

19 May 2021

Our Ref: R/2016/41/D
File No: 2021/219448
Your Ref: SSD-7874

Stephen Barry
Planning Director
Independent Planning Commission NSW
By email: ipcn@ipcn.nsw.gov.au

Dear Stephen,

Response to Additional Material – Stage 1 Harbourside Shopping Centre Redevelopment (SSD-7874)

Thank you for the opportunity for the City of Sydney Council (“the City”) to make a submission under consideration of the Independent Planning Commission (IPC) for the Stage 1 Harbourside Shopping Centre Redevelopment.

The City has reviewed the material and submits the following:

1. Alternative building envelopes

The City supports the alternative building envelope proposed by the IPC. This envelope delivers an optimal public amenity outcome than the proponent’s alternative option for the following reasons:

- The increased size of Guardian Square is delivering public open space commensurate with the intensification of the site and the anticipated increased pedestrian foot traffic from the newly announced Sydney Metro station at Pyrmont. It also improves the scale relationship of the northern section of the podium with Pyrmont Bridge and improved interface between Pyrmont and Darling Harbour;
- The more slender tower with greater setbacks to the podium measurably improves solar access to the promenade between 12.45pm and 1.45pm at mid-winter. Any work to make this important part of the urban realm protected from shadowing till 2.00pm mid-winter would be welcome and consistent with the Sun Access Planes for Pitt Street Mall and Martin Place contained under the Sydney Local Environmental Plan 2012;
- It is likely that the improved setting back of the tower would alleviate wind impacts along the pedestrian foreshore environment; and
- The reduced podium improves view sharing from 50 Murray Street due to the northern portion of the podium being lowered to maintain existing views.

The City note in the proponent’s response to the IPC request to reduce the overall height of the podium to RL 11.80 that it would result in an insufficient floor to floor height of the first floor retail. If this is to be accepted, then the podium level should be no more than RL 12.50, premised that such an increase in height will not have a

detrimental impact solar access to the promenade during the lunch time period of 12 noon to 2.00pm midwinter, as well as view loss for 50 Murray Street.

The City also makes a recommendation to the IPC's preferred envelope to increase the width of the foreshore promenade at the north from an absolute minimum of 14 metres up to 20 metres. The increased width would be commensurate with the anticipated increased intensity of the site, particularly in light of the new metro station at Pyrmont being a connection for pedestrians entering and leaving the promenade level up to Pyrmont Bridge Road / Union Street, and is in keeping with Darling Harbour as the premier event and gathering space for Sydney if not NSW.

The 20 metre width would also be commensurate with the width of other foreshore areas including Barangaroo (26-30 metres) and Circular Quay (20 metre). Further, it is recommended that the stairs connecting the foreshore to Guardian Square be open to the sky to improve and define its legibility as a public connection from the foreshore to Pyrmont and vice versa. A clear break will also assist in creating a finer grain response to what is a very elongated site / building envelope.

If this project is approved, these **two additional measures to the IPC suggested envelope** would reinforce the strategic vision of the Pyrmont Peninsula Place Strategy (PPPS) and the aims of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 in maintaining the Darling Harbour precinct as a public asset that fosters recreational, entertainment, commercial and leisure activities within the harbour foreshore.

2. Covenant/restrictions to safeguard residential amenity

It is noted that you have requested the Department to provide examples of precedents whereby a covenant/restriction advising purchasers and occupiers of the potential amenity impacts of the precinct in which they are located has been placed on title and effectiveness of imposing that covenant/restriction. The Department have cited that the Sydney Olympic Park Master plan requires a Section 88D instrument (normally a Section 88E instrument on land outside of this precinct). However, the Department fail to demonstrate that this has actually being imposed and if so its effectiveness and relevance to the intensity of Darling Harbour.

Moreover, it is the City's view that such a covenant/restriction will not be enforceable as imposing a condition to that effect does not have a planning purpose and in practice will be effective. The covenant/restriction will not operate to mitigate noise or ensure appropriate residential amenity but merely operate to notify future occupiers. It should be noted that the *Protection of the Environmental Operations Act 1997* provides future residents a legal entitlement to seek a **noise abatement order** in addition to seeking action from regulatory agencies such as Council and the Environmental Protection Authority. There is no power under planning legislation to prevent this.

As the City has emphasised throughout the assessment of this application, the residential land use is incompatible for this site and precinct and would undermine the vision of a vibrant 24-hour cultural and entertainment precinct envisioned under the PPPS.

3. Darling Harbour Ferris Wheel

The IPC requested confirmation as to whether Place Management NSW have granted landowner's consent to the proposed larger Ferris Wheel currently being considered by Council. It is indicated in the additional material that the application was lodged without landowner's consent and is pending further discussions with the proponent of this proposal before any decision to grant owner's consent is made.

The amendments to the Environmental Planning and Assessment Regulation 2000 on 1 July 2020 removed the statutory requirement to provide written evidence of owner's consent to the lodging of development applications. The requirement has been replaced with the need for the applicant to declare that owner's consent has been obtained to submit the application, having regard to the provisions of Section 10.6 of the Environmental Planning and Assessment Act 1979.

Whilst a declaration has been made that the applicant has obtained landowner's consent for the lodgement of the DA for the larger Ferris Wheel, the City has requested for evidence of owner's consent and for confirmation on the permanent location of the Ferris Wheel before the application and can be further assessed and determined.

Should you wish to speak with a Council officer about the above, please contact Reinah Urqueza, Specialist Planner, on [REDACTED] or at [REDACTED]

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G Jahn', written in a cursive style.

Graham Jahn AM LFRAIA Hon FPIA
Director
City Planning | Development | Transport