

**COUNCIL ASSESSMENT SUPPLEMENTARY REPORT**

<b>Panel Reference</b>	PPSSEC-86
<b>DA Number</b>	DA321/2020/1
<b>LGA</b>	Woollahra Municipal Council
<b>Proposed Development</b>	Demolition of existing structures and construction of a shop top housing development
<b>Street Address</b>	19-27 Cross Street DOUBLE BAY (Lot 100 of DP 617017)
<b>Applicant/Owner</b>	Applicant: SDHA Pty Ltd; Owner: Tri-Anta Pty Ltd
<b>Date of DA lodgement</b>	28 August 2020
<b>Total number of Submissions Number of Unique Objections</b>	Seven
<b>Recommendation</b>	<b>Refusal</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Development that has a capital investment value of more than \$30 million (CIV \$40,434,422)
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <b>List all of the relevant environmental planning instruments: s4.15(1)(a)(i)</b> <ul style="list-style-type: none"> <li>- State Environmental Planning Policy 65: Design Quality Of Residential Flat Development inclusive of Apartment Design Guide</li> <li>- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;</li> <li>- State Environmental Planning Policy (Infrastructure) 2007;</li> <li>- State Environmental Planning Policy 55: Remediation Of Land;</li> <li>- State Environmental Planning Policy 64: Advertising And Signage;</li> <li>- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;</li> <li>- Woollahra Local Environmental Plan 2014;</li> </ul> </li> <li>• <b>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority; s4.15(1)(a)(ii)</b> N/A</li> <li>• <b>List any relevant development control plan: s4.15(1)(a)(iii)</b> Woollahra Development Control Plan 2015</li> <li>• <b>Other relevant plans:</b> <ul style="list-style-type: none"> <li>- Woollahra Section 94A Contributions Plan 2011;</li> <li>- Woollahra Community Participation Plan 2019;</li> </ul> </li> <li>• <b>List any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iia)</b> N/A</li> <li>• <b>List any relevant regulations e.g. Regs 92, 93, 94, 94A, 288: s4.15(1)(a)(iv)</b> <ul style="list-style-type: none"> <li>- Demolition of Structures (Clause 92);</li> <li>- Building Upgrade (Clause 94);</li> <li>- Fulfilment of BAXIX commitments (Clause 97A);</li> </ul> </li> <li>• <b>List any coastal zone management plan: s4.15(1)(a)(v)</b> <ul style="list-style-type: none"> <li>- (repealed)</li> </ul> </li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ol style="list-style-type: none"> <li>1. <b>Original DA Report to SECPP of 27 May 2021</b></li> <li>2. <b>Applicant Additional Information</b> <ol style="list-style-type: none"> <li>2.1 Cover Letter</li> <li>2.2 Schedule of changes</li> <li>2.3 Response to council assessment report</li> <li>2.4 Response to submissions</li> <li>2.5 Revised Architectural Plan Set</li> <li>2.6 Photomontage</li> <li>2.7 Urban design – Peer review</li> <li>2.8 Heritage Response</li> <li>2.9 Heritage – Peer Review</li> </ol> </li> <li>3. <b>Council Additional Referrals</b> <ol style="list-style-type: none"> <li>3.1 Urban Design – Referral Response</li> </ol> </li> </ol>

	3.2 Heritage – Heritage Expert Review of Amended Scheme 3.3 TS Traffic Engineer – Referral Response 3.4 Community Services (Public Art) – Referral Response
<b>Clause 4.6 requests</b>	<ul style="list-style-type: none"> <li>• <b>The Local Environmental Plan (LEP) the clause 4.6 application relates too</b> <ul style="list-style-type: none"> <li>- Woollahra Local Environmental Plan 2014 (WLEP)</li> </ul> </li> <li>• <b>The development standard the clause 4.6 application relates too</b> <ul style="list-style-type: none"> <li>- Clause 4.3 Height of Buildings</li> <li>- Clause 4.4 Floor Space Ratio</li> </ul> </li> <li>• <b>The zone the clause 4.6 relates too</b> <ul style="list-style-type: none"> <li>- B2 Local Centre</li> </ul> </li> </ul>
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Overdevelopment of the site and contrary to the village character;</li> <li>• Excessive height;</li> <li>• Excessive bulk, scale and FSR;</li> <li>• Breaches of storey, envelope, setback and other controls in the WDCP;</li> <li>• Breaches of SEPP 65 and of the ADG;</li> <li>• Loss of views, solar access, and privacy;</li> <li>• Traffic and Parking issues;</li> <li>• Poor resultant internal amenity of future residents arising from noise from the Sheaf Hotel;</li> <li>• Incompatibility with the heritage significance of the Transvaal Avenue HCA;</li> <li>• Geotechnical and hydrological concerns;</li> <li>• Acid Sulphate Soils.</li> </ul>
<b>Report prepared by</b>	Mr Wilson Perdigao – Senior Assessment Officer
<b>Report date</b>	8 July 2021

<b>Summary of s4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>No – Addressed in the body of the Original DA Report</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	<b>No – Addressed in the body of the Original DA Report</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>No – Attached as Annexures to Original DA Report</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>Not applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	<b>No – Attached as an Annexure to the Original DA Report</b>

**SYDNEY EASTERN CITY PLANNING PANEL**  
**ADDENDUM DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>ITEM No.</b>	0.0
<b>FILE No.</b>	DA321/2020/1
<b>ADDRESS</b>	19-27 Cross Street DOUBLE BAY (Lot 100 of DP 617017)
<b>COUNCIL WARD</b>	Double Bay
<b>SITE AREA</b>	1,334m <sup>2</sup>
<b>ZONING</b>	B2 Local Centre
<b>PROPOSAL</b>	Demolition of existing structure and construction of a shop top housing development
<b>TYPE OF CONSENT</b>	Integrated development
<b>COST OF WORKS</b>	\$40,434,422.00
<b>DATE LODGED</b>	28/08/2020
<b>APPLICANT</b>	SDHA Pty Ltd
<b>OWNER</b>	Tri-Anta Pty Ltd
<b>AUTHOR</b>	Mr Wilson Perdigao - Senior Assessment Officer
<b>TEAM LEADER</b>	Mr Thomass Wong - Assessment Team Central
<b>ACTING MANAGER</b>	Mr George Fotis - Development Control
<b>RECOMMENDATION</b>	Refusal (Refer to Section 7 of this report)

## **1. PREAMBLE**

On 13 May 2021, the Council's DA Assessment Report was made publicly available on the NSW Planning Portal website and relevant parties were subsequently notified of the scheduled 27 May 2021 meeting.

On 18 May 2021, the Sydney Eastern City Planning Panel ('SECPP') planning panel secretariat advised that the SECPP determination meeting of the 27 May 2021 had been deferred. The Applicant had requested the SECPP to defer the matter to allow time to address the issues as outlined in Council's Assessment Report.

On 09 June, the SECPP planning panel secretariat notified the relevant parties of the re-scheduled determination meeting for the 19 July 2021.

This Addendum DA Assessment Report is to be read in conjunction with the Original Council DA Assessment Report ('Original DA Report') prepared for the SECPP meeting of 27 May 2021, report dated 10 May 2021 (**Annexure 1**).

## 2. REASON FOR REPORT TO SYDNEY EASTERN CITY PLANNING PANEL (SECPP)

Pursuant to clause 2 of Schedule 7, of the *State Environmental Planning Policy (State and Regional Development) 2011*, the application is considered to be regionally significant development as it is “...Development that has a capital investment value of more than \$30 million” because the total development cost is over \$40 million.

The consent authority for regionally significant development is the Sydney district planning panel, being the SECPP for Woollahra (see s4.5(b) of the *Environmental Planning and Assessment Act 1979*; clause 9(a) in Schedule 2 to the *Environmental Planning and Assessment Act 1979*).

In addition, the application is referred back to the SECPP for consideration and determination as per the Panel’s resolution on 18 May 2021.

## 3. ADDITIONAL INFORMATION

On 07 June 2021, the Applicant submitted the following:

- a) **Cover Letter** (Ref. WC1003 - 320 20 File: 3.01), prepared by Savvas Hadjimichael of SDHA Pty Ltd and dated 7 June 2021;
- b) **Schedule of changes**, prepared by GSA Planning and dated 4 June 2021;
- c) **Response to council assessment report**, prepared by GSA Planning, dated 4 June 2021;
- d) **Response to submissions**, prepared by GSA Planning, dated 4 June 2021;
- e) **Revised Architectural Plan Set** (ref: DA\_00 to DA\_33), prepared by Luigi Rosselli Architects, dated 4 June 2021;
- f) **Photomontage** (ref: DA\_23 A), prepared by Luigi Rosselli Architects, dated 4 June 2021;
- g) **Urban design – Peer review**, prepared by Atlas Urban, dated 6 June 2021;
- h) **Heritage Response**, prepared by John Oultram Heritage & Design, dated June 2021;
- i) **Heritage – Peer Review**, prepared by Urbis, dated 4 June 2021.

## 4. PROPOSAL

The proposal was amended on 07 June 2021 when Additional Information was lodged, as described in Section 3 above and form the basis of this Addendum DA Assessment Report.

The amended proposal will maintain the general composition of the original proposal, i.e. for the demolition of existing structure and construction of a shop top housing development (refer to Section 4 of the Original DA Report in **Annexure 1**).

The key changes made to the proposed scheme when compared to the original scheme, includes the following:

- A of 136m<sup>2</sup> reduction in GFA from 4,796m<sup>2</sup> to 4,660m<sup>2</sup>, and FSR reduced from 3.59:1 to 3.49:1 or approximately a 2.8% reduction;
- Reduction in building height by maximum 2m (to maximum RL 24.75 AHD) from 23.5m to 21.5m;
- Reconfiguration of the lift overrun - contained entirely within roof;
- Reconfiguration of retail floor space at ground floor, including additional setback on the north-eastern building line by 2m resulting in an increased area for the public plaza;



- New public art (ceramic mural) to the northern external wall at Ground Floor Level;
- Minor change to substation and Tenancy 2 to accommodate new driveway splay;
- Increased southern setback by 1m at Level 4 and approximately 1.85m at Level 5;
- Roof terrace level deleted.



***Photomontage of Original Proposal (Source: Luigi Rosselli Architects)***



***Photomontage of Amended Proposal (Source: Luigi Rosselli Architects)***

## 5. FURTHER ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

### 5.1. Advertising and Notification

#### 5.1.1. Submissions

The application was originally advertised and notified from 16 September 2020 to 15 October 2020 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

#### 5.1.2. Amended plans / documentation

The amended plans and documentation noted in Section 2 above were not re-notified to surrounding residents and previous objectors because it was considered to have no greater cumulative environmental or amenity impact than the originally notified plans and documentation in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

### 5.2. Further Referrals

On 08 June 2021, the Application was re-referrals were made to the following referral bodies based on the scope of the proposed amendments:

Re-Referral	Summary of Referral Response	Annexure
Urban Design	<p>Unacceptable – Refer to <b>Reason for Refusal 1</b></p> <p>Council's Urban Design Officer concludes:</p> <p><i>“Overall, the proposal does not respond to the existing and the desired future character (under Woollahra LEP 2014 and DCP 2015).</i></p> <p><i>The applicant states that the proposal aims to respond to the evolving character of Cross Street. However, it should also consider its sensitive location at the intersection with the Transvaal Avenue HCA.</i></p> <p><i>Despite having some positive aspects, such as adequate internal residential amenity and a new public plaza on the ground level, the proposed bulk and scale is excessive, compromises the amenity of the public domain and does not provide a sensitive response to the existing single-storey context to the north.</i></p> <p><i>The proposal has relied on the <u>evolving character of the southern side of Cross Street</u> and the <u>corner character of the subject site</u> to maximise its proposed density. However:</i></p> <ul style="list-style-type: none"> <li><i>• The site is not identified as a significant corner site in WLEP 2014 or WDCP 2015. The site's proximity to the HCA is of higher importance than the relationship to the street corner.</i></li> <li><i>• Despite the evolving character of Cross Street on the southern side, the northern side of Cross Street has an established character with a higher sensitivity due to its proximity to a low-density HCA.</i></li> <li><i>• The built form volume on the subject site is not comparable to the InterContinental Hotel as the Hotel is located farther from the HCA compared to the subject site.</i></li> </ul> <p><b><i>Therefore, I do not support the amended development application from an urban design perspective.”</i></b></p>	3.1
Heritage	Unacceptable – Refer to <b>Reason for Refusal 2</b>	3.2

Re-Referral	Summary of Referral Response	Annexure
	<p>Council engaged Heritage Expert, Graham Brooks of GBA Heritage provides:</p> <p><i>“...In summary, I do not accept that the proposed amendments have made any worthwhile progress in avoiding, minimising or mitigating the inherent adverse heritage impacts on the adjoining Transvaal Avenue Heritage Conservation Area (HCA). The adverse heritage impacts set out in the SOFAC dated 22 April 2021 remain of concern.</i></p> <p><i>My examination of the amended proposal importantly concludes there has been no worthwhile attempt to resolve the competing building height tensions for the subject site, between the LEP Building Height Map and Desired Future Character heights set out in WDCP 2015 Control Drawing 3 in Section D5.5.7. The proposal and the amendments continue to be modelled and justified almost exclusively on its meeting the Cross Street objectives at the expense of the HCA character, scale and significance, while insufficiently addressing the heritage concerns of the HCA.</i></p> <p>...</p> <p><b>Conclusions</b> <i>A detailed review of the amended proposal produces no new evidence that the project has been modified in any substantial manner, sufficient for it to justify receiving support or approval.</i></p> <p><i>The following Reasons for the Recommendation for Refusal, as contained in the Council report to the SECPP meeting, remain completely valid in heritage terms.</i></p> <ul style="list-style-type: none"> <li><i>It is considered to be unsatisfactory with (heritage) planning provisions contained in WLEP 2014 and WDCP 2015.</i></li> <li><i>The written request from the applicant have not adequately demonstrated that the contraventions of the Height of Buildings development standards prescribed in Part 4.3 of the WLEP are justified pursuant to the relevant matters for consideration prescribed in cl 4.6 of the WLEP.</i></li> </ul> <p><i>Contention 1 – Heritage Conservation of the SOFAC, and its accompanying Particulars have not been ameliorated or resolved by means of the submitted amendments to the proposal.”</i></p>	
TS Traffic Engineer	<p>Unacceptable, Council’s Traffic Engineer raises the following key issues:</p> <ul style="list-style-type: none"> <li>- Traffic: Requested information has not been provided regarding the increase of traffic and its potential impact on the weaving of traffic near the entry point adjacent to Inter-Continental Hotel;</li> <li>- Car lift: Queuing analysis and Revised swept path analysis has not been provided to justify the parking layout, currently encroachment into adjacent parking spaces is identified.</li> </ul>	3.3
Public Art Coordinator	<p>Unacceptable – Refer to <b>Reason for Refusal 6.</b></p> <p>Council’s Public Art Coordinator, states:</p> <p><i>“We acknowledge that the Developer has addressed our concern that the initial public art proposal was not very visible to the public, with adding an additional mural visible in the plaza area.</i></p> <p><i>While there is no detailed information on this additional mural, we are pleased to see that the public art component has been expanded.</i></p> <p><i>We still raise the following concerns:</i></p>	3.4

Re-Referral	Summary of Referral Response	Annexure
	<ul style="list-style-type: none"> <li><i>The Developer is encouraged to engage an Art Curator or Art Consultant to assist them with the public art component of their development.</i></li> <li><i>Looking at the nature and scale of the development, the proposed 2 art murals appear disproportionate in scale and presence to relate to the 1% of CIV, in this case approximately \$400,000, which should be allocated to public art in developments. A more detailed budgetary breakdown is needed.</i></li> </ul> <p><i>Notwithstanding the above, the non-compliances and issues raised can be addressed prior to issuing of a construction certificate subject to the following recommended Condition of Consent:</i></p> <p><i>“C.1 Public Art Plan</i></p> <p><i>Before further assessment and recommendation to Council’s Public Art Panel, as well as prior to commencement of any construction, a complete Public Art Plan must be submitted to Council’s Public Art Coordinator for assessment and approval. It must include:</i></p> <ul style="list-style-type: none"> <li><i>the proposed final artwork/s for Council’s Public Art Panel to assess and provide recommendation on the timeline for the public artwork</i></li> <li><i>a detailed and itemised budget breakdown, corresponding to the Public Art Guidelines assessment criteria, including 6.5: ‘Value of public art’ (at least 1% of CIV)”</i></li> </ul>	

## 6. FURTHER ASSESSMENT

### 6.1. Urban Design

Based on the further assessment provided by Council’s Strategic Urban Planner, the Additional information as listed in Section 2 of this report does not substantially alter the recommendation of the Original DA Report that would substantiate receiving support or approval. Refer to **Reason for Refusal 1**.

### 6.2. Heritage Conservation

Based on the Heritage Review undertaken by GBA Heritage, the Additional information as listed in Section 2 of this report of this report does not substantially alter the recommendation of the Original DA Report that would substantiate receiving support or approval. Refer to **Reason for Refusal 2**.

### 6.3. Height Of Buildings

For reasons advanced in Section 18.5.4 of the Original DA Report, the Additional information as listed in Section 2 of this report of this report does not substantially alter the recommendation of the Original DA Report that would substantiate receiving support or approval. Refer to partly modified **Reason for Refusal 3**.

### 6.4. Floor Space Ratio

For reasons advanced in Section 18.5.4 of the Original DA Report, the Additional information as listed in Section 2 of this report does not substantially alter the recommendation of the Original DA



Report that would substantiate receiving support or approval. does not alter the recommendation of the Original DA Report. Refer to partly modified **Reason for Refusal 4**.

## 6.5. Parking And Access Design Standards

Based on the further assessment provided by Council's Traffic Engineer, it is acknowledged that the provision of a splay and addition of a kerb to the loading bay has addressed some of the concerns raised however it does not deal with:

- Traffic Generation – More detailed and quantifiable analysis be undertaken to demonstrate the post-development traffic impact on the surrounding road network considering all the influencing factors mentioned in the report above;
- Car Lift, Queuing & Waiting Bay ingress and access issues;
- Width of Access Driveway inadequate to accommodate two-way driveway.

The Additional information as listed in Section 2 of this report does not substantially alter the recommendation of the Original DA Report that would substantiate receiving support or approval. Refer to partly modified **Reasons for Refusal 5 and 8(ii)**.

## 6.6. Public Art

It is acknowledged that a new public art (ceramic mural) to the northern external wall at Ground Floor Level has been included which partly addresses the concerns raised by Council.

The Additional information as listed in Section 2 of this report of this report does not substantially alter the recommendation of the Original DA Report that would substantiate receiving support or approval. Refer to partly modified **Reason for Refusal 6 and 8(i)**. Note: Council re-iterates that this issue can be addressed via the imposition of a Condition of Consent.

## 6.7. Apartment Mix

Additional information as listed in Section 2 of this report does not alter the recommendation of the Original DA Report. Section 17.3.8 of the Original DA Report states, in part,

*"...The proposal is not considered to be satisfactory with regards to Principle 8: Housing diversity and social interaction. The proposed unit mix comprises no studio apartments and no units allocated to affordable rental housing. The proposal provides a mere 17% of units for 1 or 2-bedroom units. The proposed unit mix is not considered to provide a range of housings types to suit the existing and future social mix of differing demographics, living needs and household budgets..."*

The amended proposal has not been modified in any way to address the aforementioned concerns raised nor does it alter the recommendation of the Original DA Report that would substantiate receiving support or approval. Refer to **Reason for Refusal 7**.

## 7. CONCLUSION

For the reasons advanced in the Original DA Report (**Annexure 1**) and re-enforced by the subject Addendum DA Assessment Report inclusive of re-referral responses undertaken by Council's Strategic Urban Planner (**Annexure 3.1**), Heritage Review undertaken by GBA Heritage (**Annexure 3.2**), Council's Traffic Engineer (**Annexure 3.3**), and Council's Public Art Coordinator

(**Annexure 3.4**) and for the further environmental assessment under Section 4.15(1) of the Act, the amended proposal has not adequately nor substantially addressed the reasons for refusal as tabled in the Original DA Report that would substantiate receiving support or approval.

## **7.1. RECOMMENDATION TO SYDNEY EASTERN CITY PLANNING PANEL**

That the Development Application be **REFUSED** by the Sydney Eastern City Planning Panel subject to the **RECOMMENDATION** below:

### **7.1.1. RECOMMENDATION: Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979**

THAT the **Sydney Eastern City Planning Panel**, as the consent authority, is not satisfied that the written requests from the applicant have adequately addressed the relevant matters to be addressed under Clause 4.6 of the Woollahra Local Environmental Plan 2014 and therefore consent cannot be granted to the development which contravenes the *Height of Buildings* and *Floor Space Ratio* development standards under Clause 4.3 and 4.4 of the Woollahra Local Environmental Plan 2014.

**AND**

THAT the **Sydney Eastern City Planning Panel**, as the consent authority, refuse development consent to Development Application No. 321/2020/1 for demolition of existing structure and construction of a shop top housing development on land at 19-27 Cross Street DOUBLE BAY, for the following reasons:

#### **1. Urban Design**

**The Proposal is excessive in bulk and scale that is incompatible and inconsistent with the existing and desired future character of the locality. The Proposal fails on urban design grounds due to its excessive bulk and scale.**

##### Particulars

- i. The proposed height of the Proposal of 21.5m, does not comply with the maximum 14.7m height control development standard applicable to the Site prescribed by Clause 4.3 of the Woollahra Local Environment Plan 2014 ('WLEP').
- ii. The proposed floor space ratio of the Proposal of 3.49:1 (4,660m<sup>2</sup>) does not comply with the maximum floor space ratio of 2.5:1 development standard applicable to the Site prescribed by Part 4.4 of WLEP.
- iii. The proposed six-storey building (21.5m height) and Floor Space Ratio ('FSR') of 3.49:1 creates excessive contrasts with the *existing* and *desired* future character of the locality.
- iv. The Proposal fails to take into account the Site's unique characteristics, in that:
  - a) It has strongly relied on the subject site's location at the intersection of Transvaal Avenue and Cross Street to maximise its proposed density and perceived bulk and scale as a 'corner element'. However, the Site is not identified as a corner site in the WLEP or Woollahra Development Control Plan 2015 ('WDCP').
  - b) It has not considered its sensitive location in proximity to the immediately adjoining Transvaal Avenue HCA which comprises single-storey semi-detached cottages. The proposal imposes a significant level of bulk and scale to the low-scale and intimate

- characteristics of the street. It does not provide a sympathetic or gradual built form transition to the HCA. It results in significant visual intrusion impacts particularly on the low scale characteristics of Transvaal Avenue, including the HCA.
- c) The proposed 6-storey building with a 6 storey street wall height and reduced front setbacks to *Cross Street* will result in a building that is inconsistent with the existing character and the desired future character of its surrounding context, as:
- On the northern side of Cross street, there is an existing established two-storey street wall height at the Intercontinental Hotel (33 Cross Street), at 45-51 and 53 Cross Street and at 15-15A Cross Street;
  - On the southern side of Cross Street, there is an evolving four-storey street wall height (recently approved and under construction developments at 16-18, 20-26 and 28-34 Cross Street);
  - It neither responds to the existing street wall height nor the four-storey street wall height envisaged by Woollahra DCP 2015 D5.4.7 and D5.5.7, or as displayed by the recent development on the southern side of Cross Street with 4-storey street wall height.
- d) The proposed 6-storey building with a proposed 6-storey street wall height and reduced front setbacks to *Transvaal Avenue* will result in a building that is inconsistent with the existing character and the desired future character of its surrounding context, as:
- It neither responds to the two-storey street wall height envisaged by Part D5.5.7; nor
  - the existing single-storey buildings of the Transvaal Avenue HCA.
- e) The existing two-storey street wall height followed by upper-level setbacks on the Intercontinental Hotel building allow the canopy of the existing mature street trees to spread/grow over the street wall element. This facilitates and supports the maintenance of the existing tree canopies and the leafy character of Cross Street and Transvaal Avenue.
- f) The proposed setbacks are inconsistent with the Building Envelope controls of the WDCP 2015, Part D5.5.7. This increases the perceived bulk and scale of the proposed development as viewed from the public domain.
- g) The proposed dominant horizontal articulation increases the perceived bulk and scale of the envelope. This does not respond to the fine-grain vertical modulation of the Transvaal Avenue HCA and/or the podium built form of the Intercontinental Hotel.
- h) The Proposal does not provide a positive contribution to the existing and the desired future streetscape character of Cross Street and Transvaal Avenue.
- i) Cross Street, Goldman Pedestrian Lane and Transvaal Avenue are highly pedestrian-oriented/activated public domain areas in the centre. The proposal exacerbates the overshadowing impacts on the public domain compared to a compliant bulk and scale.
- v. For the particulars raised above, the Proposal is not consistent with the following:

State Environmental Planning Policy 65 ('SEPP 65'):

- Principle 1 – Context and Neighbourhood Character

- Principle 2 – Built Form and Scale

Apartment Design Guide ('ADG'):

- Part 3C: Public Domain Interface – Objective 3C-2
- Part 4M: Facades – Objective 4M-1

WLEP:

- Part 1.2 – Sub-clauses (2)(a), (g), (j) and (l);
- Part 2.3 – Sub-clause (2), B2 zone objectives, dot point 6 and 7;
- Part 4.3 – Sub-clause (1)(a), (b), (c), (d) and (2);
- Part 4.4 – Sub-clauses (1)(b) and (2);

WDCP:

- Part A1.1.5 – Objective O3;
- Part D5.1.3 – Objective O8;
- Part D5.3.1 – Figures 5 and 11;
- Part D5.3.2 – Strategies 1a), 3b), 4b), and 5a), b), c) & d);
- Part D5.4.7 (Cross Street);
- Part D5.5.7 (Built form envelopes) – Control Drawing 3;
- Part D5.6.3.1 (Building Envelopes) – Objective O1 and Control C1;
- Part D5.6.3.2 (Height) – Objective O1 and Controls C1, C2, C3;
- Part D5.6.3.4 (Setbacks) – Objectives O1, O2, O3 and Controls C1, C2;
- Part D5.6.3.6 – Objectives O2 and O4;

## 2. Heritage Conservation

**The proposed shop-top housing development is considered to have an unacceptable adverse impact on the heritage significance of the Transvaal Avenue HCA.**

Particulars

- i. The proposal is contrary to aim (f) in Clause 1.2(2) Aims of Plan, and fails to achieve the objectives (a) and (b) in Clause 5.10(1) of the WLEP 2014 and the consent authority cannot be satisfied of the relevant matters for consideration under Clause 5.10 of the WLEP 2014 as the proposal would dominate and adversely impact the significance of the adjacent Transvaal Avenue HCA.
- ii. The Proposal will adversely affect the heritage significance of the Transvaal Avenue HCA including its setting, views and the visual prominence of the existing contributory buildings, because:
  - a) the *scale* of the proposed 6-storey shop top housing development would visually dominate the Transvaal Avenue HCA local heritage item in terms of its *height and bulk* in that it would exceed the predominant height of the single-storey contributory cottages.
  - b) the *uniform setback* of development at its northern elevation would exceed the predominant height of the single-storey contributory cottages by over by 13.5m.
  - c) the *scale* and *uniform setback* of the Proposal, does not provide an appropriate transition between new development and the Transvaal Avenue HCA;

- d) the *setting* and *views* of the Transvaal Avenue HCA would be diminished in terms of its visual prominence of modest existing single-storey contributory items, as viewed from looking south-west from the northern end of Transvaal Avenue, against the continuous six (6) storey northern elevation of the Proposal;
  - e) the Proposal does not provide a *stepped form* nor a *sympathetic transition* from its northern elevation to the single-storey buildings of the Transvaal Avenue HCA.
  - f) The Proposal fails to retain or enhance the *visual prominence*, in terms of uniformity of scale and form, of the existing single-storey Gothic Revival style cottages, which are generally around 6m in height, coupled with their architectural detailing has resulted in the distinctive ‘fine grain’ streetscape character and aesthetic value of the Transvaal Avenue HCA.
- iii. The Proposal is contrary to Objectives O4 and O10 in Part D5.1.3; Controls C1, C2 and Objective O1 in Part D5.6.3.8, and Objective O1 in Appendix A1.1 of the WDCP 2015 as the proposal is incompatible with the heritage significance of the heritage listed Transvaal Avenue HCA, as it:
  - a) does not conserve and enhance the visual amenity of the Transvaal Avenue HCA. The Proposal will adversely impact on the visual prominence of the HCA and contributory items located therein as viewed from the public domain due to its height, bulk, scale and uniform setbacks.
  - b) does not enhance the distinctive ‘fine grain’ streetscape character and aesthetic value of the existing single-storey Gothic Revival style cottages that are uniform in scale, form and detailing.
  - c) does not ensure the retention of the visual prominence of the existing contributory buildings within the Transvaal Avenue streetscape.
- iv. For the reasons set out in particulars 1 – 3 above, the Proposal is contrary to Objectives O4 and O10 in Part D5.1.3; Controls C1, C2 and Objective O1 in Part D5.6.3.8, and Objective O1 in Appendix A1.1 of the WDCP 2015.
- v. For the reasons set out in particulars 1 – 4 above, the Proposal is contrary to aim (f) in Clause 1.2(2) Aims of Plan, and fails to achieve the objectives (a) and (b) in Clause 5.10(1) of the WLEP 2014.

### 3. Height of the Proposal

**The Proposal is excessive in height and fails to comply with the height of buildings development standard in cl. 4.3 of the WLEP.**

#### Particulars

- i. The Proposal exceeds the height development standard because it has a height of 21.5m, to the rooftop. This results in a variation of **46% or 6.8m** of the height control and does not comply with the maximum 14.7m height control development standard applicable to the site prescribed by Clause 4.3 of the WLEP.
- ii. The Proposal will result in a six-storey building (above ground) that is 2 storeys over the prescribed height and building envelope controls for the Site, as prescribed by the WDCP.

- iii. The Proposal will result in a building form that significantly exceeds the street wall and overall height requirements for the Cross Street and Transvaal Avenue frontages, as prescribed by Control Drawing 3 in D5.5.7 of the WDCP.
- iv. The Proposal fails to demonstrate that the objectives of the height control are achieved (cl4.3(1)(a), (b), (c) and (d) of the WLEP).
- v. The Applicant has submitted a cl4.6 written request (“Height Request”) to vary the Height of Buildings development standard as set out in cl4.3 of the WLEP.
- vi. The Height Request submitted by the Applicant is not considered to be well founded because:
  - a) the applicant has not adequately addressed the matters required to be demonstrated under clause 4.6(3) in that:
    - i. it has not satisfactorily demonstrated that compliance with the height development standard is unreasonable or unnecessary; and
    - ii. that there are sufficient environmental planning grounds to justify contravening the standard.
  - b) the Proposal is not in the public interest because it is inconsistent with objectives (a), (b), (c) and (d) of the height of building development standard as prescribed in Clause 4.3(1) in the WLEP.
  - c) the Proposal is not in the public interest because it is inconsistent with the objectives of the B2 Local Centre Zone as prescribed in the Zone B2 Local Centre Land Use Table in the WLEP in that:
    - i. It does not provide a development of a scale that is compatible with the amenity of the surrounding residential uses (dot point 6);
    - ii. It does not ensure that the development is of a height and scale that achieves the desired future character of the neighbourhood (dot point 7).
- vii. For the particulars raised above, the Proposal is not consistent with the following:

SEPP 65:

- Principle 1 – Context and Neighbourhood Character
- Principle 2 – Built Form and Scale

ADG:

- Part 3C: Public Domain Interface – Objective 3C-2

WLEP:

- Part 1.2 – Sub-clauses (2)(a), (g) and (l);
- Part 2.3 – Sub-clause (2), B2 zone objectives, dot point 6 and 7;
- Part 4.3 – Sub-clause (1)(a), (b), (c), (d) and (2);

WDCP:

- Part A1.1.5 – Objective O3;
- Part D5.1.3 – Objective O8;
- Part D5.3.1 – Figures 5 and 11;
- Part D5.3.2 – Strategies 1a), 3b), 4b), and 5a), b), c) & d);



- Part D5.4.7 (Cross Street) – Objectives c) and e);
- Part D5.5.7 (Built form envelopes) – Control Drawing 3;
- Part D5.6.3.1 (Building Envelopes) – Objective O1 and Control C1;
- Part D5.6.3.2 (Height) – Objective O1 and Controls C1, C2, C3.

#### 4. Floor Space Ratio (“FSR”) of the Proposal

**The DA should be refused due to its excessive bulk and failure to comply with the Floor Space Ratio (‘FSR’) development standard in cl. 4.4 of the WLEP.**

##### Particulars

- Pursuant to cl. 4.4 and the FSR Map, a maximum FSR of 2.5:1 applies to the Site.
- The Proposal exceeds the FSR development standard, as it has a gross floor area of 4,660m<sup>2</sup>, and an FSR of 3.49:1. This results in a variation of **39.7% or 1,325m<sup>2</sup>** against the floor space ratio development standard applicable to the Site under cl. 4.4 of the WLEP.
- The Applicant has submitted a cl4.6 written request to vary the FSR development standard as set out in cl4.4 of the WLEP (“FSR Request”).
- The FSR Request is not considered to be well founded because:
  - the applicant has not adequately addressed the matters required to be demonstrated under clause 4.6(3) in that:
    - it has not satisfactorily demonstrated that compliance with the FSR development standard is unreasonable or unnecessary; and
    - that there are sufficient environmental planning grounds to justify contravening the standard.
  - the Proposal is not in the public interest because it is inconsistent with the objective of the FSR development standard as prescribed in Clause 4.4(1)(b) and with the objectives of the B2 Local Centre Zone as prescribed in the Zone B2 Local Centre Land Use Table in the WLEP
  - The Proposal fails to demonstrate that the objective of the FSR control are achieved (cl 4.4(1)(b) of the WLEP)
- Having regard to the particulars raised above, the Proposal is inconsistent with the following:

##### SEPP 65:

- Principle 1 – Context and Neighbourhood Character
- Principle 2 – Built Form and Scale

##### WLEP:

- Part 1.2 – Sub-clauses (2)(a), (g) and (l);
- Part 2.3 – Sub-clause (2), B2 zone objectives, dot point 6 and 7;
- Part 4.4 – Sub-clauses (1)(b) and (2);

##### WDCP:

- Part A1.1.5 – Objective O3;
- Part D5.1.3 – Objective O8;
- Part D5.3.1 – Figures 5 and 11;
- Part D5.3.2 – Strategies 1a), 3b), 4b), and 5a), b), c) & d);
- Part D5.4.7 (Cross Street) – Objectives c) and e);
- Part D5.5.7 (Built form envelopes) – Control Drawing 3;
- Part D5.6.3.1 (Building Envelopes) – Objective O1 and Control C1;
- Part D5.6.3.2 (Height) – Objective O1 and Controls C1, C2, C3.
- Part D5.6.3.4 (Setbacks) – Objectives O1, O2, O3 and Controls C1, C2;

## 5. Parking and Access Design Standards

**The Proposal fails to provide adequate parking for future users and tenants of the Site. The Proposal fails to provide for safe and efficient movement of vehicles within, entering and leaving the Site. The Proposal fails to ensure that access points to car parking areas minimise disruption of vehicle movement on the public road system.**

### Particulars

- i. The parking and access design of the Proposal does not ensure the safe and efficient movement of vehicles within the Site, nor when entering and leaving Site, nor minimise disruption of vehicle movements on the public road system failing to achieve consistency with the needs of its intended users and failing to satisfy the relevant matters for consideration under Part E1.10; Part E1.14 and Part E1.15 of the WDCP in that:
  - Car Park Layout and Aisle Width – The Proposal does not provide unrestricted manoeuvres when entering and exiting parking spaces, failing to satisfy the relevant matters for consideration under Part E1.10 of the WDCP in that it does not comply with *AS/NZS 2890.1 Part 1: Off-street car parking* and *AS 2890.2 Part 2: Off-street commercial vehicle facilities*;
  - Access driveway – The Proposal involves the construction of a new single 5.5m wide driveway for both entry and exiting the Site. Table 3.2 of *AS/NZS 2890.1:2004* requires a minimum 3m wide driveway for Category 1 access facilities i.e. a total width of 6m. The proposed access driveway does not comply with the standard;
  - Driveway Gradient – Pursuant to Clause 3.3 of *AS/NZS 2890.1:2004*, the design of access driveway should adopt a maximum gradient of 1 in 20 for the first 6m into the car park. The proposed entry ramp with a gradient of 1 in 10 does not comply with the standard;
  - Queuing of vehicles on footpath – The Proposal may require the use of the footpath and driveway as a waiting bay (Part E1.15: Mechanical Parking Installations of the WDCP requires waiting bays to be a minimum length of 6m). This would compromise the use of the footpath which is not considered to be a safe use of access ways for vehicles and pedestrians, contrary to Part E1.10.6 of the WDCP. Queuing on the driveway access point/footpath area and potentially onto Cross Street, is contrary to Part E1.15.3 of the WDCP;

- **Waiting Bay** – The Proposal does not provide a waiting bay onsite. Vehicles attempting to simultaneously access and egress the car lift at peak periods appears to be unfeasible as no details of the following has been provided:
  - i. The service rate (in seconds) associated with the proposed car lift; and
  - ii. Number of on-site waiting bays required to accommodate the 98th percentile queue at peak traffic levels.
- ii. For the particulars raised above, the Proposal is contrary to objectives O1, O2, O3 and O5 in Part E1.1.3 of the WDCP.
- iii. For the particulars raised above, the Proposal is contrary to aim (k) in Clause 1.2(2) Aims of Plan of the WLEP as it does not minimise and manage traffic and parking impacts.

## 6. Public Art

**The Proposal does not provide readily visible Public Art.**

### Particulars

- i. The proposal does not comply with Control C4 nor does it achieve consistency with the relevant Objective O3 in Part D5.6.4.4: Public Art of the WDCP, as Public Art has not been prepared nor undertaken in accordance with the 'Woollahra Public Art Guidelines for Developers'.
- ii. For the particulars raised above, the Proposal is contrary to aim (aa) in Clause 1.2(2) Aims of Plan of the WLEP as it does not promote the use and development of land for arts and cultural activity.

## 7. Apartment Mix

**The Proposal does not provide an appropriate apartment mix.**

### Particulars

- i. The Proposal does not achieve consistency with Objective 4K-1, 4K-2 in Part 4K of the ADG and Principle 8 of SEPP 65, as:
  - a) It does not comprise a full range of apartment types envisaged by the ADG, as it does not include studio apartments;
  - b) It does not comprise units allocated to affordable rental housing;
  - c) It provides 17% of the total small apartments (1-Bed or 2-Bed units) and 83% of the total as large apartments;
  - d) For the particulars 2(a), (b) and (c) raised above, it is not considered to provide a range of housing types to support diverse household types and stages of life including single person households, families, multi-generational families and group households now and into the future.
- ii. For the particulars raised above, the Proposal is contrary to aim (e) in Clause 1.2(2) Aims of Plan of the WLEP as it does not to facilitate opportunities, for diversity in dwelling density and type.
- iii. Having regard to the particulars raised above, the Proposal is inconsistent with the following:

- SEPP 65: Principle 8 – Housing diversity and social interaction
- ADG: Part 4K – Apartment Mix
- WLEP: Part 1.2 – Sub-clauses (2)(e)

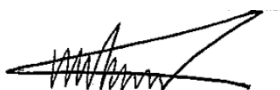
## 8. Inadequate information

**Inadequate information has been submitted to enable a full and accurate assessment of the Proposal against the relevant considerations pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979. Council requires the following material to carry out an assessment.**

### Particulars

- i. A *Public Art Plan* prepared by a suitably qualified professional is required to be submitted to Council's Public Art Panel in accordance with the *Woollahra Public Art Guidelines for Developers*.
- ii. A *Traffic Generation analysis* inclusive of *car lift queuing analysis* is to be prepared by a suitably qualified engineer in order to demonstrate the post-development traffic impact on the surrounding road network required for the assessment of Part E1 of the WDCP.

**Report prepared by:**



Mr Wilson Perdigao  
Senior Assessment Officer  
Date: 8 July 2021

## ANNEXURES

1. **Original DA Report** to SECPP of 27 May 2021
2. **Applicant Additional Information**
  - 2.1. Cover Letter
  - 2.2. Schedule of changes
  - 2.3. Response to council assessment report
  - 2.4. Response to submissions
  - 2.5. Revised Architectural Plan Set
  - 2.6. Photomontage
  - 2.7. Urban design – Peer review
  - 2.8. Heritage Response
  - 2.9. Heritage – Peer Review
3. **Council Additional Referrals**
  - 3.1. Urban Design – Referral Response
  - 3.2. Heritage – Heritage Expert Review of Amended Scheme
  - 3.3. TS Traffic Engineer – Referral Response
  - 3.4. Community Services (Public Art) – Referral Response