

# hill thalis

ARCHITECTURE + URBAN PROJECTS PTY LTD

8<sup>th</sup> September, 2010  
Job no. MHM10/PT/LH

The Director General  
Department of Planning  
GPO Box 39  
Sydney NSW 2001

Attention: Planner Urban Assessments – David Gibson  
Email: david.gibson@planning.nsw.gov.au

Dear Sirs,

## **Letter of objection**

### **Barangaroo MP 06-0162 MOD 4 (Hotel Development, additional GFA and height)**

We write in response to the submission to further modify the Barangaroo Concept Plan. Once again, in our capacity as authors of the competition-winning proposal, we wish to register our disapproval at the way that the redevelopment of this critically important, publicly owned site is being undertaken, and to make specific objections to the current proposal.

## **1.0 Major Failings - Reasons for Refusal**

We submit that the current proposal for changes, termed Barangaroo South, to the Major Projects SEPP and the Barangaroo Concept Plan should be rejected due to the following major failings, which we have categorised as failures of process and failures of planning;

### **A Failures of Process**

#### **1.1 Mismanagement by Public Authorities**

This project has been ineptly managed by the NSW Government agencies charged with its progress, specifically the Sydney Harbour Foreshore Authority and latterly the Barangaroo Delivery Authority. They appear to believe that their role is to spruik the private interests of individuals or selected developers, with scant reference to the public interest or full disclosure. Their ineffectual attempts at consultation amount to little more than promotional opportunities for their development partner, rather than genuine attempt to provide impartial information to the public.

#### **1.2 Obfuscation of Process**

The labyrinthine planning documents put on exhibition obfuscate any clear understanding of the process or commitments that are or will positively guide the Barangaroo site. The stream of poorly related and seemingly unintegrated applications are difficult to comprehend or correlate, making the applications deliberately opaque.

Philip Thalís ARB #6780  
Sarah Hill ARB #5285

#### **Nominated Architects**

LEVEL 5, 68-72 Wentworth Ave  
Surry Hills NSW 2010 Australia  
T 02 9211 6276 F 02 9281 3171

E admin@hillthalis.com.au  
www.hillthalis.com.au

## **1.3 Private profiteering over public benefit**

This overblown proposal, put forward by a private company with the implicit support of a public authority, constitutes private profiteering over public benefit. This great publicly-owned waterfront, which should be for all Sydney's citizens, is now granted to a single developer on secret terms.

## **1.4 Granting a development monopoly**

The NSW Government have effectively granted Lend Lease 7.3 hectares of Sydney's waterfront – the largest single land grant in the city's history. Allied to the floor space entitlement of 500 000 sqm and counting, this effectively creates a monopoly in Lend Lease's favour at the expense of all other land owners, retail and commercial interests throughout the city. The NSW Government has not advanced any satisfactory explanation for this limited delivery method.

## **1.5 Misleading Representations and Distortions of Fact**

The various documents distort the history and context of the project, and seem to conceal or fail to reveal the actual changes proposed. The perspective views in the View Analysis report are shown in an inappropriately small scale and in many instances appear much distorted by a wide angled viewpoint or by edited framing.

## **1.6 Inadequate Proponents Submissions**

The proponent's various submissions are long-winded, endlessly repetitive, riddled with inconsistencies, lack commitment and clarity. They are wholly inadequate as a justification for such a gross proposal.

## **1.7 Secretive Contracts / Deals for a Public Land**

There are a series of failings additional to the current Concept Plan application that taint the planning process of the publicly owned land at Barangaroo. The Contract signed between Lend Lease and the NSW Government has only belatedly been made available, however it includes the censorship of so many clauses that it fails any reasonable test of fairness and disclosure. The contract relates to public land – and is made between the Government and a sole developer granted a monopoly. How can it reasonably be claimed to be in any way, 'Commercial in Confidence.'

## **1.8 Non-disclosure of Contamination Risks**

The disclosure of the extent of potential contamination is clearly inadequate. Some plans hint at the spread of the underground contamination threat from the former gasworks, yet there is inadequate investigation of other potential on site contamination, or leaching into the harbour.

## **1.9 Inappropriate Precedents**

The processes and proposals at Barangaroo, were they to be approved, would be a dangerous precedent for the inappropriate development and privatisation of any harbour or coastal site in NSW. In the era of climate change, full public control of the waters' edge has never been more critical. In the centre of Australia's most populous city, the primacy of the public domain must be affirmed for the benefit of all citizens.

## **B Failures of Planning**

### **1.10 Perversion of the Public Domain**

The current proposal dismantles the firm public domain foundation that was fully described in the original Concept Plan, which was generally based on the 2006 International Competition winning scheme. The current proposal is perversion of a genuine public domain, which is after all the democratic space of the citizens, not just a perfunctory drop off to private foyers (see detailed comment below).

### **1.11 Alienation of the Public Foreshore**

The successive amendments to the Concept Plan have led to a clear diminution of the Public Parkland. The costly and unnecessary embayments fracture the continuity of the public foreshore and of course, at excessive cost, greatly reduce its extent. In effect the embayments cut the site into three disjointed and practically inaccessible enclaves – a fundamental error that is contrary to the planning principles of the original Concept Plan.

### **1.12 Loss of the Working Harbour**

The wharves that have lined the city's face to Darling Harbour for the last two hundred years are the embodiment of the working harbour and Sydney's rich maritime traditions. The Cruise Ship Terminal, at the very least, should be retained on this site. The long-fronted, deep-water wharfage at Barangaroo is critical national infrastructure that must be substantially retained, and not sacrificed some picturesque whim.

### **1.13 Intrusion into the Harbour**

The thrusting intrusion of the hotel into Sydney Harbour is the most flagrant attempt at privatisation of the waterfront in Sydney's history. Were it to be approved, it would create a catastrophic precedent for the wholesale or incremental privatisation of the foreshore, reversing almost two centuries of enlightened public policy.

### **1.14 Distortion of the City's Form**

The thrusting cluster of towers, right at the foreshore, significantly distorts the city's overall form of the taller buildings along the central spine, which has been consistently developed over the last 50 years of city planning. The proposal crams 7 major tower buildings at Barangaroo South, including some of the largest and bulkiest buildings ever proposed in Sydney. It will create a carbuncle on the city's western face.

### **1.15 Gross Bulk and Scale**

The current Concept Plan amendments further the erosion of the original Planning Controls that aimed at finely scaled buildings fronting the new public foreshore. Instead the controls allow the towers to increase to a façade length of 90 metres, which at 50 storeys in height is grossly out of scale with any other building in the city. The amendment proposes a conglomeration of such behemoths – boofheads hogging the front row.

### **1.16 Unacceptable Shadow Impacts**

The shadows cast by the development stretch over Pyrmont every morning of the year, while the afternoon shadow reaches Hyde Park. The new and existing streets are heavily overshadowed

due to the poor site planning. The city's existing western waterfront and the proposed waterfront at Barangaroo South will be overshadowed by the 'landmark' hotel during lunchtime, throughout the entire year.

## **1.17 Failings of the Urban Design Rationale**

The supporting Urban Design Report is facile in its argument, puerile in its diagrams, and wholly inappropriate in its propositions. It in no way provides an adequate justification for the outrageous proposed changes at Barangaroo South. For example the justification for the intrusion of the tower into the harbour states; *'...It will stand tall, yet touch the ground lightly, as a reference to the tall ships that used to berth on the quaysides at Barangaroo.'* This comical mishmash of non-sequiters does not amount to any sort of coherent urban design justification.

## **1.18 Inadequacy of Transport Access**

The proposed Concept Plan amendments are not tied to any specific public transport initiatives or implementation programs. The flimsy references to possible ferry services, the lack any commitment to the light rail line, and the absence of any commitments to new bus routes or real pedestrian links to Wynyard Station constitute a primary failure of integrated planning. The restricted access would sensibly deny the proposed increase in floor space.

## **1.19 Exclusionary Social Impacts**

The original East Darling Harbour Competition mooted 7.5% of the proposed housing as Affordable Housing, whereas Lend Lease's token contribution is now proposed to be reduced to 2.3%. Allied to the disposal by stealth of the historic public housing in nearby Millers Point and Walsh Bay, this constitutes exclusionary social program, entrenching an enclave of privilege.

## **1.20 Dislocation of an overall site strategy**

The proposed Concept Plan Modification 4 is consistently shown as an isolated project, unintegrated with either the greater Barangaroo site or the broader city. It fails to transparently show which Concept Plan controls will be in place, as it deliberately does not include a complete and updated Concept Plan document with all current and superseded provisions clearly marked.

In our opinion, the failings of process, planning and design are now so entrenched at Barangaroo that the entire project must be stopped immediately, and opened to independent scrutiny in a transparent public inquiry, with broad terms of reference.

## **2.0 Amendments to the urban layout**

The proposed amendment to the Concept Plan states that it, 'seeks to improve on the approved Concept Plan by revising the urban structure.' Contrary to this statement, the proposed amendment substantially diminishes the urban realm of Barangaroo. We list below – proposed changes that individually and collectively significantly the quality of the public domain.

### **2.1 Margaret Street West**

In the original Concept Plan, Margaret Street was located on the alignment that ensured that people walking from Wynyard, down the hill towards Barangaroo along Margaret Street would have an open view towards the harbour that framed an open view of the sky.

The Applicant's view analysis report disingenuously insists that this view will be retained.

*'Lend Lease's winning scheme maintains the principles of the approved Concept Plan including...retention of existing view corridors from the elevated portions of the existing Napoleon Street and Margaret Street;'* JBA Environmental Assessment Report Page 4

On closer examination, the proposed alignment for Margaret Street West has been shifted southwards. This is not acknowledged in the proposed amendment, and no overlay plan showing the comparative positions is included. A drawing comparing the alignments is appended to this submission as Figure 1.

The impacts of this can also be determined by viewing the applicant's model along the Margaret Street corridor. The view to the water is now terminated by the eastern and southern flank of one of the 40+ storey commercial towers on block 2 and no longer provides a vista to the harbour and the open sky.

The consolidated Concept Plan requires that a vista along Margaret Street to water and open space be retained. Now this key public domain vista has been stolen – and secured for the sole benefit of the Lend Lease development. No argument as to why this key public view has been blocked and subsumed for private benefit has been put forward.

This change is contrary to the approved Concept Plan and the proponent's own claims – and should not be permitted.

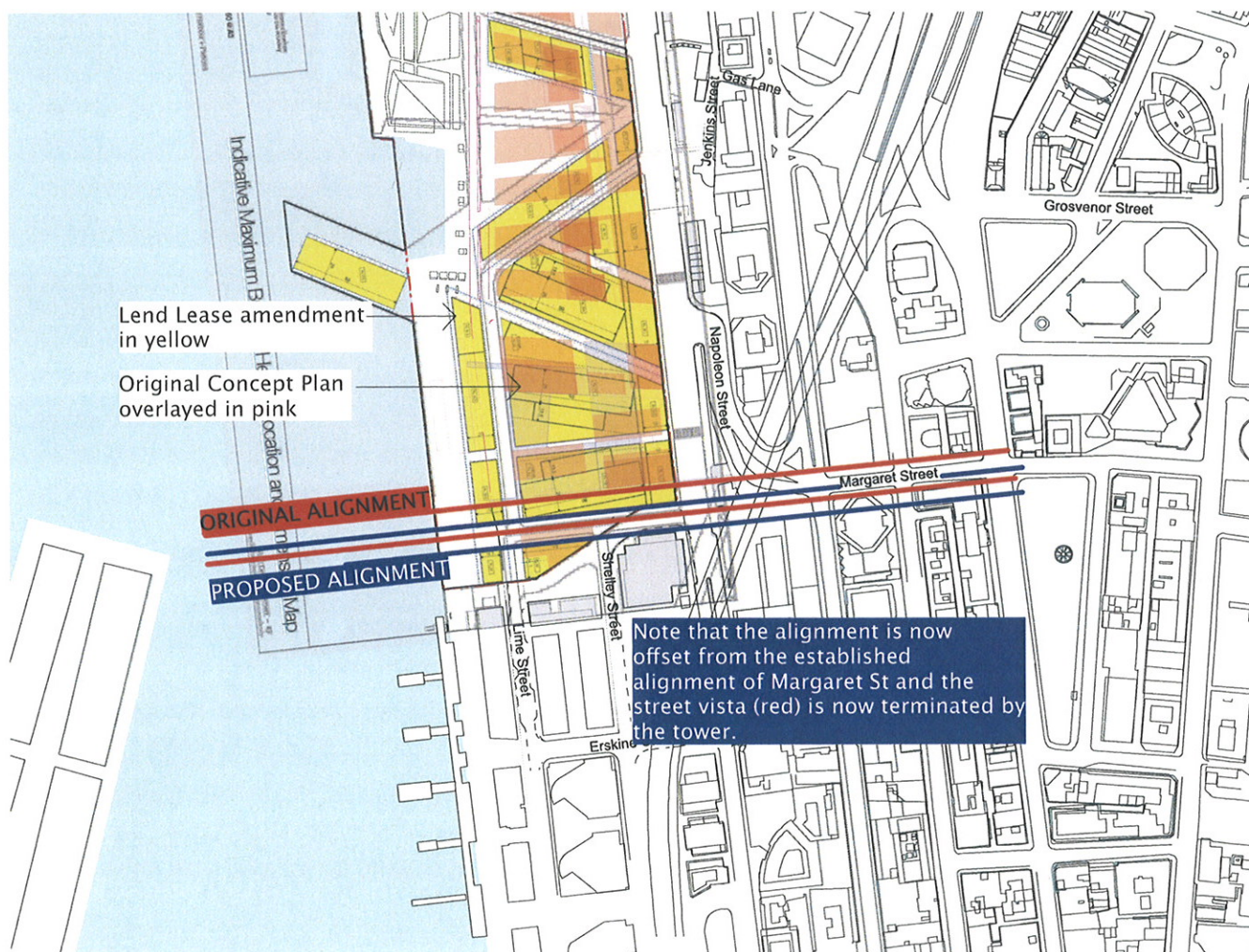
### **2.2 Globe Street / Lime Street connection**

In the original Concept Plan, Globe Street made a seamless transition to Lime Street at the south of the site. This ensured that the strongest possible connection was made between the site and the surrounding urban fabric. It is one of few opportunities on the site where such a direct connection is possible.

Now the applicant is proposing to offset this street so that it 'dog-legs' at the site boundary. We do not believe that this is simply incompetent – but deliberately designed to define a clear boundary between Barangaroo and neighbouring parts of the city. This crude misalignment effectively demarcates Lend Lease's site as an enclave – a place apart – in contrast to their oft-cited claims of integration with the wider city.

This is highly undesirable, and should not be permitted.





**Figure 1 -** Diagram overlaying existing and proposed alignment of Margaret Street. The alignment has been shifted southwards and the street vista now blocked by development.

## 2.3 Continuity of Globe Street

In the original Concept Plan, Globe Street was a memorable new Sydney street and a fundamental link to the wider city centre. It tied together the layout of the north-western quadrant of the city and, seamlessly, connected Lime Street in the south through the entire length of the site and up to Hickson Road at the very northern tip of Millers Point. It is again important to note – that this is one of very few strategic urban connections that it is possible to make on this site.

This street enshrined the foreshore as inalienable public land and clearly set the limit for development, in the manner that Macquarie Street has so successfully done on the eastern side of the city. The first decision the applicants made was to diminish the strength of this street – and to allow development to jump over it and head for the water.

This street, and the fine comb of streets that linked it to Hickson Road in the original Concept Plan, also ensured that in the future the whole of the Barangaroo precinct had maximum flexibility to respond to changes in use over time. Indeed, this already occurred – with calls for an indigenous cultural precinct to be incorporated into the Headland Park.

The original alignment of Globe Street would have allowed this to be accommodated in a manner that made it highly accessible and enabled this new facility to cultivate a strong and confident public presence. Now, because this street has been truncated in length and tortured in alignment, we are faced with the proposition of a cultural building, jammed beneath a fake headland next to a public carpark – with its primary urban address as a driveway entry ramp.

This is an urban situation where the development cart is leading the public domain horse. The applicant has started with their commercial buildings – worked out the minimum required to service them and the remainder has resulted in the street pattern.

This is inappropriate and should not be permitted.

## 2.4 Public Street Reserves

Throughout the documentation supporting the amendment, the applicant repeatedly advises that,

*'The proposed modifications to the Concept Plan approval seek to improve on the approved Concept Plan by way of redistribution of the built form across the site and the resultant creation of larger public domain areas.'* JBA Environmental Assessment Report Page ix

We note the differences between the streets in the approved concept plan and those proposed -

| RESERVATION WIDTHS        | Approved Concept Plan | Proposed Amendment   |
|---------------------------|-----------------------|--|
| Margaret Street West      | 20m                   | 18m  |
| Napoleon Street/City Walk | 30m                   | 12m  |
| Globe Street              | 20m                   | 15m  |
| Healy Street              | 16m                   | 11.1m  |
| Bull Street               | 16m                   | Varies (applicant includes adjacent park within street width calculation)                                    |
| Public waterfront         | Min. 60m              | Min. 27m (declared by applicant, but there are places where we believe this is reduced to as little as 20m.) |

The approved Concept Plan made provision for a series of laneway spaces to permeate the blocks established by the primary public domain. The laneway system has now been replaced by two glorified office foyers referred to as 'Gallerias'. It is intended that these spaces are retail malls – however, as they provide access to A grade commercial tenancies, it is disingenuous to suggest that the applicant can guarantee public access through these spaces into the future. Try to take a shortcut between the Governor Macquarie and Governor Phillip office foyers with a skateboard in tow – and see how far you get before you are escorted off the premises by private security.

All of the footpath dimensions in all of the legitimate streets have been substantially reduced from those in the approved Concept Plan. One suspects that this is deliberately contrived to force pedestrians into the commercial gallerias – these exclusionary spaces where they can be enticed to spend.

Rather than the overblown claims in the applicant's submission, the constricted public domain lacks generosity and connection to the city at large. How can the applicant's claim that these amendments constitute an improvement to the public domain be taken seriously?

The miserly public street reservation widths anticipated by the proposed amendment are indefensible. They are comparable to the meagre street dimensions found in outer-ring suburban subdivisions. Most of the City of Sydney's streets have a 66 foot reservation, which equates to a metric dimension of 20.11m, but more important civic streets such as Martin Place and Hickson Road (100 feet - 30.5m) exceed this figure. There is not a single street proposed in the Barangaroo amendment that is 20m wide – the established city standard. Most are substantially below this.

How can these streets feel like a natural extension of the city, when they are so miniaturised? How can it be argued that the increases in height and floor space are providing a more generous public realm, when every proposed street and the foreshore promenade have been reduced in width and extent and connection to the harbour?

The amendments to Globe Street have also destroyed the overall urban scale of the street pattern. What was previously a grand urban boulevard has now been deformed into two cul-de-sacs. The applicant's only conception of the role of these streets is one of perfunctory drop off's to commercial buildings.

Streets are the primary urban element of any city and the characteristic spaces of all great cities. Their form and scale set the tone, gravitas and structure of the entire urban realm. All the streets in the approved Concept Plan opened to parkland and the harbour; the few remaining streets in the proposed amendment are typically blocked by proposed buildings. How can it possibly be argued that these public streets are generously scaled urban elements befitting a pre-eminent international city?

## 2.5 Connectivity

The Applicants Environmental Assessment Report boasts that the plan includes the,

*'provision of high quality architectural(sic) and urban design underpinned by the engagement of world renowned architects.'* JBA Environmental Assessment Report Page 4

While we are heartily reassured by this, we point out that one of the benefits of engaging semi-renowned, or even much maligned local architects is that they are able to,

- accurately locate the position of Wynyard Station;  
(page 18 of the Urban Design Report has moved it to Margaret Street)



- understand that it is not possible to move along Grosvenor Street as indicated on page 18 of the Urban Design Statement, without a significant detour around the Western Distributor;
- understand that the connectivity implied by the arrow for City Walk on page 21 of the Urban Design Statement has been vastly inflated to make a 12m wide bridge connection off a fractured footpath look like a major urban connection when it is a second order connection at best;
- understand that the 'Gateway Square' identified on page 20 of the urban design statement is a glorified traffic intersection with an existing building in the centre of it;
- understand that the Margaret Street visual corridor identified on page 8 of the Urban Design Study is almost entirely blocked by the applicant's proposal, and
- resist the temptation to make ludicrous statements about the precinct such as the one of page 20 of the Urban Design Statement that suggests that the proposal is, 'Redesigning Sydney's vernacular.'

The connectivity of the proposal is abysmal. Every strong street connection embodied in the original Concept Plan that it is possible to make has been removed, cut, detoured or otherwise severely compromised. A comparison of quantum and connectivity of the public domain in the approved Concept Plan and the proposed amendment is included as Figure 2.

While desirable, the pedestrian connections are second order, and not enough to make up the deficit caused by the mutilation to the approved street pattern. It should be redesigned to make real city connections and a real city scale, as a public, open and engaging public domain.

## 2.6 Lack of Diversity

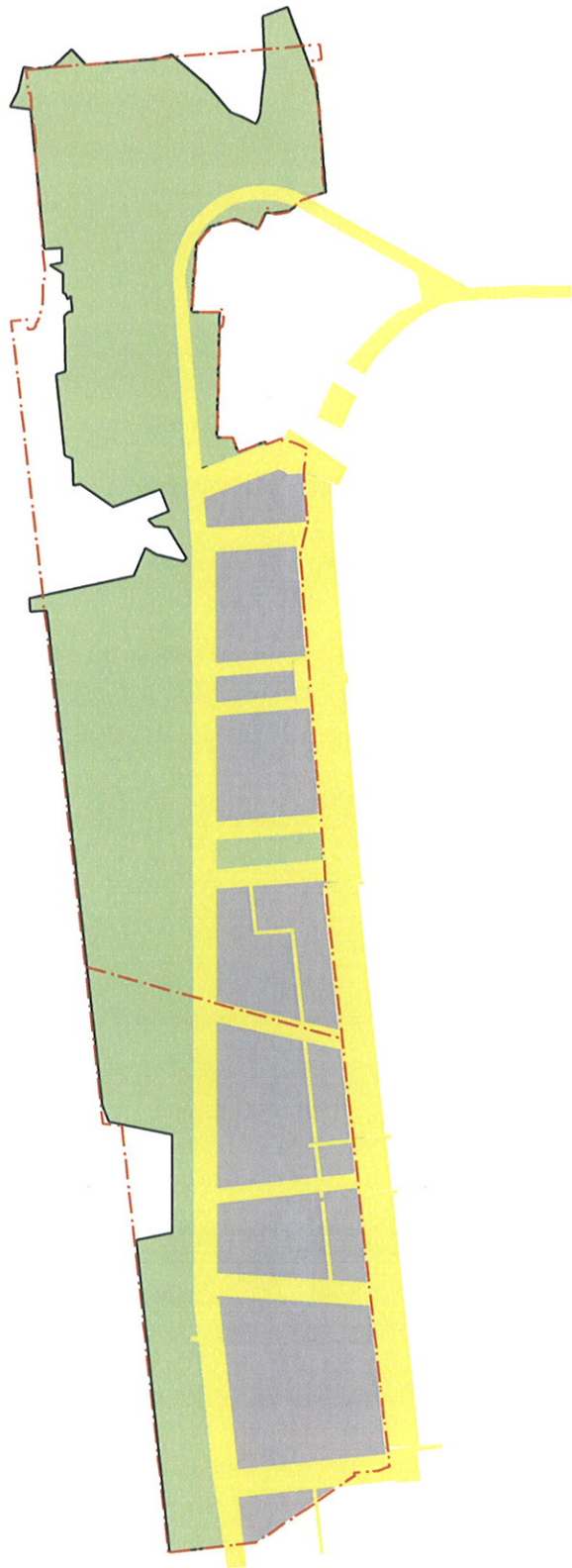
The amended plan purports to provide "improved relationship between public realm and commercial buildings" through "a sequence of clearly defined and diverse public places". In reality, there is very little diversity in the public realm, with the public spaces acting only as an adjunct to commercial activity.

Rather than diversifying the waterfront, the waterfront promenade imports the generic character and commercial activity of King Street Wharf into the southern section of Barangaroo. The 27m wide foreshore promenade is articulated as a pedestrian walkway beside a 10m covered café spillout area. At the southern cove, 6m of the 'Verandah' (a novel form of 'verandah' with no shelter) is also café spillout area, adjacent a very narrow waterside pedestrian path. Analysis of King Street Wharf and East Circular Quay demonstrate that these areas become controlled commercial spaces, not genuine public domain. The dominance of cafes and restaurants does not encourage the mingling of people from all walks of life – it caters to a narrow group of people with money to spend. Replicating these types of spaces as the predominant condition in Barangaroo South reduces diversity and the genuine accessibility of this part of the city.

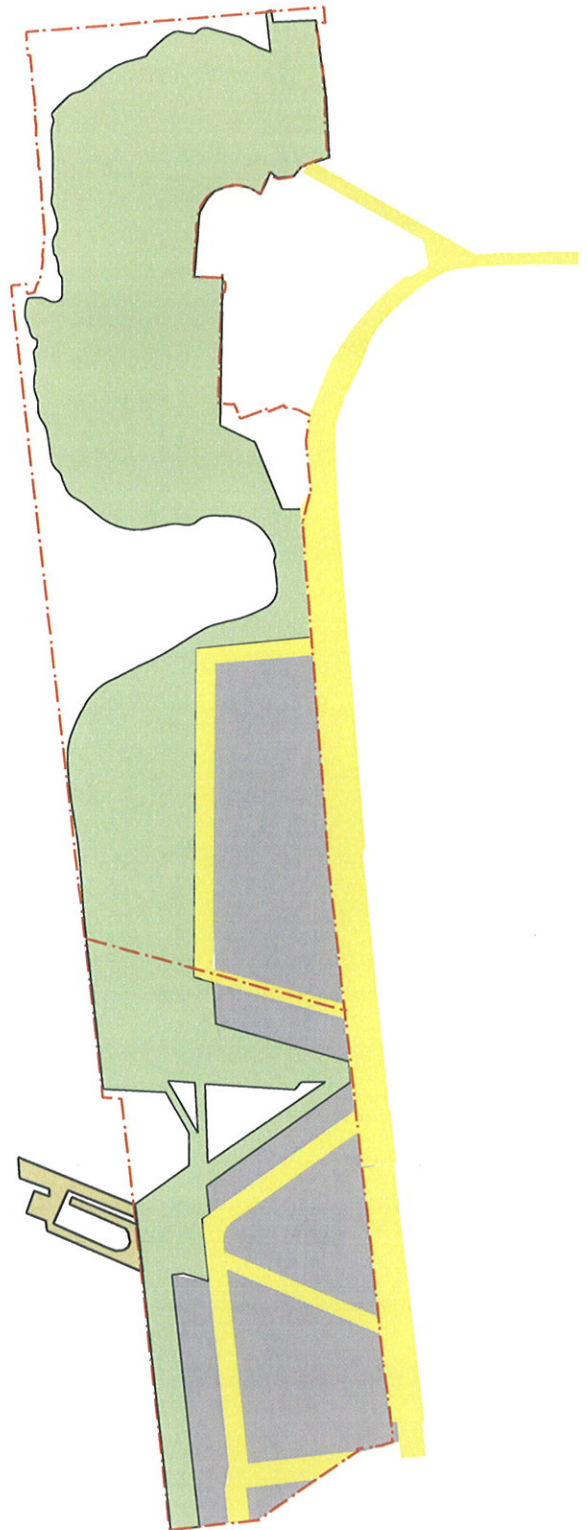
There is no genuine diversity of streetscape scale, landscape character or function, and minimal amenity for pedestrians. There are very few genuine streets within the current concept plan. Consequently, there are very few areas where pedestrians can experience the site without the interference of commercial activity.

The document references The Hornery Institute (the Hornery Institute's relationship to Lend Lease is not disclosed) to justify changes to the public domain, but the stated precepts of authenticity, diversity, and the value of culture and heritage are not met in the proposed changes to the Concept Plan. There is no retained heritage on site, and no cultural institutions are proposed. The activation and attractors are commercial - supplemented with 'programmed spontaneity'. The

## Original Concept Plan



## Concept Plan Amendment



**Figure 2 -** Comparison of Concept Plan public domain and proposed amendment. The generosity, extent, and connectivity of the public domain has been completely undermined in the proposed amendment.

waterfront promenade and connections contribute nothing to the Cultural Ribbon diagram, as implied in the text.

## 2.7 Documentation of public streets

We note that the map on page 43 of the Urban Design Statement outlines block boundaries and building envelopes that correspond to these block boundaries.

The block boundaries are shown running to the centreline of the remnant street pattern, thus attempting to preserve a development right for the applicant to redistribute floorspace, height and bulk into these areas in the future.

Further, on page 46 of the applicants Environmental Assessment Report it states that,

*'Future Project Applications will determine the final form and design of buildings and public spaces.'*

On every single page of the Urban Design Study we are told that,

*'Note: Images are illustrative depictions of design concepts only'.*

And elsewhere we are told that,

*'Areas quoted have been measured from plans produced at Concept stage of the design and are approximate and illustrative only. Further development of the design, measurement and construction tolerances and/or further client/tenant requests will inevitably result in changes to these areas [which could involve significant reductions] and RSHIP accept no legal responsibility for any decision, commercial or otherwise, made on the basis of these areas.'*

It is entirely absurd that this be permitted in a Concept Plan that's sole purpose is to **limit** future development by defining the public realm and built form envelopes. This is the fourth modification that has been lodged by various Applicants to the Concept Plan and still they are not prepared to commit to a definitive public domain and built form strategy.

If there is scope for, 'significant reductions', does that mean that the Concept Plan is 'maxed out' with added development 'fat'?

Even the meagre public domain that the applicant has identified has been earmarked for potential changes. This is inappropriate and should not be permitted.

The public domain should be redesigned to be comparable in quality and scale to that of the rest of the city, preferably with the best parts of Sydney. It should be documented and dimensioned on a dedicated drawing and no development nor future amended development should be permitted in these reservations. This was the clear intent of the original Concept Plan.

## 2.8 Ownership and control

The applicant uses multiple terms to describe spaces in the precinct. At times spaces are referred to as 'public space' at other times as 'publicly-accessible space'. There is a world of difference between these two terms.

At no point does the applicant map or designate –

- Those areas to be dedicated to the City of Sydney as public domain

- Those areas to be managed by the NSW Government, Sydney Harbour Foreshore Authority, Barangaroo Development Authority and the like
- Those areas of open space that would be leased to commercial concessions, cafes, marinas etc.
- Those areas controlled by future tenants.

It is critically important that the applicant be asked to identify these different areas, and with those under private control, what limitations are being imposed on future tenants that require the provision of public access to be maintained.

## **2.9 Activation by retail**

The enclave nature of the proposed structure of Barangaroo South requires that the applicant seek to 'spontaneously' enliven it with active programme. Overwhelmingly this is done by the use of retail and commercial frontage.

We have undertaken an analysis of the linear frontage of retail/commercial frontage that the applicant requires to activate the site. It totals to 2.1km!

To put this in context, we have included some analysis drawings as Figure 3. This shows the entire retail frontage of Cockle Bay and Darling Harbour along the waterfront totalling 0.9km. The retail frontage of China Town has 1.7km frontage. The quantum of retail frontage being considered is almost equal to that between Wynard Station and Town Hall along George Street with much of the side street frontages included.

The street pattern should be designed in a manner that does not require such intensive retail programming to create the illusion of spontaneous urban life. The quantum of retail/commercial frontage proposed cannot be sustained from the proposed new uses on the site – and will inevitably draw upon the retail tenants from other parts of the city.

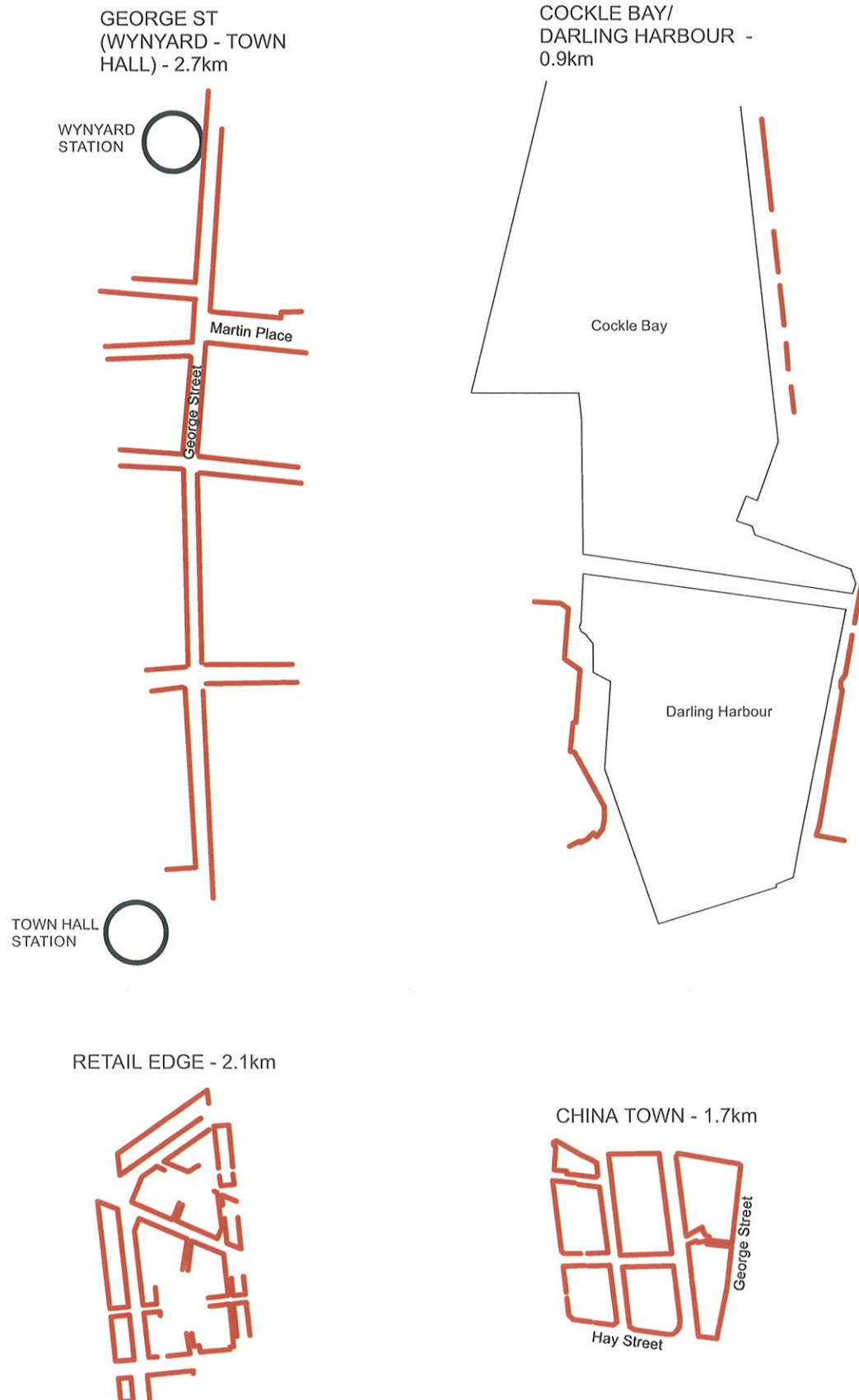
It is inappropriate for the applicant to pillage retail tenants from the rest of the city to animate a flawed public domain structure.

## **2.10 Water-sensitive Urban Design and Landscape planting**

Opportunities for water sensitive urban design are significantly reduced from those articulated in the approved Concept Plan. There are no initiatives for WSUD contained in the public domain proposals. We also note, the applicant's separate application for the excavation and construction of the basement carpark, shows that the carpark extends beneath areas of the so-called public domain. This completely prevents the use of swales and other water sensitive urban design elements, as these systems are predicated on the ability of water to infiltrate the subsurface. There are no figures for the quantum of 'deep soil' on the site, but it must be miniscule, and will be reduced further when the applicant alters their proposal to accurately disclose the connection of the carpark to the landmark hotel.

The inadequate width of streets, the internalization and privatization of east-west connections, and the dramatic overshadowing of the public domain by the 90m long east-west oriented commercial towers and the 80m long hotel building, severely limit opportunities for street tree planting and ensure that these 'streets' will be shaded, barren circulation loops, rather than the open, sunny public thoroughfares envisaged in the approved concept plan.

## RETAIL EDGE COMPARISONS



**Figure 3 -** Comparison of Retail frontage proposed with existing Sydney areas. Shows that 2.1km of retail/commercial frontage is proposed - equivalent to almost all the retail frontage from Town Hall to Wynyard Station on George Street.

The planting strategy is vague, unconsidered and inconsistent with other stated aims of the Concept Plan, for example, the development of heathland and woodland in the central parklands is inconsistent with use of the parklands as event and market space.

The proposed tree species are highly unsuitable to a harbourside urban precinct – Jacaranda have failed spectacularly at Circular Quay and Glochidion is untested as an urban tree (due to its loss of foliage resulting from insect damage in summer).

The original Concept Plan contained a variety of streets, with diverse street tree planting and environmental initiatives, well connected to the city in terms of structure, scale and character. These streets were authentically public, balancing public domain with commercial imperatives. The streets in this amendment are demonstrably inadequate – and must be redesigned to conform with the original Concept Plan.

## **2.11 Canal and Southern Cove**

A large proportion of the southern cove has an artificially controlled water level intended to maintain a consistent high water level in the eastern part of the cove and along the canal.

We assume that this is necessary, due to the impossibility of maintaining a natural flushing system for the landward side of the cove and the canal. The natural tidal variation of the harbour is considered an inconvenience to the applicants, who prefer to formalise and control these beautiful natural systems to augment the controlled and sterile 'Verandah' environment.

Either way, there is not enough detail in the documents to assess any likely impact on the water quality of the harbour, the environmental credentials of the proposal, or the authenticity and character of the public domain. Issues that need to be addressed include:

- water quality – is this to be fresh water, or water recycled from the harbour, and how is it to be treated to maintain water quality;
- the impact of fresh or brackish water on the marine environment when water escapes over the weir – particularly in high rainfall and etc;
- if this is an artificial environment, does it come under the same regulations as the harbour edge, or will part of the cove and the canal require a pool fence;
- is mechanical pumping required to keep the water moving, oxygenate, filter etc, and has this been included in the general assessment of environmental sustainability and carbon neutrality; and
- the effects of sea level rise – will the two parts of the cove join?

The upper part of the southern cove does not seem to include the benefits that are attributed to the extension of the harbour edge in changes to the concept – it has no apparent public access to the water (except in canal), and seems to be there to allow a canal style residential development (see Gold Coast in the 80s) with no public benefit.

## **3.0 Increased Height and Bulk**

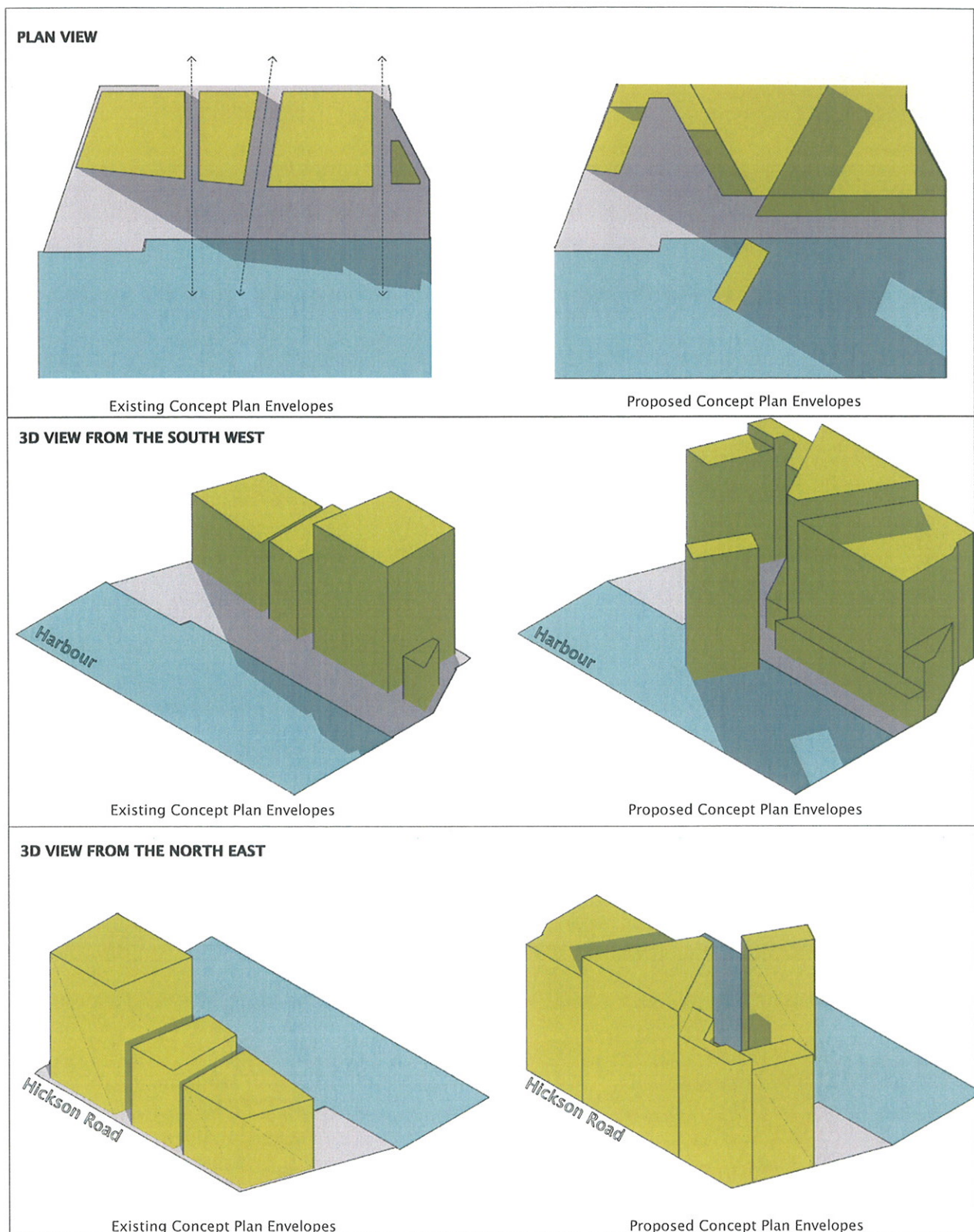
### **3.1 Comparison of existing and proposed envelopes**

We have taken this opportunity to document a comparison of the approved Concept Plan envelopes and the current proposal in plan and three-dimensional form. This is appended to this submission as Figure 4. We have also prepared an elevation comparison of the original competition scheme, the approved concept plan envelopes and the proposed amended envelopes, appended as Figure 5.

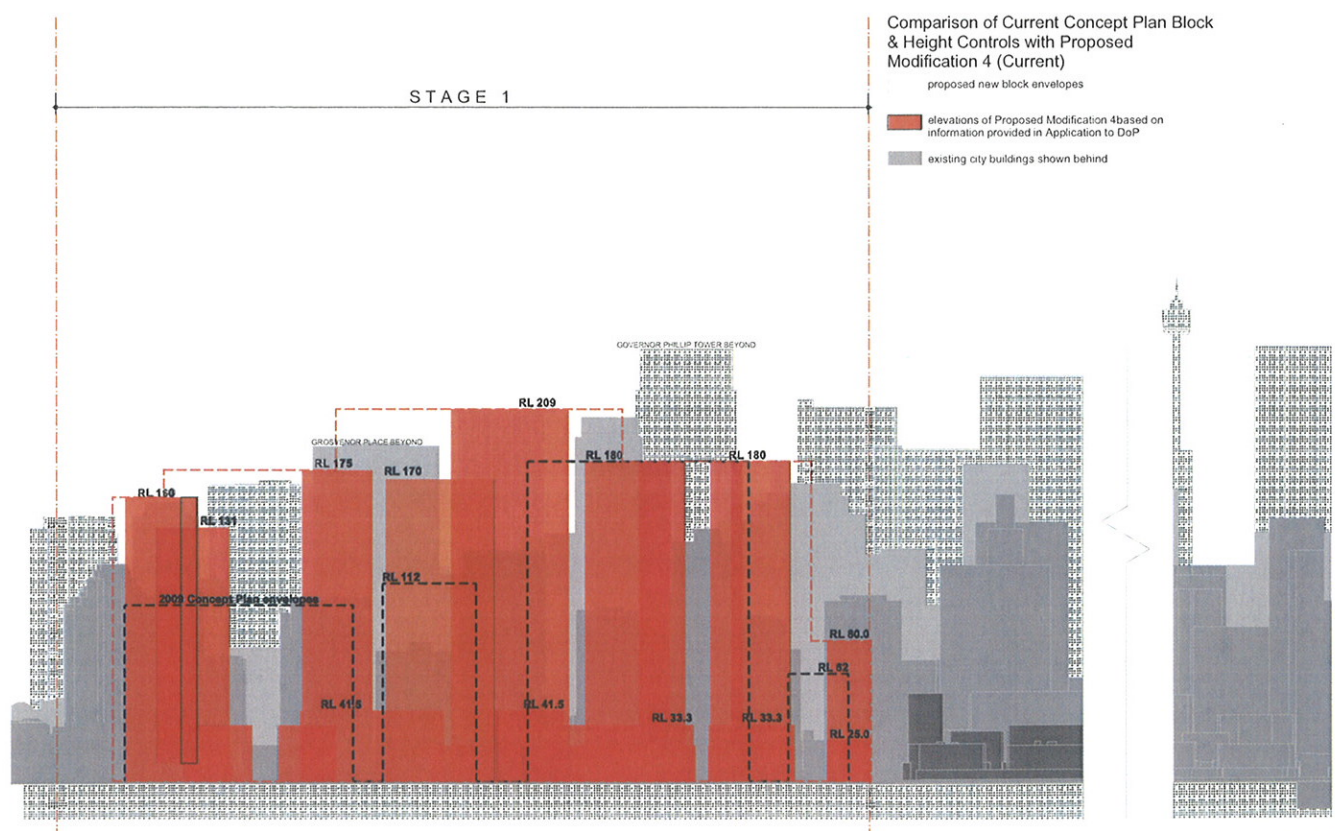
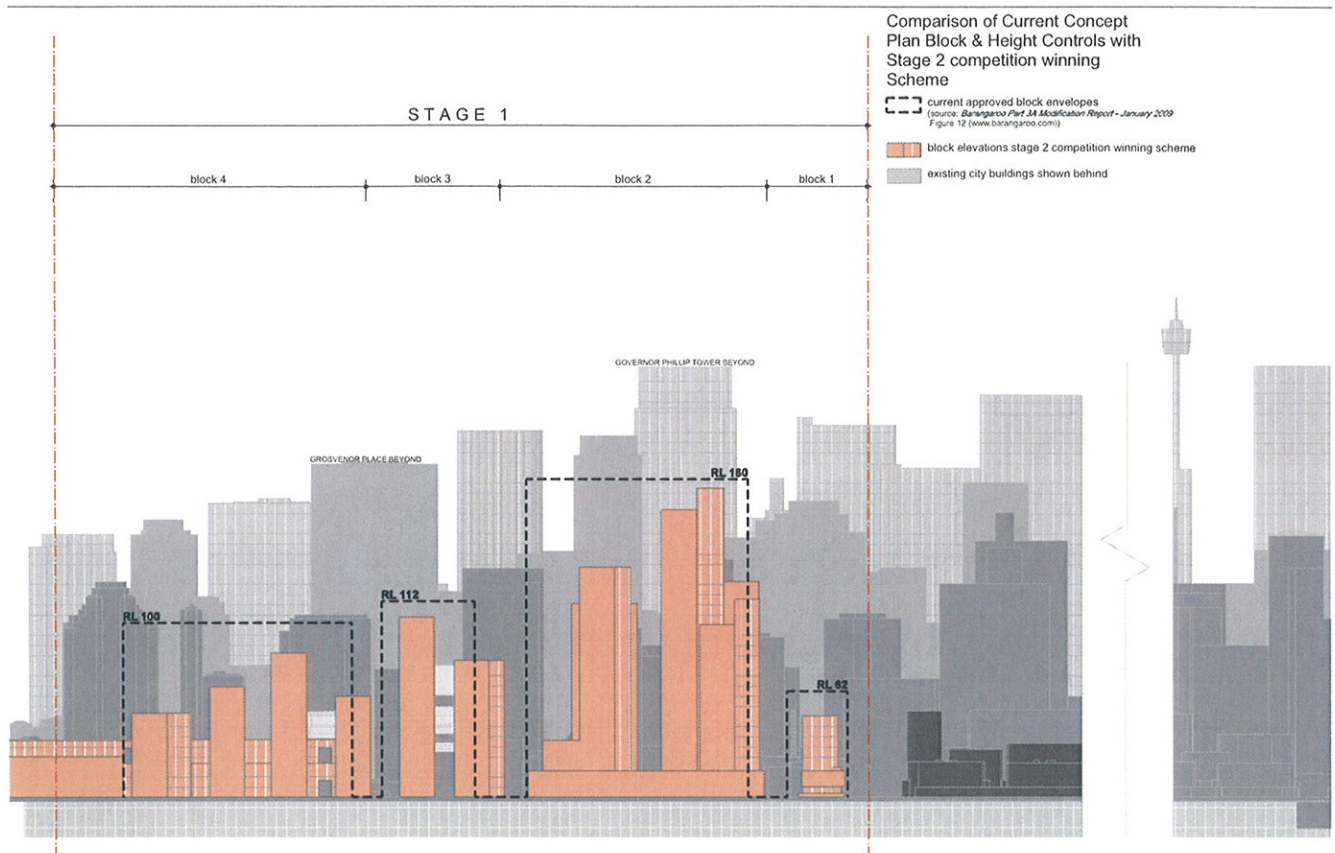


# COMPARISON OF EXISTING + PROPOSED ENVELOPES

NOTE THAT THE PROPOSED AMENDED ENVELOPES ENTIRELY SUBSUME ALL PROPOSED STREETS  
POTENTIALLY ALLOWING FUTURE DEVELOPMENT TO ENCROACH UPON THESE AREAS



**Figure 4** Comparison of existing Concept Plan envelopes to proposed envelopes



**Figure 5** Comparison of proposed heights of competition scheme, approved Concept Plan envelopes and proposed amendment



Unsurprisingly, this reveals an enormous increase in the bulk and scale of the development from that envisaged by the competition-winning proposal.

Mike Collins of the Barangaroo Delivery Authority made misleading statements in a public meeting at the Sydney Town Hall on 3<sup>rd</sup> August, 2010 about our involvement with the original Concept Plan envelopes. He stated that, '

*'In August 2008 an additional 120 000 sqm of floor area were applied for within the existing building envelopes declared by the winning architect, prepared by the winning architect...'* Mike Collins Speech, Sydney Town Hall, 3<sup>rd</sup> August, 2010.

For clarification, we advise that Hill Thalis/Paul Berkemeier/Jane Irwin undertook work in 2006 for the Sydney Harbour Foreshore Authority relating to the initial Concept Plan, but that our work was significantly altered by the SHFA in the final document. We refute his assertion that the envelopes were prepared by our competition team. Our envelopes were organised on a detailed building-by-building basis. The envelopes we had proposed were significantly inflated by SHFA in their completion of, and subsequent modifications to the Concept Plan.

We asked to see the draft Concept Plan in September 2006, prior to its submission to the Department of Planning, however SHFA and their agents refused to give us a complete draft copy.

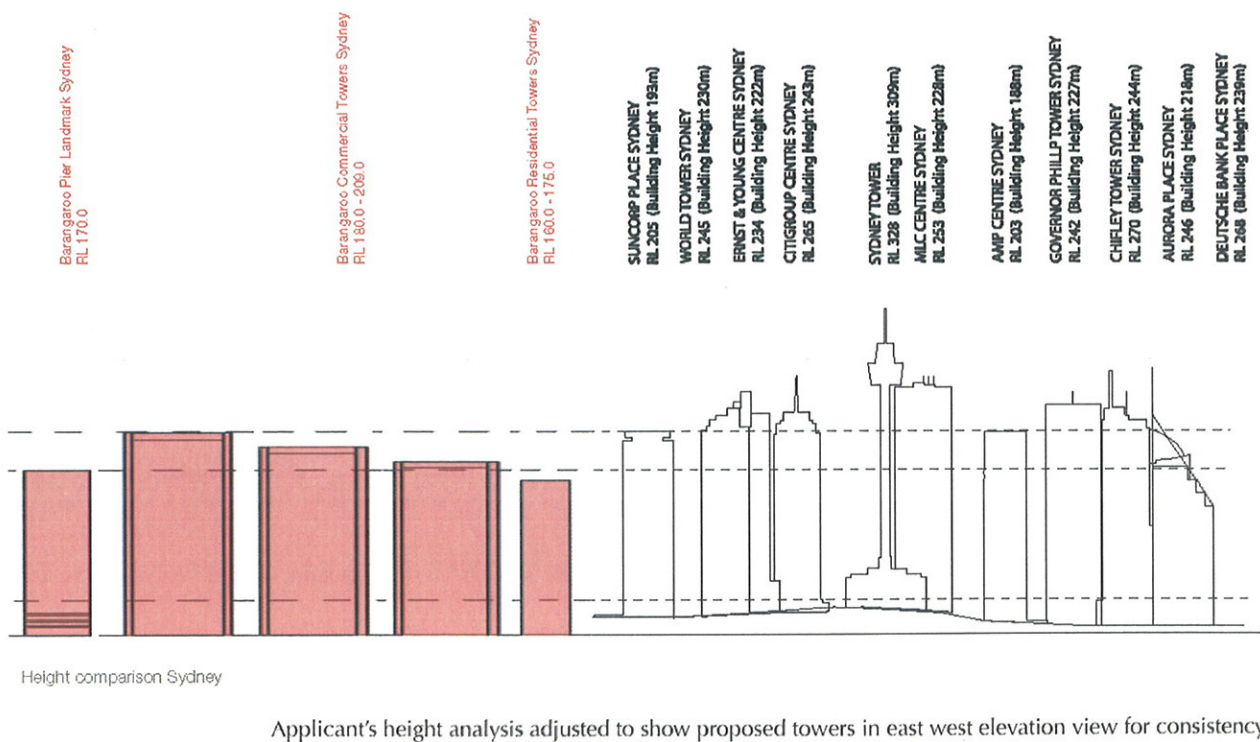
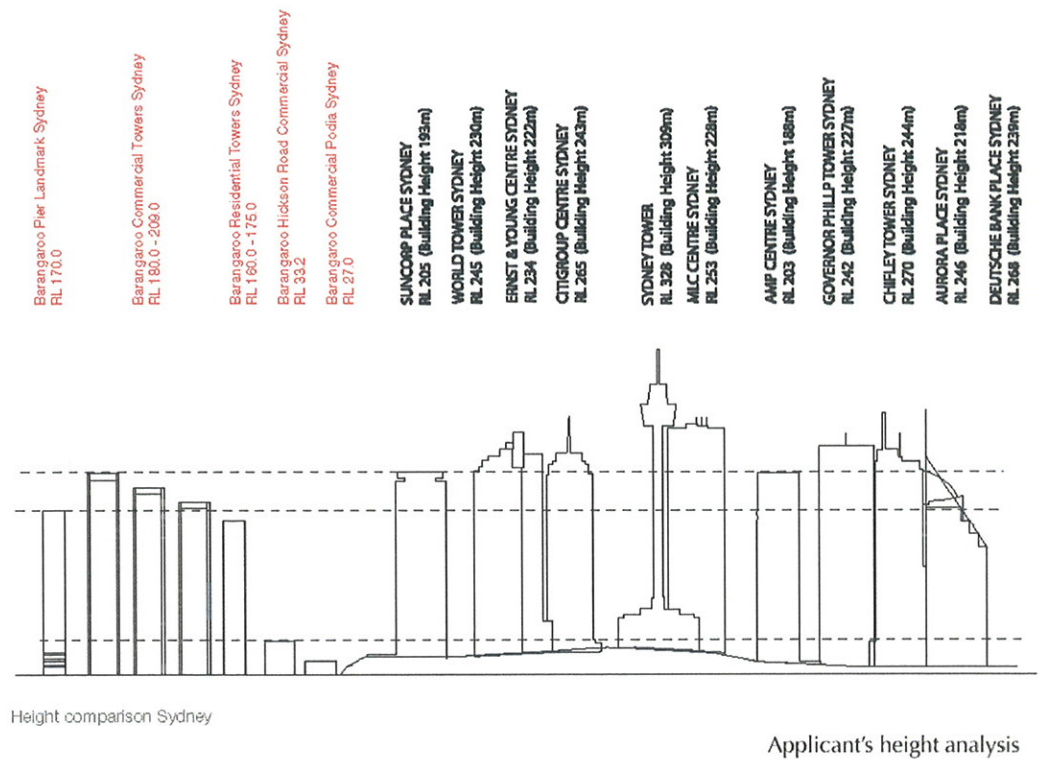
The envelopes were so coarsened and inflated by SHFA, that when they lodged Modification 2 for an additional 120 000sqm of commercial floorspace in 2008, SHFA did not even need to modify these envelopes to accommodate the additional floorspace.

Notwithstanding this situation – the applicant now seeks approval to increase these already inflated and coarsened envelopes further. We advise all people looking at the application to look carefully at the proposed envelopes, rather than the illustrated scheme. The illustrated scheme fills a small fraction of the proposed envelopes – and is not the subject of the current application. The applicant is seeking approval for the envelopes only.

The edges of the built form envelopes are documented on page 43 of the Urban Design Statement in a dashed blue line that also indicates the block boundaries. Note particularly, that the proposed envelopes run the to the centreline of each street, and if approved, will give the applicant the development right to alter or encroach upon these areas in any future applications.

The envelopes are vastly inflated over the quantum of the development that is being sought at this stage. For instance, look at the proposed envelope for development on block 3 as depicted on page 43 of the Urban Design Statement. Only the tower element on this site is proposed to reach a height of RL 209, but the entire area of this block has been given a 209m height limit, thus preserving the right for an increase in height to any of the other buildings on this block without requiring an amendment to the Concept Plan.

The applicant has included a comparison of the proposed buildings to those existing in the city. Again, this is done in a totally misleading manner – presenting all of the city buildings with their long elevations facing the viewer, but showing the short side of the applicant's tower slabs. We have adjusted this drawing, to accurately represent the bulk of the proposed buildings against the city towers – see Figure 6. The radically overscaled nature of these floorplates is immediately apparent.



**Figure 6** Adjustment of applicant's height comparison to show full bulk of proposed buildings

While we note that a degree of flexibility is required in built form envelopes, the 'flexibility' being sought here is of such a quantum that one can only interpret it as a trojan horse for a future modification for ongoing increases in floorspace and bulk.

This is inappropriate and should not be permitted. The envelopes should be adjusted to exclude all proposed areas of public domain and more honestly conform to the applicant's proposed scheme.

### 3.2 Balance between public and private benefit

At the Town Hall meeting on 3<sup>rd</sup> August Mike Collins also stated,

*'And I remind myself that the winning architects, at the time of the competition submitted an unsolicited alternative scheme in excess of 500 000sqm of floorspace because they said that quote, 'additional public benefit may justify further development opportunities on this site', such is the scale of this site.'* Mike Collins Speech, Sydney Town Hall, 3<sup>rd</sup> August, 2010.

Our competition scheme proposed 390 000sqm of floor space. In response to the request in the competition brief, our competition report did also raise the possibility of increases to this figure – however the thrust of it was that *additional quantifiable public benefits* must be used to justify any increases in floorspace above 390 000sqm. The proposed amendment to the Concept Plan makes no funding commitments for new public works, but instead, includes a substantial reduction in the quality and scale of the public domain to that in the approved Concept Plan.

The only additional public programmes that we can identify in the project since the competition scheme and Concept Plan are one limited, light rail line (which was already envisaged in the competition scheme), two ferry wharves (the competition scheme had two wharves) and no commitment to, but rumours of an underground cultural facility (buildings can be much cheaper when they have no visible elevations).

To put this in perspective, below are the public infrastructure elements that have been deleted or reduced in scope since the original competition/concept plan -

- Public promenade reduced in width from min 60m to min 27m (we believe 20m);
- Cruise ship terminal and associated public uses relocated off site;
- Loss of deep water wharfage – an irreplaceable piece of national infrastructure;
- Public swimming pool and harbour bathing area in the competition scheme deleted;
- Full size football field deleted;
- All public artworks in the original competition scheme deleted (not replaced);
- Margaret Street West reduced from 20m to 18m and vista to from upper Margaret Street to the water blocked;
- Napoleon Street reduced from 30m to 12m in width;
- Globe Street reduced from 20m to 15m in width and continuity south with Lime Street undermined, and northward blocked;
- Healy Street reduced from 16m to 11.1m in width;
- Private hotel obstructing public foreshore and intruding into the harbour;
- Area of useable open recreational space vastly reduced by the incorporation of two clumsy water bodies into the site, which the applicant insists on including in its open space area calculations in defiance of all common sense, and
- Loss of archaeological resources on the site

The original Concept Plan made provision for 3,500sqm of Community GFA, 8,500sqm of GFA for the passenger terminal and 3000sqm of GFA for structures in the public domain - a total of 12,300sqm of public infrastructure and community uses.

The proposed amendment makes provision for 12,000sqm GFA for public/community uses and 4,500sqm GFA for active uses. This provides a total of 16,500sqm GFA for public infrastructure and community uses. So while the GFA allocated to community/public/active uses has increased by 4200sqm – retail/commercial/private floorspace has increased by 162, 665sqm. Where is the balance between public and private benefit here?

ANY proposed increases in development must be tied to direct and explicit monetary commitments for the provision of specific public projects and facilities. These should be announced publicly and quantified in dollar figures, so that they can be assessed against the total estimated value of the additional floorspace being sought. Until such time as that assessment can be made, no increases in floorspace should be permitted.

### **3.3 Insufficient information**

We note that evaluation of the proponent's scheme remains unduly laborious, due to an absence of appropriately complete and detailed drawings including –

- A drawing of the proposal with sufficient urban context to evaluate view lines down key streets i.e. to the eastern side of Wynyard Park;
- Western elevation of the proposal as viewed in front of the city skyline with existing envelope controls indicated;
- Southern elevation of the proposal as viewed through a cross section at the alignment of King Street wharf;
- Accurate NS cross sections that depict the proposal and its form in elevation behind the cut in the section line;
- A series of EW cross sections that depict the proposal and its form in elevation behind in the context of the existing city buildings back to at least Kent Street, and
- A fully updated Concept Plan document that updates the proposed controls for the site, including all previous and proposed amendments – showing the relationship of Barangaroo South to the other, now undefined parts of Barangaroo.

The applicant must be asked to complete these drawings to enable an appropriate assessment to be made. The applicant must also be asked to remove the word 'indicative' from any drawing that includes information depicting envelopes or building heights in RL's that they are seeking approval for.

### **34 Inaccurate drawings/images**

We submit that the perspective views submitted in the applicant's View Analysis are flawed due to an unacceptably wide-angle viewpoint being used to distort the proposed building forms. For some clarity regarding the enormous increase in bulk and scale that is being proposed, we have downloaded the view analysis from the approved Concept Plan on the Barangaroo Development Authority's website (Appendix L - [http://www.barangaroo.com/concept\\_plans.cfm](http://www.barangaroo.com/concept_plans.cfm)) and present the before and after views side by side for comparison.



# hill thalis

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Figure 5 - View Montage H4 – View from Observatory Hill

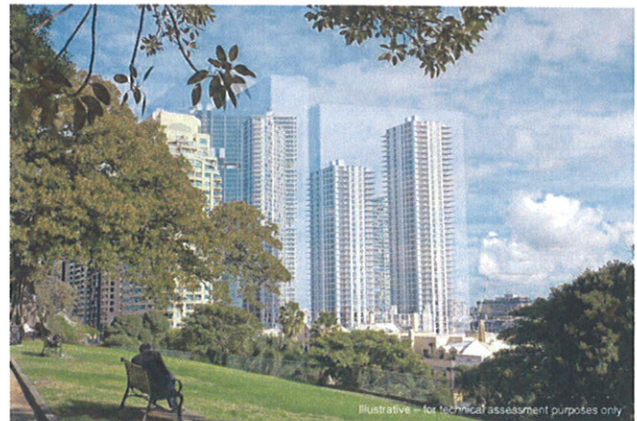


Figure 30 – Observatory Hill view – Concept Plan Modification 4



Figure 10 - View Montage H7 – View to headland, Millers Point & Observatory Hill from Balmain



Figure 20 - Hickson Road view corridor - Concept Plan Modification



Figure 18 - View Montage H1 – Hickson Road

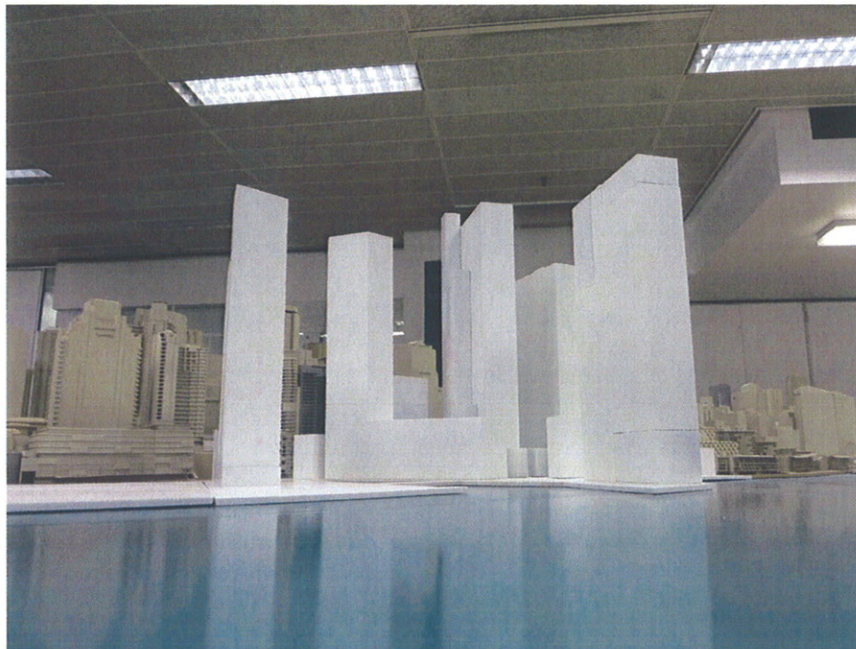
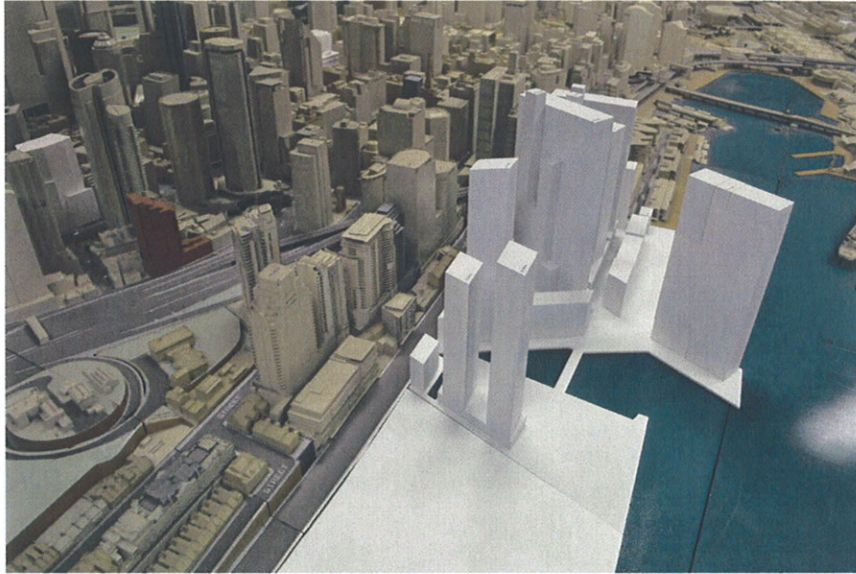
The new perspective views are presented at a scale that makes it impossible to ascertain detail. Even so, comparison with the images in the approved Concept Plan, the massive increase in bulk and scale is extraordinarily apparent.



# hill thalis

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Comparison of the applicant's montages with the City Model at Town Hall houses suggests that the montages may seriously under-represent the scale of the proposed amendment.



The perspective views must be remade – without a wide angled distortion, and at an A3 size that enables a fair assessment of their accuracy.

All of the views in the approved Concept Plan's View analysis report should be updated and placed side by side – with the proposed new views. This should be released publicly so that the increase in bulk and scale being sought is apparent – and that members of the public can make

submissions on this material, rather than the distorted and miniaturised views in the current modification documentation.

Additional public views that should be accurately documented in terms of the approved concept plan and the proposed amendments include –

- View down Margaret Street
- View of the proposal from the King Street foreshore areas
- View from Balls Head
- View from Pyrmont

## 4.0 Hotel

The proposed 'landmark' hotel is an affront to all citizens of Sydney.

Never before, in the history of the city, has a private developer been given permission to construct profit-driven buildings in the harbour.

This privilege has only ever been extended to those buildings with an incontrovertible public programme or critical infrastructural role.

Even when permitted for legitimately public programmes (such as the Sydney Opera House) it has NEVER been at the scale and size that is being proposed here.

It is not appropriate for the applicant to suggest that a hotel, with a bar/café/restaurant in the base is a public use. It is not and never will be a public building. Control of the lower floor of this building will always remain open to the whims of the future hotel tenant. This is NOT public space.

We note with particular amusement the applicant's use of Woolloomooloo Wharf as a public open space precedent. That place illustrates all of the warnings one needs about the privatisation of supposedly 'public' space. A large marina stacked with obese vessels entirely prevents human contact with the waterfront. Café's and restaurants, priced well above the realms of average folk, sterilise the building side of the wharf for all but the wealthy. A miserable dribble of space between is left for public citizens, who feel marginalised, overlooked and surveilled at every moment.

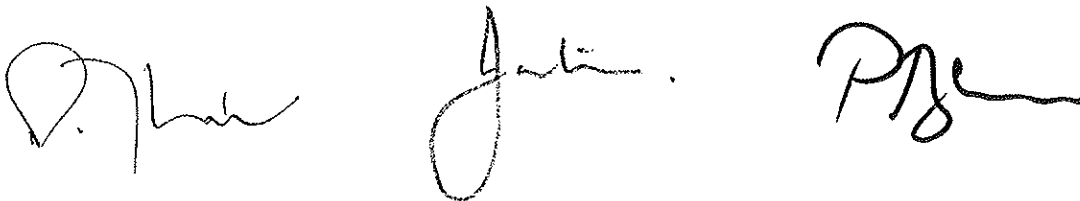
This is highly deficient notion of the democratic potential of public space in the city and should be rejected. To add insult to injury – we are then presented with one of the most infantile metaphorical justifications for a building in recent memory. The building is a tall ship! This statement would make a first year architecture student blush! This fallacious and incompetent nonsense should be condemned and rejected outright.

# hill thalis

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In light of the multiple failings set out above, we strongly recommend that the Department of Planning reject this application.

Yours sincerely,

Three handwritten signatures are displayed horizontally. The first signature on the left is 'Philip Thalís', the middle one is 'Jane Irwin', and the one on the right is 'Paul Berkemeier'.

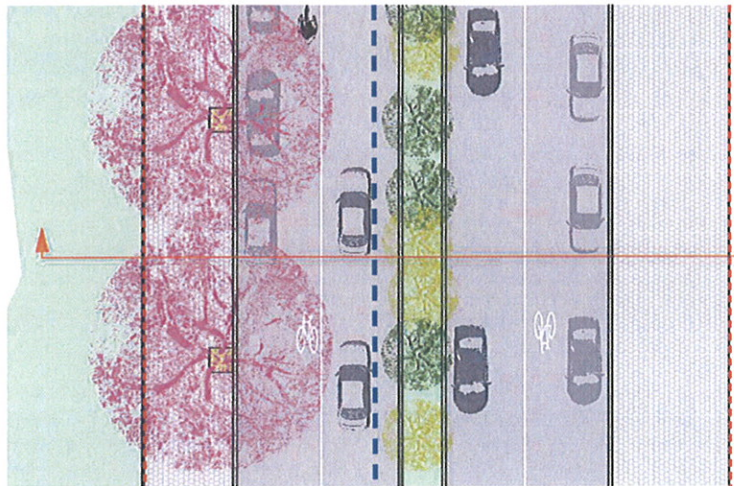
Philip Thalís  
Hill Thalís Architecture + Urban Projects

Jane Irwin  
Jane Irwin Landscape Architecture

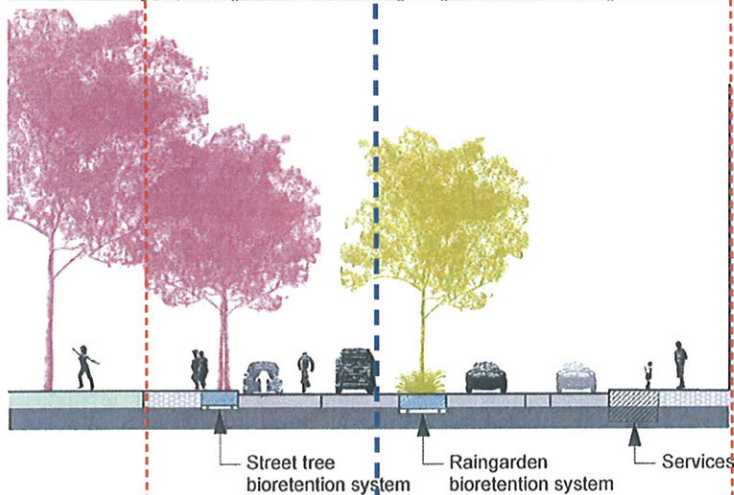
Paul Berkemeier  
Paul Berkemeier Architecture



CONCEPT PLAN



CONCEPT PLAN

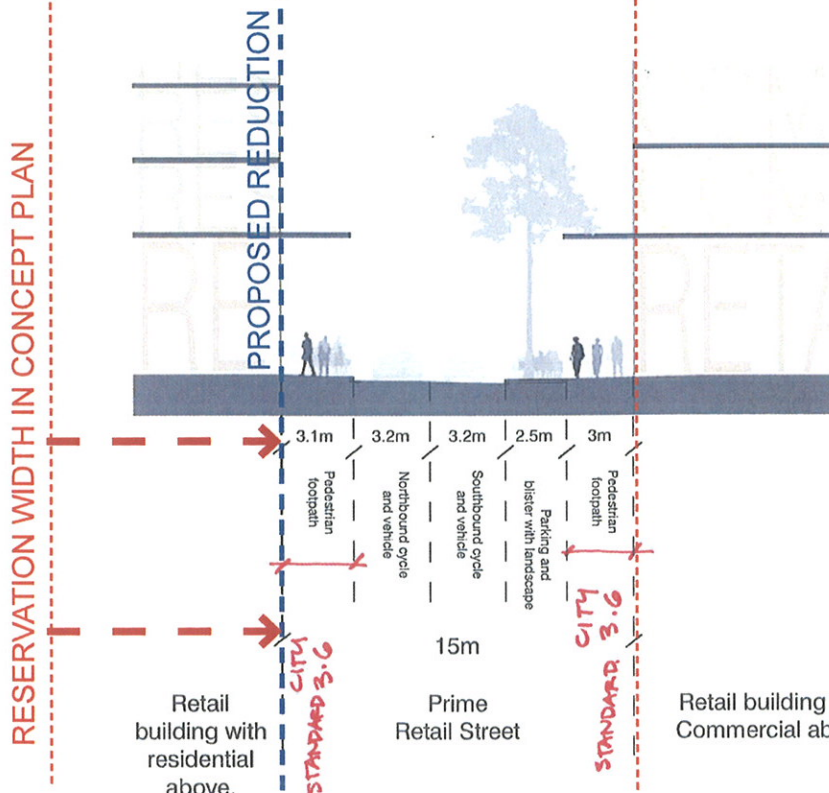


### Note

Globe Street was 24.5m wide and originally over deep soil so WSUD was integrated into all proposed streets and large street trees could be planted. The street opened to the foreshore park.

Now the reservation has been reduced to a pathetic 15m, footpath dimensions don't meet the city standard, large trees and WSUD have been removed as this street will be over the carpark structure below. The street is wedged between commercial frontages and has no public scale or civic presence whatsoever.

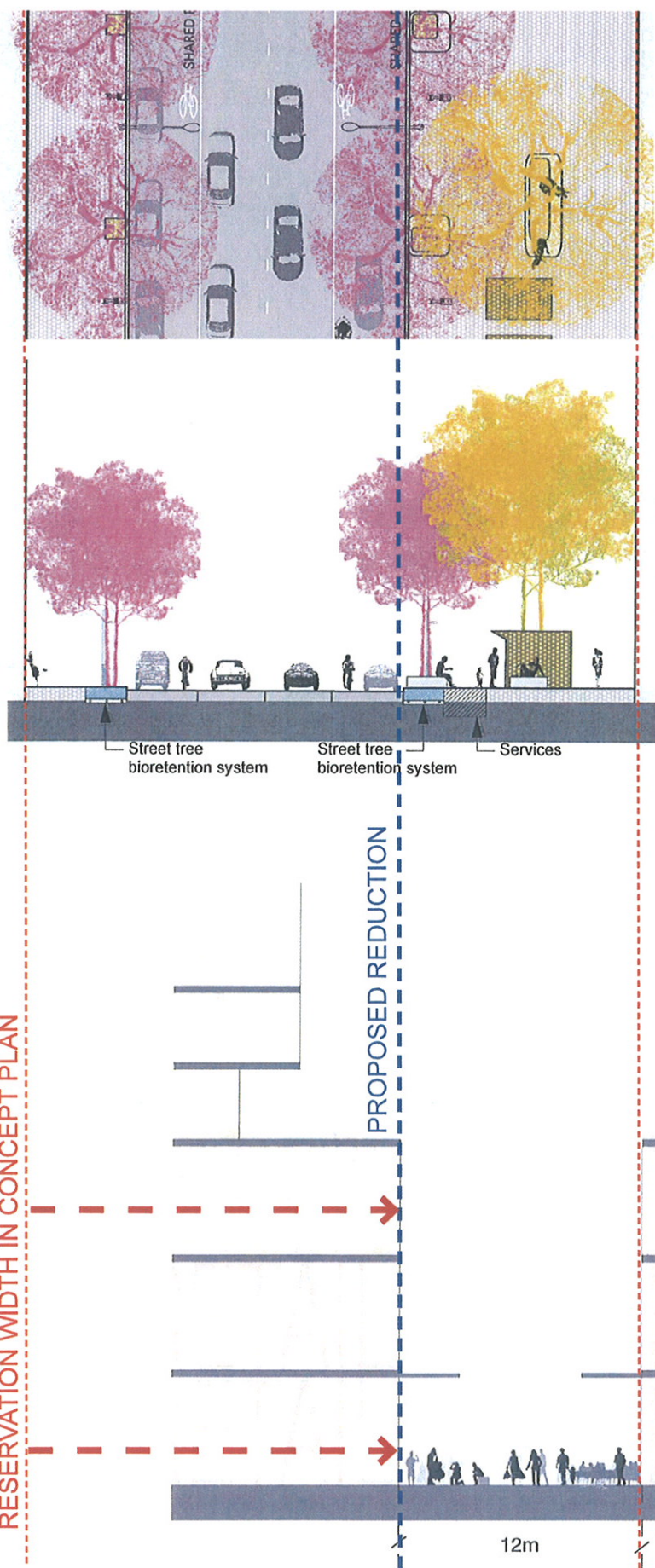
PROPOSED AMENDMENT



### APPENDIX A

Public Domain comparison - Globe Street - before and after  
Shows complete reduction of amenity, scale and civic importance in new proposal

# CONCEPT PLAN



## Note

Napoleon Street was the major entry into the site from the sweep of Napoleon Street. This street was 30m wide and allowed vehicular access, deep soil planting with large trees, WSUD elements and an 11.4m wide footpath for pedestrians.

Now this has become a 12m wide pedestrian mall.  
It has no deep soil planting  
No public or civic scale  
No vehicular access  
No WSUD.

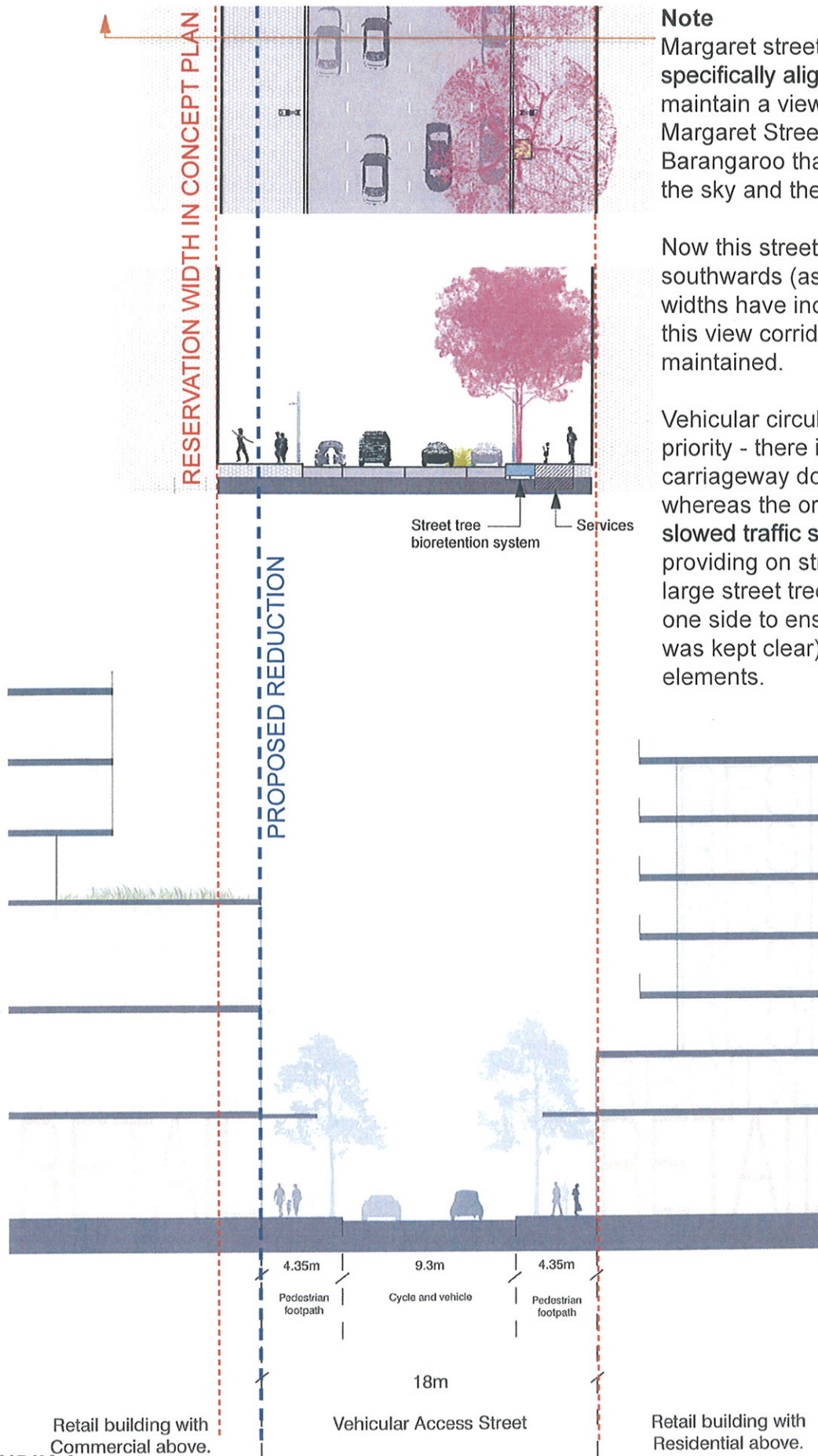
## APPENDIX A

Public Domain comparison - Napoleon Street - before and after  
What was a grand urban street is now a small, dark pedestrian mall.



# CONCEPT PLAN

# PROPOSED AMENDMENT



## Note

Margaret street west was specifically aligned to maintain a view corridor from Margaret Street through Barangaroo that was open to the sky and the water.

Now this street has shifted southwards (as the building widths have increased) and this view corridor is no longer maintained.

Vehicular circulation is given priority - there is a wide dual carriageway documented, whereas the original section slowed traffic speeds by providing on street parking, large street tree planting (on one side to ensure the vistas was kept clear) and WSUD elements.

## APPENDIX A

Public Domain comparison - Margaret Street West - before and after  
Shows complete inadequacy of these elements in the new proposal

**David Gibson - Online Submission from Briana Fang of citizen of Sydney (object)**

---

**From:** Briana Fang <ss\_fang@hotmail.com>  
**To:** David Gibson <david.gibson@planning.nsw.gov.au>  
**Date:** 8/09/2010 1:39 PM  
**Subject:** Online Submission from Briana Fang of citizen of Sydney (object)  
**CC:** <assessments@planning.nsw.gov.au>

---

I believe it is good to re-develop the area. However, the current proposed plan is TOO big. To be more specific, the proposed high rise buildings are WAY TOO HIGH. They are already right at the water front, so why should they be THAT tall?!? They dwarf most of the CBD buildings and cast such significant shadows to the city. Considering what exists around the area, this plan create such IMBALANCE in the area (in terms of aesthetics) and soooooo disproportional!!!

If the re-development goes ahead just as it is, those high rise buildings will be such an absolute eye sore for the area, and we, the sydneyiders, will be the ones forever paying the price...and probably cursing the government in charge for giving the 'go ahead' for these high rise.

Another concern is the public transport available in the area. Considering traffic is already very bad in & around the city area, it does not make any sense to re-develop this place to such high density.

I sincerely hope the height of these high rise buildings will be scaled back to a much more reasonable one.

Name: Briana Fang  
Organisation: citizen of Sydney

Address:  
Home: 1107/174-186 Goulburn Street, Surry Hills, NSW 2010

IP Address: 60-242-145-30.static.tpgi.com.au - 60.242.145.30

Submission for Job: #3803 MP06\_0162 MOD 4 (Hotel development, additional GFA and Height)  
[https://majorprojects.onhiive.com/index.pl?action=view\\_\\_job&id=3803](https://majorprojects.onhiive.com/index.pl?action=view__job&id=3803)

Site: #188 Barangaroo (formerly East Darling Harbour)  
[https://majorprojects.onhiive.com/index.pl?action=view\\_\\_site&id=188](https://majorprojects.onhiive.com/index.pl?action=view__site&id=188)

-----  
**David Gibson**  
Senior Planner, Government Land & Social Projects

P: 02 9228 6241  
F: 02 9228 6488  
E: david.gibson@planning.nsw.gov.au  
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Richard P



Barangaroo Action Group Incorporated  
PO Box 141, Hunters Hill NSW 2110  
www.barangaroaction.com.au  
enquiries@barangaroaction.com.au  
02 9953 8083

6 September 2010

Director-General  
NSW Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

Dear Director-General,

RE: MPO6\_162 MO4

Please see enclosed copy of submission of the Barangaroo Action Group that has been lodged on line today.

Yours sincerely,

Ian Campbell, President  
Barangaroo Action Group

RECEIVED  
- 7 SEP 2010  
Director General



Barangaroo Action Group

Barangaroo Action Group Incorporated  
PO Box 141, Hunters Hill NSW 2110  
• www.barangaroogroup.com.au  
• enquiries@barangaroogroup.com.au  
• 02 9953 8083

## **BARANGAROO ACTION GROUP ATTACHMENT TO SUBMISSION**

These submissions are made by the Barangaroo Action Group (**BAG**) in relation to the application by Lend Lease (**Applicant**) in respect of the Barangaroo site (**Site**), the application being identified as MP06\_0162 MOD 4--(Hotel development, additional GFA and Height) (**Application**).

The Barangaroo Action Group is an incorporated association that was established to seek the best outcomes for the City of Sydney and its residents and tourists in relation to the Barangaroo development. BAG has more than 4,000 members, including eminent Australians such as Jack Mundey, and numerous local government councillors, architects and town planners, as well citizens, Australia-wide, who are concerned that the Barangaroo development should reflect the best utilisation of this uniquely situated publicly-owned site.

The present Application describes the development as:

*Amendment to the approved Concept Plan as follows:*

- *Reconfiguration of built form blocks and establishment of two new blocks (X & Y);*
- *Increase of 59,965m<sup>2</sup> gross floor area (GFA) within approved Blocks 1-4;*
- *Removal of approved 8,500m<sup>2</sup> of passenger terminal GFA and increase in GFA for active and community uses;*
- *Increase in building height (RL) from 62m to 80m for Block 1;*
- *Increase in building height (RL) from 112 m to 209 m for Block 3;*
- *Maximum increase in building height (RL) from 100 m to 175 m for Block 4;*
- *Establishment of a maximum building height of 41.5m for Block X and 170m for Block Y;*
- *Enlargement of Concept Plan area into Sydney Harbour to accommodate landmark building and pier (Block Y);*
- *Redistribution of land use mix and reconfiguration of public promenade, resulting in a reduction in width of the promenade from a minimum of 60m to 27m;*
- *Revisions to built form controls and urban design principles; and*
- *Provision of a cultural centre.*

This submission does not address the architectural, design or town planning issues presented by the Application. BAG understands that qualified and experienced professionals will be making submissions in relation to these matters. BAG's submission that the Minister must refuse to grant approval to the application is made on the following grounds:



- A. The Application fails to adequately address the issue of remediation of Site contamination.
- B. The Application cannot be said to be in respect of a "modification" to the approved Concept Plan for the Site.
- C. The Application cannot be determined until there is a determination of the relocation of the Cruise Ship Terminal.
- D. The Applicant has failed to comply with the Director-General's Requirements (DGR).
- E. The Application is invalid pursuant to section 8F of the *Environmental Planning and Assessment Regulation 2000* by reason of lack of owner's consent.

Following are the detailed submissions in respect of each of the above grounds.

**A. The Application fails to adequately address the issue of remediation of Site contamination.**

BAG has been prejudiced in being able to make a detailed and complete submission for the reason that a considerable number of terms relating to remediation of and around the Site have been redacted from the contract entered between the Applicant and the Barangaroo Delivery Authority. BAG has complained to the Information Commissioner with respect to the redactions made to that contract and submits that the time for making submissions should be extended until a reasonable time after the Information Commissioner has finalised the investigation.

One of the most important issues relating to the proposed development is the presence of, and likely migration of, contaminants in and around the Site. Yet, the Environmental Assessment Report of JBA Urban Planning Consultants Pty Ltd dated 6 August 2010 (**EAR**) devotes less than 1 and a half pages to this vital matter (See 7.8.1).

Section 2.5.4 of the EAR notes the presence of contaminants including benzene, total petroleum hydrocarbons, xylenes and polycyclic aromatic hydrocarbons, although it does not note other contaminants, such as cyanide, that were referred to in the Environmental Assessment Report (**Excavation EAR**) that accompanied the Applicant's Application *MP\_100023 – Bulk excavation and basement car parking – Blocks 1-3 (Excavation Application)*.

BAG's submission in regard to the Excavation Application included a detailed submission with respect to the failure of that application to adequately address contamination issues and BAG will not repeat those submissions here, save to summarise as follows:

- (a) The Excavation Application dealt with the remediation of excavated fill before re-use, but it did not deal with the remediation of the unexcavated soil that was to remain on Site.
- (b) Many of the existing contaminants have migrated from the former AGL gasworks within and near the Site.
- (c) Expert opinion is that such migration was facilitated by the excavation works for buildings in Hickson Road, including the Bond Building, a gazetted contaminated site, from the level 4 basement of which building contaminants seepage is pumped on a regular basis.
- (d) Expert opinion is that further excavation works on the Site will facilitate further contaminants migration onto the Site, surrounding areas, and into Darling Harbour itself.

Neither this EAR nor the Excavation EAR addresses this issue.

The Minister should not approve this Application unless he is satisfied that this issue will be satisfactorily addressed. (See *State Environmental Planning Policy No. 55 (Remediation of Contaminated Land)*, clause 7.)

Since making its submissions in relation to the Excavation Application, BAG has learnt that the only satisfactory method of ensuring that there is no further contaminants migration is to remove the source of the contaminants. Otherwise, buildings on and around the Site will suffer the same pollution as that being encountered by the Bond Building, thereby threatening the sustainability target of "Healthy Buildings" for Barangaroo.

Removing the contaminants source, that is to say, remediating the old gasworks site will involve the closure of Hickson Road for a substantial period. As the EAR notes in Section 5.4.1, Hickson Road is a collector road which will carry cars, buses, light rail, cyclists and pedestrians to Barangaroo. It will also be the major artery for the hundreds of construction vehicles that will visit the site during the construction works.

The Minister cannot be satisfied that the land will be satisfactorily remediated until he has further information, including independent experts' reports, as to how the land can be satisfactorily remediated and whether such remediation should occur before the commencement of the proposed works.

**B. The Application cannot be said to be in respect of a "modification" to the approved Concept Plan for the Site.**

BAG submits that the proposed modification is such a drastic departure from the currently approved Concept Plan, that it cannot be said to be a modification at

all, and that the Minister must refuse to approve the Application and demand that the Applicant lodge a fresh application for approval of a new Concept Plan if it wishes to pursue the current proposal.

The Application modifies the approved Concept Plan drastically in terms of GFA, buildings heights and mixed uses proportions as follows:

- (a) Each of Blocks 1 (+18 metres), 3 (+97 metres), 4B (+75 metres) and 4C (+60 metres) is dramatically increased in height.
- (b) The GFA for the Mixed Uses Precinct is increased by a total of 60,000 square metres, with the residential use being increased by 45,000 square metres. This does not include the "hotel" landmark building which will encompass 33,000 square metres. BAG has learnt from sources within the Applicant that the landmark building will in fact comprise residential apartments and so its GFA should be included as an increase in the residential GFA, resulting in a total increase in the residential GFA of 78,000 square metres.

The Application diverges further from the approved Concept Plan by:

- (c) Deleting the Cruise Ship Terminal;
- (d) Including a 170 metres tall "hotel" on a pier 85 metres into Darling Harbour waters;
- (e) Including a new residential block with a GFA of almost 19,000 square metres;
- (f) Reducing the width of the foreshore public promenade by more than a 100%.

BAG submits that the totality of all these modifications represent such a drastic departure from the approved Concept Plan that the Application cannot be categorised as a "modification" to the approved Concept Plan.

It must be beyond argument that, at the very least, the replacement of the Cruise Ship Terminal with a building on a pier extending into the harbour is a drastic departure.

**C. The Application cannot be determined until there is a determination of the relocation of the Cruise Ship Terminal.**

The Application presupposes the relocation of the Cruise Ship Terminal, the presence of which at Barangaroo was central to the approved Concept Plan. BAG submits that the Minister cannot approve the Application until such time as an appropriate site for relocation of the Cruise Ship Terminal is approved.

BAG is aware that Sydney Ports Corporation has lodged a Major Project Application with the intention that a Cruise Ship Terminal be constructed at White Bay. However DGR for that application were issued only on 7 June 2010 and there is no guarantee that the relevant consent authority will ultimately approve the construction of a Cruise Ship Terminal at that site. So far as BAG is aware, there is no other site presently under consideration.

Accordingly, it would be premature for the Minister to approve the Application, which involves the deletion of the Cruise Ship Terminal until such time as consent is granted for the construction of the terminal in another location.

**D. The Applicant has failed to comply with the Director-General's Requirements (DGR).**

BAG submits that the DGR are defective in that the Director-General has failed to comply with section 75F(4) of the *Environmental Planning and Assessment Act, 1979* which provides:

*"(4) In preparing the environmental assessment requirements, the Director-General is to consult relevant public authorities and have regard to the need for the requirements to assess any key issues raised by those public authorities."*

Enquiries made by BAG of Sydney City Councillors reveal that the Director-General did not formally approach that Council to see what issues it might have and yet there is little doubt that the Council is a relevant public authority that should have been consulted.

**Obligation to Consult**

The DGRs, issued 2 July 2010, Section 16, required the Applicant to "*Undertake an appropriate and justified level of consultation in accordance with the Department's Major Project Community Consultation Guidelines October 2007.*"

Those guidelines required the Applicant, in effect, to:

- Consult early, particularly where the project is likely to be contentious;
- Commit adequate resources to the consultation;
- Clearly describe who was consulted and what issues were raised; and
- Demonstrate how the issues raised during the consultation process have been addressed in the environmental assessment report.



BAG submits that the Applicant has done no more than pay lip service to the requirement to consult. It certainly has not described who was consulted, what issues were raised and how these issues have been addressed in the EAR.

So far as BAG is aware from communications it has received, not one aspect of the Application deals with concerns raised by BAG members and others, and the Application in fact ignores the many submissions and concerns publicly expressed by community members, which submissions and concerns include the overdevelopment of the Site, Site contamination, and the precedent of delivering harbour waters to a private developer.

The Applicant cannot be ignorant of such publicly expressed concerns, even though it has refused to allow persons attending its presentations to raise them.

The Applicant's "consultations" with the community have been no more than public relations exercises where persons attending have been shown picturesque slides of the proposed buildings taken from an aerial view, so as not to portray the true scale of the development, and slides of persons enjoying coffees in sunlit areas. When persons in attendance have sought to obtain additional information, their questions have been ignored or evaded. Questions sought information on matters completely ignored by the Applicant's "spin" representatives, including environmental sustainability, transport, climate issues, land remediation, and so on.

Recently the Applicant invited residents of three buildings in Pyrmont to attend a presentation. The Owners Corporation of Wharf 9 requested the Applicant to permit BAG to also address the meeting, so that those attending could hear a balance of arguments in relation to the development, but the Applicant refused to adopt this format. This cannot be said to be true consultation with the community.

The attitude displayed by the Applicant towards any meaningful consultations is exemplified by the Applicant's refusal to provide Sydney City Council with a scale model of its proposed development. It is the practice of each proponent of a substantial development to provide the Council with a scale model of the proposed development, which model is placed in the scale city model in the Town Hall, so that interested community members can reflect on how the proposed development will meld with the existing cityscape. Lend Lease's refusal to follow this tradition left the Council with no choice but to prepare its own model.

The Applicant's conduct is not demonstrative of a developer seeking to comply with a requirement to consult. The Minister should refuse to grant any approval until such time as the Applicant complies with the DGR to consult.

## **DGR re Landmark Building (Hotel/Apartments)**

Section 6 of the DGR required the Applicant to "justify the proposed introduction of a built form element into Sydney Harbour and its integration with the surrounding environment..."

In Section 7.1 Table 5 of the EAR, the Applicant specifies which sections of the EAR deal with which specific DGR. The only meaningful attempt to provide such a justification appears in Section 4 of Appendix A. While this section purports to justify the proposed introduction of a built form element into Sydney Harbour, there is no attempt to justify the fact that the proposed introduced built form is to be 170 metres tall and a privately owned building.

Although the DGR did not expressly require such a justification, it must be implied from the express terms of the DGR that not only should the Applicant justify the presence of a built form, but it should also justify the height, bulk, use and ownership of the proposed intrusion into Sydney Harbour.

BAG is unable to locate any attempt to comply with the DGR to "assess the geotechnical and contamination issues associated with the construction of the landmark building and associated pier/promenade."

In this regard, BAG notes that it has not seen Appendix N, which does not appear on the Department's website, so far as BAG can see.

### **E. The Application is invalid pursuant to section 8F of the *Environmental Planning and Assessment Regulation 2000* by reason of lack of owner's consent.**

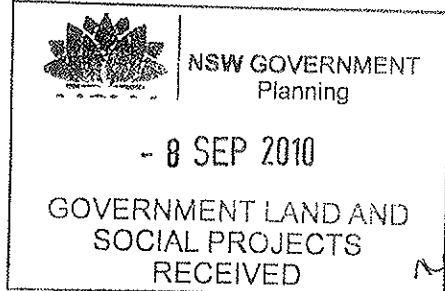
Paragraph 2.2 of the EAR purports to identify the Site and the owners of the land comprised in the Site. Figure 3 in that Section is deficient in that it fails to show the location, in the southern section, of Shelley Street and Lime Street, which are roads owned by Sydney City Council pursuant to section 145 of the *Roads Act, 1993*.

The southern Site boundary traverses Shelley and Lime Streets which are Council roads.

Accordingly, the Application affects land owned by Sydney City Council which has not consented to the Application.

Pursuant to Regulation 8F(1) of the *Environmental Planning and Assessment Regulation 2000*, the consent of the owner of the land on which a project is to be carried out is required for a project application.

The failure of the Applicant to obtain the consent of Sydney City Council invalidates the Application.



221/120 Pyrmont A/C  
Pyrmont 2009  
7th September 2009

re Land Lease Plan for Barangaroo South

New South Wales Planning  
23 Bridge St  
Sydney.

Subsequent to viewing the model for above site on display in Bridge St and again walking to the site in question, Barangaroo South I submit the following objections:-

- 1) The model in Bridge Street shows no relation to existing surrounding area, nor does it indicate usage of individual buildings or height.
- 2) The model plan does not delineate existing 1800's harbour foreshore wall and therefore gives no idea how far Land Lease intend to extend over the harbour.
- 3) Height of proposed plan will throw huge shadows across the harbour to buildings on land opposite. There is a huge public objection to height of these structures.
- 4) Land Lease are deceiving the public with plan showing on hoardings or wire fence erected along Lime St and Hickson Rd - the plan shows existing straight harbour foreshore wall with:-
  - a) no protrusion into the harbour
  - b) yellow lines vaguely outlining proposed buildings
  - c) no proposed hotel into the water area beyond the wall.
- 5) What authority has Land Lease to build the wire fence from Lime St to Wharf No 2 along Hickson Road and cutting access along harbour side wall preventing public walkway from King St end.

This area belongs to the people of Sydney and trust due consideration be given to objections and suggestions for the whole area.

Sincerely  
Joan Griffin