

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	Thursday 23 July 2020
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Ed McDougall, Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held via Microsoft Teams on 23 July 2020, opened at 10.05am and closed at 10.40am.

MATTER DETERMINED

PPS-2019ECI021 – Bayside – DA2019/79 at 132 Wentworth Avenue Pagewood for a self storage building (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.

Development application

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 Panel endorses the council assessment officers report and recommendations for the reasons contained therein.

The constraints of the site in terms of hazard and traffic management have been well considered by the use of storage units as opposed to an industrial development that would employ significant numbers of people that would then be subject to the risk Botany Industrial Park (BIP). Similarly, a reduced amount of parking reinforces the low intensity of the use as proposed.

The Panel notes the elevation to Wentworth Avenue will be well vegetated and therefore not detract from the current presentation to the street.

The Panel has imposed an additional condition which requires a By-Law limiting the use to storage because of the constraints of the site.

The Panel was not persuaded that the conditions concerning undergrounding of electricity and construction of a footpath along Wentworth Avenue should be deleted. As such, has imposed the condition recommended by Council that is consistent with the Botany Development Control Plan 2013. Accordingly, the Panel determined to leave conditions 33, 76 and 79 unamended.

The Panel accepts the revised footpath crossing deposit in clause 26(b) to provide for an amount of \$117,757.30. As a consequent condition 29 is amended to provide for this amount.






CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments:

- Condition 26 amended to read as follows:
The applicant must prior to the commencement of any works, pay the following fees:
 - (a) *Environmental Enforcement Fee 0.26% of cost of works (with estimated cost of works capped at \$10 million);*
 - (b) *Footpath Crossing Deposit \$117,757.30 (GST Exempt);*
 - (c) *Where a Construction Certificate is issued prior to 25 September 2022, Section 7.12 contributions are to be paid prior to the issue of an Occupation Certificate. After 25 September 2022, Section 7.12 contributions are to be paid prior to the issue of a Construction Certificate.*
- Condition 29 amended to read as follows:
Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of \$117,757.30 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Roberta Ryan	 Ed McDougall
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2019ECI021 – Bayside – DA2019/79
2	PROPOSED DEVELOPMENT	Demolition of existing structures, tree removal and construction of a two (2) storey plus mezzanine level warehouse and self-storage development operating 24 hours, seven (7) days a week, associated signage and strata subdivision.
3	STREET ADDRESS	132 Wentworth Avenue Pagewood
4	APPLICANT/OWNER	Leda Eastgardens 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"> ○ Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils ○ Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No. 64- Advertising and Signage ○ State Environmental Planning Policy (Vegetation in non-rural areas) 2017 ○ Botany Bay 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: 9 July 2020 • Applicant memo: 22 July 2020 • Written submissions during public exhibition: Nil • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Council assessment officer – Angela Lazaridis, Luis Melim, Ben Latta ○ On behalf of the applicant – Helen Deegan, Nick Mullins, Ashleigh Coombes
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 27 February 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Michael Nagi ○ <u>Council assessment staff</u>: Angela Lazaridis, Luis Melim, Ben Latta • Site inspection: Due to Coronavirus precautions, the Panel visited the site independently, prior to 23 July 2020

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Michael Nagi, Ed McDougall • Final briefing to discuss council's recommendation, 23 July 2020 at 9.30am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Michael Nagi, Ed McDougall ○ <u>Council assessment staff</u>: Angela Lazaridis, Luis Melim, Ben Latta
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report