

## **PRESIDENT'S REPORT TO THE DOUBLE BAY RESIDENTS ASSOCIATION INC'S ANNUAL GENERAL MEETING OF 20 APRIL 2021**

It has been the busiest year ever in my memory which goes back over 20 years as an office-bearer. As usual I will attempt to cover early 2021 as well as 2020.

I will split my report up into three sections:

- (a) Urban Planning matters – new proposals emanating from Council, the stance we have taken and the results;
- (b) Development Applications which we have contested whether at Planning Panel or in the L & E Court;
- (c) Other matters of a non-planning nature.

### **Urban Planning Matters**

#### **Voluntary Planning Agreements**

We fought unsuccessfully against Council's adoption of a Voluntary Planning Agreement Policy early last year. Voluntary Planning Agreements are an insidious thing introduced by the State Govt whereby developers in return for a payment to (or provision of land to) a Council may be allowed extra height and/or floor space over what is allowed under the controls. Council a few years earlier had at our urging declined to have any truck with this form of institutionalised brown paper bags. Despite the opposition of Residents First, Greens and Cr Marano, the rest of the Liberals adopted a VPA policy

#### **Woollahra Strategic Planning Statement**

This was an overarching planning statement adopted by Council early last year. We objected to three things in it:

- (a) Its positive encouragement of developers to entering into VPA's;
- (b) Its positive references to a then non-existent Double Bay Planning and Urban Design Study (more later);
- (c) Its positive references to a massive redevelopment of the Cross Street Car Park on which residents had never been consulted (more later).

Despite our opposition the Liberal majority approved this and it is now part of the planning framework.

#### **Double Bay Working Party**

This and other working parties were being reconstituted. The original proposal was for ours to have 3 business representatives on it and 2 residents whilst for Paddington it was proposed to have 2 business representatives and 3 residents. We pointed out the unfairness of this especially as, unlike Paddington we have a large number of residents living in the Centre. We sought the same balance as Paddington. Cr Zeltzer, Liberal, then moved successfully to make it 4 commercial representatives and still only 2 residents – just 4 RF councillors voting against. One recent decision of the WP, which we thoroughly support, is the pedestrianisation of Knox St beyond Short St to Bay St.

Whilst on the subject, can I record our thanks to Anthony Tregoning who has been our representative on that Working Party ever since, as he was on the preceding Working Party.

### **Low Density Residential zone – introduction of a .5:1 FSR limit**

Council for reasons best known to itself under the LEP and DCP had a unique floor plate control governing the bulk of structures in this zone. It was a nightmare to apply particularly to sloping sites and led to some massive overdevelopments. We have encouraged Council to change to having an FSR limit of .5:1 in the LEP like neighbouring councils and, despite difficulties thrown up by the Department, Council is pursuing this.

### **Changes to the LEP to overcome the decision in the SJD DB2 P/L case**

It had always been assumed by staff and ourselves that references in the LEP to “the desired future character of the neighbourhood” referred to the detailed description of that desired future character that appeared street by street in the WDCP. The judge found that there was no error of law by the Commissioner in not so defining those words. I wrote then to the then Director of Planning urging that we amend the LEP so as to define “desired future character” by reference to the description of desired future character in the DCP. I am glad to say that that has been taken up by Council and the amendment is now with the Department.

### **The future of the Cross Street Car Park**

Those of you who were here last year and read my letters will know of how the Council met in closed to the public meetings from 2015 to Dec 2018 before entering into Heads of Agreement with two developers. How we then fought for 6 months to get freedom of information access to the documents – resisted by Council even after the statutory umpire ruled wholly in our favour. We found that what was proposed was the equivalent of 8 storeys high and up to six levels below ground. We obtained the original drawings and files of the existing structure and retained a structural engineer who in his report said that the structure was in good condition and would last another 42 years.

Well in 2020 one of the two developers backed out of the deal and to cut a long story short the Council resolved to go back to seeking expressions of interest. At every stage Council has resisted consulting with the residents as to what they want. On 29<sup>th</sup> September Residents First councillors moved that Council consult with residents over three alternatives;

- Keep the existing car park;
- Redevelop the car park with a cinema or cinemas retaining 100% ownership for Council;
- What the Council has in mind with 86 apartments and conveying most of the above ground to a developer on a 99 year lease.

That motion to consult was supported by RFW and Green councillors but defeated by all 8 Liberal councillors against. You can read the full story on our website.

### **Kiaora Lands Car Park**

We strenuously objected to the proposal to add an extra parking floor to Kiaora Lands, many of us participating in half-hourly surveys of vacant spaces which we provided to Council. I am glad to say Council abandoned the idea last September.

## **Review of Double Bay Centre Planning Controls**

The staff report and recommendations on this had long been feared by us but (together with a similar review for the Edgecliff commercial centre) it finally came before councillors at a Strategic & Corporate Committee meeting on 29 March. Apart from an introduction by staff the Double Bay part was adjourned to last night, when I spoke strongly (I hope) against the proposal.

The proposal applying to most of the underdeveloped remaining sites is to increase the height limit from 4 to 6 storeys or more precisely from 14.7m to 21.5m – call it 50%.

The justification they gave for this was that:

- (a) they are receiving a lot of applications for more than the controls allow – Surprise, surprise.
- (b) the 2016 Hill PDA report suggesting that increases in bulk were required to incentivise redevelopment – to this I point out that the Hill PDA valuation of 6 unnamed sites was vitiated by flaws in valuation method exposed by a report by David Collier of Colliers fame which we had provided. In any event it is certainly not clear that developers need 6 storeys to make a profit - I took them through the current list of pending DA's and pointed out that over half of them were for 5 storeys or less;
- (c) that the present controls had been undermined. That is true for a stretch of Cross St (south side) where the Court found, just as we had warned back in 2016 when Council foolishly approved two 6 storey buildings in breach of the 4 storey limit, the controls had been abandoned. However, I pointed out it was not true for the rest of the Centre – in January the Court for that reason refused 6 storeys at 49-53 Bay Street upholding our controls.

We had a great win last night thanks to an inspiring speech by Mark Silcocks and his motion that we retain and strengthen the 2014/2015 set of controls which was carried by a majority of 6-5. It remains to be seen whether that motion can be upheld when it comes back before full Council next Monday when other councillors presumably will be back. Thank you Cr Anthony Marano who alone of the Liberal councillors supported the current controls and Mark's motion. If the worst happens and the 50% increases in height are pursued, I urge you all to make your hostility to that proposal known to Council loud and clear. This is the biggest fight of all.

## **Development applications**

So numerous are these that your eyes will probably glaze over whichever way I take them, but I have decided to take them street by street rather than in chronological order.

### **Bay Street**

#### **24-26 Bay Street/ 2A Cooper Street**

Gaden House or the Gruzman designed heritage office building. In July last year we had a *win* before the WLPP persuading them to refuse an application to add 2 storeys to it. The then owner appealed to the Court. We spoke against it at the s34 conference. The owner subsequently abandoned the appeal and sold the building. The new owner has recently put in another DA to add 2 office floors – our objection letter went in recently.

### **30-36 Bay Street**

Again, apparently a change of ownership. The new owner put in a DA to add 2 storeys of offices on top of the existing 4 floors. We objected, but it was approved by the Panel with your new DB community representative on the Panel voting the developer's way. It is under construction. Just recently the WLPP gave them a further extension to the fifth and sixth floors to which we again objected – only to be told it would be decided by way of an electronic meeting at which we could not speak. This further bulk was approved 3:1 with again the community rep voting with the developer.

### **2A, Guilfoyle Avenue**

Almost Bay St, this is the adjoining property and with the same owners. 4 storeys of offices approved notwithstanding our objections.

### **14, Bay Street**

This is that charming free standing and grey painted Italianate Victorian terrace which is a listed "character" building under our DCP. A DA is in for 6 storeys. Our objection went in on 20/03/21 and no news as yet.

### **21, 23-25 and 27 Bay Street**

A five storey monolithic office building on the sloping stretch of Bay Street surrounded by charming listed "character" terraces. Our objection went in on 05/03/21.

### **49/53 Bay Street**

Next door coming south to where Adrienne and the Misses Bonney used to be. Originally a 7 storey building proposed which we successfully objected to before the Panel. The applicant appealed to the L & E Court and by the time the matter came to trial it was reduced to 6 storeys. The applicant objected to my giving oral evidence (Covid rules) but delighted to say that in Jan 21 the Court refused the application in large part because it would obliterate views from upper units in the Cosmopolitan Centre.

### **55, Bay Street**

The Adrienne and Misses Bonney corner site with Cross St. DA in for a part 6/ part 7 storey office building with negligible parking. Our objection went in on 05/03/21.

### **Cross Street**

#### **28-34 Cross Street**

We got this 6 storey development refused twice by the SECPP. The developer appealed. Many Gallery Apartments owners and I gave evidence in the Council case. The Commissioner found for the developer, holding that, by approving in 2016 two six storey developments at nos 16-18 and 20-26 Cross Street in a 4 storey maximum area, the Council had abandoned its controls for that side of Cross St down to Knox Lane. Back in 2016 that was the very thing I warned Council would happen if they are approved those two developments 50% over the height limits. On appeal the Commr's decision was upheld.

### **19-27 Cross Street**

The Oscar & Friends site on the corner of Transvaal Avenue. A part 6/part 7 storey building proposed for the corner of Transvaal Avenue built right to Transvaal Ave boundary (indeed partly over the footpath) thus blocking views of the charming Heritage Conservation area from much of Cross Street plus putting Indigo and neighbours in afternoon shade. Our objection is in. This was mentioned last night as going to the SECPP in May.

### **10, Cross Street**

Florida Dry Cleaners. A DA for a 6 storey shop and apartments above – our objection went in on 20/01/21. Just found out that it is coming up before the WLPP this Thursday. Staff are recommending approval notwithstanding the opposition of their own Urban Design Planner who points to the appalling effect this 6 storey edifice will have on Knox Lane behind as well as the passage linking Goldman Lane to Cross Street.

### **14, Cross Street**

Michel's dry cleaners two properties north. 5 storey DA with shops and apartments. Our objection went in on 15/02/21. That too is coming up before this Thursday's WLPP meeting again with a staff recommendation for approval. Again, the Urban Design Planner has reservations. Condition proposed removing most of the parking.

### **53, Cross Street**

Where Bray Jackson's offices are – cnr Bay Street. This is a DA to partially rebuild the existing pleasant 4 storey office building on this site and then add 2 storeys of more offices to it. In many ways this development at 6 storeys will probably impinge on more harbour views than any other because it is so close to the harbour. Our objection went in to Council on 1<sup>st</sup> April and as yet no news.

### **New South Head Road**

#### **351-353 New South Head Road**

These are the two houses just downhill of the Bibaringa entrance and "Overthorpe", set amongst the heritage Sir John Hay gardens. DA for a 5 storey residential flat building part of which was to be low cost housing. The WLPP approved it by a 3:1 majority with the majority including Double Bay's community representative and James Colman, a State Govt appointee, voting for refusal. The majority did impose a condition that the 5<sup>th</sup> flr be removed and a minor improvement to the setbacks. The developer has apparently appealed to the L & E Court.

#### **384, NSH Road**

4 storeys of offices approved on the old NAB triangular shaped site with negligible parking and a design which has office workers up to 17m from a window.

### **357/359, NSH Road**

DA for a 5 storey retail and office building on that tiny corner site on corner of Manning Road. It is even taller than the 5 storey absurd shop and apartment approval earlier given for that site. It provides about 1/10<sup>th</sup> of the min required parking – just 2 spaces. Obj in in January – no news.

### **426-432 NSH Road**

Next door to the Double Bay Doctors building – proposed 5 storeys to Cross Lane and 4 storeys to NSH Rd. Obj in – no news.

### **294-296, 298 New South Head Road and 2, 4-10 Bay Street**

We previously defeated a monster planning proposal for this site. Probably the biggest undeveloped site in the Centre and right opposite “Overthorpe”. The new DA is mostly a 4 storey with 5 storeys on part of its NSH Rd frontage. It is a point I made last night to councillors – why are staff recommending 6 storeys when the developer is only seeking a mix of 4 and 5 storeys? The present control has a 4 storey height limit. Our objection went in yesterday – one of the key things we are fighting is the 5 storey part which will impact views from “Overthorpe” and other residential properties including the neighbouring apartment building to its west. Encourage all owners of apartments in those two buildings to get their individual objections in ASAP. Need a min of 10 objections to get to a Panel and DBRA only counts as one.

### **Other DA's**

We opposed three storey child care centres at both 16 and 98 Manning Road ultimately unsuccessfully – both approved by the Court despite the obvious traffic and parking dangers. We successfully opposed a massive over-development proposed for 10, Marathon Road.

### **Other matters of a non-planning nature**

#### **Traffic and pedestrian safety (thanks to MW and BM)**

We are very concerned about pedestrian safety at that notorious 5 way junction of NSH Rd with Kiaora Road, Cross St and Bellevue Road. We have made submissions to Council but of course the State Govt is involved so things grind exceeding slow. They are apparently putting in a right turn light from Cross St into NSH Rd as well as from Bellevue Rd to NSH Rd. A particular concern is for pedestrians crossing the top of Kiaora Rd getting hit from behind by vehicles coming down the hill and turning left into Kiaora Rd.

We have been in touch with Cr Shapiro about vehicles parked at the ends of the divided road bit of Wallaroy Rd, narrowing each end to 1 lane width with a risk of front on collision. Ditto the Wallaroy Road/ Wallaroy Crescent. We are hopeful that some No Stopping signs will be erected to improve safety.

We have got a pedestrian refuge island being put in at the eastern end of Court Road – another dangerous spot on the rat run to and from Bellevue Hill via Carlotta and Court Rds. We are pressing for 40 kph limits to be introduced for Double Bay.

Finally, we are pressing Council to improve pedestrian and particularly childrens' safety in Kiaora Lane.

### **Noise**

Thanks to MF who has been in touch with police and Council. We have tried to keep a lid on night time noise particularly from the rooftop bar of The Intercontinental.

### **My farewell**

As you know I am retiring as your President and a Committee member from tonight for reasons I explained in an email to all members a few weeks ago. I would like to thank especially my loyal and hard-working committee – Michelle Wearn, Sascha Ettinger (our secretary), Jenny Dewar (our treasurer), Barbara Mortimer (who deals with membership), Mary Fisher, Anthony Tregoning (my successor), Tony Gregory (who like me is retiring after many, many years on the Committee) and Peter Breed. I would also like to thank you the members for all the support you have given me over the years. The Association is in a very strong position membership-wise at around 300. Unity is strength. Not every issue may involve your personal environment or amenity but by being a member it ensures that when an issue does come along that threatens your amenity you have a powerful Association behind you.

Malcolm Young

20 April 2021