

# Double Bay Residents' Association

Protecting Sydney's Stylish Bayside Village

The General Manager,  
Woollahra Municipal Council,  
PO Box 61,  
DOUBLE BAY NSW 1360.

9th April 2022

Dear Sir,

## **Draft Double Bay Centre – Planning and Urban Design Strategy and Community Impact Statement**

We have inspected the draft strategy and community impact statement (“CIS”) as exhibited.

Our Association has a membership of some 300 Double Bay residents, all of whom are affected by the changes proposed in the draft strategy. Many of them live in the Centre itself. From our members there has been a clear response of utter dismay at the “one size fits all” proposal to increase the height limits for most of the undeveloped sites in the Centre from four storeys (14.7m) to six storeys (21.5m) or put simply a **50% height increase**<sup>1</sup>.

Developers almost invariably and often successfully seek a floor or two more than the height limit. Examples of this being approved are many: 16-18 Cross Street (6 storeys approved against an LEP maximum of 4 storeys), 20-26 Cross Street (again 6 against a 4 storey limit), 28-34 Cross Street (6 storeys approved by the L & E Court against a 4 storey limit because Council was held to have abandoned its controls for this stretch of the south side of Cross Street – the very thing DBRA warned of in its objections to nos 16-18 and 20-26) and 30-36 Bay Street (6 storeys approved against a 5 storey limit).

Accordingly, history tells us what you will get if the Height control is altered as proposed. It is likely to mean buildings of seven and even eight storeys.

In summary, the height control changes proposed by the Draft Strategy and CIS and the consequent increase in the volume of development are inappropriate for the Double Bay Centre for the following reasons:

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<sup>1</sup> In fact the proposed height increase is even more because the new height, unlike the old height limit, will be measured not from ground level but from the raised ground floor level necessary to prevent flooding (p44).

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1. Six storey heights excessive - Loss of village character
2. Contrary to planning principle/Impact on amphitheatre and harbour views
3. The particular inappropriateness of six storeys in Bay Street
4. The particular inappropriateness of six storeys in Knox Street
5. The particular inappropriateness of six storeys in New South Head Road
6. The particular inappropriateness of six storeys in the vicinity of Transvaal Avenue
7. The particular inappropriateness of six storeys in Kiaora Lane/Patterson Street
8. The increase will bring with it increased excavation/high water table issues
9. The increase will bring with it increased acid sulphate soils problems
10. Traffic through and in Double Bay is already at saturation point/Parking issues
11. The argument that greater height is needed to encourage development is a myth
12. There are no bulk (i.e. FSR) controls in the strategy which is therefore incomplete

We set out below our submissions on each of the above issues.

### 1. Six storey heights excessive - Loss of village character

In its Double Bay Place Plan 2019 Woollahra Council states its vision for the Double Bay Centre as:

*“Double Bay is Sydney’s stylish bayside village”*

The high rise implicit in the 50% height limit increases is the antithesis of the village character that attracts people to Double Bay. Whatever else a centre with wall-to-wall six storey buildings might be it cannot possibly be described as a village, and, as it becomes less and less distinguishable from Bondi Junction, Hurstville or Chatswood, it cannot be described as stylish.

We residents and visitors to the Centre treasure what is left of a low-rise Double Bay Centre where people can stroll in the sunshine through the network of streets and lanes with their interesting mix of individual retailers and pavement cafes. All that attraction will be lost if the Centre becomes, via this misconceived strategy, another Bondi Junction. Go and stand this winter in the oppressive gloom in Knox Lane behind the two new developments at 16-18 and 20-26 Cross Street if you want to see the future.

At page 40 of the Strategy the authors of the report devote a full page to singing the praises of the Kelvin Grove Urban Village, Brisbane, Queensland complete with three photographs of it. It is quite simply ghastly when compared to what still exists of the still sunny and low-rise Double Bay Village. What appears in these Kelvin Grove photographs (presumably chosen to be the most favourable) is indistinguishable from the modern day disaster that has overtaken Zetland/Alexandria/Rosebery (picture Dank Street and surrounding streets).

The increase in heights is sought to be justified by artists’ impressions and montages not strictly to scale and artfully drawn to minimise the impacts of six storeys together with the sections at 5.2 and 5.3 dealing with “Street Wall Height” and “Built Form”. There is no

suggestion that these limitations on street wall heights and upper floor setbacks will form part of the LEP which will have the new 6 storey height limits instead of the current 4 storeys. Rather these street wall heights and upper floor setbacks are proposed at p47 to “be implemented in a future amendment to the Woollahra DCP”.

The trouble is that DCP controls are a flexible control. The Council has even failed to honour its LEP development standards which are “L.A.W” law – see the approvals granted for 16-18 and 20-26 Cross Street (six storeys where only four were permitted) and 36 Bay Street (six where only five permitted). Not surprisingly, it has repeatedly failed to enforce its existing DCP envelope and setback controls (controls which this Association has always supported). As an example, the rear frontages of both Cross Street properties to Knox Lane were required by the DCP to be, for at least 50% of their frontages, limited to 2 storeys in height for a considerable depth in order to keep Knox Lane in sunlight. Instead of which we got five storey monoliths with a meagre setback at the sixth floor level. We could quote innumerable other examples.

We have no confidence that Council, faced with wealthy developers, backed by powerful planning and legal teams, will be any more determined or successful in protecting these altered controls in our DCP than they have proved to be in protecting our current DCP’s envelope controls (which controls this association approves).

Of course, in any interlude between amending the LEP and bringing in the “future amendment to the Woollahra DCP” (p47), it will be open slather for developers to build six storeys right up to the boundaries.

## **2 Contrary to planning principle/ Impact on amphitheatre and harbour views**

It is a trite planning principle that you do not erect your high-rise in low-lying, harbour fronting locations but rather on hills and ridges where harbour views, such as from the amphitheatre that surrounds Double Bay, can be maintained. This is particularly true of development in the northern part of the Centre. Annexed is a photograph taken from the writer’s study. It was recently annexed to a DBRA objection to a part 7/part 6 storey development at 55, Bay Street on the corner of Bay and Cross Streets showing the view loss caused if the DA were approved. It is a view shared by dozens of residences on the amphitheatre. It graphically makes the point that the impact on views of six or seven storey development in the northern part of the Centre is more extreme than in the case of a similar size development say on New South Head Road. Heights should moderate closer to the harbour both from the point of view of preserving views from the amphitheatre and from the harbour. The impact of greater building heights on views from the amphitheatre and harbour is ignored by the Strategy.

### **3 The particular inappropriateness of six storeys in Bay Street**

Firstly, It is as though the urban planners who wrote this Strategy are completely divorced from Council's development control planners who have by and large fought successfully to keep development restricted to a maximum of five storeys, and been supported in this regard by the Woollahra Local Planning Panel and the L & E Court in the last year:

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

Development consent sought for a part six/part five storey development. Refused by the WLPP. On appeal a s34 settlement approved by the Court limits to a maximum five floors with a four storey street wall.

#### *14, Bay Street*

WLPP refuses consent to a six storey shop top housing development, reduced by the applicant to five storeys on the appeal in the L & E Court which remains undetermined.

#### *20-24 Bay Street (aka 2A Cooper Street)*

Consent to a two storey mongrel addition to Professor Gruzman's 3 storey modernist masterpiece which is heritage listed was refused by the WLPP. Approved on appeal when Council mystifyingly to us (and the Court) raised no issue about whether the two differently designed added floors would affect the heritage significance of the item under LEP cl 5.10 (4).

#### *49-53 Bay Street*

The L & E Court in January 2021 refuses consent to a proposed six storey development on the grounds of its impact on views from north facing units on the top floor of the Cosmopolitan Centre. Why is Council proposing the very six storeys that the Court held would have unacceptable view impacts?

#### *55 Bay Street*

The WLPP refuses consent to a part 6/part 7 storey shop and office development. On appeal, after a s34 conference the Court grants consent to a building reduced in height to five storeys. Why – with the same view impacts on the Cosmopolitan Centre units – is the Council proposing the six storeys that it opposed for this site?

#### *19-27 Bay Street*

DA lodged for a five storey shop and office building – to be before the WLPP on 7 April with DBRA an objector.

The point is with all of the above planning outcomes limited to a maximum of five storeys (and the L & E Court clearly opposed to greater height) why on earth should heights be raised to six storeys which is clearly not needed for redevelopment to go ahead?

Secondly, the Strategy has wisely refrained from making any height limit change for most of the eastern side of Bay Street (South) – a charming row of mainly two storey with some three storey terraced buildings including a large number of DCP listed “character” buildings. It is likely that because “character” buildings are to be retained under the DCP that side of the street will remain 2/3 storeys high rather than be redeveloped to their maximum of 4 storeys. Why change the other side of the street to a six storey height limit thus making the street lop sided with 6 storeys on one side and 2/3 on the other?

This is all the more the case when (a) as we have said the consent granted by the Court recently for 2-10 Bay Street is limited to five storeys, and (b) the west side borders the residential zone and logically should under the transitional principle be lower than the east side.

Thirdly, we object also to the six storeys proposed for the properties at the top of Bay Street (South), east side, including the corner to New South Head Road. Such development will both have a disastrous impact on views from “Overthorpe”, “Bibaringa” and the development recently approved for 351-353 NSH Road, and be totally out of scale with the character 2/3 terraces to their immediate north.

#### **4 The particular inappropriateness of six storeys in Knox Street**

At present the northern side of Knox Street is principally composed of two storey buildings with the consequence that the street is sunny and has human scale encouraging outdoor dining and window shopping. Council plans to turn the majority of the street from Goldman Lane/ Short Street north into a pedestrian plaza complete with extensive landscaping. Whilst the Strategy includes a two storey wall height with upper floor setbacks, we have already referred to Council’s feeble record of enforcing the building envelope controls in our DCP at p2/top p3 above. There is no reason to suppose that they will be any more successful in enforcing these in a “future amendment to the DCP” (p47).

Upper floor setbacks (above a two storey street wall) do not solve the oppressiveness issue which would fundamentally change the character of the street. The six storeys will be seen from all points of the public domain save directly below the particular building on the same side of the street.

Furthermore, these buildings will have no vehicular access at their front thereby raising all the issues that residents of the Cosmopolitan Centre have raised in their opposition to the proposed Knox Street plaza. The sensible thing, in view of that limited access issue, would be to keep the current four storey height limit.

Upper floor setbacks of course will not solve the further problem that six storeys will utterly destroy the NE views from units in the Cosmopolitan Centre including prized harbour views. It does not matter how far you setback the sixth storey, you will destroy the views from the Cosmopolitan Centre which, though nominally six storeys, is only the height of a five storey building because two of its upper floors are shallow parking floors and its residential floors have lower ceiling heights than nowadays required.

## **5 The particular inappropriateness of six storeys in New South Head Road**

When the Strategy was debated before Council on 26<sup>th</sup> April 2021 the rival positions were that the current controls should be affirmed (save for the area the subject of the Court finding that there had been an abandonment for the south side of Cross Street as far as Knox lane in the east) which was the resolution passed and the defeated original motion which read in part:

“D. That noting concerns raised by Councillors that staff consider the following amendments during the exhibition stage:

I reducing heights from maximum 6 storeys to 4-5 stories (sic) in the following sites:

- New South Head Road to reflect the height of the Woollahra Library.”

The issue therefore was – the majority of councillors voted for no change to the current controls for New South Head Road, a minority voted to have the height reflect the height of the Woollahra Library. Woollahra Library is a four storey building. The authors of the report have completely ignored the expression of the community’s will as expressed by the community’s representatives and gone for an increase in heights to six storeys 50% more than any councillor voted for.

We know what six storeys looks like (see annexed photograph of the “Cue building”) – try to imagine the dismal overshadowed canyon created by having development of that height on both sides of the main road (excepting the five storey - and the four storey Woollahra Library. The “Cue building” will cast shadows in winter up the face of The Golden Sheaf.

The impact will be devastating on many of us to the south of New South Head Road and on the footsteps of the amphitheatre who will lose harbour views to the north and north-east . The authors do not even consider such impacts. What will be created is a six storey high barrier across Double Bay running in an approximately SW to NE direction precluding views from, and north-easterly breezes to, those living south of that line.

## **6 The particular inappropriateness of six storeys in the vicinity of Transvaal Avenue**

One can hardly think of anything more inappropriate than putting six storeys next to this charming conservation area described in the DCP as “formed by a unique relationship

between the consistent and richly decorated Federation style cottages, the street trees and landscaped central garden” (App 1 A1.3). In the teeth of this the “one size fits all” author of the Strategy puts six storeys along the southernmost third of the Avenue and six storeys across the facing properties opposite in Cross Street. The attraction and appreciation of this charming precinct will be for ever lost if these height changes are introduced.

### **7 The particular inappropriateness of six storeys in Kiaora Lane/Patterson Street**

Two of the reasons why this Association supported the Kiaora Lands project were that it kept the development on the south side of Kiaora Lane to a 13.5 height limit (three storeys) and because there were landscaping reserves to the southern border of the development protecting Court Road residents to the south. Why therefore the Strategy is proposing six storeys for the south side of Kiaora Lane and the north side of Patterson Street is beyond us. It is entirely out of character on the Kiaora Lane side with the three storey development to the rest of the south side of that street. It will have an appalling effect on the residents opposite on the south side of Patterson Street (nos 4-8) in terms of loss of view, light, sunlight, oppressiveness and loss of breeze. It is utterly contrary to the transitional principle quoted by the Strategy authors (“The built form should transition at the Centre’s edges to the lower scale residential uses of the surrounding area”) but totally ignored by them otherwise.

### **8 High water table/ Stormwater issues**

The Centre is former marsh land with an extraordinarily high watertable which fluctuates with the seasons but can be as little as a few inches below the natural ground surface. When any substantial excavation is made in the Centre pumping out of the excavation is required 24/7.

The Centre and the shops in it are subject to flooding to the point where developers are required either to raise ground floor levels above existing ground floor levels and/or to put flood barriers in to ground and basement floors.

We refer to the GHD report of 2021 “Double Bay – Hydrogeological Geotechnical Impacts/ Groundwater and Geotechnical Assessment Report”. This report was obtained by Council in the wake of the massive cracking suffered by one of our members’ homes at 14, Forest Road Double Bay

(as well as cracking to some twenty or so other residences in that area) following dewatering for a single storey basement level at 4-8 Patterson Street. (The front half of 14, Forest Road had subsequently to be demolished and rebuilt). It also followed cracking to a home in William Street as a result of dewatering during excavation of a home unit site 16, William Street on the other side of that street.

The inevitable consequence of raising the Height limit to six storeys will be the need for developments to include a minimum of two basement levels of parking. The recently completed six storey developments at 16-18 Cross Street and 20-26 Cross Street each have two basement parking levels as does the six storey development presently under construction at 28-34 Cross Street. The evidence is that where some or all of the upper floors are office accommodation even more basement levels will be required – an example of this is the DA for a proposed 5 storey shop and office development at 19 – 27 Bay Street which proposes four basement parking levels.

These parking levels, whether they be two or even four levels deep, will be constructed well below the groundwater level. This means that during excavation they have to be dewatered 24/7 to maintain safe construction conditions on the excavated site. It also means that once constructed they present underground barriers or dams to the aquifer that flows under the Centre from south to north.

In relation to the excavation phase GHD point out at 8.4.1:

“Greater the depth of excavation relative to depth to groundwater, greater the temporary drawdown of the water table required to maintain dry/safe construction conditions.”

and at 9.1:

“The lowering of the water table by dewatering can induce soil settlement which is detrimental to buildings and structures located above the affected water table”.

The GHD authors go on to explain how this settlement of the surrounding ground occurs. They comment at 10.1.2 that “an uncontrolled dewatering of 2 – level basement construction could potentially result in up to 5m lowering of the original water table”. The significance of this is that the authors set the maximum permissible drawdown for Zone A which includes most of the Double Bay Centre at 0.2m! Such a draw down limited to a depth of 0.2m would cause settlement cracks limited to 15mm in size in surrounding buildings which GHD regard as tolerable (we are not sure that neighbouring building owners would agree!).

Remember what GHD say in their Executive Summary about the widespread impact of construction dewatering:

“In the sandy alluvium generally encountered within the Double Bay valley, the impact of construction dewatering is expected to extend far beyond the excavation footprint. The lateral impact can extend up to some 800m away.” – see also at 10.4.1.

Our observation with recent developments in Cross Street, Patterson Street and William Street (including the ones referred to in the third paragraph of this section) is that the dewatering is pumped out 24/7 and is just sent straight to the nearest stormwater drain (thence to Sydney Harbour) with no attempt to recharge adjacent soils. This means a



lowering of the adjacent water table, because it is not being recharged, of much greater degree than GHD's permissible maximum of 0.2m.

This is a potential environmental disaster inherent in any decision to raise building heights and therefore the volume of demand for basement parking. The risk does not end with the process of excavation/dewatering<sup>2</sup>. Once constructed you will have an ever-increasing series of underground barriers or dams blocking the aquifer and leading to a raising of the groundwater levels upstream or south and a lowering downstream or north further exacerbating the settlement and cracking of structures.

## 9 The Acid Sulphate Soil problem

99% of the Centre is underlain by acid sulphate soils – see the Acid Sulphate Soils Maps that accompany the Woollahra LEP 2014 and clause 6.1 of the WLEP. Any excavation below ground surface in almost all of the Centre requires generally an ASS management plan prior to the grant of consent. The 50% increase in Height limits proposed means obviously an increased demand for parking and thus more excavation in potential acid sulphate soils. Acid sulphates are dangerous on exposure to both adjoining property and human health. To quote the NSW Department of Environment and Planning:

“Left undisturbed, acid sulfate soils do not present any risk. But when they are exposed to air, the iron sulfides they contain react with oxygen to create sulfuric acid.

The acid makes metals in the soil, such as iron and aluminium, more soluble. These metals can be released in toxic amounts.

The acid and released metals can have many damaging effects:

- **Damaging waterways and killing aquatic life** – Rainfall can wash acid and toxic metals into waterways, killing organisms that are immobile (such as oysters) or that live in sediment. It can also reduce survival and growth rates of plants and animals, and promote outbreaks of disease (especially red-spot disease in fish).
- **Killing plants** – Very acidic soil can kill all plants growing in it.
- **Corrosion** – Sulfuric acid can corrode concrete, iron, steel and some aluminium alloys.
- **Toxic water and dust** – Acid sulfate soil and water can irritate your skin and eyes. Drinking acidic water may make animals ill.”

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<sup>2</sup> Quite possibly in many cases because of the extent of development on adjacent properties it will be impossible to recharge their soil.

## **10 Traffic is already at capacity/ Public transport deficiencies**

Double Bay already suffers from severe traffic problems, placed as it is across the single artery – New South Head – that connects all the suburbs to its east and north east with the City of Sydney. Regularly traffic is backed up at peak times up the hill to the Council chambers and up towards the Edgecliff lights. The rat runs via William Street and Court Road/ Manning Road are regularly blocked. In addition, Double Bay has an acute shortage of both on-street and off-street parking. Residents are in the crazy situation of not being able to park in the street in which they live with acute problems for visitors and tradesmen. The last thing we need is to add the extra traffic that is implicit in the extra heights.

Any suggestion that the Double Bay Centre is well served by public transport deserves heavy qualification. The bus service is only good if you want to get to Edgecliff or the midtown part of the City (i.e. along Park Street where the buses go west to Walsh Bay). The bus service to Bondi Junction is a half hourly joke – its route so serpentine and indirect it takes for ever to get there. The Centre is not close to Edgecliff station – who in summer wants to toil up the hill and arrive in a sweat soaked shirt or top? Ferries are improving but still inadequate.

The talk in 5.8 of the strategy about “a modal shift from private vehicles towards active transport, in particular walking and cycling in the Centre” is a pipedream. There are two features of the population in and around the Double Bay Centre that are undeniable – it is older and wealthier than the general population. They are going to want their vehicles whether they be electric powered or by conventional petrol/diesel. As for the talk of lower parking requirements for one bedroom /studio units, we lost count of the number of s 4.55 applications approved for the new six storey buildings on the south side of Cross Street altering the internal mix of units from a small percentage of one bedroom units to ever larger units (three and four bedroom). That apparently is where the money is for developers, and what they want they invariably seem to get.

## **11 The argument that extra height is needed to encourage development is a myth**

At 3.4 the authors mention the Hill PDA Report. Our members remember that report well:

- (a) This was the report that relied on discussions with unidentified commercial property owners, developers, real estate agents and Council staff, *but not a single resident of Double Bay*;
- (b) This was the report that examined just six unidentified sites using high current values for the existing sites no doubt provided by the site owners;

- (c) The errors in the Hill PDA report on valuation issues were exposed by the report obtained by DBRA from Mr David Collier, valuer and co-founder of Colliers, the international property consultants, of 16 June 2016 provided to Council.

However, the real proof that no increase in bulk or height controls is necessary for redevelopment to take place is the following long list of recent approved developments and recent DA's in the Centre **all of which are for buildings of less than six storeys:**

294-296, 298 New South Head Road and 2-10 Bay Street;

14 Bay Street;

19, 21, 23-25 and 27 Bay Street;

20-24 Bay Street (aka 2A, Cooper Street);

55, Bay Street;

14, Cross Street;

3, Knox Street

357-359 New South Head Road;

426-432 New South Head Road;

384, New South Head Road.

## **7.The Strategy is plainly incomplete and not ready for community consultation**

There are two key controls in our LEP governing the size of development on any particular site. The first is the Height of buildings control which is in clause 4.3 and its cognate Height Maps. The second is the bulk or Floor Space Ratio ("FSR") controls which are in clause 4.4 and the cognate Floor Space Ratio maps.

The Strategy document does not define what if any changes are to be made to the current FSR control of 2.5:1 (with a few corner sites having a qualified chance to get to 3:1). Yet this bulk control is absolutely crucial and must be defined before the Strategy is put out to the public. The only reference we can find is a short paragraph on p44 (Agenda page 529) where this terrifyingly vague passage appears:

*"Having considered our fine-grain detailed built form study, we anticipate that each of the review sites will achieve a (sic) FSR ranging from 2.6:1 to 4.6:1. However, the*

*appropriate FSR for each site within this range will be further investigated once the built form elements have been subject to initial community engagement.”*

Firstly, it is terrifying to think that the author is contemplating an 84% increase in the maximum bulk control. Secondly, Council must define this key element of the proposed controls before rather than after it consults – otherwise one is consulting in a vacuum. Both the individual built forms and the proposed maximum FSR should be put before the public so that they can consider them.

### **Conclusion**

There is no justification provided in the Strategy or CIS for the proposed 50% increase in height limits.

The proposals would replace a complete set of controls (Height, FSR (Bulk), building envelopes and setbacks) which were the subject of extensive community involvement with an incomplete set of controls lacking any bulk/FSR control (apparently to be determined *after* not before the public have their say).

Finally, the present period for community consultation is illusory. When we tried to open the link to the strategy on the Council website. It was said to be available at the Woollahra Library, but when our representative attended to inspect the librarian at first disclaimed knowledge of it before eventually locating a single copy which could be read there but not taken away.

In our experience most people would like to have a hard copy which they can annotate at home. If they want to get a hard copy Council is charging \$290!

We ask that these views of the residents be carefully weighed by councillors.

Yours faithfully,

DOUBLE BAY RESIDENTS' ASSOCIATION INC – per Malcolm Young OAM, Past President.