

<b>DATE OF DETERMINATION</b>	7 October 2025
<b>DATE OF PANEL DECISION</b>	7 October 2025
<b>DATE OF PANEL MEETING</b>	11 September 2025
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Alice Spizzo, Susan Budd, Toni Zeltzer and Lucinda Regan
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 23 September 2025.

A Public meeting was held by teleconference on 11 September 2025, opened at 2.45pm and closed at 5.01pm.

#### **MATTER DETERMINED**

PPSSEC-351 - Woollahra – DA489/2024/1 at 33 Cross Street, Double Bay – Demolition of an existing building and construction of a new mixed-use building above an existing 2 level basement (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

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

#### **Application to vary a development standard:**

Following consideration of a written request from the applicant, made under s.4.6 (3) of the Woollahra Local Environmental Plan 2014 (LEP), the majority of the Panel is satisfied that the applicant has demonstrated that:

- a) compliance with s.4.3 (Height of buildings) and s.4.4 (Floor Space Ratio) is unreasonable or unnecessary in the circumstances because the objectives of the height of buildings and floor space ratio development standards have been achieved, noting that the proposed height and floor space ratio are generally compatible with the existing and approved built form within the Cross Street precinct, the proposal minimises visual intrusion and privacy impacts, the building envelope has been carefully designed to minimise bulk and scale and achieves compatibility with the desired future character of the Double Bay Centre and the non-compliance elements do not give rise to any unreasonable impacts, and
- b) there are sufficient environmental planning grounds to justify contravening the development standards as the proposal is generally consistent with the emerging and desired future character of the Double Bay Centre, noting the historical and cultural significance of the site, urban design and amenity, economic feasibility, public benefit and mixed-use activation.

#### **Development application**

The majority of the Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 3:2 in favour, against the decision were Lucinda Regan and Toni Zeltzer.

## REASONS FOR THE DECISION

The majority of the Panel determined to uphold the Clause 4.6 variation to building height and floor space ratio and approve the application for the reasons outlined in the Council Assessment Report and Addendum to Council Assessment Report.

The majority of the Panel generally agreed with the balance of considerations and recommendations of the Council officer's assessment report. The proposed mixed use development is on a landmark site on the northern edge of the Double Bay town centre, an area undergoing significant change. Notwithstanding exceedance of the height and floor space ratio controls, the majority of the Panel considers the proposal is generally consistent with the emerging streetscape character of the Cross Street precinct and the proposed built form is contextually appropriate. The majority of the Panel is of the view that the proposed additional height will maintain the historical prominent built form on this site, relative to other recent approvals in the Cross Street precinct and is supportable on merit.

The development incorporates a range of non-residential uses (including retail, a hotel, commercial space, a wellness centre and three cinemas) which will all contribute to the revitalisation of the Double Bay town centre. The provision of a generous through site link and landscaped interface to Galbraith Walkway as well as the provision of substantial areas of publicly accessible ground floor space and uses are also supported by the majority of the Panel.

The majority of the Panel appreciates contributions made by members of the community, who made submissions (both in support of and against the proposed development) and participated in the public meeting. The majority of the Panel notes that additional measures have been incorporated into the architectural plans during the assessment process to ensure a reasonable level of privacy and amenity for adjoining landholders. The majority of the Panel also notes concerns about view loss raised by a number of residents but agrees with the conclusions of Council's assessing officer that the development is unlikely to result in any significant loss of views or have unacceptable impacts.

On balance, the majority of the Panel considers redevelopment of this landmark site will deliver considerable public benefit to Double Bay and its residents, contributing to the revitalisation of the Double Bay town centre and approval is in the public interest.

Lucinda Regan and Toni Zeltzer disagreed with the majority decision for the following reasons:

- The request for a variation of the statutory controls under Clause 4.6 of the Woollahra Local Environment Plan 2014 (LEP) is not well founded in respect of both
  1. Part 4.3 of LEP (height of buildings)
  2. Part 4.4 of LEP (FSR)
- The DA is inconsistent with the desired future character of Double Bay commercial centre, as set out in the Double Bay Centre Planning and Urban Design Strategy, which was formally adopted by Council on 27<sup>th</sup> November 2023 after extensive community and industry consultation. As such there are insufficient grounds to justify contravening the development standards for height and FSR.
- Given the site is acknowledged by the proponent as a landmark site of unique proportions and considering the current building on the site is aberrant within its current context and is also inconsistent with the adopted Double Bay Centre Planning and Urban Design Strategy, the redevelopment should have been prepared as a site-specific planning proposal.
- The previous approval for this same site granted 14 years ago (DA 671/2010), was to retain the building and to achieve a height to the current lift overrun. The use of a clause 4.6 variation to vary the development standards in this proposal is inappropriate considering the current building is going to be fully demolished, whereas the previous approval was for a building that was going to be almost fully retained with insignificant increase to its existing height.

- To use the new LMR controls to justify non-compliance with statutory controls is not appropriate in this context, as the LMR controls only apply to R3 residential areas and the increase in the standard height from 6 storey to 8 storeys can only be granted if there is a significant affordable housing component. There is no affordable housing component in this scheme. There is also no guarantee that any surrounding R3 residential areas will be redeveloped with the inclusion of the affordable housing component, so there is no basis to determine that 8 storeys should be the benchmark against which this proposal is to be assessed.
- While the application could have been supported as a site-specific Planning Proposal or alternatively it could have been submitted by the applicant for consideration as a State Significant HDA development requiring an EIS in time, approving it as a DA with a considerably excessive level of non-compliance, has potential to derail the Double Bay Centre Planning and Urban Design Strategy, which took more than a decade to resolve and adopt. Moreover, an approval by way of variation to development standards, as is proposed under the current DA application, sets a precedence for height and bulk across the whole commercial centre, inconsistent with the emerging character.

### **CONDITIONS**

The Development Application was approved subject to the updated amended conditions (uploaded to the portal on 25/09/2025) attached the Council Assessment Report and Addendum to Council Assessment Report.



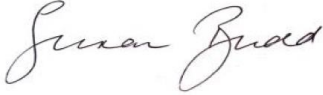

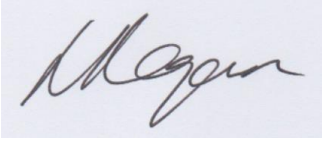
### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Bulk and scale inconsistent with the desired future character and streetscape
- Height non-compliance
- Floor Space Ratio non-compliance
- Inconsistent with recent Land and Environment Court decisions in Cross Street
- Inadequate transition to residential zones
- Potential for abandonment of controls
- Non-compliance with the Apartment Design Guide (ADG)
- Cross ventilation and internal 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
- Excavation
- Change of use - potential uses proposed for the ground floor retail tenancies
- Development Control Plan non-compliances
- Overshadowing
- Acoustic privacy impacts
- Visual privacy impacts
- View loss
- Insufficient soft landscaping
- Traffic and parking
- Impacts on flooding
- Noise pollution and impacts on adjoining development during construction
- Cooking odours from the proposed development
- Bicycle parking in Galbraith Walkway
- Anti-social behaviour
- Precedent that will be set by an 8-storey development
- Historical and architectural value of the Intercontinental Hotel
- Location of cinemas and restaurants in proximity residential receivers
- Location of exhaust and airchiller vents in close proximity to residential properties
- Impacts on infrastructure
- Inaccurate/inconsistent information

- Intrusion into water table
- Devaluation of property values
- Draft Double Bay Strategy should not be used to justify the proposed variation in building height

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and the Addendum to Council Assessment Report. The Panel notes that in addressing these issues, appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Alice Spizzo
 Susan Budd	 Toni Zeltzer
 Lucinda Regan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-351 – Woollahra – DA489/2024/1
2	PROPOSED DEVELOPMENT	Demolition of an existing building and construction of a new mixed-use building above an existing 2 level basement
3	STREET ADDRESS	33 Cross Street, Double Bay
4	APPLICANT/OWNER	Cross Street Double Bay Pty Ltd Fridman Holdings Db Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy (Industry and Employment) 2021</li> <li>Woollahra Local Environmental Plan 2014</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Woollahra Development Control Plan 2015</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: Uploaded to portal on 2 September 2025</li> <li>Addendum to Council Report: Uploaded to the portal on 23 September 2025</li> <li>S.4.6 variation: S.4.3 (Height of buildings) and s.4.4 (Floor Space Ratio) of the Woollahra Local Environmental Plan, 2014</li> <li>Written submissions during public exhibition: 173</li> <li>Late submissions received post the closure of the exhibition period</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Eduardo Ongay, Malcolm Young, Anna Story, Michael Bowan, Mark Silcocks, James Lockhart, Douglas Bennett, Katherine Grinberg, Tom Goode, Sascha Epstein, David Feetham, Merrill Witt, Mauren O'Mahoney, Elisabeth Mary Fisher</li> <li>Council assessment officer – Brett McIntyre</li> <li>On behalf of the applicant – Arian Galanis, Rory Brady, Elliot Doumanis, Eduard Litver</li> </ul> </li> <li>Total number of unique submissions received by way of objection: 110</li> </ul>

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 24 April 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Glennis James, Toni Zeltzer and Lucinda Regan</li> <li>○ <u>Council assessment staff</u>: Brett McIntyre and Thomass Wong</li> <li>○ <u>Department Staff</u>: Carolyn Hunt and Ilona Ter-Stepanova</li> </ul> </li> <li>• Site inspection: 11 September 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Toni Zeltzer and Lucinda Regan</li> <li>○ <u>Council assessment staff</u>: Brett McIntyre, Thomass Wong and Chris Hartas</li> </ul> </li> <li>• Final briefing to discuss Council’s recommendation: 11 September 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Toni Zeltzer and Lucinda Regan</li> <li>○ <u>Council assessment staff</u>: Brett McIntyre and Thomass Wong</li> <li>○ <u>Department Staff</u>: Carolyn Hunt and Ilona Ter-Stepanova</li> </ul> </li> <li>• Public meeting: 11 September 2025</li> <li>• Final briefing to discuss Council’s recommendation: 02 October 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd, Toni Zeltzer and Lucinda Regan</li> <li>○ <u>Council assessment staff</u>: Brett McIntyre</li> <li>○ <u>Department Staff</u>: Carolyn Hunt and Ilona Ter-Stepanova</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Addendum to Council Assessment Report (uploaded to the portal on 25/09/2025)