

OUR REF: 18418

7 March 2022

The General Manager  
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**Attention : Anne White**

Dear Anne,

**RE: RESPONSE TO COUNCIL LETTER  
NO. 252-254 NEW SOUTH HEAD ROAD, DOUBLE BAY**

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We note that in addition to the Gateway Determination, we received a letter from Council dated 24 September 2021 which included a number of design change requests. The Council letter infers a departure from the gateway determination, through imposition of conditions which are contrary to the Gateway Determination. It is our understanding and position, that the Gateway Determination and associated conditions are to be complied with, and previous Council resolutions that may differ to the intent or requirements of the Gateway Conditions are not a consideration.

Accordingly, please find our response to the various points raised in Council's letter in **Annexure A**. These responses have been provided in collaboration with Antoniades Architects and GMU Urban Design and Architecture.

We trust this information is of some assistance, and please don't hesitate to contact our office on (02) 9362 3364 should you wish to discuss this matter.

Yours faithfully,



George Karavanas  
**MANAGING DIRECTOR**

# ANNEXURE A

Council Comment – Point A	Our Response
<p><i>A. THAT Council notes that: i. On 23 November 2020 Council resolved not to support a request for a planning proposal for 252-254 New South Head Road, Double Bay.</i></p> <p><i>ii. Contrary to the Council recommendation, the request for a planning proposal was supported on 22 July 2021 by the Sydney Eastern City Planning Panel for the purpose of requesting a gateway determination to allow public exhibition.</i></p> <p><i>iii. By Council taking on the role of Planning Proposal Authority, Council staff will be responsible for overseeing the planning proposal process which provides Council with greater control over the preparation of the additional site testing/site specific DCP and managing the community consultation process including the assessment of submissions.</i></p>	<p>Noted.</p>
Council Comment – Point B	Our Response
<p><i>B. THAT Council accept the role of Planning Proposal Authority for 252-254 New South Head Road, Double Bay (RR-2021-69) and prepare a planning proposal for the site which seeks to amend the Woollahra Local Environmental Plan 2014 in the following manner:</i></p> <p><i>i. Increase the maximum building height standard from 13.5 to 22m.</i></p> <p><i>ii. Introduce a secondary height control of reduced level 45.90m Australian Height Datum at the New South Head Road frontage.</i></p> <p><i>iii. Increase the maximum floor space ratio from 1.3:1 to 2.6:1.</i></p>	<p>Noted.</p>

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Council Comment – Point C	Our Response
<p><i>C. THAT the applicant prepare, in consultation with Council staff:</i></p> <p>i. <i>Further site testing to establish if the proposed FSR is appropriate.</i></p> <p>ii. <i>A site specific development control plan informed by the site testing.</i></p>	<p>Antoniades Architects have prepared FSR testing diagrams to confirm the proposed FSR is appropriate.</p> <p>Site specific DCP preparation underway.</p>
Council Comment – Point D	Our Response
<p><i>D. THAT any Planning Agreement proposed by the applicant be prepared in accordance with the adopted Woollahra Voluntary Planning Agreement Policy 2020.</i></p>	<p>This is not a requirement of the Gateway determination</p>
Council Comment – Point E	Our Response
<p><i>E. THAT should a gateway determination be received, the Planning Proposal, draft Development Control Plan and any draft Planning Agreement be publicly exhibited.</i></p>	<p>Site specific DCP preparation underway.</p>
Council Comment – Point F	Our Response
<p><i>F. THAT the applicant pays the relevant planning proposal fees as identified in Council’s adopted Fees and Charges for 2021/2022.</i></p>	<p>Noted.</p>
Council Comment - Site Specific DCP	Our Response
<p><b><i>Desired future character.</i></b> Include provisions which identify how the proposed building envelope will transition from higher density development in the Edgecliff Centre to the lower-density built form in the Double Bay residential precinct, with reference to the Edgecliff Centre and the Double Bay Residential Precinct of the Woollahra DCP 2015.</p>	<p>Provisions such as the secondary height control, and articulation controls provided in the Site Specific DCP will accommodate a built form which provides a transition in the streetscape. The Urban Design Report submitted with the Planning Proposal demonstrated the transition from higher to medium density built form near the site.</p>

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<p><b>Streetscape.</b> Include provisions which require the proposed built form to contribute to the Double Bay residential precinct including built form articulation and passive surveillance.</p> <p>Include provisions which seek to retain and enhance the established landscape character as a green gateway to the Double Bay residential precinct. Measures include retaining and protecting the Jacaranda tree and enhancing landscaping in the front setback area by introducing new tree and shrub planting.</p>	<p>Provisions relating to articulation and inclusion of front balconies for passive surveillance in the Site Specific DCP will achieve a desirable streetscape outcome.</p> <p>Objectives and controls to retain and enhance the landscape character and protect the jacaranda tree are incorporated in the Site Specific DCP.</p>
<p><b>Protection of the Jacaranda tree (tree 1).</b> To protect the Jacaranda tree, include provisions that require the building envelope to be setback from the south-east corner of the site. This setback area should extend 8m from the front boundary (perpendicularly), and 12.5m from the most easterly corner at the front boundary. This tree protection area is to be marked on a site specific DCP diagram. Provisions should also be included to address the design of any pedestrian or vehicular access to ensure that no structures are located in the tree protection area that would impact on the root zone or canopy.</p>	<p>The Gateway Determination Report states:</p> <p style="text-align: center;"><i>The deep soil area to maintain the Jacaranda tree is to be shown on the DCP.</i></p> <p>Tree protection requirements are included in the existing Woollahra Development Control Plan, and therefore would be assessed as part of a development application. In the Site Specific DCP we have included a diagram showing soil to be retained (inclusive of below elevated built form such as the elevated entry deck) to sustain the Jacaranda. The Gateway Determination is not as specific as Council's requirements. An arborist report will be provided at DA stage to confirm the deep soil area is adequate.</p>
<p><b>Apartment Design Guide (ADG).</b> The development concept provided with the planning proposal has a depth of up to 27m. However, the ADG recommends a maximum depth of between 12-18m from glass line to glass line to ensure good levels of amenity.</p> <p>Accordingly, the proposed development concept is inconsistent with the recommendations of the ADG. The DCP provisions should incorporate a building envelope which is consistent with the recommendations of the ADG.</p>	<p>The figures quoted for building depths or building separation are recommendations in the Apartment Design Guide and would be assessed as part of a development application.. The proposal is informed by detailed site investigations providing a tailored response to the unique site geometry and other key constraints. A simple building envelope is therefore an inaccurate response as it does not recognise place-based built form solutions which may include the variations possible under the ADG relating to habitable/non-habitable room use, blank facades etc, nor the appropriateness of applying all ADG recommendations to an in-fill site. Furthermore, the ADG is <i>'not intended to be and should not be applied as a set of strict development standards'</i> [reference Planning Circular PS 17-001].</p> <p>Further, we note the Planning Proposal nominates building envelopes which are larger than the final building, and the building envelope should provide a tailored response to the site constraints. The building footprint depth changes at different levels of the building due to achieve the desired</p>

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	<p>stepped form and includes non-habitable uses on some floor levels. The greater depth of the envelopes is required to allow for articulation and modulations as well as private open spaces, to ensure these are not limited to a minimum.</p> <p>Part 2E of the ADG provides guidance in terms of Considerations in Setting Building Depth Controls. However, other parts of the ADG also provide design guidance and specific objectives applying to apartment layouts and internal amenity including guidance provided under Parts 4D, 4A and 4B. The indicative scheme also demonstrates capacity to achieve good levels of solar access and cross ventilation to meet key Design Criteria under Objectives 4A-1 and 4B-3.</p>												
<p><b>Rear setbacks.</b> Under the Woollahra DCP 2015, control B3.2.4 establishes that the rear setback should be 60% of the site depth. For the subject site, this should be approximately 18m and at the northern boundary a rear setback of 12m is required.</p> <p>A rear setback of 60% will facilitate urban greening and is consistent with the desired future character of the residential precinct. It will also facilitate appropriate separation between a building on the subject site, and adjoining development at 260 New South Head Road.</p>	<p>In site specific DCP we have proposed a stepped rear setback control based on the concept scheme. Note that the NSW Govt letter to Council states</p> <p><i>Council's letter to the proponent dated 24 September 2021 requests a rear setback of 12 metres along the northern boundary; this requirement appears to exceed the recommendation of the ADG on building separation for the lower and mid levels and may warrant further consideration.</i></p> <p>The proposal complies with ADG guidelines regarding the minimum required separation from buildings to side and rear boundaries (referred to this in Site Specific DCP):</p> <div data-bbox="958 887 1525 1235" style="background-color: #fce4d6; padding: 10px;"> <p><b>2. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</b></p> <table border="1" data-bbox="974 1013 1509 1230"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> </div>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m
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<p><b>View sharing.</b> The information submitted with the planning proposal suggests that the development concept will impact on the northerly views (towards the Harbour) from 240 New South Head Road. Considering the principles of <i>Tenacity Consulting v Warringah Council [2004] NSWLEC 140</i> the view sharing impact is assessed as being moderate for levels 3 and 4 of No. 240 New South Head Road. To facilitate view sharing, a further modulation of the envelope should be introduced to minimise these impacts, by lowering the height and/or providing greater setback of the envelope.</p>	<p>The Planning Proposal provided detailed view assessments from those buildings nearby and noted the existing available views. Council had required the view analysis to show the height controls applied to the full width of the site – that is, without side setbacks.</p> <p>To build to the boundaries would not meet Council or ADG requirements for setbacks and would be to the detriment of neighbours' views. View sharing requirements are already included in the existing Woollahra Development Control Plan and would be assessed as part of a development application, which would apply required minimum setbacks to minimise effects on views.</p>
<p><b>Diverse unit mix.</b> Include unit mix provisions. These provisions should be consistent with the recommendations from the Sydney Eastern City Planning Panel to facilitate housing choice.</p>	<p>The Panel stated the following in their gateway determination report in relation to housing mix:</p> <p><i>The residential mix (noting that concept plans accompanying the Planning Proposal comprise 80% studio flat and one bedroom units) and provision of more affordable housing, which will meet a demand in the LGA and be appropriate given the convenience of a transport orientated location.</i></p> <p>The residential mix has been refined to provide a more balanced mix of studio, one, and two bedroom apartments. Ranges are proposed for each type of dwelling in the Site Specific DCP to allow a degree of flexibility and maximum diversity</p>
<p><b>Car parking:</b> The Sydney Eastern City Planning Panel recommended that due to the location of the subject site, car parking should be minimise or deleted. This must be addressed in the site specific DCP provisions.</p>	<p>The DCP provides for maximum parking rates only. The provision of proposed parking on site is already limited to well below the maximum amount permitted:</p> <ul style="list-style-type: none"> <li>• Max. permitted based on revised apartment mix = 29 spaces</li> <li>• Proposed car spaces = 4 spaces + 2 car share spaces</li> </ul>