

## **RELEVANT INFORMATION FOR CENTRAL SYDNEY PLANNING COMMITTEE**

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**FILE:** D/2013/1942 **DATE:** 19 June 2014  
**TO:** Central Sydney Planning Committee  
**FROM:** Graham Jahn, Director City Planning, Development and Transport  
**SUBJECT:** Information Relevant To Item 4 - Development Application: 50 Bridge Street Sydney - AMP Circular Quay Sydney - At Central Sydney Planning Committee 19 June 2012

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### **Recommendation**

That the Central Sydney Planning Committee consider the following additional assessment and that consent be granted to Development Application No. D/2013/1942, subject to the conditions shown in the subject report to the Central Sydney Planning Committee on 19 June 2014.

### **Background**

1. On 16 June 2014 Council received a late submission in relation to D/2013/1942. The submission was made on behalf of the owners for Governor Phillip Tower (GPT) located at 1 Farrer Place, Sydney (which adjoins the AMP Circular Quay Precinct to the south beyond Bridge Street). The submission is provided at **Attachment A**.
2. Concerns were also raised that points raised in previous submissions were not adequately dealt with in the Stage 1 development assessment. These concerns are addressed within the Stage 1 development assessment and were previously addressed at Planning Proposal stage. **Attachment B** response to submissions at Planning Proposal stage is provided as relevant to addressing these concerns which require detailed assessment at the relevant Stage 2 development application stage. These issues include but are not limited to items such as building bulk, street frontages, use, local services, solar access, car parking and traffic.
3. Issues raised in the late submission are identified and addressed below:
  - (A) *The view impacts from the proposed additions to 50 Bridge Street are severe and the Visual Impact Report and Statement of Environmental Effects understate the impact*
4. **Response:** The impact of the proposed Stage 1 envelope on views available from GPT is addressed under item (C) below. The variables identified in the objectors submission compared to the Applicant's submitted Visual Impact Report and Statement of Environmental Effects are noted. Notwithstanding the variables, the City has made its own assessment of the view impact, as contained in item (C) below.

(B) *Considerable weight should be given to the preservation of existing views from GPT as the applicant acknowledges that views from commercial buildings are valuable*

5. **Response:** The impact of the proposed Stage 1 envelope on views available from GPT is addressed under item (C) below.

(C) *The proposal is contrary to the Land and Environment Court's view sharing principle*

6. **Response:** Consideration has previously been given to view impact from both nearby buildings and the public domain during the preparation of the AMP Circular Quay Precinct LEP/DCP amendments. The report prepared by Council's Strategic Planning and Urban Design Unit and considered by the Central Sydney Planning Committee on 5 December 2013 addressed the outcomes of the public exhibition of the Draft LEP/DCP amendments.

7. Key conclusions from that report can be summarised as:

- Because the notional building massing permitted by existing controls in Sydney LEP 2012 already affects views across the AMP precinct, the proposed controls do not exceed potential view impacts from the application of existing controls in Sydney LEP 2012. It was noted that the proposed envelope controls were a theoretical maximum and a detailed assessment of view loss would be undertaken once detailed design had been prepared.
- The Planning Proposal, draft DCP and the VPAs for the sites combine to provide a comprehensive package of public benefits that could not otherwise be achieved unless a whole of Precinct planning approach is taken. If sites within the Precinct were to be redeveloped individually, public benefits can only be tied to individual sites. The Planning Proposal therefore provides an opportunity for an integrated suite of 'cross-site' public benefits, rather than a piecemeal approach, based on multiple unrelated development applications.

For example, the dedication of air space to the City over the Young and Loftus Street block effectively extinguishes the possibility of development in this space. It delivers long-standing planning objectives to preserve the existing view corridor above the block deep into Central Sydney and improve sun access to Macquarie Place. This public benefit will be preserved in perpetuity.

8. It is noted that submissions from GPT, Gateway or Peak Apartments were not received in response to the exhibition of the AMP Circular Quay Precinct LEP/DCP amendments.
9. Planning principles are not legally binding and they do not prevail over the City's plans and policies. Planning principles do not form a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Planning principles can assist when making a planning decision, including:
- where there is a void in policy;
  - where policies expressed in qualitative terms allow for more than one interpretation, and;
  - where policies lack clarity.
10. In relation to the subject site and the issue of view loss, the primary plans and policies that apply are those addressed in the planning assessment report before the CSPP. Sydney DCP 2012 makes no provision for the retention of private views, rather Section 3.2.1.2 and 4.2.3.10 state the following with regard to public views and outlook:

### **“3.2.1.2 Public views**

- (1) *Buildings are not to impede views from the public domain to highly utilised public places, parks, Sydney Harbour, Alexandra Canal, heritage buildings and monuments including public statues, sculptures and art.*
- (2) *Development is to improve public views to parks, Sydney Harbour, Alexandra Canal, heritage buildings and monuments by using buildings to frame views. Low level views of the sky along streets and from locations in parks are to be considered.”*

### **“4.2.3.10 Outlook**

- (1) *Provide a pleasant outlook, as distinct from views, from all apartments.*
- (2) *Views and outlooks from existing residential development should be considered in the design of the form of new development.*

*Note: Outlook is a short range prospect, such as building to building, while views are more extensive or long range to particular objects or geographic features.”*

11. It is clear that the DCP provisions make a distinction between an “outlook” and a “view”, with priority given to ensure residential apartments have outlook and reasonable amenity, as opposed to the protection of private views. It is also clear that the DCP provisions seek to enhance public “views” over private views. What the DCP does not make provision for is the protection of commercial private views or outlooks.
12. Based on the above, read in conjunction with the Strategic Planning and Urban Design Unit report and the planning assessment report before the CSPP, the Stage 1 envelope is considered acceptable for the following reasons:
  - (a) the CBD context of the site and reasonableness that new development would be characterised by tower forms, which would necessarily result in the loss of partial views and outlook to surrounding buildings;
  - (b) the priority in retaining “outlook” and amenity over private “views” as stipulated in Sydney DCP 21012, specifically noting that commercial outlooks are not protected;
  - (c) the public domain benefits of the AMP Circular Quay Precinct scheme outweighing private interests; and
  - (d) economic and employment benefits resulting from the redevelopment of the precinct.
13. Whilst the Sydney DCP 2012 makes no provision for the protection of private commercial views, as requested by the objector, the following assessment is provided against the Land and Environment Court’s view sharing principle found in *Tenacity Consulting v Warringah Council* ([2004], NSWLEC 140), noting that;
  - (a) the view sharing principle in *Tenacity Consulting v Warringah Council* relates to a residential land use and residential views;
  - (b) whereas under Warringah Local Environmental Plan 2000 *development is to allow for the reasonable sharing of views* (Clause 61) in site planning and building design, under Sydney LEP 2012 view sharing is an objective of the height control, where the height of buildings is *to promote the sharing of views*, and;

- (c) noting (b) above, the AMP Circular Quay precinct has site specific planning controls that do not reference view sharing and to which the Stage 1 development application complies.

***The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.***

14. The objector has provided the following images to demonstrate views to be affected:



**Figure 1:** Existing view from Level 61 of GPT



**Figure 2:** Existing view from Level 60 of GPT



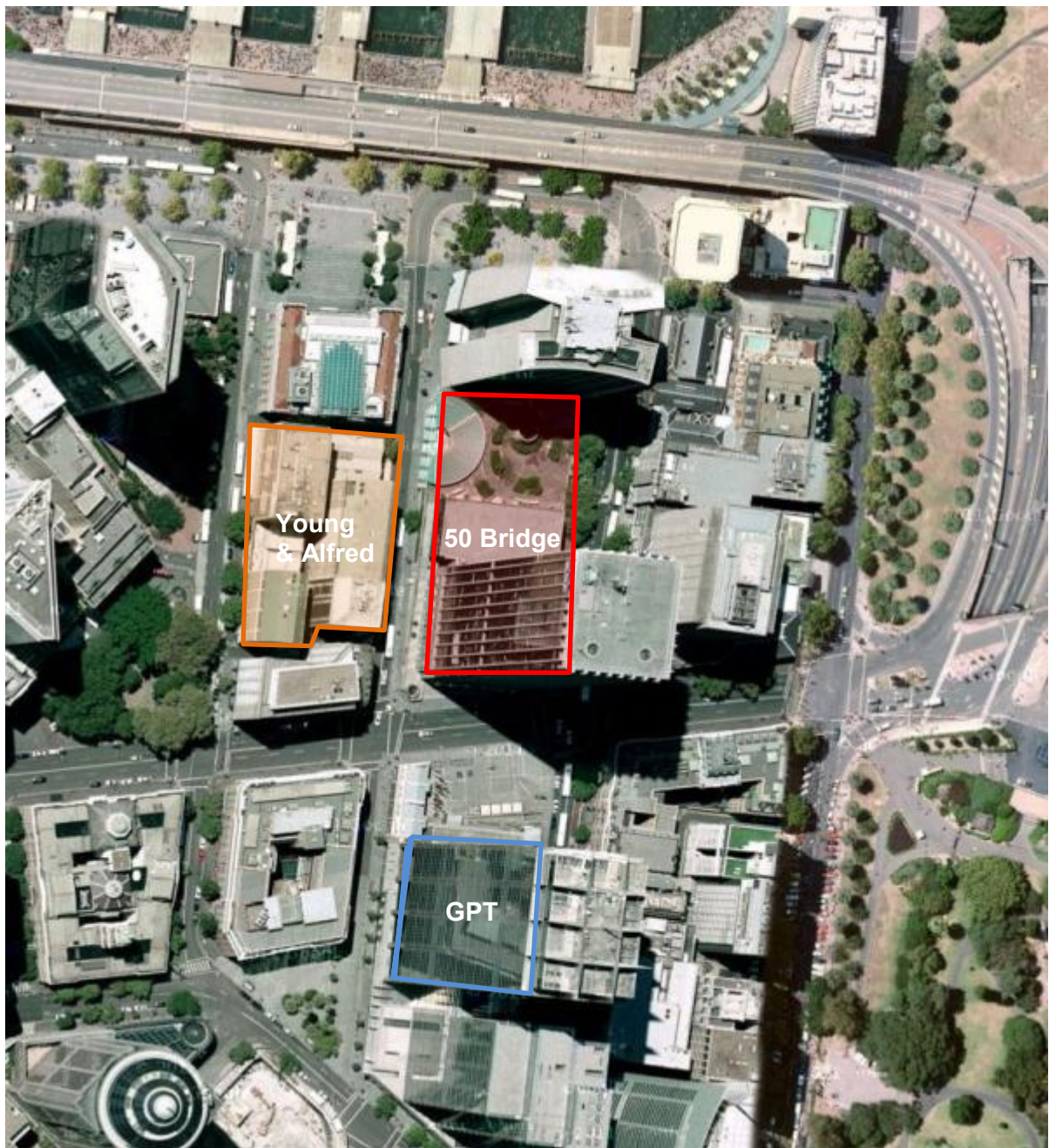
**Figure 3:** Existing view from Level 58 of GPT

15. The objector lists the views to be affected as water views and iconic views (being the Sydney Harbour Bridge and the Opera House). It is agreed that these views are classified as high value views.

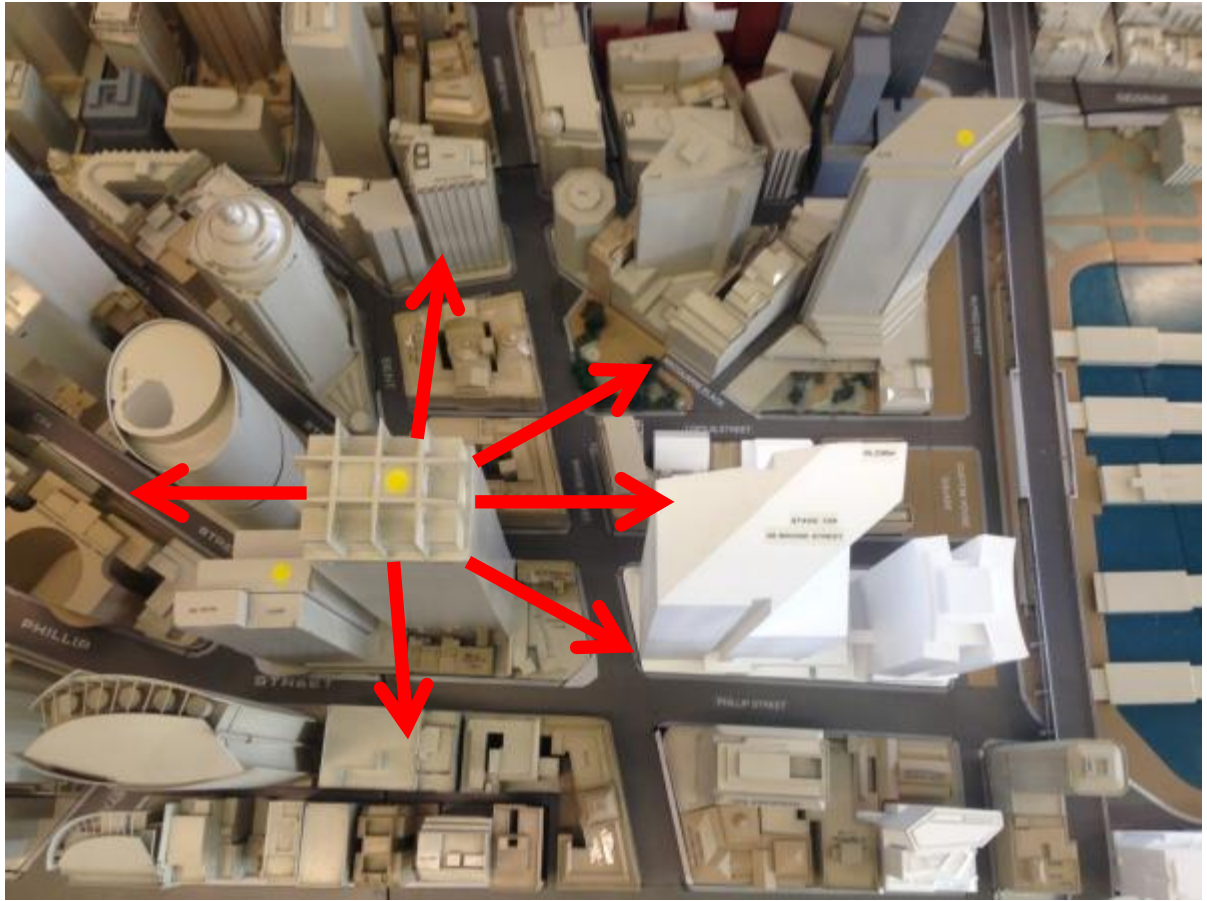
***The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.***

16. An aerial image of the AMP Circular Quay precinct in relation to GPT is provided below:

17. GPT is a tower in-the-round, meaning it is viewed from many public vantage points as well as having many private aspects.

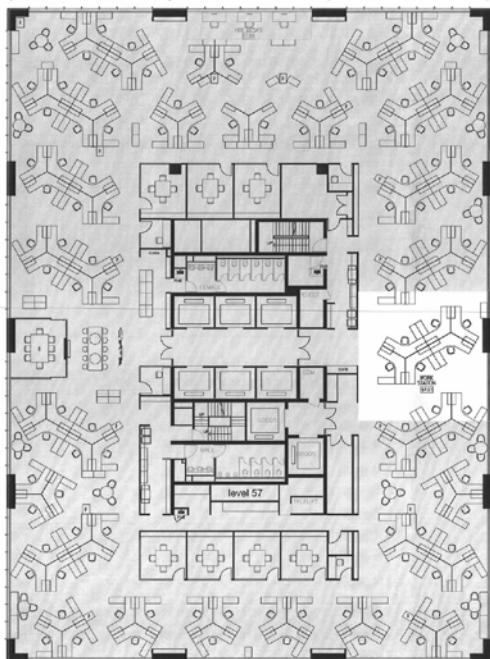


**Figure 4:** aerial image of subject site in relation to GPT

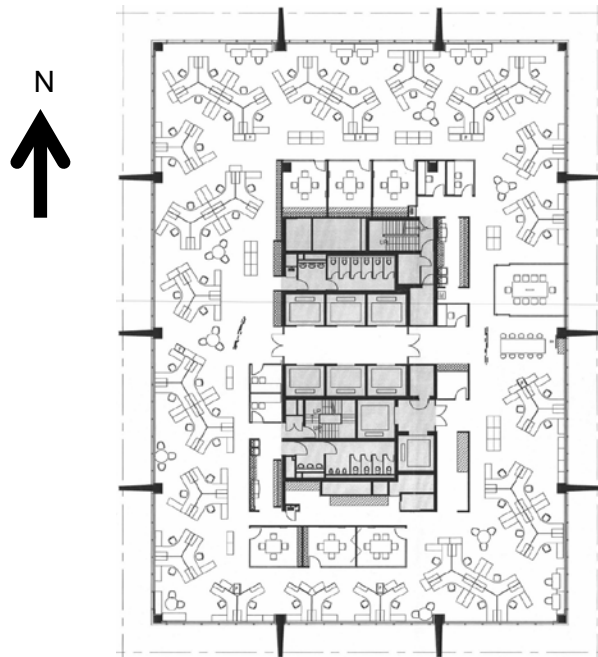


**Figure 5:** photo of model showing proposed Stage 1 envelope, GPT site and GPT aspects

18. The site's primary frontage is to the west, to its address 1 Farrer Place. GPT's eastern and western facades are its longest facades providing maximum vantage points. GPT's northern and southern elevations are shorter side elevations that have separate buildings and properties adjoining to the north (Museum of Sydney) and to the south (Governor Macquarie Tower). Indicative upper level floor plates and seating layouts for GPT are provided below.



**Figure 6:** GPT level 57 floor plan



**Figure 7:** GPT level 60 floor plan

19. Below is a list of some of the iconic views currently available to GPT:

- views towards the south of the City;
- views towards and over the Royal Botanic Gardens;
- views towards Sydney Heads;
- views towards Sydney Opera House;
- views towards Sydney Harbour;
- views towards Sydney Harbour Bridge;
- views towards the Rocks precinct; and,
- views over State listed items on Bridge Street towards the City's western edge

20. Noting that not all of these views are available on all levels and not from every point of each floor plate (e.g. see Figure 4 – Level 57: views towards Sydney Harbour Bridge are already obscured on some levels).

***The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.***

21. Obscuring of some views to iconic items will occur. Where views towards the Sydney Harbour Bridge are currently available on some upper levels, on some points on the floor plate, with the Stage 1 envelope in place, they would be obscured or removed. Similarly, where views towards the Sydney Opera House are currently available on some levels, on some points on the floor plate, with the Stage 1 envelope in place, they would be obscured or removed.

22. The extent of this impact is assessed as reasonable taking into consideration the numerous other vantage points that remain unaffected and the strategic advantages identified in paragraphs 7 and 12 above.

***The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.***

23. The objector acknowledges that the Stage 1 envelope complies with the building envelope prescribed by the Sydney LEP 2012 (as amended) and the Sydney DCP 2012 (as amended). The objector also acknowledges that design development or skilful design may reduce impacts.

24. The 10% design excellence bonus is not recommended to be approved as part of the Stage 1 DA. The distribution of floor space within the Stage 1 envelope is also not approved as part of the Stage 1 DA. As such, through design development and the required competitive design process for the 50 Bridge Street extension, potential impacts may be reduced. This is an issue that can only be dealt with under a detailed Stage 2 development application.



(D) *The proposal to recycle and extend the existing commercial building at 50 Bridge Street is ambitious, may not be achievable (without a complete rebuild) and may diminish the achievement of design excellence*

25. **Response:** The site and future Stage 2 applications are the subject of a site specific Competitive Design Process endorsed by Council and noted by the CSPC which is now in force. Future Stage 2 development applications will determine whether or not design excellence has been achieved and whether or not the potential 10% bonus FSR should be granted.

26. Part of the proposal is to recycle and extend the existing commercial building at 50 Bridge Street. Any departure from this would be inconsistent with the Stage 1 Development Application. Clause 6.26 (2) of Sydney LEP 2012 *AMP Circular Quay precinct* objective is *to provide for a **commercial addition** to the existing commercial tower on block A (Bridge and Alfred Street block) by permitting the utilisation of floor space from block C (Young and Loftus Street Block)*. Any proposal for full demolition and rebuild would be inconsistent with the LEP.

27. The objector's concerns surrounding the ambition of the proposal do not warrant refusal or amendment of the application.

(E) *Consent must not be granted for the 10% bonus FSR until the competitive design process has been completed*

28. **Response:** As part of the City's existing recommendation, consent should not be granted for the 10% bonus FSR. The 10% bonus FSR will be subject to assessment for Stage 2 development applications.

(F) *The significant increase in height will compromise the architectural integrity of and public views to GPT, particularly when viewed from the north*

29. **Response:** As discussed in paragraph 17 to 22, GPT is a tower in-the-round, meaning it is viewed from many public vantage points. The Stage 1 envelope will impact on some of these views but, when assessed on balance, this impact is considered reasonable given the public vantage points retained that remain unaffected.

## **Attachments**

Attachment A - GPT Submission, AMP Circular Quay Sydney, 50 Bridge Street, Sydney

Attachment B - Planning Proposal Submissions, AMP Circular Quay Sydney, 50 Bridge Street, Sydney

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TRIM Document Number: 2014/267513

Approved

A handwritten signature in black ink, appearing to be 'GJahn', written in a cursive style.

**Graham Jahn, Director City Planning,  
Development and Transport**