



Woollahra
Municipal
Council

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-351 – DA489/2024/1
PROPOSAL	Demolition of an existing building and construction of a new mixed-use building above an existing 2 level basement
ADDRESS	33 Cross Street, Double Bay (Lot 1 in DP793525)
APPLICANT	Cross Street Double Bay Pty Ltd
OWNER	Fridman Holdings Db Pty Ltd
DA LODGEMENT DATE	20 November 2024
APPLICATION TYPE	Integrated Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: it is Development that has a capital investment value of more than \$30 million. The total development cost is over \$180 million.
CIV	\$180,730,185.00
CLAUSE 4.6 REQUESTS	Development standards to be varied: • Part 4.3 of the Woollahra LEP 2014 (Height of buildings) • Part 4.4 of the Woollahra LEP 2014 (Floor Space Ratio – FSR)
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	• State Environmental Planning Policy (Sustainable Buildings) 2022 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Biodiversity & Conservation) 2021 • Woollahra Local Environmental Plan 2014; • Woollahra Development Control Plan 2015.

AGENCY REFERRALS	Water NSW Transport for NSW Ausgrid NSW Police – CPTED
TOTAL & UNIQUE SUBMISSIONS	Objections: 110 Support: 63 Total: 173
KEY ISSUES	Height, FSR, ADG, Desired Future Character, Bulk and Scale, Streetscape, View Loss, Visual and Acoustic Privacy, Traffic, Pedestrian Through Site Link
DOCUMENTS SUBMITTED FOR CONSIDERATION	• Aboriginal Cultural Heritage or Assessment Report • Access Report • Acid Sulphates Report • Amended Architectural Plans • Acoustic & Vibration Assessment • Acoustic Report • Arborists Report • BASIX Certificate • BASIX Assessment Report • BCA Performance Requirements Compliance Statement • CCTV Specification • Clause 4.6 – Height • Clause 4.6 – FSR • Contamination and/or Remediation Action Plan • Construction Management Plan • Cost Estimate Report • Contributions Forms • Crime Risk Assessment Report • CPTED Review • Design Statement • Design Verification Statement • Dewatering Opinion Letter • EACS Specification • Economic Impact Statement • Erosion and Sediment Control Plan • Façade Engineering • Flood Risk Management Report • Geotechnical Report • Heritage Impact Assessment Report • Intercept survey report • Landscape Plan • Lighting DA Report • Material Re-Use & Recycle Schedule • NABERS Embodied Emissions Materials Form • NSW Police Preliminary Assessment Recommendations • Overlooking study • Operational Management Plan • Place Book • Plan of Management

	• Preliminary Public Art Plan • Preliminary Site Investigation • Remediation Action Plan • Statement of Environmental Effects • Schedule of colours, materials and finishes • Section J Report • Shadow Diagrams • Structural Engineers Design Brief • Security Management Plan • Stormwater Drainage Plan • Survey Plan • Traffic Impact Assessment • Transport Impact Assessment • Traffic Statement • Urban Design Report • Urban Design Response • Visual Impact Assessment Report • Waste Management Plan • Wind Effects Plan • Updated Waste Operational Management Plan
DOCUMENTS SUBMITTED WITH THIS REPORT FOR THE PANEL'S CONSIDERATION	Attachment 1 – Draft Conditions of Consent Attachment 2 – Amended Architectural Plans Attachment 3 – Clause 4.6 Written Request (Height) Attachment 4 – Clause 4.6 Written Request (FSR) Attachment 5 – Referral Response Development Engineering Attachment 6 – Referral Response Trees and landscaping Attachment 7 – Referral Response Heritage Attachment 8 – Referral Response Traffic Attachment 9 – Referral Response Urban Design Attachment 10 – Referral Response Environmental Health Attachment 11 – Referral Response Drainage Attachment 12 – Referral Response Waste Management Attachment 13 – Referral Response Fire Attachment 14 – Referral Response Customer Experience (Public Art in Developments) Attachment 15 – Referral Response NSW Police Attachment 16 – GTAs Water NSW Attachment 17 – Ausgrid Letter of Consent Attachment 18 – Referral Response TfNSW Attachment 19 – View Impact Assessment (Council's Assessment Officer) Attachment 20 – View Impact Assessment submitted on behalf of objectors (Urbaine) Attachment 21 – Design Verification Statement Attachment 22 - Response to Council Urban Design comments provided by the Applicant

	Attachment 23 – Overlooking Study Attachment 24 – Approved Plans under DA 671/2010 Attachment 25 - Landscape plan Attachment 26 – Objector’s Acoustics experts Peer review of Applicants Acoustic Report Attachment 27 – Applicant’s Response to Objectors Acoustics experts Peer review of Applicants Acoustic Report Attachment 28 – List of Submitters
HOUSING AND PRODUCTIVITY CONTRIBUTIONS (\$7.24)	Nil
RECOMMENDATION	Conditional Approval
PREPARED BY	Mr B McIntyre
PANEL BRIEFING	4 April 2025
DATE OF MEETING	11 September 2025

1. REASON FOR REPORT TO LOCAL PLANNING PANEL (SECPP)

The application is to be determined by the Sydney Eastern City Planning Panel as the Development has a capital investment value (CIV) of more than \$30 million.

2. REASONS FOR RECOMMENDATION

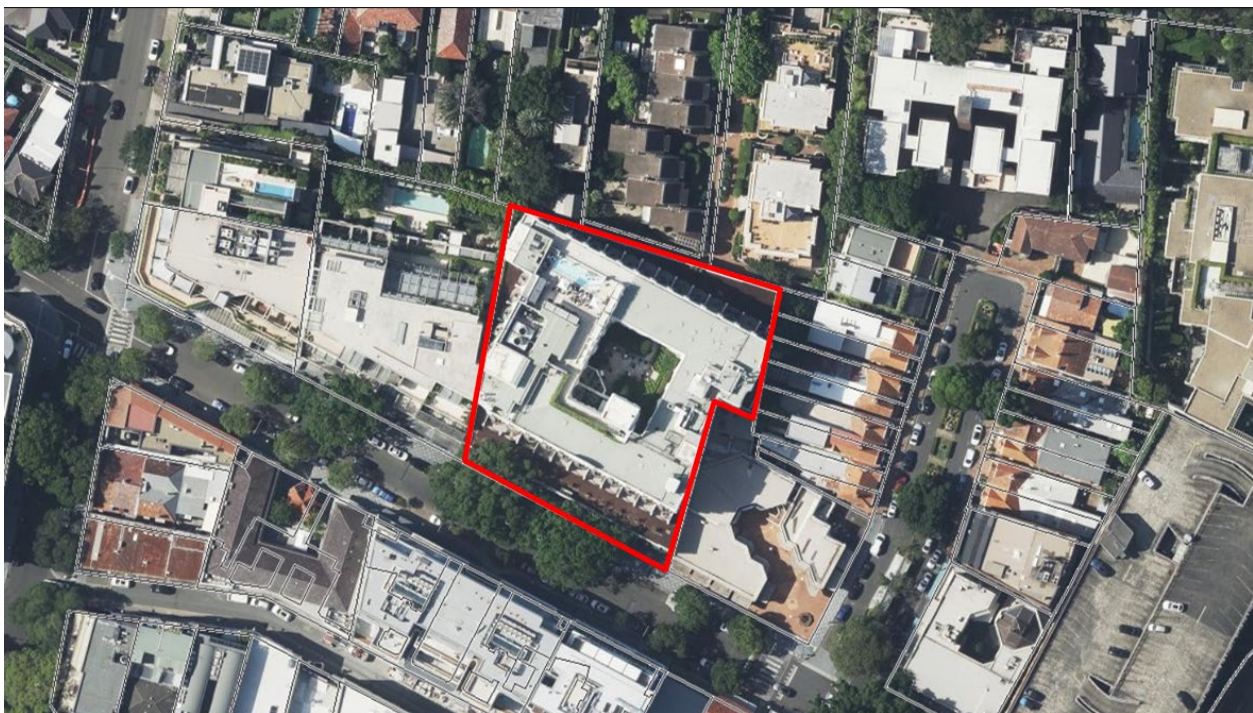
The development application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of Woollahra Local Environmental Plan (WLEP) 2014 and Woollahra Development Control Plan (WDCP) 2015.
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality
- All likely impacts to adjoining properties including any submissions made have been addressed in the report or are considered to be satisfactory.
- The subject site is suitable for the proposed development
- The proposal, as amended and conditioned, is in the public interest

3. LOCALITY PLAN



Notes: In addition to what is shown, the remaining objectors are outside the catchment of the map above or have provided no address. The list of people who made submissions (comprising 110 objections and 63 letters of support) is provided at **Attachment 28**



Aerial view of the subject site

4. PROPOSAL

The proposal, as amended, seeks development consent for the demolition of the existing six-storey Intercontinental Hotel and the construction of a new eight-storey mixed-use building. The existing two basement levels and vehicular access via Nos. 45–51 Cross Street will be retained.

Specifically, the proposal involves the following:

Basement Levels

The two basement levels will accommodate a total of 142 parking spaces, allocated as follows:

- 37 residential spaces
- 10 hotel spaces
- 61 retail spaces
- 30 commercial spaces
- 2 pool car spaces
- 2 service/trades spaces

The basement levels will also accommodate lobbies, waste rooms, internal lifts, staircases, storage areas, plant areas, a substation and a fire pump room.

Ground Floor Level

This level will include four retail tenancies, three cinemas, a concierge, lobby areas, a public pedestrian access link between William Street (via Galbraith Walkway) and Cross Street, outdoor seating areas, bin areas and a service delivery area.

The initial use of the proposed retail tenancies will be subject to future development applications.

Level 1

This level will include 14 commercial tenancies.

Levels 2–5 (Southern Wing)

These levels will house a hotel with 39 guest rooms and a wellness centre located on Level 2.

Levels 2–7 (Northern Wing) and Levels 6–7 (Southern Wing)

These levels will contain 29 residential units, broken down as follows:

- 3 one-bedroom units
- 7 two-bedroom units
- 16 three-bedroom units
- 3 four-bedroom penthouse units

Two of the Level 7 penthouse apartments in the northern wing will include private swimming pools.

Roof Level

The proposal includes a flat roof form with a centrally located light-well, rooftop planting, PV Panels and skylights.

In response to issues raised by Councils Urban Design, amended Plans were received on 22 April 2025 incorporating the following amendments:

- Level 2 planters have been re-positioned by 600mm and solid balustrades introduced to improve visual privacy for neighbouring properties.
- A solid wall extension on the western boundary and the addition of privacy louvres to the eastern and western elevations.
- Western windows reconfigured to avoid direct lines of sight into neighbouring properties
- A second potential pedestrian link has been introduced to connect with Ode Plaza at 19–27 Cross Street
- A 4-storey podium form has been established along Cross Street, with upper levels recessed to reduce perceived building height and maintain a consistent massing profile.
- Operable windows and inward-opening sashes have been introduced on eastern and western elevations to improve maintenance of planters.
- Inset the windows on the eastern elevation and increased the planter for additional visual privacy.

For detailed floor layouts and architectural design, refer to the plans provided in **Attachment 2**.



Photomontage showing the proposal as viewed from Cross Street (Source: Cox Architecture)



Photomontage showing the proposal as viewed from Cross Street (Source: Cox Architecture)



Photomontage showing the rear open courtyard area which backs onto Galbraith Walkway (Source: Cox Architecture)

The key development data is provided in the Table below.

Key Development Data

Control	Proposal
Site area	3,675m ²

Control	Proposal
GFA (9187.5m ²)	17,009.24m ²
FSR (2.5:1)	4.63:1
Max. Height (18.1m)	35.57 metres (from existing basement level) 28.65m (from natural ground level – above footpath level)
Clause 4.6 Requests	Yes – Height of Buildings and Floor Space Ratio (FSR)
No of apartments/hotel rooms	29 apartments 39 hotel rooms
Landscaped area	Soft landscaping provided within the courtyard at the Ground Floor Level, within planter boxes at various levels and to the rooftop
Car Parking spaces	142 parking spaces
Setbacks	Basement level setbacks retained as existing. Front Setback: • GF - 4.2m • Lev 1 & 2 - 4.1m • Lev 3 - 5.1m • Lev 4 & 5 - 6.3m • Lev 6 - 7m • Lev 7 - 9m Side setbacks: • Mostly Nil along the western and eastern boundaries Rear setback: • Varies from 2.5m at GF to 2.7m at upper levels in the NW and NE corners. • Varies from 9.8m to 10.1m towards the central section of the development above the open courtyard

5. ISSUES

5.1. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	17.47m or 96.5% departure from the 18.1m standard	Satisfactory*
Part 4.4	Floor Space Ratio	7821.74m ² or 85.1% departure from the 9187.5m ² standard	Satisfactory*

*The submitted cl4.6 written requests are considered to be well founded.

5.2. Primary Issues

Issue	Conclusion	Section/s
Apartment Design Guide	Satisfactory. The proposal, as amended and conditioned, satisfies the relevant criteria and objectives outlined in the ADG.	11
Height non-compliance	Satisfactory. The submitted written request pursuant to Clause 4.6 of the WLEP 2014 is considered to be well founded.	16.3 & 16.5
FSR non-compliance	Satisfactory. The submitted written request pursuant to Clause 4.6 of the WLEP 2014 is considered to be well founded.	16.4 & 16.5
Streetscape and desired future character	Satisfactory. The proposal, as amended, is considered to be consistent with the desired future character and streetscape character of the area.	Throughout the report
Bulk and scale	Satisfactory. The proposal, as amended, achieves a height, bulk, and scale that is compatible with the surrounding built form and complements the existing streetscape character of the immediate locality. The proposal, as amended and conditioned, satisfies the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015.	Throughout the report
Acoustic privacy	Satisfactory. The proposal, as amended and conditioned, provides a reasonable level of acoustic privacy to and from adjoining properties, and therefore satisfies the relevant criteria and objectives outlined in the ADG, Woollahra LEP 2014 and Woollahra DCP 2015.	Throughout the report
Visual privacy	Satisfactory. The proposal, as amended, provides a reasonable level of privacy to and from adjoining private open space and living areas, and therefore satisfies the relevant criteria and objectives outlined in the ADG, Woollahra LEP 2014 and Woollahra DCP 2015.	Throughout the report
View loss	Satisfactory. The proposal has been assessed against the case law established by <i>Tenacity Consulting v Warringah (2004) NSWLEC 140</i> . The proposal is considered to be satisfactory with regards to view sharing, achieving the relevant objectives of Woollahra LEP 2014 and Woollahra DCP 2015.	Attachment 19
Parking	Satisfactory. Council's Traffic Engineer supports the proposal as the parking provision is deemed	17.2

Issue	Conclusion	Section/s
	acceptable given the site's location and access to alternative transport options. The proposal, as amended and conditioned, satisfies the relevant objectives of Chapter E1 of the Woollahra DCP 2015.	

5.3. Summary of Submissions

Issue	Conclusion
Bulk and scale inconsistent with the Desired Future Character and streetscape	The proposal achieves a height, bulk, and scale that is consistent with the surrounding built form and complements the existing streetscape character of the immediate locality. It also aligns with the desired future character for the area as outlined in relevant strategic planning documents. Accordingly, the proposed built form is considered compatible with the prevailing character of the locality. Overall, the proposal is assessed as satisfactory, demonstrating consistency with the relevant objectives of the Woollahra Local Environmental Plan 2014 and the Woollahra Development Control Plan 2015.
Height non-compliance: Environmental Planning Grounds forwarded by the Applicant in the CI 4.6 written request are inadequate	The proposed development exceeds the maximum building height permitted under Clause 4.3 of the Woollahra Local Environmental Plan 2014. However, the Applicant has submitted a Clause 4.6 written request seeking to vary the development standard. The variation is considered to be well founded, with the proposed height being compatible with the surrounding built form and consistent with the emerging character of the locality. It is noted that the proposed height aligns with the height of the existing lift overrun. The environmental planning grounds provided in the Clause 4.6 request are considered sufficient to justify the non-compliance. The proposal satisfies the relevant objectives of both the Height of Buildings development standard and the E1 Local Centre Zone. Accordingly, the proposal is considered acceptable in relation to Clause 4.3 of the WLEP 2014.
FSR non-compliance: Environmental Planning Grounds forwarded by the Applicant in the CI 4.6 written request are inadequate	The proposed development exceeds the maximum Floor Space Ratio (FSR) permitted under Clause 4.4 of the Woollahra Local Environmental Plan 2014. However, the Applicant has submitted a Clause 4.6 written request seeking to vary the development standard. The variation is considered to be well founded, with the proposed FSR resulting in a built form that is compatible with the surrounding development. Importantly, the proposal results in a

Issue	Conclusion
	reduction in gross floor area when compared to the existing development on the site. The environmental planning grounds provided in the Clause 4.6 request are considered sufficient to justify the non-compliance. The proposal satisfies the relevant objectives of both the FSR development standard and the E1 Local Centre Zone. Accordingly, the proposal is considered acceptable in relation to Clause 4.4 of the WLEP 2014.
Inconsistent with recent LEC decisions in Cross Street	The following points are noted: • The LEC has recently considered several proposals in this locality where the Court upheld the appeal and granted consent despite significant non-compliances with height and floor space ratio (FSR) standards. • Approval was previously granted for an 8-storey development under DA 671/2010. In this context, the current proposal is not inconsistent with recent LEC decisions. Rather, it reflects a continuation of the evolving built form in this part of the Double Bay Centre, which the Court has acknowledged as having its own distinct character. The proposal has been assessed on its own merits and is considered to be consistent with relevant recent LEC decisions for development within Cross Street.
Inadequate Transition to Residential Zones	The proposal has been designed to provide a satisfactory transition between the E1 Local Centre zone and the adjoining R3 Medium Density Residential zone to the north. The proposal demonstrates a built form that is compatible with the evolving character of the surrounding area. Importantly, the adjoining properties to the north within the R3 zone now benefit from a 6-storey height limit (8 storeys with the Affordable Housing Bonus) under the Low and Mid-Rise Housing Policy, which would significantly alter the expected built form in that zone. The proposed development responds to this context by: • Stepping down in scale where appropriate to reduce visual impact and maintain amenity. • Incorporating articulated façades, setbacks and landscaping to soften the interface between zones. • Ensuring that the height, bulk, and scale are consistent with both the existing and emerging built form in the locality. Accordingly, the proposal is considered to represent a satisfactory and contextually appropriate transition and does not result in adverse impacts on the amenity of the adjoining residential properties. Further, the proposal is also consistent

Issue	Conclusion
	with the Planning Principle - <i>Seaside Property Developments Pty Ltd v Wyong Shire Council [2004] NSWLEC 117</i> .
Potential for Abandonment of Controls	The proposal has been assessed against the relevant provisions of the Woollahra Local Environmental Plan 2014 and the Woollahra Development Control Plan 2015, as well as applicable State Environmental Planning Policies. The approval of such variations to development standards does not constitute an abandonment of controls but rather reflects the merit-based assessment. Each application is considered on its own merits, having regard to site context, planning objectives and the public interest. Overall, the proposal doesn't undermine the planning controls. Instead it has considered the specific characteristics of the site and its surroundings.
Non-compliance with the Apartment Design Guide (ADG)	While the proposal includes some numerical departures from the Apartment Design Guide (ADG), these are considered acceptable given the site's unique and strategic location and the design intent. Apartment sizes would exceed the ADG minimums with generous layouts and private balconies. Overall, the proposal meets the intent of the ADG and delivers a high standard of residential amenity.
Cross Ventilation & Internal Residential Amenity	The architectural plans demonstrate that the majority of apartments are dual aspect or corner units, allowing for effective cross ventilation and solar access thereby contributing to overall residential amenity. While some internal rooms rely on the central atrium for light and ventilation, this approach has been assessed and considered to be acceptable in the context of the building's mixed-use nature. The proposal also exceeds the minimum apartment size requirements and provides generous private open space areas, further supporting a high standard of internal amenity. Accordingly, the proposal is considered to meet the relevant objectives for residential amenity.
The Double Bay Centre Planning and Urban Design Strategy (adopted 27 November 2023) does not identify the site for uplift, as it is assumed to be already developed.	The submission notes that the Double Bay Centre Planning and Urban Design Strategy, adopted by Council on 27 November 2023, does not identify the subject site for uplift. While the Strategy does not specifically nominate the site for uplift, it is important to recognise that the Strategy forms part of a broader strategic framework aimed at guiding future development within the Double Bay Centre. The Strategy acknowledges that certain sites, including those already developed, may still be subject to redevelopment proposals that respond to evolving planning controls, community needs and urban design principles.

Issue	Conclusion
	Furthermore, and as outlined throughout this report, the proposal demonstrates alignment with the relevant objectives of the Woollahra Local Environmental Plan 2014, the Woollahra Development Control Plan 2015 and applicable State Environmental Planning Policies. Accordingly, the proposal is considered to be appropriate in its context.
Excavation	The proposal involves minimal excavation, being limited to accommodating the lift pits. Council's Development Engineer has reviewed the extent of works and raised no objection, subject to conditions. These conditions will ensure the protection of surrounding amenity and the structural integrity of existing and adjoining buildings throughout the excavation and construction phases.
Change of use Potential uses proposed for the ground floor retail tenancies	The proposed change of use from a hotel to a mixed-use development is consistent with the planning objectives of the E1 Local Centre zone, which encourages a diverse mix of retail, commercial, residential, and community uses. The development delivers a balanced mix of these functions, along with improved public amenity. Concerns regarding potential impacts from future food and drink premises are acknowledged. At this stage, no specific use or licensing is proposed for the ground floor retail tenancies. Any future use will be subject to separate Complying Development or Development Applications and assessed on their individual merits, including acoustic, operational and amenity impacts. Where necessary, management plans, acoustic treatments, and security measures will be implemented to ensure compatibility with surrounding residential uses and maintain public domain amenity.
DCP non-compliances	The proposal has been assessed against the relevant controls, and while some variations are noted, these have been considered in the context of the site's location, the overall design quality and the objectives of the DCP. Where non-compliances occur, justification has been provided demonstrating that the proposal continues to meet the underlying objectives of the controls. The design responds appropriately to the site's context and achieves a suitable built form outcome. Importantly, the proposal does not result in significant adverse impacts on neighbouring properties in terms of amenity, privacy or solar access. Council Officers have reviewed the application and are satisfied that the proposal can be supported, subject to conditions of consent that ensure compliance with key planning objectives and mitigate potential impacts.
Overshadowing	Concerns regarding potential overshadowing impacts are acknowledged. The proposal has been assessed against the relevant controls in the Woollahra DCP 2015 and is found to be compliant with the solar access requirements outlined in the DCP.

Issue	Conclusion
	While the proposal may result in minor overshadowing impacts when assessed against the Apartment Design Guide (ADG), these impacts are considered acceptable in the context of the site's location, orientation, and the overall design response. The ADG provides guidance for best practice, and in this instance, the proposal achieves a reasonable balance between development potential and amenity protection. Council Officers are satisfied that the overshadowing impacts have been appropriately considered and that the proposal will not result in unreasonable loss of solar access to adjoining properties.
Acoustic privacy impacts • Terrace areas to residential apartments • Retail tenancies (Potential licensed premises) • No roof to public Licensed Spaces • Acoustic Report inaccurate	Concerns regarding potential acoustic impacts from private open space areas, potential licensed premises and the open nature of the courtyard area adjacent the retail uses are acknowledged. • Terrace areas are a standard feature of residential apartments and are consistent with the expectations of residential use under the ADG and Woollahra DCP. Their design and location are considered appropriate in the context of the development. • No licensed premises are proposed as part of this application. Any future use of retail tenancies for licensed activities would be subject to separate approval and assessment. • An acoustic report has been submitted with the application, addressing potential noise impacts associated with the development. • Council's Environmental Health Officer has reviewed the submitted acoustic report, along with the objector's submission with regards to the Acoustic report and the Applicant's response thereto. The proposal is considered acceptable, subject to the implementation of recommended conditions of consent that will effectively manage and mitigate potential acoustic impacts. The proposal, as conditioned, is therefore considered to satisfy the relevant acoustic privacy provisions of the ADG, Woollahra LEP 2014 and Woollahra DCP 2015.
Visual privacy impacts • Windows to commercial tenancies • Terraces to apartments	The proposal, as amended and conditioned, provides a reasonable level of privacy to and from adjoining private open space and living areas, achieving the relevant objectives of the Housing SEPP, ADG, Woollahra LEP 2014 and DCP 2015.
View loss	The proposal has been assessed against the case law established by <i>Tenacity Consulting v Warringah</i> (2004) NSWLEC 140 and is considered to be satisfactory with regards to view sharing, achieving the relevant objectives of the Woollahra LEP 2014 and DCP 2015.
Insufficient soft landscaping	The proposal retains the significant existing street trees along the Cross Street frontage, which contribute positively to the streetscape and local character. In addition, the development provides a substantial increase in soft landscaping along both

Issue	Conclusion
	the Cross Street façade and the northern (rear) elevation, when compared to the existing built form. The soft landscaping treatment contributes to softening the visual impact of the development's bulk and scale, particularly when viewed from the public domain and adjoining residential properties.
Traffic and parking • Insufficient parking provided especially for the cinemas • Impacts on traffic in the area	Concerns regarding traffic and parking impacts, particularly in relation to the proposed cinema, are acknowledged. The development retains the existing two-level basement car park with 142 spaces, which Council's Traffic Engineer has assessed as satisfactory. A supporting Traffic and Parking Impact Assessment confirms the adequacy of this provision for the proposed mix of uses. The site's proximity to public transport and pedestrian infrastructure supports reduced reliance on private vehicles. The inclusion of a turntable in the loading dock enhances safety and minimises disruption. Overall, traffic generation is expected to be manageable within the existing road network, with appropriate conditions to ensure safe and efficient operation during both construction and ongoing use. Council's Traffic Engineer supports the proposal, subject to conditions, and the parking provision is deemed acceptable given the site's location and access to alternative transport options.
Impacts on flooding	Council's Drainage Engineer has assessed the proposal and found it to be satisfactory, subject to conditions of consent. Accordingly, the proposal is considered acceptable from a drainage and flooding perspective.
Noise pollution and impacts on adjoining development during construction	It is acknowledged that temporary amenity impacts may arise during the construction phase of the development. However, these impacts are not considered sufficient to warrant refusal of the application. To mitigate potential disruption to adjoining properties and the broader locality, conditions of consent have been recommended, including restrictions on construction hours and noise management measures, aimed at minimising adverse effects on residential amenity.
Cooking odours from the proposed development	Council's Environmental Health Officer has reviewed the proposal and raised no objections, subject to conditions of consent that will ensure appropriate management of any future emissions. It is also noted that the specific uses of the retail tenancies have not been defined as part of this development application. As such, any potential odour impacts cannot be assessed at this stage. Future use of the retail spaces will be subject to separate approval processes, either through a Complying Development Certificate (CDC) or a Development Application (DA), at which point any associated environmental impacts, including odours, will be assessed in detail.

Issue	Conclusion
Bicycle parking in Galbraith Walkway No landowners consent for proposed public domain works (Galbraith Walkway)	Amended documentation submitted confirms that no works are proposed within the public domain. Furthermore, Condition A.8 has been imposed to clarify that no approval is granted for any works outside the boundaries of the subject property.
Anti-social behaviour	NSW Police have reviewed the documentation submitted with the application and have raised no objections to the proposal. As noted in earlier sections of the report, the specific uses of the retail tenancies have not been defined as part of this application. Any future use of these tenancies will be subject to separate Complying Development Certificate or Development Application processes. NSW Police will be consulted during those assessments where necessary to ensure that any potential safety or behavioural impacts are appropriately considered and managed.
Precedent that will be set by an 8-storey development	All development applications are assessed on their own individual merits, having regard to the specific site context, applicable planning controls and the objectives of relevant planning instruments.
Historical and architectural value of the Intercontinental Hotel Loss of top-class hotel	The site is not identified as a heritage item nor located within a heritage conservation area under the Woollahra LEP 2014. As such, there is no statutory requirement to retain the existing building. The proposal is considered to deliver a high-quality built form that responds appropriately to the site's context and contributes positively to the streetscape. While the existing hotel may have been valued by some members of the community, the planning framework does not require its retention. The proposed development is consistent with the zoning and strategic planning objectives for the area, and future land uses will continue to support local economic activity and amenity.
Location of cinemas and restaurants in proximity residential receivers Potential change of use of the proposed cinemas	The proposal has been designed to manage potential amenity impacts through appropriate siting, acoustic treatment and operational controls. Council's Environmental Health Officer has reviewed the application and considers the proposal acceptable, subject to conditions of consent. These conditions will ensure that the operation of the cinemas does not result in unreasonable impacts on nearby residential properties. Furthermore, relevant acoustic certification of mechanical plants will be required at the Construction Certificate stage to confirm compliance with relevant standards. Any future fit-out or change of use within the tenancies will also be subject to further approval, allowing for site-specific impacts to be assessed and managed appropriately.

Issue	Conclusion
Location of exhaust and air-chiller vents in close proximity to residential properties	Council's Environmental Health Officer has reviewed the relevant documentation submitted with the application and considers the proposal acceptable, subject to conditions of consent. These conditions will ensure that any mechanical plant associated with the development operates within acceptable noise levels and does not result in adverse impacts on surrounding properties. In addition, potential emissions such as odours and air pollutants will be managed through appropriate design and operational controls, with further assessment to occur at the Construction Certificate stage to confirm compliance with relevant environmental standards.
Impacts on infrastructure	The proposal has been reviewed by Council's Development Engineers and other relevant external authorities, who have assessed the development as acceptable, subject to conditions of consent. These conditions will ensure that the development is appropriately serviced and that any necessary upgrades or mitigation measures are implemented to manage impacts on public infrastructure, including stormwater, drainage, utilities and road networks.
Inaccurate/inconsistent information	The original application documentation, along with the subsequent amended materials provided in response to Council's Request for Additional Information, have been reviewed in detail. These documents have adequately addressed the matters raised by Council and provide sufficient clarity and detail to enable a thorough and informed assessment of the proposal. Where necessary, updated plans and supporting reports have been submitted to resolve discrepancies and ensure alignment with relevant planning controls. Council officers are satisfied that the documentation now forms a reliable basis for assessment, subject to conditions of consent where appropriate.
Intrusion into water table	The proposal does not alter the extent of the existing basement, with only minor additional excavation proposed to accommodate lift pits. This limited excavation is not expected to significantly impact groundwater conditions. Importantly, Water NSW has reviewed the application and issued General Terms of Approval, indicating that the proposal is acceptable subject to compliance with relevant conditions. These conditions will ensure that any potential impacts on groundwater are appropriately managed.
Devaluation of property values	This is not a relevant planning consideration under the Environmental Planning and Assessment Act 1979.
	On 27 November 2023, Council endorsed the Draft Double Bay Planning and Urban Design Strategy, which outlines a coordinated approach to future development within the Double Bay Centre. While the Strategy is intended to inform future amendments to the Woollahra LEP 2014 and DCP 2015, these

Issue	Conclusion
	amendments have not yet occurred and therefore do not apply to the subject site. In accordance with Planning Circular PS 24-007, limited or no weight should be given to a proposed Environmental Planning Instrument where its provisions are not imminent or certain. As such, the Strategy holds no weight in the assessment of this development application.
Draft Double Bay Strategy As the Double Bay Commercial Centre Planning Proposal is still undergoing further strategic work and has not yet received Council endorsement for public exhibition, it remains a draft document. Accordingly, it should not be used to justify the proposed variation in building height.	Concerns are generally concurred with. Ambiguity currently exists as to whether weight should be given to the Draft Double Bay Strategy, which would then inform Council's consideration of the desired future character of the area. A number of court judgements have been issued to inform this debate. In considering the various court judgements, coupled with the knowledge that Council has yet to prepare a planning proposal to enact the Draft Double Bay Strategy, Council maintains a position that the Strategy is neither imminent nor certain and therefore holds no weight in the assessment of this development application.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features

The subject site is situated on the northern side of Cross Street, between Bay Street and Transvaal Avenue, and is legally described as Lot 1 in DP 793525.

The site is an irregularly shaped parcel of land, with a northern boundary of 63.19 metres, a combined eastern boundary of 70.235 metres, a southern boundary of 52.26 metres to Cross Street and a western boundary of 59.55 metres. The site measures 3,675m² in extent.

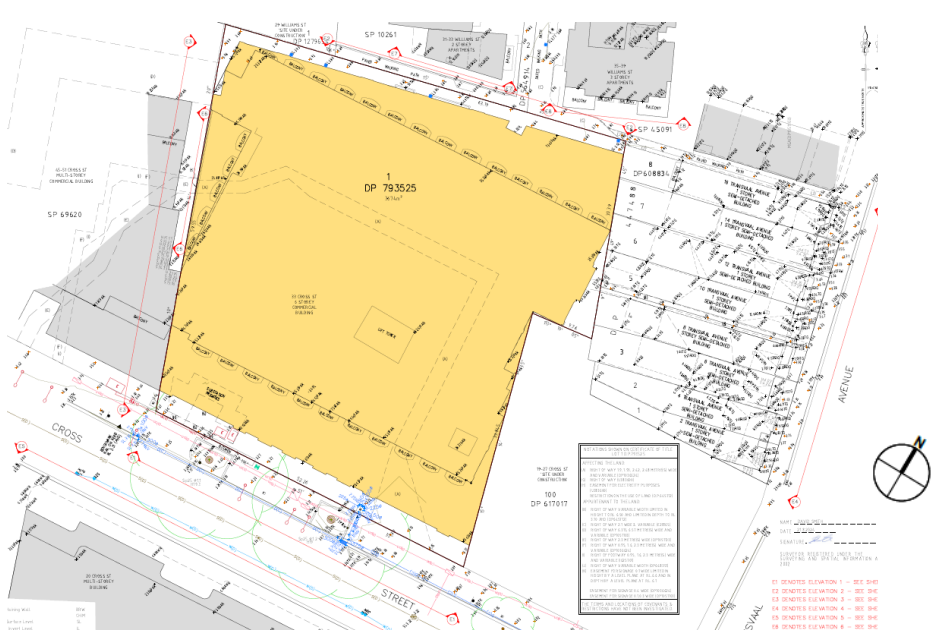


Figure 4: Survey Plan [Source: Survey Plan prepared by Beveridge Williams Land Development Consultants, dated 31 March 2021]

Topography

The site is generally level with two levels of excavated basement.

Existing buildings and structures

The site is currently occupied by the Inter-Continental Hotel Double Bay which comprises a six (6) storey mixed-use development with two levels of basement parking, retail uses at the ground floor level, hotel and function spaces to the levels above and a centralised open courtyard with landscaping and outdoor seating.

Vehicle access to the two-level basement parking is provided via a driveway at the western end of the frontage at Nos. 45-51 Cross Street and a loading bay is located on the western side of the building for loading and the collection of waste.

Located within the footpath to the Cross Street frontage are two mature fig trees.

More specifically the existing development comprises the following:

Basement Levels 1 and 2

Car parking comprising 158 car parking spaces, storage areas, plant and circulation areas.

Ground Floor Level

Porte-cochere driveway, retail tenancies and internal arcade which connects Galbraith Walkway (located to the north of the site) to Cross Street to the south of the site.

Level 1

Hotel lobby and facilities, function and conference spaces.

Levels 2 – 5:

Hotel rooms

Roof level

Trafficable roof for hotel swimming pool and WC facilities.

The images below illustrate the current condition and built form of the existing development on the site.



View of the subject site from Cross Street



View of the subject site from Cross Street



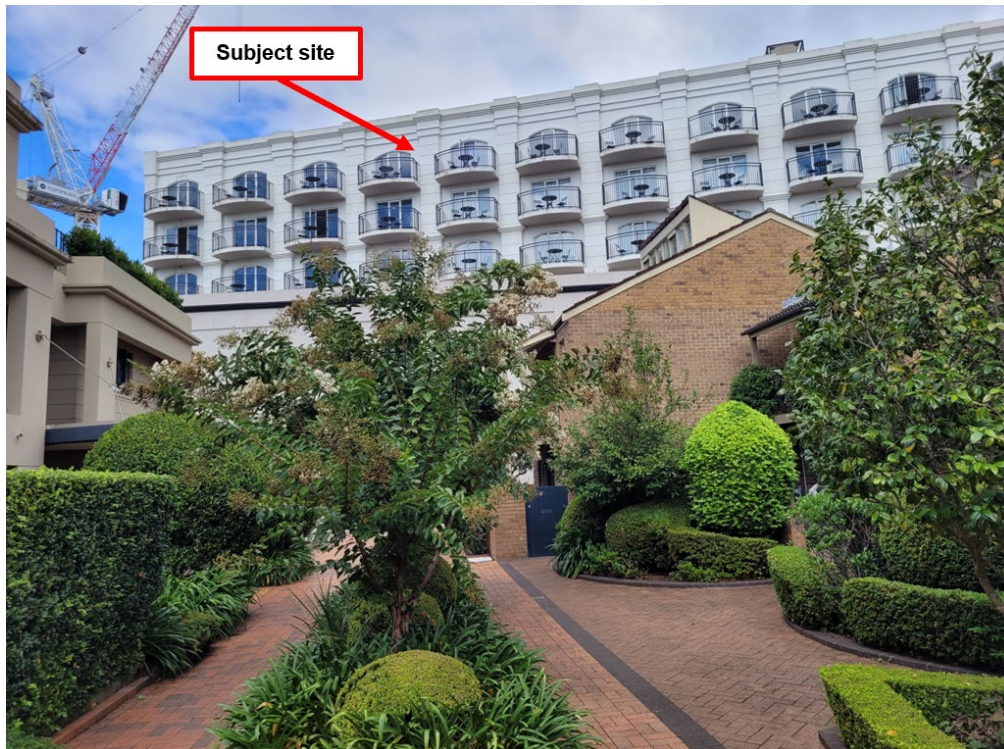
View of the subject site from Cross Street



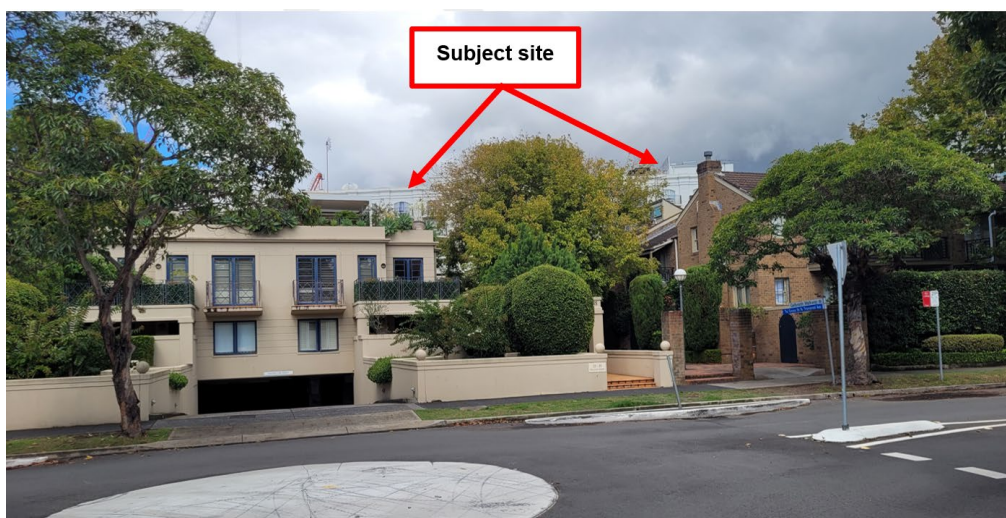
View of the existing access to the basement parking of the subject site located at Nos. 45-51 Cross Street



View of the subject site from Transvaal Avenue



View of the subject site from Galbraith Walkway



View of the subject site (largely obscured) from William Street



Source: Google Earth Maps

Photograph 2: Aerial view of the subject site, looking to the north

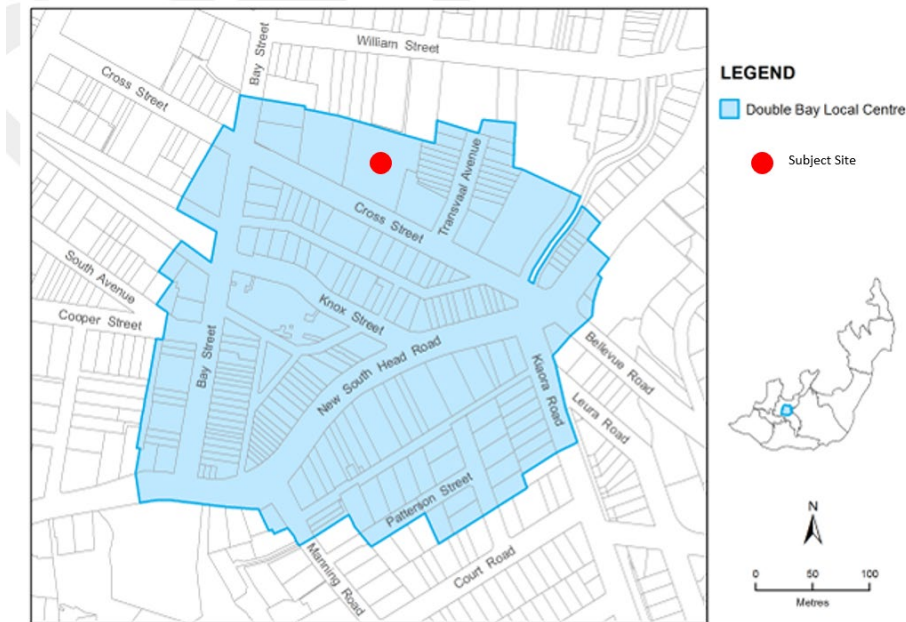


Source: Metis Group

Photograph 4: Aerial view of the subject site, looking to the south

Surrounding Environment

The Site is located on the northern edge of the Double Bay Centre, as designated in Part D5.1.1, Chapter 5 – Double Bay Centre of the Woollahra DCP 2015. The Site is situated within an approximate 15-minute walk of Edgecliff Railway Station and a 5-minute walk of bus services to and from the city running along New South Head Road.



Location Plan illustrating the Site's location within the Double Bay Centre (Source: Part D5.1.1 of the Woollahra DCP 2015)



Aerial view of the site and surrounding development (Source: Woollahra Maps)

Development to the North

Located to the North of the subject site is Galbraith Walkway which provides pedestrian access from William Street to the northern (rear) entrance of the subject site. Development to north comprises a mix of three storey residential flat buildings (some under construction) and multi-dwelling housing developments. See images below.



Development to the East

Immediately adjoining the subject site to the East of the subject site is Nos. 19-27 Cross Street, which is approved for a six-storey shop-top housing development and is currently under construction. Also located to the east of the subject site is the Transvaal Avenue Heritage Conservation Area which comprises single storey Federation cottages forming part of a small shopping precinct with cafes and outdoor seating in Transvaal Avenue. See images below.



Figure 4: Six-storey shop top housing development under construction at Nos. 19-27 Cross Street, as viewed from Cross Street (Source: Woollahra Council)



Photograph 8: Federation cottages along Transvaal Avenue, as viewed from Transvaal Avenue

Source: SEE prepared by GSA Planning



Development to the South

Development to the south, directly opposite the site on Cross Street, comprises of six-storey shop-top housing developments. See images below.



Development to the West

Development immediately to the west, at Nos. 45-51 Cross Street, comprises a six-storey shop top housing development with retail use on the ground floor and residential apartments on the upper levels. The driveway entrance at Nos. 45-51 Cross Street also provides vehicular access to the two basement parking levels for the subject site. See images below.



Located further to the west is No. 53 Cross Street, which comprises a four-storey mixed-use development with commercial and retail use on the ground floor and first floor. This site is also the subject of a recent DA (DA 58/2021) approval for a six-storey commercial building with 2 levels of basement parking.



Extract from the LEC approved Architectural Plans for No. 53 Cross Street

7. RELEVANT PROPERTY HISTORY

Current use
The site is currently occupied by the Intercontinental Hotel.
Relevant Application History
DA 671/2010/1 was approved on 13 December 2011 by Joint Regional Planning Panel, for the <i>demolition of the existing building from ground floor level, retention of the basement carpark for 154 vehicles, construction of a eight storey (seven effectively with mezzanine floor and eight storey volume) mixed use development with retail tenancies and a five cinema for approximately 600 people which occupies the ground and first floor levels and seven levels of residential above containing 74 units (a mix of one, two and three bedrooms).</i> This approved development attained an overall height of 35.55m (RL 32.65) measured from the existing basement level (28.63m measured from natural ground level) and an FSR of 5.04:1. DA 671/2010/2 (modification) was approved on 13 September 2012 by Joint Regional Planning for internal and external modifications to the approved mixed-use building. DA 671/2010 has subsequently lapsed. Numerous minor Development Applications have been lodged since then, which included, but not limited to, the following: • Internal and external finishes • Hotel refurbishment at various levels • Fire safety upgrades of the building. • Upgrade of public areas including bars, restaurants and function areas • New swimming pool, bar and restaurant area to the roof • Signage • Upgrade of the ground floor for retail uses • Widening of the Galbraith walkway entrance • Changes of use of tenancies to accommodate retail, restaurants and cafes There are currently no concurrent applications being considered for the subject site.
Requests for Additional Information and Replacement Applications
05/12/2025 – A Stop the Clock Letter was sent to the applicant identifying the following deficiencies / lack of information: 1. <i>Aboriginal Heritage Impact Assessment (AHIA)</i> A response to the Stop the Clock Letter was received on 11th December 2024. 13/01/2025 – Water NSW requested additional information related to Groundwater Considerations. A response to the Stop the Clock Letter was received on 31st January 2025. On 14/01/2025, an Unsatisfactory DA (Environmental Health) email was sent to the applicant identifying the following deficiencies / lack of information: 1. <i>Land Contamination</i> 2. <i>Acoustics</i> 3. <i>Plan of Management</i>

A response to the Unsatisfactory DA email was received on 17th February 2025.

On 22/01/2025, an Unsatisfactory DA (Police NSW) email was sent to the applicant identifying the following deficiencies / lack of information:

1. *Crime Risk Assessment Report*
2. *Crime Prevention Through Environmental Design (CPTED) Report*
3. *Traffic Management Plan*
4. *Security Plan*
5. *Closed Circuit Television (CCTV) Plan*

A response to the Unsatisfactory DA email was received on 12th February 2025.

On 10/02/2025, an Unsatisfactory DA (Development Engineering) email was sent to the applicant identifying the following deficiencies / lack of information:

1. *Revised stormwater management plans*
2. *Revised Architectural Plans*

A response to the Unsatisfactory DA email was received on 26th March 2025.

On 12/03/2025, an Unsatisfactory DA (Urban Design) email was sent to the applicant identifying issues in **Attachment 9**.

The development application (DA) was amended and a detailed response to the issues raised by Council's external Urban Design Consultant was provided by the Applicant.

On 31/03/2025, an Unsatisfactory DA (Traffic) email was sent to the applicant identifying the following deficiencies / lack of information:

1. *Parking Provision*
2. *Service Vehicles & Vehicular Access*
3. *Car Share*

A response to the Unsatisfactory DA email was received on 16th April 2025.

On 22 April 2025 further amended plans were provided in response to the various issues raised, where necessary, by the relevant referral departments.

On 30 May 2025 an updated Operational Waste Management was provided detailing expected waste streams and volumes, appropriate bin sizes and quantities, disposal procedures, bin room dimensions and equipment, and strategies for collection including locations and frequencies.

8. REFERRALS

Council Referrals

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory. No objections subject to recommended conditions.	5
Trees and landscaping	Satisfactory. No objections subject to recommended conditions.	6
Heritage	Satisfactory. No objections subject to recommended conditions.	7

Referral	Summary of Referral Response	Attachment
Traffic	Satisfactory. The original assessment undertaken by Council's Traffic Engineer raised concerns in relation to car parking and access. Subsequent to a review of additional Traffic Advice, a re-referral response concluded that the proposal is satisfactory, subject to conditions.	8
Urban Design	The original assessment undertaken by Council's Urban Design Consultant raised various concerns and recommended various design amendments. Subsequently, Council received revised Architectural Plans and supporting Urban Design Statements aimed at addressing the concerns raised. It is considered that the response provided by the Applicant, together with the amended plans, adequately address the issues raised by Council's Urban Design Consultant. The proposal, as amended, would achieve a satisfactory built form from an urban design perspective	9
Environmental Health	Satisfactory. Council's Environmental Health Officer has reviewed the proposal, and additional documentation, and considers the proposal satisfactory, subject to relevant conditions of consent.	10
Drainage	Satisfactory. No objections subject to recommended conditions.	11
Waste Management	Satisfactory. No objections subject to recommended conditions.	12
Fire	Satisfactory. No objections subject to recommended conditions.	13
Community & Customer Experience (Public Art)	Satisfactory. No objections subject to recommended conditions.	14

Concurrence and Referrals to agencies

Agency	Comments (Issue, resolution, conditions)	Resolved
Transport for NSW (TfNSW) (Refer to Attachment)	Satisfactory. TfNSW has reviewed the information provided and has no requirements as the proposed development is unlikely to have a significant impact on the classified road network.	Yes
Ausgrid	Satisfactory. Ausgrid has reviewed the proposal and considers the proposal satisfactory, subject to conditions of consent.	Yes
NSW Police – CPTED	Satisfactory. NSW Police have advised that all issues raised by NSW Police have been addressed in the amended documentation. There are no outstanding issues and NSW Police have no further comments or recommendations at this time.	Yes

Water NSW	Satisfactory. General Terms of Approval have been provided.	Yes
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ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 include the following:

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

9. ADVERTISING AND NOTIFICATION

9.1. Submissions

The application was initially advertised and notified from 11 December 2024 to 1 February 2025 in accordance with Chapter 6 of the Woollahra Community Participation Plan.

A second round of advertising and notification was undertaken from 12 February 2025 to 14 March 2025, as it was determined that the scale of the proposal warranted notification to a broader catchment area.

Across both notification periods, a total of 173 unique submissions were received, comprising 110 objections and 63 submissions in support of the proposal.

A list of individuals who made submissions during the public notification periods is provided at **Attachment 28**.

All submissions are acknowledged and have been summarised in Section 5.3 of this report.

9.2. Amended Plans

The amended plans noted in Section 4 were not renotified to surrounding residents/previous objectors because they were considered to have no greater environmental or amenity impact.

9.3. Statutory Declaration

The applicant has completed the statutory declaration dated 19 March 2025 declaring that the site notice for DA489/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan.

10. INTEGRATED DEVELOPMENT (DIVISION 4.8 OF THE EP&A ACT 1979)

Section 4.46 of the Act provides that development is integrated development if it requires consent and it requires one or more approvals under certain other Acts. The proposed development is integrated as it requires development consent under Section 90 of the Water Management Act 2000 (WM Act).

Under the WM Act, a permit is required for development which involves water use, water management work and water activity. The proposal requires a Water Supply Work approval for the dewatering of the site. Therefore, WaterNSW is the approval body under the WM Act.

Section 4.47(3) provides that a consent must be consistent with the general terms of approval of an approval body.

Section 4.47(4) provides that if an approval body informs a consent authority that it will not grant a required approval, the consent authority must refuse consent to the application.

Section 4.47(5) provides that if an approval body fails to inform a consent authority the consent authority may determine the DA. A copy of the determination is also required to be forwarded to WaterNSW in accordance with S4.47(6).

Under cl.45 of the Environmental Planning and Assessment Regulation 2021, an approval body is required to advise its decision in relation to the general terms of approval within 21 days after receiving the last of the submissions received during the submission period.

WaterNSW has provided General Terms of Approval (GTA) under Section 90 of the WM Act (**Attachment 16**).

11. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Chapter 4: Design Quality of Residential Flat Development

SEPP Housing (2021) – Chapter 4: Design Quality of Residential Flat Development applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings. In this instance, the residential flat building component of the development comprises eight (8) storeys and twenty-nine (29) self-contained dwellings.

Clause 2: Aims and Objectives

The aim of the SEPP is to improve the design quality of residential apartment development:

- a) *To ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *By providing sustainable housing in social and environmental terms, and*
 - (ii) *By being a long-term asset to its neighbourhood, and*
 - (iii) *By achieving the urban planning policies for its regional and local contexts*
- b) *To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- c) *To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- d) *To maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- e) *To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions*
- f) *To contribute to the provision of a variety of dwelling types to meet population growth*

- g) *To support housing affordability*
- h) *To facilitate the timely and efficient assessment of applications for development to which this Policy applies*

The instrument requires the proposal be referred to a Design Review Panel. A Design Review Panel has not been established for the Woollahra Council area.

However, the development is supported by a design verification statement prepared by a qualified architect Ramin Jahromi of Cox Architects, Registered Architect NSW, No. 10,000, as required by the Clause 29 of the Environmental Planning and Assessment Regulation 2021 (see **Attachment 21**).

The proposal was reviewed by Council's Urban Design Consultant against the design controls outlined in Chapter 4 of the SEPP (Housing) 2021 and the Apartment Design Guide (ADG). The Council's Urban Design Consultant did not support the proposal (see **Attachment 9**).

In response, the Applicant submitted a detailed design response addressing the concerns raised by Council's Urban Design Consultant (refer to **Attachment 22**).

For clarity, a summary of the key issues identified, and the Applicant's corresponding responses are provided in the tables below.

DESIGN PRINCIPLES

Design Principle	Councils Urban Design comment	Applicants Response
1. Context & Neighbourhood Character	No - Site planning does not respond adequately to surrounding buildings or pedestrian network.	The design reflects Double Bay's evolving character, integrating a four-storey podium with recessed upper levels. It improves activation (from 3% to 65%) and aligns with the desired future character. The proposal respects the site's strategic role and responds to all four frontages with appropriate setbacks and landscaping.
2. Built Form & Scale	No - Bulk and height exceed surrounding context; poor transition and visual impact.	The bulk and scale are mitigated through recessed upper levels, façade articulation, and landscaping. The design is consistent with previous approvals (DA 671/2010) and the emerging six-storey character in Cross Street. Rear setbacks and courtyard improve amenity and reduce visual impact.
3. Density	Yes - Good internal amenity and access to services, but FSR exceeds planning controls.	The proposal delivers a balanced mix of uses with 46% non-residential GFA. It supports strategic planning goals for increased density and mixed-use activation in Double Bay.
4. Sustainability	No - Good solar access, cross ventilation, rooftop	Sustainability is addressed through passive design strategies, including natural ventilation via a central

	solar, and water reuse proposed.	atrium, operable windows, and rooftop landscaping. The building integrates environmental performance with architectural quality.
5. Landscape	No - Landscaping proposed, but side elevation planter boxes are impractical to maintain.	Planters on side elevations are now accessible via inward-opening windows. Landscaping is provided at ground level, podium level, and rooftop, compensating for the lack of deep soil due to the retained basement.
6. Amenity	No - Poor internal amenity in many rooms; no communal open space; compromised privacy.	All habitable rooms have access to natural light and ventilation. Communal open space is not provided due to market preference for private amenity, but residents have access to wellness facilities and nearby public parks. The through-site link and courtyard enhance public amenity.
7. Safety	No (resolvable) - Public domain well addressed, but licensed terrace near Galbraith Walkway raises concerns.	The courtyard is not licensed. Outdoor seating is limited and acoustically treated. Safety is ensured through CPTED measures, security personnel, CCTV, and controlled access to Galbraith Walkway.
8. Housing Diversity	Yes - Good mix of apartment sizes and types.	The proposal caters to the downsizer market with large, high-quality apartments exceeding ADG standards. Layouts support aging-in-place and lifestyle flexibility.
9. Aesthetics	Yes - Subdued modern style with appropriate materials and articulation.	The design features articulated façades, high-quality materials, and landscaping. Lift overruns are concealed within the roof structure. The roof is flat and landscaped, contributing to a refined architectural expression.

APARTMENT DESIGN GUIDE (ADG)

Section of the ADG	Councils Urban Design comment	Applicants Response
3A – Site Analysis	Building siting and bulk do not respond to site constraints	This matter has been addressed under the Built Form and Scale under the Design Principles in the table above. The design has been carefully developed to respond to the site's context and its strategic role within the precinct, ensuring alignment with broader planning objectives and delivering a built

		form outcome that is both appropriate and considered.
3B – Orientation	Poor execution of solar access and overshadowing of southern footpath.	Solar access for the proposed development complies with the relevant provisions of the Development Control Plan (DCP). Any overshadowing impacts are minor and comparable to those associated with previously approved developments in the area, such as the Ode project. Additionally, existing mature street trees already provide substantial shading to the footpath, contributing positively to the public domain without being adversely affected by the proposal.
3C – Public Domain Interface	Loss of solar access and compromised Galbraith Walkway.	The proposal includes an enhanced pedestrian link measuring 6.3 metres in width with a double-height ceiling, significantly improving permeability and visual connectivity through the site. Landscaping has been upgraded to provide a more inviting and green public realm, complemented by active frontages that contribute to a vibrant streetscape. The licensed premises have been carefully designed to activate the area without detracting from residential amenity, ensuring a balanced and well-integrated outcome.
3D – Communal and Public Open Space	No communal open space provided.	The exclusion of smaller apartment typologies is a deliberate design decision, informed by the preferences of the targeted downsizer market. The proposal offers generously sized private balconies, enhancing outdoor living opportunities, and residents will benefit from access to on-site wellness amenities and nearby public open space, supporting a high standard of residential amenity.
3E – Deep Soil Zones	No deep soil provided.	Due to the retention of the existing basement structure, the site is unable to accommodate deep soil landscaping. However, the mature street trees along the Cross Street frontage will be retained, preserving the established green character. Overall, soft landscaping is enhanced through the inclusion

		of planter boxes, podium-level planting, and rooftop greenery, contributing to improved visual amenity and urban greening.
3F – Visual Privacy	Overlooking and insufficient setbacks.	While the proposal does not strictly comply with the minimum separation distances prescribed for side and rear setbacks, amended plans were submitted incorporating a range of privacy measures, including louvres, extended planters, recessed balconies, and increased setbacks. Additionally, an Overlooking Study (Attachment 23) was submitted to demonstrate that the proposed design amendments effectively mitigate potential overlooking impacts. The study confirms that visual privacy to adjoining habitable windows and private open space areas is appropriately maintained. Further assessment of this matter is provided immediately below this table and throughout the report.
4D – Apartment Size and Layout	Excessive apartment sizes and depth of habitable rooms.	The provision of larger apartments is a deliberate design response to cater to downsizers, supporting housing diversity and long-term occupancy. All habitable rooms are provided with direct window access, ensuring adequate natural ventilation and daylight. While some apartment depths exceed ADG guidelines, these exceedances are minor and have been carefully considered and justified through high-quality design outcomes.
4G – Storage	Lack of clarity on storage locations.	The proposal meets all relevant ADG minimum requirements. Additional basement storage has been incorporated to enhance resident amenity. The interior design is still being refined and will continue to evolve to address both functional and aesthetic considerations.
4H – Acoustic Privacy	Potential noise from courtyard and proximity to residences.	The courtyard is not licensed. Acoustic treatments and operational management plans have been incorporated to address potential noise impacts. Additionally, the combination of

		boundary wall heights and planting has been designed to mitigate sound transmission to neighbouring properties.
4N – Roof Design	Lift overruns not shown; roof unresolved.	The lift overruns have been skilfully integrated within the development and are concealed within the proposed roof structure. The flat roof includes soft landscaping which enhances visual amenity.
4O – Landscape Design	Planter boxes impractical.	Window openings have been reconfigured to allow safe access to planter boxes. Additionally, soft landscaping has been enhanced to improve both privacy and overall residential amenity.
4S – Mixed Use	Atrium reliance for amenity; unclear Level 7 use.	The atrium has been designed to support natural ventilation and daylight access throughout the building. The Level 7 spaces form part of the penthouse apartments and include operable windows, ensuring adequate light, airflow, and residential amenity.
4W – Waste Management	Insufficient waste arrangements.	Operational Waste Management Plans have been submitted as part of the application. The proposed loading dock and waste rooms have been reviewed and are considered to comply with Council's Waste Management Guidelines.
4X – Building Maintenance	No access to planters.	Window openings have been reconfigured to allow safe access to planter boxes.

Several submissions raised concerns regarding visual privacy, particularly from properties located to the north of the site. Objective 3F-1 of the Apartment Design Guide aims to ensure equitable building separation distances that maintain reasonable levels of both external and internal visual privacy. In response, the Applicant submitted amended plans incorporating a series/combination of privacy-enhancing measures, including louvres, extended planters, recessed balconies, and increased setbacks. Collectively, these design modifications adequately address the intent of Objective 3F-1 by providing appropriate separation and screening and are considered to satisfy the relevant design criteria.

The remainder of the proposal is considered acceptable when assessed against the relevant provisions of the Apartment Design Guide.

The Applicant's comprehensive urban design response (refer to **Attachment 22**) appropriately addresses the issues raised by Council's Urban Design Consultant and this response is concurred with by Council's Planning Officer.

In summary, it is considered that the amended proposal:

- Aligns with strategic planning objectives, including the Woollahra LEP, DCP and the Double Bay Urban Design Strategy.
- Delivers a high-quality mixed-use development that integrates hotel, residential, wellness, retail and community uses.
- Improves the public domain through widened pedestrian links, a landscaped courtyard and active street frontages.
- Reduces bulk and scale through upper-level setbacks, façade articulation and soft landscaping.
- Enhances residential amenity with generous apartment layouts, private balconies and access to wellness facilities.
- Ensures that visual and privacy impacts on adjoining properties are appropriately mitigated.
- Provides a balanced and contextually appropriate built form, consistent with the evolving character of the Double Bay Centre.
- Represents a well-considered outcome that aligns with the long-term vision for Double Bay as a walkable and economically sustainable centre.

Conclusion:

For reasons discussed above, the proposal, as amended, satisfies the relevant criteria in Chapter 4 of the SEPP (Housing) 2021 and the Apartment Design Guide (ADG).

12. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 of the SEPP relates to vegetation in non-rural areas.

The aims of Chapter 2 of the SEPP, are:

- (a) *to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) *to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

Clause 2.9(2) of the Chapter 2 Vegetation in Non-Rural Areas of the SEPP defers the assessment criteria for the removal of vegetation to the applicable Council DCP in this case being *Chapter E3: Tree Management* of the WDCP 2015.

Council's Tree Officer has undertaken a review of the proposal and has raised no objection to the proposal subject to the imposition of conditions related to the protection of street trees.

The proposal, as conditioned, is consistent with the relevant criteria prescribed by Chapter 2 of the Biodiversity and Conservation SEPP 2021.

Chapter 6: Water Catchments

Chapter 6 (Water Catchments) of the SEPP (Biodiversity and Conservation) 2021 applies to the subject land which is located within a regulated catchment being the Sydney Harbour Catchment.

The Site is within the Sydney Harbour Catchment but is outside the Foreshores and Waterways Area and therefore only the provisions in Part 6.2 of the SEPP applies.

In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

Council's Development Engineer and Drainage Engineer have provided no objection to the DA, specifically in relation to the Stormwater Management Plan and Flooding related issues, subject to recommended conditions of consent, ensuring compliance with Clause 6.8 (Flooding) and Clause 6.22 (Stormwater Management).

Accordingly, the proposal, as conditioned, is acceptable with regards to Chapter 6 of the SEPP.

13. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

The provisions of SEPP (Resilience and Hazards) 2021 that are relevant to the subject site and application involve managing development in terms of the following:

Chapter 2: Coastal Management

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

The Site is located wholly outside of the Coastal Environment Area (Clause 2.10) and the Coastal Use Area (Clause 2.11).

It is considered that the proposal would not have any significant adverse environmental impact upon the harbour coastal locality. On this basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

Chapter 4: Remediation of Land

Under Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

Based on a review of the documentation submitted by the Applicant, Council's Environmental Health Officer has raised no objection to the proposal and has advised that no further action is considered necessary.

Accordingly, the proposal is satisfactory with regards to Chapter 4 of the Resilience and Hazards SEPP 2021.

14. STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY & EMPLOYMENT) 2021

The provisions of SEPP (Industry & Employment) 2021 that are relevant to the subject site and application involve managing development in terms of the following:

Chapter 3: Advertising and signage

Clause 3.6 states:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

The proposal does not include any signage. A separate Development Application or Complying Development Certificate must be submitted and approved by the consent authority before the provision of any signage. (Refer to **Condition A.8**)

The proposal is acceptable with regards to Chapter 3 of this SEPP.

15. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

This policy generally applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

Chapter 2 Standards for residential development—BASIX

Chapter 2 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard condition.

Chapter 3 Standards for non-residential development

The proposed development has been assessed against the provisions of Chapter 3 – Standards for Non-Residential Development of the SEPP (Sustainable Buildings) 2022.

The application meets the applicability criteria under Clause 3.1, as it involves the erection of a new building with a capital investment value exceeding \$5 million. The exclusions under Clause 3.1(2) do not apply.

In accordance with Clause 3.2(1), the Applicant has submitted relevant documentation demonstrating that the development has been designed to enable:

- Minimisation of waste through material reuse and sustainable construction practices;
- Reduction in peak electricity demand via energy-efficient technologies;
- Passive design strategies to reduce reliance on artificial lighting and mechanical heating/cooling;
- Integration of rooftop solar panels for renewable energy generation;
- Provision for energy metering and monitoring systems;
- Measures to reduce potable water consumption, including water-efficient fixtures and reuse strategies.

These measures are consistent with the intent of Planning Circular PS 23-001, which acknowledges that not all provisions must be met in full, provided the overall sustainability performance is achieved. The proposal is considered to satisfy the general sustainability objectives of Clause 3.2(1).

In accordance with Clause 3.2(2), the application was accompanied by a NABERS Embodied Emissions Materials Form, confirming that embodied emissions attributable to the development have been quantified.

Chapter 3.3 Other considerations for large commercial development

While the proposal does not meet the threshold for prescribed hotel accommodation (i.e., fewer than 100 rooms), the capital investment value exceeds \$10 million. As such, the development has been assessed against the broader sustainability objectives of Clause 3.3.

The Applicant has demonstrated that the development minimises the use of on-site fossil fuels and is capable of achieving the energy and water use standards outlined in Schedule 3. A NABERS commitment agreement is in place to support this compliance.

In accordance with Section 79A of the Environmental Planning and Assessment Regulation 2021, a condition of consent (**Condition H.22**) has been recommended to ensure compliance with energy and water use standards for large commercial development.

16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

16.1. Part 1.2: Aims of Plan

The proposal, as amended and conditioned, is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

16.2. Land Use Table

The proposal is defined as a mixed-use building (a retail, commercial, hotel and residential flat building) which is permitted and is consistent with the objectives of the E1 Local Centre Zone.

16.3. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 18.1m.

	Existing	Proposed	Control	Complies
Maximum Building Height	35.57 metres (from existing basement level to top of lift overrun – RL 32.67) 28.65m (from natural ground level to top of lift overrun)	35.57 metres (from existing basement level to top of parapet – RL 32.67) 28.65m (from natural ground level)	18.1m	No

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 16.5.

16.4. Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 2.5:1 for a mixed-use development.

Site Area: 3,675m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	5.32:1 19,545m ² *	4.63:1 17,009.24m ²	2.5:1 (9187.5m ²)	No

* The gross floor area figure is based on previously approved documentation and reflects the definitions and calculation methods under the LEP in effect at that time. These differ from those applied under the current LEP.

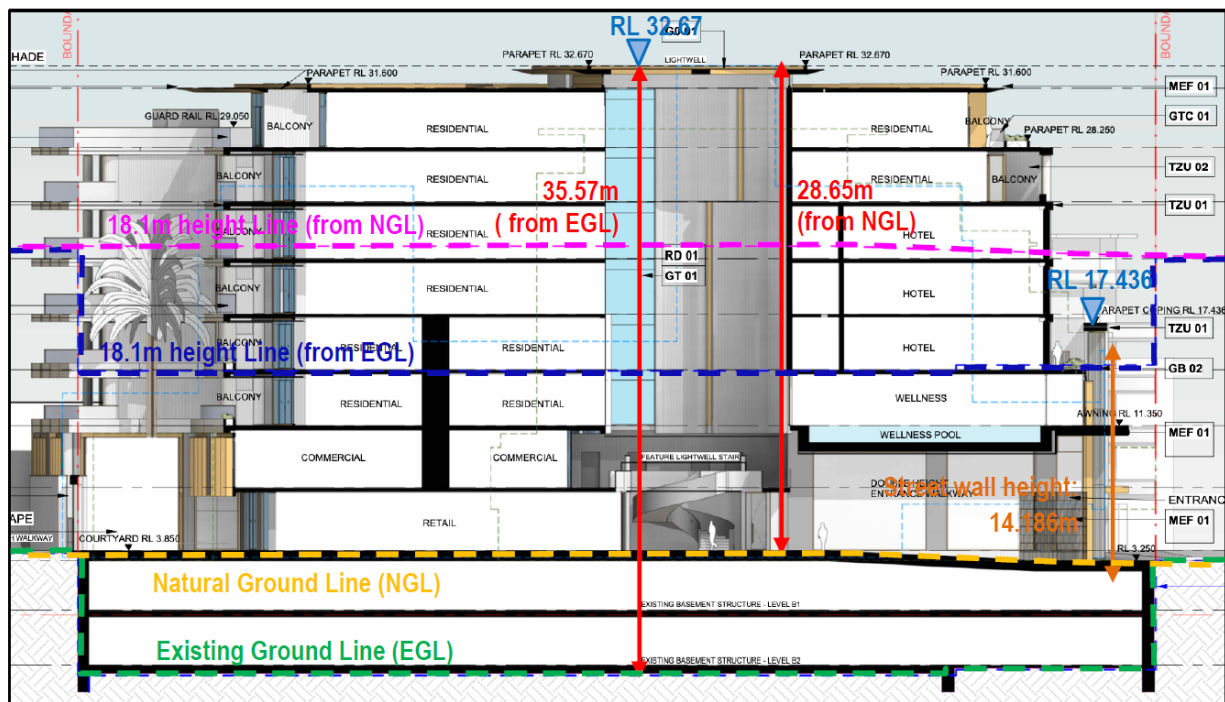
The proposal does not comply with Part 4.4(2) of Woollahra LEP 2014 as detailed and assessed in Part 16.5.

16.5. Part 4.6: Exceptions to Development Standards

Departures

Clause 4.3 - Height of Buildings

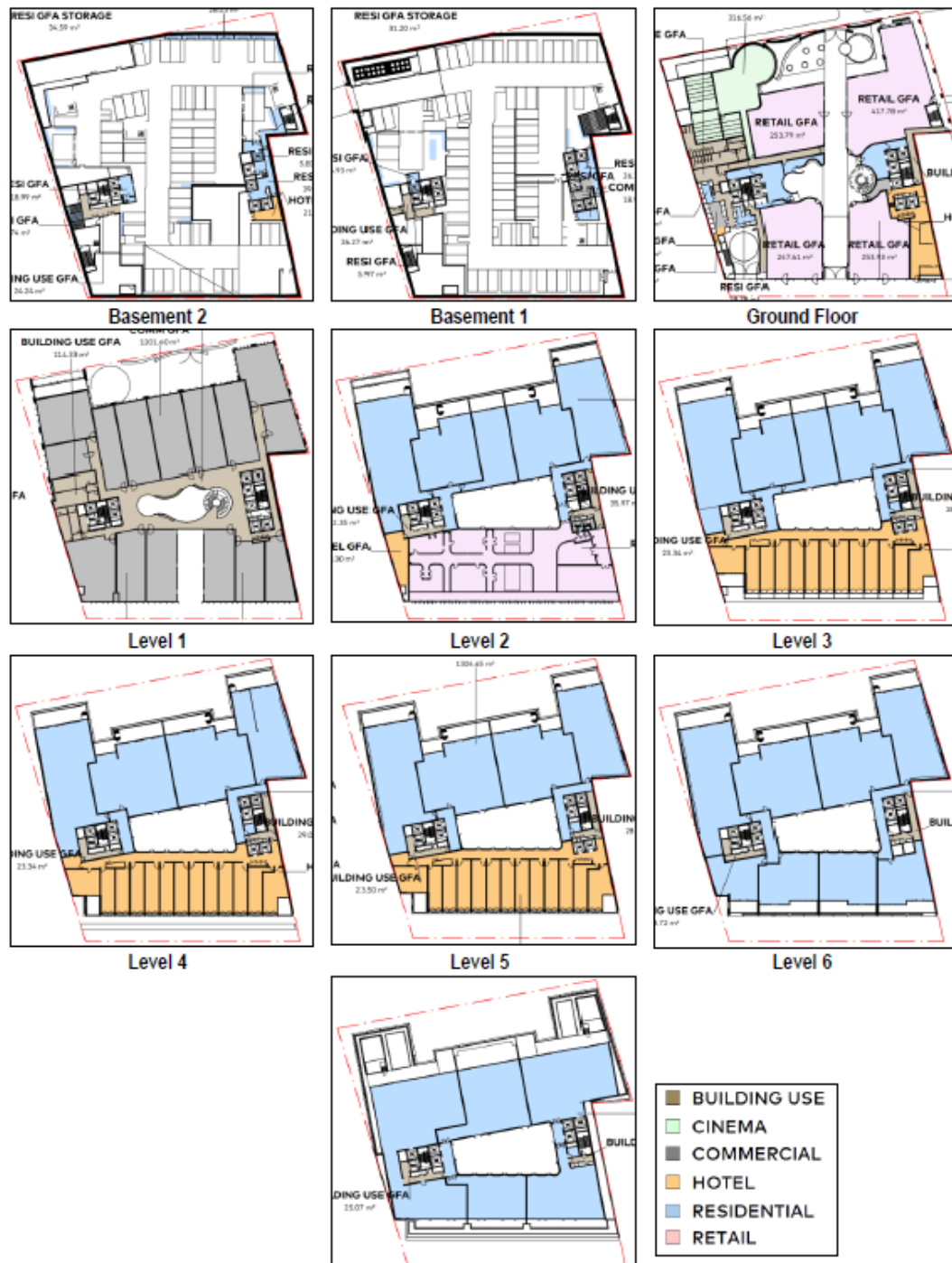
The proposal attains a height of 35.57m which involves a 17.47m (96.5%) departure from the 18.1m height control under Clause 4.3 of Woollahra LEP 2014.



Section showing the non-compliant elements with the Height of buildings development standard (Source: CI 4.6 written request by GSA Planning)

Section 4.4 – Floor Space Ratio

The proposal attains a Floor Space Ratio of 4.63:1 (17,009.24m²) which involves a 7821.74m² (85.1%) departure from the 2.5:1 (9,187.5m²) Floor Space Ratio standard under Clause 4.4 of Woollahra LEP 2014.



Floor plans showing the gross floor area at each level of the proposed development (Source: CI 4.6 written request by GSA Planning)

Purpose

Section 4.6 allows for the contravention of a development standard (provided that the standard is not expressly excluded from the section), with the objectives of the section being:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Justification Requirements

Section 4.6(3) states 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.

Section 4.6(3) does not require the applicant to demonstrate those matters solely in the written request.

Applicant's Written Request

Section 35B of the *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document [the written request] setting out the grounds on which the applicant seeks to demonstrate the matters in section 4.6(3) paragraphs (a) and (b).

The applicant has provided written requests in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021* (Refer to **Attachments 3 and 4**).

Council's Assessment

Section 4.6(3) requires Council to be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention.

Council is required to undertake a critical review of the written request, and any other material that the Applicant has provided seeking to demonstrate the matters in section 4.6(3). This is set out below.

Step 1: Are the planning instrument, development standard and proposed variation identified in the written request accurate?

In determining whether the information contained within the written requests are accurate, the following questions have been considered:

Are the provisions proposed to be varied a development standard?

The provisions proposed to be varied are the Height of Buildings development standard under Clause 4.3 and the Floor Space Ratio (FSR) development standard under Clause 4.4 of the Woollahra Local Environmental Plan 2015.

Are the development standards proposed to be varied standards that can be varied, and not excluded from the operation of section 4.6 by section 4.6(8)?

The development standards proposed to be varied can be varied by Clause 4.6.

Is the correct LEP or SEPP section (and objectives if relevant) referenced?

The correct LEP sections including objectives are referenced.

Is the extent of the variation correctly identified?

The extent of the variations have been correctly identified.

Step 2: Section 4.6(3)(a): Is compliance unreasonable or unnecessary?

In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (**Wehbe**), Preston CJ established five potential tests (the Wehbe test) for determining whether a development standard could be considered unreasonable or unnecessary:

- The first is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The second is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
- The third is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
- The fourth is to establish that 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.
- The fifth is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary."

However, the five tests set out in *Wehbe* above are not the only ways that an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (**Initial Action**), Preston CJ stated at paragraph 22:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

Assessment:

To determine whether the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, the following questions have been considered:

Has the applicant adopted one or more of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances?

The Applicant's written requests have adopted Wehbe Test 1, asserting that compliance with the Height of buildings and Floor Space Ratio development standards are unreasonable or unnecessary because the objectives of the Height of buildings and Floor Space Ratio development standards are achieved notwithstanding non-compliance with the numerical standard.

The following summarised arguments are put forward by the Applicant:

Height of buildings

- The proposal satisfies Test 1 of *Wehbe v Pittwater* in that the objectives of the height of buildings development standard are achieved despite the non-compliance.
- The proposal is of a height which is consistent with the desired future character of the Double Bay Centre and the E1 Local Centre Zone.
- The proposed development includes a mix of retail, office, wellness, hotel, and residential uses, contributing to the vibrancy and functionality of the Double Bay Centre.
- Additionally, the proposal aligns with the LEP zone objectives, including promoting employment, enhancing the public domain and supporting active transport.
- The properties zoned R3 Medium Density Residential, located immediately north of the subject site, are identified as Low-Medium Rise (LMR) under the Housing SEPP. This designation permits development of up to six storeys in height, resulting in a built form that is consistent with the scale of existing or approved developments along Cross Street. It is noted that a Development Application for a six-storey Low-Medium Rise (LMR) development has been lodged and is currently under assessment by Council for one of the properties on Cross Street.
- The existing and approved developments in the area, many of which exceed the height standard, contribute to the evolving character of the neighbourhood and justify the proposed height.



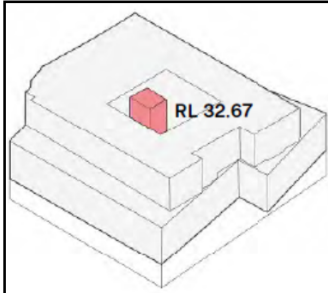
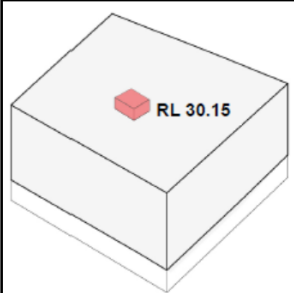
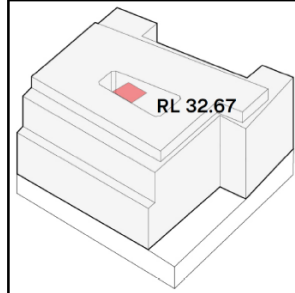
Source: Metis Group



Subject Site

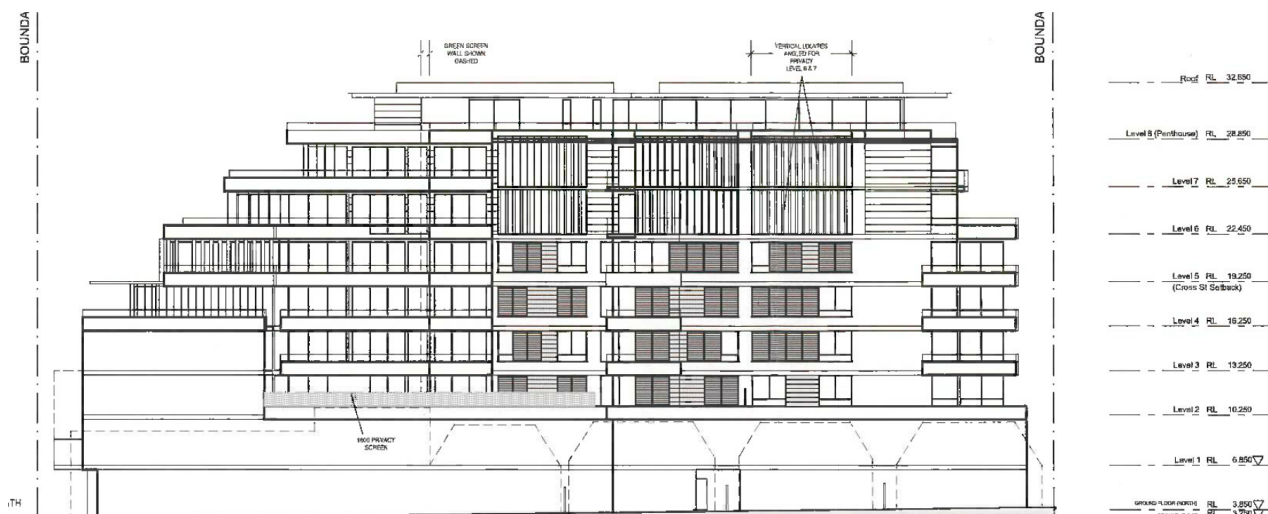
Aerial View Showing Approvals in Cross Street Precinct (Source: CI 4.6 written request by GSA Planning)

- The proposal is designed to minimise impacts on solar access, privacy, and views, and is consistent with recent planning decisions and case law (e.g. *SJD DB2 Pty Ltd v Woollahra Council*).
- The proposed height aligns with the height of the existing building (28.65m above footpath level) and a previous approval (DA 671/2010 – 28.63m from natural ground level).

Table 1: Building Height Comparison			
-	Existing	Approval	Proposal
Storeys	6	8 (including mezzanine)	8
Measured from	NGL - RL 4.02	NGL - RL 4.02	NGL - RL 4.02
Measured to	Lift overrun - RL32.67	Lift overrun - RL 30.15	Roof - RL 32.67
Height	28.65m	26.13m	28.65m
Diagram			

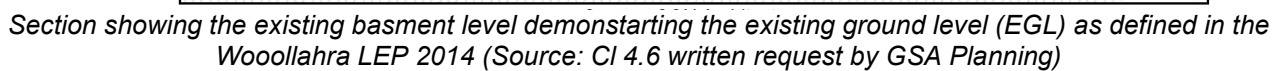
Building height comparison between existing, previously approved and proposed (Source: CI 4.6 written request by GSA Planning)

Note: The approved height shown in the image above, as well as the elevation referenced in the applicant's Clause 4.6 written request (see bullet point below), is incorrect. The approved reduced level (RL) to the top of the building is RL 30.15. For reference, the approved elevation held on Council's records confirms the correct RL to the top of the building as RL 32.65, as shown immediately below.



East elevation of the building approved under DA 671/2010 reflecting an approved height to the top of the building at RL 32.65 (Source: Council records)

- The height exceedance is largely attributed to:
 - Existing basement excavation (technical definition of EGL). Refer to image below.



-
- This architectural section drawing illustrates the vertical profile of a building facade. The drawing is oriented with the building's front on the left and the back on the right. The building is divided into several horizontal levels, each labeled with a floor number and its corresponding elevation. The elevations are given in meters (m) and feet (ft). The building is shown in a light blue color, while the ground level is yellow. The drawing includes a vertical scale on the right side, with elevations ranging from 3.0m to 3.8m. The building's facade features a series of vertical lines, likely representing windows or structural elements. The drawing is labeled 'Cross Street' on the left side. The ground level is marked with 'RL 3.25 (Cross Street)' and 'RL 3.85'. The building's roof is marked with 'RL 30.15'. The drawing is a technical representation of a building's vertical structure, showing the relationship between floor levels and elevations.
- | Floor | Elevation (m) | Elevation (ft) |
|---------|---------------|----------------|
| Level 1 | 3.2m | 10.5ft |
| Level 2 | 3.2m | 10.5ft |
| Level 3 | 3.2m | 10.5ft |
| Level 4 | 3.2m | 10.5ft |
| Level 5 | 3.0m | 9.8ft |
| Level 6 | 3.0m | 9.8ft |
| Level 7 | 3.0m | 9.8ft |
| Level 8 | 3.4m | 11.2ft |
| Level 9 | 3.0m | 9.8ft |

[illegible]

■ Non-residential component
 ■ Residential component

48

- Inclusion of non-residential uses at the lower levels requiring greater floor heights. Refer to image above.

Floor Space Ratio (FSR)

- The proposal satisfies Test 1 of *Wehbe v Pittwater* in that the objectives of the Floor Space Ratio development standard are achieved despite the non-compliance.
- The proposal achieves the relevant objective of Clause 4.4 as the proposed development is compatible with the desired future character in terms of bulk and scale of the Double Bay Centre and the E1 Local Centre Zone.
- The proposed development includes a mix of retail, office, wellness, hotel, and residential uses, contributing to the vibrancy and functionality of the Double Bay Centre.
- The proposal maintains compatibility with the surrounding built form, which includes a mix of residential flat buildings and mixed-use developments ranging from two to six storeys.
- The proposal is consistent with the existing and approved developments in the area, many of which also exceed the FSR standard.
- The proposal has been designed to minimise bulk and scale through setbacks, recessed upper levels, and articulated facades, ensuring minimal impact on solar access, privacy, and views.
- The development aligns with the LEP zone objectives, including promoting employment, enhancing the public domain and supporting active transport.
- The desired future character of the Double Bay Centre is shaped not only by planning controls but also by approved developments, including those that exceed FSR standards.

Assessment Officers Comment: The response provided by the Applicant with regards to Test 1 is generally concurred with.

Has the applicant used another method to justify that the variation is unreasonable or unnecessary?

The Applicant has not used another method to justify the variation.

Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?

Height of buildings

The arguments put forward by the Applicant are supported for the following reasons:

- The proposed height is compatible with the existing and approved built form within the Cross Street precinct which has undergone significant change, with multiple developments approved at heights exceeding the LEP standard (many approved by the Land and Environment Court on appeal). This further supports the argument that the desired future character is evolving and that the proposal is compatible with the desired future character.
- The proposal minimises visual intrusion and privacy impacts through articulation, recessed upper levels and soft landscaping.
- The building envelope has been carefully designed to minimise bulk and scale resulting in a building which integrates well with the surrounding context.
- As outlined in throughout this report, the non-compliant elements do not give rise to any unreasonable impacts relating to solar access, acoustic amenity (subject to conditions), view loss or visual privacy.
- The increase in height can be attributed to the updated NCC 2022 requirements for floor-to-floor heights.

Floor Space Ratio (FSR)

The arguments put forward by the Applicant are supported for the following reasons:

- The proposal is compatible with the existing and approved built form within the Cross Street precinct, with multiple developments approved with an FSR which exceeds the LEP standard (many approved by the Land and Environment Court on appeal).
- The proposed development achieves compatibility with the desired future character of the Double Bay Centre in terms of bulk and scale.
- The proposal minimises visual intrusion and privacy impacts through articulation, recessed upper levels and soft landscaping.
- The building envelope has been carefully designed to minimise bulk and scale resulting in a building which integrates well with the surrounding context.
- As outlined throughout this report, the non-compliant elements do not give rise to any unreasonable impacts relating to solar access, acoustic amenity (subject to conditions), view loss or visual privacy.
- The proposed FSR of 4.63:1 is comparable to or lower than the existing building (5.32:1) and previously approved DA 671/2010 (5.04:1).

Step 3: Section 4.6(3)(b) Are there sufficient environmental planning grounds to justify the contravention?

In *Initial Action* Preston CJ provided the following guidance (at paragraphs 23 and 24) concerning whether there will be sufficient environmental planning grounds to justify a contravention of the development standard:

- 23 *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be ‘environmental planning grounds’ by their nature: See Four2Five Pty Ltd. V Ashfield Council. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act.*
- 24 *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. ... the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15].*

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act

The objects of this Act are as follows:

- a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- c) to promote the orderly and economic use and development of land,*

- d) *to promote the delivery and maintenance of affordable housing,*
- e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- g) *to promote good design and amenity of the built environment,*
- h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- j) *to provide increased opportunity for community participation in environmental planning and assessment.*

Assessment:

To determine whether the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standards, the following questions have been considered:

What environmental planning grounds have been put forward to justify the variation?

The Applicant has provided the following summary of environmental planning grounds to justify the proposed variations to both the Height of Buildings and Floor Space Ratio development standards:

1. Historical and Cultural Significance

- The site has hosted prominent global figures including Princess Diana, U.S. Presidents Bush and Clinton and Prime Minister Bob Hawke.
- The redevelopment preserves and enhances the site's landmark status and transforms it into a vibrant mixed-use anchor for Double Bay.

2. Community Support and Engagement

- Community consultation (Urbis survey, Sept 2024) identified strong support for:
 - Boutique hotel offering
 - Retail and entertainment activation
 - Public open space and pedestrian links
 - High-quality design and public domain improvements

3. Consistency with Context and Desired Future Character

- The proposed height and FSR are consistent with:
 - The existing building (28.65m, FSR 5.32:1)
 - The previously approved DA (26.13m, FSR 5.04:1)
 - Numerous nearby developments exceeding LEP standards
- The Double Bay Centre is evolving into a higher-density, mixed-use precinct.
- The Double Bay Planning and Urban Design Strategy 2023 recommends built forms up to 21.5m and FSRs up to 3.5:1.

4. Urban Design and Amenity

- The building incorporates:
 - A four-storey street wall consistent with the Strategy
 - Recessed upper levels to reduce bulk and scale
 - High-quality materials, soft landscaping, and articulated facades
 - A green roof with solar panels

- Amenity impacts are minimised:
 - Privacy: setbacks and planter boxes
 - Visual intrusion: improved façade design
 - Solar access: compliant with DCP controls
 - Views: view sharing assessments show negligible impact

5. Public Benefit and Mixed-Use Activation

- The proposal delivers a diverse mix of non-residential uses:
 - 4 retail tenancies
 - 3 boutique cinemas
 - Office space
 - Wellness centre
 - Boutique hotel (39 rooms)
- These uses activate the public domain and respond to community needs.
- Public domain upgrades include:
 - New pedestrian links
 - Upgraded paving, lighting, seating, and landscaping
 - Mid-block crossing and WSUD elements

6. Economic Feasibility

- An Economic Impact Assessment confirms the additional height and FSR are necessary for project viability.
- The uppermost residential level offsets the cost of providing non-residential uses, which generate less income than residential floors.

Are the environmental planning grounds specific to the proposed variation?

The environmental planning considerations are primarily regarded as being specific to the proposed variation.

Are there sufficient environmental planning grounds to justify the proposed variation to the development standard?

The Clause 4.6 written requests for both height and floor space ratio have adequately demonstrated that the proposal achieves the objectives of Clauses 4.3 and 4.4 of the Woollahra LEP 2012, aligns with the objectives of the E1 Local Centre zone and is consistent with the desired future character of the Double Bay Centre.

For reasons discussed throughout this report, the Applicant has put forward sufficient environmental planning grounds to justify the proposed variations to the development standards.

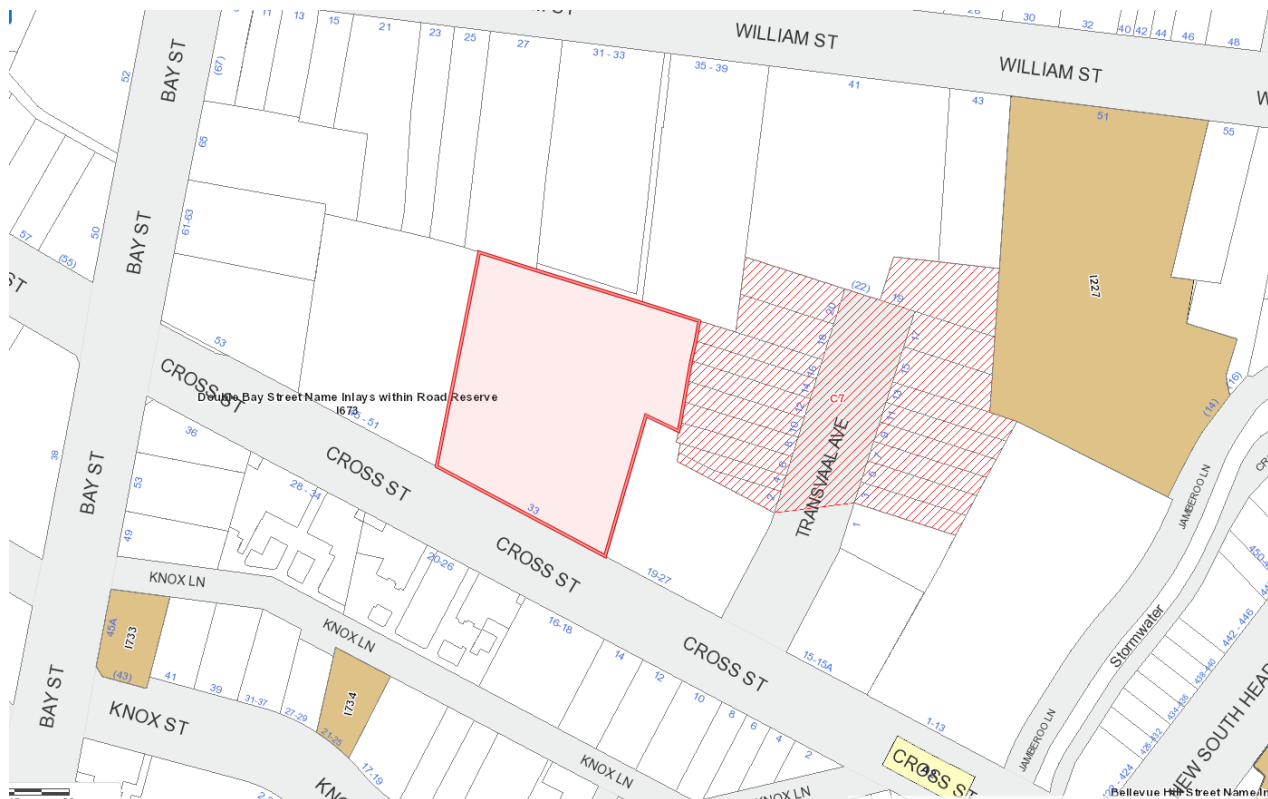
Conclusion

Council is satisfied that the Applicant has demonstrated that compliance with the development standards are unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contraventions.

16.6. Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The subject site is not a listed heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014 'Woollahra LEP 2014' and is not within a heritage conservation area. However, the site is located directly adjacent to the Transvaal Heritage Conservation Area located immediately to the east of the subject site.



Heritage Conservation Map (Source: Woollahra Maps)

Council's Heritage Officer has undertaken an assessment of the proposal and considers the proposal acceptable, subject to conditions. The following relevant commentary is provided in this regard:

"WOOLLAHRA LEP 2014"

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

The Transvaal Heritage Conservation Area, which is directly adjacent to the proposed development, is likely to be moderately impacted. However, additional overshadowing is minimal, and the visual impact is likely to be similar to that currently experienced. Though the scale is larger than the existing, it is nevertheless broadly in keeping with the surrounding area.

NATIONAL PARKS & WILDLIFE ACT 1974

The site is partially located in an area of Potential Aboriginal Heritage Sensitivity. The applicant has demonstrated that their excavation works will not enter the area identified as being potentially sensitive, and an AHIA was therefore not required.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 3 February 2025 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 200m buffer in or near the site.

The site contains landscape features (proximity to coast) that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

Appropriate conditions are provided to manage Aboriginal heritage, including unexpected finds, are provided."

The detailed Referral Response by Council's Heritage Officer is provided at **Attachment 7**.

Conclusion:

The proposal, as conditioned, satisfies the relevant criteria prescribed by Part 5.10 of the Woollahra LEP 2014.

16.7 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

- a) *to minimise the flood risk to life and property associated with the use of land,*
- b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

The subject site is identified under Part 5.21 of the LEP as being flood affected (refer to Flood Planning Area Map below).



Flood Planning Area Map (Source: Woollahra Maps)

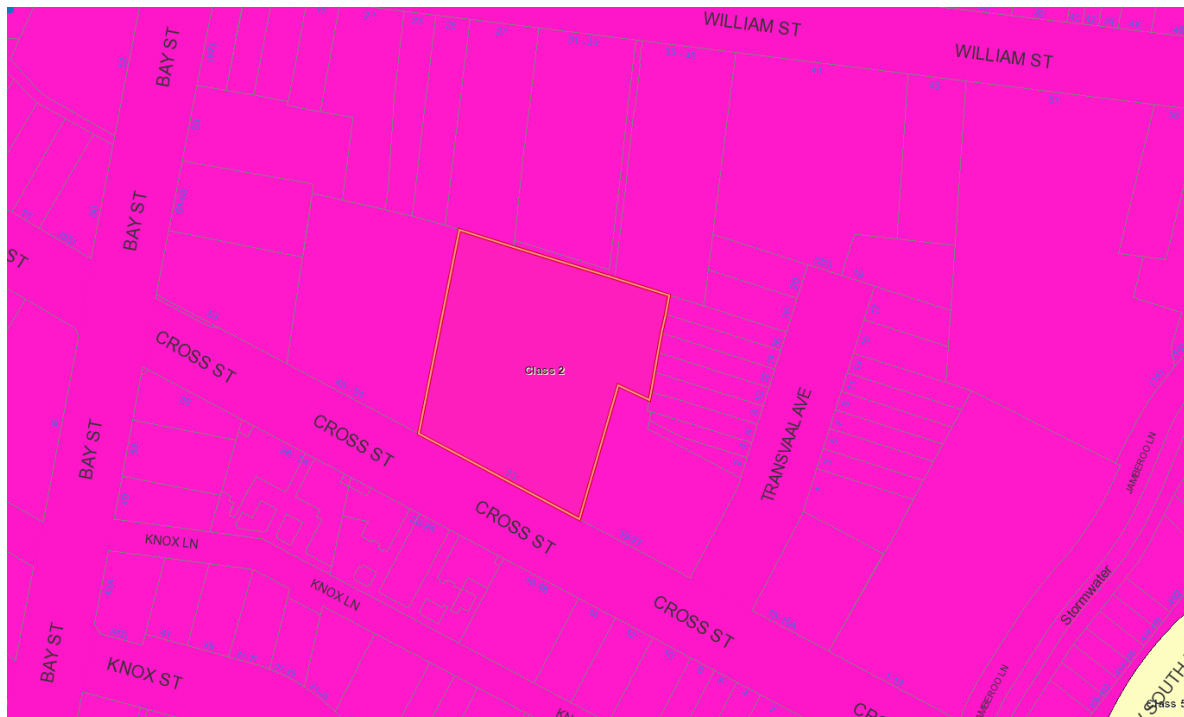
An assessment of the proposal was undertaken by Council's Drainage Engineer who considers the proposal acceptable, subject to conditions (**Attachment 11**).

The proposal, as conditioned, satisfies the relevant criteria prescribed by Part 5.21 of Woollahra LEP 2014.

16.8. Part 6.1: Acid Sulfate Soils

Part 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is located on land classified as Class 2 on the Acid Sulfate Soils Map (refer to image below), which applies to any works below the natural ground surface and works by which the watertable is likely to be lowered.



Acid Sulfate Soils Map (Source: Woollahra Maps)

A Preliminary Acid Sulfate Soils Management Plan, (Ref. E26439.E14_Rev1, prepared by Ei Australia dated 15 October 2024) was submitted with the application which has been considered by Council's Environmental Health Officer.

Council's Environmental Health Officer considers the proposal acceptable, subject to conditions (**Attachment 10**).

The proposal, as conditioned, satisfies the relevant criteria prescribed by Part 6.1 of the Woollahra LEP 2014.

16.9. Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Minimal excavation is required to accommodate the proposed lift pits.

The extent of the proposed works has been considered by Council's Development Engineer and is satisfactory, subject to the imposition of **Conditions** requiring measures to ensure the maintenance of

amenity on the surrounding neighbourhood and structural integrity of any existing and supporting structures during the excavation/construction phase of the development (**Attachment 5**).

The proposal, as conditioned, is acceptable with regards to Part 6.2 of the Woollahra LEP 2014.

16.10. Part 6.10: Development in local centres

Part 6.10 aims to ensure the scale and function of development in local centres is appropriate for the location, and to make certain development in local centres is compatible with the desired future character and amenity of surrounding residential areas.

Part 6.10(3) requires Council to consider the impact of the development on the amenity of any surrounding residential areas, and the desired future character of the local centre. Furthermore, Council must consider whether the development is consistent with the hierarchy of centres.

For reasons discussed throughout this report the proposal satisfies the relevant objectives outlined in this part.

The proposal is acceptable with regard to Part 6.10 of Woollahra LEP 2014.

17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

17.1. Chapter D5: Double Bay Centre

DCP Compliance Table (Non-compliances are highlighted)

Site Area: 3,674m ²	Proposed	Control	Complies
Use	Commercial / Retail and Residential	Mix of Uses	Yes
D5.6.3.2 - Maximum Height – Storeys & (m)	8 storeys - 35.57 metres (from existing basement level to top of parapet – RL 32.67) 28.65m (from natural ground level)	5 storeys (18.1m) above ground	No
D5.6.3.4 - Front Setback (Cross Street)	Level 1(Ground Floor) - 4.2m Levels 2 & 3 - 4.1m Level 4 - 5.1m Levels 5 & 6 - 6.3m Level 7 - 7m Level 8 - 9m	Level 1 (Ground floor): 3.5m on Cross Street between Bay Street and Transvaal Avenue	Yes
		Levels 2-5: Setbacks to match ground floor	Yes
		Levels 6 -8: N/A	N/A
D5.6.3.4 - Rear Setback (North)	Varies from 2.5m at GF to 2.7m at upper levels in the NW and NE corners Varies from 9.8m to 10.1m towards the central section of the development above the open courtyard	Varies (refer to D5.5 Built Form Envelopes diagram in the assessment below)	No*
		Levels 6-8: N/A	N/A
D5.6.3.4 - Side Setback (Eastern and Western)*	Mostly nil (similar to existing)	Varies (refer to D5.5 Built Form Envelopes diagram in the assessment below) Levels 6-8: N/A	No*

Site Area: 3,674m ²	Proposed	Control	Complies
	N/A		N/A
D5.6.3.1 – Max building depth Level 2 and above / cross ventilation Levels 1-5* Levels 6-8*	17.9m N/A	15.6m	No** N/A
D5.6.3.1 - Minimum floor-to-ceiling heights of habitable rooms	Min 2.7m	2.7m	Yes
D5.6.3.2 - Minimum floor-to-floor heights			
Level 1 (Retail)	3.8m (4.4m when measured from the Cross Street level)	4m	Yes
Level 2 (Commercial)	3.7m	3.4m	Yes
Levels 3-5 (Residential)* Level 7 (Residential)*	3.3m 3.5m	3.3m N/A	Yes N/A
D5.6.4.1 - Awnings	Not continuous	Must be continuous	No
-Minimum soffit height	>3.2m	3.2m	Yes
D5.6.5.1 Minimum separation (m) - Non-habitable to non-habitable - habitable to habitable - Balcony to habitable	<6m (Lower-Level Units only) <9m (Lower-Level Units only) <12m (Lower-Level Units only)	6m 9m 12m	No No No
D5.6.5.4 - Minimum Private Open Space - Large dwelling (90m ² +) - Preferred & Minimum depth (m)	Min 16m ² Min 2.4m & 1.8m	16m ² 2.4m & 1.8m	Yes Yes
D6.6.6.1 Maintain Solar Access to publicly accessible spaces (footpath of Cross St) between 12pm and 2pm on 21 June	Further reduced between 12-2pm (Cross Street)	Not further reduced beyond existing between 12pm and 2pm	No
D6.6.6.1 Hours of Solar Access to adjoining properties, between 9am and 3pm on 21 June - Habitable windows (north-facing) - Private open space	Min 3hrs Min 2hrs	Min 3hrs Min 2hrs	Yes Yes
D6.6.6.2 Cross-ventilation to dwellings	86% (25/29 units)	80% of Dwellings (23)	Yes

***No controls for Levels 6-8. These levels of the development extends outside the permitted envelope controls.**

****Complies with ADG (Part 4B: Natural Ventilation)**

D5.1.3 Objectives

The relevant objectives of this part are as follows:

- O1 To retain and enhance through block connections which allow pedestrians to move freely within the Double Bay Centre.*
- O2 To develop the particular qualities of different parts of the Double Bay Centre.*
- O3 To encourage a diverse mix of uses in the Double Bay Centre and maintain retail uses at ground level.*
- O5 To enhance the way development contributes to a sense of place.*
- O6 To ensure a high standard of architectural and landscape design in any new developments within the Double Bay Centre.*

O7 To preserve and enhance the diversity of uses in the Double Bay Centre.

O8 To ensure that new development is compatible with the existing built form, and streetscape and village character.

O9 To encourage view sharing and individual privacy.

The proposal demonstrates strong alignment with the overarching objectives of Chapter D5, particularly in its contribution to the revitalisation of the Double Bay Centre. The proposal provides:

- A diverse mix of uses, including hotel, wellness, retail, cinema and residential, thereby supporting a vibrant and active local centre.
- A development which exhibits a high standard of architectural design, featuring a varied palette of materials and well-articulated facades which contribute positively to the streetscape.
- A development which enhances pedestrian movement through the site by introducing a wider walkway and a new public plaza, improving connectivity between streets within the Double Bay Centre.

With regard to the privacy concerns raised in the submissions, the Applicant has addressed these through specific design modifications. These include increased building setbacks, the incorporation of privacy louvres, and the reduction of balcony sizes. Collectively, these measures are considered effective in mitigating potential privacy impacts.

In relation to view impacts, a comprehensive View Impact Assessment (refer to **Attachment 19**) has been undertaken in accordance with the Tenacity principles. The assessment concludes that the proposal achieves a balanced planning outcome, supporting reasonable view sharing while ensuring that any non-compliances with development standards do not result in unacceptable impacts.

D5.4.7 Street Character

The proposal, as amended, contributes positively to the evolving character of Cross Street. The introduction of a four-storey podium wall to Cross Street, with recessed upper levels, aligns with the established street wall and reflects the emerging built form within Cross Street. Whilst the proposal is contemporary in nature, the proposal is considered to be contextually sensitive, enhancing the visual quality of the streetscape.

D5.5 Built Form Envelopes

This section contains control drawings which show building envelopes for every site in the Double Bay Centre.

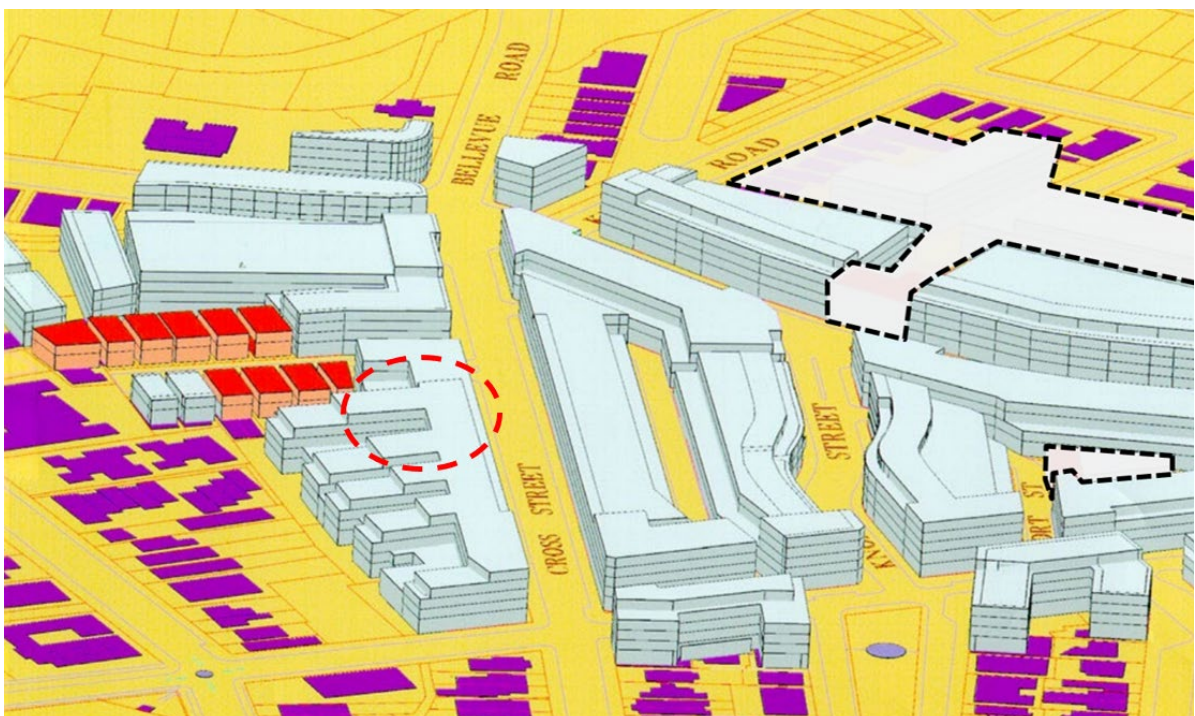
The envelopes generally establish:

- four storey heights along streets; and
- lesser building depths above the first floor to achieve high amenity development flexible for residential or commercial uses.

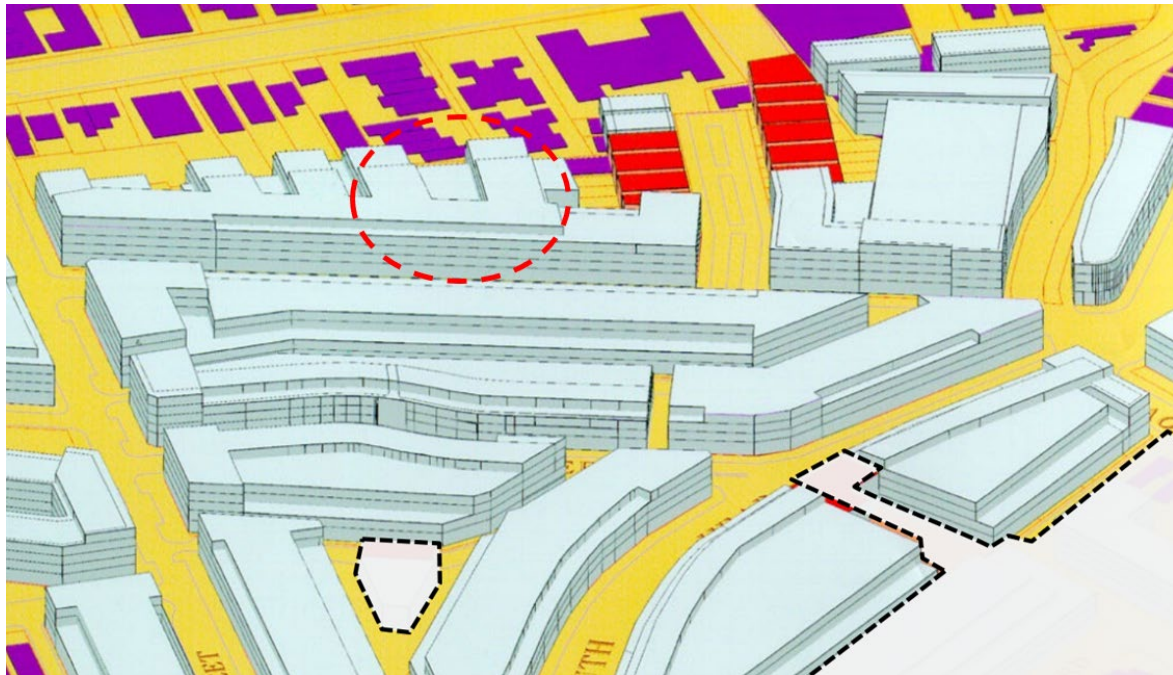
D5.5.7 Control drawing 3



Part D5.5.7 Control drawing 3 (Source: Woollahra DCP 2015)



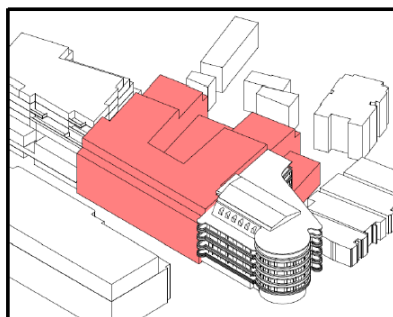
Part D5.5.12 View 1: 3D view of building envelopes (Source: Woollahra DCP 2015)



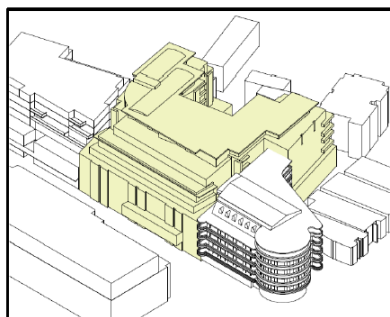
Part D5.5.13: View 2: 3D view of building envelopes (Source: Woollahra DCP 2015)

Although the proposal exceeds the prescribed envelope in Control Drawing 3, this is justified by:

- The site's strategic location and size, being the largest privately held parcel of land in the precinct.
- The planning grounds which were endorsed by the former JRPP to approve an eight-storey built form.
- Above Level 3, the proposed development exceeds the front setback requirements of both the approved envelope and the Woollahra DCP. This increased setback helps to reduce the perceived bulk and scale of the building when viewed from adjoining properties and the public domain.
- The proposed rear and side setbacks, while not fully compliant with the numerical controls of the DCP, generally reflect the approved setbacks under DA 671/2010 and offer improvements over the existing built form. Adequate building separation is maintained, and a well-designed rear courtyard further serves to break up the bulk and massing towards the rear of the site.
- The proposed height and massing are carefully modulated through setbacks, articulation, and landscaping, ensuring compatibility with the desired future character is achieved.

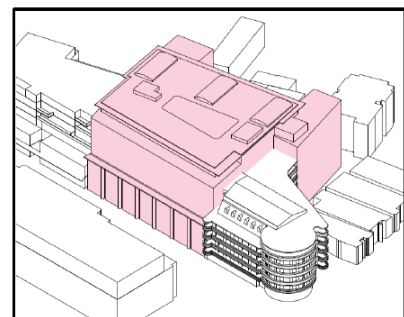


DCP Envelope



Approved Envelope (DA 671/2010)

Source: COX Architecture



Proposed Design Envelope

Extract from the SEE prepared by GSA Planning showing a comparison between the building envelopes in the DCP vs the Approved vs the Proposal

Note: While the applicant references the evolving planning context of the Double Bay Precinct, particularly with regards to the NSW Low and Mid-Rise Housing Policy which supports increased height and density, there remains uncertainty as to whether the R3-zoned properties to the north will pursue development opportunities under this provision.

D5.6 Development Controls

Use

The proposal delivers a well-balanced mix of uses across all levels, with almost half of the Gross Floor Area dedicated to non-residential functions. This supports ongoing employment opportunities and street-level activation within the Double Bay Centre. The inclusion of upper-storey residential development contributes to the cosmopolitan character of the Centre while the mixed-use nature of the proposal helps reduce transport and travel demands.

The retention and enhancement of retail and commercial uses at street level and on the first floor will promote vibrancy and accessibility. The design also improves pedestrian connectivity within the Double Bay Centre. Furthermore, the proposal, as amended and conditioned, ensures that noise and environmental impacts on occupants and neighbouring properties are minimised.

Urban Character

The building features a skilful design, with upper levels set back, a mix of materials and landscaping that's incorporated into the design. While some aspects, like the building depth and roof shape, don't fully match the planning controls, the overall design achieves a high standard of urban character and architectural quality.

Relationship to Public Domain

Awnings

The proposal includes five awnings positioned above the pedestrian entrances to the retail tenancies and hotel lobby fronting Cross Street. The spacing between the awnings allows for canopy relief for the two existing street trees and is not expected to result in any adverse impacts. The arrangement is considered satisfactory.

Arcades, walkways and courtyards

The proposal significantly enhances the public domain through:

- A 6.3m-wide double-height pedestrian link connecting Cross Street to Galbraith Walkway.
- A 345m² publicly accessible landscaped courtyard.



Extract from the Urban Design response by Cox Architects demonstrating the site pedestrian connectivity comparison between the existing (left) and proposed (right)

These interventions improve walkability, safety and public amenity, aligning with strategic planning objectives.

Public art

Control C1 only requires that that development with a capital investment value of \$15M or more to include public art. The proposed development involves an estimated cost of work of in excess of \$180 million and therefore inclusion of public art is required.

Council's Public Art Coordinator considers the proposal acceptable, subject to Condition D.35 which requires that prior to the issue of any construction certificate, a complete Public Art Plan must be submitted to the Public Art Panel for assessment and approval (refer to **Attachment 14**).

The proposal, as conditioned, satisfies the relevant criteria prescribed by this part.

Amenity

Residential amenity is well-considered, with generous apartment sizes, cross-ventilation and solar access.

Concerns were raised by properties to the north (No's 25, 27-29, 31-33 and 35 -39 Wiliam Street), to the west adjoining the subject site (No. 45-51 Cross Street) and to apartments directly opposite the site to the south (No's. 16-18 and 20-26 Cross Street) with regards to visual and acoustic privacy impacts.

In response to the visual privacy issues raised the following points are noted:

Properties to the north (No's 25, 27-29, 31-33 and 35 -39 Wiliam Street)

- The proposal has been amended to include planters and solid balustrades to the terraces at the lower-level apartments to improve visual privacy for neighbouring properties to the north.
- Overlooking from balconies located off the numerous north-facing hotel rooms already exist. It is noted that the number of north-facing rear balconies has been reduced from 56 (existing) to 12, significantly minimising overlooking.
- Upper-level private open space areas are more than compliant with the relevant controls in terms of visual privacy.

- Obscured glazing is proposed to the northern façade of the commercial tenancies to reduce visual impact from the commercial spaces.



View of the subject site from Galbraith Walkway with the southern part of the development at No. 31-33 William Street located in the foreground



Views showing the separation between the subject site and the development at No. 31-33 William Street



View looking in a northerly direction towards the rear of No. 27-29 William Street (RFB currently under construction). The development on the right-hand side of the private access lane is 31-33 William Street



View from the common property area of the development at No's. 31-33 William Street looking in a southerly direction towards the existing north-facing balconies of the subject site. Located on the right is No. 27-29 William Street (RFB currently under construction)



View of the subject site from Galbraith Walkway with the southern sections of the developments at No. 35-39 William Street on the left and No. 31-33 William Street on the right



View of the subject site from Galbraith Walkway with the southern part of the development at No. 35-39 William Street located in the foreground, showing the separation between the subject site and adjoining development to the north



Views of the private open space areas of the unit located at the southern end of the development at No. 35-39 William Street

Property to the west (No. 45-51 Cross Street)

- The proposal has been amended to include a solid wall extension on the western boundary, the addition of privacy louvres to the elevations and the windows have been reconfigured to avoid direct lines of sight into neighbouring properties.
- Western balconies reduced from 20 (existing) to 4, aligning with neighbouring character and further reducing amenity impacts. Overlooking from balconies located off the numerous west-facing hotel rooms already exist. It is noted that the number of west-facing balconies has been reduced from 20 (existing) to 4, significantly minimising overlooking.
- Inset the windows on the eastern elevation and increased the planter for additional visual privacy.



*Aerial view showing the existing balconies to the western façade of the Intercontinental Hotel
(Source: Double Bay Aerial Photography)*

Properties to the south (No's. 16-18 and 20-26 Cross Street)

- Overlooking from balconies between the subject site and the properties located to the south already exist (see images below).
- The separation distance between the subject site and properties to the south is more than 25m and therefore complies with the relevant controls pertaining to visual privacy.



In response to the acoustic privacy issues raised the following points are noted:

An acoustic assessment prepared by Renzo Tonin & Associates (Ref. TP046-01D01 (r3), dated 13 February 2025) was submitted with the development application. Following a detailed review of the report, Council's Environmental Health Officer considers the proposal acceptable from an acoustic perspective, subject to the implementation of appropriate conditions of consent.

A subsequent peer review of the Renzo Tonin report was undertaken by Koikas Acoustics Pty Ltd (Ref. 3950R20250403jt25WilliamStDoubleBay_IntercontinentalHotel, dated 3 April 2025). The peer review reached the following (summarised) conclusions:

- Ambient noise levels measured by RT&A were significantly higher than those recorded by KA and are not representative of the surrounding residential environment due to incorrect logger placement and failure to account for heavy rainfall.
- RT&A did not provide adequate detail on the noise modelling methodology, including calculations, software used, or assessments of key sources such as the cinema and mechanical plant.
- The recommended music noise limits were deemed unrealistic and unsupported.
- As a result, the peer review finds that the RT&A report cannot be relied upon to accurately assess the acoustic impacts of the proposed development and the recommended mitigation measures are unlikely to achieve acceptable noise levels.

In response to the peer review prepared by Koikas Acoustics Pty Ltd (**Attachment 26**), the applicant has provided a detailed response (**Attachment 27**) addressing the matters raised.

The peer review conducted by Koikas Acoustics, along with the Applicant's response, has been reviewed by Council's Environmental Health Officer. Following this review, Council maintains that the proposal is acceptable in terms of acoustic impacts on adjoining residential receivers, subject to the recommended conditions of consent (comments on the last page of **Attachment 10**).

As outlined above and throughout this report, visual privacy impacts have been appropriately mitigated through a combination of design measures, including setbacks, screening and orientation. Acoustic concerns have been addressed through expert reporting, operational management plans and the application of relevant conditions of consent. Collectively, these measures ensure the proposal meets the objectives of this part.

Solar Access and Natural Ventilation

The proposal maintains compliant solar access to neighbouring properties and achieves high levels of natural ventilation.

The proposal will result in minor additional overshadowing of the southern footpath along Cross Street during winter midday hours. However, this impact is consistent with previously approved developments in the locality, including the development to the west at 19–27 Cross Street. The presence of mature street trees already limits direct sunlight and the footpath is not used for outdoor seating or recreation.

As noted by the Applicant, winter represents the least favourable period for solar access. For the remainder of the year, the southern footpath along Cross Street will continue to receive adequate sunlight, and the minor overshadowing is not expected to materially impact the usability of the public domain.

Parking and Site Facilities

The proposal retains the existing two levels of reconfigured basement parking and maintains the current driveway access via No's. 45–51 Cross Street. The parking and access arrangements have been thoughtfully integrated into the overall development design.

Waste management and servicing arrangements have been skilfully integrated into the proposed development and are supported by expert reports and detailed operational plans. These provisions ensure the development functions effectively without compromising residential or public amenity, subject to the recommended conditions of consent.

Conclusion

The proposed development represents a strategically aligned and contextually appropriate response to the planning controls outlined in Chapter D5 of the Woollahra DCP 2015. It delivers substantial public benefit, supports the economic and social vitality of Double Bay and contributes positively to the evolving urban character of the precinct.

The proposal's minor non-compliances are justified by the design of the proposal, the strategic merit of the site and the broader planning outcomes achieved. On balance, the development is considered acceptable and supportable.

17.2. Chapter E1: Parking and Access

Part E1.4-E1.5: Residential and Non-residential parking

Parking for residential uses is calculated using the generation rates specified in E1.4.2 and parking for non-residential uses is calculated using the generation rates specified in E1.5.2 and applied by the multiplier rate in E1.5.3.

Car Parking

Non-Residential Component*	Quantity	DCP Minimum Requirement per 100m ² *	DCP Minimum Required Parking	Proposed Provision
Retail	1171m ²	3.3	23.2 (23)	61
Fitness	847m ²	2	10.2 (10)	
Cinema	311m ²	3.3	6.3 (6)	
Hotel	2389.25m ²	3	43.0 (43)	10
Commercial	2000.61m ²	2.5	30.0 (30)	30
Total			129	101
Residential Component	Quantity	DCP Maximum Requirement per dwelling*	DCP Maximum Permitted Parking	Proposed Provision
1 bedroom**	3	0.5	0.9 (1)	37
2 bedrooms	7	1	7	
3 or more bedrooms	19	1.5	28.5 (29)	
Visitor	29	0.2	5.8 (6)	
Total			43	

* Multiplier 0.6 applied for Double Bay Centre E1 Zone

** Multiplier 0.6 applied for one-bedroom unit for Double Bay Centre

Amended documentation was submitted in response to issues raised by Council's Traffic Engineer. Following review of the updated material, the Council's Traffic Engineer has advised that the proposal is acceptable, subject to conditions.

The relevant commentary from Council's Traffic Engineer is provided below in support of the proposal:

"The parking provision for the proposed development has been previously assessed in accordance with Council's DCP 2015 Chapter E1 Parking and Access, which identifies an undersupply of hotel parking.

It is noted that the proposed provision equals to one space for every 4 hotel rooms, which complies with the minimum recommended rate in TfNSW's Guideline in 2002. Reference is also made to the existing operations of the current site, which identifies a low parking demand from the hotel use. It is also noted that guests will be informed of limited parking opportunities onsite and can book the parking before arrival, which is considered acceptable to manage the parking demand.

In addition, it is noted that one (1) accessible parking has been provided for the hotel use, which complies with NCC's minimum requirement and is deemed satisfactory.

It is acknowledged that the site is in vicinity to public transport services and public car parks, which can assist with reducing the long-term parking demand from staff. A preliminary Green Travel Plan (GTP) has been provided, noting a more detailed GTP will be submitted before operation which is considered acceptable. Should the development be approved, conditions

will be imposed to ensure a satisfactory Green Travel Plan and Travel Access Guidance be developed and implemented during the ongoing use of the site.”

The proposal, as conditioned, is considered to achieve consistency with Parts E1.4 and E1.5 of the Woollahra DCP 2015.

Accessible Parking

Component	Quantity	NCC Minimum Requirement	NCC Minimum Required Parking	Proposed Provision
Hotel	10 spaces	Proportional by the percentage of accessible bedrooms to the total number	-	-
Retail	55 spaces	1 per every 50 spaces or part thereof	1.1 (1)	1
Commercial	30 spaces	1 per every 100 spaces or part thereof	0.6 (1)	1

As illustrated in the Compliance Table above, the proposal complies with the requirement for Accessible Parking.

Car share

While Council's DCP and Transport for NSW guidelines generally require car share spaces to be publicly accessible, it is acknowledged that these provisions are intended for commercial car share schemes. In this case, the proposed car share spaces are intended to function as privately managed pool vehicles, not as a substitute for a parking shortfall, which is considered acceptable.

To ensure compliance, the Operational Plan of Management and architectural documentation must be updated to clearly identify these spaces as pool vehicle parking rather than public car share. This requirement is achieved through **Condition D.1(b)** of the consent.

Bicycle and Motor Bike Parking

BICYCLE				
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking	Proposed Provision
Retail/Restaurant employees	2334.6m ²	1 per 250m ²	9.3 (9)	
Retail/Restaurant customers	2334.6m ²	2 + 1 per 100m ² over 100m ² GFA	24.3 (24)	
Office premises employees	2000.61m ²	1 per 150m ² GFA	13.3 (13)	
Office premises visitors	2000.61m ²	1 per 400m ² GFA	5.0 (5)	
Hotel employees	20	1 per 4 staff	5	
Hotel customers/visitors	39 rooms	1 per 20 rooms	1.95 (2)	
Residential residents	29 dwellings	1 per dwelling	29	
Residential visitors	29 dwellings	1 per 10 dwellings	2.9 (3)	

Total required		90	89
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	136	1 per 10 car spaces	13.6 (14)
Total required		14	15

Bicycle Parking

As illustrated in the Compliance Table above, the proposal results in a minor shortfall of one bicycle parking space. Council's Traffic Engineer has reviewed this non-compliance and considers it acceptable in the circumstances.

Motorbike Parking

As illustrated in the Compliance Table above, the proposal complies with a minimum of 1 motorcycle parking space per 10 car spaces for all types of development.

Part E1.10: Parking and Access Design Standards

The proposal is considered to be acceptable with regards to car parking layout, car parking space, bay sizes and aisle widths.

Council's Traffic Engineer has undertaken an assessment of the proposal with regards to Parking and Access Design Standards and considers the proposal acceptable, subject to conditions.

The relevant commentary from Council's Traffic Engineer is provided below in support of the proposal:

"The vehicular access to the basement has been previously assessed and is deemed satisfactory.

It is indicated that the largest vehicle attending the site to utilise the loading dock will be 6.4m SRV which is considered satisfactory for the proposed turntable with a 7.0m of clearance. The proposed width of 3.5m is deemed satisfactory for ingress/egress movements."

The proposal, as conditioned, is considered to achieve consistency with Part E1.10 of the WDCP 2015.

Part E1.11: Electric Vehicle Charging Points

Control C.1 requires evidence of electric circuitry to accommodate 'Level 2' electric vehicle charging points to be integrated into all off-street car parking of new residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future.

Insufficient details of the electric circuitry have been provided. Notwithstanding this, the proposal is considered to be acceptable with regards to the objectives and controls in *Part E1.11: Electric Vehicle Charging Points* of the Woollahra DCP 2015, subject to the imposition of **Conditions D.24** and **G.14** requiring provision for electric vehicle circuitry within the development.

Conclusion:

The proposal, as conditioned, is acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

17.3. Chapter E2: Stormwater and Flood Risk Management

Stormwater Drainage Management

Council's Development Engineer has undertaken an assessment of the proposal and considers the proposal acceptable, subject to conditions.

The proposal, as conditioned, satisfies the relevant criteria prescribed by Part E.2.2 of the Woollahra LEP 2014.

Flood Risk Management

Council's Drainage Engineer has undertaken an assessment of the proposal and considers the proposal acceptable, subject to conditions.

The proposal, as conditioned, satisfies the relevant criteria prescribed by Part E.2.3 of the Woollahra LEP 2014.

Conclusion:

The proposal, as conditioned, is acceptable with regards to Chapter E.2 of the Woollahra LEP 2014.

17.4. Chapter E3: Tree Management

Council's Tree and Landscaping Officer has raised no objections to the proposal, subject to the imposition of suitable conditions to ensure the protection of trees on Council property.

The proposal, as conditioned, is unacceptable with regard to Chapter E3 of the Woollahra DCP 2015.

17.5. Chapter E4: Contaminated Land

Where a site is identified as potentially contaminated, the applicant may be required to submit one or more of the following reports in accordance with Chapter E4 of the Woollahra DCP 2015:

- Stage 1 – Preliminary Site Investigation
- Stage 2 – Detailed Site Investigation
- Stage 3 – Remedial Action Plan
- Stage 4 – Validation and Monitoring

As outlined in Section 13 of this report (relating to Clause 4 – Remediation of Land under SEPP Resilience and Hazards 2021), Council's Environmental Health Officer has reviewed the proposal and considers it acceptable in relation to potential site contamination.

Conclusion:

For the reasons outlined above and throughout this report, the proposal satisfies the relevant provisions of Chapter E4 of the Woollahra DCP 2015.

17.6. Chapter E5: Waste Management

The objectives of this chapter are:

- O1 To assist applicants in planning for sustainable waste management, through the preparation of a site waste minimisation and management plan.
- O2 To identify on-site requirements for waste and recycling storage and management, having regard to access and amenity.
- O3 To ensure waste management systems are compatible with collection services.
- O4 To minimise noise and nuisance arising from waste and recycling collection having regard to the need to balance operational needs and functions of businesses with the amenity of nearby residential uses, particularly between 10pm and 7am.

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

The applicant has submitted a Site Waste Minimisation and Management Plan (SWMMP) along with an updated Operational Waste Management Plan as part of the development application. Both documents have been reviewed by the relevant internal Council departments and are considered satisfactory.

Part E5.2: Demolition and Construction Phase

The proposal is considered acceptable with regard to Part E5.2 of the Woollahra Development Control Plan 2015, subject to the application of standard conditions requiring compliance with the submitted SWMMP.

Part E5.6: Commercial and Non-Residential Developments

An Updated Operational Waste Management Plan was prepared by Elephants Foot Consulting (Revision C dated 30/05/2025) which outlined, in part, the potential waste generated by the development and the ongoing Operational Waste Management (OWMP) for the proposed development.

The submitted on-going OWMP provides the following estimated waste volumes:

Table 1: Estimated General Waste, Recycling & FOGO Volumes – Residential

Building/ Core	# Units	General Waste Generation Rate (L/unit/week)	Generated General Waste (L/week)	Recycling Generation Rate (L/unit/week)	Generated Recycling (L/week)	FOGO Waste Generation Rate (L/unit/week)	Generated FOGO Waste (L/week)
1	16	120	1920	55	880	25	400
2	13	120	1560	55	715	25	325
TOTAL	29		3480		1595		725
Bins & Collections		General Waste Bin Size (L)	660	Recycling Bin Size (L)	660	FOGO Waste Bin Size (L)	240
		General Waste Collections per Week	1	Recycling Collections per Week	1	FOGO Waste Collections per Week	1
		Total General Waste Bins Required	6	Total Recycling Bins Required	4	Total FOGO Waste Bins Required	4
Bins per Building/ Core		Building/ Core	# Bins	Building/ Core	# Bins	Building/ Core	# Bins
		1	3	1	2	1	2
		2	3	2	2	2	2

Table 3: Estimated General Waste and Recycling Volumes – Hotel Suites

# Hotel Rooms	General Waste Generation Rate (L/room/day)	Generated General Waste (L/week)	Recycling Generation Rate (L/room/day)	Generated Recycling (L/week)
39	10	2730	5	1365
Bins & Collections	General Waste Bin Size (L)	1100	Recycling Bin Size (L)	1100
	General Waste Bins per Day	0.4	Recycling Bins per Day	0.2
	General Waste Collections per Week	3	Recycling Collections per Week	3
	Total General Waste Bins Required	1	Total Recycling Bins Required	1

Table 4: Estimated General Waste and Recycling Volumes – Commercial and Retail

Tenancy Type	Floor Area (m ²)	General Waste Generation Rate (L/100m ² /day)	Generated General Waste (L/week)	Recycling Generation Rate (L/100m ² /day)	Generated Recycling (L/week)
Gym/Wellness	764	20	1070	15	802
Retail: Chain Stores	517	5	181	20	724
Retail: Grocery & Convenience Stores	744	120	6250	240	12499
Offices	1824	10	1277	15	1915
TOTAL	3849		8777		15940
Bins & Collections		General Waste Bin Size (L)	1100	Recycling Bin Size (L)	1100
		General Waste Bins per Day	1.1	Recycling Bins per Day	2.1
		General Waste Collections per Week	3	Recycling Collections per Week	3
		Total General Waste Bins Required	3	Total Recycling Bins Required	5

Council's Waste Projects Coordinator has reviewed the documentation submitted with the application, including the updated Operational Waste Management Plan, and considers the proposal satisfactory, subject to conditions.

For reasons discussed above, the proposal, as conditioned, satisfies the relevant criteria prescribed by this part.

Conclusion:

The proposal, as conditioned, satisfies the relevant criteria prescribed by Chapter E.5 of the Woollahra LEP 2014.

17.7. Chapter E6: Sustainability

Part E6.2: Commercial and Non-Residential Buildings

The relevant objectives and control of this part are as follows:

O1 To promote sustainable buildings, design and construction

O2 To design buildings to reduce the need for artificial heating and cooling, and artificial lighting during daylight hours.

C1 Office development with a gross floor area of at least 1,000m² achieves a minimum 4 star NABERS rating.

The proposed development demonstrates compliance with the environmental sustainability objectives and controls of Part E6.2 of the Woollahra DCP through its energy-efficient design and performance-based assessment, as detailed in the Section J Report by IGS and dated 16 October 2024).

The proposal satisfies the relevant objectives and controls of this part.

Part E6.3: Solar Energy Systems

	Existing	Proposed	Control	Complies
Maximum Projection Above Roof Surface	N/A	<300mm	300mm	Yes
Location of Solar Energy System		Behind front building line and not readily visible from street	Behind the Front Setback and not visible from the street	Yes

The proposal satisfies the relevant objectives and controls of this part.

Conclusion

The proposal is acceptable with regards to the objectives and controls in Chapter E6 of the WDCP 2015.

17.8. Chapter E7: Signage

The proposal does not include any signage at this stage. Should signage be proposed in the future, a separate Development Application or Complying Development Certificate must be submitted and approved by the relevant consent authority prior to its installation (refer to **Condition A.8**).

17.9. Chapter E8: Adaptable Housing

Part E8.2: Adaptable Housing

Control C1 of the applicable planning controls requires that developments comprising 10 or more dwellings include a minimum of 10% of dwellings designed and constructed to achieve Class A certification under AS 4299 – Adaptable Housing.

The proposed development includes twenty-nine (29) dwellings, which necessitates a minimum of three adaptable dwellings. The submitted plans identify Units 4.03, 5.01 and 6.03 as adaptable, thereby satisfying the requirements of Control C1.

The proposal is acceptable with regards to Chapter E8 of the Woollahra DCP 2015.

17.10. Chapter F3: Licensed Premises

Several submissions raised concerns about potential environmental amenity impacts commonly associated with licensed premises, including noise, anti-social behaviour, privacy loss, and the use of Galbraith Lane for access near residential properties.

While the plans include notations referring to a "Licensed Outdoor Seating Area" at ground level on the northern side of the retail component, it is important to clarify that the current application does not seek approval for any licensed premises. Should any future use of the retail or commercial tenancies involve licensed operations, including extended trading hours, a separate Development Application or Complying Development Certificate would be required and subject to assessment by the relevant consent authority (refer to **Condition A.9**).

To avoid any ambiguity and for clarity, **Condition D.1(c)** has been recommended, requiring the removal of any reference to the Licensed Outdoor Seating Area from the plans.

18. DRAFT AMENDMENTS TO POLICIES AND PLANS

On 27 November 2023, Council endorsed the Draft Double Bay Planning and Urban Design Strategy, which outlines a coordinated approach to future development within the Double Bay Centre. While the Strategy is intended to inform future amendments to the Woollahra LEP 2014 and DCP 2015, these amendments have not yet occurred and therefore do not apply to the subject site.

Council has since prepared a Planning Proposal for the Double Bay Centre Planning Controls, which has been referred to the Woollahra Local Planning Panel for advice. The next steps involve reporting the Panel's advice to Council and seeking a gateway determination from the Department, followed by public exhibition. Given the number of procedural steps remaining, the Strategy is considered neither imminent nor certain.

In accordance with Planning Circular PS 24-007, limited or no weight should be given to a proposed Environmental Planning Instrument where its provisions are not imminent or certain. As such, the Strategy holds no weight in the assessment of this development application.

19. CONTRIBUTION PLANS

19.1. Section 7.12 Contributions Plan

A 1% levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan. This requirement has been addressed via condition of consent.

19.2. Subdivision 4 Housing and Productivity Contributions

Section 7.24 of the Environmental Planning and Assessment Act 1979 identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2024 sets out the classes of development, which require a housing and productivity contribution.

A calculation of the Housing and Productivity Contribution has been completed and finalised through the NSW Planning Portal, which confirms that no contribution is payable for this development (refer

to Planning Portal screenshots below). As no contribution is required, a condition of consent is not necessary in this regard.

Proposed [What is this?](#)

Development	Sub types What is this?	Total	Unit of charge
Entertainment facility		316.56	SQM of GFA
Hotel or motel accommodation		2,389.25	SQM of GFA
Office Premise		3,119.14	SQM of GFA
Retail Premise		2,018.04	SQM of GFA
Shop Top Housing		29	Dwellings

Existing [What is this?](#)

Development	Sub types What is this?	Total	Unit of charge
Hotel or motel accommodation		19,545	SQM of GFA

State Infrastructure Contributions**Calculation summary**[Calculation breakdown](#)

Applicable plans and system calculated contributions amounts are shown in the first two columns. If the assessed amount is different to the system calculated amount, update the amount in column three.

HPC Area	System calculated amount	Assessed amount (If different to system calculated amount)	Contributions amount	Timing of payment	Reason for different assessed amount
Greater Sydney - Base HPC	\$0.00	\$	\$0.00	Select	Select

20. APPLICABLE ACTS/REGULATIONS**20.1. Environmental Planning and Assessment Regulation 2021****Clause 61(1) Additional matters that consent authority must consider**

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-2001: The demolition of structures. This requirement is addressed by Council's standard condition.

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachment 13**, and conditions have been recommended relating to a final fire safety certificate

(including in the case of an interim occupation or final occupation) and an annual fire safety statement.

20.2. Swimming Pools Act 1992

The Swimming Pools Act 1992, requires swimming pools to be surrounded by a child-resistant barrier, which separates the swimming pool from any residential building. The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

- a) Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash discharge to the sewer

These requirements are imposed by standard condition.

21. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been assessed elsewhere in this report with the only exceptions being the following:

Views

A number of submissions were received raising concerns about potential view loss from private properties within and around the Double Bay Centre. Several of these properties are situated on elevated land along Edgecliff Road and New South Head Road, overlooking the commercial centre.

The Woollahra Development Control Plan (DCP) does not include specific controls or criteria for assessing view loss, aside from a general objective to “*encourage view sharing*.” Nevertheless, view impacts remain a relevant consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

In response, Council’s Assessment Officer has undertaken a detailed View Impact Assessment, which is included at **Attachment 19**.

The assessment concludes that the proposal is acceptable when evaluated against the four-step view sharing planning principle established in *Tenacity Consulting v Warringah (2004) NSWLEC 140*. The proposed development is unlikely to result in any significant view loss from private properties or the public domain, with any potential impacts considered negligible to minor.

Hours of Use

The proposed hours of operation are consistent with similar land uses within the Double Bay Centre. Subject to Conditions of Consent H.25–27, the proposal is not expected to result in adverse amenity impacts. These conditions ensure that the operating hours align with the relevant objectives of the Woollahra LEP 2014 and DCP 2015, supporting compatibility with the surrounding locality.

22. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

23. THE PUBLIC INTEREST

The proposal, as conditioned, is considered to be in the public interest.

24. CONCLUSION

The proposal, as conditioned, is acceptable against the relevant considerations under Section 4.15.

25. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by the applicant or any person who made a submission.

26. RECOMMENDATION: PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Sydney Eastern City Planning Panel, exercising the functions as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(3) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the *Height of Buildings* and *Floor Space Ratio (FSR)* development standards under Clauses 4.3 and 4.4 of the Woollahra Local Environmental Plan 2014.

AND

THAT the Sydney Eastern City Planning Panel, grant development consent to DA489/2024/1 for the demolition of an existing building and construction of a new mixed-use building above an existing 2 level basement on land at 33 Cross Street DOUBLE BAY, subject to recommended conditions contained in Attachment 1.