

Item 3.**Development Application: 5010 Sydney Place, Woolloomooloo - D/2022/431**

File No.: D/2022/431

Summary**Date of Submission:** 17 May 2022**Applicant:** QMS Media Pty Limited**Architect/Designer:** Grimshaw Architects**Owner:** City of Sydney**Planning Consultant:** Mecone Ltd**Heritage Consultant:** City Plan Heritage**DAP:** 15 June 2023**Cost of Works:** \$413,270.00**Zoning:** RE1 - Public Recreation Zone. The proposal is for an ancillary building to a recreation area and is permissible with consent in the zone.**Proposal Summary:** The application seeks consent for the installation of a new automated public toilet (APT) adjacent to Woolloomooloo Playground at Sydney Place.

The application is referred to the Local Planning Panel for determination as the Council is the landowner and more than one objection has been received.

The application was notified between 23 May 2022 and 21 June 2022. The application was then re-notified between 14 October 2022 and 12 November 2022 due to a correction of site address

In total 21 submissions were received as a result of notification, including a petition containing 122 signatures objecting to the proposal.

A public toilet in this location has been requested by members of the community to serve the local area and the

well-utilised Woolloomooloo Playground. The community initiative has received backing from local community groups, youth organisations and Plunkett Street Public School during the project's inception phase.

The application has planning merit and is recommended for approval, subject to a condition requiring the toilet to be relocated to a more suitable position on Sydney Place. The recommended alternative location is situated on the same site of 5010 Sydney Place and within close proximity of the location proposed by the applicant.

On balance, the proposal is considered to be appropriately located in terms of local amenity, safety and heritage considerations and is recommended for approval, subject to recommended conditions of consent.

Summary Recommendation: The development application is recommended for approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) Environmental Planning and Assessment Regulations 2000
- (iii) SEPP (Biodiversity and Conservation) 2021 - Chapter 10 Sydney Harbour Catchment
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Urban Design Analysis

Recommendation

It is resolved that consent be granted to Development Application Number D/2022/431 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979, in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The development, subject to conditions, is consistent with the objectives of the RE1 Public Recreation zone under the Sydney Local Environment Plan 2012.
- (C) Appropriate conditions are recommended to ensure the proposed development does not adversely impact upon the heritage significance of nearby sites.
- (D) The development, subject to conditions, will promote the orderly operation of the automated public toilets.
- (E) The development accords with the objectives of relevant planning controls.
- (F) Subject to recommended conditions of consent, the development satisfies the Design Excellence provisions pursuant to Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (G) The public interest is served by the approval of the proposal, as additional information to the development application has addressed the matters raised by the City and the community, subject to recommended conditions.

Background

The Site and Surrounding Development

1. The site is located to the south of Woolloomooloo Playground and has a street address of 5010 Sydney Place, Woolloomooloo. It is rectangular in shape with an area of approximately 348 square metres. It is situated between McElhone Street to the east and Dowling Street to the west.
2. The site is situated within the RE1 Public Recreation Zone and can be characterised as an open civic space owned by the City of Sydney. The space is largely open but contains a number of street trees and landscaped elements.
3. The surrounding area is characterised by residential, neighbourhood and community uses.
4. Woolloomooloo Playground is situated directly to the north of the site.
5. Residential accommodation and terraces border the site to the east, south and west.
6. Plunkett Street Public School and Sydney Distance Education High School are situated to the north-west of the subject site and directly to the west of Woolloomooloo Playground.
7. The site is not a heritage item but is located within the Woolloomooloo Heritage Conservation Area (CA71).
8. The site is located within the Woolloomooloo locality.
9. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Aerial view of proposed APT location



Figure 3: Site viewed from Dowling Street looking east, with the approximate location of the proposed APT identified in red



Figure 4: Site viewed from McElhone Street looking west



Figure 5: Looking south from inside Woolloomooloo Playground



Figure 6: Looking north along pedestrian section of Dowling Street



Figure 7: Looking east from Sydney Place towards Hills Stairs

History Relevant to the Development Application

10. Fourteen other APTs have been approved at various locations across the City (under D/2021/969, D/2021/971, D/2021/1087, D/2021/1088 and D/2021/1213).
11. This application is one of three applications under assessment seeking development consent for new APTs, some of which include digital advertising panels or green walls, or a combination of both, in various locations throughout the City of Sydney. Of these applications, D/2022/306, D/2022/431, and D/2022/1248 have been assessed concurrently and are being reported to this Local Planning Panel meeting for consideration.

Amendments

12. Following a preliminary assessment of the proposed development by Council Officers, several requests for additional information were sent for further detail of baseline information, site investigation and rationale to support the proposed toilet location.
13. The applicant was requested to provide a revised Urban Design Analysis Report which included an assessment of alternative locations within the vicinity of Woolloomooloo Playground, indicating their appropriateness in comparison to the subject site.
14. The applicant responded to the request on 9 June 2023, with an Urban Design Analysis which considered alternative locations to the subject site and discussed their viability in comparison to the subject proposal.

Proposed Development

15. The proposed development is for the installation of one new Automated Public Toilet (APT). The APT is a 'single' type comprising 1 x accessible toilet and three integrated green wall panels.
16. The proposed APT comprises a contemporary design which is generally rectangular in shape with round edges, with the following dimensions:

Height	3075mm
Width	3660mm
Depth	2700mm

17. The proposed APT will be operational 24 hours a day. The external maintenance and cleaning will be undertaken by QMS, and the internal maintenance will be the responsibility of the City.
18. Selected drawings of the new APT are provided below.

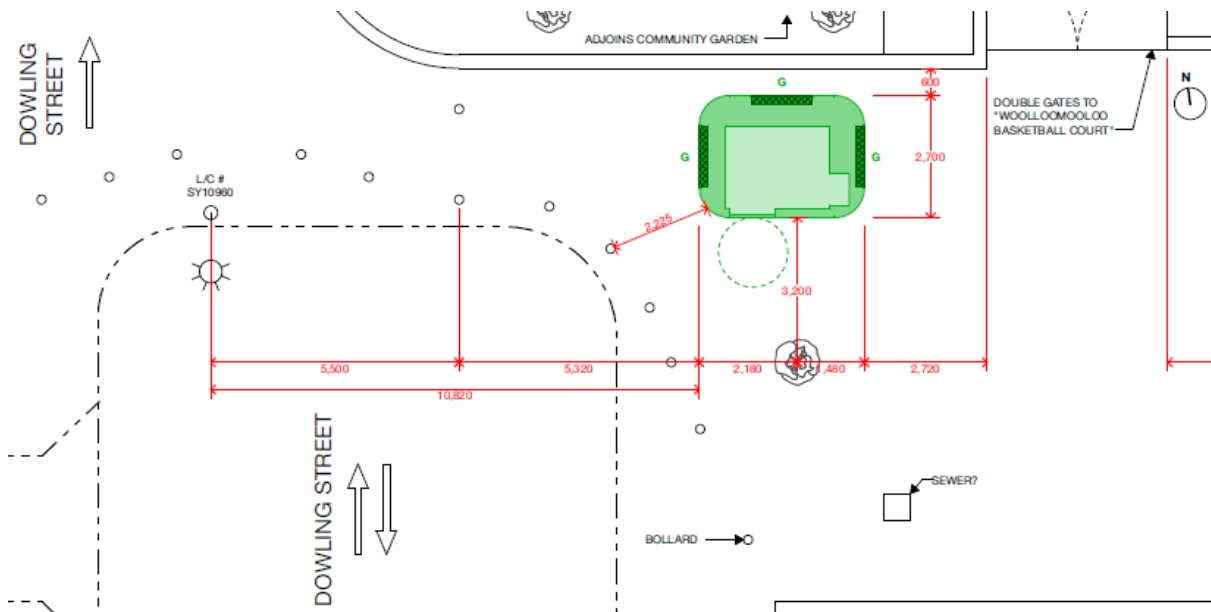


Figure 8: Proposed Location Plan

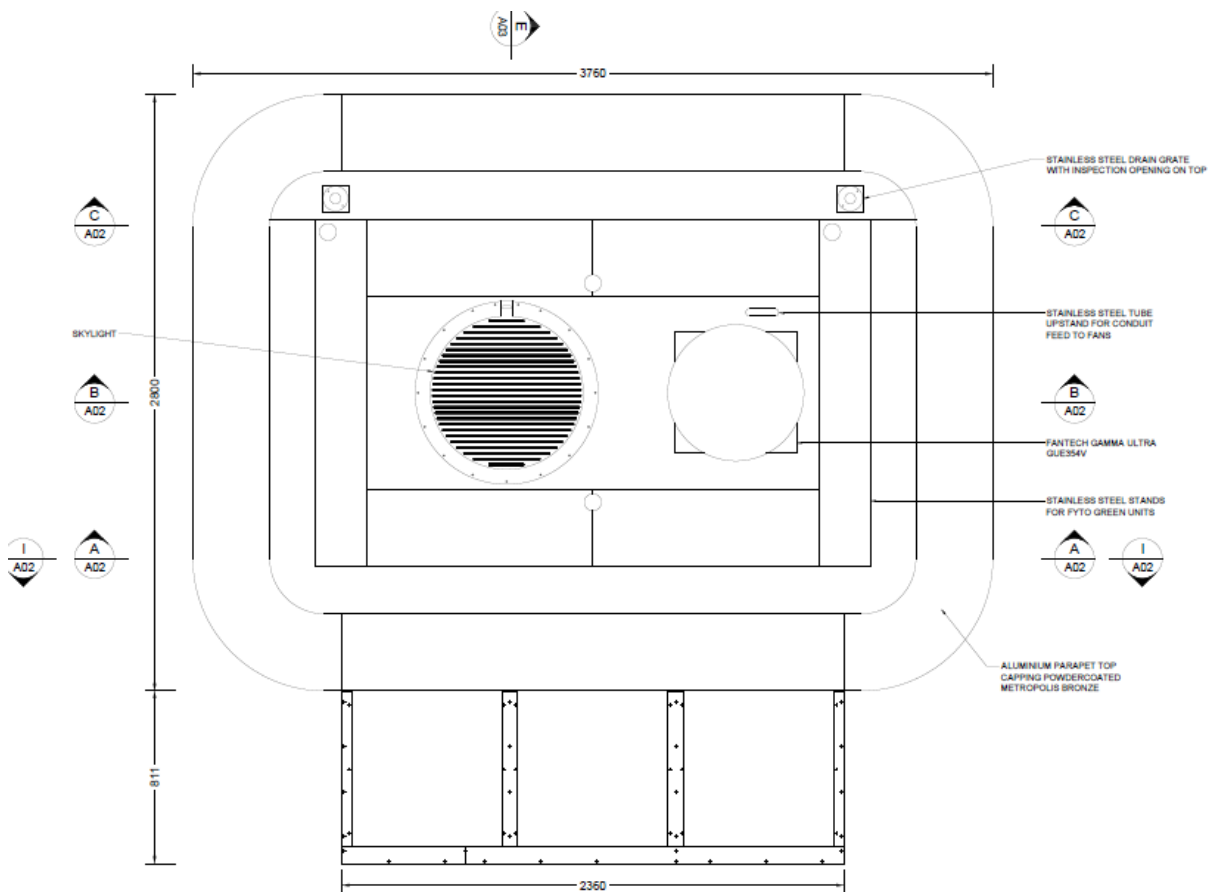


Figure 9: Roof Plan

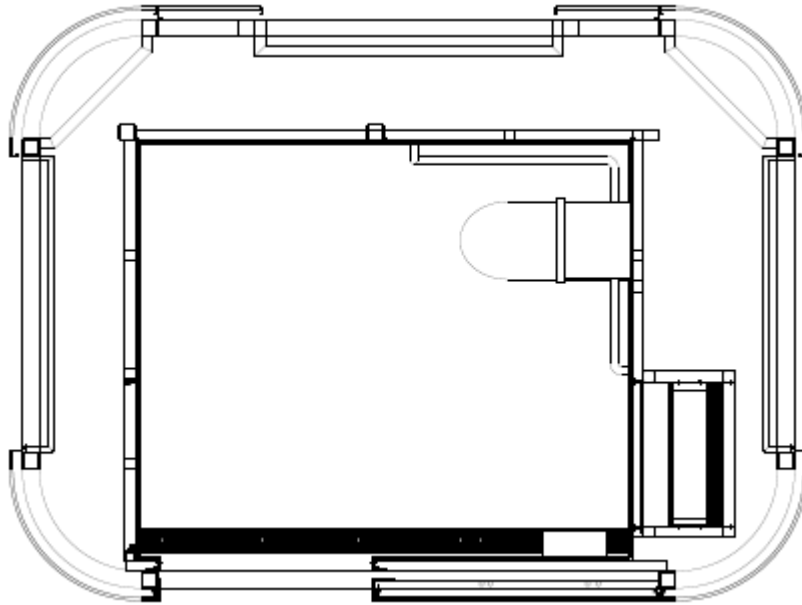


Figure 10: Internal Plan

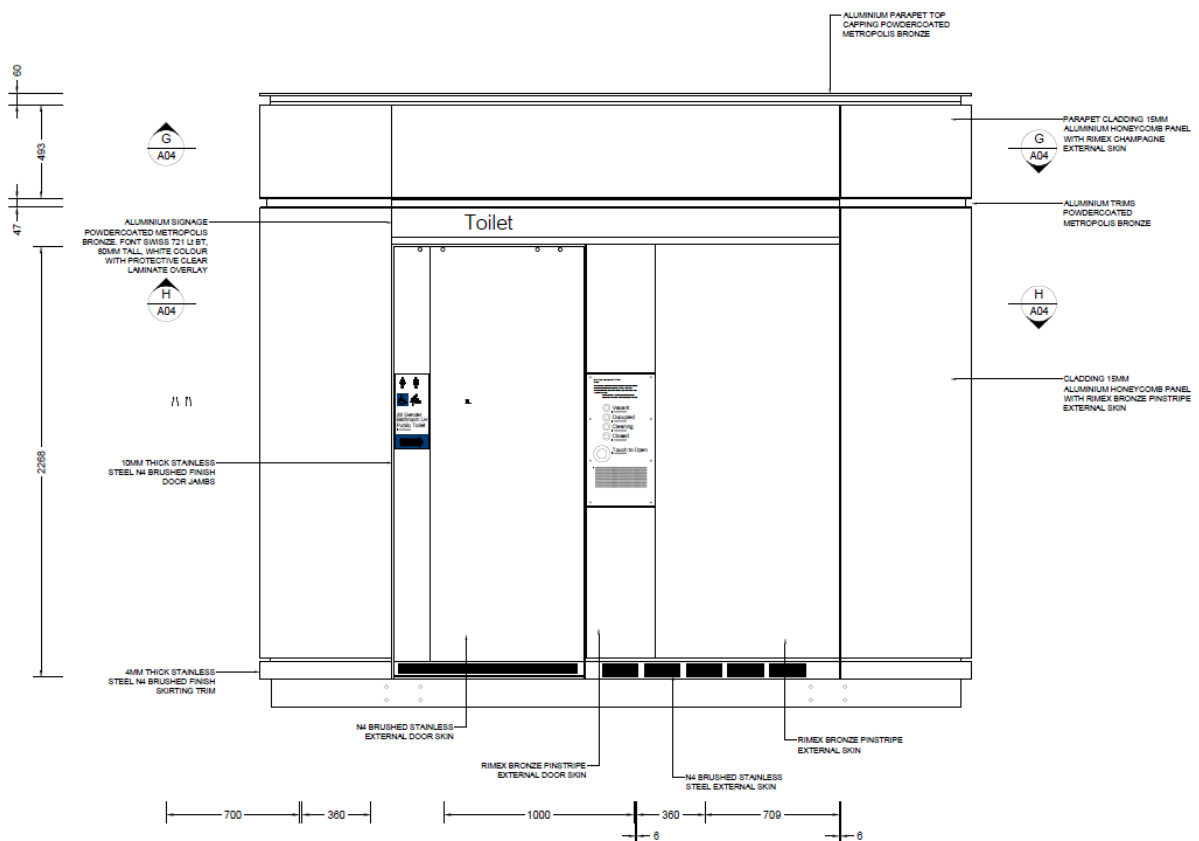


Figure 11: Front Elevation

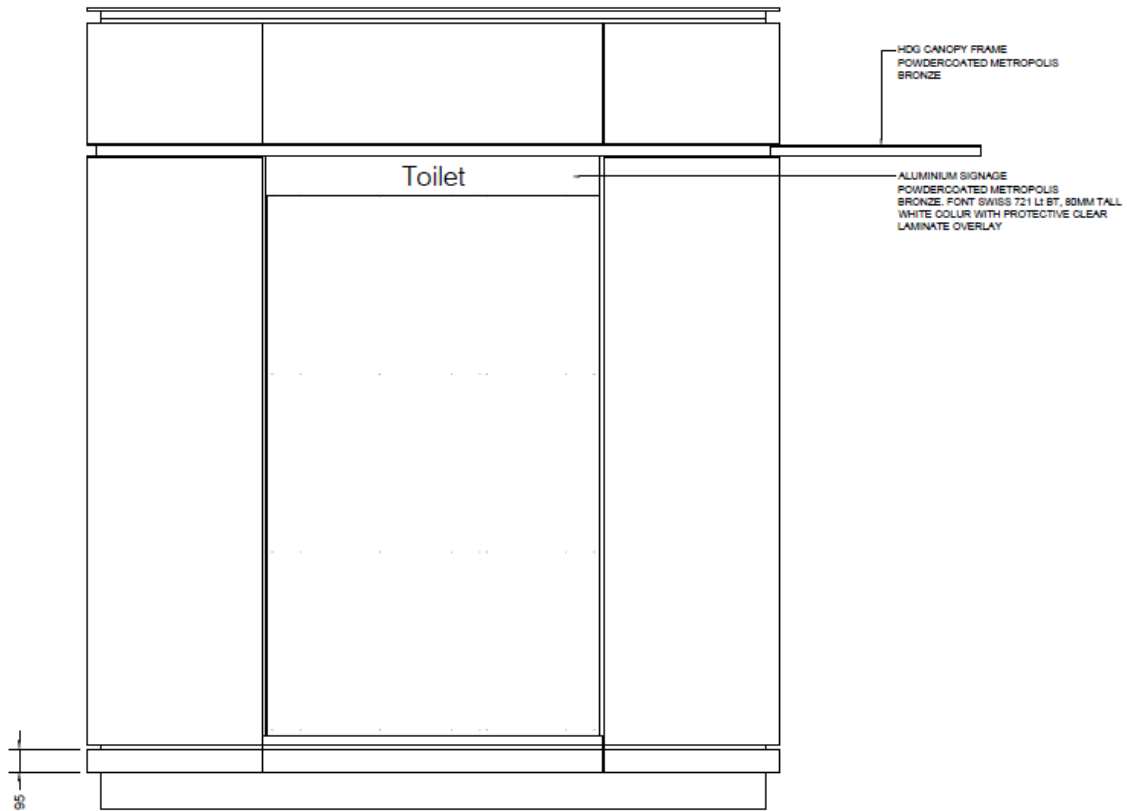


Figure 12: Side Elevation

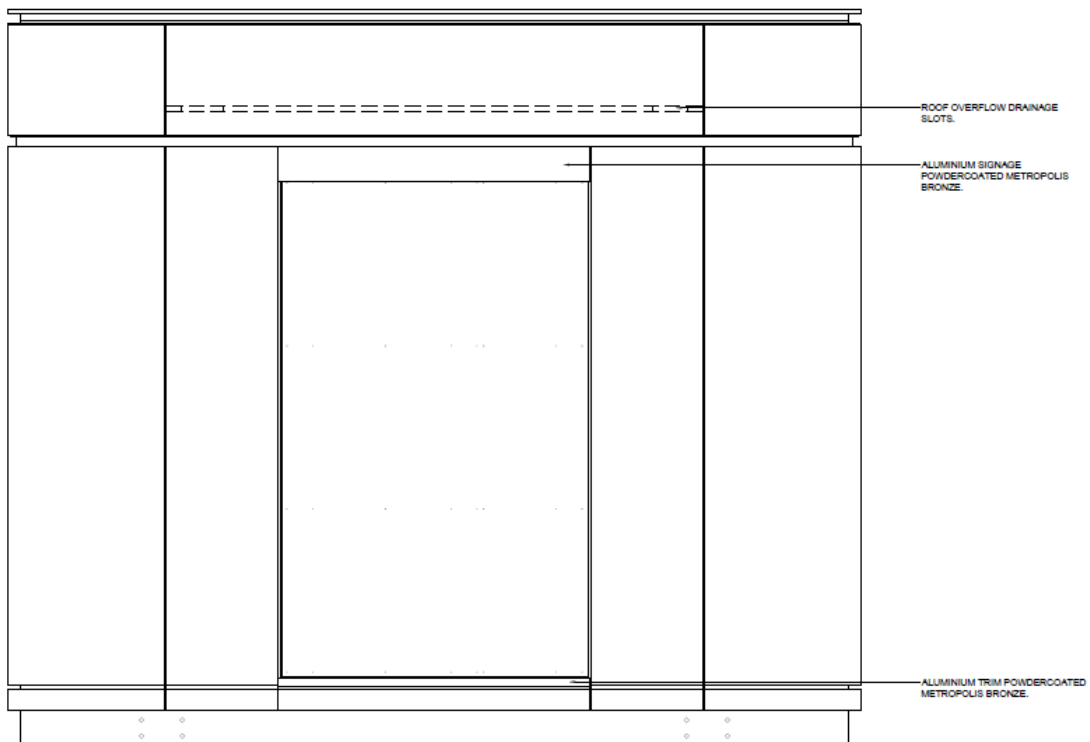


Figure 13: Rear Elevation

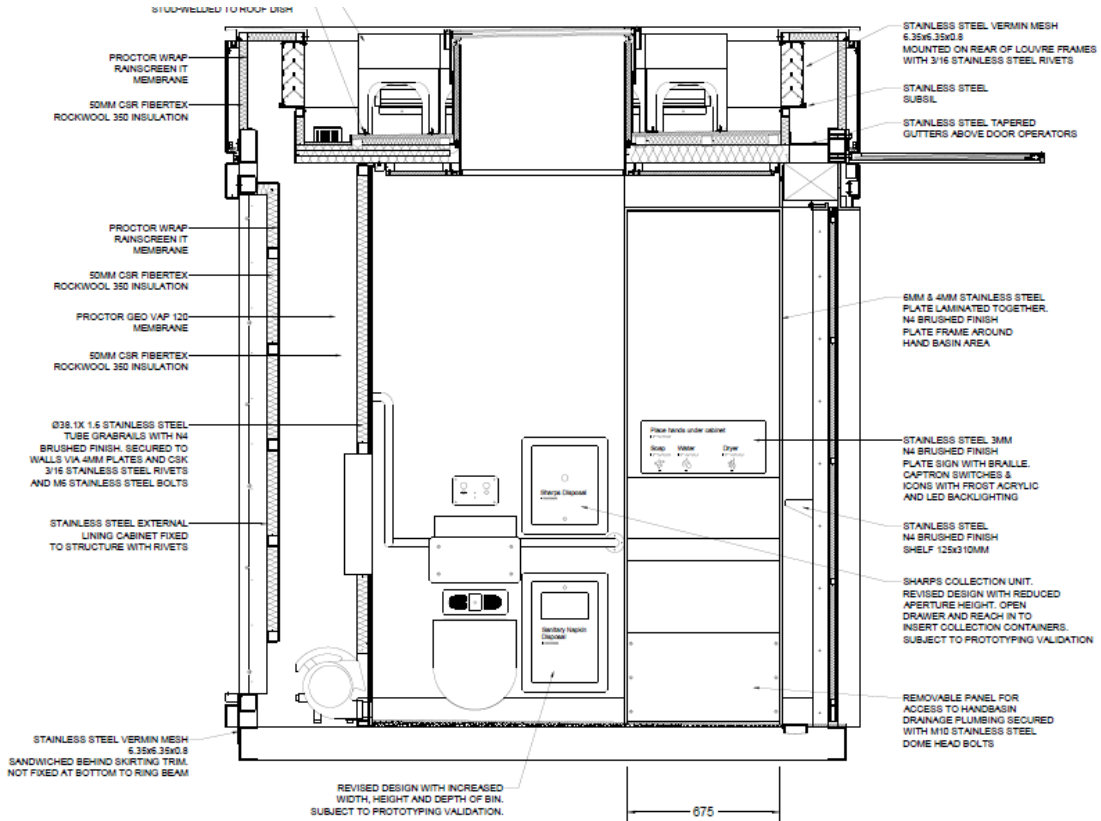


Figure 14: Short Section

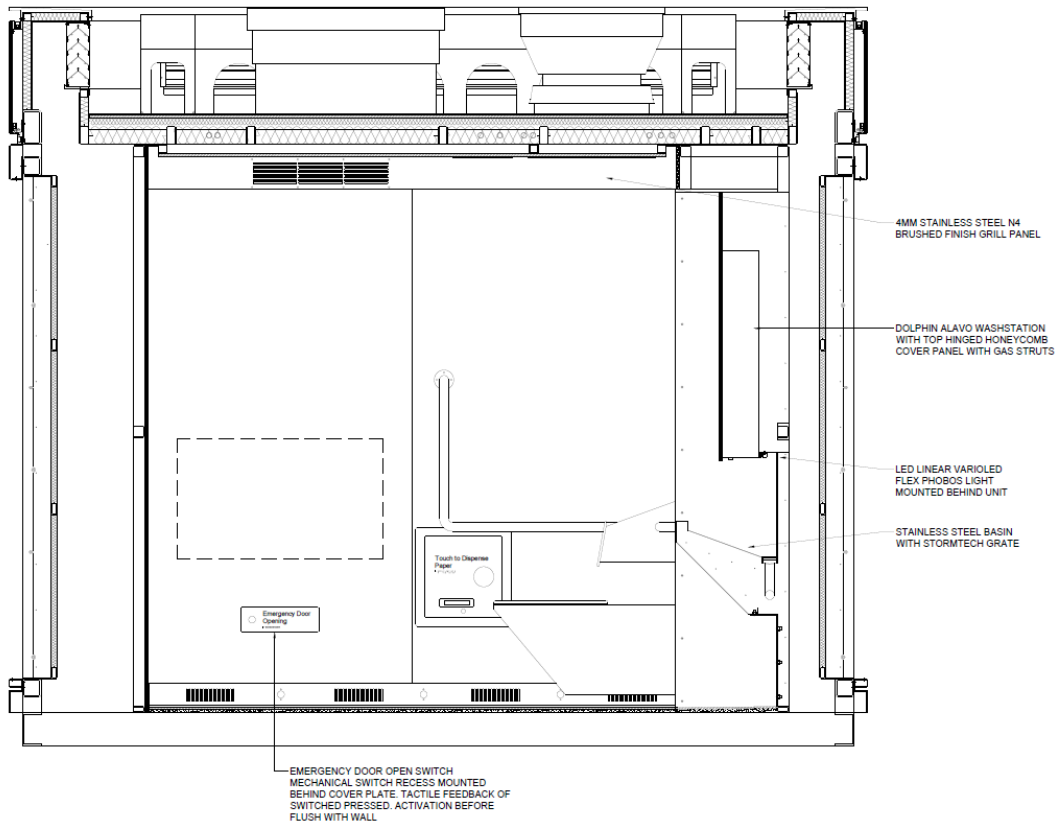


Figure 15: Long Section

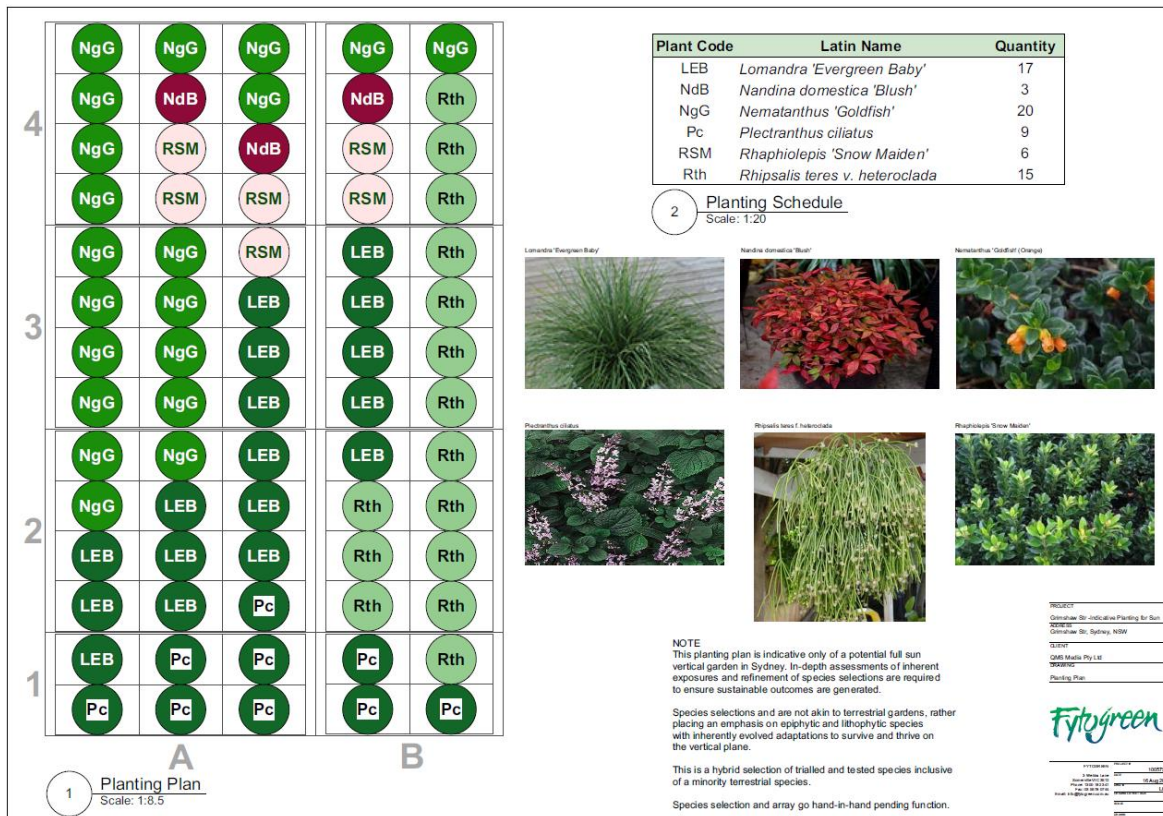


Figure 16: Indicative green wall planting schedule



Figure 17: Photomontage of proposed location viewed from Dowling Street looking north



Figure 18: Photomontage of proposed location viewed from Stephen Street looking east

Assessment

19. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

20. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
21. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

22. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the RE1 Public Recreation zone. The proposed development is defined as a community facility and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	The site is not subject to a maximum height standard.
4.4 Floor space ratio	Yes	The site is not subject to a floor space ratio standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is located within the Woolloomooloo Heritage Conservation Area (CA71) and is situated within close proximity to a number of local heritage items (I12161, I12159 and I12197).</p> <p>The proposal has been discussed with Council's Heritage Specialist who have advised that the minor impact of the proposed APT can be supported in this instance.</p> <p>See further details in the 'Discussion' section below.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	The design of the new APTs is of a high standard and uses materials and detailing which can contribute positively to the public domain of local government area.

Development Control Plans

Sydney Development Control Plan 2012

23. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

24. The site is located within the Woolloomooloo locality. Subject to conditions, the proposal is in keeping with the unique character and the design principles of the area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	Subject to conditions, the proposal will have an acceptable contribution to the public domain.
3.5 Urban Ecology	Yes	<p>The proposed green panels make a positive contribution to the landscaping of the public domain.</p> <p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. Precautionary conditions recommended by the City's Tree Management Unit have been included in the Notice of Determination.</p>
3.9 Heritage	Yes	<p>The site is located within the Woolloomooloo Heritage Conservation Area (CA71) and is situated within close proximity to a number of local heritage items (I12161, I12159 and I12197).</p> <p>The proposal has been discussed with Council's Heritage Specialist who have advised that the minor impact of the proposed APT can be supported in this instance.</p> <p>See further details in the 'Discussion' section below.</p>
3.12 Accessible Design	Yes	The application proposes an accessible toilet facility. Conditions of consent are recommended to ensure DDA compliance.
3.13 Social and Environmental Responsibilities	Yes, subject to condition	The proposal has been considered against CPTED principles. The proposal

Provision	Compliance	Comment
		<p>provides adequate passive surveillance, however the proposed location of the APT will create a pinch point along a well-utilised thoroughfare and a potential blind corner for pedestrians navigating around the structure.</p> <p>An alternative more suitable location has been identified on Sydney Place which maintains adequate passive surveillance but minimises potential blind corners in accordance with CPTED principles.</p> <p>A recommended condition requires the APT to be relocated to this preferred location, with the exact position to be submitted and approved by Council's Area Planning Manager prior to construction.</p> <p>See further assessment under 'Discussion' section below.</p>
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Discussion

City of Sydney Public Toilet Strategy 2014

25. Council's Public Toilet Strategy 2014 identifies that there is a lack of public toilets in key locations and that the provision of public toilets is required to meet the future needs of the City of Sydney.
26. The key recommendations of the Strategy includes:
 - (a) Public toilets are provided within 400 metres (5-10 minute walk) of any point within Central Sydney and at all village centres and major neighbourhood parks.
 - (b) Implement Crime Prevention Through Environmental Design and Environmentally Sustainable Design principles in planning, design, procurement and maintenance of public toilet facilities.
 - (c) Consult with the community to ensure public toilets are well-designed and built using robust, high-quality, vandal-resistant materials and fixtures that reflect the character of their setting.
27. The APT is generally consistent with the recommendations of the Strategy.

Community Consultation prior to DA lodgement

28. During mid-2020, the City of Sydney consulted the local community on Woolloomooloo Playground upgrades. The feedback received from the community predominately commented on the proposed upgrade works such as play equipment, exercise equipment and access.
29. The park upgrade scope of works was then endorsed by Council in October 2020.
30. In 2021, local community members reached out to the City's Indigenous Leadership & Engagement Unit to request Council explore the feasibility of installing a public toilet in the vicinity of Woolloomooloo Playground.
31. Letters of support were received in response to this community initiative from local community groups, charities and institutions, including:
 - (a) Weave Youth and Community Services
 - (b) Plunkett Street Public School
 - (c) Police Citizens Youth Club (PCYC) Woolloomooloo
 - (d) Youth and Family Connect
 - (e) St Vincent de Paul Society (Vinnies)
32. Following this feedback from the local community, the request was presented to the City's Public Toilet Strategy Implementation Working Group and a feasibility study was undertaken to identify a possible location.
33. The feasibility study concluded that the park itself is filled with existing elements; tennis court, basketball court, playground, community garden, picnic area and therefore there is no available space to accommodate a park toilet within the boundaries of the park.
34. Consequently, the proposed location was selected as a suitable location as it is adjacent to a well utilised walkway with passive surveillance from neighbouring properties (Dowling Street to Hills Stairs) and the basketball court. It is also adjacent to services (sewer, water etc) and there are no issues with all abilities access.

Urban Design Analysis

35. As part of the assessment under the current application, the applicant has submitted an Urban Design Analysis prepared by Grimshaw Architects. This Analysis covers the various APT locations the subject of DAs under assessment. The parts of the Analysis relevant to this DA can be found at Attachment C.
36. The Analysis provides the following explanation of the proposed siting:
 - (a) The proposed location is directly adjacent to well-used basketball courts, tennis court, community garden and children's playground. It is therefore considered a highly appropriate location for a public toilet. The co-location of toilet facilities with community facilities is a well-established principle of good planning.

- (b) As outlined above, the local community have specifically requested a public toilet in this vicinity, as locals currently allow people into their own homes to use toilets. Community consultation has been undertaken by City Projects and by the City's Indigenous Leadership and Engagement Officer.
- (c) In addition, there are few public places wide enough within walking distance to accommodate a fully accessible APT, which is why this location has been selected.
- (d) The map below indicates the proposed APT location in relative context to existing and approved public toilet locations in the surrounding area.

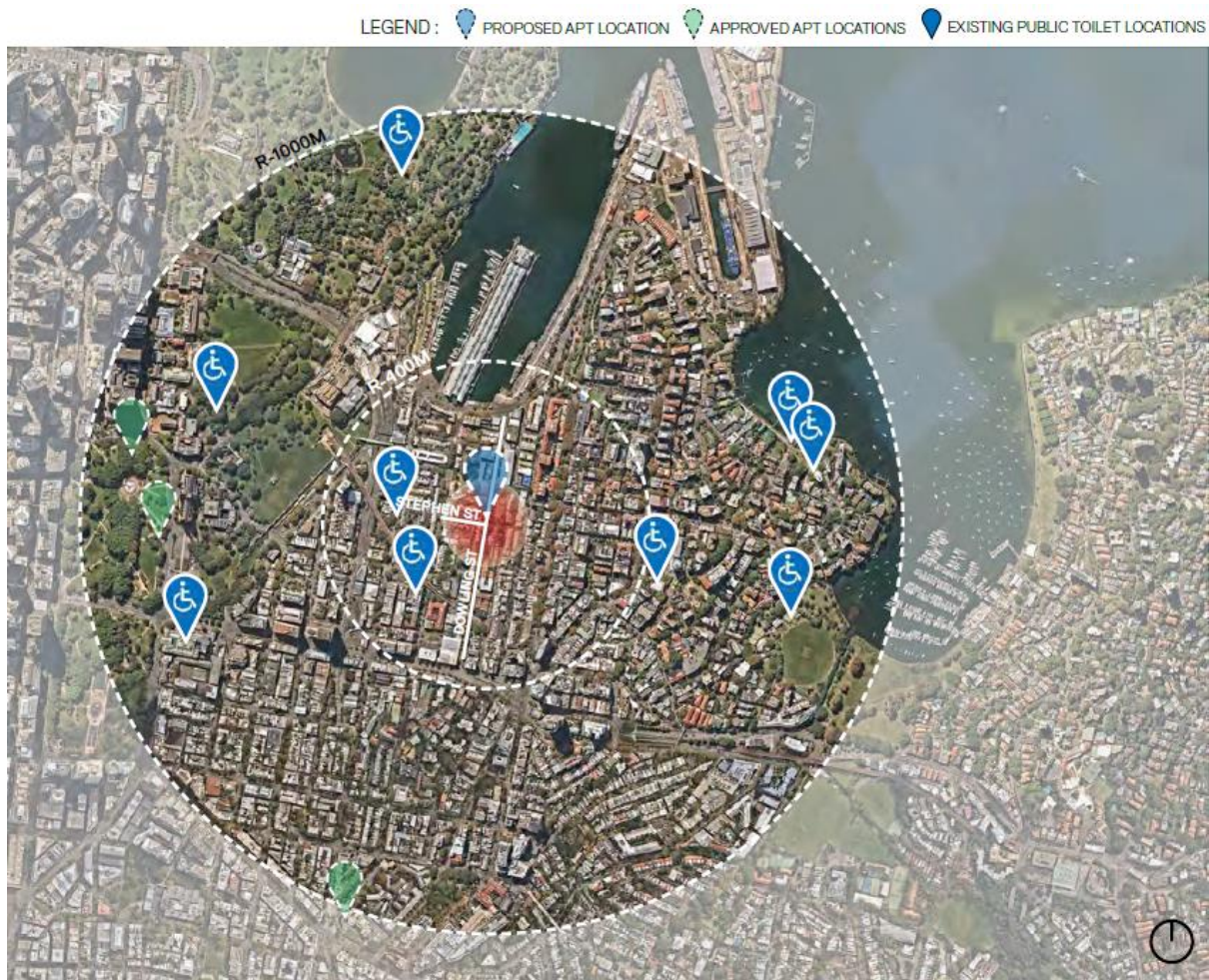


Figure 19: Aerial map showing existing and approved public toilet locations in the surrounding area

The Analysis also considered alternate locations and provided an explanation why the proposed location is appropriate:

- 37. The map below indicates alternative locations explored for the proposed APT around Woolloomooloo Playground.

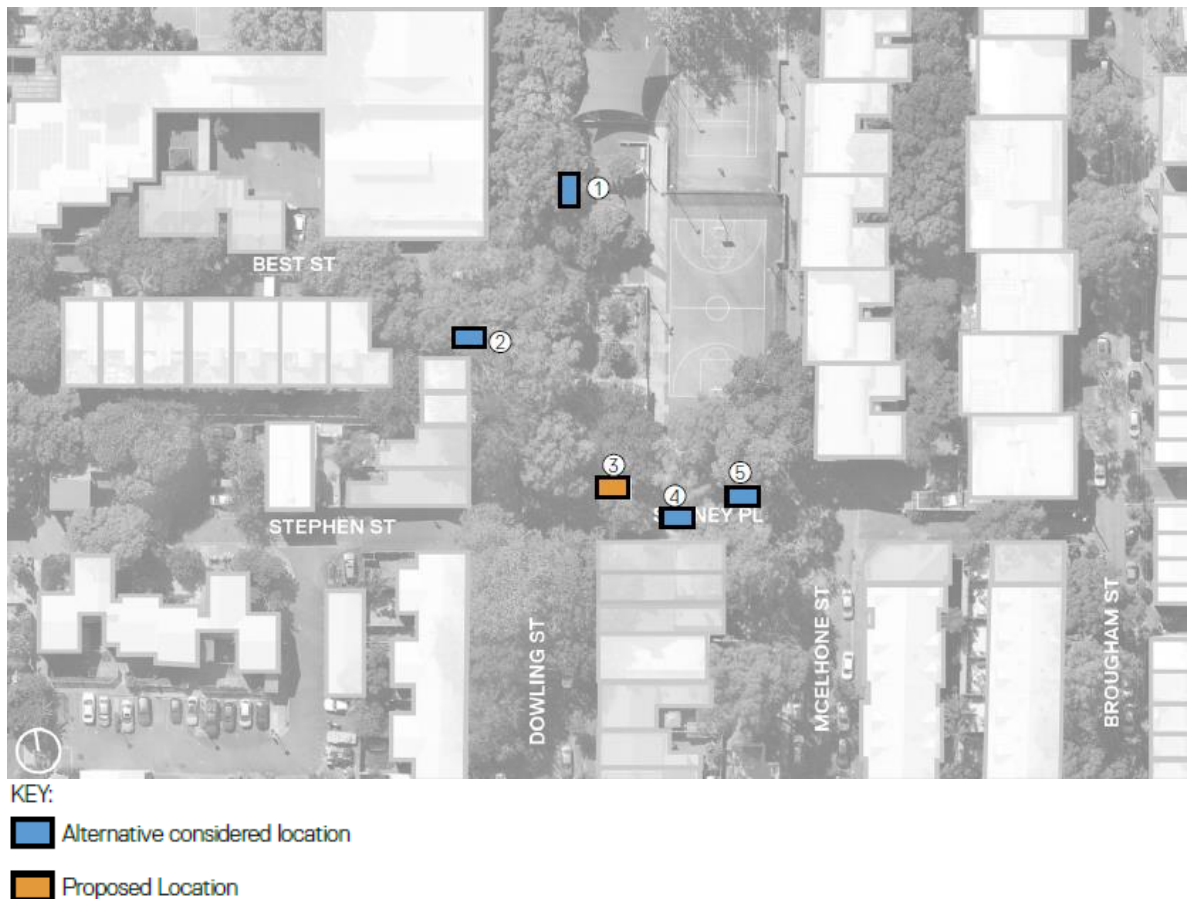


Figure 20: Aerial map showing alternative locations considered by urban design study

38. Observations for each of the explored locations provided by the submitted analysis were as follows:

1. On Dowling Street, close to Woolloomooloo playground: This location is well away from the main pedestrian route of Sydney Place and would have poor passive surveillance at night. It would also be less accessible and convenient for park users and general pedestrians as it is remote from the main pedestrian route. While it is close to Woolloomooloo playground, it is also very close to a residential unit.

2. On the corner of Dowling Street and Best Street: This small, elevated square is not easily accessible due to its stairs access. It is not visible from the main thoroughfare, and as such there are CPTED issues with surveillance.

3. Proposed location, on Sydney Place, close to Dowling Street: It is located on a main pedestrian thoroughfare between the CBD and Kings Cross and is close to the playground entry. It is not too close to most of the residences located on Brougham Street. It faces a blank wall without windows, so it does not impact on the residents. Its exposure improves passive surveillance and is less likely to be impacted by anti-social behaviour. It is therefore considered as the best option.

4. On Sydney Place, between the trees: There is good clearances to all sides of the APT and there is no obstruction to passing pedestrian traffic. It is marginally closer to residences along Brougham Street.

5. On Sydney Place, close to McElhone Street: Bordering the edge of the Park, it is located north of Sydney Place, close to McElhone Street. There are many residential buildings on this side of the Place. A site located in close proximity to a residential or commercial building is discounted as unsuitable due to the potential impact on residents or business owners' amenities, for example, noise impacts, or increased anti-social behaviour.

39. The Analysis was subsequently presented to Council's Design Advisory Panel. The Panel advised as follows:
40. The Panel noted that this APT has been advocated by members of the community and that there is evidently community support for an APT in this location. Option #3 is supported.

Location Assessment

41. Each of the locations have been considered by Council officers during assessment. The general principle of locating an APT in the nearby vicinity of Woolloomooloo Playground is well understood and supported on planning merit.

Option 1 - On Dowling Street, close to Woolloomooloo Playground

42. Council officers observed that Option 1 has many attributes which would make it an appropriate location for siting the proposed APT.
43. It is situated within close proximity of Woolloomooloo Playground and site observations indicate that the pedestrian route from Hills Stairs and continuing to the north down Dowling Street is a well-used pedestrian thoroughfare during daylight hours.
44. Further, it appears there would be adequate clearance to situate the APT without impeding pedestrian access along Dowling Street.
45. Notwithstanding the above, it is accepted that the location would have poor passive surveillance at night. Rather than being situated close to residential properties as indicated by the submitted urban design analysis, the location is in fact situated away from residences and opposite Plunkett Street Public School.
46. Consequently, night-time activation and surveillance of the space is more restricted and may adversely affect the actual or perceived safety of the APT, thereby limiting its utility.



Figure 21: Option 1 - On Dowling Street, close to Woolloomooloo Playground

Option 2 - On corner of Dowling Street and Best Street

47. The City of Sydney is not the landowner for this site, however a temporary toilet is currently installed in this location under agreement with the NSW Land and Housing Corporation.
48. Installation and ongoing maintenance of a permanent APT in this location is less certain due to the issue of land ownership.

49. In any case, the stair access and ramp gradient limit all abilities access and the location suffers from poor passive surveillance.
50. The location is therefore not considered suitable.



Figure 22: Option 2 - On corner of Dowling Street and Best Street

Option 3 - Proposed location, on Sydney Place, close to Dowling Street

51. The proposed location for the installation of the APT (Option 3) is situated on the western side of Sydney Place adjacent to Dowling Street. It is situated on the south side of Woolloomooloo Playground, close to the entrance to the basketball courts.
52. The proposal is situated within close proximity of existing bollards bordering Dowling Street.
53. Council's Urban Design Specialist raised concerns that the proposed location will impede pedestrian sightlines and path of travel for pedestrians walking between Hills Stairs and Dowling Street. It has been flagged that there is limited space for pedestrians between the proposed APT and the existing bollards.

54. As a consequence, the proposed location will create a blind corner for pedestrians walking from Dowling Street and will directly obstruct the pedestrian desire line from pedestrians walking from Hills Stairs down to Woolloomooloo Wharf via Dowling Street, as shown below in Figure 23.



Figure 23: Proposed APT location shown in purple creates a blind corner for pedestrians walking from Dowling Street

55. The proposed APT location is situated within Woolloomooloo HCA (CA71) and close to local heritage items: No.12161 to the south '*Terrace group (126-128A Dowling Street) including interiors*' and No.12159 to the west '*Terrace group (67-121 Dowling Street) including interiors*'.
56. Council's Heritage Specialist commented that the proposed location is a visually prominent focal point at the terminus of Dowling Street where Sydney Place stops the transit of cars. Accordingly, the visual impact upon the HCA is minor but negative.
57. Separately however, as a visual focal point the location has good passive surveillance as it will be visible from both Dowling Street and McElhone Street, as well as from the playground and nearby residences.
58. For these reasons there are conflicting priorities between streetscape considerations and the safety of the APT, whether perceived or actual, and its consequent utility.

59. Overall on balance, whilst there is planning merit and community support for installing an APT in the vicinity of Woolloomooloo Playground, the Option 3 is problematic as it creates a pinch point on the corner of Sydney Place and Dowling Street which will obstruct pedestrians.
60. Further, the proposal will create a blind corner and therefore fails to adequately address CPTED principles, pursuant to Section 3.13.1 of the Sydney DCP.



Figure 24: Option 3 - looking east towards proposed location, on Sydney Place, close to Dowling Street

Option 4 - On Sydney Place, between the trees

61. Option 4 is centrally situated on Sydney Place between the trees but closer to the heritage listed residential terrace group of 126-128A Dowling Street to the south (No.12161).
62. The location also benefits from good passive surveillance, however, has the potential to more acutely impact upon the residential amenity of No.126 Dowling Street due to its closer proximity.
63. The APT would arguably be more visually prominent in this location as it would occupy the central portion of a public space and therefore would have a more significant impact upon the HCA.
64. Council's Heritage Specialist has further advised that locations further away from the nearby heritage items is preferred.

Option 5 - On Sydney Place, close to McElhone Street

65. Option 5 is situated on the eastern side of the basketball court entry gates on Sydney Place and closer to McElhone Street.
66. The submitted urban design analysis indicates that this location has been discounted due to its proximity to nearby residential properties.
67. In response to this, Option 5 is no closer to residential properties than the other options explored, whilst it will be similarly visible from McElhone Street and Dowling Street, offering good passive surveillance.
68. The terminus of McElhone Street provides a key sightline for police when patrolling the area and when parked in a vehicle. In this regard, it would be preferable that the precise location of Option 5 be situated closer to the basketball entry gates on Sydney Place so as to maintain open views into the playground from McElhone Street.
69. In moving away from McElhone Street, the location would also ensure there are no issues with clearance between the APT and the existing bollards adjacent to McElhone Street so as to preserve unobstructed pedestrian movements and clear sightlines in accordance with CPTED principles, pursuant to Section 3.13.1 of the Sydney DCP.

TfNSW Walking Space Guide

70. The Walking Space Guide developed by Transport for NSW provides a set of standards and tools, to ensure that sufficient space is provided to achieve comfortable environments which encourage people to walk.
71. The guide provides a hierarchy of standards based upon the level of pedestrian foot traffic and activity.
72. The subject site is consistent with the prescribed criteria of a Type 2 local footpath of medium activity as pedestrian activity is more than seven people per hour and there is a reasonable likelihood of two pedestrians passing each other. For this type of footpath condition, the Waking Space Guide recommends a minimum walking space target of 2.3 metres.
73. The location being proposed under this application provides a 2.25 metre clearance between the APT and the existing bollards on the edge of Dowling Street and therefore does not comply with the minimum walking space target provided by the guide.
74. Consequently, the proposal creates a constrained pinch point which fails to support two people comfortably walking together or two people passing each other abreast.

Recommended Design Modification - Relocation of APT

75. In light of the issues discussed above, whilst the planning merits of locating a public toilet adjacent to a highly utilised recreation facility in Woolloomooloo Playground are well understood, the proposed position of the APT is problematic and is not recommended for approval due to the reasons outlined above.
76. Instead, a design modification condition is recommended requiring that the position of the APT is to be relocated on Sydney Place and is to be situated on the eastern side of the entry gates to the Woolloomooloo Playground basketball courts.
77. The recommended alternative location is situated approximately 10 metres to the east of the currently proposed location across Sydney Place.

78. The recommended condition stipulates that the nearest part of the APT must be 2 metres away from the most eastern side of the basketball gates, with the exact location to be shown on plan and submitted to Council's Area Planning Manager for approval prior to a construction certificate being issued. This is to avoid the APT creating a blind corner when entering and leaving the park, whilst also ensuring that the APT does not conflict with the existing bollards, pedestrian route and sightlines into the park from McElhone Street.
79. The alternative location will not significantly constrain any existing pedestrian clearances and complies with the provisions of TfNSW Walking Space Guide.
80. The indicative location of the recommended position of the relocated APT is illustrated below:

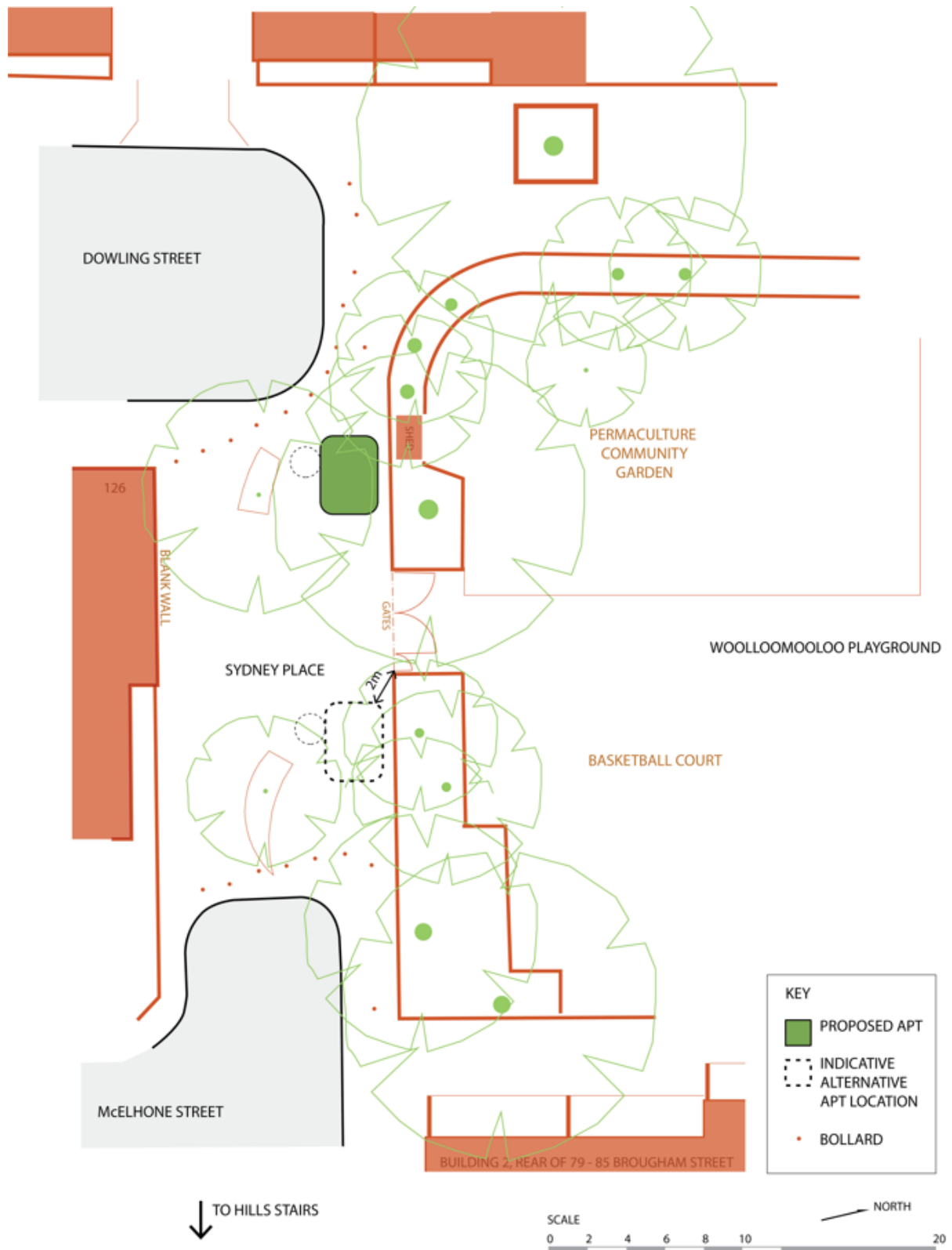


Figure 25: Diagram showing indicative preferred position for relocation of the APT, as required by recommended design modification condition

81. Council's Heritage Specialist has advised that the proposed APT can be supported in this location in this instance given the local community's request for a toilet in this location, whilst noting that the proposed green walls of the APT will minimise its visual impact.
82. Overall on balance, the recommended alternative represents a more suitable location for the APT which will provide utility to the local area whilst supporting pedestrian comfort and safety.

Tree Management

83. An Arboricultural Impact Assessment Report was commissioned by the Tree Management team to assess the potential impacts on the trees as a result of the proposed APT installation.
84. The report assessed potential impacts of the APT installation on nearby trees, determining that the works will involve minor incursions into the Tree Protection Zones of several trees identified.
85. Whilst the submitted Arborist Report did not assess the alternative location on Sydney Place being recommended for approval, the City's Tree Management Unit have recommended a condition confirming that excavation within any TPZ must be undertaken using handheld tools only (machinery is not permitted) under the supervision of a Project Arborist.
86. Footings shall be relocated / realigned if any tree root greater than 50mm in diameter is encountered during excavation. Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40 millimetre diameter are encountered during the installation of any services adjacent to identified TPZ's.
87. This allows services to be installed whilst ensuring trees are not during construction and installation. The recommended condition provides adequate tree protection and Tree Management have confirmed that the condition remains applicable and appropriate to the alternative location being recommended by condition.

Green Wall Panels

88. Full details have been provided of the proposed green wall panels, including details on soil depth, soil specification, drainage and irrigation design, planting species, wall and roof fixing details. In addition, the applicant has engaged Fytogreen to be responsible for the maintenance and upkeep of the green walls and roofs for the initial contract term of 10 years.
89. The applicant has provided a decommissioning strategy in the event of plant failure which has been reviewed and is supported by the City's Landscape Unit. A condition is recommended confirming that, in the event of a failure of the green wall, the strategy and details approved by Council are to be followed.

Street Furniture Location

90. With recent street furniture DAs, sites may be affected by obstructions of above or underground services or utilities, conditions have been included allowing the possible relocation of the item/s up to either 3 metres or 5 metres and subject to certain parameters. These parameters include ensuring that the item is not relocated from a 'permissible' location to a 'prohibited' location and ensuring that the relocation position/s complies with all the relevant standards and do not conflict with existing street furniture and fixtures.
91. The applicant has requested a similar condition allowing the possible relocation by up to 5 metres to allow for some fine-tuning of the final sitting of the structure.
92. It is considered that the above condition is not appropriate for the subject application. A design modification condition is recommended requiring the proposed APT to be relocated on Sydney Place to the eastern side of the gated entrance to the basketball courts. Any issues regarding the APT's precise location can be addressed at the time of satisfying the condition.
93. Not having a condition that provides the flexibility requested by the applicant ensures that the location of the APT can be defined and will minimise risk of unforeseen impacts on its setting within the environment and general use of the public way. This is consistent with the approach the LPP took with the previous APT DAs approved in April 2022.

Safety and Security

94. The application was referred to NSW Police. A response was received which noted the occurrence of anti-social behaviour in the area and NSW Police have recommended Crime Prevention Through Environmental Design (CPTED) and the installation of CCTV cameras.
95. The police response has been discussed with Council's Safe City Unit. Safe City have advised that the installation of CCTV cameras by the city is reserved for locations with a history of violent crimes and that Safe City do not consider CCTV to be necessary for the area.
96. The Safe City Unit have advised that approved APTs elsewhere in the city are not associated with an increase in criminal activity, or an increase in the population of drug users.
97. Notwithstanding this, Safe City concur that the implementation of CPTED is beneficial in reducing antisocial behaviour within the vicinity of the proposal and have noted that the site is an ideal location for CPTED due to the following:
 - (a) The site is subject to regular and ongoing passive surveillance as the site is well trafficked by pedestrians and vehicles, local residents, and police patrols. This is further benefitted by the openness and accessibility of the site;
 - (b) The site is well lit by street lighting; and
 - (c) The APT will contribute to the reduction in anti-social behaviour such as public urination.

98. The proposal is also supported by a Plan of Management which incorporates the following emergency response procedures and timeframes which are to operate twenty four hours per day, seven days per week:
- (a) Within 4 hours, respond to a request made by NSW government agencies requesting emergency support;
 - (b) Within 4 hours, respond to any public safety issue or reports of damage, repairs or inoperable street furniture;
 - (c) Within 8 hours, respond to any reports of offensive graffiti (with the offensive content no longer able to be distinguished before departing site); and
 - (d) Before anyone attending an emergency response departs the site it will be safe for public access.
99. The APT includes a fixed sharps bins for the safe disposal of any medical sharps, in line with the City of Sydney Public Toilet Strategy 2014.
100. The proposal is considered to be a benefit to local public amenity.

Hours of Operation

101. The response provided by the police commented that sunrise to sunset hours of operation for the APT would be suitable for this location rather than the 24-hour operation of other APTs approved in the City and as proposed by the current application.
102. The police have commented that the reduced hours would limit opportunities for criminal and antisocial behaviour.
103. In this regard, as outlined above, the City's Safe City Unit monitor reports of incidences around other APTs installed elsewhere in the City and have advised that approved APTs are not associated with an increase in criminal activity.
104. Public consultation on the Council's Public Toilet Strategy 2014 recorded that the predominant comments regarding the operational hours of existing public toilets were that they should be open 24 hours or that they close too early.
105. Consequently, the Public Toilet Strategy states that Council APTs should operate 24-hours a day in order to support their utility at all hours. Further, the Strategy confirms that the City will be working on extending the hours of operation of public toilets where there is high demand and security of users is assured.
106. The 24-hour operation of the APT is acceptable in this instance given that the proposed location provides good passive surveillance, is well lit and is regularly patrolled by police.

Consultation

Internal Referrals

107. The application was discussed with Council's:
- (a) Heritage and Urban Design Unit;

- (b) Public Domain Unit;
 - (c) Safe City Unit;
 - (d) Surveyors;
 - (e) Transport and Access Unit;
 - (f) Landscape Unit;
 - (g) Tree Management Unit; and
 - (h) Waste Management Unit.
108. The above advised that the proposal is generally acceptable subject to conditions, with the exception of the City's Urban Design Specialist. Where appropriate, these conditions are included in the Notice of Determination.
109. Issues raised by the Council's Urban Design and Heritage Specialists are addressed under 'Location Assessment' of the 'Discussion' section of the report above.
110. The City's Surveyor flagged inadequacies in the information submitted when the DA was first lodged, raising concerns that the location of services needed to be defined whilst highlighting that the location of trenching or underboring may conflict with tree root systems.
111. To address these matters, a survey plan of the park has been acquired which identifies the location of services, including water and sewer lines to connect the APT. Potential impacts upon tree root zones have been considered by Council's Tree Management Unit and conditions requiring tree protection measures during construction are recommended for inclusion.

External Referrals

NSW Police

112. The application was referred to NSW Police for comment.
113. Comments received from the NSW Police have been considered in the 'Safety and Security' section of the 'Discussion' section of the report above.

Advertising and Notification

114. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 23 May 2022 and 21 June 2022. The application was then re-notified between 14 October 2022 and 12 November 2022 due to a correction of site address.
115. A total of 806 properties were notified and 21 submissions (were received, including a petition containing 122 signatures objecting to the proposal).

116. The submissions raised the following issues:

- (a) **Issue:** Concerns that the proposed APT will attract anti-social behaviour and encourage drug use.

Response: Council's Safe City Unit have advised that approved APTs elsewhere in the city are not associated with an increase in criminal activity, or an increase in the population of drug users. The proposed location has been selected as it has good passive surveillance and is well lit in conformity with CPTED principles.

- (b) **Issue:** Concerns that the proposed location is poorly lit and presents a safety concern.

Response: The proposed location offers good passive surveillance and the entrance will be lit by existing street lighting on the edge of Dowling Street.

- (c) **Issue:** Query whether police have been consulted and request for CCTV to monitor the proposed APT.

Response: See details of police consultation and feedback, including the potential for CCTV installation, under 'Safety and Security' of 'Discussion' section of the report above.

The proposed location provides good passive surveillance and can be viewed by vehicle police patrols from the ends of Dowling Street and McElhone Street.

- (d) **Issue:** Concerns that the toilet creates risk of use by drug users which could increase chances of sharp needles being found in the street, playground and surrounding area.

Response: As outlined above, Council's monitoring of approved APTs elsewhere in the city has not attracted additional drug users to the area. The APT includes a fixed sharps bins for the safe disposal of any medical sharps, in line with the City of Sydney Public Toilet Strategy 2014.

The submitted Plan of Management, which is recommended for approval, confirms that sharps collection data history will be used to monitor any noticeable trends emerging such as an increase in drug taking activity in the area.

- (e) **Issue:** Concerns that the proposed location will impede a pedestrian thoroughfare.

Response: Council officers agree that the proposed location is problematic as it will obscure sightlines and impede a key pedestrian route of travel. Alternative locations to position the toilet have been considered and a design modification condition is recommended requiring the toilet to be located to a more suitable location on Sydney Place.

See further discussion under 'Location Assessment' of 'Discussion' section above.

- (f) **Issue:** Submissions objecting to a second public toilet surrounding Woolloomooloo Playground, noting that an existing public toilet has been installed on the corner of Best Street and Dowling Street.

Response: The public toilet on the corner of Best Street and Dowling Street is temporary and is situated on land owned by NSW Land and Housing Corporation. The temporary toilet has been installed under a deed of access but will be removed once a permanent toilet is installed. In addition, the stair access and ramp gradient limit all abilities access and the location suffers from poor passive surveillance.

See further discussion regarding the location of the temporary toilet under 'Location Assessment' of 'Discussion' section above.

- (g) **Issue:** Request for toilet to include a change table.

Response: The proposed APT includes a baby change table.

- (h) **Issue:** Request for toilet to be accessible for all abilities.

Response: The proposed APT is wheelchair accessible and provides all abilities access.

- (i) **Issue:** Concerns that proposed green wall panels may not be feasible in this location due to limited sunlight. Request for a mural or artwork as an alternative instead.

Response: The proposed green wall panels will enhance the urban greening of the area and will soften the visual impact of the proposed APT to minimise impacts upon the HCA.

The applicant has provided a decommissioning strategy in the event of plant failure which has been reviewed and is supported by the City's Landscape Unit.

- (j) **Issue:** Concerns that the proposed APT will create unpleasant odours which could adversely impact upon residential amenity.

Response: The submitted Plan of Management, which is recommended for approval, confirms that the APT will be cleaned twice daily by the City's contractor, including the removal of rubbish and sharps. The cleaning frequency will ensure the APT maintains a high level of hygiene and will not adversely impact upon surrounding amenity.

- (k) **Issue:** Concerns that the proposed APT will be visible from residential properties and will adversely affect property values.

Response: Property values are not part of the planning merits-based assessment of development applications. Notwithstanding this, the proposed APT is appropriately located to provide passive surveillance from residential properties, whilst providing sufficient separation so as not to significantly or adversely affect residential amenity.

- (l) **Issue:** Concerns that the proposed APT will be used as a shelter for homeless people.

Response: The APT has an automatic opening system after prolonged use to prevent users from locking themselves in the toilet and detract homeless people from using the facility as a shelter.

- (m) **Issue:** Request that the toilet should be located elsewhere, closer to Woolloomooloo Wharf.

Response: This toilet location has been requested by members of the community to service Woolloomooloo Playground, a well-used public recreation area. The co-location of toilet facilities with community facilities is a well-established principle of good planning.

A separate APT located on Cowper Wharf Roadway close to Woolloomooloo Wharf is being proposed under separate application (D/2022/1248).

- (n) **Issue:** Objection to 24-hour operation of the APT.

Response: See assessment under 'Hours of Operation' of 'Discussion' section above.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

117. The development is not subject to a Section 7.11 development contribution as it will not create a net population increase and therefore is not required to pay a contribution.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

118. As the development is development for purposes other than residential accommodation that will result in the creation of less than 60 square metres of gross floor area, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

Relevant Legislation

119. Environmental Planning and Assessment Act 1979.

120. Heritage Act 1977.

Conclusion

121. The application has planning merit and is recommended for approval, subject to a condition requiring the toilet to be relocated to a more suitable position on Sydney Place.
122. Subject to recommended conditions, the proposed APT is appropriate and is generally compliant with the relevant planning controls in the Sydney LEP 2012 and Sydney DCP 2012.

123. The development is compatible with the existing nearby heritage items and appropriate conditions have been imposed to ensure the development does not detrimentally impact on the heritage significance of neighbouring sites.
124. The public interest is served by the approval of the proposal, as additional information to the development application has addressed the matters raised by the City and the community, subject to recommended conditions.
125. Subject to recommended conditions, it is considered that the proposed development will provide for an appropriately located new APT that is of a high design standard which can make an acceptable contribution to the public domain of the local government area.

ANDREW THOMAS

Executive Manager Planning and Development

Daniel Stanley, Planner