

30 June 2021

Woollahra Municipal Council
c/- Elaine Yeo
Lindsay Taylor Architects
420 George St
SYDNEY NSW 2000



Dear Sirs

LEC 2020/351675

HERITAGE EXPERT REVIEW

AMENDED SUBMISSION

19 CROSS STREET, DOUBLE BAY

In accordance with your instructions, I have reviewed the Applicant's Submission of Amended Documentation related to LEC Appeal 2020/351675, SDHA Pty Ltd v Woollahra Municipal Council.

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.

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..

Documents Reviewed

- Relevant Extracts of Council Assessment Report to Sydney Eastern City Planning Panel (SECPP), dated 27 May 2021
- Amended architectural drawings Issue A, dated 4 June 2021, Luigi Roselli Architect
- Heritage Response to Council report, John Oultram Heritage and Design, June 2021
- Heritage peer review, Stephen Davies, Urbis, 4 June 2021
- Relevant extracts, Response to Council's Assessment report, GSA Planning, 4 June 2021
- Relevant extracts, Additional Information and Response to Submissions, GSA Planning, 4 June 2021
- Peer Review – Urban design, Atlas Urban, June 2021

GBA Heritage
Heritage Consultants

Level 1, 71 York Street
Sydney NSW 2000
Australia
T: +61 2 9299 8600
F: +61 2 9299 8711

gba@gbaheritage.com
www.gbaheritage.com

Nominated Architect
Graham Leslie Brooks
NSW Architects
Registration 3836

GBA Heritage Pty Ltd
Incorporated in NSW

ABN 56 073 802 730
ACN 073 802 730

Summary of Amendments

The list of amendments to the original proposal is set out in the GSA Additional Information letter of 4 June.

Those amendments considered to be relevant to the heritage issues of the appeal comprise:

- Overall reduction of GFA and FSR by approximately 2.8%.
- Reduction in the general overall building height (not taking account of lift overrun) of approximately 850mm.
- Reconfiguration of the northern ground floor retail space to provide a larger public courtyard to the adjoining historic retail buildings.
- There is a slight reduction in the size of the northern-most bedroom on each of the upper floors, but no change to the associated façade treatment.

Review of Amended Submission

This review draws from the structure of the Council Heritage Officer's report to the SECPP meeting, upon which Mr Oultram set out his Response. It is overlaid with the relevant components of the SOFAC.

Demolition of the existing retail complex on the subject site

No objection is raised for this demolition, a determination with which I agree.

Positive benefits from the original proposal will continue to be achieved by the removal of the service yard/bin storage area of the existing retail centre and its replacement with a pedestrian plaza. The expansion of the plaza in the amended scheme enhances this positive outcome.

Adverse Impact on the Setting and Significance of the adjoining Transvaal Avenue HCA

The proposed amendments do not provide any perceptible mitigation or minimisation of the previously identified adverse heritage impacts on the Transvaal Ave Heritage Conservation Area.

The Burra Charter defines "Setting", as *the immediate and extended environment of a place that is part of or contributes to its cultural significance and distinctive character*. The amended proposal retains the vast bulk of the original height and all the northern alignment and proximity of the cylindrical drum and upper floors in relation to the HCA. It has lost virtually nothing of its overwhelming visual presence when viewed from within the Transvaal Ave public realm of the HCA.

The reduction in the extent of the ground floor retail area will be appreciated only in its immediate pedestrian proximity and not from the bulk of the HCA. This amendment is fundamentally of little value to the HCA as a whole.

The uniformity in scale of the single storey Victorian Gothic former houses in the HCA is broken, as Mr Oultram comments, by low scale two and part three storey modern buildings at the far northern end of Transvaal Avenue. Nevertheless, these peripheral buildings blend into the scale and visual complexity of the HCA. Most importantly, the existing buildings on the two corners where Transvaal Ave opens into Cross Street are of a compatible scale to the adjoining the HCA.

Mr Oultram claims, in his latest report (p9), that the Statement of Significance for the HCA makes no reference to its context within the broader Double Bay precinct. This is not correct. The Statement of Significance describes the Transvaal Ave HCA's rare, surviving historical, spatial, retail, visual and social linkages within the unique characteristics of the Double Bay commercial and retail precinct. These linkages are not affected by the relatively low scale of the existing corner buildings. They will be severely impacted by the height, large scale and visual presence of the amended proposal.

The amended plans have made only marginal changes to the height and none to the bulk of the cylindrical drum that forms the corner transition between the two streetscapes. The arguments presented by Mr Oultram, GSA and Atlas Urban, rely heavily on the claim that this proposed corner treatment is far superior to rectangular site boundary edge shown on Control Drawing 3 in Section D5.5.7 of WDCP 2015. This shows a four-storey corner

building envelope taken right to the property boundaries on both Cross Street and Transvaal Avenue. Upon close examination, however, the six storey cylindrical mass is actually located approximately two metres from the Cross Street boundary and less than one metre from the Transvaal Ave boundary, ensuring its maximum footprint.

The original and amended proposal is therefore relying primarily on the cylindrical nature of the massing to justify exceeding the allowable LEP Heritage Limit and DCP height control, particularly for the northern elevation that faces directly into the adjoining low scale HCA.

The argument, that the overall massing of the amended proposal will provide a useful screen to block the side wall of the adjacent Hotel from the HCA, is irrelevant. The only portion of the hotel building that will be obscured is that adjacent to the subject site. The extensive section of hotel directly behind the historic buildings properties remains fully visible.

The claimed advantage provided by the amendment for the potential realisation of a walkway from Transvaal Avenue through to the Galbraith Walkway and William Street is most likely to be an unattainable mirage, given the number of individual properties, property owners and buildings that would be required to join into such a venture.

The arguments advanced by Mr Davies do not provide a sufficient reason for supporting the amended proposal. While I agree that the expanded ground level plaza provides a superior outcome for the immediate setting of the nearest historic house/shop than the DCP Control, when viewed from the entire Transvaal Ave streetscape the dominant visual feature is the six-storey wall of residential apartments. The excessive height of this section of the proposed building far outweighs any benefit provided by its splayed setback.

Exceedance of the LEP Allowable Building Height

The location of the subject site presents unique challenges in establishing a compatible building height when it has frontage controls to both Cross Street and Transvaal Avenue, each of which is remarkably different from the other.

The amended proposal does not achieve or even attempt to achieve a compatible transition in height between its two street frontages. All of the supporting arguments set out in the amended submission rely on its compatibility to the higher scale Cross Street streetscape and make no attempt to formally respond to the sensitivities of the Transvaal Ave scale and fine-grained streetscape.

In addition to the four-storey limit on the Cross Street and Transvaal Ave frontage of the subject site, Control Drawing 3 in Section 5.5.7 of WDCP 2015 deliberately restricts the centre of the northern portion of the site to two storeys, despite the LEP Height of 14.7 metres. The control was established to ensure a lower northern massing for a building on the subject site in the backdrop of the small-scale historic buildings in the adjoining HCA.

The desired future character of the Transvaal Ave HCA is inherent in its Statement of Significance and the protection of that character and significance by WLEP Clause 5.10, especially sub-clauses (4) and (5). By contrast, the desired future character of Cross Street is set out in Section D5.5.7 of Woollahra DCP 2015, where the wall heights specified for Cross Street are returned into the southern end of Transvaal Avenue but confined to land outside the HCA.

Despite the fact that the permissible height in the LEP is to be regarded as a “maximum” not an automatic right, the amended proposal’s supporting documentation continues to regard the four-storey height limit as a mere starting point to its argument for a six-storey massing.

The Clause 4.6 Exemption – Height of Buildings submission, prepared by GSA Planning in August 2020 was criticised by Council in its Assessment report to the SECPP.. I understand that no amended Clause 4.6 report was submitted as part of the amendments.

In Clause 1(ii) the Exemption Submission includes the following Objectives of the B2 Local Centre zone:

To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

It claims (p3) that the additional height above that permissible by the LEP will accommodate the two upper residential levels and **will complement the evolving streetscape of both Cross Street and Transvaal Avenue**. There is nothing in the Woollahra DCP that suggests the Transvaal Avenue streetscape might evolve over time into something that reflects or relates to the six storeys claimed for the subject development.

When discussing recent LEC judgements by Clay AC and Preston CJ, that recent approvals can be considered to provide evidence of Council's Desired Future Character for Cross Street, the GSA report (pp 4, 13 and 14) concludes that the approvals given for projects in Cross Street can be relied upon to reveal Council's Desired Future Character for the Transvaal Ave HCA. This claim cannot be supported. Clearly it is far more reasonable to assume that any proposals for four to six storey buildings within the HCA would be strongly resisted by Council.

Clause 4.3(1)(d) of WLEP 2017 contains one of the Objectives of the Height of Buildings control:

To minimise the impacts of new development on adjoining or nearby properties from disruption of view, loss of privacy, overshadowing or visual intrusion.

The illustrations provided of the amended proposal show that there will be virtually no new minimisation of the visual intrusion generated by the six-storey massing in relatively close proximity to the small-scale buildings in the HCA.

Conclusions

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.

The following Reasons for the Recommendation for Refusal, as contained in the Council report to the SECPP meeting, remain completely valid in heritage terms.

- It is considered to be unsatisfactory with (heritage) planning provisions contained in WLEP 2014 and WDCP 2015.
- 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.

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.

Declaration

In preparing this Statement I acknowledge that it has been prepared according to the Court's directions set out in following procedural guidelines - Class One Development Appeals - Usual Directions; Division 2 of Pt 31 of the Uniform Civil Procedure Rules; and The Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules.

Yours faithfully
GBA HERITAGE PTY LTD



Graham Brooks
Director
grahambrooks@gbaheritage.com



GRAHAM BROOKS

Managing Director, GBA Heritage Pty Ltd

Positions Held

Managing Director, GBA Heritage Pty Ltd, 2015 -
Managing Director, Graham Brooks & Associates Pty Ltd, 1996 – 2015
Director, Schwager Brooks and Associates Pty Ltd, 1984 – 1996
Associate Director, Travis Partners, 1977 – 1984
Architect, Pollard Thomas & Edwards, London, 1975 – 1977
Architect, Commonwealth Department of Works, 1972 – 1975

Professional Qualifications

Bachelor of Architecture (Hons), Sydney University, 1972
Master of the Built Environment (B Cons) UNSW 1984
Australian Institute of Architects, 1974
Associate Royal Institute of British Architects, 1975
Registered Architect, New South Wales
Member, Australia ICOMOS

Professional Associations

President ICOMOS International Committee on Cultural Tourism, 2001 – 2011
Chairman, AusHeritage Ltd, 1999-2001
Chairman, National Trust (NSW) Historic Buildings Committee, 1996-1999
Former Heritage Adviser, Liverpool City Council c1995-2005
Member, Senior Advisory Panel, Global Heritage Fund 2010-
Member, National Trust of Australia (NSW) 1973-
Member Australia ICOMOS, 1980-
UNESCO Monitoring Mission to World Heritage Site of Borobudur, 2003, 2006, 2007
World Heritage Centre Monitoring Mission to Ajanta & Ellora Caves, India, 2004-2010
Visiting Professor, Institute of Tourism Studies, Macao, 2006
Former Executive Committee Member, Australia ICOMOS, 1990-1992
Former Member Heritage Council Technical Advisory Committee on Materials Conservation, RAI Heritage Committee & RAHS Historic Buildings Committee

CAREER SUMMARY

I have worked in the fields of Architectural Design, Heritage Conservation and Cultural Tourism Management for some 40 years, in Australia, the United Kingdom and more recently for UNESCO in Asia. During that period I have conducted heritage assessments and developed heritage management protocols for hundreds of historic buildings and places. My office has conducted hundreds more under my supervision.

I have lectured widely to business, heritage, professional and student groups on heritage assessments, heritage management, conservation practice, preparing heritage sites for cultural tourism and the methodologies of heritage asset management. I have participated in many appeals before the Land & Environment Court, acting on behalf of both Respondents and Applicants, and have also acted as a Court Appointed Heritage Expert.