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Independent Planning Commission
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20 May 2021

Dear Commissioners

Harbourside Shopping Centre Redevelopment, Darling Harbour (SSD 7874) – One Darling Harbour Comments on Additional Mirvac Material

The Strata Committee representing the Owners of Strata Plan 49259, One Darling Harbour, (ODH) appreciate the opportunity to respond to the additional information provided by Mirvac and the Department.

1. ODH share the concerns identified by the Commission regarding:
 - a. whether the proposed development meets the public use and entertainment mandate for this site;
 - b. the height of the proposed northern podium; and
 - c. the functionality of the proposed rooftop public space.
2. ODH supports further (more detailed) assessment of alternative proposals more in keeping with planning objectives for the site.

Planning Objectives and Criteria for Assessment

3. Mirvac has proceeded on the basis that 87,000 sqm GFA (4.24:1 FSR) is a necessary, and appropriate criteria for assessment of the reasonableness of the development. This is not supported by the planning objectives for the site, or the “comparable” sites identified by Mirvac. The site currently supports an approximately 20,000 sqm GFA. The density comparison study provided by Mirvac identifies sites with very different locations and planning contexts. The most relevant site in terms of size and waterfront location is the Cockle Bay Wharf Redevelopment, which is located on the city side of the Cockle Bay (3.57:1 FSR). If a similar FSR was applied to the Harbourside site this would provide a GFA of 73,185sqm. A reduction in the northern podium height to 11.8m RL (reducing the GFA by circa 16,000 sqm) would provide a GFA of circa 71,000 sqm.
4. The GFA proposed by Mirvac is high and out of character for private development on this side of Darling Harbour. Any benefit to the developer associated with gains in the development potential of the site must be counterbalanced with a significant public offering – high quality usable space without devastating amenity impacts for existing residents.

5. The planning objectives for the site established by the Harbour SREP and the Darling Harbour DCP (which are the current and applicable EPIs) prioritise the public use of this site for tourism and entertainment purposes and maximising the public use and enjoyment of land at the waterfront. Mirvac's assessment of the waterfront domain is limited to the utility of this important space as a public thoroughfare – not a place to linger or enjoy the waterfront. Despite the use of inconsistent images and scale, it is clear from the analysis undertaken by Mirvac that, as a consequence of the proposed reduction in width of the public space at the waterfront, the waterfront public domain will not have the capacity to host a structure such as the Ferris Wheel. It is also apparent that the intention is to occupy significant parts of the waterfront domain, including much of the areas of land to be “given back” to PMNSW with permanent structures associated with outdoor restaurant dining. The asserted 474sqm additional public space at the waterfront is difficult to verify when no area dimensions are provided in the survey and the proposed “licence areas” are not identified.

Height of the northern podium

6. The current proposal for a largely 26.5/25m RL office block on the north of the site is unacceptable. It will have an inappropriate relationship with the Heritage listed Pyrmont Bridge, it will cast additional shadow on the waterfront public domain¹ (including the proposed event stairs) and it will have devastating view impacts for the residents of One Darling Harbour. The approved redevelopment of Cockle Bay has established a precedent for development adjoining Pyrmont Bridge to be restricted to 12m RL for at least 65m from the Bridge. This height restriction was considered the appropriate balance for allowing a high density tower on another area of the site.
7. The assessment undertaken by Mirvac of the implications of reducing the height of the northern podium to 11.8m RL was crude and extreme. There are undoubtedly other alternative proposals which would provide a significant commercial benefit to Mirvac and still restrict the majority of the height of the northern podium to 11.8m RL, provide meaningful public open space that is physically shielded from existing residences and create appropriate pedestrian connections.
8. We have set out in Annexure A additional comments on Mirvac's “assessment” of the impacts of reducing the northern podium to 11.8m RL.

Rooftop Public Space

9. It is preferred that public use and enjoyment of Darling Harbour be at the waterfront. Extensive elevated rooftop public spaces always create amenity, security and safety impacts that need to be assessed and appropriately managed. The proposed purpose(s) of the “parks” are still unclear. Is the area intended to be merely a public thoroughfare? Why are there so many different levels with a 12m height differential? Are rooftop bars or cafes proposed (most rooftop spaces in Sydney are given over to such uses) ? What structures are intended to be built? What major landscape features are proposed? What lighting is proposed? How will it be made safe for people below the park or its many levels?
10. It is unclear if a rooftop park with multiple levels open to the public 24 hours per day 7 days a week can be managed in a manner consistent with maintaining appropriate amenity for existing and proposed new residents and ensuring a safe and inviting space for those in the park(s) (and those below them). While some of these details will need to be provided further down the line at the DA stage, it is critical that the Commission be satisfied that an approximately 3,000sqm rooftop garden is appropriate in that location and will provide acceptable amenity for residents of Pyrmont and that the conditions associated with the concept approval will ensure that amenity impacts are appropriately managed and controlled.

¹ See Figure 17 at Page 15 of the Ethos Urban 12 May letter

11. ODH shares the Commission's concern that appropriate amenity cannot simply be achieved by placing on title (for new residential dwellings) a covenant which seeks to provide an acknowledgement of potential acoustic issues. The extensive litigation, associated with Luna Park, for example, demonstrates the tension between the public enjoyment of open spaces and the amenity expectations of residents who share that space. Whilst the Department has referenced conditions of consent for the Australian Technology Park (SSD 8517), it is important to note that the condition was only imposed after the Commission was provided with detailed air quality, acoustic and other assessments which demonstrated that the proposal would not cause adverse impacts.

Comments on Mirvac's Alternative Proposal

12. Mirvac has in a very short space of time identified an alternative approach which lowers the roof height of part of the northern podium and provides for less excessive stepping of the proposed public rooftop open space. We have the following comments on the proposal:
- a. The material provided is only a preliminary assessment of the impacts of this proposal. Further information is needed to allow the alternative concept to be assessed.
 - b. The alternative proposal provides no loss in GFA for Mirvac (i.e. Mirvac still achieves a windfall increase in GFA from 20,000 sqm to 87,000 sqm).
 - c. The reduction in height of a large portion of the northern podium is likely to have improve view impacts for residents of ODH. However:
 - i. the precise heights of the concept envelope need to be specified – for example, is it 21.35m or 20.19m?
 - ii. the extent of the reduction in view impact (for which apartments and how much) is unclear;
 - iii. the accuracy of the assessment is uncertain, compare for example, figure 27 in the Ethos Urban 12 May letter with the apartment 201 photomontages at page 22-27 of the VIA;
 - iv. the view impact of increase in height of commercial section from 26.5/25m RL to 31m RL is unknown (the view impacts on residents toward the south east will increase);
 - v. the ultimate severity of the impact and its acceptability is unclear – for example, we note that the Dr Lamb has assessed view impacts of the current proposal for Unit 504 as severe (whereas the VIA identifies it as moderate to severe); and
 - vi. the precise heights of the concept envelope also need to be specified – for example is it 21.35m or 20.19m?
 - d. There is a need for more analysis and better understanding of the public domain aspects, specifically the function and proposed future development constraints on the rooftop parks. In addition to the matters set out in paragraphs 9 and 10 above we note that a public park with wide stairs encouraging sitting stairs looking directly into our apartments (rather than the water) is a sign of poor design, as is the multiple levels, and lack of functionality or purpose to the space. It is hard to see how the rooftop podium at 20.19m RL or 21.35m RL could be used for anything but a bar or outdoor dining (which would create significant amenity impacts). There will still be

significant (and potentially dominating) 4m height differences in the many proposed levels of the park.

- e. The pedestrian walkway from “Guardian Square to Bunn St at the rear of the Harbourside site (and in front of ODH) is poorly conceived. The Bunn St connection is at 14mRL (not 18.8m as suggested in the drawing), the walkway will create visual impacts (e.g. lighting) and privacy concerns for ODH and the IBIS hotel and its location at the rear of the Harbourside site could create safety/security issues.
- f. The “event stairs” which were the only public entertainment related offering of the development appear to have disappeared.

13. The following further detailed assessment is needed before the Commission is in a position to make determination on the Alternate Proposal (or any other alternative proposal):

- a. View impact assessment of proposed concept envelope to be prepared for affected apartments at ODH; and
- b. Detailed urban design guidelines and objectives for any public spaces at the rooftop be articulated (including any proposed restrictions on use) and detailed commitments specified as to how amenity for existing and future residents will be achieved.

Conclusion

14. The Commission’s questions to Mirvac and the Department raise important issues that need to be resolved. It is clear that there is scope for further changes to the proposal which will balance the significant gain for Mirvac with tangible public benefit and less devastating impacts for the residents of ODH. It is critical that development in this key publicly owned harbourside location achieve this balance.

Yours sincerely

James Price

Chairman
One Darling Harbour
SP 49259



Annexure A: Comments on Mirvac's "reasons" why it should not be required to reduce the northern podium to 11.8mRL and reduce the residential tower floorplate

A. A loss of more than 16,000sqm (40%) of employment generating floor space (loss of more than 2,500 jobs);

Previous developments (Barangaroo, Australian Technology Park, Homebush, Parramatta Government Office tower etc) have NOT generated new jobs – they have moved jobs from other locations into new premises.

You can't have a 'loss' where the jobs don't already exist. Mirvac has no signed contracts indicating who is moving in and how many staff they are bringing.

Mirvac's plan will actually CUT jobs for ordinary people with the loss of 12,000sm of retail and restaurant space.

These figures seem spurious and not supported by evidence. In addition, there does not appear to be any consideration of a post COVID world where working patterns and habits have changed ie working remotely, regionalisation etc.

It is hard to believe office space in such an attractive location would be cheaper than less prestigious locations and with more and more people working from home, is more office space even a requirement in the current environment?

B. A loss of more than 30% of residential floor space (loss of more than 100 homes)

Again, these homes don't exist – this is a developers grab to turn public land into private space. Even the veritable Lucy Turnbull has recently tweeted that she is concerned about private firms making grabs for public land.

These homes weren't aimed as 'affordable housing' and therefore it is just a reduction in the HUGE profit margin that Mirvac would make.

Darling Harbor tourism precinct was never designed to accommodate residential floor space so close to the waters edge or be such a prominent feature in the original design or concept.

C. Undermining the site's State significance and contribution to local, district and regional planning objectives;

The site's State significance is about Public enjoyment of the area aimed at local, interstate and international tourists, not Commercial Office space and not permanent residents. To throw 'the public' onto a roof top garden and have to put in an enormous amount of money to keep them safely on the rooftop after you've given them access to alcohol would appear to be a bit of a waste. This land was gifted to the people of NSW as a Bicentennial gift. The purpose was for a Festival Market, to congregate and enjoy for the people. Mirvac's plan creates another North Sydney – a mix of commercial, retail and residential space. How many tourists (local or otherwise) have North Sydney on their destination list? Out of office hours, North Sydney is a deserted wasteland.

Reference is constantly made by the developer to Harbourside, but not Harbourside Shopping Centre redevelopment. Is this deliberate use of terminology to try to obscure the fact that the Shopping Centre (restaurants, Bars, retail) is to become only a minor part of the redevelopment (and much reduced from the current size), whereas the main new purpose/function of the development is focused on commercial office space (from which the public is excluded)?

There are no other tall towers this close to the water in Darling Harbour. This is for a reason - it creates a sense of openness and maximises the sun and light into all the public areas around

Darling Harbour and allows the harbour and Pyrmont Bridge to dominate and define the area.

D. Rendering the project commercially unviable at a time when NSW's recovery from COVID-19 requires the support of important industries such as the construction and development industry – which drive a significant amount of economic activity in NSW;

That is not the responsibility of the people of NSW. We should not have to make such a public sacrifice for the private profit of Mirvac. The public benefit of this project is minimal. Construction and development is at full tilt – have you tried to get a Tradie recently? They are flat out with more work than they can handle. Redevelopment of Harbourside in a smaller envelope that is better suited to its intended purpose will contribute to the construction and development industries. If a bigger space is envisaged by the Government then an open tender process is more applicable. Mirvac is in breach of its current lease by not maintaining the Festival Marketplace to the standard expected by the Government.

When Mirvac decided to purchase the Darling Harbor shopping centre, they knew the following;

- 1) The conditions outlined in the lease,
- 2) The area of the leased land along with the stated boundaries,
- 3) The remaining time left on the lease,
- 4) The financial results of the existing operation including gross and nett results,
- 5) The condition of existing structures,
- 6) The knowledge that whole area had been part of a tourism precinct.

For Mirvac to make statements of the project not being commercially viable, if they don't get what they want, is ridiculous. It was up to Mirvac to do their own due diligence before purchasing and before making the offer to purchase as they were given all the paper work from expressions of interest documents.

E. Removing the ability of the project to fund and deliver the significant public benefits as envisaged;

Public Space was an after thought when the City of Sydney suggested the project lacked public space. There are no other 'public benefits'. This is about the commercialisation and privatisation of public land. Where is the public benefit in having fewer restaurants? Where is the public benefit in having a smaller retail area when you propose to flood the area with office workers and residents? Where is the public benefit in cramming the general public into a narrow walkway around the waters edge? Where is the public benefit in the provision of affordable housing on site? Oops, sorry. There is no affordable housing included in this proposal.

This development actually offers no public benefit and completely changes a tourism precinct into a residential and office development.

F. Jeopardising the Unsolicited Proposal (USP) process that Mirvac has progressed with the NSW Government, and which is nearing completion of Stage 3.

There's a great example of 'good neighbours' and good corporate citizenship – bully the Government and the people of NSW by saying take or leave it.

OK. The IPC should 'leave it' and reject this unsolicited proposal as not in the interests of the people of NSW.