

RECORD OF DEFERRAL

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DEFERRAL	16 July 2020
PANEL MEMBERS	Carl Scully (Chair), Roberta Ryan, Jan Murrell, Ed McDougall
APOLOGIES	Michael Nagi
DECLARATIONS OF INTEREST	None

Public meeting held via Microsoft Teams on 16 July 2020, opened at 11.30am and closed at 12.50pm.

MATTER DEFERRED

PPSSEC-19 – Bayside – DA2019/359 at 16 John Street, 23 Church Avenue, Mascot – Proposed Mixed Use Development (as described in Schedule 1)

REASONS FOR DEFERRAL

The Panel notes that the Water NSW for General Terms of Agreement are required before a determination can be made, these are currently outstanding. The deferral of this application provides time for Council to seek a response from Water NSW, the Panel has offered to assist in this by writing to the relevant persons seeking the provision of General Terms of Agreement.

At the request of the applicant, the Panel agreed to defer the determination of the matter to provide the Applicant a further opportunity to amend the plans and provide further information to Council within one month. The Applicant is to submit additional information and amended plans, to include addressing the following:

- Compliance with Council's Flood Planning Levels.
- Further documentation of the methodology from the structural engineer to confirm, or otherwise, that the project can be constructed without the requirement to underpin adjoining properties. The Panel notes the sensitivities in the area and the need for this matter to be comprehensively addressed with best practice, prior to determination of the application.
- The amended plans submitted to Council must address:
 - the pedestrian through link;
 - greater compliance with the floor space ratio; and
 - more detail with respect to the treatment of the façade and existing single storey element to be retained.
- The Panel is not persuaded that the Clause 4.6 written requests for variations to the floor space ratio and height are justified at this point in time.
- The Panel is generally supportive of the pedestrian through link to exclude interaction with traffic and was generally supportive of retaining the existing fabric of the single storey element forward of the building line, subject to further details being provided as to how this could be integrated within the public domain.
- The applicant is also afforded the opportunity to make final amendments to resolve other issues in response to the Council Officer's concerns and issues raised in the assessment report including an updated BASIX Certificate.

The Panel is supportive of the amended plans being referred in a timely manner to the Council's Design Review Panel (DRP), with same members as at the last meeting, for advice on the amended plans with the exception of: the pedestrian through link; the retention of the existing single storey element; and the voids. The Panel finds these elements are satisfactory in the circumstances.

The applicant is requested to submit this information to Council within 4 weeks. When this information, and the response from Water NSW, have been received, the Panel will consider a supplementary Council officer's report for electronic determination, unless the Panel Chair considers a further public meeting is warranted.

The Panel has considered the submissions received, both written and oral. The community expressed major concern about the issues of excavation and construction of the development given the problems with Mascot Towers. In particular, the stability of the ground and water conditions and the need to ensure certainty and a proper process including the need for the community to be informed and engaged in the process.

Deferring the matter provides the opportunity for the Community's concerns to be further considered, with the benefit of detailed information and plans, including the structural engineer's report.

In respect to the S.34 Conference scheduled in the Land and Environment Court on the deemed refusal appeal, Council is directed by the Panel not to enter into any agreement with the applicant until such time as the amended plans and information referred to above are lodged with Council that properly take into account the concerns of the Panel herein expressed.

The decision to defer the matter was unanimous.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-19 – Bayside – DA2019/359
2	PROPOSED DEVELOPMENT	Proposed Mixed Use Development - Integrated Development - Retention of part of Church Street facade, demolition of all remaining structures, excavation for basement parking levels and construction of two (2) x thirteen (13) storey mixed use buildings comprising ground level commercial and 126 residential units and rooftop communal open space including solar panels.
3	STREET ADDRESS	16 John Street, 23 Church Avenue Mascot.
4	APPLICANT/OWNER	Da Vito Ferro Apartments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - 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 No. 55 – Remediation of Land - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development - Botany Bay Local Environmental Plan 2013 - Draft Bayside Local Environmental Plan 2020 - Draft environmental planning instruments: Nil - Development control plans: - 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	- Council assessment report: 1 July 2020 - Clause 4.6 variation request – height - Clause 4.6 variation request – floor space ratio - Applicant memo: 16 July 2020 - Written submissions during public exhibition: 26 - Verbal submissions at the public meeting: - Community members – Amy Carter, Lynette Hickey - Council assessment officer – Patrick Nash, Marta Gonzales-Valdes, Luis Melim - On behalf of the applicant – Mario Pizzolato, Stephen Kerr, Vince Squillace

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Briefing: 27 February 2020 - o <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Michael Nagi - o <u>Council assessment staff</u>: Patrick Nash, Luis Melim, Marta Gonzalez-Valdes • Site inspection: Due to Coronavirus precautions, the Panel visited the site independently, prior to 16 July 2020 - o <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Ed McDougall, Michael Nagi • Final briefing to discuss council's recommendation, 16 July, 2020 at 10am Attendees: - o <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Ed McDougall - o <u>Council assessment staff</u>: Patrick Nash, Luis Melim, Marta Gonzalez-Valdes
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not supplied