

DETERMINATION AND STATEMENT OF REASONS
SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	14 June 2018
PANEL MEMBERS	Carl Scully (Chair), John Roseth, Mary-Lou Jarvis, Toni Zeltzer
APOLOGIES	None
DECLARATIONS OF INTEREST	Sue Francis, Louise Camenzuli

Public meeting held at Westin Hotel Sydney, 1 Martin Place, on 14 June 2018, opened at 12:45 pm and closed at 3:00 pm.

MATTER DETERMINED

2017SCL050 – Woollahra - DA359/2017/1

28 & 30-36 Bay Street & 2 Guilfoyle Avenue Double Bay

Mixed use development - Shop top housing consisting of 3 retail spaces, 39 units above and parking for 33 spaces

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to refuse the development application as described in Schedule 1 pursuant to section 4.16 (previously section 80) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- The proposal does not comply with the FSR and height controls for the site and the justification under cl 4.6 of the LEP is not well-founded. The Panel does not accept that past variations of these controls amount to the council's abandonment of the control. While there are some approvals where the controls have been varied, in most cases these were minor variations or under a previous LEP. There are also numerous approvals where the controls were complied with.
- As a result of non-compliance with FSR and height, the building does not fit into the desired future character of the Zone B2 Local Centre. The additional height is also likely to impact on existing private views.
- The proposal does not comply with the Double Bay Centre Chapter of the Woollahra DCP 2015, in particular, by not providing a colonnade.
- The loss of commercial use of the site and the lack of any replacement will be detrimental to the Double Bay Centre.
- The proposal has inadequate set back from the existing residential development at 3 South Avenue.

- The Panel heard the views of two supporters who said that Double Bay Centre requires higher FSR and height to make redevelopment financially feasible. The Panel cannot take such economic considerations into account in determining a variation request under cl 4.6 of the LEP.

PANEL MEMBERS	
 Carl Scully (Chair)	 John Roseth
 Toni Zeltzer	 Mary Lou Jarvis

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SCL050 – Woollahra - DA359/2017/1
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a seven storey mixed use development containing 39 residential units (5 x studios, 12 x 1 bed, 18 x 2 bed & 4 x 3 bed), 3 ground level retail spaces (proposed hours of 6am-10pm MonSat and 7am-10pm Sun) with ground level parking (9 cars) and a basement car park accessed by a car lift (24 cars) and the removal of a tree at the rear of 28 Bay Street. The proposal also includes a Voluntary Planning Agreement (VPA) with an offer of \$500,000 for projects identified in Council's Double Bay Public Domain Strategy
3	STREET ADDRESS	30-36 Bay Street & 2 Guilfoyle Avenue Double Bay
4	APPLICANT/OWNER	Anka Double Bay Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development > \$20 million, lodged before 1 March 2018
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy No 65 Design Quality of Residential Flat Development - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy No 55 – Remediation of Land - State Environmental Planning Policy No 65 – Apartment Design Guide - Woollahra Local Environmental Plan 2024 - Draft environmental planning instruments: Nil - Development control plans: - Woollahra Development Control Plan 2015 - Section 94 and 94A Contributions Plans - Planning agreements: Nil - Provisions of the Environmental Planning and Assessment Regulation 2000: Nil - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the Environmental Planning and Assessment Act 1979 or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council assessment report: 1 June 2017 - Written submissions during public exhibition: 87 (46 for and 41 against) - Verbal submissions at the public meeting: - Support – Andrew Veron, Grant Whiteman - Object – Malcolm Young on behalf of the Double Bay Residents Association, Julian Beaumont on behalf of StrataPlan, Brian O'Dowd, Mark Silcocks (Councillor Woollahra, Double Bay Ward), Matthew Levens - On behalf of the applicant – Brett Brown, Tony Caro

8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	• Briefing meeting 19 December 2017 • Site inspection and briefing meeting 19 April 2018 • Final briefing meeting to discuss council's recommendation, 14 June 2018 at 12:10pm. Attendees: ○ Panel members: Carl Scully (Chair), John Roseth, Mary-Lou Jarvis, Toni Zeltzer ○ Council assessment staff: Nick Economou, Dimitri Luka, Thomass Wong
9	COUNCIL RECOMMENDATION	• Refusal
10	DRAFT CONDITIONS	• Attached to the council assessment report