standing view

VI9,V20 - LEVEL 32

Description of view:

The views from this unit are from internal living areas of the northern unit on Level 32. The views tested are from a seated position (VI9) and from a standing position (V20). This apartment also benefits from views from its balconies to the east across the CBD and to the west between the Darling Park towers (see V8 and V23). Given the availability of direct views to the CBD and Darling Harbour, this oblique view is considered to be a secondary view. The standing view is an iconic view given the extent of the water body and water-land interface as well as the harbour edge seen within the view. It is considered of high significance, however this may be affected by how the view is obtained - across a side boundary, hard on the boundary and due to very low development adjacent to it. The seated view is of medium to high significance.

Impact of proposal:

The proposed tower will be visible rising up into the centre of the existing view. It will obstruct views to the foreshore, Darling Harbour, Pyrmont and Balmain Peninsulas as well as Sydney Harbour by reducing the width and breadth of the view and effectively breaking it into two views rather than a single, extensive view. Existing views of key Goat Island, Balls Head, and the northern entrance of Darling Harbour will be retained. In addition, the horizon line will be visible above the proposal from the standing and seated positions. The impact on the views is considered to be severe for the standing view and significant for the seated view.

In determining the acceptability of these impacts a number of considerations need to be taken into account. These considerations are:

- The view is an oblique view gained across the majority of the neighbouring site and is from the side boundary.
- The window is setback towards the rear of the site and therefore it is highly vulnerable to view loss.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The apartment benefits from a direct western view to Darling Harbour from its western frontage which contains water and distant district views which must be considered its primary outlook. The apartment also benefits from a direct eastern view to the CBD. Both of these views will be unaffected by the proposal, allowing the apartment to retain a high level of residential amenity.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. This is particularly the case for views across a side boundary and even more so when they are located at the rear of a site.
- Retention of such views in this instance and for other existing development in such circumstances would severely restrict development opportunities throughout the city.
- The covenant on the side boundary windows means that owners would be aware that this view is temporary only. This covenant combined with the location of the window hard on the

side boundary to the rear of the site it is highly likely that these windows would be required to be infilled to maintain privacy or allow development against the side wall of the Astoria Tower in the future.

- The reasonableness of windows covered by the covenant to reduce or constrain the development opportunities.
- The impact to the subject site if these views were required to be retained would effectively require removal of the top 9 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the car park land and subject site undevelopable. This would be a serious precedent and outcome for the city as a whole due to ramifications for other such circumstances.

Even though the impact to these views are severe and significant the other existing view from the primary façade of the apartment is retained. The side boundary location, vulnerability of the view, impact to the development potential of adjoining sites as well as the lack of view controls and the covenant on these windows indicates that it is not reasonable to expect to retain these views.

Whilst it is understood that residents will be concerned at the loss of the view on balance it is considered that the impact is reasonable and therefore acceptable.

VI9 ,V20

SIGNIFICANCE: MEDIUM TO HIGH (VI9), HIGH (V20)

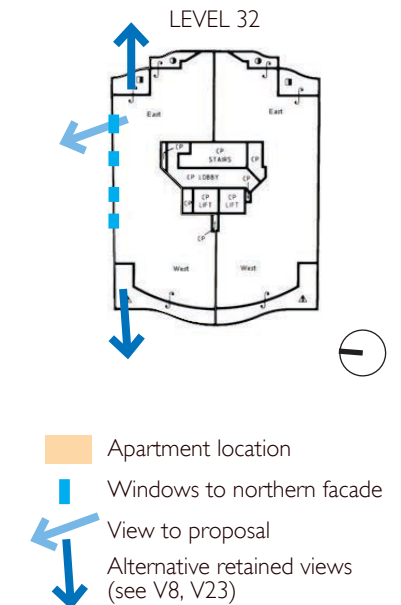
IMPACT: SIGNIFICANT (VI9), SEVERE (V20)

CONCLUSION:ACCEPTABLE

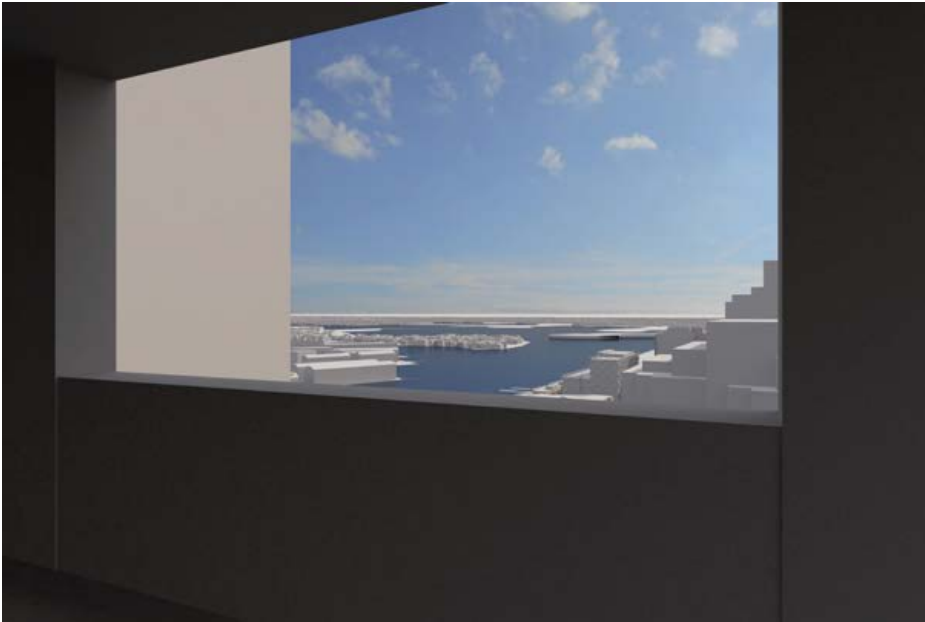
Key plan of view:



Location of view:



V19 Seated view from eastern part of living area within north apartment, Level 32

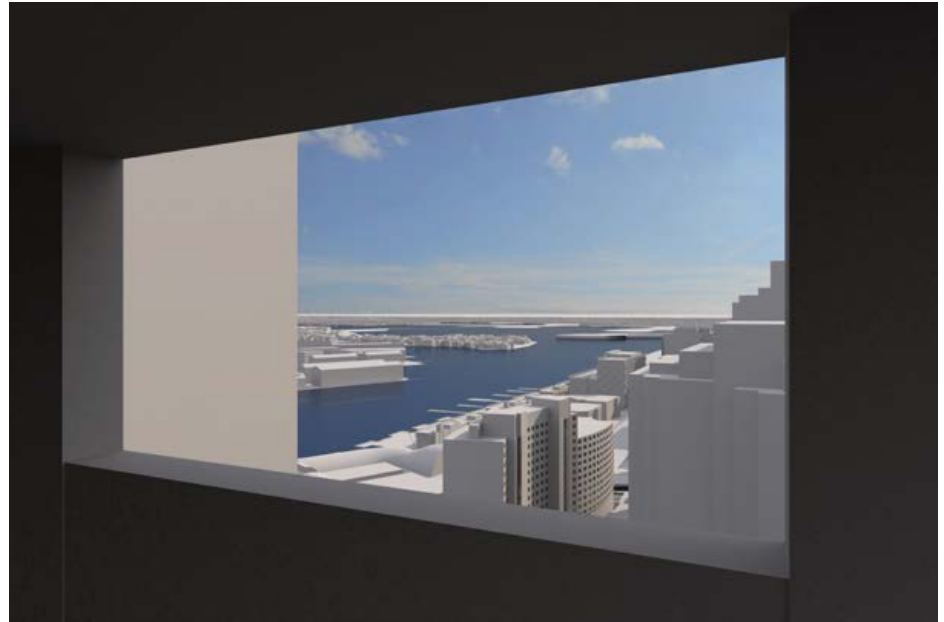


Existing seated view



Proposed seated view

V20 Standing view from eastern part of living area within north apartment, Level 32



Existing standing view



Proposed standing view

CONCLUSIONS TO NORTHEASTERN LIVING AREA VIEWS

The views from the northeastern living areas include seated and standing views for Levels 9, 23 and 32. In general, these views are considered to be of medium to high significance. They contain water and distant views to the Sydney Harbour to varying extents. These are secondary views from rear units facing away from Sussex Street gained across adjacent properties. The units also benefit from views to the CBD. The impacts of the proposal on side boundary views are generally significant. For the most affected views, only a portion of the wider view is obscured and much of the existing view of Darling Harbour is retained. A high level of view amenity will be retained for the most affected apartments, which retain significant, primary views to Sydney CBD to the east. The covenant on the affected windows demonstrates that they were never intended to be permanent and their location, to the rear of the property across a side boundary further demonstrates that any expectation to retain these views is unrealistic. The view impacts are therefore considered acceptable.

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3.6 NORTHEAST BALCONY VIEWS (V21-V23)

V21 - LEVEL 9

Description of view:

View 21 is from an enclosed balcony to the northeast unit on Level 9. This view is an oblique view over the adjacent car park structure to the north through a side boundary 'window' and across the adjacent site. The carpark roof currently dominates the majority of the view.

This view is considered as a secondary view as this apartment also has limited views directly from its balconies to the east across the CBD (shown on the opposing page). The available view shown in the before and after shots is only possible if the viewer is standing directly at the corner of the balcony. Even a slight step back will hide the proposal behind the wall of the balcony. This balcony has a more direct view toward the east. The view in question does contain a small view corridor to Darling Harbour and limited water glimpses. The view is considered of low significance.

Impact of proposal:

From this vantage point, the proposal will change the scale of the view. It will be seen prominently within the centre of the view, will reduce an extent of sky and constrain the outlook to Darling Harbour and Pyrmont. The view impact is considered to be moderate.

The views from this unit toward the proposal is already constrained by the dominant existing carpark to the north which makes the view a secondary low-significance view. The unit also retains an unaffected primary view to the east.

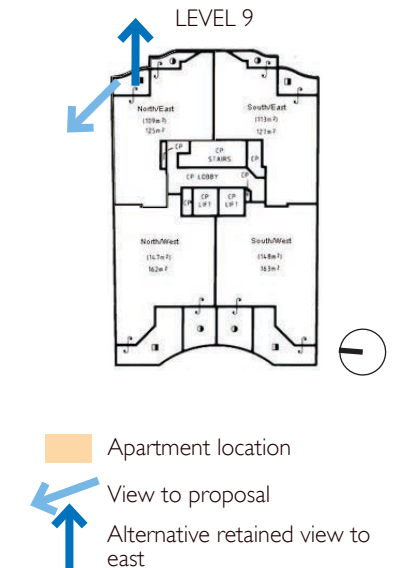
This view must also be considered temporary due to the covenant affecting this window, as well as the view's location deep within the site, across a side boundary. The difficulty in seeing the view is also a consideration in its assessment. Given these considerations, the impact is considered to be acceptable.

V21 –
SIGNIFICANCE: LOW
IMPACT: MODERATE
CONCLUSION: ACCEPTABLE

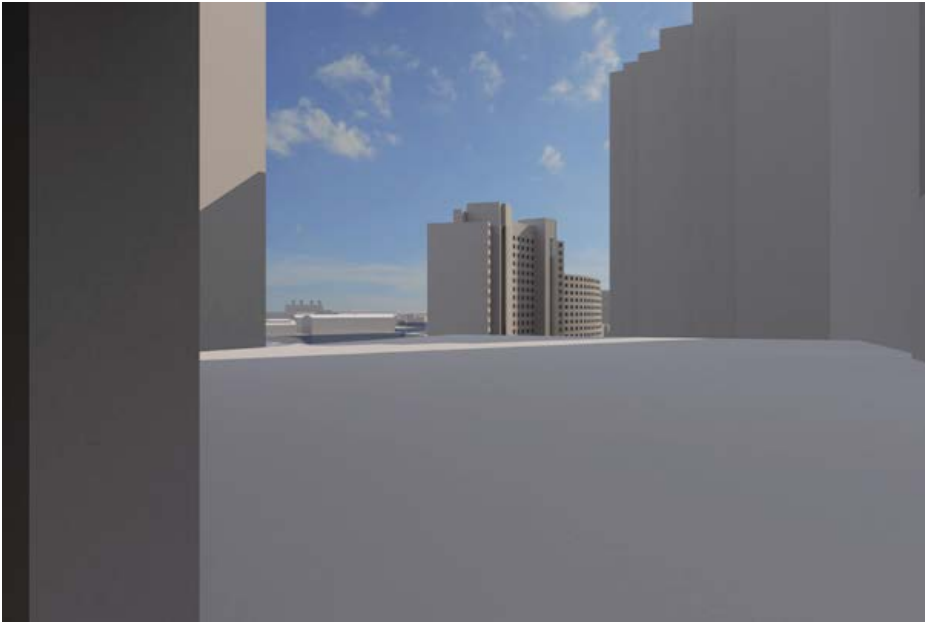
Key plan of view:



Location of view:



V21 View from enclosed balcony within northeast apartment, Level 9



Existing view



Proposed view



Alternative retained view to east across CBD

V22 - LEVEL 23 NORTHEASTERN UNIT

Description of view:

View 22 is from the enclosed balcony of the northeastern unit on Level 23. This view is considered to be a secondary view as the balcony is oriented mainly to views to the east of the CBD (see alternative retained view). Heritage elements such as the roof of the QVB are visible within the alternative view. The available view shown in the before and after shots is only possible if the viewer is standing directly at the corner of the balcony; a slight step back will hide the proposal behind the wall of the unit. The view presents water views to Darling Harbour with visible distant elements such as Balmain and Goat Island. The balcony view is considered to be of medium to high significance because it is a secondary view over a side boundary when the primary view from this location is toward the CBD, however this may be downgraded to low to medium when considering the difficulty of obtaining the view.

Impact of proposal:

The proposed tower will be visible at the centre of the existing view. It will reduce the visible extent of water and foreshore. Existing views of key Goat Island, Balls Head, and the northern entrance of Darling Harbour are retained. Therefore the proposal will not completely obscure the view but will reduce its extent markedly. The impact on this view is considered significant.

This view must be considered temporary due to the covenant affecting this window, as well as the view's location deep within the site, across a side boundary. The primary view from this location towards the CBD is retained, in addition to parts of the affected view. The difficulty in seeing the view is also a consideration in its assessment and given these considerations, the impact is considered to be acceptable.

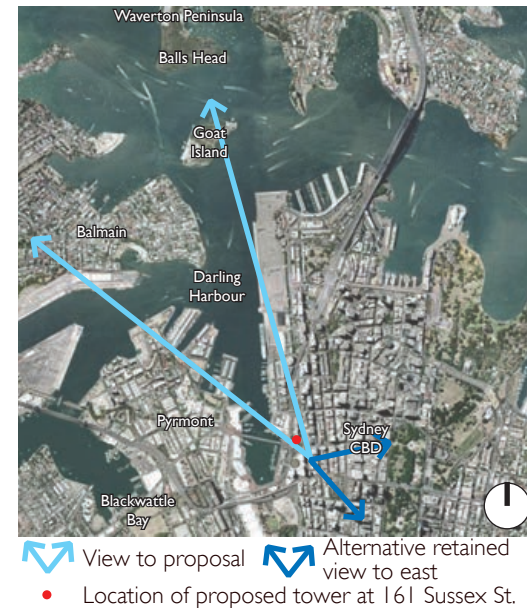
V22 –

SIGNIFICANCE: MEDIUM TO HIGH. However the significance may be downgraded to **LOW TO MEDIUM** when considering the difficulty of obtaining the view.

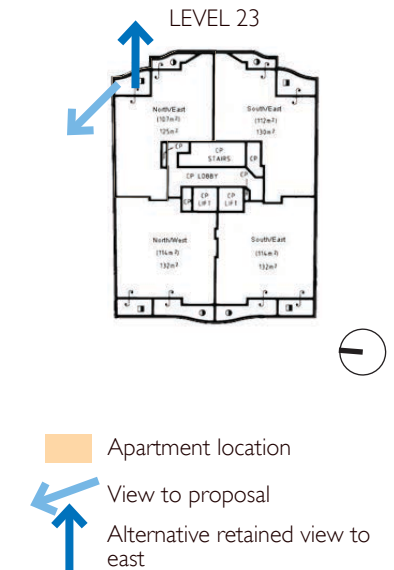
IMPACT: SIGNIFICANT

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V22 View from enclosed balcony within northeast apartment, Level 23



Existing view



Alternative retained view to east across CBD



Proposed view

V23 - LEVEL 32 NORTHERN UNIT - EAST

Description of view:

View 23 (V23) is from an enclosed balcony on the northern unit. This apartment is a penthouse and includes views from a balcony to the east across the CBD and to the west between the Darling Park towers (shown on the opposing page). These views will not be affected by the proposal.

The enclosed balcony view is considered to be of high significance, however this can be downgraded to medium as the proposal is only visible from the corner of the balcony and so has difficult access. The primary view from this balcony is toward the CBD where heritage and iconic elements are visible within the view including the QVB and the Centre Point Tower (see opposing page). The city view within the existing harbour view from the west will maintain a high level of amenity for this apartment. The side balcony window view provides an iconic view to the harbour and distant views to the northern and western shores.

Impact of proposal:

The proposal will be visible at the centre of the existing view, reducing views to the foreshore, Darling Harbour, Pyrmont, Balmain and Sydney Harbour; however, existing views of key Goat Island, Balls Head, and the northern entrance of Darling Harbour are retained. The horizon is visible above the proposal, which maintaining any areas of visible sky. The impact on this view is considered severe.

However, the primary view from this location, towards the CBD, is retained, in addition to much of the affected view. The apartment also retains views between the Darling Park towers to the west and therefore retains a high level of view amenity. The difficulty in seeing the view is also a consideration in its assessment. This view must be considered temporary due to the covenant affecting the window and the location of the view deep within the site, across a side boundary. The impact to the subject site if these views were required to be retained would effectively require removal of approximately 8 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the subject site, as well as the car park land adjacent to the Astoria, undevelopable. This would be a serious precedent and outcome for the city as a whole due to ramifications for other such circumstances. Given these considerations, the impact is considered to be acceptable.

V23 –

SIGNIFICANCE: HIGH. However the significance may be downgraded to **MEDIUM** when considering the difficulty of obtaining the view.

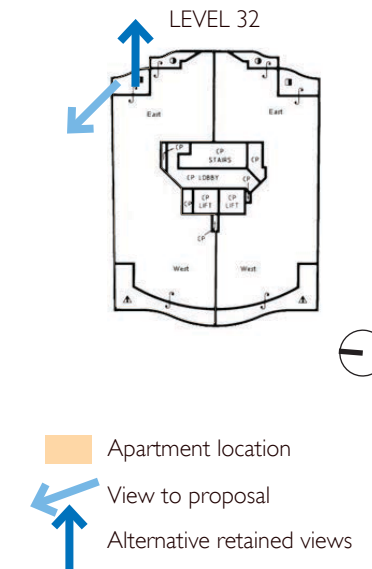
IMPACT: SEVERE

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



V23 View from eastern enclosed balcony within north apartment, Level 32



Existing view



Proposed view



Alternative retained view to east across CBD



Alternative retained view to west between Darling Park towers

CONCLUSIONS TO NORTHEAST BALCONY VIEWS

The views from the northeastern enclosed balcony areas for Levels 9, 23 and 32 are of varying significance, from low at Level 9 to high at Level 32. The significance of these views may be downgraded when considering the difficulty of obtaining the views, which are available from the edge of enclosed balconies only. Whilst they contain water and distant views to the Harbour, they are secondary views from side boundary windows for rear units facing away from Sussex Street, which also enjoy significant, primary, views to the CBD. The impacts on these views are generally significant to severe. For the most affected views, a portion of the wider view is obscured, with much of the existing view of Darling Harbour being retained. Affected apartments retain a high level of view amenity through the retention of significant, primary eastward views towards to Sydney CBD from these locations. The covenant on the windows demonstrates that they were never intended to be permanent. Given these considerations, and others discussed within the individual views, the view impacts are considered to be acceptable.

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3.7 SUMMARY TABLE OF VIEW SIGNIFICANCE, IMPACTS AND ACCEPTABILITY FOR GENERAL TESTING

UNIT ASPECT	Southwest (L3-L29) / South (L30-32)*	Northwest (L3-L29) / North (L30-32)			Northeast (L3-L29) / North (L30-32)		
LOCATION	Balcony (enclosed by full height glass for V1,V2,V3; open for V4)	Balcony (enclosed by full height glass for V5,V6,V7; open for V8)	Living area		Living area		Balcony (enclosed by full height glass)
TYPE	Standing	Standing	Seated	Standing	Seated	Standing	Standing
LEVEL							
Level 32	V4 Medium Significance Moderate Impact Acceptable	V8 High Significance Significant Impact Acceptable	V13 † Medium-High Significance Significant Impact Acceptable	V14 † High Significance Severe Impact Acceptable	V19 † Medium-High Significance Significant Impact Acceptable	V20 † High Significance Severe Impact Acceptable	V23 † High Significance (downgraded to Medium)* Severe Impact Acceptable
Level 23	V3 Low-Medium Significance Moderate Impact Acceptable	V7 † Medium Significance Significant Impact Acceptable	V11 † Medium Significance Significant Impact Acceptable	V12 † Medium-High Significance Significant Impact Acceptable	V17 † Medium Significance Significant Impact Acceptable	V18 † Medium-High Significance Significant Impact Acceptable	V22 † Medium-High Significance (downgraded to Low-Medium)* Significant Impact Acceptable
Level 9	V2 Low Significance Negligible Impact Acceptable	V6 Low Significance Minor Impact Acceptable	V9 † Low Significance Moderate Impact Acceptable	V10 † Low Significance Moderate Impact Acceptable	V15 † Medium Significance Moderate Impact Acceptable	V16 † Medium Significance Moderate Impact Acceptable	V21 † Low Significance Moderate Impact Acceptable
Level 3	V1 Low Significance Negligible Impact Acceptable	V5 Low Significance Minor Impact Acceptable	---	---	---	---	---

† A covenant affecting all windows to the northern boundary of the site means that these views may be removed at the Council's discretion and therefore there should be a lesser expectation that the view should be retained. This is reflected in the lower stated significance of these views.

* Downgraded significance when considering the difficulty of obtaining the view.

4 - ASSESSMENT OF OBJECTORS' VIEWS

4.1 ADDITIONAL TESTING OF OBJECTORS' VIEWS

This chapter of the report sets out information relating to the proposal's view impacts on the apartments of individual objectors. This additional testing has been completed in order to ensure that the view impacts to individual objectors have been considered comprehensively in addition to the general testing set out in Chapter 3.

This introduction sets out the rationale behind the selection of views for additional modelling within this chapter and also provides a brief description of known objectors' apartments which have been modelled as part of, or are similar to those modelled in, the general testing set out in Chapter 3 of this report.

SELECTION OF VIEWS FOR ADDITIONAL MODELLING

It is GMU's understanding that a total of 34 submissions were received from residents of the Astoria Tower. Out of these, only 15 provided their addresses, which allowed for the location and orientation of the units in question to be identified. The remainder of the units that did not provide a legible address have been covered by the generic testing in Chapter 3.

A summary of the known objectors's units (addresses provided) and their level and orientation is provided in the table below:

Unit number	Level	Aspect	Notes
1	3	North-west	Objection does not include issues relating to loss of private views.
4	3	South-west	Objection does not include issues relating to loss of private views.
25	9	North-west	
35	11	South-east	Objection does not include issues relating to loss of private views. Location of apartment has no potential outlook toward proposal.
46	14	North-east	
73	21	North-west	
90	25	North-east	
97	27	North-west	
100	27	South-west	
106	29	North-east	
113	32	North	
115	Unknown*		Objection does not include issues relating to loss of private views.

* Information available to GMU regarding the Astoria Tower does not include the location of this unit. Objections to the proposal from known units came from the following apartments: 1, 4, 25, 35, 46, 73, 90, 97, 100, 106, 113 and 115. Please see the table above for their level, aspect and related notes. Out

of these, units, unit 35 does not face the development as well as not listing view loss as part of their objection together with units 1, 4, and 115; therefore they have not been selected for individual testing. Impacts to these units, however, are covered as part of the generic testing in Chapter 3. It is important to note that GMU were unable to ascertain the location or aspect of unit 115 (which does not raise issues relating to loss of private views within their objection), therefore views impacts from this apartment cannot be determined.

Testing of units 25 and 113 has been completed already as part of the generic testing in Chapter 3 of this document. A brief summary of the view significance and impacts is provided below for ease of reference.

Unit 25

Unit 25 occupies the northwestern portion of Level 9 within the Astoria Tower. Views from this location have been modelled as part of the general testing in Chapter 3 of this document, (see V6, V9, V10 within this Chapter 3). The existing views towards the proposal from the living areas (V9 & V10) include some elements of horizon, however those from the balcony (V6) do not. The existing views are of low significance. The proposal creates a minor impact on the balcony view and a moderate impact on the living area views (standing and seating). However, this apartment retains a primary aspect overlooking Cockle Bay through the Darling Park towers to the west. The impacts created by the proposal are acceptable. Please refer to view V25 for extended analysis.

Unit 113

Unit 113 occupies the northern portion of Level 32 within the Astoria Tower. Views from this location have been modelled as part of the general testing in Chapter 3 of this document, (see V8, V13, V14, V19, V20 and V23 within Chapter 3). The views from windows of this apartment are of medium-high and high significance. The impact of the proposal on these views is significant to severe; however, these view impacts are acceptable due to the fact that the apartment benefits from a direct western view to Darling Harbour from its western frontage and this view also contains water and distant district views which will be unaffected and must be considered the primary outlooks. For the extended discussion, see Chapter 3.

Units 73 and 90 are located on Levels 21 and 25 correspondingly. Their view significance is similar (within two-storeys) to those of Level 23 which was interrogated as part of the generic testing in Chapter 3. Therefore, no additional modelling was deemed necessary. Impacts relating to these units are briefly summarised below based on the impacts discussed for Level 23.

Unit 73

Unit 73 is located on the north-western portion of Level 21 within the Astoria Tower. View significance and impacts for this apartment are similar to those described in Chapter 3 of this document for the apartment of the same aspect within Level 23 (V7, V11 and V12).

The view impacts from this apartment are of medium to medium-high significance. The proposal will create a significant impact on these views. However, these view impacts are acceptable because this unit benefits from direct western views to Darling Harbour which also contain water and distant district views and those will be unaffected. Other reasons listed include the applicable covenant on the side boundary windows which reasonably makes the existing views temporary. If these views were required

to be retained it would effectively require removal of the top 8 floors of the proposal and it would also severely limit the development options on the car park site.

Unit 90

Unit 90 is located in the north-eastern portion of Level 25 within the Astoria Tower. View significance and impacts for this apartment are similar to those described in Chapter 3 of this document for the apartment of the same aspect within Level 23 (V17, V18 and V22) and therefore was not selected for further testing as part of this Chapter.

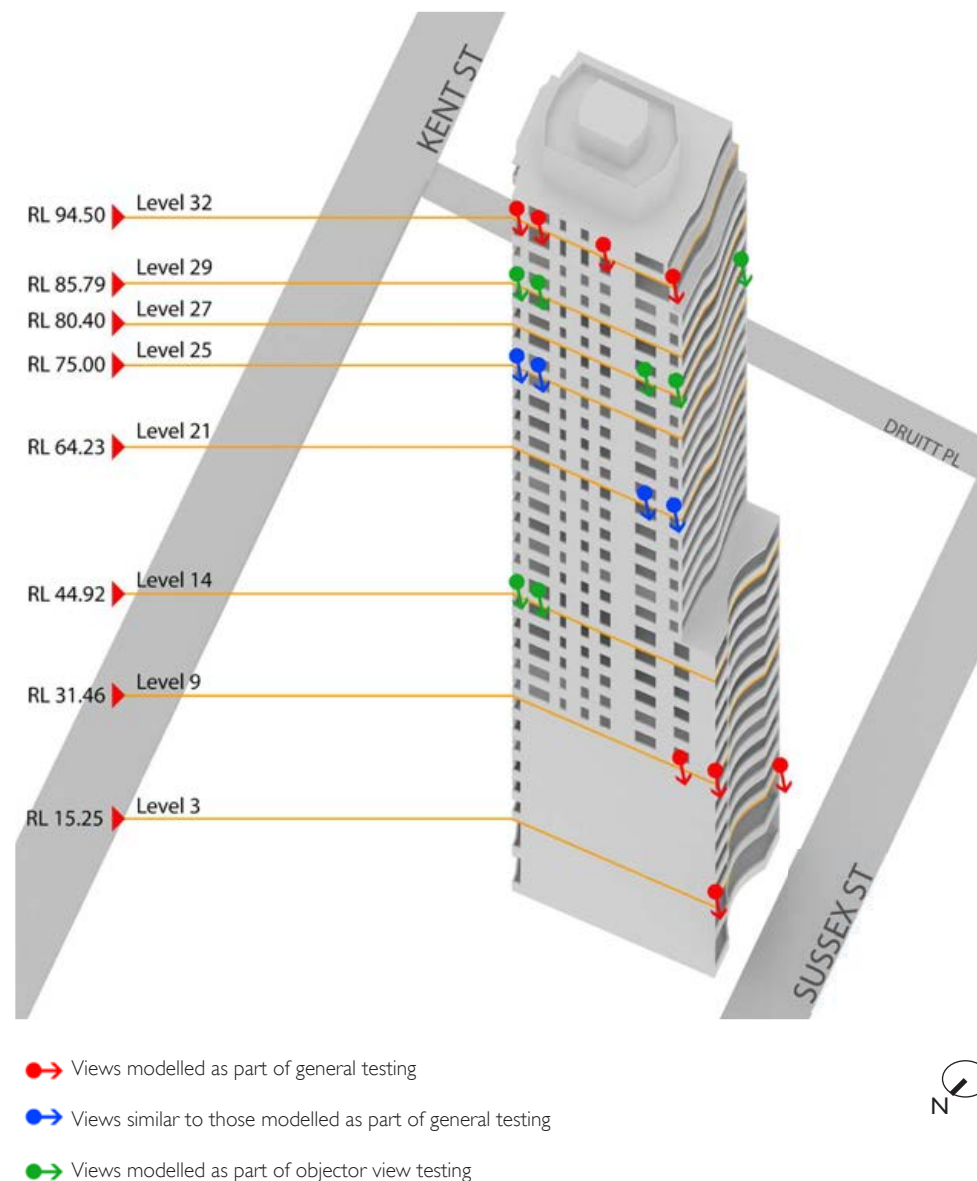
Based on the similarity in significance to Level 23, the views from this apartment are of medium to medium-high significance and the proposal will have a significant impact on these views. However, as described under views V17, V18 and V22 in Chapter 3, these view impacts are acceptable because the likelihood of retention of the affected view must be considered low as it is across a side boundary, located deep within the site and an existing covenant affects side boundary windows. In addition, the primary view from this location towards the CBD is retained, as well as parts of the affected view. The impact is therefore considered to be acceptable.

The remaining units selected for further testing have been modelled separately and they are described in greater detail throughout the rest of this chapter. They are as follows:

- Unit 46 - Balcony and Living areas - Northeast aspect apartment on Level 14
- Unit 97 - Balcony and Living areas - Northwest aspect apartment on Level 27
- Unit 100 - Balcony only - Southwest aspect apartment on Level 27
- Unit 106 - Balcony and Living areas - Northeast aspect apartment on Level 29

Views chosen as part of the additional testing include standing views to the proposal from living areas and balconies only. Views away from the proposal and seating views were not modelled in order to avoid repetition as their importance can be reasonably ascertained from those completed as part of the general testing in Chapter 3. Where relevant, reference has been made to similar views in Chapter 3.

Views from objectors which have been modelled as part of this analysis are shown on the adjacent diagram.



LOCATION OF VIEWS INVESTIGATED FROM OBJECTOR'S APARTMENTS

Courtesy of Scharp Creative Studio

4.2 UNIT 46 - LEVEL 14 NORTHEASTERN UNIT (O1-O2)

Unit 46 occupies the north-eastern portion of Level 14 within the Astoria Tower. Views tested include living area and balcony views from a standing position. For the alternative retained view to the CBD, please see V21 and V22.

O1 - LIVING AREA

Description of view:

View O1 is a standing view from the internal living area of the northeastern unit on Level 14. This view is considered to be a secondary view as it is a side view through a smaller window with the primary view and outlook available to the rear of the site across the apartment's balcony (similar to V21 and V22 in Chapter 3 of this report, also shown as part of O2 overleaf). The view although secondary is a significant view containing water and long distance foreshore elements between the existing northern tower of the Darling Park development and the existing Four Points Hotel. Although this is a framed view, this view is considered to be of medium significance as it is the only water glimpse available to this unit.

Impact of proposal:

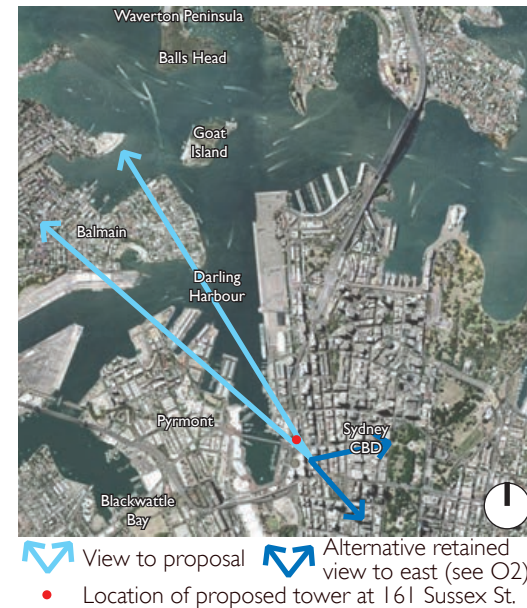
The tower will rise into the view cone and it will reduce the amount of available sky as well as changing the scale of development within the view. The proposal will obscure the available view corridor to the water glimpses and lower development on the western side of Darling Harbour with a narrow view corridor retained. This level of impact is considered to be significant; however, this is considered acceptable due to the following reasons:

- The view is an oblique view gained across the majority of the neighbouring site and is from the side boundary.
- The apartment benefits from a direct eastern view to the city from its eastern frontage which will be unaffected and must be considered its primary outlook.
- The covenant on the side boundary windows means that owners would be aware that this view would be temporary only.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The impact to the subject site if these views were required to be retained for this level would effectively require removal of the proposal's top 9 floors above the existing height of the hotel.
- The window is setback towards the rear of the site and therefore it is highly vulnerable to view loss from any future development on the adjacent site as well as the site of the proposal.

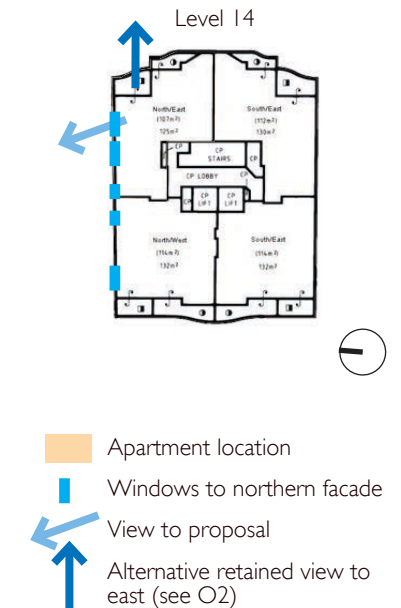
The impact is therefore considered to be acceptable.

O1 –
SIGNIFICANCE: MEDIUM
IMPACT: SIGNIFICANT
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



OI

Standing view from living area within northeast apartment, Level 14



Existing standing view



Proposed standing view

O2 - BALCONY

Description of view:

View O2 is from an enclosed balcony to the northeast unit on Level 14. This view is an oblique view over the adjacent car park structure to the north through a side boundary 'window' and across the adjacent site.

This view is considered as a secondary view as this apartment also has limited views directly from its balconies to the east across the CBD (similar to those described under V21 and V22 in Chapter 3 of this document - reproduced on the opposing page for ease of reference). The view in question contains a view corridor to Darling Harbour and Balmain, including water glimpses. The view is considered of medium significance; however, this may be downgraded to low when considering the difficulty of obtaining the view.

Impact of proposal:

From this vantage point, the proposal will change the scale of the view. It will be seen prominently within the centre of the view and will reduce an extent of sky and constrain the outlook to Darling Harbour and Pyrmont. The view impact is considered to be significant. However, this is acceptable in lieu of the following reasons:

- The available view is only possible if the viewer is standing directly at the corner of the balcony. Even a slight step back will hide the proposal behind the wall of the balcony. This balcony has a more direct view toward the east.
- The apartment benefits from a direct eastern view to the City from its eastern frontage which will be unaffected and must be considered its primary outlook.
- The covenant on the side boundary windows means that owners would be aware that this view would be temporary only.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The impact to the subject site if these views were required to be retained would effectively sterilise the development potential of the proposal's site, and other properties in between them and the water's edge.
- The window is setback towards the rear of the site and therefore it is highly vulnerable to view loss from any future development on the adjacent site. The impact is therefore considered to be acceptable.

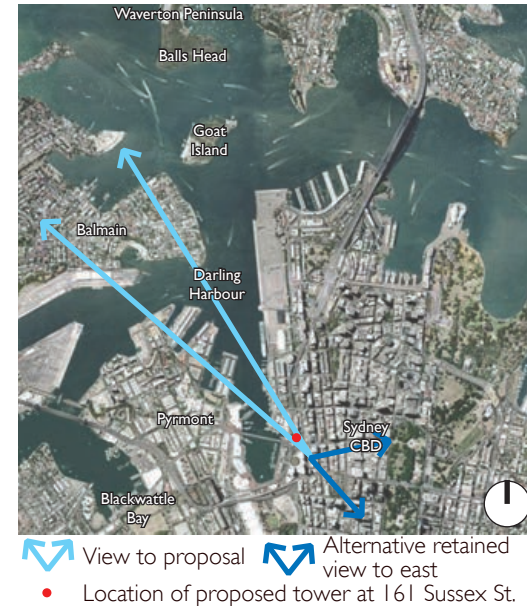
O2 –

SIGNIFICANCE: MEDIUM. However the significance may be downgraded to **LOW** when considering the difficulty of obtaining the view.

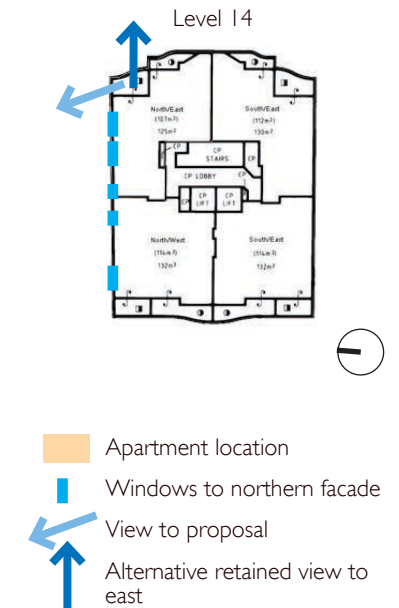
IMPACT: SIGNIFICANT

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:





Existing view



Proposed view



Similar alternative retained view to east across CBD (Level 9)



Similar alternative retained view to east across CBD (Level 23)

4.3 UNIT 97 - LEVEL 27 NORTHWESTERN UNIT (O3-O4)

Unit 97 occupies the north-western portion of Level 27 within the Astoria Tower. View significance and impacts for this apartment are similar to those described in Chapter 3 of this document for the apartment of the same aspect between Levels 23 (V7, V11 and V12) and 32 (V8, V13 and V14).

O3 - LIVING AREA

Description of view:

View O3 is a standing view from living areas along the side boundary of the northwestern unit on Level 27 over the adjacent property to the north. This apartment also benefits from the views to the west discussed previously between the Darling Park towers towards the Pyrmont Peninsula (similar to V7 and V8 in Chapter 3 of this report, also shown as part of O4 overleaf). The primary view for this apartment must be considered to be that gained through and across the main balcony. The side view is a secondary view. The view includes water and long distance views and it is considered to be of a medium-high significance.

Impact of proposal:

The eastern and part of the southern elevation of the proposed tower will be visible at the left edge of the existing view. The proposal will obscure existing views to the foreshore, Balmain and the Harbour; however, a small area of horizon and water will still be visible above the existing Four Points hotel.

The impact on the view is considered to be significant due to the loss of the harbour and water within the view. In determining the acceptability of this impact a number of considerations need to be taken into account. These considerations are:

- The view is an oblique view gained across a side boundary.
- The balcony to the living area benefits from a direct western view to Darling Harbour which also contains water and distant district views which will be unaffected and must be considered its primary outlook.
- The view will retain a significant portion of distant water and harbour glimpses including Goat Island, Waverton Peninsula and the horizon line adhering to the principles of view sharing.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. This is particularly the case for views across a side boundary. In addition retention of such views would severely restrict development opportunities throughout the city should such a precedent be established.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The reasonableness of windows covered by the covenant to reduce or constrain the development opportunities.
- The impact to the subject site if these views were required to be retained would effectively require removal of the top 10-11 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the car park land and subject site undevelopable. This would be a serious precedent and outcome for the city as a

whole due to ramifications for other such circumstances.

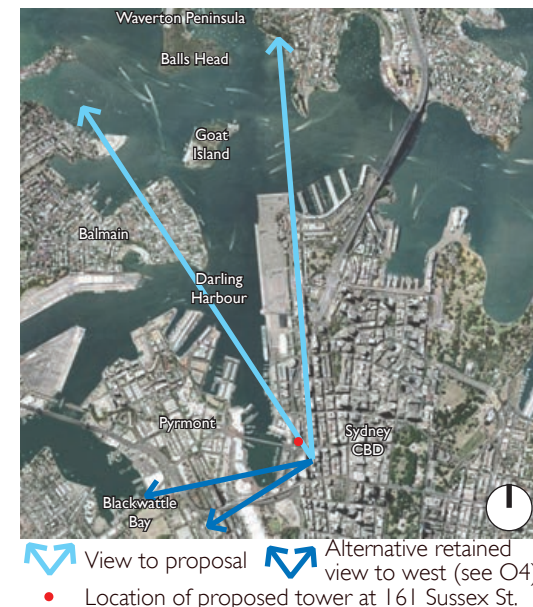
- The covenant on the side boundary windows such as this one means that owners would be aware that this view would be a temporary view only. This covenant combined with the location of the window hard on the side boundary, makes the view highly vulnerable and it is likely that windows in the main bulk of the building would be required to be infilled to maintain privacy or allow development against the side wall of the Astoria Tower in the future.

Even though the impact to this view is significant the other existing view from the primary façade of the apartment is retained. The side boundary location, vulnerability of the view, impact to the development potential of adjoining sites as well as the lack of view controls and the covenant on these windows indicates that it is not reasonable to expect to retain these views.

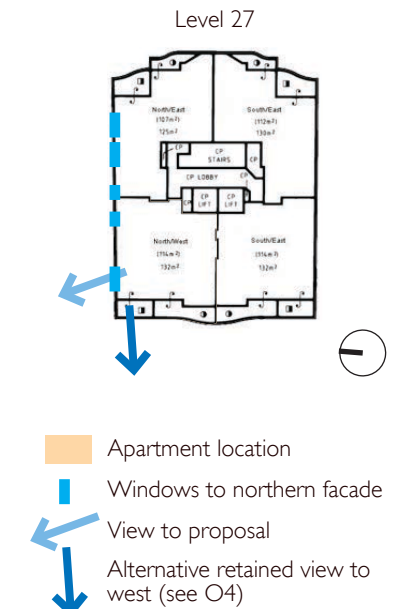
Whilst it is understood that residents will be concerned at the loss of the view on balance it is considered that the impact is reasonable and therefore acceptable.

O3 -
SIGNIFICANCE: MEDIUM TO HIGH
IMPACT: SIGNIFICANT
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:





Existing standing view



Proposed standing view

O4 - BALCONY

Description of view:

View O4 is from the enclosed balcony of the northwestern unit on Level 27. The existing view contains close and distant water glimpses and long distance views of the harbour above the existing building of the Four Points Hotel. While the enclosed balcony view is considered to be of medium-high significance, this location also has alternative views of similar or higher significance directly to the west between the Darling Park towers (similar to those described under V7 and V8 in Chapter 3 of this document - reproduced on the opposing page for ease of reference).

Impact of proposal:

The proposed tower will be visible within this view. The tower will be seen on the left hand side of the existing view and will obscure the closer water view of Darling Harbour and some of the distant water views currently enjoyed. A small horizon view including distant water glimpses will be retained within the view. Therefore, the impact on the view is significant; however, In determining the acceptability of this impact a number of considerations need to be taken into account. These considerations are:

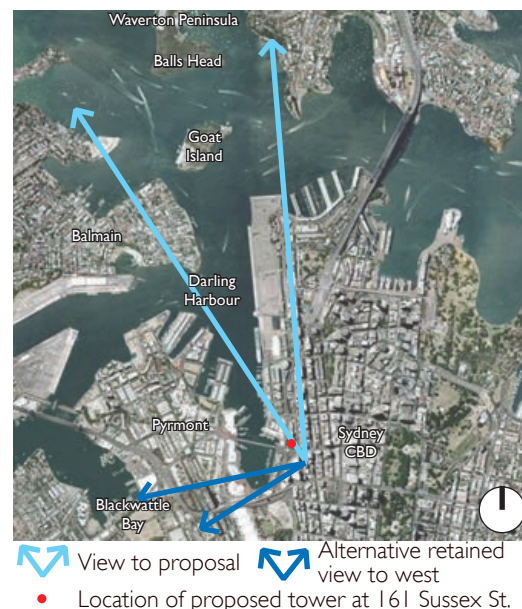
- The view is an oblique view gained across a side boundary albeit across the front portion of the adjacent site.
- The balcony benefits from a direct western view to Darling Harbour which also contains water and distant district views which will be unaffected.
- The view will retain a significant portion of distant water and harbour glimpses including Goat Island, Waverton Peninsula and the horizon line adhering to the principles of view sharing.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. It would severely restrict development opportunities throughout the city should such a precedent be established.
- The reasonableness of windows covered by the covenant to reduce or constrain the development opportunities available on at least 2 sites between it and the water when all owners of these apartments would or should have known at the time of purchase that the view currently enjoyed would be temporary and able to be lost at any time. The impact to the subject site if these views were required to be retained would effectively require removal of the top 8 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the subject land undevelopable. It would also severely limit the development options on the car park site.
- Whilst some proposals for development for the immediately adjacent site may include setbacks to the front and side boundary, if that site were to redevelop, other scenarios may seek to build hard against the boundary or to provide a setback to the front that aligns with the Astoria thereby blocking the current view to this window.
- The covenant on the side boundary windows includes as we understand it the side windows to the balconies and as such this would be reasonably expected to be a temporary view. This covenant combined with the location of the window hard on the side boundary makes the view highly vulnerable.

Even though the impact to this view is significant, part of the view is retained in addition to the more significant view directly to the west to Darling Harbour. The side boundary location, vulnerability of the view and the lack of view controls and the covenant on these windows indicates that it is not reasonable to expect to retain these views.

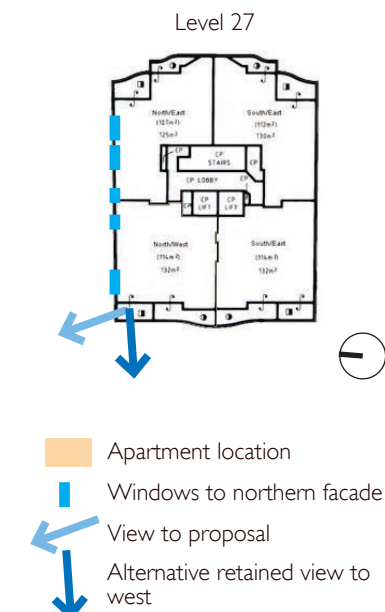
Whilst it is understood that residents will be concerned and would prefer to retain these views on balance it is considered that the impact is reasonable and acceptable. It is positive that some of the water glimpses and land water interface distance views are able to be retained. It is acknowledged that more of this view could be retained if the higher floors of the proposal were setback further from the north. This would allow the tip of the peninsula to be retained however to retain all water would severely restrict the opportunities for the subject site.

O4 –
SIGNIFICANCE: MEDIUM-HIGH
IMPACT: SIGNIFICANT
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



O4

View from enclosed balcony within northwest apartment, Level 27



Existing view



Proposed view



Similar alternative retained view to west (level 23)



Similar alternative retained view to west (level 32)

4.4 UNIT 100 - LEVEL 27 SOUTHWESTERN UNIT (O5)

GMU understand that this apartment occupies the south-western portion of Level 27 within the Astoria Tower. View significance and impacts for this apartment are similar to those described in Chapter 3 of this document for the apartment of the same aspect within Levels 23 (V3) and 32 (V4).

O5 - ENCLOSED BALCONY

Description of view:

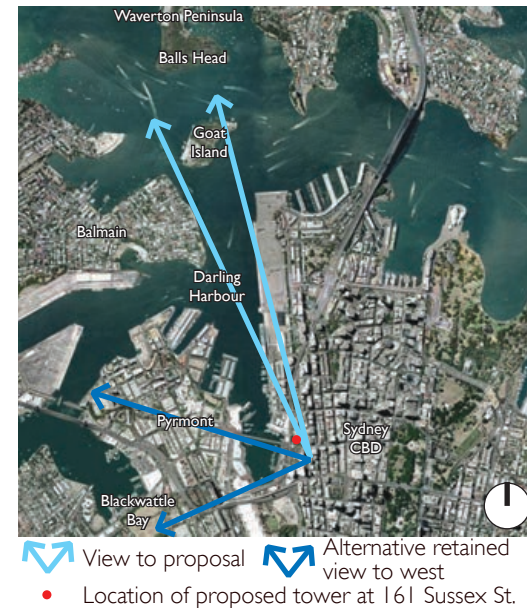
The view from this level is from the southwestern enclosed balcony in Level 27. This is an oblique view towards the proposal, which is secondary to the primary view towards Cockle Bay and the Pyrmont Peninsula visible between the Darling Park towers. The primary view enjoys substantial water and district views including iconic elements such as the Anzac Bridge (similar to those described under V3 and V4 in Chapter 3 of this document - reproduced on the opposing page for ease of reference). The view towards the proposal is an oblique view which includes a limited area of distant water. It is a highly constrained view due to the existing massing of the northern tower at Darling Park towers. The view is considered to be of medium significance.

Impact of proposal:

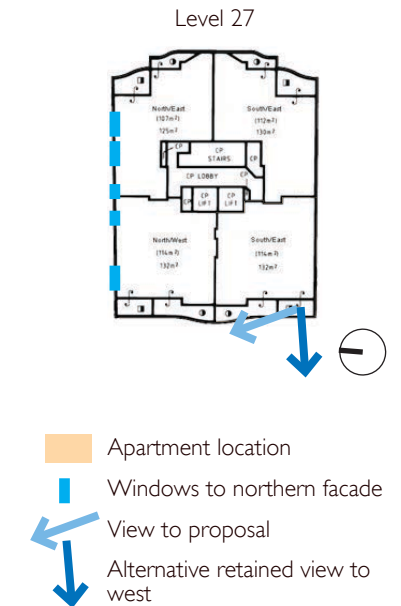
A portion of the proposed tower's eastern facade will be visible in part behind the existing northern tower of the Darling Park development. A portion of the view containing the closer water is obscured which reduces the extent of water view available. The view still retains the distant view toward Goat Island and the Balls Head Reserve. Given the prominent and primary views to the west unaffected by this development as well as the potential retention of water and land elements in the oblique affected view, the proposal's impact is considered to be moderate. Some reduction in the view is considered to comply with the principles of view sharing. Therefore, the impact is moderate and acceptable.

O13 –
SIGNIFICANCE: MEDIUM
IMPACT: MODERATE
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:

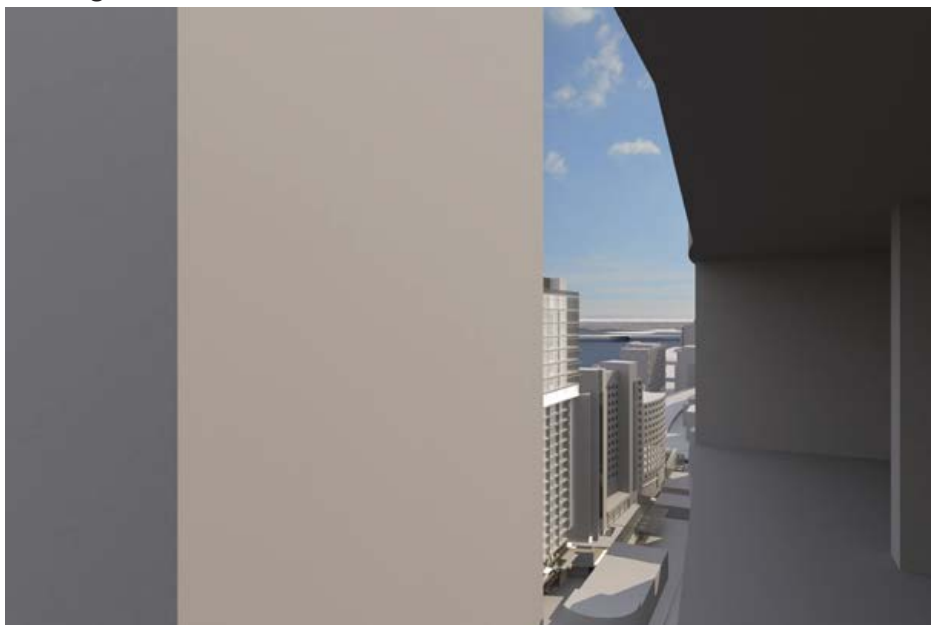


O5

View from enclosed balcony within southwest apartment, Level 27



Existing view



Proposed view



Similar alternative retained view to west (level 23)



Similar alternative retained view to west (level 32)

4.5 UNIT 106 - LEVEL 29 NORTHEASTERN UNIT (O6-O7)

GMU understand that this apartment occupies the north-eastern portion of Level 29 within the Astoria Tower. View significance and impacts for this apartment are similar to those described in Chapter 3 of this document for the apartment of the same aspect within Levels 32 (V19,V20 and V23) and 23 (V17,V18 and V22).

O6 - LIVING AREA

Description of view:

View O6 is a standing view from the internal living areas of the northeastern unit on Level 29. This apartment also benefits from views from its balconies to the east across the CBD (similar to that shown under V22 and V23 in Chapter 3 of this report, also shown as part of O7 overleaf). Given the availability of direct views to the CBD and Darling Harbour, this oblique view is considered to be a secondary view. The standing view is an iconic view given the extent of the water body and water-land interface as well as the harbour's edge. The view is considered of high significance, however this may be affected by how the view is obtained - across a side boundary.

Impact of proposal:

The proposed tower will be visible rising up into the centre of the existing view. It will obstruct views to the foreshore, Darling Harbour, Pyrmont and Balmain Peninsulas as well as Sydney Harbour by reducing the width and breadth of the view and effectively breaking it into two views rather than a single, extensive view. Existing views of key Goat Island, Balls Head, and the northern entrance of Darling Harbour will be retained. In addition, the horizon line will be visible above the proposal. The impact on the views is considered to be severe. However, in determining the acceptability of these impacts a number of considerations need to be taken into account. These considerations are:

- The view is an oblique view gained across the majority of the neighbouring site and is from the side boundary.
- The apartment benefits from a direct eastern view to the CBD from its eastern frontage and the affected view still retain water and distant district views which adheres to the principles of view-sharing.
- The controls for the City of Sydney do not include any view controls requiring the retention of views for residents. The lack of such a control acknowledges that it is extremely difficult in a highly urbanised environment such as the global City of Sydney for views to be retained. This is particularly the case for views across a side boundary and even more so when they are located at the rear of a site.
- Retention of such views in this instance and for other existing development in such circumstances would severely restrict development opportunities throughout the city.
- As discussed in the Planning Principles of the Land and Environment Court it is often unrealistic to expect to retain side boundary views and this means they should be given less weight than primary views across front and rear boundaries.
- The covenant on the side boundary windows means that owners would be aware that this view would be temporary only. This covenant combined with the location of the window hard on the side boundary to the rear of the site it highly likely that these windows would be required to be infilled to maintain privacy or allow development against the side wall of the

Astoria Tower in the future.

- The reasonableness of windows covered by the covenant to reduce or constrain the development opportunities.
- The impact to the subject site if these views were required to be retained would effectively require removal of the top 9 floors for this level. If this was to apply over the entire height of the building above the car park then this would effectively render the car park land and subject site undevelopable. This would be a serious precedent and outcome for the city as a whole due to ramifications for other such circumstances.

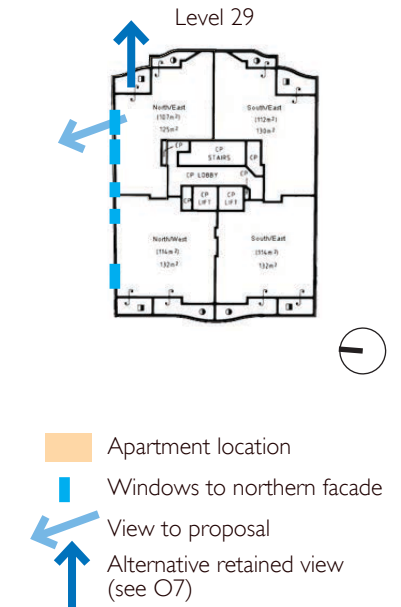
Even though the impact to this view is severe, the other existing view from the primary façade of the apartment is retained. The side boundary location, vulnerability of the view, impact to the development potential of adjoining sites as well as the lack of view controls and the covenant on these windows indicates that it is not reasonable to expect to retain these views. Whilst it is understood that residents will be concerned at the loss of the view on balance it is considered that the impact is reasonable and therefore acceptable.

O6 –
SIGNIFICANCE: HIGH
IMPACT: SEVERE
CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



O14 Standing view from living area within northeast apartment, Level 29



Existing standing view



Proposed standing view

O7 - ENCLOSED BALCONY

Description of view:

View O7 is from the enclosed balcony of the northeastern unit on Level 29. This view is considered to be a secondary view as the balcony is oriented mainly to views to the east of the CBD (similar to those described under V22 and V23 in Chapter 3 of this document - reproduced on the opposing page for ease of reference). Heritage elements such as the roof of the QVB are visible within the alternative view. The available view shown in the before and after shots is only possible if the viewer is standing directly at the corner of the balcony. A slight step back will hide the proposal behind the wall of the unit. The view presents water views to Darling Harbour with visible distant elements such as Balmain and Goat Island. The balcony view is considered to be of medium significance because it is a secondary view over a side boundary when the primary view from this location is toward the CBD.

Impact of proposal:

The proposal will be visible at the centre of the existing view, reducing views to the foreshore, Darling Harbour, Pyrmont, Balmain and Sydney Harbour; however, existing views of key Goat Island, Balls Head, and the northern entrance of Darling Harbour are retained.

The impact on this view is considered severe. However, this impact is considered to be acceptable due to the following reasons:

- Location of the view on a side boundary across the majority of the adjacent carpark and to the very rear of the lot.
- The apartment benefits from a direct eastern view to the CBD from its eastern frontage and the affected view still retain water and distant district views which adheres to the principles of view-sharing.
- The impact to the subject site if these views were required to be retained for this level would effectively require removal of approximately 8 floors of the proposal. If this was to apply over the entire height of the building above the car park then this would effectively render the car park land and subject site undevelopable. This would be a serious precedent and outcome for the city as a whole due to ramifications for other such circumstances.
- The difficulty in obtaining the view from a very limited area within the balcony is also a consideration in its level of impact.

O16 –

SIGNIFICANCE: HIGH. However the significance may be downgraded to **MEDIUM** when considering the difficulty of obtaining the view

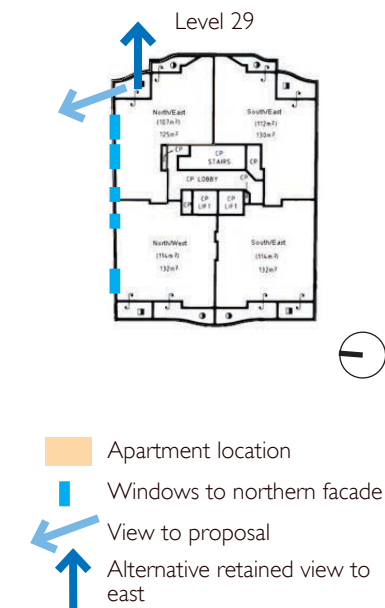
IMPACT: SEVERE

CONCLUSION: ACCEPTABLE

Key plan of view:



Location of view:



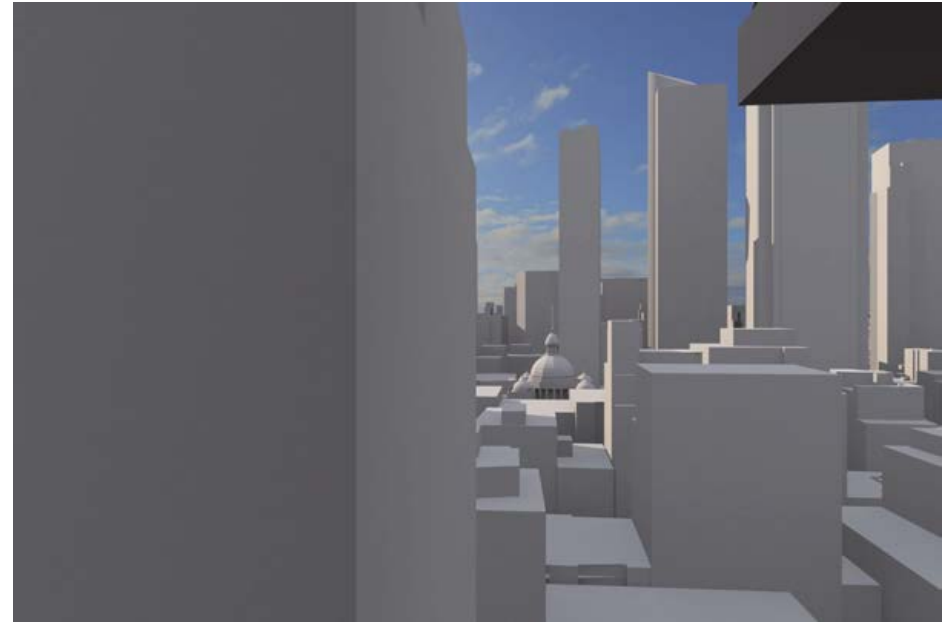
O16 View from enclosed balcony within northeast apartment, Level 29



Existing view



Proposed view



Similar alternative retained view to east across CBD (Level 23)



Similar alternative retained view to east across CBD (Level 32)

4.6 SUMMARY TABLE OF VIEW SIGNIFICANCE, IMPACTS AND ACCEPTABILITY FOR OBJECTORS' UNITS

The following table presents a summary of the views analysed from the known objectors' apartments where view loss was raised as a concern. The table includes those views discussed in Chapter 3 for ease of reference.

Unit number	Level	Aspect	Living area standing views	Balcony views
25	9	North-west	V10 ^{a †} Low Significance Moderate Impact Acceptable	V6 ^a Low Significance, Minor Impact Acceptable
46	14	North-east	O1 [†] Medium Significance Significant Impact Acceptable	O2 [†] Medium Significance (downgraded to Low)* Significant Impact Acceptable
73	21	North-west	Similar to V12 ^{b †} Medium-High Significance Significant Impact Acceptable	Similar to V7 ^{b †} Medium Significance Significant Impact Acceptable
90	25	North-east	Similar to V18 ^{b †} Medium-High Significance Significant Impact Acceptable	Similar to V22 ^{b †} Medium-High Significance (downgraded to Low-Medium)* Significant Impact Acceptable
97	27	North-west	O3 [†] Medium-High Significance Significant Impact Acceptable	O4 [†] Medium-High Significance Significant Impact Acceptable
100	27	South-west	---	O5 Medium Significance Moderate Impact Acceptable
106	29	North-east	O6 [†] High Significance Severe Impact Acceptable	O7 [†] High Significance (downgraded to Medium) Severe Impact Acceptable
113	32	eastern areas	V20 ^{a †} High Significance Severe Impact Acceptable	V23 ^{a †} High Significance (*Medium), Severe Impact Acceptable
		western areas	V14 ^{a †} High Significance Severe Impact Acceptable	V8 ^a High Significance, Significant Impact Acceptable

† A covenant affecting all windows to the northern boundary of the site means that these views may be removed at the Council's discretion and therefore there should be a lesser expectation that the view should be retained. This is reflected in the lower stated significance of these views.

* Downgraded significance when considering the difficulty of obtaining the view.

^a these views are discussed individually as part of the general analysis in Chapter 3 of this document.

^b these views are considered similar to those discussed as part of the general analysis in Chapter 3 of this document.

FINAL CONCLUSIONS

This supplementary visual impact assessment shows that the proposal causes some loss of existing views to apartments within the Astoria Tower at 222-228 Sussex Street.

The greatest impacts are the significant and severe impacts which occur to higher level living rooms (V11 to V20, O1, O3, O6), northwest balconies (V7, V8 and O4) and northeast balconies (V22, V23, O2 and O7). Some of these existing views contain elements of high value including Darling Harbour, Sydney Harbour and the horizon.

In assessing the reasonability and acceptability of the proposal's impacts upon these existing views, we have taken into account the following issues:

- The significantly and severely affected views are gained from windows located hard on the common boundary with the adjoining lot. A covenant, applied at the time of construction of the Astoria Tower to all apartments, allows for all windows on the side boundaries to be infilled at the discretion of the City of Sydney. This is to ensure they do not constrain the development of other sites. Therefore views from these windows were only ever considered to be temporary.
- The location of the majority of affected views, across side boundaries, and deep within the site, also suggests that their retention is unlikely under the Land and Environment Court's planning principle on view sharing (*Tenacity Consulting v Waringah* [2004] NSWLEC 140), which downgrades the importance on side boundary views over those of front and rear boundaries.
- All significantly and severely affected units retain a high level of view amenity through the retention of views from their balconies to the west through the Darling Park towers towards Cockle Bay or east towards the CBD. Many affected views also allow for much of the existing view to be retained, only obscuring a portion of an existing wider view.
- The City of Sydney controls do not privilege private residential views. To do so would severely constrain development within the CBD and its edges. Recent approvals such as Barangaroo indicate an intention by the Government to change the scale of the edge of Darling Harbour. This will also result in loss of views to development within the CBD's western edge.
- Development of the adjacent lot to the Astoria Tower, an existing low scale parking structure, may be likely in the future due to growth pressure on the Sydney CBD. Any development of this site is likely to completely remove water views from many or all of the north-facing windows of the Astoria Tower apartments.
- For the majority of views, the proposal will allow for the retention of many key features of the existing view, such as the northern entrance of Darling Harbour, Goat Island and Balls Head.

- The proposal is located 130m from the apartments and sites at such a distance on the harbour edge with no height limit could be expected to have impacts.
- The location of the Astoria Tower one block east from the water's edge and behind a layer of development makes the retention of oblique views very unlikely.
- The proposal could not significantly reduce or mitigate its view impacts on the Astoria Tower apartments without severely compromising its development potential due to the extent of side views.
- View losses need to be balanced against the economic benefits to the local economy of the expansion to the hotel.

It is therefore considered that the view impacts, whilst significant, are acceptable.