

# Double Bay Residents' Association Inc

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The General Manager,  
Woollahra Municipal Council,  
PO Box 61,  
Double Bay NSW 1360

26th March 2018

Dear Sir,

**DA 45/2018/1 294-296 & 298 New South Head Road and 2-10 Bay Street, Double Bay**

We have examined the drawings and reports filed in support of the above mixed development of variously 7 and 5 storeys.

Our Association and its members oppose the grant of consent to this DA. If approved it would create a gross overdevelopment in breach of Council's LEP 2014 development standards and the fine-grained set of controls in its DCP 2015. It would be out of keeping with the scale of development in the vicinity and have grave impacts on views and amenity for some neighbouring properties.

The principal grounds on which we say this DA should be refused are (following the sequence of s 79C) are set out below with impacts such as view loss, oppressiveness and loss of privacy considered within those headings:

- 1(a) Excessive height;**
- 1(b) The clause 4.6 objection to compliance with the LEP's height standard must be dismissed;**
- 2(a) Excessive bulk/FSR;**
- 2(b) The clause 4.6 objection to compliance with the LEP's FSR standard must be dismissed;**
- 3 Breaches of the storey, envelope, setback and other controls in the Woollahra DCP 2015;**
- 4 Breaches of SEPP 65 and the Apartment Design Guide;**
- 5 Overshadowing impacts;**
- 6 Failure to comply with the mandatory requirements of cl 6.1 of the Woollahra LEP (Acid Sulphate Soils Management Plan) and cl 7 of SEPP 55 (Contamination);**

We shall deal with each of these in the sections below.

### **1(a) Excessive height**

Under clause 4.3 of the Woollahra LEP and the accompanying Height Map the maximum permitted height of development on any part of this site is 14.7m measured in accordance with the LEP.

The SEE filed by the applicant concedes that so measured this development has a height of 23.7m **or 61% in excess of the maximum under this development standard.**

It follows that absent a successful written objection under clause 4.6 of the LEP the consent authority has no power to grant consent to this development. For reasons set out in section 1(b) below we say that the cl 4.6 objection to compliance must be dismissed.

### **1(b) The clause 4.6 objection to compliance with the LEP's height standard must be dismissed**

The recent Land & Environment Court decision in *Four2Five P/L v Ashfield Council (2015) NSWLEC 90* has established that on a cl 4.6 objection the applicant has to prove that:

(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (the old SEPP 1 test to which *Wehbe* is applicable);

and in *addition* that

(b) There are sufficient environmental planning grounds to justify contravening the development standard; and

(c) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out (cl.4.1(4)(a)(ii)).

In our submission the applicant has to show that the objectives of the height standard are all achieved notwithstanding the non-compliance. It fails to fulfil a number of those objectives (and any one failure is fatal to their objection).

We deal with the objectives in the order set out in cl 4.3(1):

“(a) *to establish building heights that are consistent with the desired future character of the neighbourhood*”

The desired future character of the neighbourhood is set out in the cognate Woollahra DCP 2015. This is ignored in the Applicant's cl 4.6 objection.

D 5.4.4 sets out the “Desired future character” of Bay Street (south) and its Figure 15 sets out a potential architectural resolution. “(a)” calls for the retention of “the existing modest, lot related building widths and retail frontages”. “(c)” requires the retention of “the character buildings along Bay Street”. Bay Street (south) is a mix of mainly two storey buildings (a number of them defined as “character” buildings under D5.6.3.8) with nothing higher than four storeys. Control C1 in D5.6.3.8 requires new development to be compatible with the two storey “character buildings” at nos 9,11,13 and 15 Bay St (directly opposite the subject site) and 14 Bay St (adjoining to the north). It is hard to imagine anything less compatible with the streetscape and sections shown in Fig 15 and these two storey “character buildings” that are to be “retained” than the oppressive 7 storey bulk of

the proposed building on the corner of Bay St and NSH Rd (note nil ground floor setback) and the 5 storey section stepping down to its north along Bay St ( which, we note, does not match the “lot related building widths and retail frontages” nor the upper level setbacks shown in Fig 15. The setback to the first three upper floors along Bay Street is in fact nil).

In contrast a 4 storey structure complying with the height standard could achieve the desired future character of Bay Street as quoted above and fit in with the “character buildings” which we have identified.

D5.4.3 sets out the future character of New South Head Road:

“(a)Accentuate the curved street geometry of New South Head Road with four and five storey buildings.

(b)Retain green vistas at each end of New South Head Road”.

(The reference in (a) to five storeys is a reference to those sections on the south side of the road to the east where the LEP gives an 18.1m height limit).

Clearly the proposed 7 storey building with no attempt at curved geometry does not achieve “(a)” of the desired future character. Equally seriously its 7 storey height and bulk is the antithesis of “(b)”, blocking out the green vista in both directions, from the heritage grounds of “Overthorpe” and the adjoining street pavement towards the harbor along Bay St and in the opposite direction blocking the green vista of Overthorpe’s gardens from Bay St pedestrians.

The development equally fails to achieve the desired future character for Brooklyn Lane as set out in D5.4.8 of the DCP “The Lanes”. The development does not “encourage increased active retail frontage” (see (a)). It does not “set buildings back” from the Lane – see “(b)”.

Patently the development fails to achieve the desired future characters of the three streets to which it has frontage.

*“(b) to establish a transition in scale between zones to protect local amenity”*

The property is of course located on the extreme SW corner of the Double Bay Centre. We refer to the LEP Heights map. The land to the west of the property across Brooklyn Lane and the land on the opposite side of NSH Rd is all zoned medium density residential with a three storey or 10.5m height limit. The other factor is the sweep of period two storey terraces facing the site across Bay Street including the “character buildings” which have to be retained under the DCP.

Far from complying with this statement of the transitional principle the proposal’s 7 storeys on elevated land is flagrantly in breach of it – at odds with the surrounding 3 storey max residential areas and the 4 storey maximum for Bay Street (south).

*“(c) to minimize the loss of solar access to existing buildings and open space”*

The three shadow diagrams provided show that the shadows from the building will cover the south side of NSH Road, an important thoroughfare in view of the number of people walking to and from Edgecliff Station. Worse still at 3pm the shadows cover a substantial part of the heritage listed gardens of “Overthorpe” opposite as well as the neighbouring building to its east.

The importance of these gardens, second only to the Botanic Gardens is set out in the LEP.

The Heritage Impact Statement filed by the Applicant refers only to the proximity to this heritage listed item but does not consider the question of over-shadowing of the gardens nor the possible impact that overshadowing will have on the health of the trees and vegetation or the enjoyment of the owners in the gardens. (Indeed, the authors would not appear to have the horticultural or arborist qualifications entitling them to give an opinion on that matter).

Clause 5.10 (5) of the LEP says:

*“The consent authority may, before granting consent to any development:*

*(a) on land on which a heritage item is located, or*

*(b) .....*

*(c) on land that is within the vicinity of land referred to in paragraph (a) or (b)*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.”*

The consent authority must have such a report. In its absence it could not responsibly grant consent.

The development does not minimise loss of solar access. A development complying with the four storey control would achieve that objective of the height development standard.

“(d) *To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion.”*

In terms of **view loss** the most seriously affected properties are the adjoining inter-war years four storey residential flat building being 290 New South Head Road, “Overthorpe” on the opposite side of NSH Rd and buildings a little further up NSH Rd such as St Neots and , obliquely, “Bibaringa”. The loss of views to 290 NSH Rd is extreme in *Tenacity* terms. The upper floor units have living room windows in their east side and to the north which will suffer from an alarming loss of a view which could be classed as iconic. If the development was of a complying height, because 290 is on higher ground those views could be retained. Similarly, the 7 storey structure removes harbour views from a number of units in both buildings at “Overthorpe” which would not be lost if the height standard were complied with. There is also view loss to the properties on the east side of Bay St.

Similarly, the development towers over the adjoining no 290 and causes a massive loss of privacy to those units. This would not be the case if the building were of complying height. The SEE suggestions that this can be ameliorated by balcony plantings should be dismissed on the usual L and E Court grounds that such plantings offer no assurance against permanent loss of privacy.

As for **visual intrusion** this excessive height aspect of the development causes massive oppressiveness and visual intrusion to 290 NSH Rd where a building of complying height with proper setbacks would not. It also causes visual intrusion, oppressiveness and loss of light to the two storey buildings on the opposite side of Bay St.

Finally we note that the excess height causes **overshadowing** at 3pm of the building on the opposite corner of Bay Street and the building on the opposite side of NSH Rd.

Patently again this objective of the height standard is not achieved.

Two other arguments mounted in the Applicant's clause 4.6 objection can be shortly dismissed.

Firstly, it is argued that the height limit is discordant with the FSR standard. Firstly, this has not been proved but in any case it is contrary to the judgment of Preston CJ in *Wehbe* where His Honour said that: "An objection would not be well-founded by an opinion that a development standard is inappropriate in respect of a particular zoning" (para 50).

Secondly, the Applicant tries to argue that the standard has been abandoned by approvals granted. Of those examples mentioned only one was passed under Woollahra LEP 2015 (20-26 Cross Street). 16-18 Cross Street (DA 571/2014) was filed pre-gazettal of the current LEP and considered under the earlier controls. The Kiaora Lands development was approved under a special DCP and anyway is mainly 13m high with only some roof top plant to the smaller Library building exceeding the 18.1m height control. 376-382 New South Head Road was a case where a planning proposal was passed for this very central key site. One consent granted in breach of the Woollahra LEP 2015 height standard, and that in the teeth of a staff recommendation for refusal, could not amount to abandonment of a standard that applies to some hundred or more properties. One swallow does not a summer make.

There are no sufficient environmental planning grounds to justify contravention of the height standard – cl 4.6 (3)(b). The only matters prayed in aid are the alleged discordance between the Height and FSR standards which we have answered two paragraphs above. They also refer to the Hill PDA Feasibility study but that is not a relevant head of consideration under s79C and anyway was met by a petition signed by 410 Double Bay residents and some 70 from surrounding suburbs opposing any change to the height and bulk controls. The promised community consultation has yet to take place.

As it is inconsistent with the objectives of the height standard in the ways identified above and with the objective of the B2 zone which requires compatibility with the amenity of the surrounding residential area it similarly fails cl 4.6 (4)(a)(ii).

## **2(a) Excessive Bulk/FSR**

We will have to rely on Council staff's analysis of gross floor area and hence the FSR's of the component sections of the site. For the moment we will address these figures as claimed by the Applicant.

The Applicant concedes that the FSR of the portion of the overall site on the corner of NSH Rd and Bay St which is identified as "Area 1" on the FSR Map accompanying clauses 4.4 and 4.4A of the LEP has an FSR of 4:1.

It asserts that under the LEP the permissible maximum FSR for this portion of the site is 3:1 and therefore concedes that the development is 33% over the maximum and files an objection under cl 4.6 in respect of that breach of the FSR development standard.

However, we would take issue with the assumption that the permitted maximum is 3:1 rather than the 2.5:1 applying to the rest of the site. Under cl 4.4A (3) it is only entitled to 3:1 "if the consent authority is

satisfied that the development will be compatible with the desired future character of the zone in terms of building bulk and scale”. We say it is not compatible **and therefore the exceedance of the FSR standard is 60% not the 33% claimed by the applicant.**

We will pursue this point in the following section.

## **2(b) The clause 4.6 objection to compliance with the FSR standard must be dismissed**

Taking up the point raised in the last two paragraphs, the “desired future character of the zone” as set out for Zone B2 contain the following objectives that are relevant to bulk and scale:

- “\* To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*
- \* To ensure the development is of a height and scale that achieves the desired future character of the neighbourhood.”*

As we have submitted under the height issue 7 storeys as planned is not “compatible with the amenity of the surrounding residential area”. We refer to all we have said under italicized sub-headings (b), (c) and (d) in section 1(b) above. It is inconsistent with the predominantly 3 storey limited residential areas to its west and south. It takes away views and privacy and is oppressive and overshadows.

Nor does its “height and scale” achieve “the desired future character of the neighbourhood”. We refer to all that we said under section 1(a) above about its incongruence with respectively the DCP stated desired future characters of Bay Street (south), New South Head Road and Brooklyn Lane. See pages 2/3 above.

Accordingly, the applicant is not entitled to an FSR of 3:1 for this corner position of the site but only the 2.5:1 generally applicable.

This has the consequence that the overall development of the whole site needs a cl 4.6 objection since the gross floor area totals 4885.28m<sup>2</sup> which when divided by the site area of 1859m<sup>2</sup> gives a non-complying FSR of 2.63:1. Since no written objection has been filed in respect of the rest of the site the consent authority has no power to approve the DA.

Even if that submission were not accepted, this does not mean that the applicant has succeeded in showing that the objectives of the FSR standard are met notwithstanding the non-compliance. The objective of cl 4.4A (to encourage the development of prominent corner buildings) must be read with the objective of the FSR clause to which it provides an exception and which we say it fails – compatibility with the desired future character of the area in terms of bulk and scale (cl 4.4 (1)(b)). It cannot justify, to take an absurd example, a 20 storey building on that corner. The other point is that Area 1 in cl4.4A is restricted to the corner and not the whole of the NSH Rd frontage – yet what is proposed is a 7 storey structure which far exceeds the footprint of Area 1 shown on the FSR map. A prominent corner building in cl 4.4A means we would suggest a building that addresses that corner i.e. is built to it and is limited to that corner identified in the zoning map.

The applicant’s objection relies on arguing there is a mismatch between the height standard of 14.7m and the cl 4.4A exception allowed of 3:1. Firstly, an applicant has to meet all applicable development

standards – it has no entitlement to ignore one just because it says building to the other maximum necessitates a higher building. It in fact acknowledges that it is perfectly possible to build to the 3:1 within the 14.7m height limit. Indeed, a building built to comply with the 3:1 FSR standard on Area 1 would almost of necessity be more prominent than the balance of the site developed to 2.5:1. It is simply a matter of reducing the building from its impermissible 7 storey height. The true corner that is in Area 1 can still be made prominent at a complying height by building strongly to the alignment and using devices of articulation and massing to make a strong corner.

The other argument about abandonment of the standard is misconceived – we repeat what we said in the fifth paragraph on p5 above. One swallow does not a summer make.

In terms of cl 4.6(3)(b) there are no sufficient planning grounds particular to this site (see *Four2Five*) to justify the contravention. Its consequences to views from “Overthorpe” and no 290 are severe, and likewise with overshadowing. As explained in the last but one paragraph a building complying with the 3:1 (if, contrary to our submission, 3:1 is available to the Applicant) could easily achieve a prominent corner building on Area 1.

Whichever way it is looked at the cl 4.6 objection fails.

### **3 Breaches of the storey, envelope, setback and other controls in Woollahra DCP 2015**

In short we note the following breaches of the Woollahra DCP 2015:

- D5.1.3 Objectives. It fails objectives O1, O7 and O8. It fails to enhance through block connections (O1) – there is no arcade or connection through connecting Bay Street and Brooklyn Lane. (see also D 5.6.4.3). At a mix of 7 and 5 storeys it is not “compatible with the existing built form, and streetscape and village character” (O7) – whoever heard of a 7 storey village? Failing O8, it takes away views and privacy from, particularly, 290 NSH Rd and views from such as “Overthorpe” rather than “encouraging view sharing and individual privacy.”
- In terms of D5.4.3, 5.4.4 and 5.4.8 it fails “The desired future character” of each of New South Head Rd, Bay Street (south) and Brooklyn Lane. We refer to what we have said above under the italicised sub-heading “(a)” on p2 and following.
- Its 7 storeys to NSH Rd fails to comply with the 4 storey (14.7m) maximum limit shown in D5.4.3 (Fig 13), 5.5.4 (control drawing), 5.5.9 Control drawing 5, 5.5.13, 5.6.3.1 and 5.6.3.2.
- Its mix of 7 and 5 storeys to Bay St (south) fails to comply with the 4 storey (14.7m) maximum limit shown in D5.4.4 (Fig 15), 5.5.4 (built form envelopes), 5.6.3.1/5.6.3.2 and control drawing 5.5.9.
- Its development along Brooklyn Lane is grossly inconsistent with heights and envelopes shown in control drawing D 5.5.9.
- There is a failure to set back the fourth level (third upper floor) from Bay St by 3.5m as required by D5.4.4 and 5.6.3. Nil setback is provided.
- There is a failure to set back the same level to New South Head Rd by 3.5m and the third floor (second upper floor) by 2.4m as required by D5.4.3 and 5.5.9. Nil setback is provided.
- The upper levels are of course not comprehended by the setback controls being rendered impermissible by the height and envelope controls (see above).

- In breach of D5.6.3.8 Control C1 the proposal is not compatible in any way with the immediately opposite listed “character buildings” being the terraces 9, 11, 13 and 15 Bay Street, nor with the adjoining 14 Bay St to the north. These are fine two storey terrace buildings which add so much to the character and appeal of Bay Street. This 7/5 storey proposal with its lack of setback will appear totally incongruous alongside these properties with their generous setbacks and two storey height.
- With dire consequences for future privacy (visual and acoustic), visual oppressiveness and overshadowing it fails to provide the minimum separations across its side boundary with 290 NSH Rd nor along Brooklyn Lane under D5.6.5. This is also dealt with more fully below as a breach of the ADG.
- The failure to comply with the control drawings identified above in section D5.5 and the consequent overshadowing caused is also a breach of D5.6.6.1 Control C2.

The Applicant’s plans treat the DCP with its coherent fine grain controls with contempt.

#### **4 Breaches of SEPP 65 and the Apartment Design Guide (“ADG”)**

We have not attempted an exhaustive assessment of the proposed development’s compliance with the ADG. We do however raise the following issues which greatly concern us, stating first in italics the applicable ADG design criteria and then the perceived non-compliance. It should be remembered that this is a state-wide guide applying to the humblest apartment block in Liverpool or Campbelltown:

- *Objective 3B-1 “Where the street frontage is to the south, overshadowing to the south should be minimised”*

Instead of minimizing overshadowing to the south the design effectively maximises overshadowing to the south by placing a structure greatly exceeding development standards and controls along the southern New South Head Rd frontage with the impacts we have described under italicised subsections “(c)” and “(d)” of section 1(b), starting at the foot of p3 above.

- *Objective 3B-2 “overshadowing should be minimized to the south ... by increasing upper floor setbacks”*

Nil building setbacks are provided to the upper floors along NSH Rd (see seventh and eighth bullets in section 3 above). This greatly contributes, taken together with the excessive height, to the overshadowing right across the street and into the heritage gardens and across a neighbouring site.

- *Objective 3D-1 DC1 “ Communal open space has a minimum area equal to 25% of the site”.*

The Communal open space area shown in the SW corner of the site has an indicated area of 131m<sup>2</sup> or 7% of the site area. Indeed, we would question whether a substantial part of that 131m<sup>2</sup> qualifies as *open* space as it is underneath the overhanging floor above and could not comply with DC 2 which requires it to receive a minimum of 2 hours sunlight between 9am and 3pm on 21 June. The area is directly overlooked by 290 NSH Rd.

Furthermore, there is no compliance with this further requirement of Objective 3D-1 – “Communal open space is co-located with the deep soil area”. No deep soil area complying with the ADG is provided.

- *Objective 3E-1 Minimum % of the site area to be a deep soil zone = 7%. Minimum dimension of deep soil zone – 6m*

No such deep soil zone is provided.

- *Objective 3F1 DC1 Minimum separation distances to the side and rear boundaries for habitable rooms and balconies:*

*Up to 4 storeys      6m*

*5 to 8 storeys      9m*

This is of the most serious and extreme breaches of the ADG. The setback up to 4 storeys is not shown on the floor plans being the depth between the balconies and the western boundary is not shown but appears to be 3m or slightly less, with windows within 4m of that boundary. The setback for the floors above, meant to be 9m, is a paltry 3.6m from the edge of the balconies, with windows 6.5m from the boundary. As stated above this has appalling consequences in terms of loss of view, light and visual and acoustic privacy as well as oppressiveness on the residents of 290 NSH Rd.

Further along the rear or side boundary to Brooklyn Lane the setback of the balconies is a puny 1.99m at the first four levels and a distance undimensioned on the floor plans but appearing to be no more than 4.8m at the fifth floor level – all far less than required by the ADG.

There is no setback at all on the northern side boundary.

- *Objective 3J-4 Provision of car parks should not exceed 1m above ground level.*

We note that at the northern end of the development the car park walls protrude 1.4m

*Natural ventilation -All habitable rooms are naturally ventilated - 4B1, 4B2 and DG.*

We would question the level of compliance claimed by the Applicant. Clearly units 203, 205, 206, 208, 301, 304, 305, 307, 309, 310, 312, 401, 405, 404, 407, 409, 410, 412, 501, 505 and 504 do not have cross ventilation complying with the ADG.

- *Objective 4F-1 Daylight and natural ventilation are provided to all common circulation spaces that are above ground.*

This requirement is breached in the case of every lift lobby within the building.

- *Objective 4V-1 and 4V-2 – Sustainability issues.*

Contrary to these provisions we can find no provision for the collection, storage and re-use of rainwater on site nor any treatment before it is discharged to receiving waters.

## 5. Overshadowing impacts

We refer to what we have said above on this issue at the bottom of page 3 and top of page 4 above under italicised sub-heading “(c)” within section 1(b). This degree of overshadowing of the public domain and private property is directly caused by the excessive height and bulk of the proposal.

## 6. Failure to comply with the mandatory requirements of cl 6.1 of the Woollahra LEP (Acid Sulphate Soils Management Plan) and cl 7 of SEPP 55 (Contamination)

The DA is accompanied by a Contamination Report by Douglas Partners who have done very limited testing of the site. Part of the site at its northern end is Class2 under the LEP’s Acid Sulphate Soils Map with the balance Class 5. For Class 2 land development consent is required for the carrying out of works below the natural ground surface.

Cl.6.1(3) of the LEP provides that:

“Development consent must not be granted under this clause for the carrying out of works unless an acid sulphate soils management plan has been prepared for the proposed works in accordance with the Acid Sulphate Soils Manual and has been provided to the consent authority.”

We do not understand Douglas Partners to have done any soil tests within the section of the site that is Class 2. We note at p6 they say “the depth to ASS is unknown and soil investigations are required to assess the area for ASS”. “ASS” of course is their abbreviation for Acid Sulphate Soils.

Despite this at p32 they opine that an ASS Management Plan”is not required for the proposed development”. No ASS Management Plan as called for by cl 6.1(3) is provided despite the mandatory terms of that clause. We do not understand it to be in issue that some “works” will be done in the Class 2 section below “the natural ground surface”.

Clause 7 of SEPP 55 is in not dissimilar terms to cl 6.1. It provides:

“ Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:
  - (a) It has considered whether the land is contaminated and
  - (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose which development is proposed to be carried out, and
  - (c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.”

At p32 the authors say that: “Given the reported concentrations of zinc and TRH, it is considered likely that some treatment of groundwater will likely be required if it is to be discharged to the stormwater system”. At the foot of that page they say:” Given the preliminary nature of the assigned waste

classification, which was based on limited sampling, it is recommended that this waste classification be confirmed by a qualified environmental consultant ex situ prior to and during bulk excavation.”

With respect it is not open for the applicant to argue that no acid sulphate soils management plan need be obtained. Under cl 6.1 of the LEP it *has* to be prepared and provided to the consent authority. A similar point arises in relation to the contamination report. In final version it must be provided before the consent authority can grant consent. We annex the advice on this point given to this Association by Peter McEwen SC at the time of the DA for 16/18 Cross Street. His advice was that these matters cannot be left to deferred commencement conditions and any consent given in the absence of both the management plan and report respectively called for by cl 6.1(3) and cl 7 would be invalid. A copy of that Advice is appended as Annexure “A”. We note that Council subsequently sought advice on the point from Lindsay Taylor, solicitor, and his advice was to the same substantive effect as Mr McEwen’s.

### **Conclusion**

For the above reasons the DA should be refused.

We would ask that a copy of this letter be provided to the Panel determining this DA with its Agenda papers, that we be provided with a copy of the staff report once prepared and that we be given substantial notice of the relevant panel hearing and an opportunity to address that Panel.

Yours faithfully,

**DOUBLE BAY RESIDENTS ASSOCIATION INC**  
(per Malcolm Young, Vice President)