

19 September 2019

Ms Anna Summerhayes
Acting Executive Director - Secretariat
Independent Planning Commission of N.S.W.
Level 3, 121 Elizabeth Street
Sydney 2000

Dear Ms Summerhayes,

Re: The Star Casino MP08_0098 MOD13 Review of the independent Assessment and Design Advice

Please find attached my review of the independent assessment and design advice prepared by Professor Peter Webber in response to your brief dated 12th of September 2019.

Appended to my review are the documents I have relied on and my Curriculum Vitae.

Please do not hesitate to contact me should you require and further information or explanation.

Regards

A handwritten signature in black ink, appearing to read 'Yvonne von Hartel', with a stylized flourish at the end.

Yvonne von Hartel AM

Enc.

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I have been asked by the Commissioners of the Independent Planning Commission of NSW to conduct a peer review of the Independent Assessment and Design Advice prepared by Professor Peter Weber in July 2019 for the Star Casino Pyrmont Sydney new Residential and Hotel Tower prepared under Section 75W Modification Assessment (MP 08_0098 MOD 13).

The purpose of this review is to assess the robustness and validity of the independent assessment and design advice prepared by Professor Webber. Professor Webber's assessment and design advice was prepared to assist the review conducted by the Department of Planning, Industry and Environment (The Department), in July 2019.

In my review I consider and comment on the following reports prepared for Star Group Pty Ltd by

- Architectus, Visual Impact Assessment, August 2018
- Richard Lamb, Richard Lamb and Associates; Peer Review of 3 July 2018
- Russell Olsson, Olsson & Associates Architects Pty Ltd: Urban Context Report of 6 September 2019
- David Moir, Moir Landscape Architecture: Landscape & Visual Assessment Review of 3 September 2019

The documents I have relied on to prepare this review are listed at Appendix 1

My curriculum vitae is attached to this report at Appendix 2

I have visited and toured the site and its environs and the broader precinct in August 2019.

A handwritten signature in black ink, appearing to read 'Yvonne von Hartel', with a stylized flourish at the end.

Yvonne von Hartel AM

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METHODOLOGY

Professor Webber examines the proposal under the following headings;

Site

Built Form

Context

Assessment of Proposed Development-

- Visual Impact
- Distant/Medium Distant
- Immediate
- Private Views
- Built Form
- Overshadowing
- Symbolic issues
- Public benefit
- Precedent Argument.
- Conclusion

For ease of comparison, I examine Professor Webber's findings in the order he has followed. Firstly his analysis;

SITE

Professor Webber provides a very brief description of the site and comments on the diverse range of activities represented within the site boundaries. He explains the proposed location of the tower is a response to "*a range of existing constraints*" which he attributes to the location of light rail tracks, the ownership of the Lyric theatre site, and the fact that a tower building along the Pymont Road frontage could not achieve the required separation from the Astral buildings. He dismisses the tower location as an issue as the '*alternate locations which were exploredwould inevitably have given rise to similar impacts*' These impacts are not stated or explored in any detail and one wonders how Professor Webber classifies these impacts – as advantageous or deleterious, significant or insignificant. A discussion of the impacts could have assisted his later assessment of the proposed development.

The brief description of the site does not cover the character of the site, or the importance of its character, or its topography:

- Character of the area
- Special Areas
- Streetscape, setting or landscape
- Site and building

I note that the above criteria are well covered by the Department's review.

BUILT FORM

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EXISTING

In his discussion on Built Form, Professor Webber describes the existing buildings on site as low rise and in particular mentions that *'although the Astral Residences and Hotel rise and additional 10 - 12 storeys above the podium they are relatively unobtrusive from ground level viewpoints because of their setbacks, building forms and restrained palette of external materials and colours'* and states that *'the development was approved at the time because this complex range of activities and building forms would be acceptable in relation to the surrounding urban context'*; he leaves any discussion of height to elsewhere in his report and does not comment here. In fact more could have been made by Professor Webber of the built form of the existing buildings; their rectilinear shape, their adherence (or otherwise) to a podium and tower form, and their materiality; to allow a further discussion on the appropriateness or otherwise of the proposed development.

PROPOSED

Professor Webber describes the tower form as the outcome of the competition brief, noting that the brief required;

- The tower should be visually slender
- The tower should address a variety of skyline views
- Address streetscape and entrance
- Address private view impacts

and that *'the tower as proposed would rise to approximately 233 metres or 62 levels above Pirrama Road'*.

At this point in Professor Webber's report there is no description of the form of the tower other than *'the tower form has a small setback from the podium and then as it rises it extends out again to the street frontage about 20 levels above. The roof profile has the top 7 levels of the northern component splayed down to the south'*. This is an extremely brief and economical description of the unique building form of the proposed tower.

The tower as proposed is a most complex form, slender at the base and extending out to over double its floor plate at the bottom third of the tower height. The tower setback from the podium is minimal, particularly at the northern face.

The proposed Built Form is the result of an architectural competition and that in itself is the required 'proof' of 'Design Excellence' due to the alternative design excellence process; comprising a brief for a design competition, a design review panel to review each option and inform the preferred design and mechanisms to retain the architect through design and construction.

It is assumed that the competition's accommodation brief was prepared by the proponent, not by the planning authorities; hence the resultant tower may well suit the proponent without acknowledging or complying with planning controls.

The brief for the design competition included the requirement for an indicative building envelope that should not exceed a 237m high tower and the requirement for a *'landmark exemplar development contributing positively to the city'* and which *'responds positively to the urban context, enhancing the ground plane and interfaces with the public domain'* and which demonstrates *'conformance with relevant planning and development requirements'* and which demonstrates *'innovative uses of materials and finishes to create a visually interesting development'*. (The Department Assessment p 29).

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The proposed height of the development, at RL 237 (which Professor Webber calls a tower height of 233m), exceeds the planning controls over the site; Professor Webber does not address the issue of height in his discussion on Built Form. The height exceeds the planning control height by a factor of 8 (based on the LEP permitted height of 26 metres); whereas the previously approved development had a maximum height of 74m, this application seeks approval for a Tower to RL 237.

Professor Webber states that *'the selected design initially would appear to be the best of the three designs'*, (of the competition entries) and adds; *although still highly problematic.'* Professor Webber comments that *"whilst it could be an elegant three dimensional form when viewed as an isolated object it has no sympathy with its urban context and the extremely tall structure with its curved form and lower levels could well be more visually assertive than either of the other two submissions'*. Whilst Professor Webber does not further elaborate on the built form, the form of the tower is relevant to an assessment of visual impact. The built form of the proposed development is challenging to the eye and the mind; a tower that tapers inwards at its base is contrary to 'common sense'; the eye expects a thickening at the base not a constriction. The tower itself is not sleek- rather it is a combination of cylindrical and part cylindrical forms which start and stop apparently randomly. The tower is striated - 2 horizontal breaks in regular floor to floor height and possible façade treatment (depending on the artistic licence shown in the renders). Hotel BOH and Library and other hotel uses, break the rhythm of the verticality of the tower; these floors are not equal in height and their randomness belies the notion of a regulated tower rhythm. The top of the tower (approximately 6 levels) is truncated, with a taper that reduces the footprint from approximately half the tower floor area (nominated as a 'Club Lounge Area') to a single point at its Northern edge. The tapered top of the tower contributes to its unique built form and should feature in an assessment of visual impact.

For the response to the urban context and the response to the use of innovative materials see later discussion.

Architectus liken the tower design to a landmark development, using an image of the Shard in London. There are significant differences in both designs - the shard is pyramidal, well founded or grounded as the largest visible footprint occurs at ground level, whereas the proposed tower has the smallest footprint at ground level and the largest footprint elevated above ground level. The shard is located in a "field" of buildings of varied height (admittedly no neighbouring building matches its height), whereas the proposed development sits alone with existing buildings generally at a constant lower height. The contrast in design of the two tower forms could not be greater so that to compare the two buildings directly is, in my view, not appropriate.

Architectus also claim that the tower should be viewed not in the 'open skyline' of today as the context is likely to change over the next 20 – 30 years, particularly in the future development of the western side of Darling Harbour. This argument cannot be supported as Planning Controls are formulated (and revised from time to time) to accommodate future planning strategies and current planning controls are in place to facilitate development in accordance with Government policy.

CONTEXT

NORTH PYRMONT

Professor Webber sums up the character of North Pyrmont succinctly – and states *'new buildings have been required to respect the heights and forms of neighbouring structures.....there are no very tall 'tower' buildings in this part of Pyrmont'*.

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BROADER CONTEXT

Professor Webber refers to the tower buildings approved and constructed to the south and the east and refers particularly to Architectus's Figure 6.1.3. Visual Impact Assessment p159. which he claims is helpful in understanding their impact.

The Visual Assessment diagram (Architectus's Figure 6.1.3) shows developments to the east, and south of the Star site. It is an aerial view of the bay taken from the north west orientation and the towers on the eastern side of the bay are laid out to present 'a string of pearls', rather than each building stacking up behind each other as it might appear in a view taken from due north.

The illustration includes prospective towers (approved but not constructed) and gives the impression that 'the string of pearls' is all but complete; if the prospective towers are removed from the illustration the string of pearls is far from continuous.

The diagram does reinforce the point that on the East side of the bay, tower heights are well established, particularly the Barangaroo portion of the foreshore.

If one considers that Cockle Bay may not proceed to its indicative height of 235 m, the line joining the tops of towers drops significantly to the southern end of the bay with Darling Square and ICC and Harbourside rising to a maximum of 166m.

In contrast the western side of the bay, north of Harbourside is bereft of towers - and demonstrates a low rise dense character and a mix of large and smaller developed sites and as Professor Webber summarises *'there are no very tall 'tower' buildings in this part of Pyrmont'*.

In his Assessment Professor Webber identifies the key considerations as;

Potential Visual impact of the tower

The impact on views

Overshadowing

Symbolic issues

Potential precedent

I comment on Professor Webber's assessment;

VISUAL IMPACT

Professor Webber acknowledges that there are several distant viewpoints where the photomontages demonstrate that the visual impact of the *'tower would not be conspicuous or unduly obtrusive'* However he notes, successfully in my view, that the fact that there are a *'large majority of other viewpoints'* where *'it is considered that the tower would be unduly prominent, unrelated to its context and unacceptable'* mean that the adverse effect of the visual impact of the proposed development is unacceptable, thereby refuting the finding of Architectus.

In my view Professor Webber also successfully argues that the statement by the peer reviewer that *'the extra height obscures an area of sky only'* (Richard Lamb & Associates P 8) is fallacious as *'it ignores the fact that that the substantial visual bulk of the very tall tower against the sky would be oppressive from many viewpoints'*.

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Professor Webber relates this assessment back to several (but not all) of the detailed examination of the impact of views. In my view the loss of sky view is one of the most significant losses due to the proposed development. For example in the view from Balls Head Reserve, the cluster of buildings at North Sydney form part of the ground mass, whereas the single tower at Pyrmont 'sticks out' as a single oppressive element and divides the sky area into two parts - east and west of the tower.

Architectus claim their assessment "*is merit based, applying a visual impact methodology to outline the overall merit and reasonableness of the proposal in visual impact terms.*" and "*the key consideration as part of a merit assessment is the contextual fit of the proposal*". Architectus then describe the tall towers of Barangaroo and the SICE Precinct and then describe the area of Pyrmont as an emerging context within an area of significant change. They fail to mention the planning height controls which are there to contain the form of future development. There are no other new developments in the immediate area of Pyrmont and the tower developments relate to the eastern and southern sides of Darling Harbour and not the immediate precinct.

More importantly the Architectus' assessment of views as low impact, moderate or moderate high impact, appear subjective. At section 2.7 of the Architectus report, 'Criteria for Assessment' their assessments '*are based on Planning Principles described in this section and Architectus' experience in the assessment of Visual Impacts*'. These planning principles are enumerated at section 2.4 of the Architectus report, and according to Architectus they are to be used to '*assist when making a planning decision including particularly*

- *where there is a void in policy*
- *where policies expressed in qualitative terms allow for more than one interpretation*
- *and where policies lack clarity*'.

In my view none of these criteria are applicable in this circumstance.

DISTANT AND MEDIUM DISTANT VIEWS

In his analysis of Distant and Medium Distant views Professor Webber cites the following views as ;

- Balls Head Reserve (form adversely impacts on views to the Harbour and Goat island)
- Central Barangaroo (Foreshore unrelated to context of this part of Pyrmont)
- Pyrmont Bridge (Undue Prominence) it is assumed that this reference is to both Eastern approach and Pyrmont bridge West (Architectus p63 and 65) (Intrusive, is the only tower form visible in Pyrmont)
- East Cockle Bay (Undue Prominence)
- Giba Park (Highly intrusive)

In my view Professor Webber could have added further to this list (which includes all the distant views selected, except those from Martin Place and the Gladesville Bridge and I note my assessment of the adverse effect of the visual impact of the proposed development in each case (which do not agree with Architectus's assessments);

In distant views;

- Milson's Point Wharf (Architectus p 45) (Intrusive, as tower hovers over existing historic wharf buildings and is the only tower form visible in Pyrmont)

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- McMahons Point Lookout (Architectus p 47) (Intrusive, is the only tower form visible in Pyrmont)
- Observatory Hill (Architectus p51) (Intrusive, is the only tower form visible in Pyrmont)
- Barangaroo Headland Park (Architectus p53) (Intrusive, is the only tower form visible in Pyrmont)
- King Street Wharf (Architectus p61) (Intrusive, is the only tower form visible in Pyrmont)
- Cockle Bay (Architectus p67) (Intrusive, is the only tower form visible in Pyrmont and contrasts starkly with the low height and 'squatness' of the adjoining Harbourside)
- Peacock Point (Architectus p69) (Intrusive, is the only tower form visible in Pyrmont)
- Ewenton Park (Architectus p71) (Intrusive, is the only tower form visible in Pyrmont)
- Robert Street Reserve(Architectus p73) (Intrusive, appears double the height of any other building in the vicinity)
- Glebe Foreshore Park (Architectus p75) (Intrusive, interrupts and dominates the view of the bridge)
- Black Wattle Bay/Rozelle Bay(Architectus p77) (Intrusive, is the only tower form visible)
- Foreshore Walk near Bridge Road is inevitable in this location (Intrusive, is the only tower form visible)

In medium distant views, in addition to the Pirrama Road/Jones BayRoad and Pyrmont Bay Park views that Professor Webber nominates as not acceptable, the following 2 views to my mind also have an unacceptable outcome:

- Union Square (Architectus p83) (Intrusive, interrupts and dominates the view in the otherwise low scale surroundings of the square)
- Pirrama Park (Architectus p87) (Intrusive, is the only tower form visible).

In my view Professor Webber specifically mentioned those views which in his opinion represented the greatest intrusive impact.

PRIVATE VIEWS

Professor Webber classes the impact of the proposed development '*range from minor to very severe as is inevitable in this location*' He does not specify which of the 24 simulated images are categorised as most severe. In my view I believe he felt that it was not his 'job' to rank the views, and such a ranking is not in the character of his succinct form of writing. From the images provided by Architectus it is not difficult to rank the adverse impacts. It would have been beneficial if Professor Webber had provided his opinion on the most severe impacts. Equally it would have been beneficial if Professor Webber had commented on the summary of impacts (Architectus p145 and following pages) as this could have amended the Architectus overall impact ratings which in my view deserve to be questioned.

BUILT FORM

Professor Webber's comments on built form are limited; he suggests that the selected design is the best of the three competition designs and acknowledges that the preferred design is still problematic. He does not define why he thinks the selected design is the best of the three completion designs, suggesting only that it could be an elegant three dimensional form when viewed as an isolated object but not when placed in this location as it has no sympathy with its urban context. His analysis of the built form is restricted to '*a relatively slender tower formrounded corner forms*'. In my view this assessment is weakened by the lack of discussion of

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the detail of the design or its materiality. Professor Webber acknowledges that the tower has a small setback from the podium; the setback from the title boundary actually scales 4.800m at the curve on the intersection of Pirrama – Jones Bay Road. Given the height of the tower, this setback joining tower to podium is very small by urban standards. I assume that Professor Webber did not comment on the other competition entries as it was “a fait accompli”, nor did he expand on the design detail of the tower as he believed he has succinctly summed up the form of the tower.

OVERSHADOWING

Professor Webber refers to the winter overshadowing of residential units on the site itself and those to the south and the west of the site. He makes the point that although the tower appears slender because of its height, it still has a substantial footprint which itself will cause overshadowing. He does not elaborate on this point as well as he might; the tower is most slender as its base and its expanding circumference with height may well cause additional overshadowing. I believe that Professor Webber’s succinct style made any elaboration unnecessary in his view. In addition Professor Webber does not comment on specific overshadowing issues relating to Public Open Space such as the overshadowing of Union Square and Pyrmont Bay Park. Again I suspect that Professor Webber thought further elaboration unnecessary in view of the Department’s analysis. I support the Department’s analysis that the overshadowing to Union Square would only occur as the result of an unacceptable development. In my view Union Square must be regarded as a unique space with a unique character within Pyrmont and this space should not be any further compromised by development.

SYMBOLIC ISSUES

Professor Webber’s hypothesis that *‘the form and architectural detail of many buildings convey meaning’* is well supported by his argument with respect to historic ecclesiastical architecture and to current commercial architecture. However in my view it is ‘stretching the idea’ to suggest that the proposed residential and hotel tower draw attention to the attached casino, unless of course signage and branding on the tower or casino emphasise this fact. If the development proceeds, the impact of the height and singularity and form of the tower will be the landmarks that are noticeable and memorable. Height, as it will be so much taller than any currently permissible development in the future and the singularity of a tower in Pyrmont and its disturbing built form will mark it as an intrusive object on the skyline.

PUBLIC BENEFIT

Professor Webber argues that there is very little public benefit assigned to the proposed development; merely *‘Neighbourhood Centre facilities’ within the development at Ground Floor*; rather than new additional attractive and easily accessible public open space. (I note that Professor Webber does not acknowledge that in fact the ‘Neighbourhood Facilities’ are being offered over 5 floors). Given the scale of the proposed development, I support this view and suggest that Professor Webber could also have commented on the lack of activation at street level for pedestrians, which the proposed development seems to lack. With an extensive street frontage it seems that there could be a far greater contribution proposed to activate the street facades of the buildings that comprise the development. In my view the application’s proponent

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needs to suggest the form of activation proposed; the fact that the lack of activation has not been suggested by Professor Webber is, I believe, an oversight.

PRECEDENT ARGUMENT

Professor Webber argues that future applications seeking to challenge the height limit on this side of the bay and particularly in Pymont, will, should this application be successful, be hard to refuse. He refers to Fig 6.1.3. diagram in the Architectus report (see my comments under Broad Context at the commencement of this paper which question some of the elements shown in the diagram) and clearly states that he believes future applications will use this application (if it is accepted) as a precedent for tower forms well in excess of the existing height controls. Precedence is not necessarily a successful argument in planning; but Professor Webber's view is more than reasonable based on previous planning decisions.

Height controls are established for valid reasons; if the reasons change over time, height controls should be reassessed and re-established; it should be the responsible authority's prerogative to review height controls, and authorities should not be forced into changing controls to match increased heights brought about by constant challenges to the planning system, but rather by sensible strategic forethought.

CONCLUSION

Professor Webber did not cover the design of the tower, or challenge the classification that Architectus used to evaluate impact of views. Professor Webber did not stress the importance of Union Square and its ambience or the importance of loss and meaning of sky views. More could have been made by Professor Webber of the built form of the existing buildings; their rectilinear shape, their adherence (or otherwise) to a podium and tower form, especially where proposed tower setbacks are by no means generous; to allow a further discussion on the appropriateness or otherwise of the proposed development.

I am concerned that there has not been analysis of night views and the effect of any illumination on surrounding areas. I assume that this is because lighting will be controlled by planning laws. Similarly the design of the tower with its extensive curved facades and truncated and expanding form will be subject to reflectivity and environmental performance criteria. I note particularly that disability glare, reflected solar heat and discomfort glare are issues that will need to be individually addressed to ensure that there are no adverse effects and suggest that these issues be specifically noted as requiring further assessment.

In summary, it is my conclusion that Professor Webber's report is a very concise and economical summary and commentary on the Application. In addition his 5 conclusions are to the point and in my view, in the main, justified by his analysis. I believe his report would have had even greater strength if he had amplified his report to include the missing information I have noted and if he had expanded on his rationale underpinning his assessment and further questioned the view assessment criteria and evaluation presented by Architectus.

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RICHARD LAMB'S PEER REVIEW OF THE ARCHITECTUS VISUAL ASSESSMENT

I note that Richard Lamb was engaged by Star Entertainment Group Limited to conduct a peer review of the Visual Impact Assessment prepared by Architectus. Richard Lamb asserts that the text of the Architectus visual assessment follows the protocols for selection of views strictly and comprehensibly. He claims actions such as determining the importance of both private and public views are logical; what is missing however is that the evaluation of views is still subjective. There is no guideline established for the evaluation of views.

For example Lamb states; *'the 24 public domain views selected for detail consideration are analysed in Section 4.2. For each view analysed in detail, there is a key plan showing the view location and, an existing view image and for those analysed in detail, a photomontage. Where relevant a panoramic view is shown to assist with the wider visual context. Each analysis is accompanied by a summary table of the assessment values assessed against the criteria and a narrative explanation of the decision making process.'*

Taking as an example the Architectus' evaluation at 4.2.2 P1: Distant - North – Milsons Point Wharf, whilst the importance of the impact is rated as high (understandably because it features the Harbour Bridge), the visual impact is rated Low- Moderate. The reason given is that *'Note that 'in the future the Central Barangaroo development will take taller scale buildings closer to the proposal.'*

There is no discussion on how close the buildings will be, or in fact what is the likelihood of the Barangaroo buildings proceeding (and when that might occur). The visual impact will still be that of a solitary tower in what under current planning controls is a low rise zoned area. The evaluation of visual impact in this instance is a subjective response. Note that (for example) the definition for Low-Moderate assessment *is 'the proposal is prominent in the view and/or obscures minor elements within the view'*. The definition itself limits the assessment; it is not the fact that the definition is conservative, but rather that the definition is not necessarily appropriate or the right definition for each setting. A pedantic view might be that the word 'prominent' requires further definition, as it is a subjective evaluation.

Richard Lamb asserts that the classification of visual assessment by Architectus (p33 of the Architectus report) is too conservative or demonstrates *'intrinsic conservatism'*; the Architectus report says of itself that the classification is generally conservative for the purpose of highlighting maximum potential impacts.

THE DEPARTMENT'S ASSESSMENT

The Department assessed the proposal most comprehensively against the planning controls and guidelines as follows;

1. Character of the area
2. Special Areas
3. Views and Vistas
4. Streetscape, setting or landscape
5. Site and building
6. Associated devices and logos with advertisements and advertising structures
7. Illumination
8. Safety

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The Department assessed the proposal against SEPP 65 principles

1. Context
2. Built form and scale
3. Density
4. Resource energy and water
5. Landscape
6. Amenity
7. Safety
8. Social dimensions and Housing affordability
9. Aesthetics

The Department assessed the proposal against the relevant recommended criteria of the ADG at table 21

1. 3B Orientation
2. 3C Public Domain Interface
3. 3D Communal and Public open space
4. 3E Deep soil zones
5. 3F Visual Privacy
6. 3G pedestrian access to entries
7. 3H vehicular access
8. 3J bicycle and car parking
9. 4A solar and daylight Access
10. 4B Natural ventilation
11. 4C Ceiling heights
12. 4D apartment size and layouts
13. 4E private open space and balconies
14. 4F Common circulation and spaces
15. 4G storage
16. 4H Acoustic privacy
17. 4J noise and pollution
18. 4K apartment mix
19. 4M Facades
20. 4N roof design
21. 4O landscape design
22. 4P planting on structures
23. 4Q Universal design
24. 4S Mixed use
25. 4T Awning and signage
26. 4U Energy Efficiency
27. 4V Water management and Conservation
28. 4W waste management
29. 4X Building Maintenance

The Department assessed the proposal against table 22 of the SREP Sydney Harbour catchment 2015)

The Department assessed the proposal against table 23 SHFW DCP Guidelines

The Department assessed the proposal against draft State Environmental Planning Policy (Environment)

The Department assessed the proposal against table 26 Departments consideration of key issues raised in submissions

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The Department assessed the proposal against Visual Impact Assessment (p 125).

The Department summarises the key assessment issues as strategic context, built form (including visual impacts) design excellence, public benefits contributions and the public interest.

The Department's conclusion is categorised as follows;

- In terms of Strategic justification they conclude there is no justification for a tower in this location
- In terms of built form, the Department assesses the proposed tower height as unacceptable, and the proposed tower as inconsistent with the surrounding buildings in height and form,
- In terms of visual impact the Department considers the tower's proposed height and bulk is inconsistent with the context of Pymont and that approval of the proposed development would set a precedent unsupported by any policy direction,
- In terms of amenity impacts the Department assesses that the proposal will have adverse overshadowing impacts to public spaces, view loss impacts and overshadowing,
- In terms of Design Excellence, whilst the Department acknowledges that the process was the subject of an alternative Design Excellence pathway the brief for the development required a tall tower in this location and assesses that the proposed development is inappropriate in terms of urban context,
- In terms of public benefit the department determines that the proposed development does not deliver appropriate public benefit and is therefore not in the public interest.

I concur with the assessment prepared by the Department and its stated outcomes and note that in my view it is a most comprehensive and well framed assessment.

THE STAR MODIFICATION 13 LANDSCAPE & VISUAL ASSESSMENT REVIEW - DAVID MOIR

I received this report whilst I was preparing my review. I note that this report, was commissioned by Star Entertainment Group Pty Ltd and responds to visual impact assessment objections raised by the Department.

I note in particular the following;

IMMEDIATE VIEWS

Moir refers to Professor Webber's comment that the Pirrama Road /Jones Bay Road view (Architectus p 89) '*shows how the setback of the tower from the podium façade at lower levels would do very little to mitigate the adverse impact of the tower bulk rising above*'. Moir questions why this would be considered an adverse impact; arguing that people in close proximity rarely look up. The photomontage image shows two things; a) that the tower visually from this viewpoint is hardly set back, (in fact it is only setback c 4.8m at its maximum point) and therefore the tower podium is virtually a continuous form and the lack of appropriate and proportional setback puts more building bulk in the face of the viewer, and b) given the lower scale of the surrounds the tower is dominant as the viewer is not restricted to the 'window' that is suggested – the viewer is aware of the continuous height of the tower, registering that it is there but perhaps not registering it in the same detail as the area directly in the prime field of view.

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Moir argues that Professor Webber's conclusions are subjective; I would comment that they are no more subjective than the Architectus rating.

THE OBJECTIVES OF VISUAL ASSESSMENTS

At para 55 Moir argues that *'the objective is not to determine whether the proposed impact is visible or not visible, but to determine how the proposal will impact on the existing visual amenity, landscape character and scenic quality'*. I would suggest that these criteria may well be appropriate for the visual assessment of 'objects' in the landscape' e.g. wind farms, but they are not the full criteria for the assessment of proposed developments in the urban environment. Considerations such as view loss, view sharing or access to views of scenic, iconic or other items of documented importance (as stated by Lamb) or other criteria such as building height and bulk, overshadowing and context may be of greater importance.

THE STAR MODIFICATION 13 URBAN CONTEXT REPORT – OLSSON & ASSOCIATES ARCHITECTS PTY LTD,

I received this report whilst I was preparing my review. I note that this report was commissioned by Star Entertainment Group Pty Ltd and provides an independent assessment of the recommendations of the Department relating to the refusal of the proposed tower at the Star site in Pymont.

Olsson claims seven reasons for his disagreement with the Department's decision arguing that *'the site should be considered as part of the Darling Harbour Precinct rather than Pymont as in his view 'the site has been and is currently being used in a manner that is more consistent with the land uses in Darling Harbour'*. The validity of this approach is questionable as the applicable controls relate specifically to the location of the proposed development i.e. Pymont.

BUILT FORM

Olsson claims that the proposed podium responds to the built form of Pymont and that the tower form has been designed to minimise environmental impacts and effect on the streetscape.

The tower element is not in accordance with the planning controls and he has provided no proof that the tower has been designed to minimise environmental impacts and effect on the streetscape. These are not the sole criteria relating to Built Form; there needs to be a discussion of all elements that contribute to an assessment of Built Form.

STRATEGIC JUSTIFICATION

Olsson argues that the Department's opposition to the proposal is a direct result of the failure to consider the development as part of the Darling Harbour Precinct. This is not a valid approach as the existing planning controls apply to the proposed development's location in Pymont.

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VISUAL IMPACT

Olsson argues that neither the Webber report nor the Department's lack of critique of the proponent's assessment provide any reason to suggest the visual impact of the tower is not acceptable. Olsson concentrates on the effect of overshadowing and states that *'the tower has very little shadow impact on the key public spaces'* and adds that *'in my opinion overshadowing is not a significant issue in the assessment of the tower'*. He is obviously entitled to his own opinion on this matter, but his opinion does not concur with the Department's view.

HERITAGE IMPACTS

Olsson argues that the Department's assessment is based on an imposing presence based on views, rather than Heritage issues. The Department's comment is apt justification *'that the heritage impacts of the proposal, although minor would only occur as a result of an unacceptable form of development'*.

PUBLIC BENEFIT

Olsson argues *'that the Department concluded the Proposal would not promote good design and amenity of the building and would therefore not be in the public interest'*.

'The Proposal will deliver a 5 level Neighbourhood Centre for the balance of Star's lease over the site'.

Olsson elaborates on the assigned area of 1,690m² for the centre and claims it is a very substantial public benefit. The Department notes that the application is an increase of 48,799m² of GFA. With no additional external public space - the proposed Neighbourhood Centre represents 3.4% of the additional Gross Floor Area. The merit of the Public space is that is provided for the Public's use; and the space must be accessible and useful to be of merit. It is assumed that the configuration of the space is in line with the community's requirements and that the community has accepted its distribution over 5 levels.

OVERSHADOWING

Olsson's claim that *'any overshadowing impacts are minor and are acceptable'* contrasts with the Department's analysis that *'the overshadowing to Union Square would only occur as the result of an unacceptable development'*. I repeat my view that any overshadowing of Public Space in Union Square or Pyrmont Bay Park cannot be supported.

DESIGN EXCELLENCE

Olsson claims; *'the design excellence process that was followed was robust and has resulted in a built form which exhibits design excellence and which is suitable for its context.'* This statement is clarified by the Department who states; *'The DRP selected the winning scheme as it exhibited Design Excellence in accordance with the brief ...'* This evidence of design excellence in this instance cannot be separated from the fact that the brief called for a tall tower; the resultant tower may well suit the proponent without acknowledging or complying with planning controls. And therefore the achievement of Design Excellence is limited to *'the winning scheme as it exhibited Design Excellence in accordance with the brief'*.

OVERALL CONCLUSION

It is my conclusion that Professor Webber's report is a very concise and economical summary and commentary on the Application. In addition, his 5 conclusions are to the point and in my view, in the main, justified by his analysis. I believe his report would have had even greater strength if he had amplified his report to include the missing information I have noted and if he had expanded on his rationale underpinning his assessment and further questioned the view assessment criteria and evaluation presented by Architectus.

I concur with the assessment prepared by the Department and its stated outcomes and note that in my view it is a most comprehensive and well framed assessment.

The Landscape and Visual Assessment Review prepared by David Moir states that *'the objective is not to determine whether the proposed impact is visible or not visible, but to determine how the proposal will impact on the existing visual amenity, landscape character and scenic quality'*. In my view these are not the full criteria for an assessment of proposed developments in the urban environment and therefore the Moir review is in my view inadequate.

The principle of the Olsson & Associates Architects Pty Ltd Urban Context Report is that *'the site should be considered as part of the Darling Harbour Precinct rather than Pymont as in his view 'the site has been and is currently being used in a manner that is more consistent with the land uses in Darling Harbour'*. The validity of this approach is questionable as the applicable controls relate specifically to the location of the proposed development i.e. Pymont.

THE STAR CASINO

APPENDIX 1 DOCUMENTS REFERRED TO

1. The Star Casino Section 75W Modification Assessment Report including appendices A - J , NSW Government
2. Visual Impact Assessment Star Modification 13, Architectus August 2018
3. Richard Lamb, Peer Review s 75W Application for Modification 13 to Major Approval MP 08_0098 The Star Casino 3 July 2018
4. Sydney Local Environmental Plan 2012 Height of Buildings Map – Sheet HOB_007
5. The Star Modification 13 Urban Context Report – Olson & Associates Architects Pty Ltd 6 September 2019
6. The Star Modification 13 Landscape & Visual Assessment Review 3 September 2019 by David Moir
7. Drawings prepared by Urbis

L000	Key Plan	Issue C
L001	Key Plans	Issue A
L002	Key Plans	Issue A
L100	Landscape Site Plan	Issue B
L200	FJMT Visualisations	Issue A
L400	Level B2 Landscape Planting and Finishes Plan	Issue C
L401	Level B2 Landscape Planting and Finishes Plan	Issue B
L402	Level 00 Landscape Planting and Finishes Plan	Issue B
L403	Pyrmont Street Landscape Planting and Finishes Plan	Issue B
L430	Level 3 Link Planter Landscape Planting and Finishes Plan	Issue A
L440	Level 4 Terrace Landscape Planting and Finishes Plan	Issue A
L450	Level 5 Sky Terrace Landscape Planting and Finishes Plan	Issue A
L451	Level 5 Residential Balcony Landscape Planting and Finishes Plan	Issue A
L460	Level 6 Roof Landscape Planting and Finishes Plan	Issue A
L471	Level 7 Ribbon Landscape Planting and Finishes Plan	Issue A
L472	Residential Pool Planting and Finishes Plan	Issue A
L480	Level 8 Green Roof Landscape Planting and Finishes Plan	Issue A
L490	Club Lounge Landscape Planting and Finishes Plan	Issue A
L491	Green Spine Landscape Planting and Finishes Plan	Issue A
L900	Typical Planter Sections	Issue B
L901	Typical Planter Sections	Issue A
L902	Typical Planter Sections	Issue A
L903	Typical Planter Sections	Issue A
L910	Plant Schedule	Issue B

8. Drawings prepared by FJMT

AF102	B2 Hotel Entry Ground Floor Plan	DA02
AF1000	Level 00 Residential Entry Ground Floor Plan	DA02
AF1005	Level 05 Sky Terrace	DA02
AF1006	Level 6 +7 terrace Floor Plan	DA02
AF2030	Level 30 - 38 Floor Plan	DA01
AF2046	Level 46 - 57 Typical Hotel Floor Plan	DA01
AF5001	Overall Sections, Section 1, Section 2	DA02
AF4003	Overall Elevations Jones Bay Road	DA02

THE STAR CASINO

APPENDIX 2 CURRICULUM VITAE



Yvonne von Hartel AM
Senior Principal

education

Bachelor of Architecture (Honours)
University of Melbourne, 1966

Advanced Management Programme,
University of Melbourne, 1989

membership

Life Fellow,
Australian Institute of Architects

registration

Registered Architect,
Architects Registration Board of Victoria

language other than english

German

profile

Yvonne von Hartel AM is a Founding Principal of the award-winning national architectural and urban design practice, peckvonhartel. Yvonne has practiced as an architect for over 50 years, working on Australia's largest and most significant infrastructure projects as an architect and trusted advisor.

She has acted as Design Advisor to many of Australia's largest companies and to government instrumentalities. She is currently a member of Design Review Panels for WestConnex (for the Sydney Motor Corporation), Deputy Chair Sydney Metro (for Transport for NSW), Co-Chair of the Martin Place Over Station Development (for Macquarie Corporate Holdings Pty Ltd), Mornington Peninsula Shire Council and Western Sydney Airport Corporation.

Yvonne sits on a number of Boards; the Council of Latrobe University and Deputy Chair of the Council's Infrastructure and Estate Planning Committee; she is a Commissioner of the Victorian Building Authority and Chair of the Building Regulations Advisory Committee.

She was the nominated architect for the \$4.5Billion Victorian Desalination Project winner of the 2014 Australian Institute of Architects Victorian Chapter premium architectural award; the Osborne McCutcheon award for commercial architecture.

In 2007, Yvonne was awarded a Member of the Order of Australia for 'services to architecture, design and building through involvement with a range of professional organisations, to the promotion of women in business, and to the community.

current positions

Senior Principal, peckvonhartel, Architects, Urban Planners, Interior Designers
Design Review Panel West Sydney Airport Corporation, 2019 -
Member, Victorian Building Authority, Cladding Safety Victoria 2019 –
current
Advisory Board, University of Melbourne, Faculty of Fine Arts and Music
2018 – current
Co-Chair Sydney Metro Martin Place Over Station Development Design

Yvonne von Hartel AM
Senior Principal

Review Panel 2018 - current
 Chair Building Regulations Advisory Committee, Victorian Building Commission 2016 - current
 Deputy Chair, Design Review Panel Sydney Metro 2015 - current
 Member, Urban Design Review Panel, WestConnex Delivery Authority 2015 - current
 Member, LaTrobe University Council 2014 – current
 Deputy Chair, LaTrobe University Council Infrastructure and Estates Planning Committee 2014 – current
 Commissioner, Victorian Building Authority 2014 - current
 Member, Victorian Building Authority People and Culture Committee 2014 – current
 Member, Victorian Building Authority Research and Infrastructure Committee 2014 - current
 Member, University of Wollongong, SMART Infrastructure Advisory Council 2011 - current
 Member, Mornington Peninsula Design Review Panel 2007 - current

previous positions

Director, Queen Victoria Market Pty Ltd 2012 – 2018
 Member, Queen Victoria Market Pty Ltd, Audit & Risk Committee 2015 - 2018
 Trustee, Melbourne Convention and Exhibition Centre, 2000 – 2018
 Chair of the Capital Works Committee of the Melbourne Convention and Exhibition Centre, 2000 – 2018
 Member, Capital Metro Agency Design Advisory Panel 2014 - 2018
 Independent Specialist Advisor, Member Design Review Panel – Design, Sydney International Convention, Exhibition and Entertainment Precinct 2011 - 2017
 Member, Land Development Agency, ACT Government 2016 – 2017
 Member, Design Review Panel Land Development Agency, ACT Government 2016 – 2017
 Member, Queen Victoria Market Renewal Project Advisory Committee 2013 - 2015
 Member, Premier’s Business Roundtable 2012- 2014
 Member, TAFE Reform Panel 2012 – 2013
 Director, Linking Melbourne Authority 2012 - 2013
 Chair, Southbank Arts Precinct Working Group 2011 – 2014
 Chair, Victorian Skills Commission 2010 – 2012
 Founding Director/ Company Secretary, Melbourne Forum 2009 – 2015
 Chair, Building Sustainability Group, Standards Australia, 2005 - 2010
 Member, Building Standards Sector Board, Standards Australia, 2005 - 2010
 Director, ConnectEast Management Limited, 2005 – 2011
 Design Advisor, The Laguna Quays Town Centre Architecture Competition, 2004
 Chair, Victorian Design Advisory Council, 2002 – 2004
 Director, Tourism and Transport Forum, 2001 – 2004
 Member, Building Advisory Council, Building Commission, 2001 – 2005
 National President, Women Chiefs of Enterprises International, 2000 –

Yvonne von Hartel AM
Senior Principal

2001

Member, University of Melbourne Engineering Foundation Board of Management, 1999 – 2002

Member, Victorian Selection Committee, Rhodes Scholarship, 1999 – 2000

Member, Land Registry Advisory Council, 1998 – 2001

Member, Internal Audit Committee Building Control Commission, 1998 – 2001

Member, Victorian Minister for Small Business, Round Table Advisory Group, 1997 – 1999

Member, Construction, Utilities and Transport Sector Advisory Committee, CSIRO Division of Building Construction Engineering, 1998 – 2000

Senior Counsellor, Royal Australian Institute of Architects, 1997 – current
Director, Peninsula Health Care Network, 1996 – 2000

Member, National Association of Women in Construction, 1996 - 2000

President, Victorian Division Women Chiefs of Enterprises International, 1996 – 1998

Director, Powercor, Australia, 1994 – 1995

Member, Building Regulation Advisory Committee, Building Commission 1991 – 1997

design advisory roles

Telstra Headquarters, Melbourne, VIC

ANZ Headquarters, Docklands, VIC

RAIA Headquarters, Melbourne, VIC

AXA Headquarters, Docklands, VIC

Lovett Tower, Woden, ACT

Centrelink Canberra, ACT

BHP Billiton International Headquarters Melbourne, VIC

Prison Facility Master Plan Project, VIC

Marngoneet Correctional Programs Centre, VIC

Metropolitan Remand Prison, VIC

New Ararat Prison, VIC

design review panel membership

West Sydney Airport Corporation

Sydney Metro NSW

WestConnex Delivery Authority NSW

Canberra Metro ACT

Land Development Agency, ACT

Sydney International Convention and Exhibition Centre, NSW

Mornington Peninsula Shire, VIC

major projects

From 1980, Yvonne was involved in the design, documentation and management of the project teams that undertook major Melbourne Commercial Developments including:

Yvonne von Hartel AM
Senior Principal

No. 1 Collins Street and 61 Spring Street, Melbourne, VIC
The Olderfleet Buildings, 477 Collins Street, Melbourne, VIC
90 Collins Street, Melbourne, VIC
222 Exhibition Street, Melbourne, VIC
333 Collins Street, Melbourne, VIC
Repcos Data Centre, Mulgrave, VIC
Queen Victoria Women's Centre, Melbourne, VIC
303 Collins Street, Melbourne, VIC
Parliament House Completion, Melbourne, VIC
411 Collins Street, Melbourne, VIC
City Square Hotel, Melbourne, VIC
One National Circuit, Barton, ACT
Desalination Plant, Wonthaggi, VIC

urban development

Joseph Road Precinct, Footscray, VIC
National Museum of Australia, Acton Peninsula, ACT
The South Yarra Project (Como), South Yarra, VIC
Sandridge City Development, Bayside, Port Melbourne, VIC
Victoria Street, Richmond, VIC
Cumberland, Lorne, VIC
Southbank Medium Density Housing, Southbank, VIC

international major urban developments

Sha Tin New Town, Town Centre Study, Hong Kong
Tsuen Wan Town Centre, Hong Kong
Tuen Mun New Town, Town Centre Study, Hong Kong
Tin Wan Market, Aberdeen, Hong Kong
Ko Shan Road Park, Hung Hom, Hong Kong
Residential Club, The Peak, Hong Kong

expert witness / peer review / vcat and panel hearings

69-77 River Street, South Yarra, VIC
Espy Hotel, St. Kilda, VIC
138 Barkers Road, Hawthorn, VIC
Yarra Precinct Pedestrian Link, VIC
5-10 Yarra Street, South Yarra, VIC
5 Burwood Road, Hawthorn, VIC
462-464 Barkers Road, Hawthorn, VIC
541 Main Street, Mordialloc, VIC
Parks Apartments, Northcote, VIC
421A Smith Street, Fitzroy, VIC
9-13 Main Street, Mornington, VIC
1 Montrose Place, Hawthorn East, VIC
68 Molesworth Street, Kew, VIC
282 Domain Road, South Yarra, VIC

Yvonne von Hartel AM
Senior Principal

432 Johnston Street, Fitzroy, VIC
 Site 237, New Summit Road, Mount Buller Alpine Resort, VIC
 166-182 Gore Street, Fitzroy, VIC
 117 Alexandra Avenue, South Yarra, VIC
 133 Alexandra Avenue, South Yarra, VIC
 23-25 St. Leonards Road, South Yarra VIC
 67-73 Surrey Road, South Yarra, VIC
 4 Trawalla Avenue Toorak VIC
 300 Toorak Road South Yarra VIC
 Forum Theatre Redevelopment, Melbourne VIC

aged care and retirement living

Elderly Persons Housing, Sandridge, VIC
 Cumberland Views Village, Wheelers Hill, VIC
 Buderim Gardens Village, Buderim, QLD
 Central Park Aged Care Facility, Windsor, VIC
 Balmoral Grove, Grovesdale, VIC
 Zetland Lifestyle Environment, Victoria Park, NSW
 Commonwealth Games Village, Parkville, VIC
 87 Chapel Street, St. Kilda, VIC
 54 Burnside Street, Deer Park, VIC
 Grantnam Green, St. Albans, VIC

interiors

peckvonhartel has undertaken over one million square metres of completed interior fitout for Government and commercial clients. Significant recent projects for which Yvonne has been the responsible Principal include:

Land Victoria Marland House, 570 Bourke Street, Melbourne, VIC
 Completed works were awarded the first international 5-star Ecologically Sustainable Development office fit-out
 Deloitte Consulting Levels 1-13, 473 Bourke Street, Melbourne, VIC
 Catholic Church Insurances, St Kilda Road, Melbourne, VIC
 Airservices Australia 12 International Square, Tullamarine, VIC
 DEST Level 24, 2 Lonsdale Street, Melbourne, VIC
 Spencer Stuart, Level 35, 101 Collins Street, Melbourne, VIC
 Mayne Nickless Business Services, 575 Bourke St, Melbourne, VIC
 Mayne Nickless Limited, 390 St Kilda Road, Melbourne, VIC
 asciano, Level 6, 380 St. Kilda Road, Melbourne, VIC
 Booz Allen Hamilton, Level 53, Rialto Tower, Melbourne, VIC
 Ashe Morgan Winthrop, Level 38, 120 Collins Street, Melbourne, VIC
 Ballarat CCS & SO Office, VIC
 Centre of Books, Writing & Ideas, State Library of Victoria, VIC

hospitality & tourism

Hilton Hotel, 303 Collins Street, Melbourne
 Bourke Street West Police Station, Melbourne

Yvonne von Hartel AM
Senior Principal

Food Concessions, Melbourne International Airport, Tullamarine
Grand Hotel Group, Level 1, 115 – 119 Collins Street, Melbourne
Hotel, Philip Island, Victoria
Madowla Park International Resort Hotel, Echuca, Victoria
Maldon Hotel, Maldon, Victoria
Marriot Hotel Gold Coast, Queensland
National Museum of Australia, Canberra, ACT
Regent Theatre, Melbourne
Sovereign Hill Hotel and Conference Centre Ballarat, Victoria
The Royce Hotel, 379 St Kilda Road, Melbourne
The Dish Restaurant, 379 St Kilda Road, Melbourne
The Amberoom, 379 St Kilda Road, Melbourne
Victoria Golf Club, Victoria
Westin Hotel, City Square, Melbourne
Union Dining, 270-272 Swan Street, Richmond, Victoria
Jamie's Italian by Jamie Oliver, 107 Pitt Street, Sydney