

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY EASTERN CITY PLANNING PANEL

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <b>DATE OF DETERMINATION</b>    | 26 November 2020                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>PANEL MEMBERS</b>            | Carl Scully (Chair), Roberta Ryan, Sue Francis, Michael Sheils, Paul Pappas                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>APOLOGIES</b>                | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>DECLARATIONS OF INTEREST</b> | <p>Jan Murrell declared a conflict of interest and did not participate in the Panel for this matter. The Planning Proposal came to the Bayside Local Planning Panel for which she is Chair, for advice to Council prior to the rezoning.</p> <p>Ed McDougall and Michael Nagi both declared that as Councilors at Bayside Council, they have a conflict of interest as they have resolved on the VPA for the site in council resolutions. They did not participate in the Panel for this matter.</p> |

Papers circulated electronically on 12 November 2020.

#### MATTER DETERMINED

PPSSEC-21 – Bayside - DA-2019/386 at 128 Bunnerong Rd, 120 Banks Ave Eastgardens

BATA 2 – Integrated Development and Staged Concept Development (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 determined to approve the application for the reasons outlined in the council assessment report.

- The Panel, together with the Council and the applicant have worked collaboratively to address issues of concern in relation to the delivery of public domain and public open space, together with the delivery of good urban design.
- Considerable attention has been given to the conditions of consent with the intent of delivering a good urban design and a proposal which delivers public benefit.
- The Panel is confident that subsequent detailed DAs to deliver the built forms, if designed in accordance with this consent, will satisfy the desired future character of the area.

#### CONDITIONS

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

#### STAGING AND TIMING OF WORKS / DELIVERY OF PUBLIC OPEN SPACE

## 62. Staging and Timing of Works / Dedication of Public Open Space

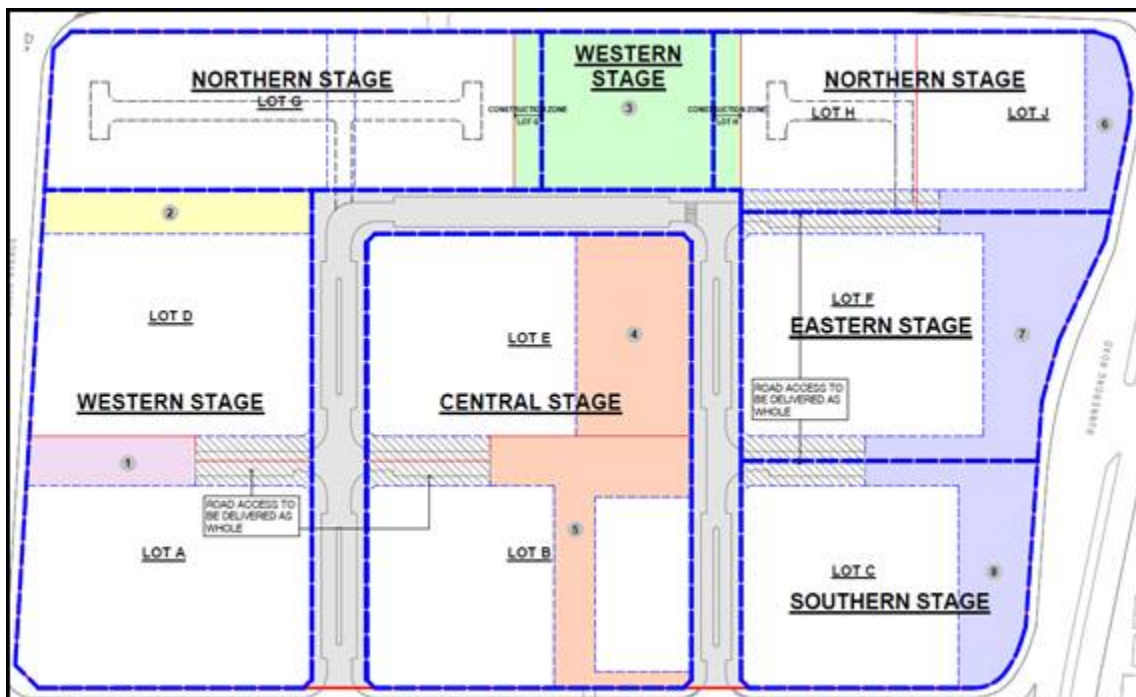
- The development of the subject site shall be sequentially staged in respect of the Central Stage (1<sup>st</sup>) and the Northern Stage (2<sup>nd</sup>). The remaining stages can be sequenced according to the applicant's construction program but subject to the staging content below:

| Stage          | Open Space Area                                                                                                 | Timeframe                                                                                                                                                                                                                                                                                               |
|----------------|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Central Stage  | 4 & 5<br>(Orange, centrally located on site)                                                                    | Open space 5 is to be completed prior to the issue of the occupation certificate of the final building in Lot B, excluding a construction setback. Open Space 4 is to be completed prior to the issue of the occupation certificate of the final building in Lot E.                                     |
| Northern Stage | 6 & 3<br>(Purple, adjoining eastern periphery of site & 3)                                                      | Open space 6 is to be completed prior to the issue of the occupation certificate of the final building in Lot J. Open space 3 is to be completed prior to the issue of the occupation certificate of the final building in Lots G & H respectively.                                                     |
| Western Stage  | 1 / 2<br>(pink / yellow)<br>Easement for public access to benefit Council is proposed across open spaces 1 & 2. | Open Space 1 is to be completed prior to the issue of the occupation certificate of the final building in Lot A (excluding a construction setback). Open Space 2 and the remainder of open space 1 are to be completed prior to the issue of the occupation certificate of the final building in Lot D. |
| Eastern Stage  | 7<br>(Purple, adjoining eastern periphery of site)                                                              | Open space 7 is to be completed prior to the issue of the occupation certificate of the final building in Lot F.                                                                                                                                                                                        |
| Southern Stage | 8<br>(Purple, adjoining eastern periphery of site)                                                              | Open space 8 is to be completed prior to the issue of the occupation certificate of the building in Lot C                                                                                                                                                                                               |
| -              | Internal Road Network                                                                                           | Public Roads are to be dedicated to Council, fully completed and embellished at the completion of the final development stage. The extent of works is to be to the satisfaction of Bayside Council.                                                                                                     |

### **Notes:**

- (1) "Completed" means the subject item (road/open space) is fully constructed and embellished to the satisfaction of Bayside Council and a final occupation certificate for relevant works has been obtained.
- (2) Upon the embellishment and completion of open space areas to the satisfaction of Bayside Council, as referred to above the subject lots are to be dedicated to and maintained by Bayside Council as per any executed VPA upon the site.

- The staging diagram to be amended by Council so that it complies with the amended Condition 62 as set out above.

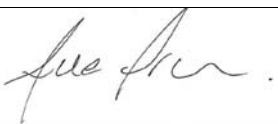


### CONSIDERATION OF COMMUNITY VIEWS

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

- Demolition of General Motors building on site
- Height of development / excessive height under flight path and dangerous
- Construction impacts and risk of damage to existing buildings
- Overdevelopment / Character of area
- Existing roads and infrastructure wont cope with population increase / Bus services will be unable to cope with population increase.
- Privacy impacts
- Traffic, parking & pedestrian safety concerns
- Contribution for changes to Heffron road

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                                                                                              |                                                                                                        |
|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| <br>Carl Scully (Chair) | <br>Roberta Ryan    |
| <br>Sue Francis         | <br>Michael Sheils |
| <br>Paul Pappas         |                                                                                                        |

| SCHEDULE 1 |                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| 1          | PANEL REF – LGA – DA NO.          | PPSSEC-21 – Bayside – DA-2019/386                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2          | PROPOSED DEVELOPMENT              | BATA 2 - Integrated Development and Staged Concept Development - land subdivision; building envelopes / height / setbacks for 13 buildings of between 2 and 20 storeys to accommodate a variety of residential dwellings and a minimum of 5,000m2 of non-residential land uses including child care centres, supermarket and other commercial uses; landscaping and public domain works; proposed road layout; basement and podium level car parking; and car parking rates; resulting in a total floor space ratio of 2.35:1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 3          | STREET ADDRESS                    | 128 Bunnerong Road & 120 Banks Avenue, Eastgardens                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4          | APPLICANT/OWNER                   | Karimbla Construction Services (NSW) Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 5          | TYPE OF REGIONAL DEVELOPMENT      | General development over \$30 million                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 6          | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> <li>• Environmental Planning &amp; Assessment Act 1979</li> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>o S.4.23 - Concept Development Applications as Alternative to DCP required by Environmental Planning Instruments</li> <li>o S4.37 – Staged State Significant Development</li> <li>o S4.46 - Development that is Integrated Development</li> <li>o S7.4 - Planning Agreements</li> <li>o Environmental Planning &amp; Assessment Regulation 2000</li> <li>o State Environmental Planning Policy (State and Regional Development) 2011</li> <li>o State Environmental Planning Policy (Infrastructure) 2007</li> <li>o State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>o State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>o State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>o Apartment Design Guide</li> <li>o Botany Bay Local Environmental Plan 2013</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>o Botany Development Control Plan 2013</li> </ul> </li> <li>• Planning agreements: Draft Voluntary Planning Agreement (yet to be executed)</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</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: 16 November 2020</li> <li>• Revised Draft Conditions dated 24 November 2020</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|   |                                                       | <ul style="list-style-type: none"> <li>Written submissions during public exhibition: 7</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>Applicant Briefing: 27 February 2020 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Sue Francis, Noni Ruker</li> <li>Council assessment staff: Fiona Prodromou, Luis Melim, Christopher Mackey, Ben Latta, Angela Lazaridis</li> <li>Applicant representatives: Matthew Lennartz, Neil O'Connell, Nik Hatzi</li> </ul> <p><u>Note:</u> Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> </li> <li>Applicant Briefing: 7 September 2020 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Sue Francis, Michael Sheils, Paul Pappas</li> <li>Council assessment staff: Fiona Prodromou, Luis Melim, Angela Lazaridis, Paul Walter (Consultant)</li> <li>Applicant representatives: Walter Gordon, Cameron Greatbatch, Nick Hatzi, Frank Ru, David Hoy</li> </ul> <p><u>Note:</u> Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> </li> <li>Applicant Briefing: 12 October 2020 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Sue Francis, Roberta Ryan, Michael Sheils, Paul Pappas</li> <li>Council assessment staff: Fiona Prodromou, Ben Latta, Angela Lazaridis, Paul Walter (Consultant)</li> <li>Applicant representatives: Walter Gordon, Nick Hatzi, Frank Ru</li> </ul> <p><u>Note:</u> Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> </li> <li>Site inspection: 7 September 2020 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Sue Francis, Michael Sheils, Paul Pappas</li> <li>Council assessment staff: Fiona Prodromou, Angela Lazaridis, Christopher Mackey, Ben Latta, Luis Melim, Paul Walter (Consultant)</li> <li>Applicant representatives: Walter Gordon, Cameron Greatbatch, Nick Hatzi, Frank Ru, David Hoy</li> </ul> </li> <li>Applicant Briefing: 5 November 2020 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Sue Francis, Paul Pappas, Michael Sheils</li> <li>Council assessment staff: Fiona Prodromou, Christopher Thompson, Karim Elazar, Paul Walter (Consultant)</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 26 November 2020 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Roberta Ryan, Sue Francis, Michael Sheils, Paul Pappas</li> <li>Council assessment staff: Fiona Prodromou, Christopher Mackey, Angela Lazaridis, Paul Walter (Consultant)</li> </ul> </li> <li>Applicant Briefing: 26 November 2020 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Sue Francis, Roberta Ryan, Michael Sheils, Paul Pappas</li> </ul> </li> </ul> |

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|    |                               | <ul style="list-style-type: none"> <li>o <u>Council assessment staff</u>: Fiona Prodromou, Christopher Mackey, Angela Lazaridis, Paul Walter (Consultant)</li> <li>o <u>Applicant representatives</u>: Walter Gordon</li> </ul> |
| 9  | <b>COUNCIL RECOMMENDATION</b> | Approval                                                                                                                                                                                                                        |
| 10 | <b>DRAFT CONDITIONS</b>       | Attached to the council assessment report and the revised Draft Conditions dated 24 November 2020                                                                                                                               |