

UDRP Chair Dr Philip Pollard and UDRP Heritage expert Mr Colin Brady - brief observations in respect to the additional information arising from:

- The Visual Impact Assessment Review, prepared by Envisage Consulting Pty Ltd dated 4 October 2024 for the *Review of Determination – Concept Modification Proposal Stage 3 and 4 of East End Development* at 121 Hunter St Newcastle; and
- The Response to Request for Further Information prepared by Urbis, dated 26 September 2024; and
- Addendum To Heritage Impact Statement (HIS) Dated 10 September 2024, Prepared by City Plan (Heritage) In Response To Request For Additional Information - Heritage Matters Newcastle East End Stages 3 & 4 - RE2024/00002

The following opinions were prepared by UDRP Chair, Dr Philip Pollard, and by Mr Colin Brady, and are offered in response to the further information provided to CN since the UDRP's most recent consideration of the proposal on 26 June 2024, in respect to the East End Concept Plan Stages 3 & 4 Modification. The two relevant documents are the Envisage Visual Impact Assessment Review prepared by Stacey Brodbeck (VIA review) dated 4 October 2024, and the Response to Request for Further Information prepared by Jane Maze Riley of Urbis, dated 26 September 2024.

Authorship: Dr Pollard is the author of all text in the document in black font and all images unless otherwise credited. Photographs in Figures 1 to 14 inclusive, were taken by him between 2019 and 19 August 2024. Mr Brady provided the Heritage commentary in dark blue font, and the images denoted CB.

Methods of considering Visual Impact.

The two primary means are commonly applied in the NSW Land and Environment Court by experts when assessing view loss impacts as seen from individual locations. These assessments rely upon precedents established in *Tenacity* – in respect to views from private properties and *Rose Bay Marina* in respect to public places. These two assessment tools have been utilised by both Jane Maze Riley in the Urbis documentation and Stacey Brodbeck in her Envisage Review, in their consideration of locationally-specific view impacts arising from the proposed Concept Modification. In respect to the majority of locations, the two assessors are in agreement.

The Envisage VIA Review summarises the two primary dimensions for considering view impacts occurring at specific individual locations as being view *sensitivity* and *magnitude* of proposed change. This summary is not inconsistent with Ms Maze Riley's approach, and in my opinion, it is a useful, simple, means of understanding individual view impacts – especially those from private properties.

There is another approach to considering visual (and other sensory) impacts to broader, publicly accessible areas that has been recognised by the NSW Land and Environment Court as being appropriate for considering impacts of a proposal on a geographic area of high value and sensitivity. That is via the methodology of assessing *Landscape Character*, which facilitates a broader and more holistic consideration of a specific geographic area of high value in respect to its visual, heritage, social, and other characteristic attributes.

The application of a Landscape Character assessment in respect to visual and other perceptual impacts of a proposed development was central to the Chief Justice B.2. Preston's 2022 findings in *Stannards Marine v North Sydney Council* in respect to the introduction of a Floating Dry Dock into Berrys Bay North Sydney.

CJ Preston found:

216 ...Dr Pollard explained that the landscape character of a place "*relates to the built, natural and community aspects that make a place unique*". The landscape character of a place is more than its visual appearance. Although a place's visual presentation is clearly a central means of perceiving a place, it is not the only way it is perceived.

Dr Pollard noted that *"individual, fixed point 'views' to a place are more a representative approximation of our perception of an area, whereas we typically take in our environment by moving about in it, and layer visual impressions with other sensory input over time, to create a cognitive 'map' or impression of a place."*

221 The cognitive map or impression of a place is created by an appreciation of not only the visual and environmental aspects of the place but also by its historical, social and cultural attributes. Dr Pollard referred to both the Aboriginal and European cultural heritage of Berrys Bay.

226 I accept Dr Pollard's description of the landscape character of the northern arm of Berrys Bay and his definition of the Landscape Character Zone.

229 ...Dr Pollard used the methodology in *Transport for NSW, Guideline for landscape character and visual impact assessment, Environmental impact assessment practice note EIA-NO4 (2020) (EIA-N04)*.

Considering public place impacts arising from the East End Stages 3 and 4 Concept proposal via a *Landscape Character* methodology:

A landscape character approach permits a more holistic understanding of highly valued public places and is not limited to selected fixed views. It adopts an understanding that we move about in our environment, and we perceive it visually and via other senses, as well as appreciating place via an understanding of its heritage and cultural associations.

Landscape Character Zones define areas with a high correlation of similar characteristics. If one is to address the issue of what might be considered appropriate Landscape Character Zones for evaluating any effects brought about by the proposal, this can be undertaken from two perspectives. In the case of the subject proposal, as illustrated in [Figure A](#) on Page 14 below, it is viewed both in a closer urban context – constituting a range of places within the **red oval** – depending upon topography and visual access, generally not more than 350m from the Site – with the exception of Fort Scratchley which is around 800m from it.

Considering the **green oval** Landscape Character Zone:

A second Landscape Zone that falls within the green oval, takes in the southern Stockton foreshore and the harbour, and is of a somewhat different character as it includes the waters of the harbour and the Site as seen at a distance. [View Point A](#) is some 1,300m removed from the Cathedral, and [View Point B](#) is some 1,175m away from it. These are substantially more distant locations than those obtained in the Landscape Zone indicated by the **red oval**. Much of the Stockton foreshore takes in an attractive view with the harbour in the foreground and the landform of The Hill rising up from the heritage conservation area of the old city towards the Cathedral, which at this distance forms the skyline at its upper profile.

The location on the Stockton foreshore that is directly facing the alignment of the northern transept of the Cathedral with a (proposed) view directly along Market Street, is only a short distance – approximately 60m – east of the Ferry terminal. View Points A and B are not “side on” to the Cathedral as suggested, but are situated some 375m (View Point B) and 450m (View Point A) to the east of the Ferry terminal, and are obtusely angled to the street-grid on which the Site and the Cathedral are aligned. These two View Points are located just beyond the bend where the river turns towards the north-east and out to the open sea.

In all, the Stockton southern foreshore extends some 900m in a long arc from its western extremity to the location of View Point A, and the Cathedral will remain fully visible, without any obstruction from the proposal, for the majority of this length. Where some limited obscuring of

the lower form of the Cathedral does occur around the selected View Points A and B to the far east of the Stockton foreshore, the upper turret structure of the Cathedral remains well proud of any proposed structure, and this remains the predominant element on the skyline.

In the *Stannards Marine* matter, for public places I undertook both a *Rose Bay Marina* assessment methodology, and an evaluation in terms of Landscape Character informed by the Transport for NSW EIA-N04 methodology. In the *Stannards* matter, as assessed by both methodologies, all viewpoints from public places around Berrys Bay were in the range of medium to high (adverse) impact.

This contrasts with the considerably lower impact ratings of both the Urbis assessment of East End Stages 3 & 4 and the Envisage review of it – which both identify a majority of locations as of low impact.

In respect to the latter, the primary public places from which Ms Brodbeck identified as being of a higher impact rating than did Ms Maze Riley, were limited to three public View Points – all of which are on the Stockton foreshore. They were View Point 1 from Stockton Ferry Terminal, and the two added eastern locations View A and View B, which were selected by Ms Brodbeck for further investigation. Neither of these additional locations is nominated in any DCP or other instrument as being of significance as view corridors.

View Points A and B are obtained from a shared pathway which runs in line with the curved shoreline. They are located towards the eastern extremity of the foreshore arc, and are not associated with any activity nodes – such as a shelter or seating, which might encourage walkers to pause at these particular points, and thereby take in the static view. Such shelters are provided closer to the Ferry Terminal, and the terminal is a point at which travellers pause to await the ferry. A further major gathering point is provided at the turning circle at the southern end of Mitchell Street, which has a café, skate-bowl, amenities and childrens' playground to its western side. At this point, and everywhere to the west of Mitchell Street, the proposal does not obscure any part of the Cathedral. In my opinion, the selection of View Points A and B places an inappropriately significant weight upon these locations, and ignores other areas, such as the multiple attractors around the southern end of Mitchell Street Stockton, which encourage people to linger and to potentially take in the direct views to the Market Street corridor and the Hill. (See photo at Figure 13 on P.27)

An assessment utilising a Landscape Character focus would take into consideration the fact that people move about in their environments and appreciate them from many aspects – particularly in public places like the areas around The Hill and the East End site, as well as the harbour and the Stockton foreshore. Putting aside the question of the weight Ms Brodbeck assigns to the additional View Points A and B, I consider the impact arising from the presence of the proposal at the lower level of the Cathedral, to be towards the low end of the range.

View Point 1 is located on the foreshore a short distance to the east of the Ferry terminal. This View Point is illustrated at Urbis page VP-1D. A static view from this location involves a relatively small area of the lower eastern built form of the Cathedral being obscured by the upper level of Building 3E, but the Cathedral's main roof form and its turret are the dominant elements, and its silhouette is not impacted at all. Views to the Cathedral from short distance (less than 60m) to the west of the Ferry terminal would involve no obscuring of the view to the Cathedral at all by the proposal.

The direct comparison for View Point 1 should be against the approved Concept, which is illustrated at Urbis page VP-1C and VP-5C. The approved Concept included a building that fully closed off the southern side of the plaza and intentionally blocked the view beyond to the south, as this view was to the unsightly CN car park, that obstructed any visual connection between the foreshore, the proposed Market Plaza adjoining Hunter Street, the landform of The Hill, and the Cathedral. With the car park demolished, execution of the approved Concept would have involved constructing a building that closed off this highly valuable opportunity of connecting the Hill and its Cathedral to the public space below, and beyond this to the harbour. The DCP when it was drafted recognised that at some stage in the future such an opportunity might possibly arise, and required the view corridor to be kept open if such an opportunity arose.

Technical Compliance of modelling and Photomontages

The Envisage review includes an outline by Mr Derek Mascarenhas of minor non-compliances with technical requirements for photomontage images in the LEC. I have engaged Mr Mascarenhas myself to produce montages in a matter in which I was engaged by the Gosford Council, and I acknowledge his technical capacity. While I do not dispute the detail provided, the degree of any non-compliance involved is extremely minor, and could have no substantive influence at all in terms of the degree of accuracy of the representations produced. Multiple surveyed redundancies demonstrate the degree of accuracy involved. By coincidence, I have also in the last fortnight provided evidence to the LEC in respect to a matter at Neutral Bay, within a stone's throw of the waterfront. Ms Maze Riley was engaged by the applicant to provide evidence in respect to visual impact, and I was engaged by the North Sydney Council to provide expert evidence to the Court. I am very familiar with Urbis's work, and although Ms Maze Riley and I were not in full agreement as to the impacts on views in that matter, I raised no concerns at all as to the accuracy of the model or the montages produced from it. Similarly, I am confident that the level of accuracy involved in the montage preparation at East End is more than sufficiently high for the purpose.

Designing for Country – Indigenous Heritage

Urbis Pages VP-1D, VP-4D and VP-5D illustrate the views towards the Hill that are obtained under the Modification Concept proposal. These views should be compared with the Approved Concept which is illustrated in VP-1C, VP-4C and VP-5C. One of the multiple aspects of the proposal that reflect a carefully considered response to input from Awabakal and Worimi Community representatives, is the re-establishment of the close juxtaposition of the landform of the Hill with the more level foreshore areas of the Site and the foreshore, and beyond that to the waters of the harbour (*Coquon*).

This landform was an important meeting place of the Awabakal people (from the southern side of the harbour) and the Worimi, from the northern side. It was a place that enjoyed a very abundant and diverse range of food sources, some of which are evidenced in the enormous middens that were found in the area that were the size of sand dunes. These were exploited by early European settlers for making lime for construction purposes. The extensive consultation with the Awabakal and Worimi Communities demonstrated a strong desire for a direct visual link between the waters of *Coquon* and the landform of the Hill – which the proposed Concept Modification achieves well.

European Heritage and Views

In respect to advice from Heritage NSW as to possible impacts to views to and from the Hill and the Cathedral, Mr Tim Smith cited in his 23 July 2024 correspondence, previous Approvals Committee advice of 2016 and 2018 – which related to earlier proposals that were completely different designs to the subject Modification proposal. It is noted that in 2016 and 2018 the CN Urban Design Consultative Group, the UDRP’s predecessor - on which Mr Brady and Dr Pollard served - also unanimously expressed similar concerns to those cited by Mr Smith in respect to the earlier proposals.

“...comments provided to Newcastle City Council on the Concept DA by the Approvals Committee in 2016, the building envelopes have been increased such that views from the Market Place and Queens Wharf Promenade to the Cathedral will be diminished.” (Tim Smith)

The above comments do not relate to the subject Concept modification proposal, and lack specificity. It is simply asserted that an increase in envelopes (heights) from the approved Concept DA envelopes causes additional view loss. This is not borne out in extensive modelling of the views from multiple vantage points of Market Place and Queens Wharf Promenade. The opening up of the Market Place view corridor is not acknowledged or discussed, nor is the reduction in bulk of a number of the buildings, with view opportunities arising between them. Likewise the removal of approved new built form to the top of the locally heritage listed Municipal Building, which the UDRP considers a very positive move, is not addressed, nor is the more generously proportioned public space, Market Place, which is opened more to Hunter Street thanks to the pivoting of building 3W.

European Heritage and Views – Comment by Colin Brady:

The massing of Christ Church Cathedral, commenced in 1883 with the tower not completed until 1979, represents the most prominent element of the palisaded townscape but does not follow the historic medieval patterns or later construct as the focal point of an urban street plan. Rather it stands as the ultimate element of the rising palisades and the rarely referenced but best-known element of the river city. For this reason, expectations that the Cathedral be constantly viewed in its entirety from all vantage points would contradict its cohesion with the urban landscape and the associated importance of other contributory buildings. In its overall assembly viewed as a whole or in parts, Christ Church Cathedral contributes to the existing landscape.

Within a 'closer urban context' the notion of a comprehensive view of a significant item is both modified and enhanced by the limitations of the immediate setting. Whilst cathedrals evolved through the Medieval periods as an expression of devotion and concentrated wealth, the perception of these in close set Medieval towns was one of *revelation* at the junction of winding streets, enclosing buildings rarely exceeding three stories in height. Arrival at a Medieval Cathedral was demarcated by an open but relatively small square or concourse sufficient to enable views taking in the verticality and richness of the great facade but small enough to designate this as sacred space separate from the commercial concerns of shambolic approaches.



Rising Hill Street Lincoln leading to the arched screen seen at centre enclosing the forecourt of the Cathedral and its lower elements. (Images CB)

Approaches within urban settings were characterised by reference glimpses of towers and upper works – providing an intimation of something special almost lurking in the fabric of the townscape.

Views beyond the urban centre are almost totally defined by the upper elements – spires and later Domes of the great buildings of Mediaeval and Renaissance Europe where, like contemporary cities, the true nature of such edifices is only understood on a comparative basis. Occasionally by virtue of elevation or chance alignment the overall form is briefly seen from middle distance before movement immerses the viewer in the ‘urban landscape’.



Chartres Cathedral, France viewed from town approaches. (Image - CB)

Later 18th and 19th Century town planning employed principal buildings as an urban focus with uninterrupted views of such structures at the head of grand avenues such as Pier Charles L’Enfant’s axial location of the US Capitol, not erected until 60 years later, or Victoria’s Houses of Parliament placed at the head of Bourke Street within an existing grid plan cityscape.

- Colin Brady

Views from Private Property

The Newcastle Club

In respect to view impacts to the Newcastle Club Ms Maze Riley and Ms Brodbeck have both rated the degree of impacts as being *moderate impact* for View Points 3, 4 and 5. The approved Concept design involved a view loss due to Building 4S, that is not significantly changed by the proposed Modification, with only some additional sky view lost from the northern side of the Club. There is some debate in respect to whether the northern view should be considered a side boundary view, however I do not consider this is of great consequence in determining impact. My opinion is that the locally listed heritage building definitely addresses Newcomen Street as its formal entry and frontage, with a symmetrical façade that is focused upon an elaborate entry from the street. The building's primary function rooms were in the spaces facing Newcomen Street, and at the higher level enjoying views east to the Pacific Ocean. Veranda spaces were located to the northern side of the building, and these verandas were infilled and extended at a later stage. These spaces currently enjoy panoramic views, which will be impacted by any compliant development on the East End Site. The spaces are utilised as a bar area, and for larger, less formal gatherings. The north western external area has been utilised generally for back of house uses, including kitchen gardens, a shipping container used for storage, and other fairly unsightly items such as a chain-mesh fence to the Cathedral Park. Recently the area has been provided with several landscaped terrace areas (see Figure 6 below). Irrespective of whether the views are obtained over a secondary boundary or not, good views to the river and port infrastructure to north west remain available under the approved Concept, and these will be somewhat changed by the Modification Concept as described below.

View Point 4 illustrates the view to the north west, following the demolition of the CN car park. While the approved Concept had a somewhat lower height for building 3W, and a more substantial increased height is proposed to buildings 3S and to 4S, and as noted, the latter influences sky view only as compared to the approved Concept. The minor increase in the height of 3W is more than compensated for by the building's being angled to open more generously to the plaza, which reduces the exposure of the building to the Club. The smaller footprint of 3S also has the benefit of opening up an attractive view to parts of the two heritage buildings on the northern side of Hunter Street – the Beberfaulds Warehouse and the NW Municipal Building. The removal of new floors above the Municipal Building 3E on the site, coupled with the slenderer form of the domed building, 3S, in my opinion, considerably enhances views in the locality, as there are pleasant and interesting views and glimpses between buildings that were previously unavailable due to more substantial building footprint under the approval. This was a deliberate design decision by the architects in the competition proposal. Following the competition, during the Design Integrity Panel (DIP) consideration of the design development of the proposal over six meetings, Building 3S was test-modelled as a squatter, height-compliant building – and it was agreed by the DIP that the slender form offered a more refined urban outcome creating a more attractive cityscape. Attractive views to the river and port will be somewhat less panoramic, but will remain of value.

I do not consider the proposed Modification Concept brings about more than low to moderate impact to any views from the Newcastle Club as compared to the approved Concept, and I do not consider the moderate impacts involved to be unreasonable.

Segenhoe

Impacts to apartments in Segenhoe from all but the upper three levels of the building have been agreed by Ms Maze Riley and Ms Brodbeck to not incur more than low level impacts to existing high-value views. In respect to the upper levels, Apartments 17, 20 and 21 have been nominated by Ms Brodbeck as potentially incurring some loss of parts of high value views. However, due to the panoramic nature of views available to these apartments, the loss of partial eastern harbour views (including a view to Nobbys Head in the case of apartments 17 and 21) does not raise her assessed level of impact beyond minor-moderate. Furthermore, the land opposite Segenhoe at 43 Wolfe Street has been the subject of various development approvals obtained by the Church, and a pre-DA proposal was presented to the former UDCG for a substantial apartment development on the site. This preliminary proposal was not supported by the Panel, but it did demonstrate a development potential for the site that could in the future impact views from Segenhoe to the north-east.

While it is understood that views of Nobbys headland are valued by residents, the overall impact to panoramic views obtained from residences in Segenhoe is agreed not to exceed a minor-moderate impact, and in my opinion could not be considered to be unreasonable in respect to *Tenacity*.

Other Relevant Observations

Demolition of the CN multi-level car park has visually opened up the area, as has demolition of other heavily vandalised, 1980s retail buildings and other non-heritage buildings on the Site. This has temporarily changed the spatial characteristics of the area, allowing views that have not been available for a very considerable time. While the space is expansive, the city has for the moment lost the vibrancy it once had.

One building component that has yet to be demolished is the eastern end of Queens Wharf, which is owned by CN, and which currently houses redundant ramps. This partial demolition will remove the component of the early 1990s building that intrudes into the view corridor between the harbour and the Hill, allowing a broader view to it and to the Cathedral.

Conclusion

The UDRP and its predecessor the Urban Design Consultative Group have been closely involved with the East End development since its inception, from extensive Pre-DA consultation for the Concept Plan, through to an ongoing, hands-on design integrity role, that has involved regular site inspections of Stages 1 and 2. The Panels have not been backward in their assigned roles, and have at times provided frank feedback in respect to earlier proposals, including opposing proposed height and building volume controls that they considered excessive.

The subject Concept Plan Modification is the result of an exhaustive process that has had a strong focus upon excellent, site-responsive design. This has included sensitive consideration of the high heritage values (Indigenous and European) of the Site and its surroundings, and appropriate consultation to ensure these values are respected and enhanced.

Having considered the nominated additional information and reviews discussed under the preceding headings, we reconfirm the UDRP's strong support for the proposal, which we consider to continue and expand upon the acclaimed high standards of design excellence demonstrated in the completed Stage 1 of the East End Development.

Dr Philip Pollard FRAIA MPIA (UDRP Chair)

Mr Colin Brady – Panel Heritage Expert



Figure A:
Landscape
Character
Zones



Figure 1: View to Cathedral from King St – In line with Market St corridor. 58mm FL



Figure 2: View to the north from Cathedral Park, CN Car Park to foreground prior to its demolition.
28mm FL (wide angle image)



Figure 3: View to Cathedral along Market St - CN Car Park centre, just prior to its demolition.
28mm FL



Figure 4: View to Cathedral
along Market St - CN Car Park
centre, prior to its demolition.

57mm FL



Figure 5: View to west along King St - East End Stage 1 in background, CN Car Park to right prior to its demolition.
58mm FL



Figure 6: View to Cathedral & Newcastle Club terrace from upper Morgan St – 57mm FL



Figure 7: View from Cathedral Park to western harbour & Stage 1 East End with former CN Car Park (prior to demolition)
28 mm FL (wide angle image)



Figure 8: View to Cathedral & the Hill from Thorn St following demolition of CN Car Park structure – (site seen bottom left)



Figure 9: View to Cathedral from King St – trees within Cathedral grounds and CN Park largely obscure roof forms.
58mm FL



Figure 10: View towards the Cathedral from corner of Wharf Rd and Watt St – T & G Building tower as seen from this location, competes with upper Cathedral form. 50mm FL



Figure 11: View to Cathedral & the Hill from the mid-harbour – locally listed heritage building, the former Beberfaulds Warehouse in Scott St, obscures roof forms of Cathedral. Landform of The Hill and Obelisk are visible on the horizon beyond foreground buildings.

50mm FL



Figure 12: View to Cathedral & the Hill from the harbour further towards Stockton Ferry Wharf – Former Beberfaulds building in Scott St partially obscures Cathedral roof forms. The Eastern end of Queens Wharf building behind grey façade, is proposed to be demolished by CN.

50mm



Figure 13: View to Cathedral & the Hill from the pathway approx. 60m west of Stockton Ferry Wharf – At approximately the southern end of Mitchell Street. There will be no obstruction by any proposed building, of any part of the Cathedral from this location or anywhere west of it.

50mm FL



Figure 14: View to the Hill from the approx. location of View Point B– As a working harbour the scene is in near constant change, with massive ships, including passenger liners, entering and exiting the Port. Here a coal ship is guided by a tug towards the north east for its seaward exit of the harbour.

40mm FL