

4 February 2026

At 5.00 pm

Local Planning Panel



Agenda

- 1. Disclosures of Interest**
- 2. Confirmation of Minutes**
- 3. Development Application: 6 Billyard Avenue, Elizabeth Bay - D/2025/954**
- 4. Development Application: 4-6 York Street, Sydney - D/2025/1053**



As part of our democratic process, the City invites members of the community to speak directly to Members of the Local Planning Panel (LPP) about items on a meeting agenda.

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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the LPP report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the LPP may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

At the start of each LPP meeting, the Chair may re-order agenda items so that those items with speakers can be dealt with first.

LPP reports are on line at www.cityofsydney.nsw.gov.au

Item 1.

Disclosures of Interest

In accordance with section 4.9 of the Code of Conduct for Local Planning Panel Members, all Panel members are required to sign a declaration of interest in relation to each matter on the agenda.

Pursuant to the provisions of Clause 15 of Schedule 4B of the Environmental Planning and Assessment Act 1979, members of the Local Planning Panel are required to disclose pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

Panel members are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

In both cases, the nature of the interest must be disclosed.

Item 2.

Confirmation of Minutes

Minutes of the following meeting of the Local Planning Panel, which have been endorsed by the Panel Members and Chair of that meeting, are submitted for noting:

Meeting of 17 December 2025

Item 3.**Development Application: 6 Billyard Avenue, Elizabeth Bay - D/2025/954****File Number:** D/2025/954**Summary****Date of Submission:** 8 October 2025**Applicant:** Edgewater Investments Pty Ltd**Architect/Designer:** 1001 Designs
Architecture and Building Consultants**Owner:** Edgewater Investments Pty Ltd**Planning Consultant:** Design Collaborative Pty Limited**Heritage Consultant:** Design Collaborative Pty Limited**Cost of Works:** \$12,650**Zoning:** R1 General Residential

Proposal Summary: The application proposes a fence along part of the northern (side) property boundary. The fence will be a pipe and chain-wire fence, painted black, and ranges in height from 1.5m where it is adjacent to the building and stepped down to approximately 700mm towards the foreshore.

The application has received more than 25 submissions and therefore is referred to the Local Planning Panel for determination. Specifically, 36 objections and 4 submissions in support of the proposal were received. The objections raise the following concerns: unsightliness, disruption to the landscaped foreshore area, impact to communal amenity, removal of landscaping, obstruction to access including emergency access, impediment to vehicular movement, impact to the heritage significance, view impacts, amenity impacts, encroachments, and insufficient and incorrect information.

The proposed fence design is considered appropriate with regard to its historic and heritage context, visibility and sightlines, landscape and foreshore setting, and character of the area.

The proposed fence is consistent with the provisions of the relevant Environmental Planning Instruments and Development Control Plans. The development application is recommended for approval subject to the recommended conditions included in Attachment A..

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

Development Controls: Sydney Local Environmental Plan 2012
Sydney Development Control Plan 2012
Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005
SEPP (Housing) 2021
SEPP (Resilience and Hazards) 2021
SEPP (Biodiversity and Conservation) 2021

Attachments: A. Recommended Conditions of Consent
B. Selected Drawings
C. Submissions

Recommendation

It is resolved that consent be granted to Development Application Number D/2025/954 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 development, subject to conditions, is consistent with the objectives of the R1 General Residential zone.
- (B) The design of the fence responds appropriately to the scale of surrounding buildings.
- (C) The development is compatible with the character of the Elizabeth and Rushcutters Bay Heritage Conservation Area.
- (D) The development will not unreasonably compromise the amenity of nearby properties.
- (E) The development, subject to conditions, meets the objectives of the relevant planning controls.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 6 March 2024 as being within the following category:
 - Contentious Development
2. The development application falls within the category of Contentious Development as it has received more than 25 unique submissions by way of objection.

The Site and Surrounding Development

3. The site has a legal description of Lot 3 DP 9754 and Lot 1 DP 221726 and is known as 6 Billyard Avenue, Elizabeth Bay. The site is irregular in shape with an area of approximately 731sqm and frontage to Billyard Avenue, to the west.
4. The eastern property boundary comprises the mean high-water mark of Elizabeth Bay. A sea wall of approximately 800mm height marks the edge of the landscaping, then slopes down a stone battered embankment to the water's edge of Elizabeth Bay.
5. The site contains a 7-storey interwar brick building with attic, constructed circa 1936 known as 'Edgewater'. The building presents to Billyard Avenue as a 4-storey building, in the art-deco architectural style with a concrete gangway to the street (see Figure 3 below). The setback to the foreshore area includes existing landscaping on the ground level and balconies on the upper floors.
6. The existing building is identified as contributory in the Elizabeth and Rushcutters Bay heritage conservation area (HCA) (C20) in accordance with the Sydney Development Control Plan (DCP) and Local Environmental Plan (LEP) 2012.
7. Part of the site (Lot 1, DP 221726 located at the north-east corner - see **Figure 2**) is subject to a covenant to the benefit of the neighbouring lots to the north limiting fence heights to 8 feet (approximately 2.44m) above the mean sea level. There are no other relevant easements, restrictions, covenants, or rights-of-way associated with the area of the proposed development.
8. Properties in the surrounding area and along Billyard Avenue are predominantly residential and include single detached dwellings and residential flat buildings. Both neighbouring sites include multi-storey residential buildings:
 - 4 Billyard Avenue to the north, is a 6-storey residential building. The site presents to the foreshore with car parking, landscaped area, hard paving, decking, glass balustrading and timber posts along the foreshore.
 - 8-10 Billyard Avenue to the south is an 11-storey residential building with landscaped setback.
9. The subject site and surrounding buildings along Elizabeth Bay are characterised by balconies and windows presenting to the foreshore area. The foreshore area includes landscaped setbacks, swimming pools, tennis courts, and private docking structures over the water.

10. The surrounding area also includes:
 - Garden Island Royal Australian Navy Base located approximately 20m to the north of the subject site with an access point at the end of Billyard Avenue;
 - A private harbour pool located south of the site, in Elizabeth Bay adjoining the neighbouring properties at 8-10 and 12-16 Billyard Avenue, Elizabeth Bay;
 - The foreshore public recreation areas of Beare Park and Kings Cross Rotary Park located approximately 180m to the south-east.
11. The site is located within the Bays locality (DCP 2.4.6) and is identified as subject to flooding.
12. A site visit was carried out on 12 November 2025. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds

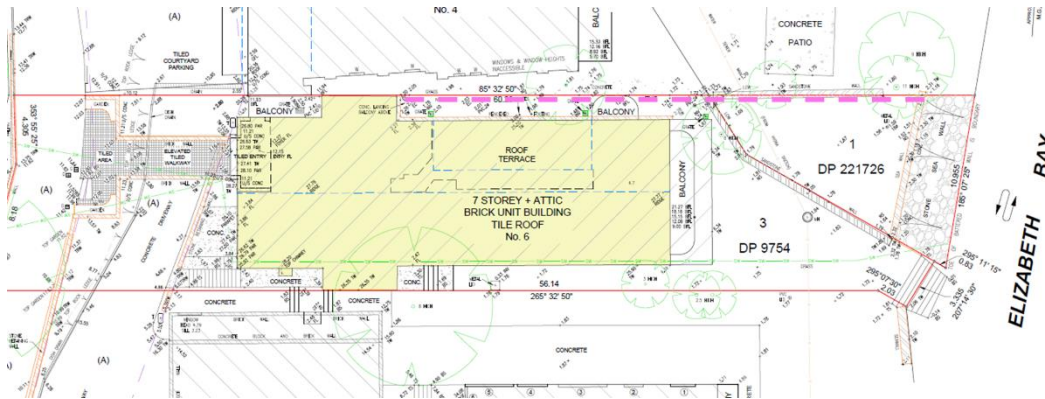


Figure 2: Extract of the submitted survey and indicative alignment of the proposed fence (shown in pink and dashed), building footprint, and site boundaries as a composite of 2 lots - Lot 3, DP 9754 and Lot 1, DP 221726 (which is the triangular shaped lot that is the subject of the covenant)



Figure 3: Site viewed from Billyard Avenue

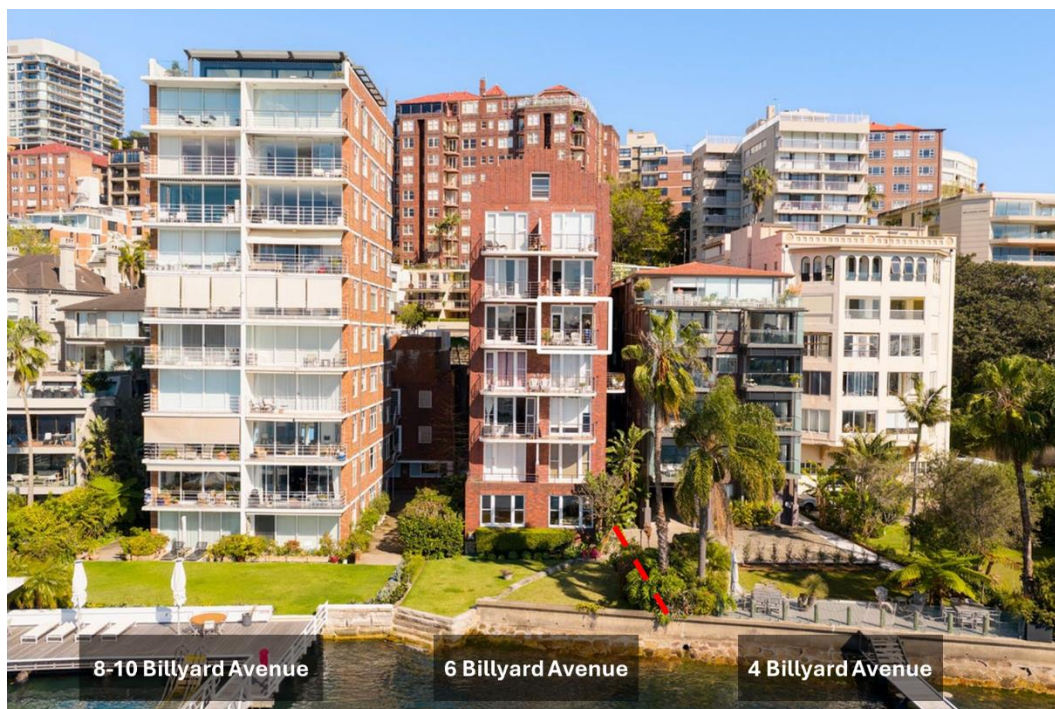


Figure 4: Aerial view of the site, indicative alignment of proposed fence (as shown in red and dashed), neighbouring properties and foreshore area (from Realestate.com)



Figure 5: Subject site as viewed from the rear yard foreshore area and indicative alignment of proposed fence (as shown in red and dashed)



Figure 6: Rear yard and foreshore area of 6 Billyard Avenue with view towards neighbouring properties to the north and indicative alignment of proposed fence (as shown in red and dashed)



Figure 7: Rear yard and foreshore area of 6 Billyard Avenue with view towards neighbouring properties to the south



Figure 8: Property boundary and indicative alignment of proposed fence (as shown in red and dashed) between 4 Billyard Avenue (left) and 6 Billyard Avenue (right), as viewed from above



Figure 9: Property boundary and indicative alignment of proposed fence (shown in red and dashed) between 6 Billyard Avenue (left) and 4 Billyard Avenue (right), as viewed from the east



Figure 10: Subject site (as indicated) viewed from the Elizabeth Bay Marina located to the south

History Relevant to the Development Application

13. The building on site known as 'Edgewater' was constructed circa 1936. The building at the time of its construction included a jetty, ocean pool, and tennis court located to the south, on the current neighbouring lot at 8-10 Billyard Avenue.

Development Applications

14. The following applications are relevant to the current proposal:
 - **U91/00310** – Development consent was refused in Council's resolution dated 28 August 1991 for the erection of a timber deck adjacent to the foreshore of Elizabeth Bay.
 - **U92/00423** – Development consent was granted in Council's resolution dated 29 July 1992 for the erection of a timber deck on seaward side of seawall.

Compliance Action

15. The site was subject to investigation in June 2025 about the possible unlawful construction of a fence. No building works were found to have been undertaken. Property management for the site was contacted and they confirmed a development application was being prepared for a fence.

Amendments

16. Following a preliminary assessment of the proposed development and site visit by Council Officers, a request for additional information and clarification was sought on 18 November 2025 regarding the former fence located along the northern property boundary. The applicant responded to the request on 19 November 2025, and submitted information regarding the previous fence in this location.

Proposed Development

17. The application seeks consent for the construction of a fence within the boundaries of the subject site, 6 Billyard Avenue, Elizabeth Bay running along part of the northern property boundary with the neighbouring 4 Billyard Avenue, Elizabeth Bay.
18. The proposed fence runs along the side setback of the building and continues to the foreshore area of Elizabeth Bay for a total length of 32.6m. The height of the proposed fence varies along its length, ranging from 1.5m where it is adjacent to the building and stepped down to approximately 700mm towards the foreshore.
19. The submitted Statement of Environmental Effects clarifies the height of the fence is designed in consideration of the covenant on title that limits the fence to 8 feet (2.44m) above the mean sea level.
20. The proposal is described as a replacement fence along the northern boundary. No existing fence at this location was observed on attending the site on 12 November 2025. It is clarified that the proposed fence replaces a previous fence in this location, as shown in the submitted Statement of Environmental Effects and supplementary information provided (see Figure 15 below). The proposed fence is partially taller when compared with the previous fence. The proposed fence pipe and chain-wire fence style is similar to the previous fence.

21. Plans and elevations of the proposed development are provided below.

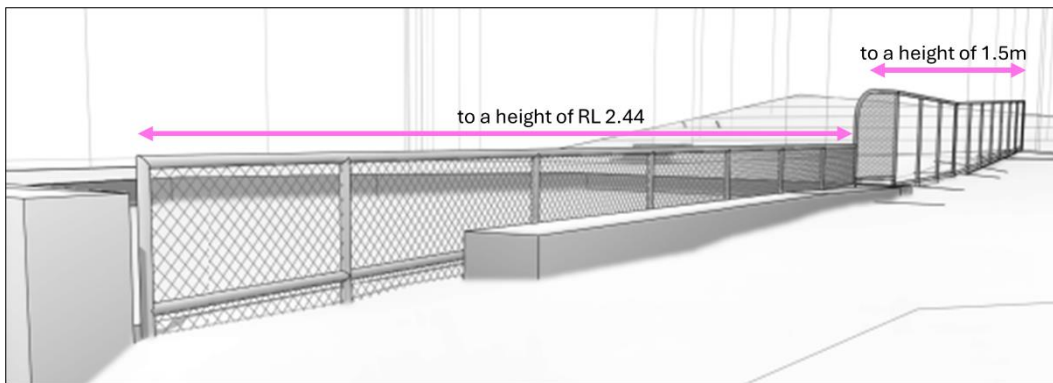


Figure 11: Render of the proposed fence as viewed from the north (with indications of height) - the sandstone base is existing with no changes proposed

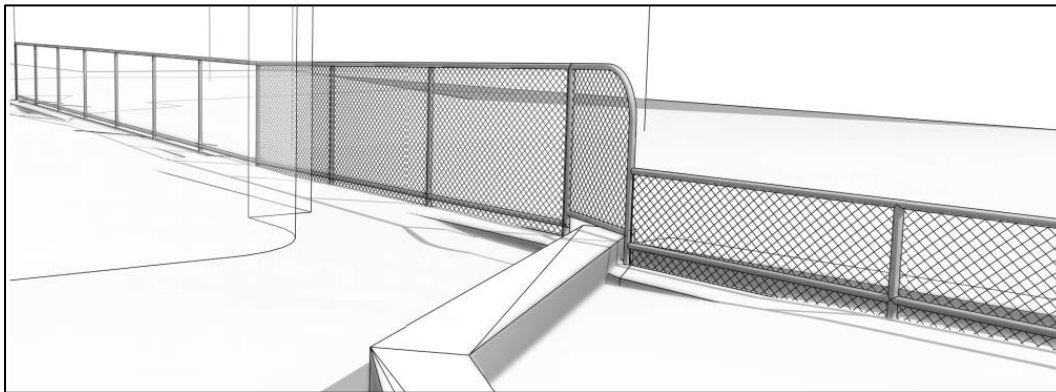


Figure 12: Render of the proposed fence as viewed from the south - the sandstone base is existing with no changes proposed

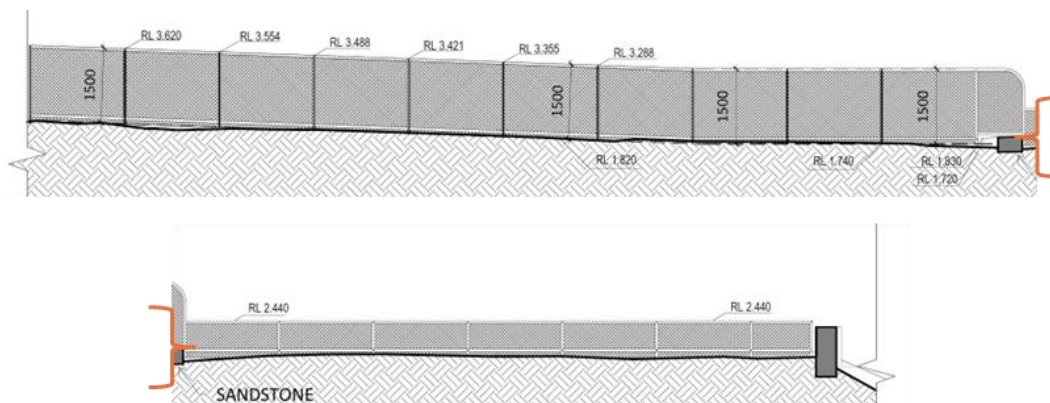


Figure 13: Extract of southern elevation drawing showing the proposed fence in two parts - the taller part (top image) adjacent to the existing building, and shorter part (bottom image) towards the foreshore area

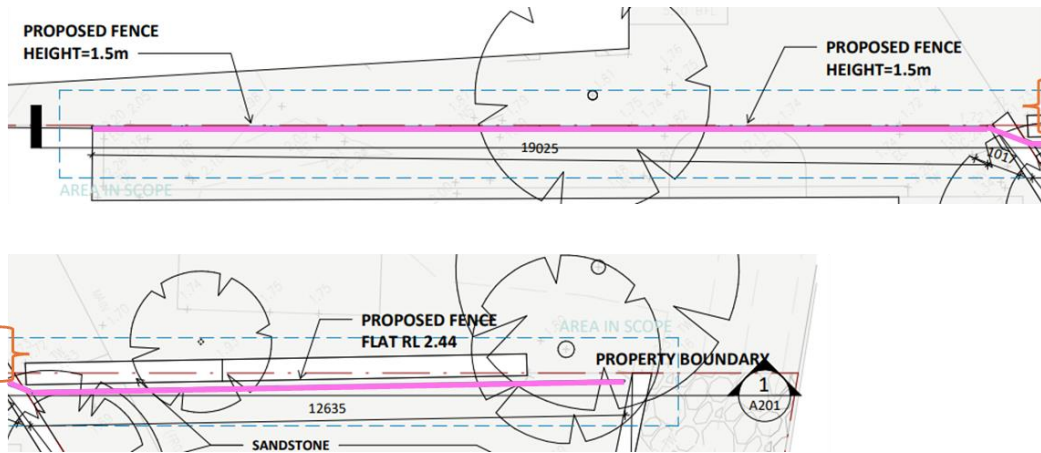


Figure 14: Extract of the plan showing the proposed fence (indicated in pink) in two parts-the taller part (top image) adjacent to the existing building, and shorter part (bottom image) towards the foreshore area



Figure 15: Previous fence located between 4 and 6 Billyard Avenue. Photographs were provided by the applicant and dated to September 2014.

Assessment

22. 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 (Housing) 2021

23. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

24. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
25. The proposed development does not comprise the erection of a new building, or the substantial redevelopment, refurbishment, or conversion of an existing residential flat building. The existing residential flat building is maintained on-site without any substantial redevelopment, refurbishment, or alteration and chapter 4 is not applicable.

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

26. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. The site is also located in the Foreshores Waterways Area and as such the development is considered in regard to the relevant matters of the SEPP.
27. An assessment of the proposed development against specific provisions of the SEPP (Biodiversity and Conservation) 2021 is provided in the following sections.

Provision	Compliance	Comment
6.6 Water quality and quantity	Yes	The proposed fence comprises minimal impact on the existing stormwater run-off and does not impact water quality.
6.7 Aquatic ecology	Yes	The proposed fence is located above the mean high-water mark and over the existing landscape, paved and garden areas. There is minimal impact to terrestrial or aquatic animals or vegetation. The proposed fence is located alongside the existing trees and runs through the existing landscaping. The proposal does not include the removal of existing trees or significant vegetation. The development has minimal impacts and will not adversely affect the site or surrounding area.
6.8 Flooding	Yes	The site and proposal are identified as being subject to flooding. The proposed fence design will not impede or obstruct the flow of floodwaters and is consistent with the provisions of the City's Interim Floodplain Management Policy.
6.9 Recreation and public access	Yes	There is no existing or proposed public access to and around the foreshore in this location. The proposed fence does

Provision	Compliance	Comment
		not inhibit public access along the foreshore - see further details in the 'Discussion' section below.
6.10 Total catchment management	Yes	The proposed fence does not comprise an adverse environmental impact on the catchment. Consultation with adjacent or downstream local government areas is not warranted.
6.11 Land within 100m of natural waterbody	Yes	The proposal is not a water-dependent use and does not conflict with surrounding land uses.
6.28 General	Yes	The proposal is considered in regard to the provisions relevant to the foreshores and waterways area. The proposed fence maintains natural assets of the harbour including the topography and landscape setting. The development is considered in regard the principles outlined in this subsection.
6.32 Rocky foreshores and significant seagrasses	Yes	The site is identified as being in proximity to seagrass. The proposed fence located over the existing paved and landscaped area does not impact seagrass areas, aquatic ecological, or ecological communities in rocky foreshore areas.

Local Environmental Plans

Sydney Local Environmental Plan 2012

28. 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 R1 General Residential zone. The proposed development is fencing associated with the existing residential flat building. The proposed development meets the

Provision	Compliance	Comment
		objectives of the zone and is permissible with consent in the zone.
4.3 Height of buildings	Yes	The maximum building height permitted is 27m. The proposed fence with a variable height of 700mm to 1.5m complies with the maximum building height standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.1 and 5.1A Development on land intended to be acquired for public purposes	N/A	The site is not identified for acquisition.
5.10 Heritage conservation	Yes	The site is not heritage listed but is identified as a contributing item located in the Elizabeth Bay and Rushcutters Bay heritage conservation area (C20). The fence height comprises a reduced height in consideration of the views, and the pipe and chain-wire construct allows for vision through the material. The fence is permeable to minimise any obstructing sightlines to neighbouring landscaped areas. The pipe and chain-wire construct is also characteristic of fencing originally present on the site and surrounding area (see Figures 12, 13 and 14) The proposed fence is appropriate in consideration of its context including the surrounding buildings, landscaping and the character of the area. The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area. The application was also referred to the City's Heritage and Urban Design Panel and no objection was raised.
5.21 Flood planning	Yes	The site and proposal are identified as being subject to flooding.

Provision	Compliance	Comment
		The proposed fence design will not impede or obstruct the flow of floodwaters and is consistent with the provisions of the City's Interim Floodplain Management Policy.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.19A Views of Sydney Harbour	Yes	This clause applies to views of Sydney Harbour as viewed from specific public places in the vicinity of Observatory Park approximately 2km from the site. The proposed development does not obstruct the identified views of Sydney Harbour specified in this provision.
6.21 Design excellence	Yes	The proposed fence comprises material, design, detailing, massing, and modulation that is appropriate in the context of its location, in response to the building and character area. See further details in the 'Discussion' section below.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 2 Foreshore development		
7.10 Foreshore building line 7.11 Development on the foreshore must ensure access	Yes	Development consent may be granted for fencing in the foreshore area. The design of the fence is compatible in relation to the surrounding area, as detailed in the 'Discussion' section below. The proposal does not comprise pollution, involve siltation of the waterway, harm surrounding uses, marine habitat, wetland areas, flora or fauna, or adversely affect drainage patterns.

Provision	Compliance	Comment
		The proposed fence maintains the historic, scientific, cultural, social, archaeological, architectural, natural and aesthetic significance of the land as detailed in this report. The proposed development is considered in regard to the opportunities to provide for continuous public foreshore access. It is noted that in this locality, there is no public access to the foreshore. Access to the foreshore is only over private land. The proposed fence would not cause congestion or conflict with access to the waterway as detailed in the 'Discussion' section below.
Division 4 Miscellaneous		
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.

Development Control Plans

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

29. An assessment of the proposed development against the relevant provisions within the Sydney Harbour Foreshores and Waterways Area Development Control Plan (DCP) 2005 is provided in the following sections.

Provision	Compliance	Comment
2. Ecological Assessment	Yes	The site is identified as an area of urban development with scattered trees of low conservation value. The proposal does not involve the removal of any of the mature trees in proximity to the boundary. Some removal of existing ground cover including grass and existing hedge plants may require pruning to accommodate the proposed fence. The predominant landscaping of the site and surrounding area is maintained.

Provision	Compliance	Comment
		The proposed development, subject to conditions is consistent the performance criteria of the DCP 2005.
3. Landscape Assessment	Yes	The site is identified in landscape character type 8, described as an area with a high level of built form with residential uses. The proposed height and permeability of the fence allow for views through and over the fence. The proposed fence integrates with the natural environment, minimises contrast with the natural environment, minimises amenity impacts, and maintains natural features.
4. Design guidelines for water-based and land/water interface development	N/A	The proposal does not involve water-based or land/water interface development.
5. Design guidelines for land-based developments 5.2 Foreshore Access	Yes	The DCP 2005 outlines different forms of public access and encourages foreshore access wherever possible. There is no current or proposed provision for public access of this part of the foreshore area in any environmental planning instrument, proposed instrument, development control plan, planning agreement, or regulations.
5.3 Siting of Buildings and Structures	Yes	A 12m landscape setback (for public use) is identified in the DCP 2012. The proposed fence by nature comprises a narrow profile along the property boundary and does not inhibit the provision of landscaping in the setback area. The 12m landscaped setback along the foreshore area is maintained, as viewed from the foreshore and Elizabeth Bay. The proposal does not involve the removal of any trees and the predominant landscaping of the site and surrounding area is maintained.

Provision	Compliance	Comment
5.4 Built form	Yes	The proposed fence comprises an appropriate height and form that allow views of the private gardens from the waterway and along the foreshore area. The proposed fence design is further detailed in the 'Discussion' section below.

Sydney Development Control Plan 2012

30. 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

31. The site is located within the Bays locality and the principles refer to the view corridors to Sydney Harbour and parks, maintaining the landscaped setting, the foreshore setback, and landscaped setting that allows view sharing to continue from the private domain and gaps between buildings.
32. The proposed development is in keeping with the unique character and the design principles of the Bays locality. Particularly, the proposed fence comprises an appropriate height and form that allow views of the private gardens from the waterway and along the foreshore area, and maintains the building in a landscaped setting. The proposed fence design is further detailed in the 'Discussion' section below.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The proposed fence is located on private land and does not impact on the public domain.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and does not adversely impact the local urban ecology.
3.7 Water and Flood Management	Yes	The site is identified as being subject to flooding. The proposed fence design will not impede or obstruct the flow of floodwaters and is consistent with the provisions of the City's Interim Floodplain Management Policy.

Provision	Compliance	Comment
3.9 Heritage	Yes	The site is not heritage listed but is identified as a contributing item located in the Elizabeth Bay and Rushcutters Bay heritage conservation area (C20). The fence height comprises a reduced height in consideration of the views, and the pipe and chain-wire construct allows for vision through the material. The fence is permeable to minimise any obstructing sightlines to neighbouring landscaped areas. The pipe and chain-wire construct is also characteristic of fencing originally present on the site and surrounding area (see Figures 12, 13 and 14) The proposed fence is appropriate in consideration of its context including the surrounding buildings, landscaping and the character of the area. The proposed development will not have detrimental impact on the significance of the heritage conservation area. The application was also referred to the City's Heritage and Urban Design Panel and no objection was raised.
3.13 Social and Environmental Responsibilities	Yes	The proposed boundary fence minimises illegitimate access and delineates the 2 properties. The pipe and chain-wire construct is visually permeable and minimises opportunities for concealment. The proposal is consistent with the established principles of crime prevention through environmental design (CPTED).
3.14 Waste	Yes	A condition has been recommended to ensure the implementation of the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.3 Amenity		
4.2.2 Building setbacks	Yes	The DCP 2012 building setback and alignment map identifies a 12m landscape setback (for public use) along the foreshore area of Elizabeth Bay. The proposed fence extends to the foreshore area behind the existing sea wall. The existing sea wall is setback approximately 3m from the property boundary and mean high water mark of Elizabeth Bay. The proposed fence by nature comprises a narrow profile along the property boundary and does not inhibit the provision of landscaping in the setback area. The 12m landscaped setback along the foreshore area is maintained, as viewed from the foreshore and Elizabeth Bay. The proposal does not involve the removal of any trees and the predominant landscaping of the site and surrounding area is maintained. There is no specific reference in the DCP 2012 to the 'public use' identified on the map, as a form of access or other use. In any case, the proposal does not inhibit the continued use of this part of the foreshore which is in private ownership. There is no current provision for public access of this area of the foreshore in any environmental planning instrument, proposed instrument, development control plan, planning agreement, or the regulations. The 'Discussion' section below includes further details regarding provisions regarding public foreshore access.
4.2.3.1 Solar access	Yes	The proposed fence is located along part of the northern boundary of the

Provision	Compliance	Comment
		subject site and runs parallel with the 6-storey building at the neighbouring 4 Billyard Avenue. There is limited existing available solar access along the side setback. The proposed fence does not create significant additional overshadowing in accordance with the DCP 2012.
4.2.3.5 Landscaping 4.2.3.6 Deep Soil 4.2.3.7 Private open space	Yes	The proposed fence of 32.6m length involves the installation of posts at regular intervals fixed into the ground. The fencing posts comprise a nominal footprint that maintains the landscaped area and landscaped foreshore setting. The natural features including the topography and existing trees are also maintained. The proposal is consistent with the provisions of the DCP.
4.2.4 Fine grain, architectural diversity and articulation 4.2.5 Types of development	Yes	The proposed fence is appropriate along the property boundary. The height responds to the building, the heritage character, and the landscape setting along the foreshore area. Further details are included in the 'Discussion' section below regarding the design of the fence.

Discussion

Fence Design

33. The proposal seeks the reinstatement of the fence previously in the same location (see Figure 15 above). The proposed fence is taller with a height of 1.5m along the length of the building and then subsequently steps down to a varying height of approximately 700mm towards the foreshore.
34. The proposed pipe and chain-wire construct is consistent in its form and style with: previous fencing in this location, other historical fencing on the site (Figure 16) and historical fencing of the area evident from archive images (Figure 17).

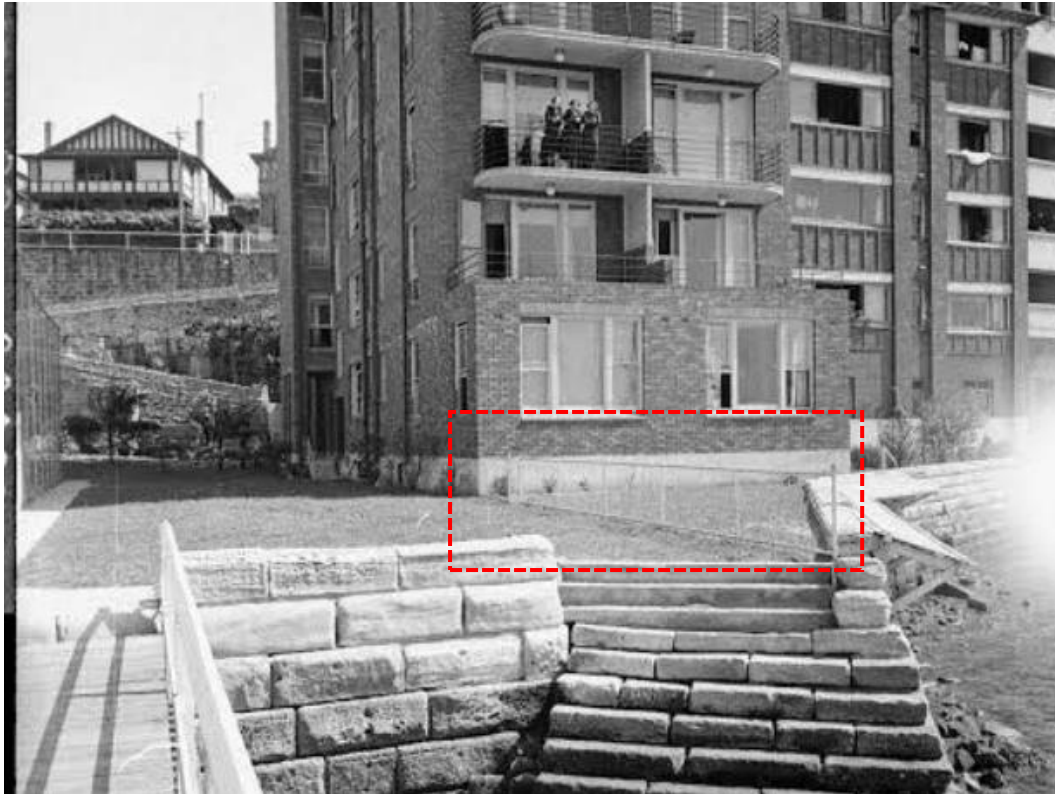


Figure 16: Subject site as viewed from the east, including fencing (indicated in red) adjacent to the southern boundary



Figure 17: Images of fencing along Billyard Avenue, circa 1961 (images from the City of Sydney archives)

35. The proposed 1.5m fence height is consistent with the maximum 1.8m high side and rear fence provision of the Development Control Plan (DCP) 2012 for low-density residential development including single, terrace, and dual occupancy dwellings. This provision is not directly related to fencing associated with residential flat buildings. The proposed fencing height is therefore considered on a merit-basis.

36. The proposed 1.5m fence height aligns with the existing rear building alignment of the residential flat building and separates the side setback areas of the two buildings at 4 and 6 Billyard Avenue. As viewed from the north and neighbouring property at 4 Billyard Avenue, this part of the fence is located in front of the wall and windows of the subject site, 6 Billyard Avenue. This part of the fence does not unreasonably obscure any landscaping or harbour views, as viewed from any neighbouring property.
37. As viewed from the water, the proposed 1.5m height of the fence is setback approximately 12.6m from the existing sea wall and aligned with the existing rear building setback. The predominant landscape character of the foreshore area is maintained.
38. The remaining part of the fence comprises a reduced height ranging from 700mm to 800mm. A covenant affects this part of the site limiting fencing to a height of 8 feet (approximately 2.44m) above mean sea level specifically in response to protecting harbour views. The proposed fence on this part of the site comprises a height to RL 2.44 and is consistent with the covenant.
39. The presentation of the proposed 700mm to 800mm part of the fence is considered from its various angles from the water. The proposed fence is aligned perpendicular to the foreshore. The front elevation from the water is significantly obscured by the existing sea wall and presents as approximately 120mm top of post behind the existing sea wall and among the existing vegetation group.
40. Viewed obliquely from the water, and from the south, the fence appears behind the neighbouring ocean pool and associated structures and furniture, behind the sea wall, screened behind vegetation and presents at a scale equivalent or below the height of the vehicles in the car park in the rear setback of the neighbouring 4 Billyard Avenue.
41. Viewed obliquely from the water, and from the north, the fence appears behind the landscaping, landscaping structures, decking and vehicles in the car park in the rear setback of the neighbouring 4 Billyard Avenue.
42. In accordance with the DCP 2005, the proposed fence may be described as low height, generally located behind existing vegetation, without obscuring vegetation, and consistent in scale with the surrounding natural and built environment as viewed from the water. The proposal is consistent with the provisions of the DCP 2005 for low fence heights to allow views of private gardens from the waterway.
43. The proposed pipe and chain-wire construct does not comprise a solid face, is visually permeable and allows for viewing through to minimise any obstructing sightlines to landscaped areas. The scale of the fence along the foreshore and its dark and non-reflective colour does not detract from the existing landscaping and foreshore area.
44. The proposed development is considered in regard to the contributory building and the broader Heritage Conservation Area and will not have detrimental impact on the significance of the heritage conservation area. The application was also referred to the City's Senior Heritage Specialist, and no objection was raised.

Foreshore Access

45. The site is identified in the foreshore building area in accordance with the Sydney LEP 2012, in the Foreshores and Waterways Area identified in the SEPP Biodiversity Conservation 2021 and DCP 2005 and the following sections include relevant provisions for consideration regarding foreshore access.

46. Section 7.10(3)(e) of the Sydney LEP 2012 specifies:

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that-

(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised

47. Section 7.11 of the Sydney LEP 2012 specifies:

In deciding whether to grant development consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following-

(a) continuous public access to and along the foreshore through or adjacent to the proposed development,

(b) public access to link with existing or proposed open space,

(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land

48. Section 6.9 of the SEPP (Biodiversity and Conservation) 2021 specifies:

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider—

(a) the likely impact of the development on recreational land uses in the regulated catchment, and

(b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—

(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,

(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,

(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.

49. Section 5.2 of the Sydney Harbour Foreshores and Waterways Area Development Control Plan (DCP) 2005 also notes:

Foreshore access is to be encouraged and wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved.

Most desirable are foreshore links joining public open spaces or access points. They can be obtained by right of way or dedicated or acquired strips of land and may link with tracks across beaches and rock platforms. Where foreshore access cannot be achieved, a linkage through adjacent streets is usually possible.

50. The proposed fence does not compromise continuous public access as there is no existing public access along the foreshore of the subject site. The closest land along the foreshore area zoned RE1 Public Recreation for public open space, recreation and accessibility is the Kings Cross Rotary Park and Beare Park located approximately 180m to the south-east.
51. There is no current or proposed provision for public access of this area of the foreshore in any environmental planning instrument, proposed instrument, development control plan, planning agreement, or the regulations.
52. The application was discussed with the City's Public Domain Strategy and Strategic Planning and Urban Design teams. No plans have been identified regarding public foreshore access in this area.
53. In the case where there is a strategic intention for public access along the foreshore this is generally achieved through provisions for acquisition or part of any substantial redevelopment of the foreshore. In these circumstances, the proposed fence would be considered for removal and would not discourage or hinder opportunities to provide public access along the foreshore.

Consultation

Internal Referrals

54. The application was discussed with Council's:
 - (a) Heritage and Urban Design Unit
 - (b) Surveyors
 - (c) Strategic Planning and Urban Design Unit
 - (d) Public Domain Strategy
55. There were no objections raised from the above sections of Council.

Advertising and Notification

56. In accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan, the proposed development was notified for a period of 14 days between 16 October 2025 and 31 October 2025. A total of 175 properties were notified and 41 submissions were received
57. Of the 41 submissions received:
 - One was subsequently withdrawn

- 4 supported the proposed development
- 36 objected to the proposed development

58. The submissions raised the following issues:

- (a) Issue: fence is not attractive, industrial, inconsistent, diminishes the aesthetic value of the harbour setting, eyesore, visually intrusive, hard, institutional, harsh, ugly, commercial, tall barrier, fortress-like, overly defensive, conspicuous, jarring, obtrusive,
- Response: The proposed pipe and chain-wire construct is characteristic of the historical form of fencing of the site and surrounding area (see Figures 12, 13 and 14 above). The proposed fence comprises a varied height characteristic of the residential setting. The 1.5m high part of the fence is aligned with the building - this part of the fence does not extend to the rear setback of the building and foreshore area and does not detract from any landscaping area.

The proposed fence extending to the rear setback and foreshore area comprises a variable height of 700mm to 800mm. The visibility is limited given the height and location of the proposed fence. As viewed from Elizabeth Bay and the foreshore area, the fence would appear behind sea walls, neighbouring decking and parked vehicles, and established landscaping and trees.

The proposed pipe and chain-wire construct does not present as a solid face, is visually permeable and allows for views through the structure. The scale of the fence along the foreshore and its dark and non-reflective colour does not detract from the existing landscaping and foreshore area.

- (b) Issue: out of character with the unfenced open boundaries, sever the continuous landscaped foreshore character, disrupt the open harbour garden setting, hard visual barrier, reduce natural surveillance, incompatible visual character, erodes view corridor and permeability,
- Response: As detailed above, the fence is characteristic of the historical form of fencing in this location, on this site and in the surrounding area. The scale of the fence is appropriate in its residential, landscaped and foreshore setting.

The proposed fence extending to the rear setback and foreshore area comprises a variable height of 700mm to 800mm. The visibility is limited given the height and location of the proposed fence. The proposed pipe and chain-wire construct does not present as a solid face, is visually permeable and allows for views through to allow sightlines across landscaped areas. The scale of the fence along the foreshore and its dark and non-reflective colour does not detract from the existing landscaping and foreshore area.

- (c) Issue: undermine communal amenity, children can no longer play across boundaries, fracture social fabric,
- Response: There are no existing easements requiring continuous access across private properties along this part of the foreshore. The rear landscaped areas of both properties on either side of the proposed fence are retained and remain accessible from Billyard Avenue.

- (d) Issue: fragments the shared garden, adversely affect advanced landscaping, encroaches the landscaped foreshore setback
- Response: The proposal does not involve the removal of any of the mature trees in proximity to the boundary. There may be incidental removal of existing ground cover and vegetation to accommodate the proposed fence. The predominant landscaping of the site and surrounding area is maintained.
- (e) Issue: removes neighbourly access, impede access to parking and manoeuvring, services and maintenance along the boundary, blocks emergency access
- Response: The proposed fence is located along the property boundary and within the subject site. There are no registered easements, restrictions, covenants or rights of way burdening the site to the benefit of the neighbouring property or emergency services regarding access or vehicle manoeuvring. Emergency services may still access the foreshore from Billyard Avenue if required.

Objections refer to the space between the 2 buildings at 4 and 6 Billyard Avenue that comprise the side setback. The combined width of this space is approximately 2m. The proposed fence bisects this space maintaining approximately 1m on either side for any access, maintenance or servicing. As noted earlier, the fence will be located along the property boundary.

- (f) Issue: prevents informal access shared between neighbours, blocks foreshore access, prevents access across the site, disrupts access to properties owned
- Response: There are no existing easements requiring continuous access across private properties along this part of the foreshore. The proposed fence by nature limits direct access between the rear foreshore areas of the two properties at 4 and 6 Billyard Avenue. Access is maintained from Billyard Avenue to that part of the foreshore within each property.
- (g) Issue: public access to and along the foreshore should be secured or improved, impedes semi-public foreshore openness
- Response: There is no current or proposed provision for public access of this area of the foreshore in any environmental planning instrument, proposed instrument, development control plan, planning agreement, or the regulations.

The closest land along the foreshore area zoned RE1 Public Recreation for public open space, recreation and accessibility is the Kings Cross Rotary Park and Beare Park located approximately 180m to the south-east.

- (h) Issue: at odds with heritage significance of the area, diminish heritage significance
- Response: The site is not heritage listed but is identified as a contributing item located in the Elizabeth Bay and Rushcutters Bay heritage conservation area (C20).

As part of a contributory site, the proposed fence is designed in consideration of neighbouring buildings, and the character of the area. The fence height comprises a reduced height in consideration of the views, and the pipe and chain-wire construct allows for viewing through, and is visually permeable to minimise any obstructing sightlines to landscaped areas. The pipe and chain-wire construct is also characteristic of the traditional form of fencing of the site and surrounding area (see Figure 15, 16 and 17)

The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area. The application was also referred to the City's Senior Heritage Specialist and no objection was raised.



Figure 18: View from the residential premises on the ground level at 6 Billyard Avenue, provided by submission

- (i) Issue: obstruct views, increases sense of enclosure, diminishes natural light of Unit 1 at 6 Billyard Avenue,
- Response: The NSW Land and Environment case *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 established planning principles regarding view impacts.

The foreshore and waters of Elizabeth Bay may be viewed from the ground level residential premises at 6 Billyard Avenue as shown in Figure 18 above. Views are obtained down the side boundary from a tall window in either a sitting or standing position. The view is predominantly the ground cover vegetation and trees along the side and rear setbacks, with the foreshore area in the distance.

The proposed 1.5m fence in proximity to this window partly obscures the view to the foreground landscaping along the side setback, particularly of the neighbouring property. Part of the foreshore area in the distance is also obscured.

The proposed development does not comprise a breach of planning controls and is considered reasonable in its form and scale. The proposed fence is considered appropriate in relation to the principles of view impact. Partial views of the foreshore area in the distance is maintained

The DCP 2012 includes provisions for sun access. The proposed fence runs along the 6-storey building at the neighbouring 4 Billyard Avenue. There is limited existing available solar access along the side setback. The proposed fence does not create additional overshadowing in accordance with the DCP 2012.

- (j) Issue: inter-building views to the harbour, interrupt views
 - Response: The style, scale, and location of the proposed fence does not interrupt views to the harbour as discussed earlier.
- (k) Issue: encroachment onto adjoining land
 - Response: The application has been submitted with a survey and plans showing the proposed fence in relation to the site boundaries. The proposed development is shown within the property boundaries of the subject site. The proposed development is appropriate, and a condition is recommended ensuring the development occurs within the boundaries of the subject site.
- (l) Issue: absence of engineering details, must require detailed construction drawings
 - Response: The application has been submitted in accordance with the approved form and the Environmental Planning and Assessment Act 1979. Sufficient information has been submitted for the assessment of the proposed development.
- (m) Issue: proposal is false, misleading, erroneous, there is no existing fence being replaced
 - Response: As mentioned above, the submitted application was described as a replacement fence along the northern boundary. It is clarified that the proposed fence replaces a previous fence in this location, as shown in the submitted Statement of Environmental Effects and supplementary information provided (see Figure 15 below). The proposed fence comprises a taller 1.5m height for part of its length when compared with the previous fence. Both the previous and proposed fence are pipe and chain-wire construct.
- (n) Issue: neighbour notification letter was not received suggesting a lapse in the notification process, lack of consultation
 - Response: Letters were sent to 175 surrounding properties identified within 25m of the site in addition to the site notices placed on the main frontage. The development has been notified in accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2025-2030.

- (o) Issue: owner's consent unclear
 - Response: The development application was submitted with the consent of the Edgewater Investments, being the owner of the land. The specific signatories have been identified in relation to the company.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

59. The City of Sydney Development Contributions Plan 2015 applies to the site. However, the development is for fencing being a type of development that does not result in a net population increase and does not require a contribution.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

60. 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.

Housing and Productivity Contribution

61. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.
62. While the site is located with the Greater Sydney region, the development is not a type of residential development to which the Housing and Productivity Contribution applies.

Relevant Legislation

63. Environmental Planning and Assessment Act 1979.

Conclusion

64. The proposed development has been assessed against the relevant planning controls for the site. The proposal, subject to conditions will not result in any significant adverse impacts on the surrounding area.
65. Subject to the recommended conditions of consent, the proposal is acceptable and is recommended for approval.

ANDREW THOMAS

Executive Manager Planning and Development

Eddy Tran, Planner

Attachment A

Recommended Conditions of Consent
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Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below in Schedules 1 and 2.

SCHEDULE 1

GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2025/954 dated 8 October 2025 and the following drawings prepared by 1001 DESIGNS:

Drawing Number	Drawing Name	Date
A000 Revision -	Coversheet	Undated
A101 Revision -	Proposed Fence Floor Plan	Undated
A201 Revision -	Proposed Elevation & 3Ds	Undated

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(2) WASTE AND RECYCLING MANAGEMENT - GENERAL

The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's *Guidelines for Waste Management in New Developments 2018*, which promotes the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery during construction and demolition activities.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

(3) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Note: Refer also to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the surrounding area.

(4) EROSION AND SEDIMENT CONTROL - LESS THAN 250SQM

Where less than 250 square metres are being disturbed, no formal plan is required however, the site is to be provided with sediment control measures and these must be implemented so that sediment, including soil, excavated material, building material or other materials cannot fall, descend, percolate, be pumped, drained, washed or allowed to flow to the street, stormwater system or waterways.

Reason

To ensure that appropriate erosion and sediment control measures are put in place during construction to protect the environment.

(5) SURVEY SETOUT

Prior to the commencement of construction all footings or fencing posts adjacent to a boundary must be set out by a registered surveyor.

The building shall be sufficiently set back to ensure that no component of the fence encroach upon or overhang the boundaries of the site.

The registered surveyor shall provide a survey and report to the Principal Certifier indicating the position of the footings or fencing posts in relation to the boundaries of the allotment.

Reason

To ensure the development does not encroach onto neighbouring properties.

(6) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information and requirements.

Reason

To ensure loads are managed appropriately and do not impact local amenity.

(7) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Note: Refer also to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the public domain.

(8) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the public domain.

SCHEDULE 2

PRESCRIBED CONDITIONS

The applicant must comply with all relevant conditions contained in Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021* which apply to the development:

Refer to the NSW State legislation for full text of the clauses under Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](https://www.planning.nsw.gov.au/sites/default/files/2023-07/condition-of-consent-advisory-note.pdf). <https://www.planning.nsw.gov.au/sites/default/files/2023-07/condition-of-consent-advisory-note.pdf> The consent should be read together with the *Conditions of development consent advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means the City of Sydney.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means the City of Sydney Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Attachment B

Selected Drawings

ELIZABETH BAY INTERTENANCY FENCE

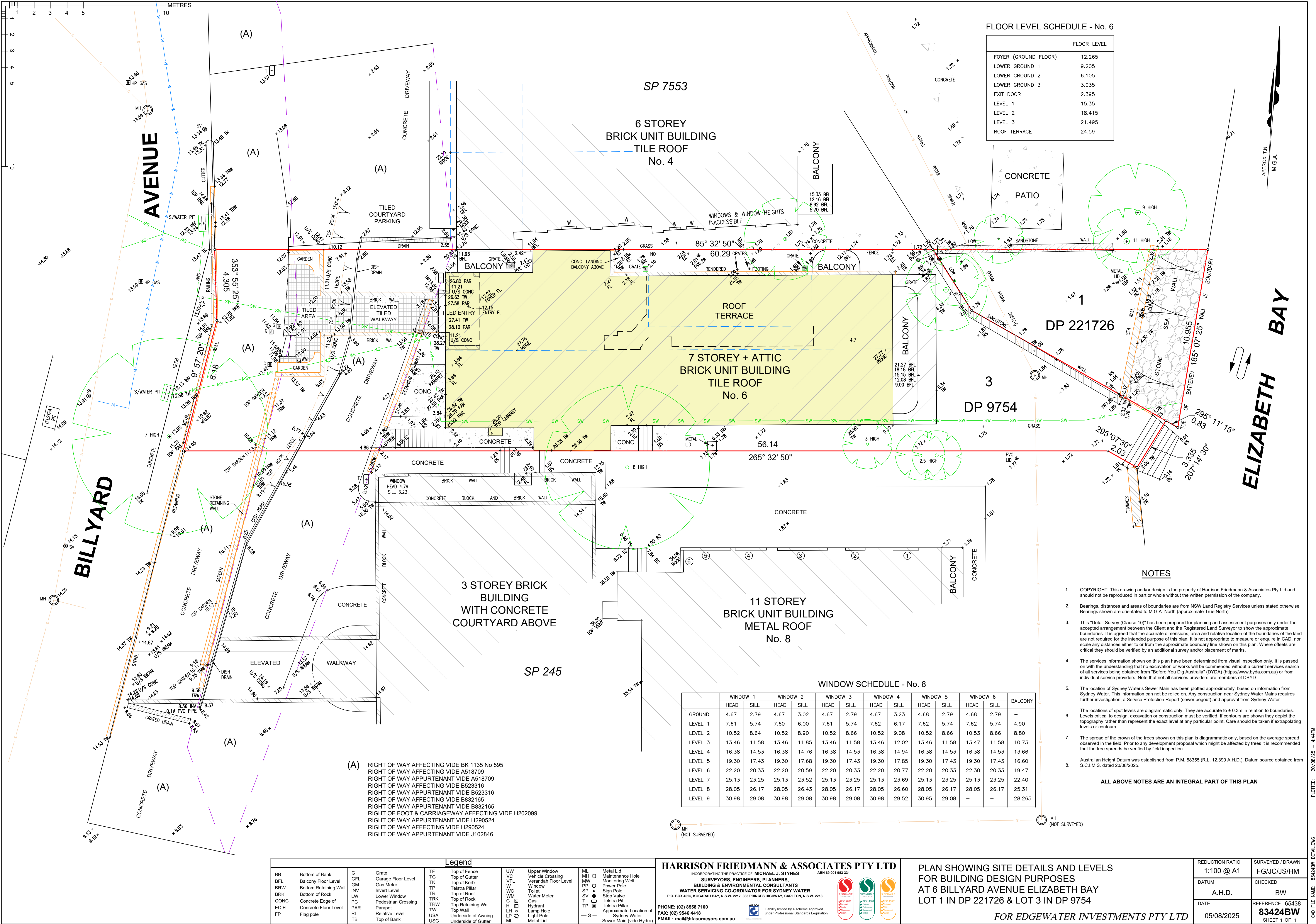
6 Billyard Avenue, Elizabeth Bay, NSW 2011

EDGEWATER INVESTMENTS PTY LTD

DRAWING LIST	
SHEET NO.	SHEET NAME
A000	COVERSHEET
A001	SURVEY PLAN
A101	PROPOSED FENCE FLOOR PLAN
A201	PROPOSED ELEVATION & 3Ds
A301	3D VIEWS



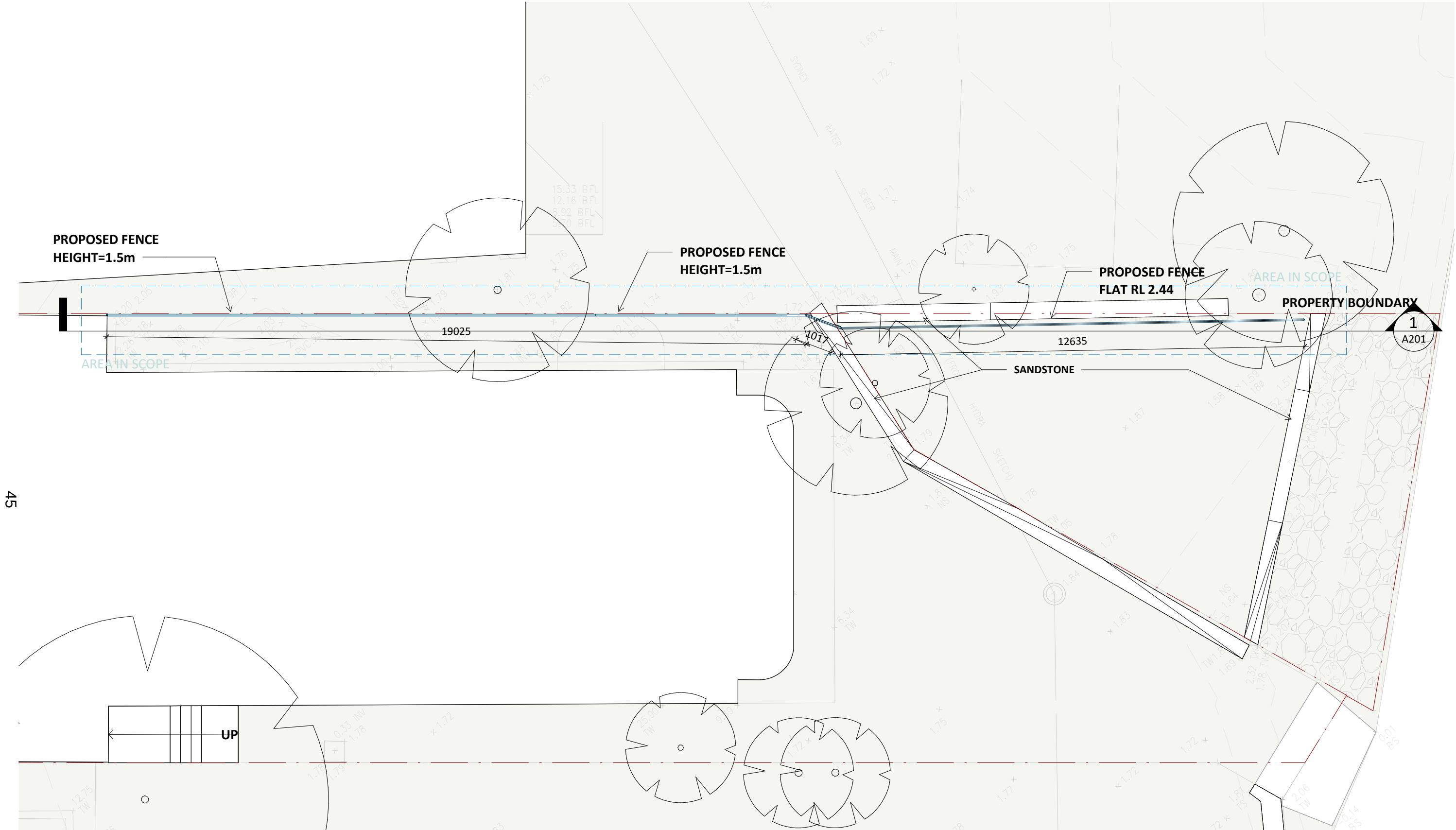
DISCIPLINE	CONSULTANTS	CONTACT	PH.	EMAIL.
ARCHITECT	1001 DESIGNS	JIMMY MANSOUR	0434 531 057	jimmy.mansour@1001designs.au
PLANNING CONSULTANT	DESIGN COLLABORATIVE	JODY SCANLAN	02 962 3200	jodys@designcollaborative.com.au
SURVEYOR	HARRISON FRIENDMANN & ASSOCIATES		02 8558 7100	mail@hfasurveyors.com.au



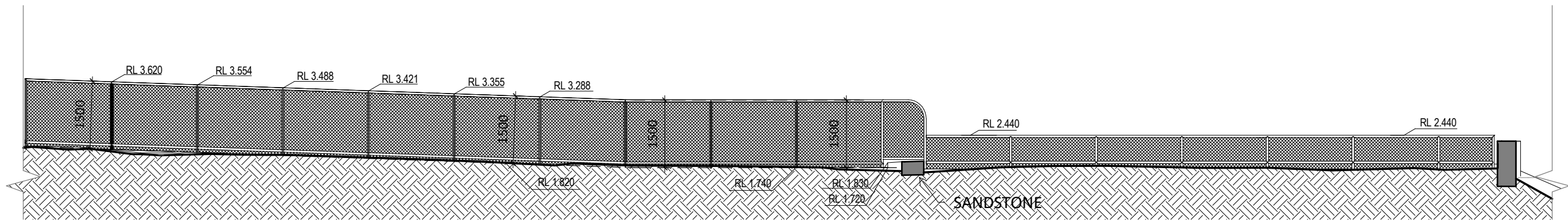
Legend table with symbols and descriptions for various features like Bottom of Bank, Balcony Floor Level, Gas Meter, etc.

HARRISON FRIEDMANN & ASSOCIATES PTY LTD. INCORPORATING THE PRACTICE OF MICHAEL J. STYNES. SURVEYORS, ENGINEERS, PLANNERS, BUILDING & ENVIRONMENTAL CONSULTANTS. WATER SERVICING CO-ORDINATOR FOR SYDNEY WATER.

PLAN SHOWING SITE DETAILS AND LEVELS FOR BUILDING DESIGN PURPOSES AT 6 BILLYARD AVENUE ELIZABETH BAY LOT 1 IN DP 221726 & LOT 3 IN DP 9754. FOR EDGEWATER INVESTMENTS PTY LTD. Includes reduction ratio, survey date, and sheet number.

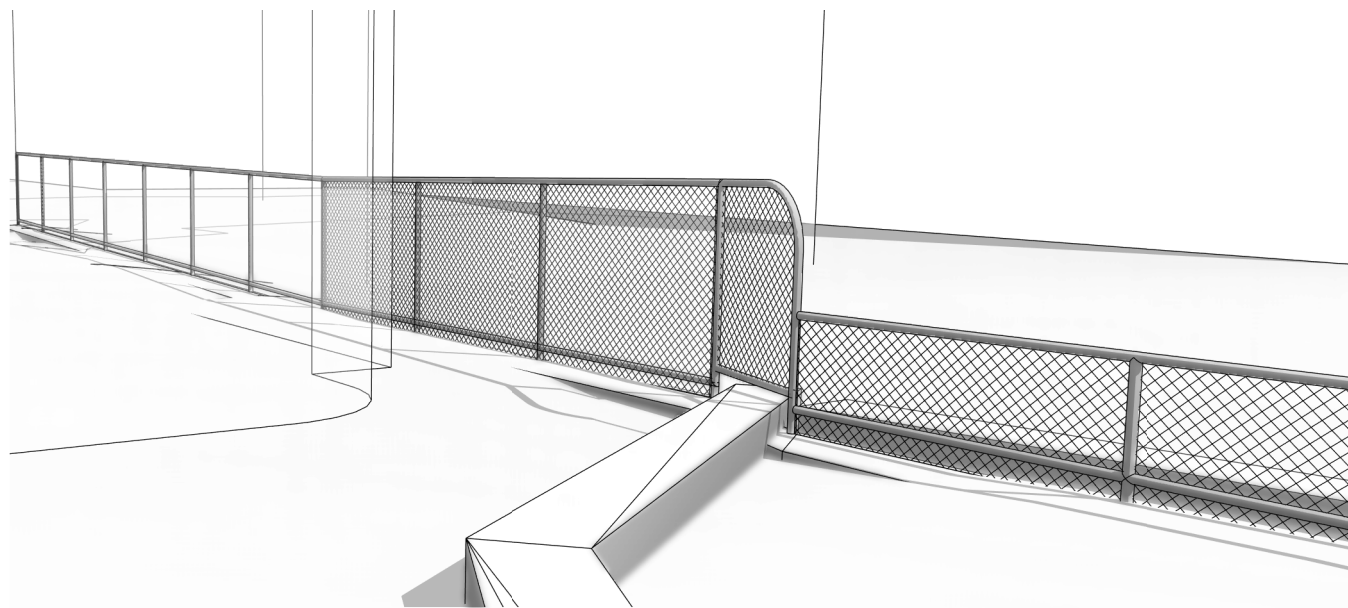


1 PROPOSED FENCE FLOOR PLAN
Scale 1 : 100

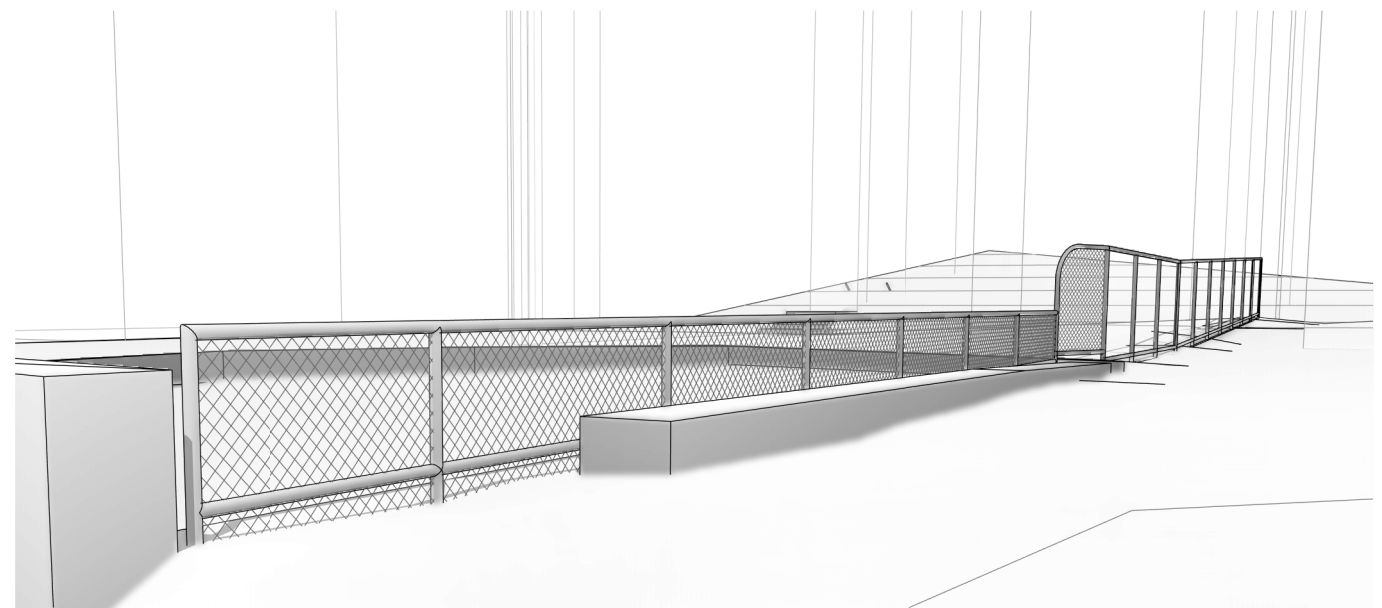


1 FENCE ELEVATION
A101 Scale 1 : 100

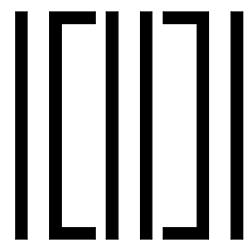
46



3 3D VIEW 01
Scale



4 3D VIEW 02
Scale



1001 DESIGNS
ARCHITECTURE & BUILDING CONSULTANTS

Architect Jimmy Mansour
NSW ARB No. 12754 | RAIA No. 235091
M. Architecture | M. Urban Planning
Email contact@1001designs.com
Phone (04) 3453 1057
ABN 29 302 359 282



No. A056 Project Name ELIZABETH BAY INTERTENANCY FENCE

Client Name EDGEWATER INVESTMENTS PTY LTD
Project Address 6 Billyard Avenue, Elizabeth Bay, NSW 2011

Scope of Work

Rev. Date Amendment

Sheet Notes:

Disclaimer: All dimensions are in millimeters. Verify all dimensions on site prior to commencement of any work.
Copyright of 1001 DESIGNS, ABN 29 302 359 282

Drawing Name:

PROPOSED ELEVATION & 3Ds

DA ISSUE

A201

Revision
Issue Date
Scale 1 : 100
Paper Size **A3**

Attachment C

Submissions

From: Fiona Green [REDACTED]
[REDACTED]
Sent on: Thursday, October 30, 2025 3:49:55 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: D/2025/945 Attention Eddy Tran
Attachments: Submission.docx (225.11 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Attention: Eddy Tran
D/2025/945

Please see objection to above DA.

Kind regards,
Fiona Green

Sent from my iPhone

Attention:

Eddy Tran

Objection to 6 Billyard Avenue 32m fence D/2025/954

As a regular user of Sydney Harbour, I wish to formally object to the proposed construction of a black pipe-and-chainwire fence along the foreshore boundary of 6 Billyard Avenue, Elizabeth Bay.

The Harbour Experience and Visual Amenity

The unique appeal of Elizabeth Bay's foreshore lies in its open, green, and visually continuous landscape. From the water, the gardens of Billyard Avenue create a rare sense of openness and connection to the harbour—an experience cherished by boaters, kayakers, and all who enjoy the waterway. The absence of harsh barriers allows for uninterrupted views of the heritage gardens and the historic character of the area.

The proposed black fence would fundamentally alter this experience. Its height, colour, and industrial appearance would create a stark, visually jarring barrier along the shoreline. Instead of blending with the landscape, the black chainwire structure would stand out as an imposing and unsympathetic intrusion—visible from the water, neighbouring properties, and public vantage points. This is not a minor addition, but a significant visual obstruction that would diminish the enjoyment of all who use and appreciate the harbour.

Incompatibility with Foreshore and Heritage Values

- The fence is inconsistent with the established character of the foreshore, which is defined by open gardens and soft, landscaped boundaries.
- It interrupts the visual flow between properties and the harbour, undermining the sense of shared, communal space that makes this part of Elizabeth Bay so special.
- The black, utilitarian design is at odds with the heritage values of the area and the intent of planning controls that seek to preserve the natural and historic qualities of the foreshore.

Impact on Public Enjoyment

While the land may be privately owned, the foreshore is a shared visual and environmental asset. The proposed fence would fragment the open landscape, reduce visual permeability, and set a precedent for further enclosure of the harbour's edge. This would be a loss not just for immediate neighbours, but for all who experience the harbour from the water.

Request

For these reasons, I respectfully urge Council to refuse the application for the black fence at 6 Billyard Avenue.

The harbour belongs to everyone—please help protect its unique, open character for all users.

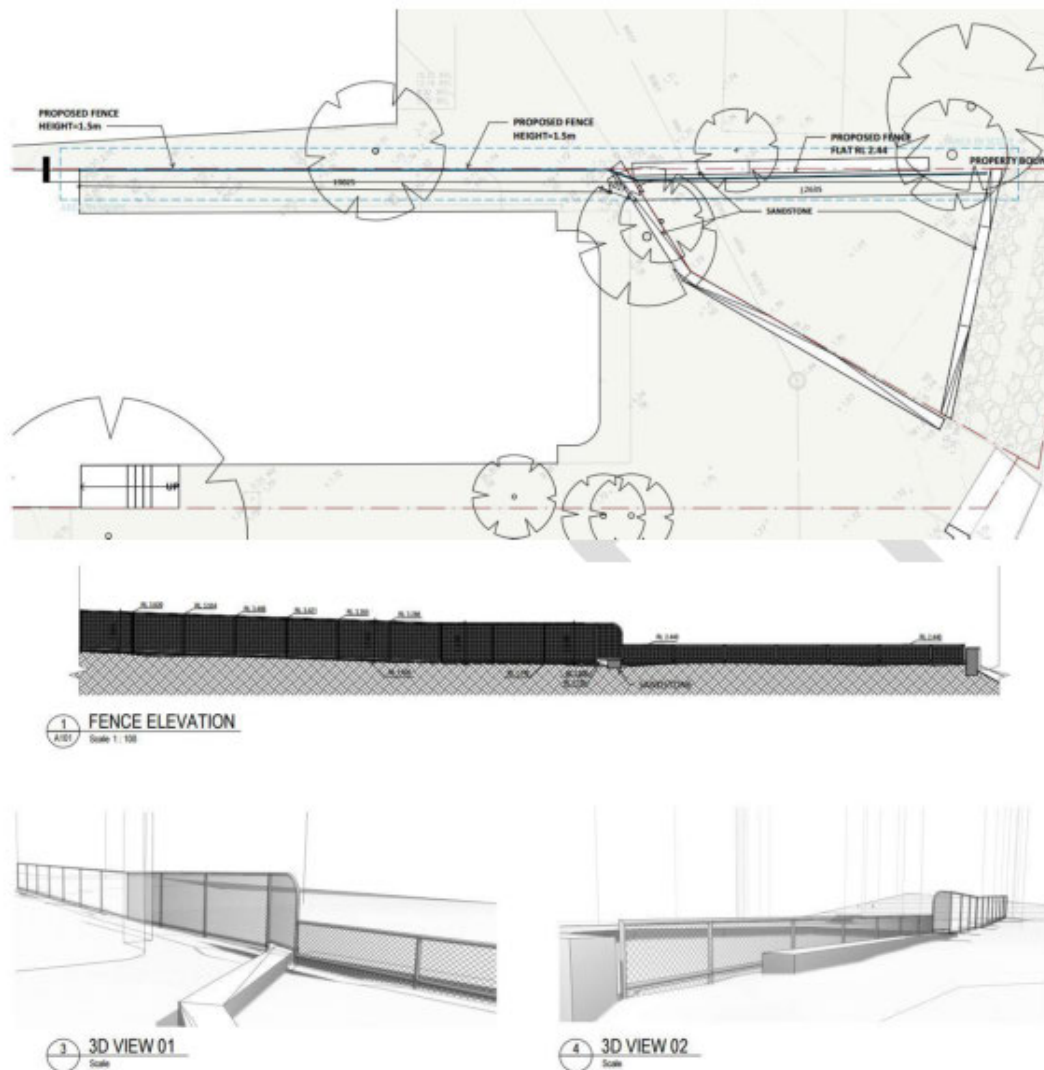


Figure 1 Drawings for Proposed Fence

Yours sincerely

Fiona Green

From: Michael Stewart <[REDACTED]> on behalf of Michael Stewart <[REDACTED]> <Michael Stewart <[REDACTED]>>
Sent on: Tuesday, October 21, 2025 1:35:21 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Submission - D/2025/954 - 6 Billyard Avenue ELIZABETH BAY NSW 2011 - Attention Eddy Tran

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

As a lot owner in Billyard Gardens, 8=10 Billyard Avenue I support this application.

From: Robert Swieca <[REDACTED]> on behalf of Robert Swieca <[REDACTED]> <Robert Swieca <[REDACTED]>
Sent on: Tuesday, October 21, 2025 1:22:10 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Submission - D/2025/954 - 6 Billyard Avenue ELIZABETH BAY NSW 2011 - Attention Eddy Tran

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I fully support this DA. We in no 8 Billyard are continuously seeing Airbnb renters from no 4 billyard ave crossing the property line and trespassing on the property of no 6 to illegally access our jetty area which jeopardises our insurance.

As someone who lives on the ground floor I am also particularly concerned when people unknown to me cross and look into my home.

Robert Swieca
2/10 billyard ave
Elizabeth bay 2011

From: Clive Carroll <[REDACTED]> on behalf of Clive Carroll

<[REDACTED]> <Clive Carroll <[REDACTED]>

Sent on: Tuesday, October 21, 2025 2:57:51 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2025/954 - 6 Billyard Avenue ELIZABETH BAY NSW 2011 - Attention Eddy Tran

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Mr Tran

I am the owner of Unit 6 / 4 Billyard Avenue , the northern neighbouring property .

I object to the above Proposal as stated for the following reasons ;

- The Proposal is factually erroneous . The Proposal implies replacement of an existing fence structure . This in fact is not the case . There is no existing fence structure in place.
- The proposed fence structure is in my view unnecessary and is visibly unattractive .
- Installation of the proposed structure would materially adversely affect existing advanced boundary landscaping .
- The proposed structure is out of character with the existing “unfenced “open boundaries look and feel of neighbouring properties

I am disappointed , the Applicant has chosen not to consult or liaise with neighbours to reach amicable agreement prior to submission , despite previous requests to do so .

Should you require any further information, please feel free to contact me .

Yours Sincerely

Clive Carroll

From: [REDACTED] on behalf of [REDACTED] <[REDACTED]> <[REDACTED]>

Sent on: Monday, October 27, 2025 1:08:11 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2025/954 - 6 Billyard Avenue ELIZABETH BAY NSW 2011 - Attention Eddy Tran

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hello, I would like to comment on the proposed fence. I strongly support the fence going up, for privacy, safety and security concerns.

This fence would not be meaningfully noticeable from either the street, or the water, and so will have no impact on the look or feel of the place.

The neighbours to the North (#4) routinely and unlawfully stray onto our our land to the south and hang out on our lawn and treat this land as theirs. It is not, but the AirBnB tenants think it is because there is no fence. A fence is a respectful way to make this clear.

Thank you for your consideration.

Please keep my details confidential.

Best and thank you
[REDACTED]

From: Brett Daintry <[REDACTED]> on behalf of Brett Daintry <[REDACTED]> <Brett Daintry <[REDACTED]>
Sent on: Tuesday, October 28, 2025 12:05:49 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
CC: Stephanie Vatala <[REDACTED]>
Subject: D/2025/954 Submission - Proposed Northern Boundary Fence – 6 Billyard Avenue, Elizabeth Bay NSW 2011
Attachments: 20251028 - 1084 - DA250095 Submission - 6 Billyard Avenue, Elizabeth Bay.pdf (886.64 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Our Ref: Project 1084
Your Ref: D/2025/95

27 October 2025

City of Sydney Council
Attention: Manager Planning Assessments
Development Applications
City of Sydney
GPO Box 1591
Sydney NSW 2001

Email submissions: dasubmissions@cityofsydney.nsw.gov.au

Submission on Development Application D/2025/954
Proposed Northern Boundary Fence – 6 Billyard Avenue, Elizabeth Bay NSW 2011

This attached submission is lodged on behalf of the adjoining property owner, The Owners Corporation SP7553 at 4 Billyard Avenue, in response to the notification letter issued by the City of Sydney Council dated 16 October 2025 regarding DA D/2025/954, which seeks consent for a new northern boundary fence at 6 Billyard Avenue, Elizabeth Bay.

Regards

Brett

Brett Daintry, MP/IA, MAIBS, MEHA, MEPLA
Director
Daintry Associates Pty Ltd

m. [REDACTED]
e. [REDACTED]
w. [REDACTED]
l. [REDACTED]

Our Ref: Project 1084
Your Ref: D/2025/95

28 October 2025

City of Sydney Council
Attention: Manager Planning Assessments
Development Applications
City of Sydney
GPO Box 1591
Sydney NSW 2001

Email submissions: dasubmissions@cityofsydney.nsw.gov.au

Submission on Development Application D/2025/954
Proposed Northern Boundary Fence – 6 Billyard Avenue, Elizabeth Bay NSW 2011

This submission is lodged on behalf of the adjoining property owner, The Owners Corporation SP7553 at 4 Billyard Avenue, in response to the notification letter issued by the City of Sydney Council dated 16 October 2025 regarding DA D/2025/954, which seeks consent for a new northern boundary fence at 6 Billyard Avenue, Elizabeth Bay.

Firstly, it is false and misleading to describe the fence as the replacement of any existing fences as the majority of the proposed fence would be a new fence in the foreshore area.

The proposed 1.5 m high chain-wire fence, extending approximately 32.6 m to the seawall, would sever the continuous landscaped foreshore character between Nos. 2–8 Billyard Avenue and beyond, disrupting the open harbour garden setting that defines this section of Elizabeth Bay.

The DCP's Building Setback and Alignment Map Sheet 21 clearly shows the significance of this open foreshore area requiring "12m Landscape Setback (for public use):



Figure 1 - Sydney DCP Building setback and alignment map Sheet 021

The proposal must be assessed under the Sydney DCP 2012 (including Section 2.4.6 'The Bays' and Section 3.9 'Heritage'), the Sydney Harbour Foreshores and Waterways DCP 2005, and the City of Sydney Landscape Code 2016 (Volume 2).

Sydney DCP 2012 – The Bays Locality (s2.4.6)

Section 2.4.6 identifies Elizabeth Bay as a residential foreshore characterised by landscaped settings, heritage buildings and views to the Harbour. Development must 'maintain view corridors to the Harbour' and 'provide a landscaped foreshore setback' (Sydney DCP 2012 s2.4.6). The proposed fence within the foreshore setback fails these objectives by introducing a hard visual barrier that fragments the shared garden setting and obstructs views across the open lawns toward the Harbour.

Heritage and Landscape Character

Section 3.9 requires development to respond sympathetically to topography, landscape and views and to complement adjoining contributory buildings. The proposed chain-wire fence is industrial and inconsistent with the refined garden character of the Elizabeth Bay and Rushcutters Bay HCA, and would be prominently visible from adjoining properties and the Harbour. A recently planted hedge on this boundary can only be characterised as a "spite hedge".

Sydney Harbour Foreshores and Waterways DCP 2005

Parts 3 and 5 require that development 'maintain, protect and enhance the unique visual qualities of Sydney Harbour and its foreshores' and 'increase, maintain and improve public access to and along the foreshore'. The proposed dividing fence within 12 m of the foreshore contradicts these principles, obstructing both visual and physical continuity of the foreshore and preventing informal access traditionally shared between neighbouring properties.

City of Sydney Landscape Code 2016 (Volume 2)

The Code promotes landscapes that establish a relationship between private and public domains and contribute to neighbourhood character. Principle 1 seeks to protect existing gardens and walls, and Principle 3 to create comfortable places for people. Replacing open garden continuity with a chainwire barrier directly contravenes these principles.

Assessment

Historically, 2–8 Billyard Avenue have respected the open foreshore principle, leaving the area between buildings and Mean High Water Mark unfenced. This has enabled uninterrupted lawns, shared visual access and informal movement along the waterfront. The proposed fence would sever this continuity and introduce an intrusive element with no CPTED or amenity justification. It would reduce natural surveillance and diminish the aesthetic value of the harbour setting.

Conclusion and Requested Determination

The proposal fails to satisfy the objectives of the Sydney DCP 2012, the Harbour DCP 2005 and the Landscape Code 2016. It introduces an intrusive structure within the foreshore setback, disrupts the open garden character and provides no real private or public benefit.

The proposal at its core is petty reciprocity against the occupants of No. 2 and No.4, that like the occupants of No.6 and No.8 and beyond share foreshore area access.

Accordingly, Council should REFUSE Development Application D/2025/954. If not refused, all dividing fencing within 12 m of the foreshore should be prohibited, and chain-wire or similar materials rejected in favour of low, visually transparent garden treatments consistent with the established character of the Elizabeth Bay foreshore.

Please don't hesitate to contact me on [REDACTED] or by email [REDACTED]

Yours faithfully,

[REDACTED]

Brett Daintry, MPA, MAIBS, MEHA, MEPLA
Director

From: Anna O'Sullivan <[REDACTED]> on behalf of Anna O'Sullivan

<[REDACTED]> <Anna O'Sullivan <[REDACTED]>

Sent on: Wednesday, October 29, 2025 1:03:43 PM

To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>

Subject: Objection to D/2025/954 - Eddy Tran - 6 Billyard Avenue

Attachments: Submission Anna O'Sullivan.pdf (471.36 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To Eddy Tran

Please find attached an objection to a proposed fence obstructing the harbour foreshore at 6 Billyard Avenue, Elizabeth Bay.

I can be contacted for further feedback if necessary.

Kind Regards
Anna O'Sullivan

Sent from my iPhone

Dear Eddy Tran

I am writing to object to **D/2025/954** at 6 Billyard Avenue, Elizabeth Bay.

The proposed development is misleadingly referred to as “**replacement of a boundary fence**” when in fact the only fence that has existed in the 1950’s was on the southern side between 8 and 6 Billyard avenue. No fence has previously existed between 4 and 6 Billyard Avenue.

I live next door at 4 Billyard Avenue and object strongly to the construction of the proposed “..... **pipe and chain wire fence painted black and with a height of 740mm-1.5m**”. The Application is clearly not “**in the Public Interest**” and does give rise “**to matters of concern in respect of the foreshore area and harbour**”.

1. Character and Heritage

Billyard Avenue and in particular the buildings of 2,4,6 and 8 share a unique waterfront position within a Heritage Conservation Area. These buildings have lovely art deco features, large green gardens and sandstone features. A *black, pipe and chain wire* fence seems completely at odds with the heritage significance of the area and an intentional act to block foreshore access.

2. Sydney Harbour Foreshores and Waterways Area – Development Control Plan (DCP 2005)

The DCP makes its position on foreshore access in Elizabeth Bay very clear.

See attached extract from **page 34 of the DCP 2005**.

By allowing 6 Billyard to construct a 1.5m fence at the foreshore, Council would be:

- Increasing the contrast between natural vegetation and an intrusive built chain wire fence
- Intentionally blocking maritime uses on the Harbour. No continuous access to the foreshore and preventing water taxis from dropping residents onto a jetty for access to their residence at 4 Billyard Avenue from the Harbour.
- Blocking views from the lower ground levels of 4 Billyard avenue and placing an eyesore on the foreshore area of Elizabeth Bay.

See attached extract from **page 44 of the DCP 2005**

By allowing 6 Billyard to construct a 1.5m fence at the foreshore, Council would be:

- Going against the specific statements in the DCP to the effect “**Foreshore access is to be encouraged and promoted. Wherever possible, public access to and along the foreshore....should be secured or improved...**”

See attached extract from **page 57 of the DCP 2005**

By allowing 6 Billyard to construct a 1.5m fence at the foreshore, Council would be directly contradicting the DCP which states that : ” ***Built form should enhance the scene”.... And “walls and fences should be low enough to allow views or private gardens from the waterway”.***

3. No fence between 6 and 8 Billyard Avenue

There is no fence between the properties of 6 and 8 Billyard Avenue on the southern side. There are no fences between 2 and 4 Billyard Avenue on the Northern side. In fact free passage is encouraged.

See attached photo at the end of this objection of walkway between 6 and 8 Billyard Avenue.

LANDSCAPE CHARACTER TYPE 8



i. Area

Landscape Character Type 8 applies to areas including North Sydney, **Elizabeth Bay**, Neutral Bay, Mosman Bay, Cremorne and Manly.

ii. Statement of Character and Intent

These areas have a high level of built form with waterside commercial, industrial and residential uses. The commercial and industrial uses play an important role in terms of tourism and maritime services which support water-based activities. There are special features in these areas that contribute to the visual character of the area that should be maintained.

iii. Performance Criteria

Any development within this landscape is to satisfy the following criteria:

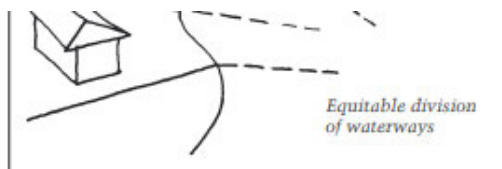
- vegetation is integrated with land-based development to minimise the contrast between natural and built elements;
- design and mitigation measures are provided to minimise noise and amenity impacts between incompatible land uses;
- the maritime uses on the Harbour are preserved. Pressure for these uses to relocate is minimised. New developments adjoining maritime uses are designed and sited to maintain compatibility with existing maritime uses; and
- remaining natural features that are significant along the foreshore are preserved and views of these features are maintained.

4.2 GENERAL REQUIREMENTS

The following objectives and requirements must be considered for all water-based and land/water interface developments:

- ✓ public access to waterways and public land is maintained and enhanced;
- congestion of the waterway and foreshore is minimised;
- conflicts on the waterway and foreshore are avoided;
- the development warrants a foreshore location;
- the development does not interfere with navigation, swimming or other recreational activities;
- the demand for the development has been established;
- the structure does not obstruct or affect the natural flow of tides and currents;
- ✓ development does not dominate its landscape setting;
- the extent of development is kept to the absolute minimum necessary to provide access to the waterway;
- shared usage of facilities is encouraged to minimise the number of structures and their cumulative impact on the environment of the Harbour and its tributaries; and
- development is setback at least 2.5 metres from the division of the waterway as established by the NSW Maritime Authority and illustrated in Figure 4.

The following sections set out guidelines for particular types of development that generally must also be observed. Any variations to these requirements will only be permitted where it can be established that the objectives are met and that it is, therefore, unnecessary or unreasonable to comply with the requirements.



4.3 FORESHORE ACCESS

Foreshore access is to be encouraged and promoted. Wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved. Foreshore links joining public open spaces or access points are most desirable. These can be obtained by right of way or dedicated or acquired strips of land and may link with tracks across beaches and rock platforms. Where foreshore links are not available, a link through adjacent streets is usually possible.

The maps accompanying this DCP indicate existing and potential pedestrian and bicycle access around the foreshore. When designing and assessing a development, consideration should be given to providing these access routes.

4.4 SITING OF BUILDINGS AND STRUCTURES

Most councils around the foreshores have set foreshore building lines governing the setback of structures from the waterway. In addition to these foreshore building lines, the following criteria should be observed when siting buildings and structures:

- where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbance to the vegetation;
- buildings should address the waterway;
- buildings should not obstruct views and vistas from public places to the waterway; and
- buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP.

5.4 BUILT FORM

Buildings and other structures should generally be of a sympathetic design to their surroundings; well designed contrasts will be considered where they enhance the scene. Many councils have development controls governing built form and the heights of buildings. The following guidelines are designed to reinforce the local requirements:

- where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting;
- where undeveloped ridgelines occur, buildings should not break these unless they have a backdrop of trees;
- while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs;
- walls and fences should be kept low enough to allow views of private gardens from the waterway;
- bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting should be observed;
- use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied;
- colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP;

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Photo of Walkway between 6 and 8 Billyard Avenue



I trust that Council can see that blocking foreshore access is against the Development Control Plan for the Foreshore and that the look and feel of Elizabeth Bay can be preserved for those that live near the water and those that use the harbour on a regular basis.

There is absolutely no reason for the Council to entertain this DA.

Anna O'Sullivan

4 Billyard Avenue, Elizabeth Bay

From: Allan O'Sullivan <[REDACTED]> on behalf of Allan O'Sullivan

<[REDACTED]> <Allan O'Sullivan <[REDACTED]>

Sent on: Wednesday, October 29, 2025 12:54:45 PM

To: dasubmissions@cityofsydney.nsw.gov.au

CC: Tamara Garis <[REDACTED]> Anna O'Sullivan <[REDACTED]>

Subject: Objection to D/2025/9546 Billyard Avenue - Attention Eddy Tran

Attachments: 0756_001.pdf (75.43 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Good afternoon,

Please see attached objection to the proposed development application.

Kind regards

Allan

Allan O'Sullivan, CFA

Managing Director, Head of DCM, Syndicate & Solutions, Financial Markets

Westpac Institutional Bank

Level 3, 275 Kent Street, Sydney NSW 2000

T + [REDACTED] | M [REDACTED] E [REDACTED]



Westpac Group acknowledges the traditional owners as the custodians of this land, recognising their connection to land, waters and community. We pay our respects to Australia's first peoples, and to their elders, past and present.

Confidential communication

Westpac Banking Corporation (ABN 33 007 457 141, AFSL 233714)

Westpac Institutional Bank is a division of Westpac Banking Corporation

To: City of Sydney Council

Subject: Objection to Proposed Dividing Fence between 4 and 6 Billyard Avenue, Elizabeth Bay

DA: D/2025/954

Dear Council Officers,

I am writing as an owner and resident of 4 Billyard Avenue to formally object to the proposed construction of a dividing fence along the boundary with 6 Billyard Avenue, as outlined in the recent Development Application.

Summary of Objection:

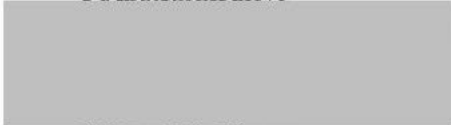
- **Loss of Open Character:**
The long-established openness between 2, 4, 6, and 8 Billyard Avenue is a defining feature of our foreshore setting. The proposed fence would introduce a visually intrusive and unnecessary barrier, undermining the landscape character and communal amenity of this unique cul-de-sac.
- **Heritage and Visual Impact:**
The area is within the Elizabeth Bay and Rushcutters Bay Heritage Conservation Area. The proposed 1.5-metre-high pipe-and-chainwire fence is inconsistent with the open, landscaped character of the precinct and would diminish the heritage significance of the area.
- **Non-Compliance with Planning Controls:**
The proposal does not satisfy key requirements of the Sydney Local Environmental Plan 2012 (LEP) and the Sydney Development Control Plan 2012 (DCP), particularly regarding foreshore development, heritage conservation, and landscaped setbacks. The fence would also encroach into the 12-metre landscaped foreshore setback, which is intended to remain open and vegetated.
- **Access and Amenity:**
The fence would impede access to parking, essential services, and vegetation maintenance along the boundary, and may necessitate the removal of established greenery. It would also reduce the permeability and shared amenity that residents have historically enjoyed.
- **Lack of Consultation:**
There was no meaningful consultation with adjoining owners prior to the submission of this application. Early engagement could have facilitated consideration of alternative boundary treatments that would better balance privacy, access, and the preservation of the area's character.

Request:

In light of the above, I respectfully request that Council refuse consent to the application.

I would welcome the opportunity to discuss this matter further with Council officers and the applicant to achieve a mutually acceptable outcome that preserves the special qualities of Billyard Avenue.

Yours,faithfully.


Allan O'Sullivan
Resident of 4 Billyard Avenue

From: Hickey, Sarah <[REDACTED]> on behalf of Hickey, Sarah
<[REDACTED]> <Hickey, Sarah <[REDACTED]>
Sent on: Wednesday, October 29, 2025 1:30:07 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Eddy Tran D/2025/954 Fence at 6 Billyard Avenue
Attachments: Submission Sarah Hickey.pdf (113.79 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Attention: Eddy Tran D/2025/954 Fence at 6 Billyard Avenue

Please review attached Submission.

Regards,
Sarah

Sarah Hickey

Principal | Business Development | Corporate Trust
BNY

Level 2 | 1 Bligh Street, Sydney, NSW | Australia

M [REDACTED]

Do not send text messages to mobile numbers

[REDACTED]
[REDACTED]



Notice: We've simplified our company umbrella brand to BNY. While we're making updates to our channels to reflect this change, you may still see emails from bnymellon.com. For more information on our brand evolution please read about it in our [Newsroom](#).

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Attention : Eddy Tran

Objection to 6 Billyard Avenue : D/2025/954

I am writing to object to the notification letter issued by the City of Sydney Council on 16 October 2025 which seeks feedback for a fence along the northern boundary of 4 and 6 Billyard Avenue.

The fence is an obtrusive 1.5m hire wire fence aimed at deliberately blocking foreshore access. Further it extends a staggering 32.6 m to the sea wall.

1. Harbour User Safety and Emergency Services Access

On Jan 30, 2024, a woman was attacked by a bull shark in the harbour in front of 6 Billyard Avenue. Her survival was due mostly in part to the open foreshore access between 2-8 Billyard Avenue.

Emergency Services were able to access 6 Billyard Avenue through the driveway of 4 Billyard Avenue and directly crossed the boundary with the medical equipment/stretchers between 4 and 6 Billyard Avenue. This would not have been possible if the 1.5m pipe and wire chain fence had been constructed.

Uninterrupted foreshore access should be a priority in this unique area of Elizabeth Bay and the community should be able to use the harbour facilities and feel that they can be easily accessed by emergency services when needed.

A 29-year-old woman who was bitten by a [bull shark](#) during an evening swim at a private wharf in [Sydney Harbour](#) is now in a stable condition after undergoing surgery.

Lauren O'Neill was attacked about 7.45pm yesterday, with emergency services quickly dispatching a helicopter to Billyard Avenue in Elizabeth Bay.

She suffered blood loss and significant injuries to her leg, which has now been operated on at St Vincent's Hospital.

READ MORE: [Sydney's train network faces major delays after incident](#)



2. The preservation of Foreshore Access

The Development Control Plan 2005 “Sydney Harbour Foreshores & Waterways Area” states that foreshore access should be encouraged and promoted. By allowing construction of a 1.5m high fence at 32.6m long – the Council and 6 Billyard Avenue would be completely disregarding the spirit of the DCP which was drafted in order to look after the character and heritage of the harbour foreshore.

Please see extract from the DCP page 44.

4.3 FORESHORE ACCESS

Foreshore access is to be encouraged and promoted. Wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved. Foreshore links joining public open spaces or access points are most desirable. These can be obtained by right of way or dedicated or acquired strips of land and may link with tracks across beaches and rock platforms. Where foreshore links are not available, a link through adjacent streets is usually possible.

Thank you for your attention to this objection.

If you have any further questions or require more information, please contact the below.

Kind Regards

Sarah Hickey

From: Kirralee Rankine <[REDACTED]> on behalf of Kirralee Rankine
<[REDACTED]> <Kirralee Rankine <[REDACTED]>
Sent on: Wednesday, October 29, 2025 1:37:19 PM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: Objection - URGENT

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council,

I am a frequent visitor to friends and family that live in the cul-de-sac of Billyard Avenue and I have been made aware of DA/2025/954 which proposes to install a boundary fence between 4 and 6 Billyard. I have reviewed the documents and I take great issue with the proposed fence. I believe Council should refuse consent for the DA for these reasons:

- 1. Incompatible visual character; it reads as a hard, and quite frankly ugly and commercial boundary in what is otherwise a beautiful green open foreshore setting.**
- 2. Conflicts with heritage objectives for open, landscaped settings.**
- 3. Fails LEP 7.10 expectations for amenity and compatible appearance.**
- 4. Erodes DCP locality aims for view corridors and permeability.**
- 5. Reduces practical access for maintenance and services, particularly parking.**

If Council are minded to allow the fence, it should be modified quite significantly to at least be sympathetic to the existing area. A more beautiful fence that incorporates greenery and that still offers gate access would be a far more suitable option.

Kind regards,

Kirri Rankine

From: Lauren Smith <[REDACTED]> on behalf of Lauren Smith <[REDACTED]> <Lauren Smith
<[REDACTED]>
Sent on: Wednesday, October 29, 2025 3:40:47 PM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: D/2025/954 | 6 Billyard Avenue, Elizabeth Bay NSW 2011

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

D/2025/954
6 Billyard Avenue, Elizabeth Bay NSW 2011

I object to D/2025/954. The Bays locality statement values view sharing to the harbour and landscaped dominance between buildings.

A tall chain-mesh fence interrupts cross-lot viewlines and weakens the experience of the water from the garden foreground.

The proposal is therefore inconsistent with the DCP and heritage objectives and should not proceed in its current form.

Regards,

Lauren

From: Talah Sherif <[REDACTED]> on behalf of Talah Sherif <[REDACTED]>
<Talah Sherif <[REDACTED]>
Sent on: Wednesday, October 29, 2025 8:59:11 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>; City of Sydney
<[REDACTED]>
Subject: Objection to DA/2025/954 at 6 Billyard Ave, Elizabeth Bay

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Good evening

RE: Foreshore Character and Amenity – Objection to DA/2025/954 at 6 Billyard Ave, Elizabeth Bay

I am writing to object to the above DA for the following reasons:

1. It replaces a long-standing open garden edge with a harsh, utilitarian screen that feels defensive and out of place.
2. The visual effect is unpleasant and unsympathetic in a heritage conservation context that values soft, landscaped transitions.
3. Clauses 7.10 and 7.11 of Sydney LEP objectives are not met: the fence does not present a compatible foreshore appearance and weakens future access continuity.
4. Sydney DCP principles for The Bays emphasise view sharing and landscape dominance; a tall chain-link barrier undermines both.
5. Practical outcomes suffer: tighter vehicle manoeuvring near the boundary and reduced capacity for landscape and building maintenance.

As a local resident who accesses the waterway in front of the property, I've always appreciated the open, welcoming character of this part of the foreshore. It contributes so much to the area's charm and sense of community. I'm genuinely concerned that the proposed fence would erode those qualities.

I strongly believe the proposed fence should not be allowed in its current form. At the very least it should be modified significantly to keep in line with the heritage nature of the Elizabeth Bay waterfront.

Thank you for considering this matter.

Kind regards

Talah Sherif

From: Ilya Zak <[REDACTED]> on behalf of Ilya Zak <[REDACTED]> <Ilya Zak <[REDACTED]>

Sent on: Thursday, October 30, 2025 9:00:23 AM

To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au

Subject: Objection – Fence at 6 Billyard Ave (DA/2025/954)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hi Council team,

I've had a look through the plans and statement for the proposed northern boundary fence at 6 Billyard Ave, and I'd like to object to it.

My main concerns are:

1. **Visual character:** The solid fence would give the property a fortress-like look, which doesn't fit with the open gardens and shared foreshore character along Billyard Avenue.
2. **Heritage:** It blocks the visual links between lots and takes away from the landscaped setting that the heritage controls (Clause 5.10) are meant to protect.
3. **Foreshore policy:** The design doesn't meet the intent of the LEP's foreshore provisions (7.10) — it would look harsh from the water and hurt the overall amenity.
4. **Access and servicing:** A solid boundary would make it harder for informal maintenance and make manoeuvring near the parking area less safe.
5. **Local aims:** The continuous fence would close off views and break up the sense of connected gardens along the foreshore.

For these reasons, I'd like to ask that the DA not be approved.

Thanks for considering this.

Kind regards,
Ilya Zak

From: Gerrard Needham <[REDACTED]> on behalf of Gerrard Needham <[REDACTED]>
<Gerrard.Needham@[REDACTED]>
Sent on: Thursday, October 30, 2025 8:53:10 AM
To: dasubmissions@cityofsydney.nsw.gov.au; council@cityofsydney.nsw.gov.au
Subject: Objectio to DA/2025/954

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Objection

I wish to object to DA/2025/954, which seeks approval for the installation of a boundary fence at 6 Billyard Avenue Elizabeth Bay extending toward the seawall.

I live in 2 Billyard Avenue, and my family, including two young children, make regular use of the open foreshore area that has, for many years, been enjoyed by residents of the buildings at numbers 2, 4, 6 and 8 Billyard Avenue. The space is more than just a landscaped edge; it is a shared, green connection to the harbour. My kids love fishing from the various jetties in the cul-de-sac throw and this open, communal feel is what makes living here so special and what gives the area its unique sense of community.

The proposal to construct a metal chain-link fence would completely change that experience. It would add a hard, institutional boundary where soft gardens currently meet and interrupt the continuous sightline that draws the eye from the street to the water. The fence would also make the foreshore feel segmented and exclusive, which is completely at odds with the long-established character of this shared waterfront setting.

From a planning perspective, the proposal fails to satisfy the intent of the Sydney Local Environmental Plan 2012, particularly:

- Clause 5.10 (Heritage Conservation), which requires development to conserve the environmental heritage significance of the Elizabeth Bay & Rushcutters Bay Heritage Conservation Area; and
- Clause 7.10 (Foreshore Building Line), which seeks to ensure development within the foreshore maintains amenity and presents a compatible appearance from both land and water.

Similarly, the Sydney Development Control Plan 2012 Section 2.4.6 (Locality Statement for The Bays) calls for open, landscaped foreshore setbacks and visual continuity between gardens. The proposed fence breaches these principles and conflicts with the long-standing open-garden character that defines this area.

Beyond policy non-compliance, there is a real human impact. The open space encourages children to be outdoors, to explore and connect with nature in the heart of the city. Erecting a tall metal fence would make the area feel closed-off, less safe, and far less welcoming for families who have built their lives around this shared environment and have become friends with neighbours across these 4 properties.

For all these reasons, I urge the Council to refuse consent to the proposal or, at the very least, require a design that preserves the open, landscaped and communal foreshore character that defines the heritage and amenity of Billyard Avenue.

Yours faithfully

Gerrard Needham
[REDACTED]

From: Richard Marques <[REDACTED]> on behalf of Richard Marques
<[REDACTED]> <Richard Marques <[REDACTED]>

Sent on: Wednesday, October 29, 2025 5:35:32 PM

To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au

Subject:

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D/2025/954

6 Billyard Avenue, Elizabeth Bay NSW 2011

I object to DA/2025/954. In simple terms:

- Foreshore appearance: should be compatible and landscape-first - the fence is not.
- Heritage: should conserve the open, green setting - the fence erodes it.
- Access: should remain practical and safe - a continuous barrier makes it harder.
- Views: should be shared - the fence interrupts them.

On that basis, I ask Council to refuse the DA.

From: Nat Rubi <[REDACTED]> on behalf of Nat Rubi <[REDACTED]> <Nat Rubi
<[REDACTED]>

Sent on: Wednesday, October 29, 2025 7:43:15 PM

To: Council@cityofsydney.nsw.gov.au; Dasubmissions@cityofsydney.nsw.gov.au

Subject: 6 Billyard Avenue, Elizabeth Bay NSW 2011

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I am writing to object to D/2025/954 (6 Billyard Avenue, Elizabeth Bay NSW 2011). The charm of this cul-de-sac comes from openness - gardens that talk to each other, not fences that stare back.

Installing a tall mesh fence changes the conversation: it is blunt, institutional and at odds with the public's experience of the foreshore.

Planning controls here protect that openness. The proposal should not proceed as designed.

Best regards,
Natalie Rubinstein

From: [redacted] on behalf of [redacted] <[redacted]>

Sent on: Wednesday, October 29, 2025 4:27:33 PM

To: dasubmissions@cityofsydney.nsw.gov.au; council@cityofsydney.nsw.gov.au

Subject: Objection Email

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

DA Application D/2025/954
6 Billyard Avenue, Elizabeth Bay NSW 2011

I would like to submit an objection to D/2025/954. Could you please redact my name, age and address as highlighted in my letter below, as well as my email address.

I'm [redacted] and I've grown up on [redacted] with my parents and brother for the last 10 years. Living at [redacted] [redacted] has been really unique - even though I basically live in the city, it's always felt like I've lived a hundred miles from the city in an open shared community area. I grew up swimming with my family, going out on the water on kayaks and SUPs and making friends with our neighbours. It's always felt like a really safe and open community - no fences, no barriers, just gardens that feel connected with each other and the water.

I've now got two little sisters under four, and taking them outside is one of my favourite things to do with them. We kick a ball on the grass, look for fish by the edge of the water, and just hang out and explore around all the trees and greenery. We're always respectful of neighbours and their property - that's how everyone around here behaves. Kids from 2 Billyard and 8 Billyard often come over either to spend time with us or to use the jetty and play equipment. It's how the buildings here bond: not in a formal way, just by being outside together in a space that feels open and welcoming.

Putting up a tall fence that blocks that access would change that feel. Friends and neighbours we've always welcomed over (even when we're not there) might feel like they're not meant to cross over anymore and that's really disappointing for the people who have grown up experiencing this way of life. I really want my sisters to grow up experiencing our home and this area the way I did.

I get that boundaries matter. But the openness here has never meant disrespect - it's meant trust and community. The fence feels like the opposite of what this place is about.

Please don't approve this fence as proposed. If anything has to be done, make it something simple and less ugly, with a gate for families, friends and neighbours to still access each other. I'd like my sisters, and the other young kids from our neighbouring buildings to grow up with the same easy access to the outdoors that I had.

Yours sincerely,

[redacted]

From: Marc Rubinstein <[REDACTED]> on behalf of Marc Rubinstein <[REDACTED]> <Marc Rubinstein <[REDACTED]>
Sent on: Wednesday, October 29, 2025 5:32:23 PM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: Objection | D/2025/954

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To whom it may concern,

I write this objection with reference to D/2025/954, in relation to 6 Billyard Avenue, Elizabeth Bay NSW 2011.

The Sydney Harbour Foreshores & Waterways DCP expects low walls and fences so garden views remain visible from the water and built form is sympathetic in scale.

A 1.5 metre chain black mesh boundary reads as an ugly, visually assertive edge that blocks sightlines to private gardens and diminishes the waterfront experience.

The proposal contradicts those harbour facing principles and should be refused or conditioned for a clearly recessive alternative.

Kind regards,
Marc Rubinstein
[REDACTED]

From: Alexandre Hernandez <[REDACTED]> on behalf of Alexandre Hernandez
<[REDACTED]> <Alexandre.Hernandez@[REDACTED]>
Sent on: Wednesday, October 29, 2025 9:09:35 PM
To: dasubmissions@cityofsydney.nsw.gov.au; council@cityofsydney.nsw.gov.au
Subject: D/2025/954 - 6 Billyard Ave Elizabeth Bay NSW 2011

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council/Mr Tran,

D/2025/954 - [6 Billyard Ave Elizabeth Bay NSW 2011](#)

I object to the above Proposal for the the reasons set out below:

- The proposal installs an unpleasant fortress-like fence where a green open area currently softens the harbour edge. It is, in simple terms, very unattractive.
- This is a conservation area with lots of heritage and art-deco buildings and qualities. The fence they're proposing doesn't seem to take into account those unique qualities of the area.
- The fence completely segregates the buildings from each other in an area that I'm well aware has enjoyed an open layout for many decades and where friends and neighbours visit each other across backyards.
- Having spoken with other neighbours in the area it seems that the applicant has completely disregarded some of the fundamental planning controls for the area, namely LEP and DCP controls, including foreshore setbacks.

Yours Sincerely,

Alex Hernandez

From: Ekko Media <[REDACTED]> on behalf of Ekko Media

<[REDACTED]> <Ekko Media <[REDACTED]>

Sent on: Wednesday, October 29, 2025 7:59:19 PM

To: dasubmissions@cityofsydney.nsw.gov.au; council@cityofsydney.nsw.gov.au

Subject: D/2025/954 - 6 Billyard Ave Elizabeth Bay NSW 2011

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council/Mr Tran,

D/2025/954 - [6 Billyard Ave Elizabeth Bay NSW 2011](#)

I'm writing to share my concerns and objections regarding the above proposal.

Over the years, the open layout of this part of the foreshore has helped create a strong sense of connection between neighbours. The existing green space and visibility between properties have made the area feel welcoming and cohesive. Introducing a solid, high fence would change that dynamic, creating a physical divide between homes that have long shared open boundaries.

This is a well-loved conservation area with a rich heritage and many beautiful art-deco buildings. The unique character of the neighbourhood is something residents deeply value, and I'm concerned that the proposed fence does not seem to align with these established qualities.

Visually, the proposed design feels heavy and at odds with the soft, green edge that currently enhances the harbour outlook. Maintaining an open and sympathetic interface with the foreshore is important to preserving the area's character and appeal.

After speaking with several nearby residents, it also appears that the proposal may not fully align with certain planning controls that apply here, including elements of the LEP and DCP relating to foreshore setbacks.

I hope these points are taken into consideration as part of the review process.

Yours Sincerely,

Yasmin Perez

M: [REDACTED]

From: Lucy Rogers <[REDACTED]> on behalf of Lucy Rogers <[REDACTED]> <Lucy Rogers <[REDACTED]>
Sent on: Wednesday, October 29, 2025 6:02:04 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Fwd: Objection to D/2025/954
Attachments: SAAL4394925102714120.pdf (75.1 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Lucy Rogers
Office Manager

[REDACTED]
Level 8/344 Queen St
Brisbane City QLD 4000
theola.com.au

THEOLA

----- Forwarded message -----

From: **Lucy Rogers** <[REDACTED]>
Date: Wed, Oct 29, 2025 at 4:56 PM
Subject: Objection to D/2025/954
To: <dasubmissions@cityof-sydney.nsw.gov.au>

ATTENTION: EDDY TRAN

Please see the objection letter attached.

Lucy Rogers
Office Manager

THEOLA

Subject: Objection to Proposed Black Chain Fence at 6 Billyard Avenue – Visual and Access Impacts from the Harbour

DA:D/2025/954

To the City of Sydney Council,

As a regular user of Sydney Harbour and a visitor to friends residing at both 4 and 6 Billyard Avenue, I wish to formally object to the proposed construction of a black chain fence along the foreshore boundary between 4 and 6 Billyard Avenue.

I have a mooring at Elizabeth Bay Marina for a boat I share with friends who own apartments at both 4 and 6 Billyard Avenue. I often use the jetty at 4 Billyard Avenue to pick up my friends to then take them out on the harbour. The owners of 4 Billyard Avenue have no objection to this practice and it has made for such a quick way for friends from 6 Billyard Avenue to join us on the harbour.

The application by 6 Billyard Avenue to construct a 1.5m chain fence between these properties will prevent any access to the jetty at 4 Billyard Avenue by friends wishing to access from 6 Billyard Avenue.

Visual Impact from the Waterway

The open, landscaped foreshore between 2, 4, 6, and 8 Billyard Avenue is a defining feature of this part of Elizabeth Bay. When viewed from the harbour, this continuous green corridor creates a rare sense of openness and connection between the land and water. The proposed 1.5m-high black chain fence would introduce a harsh, utilitarian barrier that is visually intrusive and entirely out of character with the established foreshore landscape. Rather than blending with the gardens and heritage buildings, the fence would fragment the visual continuity of the shoreline, diminishing the unique aesthetic experience for all who use and appreciate the harbour.

Loss of Access and Amenity

The current open arrangement allows for informal access between properties and the foreshore, fostering a sense of community and shared enjoyment of the harbour's edge. The proposed fence would not only block these traditional pathways. This loss of permeability undermines the communal qualities that make this precinct special.

Conflict with Planning Objectives

The fence proposal is inconsistent with the objectives of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012, which seek to:

- Maintain the landscaped, open character of the foreshore;
- Ensure new structures are compatible when viewed from both land and water;
- Preserve heritage significance and view corridors to the harbour;
- Encourage continuous public and communal access along the foreshore.

Request for Council Action

I respectfully urge Council to refuse the application.

The harbour is a shared asset, and its edges should remain open, green, and welcoming for all who experience it—by land or by water.

Thank you for considering this objection.

Yours sincerely,


Lucinda Rogers

27/10/25
Harbour User and Visitor to 4 & 6 Billyard Avenue

From: Cameron Wilson <[REDACTED]> on behalf of Cameron Wilson
<[REDACTED]> <Cameron Wilson <[REDACTED]>

Sent on: Wednesday, October 29, 2025 8:11:25 PM

To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au

Subject: DA/2025/954 – Objection (Fence at 6 Billyard Avenue)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Re: DA/2025/954 – Objection (Fence at 6 Billyard Avenue)

I object to the proposed fence. It is an incompatible addition to a sensitive foreshore setting.

The structure is conspicuous, overly defensive and out of keeping with heritage values that favour open, landscaped interfaces and view sharing.

LEP 7.10/7.11 and DCP locality principles point to low, recessive treatments or no fence at all. This is the opposite.

Refusal of this DA is warranted.

Thank you.

From: Morné Swanepoel <[REDACTED]> on behalf of Morné Swanepoel
<[REDACTED]> <Morné Swanepoel <[REDACTED]>

Sent on: Wednesday, October 29, 2025 10:28:11 PM

To: dasubmissions@cityofsydney.nsw.gov.au; council@cityofsydney.nsw.gov.au

Subject: D/2025/954 - 6 Billyard Ave, Elizabeth Bay

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council,

I object to the above DA.

As the owner of two units in 4 Billyard Avenue, I'm concerned the proposed fence would make essential access to the side of 4 Billyard extremely difficult. The buildings at 2, 4 and 6 Billyard were all built roughly in the 1930s and were built basically touching each other in some areas, with very little access area between each building (see attached survey plan). For generations the only way to really access the side of each building has always involved an element of neighborly understanding whereby residents step over indivisible boundaries in order to access the side of the buildings. You can see from the attached photo just how close the buildings are - and I assume that's the reason that no continuous fences have ever been built in this area because the residents have always understood the integral nature of needing to access the sides of their buildings in an area that provides very little access. The northern side of the building at 4 Billyard Ave is used for gas meter reading, drainage maintenance, and general servicing, and has always been accessible due to the open nature of the properties. A solid fence to the boundary would block that practical access entirely.

I am also aware from other owners in the building that from discussions with directors of the Applicant a few years ago an agreement had been reached to only plant low hedges on the boundary in an effort to beautify the area in a manner that was respectful of the difficult access issues between our buildings, including parking access and essential service access at the northern side of the building. They have now completely disregarded those issues that they acknowledged existed for the owners of 4 Billyard and have gone ahead with this DA without any consultation. This is all in very bad faith on their part.

From a planning perspective, the proposal conflicts with Clause 7.10 (Foreshore Building Line) and Clause 7.11 (Foreshore Access) of the Sydney LEP 2012, both of which seek to maintain foreshore amenity and ensure development does not restrict access or visual permeability. It is also inconsistent with the Sydney DCP 2012 – Section 2.4.6 (Locality Statement: The Bays), which calls for open landscaped setbacks and view corridors along the foreshore.

Beyond the policy issues, the open connectivity between properties has also proven vital in emergencies. During the shark attack in Elizabeth Bay a year or so ago, paramedics reached the victim very quickly by crossing directly over the open lawns and gardens between 4, 6 and 8 Billyard Avenue to access the jetty at 8 Billyard (despite reports to the contrary, a helicopter was never dispatched to the area - only ambulance services). Had fencing been in place between 4 and 6 Billyard, that response would have been delayed. With the waters of Sydney Harbour being more clean than ever before and now more and more people using the water than ever before, it is mind boggling to think Council might allow the installation of a fence that would impede essential emergency access to the waterfront. Even if shark attacks are rare - other waterfront emergencies like drowning unfortunately are not so rare and I think it's important to keep these lines of access as open as possible. Why put up a fence when no discernible or plausible reason has even been given for the need to build one?

The current open layout between 2 and 10 Billyard Ave is not just aesthetic – it serves a functional and safety purpose while preserving the heritage and visual character of the area.

For these reasons, I urge Council to refuse D/2025/954. 87

Kind regards,
Morné Swanepoel



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From: Stephen Fong <[REDACTED]> on behalf of Stephen Fong
<[REDACTED]> <Stephen Fong <[REDACTED]>

Sent on: Wednesday, October 29, 2025 6:36:18 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: D/2025/954, 6 Billyard Ave, Elizabeth Bay

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Eddy Tran

As a Sydneysider who regularly visits friends in Billyard Avenue, approaching from the street and from the harbour I object to D/2025/954.

Beyond visual and heritage issues, the proposal reduces functional access along the boundary, complicating routine maintenance, landscape care and safe manoeuvring near parking.

Such constraints run counter to DCP expectations for practical, safe access arrangements. A continuous barrier at the boundary between 4 and 6 Billyard is a poor functional outcome in this location and has widespread impacts to all the properties that share that cul-de-sac between 2 and 10 Billyard Ave.

I ask that the DA be refused in order to protect amenity and safety while preserving foreshore character.

Regards

Stephen Fong

From: Jamie Garis <[REDACTED]> on behalf of Jamie Garis
<[REDACTED]> <Jamie Garis <[REDACTED]>
Sent on: Wednesday, October 29, 2025 3:18:50 PM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: DA D/2025/954 - Objection
Attachments: Objection Jamie Garis.pdf (5.75 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please find attached my objection to DA D/2025/954.

You are welcome to call me on [REDACTED] or send me an email should you wish to discuss.

Regards
Jamie

This email, including any attachment, is confidential. If you are not the intended recipient, you must not disclose, copy or use the information contained in it for any purpose. If you have received this email in error, please delete the email and any attachment from your system and notify the sender immediately by return email. Luminis Partners Pty Ltd ABN 82 602 701 235 AFSL 471335

Planning Objection

Objection to Development Application D/2025/954 – Proposed Northern Boundary Fence at 6 Billyard Avenue, Elizabeth Bay

I am the occupant of Unit 1 at 6 Billyard Avenue and wish to formally object to Development Application D/2025/954 for the installation of a new boundary fence along the northern edge of the property.

In my opinion it is not a “minor” proposal as described in the application. The installation of a 1.5 metre-high black pipe and chain-wire fence will have a major and permanent impact on the amenity and liveability of my apartment, and on the overall visual character of this unique foreshore enclave.

1. Visual and Amenity Impacts

My apartment is on the ground floor of 6 Billyard Ave, with windows and garden outlooks directly facing the proposed fence line. At present, this window opens onto a relatively narrow corridor between 2 buildings that is made more tranquil by the leafy outlook of the ferns and vegetation planted on the neighbouring property at 4 Billyard Avenue, as well as the mature Strelitzia tree at 4 Billyard Ave. This planting creates a natural, green foreground to the view of Sydney Harbour beyond, where I am lucky enough to catch a few glimpses of the water.

This sense of space, openness, and connection to the foreshore is integral to the enjoyment of my home. It brings light, air and calm, and is one of the defining qualities of this unit at 6 Billyard Avenue.

The proposed fence would destroy that outlook entirely. At a height of 1.5 metres, the fence would sit immediately in my line of sight from the only window I have that has a pleasant outlook (the other window in my living room looks out to the rubbish bin storage of 4 Billyard Ave). Instead of greenery and filtered harbour views, I would see a harsh, black industrial structure, a prison-like barrier pressed up against the boundary, boxing in the window of my apartment and erasing the feeling of openness.

Attached is an original photo showing the current view between the buildings from my window. Also **attached** is a marked-up version with a superimposed black fence using materials that the Applicant has proposed for the fence: black pipe and chain wire.

The effect would not be subtle. It would be visually oppressive and emotionally suffocating. The view would be replaced with a rigid metal grid; the soft movement of the garden replaced with a static, unnatural barrier. Morning light, which now passes freely across the open gardens, would be intercepted by dark fencing and metal posts.

A few years ago, before the purchase of unit 1/6 Billyard Ave, the issue of beautifying the boundary with planting came up with one of the Applicant’s board members, Glenn Cameron. As I also own some apartments at 4 Billyard Ave I raised questions with Glenn about whether the planting would impact the parking spot/turning circle at 4 Billyard Ave and/or impact access to the side of the building of 4 Billyard Ave. In his emails to me (**attached**), Glenn stated that:

“A physical fence on the side property line running the length of our properties would impose a far greater restriction to cars turning circles. A hedge is a far prettier and more practical boarder.”

Glenn acknowledged in writing that a fence would impose a great restriction to cars parking at 4 Billyard Ave, and on top of that, would not be as aesthetically pleasant as hedges. I felt that I had an understanding and undertaking from 6 Billyard Avenue that the treatment of the boundary would be in keeping with these principles of access for parking and access to the side of 4 Billyard Ave. The

fact that the Applicant has now reneged on that agreement for boundary hedges without any consultation is disappointing and concerning.

This outcome is fundamentally inconsistent with the objectives of Clauses 7.10 and 7.11 of the Sydney LEP 2012, which require that development within the foreshore area maintain visual permeability, landscape character, and compatibility with the surrounding environment. A black pipe-and-chain-wire fence does the opposite: it isolates, divides, and visually scars what is currently a soft, cohesive waterfront setting.

2. Heritage and Character

6 Billyard Avenue sits within the Elizabeth Bay and Rushcutters Bay Heritage Conservation Area (Map C20 under the Sydney LEP 2012). The charm of this area lies in its open landscaped gardens, natural sandstone, art-deco architecture, and unobstructed visual flow between buildings and the harbour. The introduction of a heavy looking, utilitarian fence made from steel posts and chain-wire mesh would jar violently against this refined context. It is not a sympathetic or recessive structure - it's stark, industrial, and alien to the heritage language of the precinct.

Where the area's character depends on transparency, greenery and shared garden edges, this proposal introduces division and enclosure. Instead of blending softly into the landscape, it would slice through it.

The proposal fails to conserve the environmental heritage significance of the locality, contrary to Clause 5.10 of the LEP and Section 2.4.6 of the Sydney DCP 2012, which require new development to respond to and complement heritage items and contributory buildings and to maintain view corridors and landscaped settings.

3. Impact on Views and Foreshore Setting

The DCP for The Bays locality recognises the importance of maintaining cross-lot view corridors and ensuring buildings sit within landscaped, visually open foreshore settings.

The proposed fence sits well within the 12-metre landscaped setback identified for this foreshore and would interrupt these views, both from my apartment and from the broader harbour setting. When viewed from the water, the fence will read as a dark horizontal line cutting through what is presently a seamless green garden backdrop.

The Billyard Avenue cul-de-sac is one of Sydney's last remaining waterfront settings where multiple buildings share an open garden interface to the harbour. This contributes not only to visual amenity but also to the distinctive sense of calm and space that defines the precinct. Installing this fence would shatter that continuity, fragmenting what is now a coherent and rare example of communal foreshore landscape.

4. Land Owners Consent

My understanding is that an owner must lodge land owners consent in order to lodge a DA pursuant to section 4.12(1)(a) of the EP&A Act and clause 25 of the *Environmental Planning and Assessment Regulation 2021*. I am not aware of the Applicant having obtained land owners' consent to lodge this DA and I would ask that Council require the Applicant to rectify this procedural defect.

4. Conclusion

In summary, the proposed fence would:

- Severely diminish the outlook, light and amenity of Unit 1 at 6 Billyard Avenue;
- Introduce an incongruous industrial element into a landscaped heritage foreshore; and

- Erode the visual continuity and character of the Elizabeth Bay waterfront.

I therefore respectfully request that Council refuse the application in its current form, or at minimum require that any boundary treatment be low, visually permeable, provide gated access, and be consistent with the landscaped, heritage character of Billyard Avenue.

Yours faithfully,

A grey rectangular box redacting the signature of Jamie Garis.

Jamie Garis

ORIGINAL PHOTO FROM MY LIVING ROOM



MARKED UP PHOTO WITH SUPERIMPOSED FENCE



Re: Edgewater and 4's side passage hedge

1 message

Jamie Garis <[REDACTED]>
To: Glenn Cameron <[REDACTED]>
Cc: Tam <[REDACTED]>

27 July 2023 at 18:54

Thanks Glenn,

All sounds good and we are fine for you to proceed from our perspective.

On cost, we will be guided by you. Neighbour fences are typically split but if you see this more as a beautification project on your lot that's fine too. We just want to be good neighbours and contribute if you think it's appropriate.

Thanks so much for reaching out on this and consulting with us. We really appreciate it.

Regards
Jamie

On Wed, Jul 26, 2023 at 3:25 PM Glenn Cameron <[REDACTED]> wrote:
Hi Jamie and Tamara,

Thanks for your reply. See below. I've cut and pasted and answered after each question.

Cheers,

Glenn.

Questions / comments from owners at our end:

- are you sure width of hedge won't come materially on our side of property line? **The intent is a narrow width hedge that is easily trimmed. The bush is densely leafed and ideal for precision hedging/shaping. The plants will be planted on the Edgewater side of the property line.**

For waist height hedge, it felt a tight planting zone? **The height reference is really more meant to imply a maximum. That is to say it's to be a low lying hedge and not intended as a screen. The gardeners will suggest the ideal height to support a good dense foliage look for a narrow width line. I'd imagine it'd be anything from knee height to waist height. Also, the height can be reduced/stepped down nearer the parking end so as to ensure a narrower hedge.**

Owners noted turning circle issues and access to side of our building as considerations. **Noted. A physical fence on the side property line running the length of our properties would impose a far greater restriction to cars turning circles. A hedge is a far prettier and more practical border.**

- can hedge only go so far as the current fence trench and not further east over the new concrete (otherwise hard to open car door doors in unit 7s car spot if you plant further east). **Yes. We have no intention to dig up concrete and the hedge will only go as far as the existing trench.**

- will the hedge impact the current plants on our lot? **Not in any large way. There are weeds on the existing dilapidated fence and a few random agapanthus which would be removed along with the fence. The agapanthus can be replanted but to be honest they're a bit tatty looking.**

Anything on your side wouldn't be removed. You do have some ferns and the tall palms which currently do grow over/onto our side path. Your low lying ferns near the car park may need a few leaves trimmed back that are currently overgrowing onto our path to make way for the hedge. But this is just trimming. These are visible in the picture sent to Jamie last week. There may be a couple of baby ferns toward the street end that may need to be moved over.

- will the hedge be ok if we concrete our side of the building like you have done (when we do our renovation works)? We wouldn't want to impact your plants though call out works are likely in the next year or two. **You're able to concrete to the property line. Our concrete path falls short of that, sufficient to allow the plants to grow at a width similar to the planter box's running down the driveway where the star jasmine is planted.**

Look forward to discussing soon.

Regards
Jamie

Sent from my iPhone

On 24 Jul 2023, at 15:02, Jamie Garis <[REDACTED]> wrote:

Hi Glenn,

Thanks for reaching out to me on this. We really appreciate it. Ccing my wife Tam who Chairs our committee.

Questions / comments from owners at our end:

- are you sure width of hedge won't come materially on our side of property line? For waist height hedge, it felt a tight planting zone? Owners noted turning circle issues and access to side of our building as considerations.
- can hedge only go so far as the current fence trench and not further east over the new concrete (otherwise hard to open car door doors in unit 7s car spot if you plant further east)
- will the hedge impact the current plants on our lot?
- will the hedge be ok if we concrete our side of the building like you have done (when we do our renovation works)? We wouldnt want to impact your plants though call out works are likely in the next year or two.

Look forward to discussing soon.

Regards
Jamie

On Sat, Jul 22, 2023 at 1:58 PM Glenn Cameron <[REDACTED]> wrote:

Hi Jamie,

Thanks for your time earlier today.

As discussed, we want to pretty up the side area by removing the dilapidated wire fence and planting a hedge. Waist height and not wide as discussed. I think the plants would lie on our side of the property line but as discussed we are happy to share the cost if that's what you'd like.

The quote for plants is \$720+GST. The cost of the fence removal is yet to be quoted by the gardener but it shouldn't be too much as they will simply be angle grinding the base down. I'll pass that quote on as soon as I have it.

My Board also is yet to approve this, but I don't see it not being approved.

Attached are Japanese box hedges.

Regards,

Glenn.

From: Nada Lukich <[REDACTED]> on behalf of Nada Lukich <[REDACTED]> <Nada Lukich <[REDACTED]>
Sent on: Wednesday, October 29, 2025 3:47:37 PM
To: City of Sydney Council <council@cityofsydney.nsw.gov.au>
Subject: Objection to Fence DA D/2025/954

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Sir/Mam

I'm writing in relation to D/2025/954 regarding the installation of a fence at 6 Billyard Ave toward the seawall.

I visit close friends that live in 4 Billyard Avenue and I regularly baby-sit their 2 young children, and I know how they and their young children, as well as other residents (especially those with kids) use the foreshore area in an open and friendly community way. I think it's a real shame that their neighbours are trying to install a fence that would completely ruin that open community feeling that I've experienced in that area over the years.

What's worse is not only are they trying to destroy the intrinsic character of the area by installing a fence, but it's also an incredibly ugly fence that should not be allowed by any type of building in an area with so much heritage and historical significance.

It's a real design failure and I'm surprised to see that even the owners of 6 Billyard Avenue would be happy to look out onto such an eye-sore every day. Surely something more beautiful and suitable for the area could have been designed! It just feels like they've chosen the bare minimum materials and colours purely for the purpose of installing a fence to block out neighbours crossing their yard - but that's something that so many people in those buildings do. I've personally seen people walk from 2 to 8 Billyard, and between 8 to 4 Billyard and from 6 to 4 Billyard and from 4 to 6 Billyard - that seems to be the nature of this communal style of living that exists in this foreshore area. Why should one neighbour destroy what so many people currently enjoy and have benefited from for so many years!?

From a planning perspective, the proposal fails to satisfy several criteria:

- Clause 5.10 Sydney Local Environmental Plan 2012 (Heritage Conservation), which requires development to conserve the environmental heritage significance of the Elizabeth Bay & Rushcutters Bay Heritage Conservation Area; and
- Clause 7.10 Sydney Local Environmental Plan 2012 (Foreshore Building Line), which seeks to ensure development within the foreshore maintains amenity and presents a compatible appearance from both land and water.
- Sydney Development Control Plan 2012 Section 2.4.6 (Locality Statement for The Bays) calls for open, landscaped foreshore setbacks and visual continuity between gardens. The fence they are proposing breaches these principles and conflicts with the open-garden character that truly defines this area.

Irrespective of these regulations, this proposed fence ~~will~~ truly have a significant impact on the community

that shares those open spaces. It will be really sad and disappointing to see that children can no longer play across the boundaries with each other. When I babysit my friend's children I love seeing the joy they get when the children from the surrounding buildings come over to play on the beautiful play equipment at 4 Billyard Ave. It is so heartwarming to see that kind of personal connection and love of the outdoors being encouraged in young children - it is something we should cherish and encourage as much as possible.

I strongly urge the Council to deny the installation of the fence. The alternative to full refusal would be a more thoughtful, attractive design that includes gated access for the residents in an effort to preserve heritage qualities and outdoor amenity of Billyard Avenue, especially for the children!

Kind Regards

Nada Lukich-Bruce

15/5 Earl Place

Potts Point 2011

From: [redacted] <[redacted]> on behalf of [redacted]
<[redacted]> <[redacted]> <[redacted]>
Sent on: Thursday, October 30, 2025 9:19:33 AM
To: council@cityofsydney.nsw.gov.au
Subject: D/2025/954, 6 Billyard Ave, Elizabeth Bay
Attachments: D.2025.954_6 Billyard Ave, Elizabeth Bay.pdf (66.46 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To The Assessment Officer/Planning Department, Sydney City Council

Dear Team

I am writing to formally object to the proposed development for the installation of a fence at 6 Billyard Ave, Elizabeth Bay (D/2025/954).

Please see **attached** setting out my reasons for objecting to this DA.

I also request that you please redact any identifying information.

Kind regards

[redacted]

[redacted]

[redacted]

T [redacted] M [redacted]
[redacted]
[redacted]

[redacted]

[redacted]

[redacted] acknowledges the Traditional Owners of the land where we work and live.
we pay our respects to Elders past and present.

not the intended recipient, any use (including disclosure by either copying or forwarding of this e-mail or any attachment) is strictly prohibited. Confidentiality and any legal privilege are not lost by reason of the mistaken delivery to you. If you have received this e-mail in error, please delete it and notify us immediately by e-mail or telephone. Please consider the environment before printing this email. Thank you.

GPO Box 2284
Sydney NSW 2001

The Assessment Officer / Planning Department, Sydney City Council

Re: D/2025/954, 6 Billyard Ave, Elizabeth Bay

I am writing to formally object to the proposed development for the installation of a fence at 6 Billyard Ave, Elizabeth Bay (D/2025/954) and request that Council refuse this application.

I have just been made aware of this application by friends.

My husband and I visit the area a lot from both the water and from the street, and have spent a lot of time in the foreshore buildings over the years. We also lived in the Eastern Suburbs for many years and have many friends who live close to Billyard Ave.

Having looked at the architectural plans online relating to the application, it is hard to see any merit or design excellence in the designed fence. It is really out of character for the area and seems to enclose a portion of land that should, in my opinion, remain open, as it has been for generations.

I question why a fence between the properties is needed? This area has remained an open and inviting landscaped area for many years and there have never been any incidents, so if this is said to be a safety issue, there is absolutely no evidence to substantiate this.

Surely this fence cannot be in keeping with heritage controls for the area?

Given the significant adverse impacts, I urge Council to refuse this application in its current form.

If future designs are to be considered, they should be considered in a way that respects the landscaped and open foreshore area of Billyard Ave and there should be full consultation with all residents in the area.

Thank you for considering my submission. I am available to discuss this matter further if required.

Yours sincerely

A grey rectangular box redacting the signature of the sender.

From: Ekko Media <[REDACTED]> on behalf of Ekko Media

<[REDACTED]> <Ekko Media <[REDACTED]>

Sent on: Wednesday, October 29, 2025 7:59:19 PM

To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>; City of Sydney <council@cityofsydney.nsw.gov.au>

Subject: D/2025/954 - 6 Billyard Ave Elizabeth Bay NSW 2011

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council/Mr Tran,

D/2025/954 - [6 Billyard Ave Elizabeth Bay NSW 2011](#)

I'm writing to share my concerns and objections regarding the above proposal.

Over the years, the open layout of this part of the foreshore has helped create a strong sense of connection between neighbours. The existing green space and visibility between properties have made the area feel welcoming and cohesive. Introducing a solid, high fence would change that dynamic, creating a physical divide between homes that have long shared open boundaries.

This is a well-loved conservation area with a rich heritage and many beautiful art-deco buildings. The unique character of the neighbourhood is something residents deeply value, and I'm concerned that the proposed fence does not seem to align with these established qualities.

Visually, the proposed design feels heavy and at odds with the soft, green edge that currently enhances the harbour outlook. Maintaining an open and sympathetic interface with the foreshore is important to preserving the area's character and appeal.

After speaking with several nearby residents, it also appears that the proposal may not fully align with certain planning controls that apply here, including elements of the LEP and DCP relating to foreshore setbacks.

I hope these points are taken into consideration as part of the review process.

Yours Sincerely,

Yasmin Perez

M: [REDACTED]

From: Lauren Smith <[REDACTED]> on behalf of Lauren Smith <[REDACTED]> <Lauren Smith
<[REDACTED]>
Sent on: Wednesday, October 29, 2025 3:40:47 PM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: D/2025/954 | 6 Billyard Avenue, Elizabeth Bay NSW 2011

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D/2025/954
6 Billyard Avenue, Elizabeth Bay NSW 2011

I object to D/2025/954. The Bays locality statement values view sharing to the harbour and landscaped dominance between buildings.

A tall chain-mesh fence interrupts cross-lot viewlines and weakens the experience of the water from the garden foreground.

The proposal is therefore inconsistent with the DCP and heritage objectives and should not proceed in its current form.

Regards,

Lauren

From: Tamara Garis <[REDACTED]> on behalf of Tamara Garis
<[REDACTED]> <Tamara Garis <[REDACTED]>
Sent on: Thursday, October 30, 2025 11:16:56 AM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: Objection to D/2025/954
Attachments: Tamara Garis Submission - D2025 954.pdf (6 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council,

D/2025/954 - 6 Billyard Ave, Elizabeth Bay NSW 2011

Please find attached my objection to the above DA.

Kind regards,

Tamara Garis

City of Sydney
Planning Department
Attention: Eddy Tran

Dear Mr Tran,

Objection to D/2025/954 - 6 Billyard Ave, Elizabeth Bay NSW 2011

My name is Tamara Garis. I am an owner and resident of 4 Billyard Avenue and I am writing to object to D/2025/954 for the installation of a northern boundary fence at 6 Billyard Avenue, Elizabeth Bay.

I have reviewed the Development Application and the accompanying Statement of Environmental Effects (SEE) prepared by 1001 Designs for construction of a boundary fence along the northern edge of 6 Billyard Avenue extending to the seawall.

I think it is incorrect to classify the work as “minor development”. It raises substantive concerns regarding visual character, heritage context, access, and amenity that warrant careful consideration under the Environmental Planning and Assessment Act 1979 (EP&A Act).

The proposed fence would introduce a visually intrusive and unnecessary structure into one of Elizabeth Bay’s most distinctive and cohesive foreshore settings. The long-established openness between numbers 2, 4, 6 and 8-10 Billyard Avenue contributes to the landscape character, and communal amenity of this unique cul-de-sac.

For the reasons set out below, I respectfully request that the City of Sydney Council either refuse the application or require its substantial modification to retain the open landscaped character and functional access historically enjoyed between the adjoining properties.

Sydney Local Environmental Plan 2012 (LEP)

The site is zoned R1 General Residential, within the Foreshore Area and the Elizabeth Bay and Rushcutters Bay Heritage Conservation Area (HCA) (C20).

The proposal is therefore subject to Division 2 - Foreshore Development (Clauses 7.10 and 7.11) and Clause 5.10 - Heritage Conservation.

Clause 7.10 - Foreshore Building Line

The objectives of this clause are to ensure that development within the foreshore area:

- does not impact natural foreshore processes;
- maintains the significance and amenity of the foreshore; and
- presents a compatible appearance when viewed from both land and water.

While fences are listed as a permissible form of development under sub-clause (2)(c), consent must not be granted unless the proposal satisfies the stringent performance criteria in sub-clause (3). The proposal fails to achieve compliance with several of these requirements:

LEP Requirement	Response
7.10(3)(a) Contribute to zone objectives	The fence provides no residential or environmental benefit and instead reduces visual permeability and landscape quality, contrary to the R1 zone objective of maintaining residential amenity.

7.10(3)(b) Compatible appearance from water and foreshore	A 1.5m high pipe-and-chain-wire fence is industrial and utilitarian, inconsistent with the landscaped, open foreshore character of Billyard Avenue and the adjoining heritage area.
7.10(3)(c) No environmental harm	N/A
7.10(3)(e) Public access not compromised	Although located on private land, the fence diminishes the sense of shared, semi-public foreshore openness that characterises the precinct and which the LEP seeks to maintain.
7.10(3)(f) Maintain heritage and aesthetic significance	The proposal interrupts the continuous open-garden interface that contributes to the aesthetic significance of the Elizabeth Bay and Rushcutters Bay HCA.
7.10(3)(g) No adverse amenity impact	The fence would unreasonably block visual continuity and impede functional access to parking, essential services, and vegetation maintenance along the boundary.

Accordingly, the proposal does not satisfy the requirements of Clause 7.10 and should not be supported in its current form.

Clause 7.11 - Development on the Foreshore Must Ensure Access

This clause requires Council to consider whether development:

- encourages continuous public access along the foreshore; and
- reinforces foreshore character and respects environmental conditions.

While the fence occurs on private property, it visibly encloses and fragments a historically open foreshore precinct, contrary to the intent of maintaining continuous, accessible foreshore character. The design fails to “reinforce” the foreshore landscape and instead introduces a hard visual barrier.

Clause 5.10 - Heritage Conservation

The site and its context fall within the Elizabeth Bay and Rushcutters Bay Heritage Conservation Area (C20), which emphasises:

- landscaped waterfront settings,
- open inter-building views to the harbour, and
- cohesive streetscape form.

The introduction of a high, black pipe and chain-wire fence diminishes these attributes and is therefore inconsistent with Clause 5.10(1) objectives to conserve the environmental heritage significance of the area.

Sydney Development Control Plan 2012 (DCP)

Section 2.4.6 - Locality Statement: The Bays

This section provides locality-specific principles for development within Elizabeth Bay and Rushcutters Bay. Key principles relevant to this application include:

DCP Principle	Assessment
(b) Respond to and complement heritage items and contributory buildings	The proposal fails to reflect the finely landscaped, open setting typical of contributory sites along Billyard Avenue.
(c) Maintain view corridors to Sydney Harbour and parks	The solid upper alignment of the fence will interrupt cross-lot view sharing currently enjoyed by residents.
(e) Maintain buildings within a landscape setting	The fence reduces the landscaped interface between properties and introduces a harsh, built boundary.
(g) Provide a landscaped foreshore setback	The fence interrupts the visual and physical continuity of the existing foreshore gardens, contrary to this objective.

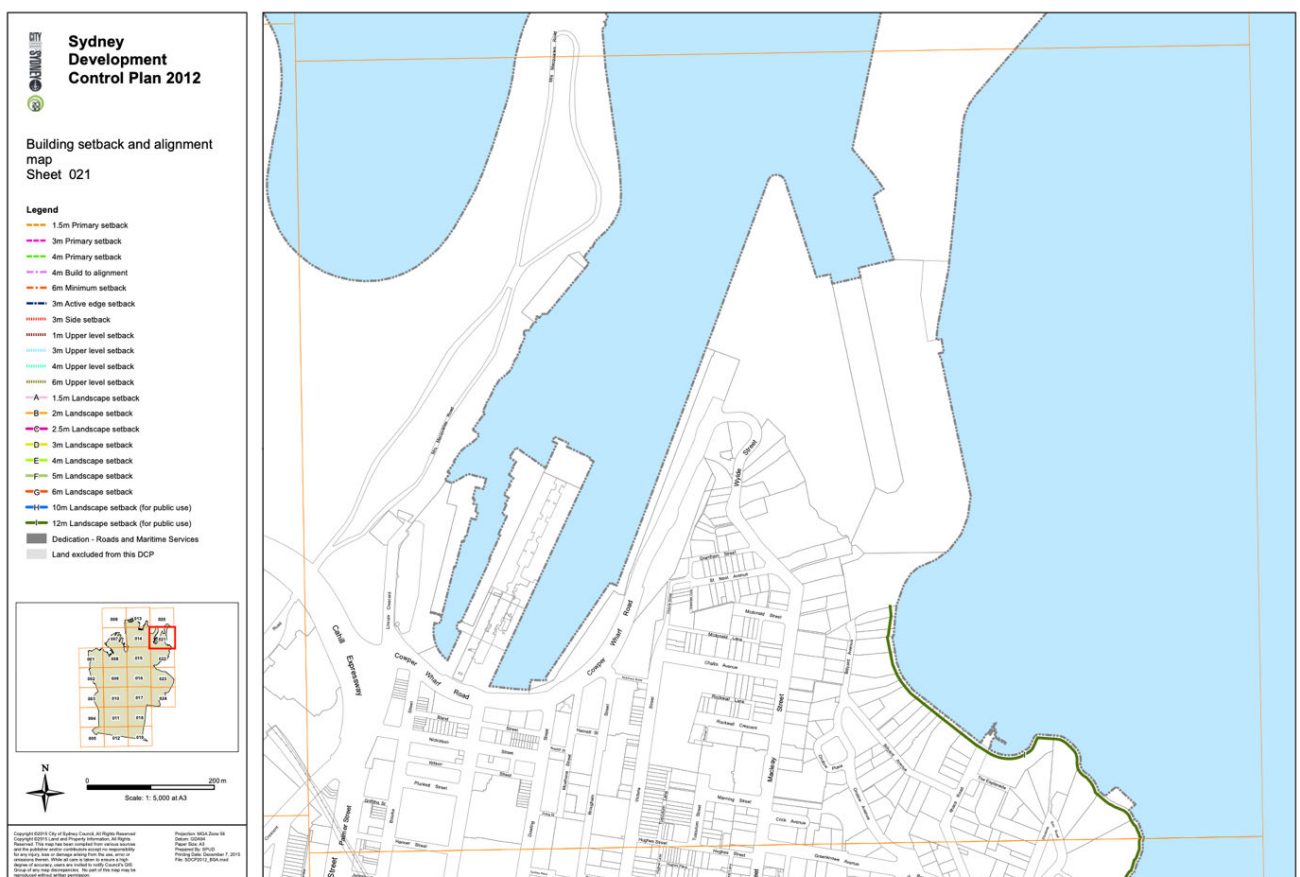
Part 3 - General Controls (Access, Parking and Amenity)

The proposed fence alignment appears to run immediately adjacent to car-parking spaces serving 4 Billyard Avenue. If constructed to the boundary, it will significantly constrain vehicle manoeuvring, contrary to DCP Clause 3.11 (Access, Parking and Servicing) which requires safe and efficient access arrangements.

Building Setback and Alignment

The Sydney DCP 2012 includes a Building Setbacks and Alignment Map, which identifies the extent of required foreshore and landscape setbacks within the Elizabeth Bay precinct.

For the subject site at 6 Billyard Avenue, this map specifies a 12-metre landscaped setback (for public use) measured from the foreshore alignment. See map below.



The proposed boundary fence is located well within this 12-metre landscaped setback, extending from the rear of the building to the seawall. As such, it constitutes a built intrusion into an area intended to remain open, vegetated, and visually permeable.

The encroachment undermines the function and intent of the setback by:

- visually enclosing an area identified for landscaped public interface;
- reducing permeability between the private domain and the foreshore; and
- compromising the potential for future public access or shared landscape continuity along the harbour edge.

While the Applicant's SEE asserts that the works are "minor," the DCP's mapped controls make clear that built elements such as fences are not encouraged within this setback unless demonstrably compatible with its open, landscaped purpose.

Accordingly, the proposal does not comply with the 12-metre landscaped foreshore setback requirement of the Sydney DCP 2012 and should be modified to ensure all boundary works remain outside the designated landscape setback area.

Sydney Harbour Foreshores and Waterways Area Development Control Plan

The subject site lies within the Sydney Harbour Foreshores and Waterways Area and is therefore subject to the provisions of the Sydney Harbour Foreshores and Waterways Area Development Control Plan (DCP) 2005 prepared for development of land in the Sydney Harbour Catchment.

This plan establishes broad performance criteria and design principles intended to protect the environmental, visual and recreational qualities of the harbour setting.

Section 3.4 - Landscape Character Type 8

The DCP requires that development within the foreshore landscape:

- integrates vegetation with built form to minimise contrast between natural and built elements;
- includes design and mitigation measures to reduce visual and amenity impacts between incompatible land uses;
- preserves maritime uses and minimises pressure for their relocation; and
- retains significant natural foreshore features and views of those features.

The proposed pipe-and-chain-wire fence fails to satisfy these criteria. The structure introduces a hard, visually discordant element into an otherwise soft and landscaped foreshore setting. Rather than integrating with vegetation, the fence will sit as a conspicuous, artificial boundary that accentuates the division between properties and erodes the natural continuity of the foreshore gardens.

The fence does not contribute to the preservation of natural features or the visual experience of the harbour, and it detracts from the established pattern of open, vegetated edges that define this landscape character type.

Section 4.3 - Foreshore Access

Section 4.3 promotes public access to and along the foreshore wherever possible, encouraging the establishment or improvement of links between open spaces and access points. While the subject land is privately held, the spirit and intent of this clause is to reinforce openness and permeability along the harbour edge.

The current open garden arrangement between numbers 2 to 8-10 Billyard Avenue contributes to a visually continuous foreshore corridor consistent with these objectives. The proposed fence would visually and physically sever this continuity, enclosing the foreshore and diminishing the perception of shared access and landscape flow.

The development is therefore inconsistent with the foreshore access objectives of the DCP, which seek to avoid further fragmentation of the harbour edge by private barriers.

Section 5.4 - Built Form

Section 5.4 requires that:

- new structures be sympathetic in design and scale to their surroundings; and
- walls and fences be kept low enough to allow views of private gardens from the waterway.

The proposed 1.5 m-high chain-wire fence is not sympathetic to the surrounding residential landscape or the traditional built form character of the Elizabeth Bay foreshore. It constitutes a utilitarian, non-architectural intervention that detracts from the refined built form of the adjoining residential buildings and their landscaped settings.

Furthermore, the height and opacity of the structure, even if visually permeable, will interrupt views of the private gardens from the waterway, contrary to Section 5.4's express design intent that fences remain low and recessive to maintain the visual continuity of garden spaces along the harbour.

Environmental Impacts

The proposed fence will result in the following additional environmental impacts.

Loss of Established Open Character

The group of four buildings (Nos. 2 to 8-10 Billyard Ave) has historically shared an unfenced, communal landscape. This open form provides visual connection to Sydney Harbour and a sense of garden continuity rarely found in the inner-east foreshore. The introduction of a fence would erode this unique local character.

Visual Impact

The proposed materials, metal posts and black chain-wire are incongruous with the finely landscaped, heritage foreshore. Even if partially screened by vegetation, the utilitarian design would appear harsh and unsympathetic when viewed from adjacent dwellings and the water.

Access and Maintenance

The fence would obstruct safe access to:

- Parking bays located along the shared boundary;
- Essential services on the southern façade of No. 4 Billyard Ave (gas meters, drainage); and
- Maintenance of a mature Strelitzia that contributes to the shared green outlook.

These constraints will lead to unnecessary removal of vegetation and reduced amenity.

Land Owner's Consent and Encroachment of Footings onto Adjoining Land

The Applicant proposes to construct the fence directly along the boundary line. Given the nature of fence construction, it is highly likely that structural elements, such as footings, posts or

subterranean supports, would necessarily be installed below ground level and extend beyond the boundary into the land of 4 Billyard Avenue. Any such encroachment, whether above or below ground, constitutes development on land that is not owned by the Applicant.

The SEE does not address how the fence footings will be constructed, nor does it demonstrate that all works will be wholly contained within the title boundary of 6 Billyard Avenue without any encroachment. In the absence of engineering details demonstrating containment of all structural elements within the Applicant's property, the proposal must be assessed on the reasonable assumption that footings will extend beneath the boundary, given the proximity to the boundary.

Under the EP&A Act and associated regulations, development consent cannot be validly granted for works that extend onto adjoining land unless the landowner of that adjoining parcel has provided written land owner's consent. No such consent has been sought or granted from the owners corporation of 4 Billyard Avenue. Accordingly, the development application is fundamentally deficient.

The application therefore fails to satisfy the statutory requirement for land owner consent and should not proceed in its current form. At minimum, Council must require detailed construction drawings, engineering details and written confirmation from a registered surveyor demonstrating that no structural element of the fence will intrude into the adjoining land whatsoever. If such assurances cannot be provided, the application is invalid unless and until neighbouring land owner consent is obtained.

Requirement for Applicant's Land Owner's Consent

Pursuant to section 4.12(1)(a) of the EP&A Act and clause 25 of the *Environmental Planning and Assessment Regulation 2021*, a development application must be accompanied by the written consent of the landowner. In the case of a company title building such as 6 Billyard Avenue, the "landowner" is the company that holds the title to the property, and consent must be granted by a duly authorised resolution of the company's board or governing body.

It is unclear from the application whether valid landowner's consent has in fact been provided. No copy of the executed land owner's consent form has been included in the publicly available documents, nor is there any evidence of a formal resolution of the company authorising the lodgement of this DA. If the consent was provided by an agent (such as a strata or building manager), it must be demonstrated that the agent was properly authorised to do so through a board resolution or a registered instrument of delegation.

In the absence of clear and lawful land owner's consent, the development application has not been validly made and cannot be determined by Council. I respectfully request that Council confirm whether compliant landowner's consent has been provided, and if not, require the Applicant to rectify this fundamental procedural defect prior to any further assessment of the proposal.

Other relevant matters

Lack of Consultation:

In addition to the above, I am deeply concerned by the Applicant's lack of consultation with us as neighbours, particularly in light of the long history of cooperation, open communication and goodwill between our buildings. The Applicant did not engage in any consultation with the owners corporation or strata committee of 4 Billyard Avenue prior to lodging the DA. Early dialogue could have identified design alternatives, such as a lower, open garden boundary with a gated access point, that would balance privacy with permeability.

In the spirit of consultation, in 2022, we wrote to the Applicant suggesting a meeting to let them know of upcoming plans to remediate our building. We specifically expressed that we "*value constructive and open dialogue with our neighbours*".

Then in July 2023, a resident at 6 Billyard Avenue (Mr Glenn Cameron) initiated discussions with us regarding the planting of a hedge between our boundaries. One of the issues we responded to

them with related to concerns by owners at 4 Billyard Avenue regarding “turning circle issues and access to side of our building”. Mr Glenn Cameron wrote back saying:

“Noted. A physical fence on the side property line running the length of our properties would impose a far greater restriction to cars turning circles. A hedge is a far prettier and more practical boarder.”

We also asked “can [the] hedge only go so far as the current fence trench and not further east over the new concrete (otherwise hard to open car door doors in unit 7s car spot if you plant further east).” The response from Mr Cameron was:

“Yes. We have no intention to dig up concrete and the hedge will only go as far as the existing trench.”

This email chain is **attached** as **annexure A** and ranges in date from 22 July to 27 July 2023.

These communications demonstrate that since July 2023 the Applicant has been fully aware of the importance of ensuring access to the side of our building and to ensure we have easy and safe access to cars parked on our property, and they in fact acknowledged the potential impacts that could be caused by installation of anything large and obtrusive. As such, the low-lying hedges were agreed to between 4 and 6 Billyard Avenue and have since been planted on the boundary to create a beautiful and landscaped outlook for all residents, which should be even more beautiful if given further time to flourish. However, these plants will need to be removed if this DA is approved.

Then, without any notice or consultation, on Wednesday 14 May 2025 we were notified of the Applicant’s intention to remove the plants and install a fence on the boundary when the Applicant’s strata manager (Sydney Company Title) wrote to our strata manager informing us that a fence would be installed on Monday 19 May 2025 (only 3 business days later). I immediately reached out to neighbours that I know at 6 Billyard to seek information about the fence and was directed to contact Mr Cameron. I tried calling Mr Cameron and when I couldn’t reach him, I sent him an SMS at 3:43pm on 14 May 2025 stating:

“Hi Glenn my name is Tamara- I’m your neighbour from 4 Billyard Ave. I just got the notice about the fence you’re installing and was wondering if you had a few spare minutes to meet on the boundary and show me where it’s going exactly, just so I can understand it a bit better. Thanks so much!”

I was simply seeking to obtain important and relevant information about the fence and understand the specifications of the fence, but I did not (nor have I at any time since) received a response from Mr Cameron. See attached SMS marked as **Annexure B**. I then reached out to Sydney Company Title asking if they could contact me to discuss the proposed fence installation and that I had some serious concerns that I needed to discuss urgently. The only response I received was that they had forwarded my email and contact to the Board for instructions. However, I was never contacted by the board thereafter. See **attached** email marked as **Annexure C**.

This conduct is the opposite of collaborative, neighbourly behaviour. It demonstrates a deliberate disregard for established agreements, longstanding informal access arrangements, and the rights of adjoining owners who will be materially impacted. The Applicant has failed to act in good faith, has reneged on previously agreed positions, and has attempted to progress a development that benefits them alone while causing detriment to surrounding residents, without transparency, consultation, or even the courtesy of a response. Their actions are not consistent with the cooperative spirit that has defined this cul-de-sac community for decades and should be viewed as an unreasonable and hostile departure from accepted and agreed neighbourly conduct.

Personal Access Rights and Direct Impact on My Properties

I hold a unique position within the cul-de-sac as an owner of multiple properties with formal access rights across 4, 6 and 8 Billyard Avenue. I own an apartment in both 4 Billyard Avenue and 6 Billyard Avenue, as well as a parking space in 8 Billyard Avenue, which grants me legal rights of access to all three properties, including the ocean pool at 8 Billyard Ave. Other residents in the

area also own parking spots within 8 Billyard Ave, reflecting the interconnected nature of property ownership in this precinct.

For many years, these rights have been exercised in a practical, unobstructed manner due to the open flow between properties. The freedom to move between 4, 6 and 8 Billyard across the unfenced gardens and foreshore is not merely a convenience; it is integral to my lawful use and enjoyment of my properties.

The proposed fence would severely disrupt this long-standing access, effectively placing physical obstacles between land that I own and have legal entitlement to use. It would impede my ability to move safely and efficiently between my homes, parking area and ocean pool. It is not reasonable for one set of owners (ie the Applicant) to unilaterally impose barriers that interfere with the established legal rights and practical realities of adjoining owners, particularly where those rights have been respected for decades without conflict, and especially in circumstances where the Applicant also enjoys legal rights (via agreement with 8 Billyard Ave) to access their neighbouring property and ocean pool at 8 Billyard Ave.

This is not a speculative or theoretical concern - it's a direct, personal and ongoing impact on my daily use of my properties and my ability to access the water, gardens, parking, and shared open spaces that I am legally entitled to enjoy. The erection of a fence would undermine the very essence of my property rights and disregard the cooperative way in which these properties have always functioned.

Unique neighbourly community

The properties between 2 and 8-10 Billyard Avenue form a truly unique community unlike anything else in Elizabeth Bay, and possibly the wider City of Sydney area. For decades, residents have shared open gardens, the private driveway between our buildings, and access to the foreshore in a way that is respectful, harmonious and deeply rooted in neighbourly goodwill. This is not a collection of isolated properties: it is a small, connected community in every sense of the word. People know one another, look out for one another, and move freely between the open spaces of the properties. This shared environment has fostered long-term friendships, trust, and a sense of belonging that is incredibly rare in modern city living.

Over the years, these connections have only deepened. Residents don't simply wave from balconies, we visit each other over the grass, children run across the lawns between buildings, and neighbours gather to swim, to talk, and to enjoy the peaceful foreshore setting together. This open access between buildings has helped to maintain the social fabric that makes this cul-de-sac special.

In recent years, this area has undergone a gentle and positive transformation. Historically, Potts Point and Elizabeth Bay were not known as child-friendly suburbs. But that has changed. Families, such as my own, are choosing to build their lives here, to raise children here - not in spite of the urban setting, but because of the extraordinary, safe, and open environment that exists in this particular part of the foreshore. More and more children now live in the buildings between 2 and 8-10 Billyard, and what has emerged is beautiful: children playing outdoors, exploring the gardens, fishing, swimming in the bay, and forming friendships across property boundaries as previous generations once did.

This is not a theoretical or potential social benefit - it's something real, present, and thriving right now. This unique open foreshore area provides children with opportunities to develop independence, curiosity and a love for the natural environment. It allows older residents to engage with their neighbours and feel connected. It enables a way of life that is community-based, environmentally connected, and fundamentally human.

To introduce fencing that interrupts this flow would not simply alter the appearance of the area, it would fracture the social fabric that defines it. It would replace openness with division, neighbourliness with isolation, and shared life with separation. This cul-de-sac is a rare example (maybe one of the last remaining examples in inner Sydney) where true community living is still

possible without artificial boundaries. Council should recognise this as a significant social and cultural attribute of the area and take steps to preserve it.

I truly believe Council should be supporting environments that foster connection, not eroding them. The open nature of 2 to 8-10 Billyard Avenue is something precious, and once lost, it cannot be easily restored.

For these reasons, I strongly urge Council to protect this unique community environment and reject any proposal that would impede the free, open and long-standing access between these properties. Even if there is no single provision that mandates refusal, the broader intent of the planning framework - to enhance community wellbeing, to respect local character, and to promote design excellence - should prevail. This is a living example of a socially cohesive, intergenerational, environmentally connected community, and it deserves to be preserved.

Rebuttal of Applicant's Assertions

The Applicant's SEE raises several points which are categorically false and/or misleading.

Assertion	Response
That the proposed fence will not have any adverse impact on the adjoining property or the wider locality (Page 1 of SEE)	This is categorically untrue. The fence will in fact have an adverse impact on 4 Billyard Avenue as well as other residents of the unique cul-de-sac community. In terms of impacts on 4 Billyard Ave, the impacts relate to access to parking and access to services on the southern side of the building. The fence is proposed to be installed right up against the boundary line, which will severely impact our ability to access the parking spot that is also right up against the boundary. Further, the southern side of the building contains essential services for the building, such as our gas metres. By installing a fence the full length of the boundary without any sort of opening, we will be unable to easily access our essential services, or other parts of the building that may require maintenance from time to time. I personally own property at 4 Billyard, 6 Billyard Avenue and 8 Billyard Avenue and have rights to access all properties. My family and I currently use the opening between the properties to access our lots, and the owners of 6 Billyard Avenue are fully aware of this, so to claim that the fence will have no adverse impacts is untrue. The Applicant is also aware of the impacts on our parking space at 4 Billyard Ave and access to the side of the building and acknowledged this in writing to us on 26 July 2023 (as outlined above).
That the proposed fence <i>"replaces a pre-existing fence along part of the boundary"</i> (page 3 of SEE)	There has never been a pre-existing fence that ran the length of 32.6m from the rear of the building to the sea wall. At some point there was a short and very low fence with an opening for access between buildings. A picture of that fence is included on page 3 of the SEE and clearly shows a red/orange fence, then a gap for resident access, and then a grey railing. Further, that part of the red fence has since been replaced with hedges which were agreed upon between 4 Billyard Ave and the Applicant in July 2023, as outlined above.
That there are "similar fences in place on the	As stated above, there are no fences at all between 2 Billyard Avenue and 8-10 Billyard Avenue, and certainly no nasty metal

neighbouring and surrounding sites" (Page 3 and 6 of SEE)	pipe and chain-wire fences that we are aware of at all in the surrounding sites.
That the fence "will not detract from the heritage qualities of the area". (Page 5 of SEE)	I do not agree that this fence won't affect the heritage feel of the area. Our neighbourhood is known for its art deco architecture, natural sandstone, open gardens and unobstructed waterfront views, which is what gives it its unique character. A black pipe and chain wire fence is completely out of place in this setting and would clearly detract from the visual appeal and historic atmosphere of the area. The Applicant (via email from Mr Cameron on 26 July) even acknowledged that a hedge would be a <i>"far prettier and more practical boarder"</i> than a physical fence.
That the fence will "not have any effect on safe occupation or evacuation from the site" (Page 5 of SEE)	Although this point is raised in relation to flood planning, it's worth noting that the proposed fence will in fact impact safety and evacuation from the site generally. During a recent emergency involving a shark attack, ambulance services were only able to reach the jetty at 8 Billyard Ave by using the shared open access across the adjoining properties through 4 Billyard Ave and then crossing into 6 Billyard Ave. If a fence or barrier had been in place, emergency personnel would have been delayed or blocked from reaching the injured person. This clearly shows that maintaining unobstructed access is essential for public safety and emergency response, especially on a waterfront that is shared by families with children.
That the fence "will be compatible with the surrounding area" and "not be visually intrusive". (Page 5 of SEE)	The statement that the fence will be "compatible with the surrounding area" and "not be visually intrusive" is simply not realistic. The surrounding area is characterised by open landscaped grounds, sandstone features and unobstructed views that create a cohesive and scenic waterfront environment. The materials proposed in the DA are akin to the materials used in a prison fence - black pipe and chain wire fencing. This is a stark, industrial-looking structure that would stand out sharply against this natural and heritage setting. It would clearly interrupt the visual flow of the foreshore and appear intrusive, rather than blending in with the existing character of the area. I also recently purchased a ground-floor apartment in 6 Billyard Avenue for my son. From this apartment, the outlook currently includes the beautiful strelitzia tree on 4 Billyard Ave, along with glimpses of the landscaped garden and water beyond. The installation of a 1.5 metre-high black pipe and chain wire fence would completely block this outlook, enclosing the view and creating a harsh, boxed-in appearance that feels more like a prison boundary than a residential garden setting. This is particularly contradictory given that residents of 6 Billyard have previously commented to me on the beauty of the strelitzia tree and the green outlook it provides from their apartments, yet they now propose to enclose our apartment on the ground floor with an industrial, visually intrusive fence with no regard for our amenity. See attached photo marked Annexure D with a red line indicating the approximate location of the proposed fence. It is intended for that fence to go right up to the edge of the building of 6 Billyard Ave, adjacent to my window at unit 1 of 6 Billyard Ave. At a height of 1.5m it is very obvious in my opinion how intrusive and oppressive it will feel.

That “<i>the development will not cause congestion of, or generate conflicts between, people using open space areas or the waterway</i>” (Page 6 of SEE)	This statement overlooks the long-standing and well-established use of the open space and waterway by multiple residents, including those with formal access rights, such as my family. The open, unfenced nature of the area facilitates safe and unobstructed movement between properties, which is part of the established social and physical character of the cul-de-sac. Families, children, and neighbours regularly move across these shared spaces to access the water and visit one another. I know personally that there are residents in 2 Billyard who have friends in 6 Billyard, and they walk across the backyard of 4 Billyard to visit each other. We also have friends in 8 Billyard who visit us at 4 Billyard. These are just 2 of many examples of the friendships and relationships that exist in this unique cul-de-sac. Installing a fence would directly create conflict by blocking these existing access patterns, restricting movement and creating physical barriers where none currently exist. This would clearly result in conflict among users of the open space and waterway.
That “<i>there is no existing public access along the foreshore in this location and there is limited opportunity to provide such access given existing fencing on the neighbouring properties to the north and south and restricted access to the Garden Island Naval Base land to the north. The proposal will therefore not compromise public access along the foreshore</i>” (Page 6 of SEE)	This statement is misleading and ignores the established and historical use of the foreshore by residents of 2 to 8-10 Billyard Avenue. While it is correct that there is no <i>public</i> foreshore access in this location, there has always been neighbourly access along the foreshore between the residents of these properties, forming part of the long-standing character and use of the area. There are no fences between 2 and 8-10 Billyard that restrict movement. Fencing only begins beyond 12 Billyard at the privately owned torrens title properties. Referring to fencing at the Garden Island Naval Base is irrelevant, as no one is seeking access across the Naval Base. The issue is the disruption of established access between neighbouring residential properties, not public access. Installing a fence would therefore compromise existing local access patterns and negatively impact the established social and physical character of the foreshore. Further to this point, the owners at 8 Billyard Ave recently planted some plants along their boundary which showed an obvious delineation of their property. However, they also installed a “footpath” using timber sleepers between 6 and 8-10 Billyard which specifically indicates that there is public (resident) access amongst the properties. It’s disingenuous for the Applicants to agree with 8 Billyard to maintain that public/resident access between 6 and 8 Billyard but then block that very same access with us at 4 Billyard. See attached photo marked Annexure E. Furthermore, in terms of access over the properties, it is not a one-sided arrangement whereby residents from 2 or 4 Billyard access 6 or 8-10 Billyard. Over the years residents from 6 Billyard Ave have accessed the garden and jetty of 4 Billyard with kayaks and stand up paddle boards to launch into the water. Residents with families from 8 Billyard Ave have also used the children’s play equipment at 4 Billyard Ave, as have residents from 2 Billyard Ave, including children from 2 Billyard Ave fishing off the jetty at 4 Billyard Ave. We have never taken issue with this or confronted neighbours as we enjoy the friendly and neighbourly community that exists between our buildings. If we felt that such use was being abused by our neighbours or was in any way disrespectful, we would have raised our concerns directly with our neighbours. But as a resident who has lived in this building for almost 10 years I

	have personally never experienced an abuse of the open foreshore area amongst residents here.
--	---

Conclusion

Having regard to the provisions of the Sydney LEP 2012, Sydney DCP 2012, and the objectives of the Environmental Planning and Assessment Act 1979, the proposed boundary fence at 6 Billyard Avenue:

- Fails to maintain the established landscaped foreshore character and visual permeability sought for *The Bays* locality;
- Conflicts with Clauses 7.10 and 7.11 of the LEP concerning foreshore development and access;
- Diminishes the heritage significance of the Elizabeth Bay and Rushcutters Bay Heritage Conservation Area; and
- Adversely impacts adjoining amenity, access, and the communal qualities of the Billyard Avenue cul-de-sac.

In addition to the above planning controls, I urge Council to consider the physical reality of how closely these buildings sit together and I would invite you to visit the development site to fully understand and appreciate the inherent access difficulties associated with these 1930s buildings that were built in severe proximity to each other. In some places, the structures actually touch, leaving little to no space between them. It seems evident that this proximity is the reason fences have never been constructed on the boundaries, because doing so would make essential access along the sides of the buildings virtually impossible. The absence of dividing fences has always been a practical necessity, allowing residents to reach essential services, drainage points and other service areas. I ask that Council take this into account, as well as the social, practical and heritage considerations alongside the planning considerations, when assessing this application.

Accordingly, I submit that Council should:

1. Refuse consent to the Development Application in its current form; or, at a minimum,
2. Require modification to ensure:
 - a low, visually transparent boundary treatment;
 - provision of a pedestrian gate to maintain essential access for maintenance, essential services, shared amenity and emergency services.

I would welcome the opportunity to meet with Council officers and the Applicant to discuss a mutually acceptable outcome that preserves the special character of this part of Elizabeth Bay.

Yours faithfully,



Tamara Garis

Re: Edgewater and 4's side passage hedge

1 message

Jamie Garis <[REDACTED]>
To: Glenn Cameron <[REDACTED]>
Cc: Tam <[REDACTED]>

27 July 2023 at 18:54

Thanks Glenn,

All sounds good and we are fine for you to proceed from our perspective.

On cost, we will be guided by you. Neighbour fences are typically split but if you see this more as a beautification project on your lot that's fine too. We just want to be good neighbours and contribute if you think it's appropriate.

Thanks so much for reaching out on this and consulting with us. We really appreciate it.

Regards
Jamie

On Wed, Jul 26, 2023 at 3:25 PM Glenn Cameron <[REDACTED]> wrote:
Hi Jamie and Tamara,

Thanks for your reply. See below. I've cut and pasted and answered after each question.

Cheers,

Glenn.

Questions / comments from owners at our end:

- are you sure width of hedge won't come materially on our side of property line? **The intent is a narrow width hedge that is easily trimmed. The bush is densely leafed and ideal for precision hedging/shaping. The plants will be planted on the Edgewater side of the property line.**

For waist height hedge, it felt a tight planting zone? **The height reference is really more meant to imply a maximum. That is to say it's to be a low lying hedge and not intended as a screen. The gardeners will suggest the ideal height to support a good dense foliage look for a narrow width line. I'd imagine it'd be anything from knee height to waist height. Also, the height can be reduced/stepped down nearer the parking end so as to ensure a narrower hedge.**

Owners noted turning circle issues and access to side of our building as considerations. **Noted. A physical fence on the side property line running the length of our properties would impose a far greater restriction to cars turning circles. A hedge is a far prettier and more practical border.**

- can hedge only go so far as the current fence trench and not further east over the new concrete (otherwise hard to open car door doors in unit 7s car spot if you plant further east). **Yes. We have no intention to dig up concrete and the hedge will only go as far as the existing trench.**

- will the hedge impact the current plants on our lot? **Not in any large way. There are weeds on the existing dilapidated fence and a few random agapanthus which would be removed along with the fence. The agapanthus can be replanted but to be honest they're a bit tatty looking.**

Anything on your side wouldn't be removed. You do have some ferns and the tall palms which currently do grow over/onto our side path. Your low lying ferns near the car park may need a few leaves trimmed back that are currently overgrowing onto our path to make way for the hedge. But this is just trimming. These are visible in the picture sent to Jamie last week. There may be a couple of baby ferns toward the street end that may need to be moved over.

- will the hedge be ok if we concrete our side of the building like you have done (when we do our renovation works)? We wouldn't want to impact your plants though call out works are likely in the next year or two. **You're able to concrete to the property line. Our concrete path falls short of that, sufficient to allow the plants to grow at a width similar to the planter box's running down the driveway where the star jasmine is planted.**

Look forward to discussing soon.

Regards
Jamie

Sent from my iPhone

On 24 Jul 2023, at 15:02, Jamie Garis <[REDACTED]> wrote:

Hi Glenn,

Thanks for reaching out to me on this. We really appreciate it. Ccing my wife Tam who Chairs our committee.

Questions / comments from owners at our end:

- are you sure width of hedge won't come materially on our side of property line? For waist height hedge, it felt a tight planting zone? Owners noted turning circle issues and access to side of our building as considerations.
- can hedge only go so far as the current fence trench and not further east over the new concrete (otherwise hard to open car door doors in unit 7s car spot if you plant further east)
- will the hedge impact the current plants on our lot?
- will the hedge be ok if we concrete our side of the building like you have done (when we do our renovation works)? We wouldnt want to impact your plants though call out works are likely in the next year or two.

Look forward to discussing soon.

Regards
Jamie

On Sat, Jul 22, 2023 at 1:58 PM Glenn Cameron <[REDACTED]> wrote:

Hi Jamie,

Thanks for your time earlier today.

As discussed, we want to pretty up the side area by removing the dilapidated wire fence and planting a hedge. Waist height and not wide as discussed. I think the plants would lie on our side of the property line but as discussed we are happy to share the cost if that's what you'd like.

The quote for plants is \$720+GST. The cost of the fence removal is yet to be quoted by the gardener but it shouldn't be too much as they will simply be angle grinding the base down. I'll pass that quote on as soon as I have it.

My Board also is yet to approve this, but I don't see it not being approved.

Attached are Japanese box hedges.

Regards,

Glenn.



2

Glenn Cameron - 6 Bill...



Wed, 14 May

🔒 Messages and calls are end-to-end encrypted. Only people in this chat can read, listen to, or share them. [Learn more](#)

Hi Glenn my name is Tamara - I'm your neighbour from 4 Billyard Ave. I just got the notice about the fence you're installing and was wondering if you had a few spare minutes to meet on the boundary and show me where it's going exactly, just so I can understand it a bit better. Thanks so much!

3:43 pm ✓✓



120

RE: EXT - Fwd: SP 7553 | Fence installation notification CT 259521 | Edgewater | Fence Notification for SP7553 4 Billyard Ave & 6 Billyard Ave - 1/5/2025

1 message

Iris Chau <[REDACTED]> 15 May 2025 at 10:33
To: Tamara Garis <[REDACTED]>
Cc: Jacqueline Hazlewood <[REDACTED]> Jamie <[REDACTED]>

Dear Tamara,

Thank You for your email and call. We have forwarded your email and contact to the Board for instructions.

Kind Regards,

Iris Chau
Company Title Manager



Sydney Company Title Management
Level 27, 66-68 Goulburn Street, Sydney, NSW 2000
Locked [REDACTED] market, NS
Phone: [REDACTED] Direct: [REDACTED]
E-mail: [REDACTED]
Website: [REDACTED]

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From: Tamara Garis <[REDACTED]>
Sent: Thursday, 15 May 2025 9:27 AM
To: Iris Chau <[REDACTED]>
Cc: Jacqueline Hazlewood <[REDACTED]> Jamie <[REDACTED]>
Subject: EX I - Fwd: SP 7553 | Fence installation notification CT 259521 | Edgewater | Fence Notification for SP7553 4 Billyard Ave & 6 Billyard Ave - 1/5/2025

Dear Iris,

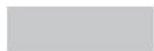
I received your email below from my strata manager Justina Brock. I am chair of the strata committee at [4 Billyard Avenue](#), Elizabeth Bay and our building is the direct neighbour of [2 Billyard Avenue](#). I tried calling you just now but couldn't get through.

Could you please call me as soon as possible to discuss the proposed fence installation. We have some serious concerns that I need to discuss with you urgently prior to Monday. Given you didn't provide us adequate notice under NSW regulations, I would appreciate it if you could please call me back as a matter of urgency.

I tried contacting Glenn Cameron, who I understand is responsible for managing this particular project, but I assume he must be travelling at the moment. So I would appreciate it if you could please call me as soon as possible.

Thank you.

Tamara Garis



From: Iris Chau <[REDACTED]>
Sent: Wednesday, 14 May 2025 1:40 PM
To: Justina Brock <[REDACTED]>
Cc: Jacqueline Hazlewood <[REDACTED]>
Subject: FW: CT 259521 | Edgewater | Fence Notification for SP7553 4 Billyard Ave

Dear Strata Manager & Building Manager,

We write to you as the Managing Agent for Edgewater Investments Pty Ltd - [6 Billyard Avenue](#), [ELIZABETH BAY](#) of a fence installation from **NEXT Monday 19/05/2025**. Installation is expected to be 2 Days. Installers will arrive between 7am – 8.30am.

All Hills Fencing has been engaged to re-install a fence between [6 Billyard Avenue](#) and [4 Billyard Avenue](#) for increased security. The fence will be installed on the property line of [6 Billyard Avenue](#) and will run the length of the boundary to the water side hedge area. A Surveyor has also been engaged to mark out the fence line. Edgewater Investments will be paying for the entire cost and will own the fence.

Thank You for your attention and cooperation during this installation.

Kind Regards,

Iris Chau
Company Title Manager



Sydney Company Title Management
Level 27, 66-68 Goulburn Street, Sydney, NSW 2000

Locked [REDACTED] arket, NS

Phone: [REDACTED] Direct: [REDACTED]

E-mail: [REDACTED]

Website: [REDACTED]

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From: Guy Fisher <[REDACTED]> on behalf of Guy Fisher <[REDACTED]> <Guy Fisher
<[REDACTED]>
Sent on: Thursday, October 30, 2025 11:33:07 AM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: DA/2025/954 – Objection

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To whom it may concern,

DA/2025/954 – Objection

I object to the DA lodged by [6 Billyard Ave Elizabeth Bay](#) (D/2025/954) for the installation of a boundary fence on the foreshore. Having reviewed the materials available online, the fence design is an overly defensive boundary in a place that functions best as an open, landscaped edge. The proposed fence would be visually jarring against the foreshore gardens and inconsistent with a residential garden character.

It also appears to fail to comply with the 12-metre landscaped foreshore setback required under the Sydney Development Control Plan 2012. The Building Setbacks and Alignment Map for Elizabeth Bay identifies a 12-metre landscaped zone from the seawall where built structures are not encouraged. The intent of this control is clear: to maintain a continuous, open and vegetated edge that visually connects the private gardens with the public foreshore environment.

The proposed boundary fence looks to fall well within this setback. I think it would most certainly fragment the landscaped continuity between the gardens of 2, 4, 6 and [8 Billyard Avenue](#) and visually enclose a space that has always looked shared, green and open. This outcome conflicts with the DCP's objective for landscaped dominance and undermines the long-standing policy that the foreshore remain visually permeable and free of obtrusive built form.

I respectfully request that Council refuse DA/2025/954, or at the very least, require all boundary works to be relocated outside the 12-metre landscaped setback to preserve the open foreshore character that defines Billyard Avenue.

Thank you,

From: BRUCE GOLDSMITH <[REDACTED]> on behalf of BRUCE GOLDSMITH
<[REDACTED]> <BRUCE GOLDSMITH <[REDACTED]>
Sent on: Thursday, October 30, 2025 2:12:15 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Objection to DA - D/2025/954
Attachments: Letter of Objection Unit 7 No 4 Billyard Ave.docx.pdf (1.58 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Sir/Madam,
Please find attached our submission and objection in relation to this DA.
Your Sincerely,

Bruce Goldsmith
Consultant Town Planner
BTP (Hons UNSW) LGTP RPIA FPIA

30 October 2025
City of Sydney Council
Attention: Manager Planning Assessments
Development Applications
City of Sydney
GPO Box 1591
Sydney NSW 2001

Email submissions: dasubmissions@cityofsydney.nsw.gov.au

Submission on Development Application D/2025/954
Proposed Northern Boundary Fence – 6 Billyard Avenue, Elizabeth Bay NSW 2011

Dear Sir/Madam,

I write on behalf of Tamara Garis the owner of Unit 7 / 4 Billyard Avenue, Elizabeth Bay NSW. Our professional opinions in relation to this DA are included as follows:

Submission to Sydney City Council

I assume the Body Corporate of 6 Billyard Avenue are proposing to install a fence along the boundary between our client's property at No 4 Billyard Avenue Elizabeth Bay and No 6 Billyard Avenue. However, we cannot see any form of landowner's consent in the documentation on the Councils web site, and we are instructed there is no consent provided by the Body Corporate of No 4 for any works on or over the common boundary.

The proposed fence has a length of 32.6m and extends from the rear of the existing residential flat building to the sea wall on the waterside of the Subject Site. It is stated that the fence replaces a pre-existing fence along "part of the boundary".

This submission is lodged on behalf of the adjoining property owner, who are part of The Owners Corporation SP7553 at 4 Billyard Avenue, and is in response to the notification letter issued by the City of Sydney Council dated 16 October 2025 regarding DA D/2025/954, which seeks consent for a new northern boundary fence at 6 Billyard Avenue, Elizabeth Bay.

The Statement of Environmental Effects (SEE) lodged with the application was prepared by Design Collaborative. The SEE states:

The proposed fence is illustrated in the plans prepared by 1001 Designs. It comprises a pipe and chain wire fence, painted black and with a height varying between some 750mm (RL 2.44) at the eastern end and 1.5m at the western end. The proposed fence has a length of 32.6m and extends from the side of the existing residential flat building to the sea wall on the waterside of the Subject Site.

See extract of the DA accompanying plans below:

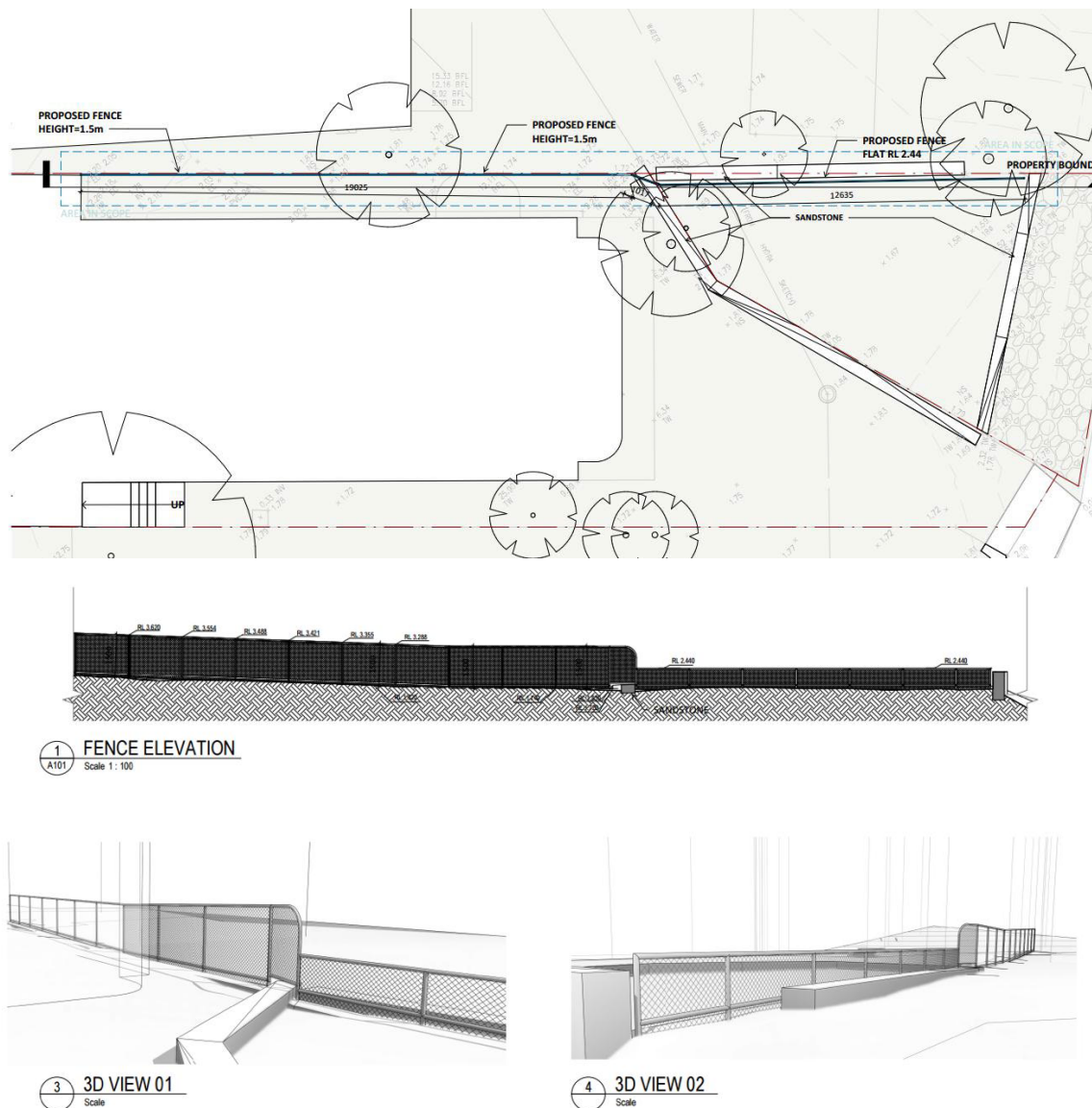


Figure 1 Drawings for Proposed Fence

Applicants' justification for the proposal

The Applicant states that the proposal is justified on the basis that:

it is development permitted in the foreshore area and will not have any adverse effect on that area or on Sydney Harbour. It involves minor development ancillary to the existing use of the Subject Site for residential purposes which will not have any adverse impact on the site, the adjoining property or the wider locality. It replaces a similar pre-existing fence in this location and there are similar fences in place on the neighbouring and surrounding sites. The Application is in the Public Interest as it meets the objectives for the site and locality and does not give rise to matters of concern in respect of the foreshore area or Harbour

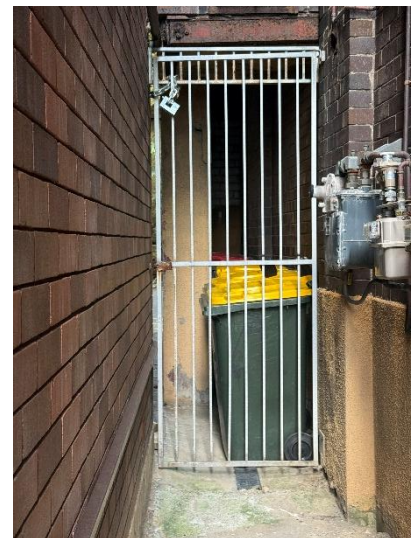


Figure 2 Images at left show the existing conditions of the side passage between No 4 and 6. To the right the large strelitzia tree between the properties and which blocks access to services via the side passage.

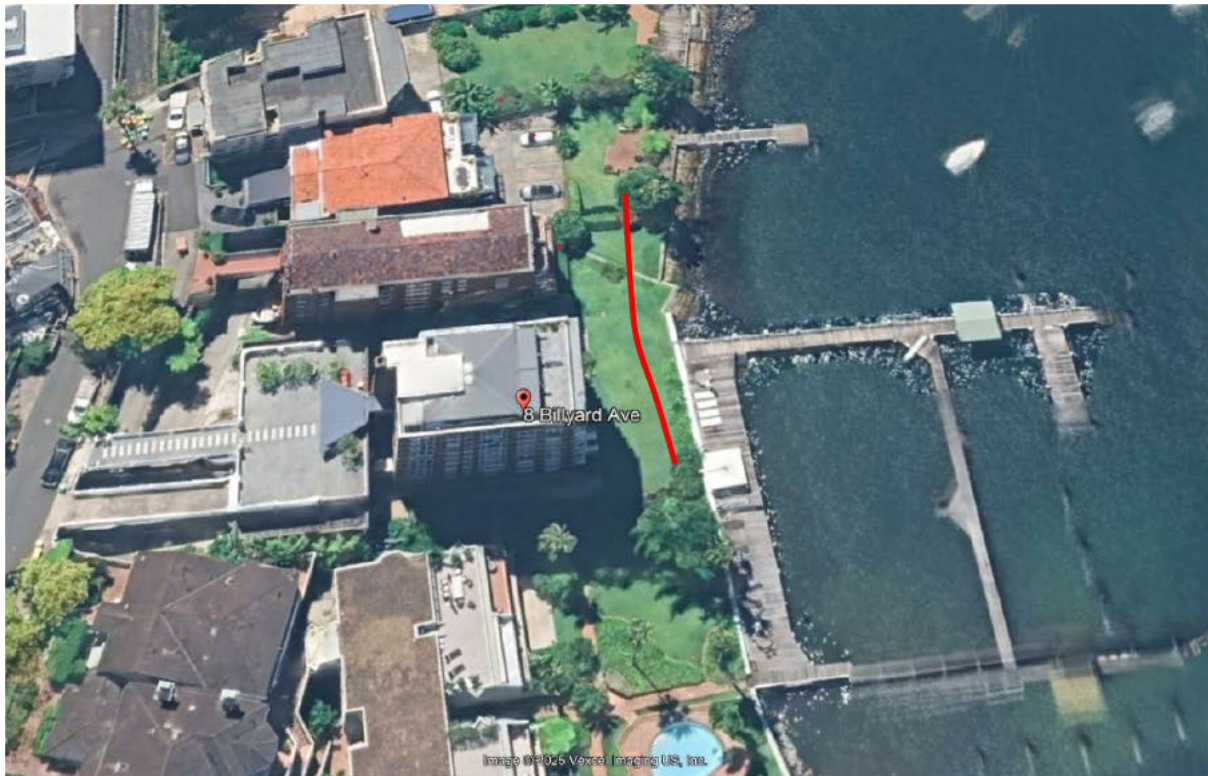


Figure 3 Casual Pedestrian route and connection to ocean pool of No 8

Bruce Goldsmith Response to the DA and Objector Concerns.

My concerns can be categorised as follows and the discussion provides a planning context for Councils assessment of the DA:

- The lack of any information as to the need for the fence.
- The lack of any consultation or discussions concerning the fence.
- The role of the Dividing Fences Act, 1991.
- The history of a cooperative and beneficial arrangement between the relevant properties that may be of the type known as prescriptive easements.
- The disbenefit/s to the adjoining owner/s that have not been identified in the submitted Statement of Environmental Effects.
- Sydney City Council LEP and Codes

The lack of any information as to the need for the fence.

The SEE does not identify the purpose of the proposed fence or any rationale as to why it is necessary, nor does it explore alternatives because no rationale has been given.

The lack of any consultation or discussions concerning the fence.

Given what has been stated to me by the resident/s of No7/4 Billyard Avenue there are likely to be significant disbenefits to numerous residents in the row of buildings from 4 - 10 Billyard Avenue.

The role of the Dividing Fences Act, 1991.

I am aware of the following web advice provided by the Law Society of NSW

You do not need a dividing fence if neither you nor your neighbour wants one. If one of you would like a fence and the other would not, it is usually best to get quotes for a fence to be built and then to sort it out amicably.

Where you do not agree, the Local Court or the NSW Civil and Administrative Tribunal have the power to make an order about whether a fence should be erected. However, because of the cost and stress involved it's often better to try mediation before you go to court or the tribunal.

If mediation is not successful, the person who wants the fence can serve a Fencing Notice on their neighbour. If you do serve a Fencing Notice and you and your neighbour still cannot agree, then you can then apply to the court or tribunal for a determination.

4 Determination as to “sufficient dividing fence”

In any proceedings under this Act, the Local Court or the Civil and Administrative Tribunal is to consider all the circumstances of the case when determining the standard for a sufficient dividing fence for the purposes of this Act, including the following:

- (a) the existing dividing fence (if any),
- (b) the purposes for which the adjoining lands are used or intended to be used,
- (c) the privacy or other concerns of the adjoining land owners,
- (d) the kind of dividing fence usual in the locality,
- (e) any policy or code relating to dividing fences adopted by the council of the local government area in which the adjoining lands are situated,
- (f) any relevant environmental planning instrument relating to the adjoining lands or to the locality in which they are situated,

The NSW Government Fact Sheet advice concerning fences and rules for exempt and complying development states the following:

Other requirements you need to consider

- Check with your council before pruning or removing any existing trees or vegetation. You may need council approval.
- If the fence is a dividing fence (separating the lot from an adjoining owner's lot), the Dividing Fences Act 1991 also applies.
- Any structures that would be located on public land, or on or over a public road (including temporary structures), require separate approval from the relevant council or Roads and Maritime Services under the Roads Act 1993 and the Local Government Act 1993.

If your proposed fence does not meet the required standards for either exempt or complying development, you may still be able to do the work, but you must get development approval first. In this case, you should contact your local council to discuss your options.

The history of a cooperative and beneficial arrangement between the relevant properties that may be of the type known as prescriptive easements.

The NSW Land Registry Services advises as follows:

A prescriptive easement may arise from continuous long-term use of land that has the characteristics of an easement. However, the Torrens Register does not recognise prescriptive easements, and subject to the below commentary, it is not possible to register easements of this kind on the Torrens Title Register.

Any prescriptive easement in existence when the servient tenement is converted to Torrens Title will remain effective even though not recorded in the Register.

To have a subsisting prescriptive easement recorded on the Register, it is necessary to register an instrument or obtain a Court Order confirming the existence, nature and extent of the easement....

The legal recognition of a prescriptive easement depends ultimately on the actions of the servient owner. There must be proof that the servient owner knew of the exercise of the right, was under no legal disability to make a grant of the right and did not take steps to prevent or limit the acts of the user.

The disbenefit/s to the adjoining owner/s that have not been identified in the submitted Statement of Environmental Effects.

There are no disbenefits to adjoining owners identified in the SEE. This is surprising given the clear opinions provided by the objectors that the foreshore land in this location provides mutual benefits to many people.

I can only assume the need for the fence is to prevent trespass. But no case has been made for this. However, much of the fence is less than 750mm high so it would not achieve anything other than to delineate an area of ownership (which can be done by landscape) and potentially invite future disagreements to occur.

The Planning Controls:

- Sydney Harbour Foreshores and Waterways DCP 2005 (Part 3&5)
- Sydney DCP 2012 – The Bays Locality (s2.4.6)
- City of Sydney Landscape Code 2016 (Volume 2)

The subject and surrounding properties are identified as within the Sydney DCP 2012-“The Bays” locality (s2.4.6) and the City of Sydney Landscape Code also has relevance.

The foreshore in this locality is characterised by landscaped settings, heritage buildings and views to the Harbour. Development in this area must ‘maintain view corridors to the Harbour’ and ‘provide a landscaped foreshore setback’ (Sydney DCP 2012 s2.4.6). Development must also ‘maintain, protect and enhance the unique visual qualities of Sydney Harbour and its foreshores’ and ‘increase, maintain and improve public access to and along the foreshore’.

Summary:

It is my opinion the proposed fence has the potential for substantial negative outcomes for numerous residents, and this has been overlooked by the applicants. There should be some form of discussion or possible mediation between the applicants and the adjoining owners to reach an amicable agreement.

Note: See also photographs that follow for further context.

Yours faithfully,



Bruce Thomas Goldsmith
BTP (Hons UNSW) LGTP RPIA FPIA
Consultant Town Planner



Figure 4 Old photograph in the SEE of site conditions showing a fence on the southern side of No 6. This appears to be prior to development of No 8 and its ocean pool. Also, the ground conditions at the front of No 6 appear to be different than today. However, this is not a fence in the same location as proposed in this DA and the site conditions are now very different. It also appears there may have been some sort of pedestrian access from No 6 to No 8 and the ocean pool area and perhaps a gate in the fence.

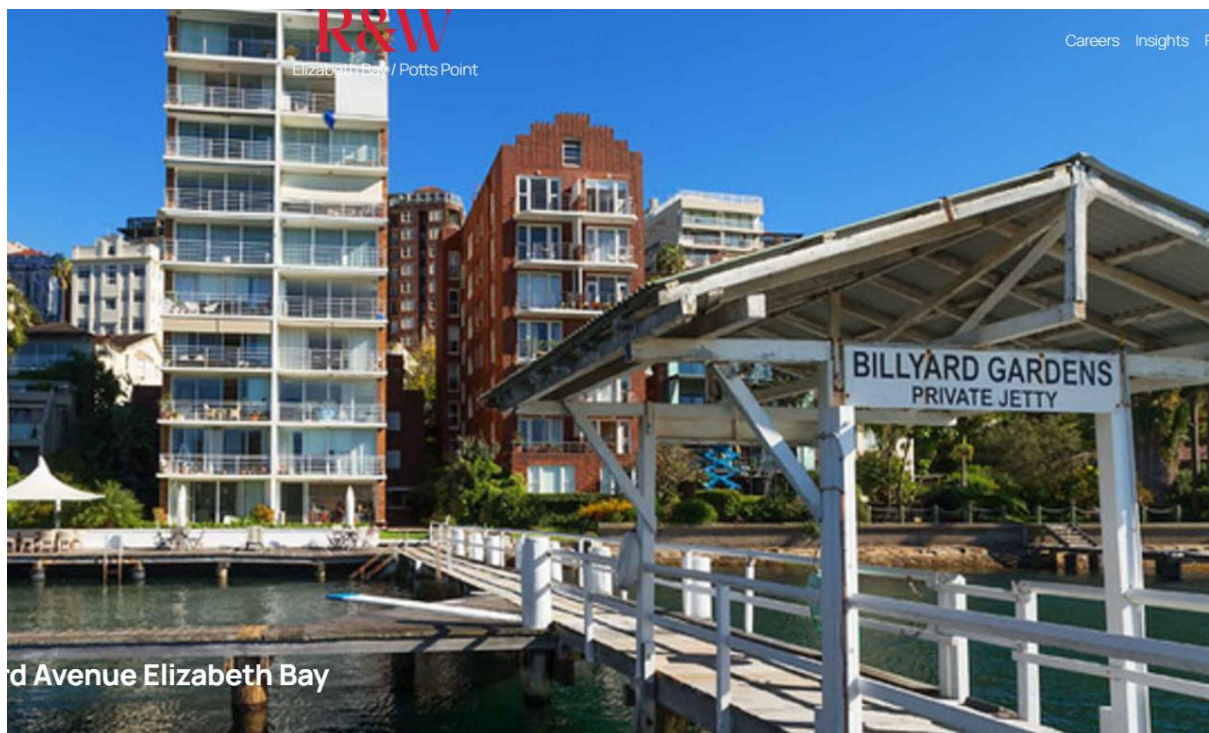


Figure 5 Real estate photograph taken from the jetty and ocean pool at No 8-10 Billyard Avenue. No 6 is the red brick building at centre photograph.



Figure 6 real estate image of the ocean pool at No 8-10 Billyard Avenue

From: Nicole Sideris <[REDACTED]> on behalf of Nicole Sideris
<[REDACTED]> <Nicole Sideris <[REDACTED]>
Sent on: Thursday, October 30, 2025 2:00:08 PM
To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au
Subject: DA Fence Objection D/2025/954

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council

I object to D/2025/954 at 6 Billyard Avenue Elizabeth Bay. The proposed fence as currently designed looks like an institutional boundary that I understand would replace a soft, landscaped garden hedge that has only been recently grown on that boundary in the last few years. In a precinct defined by open lawns and green transitions between properties, I don't understand or agree with the need to install an unattractive fence rather than enhance the beautiful greenery that already exists there. Have the applicant's given a reason for the need to install a fence there? It feels like it's based on neighbourly squabbles rather than a genuine need for a fence - especially since they clearly haven't proposed to install a fence on their southern boundary as well.

The Elizabeth Bay & Rushcutters Bay Heritage Conservation Area relies on view sharing and the continuity of gardens between buildings. The fence would break those cross-lot sightlines and disrupt the calm, green foreground to the harbour. This outcome is inconsistent with LEP Clause 5.10 (Heritage Conservation) and with the intent of LEP Clauses 7.10 and 7.11 for compatible foreshore character and access.

Practically, a continuous barrier will complicate maintenance, servicing and manoeuvring along the boundary. I request refusal, or at minimum, a fundamentally softer, landscape-led design that maintains the established foreshore character.

Thank you for taking my objection into consideration.

Yours sincerely

Nicole Sideris



NICOLE SIDERIS

Founder & CEO
X Hospitality



From: Craig Swan <[REDACTED]> on behalf of Craig Swan <[REDACTED]> <Craig Swan <[REDACTED]>
Sent on: Thursday, October 30, 2025 2:54:58 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: D/2025/954 | Submission - D/2025/954 - 6 Billyard Avenue ELIZABETH BAY NSW 2011 - Attention Eddy Tran

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Eddy,

Thank you for the opportunity to comment on this application (D/2025/954).

I'm the strata manager for both **SP245 (8-10 Billiard Ave)** and **SP30419 (12-16 Ballyards Ave)**, and I send this email to you, in this capacity.

On behalf of one of the direct neighbours of the applicant, being **SP245 (8-10 Billiard Ave)**, as well as a neighbour "once removed" (i.e. on the other side of SP245), that shares a private jetty/wharf facility with SP245 (i.e. **SP30419**), there is unreserved support for these works.

The support rests on these works being able to significantly assist in reducing, and hopefully eliminating, the trespassing that now occurs, on a regular basis, from residents and occupants that gain access via the fence area that is proposed to be replaced, into and across SP245 and from there, at times, into SP30419 (seemingly for the purposes of gaining access to the private jetty/wharf, that encloses a netted private harbour pool).

Kind regards,

Craig Swan
Licensed Strata Managing Agent
Sydney



BCS Strata
Level 27, 66-68 Goulburn Street, Sydney, NSW 2000
Locked Bag 22, Haymarket, NSW 1240

Phone: ([REDACTED])
E-mail: [REDACTED]
Website: [REDACTED]

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From: Blackburn, Hetti <[REDACTED]> on behalf of Blackburn, Hetti <[REDACTED]>
<[REDACTED]> <Blackburn, Hetti <[REDACTED]>

Sent on: Wednesday, October 29, 2025 2:40:58 PM

To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au

Subject: DA/2025/954 - 6 Billyard Ave, Elizabeth Bay NSW 2011

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council

I wish to object to DA/2025/954 for a boundary fence at 6 Billyard Avenue, Elizabeth Bay.

I've lived in Potts Point and Elizabeth Bay for many years, and what I love most about this pocket of the harbour is its openness and calm. The gardens of the buildings along Billyard Avenue blend into one another and then spill gently toward the water. It feels like a single, shared landscape - green, peaceful, and inviting. I often walk along the foreshore in Beare Park and kayak in Elizabeth Bay, and there's a real sense of connection between the gardens, the people, and the sea.

Installing an unattractive black chain-mesh fence would change all of that. It would turn a soft, welcoming place into one that feels divided and closed. Instead of open greenery, the eye would meet a dark, metallic line that signals separation. The foreshore would no longer feel communal, it would feel fenced in.

Planning controls recognise this. The Sydney Local Environmental Plan 2012, particularly Clause 5.10 (Heritage Conservation) and Clause 7.10 (Foreshore Building Line), require development to maintain the amenity and character of the foreshore and to conserve the significance of the Elizabeth Bay & Rushcutters Bay Heritage Conservation Area. The Sydney Development Control Plan 2012 Section 2.4.6 (The Bays Locality Statement) calls for low, landscaped, visually recessive boundaries and the protection of open view corridors.

Beyond these technical breaches, this proposal would remove something intangible but precious - the feeling of openness that makes this foreshore so special.

I urge Council to refuse DA/2025/954 or require a softer, landscape-integrated design with a gate that keeps the waterfront gentle, green, and shared.

Hetti Blackburn
Claims Team Leader

risksmart.
Risksmart is part of the Marsh Group of companies.

PO Box H176 Australia Square Sydney NSW 1215 | t – [REDACTED] | m – [REDACTED] | e – [REDACTED]

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From: vince alafaci <[REDACTED]> on behalf of vince alafaci <[REDACTED]> <vince.alafaci@[REDACTED]>

Sent on: Thursday, October 30, 2025 3:19:52 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2025/954 - 6 Billyard Avenue ELIZABETH BAY NSW 2011 - Attention Eddy Tran

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear City of Sydney,

As an owner and resident of 2 Billyard Avenue, am writing in regard to DA/2025/954 "Replacement of Boundary Fence" at 6 Billyard Avenue.

A few items in the proposal are of concern:

Visual impact: the fence feels institutional rather than in keeping with the current foreshore soft landscaping.

Heritage context: disrupts the visual and physical continuous foreshore landscape edge sharing between 2, 4, 6 and 8-10 Billyard Avenue.

Planning alignment: it does not encourage a sensitive and foreshore landscape focused proposal.

Practical use: the proposal make general access, maintenance and movement along the boundary difficult, which is currently shared by residents at 2, 4, 6 and 8-10 Billyard Avenue.

Hoping for a reconsidered sympathetic design that is in keeping with the current landscaped foreshore context and surrounding conditions.

Thank you for your time and consideration.

Best

vince alafaci
[REDACTED]

From: Brett Daintry <[REDACTED]> on behalf of Brett Daintry <[REDACTED]> <Brett Daintry <[REDACTED]>
Sent on: Thursday, October 30, 2025 5:17:39 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: Development Application D/2025/954 - Submission - 6 Billyard Avenue, Elizabeth Bay NSW 2011
Attachments: 20251030 - 1084 - DA250095 Submission - 6 Billyard Avenue, Elizabeth Bay.pdf (8.09 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Our Ref: Project 1084
Your Ref: D/2025/95

30 October 2025

City of Sydney Council
Attention: Manager Planning Assessments
Development Applications
City of Sydney
GPO Box 1591
Sydney NSW 2001

Email submissions: dasubmissions@cityofsydney.nsw.gov.au

Submission on Development Application D/2025/954
Proposed Northern Boundary Fence – 6 Billyard Avenue, Elizabeth Bay NSW 2011

Regards

Brett

Brett Daintry, MPIA, MAIBS, MEHA, MEPLA
Director
Daintry Associates Pty Ltd

m. [REDACTED]
e. [REDACTED]
w. [REDACTED]
l. [REDACTED]

Our Ref: Project 1084
Your Ref: D/2025/95



30 October 2025

City of Sydney Council
Attention: Manager Planning Assessments
Development Applications
City of Sydney
GPO Box 1591
Sydney NSW 2001

Email submissions: dasubmissions@cityofsydney.nsw.gov.au

Submission on Development Application D/2025/954
Proposed Northern Boundary Fence – 6 Billyard Avenue, Elizabeth Bay NSW 2011

This submission is made on behalf of the owner and occupant of Unit 1, No.6 Billyard Avenue, which is the northern ground floor unit within the same building as the Applicant.

The owner of Unit 1 at No.6 Billyard Avenue did not receive a neighbour notification letter from Council, an omission that suggests a lapse in the notification process. It is important to note that this unit stands to be significantly affected by the proposed new fence.

It is inaccurate and potentially misleading to characterise the application as a replacement of any existing fences, as the proposed structure would constitute a new boundary between No.4 and No.6, specifically within the foreshore area. Figure 1 illustrates the current view from the sole living room window facing the Harbour, where no existing fence is present.

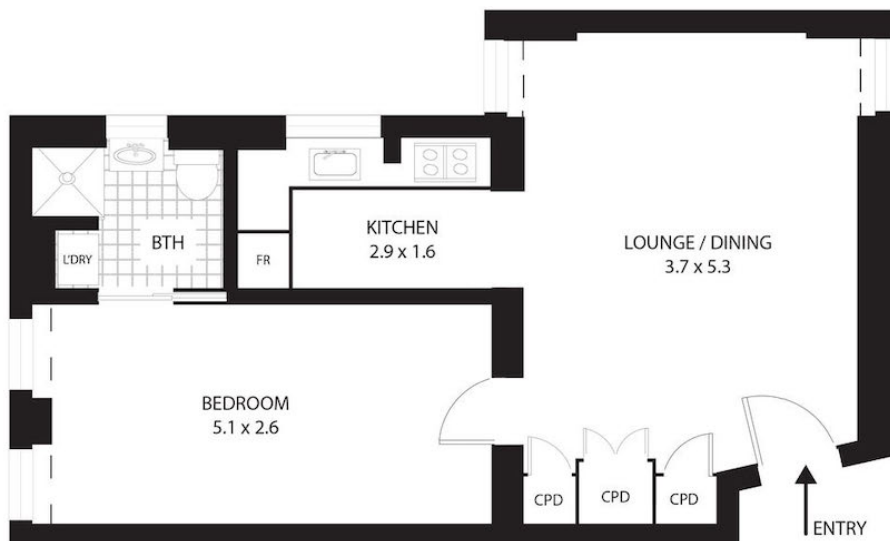
Unit 1 is located immediately south of No.4 Billyard Avenue (to the left of the frame in Figure 1) and remains in the shadow of that building for much of the day. The primary amenity for Unit 1 derives from the narrow but open corridor between No.4 and No.6, as depicted in Figure 1 from the main living and kitchen areas shown in Figures 2 and 3. The construction of a new dividing fence within this limited view corridor, as illustrated in Figure 4, extending through the side setback to No.4 and No.6 and the foreshore area to mean high water at the harbour, would obstruct the view, substantially increase the sense of enclosure, and diminish the natural light—further limiting the already constrained amenity of Unit 1.

There has been no consultation with the owner or occupant of Unit 1 by the Applicant (Edgewater Investments Pty Ltd), the company title holder. The other directors of the corporation unilaterally resolved to propose this new fence without considering the adverse impact on the amenity of Unit 1.

The corporation's only aim is to block foreshore access, disregarding Unit 1's amenity. The proposed fences do not meet crime prevention standards, and my clients do not want any obstruction to their remaining Harbour view.



Figure 1 - Existing eastern view from Unit 1



1/6 Billyard Ave, Elizabeth Bay

All measurements are approximate only. Plan is provided as an indication of layout

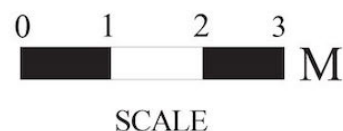


Figure 2 - Floor Plan Unit 1, No.6 Billyard Avenue, Elizabeth Bay



Figure 3 - Eastern view to Harbour from Living Area Unit 1

The proposed fence

From either a seated or standing viewpoint in the living and dining area of Unit 1, visibility would be affected by the proposed fence, as illustrated in the photo montage shown in Figure 4. Unit 1 currently has a view corridor, and the garden at No.4 contributes to the overall setting, which would no longer be present if the proposal is implemented.



Figure 4 - Photo Montage of Proposed Fence from Unit 1

Loss of Foreshore Access and Amenity

The DCP's Building Setback and Alignment Map Sheet 21 clearly shows the significance of this open foreshore area requiring "12m Landscape Setback (for public use):



Figure 5 - Sydney DCP Building setback and alignment map Sheet 021

The proposal must be assessed under the Sydney DCP 2012 (including Section 2.4.6 'The Bays' and Section 3.9 'Heritage'), the Sydney Harbour Foreshores and Waterways DCP 2005, and the City of Sydney Landscape Code 2016 (Volume 2).

Sydney DCP 2012 – The Bays Locality (s2.4.6)

Section 2.4.6 identifies Elizabeth Bay as a residential foreshore characterised by landscaped settings, heritage buildings and views to the Harbour. Development must 'maintain view corridors to the Harbour' and 'provide a landscaped foreshore setback' (Sydney DCP 2012 s2.4.6). The proposed fence within the foreshore setback fails these objectives by introducing a hard visual barrier that fragments the shared garden setting and obstructs views across the open lawns toward the Harbour.

Heritage and Landscape Character

Section 3.9 requires development to respond sympathetically to topography, landscape and views and to complement adjoining contributory buildings. The proposed chain-wire fence is industrial and inconsistent with the refined garden character of the Elizabeth Bay and Rushcutters Bay HCA and would be prominently visible from adjoining properties and the Harbour. A recently planted hedge on this boundary can only be characterised as a "spite hedge" as it grows there will be a loss of views from Unit 1 to the Harbour.

Sydney Harbour Foreshores and Waterways DCP 2005

Parts 3 and 5 require that development 'maintain, protect and enhance the unique visual qualities of Sydney Harbour and its foreshores' and 'increase, maintain and

improve public access to and along the foreshore'. The proposed dividing fence within 12 m of the foreshore contradicts these principles, obstructing both visual and physical continuity of the foreshore and preventing informal access traditionally shared between neighbouring properties.

City of Sydney Landscape Code 2016 (Volume 2)

The Code promotes landscapes that establish a relationship between private and public domains and contribute to neighbourhood character. Principle 1 seeks to protect existing gardens and walls, and Principle 3 to create comfortable places for people. Replacing open garden continuity with a chainwire barrier directly contravenes these principles.

Assessment

The loss of amenity to Unit 1 No.6 is simply unnecessary, unreasonable and unacceptable. Any purported benefits of the fence do not justify the adverse impacts upon Unit 1 nor is this consistent with the SEPP, LEP, and DCP objectives, nor is this in public interest.

Historically, all oners from 2–8 Billyard Avenue have respected the open foreshore principle, leaving the area between buildings and Mean High Water Mark unfenced. This has enabled uninterrupted lawns, shared visual access and informal movement along the waterfront. The proposed fence would sever this continuity and introduce an intrusive element with no CPTED or amenity justification. It would severely reduce the amenity of Unit 1 in the same building that proposes the fence.

Conclusion and Requested Determination

The proposal does not meet the objectives of the Sydney DCP 2012, Harbour DCP 2005, or Landscape Code 2016. It introduces an intrusive structure in the side and foreshore setback, disrupts the open garden character, and offers no meaningful private or public benefit. Amenity impacts on Unit 1 at No. 6 have been disregarded, that would result in unnecessary and unreasonable loss of amenity.

This proposal appears to be retaliatory against occupants of No. 2 and No. 4, with no genuine consideration of its effects on Unit 1 or other foreshore users from No. 2 to No. 8. Council should refuse Development Application D/2025/954 due to its unacceptable adverse impacts on Unit 1.

Please don't hesitate to contact me on [REDACTED] or by email [REDACTED]

Yours faithfully,

[REDACTED]

Brett Daintry, MPiA, MAIBS, MEHA, MEPLA
Director

From: heidi H& H EMail <[REDACTED]> on behalf of heidi H& H EMail <[REDACTED]>
<heidi H& H EMail <[REDACTED]>
Sent on: Thursday, October 30, 2025 2:51:24 PM
To: council@cityofsydney.nsw.gov.au
CC: dasubmissions@cityofsydney.nsw.gov.au; heidi onisforou <[REDACTED]>
Subject: Formal Objection – DA/2025/954 (Northern Boundary Fence at 6 Billyard Avenue) Heidi Onisforou resident

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I am writing in relation to DA/2025/954 at 6 Billyard Ave, Elizabeth Bay. Having reviewed the lodged material, I object to the proposed northern boundary fence for the following planning reasons.

The works are inconsistent with Clause 7.10 (Foreshore Building Line) of the Sydney LEP 2012: they do not maintain the amenity or compatible appearance of the foreshore when viewed from land or water; the fence is a high, visually assertive, commercial-style barrier that interrupts the established openness between Nos. 2–10 Billyard Avenue.

The proposal undermines Clause 7.11 (Development on the Foreshore must ensure access), as it fragments the sense of continuous foreshore landscape and weakens opportunities for future public links reinforced across the precinct.

Within the Elizabeth Bay & Rushcutters Bay Heritage Conservation Area, the fence conflicts with Clause 5.10 by eroding inter-lot garden vistas and the soft, landscaped setting that contributes to heritage significance.

Sydney DCP 2012 locality controls for “The Bays” seek to maintain view corridors, landscape dominance, and low, recessive boundary treatments. A 1.5 m chain-mesh fence is unsympathetic and visually jarring in this context.

For these reasons, consent should be refused or the design fundamentally revised to retain landscape openness, visual permeability and compliant access outcomes along the foreshore.

Thank you

Heidi Onisforou (Resident)



Heidi Onisforou
HEIDI & HART

Shop 3/28 Macleay St
Potts Point, NSW 2011

From: Craig Perkins <[REDACTED]> on behalf of Craig Perkins <[REDACTED]> <Craig Perkins <[REDACTED]>
Sent on: Thursday, October 30, 2025 5:01:02 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>; City of Sydney <council@cityofsydney.nsw.gov.au>
Subject: D/2025/954, 6 Billyard Ave, Elizabeth Bay

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I refer to the above DA for the installation of a boundary fence at [6 Billyard Ave](#).

Having lived in the area for many years I am astonished that consideration would be given to this type of fencing structure.

Having considered the SEE and drawings, I object to the proposed northern boundary fence. The outcome is visually prominent and reads as a commercial security treatment within a residential heritage setting. This is highly unusual in such a setting and shows no consideration of the heritage area within which this building is situated.

It does not achieve the compatible appearance, amenity protection or landscape-led character anticipated by LEP 7.10/7.11 and the DCP locality principles.

This DA should be refused or otherwise significant redesign of the fence should be the appropriate planning response in the circumstances.

Sent from my iPhone

From: Elisha Kordiak <[REDACTED]> on behalf of Elisha Kordiak
<[REDACTED]> <Elisha Kordiak <[REDACTED]>

Sent on: Thursday, October 30, 2025 8:32:07 PM

To: City of Sydney <council@cityofsydney.nsw.gov.au>;
DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>

Subject: Re: D/2025/954, 6 Billyard Ave, Elizabeth Bay

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council/ Eddy Tran,

I am writing to formally object to Development Application D/2025/954.

Must the harbour's edge really be divided by a steel lattice fence? Should a garden be reduced to a corridor?

This proposal introduces a harsh boundary where both the LEP and DCP seek soft, sympathetic transitions that respect the character of the area.

The site's heritage significance depends on openness and visual continuity — yet the proposed fence creates unnecessary enclosure. It appears that the applicant has not meaningfully engaged with these objectives and has merely paid lip service to them in the Statement of Environmental Effects.

Furthermore, the submitted Heritage Impact Statement seems to duplicate the SEE rather than providing any substantive heritage analysis. In a location of such notable conservation value, it is unclear why a proper Heritage Impact Statement has not been prepared.

Overall, the proposal feels incomplete and inconsiderate of both planning objectives and neighbouring properties.

I respectfully request that Council decline consent for this application or require a revised approach that maintains a green, shared, and visually permeable foreshore.

Kind Regards,
Elisha Kordiak

From: James Smith <[REDACTED]> on behalf of James Smith
<[REDACTED]> <James Smith <[REDACTED]>

Sent on: Friday, October 31, 2025 4:39:20 PM

To: council@cityofsydney.nsw.gov.au

CC: dasubmissions@cityofsydney.nsw.gov.au

Subject: FW: Objection to council

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Councillors,

I write in objection to Development Application DA/2025/954 concerning the construction of a boundary fence along the northern edge of 6 Billyard Avenue, extending to the seawall. I have been a resident in the cul-de-sac of Billyard Avenue for many years now and I very surprised and completely object to the installation of a fence that is completely out of character for this area.

The DA is inconsistent with the planning framework that governs this highly sensitive foreshore locality, particularly in relation to visual character, heritage conservation, and amenity impacts on adjoining land.

1. Non-compliance with the Sydney Local Environmental Plan 2012 (LEP)

Clause 7.10 – Foreshore Building Line:

The objectives of this clause include ensuring development within the foreshore area:

- (a) doesn't detract from the natural or scenic qualities of the foreshore;
- (b) maintains the significance and amenity of the foreshore when viewed from both land and water; and
- (c) presents a compatible appearance with surrounding development.

The proposed 1.5 metre black wire fence conflicts with each of these objectives. Its industrial and visually assertive form introduces a hard boundary within what has historically been an open, landscaped edge shared between the buildings located between 2 and 10 Billyard Avenue. The resulting visual enclosure would materially alter the character of this cohesive precinct and fail to maintain a compatible appearance when viewed from either the harbour or neighbouring sites.

Clause 5.10 – Heritage Conservation:

The site forms part of the Elizabeth Bay and Rushcutters Bay Heritage Conservation Area (C20). This area derives its significance from open garden settings, generous spacing between contributory buildings, and a continuous visual relationship with the harbour. The proposed fence interrupts this pattern and therefore fails to conserve the environmental heritage significance of the locality as required under Clause 5.10(1).

Clause 7.11 – Development on the Foreshore Must Ensure Access:

The clause seeks to promote continuous public and visual access along the foreshore and to reinforce the landscape character. Although the land is privately owned, the existing open interface contributes to the perception of permeability consistent with this policy intent. The proposed enclosure would diminish that openness and is inconsistent with the purpose of Clause 7.11. As a resident who until recently lived at number 2 Billyard for many years, myself and many of the neighbours in that area freely walked between the properties regularly to visit friends and neighbours - it's part of the cultural fabric of that special area of Billyard Ave.

2. Inconsistency with the Sydney Development Control Plan 2012 (DCP)

The DCP's Locality Statement for "The Bays" (Section 2.4.6) emphasises the importance of maintaining view corridors, landscaped dominance, and the visual continuity of foreshore gardens. The proposed fence fails these tests.

Further, Clause 3.11 (Access, Parking and Servicing) requires that development ensure safe and efficient access to parking and service areas. The fence alignment appears to abut existing parking spaces at 4 Billyard Avenue, creating a physical constraint to manoeuvring and service access.

3. Conclusion

The proposal is inconsistent with the objectives and controls of the Sydney LEP 2012 and Sydney DCP 2012, and it detracts from the landscape and heritage values that underpin the Elizabeth Bay foreshore. For these reasons, Council should refuse consent to DA/2025/954 or, in the alternative, require substantial modification to the fence in such a manner that it maintains a green landscaped treatment and provides access along the foreshore.

Regards,

James Smith

Lawyer

Rhodes Smith Law

Solicitors

Level 16, 115 Pitt Street, Sydney, NSW 2000 • All correspondence to PO Box 1765 Potts Point 1335

• T [REDACTED] • E [REDACTED]

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From: Justina Brock [REDACTED] > on behalf of Justina Brock
[REDACTED] <Justina Brock <[REDACTED]>>
Sent on: Wednesday, November 12, 2025 5:04:41 PM
To: council@cityofsydney.nsw.gov.au
CC: Sydney Admin <[REDACTED]>
Subject: SP 7553 | DA D/2025/954 - 6 Billyard Avenue, Elizabeth Bay - Response to Submission Referring to Alleged Trespass
Attachments: SP7553 Letter DA D2025954 Response.pdf (79.63 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Mr Tran,

Please find Response to Submission Referring to Alleged Trespass – D/2025/954.

Kind regards,

Justina Brock
Senior Strata Manager & Team Leader
Sydney



PICA Group
Level 27, 66-68 Goulburn Street Sydney NSW 2000
Locked Bag 22, Haymarket NSW 1240
Phone: [REDACTED]
Email: [REDACTED]
Website: picagroup.com.au

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BCS Strata

Level 27, 66-68 Goulburn Street, Sydney, NSW 2000

Locked Bag 22, Haymarket, NSW 1240

Website: [REDACTED]

ABN: 86 010 633 351

Phone: [REDACTED]



12 November 2025

To: Mr Eddy Tran
City of Sydney Council
Via email – council@cityofsydney.nsw.gov.au

Subject: DA D/2025/954 – 6 Billyard Avenue, Elizabeth Bay
Re: Response to Submission Referring to Alleged Trespass

Dear Sir/Madam,

I act as the strata managing agent for 4 Billyard Avenue, Elizabeth Bay, SP7553. I write to provide clarification in relation to statements made in submissions supporting the above development application for a proposed boundary fence at 6 Billyard Avenue.

The submissions in support of the fence appear to relate to allegations of trespass between neighbouring properties as justification for the proposed fencing.

I wish to clearly state for the record that, to the best of our knowledge and records, no such incidents of trespass have ever been reported, discussed, or recorded by or with our office. Had any genuine and serious incident of trespass occurred, it would have been expected that the matter be raised internally between the respective managing agents or through strata correspondence in an attempt to ameliorate the situation, yet no such communication or record exists. Accordingly, the reference to trespass is not substantiated by any formal report, complaint, or correspondence, and should not be treated as a legitimate basis for supporting the development. The claim appears to mischaracterise the relationship between the adjoining buildings, which has until recently, been cooperative and respectful.

We request that Council disregard these unsupported allegations in its assessment of the application, and ensure that any conclusions drawn are based on verifiable and factual material.

Yours faithfully,

Yours faithfully
for and on behalf of the plan
Strata Plan 7553

[REDACTED]
Justina Brock
Strata Manager

Item 4.**Development Application: 4-6 York Street, Sydney - D/2025/1053****File Number:** D/2025/1053**Summary**

Date of Submission:	29 October 2025
Applicant:	Apparition Media Pty. Ltd.
Architect/Designer:	Rob Pickett Design
Developer:	Apparition Media Pty. Ltd.
Owner:	4 York Street Pty. Ltd.
Planning Consultant:	Keylan Consulting Pty. Ltd.
Heritage Consultant:	James Phillips (Weir Phillips Heritage)
Cost of Works:	\$5,000
Zoning:	SP5 Metropolitan Centre
Proposal Summary:	Consent is sought to install a hand painted advertising sign on the northern elevation of the existing building, measuring 7.2 metres in width and 3.3 metres in height for a period of 5 years, with the sign to change monthly. According to the applicant, at any one time, no more than 5% of the total sign area will contain third party advertisements. Additionally, the sign space will be dedicated to promoting community and charity uses for one month per year. The size of the advertising sign departs by more than 10% from a development standard under State Environmental Planning Policy (Industry and Employment) 2021 which limits the size of wall signs to 20% of the size of an elevation. Whilst the applicant has submitted a document in accordance with 35B of the Regulations relating to a departure from a development standard, the grounds for its proposed departure are not agreed with. The proposed sign is excessive in size and is inconsistent with the

character of the area which seeks to enhance terminating vistas at the southern end of York and Carrington Streets.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) Sydney Local Environmental Plan 2012 (Gazetted 17 October 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 18 December 2012, as amended)
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Industry and Employment) 2021
- (v) SEPP (Biodiversity and Conservation) 2021

Attachments: (A) Clause 4.6 Variation Request - Wall Advertisements

Recommendation

It is resolved that consent be refused for Development Application Number D/2025/1053.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

- (A) Based upon the material available to Panel at the time of determining this application, including a document provided pursuant to Regulation 35B of the Environmental Planning and Assessment Regulation 2021, the Council is satisfied that the applicant has not demonstrated that compliance with the development standard in s3.20(2)(b)(iii) of State Environmental Planning Policy (Industry and Employment) 2021 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of clause 4.6(3) of the Sydney LEP 2012. The assessment carried out pursuant to clause 4.6(3) of the Sydney LEP 2012 is as recorded in this report.
- (B) The proposal is inconsistent with the aims of SEPP (Industry and Employment) 2021, as the scale and prominence of the sign are not compatible with the desired visual character of the area and would detract from the terminating vistas of Carrington Street and York Street, undermining the heritage streetscape, the formal park setting of Wynyard Park, and the special character of the precinct, which relies on preserving visual coherence and the prominence of key public domain and heritage elements.
- (C) The application is accompanied by insufficient information to demonstrate Design Excellence.
- (D) The development is not in the public interest.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 3 March 2024 as being within the following category:
 - Departure from Development Standards
2. The development application falls within the category of Departure from Development Standard as it proposes an 82% departure to a development standard contained within s3.20(2)(b)(iii) of SEPP (Industry and Employment) 2022. Specifically, the development standard restricts the maximum advertising area to no more than 20% of the above-ground elevation for wall advertisements.

The Site and Surrounding Development

3. The site has a legal description of Lots 13, 14, 15 and 16 of Section 1 DP 939718, commonly known as 4-6 York Street, Sydney. It is rectangular in shape with area of 599sqm. It has a primary street frontage of 22m to York Street and a secondary street frontage of 25m to Wynyard Street.
4. The site contains a single storey detached building which is currently vacant as well as an at-grade carpark located behind the building.
5. The site sits within the Wynyard and Lang Park Special Character Area which forms a historic and visually cohesive part of Central Sydney, characterised by Victorian-era parkland, consistent urban built form, and a role as a major transport node. The area creates an important northern gateway to the city. The site sits at the southern fringe of Wynyard Park, with the relevant northern elevation of the site being visible from both York and Carrington Streets looking southbound.
6. Sydney Development Control Plan (DCP) 2012 envisages development in this area will reinforce the heritage and public-domain significance of Wynyard Park, Lang Park and St Philip's Church, protecting sun access, key vistas, and the established sense of urban enclosure.
7. One of the principles to guide development is to enhance terminating vistas along Carrington Street and York Street to the south at their corners with Wynyard Street.
8. Current vistas along Carrington and York Streets contain a significant number of digital advertising displays which are placed on the bus shelters located along the Wynyard Park side of the street.
9. The site also sits within the Wynyard Signage Precinct which aims to ensure signage is restrained, supports wayfinding in a major transport interchange, minimises visual clutter, respects heritage significance, and avoids expressive or dynamic content unless it serves a clear civic purpose or achieves design excellence.
10. A site visit was carried out on 5 November 2025. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Detailed site plan



Figure 3: Site when viewed from the north side of Wynyard Street (south end of Wynyard Park)



Figure 4: Site when viewed from York Street at Wynyard Park (south end of Wynyard Park)



Figure 5: Terminating vista along York Street



Figure 6: Terminating vista along Carrington Street

History Relevant to the Development Application

Development Applications

11. The following applications are relevant to the current proposal:

- D/2022/1208 - Development consent granted for demolition of the site and construction of a 13-storey mixed use development on site. This consent lapses on 20 December 2029.
- D/2017/954/A - Development consent granted on 28 April 2020 for a modification to condition 2 of the determination notice to allow for a 30-month period, lapsing on 19 May 2021.
- RD/2017/954/A – Development consent granted on 13 November 2018 by the NSW Land and Environment Court for a hand-painted third-party advertising sign on the northern facade of existing single storey commercial building for a period of 18 months, lapsing on 19 May 2020.
- **D/2017/954** – Development consent refused on 6 September 2017 for the installation of painted advertising sign on northern facade of existing single storey commercial building. The determination found the proposal to be inconsistent with the assessment criteria of the relevant SEPP, the LEP and the DCP.

12. The most relevant determination to the current proposal is RD/2017/954/A which was approved by the NSW Land and Environment Court following an appeal.

13. NSW Land and Environment Court determination:

Consent was granted by the NSW Land and Environment Court on 12 November 2018 for a hand-painted third-party advertising sign. In granting consent, the Court placed weight on the following matters:

- (a) Sign area: The size of the sign was originally proposed as 25.92sqm and was reduced to 24.1sqm.
- (b) Restrictions: Approval was granted subject to conditions relating to the time limiting of the consent to 18 months, compliance with a Plan of Management (PoM) and design requirements relating to the content of the sign including a restriction on the size of corporate branding and logos to no more than 5% of the sign area.
- (c) SEPP Assessment: The signage was assessed against clause 22 of State Environmental Planning Policy No 64—Advertising and Signage (2001), including a restriction of a wall sign to no more than 20% of the above ground elevation of a building. The judgement found this control to be a development standard able to be varied through clause 4.6 of the SLEP 2012 and that the applicant's written request adequately demonstrated that compliance would be unreasonable or unnecessary and that there were sufficient environmental planning grounds to warrant a departure from the standard.

- (d) Zoning: The signage was assessed against the objectives of the B8 Metropolitan Zone which the site was then zoned. It was found to be consistent with the zone objectives through the activation of the street frontage and contribution to the diversity of land uses.
- (e) Public Interest: The Court found the sign to be in the public interest, noting that it would present as public artwork, enhance the termination of vistas along Carrington and York Streets and be consistent with the objectives of SEPP 64 and the B8 Metropolitan Centre zone.

14. Relevance of the Court Approval to Current Proposal:

- (a) Sign area: The size of the sign proposed is identical to the area of the Court-approved sign.
- (b) Restrictions: The subject development application is accompanied by a Plan of Management (PoM) which describes the applicant's internal processes for artist selection, artwork production and quality control. While the PoM provides a general overview of how signs are painted and managed by the applicant, it does not include sufficient detail to enable the Panel to be satisfied that the proposed signage would present as public art or achieve a positive planning outcome. The PoM does not include any of the following:
 - (i) Intended nature, theme or artistic intent,
 - (ii) design principles, curatorial framework or assessment criteria,
 - (iii) limits on the extent of corporate logos or branding,
 - (iv) objective metrics to establish that the outcome would be consistent with public art outcomes.
- (c) SEPP Assessment: SEPP 64 was repealed and its contents incorporated into SEPP (Industry and Employment) 2021 which came into force on 2 December 2021. Section 3.20 of State Environmental Planning Policy (Industry and Employment) 2021 is identical in wording to clause 22 of SEPP 64. The subject application proposes an identical departure from the development standard approved by the Court.

The subject application is accompanied by a document submitted pursuant to s35B of the Regulations relating to a departure from a development standard. An assessment of this document has failed to satisfy the Panel of the acceptability of the proposed departure. A full assessment of this document follows within this report.

- (d) Zoning: Since the judgement was issued, the site has been rezoned to SP5 Metropolitan Centre. A comparison between the old and new zone objectives follows:

B8 Metropolitan Zone	SP5 Metropolitan Centre
To recognise and provide for the pre-eminent role of business, office, retail,	To recognise and provide for the pre-eminent role of business, office, retail,

B8 Metropolitan Zone	SP5 Metropolitan Centre
entertainment and tourist premises in Australia's participation in the global economy. • To provide opportunities for an intensity of land uses commensurate with Sydney's global status. • To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community. • To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling. • To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.	entertainment and tourist premises in Australia's participation in the global economy. • To provide opportunities for an intensity of land uses commensurate with Sydney's global status. • To permit a diversity of compatible land uses that are characteristic of Sydney's global status and that serve the workforce, visitors and wider community. • To encourage the use of alternatives to private motor vehicles, including public transport, walking and cycling. • To promote land uses with active street frontages within podiums that contribute to the character of the street. • To promote the efficient and orderly development of land in a compact urban centre. • To promote a diversity of commercial opportunities varying in size, type and function, including new cultural, social and community facilities. • To recognise the important role that central Sydney's public spaces, streets and amenity play in a global city. • To promote the primary role of the zone as a centre for employment and permit residential accommodation and serviced apartments where the accommodation complements employment-generating land uses.

The Court judgement found the proposal to be consistent with the objectives of the zone through activation of the streetscape and contribution to a diversity of uses within the zone. The subject application remains consistent with the objectives which applied to the B8 zone and is not inconsistent with new objectives which apply to the SP5 zone.

- (e) Public Interest: The Court judgement relied heavily on several restrictions and limitations to the signage. Central to the Court's findings was that the sign would present predominantly as public art rather than as conventional third-party advertising. This is demonstrated in the judgement's reference to the hand-painted nature of the signage, limitation of corporate branding and expectation of high-quality artistic outcomes that would enhance the terminating vistas from Carrington and York Streets.

The subject development application differs materially from the previous judgement. While a PoM has been submitted, it does not include enforceable restrictions or assessment criteria that would ensure signage presents as public art. Further, in considering the weight to be afforded to the applicant's PoM, it is relevant to note the realised outcomes of the previously approved signage under RD/2017/954/A. Photographic evidence of some of the installed signage (shown below) indicates that the final outcome did not consistently and clearly reflect the attributes relied upon by the Court, including presentation as public art, a discernible hand-painted quality when viewed from a distance, and a clear distinction from conventional third-party advertising.



Figure 7: Advertisement - March 2019



Figure 8: Advertisement - May 2019

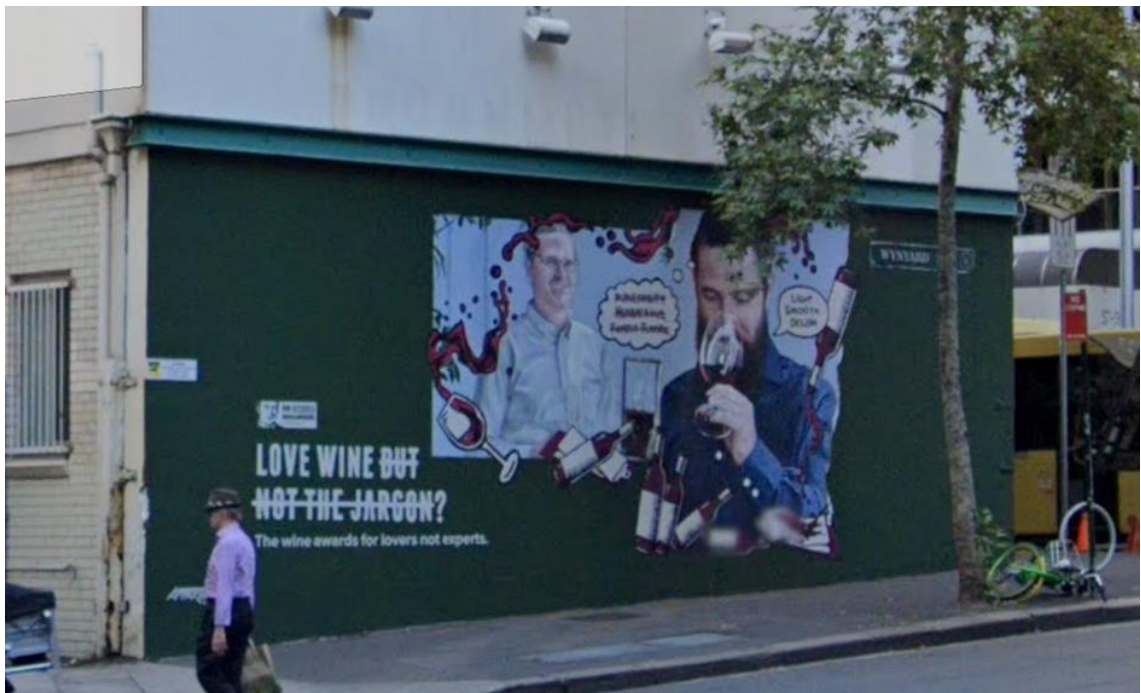


Figure 9: Advertisement - March 2020



Figure 10: Advertisement - January 2021



Figure 11: Advertisement - March 2021



Figure 12: Advertisement - May 2021

While the Court's approval was contingent on strict limitations and controls to secure a positive public domain outcome, the observed implementation demonstrates the limitations of relying on broad management measures and the ability of a month-by-month change of signage to maintain a high-standard of urban design. In this context, and noting the same applicant is involved, the absence of detailed and enforceable controls in the current PoM undermines confidence that the subject proposal would achieve the public interest outcomes asserted and supports the conclusion that the proposal is unsuitable.

Compliance Action

15. The site has previously been subject to several complaints relating to graffiti and bill posting along the north elevation of the building, but no compliance action has been initiated. Signage continued to be displayed once the consent granted by the Court had lapsed, and only ceased once Council issued a letter to the owner notifying them of the lack of consent for signage.

Proposed Development

16. The application seeks consent for the following:
 - Installation of a hand-painted advertising sign with an area of 24.1sqm on the north elevation of the existing building on site, for a 5-year period. The sign is proposed to be subject to the following limitations:
 - no more than 5% of the sign's area would contain third-party advertisements (corporate markings, logos, branding, etc)
 - maintenance in accordance with a plan of management

- use of the space will be dedicated to a community or charity use for 1 month of each year (8.3% of the time)

17. An elevation of the proposed development is provided below.

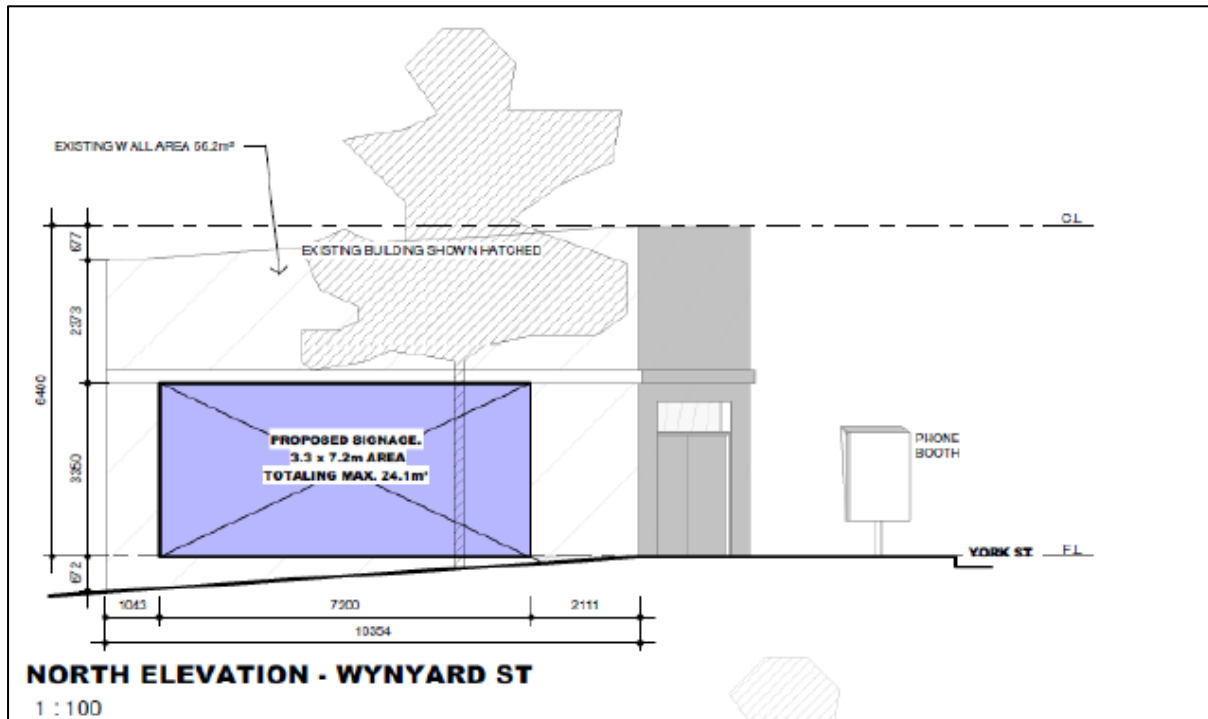


Figure 13: Proposed North Elevation

Assessment

18. 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

19. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.
20. No change of land use or earthworks are proposed, and the site is considered suitable for the proposed use in its current state.

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

21. The aims of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage are in part 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.

22. The proposal is subject to consideration of Chapter 3 as it is signage which is visible from any public place.
23. S3.6 prohibits the consent authority from granting consent for signage unless the signage is consistent with the objectives set out within Chapter 3 and unless the signage satisfies the assessment criteria specified in Schedule 5.
24. S3.8 prohibits signage on land zoned for open space. The site is zoned SP5 Metropolitan Centre under SLEP 2012. The signage would face land zoned RE1 Public Recreation, being Wynyard Park, but does not sit on land zoned for open space.
25. S3.20 relates specifically to wall advertisements, which is the type of advertisement proposed through the subject application. The section restricts the size of a wall advertisement to no more than 20% of an elevation area in the case of a ground elevation of less than 100sqm. The subject north elevation of the structure on site is 66.2sqm. As a result, the maximum area of a sign on this elevation is 13.24sqm. The proposed signage has an area of 24.1sqm, representing an 82% departure from the development standard. The applicant has submitted a document in accordance with s35B of the regulations seeking to justify this departure. This document is addressed in detail further within this report.
26. The proposal complies with all other restrictions imposed by s3.20 of SEPP (Industry and Employment) 2021.
27. The proposed signage has also been considered against the assessment criteria set out in Schedule 5 is provided in the table below:

Provision	Compliance	Comment
1. Character of the area	No	The signage is not consistent with the character of the Special Character Area within which it is located (refer below). The relevant controls seek to enhance terminating vistas at the end of Carrington Street.
2. Special areas	No	The proposed sign would be visually prominent within views from the southern termini of York and Carrington Streets (figures 5 and 6) and would detract from the terminating vistas, resulting in an outcome inconsistent with the Wynyard Park/Lang Park Special Character Area which is defined by its heritage buildings, formal Victorian park layout, and strong urban enclosure, where advertising should be carefully designed to avoid detracting from the park's greenery, the historic streetscape, and the prominence of surrounding heritage elements.

Provision	Compliance	Comment
3. Views and vistas	No	The SEPP refers to the management of important views and vistas, and while the proposed sign would not dominate the skyline or affect the viewing rights of other advertisers, the terminating vistas along Carrington and York Streets are identified in the DCP as a key element of the area's character. As such, the sign is inconsistent with the desired outcome for these vistas, interrupting the visual focus and detracting from the heritage and public domain qualities that define the Wynyard Park/Lang Park Special Character Area.
4. Streetscape, setting or landscape	No	The signage would be out of scale with other advertising structures in the area, being substantially larger than the digital displays adjacent the bus shelter infrastructure on York and Carrington Streets.
5. Site and building	No	The lack of clarity on the artistic merit of the signage demonstrates that the advertisement is unlikely to exhibit innovation or imagination in relationship to the site.
6. Associated devices and logos	Yes	Not applicable.
7. Illumination	Yes	The signage is not proposed to be illuminated.
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

28. The proposed signage is inconsistent with aim (i) of Chapter 3 in that its size is inconsistent with the existing and desired future character of the area. The area contains several other advertising structures, all of which are of generally consistent sizing and compositions. The uncertain nature of the artistic merit and composition of the signage proposed prohibits acceptance that the signage would be of high quality design and finish, demonstrating a failure to adhere to aim (iii).
29. The proposal fails to comply with the maximum permitted size of an advertising sign for the site and as outlined within this report, the accompanying document submitted pursuant to s35B of the Regs fails to demonstrate that the departure would result in a suitable planning outcome.

30. The proposal, being inconsistent with the aims of Chapter 3 and failing to comply with s3.20(2)(b)(iii) is therefore not supported.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017

31. No removal of vegetation is proposed, and the application is consistent with the aims of Chapter 2.

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

32. 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.
33. 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

34. 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 in the SP5 Metropolitan Centre zone. The proposed development is defined as an advertisement and is permissible with consent in the zone. The proposal is generally consistent with objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.6 Exceptions to development standards	No	The proposed development seeks to vary the development standard prescribed under s3.20 of SEPP (Industry and Employment) 2021. A document in accordance with s35B of

Provision	Compliance	Comment
		the Regulations has been submitted with the application. See further details in the 'Discussion' section below.
6.21C Design Excellence	No	Development consent must not be granted unless, in the opinion of the consent authority, the proposed development exhibits design excellence. In the absence of information relating to the intended nature, theme or artistic intent of the sign, it cannot be considered to demonstrate design excellence. See further details in the 'Discussion' section below.

Development Control Plans

Sydney Development Control Plan 2012

35. 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

36. The site is located within Central Sydney, specifically the Wynyard Park / Lang Park Special Character Area. The proposed development is not in keeping with the unique character and the design principles of the locality.
37. Of note is principal (e) of the locality statement which directs development to enhance the terminating vistas along Carrington Street and York Street to the south at their corners with Wynyard Street (Figures 5 and 6). This proposed advertising sign would be excessively visible to southbound pedestrian traffic along Carrington Street and York Street and would not result in a suitable termination of the vista owing to the scale of the proposal as well as its unknown contents.

Section 3 – General Provisions

Provision	Compliance	Comment
3.9 Heritage	Yes	The application is accompanied by a Heritage Impact Statement which outlines the items of heritage significance within the vicinity of the proposal.

Provision	Compliance	Comment
		The site is adjacent to a state heritage item at 341 George Street, known as the Bank of NSW former head office (I1769). This item is described as an exceptional item of cultural significance within its Conservation Management Plan (2003) with its exterior also being declared an exceptional level of significance as it is intact. An approximately 14m separation distance would exist between the heritage item and the proposed advertisement. Given the commercial nature of the area, the separation distance and the expected contents of the advertisement, the proposal would not detrimentally impact on the heritage value of any of the nearby properties.
3.16 Signage and Advertising	No	See discussion below.

Discussion

Clause 4.6 Request to Vary a Development Standard

38. The site is permitted a maximum wall sign area of 20% of the relevant elevation of the building in accordance with s3.20(2)(b)(iii) of SEPP (Industry and Employment) 2021. The northern elevation of the building has an area of 66.2sqm, which would permit a wall sign of 13.24sqm. The proposed development includes a wall sign with an area of 24.1sqm which equates to 36% of the elevation area, or an area 10.86sqm larger than permitted, representing a departure of 82% to the standard.
39. A document pursuant to s35B of the Regulations has been submitted to Council seeking to justify the contravention of the development standard by demonstrating that:
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) there are sufficient environmental planning grounds to justify contravening the standard

Applicant's Document - Clause 4.6(3)(a) and (b)

40. The applicant seeks to justify the contravention of the development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) Wehbe Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard:
 - (ii) There are no objectives relevant to the control. The proposal is consistent with the aims of Chapter 3 of the SEPP, providing a visual point of interest at the termination of a vista along Carrington Street.
 - (iii) Wehbe Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary:
 - (iv) The control seeks to restrict the size of signage on an elevation to an area that is proportionate to the elevation. While proposing a variation to this restriction in area, the document argues that the proposal will provide a better urban design outcome than a compliant sign.
 - (v) Wehbe Test 3: The underlying object or purpose would be defeated, thwarted or undermined if compliance was required and therefore compliance is unreasonable:
 - (vi) Compliance with the control would thwart the proposal's ability to comply with objectives of SEPP (Industry and Employment) 2021 through a restriction in size of the sign which would leave much of the elevation of the building blank, despite the elevation being at ground level in a highly pedestrianised environment which would otherwise benefit from activation of the visual realm.
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The activation generated by the advertisement of a currently underutilised elevation in a heavily pedestrianised environment is consistent with objective 6 of the SP5 Metropolitan Centre zone which seeks to promote the efficient and orderly development of land in a compact urban centre.

Consideration of Applicant's Document - Clause 4.6 (3)

41. Development consent must not be granted unless the consent authority is satisfied that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the document adequately address those issues at Clause 4.6(3)(a)?

42. The document argues that compliance is unreasonable or unnecessary due to the proposal satisfying three (3) elements of the Wehbe Test as discussed above. These are inadequately addressed in the following ways:
- (a) Wehbe Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard:

- (b) The lack of objectives of the development standard does not negate the need to comply with the standard. The proposal is inconsistent with aim (1)(a)(i) of 3.1 of SEPP (Industry and Employment) 2021 in that the proposed sign would negatively impact the amenity and visual character of the area, with views from Carrington and York Streets both terminating at the site.
 - (c) Wehbe Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary:
 - (d) The underlying purpose of the development standard is to limit the coverage of walls by advertisements so that they are proportionate to the elevation. The applicant argues that a compliant sign would leave much of the elevation blank, which is the aim of the restriction on the size of advertising permitted. Failure to adhere to the restriction demonstrates that the advertisement is disproportionate in scale and would dominate the northern elevation of the building, resulting in unreasonable impacts on the terminating vistas from Carrington Street and York Street.
 - (e) Wehbe Test 3: The underlying object or purpose would be defeated, thwarted or undermined if compliance was required and therefore compliance is unreasonable:
 - (f) A compliant design would achieve similar outcomes as the proposed design, allowing for the provision of advertising along a blank wall within a high pedestrian activity area.
43. The document inaccurately lists the departure from the standard as 16%.
44. The document inaccurately lists the height of building control as the control sought to be varied.

Conclusion

45. The Panel cannot be satisfied that the applicant has demonstrated that compliance with s3.20(2)(b)(iii) of State Environmental Planning Policy (Industry and Employment) 2021 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of clause 4.6(3) of the Sydney LEP 2012.

SDCP - Section 3.16.12.4 Wynyard Signage Precinct

46. Signage in this precinct should be restrained and carefully designed to support its role as a major transport interchange, reinforce clear wayfinding, and respect the heritage significance and setting of surrounding items. Any signage must minimise visual clutter, complement nearby heritage buildings, and avoid dynamic content unless it is directly associated with a civic or public interest use or demonstrably achieves design excellence.
47. While not using dynamic content, the proposed sign is inconsistent with the expected outcome for the precinct in that regardless of its artistic treatment or merit, the advertisement would be distracting from the precinct where signage is to be minimised to highlight the heritage significance of surrounding buildings.
48. Signage within the precinct must also demonstrate design excellence in accordance with cl. 3.16.6.2.

49. The proposed sign does not demonstrate design excellence when assessed against relevant controls as there is insufficient information to persuade the consent authority that the sign would enhance the streetscape or architecture of the host building or nearby buildings. Without an artistic concept, colours materials, or palette, the sign cannot be shown to positively contribute to the public domain or differentiate itself from a standard printed third-party advertisement. This is inconsistent with the expected outcome within the Wynyard Signage Precinct and within the Sydney CBD overall, where a high standard or urban design and visual appeal are anticipated.
50. The application fails to demonstrate creativity, innovation or artistic quality as required. The PoM does not provide any objective framework to ensure high quality outcomes which is especially concerning given the monthly changes to the sign proposed. There is no assurance that on any month-to-month basis, a high-quality, artistically worthy design can be delivered as has been previously demonstrated in Figures 7-12.
51. The proposal does not meet the threshold to demonstrate design excellence necessary to justify its form, function, location or size within the Wynyard Signage Precinct.

SDCP - Section 3 - cl. 3.16.7 Advertising structures and third-party advertisements.

52. The DCP restricts new third-party advertisement signs except in the following circumstances:
 - Whether the sign is advertising a civic or community event in the City of Sydney area.

Comment: The advertisement will not include details for a civic or community event within the city area. The applicant's Statement of Environmental Effects notes that for one month of the year the signage would promote a community or charity use but does not indicate that this use would cover events. Rather, the SEE refers to long-standing relationships with the not-for-profit sector and groups like the Red Cross. Promotion of a charity or community group is not advertising for a civic or community event.
 - Whether the sign can be considered as public art in accordance with the City's policies in relation to public art.
 - Comment: Due to the private nature of the proposal, it cannot be classified as public art. The application posits that its hand-painted nature and artistic merit support its inclusion as quasi-public art.

- While the PoM provides a general overview of how signs are painted and managed, it does not include sufficient detail to allow Panel to be satisfied that the proposed signage would present as public art or achieve a positive planning outcome. Key information is missing regarding the intended artistic concept, theme, or curatorial intent of the signage, and the PoM does not describe how artists would be selected, what criteria would guide that selection, or how the quality of the artwork would be assessed. Clear selection criteria and a defined process are essential to ensure that each iteration of the sign consistently meets a high standard of public art, particularly given the temporary nature of the signage and the proposal to change the artwork monthly. Without these safeguards, there is no certainty that the sign would maintain artistic integrity over time, and there is a risk that commercial or promotional elements could dominate, undermining the intended public art outcome and the character of the area.

- Whether the signs are consistent with the provisions for signage in this DCP;

Comment: Wall signs are permitted by the DCP where they are on blank side elevations and improve the elevation and contribute to the public domain. The subject advertisement is on a blank side elevation, but the proposal includes insufficient information to demonstrate that the signage would contribute to an improvement of the public domain by way of artistic merit or visual interest.

The proposed sign complies with the maximum height above ground level of 4.5m, being 4m in height.

- Whether part of the sign occupied by corporate markings, logos, branding or similar is not more than 5% of the total sign area;
- Comment: The application's Statement of Environmental Effects notes that a maximum 5% of the sign would be dedicated to markings, logos, branding or similar, however, previous instances of signage at this location as shown within this report demonstrate (Figures 7-12) that this restriction has not always been complied with.
- Whether the number of existing signs on the site and in the vicinity do not cumulatively create unacceptable visual clutter;
- Comment: No advertisement currently exists on the north elevation though the area already contains several advertising structures as shown in Figures 5 and 6.
- Whether the sign is associated with the surrender of a consent for an existing sign on a heritage item or on a contributory building in a heritage conservation area.
- Comment: Not applicable.

53. While the previous appeal (RD/2017/954/A) relied on the expert testimony of Council's and the Applicant's planners that the proposal was consistent with the DCP, there was no certainty within the judgement that the DCP was complied with. Further the judgement was reached with the aid of a more thorough proposal with clearer guidelines around the form and content of the signage proposed. In this instance, insufficient information has been provided to demonstrate that compliance with the relevant criteria of the DCP can be achieved.

54. A new third-party advertisement is not permitted in this instance.

Advertising and Notification

55. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 14 days between 11 November 2025 and 16 November 2025. A total of 107 properties were notified and no submissions were received.

Financial Contributions

Levy under Section 61 of the City of Sydney Act 1988

56. The cost of the development is below \$200,000. The development is therefore not subject to a levy under the Central Sydney Development Contributions Plan 2013.

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

57. The Central Sydney Development Contributions Plan 2020 applies to the site. However, as the cost of the development is less than \$250,000, a contribution is not payable.

Housing and Productivity Contribution

58. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
59. While the site is located with the Greater Sydney region, the development is [not a type of development to which the Housing and Productivity Contribution applies.

Relevant Legislation

60. Environmental Planning and Assessment Act 1979.

Conclusion

61. The application is recommended for refusal as it proposes a new third-party advertisement sign without exceptional circumstances, and proposes a departure from a development standard without demonstrating that compliance is either unreasonable or unnecessary or that there are sufficient environmental planning grounds to warrant the departure.

ANDREW THOMAS

Executive Manager Planning and Development

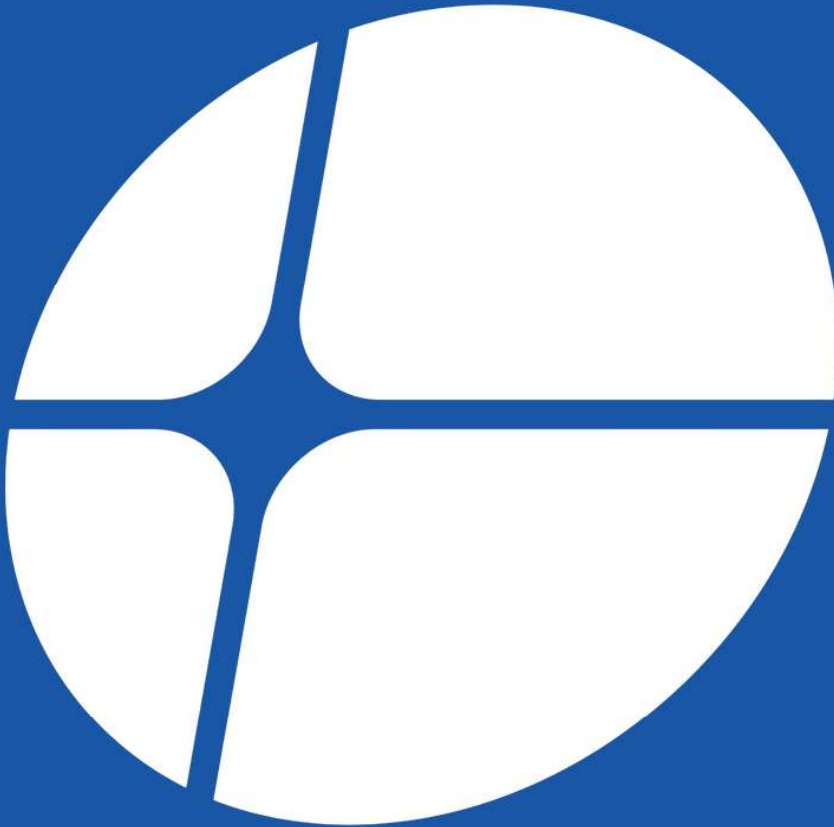
Warren Terry, Senior Planner

Attachment A

Clause 4.6 Variation Request Wall Advertisements
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Clause 4.6

Request to vary a development standard



Hand Painted Advertising Mural
4-6 York Street, Sydney

Prepared for Apparition Media

Submitted to the City of Sydney Council

October 2025

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1. Introduction

This is a written request (the Request) to seek a variation to a development standard in accordance with the provisions of Clause 4.6 Exception to Development Standards of the *Sydney Local Environmental Plan 2012* (SLEP 2012).

This Request relates to *Clause 3.20(2)(b)(iii) Wall advertisements* of the *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP)

This Request has considered the detailed guidance within the NSW Department of Planning, Housing and Infrastructure's (DPHI) guideline *Guide to Varying Development Standards* (DPHI Guide) and addresses the findings and established principles (as relevant) in the following judgements of the NSW Land and Environment Court (the Court):

- *Adbooth Pty Ltd v Botany Bay City Council* [2006] NSWLEC 710
- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118
- *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131

The following sections of this Request critically analyse the proposed exceedance of the signage area, its impact and reasonableness.

This analysis demonstrates that an exception to the signage area development standard is warranted in this instance and will provide for a significantly better urban outcome than a compliant development.

2. Planning Overview

The *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument) includes various development standards as a means of achieving environmental planning objectives.

Clause 4.6 of the Standard Instrument allows a consent authority to consider and grant consent to a development even in the circumstance where that development would contravene a development standard.

The DPHI Guide recommends that any request to vary a development standard should confirm the planning context and relevant controls to assist the consent authority's assessment. Table 1 below provides a summary of the relevant planning context and provides an overview of the proposed variation.

Information Requirement	Comment
Relevant Applicable Planning Instrument	<i>State Environmental Planning Policy (Industry and Employment) 2021</i>
Zoning of the Land	SP5 Metropolitan Centre
Objectives of the Zone	The objectives of the SP5 zone are: • <i>To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy</i> • <i>To provide opportunities for an intensity of land uses commensurate with Sydney's global status</i> • <i>To permit a diversity of compatible land uses that are characteristic of Sydney's global status and that serve the workforce, visitors and wider community</i> • <i>To encourage the use of alternatives to private motor vehicles, including public transport, walking and cycling</i> • <i>To promote land uses with active street frontages within podiums that contribute to the character of the street</i> • <i>To promote the efficient and orderly development of land in a compact urban centre</i> • <i>To promote a diversity of commercial opportunities varying in size, type and function, including new cultural, social and community facilities</i> • <i>To recognise the important role that central Sydney's public spaces, streets and amenity play in a global city</i> • <i>To promote the primary role of the zone as a centre for employment and permit residential accommodation and serviced apartments where the accommodation complements employment-generating land uses</i>
Development Standard to be Varied	Wall advertisements – as it relates to elevation coverage
Nature of the Development Standard	A numerical standard for the advertising area of wall advertisements on the above ground elevation
Relevant Development Standard Clause	Clause 3.20(2)(b)(iii) (our emphasis in bold) <i>(1) Only one wall advertisement may be displayed per building elevation.</i>

Information Requirement	Comment
	(2) The consent authority may grant consent to a wall advertisement only if— <i>(a) the consent authority is satisfied that the advertisement is integrated with the design of the building on which it is to be displayed, and</i> (b) for a building having— <i>(i) an above ground elevation of 200 square metres or more—the advertisement does not exceed 10% of the above ground elevation, and</i> <i>(ii) an above ground elevation of more than 100 square metres but less than 200 square metres—the advertisement does not exceed 20 square metres, and</i> (iii) an above ground elevation of 100 square metres or less—the advertisement does not exceed 20% of the above ground elevation, and
Objectives of the Development standard	There are no objectives specifically relating to CI 3.20(2)(b)(iii), however the objectives for Chapter 3 of the Industry and Employment SEPP are relevant: (1) This Chapter aims— <i>(a) to ensure that signage (including advertising)—</i> <i>(i) is compatible with the desired amenity and visual character of an area, and</i> <i>(ii) provides effective communication in suitable locations, and</i> <i>(iii) is of high quality design and finish</i>
Development Standard Numeric Control for the Site	Maximum advertising area of no more than 20% of the above ground elevation if the above ground elevation of the building is 100m ² or less.
Proposed Numeric Control	The subject site has an above ground elevation of 66.2m ² . The proposed sign is 24.1m ² , resulting in an advertisement of approximately 36% of the above ground elevation.
Percentage Variation Between the Proposal and the Planning Instrument	An exceedance of 16% of the requirement under CI 3.20 of the Industry and Employment SEPP.

Table 1: DPHI Guide recommended planning information and numeric overview

3. Proposed Development

This Request supports a DA for the installation of a hand painted advertising mural at 4-6 York Street. The site location is shown in the figures below.



Figure 1: Site location (Base Source: Nearmap)

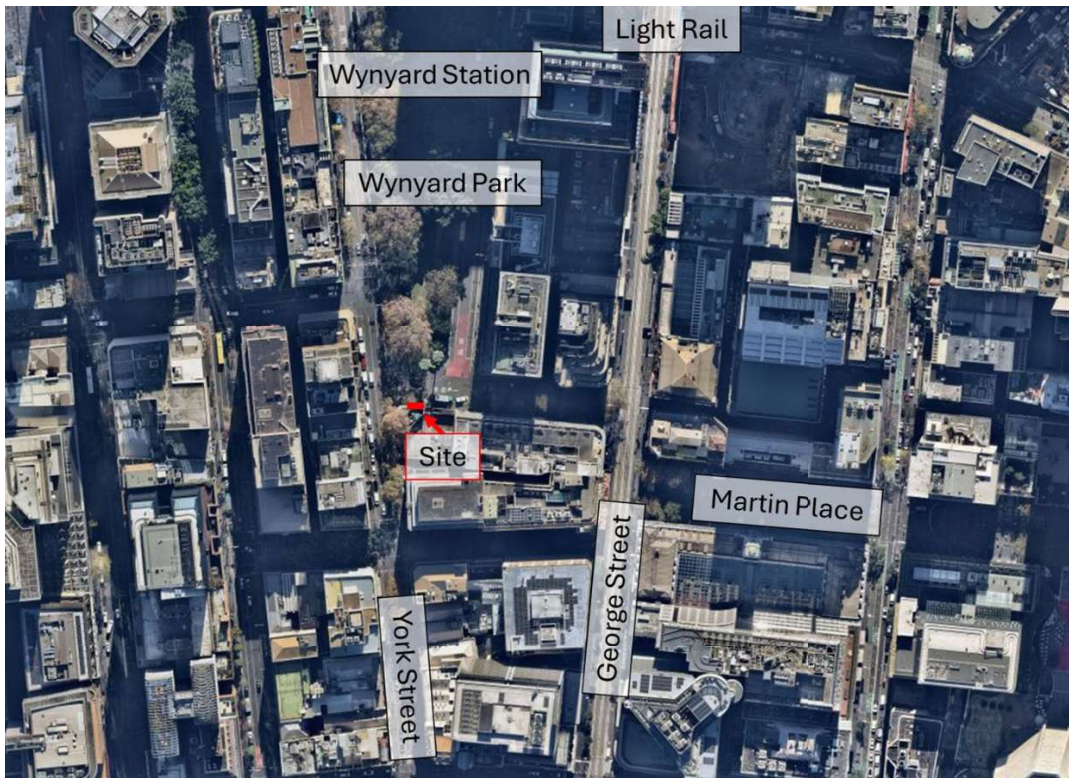


Figure 2: The site in its immediate context (Base Source: Nearmap)

The proposal involves the installation of a static hand painted advertising mural on the northern elevation of 4-6 York Street, measuring 7.2 metres in width and 3.3 metres in height for a 5-year period. The mural will present to Wynyard Street.

Key features of the proposal are as follows:

- total display area of approximately 24.1m² (7.2m x 3.3m)
- the advertising mural will be hand painted and non-illuminated
- the brand logos will not cover more than 5% of the mural
- contents of the mural will change sporadically

The proposed advertising area is 24.1m². The proposed advertising mural is shown in the figure below and within the architectural plans prepared by Rob Pickett Design provided at Appendix 1.

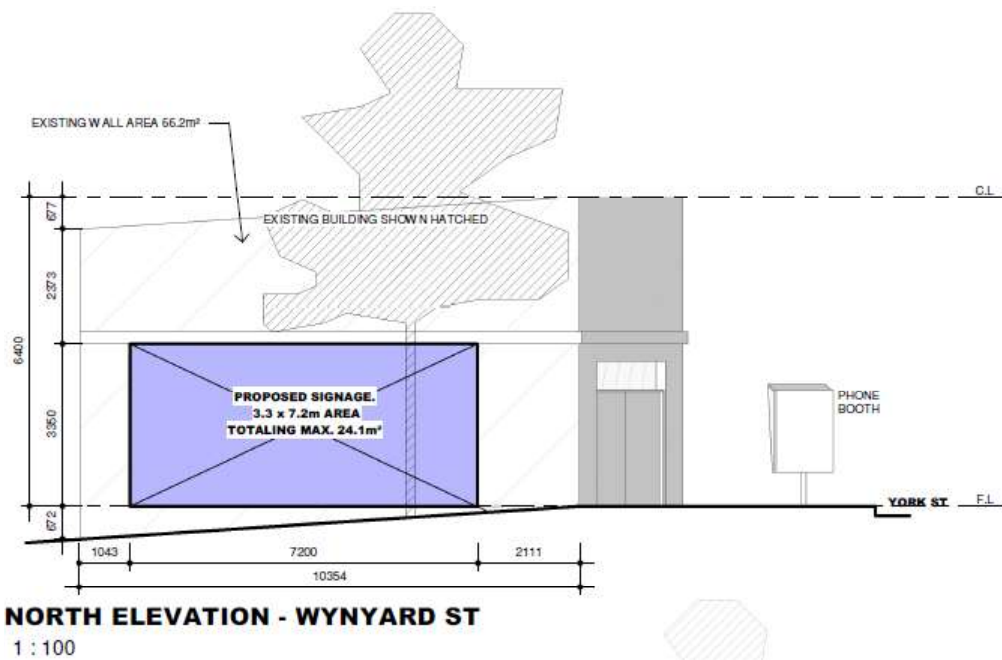


Figure 3: Northern Elevation (Source: Rob Pickett Design)

3.1. Proposed variation

The proposed variation is requested to accommodate a hand painted advertising mural of 24.1m² on the northern elevation of a single storey building at 4-6 York Street. This variation represents a 10.9m² increase in signage area.

4. Legislative Context

4.1. Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the SLEP 2012 sets out key assessment criteria which enables Council to consider and grant development consent for a development that contravenes a development standard. The overarching objectives of this clause are contained in subclause (1) as detailed below:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(2) of SLEP 2012 provides that, unless expressly excluded from the operation of clause 4.6, and subject to clause 4.6, development consent may be granted for development even though the development would contravene a development standard imposed by the SLEP 2012 or any other environmental planning instrument.

The Industry and Employment SEPP is an environmental planning instrument (EPI).

4.1.1. Clause 4.6(3)

Clause 4.6(3) requires that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

4.2. Relevant Judgements - NSW Land and Environment Court

The following key Land and Environment Court (NSW LEC) judgements provide guidance on key considerations in the assessment of a Clause 4.6 variation Request. These judgements focus on the degree to which a consent authority may be satisfied about the matters in Clause 4.6 and therefore further refine the requirements for variation Requests:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Adbooth Pty Ltd v Botany Bay City Council* [2006] NSWLEC 710
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118
- *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131

The key findings and established principles (as relevant) of the above judgements of the Land and Environment Court are summarised below.

4.2.1. Wehbe v Pittwater Council (2007)

This case establishes five potential grounds 'Wehbe tests' to ascertain whether strict compliance with a development standard is unreasonable or unnecessary, as follows:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or
5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

4.2.2. Adbooth Pty Ltd v Botany Bay City Council (2006)

In *Adbooth Pty Ltd v Botany Bay Council [2006]* (Adbooth) the Commissioner had considered that compliance with CI 22(2)(b) of State Environmental Planning Policy 64 (SEPP 64) was unreasonable and unnecessary. It is important to note that SEPP 64 was repealed and replaced by the Industry and Employment SEPP, and the above clause is identical to CI 3.20(2)(b). This decision is evidence of the applicable control being applied as a development standard in the Land and Environment Court, and hence subject to Clause 4.6 of the SLEP 2012.

4.2.3. Initial Action Pty Ltd v Woollahra Municipal Council (2018)

Initial Action Pty Ltd v Woollahra Municipal Council [2018] (Initial Action) further clarifies the correct approach for the consideration of clause 4.6 requests. Clause 4.6 does not require that a development that contravenes a development standard to have a *neutral or better* environmental planning outcome than a fully compliant development.

A legal consequence of the decision in *Initial Action* is that Clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

In *Initial Action*, the Court also confirmed that the five common ways of establishing that compliance with a development standard is unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007)* continue to apply.

4.2.4. Linfield Developments Pty Ltd v Cumberland Council (2019)

The 'third' Wehbe test is concerned with the underlying object or purpose of the development standard and that it would be defeated, thwarted or undermined if strict compliance was required. The reference to 'undermined' is an extension of Wehbe which was applied in *Linfield Developments Pty Ltd v Cumberland Council [2019]* NSWLEC 131 (at [24]) (Linfield). In Linfield, the court found that:

"...requiring compliance would thwart or undermine at least one of the objectives of the height control development standard..."

5. Assessment of the Variation to advertising area development standard

The Industry and employment SEPP sets a standard advertising area development control of 20% elevation coverage for the northern elevation of the site.

The proposal seeks to increase the maximum elevation coverage development standard development control by 10.9m², resulting in an elevation coverage of 36%, to accommodate wall signage that is appropriate for the conditions of the site and its context, both physically and strategically, and which is envisaged for the site under the Industry and Employment SEPP.

The following assessment comprehensively considers the provisions of Clause 4.6 with regard to the relevant case law.

5.1. Clause 4.6(3)(a) – Compliance is Unreasonable or Unnecessary

Wehbe establishes at least five potential alternative grounds to ascertain whether strict compliance with a development standard is unreasonable or unnecessary. An assessment against the relevant tests is provided below to outline how compliance with the advertisement area development standard is unreasonable and unnecessary.

5.1.1. Wehbe Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard

No objectives are set out specifically for wall advertisements. Nonetheless, an assessment has been undertaken against the objectives of Chapter 3 of the Industry and Employment SEPP and provided in the below table which confirms that the objectives of the SEPP as they relate to advertising and signage will be achieved notwithstanding the non-compliance with the standard.

Clause 3.1 Aims, objectives etc	
Objectives	Achievement of Objectives
(1) This Chapter aims-	
(a) To ensure that signage (including advertising)-	
(i) Is compatible with the desired amenity and visual character of an area	An identified principle of the Wynyard Park/Lang Park Special Character Area in Section 2.1.9 of the Sydney Development Control Plan 2012 (SDCP 2012) is to enhance the terminating vistas along Carrington Street, and York Street to the south at its corner with Wynyard Street. The provision of an advertising mural on the subject site creates a point of visual interest at the intersection between York Street and Wynyard Street, directly aligning with the desired visual character of the area.

Clause 3.1 Aims, objectives etc		
(ii)	Provides effective communication in suitable locations	The proposed advertising mural is located to primarily be viewed by pedestrians travelling southbound along York Street, which is a suitable location for an advertising mural as it provides the opportunity to support the activation of the Wynyard Precinct through artistic displays.
(iii)	Is of high quality design and finish	The proposal is seeking to display hand painted advertising murals, which are intended to be designed to a quality that the mural is perceived as public art rather than an advertising billboard.

Table 2: Consistency with Clause 3.1 objectives

5.1.2. Wehbe Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

No objectives have been set out for wall advertisements. An assessment against the objectives of Chapter 3 of the Industry and Employment SEPP is provided in Table 2.

However, the underlying purpose of the development standard is to control the coverage of wall advertisements on building elevations to ensure that they are proportionate to the elevation it is located on. The underlying purpose of the control is considered relevant to the development.

Notwithstanding, as discussed throughout the SEE and this Request, it is considered that the increase in advertising area will facilitate a positive urban design impact due to the artistic element of the hand painted nature of the proposed advertising mural, as opposed to a regular billboard style advertisement. The size exceedance will support an improved display compared to a wholly compliant model which otherwise exposes a blank façade.

Furthermore, as detailed within the SEE, the proposal is considered to support the City of Sydney's *Public Art Policy*. In particular, the scale of the mural is appropriate for the building it is located on, and to the broader context of the site, which aligns with the guidelines included in the Policy.

5.1.3. Wehbe Test 3: The underlying object or purpose would be defeated, thwarted or undermined if compliance was required and therefore compliance is unreasonable

Strict compliance with the advertising area development standard would defeat, thwart and undermine the objectives of the chapter and the underlying intention of the standard. This was applied in *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 (at [24]).

The objects that would be defeated, thwarted or undermined if strict compliance was required in this case are clause 3.1(a)(i), clause 3.1(a)(ii) and clause 3.1(1)(a)(iii) of the Industry and Employment SEPP as detailed below.

Clause 3.1(1)(a)(i) states:

To ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area

A strictly compliant scheme would limit the sign's ability to align the desired amenity and visual character of the locality. The proposed mural directly aligns with Principle (e) of the Wynyard Park/Lang Park Special Character Area, reproduced as follows:

Enhance the terminating vistas along Carrington Street, and York Street to the south at its corner with Wynyard Street.

A wholly compliant advertising display would have an advertising area of 13.22m². A mural of that size would leave a significant portion of the elevation to be blank and unappealing. As such, a non-compliant advertising display will better align with the desired character of the area and assist in providing an appropriate terminating vista along York Street.

Clause 3.1(1)(a)(ii) states:

To ensure that signage (including advertising) provides effective communication in suitable locations

The site is considered to be in a suitable location because it is primarily visible towards a high-traffic pedestrian walkway, while having minimal adverse impacts on the surrounding environment, as detailed throughout this application. Complying with the advertising area development standard would limit the ability to interpret the mural and limit its artistic merit. A smaller display area would have less of a positive visual impact on the existing unappealing building façade, as such, compliance is unreasonable and unnecessary as it will undermine the objectives of the SEPP.

Clause 3.1(1)(a)(ii) states:

To ensure that signage (including advertising) is of a high quality design and finish

As above, a strictly compliant wall advertisement would result in a significantly smaller advertising area, which will limit the ability to interpret the mural and limit its artistic merit.

The scale of the proposal mural enables a high-quality design to be achieved and improves the overall presentation of the building's northern façade.

5.2. Clause 4.6(3)(b) – Environmental Planning Grounds to Justify Contravening the Development Standard

The development, including the advertising coverage area non-compliance, will provide for a high-quality hand-painted advertising mural visible to an area of high pedestrian traffic.

There are sound planning grounds and significant benefits to justify contravening the height of building development standards of which are outlined in the following sections.

5.2.1. The need to comply with Clause 3.20(2)(b)(iii)

Section 1.3(c) of the EP&A Act provides that it is an objective of the Act to:

promote the orderly and economic use and development of land

The zone objectives of the SP5 Metropolitan Centre zone are:

1. *To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.*
2. *To provide opportunities for an intensity of land uses commensurate with Sydney's global status.*
3. *To permit a diversity of compatible land uses that are characteristic of Sydney's global status and that serve the workforce, visitors and wider community.*
4. *To encourage the use of alternatives to private motor vehicles, including public transport, walking and cycling.*
5. *To promote land uses with active street frontages within podiums that contribute to the character of the street.*
6. *To promote the efficient and orderly development of land in a compact urban centre.*
7. *To promote a diversity of commercial opportunities varying in size, type and function, including new cultural, social and community facilities.*
8. *To recognise the important role that central Sydney's public spaces, streets and amenity play in a global city.*
9. *To promote the primary role of the zone as a centre for employment and permit residential accommodation and serviced apartments where the accommodation complements employment-generating land uses.*

The proposal supports the sixth objective of promoting the efficient and orderly development of land in a compact urban centre. The building that the mural is to be located on is currently unoccupied and on a corner lot immediately adjacent to public open space and nearby a transport interchange. The provision of an advertising mural represents orderly development creating activation on a building that is currently not contributing to the streetscape due to its blank façade.

The proposed development similarly supports the eighth objective of the zone by contributing to the vibrancy of the street through the activation of an otherwise blank wall along a busy pedestrian corridor.

Since the proposal is for an advertising mural, the zone objectives are not targeted towards the outcomes that the proposal will achieve. Notwithstanding, the development

will not hinder the ability of any neighbouring or future developments from achieving the zone objectives.

5.2.2. Improved Urban Design outcomes

Section 1.3(g) of the EP&A Act provides that it is an objective of the Act to:

promote good design and amenity of the built environment ...

The proposed development has been designed to provide a form of advertisement that offers improved amenity and visual outcomes despite being non-compliant. The increased area of the mural and coverage of the site's elevation compared to a compliant design creates a more prevalent point of street activation and visual interest as the display is designed to be interpreted as street art rather than an advertising billboard.

A smaller display would be less visible to pedestrians walking along York Street, and leave more of the northern elevation blank, which does not actively contribute to the streetscape, and is at a higher risk of graffiti/vandalism.

It is also noted that the non-compliant form of the proposal will not have increased adverse impacts compared to a smaller compliant advertising mural. As discussed throughout the Statement of Environmental Effects, the proposal is not expected to have a tangible adverse impact on road safety, surrounding heritage or the character of the area.

Enforcing a compliant model of this proposal is unreasonable and unnecessary as the proposal offers a superior urban design outcome.

6. Conclusion

Clause 4.6 allows for flexibility in the application of development standards in appropriate circumstance and this Request has been shown to satisfy the provisions of 4.6(3) of the SLEP 2012.

The advertising area coverage variation is justified for the following reasons:

- Clause 3.20(2)(b)(iii) of the Industry and Employment SEPP was not created for the purpose of an advertising mural that can readily be identified as street art
- the proposal seeks to be painted onto what is currently a blank façade on an unoccupied building, activating the elevation as it presents to the street
- this non-compliance results from the limited size of the building and would likely comply with this clause if this building was of a size that would ordinarily be expected on this site
- offers an improved urban design outcome with positive visual impacts compared to that of a compliant scheme
- enhances the terminating vistas of York and Carrington streets, as set out in the special character statement within the SDCP
- respects the rights of other advertisers on transport structures
- the mural is of a scale that is compatible with the building it is on, and will not interact with any important architectural features, windows or extending across corners.
- the proposal is generally consistent with the relevant provisions of the *City of Sydney Public Art Policy 2016*
- protects a larger portion of the façade from graffiti and other vandalism by providing a point of visual interest
- will not reduce the significance of any nearby heritage
- will not reduce traffic safety in the surrounding area

Overall, and for the reasons set out above, the proposed development represents a superior outcome for the site that is justified. Therefore, it is appropriate that the development standard be varied as proposed.