

<b>DATE OF DETERMINATION</b>	22 December 2022
<b>DATE OF PANEL DECISION</b>	21 December 2022
<b>DATE OF PANEL MEETING</b>	20 December 2022
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Jan Murrell, Donna Rygate and Michael Shiels
<b>APOLOGIES</b>	Michael Nagi
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 23 November 2022. Supplementary Council Assessment Report electronically circulated 13 December 2022.

#### **MATTER DETERMINED**

##### **PPSSEC-187 – Bayside – DA-2022/46 427-429 Princes Highway, Rockdale**

Integrated Development- Demolition of existing structures, site and remediation works, removal of two trees and construction of an eleven (11) storey mixed use development comprising two commercial tenancies, basement car parking, eighty-five (85) residential units, comprising of 80% affordable units and 20% rented at market rate

#### **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 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 Bayside Local Environmental Plan 2021 (BLEP), that has demonstrated that:

- a) compliance with cl. 4.3 (height of buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (height of buildings) of the LEP and the objectives for development in the B4 zone; and
- c) 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 and Supplementary Report subject to the

deletion of the planter above the podium and the removal of the s7.11 contribution to the Rockdale Local Car Parking Fund (retail only).

The planter box is not required given the high maintenance involved and its location along the Princes Highway. Furthermore the planting of canopy trees in the setback to the highway will provide the necessary filtering of the building without the cost of maintaining a planter box noting that this is an affordable housing development.

The Section 7.11 contribution of \$236,596.30 for the Local Car parking Fund (retail only) is deleted in view of the fact the applicant sought to provide a greater number of commercial car parking spaces. On balance it is considered the car parking for the residential component should be increased at the expense of the commercial component, and there still is the physical provision of car parking spaces within the building. The deletion of this amount represents approximately 30% of the total S. 7.11 contributions.

The decision was unanimous.

The majority of the Panel did not consider that the applicant's request for a 25% reduction in the other components of s7.11 Contributions of \$549, 919.30 to be justified. This includes: open space; child care; community and library services; town centre and streetscape; and pollution control measures. This was a 3:1 Panel decision with Donna Rygate dissenting.

### CONDITIONS





The Development Application was approved subject to the conditions in the Council Officer's Assessment Report with the following amendments.

- Amend Condition 29 to remove part 29(g)
- Amend Condition 29(a)(ii) – to read as follows:  
ii. Two (2) commercial car parking spaces are required.
- Amend Condition 29(a)(iii) – to read as follows:  
iii. The total parking allocation on basement level 1 is to be 14 affordable housing spaces (5 accessible, 3 non-accessible and 6 car share spaces) and 12 market housing parking spaces (2 accessible and 10 non accessible)
- Amend Condition 36 to update the table to amend the Section S.7.11 Contribution to be \$549,919.90 by the removal of the Rockdale Local Car Parking Fund (retail only) component.
- Amend Condition 41(3)(i) to update the table to remove the contribution towards the Rockdale Local Car Parking Fund (retail only) of \$236,596.30.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition.

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Donna Rygate	 Michael Sheils

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-187 – Bayside – DA-2022/46
2	PROPOSED DEVELOPMENT	Integrated Development- Demolition of existing structures, site and remediation works, removal of two trees and construction of an eleven (11) storey mixed use development comprising two commercial tenancies, basement car parking, eighty-five (85) residential units, comprising of 80% affordable units and 20% rented at market rate
3	STREET ADDRESS	427-429 Princes Highway, Rockdale
4	APPLICANT/OWNER	Matthew Holt, Urbis/ City West Housing Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 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 (State &amp; Regional Development) 2011</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy No.55 – Remediation of Land;</li> <li>○ State Environmental Planning Policy (Vegetation in non-Rural Areas) 2017;</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX);</li> <li>○ State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;</li> <li>○ State Environmental Planning Policy (Housing) 2021;</li> <li>○ Bayside Local Environmental Plan 2021</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Rockdale Development Control Plan 2011</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</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: 23 November 2022</li> <li>• Clause 4.6 variation in relation to clause 4.3 (Height of buildings) of the BLEP 2021</li> <li>• Written submissions during public exhibition: 4</li> <li>• Total number of unique submissions received by way of objection: 4 written</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Kick off Briefing: 24 March 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell</li> <li>○ <u>Council assessment staff</u>: Fiona Prodromou, Luis Melim, Christopher</li> </ul> </li> </ul>

		<p>Mackey</p> <ul style="list-style-type: none"> <li>• Council/Applicant Briefing: 27 October 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Donna Rygate</li> <li>○ <u>Council assessment staff</u>: Fiona Prodromou, Luis Melim</li> <li>○ <u>Applicant representatives</u>: Matthew Holt, Greig Martin, Sophy Purton, Lee Collard, Priscilla Tan</li> </ul> </li> <li>• Council/Applicant briefing: 1 December 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Donna Rygate, Michael Nagi, Michael Shiels</li> <li>○ <u>Council assessment staff</u>: Fiona Prodromou</li> <li>○ <u>Applicant representatives</u>: Greig Martin, Priscilla Tran, Clare Brown, Sophy Purton, Matthew Holt, Lee Collard</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 1 December 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Donna Rygate and Michael Shiels</li> <li>○ <u>Council assessment staff</u>: Luis Melim and Christopher Mackey</li> <li>○ Applicant Representatives: Matthew Holt, Sophy Purton, Priscilla Tran and Lee Collard</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Deferred Commencement Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report