~~DOWLING COMMUNICATIONS PTY LIMITED~~

Re. Cross St. Precinct. SC6552 SUBMISSIONS

? Comments on the Draft Cross St. & Urban Design Strategy.

The General Manager.
Woollahra Council.

Dear Councillors,
I have grave concerns regarding the draft Proposal for the Cross Street Urban Strategy.

My name is Kate Dowling, I used to have a company called "Barron and Dowling" in Transvaal Ave for 15 years. During this time (early 2,000) I was President of 'The Double Bay Chamber of Commerce' later called 'The Double Bay Partnership'. During this time we attempted to improve Double Bay & remain a lovely outdoor shopping village near the water. A place unique in Australia - I visited Carmel in U.S.A. which is similar with the charm of being a low level Village - also ST Tropez with a similar arrangement of low buildings and lots of laneways with sunshine. I would be so sad if we lost this charm that Double Bay has now with buildings going up to 6 storeys high - PLEASE can you stop these developers trying to change this UNIQUE SUBERB on the Bay.

Yours sincerely
Kate Dowling.

[redacted]

From:	Kim Foltz
To:	Craig Swift-McNair; Records
Subject:	Cross Street Planning Strategy
Date:	Thursday, 6 January 2022 12:36:33 AM
Attachments:	Vaucluse West Residents Association - Draft Cross Street Planning Strategy (3).docx

Dear Mr Swift-McNair,

We attach the Vaucluse West Resident's Association input in respect to the Draft Cross Street Planning and Urban Design Strategy. We kindly ask that you consider this submission as, although we acknowledge it is late, we were advised that backdated submissions would be accepted due to the deadline being so close to the Christmas/New Year's break. I hope this advice was accurate.

Thank you for allowing us to contribute to this very important document.

Kim Foltz
On behalf of the Vaucluse West Resident's Association

Mr Craig Swift-McNair
General Manager
Woollahra Municipal Council
PO Box 61
Double Bay 1360

17 December 2021

Dear Mr Swift-McNair,

Vaucluse West Residents Association's Submission on the Draft Cross Street Planning and Urban Design Strategy.

We are writing to not only support the submission of the Double Bay Residents' Association with respect to the Draft Cross Street Planning and Urban Design Strategy (Draft Cross Street Planning Strategy) but also to offer our view that it is an overall ill-considered strategy:

I. In our opinion, the intent of Council's resolution of 26 April 2021 with respect to the Cross Street precinct was *to prevent* the whole of Cross Street from being transformed into a wall of 6 storey shop top housing developments and *to promote* view sharing opportunities for existing developments south of Cross Street. Despite this intent, the Draft Strategy *inexplicably recommends* one size fits all 6-storey development for the entire length and breadth of Cross Street between Bay Street and Knox Lane, ignoring recent LEC and WLPP decisions which rejected 6 storey development on Bay Street as well as 5/6 storey development south of 16-18 Cross Street.

II. The Draft Strategy unjustifiably not only accepts but inexplicably expands (in the form of the newly identified Cross Street Precinct) upon the discrete section of Cross Street identified by Acting Commissioner Clay as appropriate for 6 storey development given his determination that planning controls had been abandoned within this section; desired future character had been established by deliberate decisions by Woollahra Council to approve development of adjoining sites (16 – 18 and 20 – 26 Cross Street) of a significantly greater height and floor space in this locality than the controls envisioned

(SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112.)

III. Inexplicably, photomontages in the Draft Cross Street Planning Strategy fail to show the approved development at 19 -27 Cross Street, thus giving a misleading impression of the impact of the proposed increase in the height control on the entire southern side of the street in context with the overall streetscape at one its most attractive spots.

IV. The Draft Cross Street Planning Strategy fails to provide adequate transition points between the HCA and the proposed new developments.

V. The proposed amalgamation of sites along the southern side of Cross Street will lead to poor planning outcomes, as evidenced by the insufficient setbacks of the 5th and 6th storeys for the two newest developments on the street and the lack of activation of the new arcades in these buildings.

VI. The Draft Cross Street Planning Strategy fails to consider what is happening in the rest of Double Bay. E.g., a DA for an amalgamated site on Bay Street - 19, 21, 23-25 and 27 - has been lodged with Council. To prevent further intrusion on the ambience of the area, the terraces and distinctive buildings to the north and south of this proposed mega-development should be immediately declared an HCA.

VII. We question whether the Draft Cross Street Planning Strategy's premise that Double Bay "is primely positioned in the Eastern City District to facilitate a highly liveable centre with increased and sustainable housing, jobs and services" is realistic.

VIII. We question whether the new developments on Cross Street will *create a more diverse housing mix in Double Bay to make housing more affordable for young people* (the first part of Priority 3.2.1)

I. Given the impact of Acting Commissioner Clay's LEC ruling for 28-34 Cross Street on development along Cross Street, Council's resolution of 26 April 2021 directed a fine grained, site by site review of the area of Cross Street between Knox Lane and Bay Street *to ensure integration* with the remaining undeveloped sites/pedestrian corridors as well as with recently completed or in-construction developments and *to maximize view sharing opportunities* for

existing developments south of Cross Street. We cannot support a Draft Strategy which recommends uniform 6 storey development on each site despite recent LEC and WLPP decisions rejecting such a uniform approach to development and Council's directive to perform a fine-grained review of each individual site.

It is inexplicable that adjacent development on Bay Street has not only been included within this Draft Strategy but that its height standard was recommended to increase to 6 storeys while Council's resolution which asked that the Draft Cross Street Planning Strategy *be mindful of view sharing opportunities for existing developments south of Cross Street* was ignored despite recent LEC determinations: 1) corner sites that front Bay Street and Knox Lane are quite distinct sites from Cross Street 2) corner sites could comply with the applicable height standard and still achieve a prominent corner building design and 3) the importance of mitigating amenity loss such as disruption of view. Raising the height standard would not, in any way, promote more view sharing opportunities.

As recently as 6 December 2021, 55 Bay Street was granted consent by the Land and Environment Court for a 5-storey building following an agreement between the parties at a second conciliation conference (Doonside Holdings Pty v Woollahra Municipal Council 2021 NSWLEC1736). It will now comply with the existing height limit for the site (18.1 m) but will still substantially exceed the FSR development standard.

In January 2021, Ricola Pty Ltd (the applicants of a DA at both 49 and 51 -53 Bay Street which has no frontage to Cross Street) lost their appeal for a proposed 6 storey building (Ricola Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1047)

Commissioner Gray agreed with the WLPP's decision that a 6 storey (21m in height) building should be refused on the grounds of excessive height, noting that the applicant had not satisfactorily shown that the excessive height requested minimised an adjacent neighbour's view loss (only a tiny keyhole view would be afforded from apartment 7C on the top floor of the Cosmopolitan Centre), therefore not establishing that compliance with the development height standard was unreasonable or unnecessary. Further, although the applicant

attempted to justify Acting Commissioner Clay's ruling on the abandonment of planning principles for 28 – 34 Cross Street (SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112) applied to this site as well, Commissioner Gray determined that the discrete sites had different height standards, thus the determination that abandonment of a height standard on one site did not equate to an abandonment of a different standard on a different site**.** *The second reason that the finding of the Commissioner concerning the abandonment do not apply to the site is because the findings are confined to the block of Cross Street, and do not extend to the corner sites that front Bay Street and Knox Lane*. He further observed that this corner site could still comply with the applicable standard and achieve a prominent corner building design.

II. In our opinion, the Council's Development Department has consistently misrepresented the Land and Environment Court judgments with respect to 28 - 34 Cross Street to argue that recently approved 6 storey developments in Double Bay are informing the desired future character of the rest of the area. (See, for example, the Assessment Report for DA DA261/2021/1 357-359 New South Head Road Double Bay, WLPP Agenda, 16 December 2021).

This misrepresentation has now been inserted into the
Draft Cross Street Planning Strategy:

A recent decision of the NSW Land and Environment Court (LEC) relating to 28-34 Cross Street found that the desired future character of the street was defined by recently developed adjoining properties, rather than Council's planning controls. In light of this finding and consistent with Council's resolution, the intent of the revised strategy for the Cross Street Precinct is to:

• Reinforce the desired future character of the Double Bay Centre as Sydney's stylish bayside village
• Provide a clear vision for the entire Cross Street Precinct, including sites that have recently been redeveloped and those which have not
• Maintain or enhance view sharing opportunities for existing developments on the south side of Cross Street.

By unnecessarily proposing that the planning controls be increased by 50% to 6 storeys on the south side of Cross Street, supposedly to meet an objective to

"maintain or enhance view sharing opportunities for existing development on the south side of Cross Street," the Draft Cross Street Planning Strategy succeeds in robbing views from other 5 to 6 storeys developments on Knox Street and beyond, ignoring not only the intent of the Council resolution but also the LEC decision reached in Ricola Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1047.

To the contrary, however, recent decisions by the WLPP for both 10 & 14 Cross Street have rejected Acting Commissioner Clay's opinion (SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112) that a 6-storey character is appropriate for this area of Cross Street east of 16 – 18 Cross Street and that planning controls have been abandoned in this area. The Panels have instead determined *that the desired future character requires a consideration of the 6 storey buildings in the vicinity, 1-2 storey buildings adjoining and opposite the site, and the heritage conservation area as well as a height control of 14.7m and the FSR control of 2.5:1 under WLEP 2014. The location of the site forms an appropriate transition between these higher buildings and surrounding lower scale buildings.*
https://www.woollahra.nsw.gov.au/__data/assets/pdf_file/0016/241018/WLPP-Public-Minutes-22-Apr-2021.pdf

III. Without a photomontage of recently approved 19 – 27 Cross Street incorporated into the Draft Cross Street Planning Strategy, the full impact of the proposed height control increase for the entire southern side of the street in relation to the look and context of the overall streetscape cannot be determined.

Given that this site was recently sold to Hong Kong developer Top Spring for $94 million and that penthouse apartments in the new development are likely to fetch north of $20 million, the likelihood of construction commencing soon on the approved DA is surely all but guaranteed? (Double Bay to get more luxury apartments as site sells for $94m, Australian Financial Review, 27 September 2021).

IV. The Sydney Eastern City Planning Panel's decision in July to approve 19 - 27 Cross Street was widely criticised because it breached the 4-storey height control and did not adequately respond to the neighbouring Heritage Conservation Area (HCA) of Transvaal Avenue. The Draft Cross Street

Planning Strategy similarly fails to provide an adequate transition point between the HCA and the proposed new developments.

Given the unfortunate approval of the 19 - 27 Cross Street DA, which the Council chose not to appeal, the development of a discrete planning strategy just for Cross Street should have been a catalyst for the heritage or character listings of the four character-rich buildings across the street: 2C Cross Street, 4 Cross Street, 6 Cross Street and 8 Cross Street (see image below).

Collectively, the above four buildings extend the village-like atmosphere of Transvaal Avenue and offer a precious snapshot of the different architectural

styles that have contributed to the unique character and charm of Double Bay over the years.

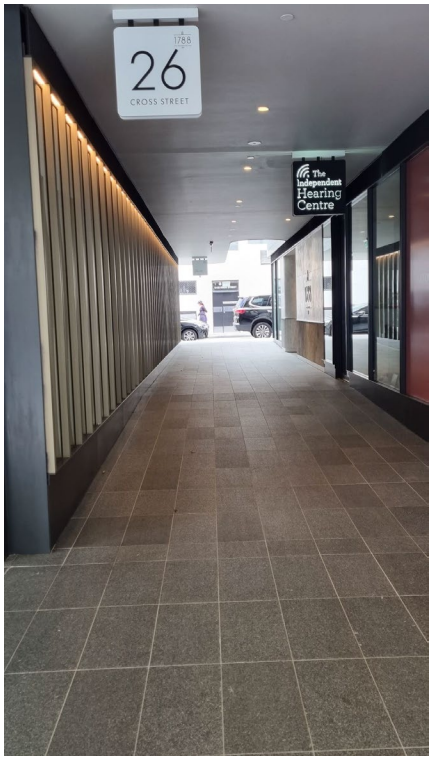
The ambience of this part of Cross Street is also enhanced by a magnificent Ficus tree. Protection of this part of the existing streetscape will ensure that the tree is not damaged by excavation and that its generous green canopy is not overshadowed by tall buildings.

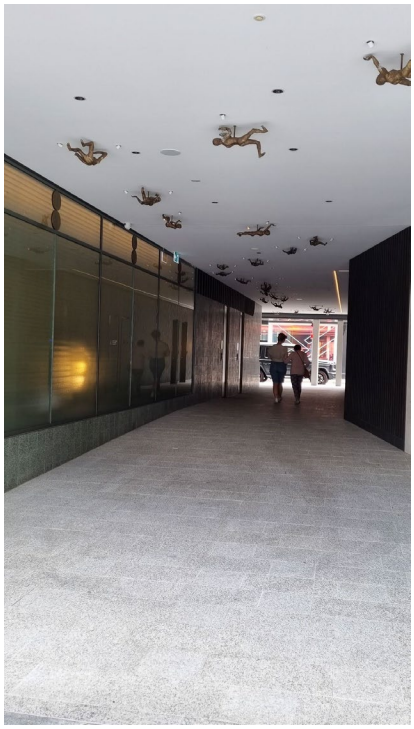
Undoubtedly, this section of Cross Section highlights how diversity in streetscape character can enhance the vitality, ambience and beauty of an area.

We completely reject the Draft Cross Street Planning Strategy's premise that *the contrast in the scale of new development compared to the existing buildings presents a disjointed streetscape character.*

V. The proposed amalgamation of sites along the southern side of Cross Street will lead to poor planning outcomes, as evidenced by the insufficient setbacks of the 5th and 6th storeys for the two newest developments on the street (see image below) and the lack of activation of the new arcades in these buildings.

Whilst the two recently completed shop top housing developments, 16 - 18 Cross Street and 20 - 26 Cross Street, have preserved the arcades leading from Cross Street to Knox Lane, they have not sufficiently activated these spaces.





These arcades have only been designed to incorporate limited retail/cafe tenancies. As a consequence, maintaining and enhancing the existing boutique shop and small cafe character of the Goodman Lane arcade is now even more important. Already, the ambience of this arcade is being impacted by new

higher storey developments towards its Knox Street end (see recent photos below).

The proposed changes to the height control and setback for a replacement development in the Draft Cross Street Planning Strategy offer only a marginally better design outcome with respect to the setback of the upper storeys. Further, the more generous setback is only feasible if the four sites between the Goodman Lane Arcade and Knox Lane are amalgamated and the existing character and heritage-rich buildings are demolished.

2 - Artist's
oss Street
reetscape
JB, 2021)

47 STRATEGIES

Figure 48. Indicative building envelope for review sites

REVIEW SITES

Undoubtedly, the typically narrow lot sizes in Cross Street and throughout most of Double Bay have contributed to the commercial centre's unique charm, ensuring streetscape vitality through a range of different architectural styles and spaces, and allowing for boutique shop tenancies.

The new housing developments on Cross Street are undermining the successful realisation of goals outlined in the Draft Cross Street Planning Strategy to activate the streetscape.

These include:

- Pedestrianising Knox Street (between Bay Street and Goldmam Lane) and Transvaal Avenue (east)
- Shared zones along lanes with high pedestrian activity such as Knox Lane and Transvaal Avenue (west).

At the moment, Cross Street and Knox Lane are not coping with the increase in traffic levels as a result of the existing new developments. Knox Lane has essentially become an entry and exit point for new car parks, a situation that works against proposals to encourage "high pedestrian activity." If Knox Street is closed to traffic as proposed, traffic congestion in the surrounding streets will only intensify.

VI. The Draft Cross Street Planning Strategy fails to look at what is happening in the rest of Double Bay.

In addition to the recent DA for sites on Bay Street between Cross Street and Knox Lane, a DA for an amalgamated site on Bay Street - 19, 21, 23-25 and 27 - has been lodged with Council. This DA is for a contemporary, five-storey commercial development that consists of four levels of basement parking for 75 vehicles, a large ground floor restaurant tenancy, and commercial office tenancies on the upper four levels. It will replace the character buildings as illustrated below and completely disrupt the boutique village look of this part of

Bay Street.

Photograph 1: No. 19 Bay Street, as viewed from Bay Street

Photograph 2: No. 21 Bay Street, as viewed from Bay Street

Photograph 3: Nos. 23-25 Bay Street, as viewed from Bay Street

Photograph 4: No. 27 Bay Street, as viewed from Bay Street

Source: MHN Design Union

Figure 23: The Proposed Development in the Streetscape

It’s yet another example of how proposals to amalgamate sites result in the disruption to the boutique feel of Double Bay.

Recommendation: To prevent further intrusion on the ambience of the area, the terraces and distinctive buildings to the north and south of this proposed mega-development should be immediately declared an HCA.

Examples of buildings on Bay Street to the north of the DA for 19 -27 Bay Street that should be V

VII. The Draft Cross Street Planning Strategy’s premise that Double Bay “is primely positioned in the Eastern City District to facilitate a highly liveable centre with increased and sustainable housing, jobs and services” needs to be re-examined**.**

One of the major themes of the recent council election was overdevelopment in the Woollahra municipality. The recently approved Local Housing Strategy acknowledged the multiple impacts on residential amenity caused by the recent increase in density. These include:

- increased traffic congestion, slow travel time on public transport and lack of parking;
- lack of community infrastructure;
- An increase in noise complaints due to the growing residential character of the commercial centre of Double Bay.

The new developments in Cross Street have also led to a dramatic decrease in open space along the street. The picturesque courtyard of the old building at 28-34 Cross Street, for example, will not be replaced in the new development. The approved DA for 19 -27 Cross Street will see the expansive Double Bay Plaza largely replaced by a massive built form.

VIII. The new developments on Cross Street have demonstrated that Priority 3.2.1 of the Draft Cross Street Planning Strategy to *create a more diverse housing mix in Double Bay to make housing more affordable for young people* will be difficult to achieve.

In 2019, for example, a Section 4.55 modification was approved for 20 -26 Cross Street to convert 6 x two bedroom plus study units to three-bedroom units, resulting in a reduction in the number of more "affordable" units in the development. In 5 July 2021, Council approved a Section 4.55 modification request for 28 -34 Cross Street, which also resulted in an overall reduction of 6 units, and led to the following changes in the unit mix:

- Reduction in the number of 1 bedroom units from 3 to 1
- Reduction in the number of 2 bedroom units from 3 to 1
- Reduction in the number of 3 bedroom units from 13 to 6
- Increase in the number of 4 bedroom units from 2 to 7

The developers were obviously responding to market demand, with the Centre typically attracting older residents who are downsizing from large

suburban homes and looking for big apartments. Even smaller units in the pricey new developments are unlikely to be “affordable” for younger residents.

Conclusion

Just like the Draft Edgecliff Commercial Centre Urban Design and Planning Strategy which was strongly criticised by all residents’ associations, the Draft Cross Street Planning Strategy ignores previously sound advice from the Council strategic planning staff with respect to the future development of an important commercial centre. In explaining why the Urban Design department had not recommended that 10 Cross Street, Double Bay be approved, for example, the Urban Design Officer said the following:

> *I acknowledge the proposed amendments to the street wall height at Knox Lane and Cross Street, which mainly follow the articulation pattern of the recently constructed building at 16-18 Cross Street. However, this individual building does not demonstrate the desired future character of the centre in all aspects. Council staff are currently preparing a comprehensive urban design strategy for the Double Bay Centre. This strategy is being prepared on a detailed site by site and block by block basis.* ***The strategy has not been finalised. However, at this point Council staff’s intention for Cross Street is to have a consistent four-storey street wall height.***

(This statement was included in an Assessment Report issued before the Council resolution of 26 April 2021).

The authors of the Draft Cross Street Planning Strategy appear to have put far too much emphasis on integrating "the remaining sites with recently existing developments on Cross Street" and little to no emphasis on integrating new developments with "the existing adjacent streets and pedestrian corridors and being mindful of view sharing opportunities for existing developments south of Cross Street." (See Council resolution of 26 April 2021.)

As a consequence, a deeply flawed strategy has been developed that completely ignores the preservation of the local character and heritage ambience of arguably Double Bay's most important street.