

DATE OF DETERMINATION	3 December 2020
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Michael Megna
APOLOGIES	None
DECLARATIONS OF INTEREST	Angelo Tsirekas declared a non-pecuniary conflict of interest as he is an acquaintance of the applicant. Accordingly, he did not participate in the panel for this matter.

Papers circulated on 23 November 2020.

MATTER DETERMINED

2019ECI030 – Canada Bay – DA2019/0160 at 2-4 Rothwell Avenue Concord West (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.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Canada Bay Local Environmental Plan 2013 (LEP), that has demonstrated that:

- compliance with cl. 4.3 is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.6 of the LEP and the objectives for development in the R3 zone; and
- the concurrence of the Secretary has been assumed.

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 determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the council officer's assessment report.

- The Panel considers the development provides an appropriate built outcome for the location and enhances access to the large open space area to Powells Creek Reserve by the provision of a significant open space link which is to provide public access.
- The proposal provides deep soil planting area for significant landscaping to be sustainable.

- The development does not generate unreasonable vehicles and parking is in accordance with council's DCP.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report, Appendix A, with the following amendments.





- Amend Condition 1, the reference to drawing number DA-10-00, Revision 01 shall read as Revision 04 and the date is amended from 9/05/19 to 25/09/19

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Traffic and parking concerns
- local character
- bulk, scale and density
- exceedance with the building height control
- solar access
- blocking views of trees
- construction access and associated noise

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Roberta Ryan	 Michael Megna

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019ECI030 – Canada Bay – DA2019/0160
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a residential flat building development.
3	STREET ADDRESS	2-4 Rothwell Avenue Concord West
4	APPLICANT/OWNER	Applicant: Alex Harb, c/- Eloura Holdings
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 No. 55 – Remediation of Land ◦ State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings ◦ Canada Bay Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ◦ Canada Bay Development Control Plan 2017 • 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: 23 November 2020 • Clause 4.6 variation request building height • Satisfactory Arrangement Certificate dated: 27 November 2020 • Written submissions during public exhibition: 4 • Total number of unique submissions received by way of objection: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 26 September 2019 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Carl Scully (Chair), John Roseth, Michael Megna, Angelo Tsirekas ◦ <u>Council assessment staff</u>: Stuart Ardlie, Samuel Lettice • Site inspection: 26 September 2019 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Carl Scully (Chair), John Roseth, Michael Megna, Angelo Tsirekas ◦ <u>Council assessment staff</u>: Stuart Ardlie, Samuel Lettice • Final briefing to discuss council's recommendation: 3 December 2020 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Michael Megna ◦ <u>Council assessment staff</u>: Shannon Anderson, Stuart Ardlie

		<ul style="list-style-type: none">○ <u>Applicant representatives:</u> Alex Harb, Chris Rogers, Mark Syke, Helen Deegan, David Warwick, Nem Biason
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report