

17 May 2021

Ms Dianne Leeson
Assistant Commissioner
Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2000

Email: ipcn@ipcn.nsw.gov.au

Dear Ms Leeson,

**Re: New Material provided to IPC by Mirvac in relation to its Amended Concept Proposal for redevelopment of Harbourside Shopping Centre (SSD7874)
Property: Harbourside Shopping Centre, 2-10 Darling Drive, Darling Harbour, Sydney (“Harbourside”)**

Thank you for the opportunity to comment on the New Material.

I object to the new Alternate Proposals put forward by Mirvac in the New Material recently supplied to IPC.

I applaud the concerns of the IPC as to the amenity impacts of Mirvac’s Concept Proposal and the requests made of Mirvac by the IPC.

I set out below the reasons why I object to the new Alternate Proposals and some comments on the New Material.

Background

First, I should disclose our personal interest.

I am an owner of an east facing apartment on the 6th floor of the 17 storey One Darling Harbour, 50 Murray Street, Pyrmont (“**One Darling Harbour**”). My wife and I bought this apartment many years ago intending to move into it on our retirement.

Our apartment has uninterrupted, 180-degree views from the bedrooms, living areas and balconies over the iconic and historic Pyrmont Bridge, all the waterways of Darling Harbour and across Darling Harbour to Cockle Bay and the City skyline.

We love the uninterrupted view of pleasure craft on the water (including the rowing sculls and dragon boat races) and the weekday pedestrian movement to and from the CBD across the

historic Pyrmont Bridge as well as the flood of international and domestic tourists who flock to sunny Darling Harbour.

We paid a premium for our apartment as we placed much reliance on the fact title for both One Darling Harbour and Harbourside were 99-year strata leaseholds which were at the time controlled by the Sydney Harbour Foreshore Authority (“**SHFA**”).

Those leases required both lessees to maintain the high standards of the buildings. The Harbourside lease required the lessee to maintain Harbourside to high standards as a “festival marketplace”. On that basis we had confidence for the remainder of the 99-year leases there would be no overdevelopment of Harbourside as SHFA would enforce the terms of the leases and SHFA would also enforce good town planning principles for any future development around Darling Harbour so that our views and the amenity of the area and our unit (and hence values) would be maintained for the remainder of the life of those leases.

Accordingly, we are genuinely concerned that Mirvac’s CEO concedes Harbourside is now the “**ugly duckling**” of that precinct. Surely that is an admission by Mirvac it has not complied with the terms of its 99-year lease and has allowed Harbourside to become even more run down and out of date since it took ownership.

Now Instead of complying with its lease obligations Mirvac is putting forward a proposal for a gross overdevelopment of the site and a land grab of valuable public land and airspace to finance a redevelopment of the very leasehold space it is under a legal obligation to maintain with no regard for the adverse impact on the community, residents and people who love to visit Darling Harbour.

Darling Harbour was a gift to the people of Sydney. It is a place for everyone to enjoy. It is a designated tourist precinct and has been described as Sydney’s great celebration space and playground for all ages.

Harbourside was designed to be a Festival Market Place Shopping Centre to complement Darling Harbour and cater to the international and local tourists and families who visit Darling Harbour.

We submit any redevelopment of Harbourside should have as its prime aim to comply with the terms of the lease and enhance the tourism and public purposes of the site. It was not a gift Mirvac so it could add another residential tower, office accommodation and a massive mega mall style shopping centre to its portfolio.

IPC’s concerns about Amenity Impacts of Mirvac’s proposal

I, and I’m sure most of the local residents and members of the community, took great heart from the letter from the IPC to the Department of Planning, Industry and Environment dated 23 April 2021 expressing concern about the amenity impacts of Mirvac’s Concept Proposal.

Finally, someone has understood and taken seriously the disastrous impact Mirvac’s Concept Proposal would have on the precinct, the community and visitors to Darling Harbour.

Finally, someone understands Mirvac’s proposed gross overdevelopment of Harbourside would cause unacceptable overshadowing of the public domain, impede public access to the public open space and harbour promenade and cause dramatic, adverse view loss to residents, particularly residents of One Darling Harbour who have done nothing wrong and

have at all times complied the obligations under their 99-year lease to improve and maintain their building to a high standard residential building.

Difficulty with commenting on the New Materials

It is quite unsatisfactory that Mirvac did not until 12 May 2021 provide a formal, written response to IPC's requests and written explanations of the copies of slides shown to IPC on 6 May 2021. We (and no doubt the IPC) had to resort to trying to guess the detail of Mirvac's intentions from a transcript of that meeting, copies of the poorly detailed and documented slides, the Department's response and some additional information supplied by Mirvac to the Department.

Even the Mirvac letter dated 12 May 2021 and the Ethos Urban letter dated 12 May 2021 are very selective in the information supplied (for instance, it doesn't show the views level 2 and level 5 One Darling Harbour currently enjoy).

Further, Mirvac has made it clear its "Alternate Proposal" is not yet finalised and Mirvac reserves the right to make other unspecified changes. This makes it exceedingly difficult for the public to understand and comment on the New Materials and Alternate Proposals.

Nevertheless, as IPC has asked for public submissions on the New Material, I will do my best to give you my personal view.

Why I object to the Alternate Proposals envisaged by Mirvac's "New Material"

Mirvac's response

Mirvac's response is disappointing. It has not responded to IPC's concerns or its request. IPC did not invite an Alternate Proposal from Mirvac.

Mirvac has not put forward further options for alternative building envelopes that include a maximum Podium height of RL11.8, a maximum BEA tower floor plate of 1000m² with a greater setback of the eastern frontage of the Tower from the waterfront promenade and greater connectivity to a greater area of contiguous (upper level) public open space from the western end of Pyrmont Bridge and the Murray street pedestrian plaza.

Instead Mirvac has come up with self-serving "work arounds" and new Alternate Proposals, to pay lip service to addressing IPC's concerns **without actually making any significant concessions in relation to the bulk and scale of its Concept Proposal or its GFA**. The GFA of 87,000 square metres remains the same.

Mirvac's response to IPC's request is to put forward unsolicited Alternate Proposals which maintain essentially the same bulk and scale and GFA of the Concept Proposal whilst simply pushing the building mass around the site a bit and slicing a couple of corners off the too tall and too bulky tower to present an Alternative Proposal which achieves marginally less overshadowing of the public domain for short periods of time on certain days of the year.

As to view loss from One Darling Harbour and foreshore access, clearly Mirvac could not care less. Mirvac's New Material and Alternative Proposal makes no significant concessions as requested by IPC to the bulk and height of the Podium.

Mirvac seems to think the Department has already agreed to the Podium blocking views to the extent shown in the Concept Proposal, so it does not need to make any further real concessions.

If, as identified by the IPC, Mirvac reduced the Podium height to RL11.8 that would go a long way towards mitigating the view loss to be suffered by most residents of One Darling Harbour as well as being more respectful of the historic Pyrmont Bridge and greatly improve the connectivity of the public space and the foreshore.

Instead, Mirvac has offered no significant concession as to the amenity impacts including view loss, overshadowing of the public domain and foreshore access to the public open space.

And Mirvac's rationale for ignoring IPC's sensible request is effectively **a threat that if Mirvac does not get all the GFA it wants the project will not be viable**, the public benefits will not be deliverable, Sydney will lose a once in a lifetime opportunity, more than 2500 jobs and 100 apartments will be lost, the SSD and Unsolicited Proposal processes and the COVID-19 recovery will all be undermined, and Mirvac will walk away. What poppycock! The previous proposal was for GFA of 87,000 square metres and Mirvac's Alternate Proposal is still for GFA of 87,000 square metres. It is not trying very hard to compromise and get the project approved. Even if Mirvac re-designs as requested by the IPC it will be marginally smaller development but still a significant windfall for Mirvac, a company that bought a run-down leasehold shopping centre with no rights to redevelop it during the 99-year lease and no rights to the tower or podium airspace and no rights to extend the 99-year lease.

I certainly hope IPC will see through, and not be influenced by, these dramatic but likely hollow threats.

Mirvac's Alternate Proposal is a "moveable feast"

And Mirvac is still not committing to a final plan. Its New Material envisages it can still make other changes to shift and redistribute remaining area loss and foreshadows even further changes as this Alternate Proposal was pulled together in such a rush.

Mirvac's written response to explain the slides it showed the IPC on 6 May 2021 is selective, glosses over inconvenient details (presumably so as not to be held to them in the future) and suggests the Department has already approved various aspects of the Amended Concept Proposal.

Mirvac has not really committed to anything by the New Material which makes it exceedingly difficult for the IPC to proceed or even for the public to comment on it as the proposal remains a moveable feast.

A decision on SSD 7874 should be delayed

Mirvac appears keen to push this SSD approval through before proper town planning controls are finalised for the Bays Precinct.

As I understand it, the NSW government is currently developing a master plan for the whole Bays Precinct including a Pyrmont Precinct Master Plan. Also in development are the Pyrmont Place Strategy and the Design and Place SEPP. Ethos Urban points out that there are not even any FSR controls that apply to the site.

So, at the moment, Mirvac is able to suggest IPC ignore or give minimal weight to proposals for the Bays Precinct, the Pyrmont Place Strategy, the proposed Design and Place SEPP and the City of Sydney controls.

I hope and anticipate the Master Plan and the other controls will incorporate accepted best practice, thoughtful town planning principles and be a transparent, unified, contemporary system of town planning controls developed by expert town planners (not developers) specifically for controlling developments around harbours and waterways in the best interests of, and in consultation with, the community.

It is also impossible to know how pedestrian flow on the Promenade will be affected until the new Ferris Wheel application is determined which appears to be being delayed as no agreement has yet been reached between Mirvac, the Ferris Wheel Applicant and the Landowner.

I believe it would be premature to determine this SSD prior to those planning controls being finalised and a decision being made on the proposed new Ferris Wheel.

There should be proper, well thought out rules that control development. The rules should not be invented by developers. That way leads to disaster.

The Podium

Obviously, our main concern is the Podium.

My submission in relation to the Podium is as follows:

- a) We are extremely concerned our prime (and much prized) views of Darling Harbour and the historic Pyrmont Bridge and those of our neighbours will be unfairly impacted by the proposed Podium and the newly proposed trafficable area on top of the Podium.
- b) We are also concerned our sense of openness and closeness to the harbour will be taken away by the too tall and too bulky Podium smack bang in front of our main view line.
- c) In the New Material Mirvac has again not made any significant concession on the height of the Podium. It is still inappropriate for the Precinct. I have little faith Mirvac will honour any commitment it makes in relation to the Podium unless it is imposed by the IPC. Mirvac has form in this regard.
- d) The owners and occupants of One Darling Harbour were previously led to believe in discussions with Mirvac that Mirvac would take on board the objections to its original proposal such that when it lodged its Amended Concept Proposal it would include a less bulky, more streamlined Podium which was to be limited in height to level 2 of One Darling Harbour and well removed from the historic Pyrmont Bridge. That did not happen.

- e) The Amended Concept Proposal put forward by Mirvac had the proposed Podium height being approximately equal to a 7- storey residential building extending to level 5 of One Darling Harbour. And too close to Pymont Bridge.
- f) Mirvac indicated to One Darling Harbour that the roof of the Podium would be landscaped but not be trafficable. Again, that is no longer the case.
- g) In Mirvac's submission of its Concept Proposal last year it failed to include the necessary public space. When that was pointed out, Mirvac then put it on the roof of the Podium! With no regard for its promise to preserve the views of One Darling Harbour.
- h) The most recently submitted Amended Concept Proposal for the Podium had heights of RL 25, RL 26.5 and RL 31. It was still too high, too wide, too long and its design remained unacceptably bulky and boxy. And it still impacted views from One Darling Harbour badly by, in some cases, only allowing keyhole views down a corridor.
- i) It is quite difficult to find in the Additional Material exactly what height Mirvac is suggesting for the Podium in its Alternate Proposal. I suspect that is deliberate.
- j) Despite IPC's request that Mirvac provide options for a Podium height of RL11.8 the Alternate Proposal submitted with Mirvac's New Materials seems to show a Podium in front of One Darling Harbour with several different levels and heights variously of RL 20.10, RL 21.35 or RL 24 (depending on which slide one views) and the exact position of those levels is not specified. This is too uncertain, and the Podium is still too high, too wide, too long and too bulky and boxy. And the Alternate Proposal still envisages a trafficable area on top of the Podium with balustrades, garden pavilions, trees, hard landscaping, plantings and shade structures **the height of which is not capped** but which clearly will further impact view loss from One Darling Harbour. It does now seem Mirvac may be prepared to remove the cantilevered area that extends closer to the water's edge (which would have adversely impacted views from One Darling Harbour even more). The proposed Podium will still impact unfairly on the views from One Darling Harbour.
- k) Mirvac maintains it needs every inch of the retail space in its proposed Podium. This is notwithstanding that the operators of Harbourside have long struggled to fill the existing retail space with quality tenants. It will not get any easier to fill this retail space given the proximity to the main retail shopping and dining districts of the CBD, Darling Quarter, Darling Square, Broadway, Barrangaroo, King Street Wharf, Cockle Bay, China Town, Tramsheds and the proposed new shopping podiums on the old Fish Markets site.
- l) The proposed northern Podium is also still too high and too close to the historic Pymont Bridge, and will also still dominate and detract from the appeal of, and connectivity to Pymont Bridge and will still significantly block views from One Darling Harbour.
- m) The iconic Pymont Bridge is on the State Heritage Register. It is the centrepiece of Darling Harbour. Any Podium development near it should protect and enhance the heritage values of the bridge. The redevelopment of Harbourside and particularly the Podium should not overbear, detract from or diminish the heritage context of the bridge.

- n) At present Harbourside is essentially a 3-storey festival marketplace shopping centre. The roof of Harbourside is largely below the level of the Pymont Bridge handrail (except for a smallish glass domed section which is well away from the bridge) and it is not an eyesore to pedestrians who so enjoy walking across that bridge and the tourists who are drawn to it to watch the bridge open.
- o) The Alternate Proposal for the proposed Podium is too tall, too long, too bulky and would detract from and block the views of and from Pymont Bridge.
- p) **I believe, if the entire Podium, from Bridge to Tower, is kept slightly below the height of the deck of Pymont Bridge or even approximately equal to the height of the deck of Pymont Bridge at RL 11.8 as suggested by IPC, this would mitigate most of the problems caused by the Podium.**
- q) We are also concerned that Mirvac appears to no longer be keeping to its earlier commitment that the roof of the Podium would be landscaped but not be trafficable. **If it is to become trafficable, I submit the Podium height should be lowered further below RL11.8 so that the height of the top of any trees, plantings, balustrades, hard landscaping, garden pavilions, shade structures etc. be capped to not exceed RL11.8 and there should be limited hours and restrictions on the type of usage of the trafficable roof of the Podium so as not to become a noise or privacy issue.**

Traffic Assessment

Mirvac's New Material includes a report from Arcadis that, unsurprisingly, concludes there is no traffic or parking problem.

But its Traffic Surveys were done in 2016 and January 2020 (i.e. pre COVID-19).

It appears the only parking proposed for the retail and commercial (office) components of the development will be the existing 255 car spaces in the Wilson carpark.

Those 255 spaces are in a public, commercially operated carpark that services not only Harbourside but the whole of Pymont and the Darling Harbour area. I understand it is not part of Harbourside nor is it owned or operated by Mirvac nor is it dedicated solely to Harbourside visitors. Presumably, there will be no free parking available to shoppers as in most shopping centres.

It also appears the shopping centre space and associated commercial office space are to be greatly expanded (from approx. 20,840 square metres to approx. 43,950 or 45,000 square metres) and the style of the shopping centre is to be changed. The large commercial office component is said to allegedly generate huge numbers of jobs.

We all know parking demands for shopping centres are enormous. Previously, Harbourside largely catered for international and local and interstate tourists of which only a small proportion brought private vehicles to precinct. However, currently most tourists are from within Australia and many travel there by private or hired vehicles.

Also, the changed nature of Harbourside will no doubt bring it more in line with normal suburban mega shopping malls that include supermarkets, delicatessens, fruit and vegetable shops, butchers, bakers and other food vendors to cater for the increased local residential community. And local families typically drive their cars to the shopping centre to do the weekly grocery shopping. Look at the size of the parking lots at comparable suburban mega shopping malls. 255 car spaces at the Novatel will be completely inadequate. Particularly given the loss of other carparks in the precinct in recent years.

And office accommodation also comes with a greater demand for parking for the owners, employees, clients, customers and suppliers of those businesses.

Further, **COVID-19 has changed the community's transport habits** for the foreseeable future. Many more people now avoid or minimise public transport use, preferring the safety of driving their own vehicles for work, recreation, and shopping. But Arcadis has done its projections based on an out-of-date belief that *"few people commute to work by private vehicle"*.

Arcadis has concluded the parking needs and daily trips will remain the same as before the redevelopment and no improvements are needed to local roads and intersections to cope with added traffic.

It seems beyond belief Mirvac could seriously suggest that is correct considering the scale of its ambitious project and the number of extra jobs it alleges will be created.

By way of contrast, the web site www.broadway-sydney.com.au spruiks that Broadway Shopping Centre at Ultimo (which I understand is owned by Mirvac) has over 1,665 parking spaces in a multi-storey car park. That car park is pretty well solely used by customers of the shopping centre and, from my personal experience I often have great difficulty finding a vacant parking spot. I have also noted they had to instal traffic lights at the entrance to control the traffic.

All the extra private and for-hire vehicles and service and delivery vehicles that can be expected to be drawn to Pymont by the re-developed Harbourside and the massive residential tower will definitely need improved road capacity as well as a lot more public parking. There is extremely limited street parking in Pymont and what is there is paid parking (via parking meters that are monitored enthusiastically by parking rangers who do a very brisk trade). And Pymont roads are in gridlock for the extended peak hours. It can take 30 minutes to get in or out of Pymont in peak hour.

But is Mirvac proposing anything to assist the community in this regard? It seems not!

I am not a traffic engineer, but It seems to me this Arcadis report should be tested by an independent traffic engineer. It makes no sense to me.

The Tower

I believe the Alternative Proposed Tower is still too tall, too bulky and too close to the water's edge.

I would like to see the Tower moved back from the water's edge as suggested by IPC, lowered in height to no higher than RL133 (the height of the Sofitel being the nearest tower) and made more slender perhaps with a maximum floor plate BEA of 1,000 square metres as suggested by IPC.

The current Concept Proposal Tower has a BEA of 1,507, the IPC suggestion would deliver a BEA of 1,000 and Mirvac's Alternative Proposal would deliver a BEA of 1,353 and GFA of 948 square metres.

Again, it is disappointing Mirvac has not done the modelling precisely as requested by IPC for a BEA of 1,000. This is even though Tim Blythe concedes City of Sydney controls are the most relevant and those controls have a maximum 1,000 square metre GFA for a tower floor plate. His own analysis shows many other towers appear to have been successfully built with floor plates under a GFA of 1,000 square metres.

I have no doubt with some more skilful designing of the Tower Mirvac could reduce the overshadowing, view loss and improve the amenity of the public domain but it would need to be prepared to accept some compromises on the bulk and scale of the Tower.

Whilst the Tower will have an impact on our views, shadowing and our sense of openness, a tower as proposed by IPC is something we can live with if the Podium is capped at RL 11.8.

The Amenity Impact

I am concerned that if either the Amended Concept Proposal or this Alternate Proposal by Mirvac is given the green light by IPC the whole feel of our local Darling Harbour neighbourhood will change as the previously sunny walkways by the harbour and the Pyrmont Bridge will be dominated and overshadowed by the too tall, too long and too bulky Podiums and the too tall and bulky Tower which will be far too close to the water's harbour's edge.

I am also concerned any such approval for Harbourside would create a precedent that will have adverse ramifications for Sydney Harbour generally and, in particular, for the whole Pyrmont/Darling Harbour/Blackwattle Bay, King Street Wharf, Cockle Bay, and the Bays precinct to the ultimate detriment of the population of greater Sydney and tourism, one of NSW's greatest assets.

Amongst other things, it would break the time-honoured town planning principle of stepping back buildings from the water's edge and create a precedent for bulky, unattractive podiums and tall towers crowding in on the harbour's edge.

In my view, now is the time, in the interest of the community and good town planning principles, to counsel Mirvac to be patient, await the finalising of all the town planning for the Bays Precinct and then lodge a fully compliant, less ambitious proposal more in keeping with the needs and wants of the community and more respectful of its historic location.

The legal definition of the Site

It is not clear to me that the Additional Material correctly defines the "site" of the Proposed Concept or the Alternative Proposal as requested by the IPC. Whilst they seem to refer to the footprint of the existing Harbourside Shopping Centre they do not seem to adequately define the additional footprint and the additional airspace that would need to be included. To do so would presumably require an indicative stratum survey plan.

Where To From Here

Thank you for giving the community an opportunity to lodge submissions. I sincerely hope the IPC can achieve a fair and reasonable outcome in keeping with the best town planning and view sharing principles.

Yours sincerely,



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Anthony Gavan