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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

PUBLIC MEETING

RE: COCKLE BAY WHARF REDEVELOPMENT (CONCEPT PROPOSAL)

PANEL: **PETER DUNCAN**
PROF ALICE CLARK
DR PETER WILLIAMS

ASSISTING PANEL: **ROBERT BISLEY**

LOCATION: **ICC SYDNEY, CONVENTION CENTRE**
LEVEL 4, MEETING ROOM C4.6 & C4.7
14 DARLING DRIVE
SYDNEY, NEW SOUTH WALES

DATE: **10.01 AM, TUESDAY, 5 MARCH 2019**

- MR P. DUNCAN: Good morning. Before we begin today, I would like to acknowledge the traditional owners of the land on which we meet. I would also like to pay my respects to their elders past and present and to the elders from other communities who may be here today. Welcome to this public meeting on the development application from DPT Operator Pty Limited, the applicant, who is seeking approval for the consent of a commercial building envelope at Cockle Bay Wharf, 241-249 Wheat Road, Darling Harbour, and stage 1 early works demolition of existing buildings and structures SSD application 7684.
- 10 My name is Peter Duncan. I'm the chair of the Independent Planning Commission Panel today, which has been appointed to determine this development application. Joining me are my fellow commissioners Dr Peter Williams and Professor Alice Clark and Robert Bisley from the Commission's Secretariat over here. Before I continue, I should state that all appointed Commissioners must make an annual declaration of interest, identifying potential conflicts with their appointed role. For the record, we are unaware of any conflicts in relation to our determination of this development application. You may find additional information on the way we manage potential conflicts in our policy paper which is also available on our IPCN website. In the interests of openness and transparency, today's meeting is being recorded and a full transcript will be produced and made available on the Commission's website.

The meeting purpose

- 25 The public meeting gives us the opportunity to hear your views on the assessment report prepared by the Department of Planning and Environment before we determine the development application. The Independent Planning Commission of New South Wales was established by the New South Wales Government on 1 March 2018 as an independent statutory body operating separately to the Department of Planning and Environment. The Commission plays an important role in strengthening transparency and independence in the decision-making process for major development and land use planning in New South Wales. The key functions of the Commission include to determine State Significant Development applications, conduct public hearings for development applications and other matters, such as this, provide independent expert advice on any other planning and development matter when requested by the Minister for Planning or the Planning Department Secretary.

- 40 The Commission is an independent consent authority for State Significant Development applications and provides an additional level of scrutiny where there are at least or more than 25 public objections, reportable political donations, objections by the relevant local council. The Commission is not involved in the department's assessment of the project, the preparation of their report or any findings within the report. The Commission – this meeting is part of the decision process. We have also been briefed by the Department, met with the applicant and visited the site, also with council. After today's meeting, we may convene with relevant

stakeholders if clarification or additional information is required on matters raised. Records of all meetings will be included in our determination report, which will also be published on the IPCN website.

5 The next steps

Following today's meeting, we will endeavour to determine the development application as soon as possible, however there may be delays if there is a need for additional information.

10 Before we hear from our registered speakers today, I would like to lay out some ground rules that we expect everybody taking part in today's meeting to follow. First, today's meeting is not a debate. Our panel will not take questions from the floor and no interjections are allowed. The aim is to provide the maximum opportunity for people to speak and to be heard by the panel. As you would be aware, public speaking is an ordeal for many people. Though you may not agree
15 with everything you hear today, each speaker has the right to be treated with respect and heard in silence. Today's focus is public consultation. Our panel is here to listen and not to comment. We may ask questions for clarification but usually this is unnecessary.

20 It would be most beneficial if your presentation is focused on the issues that concern you. It's important that everybody registered to speak receives a fair share of time. I ask that you speak to the allocated time that you've chosen. As chair, I reserve the right to allow additional time for the provision of further technical matters. A warning bell, however, will be signalled at one minute before the speaker's allocated
25 time is up and again when it runs out. Please try to stick to these limits if you can. Though we will strive to stick to our schedule today, speakers sometimes don't show or decide not to show up. If you're aware of anybody that is registered to speak and has decided not to, please let Robert know. If you would like to project something onto the screen, please give it to Robert before your projection. If you have a copy
30 of your presentation, it would also be appreciated if you would provide a copy to the Secretariat after you speak.

Please note any information to us may be made public. The Commission's privacy statement governs our approach to your information. If you would like a copy of our
35 privacy statement, you can obtain one from the Secretariat or from our website. Audio recordings of this meeting is not allowed except for the official recording for transcript purposes which will be published on the website. Notes made throughout the day on issues raised will be summarised in our determination report. Finally, I would like to ask everybody present if you could turn off your mobile phones or turn
40 them down to silent. That would help our speakers. And at that point, I would like to thank you for coming today and I'll call on the first speaker, Elizabeth Elenius from the Pymont Action Incorporated Group.

45 MS E. ELENIOUS: Thank you. This redevelopment has been proposed in a rules-free precinct. There's no master plan, local environment plan or DCP against which

to evaluate its conformity to well understood planning parameters, building height scale, floor space ratios and zoning which provide certainty to members of the community. In recent years, residents of Pymont and Ultimo have been walled off from the CBD by the anything goes redevelopment of the western side of Darling Harbour. Donald Trump could get some lessons here. And now, developers have moved to the eastern side. Pymont Action's members' main concern about the Cockle Bay redevelopment is its scale so close to the harbour.

The department recommends a reduction in height which will result in, I think, a 42 storey tower which it proposes should be moved south away from Pymont Bridge by a total of 72.9 metres and this is an improvement but results in a moderate to severe impact on views on west-facing apartments in the Astoria residential tower. We recommend that the building envelope be further reduced in height and bulk and the controls outlined in the application appendix C be mandated such that no later modification can be submitted to alter the approved controls. Our submissions have proposed that the tower be no more than 35 storeys, thus reducing its overshadowing of public spaces, including the proposed town hall plaza, the foreshore promenade up to 11 am and the harbour, and possibly the severity of the few losses of Astoria residents.

Whilst the recommended width of the foreshore promenade maintains the status quo, ie, eight metres, the scale of the proposed building is vastly different from the existing structure which doesn't loom over the walkway. We asked for an increased set back of the podium to take account of its overwhelming impact on public space and the water. We agree with the department's recommendation that there would be – should be no further alienation of the harbour by an overwater boardwalk. No adopted contributions plan applies to the site to enable provision of appropriate social infrastructure in what is now an area of extremely high building density, including residential apartments and student housing.

We have long sought provision, through developer levies, of a public indoor sporting facility to compensate for the removal of popular courts from Darling Harbour to make way for commercial development. The proposal should also include a childcare centre and a community centre to encourage and support social cohesion within the CBD and Haymarket. The government considers provision of open space enough of a contribution, ignoring the total lack of sporting facilities, not only in the Darling Harbour, Haymarket area but in Pymont and Ultimo. The only social infrastructure provided via the redevelopment of Darling Harbour by the IMAX and Cockle Bay redevelopment – sorry – Darling Harbour and Darling Park is a library and a childcare centre yet many thousands of additional residents and workers have been added to this area with more to come via the IMAX and Cockle Bay redevelopment.

If this development proceeds, provision of sporting facilities must be included, if not indoors then as part of the open space provision. We continue to deplore the lack of a cohesive traffic and transport plan to improve access to the Darling Harbour and Cockle Bay precinct and we ask such a plan be developed as a matter of urgency, to

address the need for new and improved public transport, pedestrian access and involving meaningful consultation with community and business representatives from both the CBD and Pyrmont and Ultimo. Above all, if this development is approved, the approval must contain a condition that future development applications cannot use this approval to justify the imposition of other tower buildings in its vicinity.

This should include the proposed Darling Harbour Harbourside Tower and the proposed 61 storey Ritz-Carlton Hotel residential tower above The Star. The proponent of the latter has, quite specifically, argued in its report of environmental factors that the Sofitel Hotel and proposed Harbourside Tower set a precedent for an even higher tower in Pyrmont. We note with alarm the many references in the department's assessment to – and I quote:

...the precedent for towers adjacent to the harbour has been established by sites in the immediate vicinity as a justification for the Cockle Bay Tower's inappropriate scale.

Yet, in its assessment report, the department also states right at the end:

Any development of surrounding land would be the subject of separate development applications assessed on their merits and would be subject to height, floor space ratio and other planning controls.

I have news for the department. There are no rules for the Harbourside site, nor the Ritz-Carlton Tower site in nearby Pyrmont. We also seek an undertaking by IPCN and the Department of Planning that any conditions that might be imposed on the Cockle Bay redevelopment cannot be overturned by a subsequent MOD, as has been the case in the recent approval of an MOD which substitutes a commercial party boat marina on a public recreation site to accommodate the not-for-profit Sydney Heritage Fleet Museum and moorings for Heritage vessels. In this instance, the PACs original DA consent contained conditions which restricted the Sydney Heritage Fleet Marina's use to:

...vessels of the Sydney Harbour Heritage Fleet or other affiliated maritime heritage organisations. Private vessels, boats, must not be moored at the maritime facility at any time.

And yet a MOD has been approved by the department. That just got thrown out. MODs have become increasingly popular with developers as a way of getting what they wanted all along without the more intense scrutiny applied to new DAs. We are heartily sick of the ad hocery of the current planning laws. One can't call it a system or even planning. We look forward to a day when development is in accordance with strategic master plans, developed in partnership with local governments and the communities they serve. Thank you.

MR DUNCAN: Thank you, Elizabeth. I'd now like to call our next speaker, Neil Ingham. Neil represents One Darling Harbour and has requested 10 minutes. Thank you, Neil.

5 MR N. INGHAM: Thank you, Mr Chairman. Thank you, members. My objection is to the development proposed, not to what the department says about it but to the development proposed at 241 to 249 Wheat Street, Cockle Bay. It's made on behalf of the residents of One Darling Harbour who directly face the site across Cockle Bay. It is also made on my own behalf as a town planner with over 40 years' experience in
10 city planning. As an ex-member of the Central Sydney Planning Committee and the person interested in the form and the future of the city of Sydney. The objection is based on four grounds that conclude the development should not proceeding in the form proposed.

15 These four grounds, which will be discussed in more detail later in this objection, are as follows. Objection 1, the proposed tower is much too close to Pyrmont Bridge, a significant heritage item, is inconsistent with the low, horizontal form of the bridge and with other long held principles relating to Cockle Bay. Objection 2, the
20 proposed development has ignored and not bothered to mention or discuss the exceptional heritage significance that Sydney Harbour and its foreshores as set out in the Sydney SREP (Sydney Harbour Catchment) 2005, which is still law. Objection 3, the proposed tower building is much too high and is unreasonably close to Cockle Bay. Objection 4, the proposed proposal is totally inconsistent with the view of the Sydney Harbour Foreshore Authority, at least as it existed in 2016.

25 The proposed development does include some positive elements. There is no objection to the use of the site for retail or commercial use. There's no objection to the reconnection of Pyrmont Bridge with Market Street or to the use of part of the site as open space. The objection is to the scale and form of the proposed uses.
30 Now, let me address objection 1. The proposed tower is much too close to Pyrmont Bridge and is inconsistent with the low, horizontal form of the bridge. The application suggests that the horizontal form of Pyrmont Bridge will be enhanced by a contrasting building with a height of 195 metres. This is an opinion which is not mirrored by any previous studies or finding. Indeed, previous studies have all
35 required buildings of substantial height to be set back from the Cockle Bay and ensure protection of the heritage significance of Pyrmont Bridge.

From an urban design perspective, Pyrmont Bridge is a heritage item which has suffered much abuse throughout its history, the cutting of the direct link of the bridge
40 with Market Street and the construction of the monorail to mention two. However, the fact that the heritage significance of the bridge has been abused in the past is no reason to create another abuse. The proposed tower building will dominate Pyrmont Bridge and diminish the heritage significance of the bridge. The argument that the provision of the large public open space area between the tower and the bridge is not
45 a justification for a tower building. The open space could still be provided with a low scale building or a lower scale building.

5 The EIS argues that the verticality of the tower will complement the horizontality of the bridge but it will stand out a very fat goalpost, which must damage the significance of the bridge. It will be seen as a very large vertical element compared with the more graceful receding horizontal form of the bridge. If a tower is to be built at all, it needs to be set back at least as far as the western edge of the Western Distributor. Because it's located in the context of Darling Park, it needs to be a smaller tower than is now proposed and located further from Cockle Bay.

10 The Sydney Harbour Foreshore Authority has throughout its history ensured the protection and preservation of the valley floor between Pyrmont Bridge – between the Pyrmont ridge and the city ridge along Hyde Park, requiring a low rise building to be close to the waters of Darling Harbour and Cockle Bay before the development of a high rise building takes place. The proposed building totally destroys the principle of being located very close to Cockle Bay without any separate low rise building being located on the western side of the tower. It is now only six metres from the Cockle Bay foreshore and the tower is only 11.2 metres from the foreshore. Approval of this tower would create a precedent for numerous other high rise redevelopment schemes adjacent to the waters of Darling Harbour.

20 The heritage significance of Pyrmont Bridge and the significance of the valley form would be destroyed by the proposal. Attached is appendix 1 and included in the EIS illustrating the impact of the proposed tower in the context of Pyrmont Bridge. How it can be said that the tower will complement the heritage of the bridge is difficult to understand. The reduction in height proposed in a revised DA does not to any degree overcome the height problem. Attached is appendix 1 and included in the – appendix 2 and included in the EIS are illustrations of the relationship between the tower building and Pyrmont Bridge, together with a relationship with the existing Darling Park building and the proximity to the exceptional heritage qualities of Darling Harbour. The image illustrates the character height of the building – of the proposal to Cockle Bay. Unfortunately, I do not have any image directly from the south to illustrate the destruction of the valley floor between Pyrmont Bridge and the city ridge.

35 Objection 2. The proposed development has ignored and not bothered to mention or discuss the exceptional heritage significance of Sydney Harbour and its foreshores as set out in SREP Sydney Harbour Catchment 2005. The SREP Sydney Harbour Catchment 2005 includes the site within an area covered by the SREP. The SREP has as its first aim the following:

40 (1) *This plan has the following aims with respect to the Sydney Harbour Catchment:*

45 (a) *to ensure that that catchment, foreshores, waterways and islands in Sydney Harbour are recognised, protected, enhanced and maintained –*

and (7):

...as an outstanding natural asset –

and (8):

5 *...as a public asset of national and heritage significance, for existing and future generations.*

The SREP identifies the whole of Sydney Harbour Catchment, including the foreshores and waterways as “a public asset of national and heritage significance”.
10 Nowhere in the heritage statement – impact statement is there any discussion of the waterways of the foreshore of Darling Harbour being of national and heritage significance. It is submitted that, as stated by the SREP, the location of the foreshores of Cockle Bay is such a location that the tower building proposed would significantly impact on the national and heritage significance of Cockle Bay because
15 of its height and proximity to the waters of Darling Harbour. It would introduce a jarring element into the locality which would destroy the principles which have applied to Darling Harbour for at least 28 years. Nowhere within the revised DA is it acknowledged that Cockle Bay adjoining the proposed development is a heritage item.

20

The SREP goes on to reinforce the inclusion of Darling Harbour as a heritage item. Under the heading of Heritage Conservation, it states the following:

The planning principles for heritage conservation are as follows:

25

(a) *Sydney Harbour and its islands and foreshores should be recognised and protected as places of exceptional heritage significance.*

30 If the foreshore of Sydney Harbour is mandated to be protected as a place of exceptional heritage significance, it is difficult to understand why it has not been mentioned or discussed in their heritage report and why there is no mention of its exceptional heritage significance in the EIS. Have I only got a minute?

35 MR DUNCAN: Sure. Yes. How much more time do you want? Two more minutes?

MR INGHAM: I've got three pages.

40 MR DUNCAN: Okay. Do what you can. Another two minutes.

MR INGHAM: Thank you.

MR DUNCAN: Thanks.

45

MR INGHAM: It is to be noted that the boundary of the SREP Sydney Harbour Catchment extends well beyond the Cockle Bay location to embrace a land area

including part of the site. Cockle Bay is shown as being within the W1 – Maritime Waters zone. In 2006, Darling Harbour Building Heights Study by Tony Caro included a diagram which showed building heights increasing as building moved away from the harbour. While the study did not discuss the heritage of Pyrmont Bridge, it did indicate that where the proposed tower is now located, with a height limit of nought – there would be a height limit of nought to five metres adjacent to Cockle Bay and five to 30 metres to the Western Distributor. It is stated on page 9 of the revised EIS that a design committee was established to consider the public and agencies’ submissions which had been received during the first public exhibition.

design committee included the architects, as well as Tony Caro of Tony Caro Architecture who in 2006 in a Darling Harbour Building Heights Study – as previously stated, it indicated where the proposed tower is now located that height limit should be five metres adjacent to Cockle Bay and five to 30 metres to the Western Distributor. The EIS does not indicate whether there was any dissenting voice on the design committee as it appears the committee consisted predominantly of people working for the applicant ensuring its lack of independence. There are no bounds upon which ignoring these standards is justified in the EIS. In the Darling Harbour South Master Plan 2010 prepared by JPW states that:

The overall height of built form steps up as it rises away from the valley floor towards the Ultimo/Pyrmont ridge and more significantly towards the city ridges of George St and Hyde Park.

The proposed tower building ignores the design principle. In 2014 a study titled the Western Harbour Precinct Design Guidelines of Woods Bagot referred to building height adjacent to the waters of Darling Harbour. It said that low lying buildings were to front the water and to embrace the public realm and provide an important human scale to the waterfront. The proposed tower building ignores the stepping principle established by the three studies mentioned. The proposed tower building ignores the fact that it will create significant shadow on the public promenade along the eastern side of Cockle Bay.

This is contrary to established development principles on both sides of Cockle Bay. The issue will be discussed later in this objection. Now, objection 3, the proposed tower building is much too high and is unreasonably close to Cockle Bay. Design principles have been applied to the Darling Harbour and Cockle Bay for at least 28 years. There’s been a longstanding principle that any building close to the waters of Darling Harbour and Cockle Bay should be low rise, as with any taller buildings set back behind the low rise buildings. The principle has been applied along the whole of the foreshores of Darling Harbour and Cockle Bay.

I’m not aware of any exception to this principle apart from the casino building at Barangaroo where the building is set back significantly from the harbour, yet, here an application is lodged which ignores this established principle. As previously stated, the study in 2006 Darling Harbour Building Height Study, followed by the Darling Harbour South master plan in 2010, followed by the Western Harbour Precinct

Design Guide, followed by a Darling Harbour Urban Form Strategy in 2016, all promoted the concept of low rise buildings set back from the waters of Cockle Bay.

5 A 2010 study stated that the overall height of building form was to step up as it rises away from the valley floor towards the Ultimo Pyrmont Bridge and more significantly, towards the ridge of George Street and Hyde Park. Historically, all the recent studies embrace the principle of buildings stepping up as their distance increases from the waterfront. The proposed development ignores them all. The proposed tower building turns its back on these principles graphically seen from
10 the photographs that I put in appendix 1 and 2.

MR DUNCAN: Neil, we're sort of getting over time a bit. Do you want to wrap up and we'd be happy to publish on the website those - - -

15 MS: I would be happy to hear some - - -

MR INGHAM: Well, let me say that - - -

MR DUNCAN: All right. Well, keep going. Keep going then.

20

MS:

MR INGHAM: Let me talk about objection 4 - - -

25 MR DUNCAN: Thank you.

MS:

MR DUNCAN: Thank you.

30

MR INGHAM: - - - which is the proposal totally – is inconsistent with the views of the Sydney Harbour Foreshore Authority as it existed in 2016 just before it was extinguished. In 2016, the Sydney Harbour Foreshore Authority produced a document titled Darling Harbour Urban Form Strategy. The document set out urban
35 form principles for Darling Harbour and specifically for any redevelopment of Cockle Bay Wharf. The principles established for the wharf are set out below. They are not discussed in the development application:

40 *Cockle Bay Wharf –*

it says –

45 *is a food, beverage and entertainment complex on the eastern side of Cockle Bay. The landowner guidelines for development are as follows: maintain a balance between built form and foreshore building on the eastern and western side of Cockle Bay –*

which is not satisfied:

Ensure no net reduction in the amount of sunlight to the public promenade and waters of Cockle Bay –

5

which is not satisfied:

Set back buildings and outdoor seating – eating areas at least 20 metres from Cockle Bay, to provide adequate public access and gathering opportunities –

10

which is not satisfied:

Present an attractive and active frontage to the public foreshore promenade to enhance for visitor experience.

15

Well, that's not satisfied because it's covered by building and quite a bit of it:

Respect the heritage significance of the Pyrmont Bridge, including the visual setting and approaches –

20

which is not satisfied:

Design buildings which are restrained and unpretentious and subordinate to the landmark ICC building on the south-western side of the bay –

25

which is not satisfied. The ICC building, of which you may be aware, is set back over 100 metres from the foreshore. This building is being proposed – the high rise building – just over 11 metres from the foreshore. The principle that there be no net reduction in the amount of sunlight to the public promenade and waters of Cockle Bay is ignored by the applicant. The tower building creates very substantial additional overshadowing of both the public promenade and the waters of Cockle Bay. Outdoor eating areas and buildings are to be set back at least 20 metres from Cockle Bay, a standard which is ignored by the building proposed.

30

35 The proposed tower building is set back, in its low rise form, for only six metres from Cockle Bay. Indeed, it is my opinion that none of the design principles of the Sydney Harbour Foreshore Authority are satisfied by the proposal. And then, I conclude that these things are not satisfied and that the building, or the proposal as proposed should be rejected.

40

MR DUNCAN: Thank you. Thanks, Neil. If you'd like to hand your papers to Robert after – at the end of the meeting, he'd be happy to take them. Thank you. I'd now like to call on our third speaker, Diana McAuliffe, who's representing Millennium Towers Committee. An allocated time of 15 minutes. Thanks, Diana.

45

MS D. McAULIFFE: Okay. My name's Diana McAuliffe. I'm on the committee of Millennium Towers and represent many concerned owners. Millennium Towers

is a 22 storey building on the corner of Day, Bathurst and Sussex Streets. It was built by Meriton in 1998. It was about – it has about 309 residential units and some commercial units on the ground floor. We have many concerns but have to wonder primarily at how thoroughly the assessments have been done. On page 65 of the
5 SSD 7684 there is mention that – and I quote:

The VIA originally considered impacts on Millennium Towers (currently under construction). However, as that project has since been modified to remove residential use, it no longer forms part of this assessment.

10

End of quote. Word for word. This building, when viewed, clearly is not under construction and houses many residents, including myself, and has housed residents for about 20 years. This lack of thoroughness puts that whole assessment under question. How are they actually making their conclusions on these assessments. If
15 they are wholly relying on computers without any personal visual assessing, are they in fact using correct distances and building heights, etcetera, to determine the outcomes? We wish to be accurately assessed as to how this building will impact on our views, on the overshadowing, on wind changes, on future noise, on traffic, on future solar access, on our property values and any other assessments that should or
20 need to be done.

There is concern over the height, density and lack of imagination in the design of the building. The building is extremely dense and block-like with no real shape to it or colour and encroaches on the waterfront in an imposing manner. It is trying to create a precedent for its size and placement by comparing itself to several buildings in the
25 area. One is the Sofitel, which is set back from the water with shorter buildings semi in front, giving it more of a step back feel. It also has a lovely lighting effect, especially at night, and interesting features and colours during the day. The Barangaroo buildings which, once again, have shorter buildings in front of them,
30 creating a step back effect, and the IMAX, which is 25 storeys and not over 40 and also is a fair way removed from the water and has some shape and style, although also wall like which is another storey.

And just to add in, that is an example of modifications. The original building was only supposed to be 22 storeys high and they kept putting in modifications and
35 modifications and it's now 25 storeys high. And originally it was not supposed to be any higher than the tunnel air outlet and now they're proposing to open air their swimming pool and now they're – of course, they're higher than the tunnel outlet, they're going to have to put in alarms that will sound if the air quality is not good
40 enough. So the – I agree with the previous speaker that the modifications is a way that they try to get what they want originally.

They're prepared to put something less in and then they modify and modify and modify and they just hope that they will relentlessly get us people who are trying to
45 follow everything that's going on to just give up because it's just so much paperwork to always go through and try and figure out what they're actually asking for. And the change of their meterage on floor space has been modified, has been modified, has

5 been modified so there's a perfect example of modification usage by developers. I have viewed the artist's impressions and I feel that this building looks out of place and out of character due to its height and block-like appearance and its close vicinity to the water. You can see on page 46, figure 20, and also page 61, examples of how it stands out.

10 The new buildings are already giving a crowded feeling to Darling Harbour and locals are now calling it Darling Ponds and no longer Harbour. It used to be a lovely sunny place to go to, but now seems to be more in shadow than in sun due to the shadows created by surrounding buildings. See page 47, figure 22 for an example of this.

15 And also has a more cramped and enclosed feel due to the taller massive buildings that are now appearing and encroaching on the waterfront. So much offices within the building will increase traffic on the narrow walkway section and the idea of trying to reclaim water surface area in order to increase the width of the path is ridiculous. The tourist attraction is the harbour.

20 This harbour attracts many tourists as well as provided a solace for many nearby residents because this is where we can get our open space from and a breather from the tall buildings we're surrounded by, and to many – a place of interest for many other Sydneysiders that come in on the weekend with their families. Decreasing the actual visual amount of water in an already small enclosed harbour does not make sense.

25 We really would prefer not to have this tower built at all, but if – we certainly agree that it needs to be set further back. They're trying to move it closer to us by moving it south. The height is still atrocious and, of course, insofar as our building is concerned, shortening it and moving it further south does nothing to the overshadowing lessening for us. As a private aside, I have a concern also about the Dancing Brolga fountain.

35 This is a fountain that gets photographed by tourists continuously and it would be a great tourist loss to have it demolished and not relocated. In short, Millennium Towers requires to be included in the assessments and our voice needs to be heard. I personally have spoken to residents who are prepared to march in protest. Now, I have not heard of this sort of anger about a building proposed ever, their feelings are that strong about this tower.

40 So I have my thing here as well, but I rushed through it because – anyway. I just think that we really have to think very strongly about this assessment. How could they possibly deem a building that has been in existence for 20 years and has 309 residential units – far more than the Astoria – and deem us as not even complete, as only commercial and therefore needs to be neglected. How have they really done their homework on what they are presenting? To me, the whole assessment needs to be thrown out because they haven't done their homework. They have not done their homework properly. It puts everything into question. Thank you.

MR DUNCAN: Thank you, Diana. And likewise, if you wish to hand your presentation to Robert afterwards, we will take account of that. I would like to now ask our next speaker John McFadden from State Planning Services. John has been allocated 10 minutes.

5

MR J. McFADDEN: Thank you, Mr Chairman and members of the commission. Ladies and gentlemen, my name is John McFadden. I work for State Planning Services. I'm a town planner. I would like to honour Mr Ingham. I have a great deal of respect for Mr Ingham here as a town planner and thanks to Neil, he has enabled me to cut my submission quite short. So I would like to point out that I actually represent Astoria Tower while is located to the east of the development, and in particular, I'm representing the owners corporation of Astoria Tower at 222 Sussex Street, which is the owners corporation of strata plan 53413. And that particular building has 115 units in it and between our site and the subject site is Darling Park at 201 Sussex Street, Sydney.

The reason why I mention this is because Darling Park is relevant. I also believe where we are sitting today is relevant. The minute we walk out of this room we see the site and we see the extent to which this proposal will be, in effect, a development and display excessive bulk and scale and it will dominate the foreshore. The reason why I mention Darling Park is because your first observation upon leaving the room – well, those of you who know the area, is that it has three towers and from the waterway through those towers you can see 222 Sussex Street. My point is there's a reason, there's an urban design reason, there's an architectural design reason, why Darling Park has three towers and is not a single large development. It provides a view corridor. It provides for solar access. It provides for residential amenity.

Ladies and gentlemen, may I point out that Astoria Tower at 222 Sussex Street predominately has a western façade. Now, that is relevant in that one of the main significant impacts that have been pointed out by way of the assessment, and I respect that the purpose of this meeting for the commission is to hear the views of the department's assessment report – this is a – as a town planner and also as a member of the Independent Hearing and Assessment Panel, the local planning panels, I think I'm obliged to point out that there elements of the assessment that are fundamentally flawed, including, but not limited to, a statement that the department has carefully assessed the overshadowing impacts of Astoria Tower and although the proposal would overshadow apartments in the western elevation of the Astoria Tower, approximately three hours of sunlight is retained on the most affected day, that day being stated on page 6 as 28 January.

Now, as we know with overshadowing, generally the winter solstice around 22 June is the most affected day. It certainly concerns me that the department can go on to form the view that, on balance, the impacts on Astoria Tower are acceptable, and I think that the statement that is further made that the department notes the environmental impacts, including overshadowing, view loss, solar and wind impacts,

have been considered in relation to the maximum building envelope, and therefore represent the worst-case scenario.

5 Now that is something I'm concerned with. Mr Chairman, I would like to request that on behalf of our client, that we provide a subsequent submission, not only because the applicant's own response to submissions dated 5 July 2018 fails to acknowledge the extent of our submission, ladies and gentleman, a 32 page submission, and it's not mentioned? I find that extraordinary, especially because in that submission it is made abundantly clear that with respect to the loss of views and
10 adverse visual impacts, no, we didn't simply quite – we didn't quite simply have a whinge about it. We engaged a land and environment court expert who demonstrated that the applicant's visual impact assessment was indeed inaccurate. Now, it does concern me greatly that in reviewing the draft consent, which, in my own personal opinion, and I'm sure in the opinion of others who I greatly respect, are
15 way too vague, and certainly refer to the applicant's original visual impact assessment.

We have adequately demonstrated, by way of engaging a land and environment court expert express – are inaccurate. Now, the design amendments that have been made
20 to the proposal are tokenistic. I mean, essentially moving the tower to the south arguably creates even greater impact. I think that there's issues here at stake that certainly warrant a further submission. I think we would also be reasonable in requesting an extension of time in order to provide that submission, and in doing so, I think it's relevant to point out, as I mentioned from the outset, that what we have
25 here – when we leave this room, the first thing you see and what you appreciate is the human scale of Cockle Bay.

We've had well respected members of our community indicate what is obvious by way of setbacks with towers. We need to acknowledge the background by way of
30 Darling Park, why there's three towers and not one big building. There's a view for that view corridor. There's a need for that solar access, that amenity. And, yes, this development will be overbearing. Reducing the height by 12 metres? Well, I'm sure there's a wedge tail eagle that might appreciate that. But in terms of the incongruous – it will create an incongruous feature on the Darling Harbour foreshore, so that
35 human scale will be lost.

In terms of the actual streetscape impacts on the road network, there will also be an adverse change to the character of the Cockle Bay Wharf. We believe that there's
40 excessive view loss, and I think that it's – if need be, we're happy to provide verification of that in a subsequent submission to the Commission. And by way of the Warringah v Tenacity planning principles that were established by the Land and Environment Court, I think they're very, very clear.

45 And, in my view, it is unacceptable to simply quote the words, "Well, on balance, the impacts are acceptable". No, no, they're not, in fact, one very, very prudent observation that has been made is that the Darling Harbour Development Plan Number 1 does not contain any planning controls in the form of height or floor space

ratio or requirements – perhaps if we are to look at State Significant Development, it might be a good starting point. And so, ultimately, we’ve got high value land and water interface views which will be lost.

5 We’ve got residential properties affected – given that – if you could imagine your only predominant façade is to the west and your water view is to the west and post-development your water view is lost, that equates to loss of residential amenity. Now, by virtue of spending \$649 million on a building does not automatically entitle you to say, “Well, we are within a concept envelope, whether that concept envelope is flawed or not, and therefore we’re spending that money State Significant
10 Development should be okay”. No.

We need to respect the objects of the Act, section 4.15 of the Environmental Planning and Assessment Act 1979. We need to ensure that the impact is not severe
15 to devastating for the residents, especially of Astoria Tower, 222 Sussex Street, the 115 residents, who will be – most of which will be affected by this development adversely. And I think it’s relevant that – to say that the development is unreasonable due to the height and bulk, particularly with respect to the tower component.

20 This is a sensitive location on the waterfront of Sydney Harbour. And as has been pointed out in great detail, we need to respect the Sydney Harbour Catchment policies. It’s certainly arguable that the proposal constitutes an improvement to the urban form and I think that in reviewing the assessment that has been made with –
25 complete with a recommendation of approval which is difficult to absorb. We reject that the Department has carefully considered the amenity impacts on Astoria Tower.

And in providing a submission in response to this development, we have respectfully invited the inspection of 222 Sussex Street, Astoria Tower, to gain an appreciation of
30 those impacts and I think that that inspection is warranted. The applicant has made a political disclosure statement. It’s warranted. Spending \$649 million on a development doesn’t equate to a licence to create significant adverse impacts on surrounding development and destroy the amenity of the Cockle Bay Wharf.

35 Now, it’s very easy to look at the assessment and to review the draft conditions and to contend, as I’m doing now, that the assessment of this proposal is almost as flawed as the proposal itself, meaning it is reasonable that the proposal be further reviewed, it is reasonable that we consider planning controls for Darling Harbour Development Plan Number 1, it is reasonable that our clients at 222 Sussex Street in Astoria Tower
40 maintain their residential amenity, do not have significant view loss and do not incur significant overshadow and that those matters be reasonably considered and hopefully at least properly acknowledged as opposed to being dismissed on balance.

45 Members of the Commission, Mr Chairman, thank you for your time and, as I mentioned from the outset, our clients would like to request the opportunity to provide a further submission on this matter in direct response to the Department’s

assessment report and the draft conditions that are proposed and, in summarising, we object to the proposal.

5 MR DUNCAN: Thank you, John. And, just for clarity, we will – not only accept the current submission you’ve got but also if you talk to Robert after the meeting, you can negotiate or discuss a timeframe our next speaker is Guy Di Benedetto and he has asked for one minute. Thank you.

10 MR G. DI BENEDETTO: Mr Speaker, ladies and gentlemen, I’m not as educated and well – a great speaker like my previous speakers. I will make my point very briefly. As a local resident and also a member of Pymont Action Group. I live in One Darling. I don’t see the sun till 7.30 every morning. I live on the ninth floor. Once this tower goes up, I don’t think I’m going to see the sun until 12 o’clock. Darling Harbour has become a black hole. I’m here speaking not just on my behalf
15 or the Pymont Action. I’m speaking for the people of Australia. I’m speaking for the people that visit this country.

This tower is going to be ugly. We do not need a tower of this size so close to the water. It is that big that they had to shadow it into the sky – colour it the same colour
20 of the sky. The towers that’s there now, they are 30 storey – 30 levels high that I can count from my place. Could be more. This tower is double this size. When those towers were built there were objections from the council. They didn’t want them to go so high and the only reason they went that high, that they created a beautiful garden right in front of it. I don’t know how many of you people have seen it.
25 There’s a beautiful landscaped area where people can go there and sit there and read a book or – this tower is going to destroy that. But that’s not the point.

The point is Darling Harbour was designed like a platter. When the council was in charge it was designed like a platter, low at the front and you went back, and two
30 streets back then you were allowed to go higher. That platter has become a bucket, a black hole. People that come here will be able to see a hole. They come close from the shore and then they put a walkway around the foreshore because the path is not wide enough to allow the people to walk there so they’ve got to put a boardwalk onto the water. The whole water’s becoming closer and closer.

35 They got a beautiful picture here of what they’re going to do. A paddock. It looks like Mount Fairfield where it grows – somewhere with a large – big cow paddock. And trees along the footpath. Wow. Big trees. Where you going to put these trees? I rang up a couple of times and I said it’s all an artist’s impression so is the whole
40 building an artist’s impression? What are we – where we come up to? This building does not belong there. This building must not be passed.

This building, it’s going to create an ugliness in Darling Harbour. Look at those ugly buildings they built all along the foreshore and some of them they had to demolish
45 because they were too close and too ugly. They said they moved – they reduced it from, I think it was to 250 to 195 and it’s now 183 RL. I was led to believe that’s

roof line. An RL from the top of the podium that I can see on my brochures here divided by three, it's 61 storeys. Am I right?

MR DUNCAN: We'd need to – just to check that. We can check that in our report.

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MR DI BENEDETTO: 61 storeys. Elizabeth thinks it's going to be 42 storeys. It's 61 storeys above the podium. I mean, that's all in black and white here. Who are we kidding? This is our country, this is our land. Well, it is now. It wasn't when I was young. I come to this beautiful country and I stand up for this country. This is our country, not the government or the developers. This is what we want to develop, not what the money – government – greedy government or the developers want. Let's stand up. You want to organise a rally, I'll be with you. I'll hold the front banner. This building does not belong there. Please object. Thank you very much. Thank you, Mr Speaker.

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MR DUNCAN: Thank you, Guy.

MR DI BENEDETTO: Thank you.

MR DUNCAN: That concludes the formal speakers for today. We, as I've said before, have been through a process meeting with the Department of Planning, with the applicant, with council and now we've heard from the speakers today. We'll go away now and consider everything that we've seen, we've included site inspections as well, and complete our process. However, if you wish to make a further submission, we would be comfortable to take submissions within a week. At least one week. So that – we'd be happy to take further submissions up until this time next week. But if you've made a presentation today or previous submissions that you wish to submit today, feel free to give those to Robert now. So at that point unless, fellow Commissioners wish to - - -

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MS: Have any questions.

MR DUNCAN: - - - make any questions or comments, we'll conclude proceedings there. But thank you again for attending and thank you for the effort that you've put into your presentations. Thank you.

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MS McAULIFFE: I'm sorry. I did miss a little bit of my speech and thing was also just about the glare. There's been no mention about the materials used and because – well, like, Millennium Tower is a lot of west facing, we're concerned also about the materials that are going to be used and the glare that will be created by the glass.

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MR DUNCAN: Thank you for making that point.

MS McAULIFFE: Thank you.

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MR DUNCAN: Okay. Thanks very much. Thanks, everybody.

RECORDING CONCLUDED

[11.03 am]