

OUR REF: 18005

4 June 2021

The General Manager
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Attention: Mr Wilson Perdigao

Dear Wilson,

**RESPONSE TO COUNCIL ASSESSMENT REPORT
NOS. 19-27 CROSS STREET, DOUBLE BAY (DA 321/2020)**

Thank you for the opportunity to provide amended plans and additional material for the Development Application (DA 321/2020) for the proposed demolition of the existing building and construction of a shop-top housing development at Nos. 19-27 Cross Street, Double Bay.

In this letter we will respond to the key reasons for refusal raised by Council in the Council Assessment Report. The reasons for refusal are in relation to urban design, heritage conservation, height of buildings, floor space ratio (FSR), parking and access, public art, and apartment mix. This letter is to be read in conjunction with the Schedule of Changes Letter and Response to Submissions Letter also prepared by GSA Planning; the amended architectural plans; and accompanying consultant material.

1.0 URBAN DESIGN

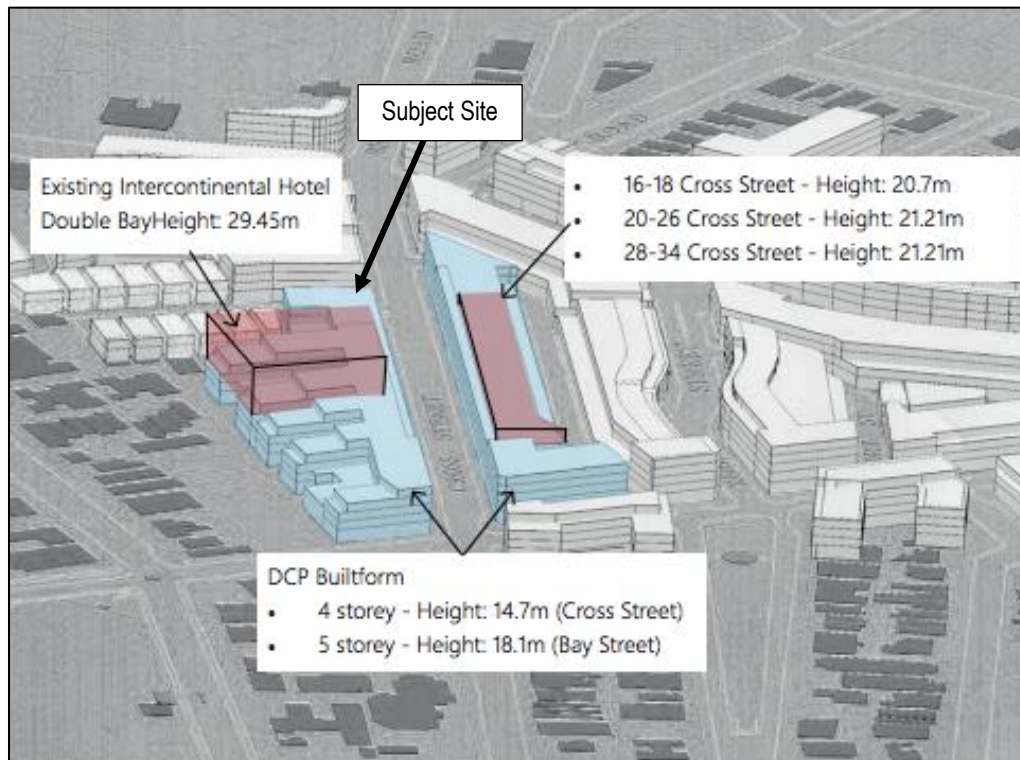
The urban design aspects of the proposal have been thoroughly addressed and discussed in the Urban Design Report prepared by GMU (submitted with DA), and the Urban Design Peer Review prepared by Atlas Urban (taking into consideration amended scheme). Council's key concerns included excessive height, bulk and scale; inconsistency with the desired future character; the effect on the Transvaal Avenue HCA; and inconsistency with SEPP 65/ADG, DCP and LEP.

The original and additional Urban Design material aims to allay Council's concerns relating to these matters. In terms of height, bulk and scale, it is noted that the proposed height is compatible with the existing context and will allow sleeving of the hotel wall, with majority of recent development in the proximity having achieved a higher density than current controls with maximum FSRs ranging from 3.15:1 – 4.4:1.

In relation to desired future character, the GMU Report states:

... the character of Cross St is different due to the presence and scale of the existing hotel building which is 6 storeys with a building height of 22.15m and creates much of the northern street frontage to Cross Street. The subject site completes the block to the east. The new taller development has begun to develop opposite this hotel and immediately across from the subject site.

The report prepared by Atlas Urban includes a figure showing the 3D view of building envelopes as per the DCP requirements, and envelopes as approved and existing (see **Figure 1** on the following page). This demonstrates various departures in the existing and approved built form along Cross Street in comparison to the strict building envelopes envisioned by the numerical controls of the DCP, and height in the LEP.



Source: Atlas Urban

Figure 1: 3D View of Building Envelopes (Blue = DCP, Orange = Approved/Existing)

The proposal's relationship to the Transvaal Avenue HCA has been thoroughly addressed in the various Heritage Reports prepared by John Oultram Heritage and Design, and Urbis. In any case, the proposed amended north-facing public plaza abutting the HCA will allow greater separation and appreciation of the terraces in comparison to a DCP compliant building envelope and the originally proposed scheme, and provides a visual curtilage to the conservation area as discussed in the GMU report. Further, the GMU report states, *inter alia*:

The DCP controls... recommends a 2-storey podium with additional 2 storeys above in 'L' shape on the subject site. It creates a 50/50 height proportion between the taller part of the building and the street wall which could be seen as an unbalanced scale when viewed from pedestrian level. This form and positioning of mass also assume the redevelopment of the hotel...

It should be noted that DCP development pattern and height along Cross Street bears no resemblance to the current built form along Cross Street.

In the Peer Review, Atlas Urban reiterate the following in relation to the proposal's context, scale and built form:

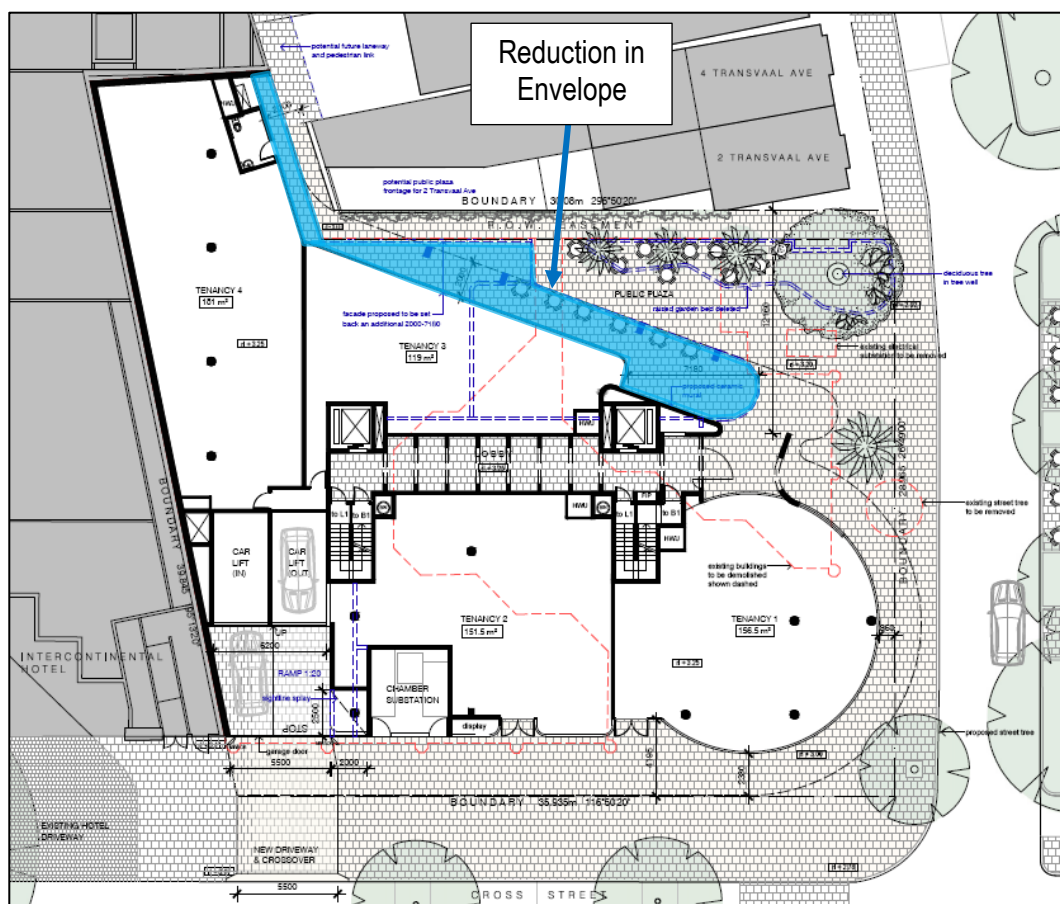
The proposed design establishes an 'iconic book end' for the block respecting the scale and built form of the streetscapes. The variation in materials selections and facade treatment along Transvaal Ave and Cross Street facades and an additional setback on the Cross Street facade is a deliberate initiative to reinforce and to "talk" to the scale of the streetscape. On Cross Street, the building is designed to conform to the five-storey scale established by the 'InterContinental'.

In relation to the ADG requirements and SEPP 65, the amended proposal provides a built form that is appropriate in terms of the requirements of the guidelines. This is further discussed in the GMU and Atlas Urban reports. Accordingly, the proposal is considered appropriate in terms of Urban Design, in the opinion of GMU and Atlas Urban, the Urban Design consultants.

2.0 HERITAGE CONSERVATION

The proposal has been supported by a Heritage Impact Statement, and an updated Heritage Response prepared by John Oultram Heritage and Design. This material has been reviewed, and an accompanying Heritage Peer Review has been prepared by Urbis in support of the proposal. Council's key concern was the proposal having an unacceptable adverse impact on the heritage significance of the Transvaal Avenue HCA.

As discussed in Section 1.0 of this letter, and in the accompanying Heritage material prepared by John Oultram and Urbis, the proposed design will have a more positive outcome on the HCA in comparison to a built form that strictly complies with Council's controls. It is highly unlikely that a compliant solution would have any positive outcomes on the HCA compared to the amended scheme. The effect of the proposed building setback and rounded forms provides more direct views from and of Transvaal Avenue, and will act as a gateway to the HCA. The amended scheme increases the northern building setback from the adjoining terrace, to 'open up' the space and provide improved viewlines to the adjoining terrace and HCA, in comparison to a DCP compliant envelope (see **Figure 2**). It also provides sleeving to the unattractive blank wall of the Intercontinental Hotel addressing Transvaal Avenue, behind the terraces.



Source: Luigi Rosselli Pty Ltd

Figure 2: Ground Floor Plan Showing Original and Proposed Envelope

This is further discussed in the Heritage Response prepared by John Oultram, inter alia:

The WDCP controls for the subject site anticipated a development against the first of the period buildings in Transvaal Avenue up to height of four storeys. The proposals have been specifically developed to avoid this and provide instead for an open plaza that provides a separation to the adjoining building in a usable plaza that forms part of the entry area to the apartments.

The new building will effectively limit views to the overbearing and blank elevations to the Intercontinental from Transvaal Avenue improving its setting. This is amplified by the introduction of a plaza to the north of the subject site that replaces the undesirable loading dock with a well-crafted, public open space.

The Heritage Peer Review prepared by Urbis concludes, inter alia:

John Oultram's comments that heritage places are often bordered by larger development is relevant as this is the case at the present time. The proposed development is lower than the adjoining hotel which provides a hard edge to the conservation area. This proposal will continue the form of Cross Street in a well resolved manner and provide for an architecturally well-designed building that will provide a high-quality element in the streetscape that will complement the precinct without intruding on or overwhelming the heritage item.

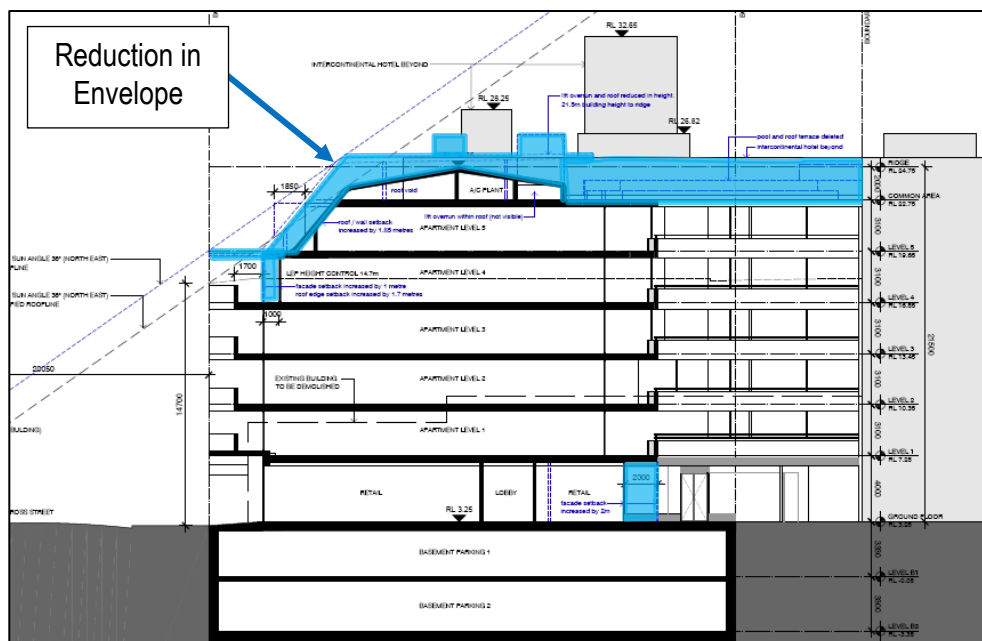
...

The proposed amended design is one which should be strongly supported. The design is well resolved, is of high quality, provides a portal for the Avenue and provides for the ability to view and understand the particular morphology of the group. The significance of the Transvaal group will be enhanced by the subject proposal.

The proposal is considered to be a superior design outcome relative to an outcome driven by strict compliance with the DCP, in terms of heritage conservation for the adjoining Transvaal Avenue HCA, in the opinion of the heritage consultants. Further discussion of the heritage benefits of the proposal are included in the reports prepared by John Oultram and Urbis.

3.0 HEIGHT OF BUILDINGS

Council's assessment states the height is excessive and fails to comply with the height of building development standard in CI4.3 of the WLEP. In response to Council's concerns, the proposal's roof form has been amended to reduce the maximum building height by 0.84m – 2.00m (from RL 26.75 AHD at lift overrun and RL 25.59 AHD at the highest point of the roof, to maximum RL 24.75 AHD), with a new maximum building height of 21.5m (see **Figure 3**).



Source: Luigi Rosselli Pty Ltd

Figure 3: Section Showing Original and Proposed Envelope

The reduced building height will allow additional solar access to the opposite side of Cross Street compared to the originally submitted DA. The DA was accompanied by a thorough Clause 4.6 Variation request which outlined the proposal's compliance with the objectives, and justification of sufficient environmental planning grounds. These are summarised below:

Cross Street and the Double Bay Centre are evolving towards an increased intensity of mixed use within this central, accessible and well-connected location. The existing building is inconsistent and disconnected with this desired future character.

The subject site is currently underdeveloped for its position as a corner site in Cross Street next to the Intercontinental Hotel Double Bay.

...

There have been a number of large new developments which have sought to provide floorplates that respond to the needs of the growing area and modern businesses. These are generally six storeys along Cross Street and contribute to the transitioning locality.

...

The proposal is permissible in the B2 Local Centre Zone; is consistent with the zone and Double Bay Centre objectives; the desired future character objectives of the Cross Street Precinct; and with the surrounding density and scale in the area. The proposal satisfies a number of the 'unreasonable and unnecessary' tests established by the Court in Wehbe.

This report demonstrates that the proposed additional height is compatible with desired future character the area. The desired future character of this area of Double Bay was discussed in the Judgement for SJD, as Clay AC notes at [68]:

The desired future character in my opinion must take into account the form of the buildings to the east [Nos. 16-18 & 20-26 Cross Street] which the Council approved under effectively the same controls as present. Those buildings exceed the height and floor space ratio controls. As the Applicant pointed out in submissions, this is not a case where there is an adjacent development approved and constructed many years ago which sits as an anomaly in the street. The developments under construction represent the recently expressed attitude of the Respondent [Council] to the controls and what is desired in this part of Cross Street.

As noted earlier, this approach was confirmed in the Appeal by Preston CJ, that the desired future character should be informed by the nearby and future development, and not limited by the development standards.

...

The proposal provides a strong built form that emphasises the subject site's corner position. Additionally, it has been demonstrated that the areas of additional height maintain amenity for joining and surrounding properties through providing compliant levels of solar access and maintaining privacy. The proposed additional height will also maintain the amenity and heritage values of the adjoining Transvaal Heritage Conservation Area through the ground floor layout and design.

The proposed height is similar to recent approvals on Cross Street such as Nos. 16-18 Cross Street, Nos. 20-26 Cross Street and Nos. 28-34 Cross Street; and is significantly less than the InterContinental Hotel Double Bay, located adjacent to the site (see **Figure 4** on the following page).

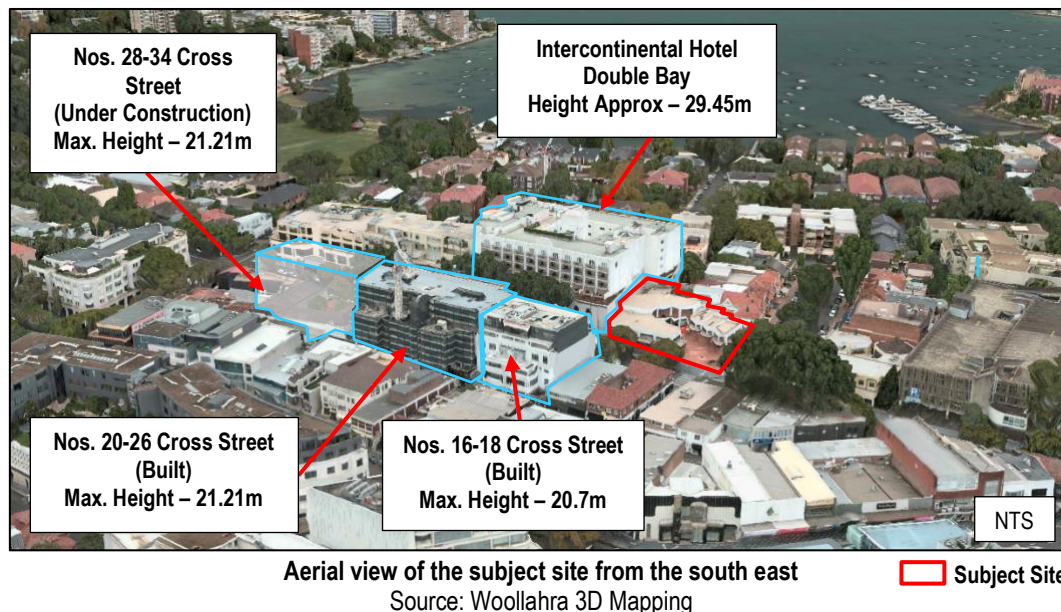


Figure 4: Aerial View Showing Height of Development in the Double Bay Centre

Further, on 19 April 2021, Council released the Draft Double Bay Planning and Urban Design Strategy. While this Strategy was not adopted by the Councillors, it demonstrates Council Officers' opinion on the issue of height and FSR in the evolving Double Bay Centre. In terms of height, the Strategy proposed a six storey built form on the subject site, which the amended proposal provides (see **Figure 5**). Further, the Hill PDA Double Bay Economic Feasibility Study accompanying the Strategy indicates the increased six storey height (and subsequent increased FSR) is required to ensure economic viability of the centre, and meet market demand for residential and non-residential development.



Source: Woollahra Council Draft Double Bay Planning and Urban Design Strategy

Figure 5: Draft Height Strategy

Accordingly, the variation to the height standard is, in our opinion, appropriate in this particular case, will maintain amenity to adjacent development and the public domain and has sufficient environmental planning grounds to be accepted by Council. Please refer to the Clause 4.6 Variation for Height of Buildings, submitted with the original DA, for further justification.

4.0 FLOOR SPACE RATIO

Council's assessment states that the DA is excessive in bulk and fails to comply with the FSR development standard. As discussed in the Clause 4.6, the LEP prescribes a maximum FSR of 2.5:1 which amounts to a maximum GFA of 3,335m². In response, the proposal has been amended to reduce the overall extent of the building with a reduction of 136m² from 4,796m² as originally proposed, to 4,660m² as amended. The departure from the FSR standard is appropriate in the context as it is similar to recent approvals in the area such as Nos. 16-18 Cross Street, Nos. 20-26 Cross Street and Nos. 28-34 Cross Street; significantly less than that of the InterContinental Hotel; and will provide sympathetically-designed retail and residential space (see **Figure 6**).

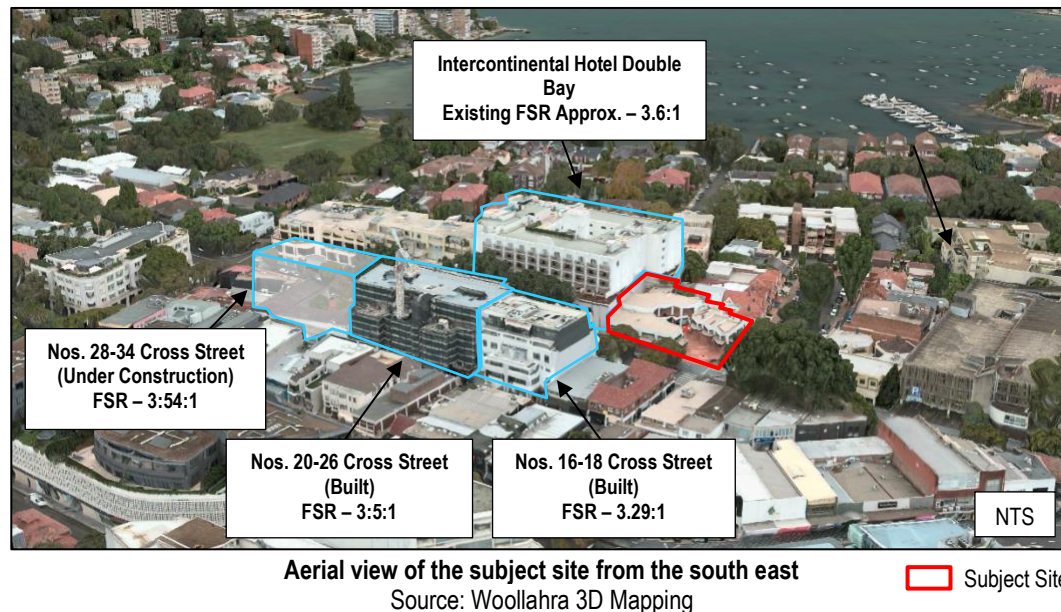


Figure 6: Aerial View Showing Scale of Development in the Double Bay Centre

A separate Clause 4.6 Application to Vary a Development Standard was submitted with the DA, which outlined the proposal's compliance with the relevant objective of the control, and justification of sufficient environmental planning grounds. These are summarised below:

The current building is dominated by the adjoining multi-storey property to the west, the 'InterContinental Hotel Double Bay' and other nearby development along Cross Street (see Figure 2 on the following page). As a corner site, it is an important opportunity to provide Cross Street with the strong and quality streetscape presence. This opportunity is currently lost.

The proposal will replace the existing building with a development that is consistent with existing and future nearby development. The proposal will align with the adjoining property, the 'InterContinental Hotel Double Bay' to unify the streetscape along Cross Street.

...

The proposal is permissible in the B2 Local Centre Zone; is consistent with the zone and Double Bay Centre objectives; the desired future character objectives of the Cross Street Precinct; and with the surrounding density and scale in the area. The proposal satisfies a number of the 'unreasonable and unnecessary' tests established by the Court in Wehbe.

...

As indicated, the proposal's FSR is similar to and compatible with that of the approved developments at Nos. 16-18 Cross Street, Nos. 28-34 Cross Street, and Nos. 20-26 Cross Street. Therefore, the proposal can be considered compatible with the desired future character of this area of Double Bay.

The additional FSR will increase the capacity of the well-connected and assessable site. The proposal's design

encourages pedestrian activity and connectivity with the adjacent Heritage Conservation Area. This is supported by the Urban Design Report prepared by GMU, which states:

The new plaza encourages the terraces to open to its new space and to provide a laneway linkage along their rear boundaries to enhance the existing laneway network. Cross Street is enlivened with the new active uses and the widened footpath linking with the hotel provides a continuous high quality retail experience.

Therefore, we consider that the scale and design will improve the pedestrian-to-development relationship and the elements contributing to the proposal's additional FSR as being appropriate in this circumstance. Together with the approved proposals and development currently under construction in this area of Cross Street, the proposal will contribute to the revitalisation of this area of Double Bay.

The additional FSR will improve the capacity of the site, whilst maintaining amenity for nearby development, through ensuring appropriate levels of solar access, views and privacy to nearby development are maintained.

In terms of FSR, the Draft Double Bay Planning and Urban Design Strategy proposes a 3:1 – 3.5:1 FSR for sites like the subject site, to which the amended proposal provides greater consistency with through providing an FSR of 3.49:1 (see **Figure 5**). This is supported by the Hill PDA Double Bay Economic Feasibility Study, which notes that most sites require an FSR of 3:1 – 3.5:1 to facilitate development, and meet the significant demand for housing in the centre.

Accordingly, the variation to the FSR standard is, in our opinion, appropriate in this particular case, will maintain amenity to adjacent development and the public domain and has sufficient environmental planning grounds to be accepted by Council. Please refer to the Clause 4.6 Variation for FSR, submitted with the original DA, for further justification.

5.0 PARKING AND ACCESS DESIGN STANDARDS

The proposal has been amended to shift the substation at ground floor level, to provide appropriate splays to the driveway crossover in order to allow sightlines for vehicles exiting the site. In addition, a kerb has been added in the loading bay in response to Council's comments. The proposal has been supported by a Traffic and Parking Report which fully justifies the proposed number of parking spaces, and access layout. This was submitted with the original DA.

6.0 PUBLIC ART

Council raised concerns regarding the lack of readily visible public art proposed. Accordingly, the proposal has been amended to include a ceramic mural on the northern external wall adjoining the lobby, to ensure that a high-quality piece of readily visible art is provided in the public domain.

7.0 APARTMENT MIX

The apartment mix is appropriate for this proposed development and location, and has been selected in order to ensure a variety of apartment types catering towards different needs. The Urban Design report and peer review prepared by GMU and Atlas Urban confirm the apartment mix is appropriate in the circumstances of this case.

8.0 CONCLUSION

This letter has responded to the seven key reasons for refusal contained in the Council Assessment Report for DA 321/2020. Amendments have been made to reduce the height and envelope of the building, reduce FSR, improve urban design and incorporate public art, and enhance vehicle access. The amended plans will provide additional solar access to the southern side of Cross Street, increase setbacks on Levels 4 and 5, and will reduce GFA. The proposal has been designed to provide a built form that responds to the Transvaal Avenue Heritage Conservation Area in a more sympathetic manner than that of a building that complies with Council's built form controls. The proposal will remain consistent in scale, form, proportions and setbacks with nearby developments, including the new approved six-storey developments at Nos. 16-18 Cross Street, Nos. 20-26 Cross Street, and Nos. 28-34 Cross Street.

In our opinion, the amended proposal provides a high-quality, contemporary design that is more sympathetic to the streetscape and adjoining conservation area than the originally proposed scheme, and moreover an improvement compared to a built form compliant with Council's standards and controls. The amended proposal has been accompanied by architectural plans, and Urban Design and Heritage Consultant Reports and Peer Reviews which confirm this.

We trust this information is of some assistance to you. If you require further information, please do not hesitate to contact our office on 9362 3364.

Yours faithfully,



George Karavanas
MANAGING DIRECTOR