

**Item 4.****Development Application 5050 Cowper Wharf Roadway, Woolloomooloo - D/2022/1248**

File No.: D/2022/1248

**Summary**

<b>Date of Submission:</b>	1 December 2022
<b>Applicant:</b>	Mecone Group Pty Ltd
<b>Architect/Designer:</b>	Grimshaw Architects
<b>Developer:</b>	QMS Media
<b>Owner:</b>	City of Sydney
<b>Planning Consultant:</b>	Mecone Group Pty Ltd
<b>Heritage Consultant:</b>	CityPlan Heritage
<b>Cost of Works:</b>	\$453,882.00
<b>Zoning:</b>	The proposal is located within the MU1 Mixed Use zone under the Sydney Local Environment Plan 2012. The proposal is permissible with consent.
<b>Proposal Summary:</b>	<p>The application seeks consent for the installation of a public amenities building - automated public toilet, and associated advertising signage.</p> <p>The application is referred to the Local Planning Panel (LPP) for determination as the Council is the landowner and more than one objection has been received.</p> <p>The application was notified between 10 January 2023 and 9 February 2023. Fourteen submissions were received. The issues raised in the submissions have been considered during this assessment.</p> <p>It is considered that the proposed Automated Public Toilet (APT) is appropriately located in terms of local amenity, safety, and need, is of a high quality design. The application is supported.</p>

**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 (Resilience and Hazards) 2021
  - (iv) SEPP (Industry and Employment) 2021
  - (i) SEPP (Transport and Infrastructure) 2021
  - (ii) SEPP (Biodiversity and Conservation) 2021 - Chapter 6 Water Catchment
  - (iii) Sydney Local Environment Plan 2012
  - (iv) 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/2022/1248 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

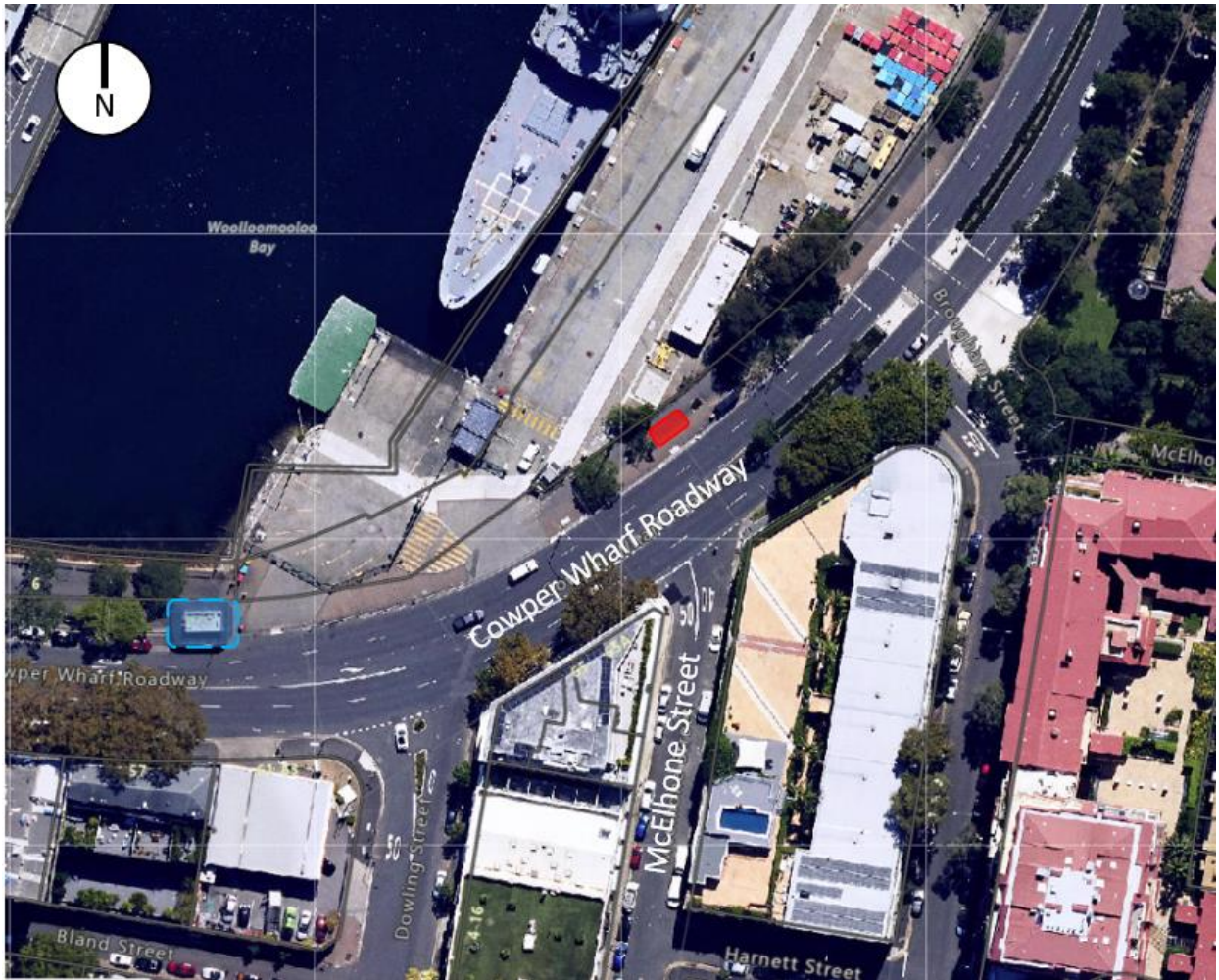
The application is recommended for approval for the following reasons:

- (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 MU1 Mixed Use 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 toilet.
- (E) 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.
- (F) The proposal is consistent with the City of Sydney Public Toilet Strategy 2014.

## Background

### The Site and Surrounding Development

1. The subject site comprises two street segments/lots known as 5050 Cowper Wharf Roadway, Woolloomooloo and 4040 Cowper Wharf Roadway, Woolloomooloo, which comprise part of the Cowper Wharf Roadway and an adjacent public footpath. The lots form a total area of approximately 1,097 square metres. The site is located next to the intersection of Cowper Wharf Roadway and McElhone Street.
2. The subject automated public toilet (APT) which is located on this site, covers an area of 13.9 square metres and is proposed to be located on the footpath on the north side of Cowper Wharf Roadway, between two existing planters. An existing bus stop is located 5.5 metres to the north, and a naval wharf personnel entrance and vehicle entrance are located up to 23 metres to the south.
3. The surrounding area is characterised by a mixture of land uses, primarily being residential, commercial, public recreation and defence. The neighbouring site to the north and west is a Defence naval wharf forming part of HMAS Kuttabul Navy Base. To the east, the site is bordered by Cowper Wharf Roadway on the opposite side of which there is a residential flat building. Harry's Café de Wheels, is located approximately 80 metres to the southwest on the same side of the roadway.
4. The site is located adjacent to state heritage item 01705 - Sydney Harbour Naval Precinct.
5. The site is not located within a conservation area or DCP locality area.
6. A site visit was carried out on 16 January 2023. Photos of the site and surrounds are provided below:



**Figure 1:** Aerial view of proposed APT location (identified in red) and surrounds, including Harry's Café de Wheels (identified in blue)



**Figure 2:** APT location (red underline) viewed facing west from the corner of Cowper Wharf Roadway and McElhone Street





**Figure 3:** Site viewed facing north, with approximate markings of the proposed APT location and size shown in red. Bus stop shown in the background.



**Figure 4:** General site viewed facing north, with existing street furniture, planters and utility service lids and pits shown in the foreground, and the naval yard to the left





**Figure 5:** General site viewed facing south, with existing bus stop to the left, and indicative APT location in the midground

## History Relevant to the Development Application

### Development Applications

7. A previous DA (D/2021/1087) for four APTs in various locations was considered by the Local Planning Panel at its meeting of 27 April 2022. One of the locations was on the opposite side of Cowper Wharf Road (close to Brougham St) which was recommended for approval by Council officers. While the LPP resolved to grant development consent, the Panel did not approve the APT at Cowper Wharf Road with Condition 2(b) stating:
  - (a) ***“The APT located at Cowper Wharf Road (A1020) is not approved as part of this consent and is deleted. Any consideration of a public toilet in this location would require an urban design analysis to ensure appropriate siting, including consideration of social impacts on nearby residential premises, prior to any application for approval being sought.”***
8. The application the subject of this report proposes an APT on the north side of Cowper Wharf Road approximately 55 metres to the west of the previously refused location.
9. This application is supported by an Urban Design Analysis Report, and considers that potential negative social impacts are mitigated through appropriate lighting, passive surveillance, adjacent naval security and a reduction of public urination.





**Figure 6:** Current proposed APT location shown in red, and formerly refused APT location shown in yellow

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 currently under assessment seeking development consent for new APTs, some of which include digital advertising panels or green walls, in various locations throughout the City of Sydney. 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, a request for additional information was sent to the applicant on 1 March 2023. The applicant was requested to provide a revised Urban Design Analysis Report which included an assessment of alternative locations within the vicinity of Cowper Wharf Roadway, Woolloomooloo, and indicate their appropriateness in comparison to the subject site.

13. 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

14. The proposed development is for the installation of one new Automated Public Toilet (APT). The APT is a 'double' type comprising 1 x accessible toilet and 1 x ambulant toilet and one integrated green wall panel and two advertising panels. The green wall panel will be integrated into the rear elevation, and the advertising panels to both side elevations.
15. The proposed APT comprises a contemporary design which is generally rectangular in shape with round edges, with the following dimensions:

Measurements	APT	Signage
Height	3075mm	2100mm
Width	4960mm	1338mm
Depth	2800mm (plus an 810mm awning)	-
Visible Screen Area	-	2.02sqm

16. 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.
17. The advertising panels will be used to display third-party advertisements in accordance with the terms of the City of Sydney Street Furniture and Outdoor Media Services Agreement between the City and QMS Media. The digital advertising panels are to operate 24 hours a day. In accordance with the Agreement, up to 10 per cent of the screen time of the digital advertising displays will be used for material and content managed by the City to advertise public information, community messages and promotion of events. Also, if an emergency arises then public information messaging can also be displayed by the panels.
18. Selected drawings of the new APT are provided below.

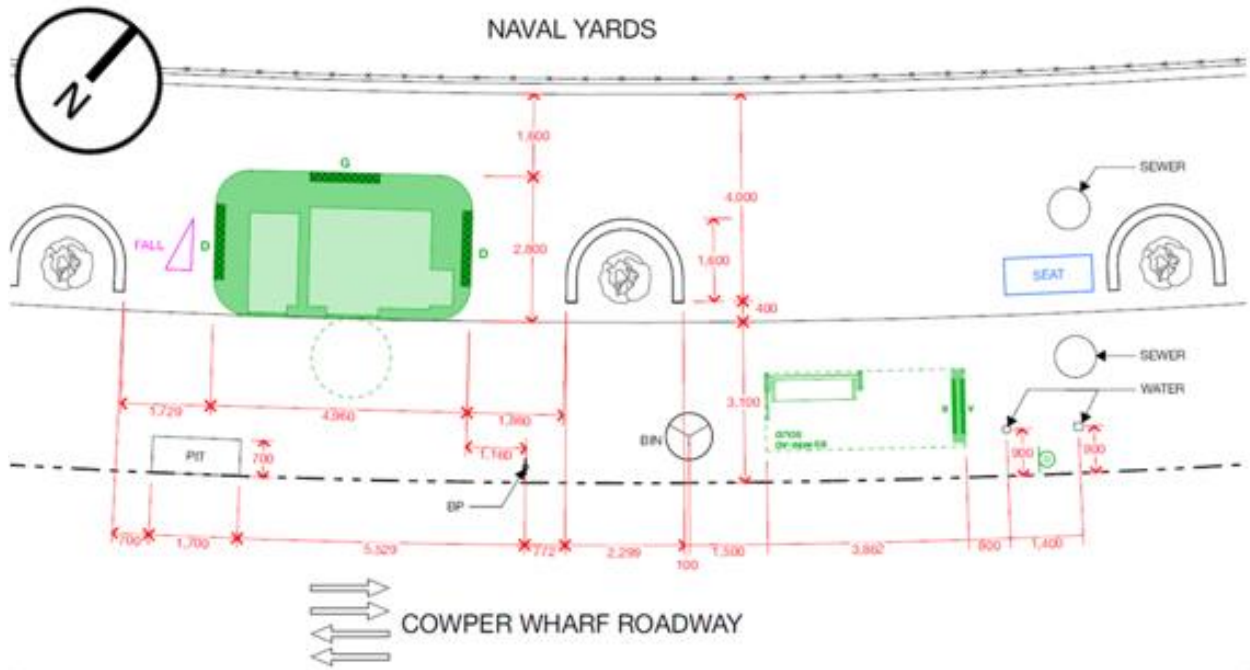
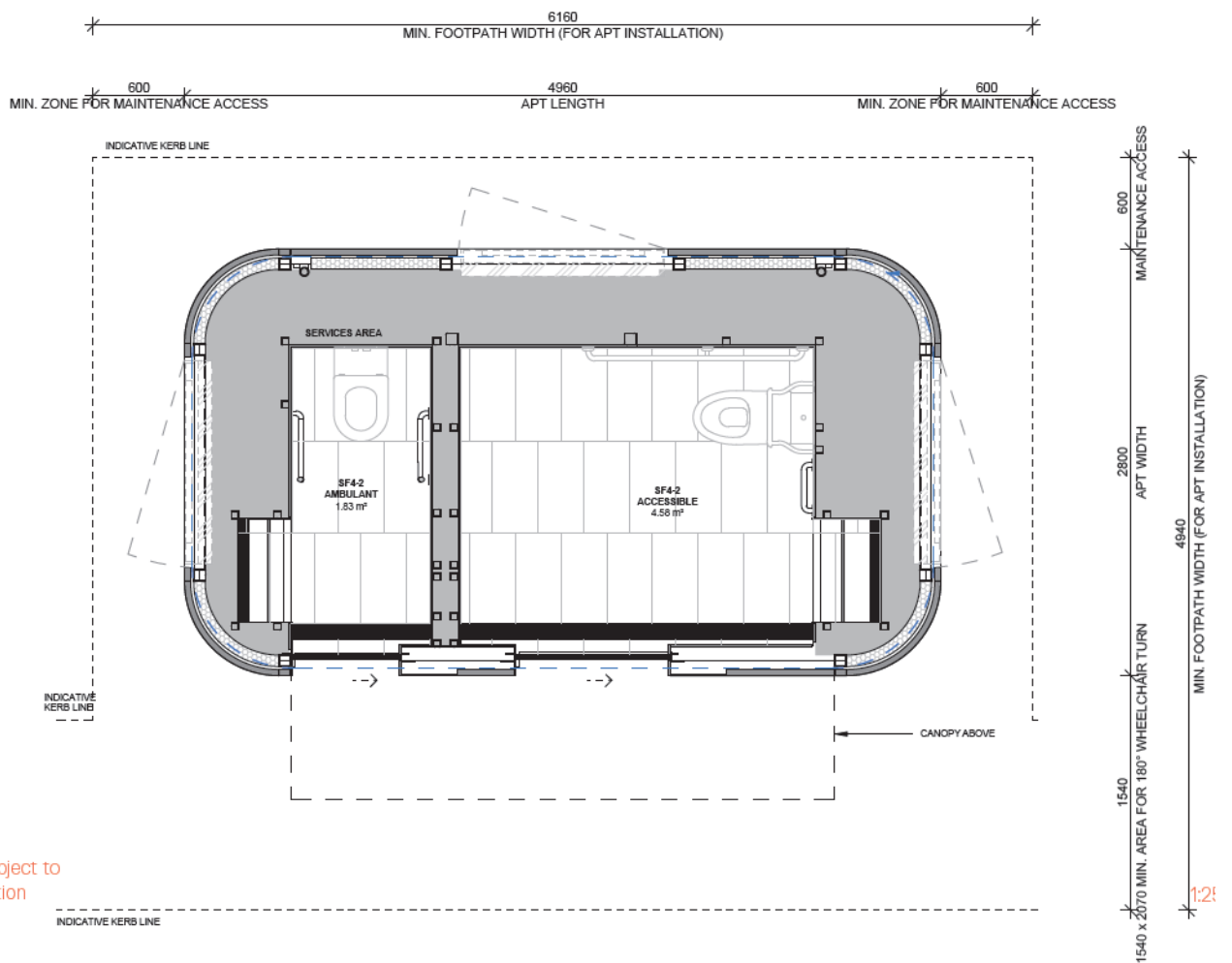


Figure 7: Proposed siting plan



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Figure 8: Proposed APT floor layout



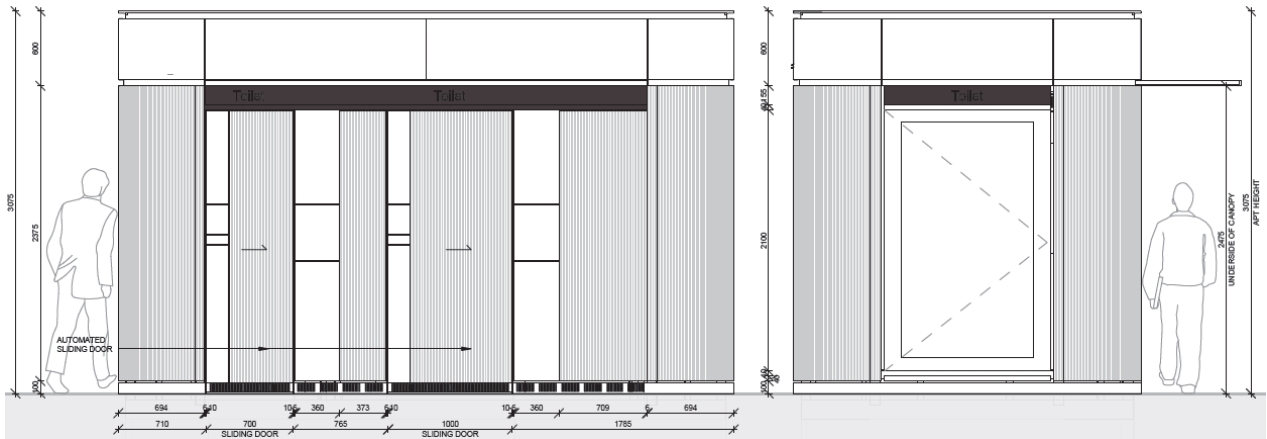


Figure 9: Proposed front and side elevations

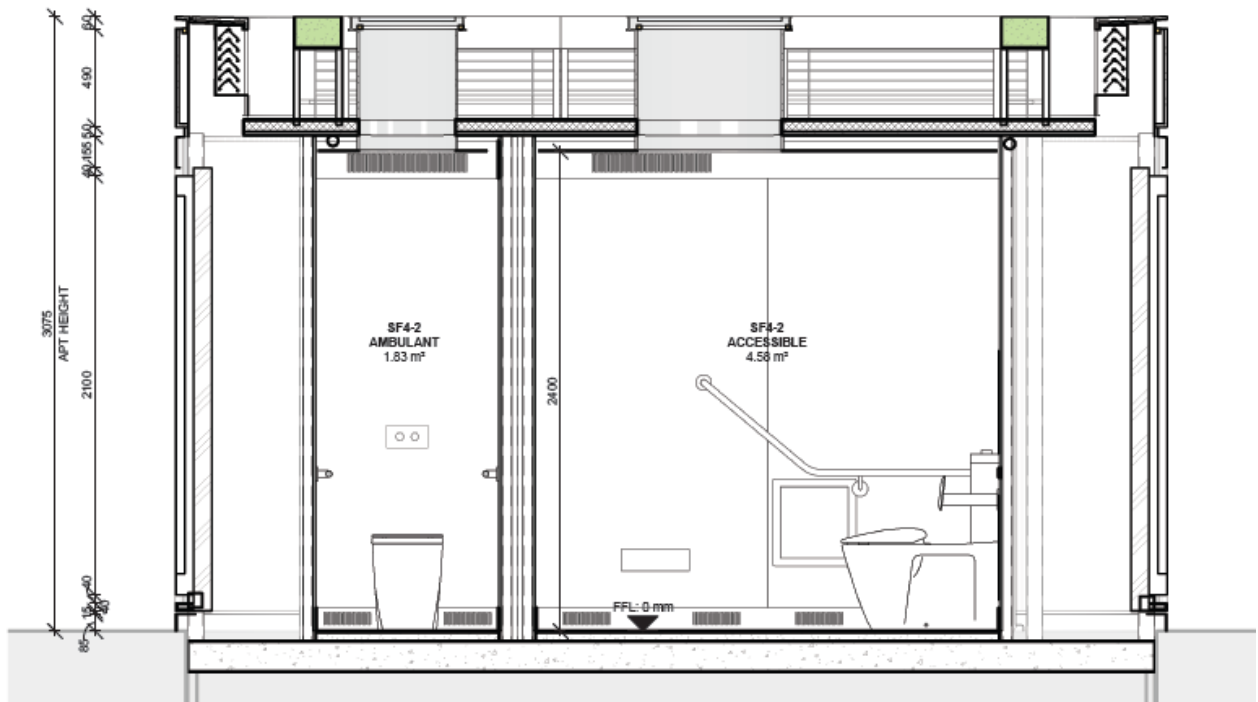


Figure 10: Proposed section



Figure 11: Proposed materials and colours schedule

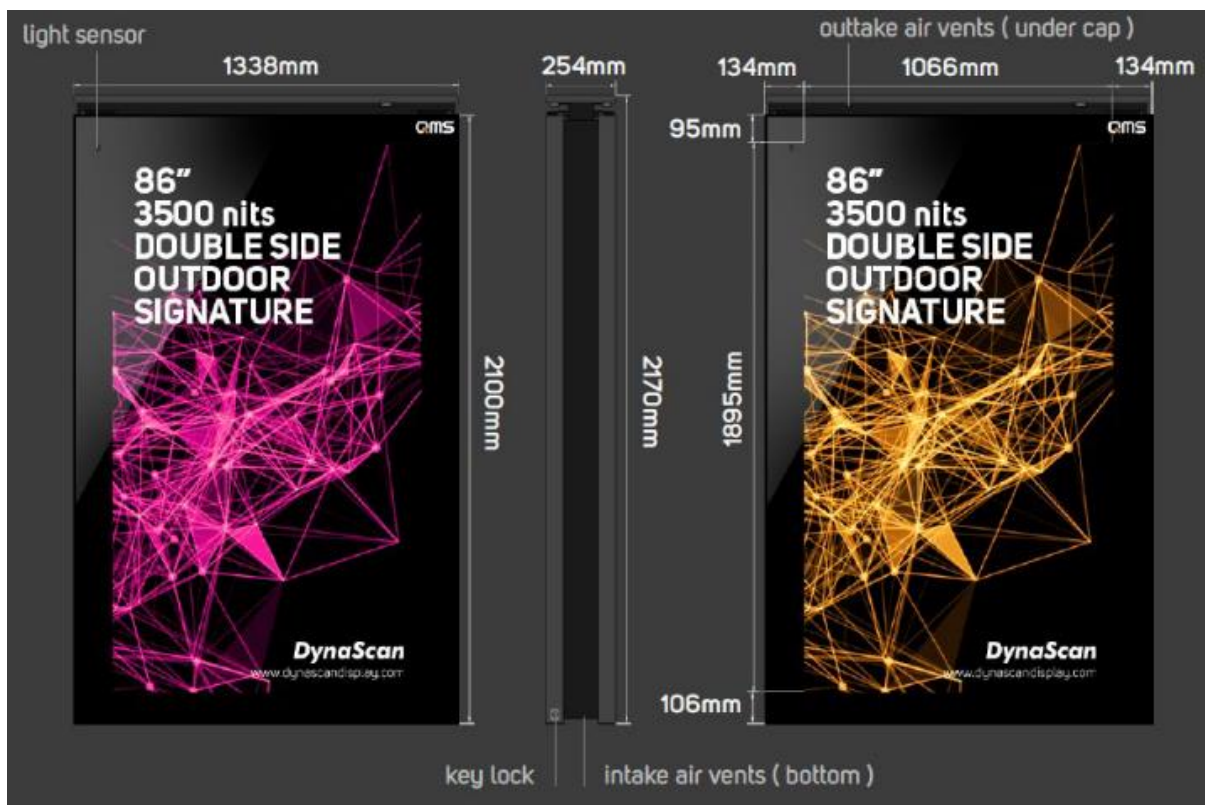


Figure 12: Proposed signage detail

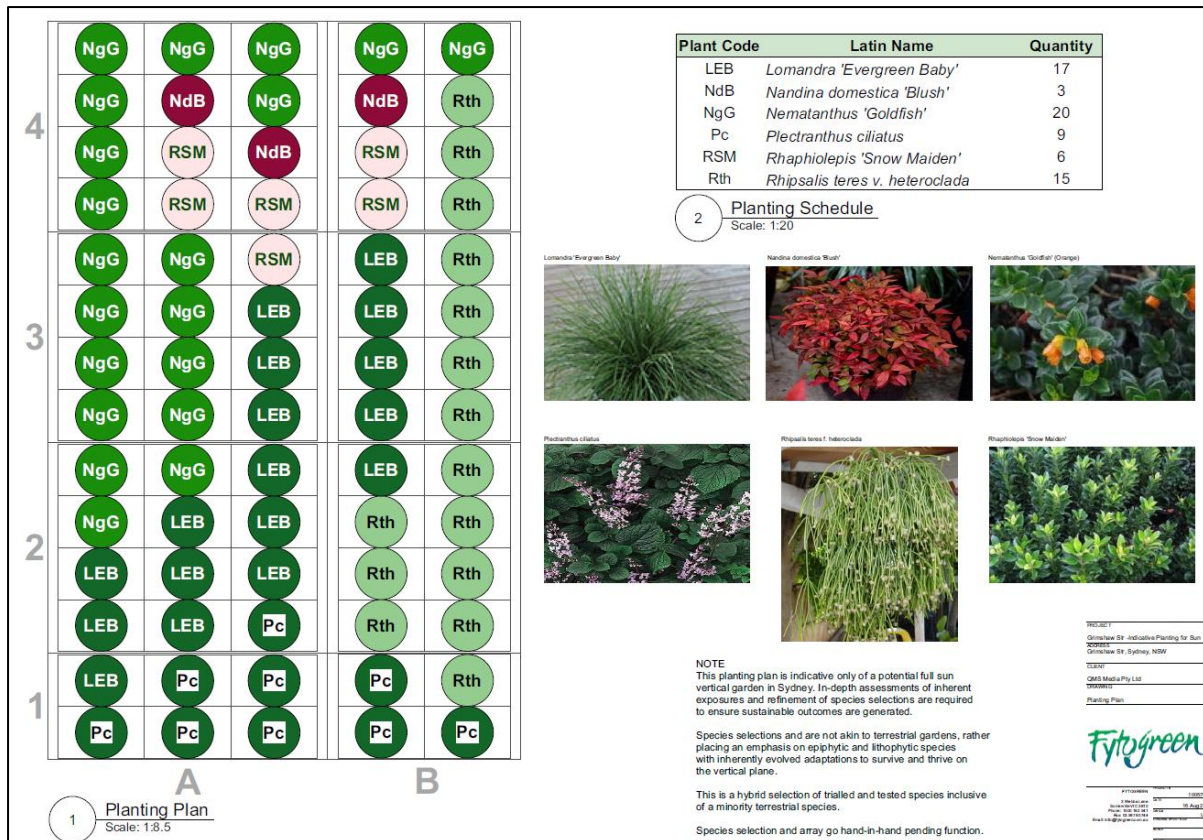


Figure 13: Proposed green wall planting schedule



Figure 14: Photomontage of the proposal viewed facing west from the corner of Cowper Wharf Roadway and McElhone Street





**Figure 15:** Photomontage of the proposal viewed facing north

## **Assessment**

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

## **State Environmental Planning Policies**

### **State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land**

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. The site has not been identified as contaminated and no remediation works are required.

### **State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage**

34. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
35. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 1 is provided in the table below.



Provision	Compliance	Comment
1. Character of the area	Yes	The proposal includes new advertising signage which is consistent with existing signage in the area.
2. Special areas	Yes	Subject to conditions, the proposed signage does not detract from the amenity or visual quality of the locality.
3. Views and vistas	Yes	The proposal includes new digital advertising, and subject to conditions will not further obscure or compromise and important views. It does not dominate the skyline and has no impact on the viewing rights of others.
4. Streetscape, setting or landscape	Yes	The proposal adopts a new standard design for street furniture digital advertising across the local government area that is of an appropriate scale, proportion and form and provides an acceptable contribution to the streetscape and setting of the areas.
5. Site and building	Yes	The scale, proportion and positioning of the new signage is largely consistent with existing signage in the area.
6. Associated devices and logos	Yes	Not applicable.
7. Illumination	Yes	Conditions of consent are recommended to ensure that the illumination does not result in unacceptable glare, affect safety or detract from the amenity of any residential accommodation.
8. Safety	Yes	Subject to conditions, the proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

36. It is also noted that Clause 3.12 of the SEPP restricts the duration of any development consent to a maximum of 15 years.
37. The proposed signage is consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

38. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

**Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations****Clause 2.119 – Development with frontage to classified road**

39. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Cowper Wharf Roadway which is a classified road.
40. The application was referred to Transport for NSW (TfNSW) for comment. TfNSW have reviewed the proposal and recommended conditions of consent regarding signage illumination and content.
41. The proposed development satisfies the provisions of Clause 2.119 subject to conditions of consent, as vehicular access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

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

42. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Part 6.2, Division 2, of the above SEPP, and for land within 100 metres of a natural waterbody in a regulated catchment the consent authority must consider the provisions of Part 6.2, Division 3.
43. While the proposal is within the Sydney Harbour Catchment and within 100 metres of a natural water body within the Sydney Harbour Catchment, the proposal is considered to be consistent with the provisions of Part 6.2 of the SEPP, subject to recommended conditions of consent.

**Local Environmental Plans****Sydney Local Environmental Plan 2012**

44. 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 proposed APT is located in the MU1 Mixed Use zone. The proposed development is defined as a community facility and signage and is permissible with consent in the zone. The proposal

Provision	Compliance	Comment
		generally meets the objectives of the zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	N/A	The site is not subject to a maximum height standard.
4.4 Floor space ratio	N/A	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 adjacent to state heritage item 01705 - Sydney Harbour Naval Precinct and is on the opposite side of Cowper Wharf Roadway to the Woolloomooloo (C71) Heritage Conservation Area.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage item, and will not detract from the heritage conservation area.</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 proposed development is of a high standard and uses materials and detailing which can contribute positively to the public domain of the local government area.

7.14 Acid Sulfate Soils	Yes	The site is located on land with class 2 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan as the works do not involve the disturbance of more than 1 tonne of soil.
7.15 Flood planning	Yes	The proposal is not subject to the 1% or 5% AEP flood.

## Part 7 Local provisions – general

### Development Control Plans

#### Sydney Development Control Plan 2012

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

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed APT will maintain an acceptable contribution to the public domain.
3.2.1.2 Public Views	Yes	While the proposed APT is located near the harbour foreshore it does not obstruct any significant views. The site between the proposed APT location and harbour is a naval wharf, which consistently docks Navy ships and includes existing buildings which interrupt the existing outlook towards the harbour.
3.5 Urban Ecology	Yes	The proposed green wall panel makes a contribution to the landscaping of the public domain.  The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology subject to conditions.
3.9 Heritage	Yes	The site is adjacent to state heritage item 01705 - Sydney Harbour Naval Precinct and across Cowper Wharf Roadway from the Woolloomooloo (C71) Heritage Conservation Area.



Provision	Compliance	Comment
		<p>The proposal does not present an adverse impact to the significance of the item, or the ongoing interpretation of the item and is not considered to detract from the nearby heritage conservation area.</p> <p>See 'Discussion.'</p>
3.12 Accessible Design	Yes	The proposal provides for accessible and ambulant toilets. Conditions of consent are recommended to ensure accessible design.
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development is generally designed in accordance with the CPTED principles.</p> <p>See 'Discussion'</p>
3.14 Waste	Yes	A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signage and Advertising	Yes	<p>The proposed development includes the provision of dynamic content signage.</p> <p>The relevant provisions of this section are considered below.</p>
3.16.3 Signage and Advertising	Yes	<p>The signage is compatible with the materials, finishes and colours of the streetscape, and will not detract from the amenity or visual quality of nearby heritage items or open space areas.</p> <p>Separate development approvals have been granted for digital advertising signs within the City and Cowper Wharf Roadway. As discussed elsewhere in this report, subject to conditions, this proposal will not result in additional unacceptable heritage, amenity or streetscape impacts as the size of the advertising panel, the proposed dwell time, and the signage content (being static) are commensurate with either the existing or approved advertising panels.</p>

Provision	Compliance	Comment
		Conditions of consent have been recommended by TfNSW to ensure the sign is appropriate within the vicinity of a classified road and will not distract drivers or be mistaken as a traffic control device.
3.16.4 Illuminated Signage	Yes	Appropriate conditions of consent are recommended to ensure the illumination of proposed signage does not result in unacceptable glare.
3.16.6.9 Dynamic Content Signs	Yes	<p>The proposed signs generally comply with the requirements of this section in that, subject to conditions, they will not contain animations, will include a dwell time of 10 seconds and a transition time of 0.1 seconds, and therefore will not cause a safety risk for road users.</p> <p>The DCP requires that dynamic content signs which are located in the MU1 zone do not operate between 11.00pm and 7.00am where visible from residential premises. The proposed signs are perpendicular to the nearest residential apartment, which is located 20m away on the opposite side of Cowper Wharf Roadway. As such this restriction is not considered to apply to the proposal.</p> <p>The proposed signs have a visible screen area of 2.02sqm, and are recessed into the APT. Despite the proposal not meeting the 1.5m<sup>2</sup> requirement, it is considered acceptable as the proposed signage matches existing signage within the city.</p>
3.16.7.1 Advertising structures and third-party advertisements	Yes	The signs are to be provided by QMS Media via the City of Sydney Street Furniture and Outdoor Media Services Agreement on behalf of the City of Sydney as a public authority.
3.16.11 Signage related heritage items and conservation areas	Yes	<p>The proposed signage is not considered to detract from the heritage significance of the neighbouring state heritage item.</p> <p>See 'Discussion.'</p>

## Discussion

### City of Sydney Public Toilet Strategy 2014

46. 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.
47. The key recommendations of the Strategy include:
  - 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.
  - Install new Automated Public Toilets at locations of high demand including **"Construction of nine new public toilets in key village centres... Cowper Wharf Road, Woolloomooloo."** (Extract from Public Toilet Strategy 2014).
  - Implement Crime Prevention Through Environmental Design and Environmentally Sustainable Design principles in planning, design, procurement and maintenance of public toilet facilities.
  - 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.
48. The APT is generally consistent with the recommendations of the Strategy.

### Urban Design Analysis

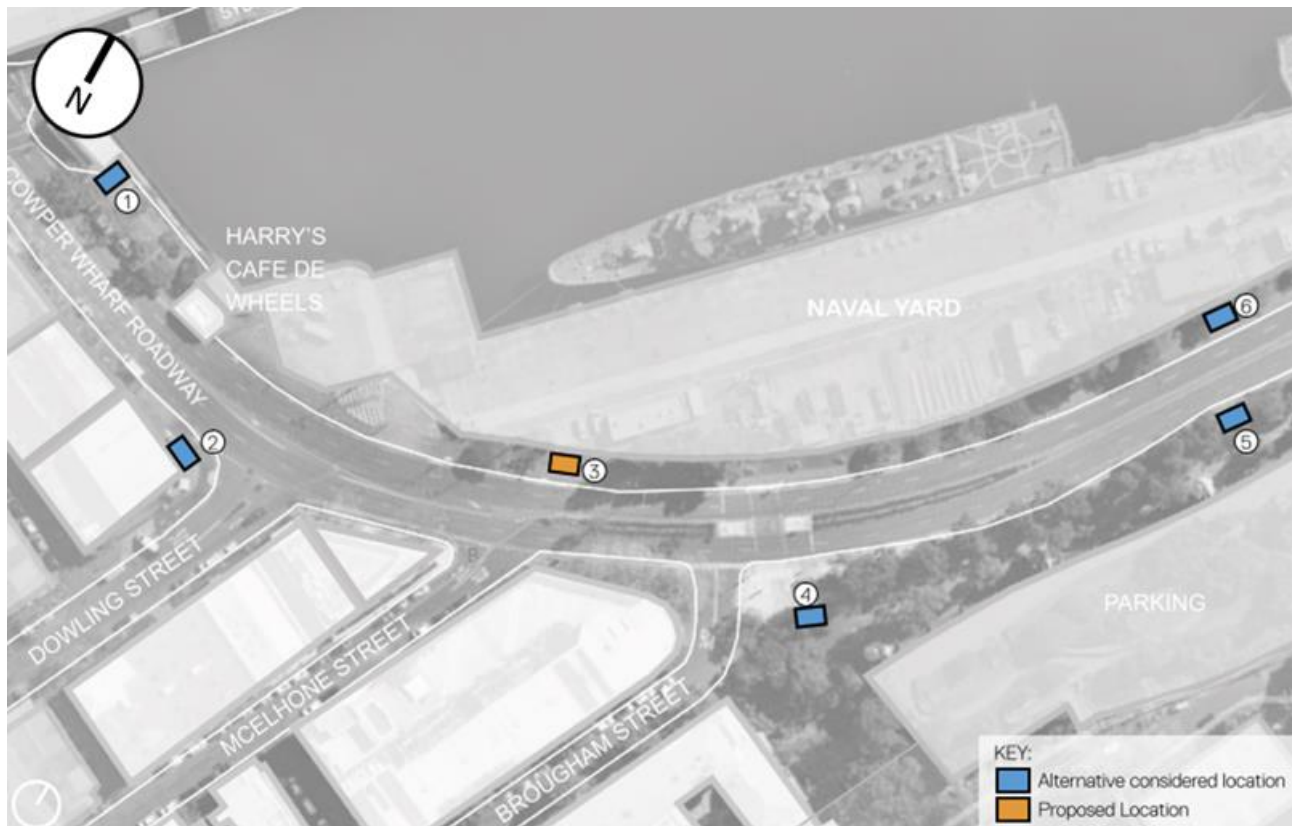
49. The applicant has submitted an Urban Design Analysis prepared by Grimshaw Architects. This Analysis covers the various APT locations the subject of DAs under assessment. The parts of the Analysis relevant to this DA can be found at Attachment C.
50. The Analysis provides the following explanation of the proposed siting:
  - (a) The proposed APT location is identified as being aligned with the Sydney Public Toilet Strategy 2014 and is capable of servicing much of the Potts Point and Woolloomooloo suburbs.
  - (b) The APT is capable of servicing Harry's Café de Wheels, which is located 80m to the southwest, and which does not include its own toilet facilities.
  - (c) The proposal is located on a wide and accessible footpath (see Figure 16).
  - (d) The APT will contribute to addressing public urination.



**Figure 16:** A plan from the Urban Design analysis demonstrating pedestrian accessibility and site features around the proposal

51. An expanded Urban Design Analysis was provided during assessment which considered alternate locations (demonstrated in Figure 17), and provided considerations as to why the proposed location is most appropriate:
- (a) Alternative location 1 was dismissed by the Analysis as the location is not located on Council owned land.
  - (b) Alternative location 4 was assessed under D/2021/1087. The location was refused by the Local Planning Panel due to the lack of an urban design analysis to ensure appropriate siting, including consideration of social impacts on nearby residential properties. The Analysis indicates location 3 is preferred over 4, as a higher degree of passive surveillance is provided due to proximity to a naval base.
  - (c) Alternative location 2 is constrained by narrow footpaths and compromises vehicle site lines. Locations 5 and 6 are located too far from Harry's Café de Wheels/activity in Woolloomooloo and experiences low foot traffic.





**Figure 17:** Proposed APT location is shown in orange, with alternative locations within the vicinity of Cowper Wharf Roadway shown in blue

52. The Analysis was subsequently presented to Council's Design Advisory Panel. The Panel advised as follows:
- (a) The Panel's preferred location is no. 1 near Harry's Café de Wheels, however, it is noted that this is Crown land and toilets in this location should be sensitive to water views from the café.
  - (b) The Panel agreed with the assessment that locations 5, 6 and 2 are not recommended as they are too far from pedestrian desire lines and/or impede sightlines.
  - (c) The Panel recommended that another location to the southwest of the bus stop be considered and evaluated against no. 3, which is the preferred option of those presented.
53. Council staff has considered the Panel comments and has further reviewed location 1. While the location was found to be privately owned land and not Crown land, the location was not considered to be a preferred alternative to location 3 as the site is listed as a Local and State Heritage Item, includes a 'right of footway', would obstruct use and views of the foreshore, and is not owned by Council. While these factors may not necessarily preclude the installation of an APT in this area, Council considers that location 3 is a superior location due to its position away from the more sensitive parts of the harbour foreshore and not being encumbered by the constraints of the private land.
54. In line with the Panel comments, positions to the southwest of location 3 were considered. However, existing street furniture and utilities were located in this area,

and a closer APT proximity to the naval wharf gate would likely obstruct the desire lines of Navy personnel entering and leaving the wharf.

### **Green Wall Panel**

55. Full details have been provided of the proposed green wall panel, including details on soil specifications, drainage and irrigation design, planting species and wall fixing details. In addition, the applicant has engaged Fytogreen to be responsible for the maintenance and upkeep of the green wall via inspections conducted every two months.
56. The proposal is supported by Council's Landscaping Officer subject to conditions.

### **Street Furniture Location**

57. 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.
58. The applicant has requested a similar condition allowing the possible relocation by up to 1 metre to allow for some fine-tuning of the final sitting of the structure.
59. It is considered that the above condition is not appropriate for the subject application. It is recommended that should consent be granted, it be restricted to the footprint as shown on the plans. This is to ensure that they do not have a detrimental impact on their settings 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.
60. Any future necessity for a re-positioning of the APT should be subject of a separate s4.55 modification application or development application.

### **Heritage**

61. The site is adjacent to state heritage item 01705 - Sydney Harbour Naval Precinct and is across Cowper Wharf Roadway from the Woolloomooloo (C71) Heritage Conservation Area. The Sydney Harbour Naval Precinct is utilised as a working facility of the Royal Australian Navy, and as shown in Figure 18, the item encompasses Garden Island, Northern Potts Point, and the eastern shoreline of Woolloomooloo Bay.



**Figure 18:** Aerial view and GIS layer demonstrating the size of the subject state heritage item

62. Council's Heritage Specialist has raised concerns regarding the proposal's proximity to the state heritage item, and the obscuration of the wharf and perimeter fence.
63. Notwithstanding it is considered that, due to the size of the heritage item and its use as a working naval facility and inclusion of naval infrastructure, and due to the high quality design of the APT and its location away from the boundary fence, that the proposal will not detract from the significance or interpretation of the item.
64. The proposed APT will ensure pedestrians will retain access along the adjacent footpath and retain views of the wharf and fence within the vicinity of the proposal.
65. An assessment of the APT's potential impact to the McElhone Street view corridor towards the heritage item has been considered and is demonstrated in Figure 19. Due to the narrow outlook afforded within this view corridor, and the existing naval infrastructure within the vicinity of the APT, the view corridor is not considered to be adversely impacted.



66. It is considered that the APT does not detract from the nearby Woolloomooloo (C71) Heritage Conservation Area due to the high quality design of the APT and their separation by Cowper Wharf Roadway.



**Figure 19:** Site viewed from the McElhone view corridor, with APT location sketched in red

### **Safety and Security**

67. 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.
68. 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.
69. 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.



70. 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 a suitable location 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, Navy security and personnel, and commuters at the nearby bus stop. This is further benefitted by the openness and accessibility of the site;
  - (b) The proximity of the site to a main road will obscure noise associated with the use of the APT and also deter loitering;
  - (c) The site is well lit by street lighting; and
  - (d) The APT will contribute to the reduction in anti-social behaviour such as public urination.
71. As shown in Figure 20, the APT is to be located close to a naval wharf personnel and vehicle entrance, and an associated guardhouse. It is considered that the base will contribute to the deterrence of antisocial behaviour within its vicinity and around the APT, as it includes a regular security presence within the guardhouse, CCTV cameras lighting, regular use, and signage regarding armed patrols.



**Figure 20:** Subject site viewed looking north, with Navy base vehicle and personnel entrance, and guardhouse in the foreground, and proposed APT location in background (red). Photo taken with permission from naval security.

72. The proposal is also supported by a Plan of Management which incorporates the following emergency response procedures and timeframes which are to operate 24 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.
73. 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.
74. The proposal is considered to be a benefit to local public amenity.

## Consultation

### Internal Referrals

75. The application was discussed with Council's:
- (a) City Design Unit;
  - (b) Electrical and Furniture Design Unit;
  - (c) Heritage and Urban Design Unit;
  - (d) Landscaping Unit
  - (e) Public Domain Unit;
  - (f) Safe City Unit;
  - (g) Transport and Access Unit;
  - (h) Tree Management Unit; and,
  - (i) Waste Management Unit.
76. The Heritage and Urban Design Unit raised concerns with the proposed development, which have been discussed under the subheading - 'Heritage' in the Discussion section.
77. The remaining units advised that the proposal is acceptable subject to conditions or have raised no objections. Where appropriate, these conditions are included in the Notice of Determination.

**External Referrals****NSW Police**

78. The application was referred to NSW Police for comment.
79. Comments received from the NSW Police have been considered in the 'Safety and Security' section within the 'Discussion.'

**Transport for NSW**

80. Pursuant to Clause 2.119 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
81. Comments were received on 2 February 2023. Conditions of consent were recommended which are included in the Notice of Determination.

**Advertising and Notification**

82. In accordance with the City of Sydney Community Participation Plan 2022 the proposed development was notified and advertised for a period of 28 days between 10 January 2023 and 9 February 2023. A total of 331 properties were notified and 14 submissions were received.
83. Figure 21 identifies the location of submitters.



**Figure 21:** Aerial view of proposed APT location in red and the location of submitters identified in orange

84. The submissions raised the following issues:

- (a) **Issue:** The proposed APT will have an adverse impact on the acoustic amenity and security of neighbouring residential properties as the APT will attract antisocial and criminal behaviour.
- (b) **Response:** The APT is situated 20 metres from the nearest residential premises which is a secure apartment building. The APT and residential premises are also separated by a four-lane main road (see Figure 22 below).

As discussed in the 'Safety and Security' section of the 'Discussion' above, the location of the APT is considered appropriate having regard to CPTED principles and is considered likely to contribute to the reduction of anti-social behaviour. Council records indicate that existing public toilets are not associated with an increase in local criminal activity.

Notwithstanding this, the management plan for the APT includes emergency response measures for any public safety issues including damage and graffiti.





**Figure 22:** Proposed APT location is shown in the foreground (red markings) and the nearest residential apartment is shown in the background

- (c) **Issue:** The proposed APT presents a visual impact to the harbour foreshore.
- (d) **Response:** The proposed APT is 4.96 metres in width, and 3.075 metres in height. The APT is a relatively small structure which does not obscure any substantial portion of the harbour foreshore. Additionally, the APT is located 28 metres from the foreshore, and existing naval infrastructure including a regular ship presence and a perimeter fence obscures any foreshore outlook.

The APT design is well considered and informed by the City of Sydney Design Advisory Panel and will complement the surrounding environment.

The proposed signage has been assessed against relevant provisions of the Sydney DCP 2012 and the Industry and Employment SEPP 2021 and is considered to be appropriate subject to conditions of consent.

The assessment of the McElhone Street view corridor, and the neighbouring state heritage item has been outlined in the 'Discussion' section of this report and the proposal is considered to present a very low impact to harbour and heritage views.

- (e) **Issue:** The APT is unnecessary in the area, and the community can utilise toilets within nearby bars and hotels.
- (f) **Response:** Cowper Wharf Road is identified as being a high priority for the provision of a new APT in Council's Public Toilet Strategy 2014.

The site is situated close to McElhone Steps which serves as an important pedestrian/commuter route from the city to Potts Point. The area is also frequented by visitors to the nearby Embarkation Park and is also located next to a bus stop. There is consequently a high volume of footway traffic justifying the need for a public toilet in the proposed location.

It is appropriate that this public amenity be supplemented by the provision of publicly accessible facilities, and that it is not reasonable to rely on privately owned licenced premises for this amenity.

- (g) **Issue:** The proposed location for the APT is not a suitable site. Alternative sites in the area are more appropriate.
- (h) **Response:** Cowper Wharf Road is identified as being high priority for the provision of a new APT in Council's Public Toilet Strategy 2014. The site is also located within the MU1 Mixed Use zone of the Local Environmental Plan 2012 in which new signage and community facilities are permissible with consent.

The applicant has submitted an Urban Design Analysis Report which considers alternative locations for the proposed APT. In line with Councils' Public Toilet Strategy 2014, the alternative locations were located within the vicinity of Cowper Wharf Roadway. This study was considered by the City of Sydney Design Advisory Panel and the comments of the panel have been considered in the 'Discussion' section of this report.

- (i) **Issue:** The APT will result in a drop in local property value
- (j) **Response:** The value of properties is not a consideration for assessment under the provisions of the Environmental Planning and Assessment Act 1979.

## Financial Contributions

### Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

#### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

- 90. 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

- 91. Environmental Planning and Assessment Act 1979.

## Conclusion

- 92. 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.

93. 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.
94. 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.
95. Subject to the recommended conditions, it is considered that the proposed development will provide for appropriately located new APT that is of a high design standard which can contribute positively to the public domain of local government area.
96. The proposal represents a benefit to public amenity and is aligned with the City of Sydney Public Toilet Strategy 2014.

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