

ATTACHMENT A

**GPT SUBMISSION
AMP CIRCULAR QUAY SYDNEY
50 BRIDGE STREET, SYDNEY**

24 January 2014

General Manager
City of Sydney
GPO Box 1591
Sydney NSW 2001

Attention: Ms Vanessa Aziz

Dear Ms Aziz

Re: DA – D/2013/1942 Stage 1 DA for the AMP Circular Quay Precinct

This letter comprises a submission on the AMP Circular Quay Precinct Stage 1 development application (DA), with particular reference to the building envelope proposed for the existing commercial building at 50 Bridge Street. It is written on behalf of the following owners of Governor Phillip Tower (GPT) located at 1 Farrer Place, Sydney (which adjoins the AMP Circular Quay Precinct to the south beyond Bridge Street):

- Perpetual Trustee Co Ltd on behalf of Dexus Property Group (Dexus Office Trust)
- Lend Lease Funds Management (Australian Prime Property Fund)
- GPT Group.

Preparation of this submission follows a review of the exhibited DA documentation and a site inspection of GPT.

The owners of GPT commend the applicant on their ambitious proposals to renew the Precinct, but object to certain aspects of the Stage 1 DA as detailed in the following points:

1) 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

As acknowledged in the applicant's DA documents, the proposed building additions to 50 Bridge Street will have an adverse impact on iconic views from the upper levels of GPT.

The Visual Impact Report by BVN Donovan Hill (View 17) and Statement of Environmental Effects (SEE) by Urbis (Figure 34) include computer generated images that purport to represent the existing and proposed northern views from the upper levels of GPT. The Visual Impact Report and SEE do not specify the viewing position relied upon, but an inspection of GPT suggests that the images represent a view that would be experienced at Level 57½ of GPT (that is a position half way between Levels 57 and 58). At this level, the existing view from GPT towards Kirribilli and the Harbour Bridge is minimal, therefore the proposed view impact appears to be minor and reasonable. Based upon these images, the SEE (p. 81) concludes that:

There will be a minor loss of view, towards the Sydney Harbour Bridge, as a result of the proposed indicative massing of the 50 Bridge Street Tower extension. The view loss relates to the northern portion of the Bridge.

Notwithstanding, important views of the Sydney Opera House and the greater harbour will be generally maintained. Figure 34 illustrates this.

An inspection of the upper levels of GPT shows that this assessment is incorrect. The following images compare the image relied upon by BVN/Urbis (**Figure 1**) with the actual views from the upper levels of GPT (**Figures 2 to 4**). The comparison illustrates and that the existing view to the Harbour Bridge and greater harbour from the upper levels of GPT are expansive and that the view impact for Levels 58 to 61 (four levels) of GPT will be devastating.

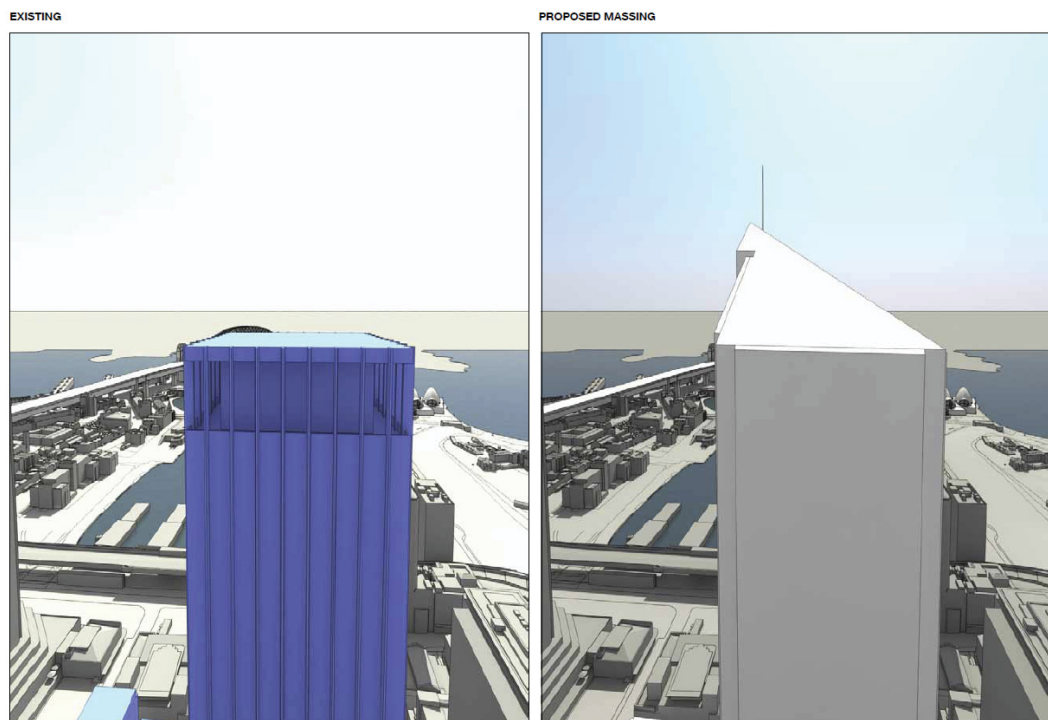


Figure 1 – Extract from Visual Impact Report by BVN Donovan Hill (View 17) which understates the proposed view impact



Figure 2 – Existing northern view from Level 61 of GPT which will be severely affected by the proposed additions to 50 Bridge Street



Figure 3 – Existing northern view from Level 60 of GPT will be severely affected by the proposed additions to 50 Bridge Street



Figure 4 – Existing northern view from Level 58 of GPT will be severely affected by additions to 50 Bridge Street



Figure 5 – Existing northern view from Level 57 of GPT will be partially affected by the proposed additions to 50 Bridge Street

To ensure that view impacts are properly considered in the assessment of the DA, the applicant must prepare view montages that rely upon actual photographs taken from the upper levels of GPT and that clearly identify the viewing position. More details on the view impact assessment follow in point 2 and 3.

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

Compared with residential views, views obtained from commercial buildings are often attributed a lower value in the assessment of DAs. In this instance, however, considerable weight should be given to the view impact of the Stage 1 DA on the upper levels of GPT.

The applicant acknowledges in their DA documents the considerable value attributed to office building views:

The SEE by Urbis states the following in relation to views:

- P. 33 - A key design principle for the Bridge and Alfred Street block is to *“Provide a new facade to the existing tower for high natural light transmission, **improved views** and improved energy performance and comfort”*
- p. 58 (Table 11) - The Super Sky Rise Floors at 50 Bridge Street provide *“**excellent views and amenity**”*.

The Architectural Design Report by BVN Donovan Hill states the following in relation to views from 50 Bridge Street:

- p. 40 - *“Its large floorplates, unequalled location and **spectacular views** will attract major tenants”*
- p. 43 - *“New floorspace above the existing roof of 50 Bridge Street is created to maximise views...”*
- p. 62 - In relation to the Super Sky Rise *“They provide floors with **excellent views** and amenity”*
- p. 47 - *“Provide a new facade to the existing tower for high natural light transmission, **improved views** and improved energy performance and comfort”*.

The improved/spectacular/excellent views sought by the applicant would be realised at the expense of the upper levels of GPT. As detailed in the assessment at point 3 below, this is entirely inconsistent with the Land and Environment Court's View Sharing Principle.

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

In *Tenacity Consulting v Waringah [2004] NSWLEC 140*, Senior Commissioner Roseth states the following in relation to view sharing, noting that he does not refer to any specific land uses:

25. The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

An assessment of the Stage 1 DA using the four step assessment follows:

- ***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.***

The views from GPT that will be affected by the Stage 1 DA are:

- Water views
- The epitome of "iconic" views (being the Harbour Bridge, Sydney Harbour and Opera House)
- Whole views where the interface of land and water is visible.

Given the above, the affected views are highly valuable (what most people would describe as magnificent). The proposal would obliterate views from the upper levels of GPT.

- ***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.***

The views are obtained looking across a front boundary (noting that the Museum of Sydney is part of the original site) and are enjoyed from a sitting or standing position. The photographs at **Figures 2 to 5** illustrate standing views.

- ***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.***

The extent of impact for the upper levels of GPT is devastating as the Stage 1 DA will obstruct views to the Harbour Bridge, Opera House Sydney Harbour and northern harbour foreshore.

- ***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.

The Stage 1 DA complies with the building envelope prescribed by the Draft LEP and DCP for the AMP Circular Quay Precinct. According to the Court's Principle, the question in such circumstances is "would a more skilful design provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours". In this instance the answer is yes as the Stage 1 DA incorporates the following:

- **Reverse podium** – The DA proposes a reverse podium (a cut-out) at the base of 50 Bridge Street which unreasonably transfers gross floor area (**GFA**) from the base of the tower to the Super Sky Rise. If such a design technique is to be adopted, it should be explored as part of the design competition.
- **Trading floors** – The DA includes two double height "Trading Floors" which each have the height and bulk of two storeys but are counted as just one level of GFA. This constitutes two additional levels, the removal of which would materially reduce the view impact for GPT. The need for double height space is questionable. Even if the applicant was able to demonstrate such a need (and ideally an actual tenant with specific needs), greater floor to floor heights should be addressed as part of the Stage 2 DA.
- **Excess parking that should be included in GFA** - In the Bridge and Alfred Street block, the DA proposes 160 car parking spaces in excess of the car parking standard at clause 7.6 of Sydney Local Environmental Plan 2012 (**SLEP 2012**) (163 spaces are permitted and the Stage 1 DA proposes 323 spaces on this part of the site (all existing)). As the proposed car parking exceeds the requirements of Council, the excess parking and access to it must be included in GFA¹. Given the scale of development proposed, it is not reasonable to rely on "existing building" status to breach the car parking standards (provided for in SLEP 2012, cl. 7.1(3)). It is noted that SLEP 2012, cl. 7.3(1) includes existing car spaces in the maximum number of spaces permitted in a development.
- **Bonus FSR which should not be awarded until after the design competition** – The DA seeks consent for the 10% bonus FSR before a competitive process has been implemented (see point 5 below).
- **If the envelope is oversized, it should be explained** – The building envelope appears to accommodate "fat" perhaps to provide flexibility for design excellence. If this is the case, it should be clearly stated and the "fat" should be positioned to minimise view impacts.
- **Excessive reliance on compliance** – The DA relies heavily on compliance with the Draft DCP/LEP building envelope to justify adverse impacts (particularly the loss of views). The Draft DCP/LEP set maximums and they do not entitle the applicant (or consent authority) to disregard adverse impacts. Like all developments, a detailed assessment of amenity impacts occurs at the DA stage, irrespective of compliance with DCP/LEP provisions.
- **Alterations/additions (rather than a new building) may compromise design excellence** – Momentous alterations and additions to the existing building at 50 Bridge Street are proposed. As detailed at point 4, this may not be a realistic recycling proposal and may stifle design freedom in the Design Competition.

¹ Pursuant to Sydney LEP 2012:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

....

(g) car parking to meet any requirements of the consent authority (including access to that car parking), and

Given the above points, a more skilful design of 50 Bridge Street that removed the reverse podium and trading floors and included the excess parking in the GFA/FSR would materially reduce the height of the building envelope and perhaps obviate the need to increase the building height above that existing. Such a design would facilitate view sharing. The proposal to recycle the existing building may also diminish the design quality of the development.

4) 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

The Stage 1 DA proposes to recycle and extend the existing commercial building at 50 Bridge Street. The building envelope extension increases the GFA of the building by 51,980m² and increases the height by more than 30m. These are momentous additions. The DA includes a very brief structural report in support of the proposed modification and extensions. Given that the application relies on “existing building” status to breach the car parking standards (see point 3), a much more thorough assessment of buildability should be carried out. The requirement to recycle may also constrain the design competition and diminish the potential to realise design excellence.

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

Council has consistently deferred approval of the 10% bonus FSR until approval of the Stage 2 DA to ensure that developments fulfil their design excellence obligations under SLEP 2012, cl. 6.21. Given that the bonus FSR in this instance equates to a GFA of 13,901m², the applicant must fulfil their design excellence obligations before obtaining consent for such a substantial uplift in development potential. The applicant’s design excellence strategy can explore options for positioning the additional GFA/FSR.

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

The Stage 1 DA building envelope increases the height of the commercial building at 50 Bridge Street by more than 30m. As noted above at point 1, 2 and 3; this unreasonably obstructs northern views from the upper levels of GPT.

The very significant addition also diminishes public views to GPT from the Harbour Bridge, the Harbour and its northern foreshores (including Kirribilli). Designed by Professor Richard Johnson (RAIA Gold Medallist) whilst at Denton Corker Marshall, GPT was awarded the Sulman Medal in 1994. It is therefore a recognised architectural landmark that makes a significant and very positive contribution to Sydney’s global status. Its architectural roof feature forms a dramatic and distinctive element in the Sydney skyline (refer photograph at **Figure 5**).

As illustrated in the Visual Impact Report by BVN Donovan Hill, views to the top of GPT from the Harbour Bridge (View 1) and Kirribilli (mislabelled as View 2, but actually View 3) will be destroyed. The extended building at 50 Bridge Street will read as the most dominant skyline form both in height and breadth. Whether it is entitled to assume such a dominant position, at the expense of a recognised architectural landmark, is questionable. The owners of GPT are seeking further advice on this issue will forward to Council additional information.



Figure 5 – View of city skyline looking south-east from the Harbour Bridge (illustrating views to the top of GPT)

CONCLUSION AND RECOMMENDATION

For the following reasons, the building envelope proposed for 50 Bridge Street is excessively large and will have unreasonable impacts:

- 1) The view impacts are severe and the Visual Impact Report and SEE understate the impact
- 2) Considerable weight should be given to the preservation of existing views from GPT as the applicant acknowledges that views from commercial buildings are valuable
- 3) The proposal is contrary to the Land and Environment Court's view sharing principle and a more skilful design of 50 Bridge Street would materially reduce the height of the building envelope and perhaps obviate the need to increase the building height above that existing facilitating view sharing.
- 4) 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
- 5) Consent must not be granted for the 10% bonus FSR until the competitive design process has been completed
- 6) The significant increase in height will compromise the architectural integrity of and public views to GPT, particularly when viewed from the north.
- 7) The reliance of the DA on compliance with the Draft DCP/LEP building envelope to justify the severe view and visual impact is not reasonable. The Draft DCP/LEP set maximums and they do not entitle the applicant (or consent authority) to disregard adverse impacts.

Given the issues raised in this submission, the DA should be refused consent. Alternatively, amended plans and additional information should be submitted incorporating the following:

- 1) A significant reduction in the building height at 50 Bridge Street which could be achieved by:
 - Infilling the “reverse podium” and reducing the additions at the top of the building accordingly
 - Subdividing each of the two double height “Trading Floors” into two levels (and counting them as two x two levels of GFA) and reducing the addition at the top of the building accordingly.
- 2) The applicant should acknowledge that the works to 50 Bridge Street constitute a new building and that the office/business premises car parking standards in Division 7 of SLEP 2012 apply. If the applicant elects to retain the existing car parking numbers and breach the parking standard by 160 spaces, the excess parking and access to it must be included in GFA/FSR and the addition at the top of the building must be reduced accordingly.
- 3) Removal of the 10% bonus FSR from the Stage 1 DA building envelope.
- 4) Articulation of how much “fat” is provided for in the building envelope.
- 5) A more accurate assessment of the view impact for the upper levels of GPT using photographs and clearly identifying where the photographs were taken from.

We trust that Council will consider this objection in its assessment of the application.

Yours sincerely



Sandra Robinson BTP (Hons) MPIA
Director