

DATE OF DETERMINATION	Thursday 29 November 2018
PANEL MEMBERS	Carl Scully (Chair), Sue Francis, John Roseth, Ed McDougall, Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Fraser Suites Sydney 488 Kent Street Sydney on 29 November 2018, opened at 11am and closed at 12.15pm.

MATTER DETERMINED

2018SCL008 – Bayside – DA2018/1003 at 130-150 Bunnerong Road Eastgardens (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 site inspections listed at item 8 in Schedule 1.

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

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

The decision was unanimous.

REASONS FOR THE DECISION

The subject site has been historically rezoned to allow increased density. A Concept Approval, which established the heights, location and form of the buildings was approved by a conciliation process between the previous Botany Council and the applicant through the Land & Environment Court in 2015.

The Panel has since dealt with several detailed development applications under the Concept Approval, of which this application forms another.

The key test the Panel needs to consider is whether this development application is consistent with the Concept Approval granted by the Court.

The development application complies with the maximum GFA under the concept plan although it is noted that a clause 4.6 variation is submitted to vary the FSR from 3:1 under the Botany Local Environmental Plan to 3.84:1. The Panel is unclear as to whether a clause 4.6 variation is required for this development application since such a variation has already been granted under the Concept Approval. Nevertheless, should it be required the Panel considers there are sufficient environmental planning grounds to grant such variation.

In respect of height, the Panel notes there is also a clause 4.6 variation, but different from the clause 4.6 variation for FSR, the development application does seek to increase the height of the buildings by 600mm to accommodate a raising of the ground floor level to address flood levels. In the circumstances of this case, the Panel considers there are sufficient environmental planning grounds to allow the variation in height.






The Panel heard from objectors who were concerned about the overall density of the development, the lack of public benefit and the congestion of on street parking in the vicinity.

In this respect, the Panel is bound by the approved Concept Plan with which this proposal is consistent. Likewise, the Concept Approval defined the VPA which defined the public benefits and the Panel is not able to change this provision. The concern in relation to on street parking is understandable but is likely to be a result of trades persons parking in the public streets. This Panel is not able to effect any change to this. However, the Panel strongly recommends to the relevant local councils that resident only parking or time limited parking be provided in the street in the vicinity of major developments, even if this is a temporary restriction during the construction period.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- That a condition be drafted and included by Bayside Council which requires a senior staff member of the developer to be contactable by residents regarding complaints.

PANEL MEMBERS	
 Carl Scully (Chair)	 Sue Francis
 John Roseth	 Ed McDougall
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SCL008 – Bayside – DA2018/1003
2	PROPOSED DEVELOPMENT	Construction of a mixed-use development comprising of four (4) residential towers ranging between 13 and 21 storeys, ground floor retail tenancies, associated landscaping and site works. The development proposes a total of 515 apartments.
3	STREET ADDRESS	130-150 Bunnerong Road Eastgardens
4	APPLICANT/OWNER	Applicant - Karimbla Construction Services (NSW) Pty Ltd Owner - Karimbla Properties (No. 39) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy (BASIX) 2004 State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development Botany Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Botany Development Control Plan 2013 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 29 November 2018 Written submissions during public exhibition: 43 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Object – Mark Light, Maria Poulos, Bruce Naghten On behalf of the applicant – Walter Gordon, Neil O’Connell
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection and briefing: 20 February 2018 Final briefing to discuss council’s recommendation, 29 November 2018 at 10.30am. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Sue Francis, John Roseth, Michael Nagi, Ed McDougall <u>Council assessment staff</u>: Angela Lazaridis, Luis Melim, Lincoln Lawler
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report