

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

Panel Reference	PPSEC-245
DA Number	DA-2022/357
LGA	Bayside Council
Proposed Development	Integrated Development - Demolition of existing structures and construction an 8 storey self-storage facility and 12 storey commercial building with above ground parking and landscaping
Street Address	1-3 and 3A Ricketty Street, Mascot
Applicant/Owner	<u>Applicant</u> : The Trustee for the Canal Aviv Trust <u>Owner</u> : Canal Aviv Pty Limited
Date of DA lodgment	1 December 2022
Number of Submissions	2 (in the first round)
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Private infrastructure and community facilities over \$30 million (Nominated CIV: \$49,786,000)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Industry and Employment) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Bayside Local Environmental Plan 2021
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans – GCCV Architects • Landscape Plan – Ground Ink Landscape Architects • Statement of Environmental Effects – Planning Ingenuity • Clause 4.6 Statement for Height of Building – Planning Ingenuity

Report prepared by	Andrew Ison, Senior Development Assessment Planner
Report date	4 March 2024

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	N/A
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Recommendation for refusal, however draft conditions will be sent.

EXECUTIVE SUMMARY

The development application (DA-2022/357) seeks consent for Integrated Development - Demolition of existing structures and construction an 8 storey self-storage facility and 12 storey commercial building with above ground parking and landscaping. Proposed landscape works include construction of bicycle path that is located within the Alexandra Canal frontage of the subject site.

The proposed development is to be constructed in two stages, with stage one incorporating the self-storage facility and full length of the cycleway (as part of the Alexandra Canal Active Transport Corridor), and stage two incorporating the 12 storey commercial building.

The subject site is known as 1-3 Ricketty Street, Mascot ('the site'). The site comprises a lot with a primary frontage to Ricketty Street to the south and secondary frontage to Venice Street to the east. To the west of the subject site is the Alexandra Canal. The site occupies an irregular shaped area of 8,947m². The current vehicular access to the site is via Venice Street.

The site is located on the northern side of Ricketty Street, a Classified Road, which contains a number of commercial, office and industrial buildings. It is located within an area identified as the Mascot (West) Business Park Precinct as per Part 6 of the Botany Bay DCP 2013.

The site is located in the E3 Productivity Support zone pursuant to Clause 2.2 of the Bayside Local Environmental Plan 2021 (LEP). The proposed development subject to this application is defined as

a storage premises and office premises, which is permissible with consent in the E3 Productivity Support zone.

The principal planning controls relevant to the proposal include a number of State Environmental Planning Policies, the Bayside Local Environmental Plan 2021 ('LEP'), and the Botany Bay Development Control Plan 2013 ('DCP').

Consideration has also been given to the Bayside Development Control Plan (BDCP) 2022 which was a draft policy at the time of lodgement of this application and is not formally to be considered in accordance with savings provisions. The proposal is generally consistent with the provisions in BDCP 2022 which includes site and precinct controls that are largely identical to the Botany DCP 2013.

The proposal is inconsistent with various provisions of the planning policies, with the key non-compliant provisions including the following:

- Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021, in relation to an incomplete contamination assessment;
- Clause 4.4 of the Bayside Local Environmental Plan 2021, in relation to height of building (an extra 3m above the 44m development standard for the commercial building, a 6.8% variation);
- Clause 5.21 of the Bayside Local Environmental Plan 2021, in relation to inadequate flood modelling; and
- Part 6.3.5 of the Botany Bay Development Control Plan 2013, in relation to the front setback to Ricketty Street.

The subject application was referred to Council's Design Review Panel (DRP) on four separate occasions, that being:

- 24 January 2023
- 21 April 2023
- 10 August 2023
- 15 January 2024 (electronic meeting with DRP Members only)

Significant improvements have been made to the built form and landscape design, and on 15 January 2024, the DRP confirmed that the Design Excellence provisions in Clause 6.10 of the Bayside Local Environmental Plan 2021 could be satisfied subject to recommended changes to Council satisfaction.

Referrals from external agencies were undertaken, and are discussed further below:

1. **Water NSW:** Section 4.47 of the Environmental Planning and Assessment Act 2000 in relation to General Terms of Approval (GTAs) from Water NSW. They advised that GTAs were not required as there is no significant excavation that will impact on the ground water.
2. **DPE Water:** Section 4.47 of the Environmental Planning and Assessment Act 2000 in relation to General Terms of Approval from DPE Water as it involves works within 40 metres of waterfront land. As of the report date, no referral response has been provided.
3. **DPE Heritage:** Section 58 of the Heritage Act 1977 in relation to General Terms of Approval from DPE Heritage as it involves works within proximity to a state listed item (Alexandra Canal). As of the report date, no referral response has been provided.

4. **Ausgrid:** Section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to proposed works in proximity to an electricity transmission or distribution network. They have no objections to the proposed development.
5. **Transport for NSW (TfNSW):** Referrals were made to TfNSW for the following:
 - (a) Section 2.119 of the Transport and Infrastructure SEPP with relation to development with frontage to a classified road (Ricketty Street). They have issued concurrence.
 - (b) On design for the Alexandra Canal Active Transport Corridor that runs along the eastern shoreline of Alexandra Canal. Comments have been received.
 - (c) Owner's consent for works within 'Venice Street', a private parcel of land in the ownership of RMS (now TfNSW) with rights of access in the benefit of 1-3 Ricketty Street. As of the report date, no referral response has been provided.
6. **Sydney Water:** Relating to works in proximity and within Alexandra Canal. They have no objections to the proposed development.

The application was placed on public exhibition from 14 December 2022 to 18 January 2023, with two (2) being received. Although amended plans were received, it was deemed that they were not required to be re-exhibited in accordance with BDCP 2013. The matters identified in the submissions include any approvals required for works within land under City of Sydney, provision of future cycleway, provision of public art, traffic generation and loading facilities. All of these matters have been appropriately addressed.

The application was referred to the Sydney Eastern City Planning Panel for determination pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal was \$49,786,000.

A briefing was held with the Regional Panel on three different occasions:

- 14 March 2023
- 11 May
- 24 August 2023

The key issues associated with the proposal included:

- City of Sydney Council – Approximately 155m² of the subject site extends into the City of Sydney local government area (LGA), including a small part of the existing northern warehouse building. All of the proposed construction works, with exception of landscape and bicycle path works, are located wholly within Bayside Council area. City of Sydney Council have confirmed that a Review of Environmental Factors (REF) is to be lodged for the works relating to the bicycle path, whilst a Complying Development Certificate (CDC) is acceptable for the demolition works.
- Contaminated Land – Data gaps were identified in the Applicant's site investigation however the applicant advised Council that they were unwilling to carry out additional investigation works. Therefore, insufficient information has been provided to allow Council to conclude that the proposal is, or can be made, suitable for the proposed development in accordance with Chapter 4 of the Resilience and Hazards SEPP.
- Flooding – Inadequate flood modelling.

- Owner's consent for works within Venice Street – Existing and proposed access to the site is via Venice Street, an existing 'right of way' over land known as 3B Ricketty Street which is in the ownership of Transport for NSW (Roads and Maritime Services). However, the proposal also includes landscape and other improvements within 3B Ricketty Street and owner's consent has not been obtained. A referral has been sent to TfNSW to seek clarification on what form of approval may be required, however, as of the report date, no referral response has been provided.
- Staging of Development – The existing industrial building within the area containing stage 2 is subject to a long term lease and hence the office building can only be constructed at a later date. This has resulted in the need for staged development of the site. The plans have been amended to ensure that the bicycle path would all be constructed within Stage 1.
- Building Height – The proposal exceeds the height of building development standard for the stage 2 office building and the application is accompanied by a Clause 4.6 variation that is supported.
- Design Excellence – The proposed development, on balance, achieving design excellence in accordance with Clause 6.10 of the BLEP 2021.
- Cycleway – Consideration of the Alexandra Canal Active Transport Corridor, a regional bicycle path of high priority which has been integrated into the design.
- Site Isolation – Consideration of the neighbouring site to the north west (697 Gardeners Road), with relation to an indicative design on future development, with conflicting zoning, development standards and development controls on this site this property falls inside both Bayside Council and City of Sydney. On balance the site has not been found to be isolated.
- Signage – The proposed signage for the self-storage building is generally considered acceptable, with the exception of the two rooftop signs having to be integrated within the building.
- Activation of the Canal frontage – The storage building has been redesigned to include retail / commercial tenancies and a colonnade at ground floor level that will activate the future publicly accessible Canal frontage.
- Heritage – The site is located adjacent to Ricketty Street bridge, a local heritage item, and Alexandra Canal, a heritage item listed on the State Heritage Register. The proposal will have minimal impacts on both items.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State Environmental Planning Policies, the Bayside LEP and the Botany Bay DCP, pursuant to Section 4.16(1)(b) of the EP&A Act, DA-2022/357 is recommended for refusal.

RECOMMENDATION

1. That the Regional Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, REFUSE development application DA-2022/357 being for Integrated Development - Demolition of existing structures and construction an 8 storey self-storage facility and 12 storey commercial building with above ground parking and landscaping at 1-3 & 3A Ricketty Street, Mascot, for the following reasons:

- (a) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment relating to remediation of land, which in contrary to Chapter 4 'Remediation of Land' of State Environmental Planning Policy (Resilience and Hazards) 2021.
- (b) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment relating to flooding, which in contrary to Section 5.21 of the Bayside Local Environmental Plan 2021.
- (c) Pursuant to the provisions of Section 23(1) of the Environmental Planning and Assessment Regulation 2021, insufficient information has been provided by the applicant relating to owners consent for works within the Venice Street road reserve (3B Ricketty Street).
- (d) Pursuant to the provisions of Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to demonstrate that the adjoining site(s) to the north can be developed to their full potential should the proposed development be realised.
- (e) Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 and for the reasons set out above, the proposed development is not considered to be in the public interest.

2. That the submitters be notified of the Panel's decision.

THE SITE AND LOCALITY

The Site

The subject site is located at 1-3 and 3A Ricketty Street, Mascot (Lot 24 in DP 515070 and Pt 25 in DP 515070). The proposed development site has a frontage of 59.365 metres to Ricketty Street a frontage of 115.17 metres to Venice Street, a length of 63.78 metres along the northern property boundary and 151.055 metres along the Alexandra Canal boundary, with a total area of 8,947m². The subject site currently contains two buildings – a two storey industrial / warehouse building that addresses Ricketty Street that is currently unoccupied, and a similarly scaled building to the north, which is currently occupied. The site is relatively level with a cross fall of 0.5m from the north east to south west.



Figure 1: Aerial showing subject sites (marked in red) and the boundary between Bayside Council and City of Sydney Councils (marked in yellow). The small portion of land in the top northern corner is located within City of Sydney Council (Source: Bayside IntraMaps)



Figure 2: Site for stage 1 self-storage building, as viewed from southern side of Ricketty Street



Figure 3: Site for stage 2 office building, as viewed from the eastern side of Venice Street



Figure 4: Subject site as viewed from Ricketty Street Bridge, with Alexandra Canal in foreground

The Locality

The subject site is located in the north-western corner of the Mascot (West) Business Park Precinct, on the northern side of Ricketty Street, eastern side of Alexandra Canal, southern side of Gardeners Road / M8 Link Road and western side of Venice Street. The subject site is surrounded by a number of land uses with (in a clockwise direction) with vacant land to the north at 697 Gardeners Road, a 3 storey warehouse and office building to the east at 5-9 Ricketty Street, a line of 2 storey scaled light industrial buildings on the southern side of Ricketty Street, and Alexandra Canal to the west. The subject site is located approximately 700 metres to the north-west of the main entry to Mascot Railway Station.

THE PROPOSAL AND BACKGROUND

The Proposal

The subject application seeks consent for Integrated Development - Demolition of existing structures and construction an 8 storey self-storage facility and 12 storey commercial building with above ground parking and landscaping. The proposal is to be carried out in stages.

Demolition / Site Preparation

- Demolition of existing buildings
- Removal of trees

Construction Staging of development

The proposed construction of the development will be split into two stages, that being:

- Stage 1 – Self storage building and full width construction of cycleway along Alexandra Canal
- Stage 2 – Office building

This staging is not formal staging in accordance with the EP&A Act, however, is proposed to allow for the continued use of the existing approved commercial use that currently occupies the stage 2 area which has a lease in place until 2027.

The table below is a summary of key development data:

Control	Proposal
Site area	8,947m ²
Gross floor area (GFA)	26,004m ² (14,042m ² for self-storage and 11,962m ² for office building)
Floor space ratio (FSR) Permissible = 3:1	2.96:1
Clause 4.6 requests	Yes – Height of building
Maximum height Permissible = 44m	38.2m for self-storage, 47m for office building
Landscaped area Required = 10 %	1,941.62m ² (21.7% of site area)
Car parking spaces Required = 475 car spaces	165 (15 in storage building and 150 in office building)

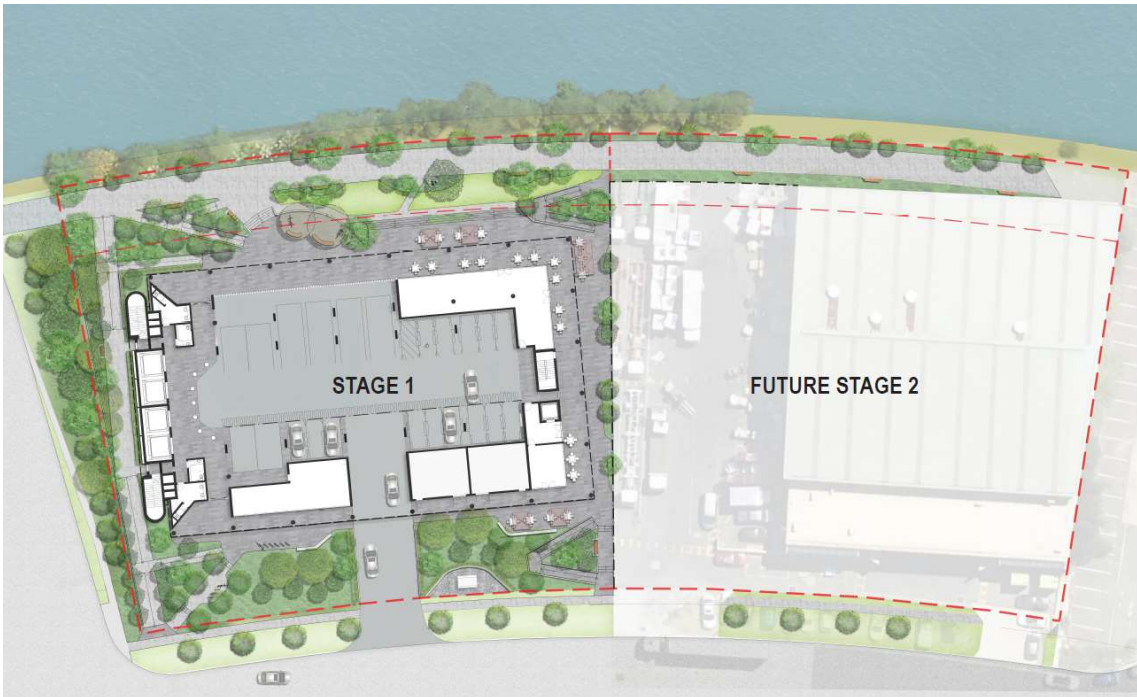


Figure 5: Stage 1 plan showing bicycle path works being completed wholly within the Stage 1

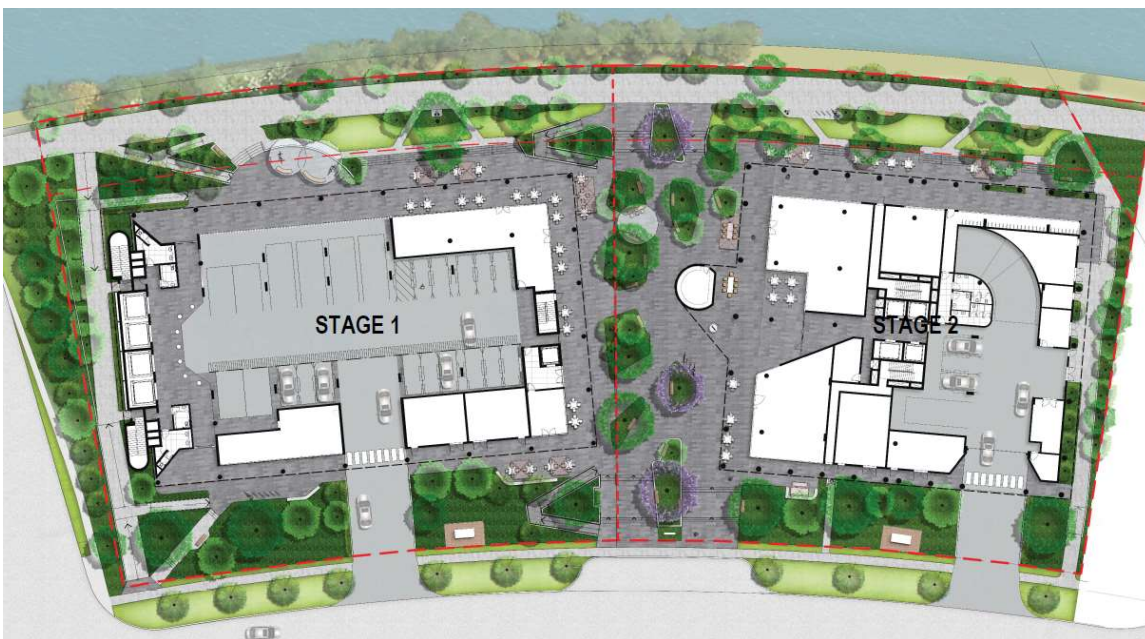


Figure 6: Staging plan of proposal showing buildings in both Stage 1 & Stage 2 [supplied by applicant]



Figure 7: Photomontage of proposal as seen from Alexandra Canal – office building is to the left and self-storage building is to the right [supplied by applicant]



Figure 8: Photomontage of proposal as seen from Ricketty Street Bridge - office building is to the left (rear) and self-storage building is to the front [supplied by applicant]



Figure 9: Photomontage of proposal as seen from Venice Street (looking north) – self storage building is to the left and the office building is to the right (rear) [supplied by applicant]



Figure 10: Photomontage of ground floor of the self-storage building (right) and bicycle path / Alexandra Canal (left), looking in a northerly direction [supplied by applicant]

STAGE 1 – Self storage building & Bicycle Path

(a) Self-Storage Building

Further detail of the proposed self-storage building development is as follows:

Ground Floor Plan

- Car parking for 15 vehicles;
- Loading spaces for 8 vehicles (4 small rigid vehicles and 4 medium rigid vehicles)
- Bicycle parking;
- 2 retail / commercial tenancies;
- 1 office;
- Lobby area accessed from through site link;
- Back of house services;
- Toilets;
- Fire stairs; and
- Lifts

Levels 1 to 7

- Storage with 102 rooms/spaces;
- Back of house services;
- Fire stairs; and
- Lift access

Roof plan

- Solar panels;
- Fire stairs; and
- Lift access

Signage

- 2 roof top signs, one each on the western and eastern elevations; and
- 1 flush wall sign located at ground level on the eastern elevation.

(b) Bicycle Path / Canal Frontage & Landscape Works

- 4m wide bicycle path
- 1m landscape strip towards the canal and 5m landscape strip towards the two buildings



Figure 11: Eastern (Venice Street) elevation of self-storage building [supplied by applicant]



Figure 12: Western (Alexandra Canal) elevation of self-storage building [supplied by applicant]

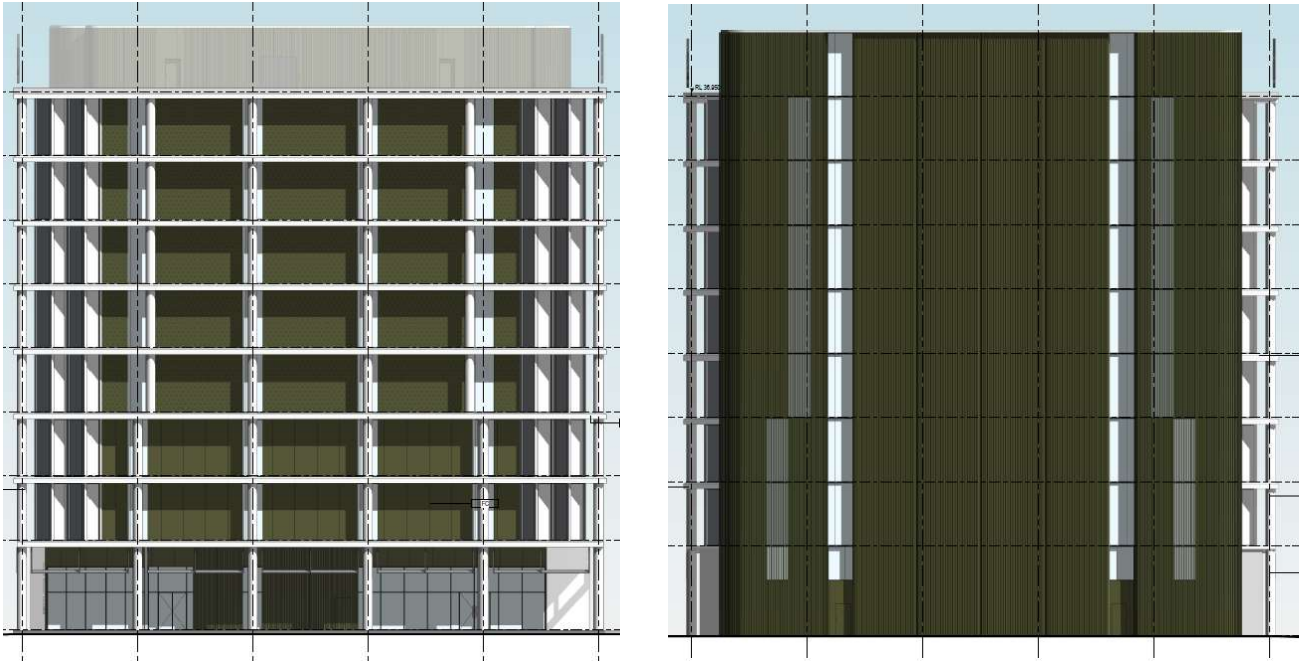


Figure 13: Northern elevation (left) and southern elevation to Ricketty Street (right) elevation of self-storage building [supplied by applicant]

STAGE 2 – Office building

Further detail of the proposed Stage 2 of the development comprising the office building is as follows:

Ground Floor Plan

- Car parking for 3 vehicles;
- Loading spaces for 1 vehicle;
- Bicycle parking;
- 3 retail / commercial tenancies;
- Kiosk;
- Signage;
- Back of house services;
- Bin store;
- Lobby accessed from Venice Street;
- Fire stairs; and
- Lifts

Level 1

- Car parking for 48 vehicles (including 2 EV spaces); and
- Fire stairs; and
- Lift access

Level 2

- Car parking for 48 vehicles (including 2 EV spaces); and
- Fire stairs; and
- Lift access

Level 3

- Car parking for 51 vehicles (including 2 EV spaces); and
- Fire stairs; and
- Lift access

Level 4

- Open planned office space;
- Toilets;
- Fire stairs; and
- Lift access

Level 5

- Open planned office space;
- Outdoor terrace;
- Toilets;
- Fire stairs; and
- Lift access

Level 6

- Open planned office space;
- Toilets;
- Fire stairs; and
- Lift access

Level 7

- Open planned office space;
- Outdoor terrace;
- Toilets;
- Fire stairs; and
- Lift access

Level 8

- Open planned office space;
- Toilets;
- Fire stairs; and
- Lift access

Level 9

- Open planned office space;
- Toilets;
- Fire stairs; and
- Lift access

Level 10

- Open planned office space;

- Toilets;
- Fire stairs; and
- Lift access

Level 11

- Open planned office space;
- Lower rooftop terrace;
- Toilets;
- Fire stairs; and
- Lift access

Roof plan

- Solar panels;
- Fire stairs; and
- Lift access

Other aspects of the proposal

- Landscaping
- Construction of cycleway along the foreshore line of Alexandra Canal

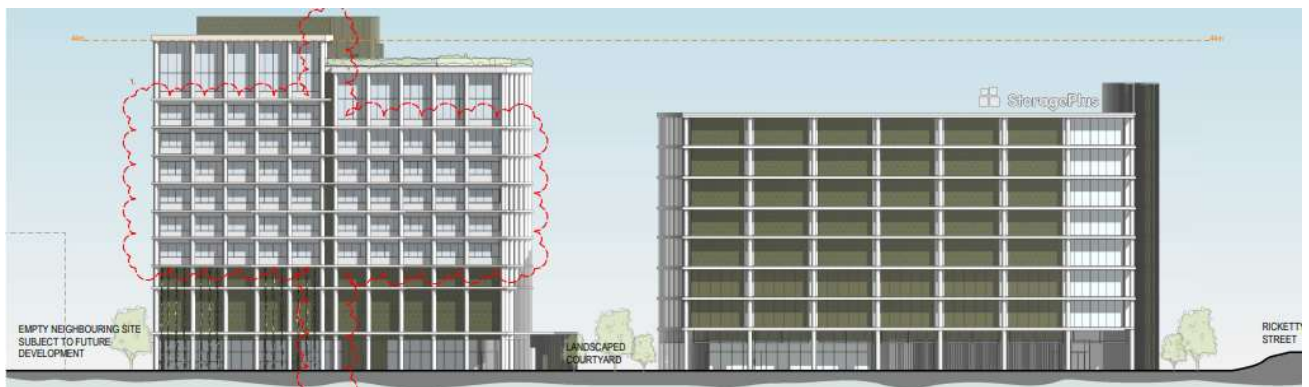


Figure 14: Western elevation (from canal) [supplied by applicant]

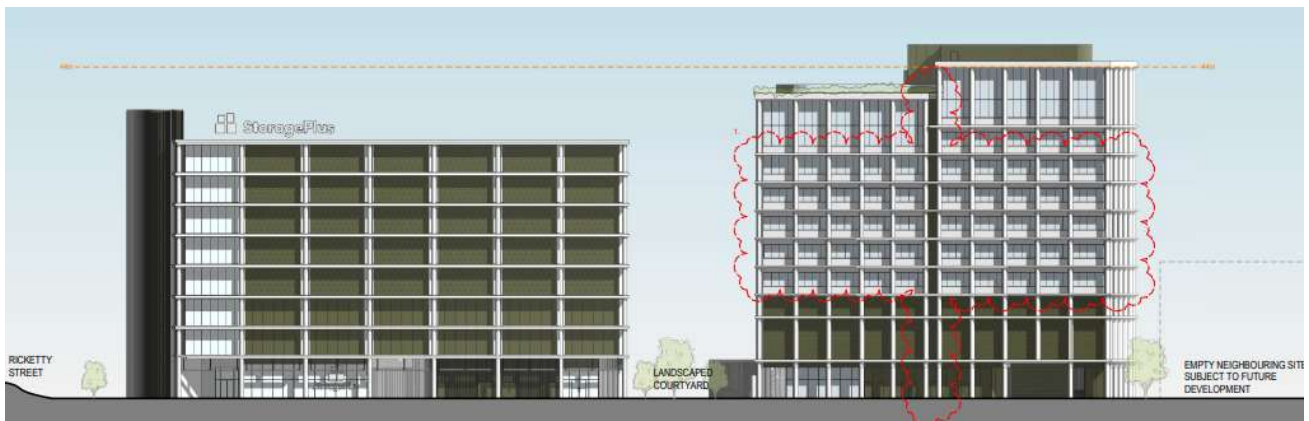


Figure 15: Eastern elevation (from Venice Street) [supplied by applicant]



Figure 16: Northern elevation (from West Connex bridge) [supplied by applicant]

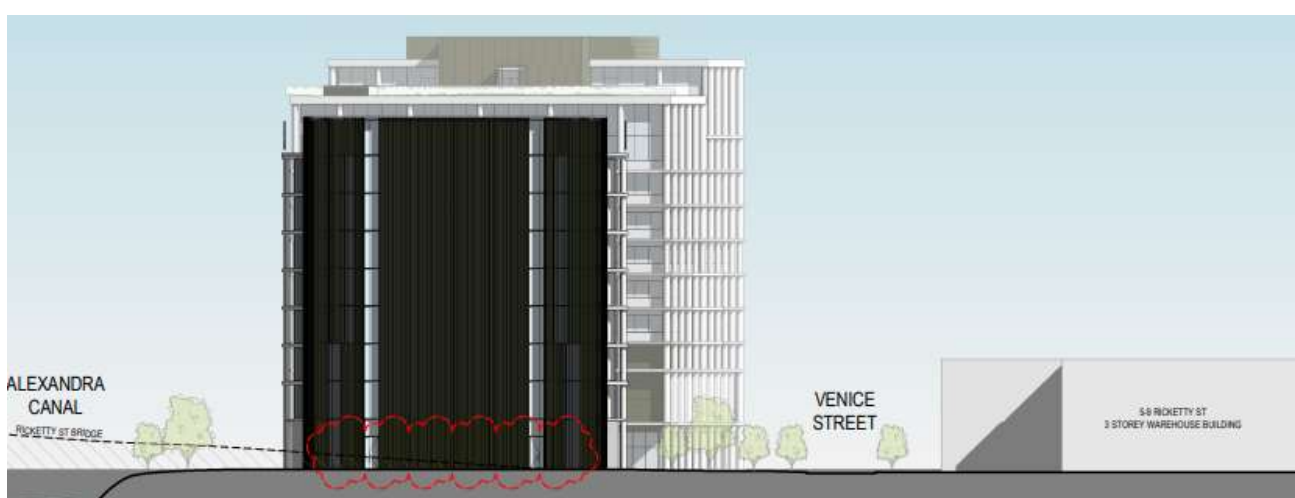


Figure 17: Southern elevation (from Ricketty Street) [supplied by applicant]

Background

The development application was lodged on 19 December 2022. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Date	Event
1 December 2022	The DA was lodged with Council.
8 December 2022	A site inspection was carried out.
14 December 2022	The start of the notification period with the closing date being 18 January 2023. Two submissions were received.
24 January 2023	Reported to the Bayside Design Review Panel (DRP), with the recommendation in the minutes that further amendments were to be made for further consideration at a future date.
16 March 2023	Kick off briefing with the Sydney Eastern City Planning Panel, with the following key issues identified for consideration: <ul style="list-style-type: none"> • Activation of the two buildings along the canal; • Required approvals from City of Sydney for portion of land contained within Stage 2; • Amended plans to be referred back to DRP; and

	<ul style="list-style-type: none"> • Further consideration required for the Section 4.6 assessment for additional height on the stage 2 office building.
5 April 2023	<p>A request for information (RFI) letter was issued to the applicant, requesting additional information on the following:</p> <ul style="list-style-type: none"> • Design excellence • Building height • Activation to public domain • Landscaping • Heritage • Traffic, parking and access; • Stormwater management • Floodplain management • Contamination
21 April 2023	DRP “workshop” with an amended scheme presented, with the recommendation in the minutes that further amendments were to be made for further consideration at a future date.
11 May 2023	<p>Second briefing with the Sydney Eastern City Planning Panel, with the following key issues identified for consideration:</p> <ul style="list-style-type: none"> • Activation of the stage 1 storage building to the canal and Ricketty Street; • Design excellence controls have been strengthened since May 2018 when the previous DA was approved; • Potential conversion of the storage building into offices in the future; and • Potential for peer review by urban design expert to assist with future DRP meeting.
4 July 2023	Amended architectural plans lodged in response to DRP
10 August 2023	Reported to the DRP, with the recommendation in the minutes that it could achieve design excellence subject to further amendments to be made.
24 August 2023	<p>Third briefing with the Sydney Eastern City Planning Panel, with the following key issues identified for consideration:</p> <ul style="list-style-type: none"> • Council to confirm approval requirements for City of Sydney Council in relation to the proposed demolition; • Heritage Office referral to be sent – waiting on additional information; and • Applicant encouraged to positively respond to the Design Excellence Panel comments
20 December 2023	Applicant provided a response to Council's RFI letter.
15 January 2024	Electronic review and response from DRP advising that the amended plans achieve design excellence subject to amendments to Council satisfaction

Site History

DA-2008/10349

This was approved on 17 March 2010 by resolution of the former City of Botany Bay for the following:

- Integrated (Masterplan) Development Application for the demolition of the existing buildings and construction of 3 office buildings, each being 9 storeys in height, with associated car parking and landscaping works

DA-2010/10149

This was approved on 31 March 2010 under delegated authority by the former City of Botany Bay for the following:

- Development Application for the change of use and fitout of warehouse 1 & yard for freight forwarding to operate from 5am until 9pm, 7 days a week for the northern building

DA-2014/10206

This was approved on 27 February 2015 under delegated authority by the former City of Botany Bay for the following:

- Landscaping works along Alexandra Canal frontage and public cycleway Integrated Development Application for landscaping works along Alexandra Canal frontage including public cycleway and pedestrian path, associated with approval under DA No.08/349.

DA-2017/1198

This was approved on 2 May 2018 by the Sydney Eastern City Planning Panel for the following:

- Integrated Development for the demolition of existing structures, consolidation of the two lots into one lot and the construction of two x 7 storey buildings used as self-storage units with associated landscaping, car parking, fencing, signage and the amalgamation of the site from two lots to one

STATUTORY CONSIDERATIONS

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Part 4 Division 5 – Special procedures for integrated development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of this application.

Section 91 – Water Management Act 2000

It is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be a specified controlled activity for two different activities:

- Works on waterfront land (in proximity to Alexandra Canal); and
- Aquifer interference (temporary construction dewatering activity).

With relation to works on waterfront land, the Development Application was referred to DPE Water.

As of the report date, no referral response has been provided.

With relation aquifer interference, the Development Application was referred to Water NSW.

On 21 June 2023, Water NSW advised that no General Terms of Approval were required as the extent of the works would not interfere with the aquifer. However, it advised that if groundwater is encountered during the development and requires removal, the applicant should contact Water NSW immediately and apply for a construction dewatering Water Supply Works approval. If the recommendation was for approval, this would have been imposed as a condition.

Section 58 – Heritage Act 1977

The proposal is Integrated Development in accordance with the Heritage Act 1977 as the development involves works on land within the precinct (i.e. adjacent to an item that is listed on the State Heritage Register, that being the Alexandra Canal.

The Statement of Significance, as sourced from the State Heritage Inventory is fully reproduced below:

Alexandra Canal is of high historic, aesthetic and technical/research significance. Historically, it is a rare example of 19th century navigational canal construction in Australia, being one of only two purpose built canals in the State, with one other known example in Victoria. It has the ability to demonstrate the NSW Governments initiative to create water transport as a means of developing an industrial complex in the Alexandra and Botany areas and exploiting the use of unemployed labour to achieve its scheme.

It played a seminal role in the changing pattern and evolution of the occupation and industrial uses of the local area and nearby suburbs, which included filling large areas of low lying land for development.

Aesthetically, intact original sections of the canal, comprising pitched dry packed ashlar sandstone, provides a textured and coloured finish which is aesthetically valuable in the cultural landscape. It is a major landmark and dramatic component of the industrial landscape of the area, particularly as viewed from the Ricketty Street Bridge and along Airport Drive.

Scientifically, the excavation of the canal provided a valuable contribution to the understanding of the changing sea-levels along the eastern seaboard and the antiquity of the aboriginal presence in the area. Intact original sections of the fascine dyke sandstone construction are rare examples of late 19th century coastal engineering works.

The area has been assessed as having no potential to contain historical archaeological material associated with the development or occupation of the area, either prior to or since the construction of the canal. As a result, the study area would contain no material of historical significance, or material that could contribute to the significance of Alexandra Canal itself.

There are physical works proposed within the area under this listing, that being two separate stormwater discharge points into the Canal, as per Sydney Water requirements.

In this regard, the Development Application was referred to DPIE Heritage.

As of the report date, no referral response has been provided.

Section 4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments (EPI) are relevant to this application:

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- Bayside Local Environmental Plan 2021

State Environmental Planning Policy (Planning Systems) 2021

This SEPP applies to the proposal as it is a modification application of an approved development that is identified as regionally significant development. In this case, pursuant to 3.10 of this SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 of Schedule 6 as the modified proposal is general development with a capital investment value (CIV) over \$30 million. Accordingly, the Sydney Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

This SEPP applies to the proposal. The application seeks consent for the removal of 6 trees across the entire site (3 x Spotted gums, 2 x Jacarandas and 1 x Himalayan cedar). Three (3) of these are within the Venice Street right of way easement whilst the others are located in proximity to the proposed Stage 2 office building.

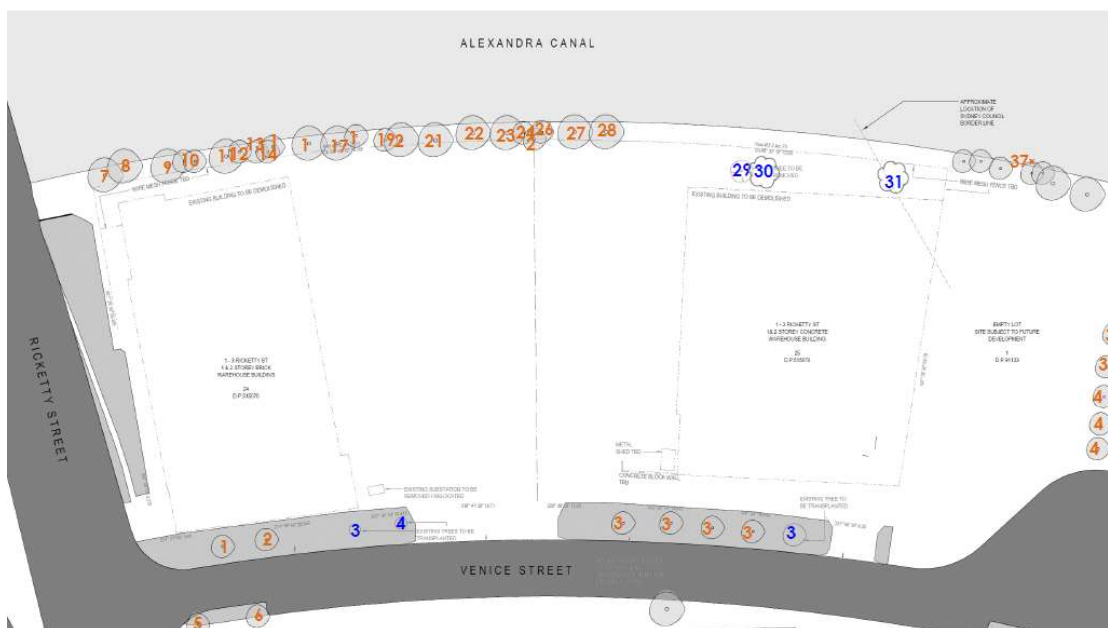


Figure 18: Survey of subject trees, with blue numbers marking trees for removal (Source: Arboricultural Impact Assessment)

An arboricultural impact assessment report prepared by Redgum Horticultural and dated 27 November 2023 has been submitted with the application.

This was referred to Council's Tree Management Officer for assessment.

It has agreed with the recommendation for the removal of these 6 trees, on the basis that for every tree removed three (3) similar trees are to be planted, with a minimum of 15 replacement trees to be planted.

If approval was recommended, adequate replacement planting is proposed in the landscape plan and conditions would have been imposed to ensure compliance with this requirement.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 – Advertising and signage

This Chapter is applicable to the proposed signage. The application includes the following business identification signage for the Stage 1 self-storage building:

2 x roof top signs

- One each located on the western and eastern elevations;
- Supported by two separate black painted steel frames;
- One of these frames contains the corporate logo, and the other “Storage Plus”;
- These signs are marked up as potential for illumination;
- Maximum height of 3.35 metres; and
- Maximum length of 15.685 metres

1 x flush wall sign

- Located at ground floor level on eastern elevation;
- This sign is marked up as potential for illumination;
- Maximum height of 3.23 metres; and
- Maximum length of 8.4 metres

No business identification signage is proposed for the Stage 2 office building.

There is also wayfinding signage located at ground level.

Schedule 5 – Assessment criteria

The following provisions of SEPP 64 are applicable to the assessment of the sign.

Prior to granting consent for signage it must be consistent with the objectives of this SEPP as follows:

- (a) *to ensure that signage (including advertising):*
- (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*

The flush wall sign is considered to be compatible with the desired amenity and visual character of the area.

The two roof top signs in their proposed location are not deemed compatible, and if approval was recommended a condition would be imposed to relocate them to ensure that there are no projecting elements above the roof line.

There is no excessive proliferation of signage. The size of these signs provides effective communication with relation to business identification and is of a high quality design and finish.

- (b) *to regulate signage (but not content) under Part 4 of the Act, and*

Noted.

(c) *to provide time-limited consents for the display of certain advertisements, and*

None proposed.

(d) *to regulate the display of advertisements in transport corridors, and*

Not relevant.

(e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

Not relevant.

Further, the SEPP requires assessment of any sign against the Schedule 1 Assessment Criteria, which is provided following.

1 Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The proposed signage (subject to conditions requiring amendments as stated earlier in this report) is compatible with the existing and desired future character of the locality within the E3 Productivity Support zone and is consistent with the type of signage associated with the identification of a self-storage premises.

The proposed signage will be located entirely within the boundaries of the site and whilst the signs are not considered to be a form of outdoor advertising, the proposed signs are constructed of materials and presents a colour scheme which does not detract from the existing quality of the streetscape.

2 Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The proposed signage is not located in an environmentally sensitive area, heritage area, natural or other conservation area, open space area, waterway, or rural landscape. The proposed signs are to be constructed within the non-residential site surrounded primarily by industrial and office developments. The scale, materials of construction and colour scheme of the proposed sign does not detract from the existing quality of the streetscape and aligns with the branding of the development.

3 Views and vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

All of the proposed signs are, subject to conditions (should approval be granted), mounted to the walls of the buildings. These signs will not compromise any views.

The proposed signage is of an appropriate scale and location which will not dominate the skyline, subject to amendments as specified earlier in this report.

The proposed signage will not obscure any future signage and will respect the viewing rights of other advertisers.

4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

The scale, proportion and form of the proposed signage is appropriate given the context of the site. The signage does not adversely impact upon the existing landscaping.

The proposed signage is of a high quality design and finish that will positively contribute to the streetscape amenity of the locality.

The proposed signage will not create clutter.

There will be no impact on sightlines.

The two proposed rooftop signs does protrude above the building, and as specified earlier in this report a condition would be imposed if recommendation was for approval relating to its relocation below the roofline.

5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The scale, proportion and form of the proposed signage is appropriate as previously discussed. The proposed signage is required to provide building identification for visitors to the complex.

The proposed signage has been designed to be consistent with the built form and to that of surrounding development.

The sign is consistent with the corporate colours and branding of the organisation.

6 Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

None are proposed.

7 Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

The signage has been marked up as “potential for illumination” however will not result in unacceptable glare considering the size and location of the signs.

Should it be required, the intensity of illumination can be modified.

The signs are lit during the night hours to distinguish the premises. It is considered that a curfew is not necessary.

If approval was recommended, conditions would have been imposed to control the lighting, by complying with the relevant Australian Standard and also to only be illuminated during the business’ hours of operation.

8 Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The proposed signage is not considered to have any adverse impact upon the safety for any public road, pedestrians or bicyclists.

The location of proposed signage will not disrupt sightlines from public areas.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The property is located within the Coastal Environmental Area. The site is located approximately 3 kilometres from the foreshore of Botany Bay (at the mouth of Cooks River). There is no significant vegetation within the site or in the public domain. Therefore, it is unlikely that the proposal will have significant impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest.

The proposal has been referred to Council’s development engineer for comments, with concerns raised in relation to both stormwater and flood plain management. This will be discussed in further detail later in this report, however, given that it remains unresolved the proposed development does not currently satisfy the requirements of this Chapter of the SEPP.

Chapter 4 – Remediation of Land

A Preliminary and Detailed Site Investigation, prepared by Alliance Geotechnical and dated 21

October 2022 was prepared and lodged with the application.

It was referred to Council's Environmental Scientist for review.

Data gaps were identified in the investigation, and are detailed below:

- There was limited soil sampling and potential hydrocarbon impact has not been delineated;
- At many sampling locations, samples were only tested at the surface and/or in fill and did not extend to the various natural soil horizons or include all relevant analytes;
- Groundwater was not assessed;
- There was no dangerous goods search undertaken to rule out potential UST's onsite that may not be decommissioned and are acting as a potential source of contamination;
- The minimum number of sampling points for the site size of 1.15ha was 25, however there were only 11 sampling points located in the centre of the site. The justification that this was suitable for site assessment as the middle of the site was only accessible was not supported. The site is 1.15ha and appropriate sampling points and depth of sampling to delineate contamination at the site is required; and
- The investigation report made reference to testing being done in 2017, and subject the site has been used for commercial/industrial uses since this time. These must be assessed to determine whether they have contributed to soil and/or groundwater contamination. PFAS assessment also needs to be undertaken.

Based on the above, the following assessment was required:

- Appropriate soil, soil vapour and groundwater sampling in accordance with NSW EPA Guidelines under the Contaminated Land Management Act must be completed for the entire site.
- Given the proximity of groundwater to the surface and the detection of hydrocarbon odour in several bore logs, groundwater sampling must be undertaken to ensure there is no risk to the future buildings that may be constructed at the site, and analysis for soil vapour F1 and F2 and BTEX down to 2m needs to be undertaken.
- Clarification that there is no onsite issue is needed prior to buildings being constructed across the site.
- The risk of excavation below ground level for rainwater tanks for workers or health impacts in the operation of the site must be assessed.

If the entire site was to be cleared before construction, the above could be imposed as conditions.

However, given that the proposed development is to be staged, an amended Preliminary and Detailed Site Investigation is required to be provided, with additional sampling points within the subject site.

The applicant advised Council that this would not be undertaken.

Accordingly, Council has not been able to complete an assessment of this Chapter, and therefore the proposal does not satisfy this Chapter of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.48 – Development likely to affect an electricity transmission or distribution network

The application is subject to Section 2.48 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with this Section the consent authority must give written notice to the electricity supply authority for the area in which the

development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Ausgrid for comment. No objections were raised to the proposed development. If approval was recommended, it would have been subject to the imposition of standard conditions of consent.

The proposal satisfies Section 2.48 of the SEPP.

Section 2.119 – Development with frontage to classified road

The proposed development is located on land with a frontage to a classified road (i.e. Ricketty Street). In this regard, Section 2.118 Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposed development involves access to and from the site via a series of driveways from Venice Street.

The application was referred to Transport for NSW (TfNSW), and provided concurrence on 19 December 2022, subject to conditions.

The proposal satisfies Section 2.118 of the SEPP.

Section 2.122 – Traffic generating development

As per Schedule 3 of this SEPP, the proposed development is considered to be traffic generating development based on the following:

- Commercial development with a gross floor area greater than 2,500m² with site access within 90 metres to a classified road (i.e. Ricketty Street)

It was referred to the Bayside Traffic Development Advisory Committee on 14 December 2022. The committee recommendations was as follows:

- That Council await comments from TfNSW on the proposed development.
- That the proposed on-site parking provisions are considered acceptable.

A “Traffic Impact Assessment” was prepared by Traffix, dated October 2022.

It has forecasted the following across both buildings:

- 136 vehicle trips per hour during the AM peak period; and
- 103 vehicle trips per hour during the PM peak period.

Given the current arrangements of Venice Street, all exiting traffic will be only via Ricketty Street as only westbound traffic is permitted from Gardeners Road into Venice Street.

The concurrence issued by TfNSW confirmed that they had given consideration to this Section of the SEPP.

The proposal satisfies Section 2.122 of the SEPP.

Bayside Local Environmental Plan 2021

The provisions of the Bayside Local Environmental Plan have been considered in the assessment of the development application as per the table below.

Clause 2.3 – Zone E3 Productivity Support

The subject site is zoned E3 Productivity Support under the provisions of Bayside Local Environmental Plan 2021. The proposal is defined as storage premises and office premises, both of which constitute a permissible development only with development consent. The **objectives of the** zone are:

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.
- To promote redevelopment that is likely to contribute to the locality, including by improving the visual character of the locality, improving access and parking, reducing land use conflicts and increasing amenity for nearby residential development.
- To encourage uses in arts, technology, production and design sectors.
- To promote businesses along main roads and to encourage a mix of compatible uses.

The proposed development is considered to satisfy the relevant objectives of the zone, that being:

- It will provide for warehouse and office type activities;
- The future uses will be compatible and not compete with surrounding local centres;
- Will maintain the economic viability of local centres;
- Will enable other uses that will meet the day to day needs of workers; and
- Will provide development that will improve the visual character of the locality.

Note: Land located within City of Sydney Council

The small northern corner of the site located within City of Sydney Council is zoned E4 General Industrial under Sydney LEP 2012. Refer to assessment of Section 4.15(1)(b) below for detailed consideration of this matter. In summary, the proposed demolition works for the existing building and construction works associated with the bicycle path and landscaping are permissible and will require certain approvals as detailed elsewhere in this report.

Section 2.7 – Demolition

The proposal seeks consent for demolition of the existing buildings and associated structures. In this regard, the proposal satisfies the provisions of this Section.

Section 4.3 – Height of Buildings

A maximum height standard of 44 metres applies to the subject site.

The proposed self-storage building has a maximum height of 38.2 metres (RL 40.7 AHD) which does comply with the provisions of this section.

The proposed commercial facility has a maximum height of 47 metres (RL 49.5 AHD) which does not comply with the provisions of this clause. This is a height exceedance of 3 metres and results in a variation of 6.8%. The non-compliance is discussed in Section 4.6 – Exceptions to Development Standards below.

Section 4.4 – Floor Space Ratio

A maximum FSR standard of 3:1 (GFA of 26,841m²) applies to the subject site.

The proposal has a maximum GFA of 26,004m² across the two buildings and equates to an FSR of 2.96:1 which complies with the provisions and objectives of this section.

Therefore it complies with the provisions and objectives of this clause.

Section 4.6 – Exceptions to Development Standards (Height of Building)

Note: On 1 November 2023, amendments to Section 4.6 came into force. The changes to Section 4.6 result in only minor changes to delete the requirement to satisfy the public considerations of Section 4.15(1)(e) of the EP & A Act 1979. However, the changes include savings provisions where development applications lodged prior to the 1 November 2023 that have not yet been determined are to be assessed as though the amendments have not yet commenced. In this regard, the subject application was lodged prior to 1 November 2023 and therefore, the recent changes have no effect.

The proposed commercial facility has a maximum height of 47 metres (RL 49.5 AHD) which does not comply with the provisions of this clause. This is a height exceedance of 3 metres and results in a variation of 6.8%.

The extent of the variation is shown in the extract below, with the following exceeding the 3 metre height limit:

- 2.85m non-compliance to the uppermost edge of the lift and stair core (height of 46.85m, 6.4% variation); and
- 0.55m non-compliance to the parapet edge of level 11 (height of 44.55m, 1.25% variation).



Figure 19: Extract from Clause 4.6 statement, showing the extent of the variation to the Height of Building development standard

As such, the applicant has lodged a statement under Section 4.6 of the LEP.

Under sub-clause (3), development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by being unreasonable or unnecessary.

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

Applicant's 4.6 statement:

Clause 4.6(3)(a) requires that the written request to vary a development standard demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because:

- the development is consistent with the standard and zone objectives, even with the proposed variation;
- there are no additional significant adverse impacts arising from the proposed non-compliance; and
- important planning goals are achieved by the approval of the variation.

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

Assessment

- The objectives of the development standard and zone objectives will be assessed later in this Clause; and
- The development standard is unreasonable in that it provides a suitable building form, and the extent and location of the non-compliances does not cause any material negative impact on neighbouring properties, such as overshadowing and loss of views

It is considered that this sub-section is satisfied.

(b) there are sufficient environmental planning grounds to justify contravening the development standard

Applicant's 4.6 statement:

1. *The non-compliance is relatively minor*

- (a) The height breach is at its greatest for the plant services enclosure (RL49.5) located above the 12 storey portion of the commercial building when measured from natural ground as is located within the 44m building height standard. It has been held in *Eather v Randwick City Council* [2021] NSWLEC 1075 that a particularly small departure from the actual numerical standard which lacks any material impacts consequential of the departure will be a sufficient environmental planning ground to justify contravening the development standard.
- (b) It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:
 - (i) The extent of the additional height creates no significant adverse overshadowing impacts to adjoining non-residential development or public domain when compared to a compliant building envelope. That is, although the additional height results in a minor degree of overshadowing, this will not adversely impact the amenity of the neighbouring non-residential developments or public domain. As such, the increase to overshadowing caused by the non-compliant elements would be insignificant;

- (ii) The height breach does not result in any adverse additional privacy impacts. As the noncompliant elements are limited to non-habitable services enclosures and building cores, the extent of privacy impacts created by the height breach are negligible. As such, the loss of privacy caused by the non-compliant elements would be insignificant; and
- (iii) The height breach will not result in any significant view loss as the subject site does not contain any significant views across or from the public domain. The maximum height noncompliance is limited and is consistent with the building height of the surrounding locality. Importantly, any incidental view loss from will be a result of a compliant building envelope and height. As such, the extent of view loss caused by the non-compliant element would be insignificant.

2. *The sites flood affectation has artificially increased the building height*

- (a) The proposed development is required to provide a minimum Flood Planning Level of RL3.1 as to achieve the 500mm freeboard above the 100-year ARI flood level. This is approximately 0.5m to 1m above natural ground level and has partly contributed to the extent of non-compliance. Importantly, if the site was not flood affected the non-compliant parapet edge on the uppermost level would comply with the 44m maximum building height standard. That is, only ancillary aspects of the roof and services would breach the height of buildings development standard.

3. *The non-compliance allows for the provision of a rooftop communal terrace*

- (a) The provision of the roof top communal terrace on the commercial building has resulted in the relocation of the plant services enclosure above the maximum building height. That is, the plant and services enclosure can be relocated in place of the communal open space to achieve strict compliance, however, this is an inferior outcome given the limited visual, physical and amenity impacts created by the non-compliance. Furthermore, it is pertinent to note that the communal open space will include a variety of social environments, landscaped elements and vegetation to improve the amenity of future tenants. It would be unreasonable to remove this space to achieve strict numerical compliance.

4. *The non-compliance is a result of the redistribution of bulk and scale*

- (a) The proposed development seeks to strategically redistribute bulk and scale throughout the site. That is, the proposal provides two separate buildings with considerable separation and curtilage around each envelope. The relocation of floor area away from the ground floor plane considerably improves presentation to the public domain, landscaped area and character, and provision of high quality open spaces. That is, strict compliance with the building height standard may be achieved through larger building footprints, however, the distinct benefits provided by the current scheme would be surrendered. Importantly, the proposed non-compliance will not result in any adverse visual, physical or amenity impacts.
- (b) In addition to the above, the proposed self-storage facility is limited to 8 storeys and attains a maximum building height of 38.2m. This is a deliberate urban and architectural design response which seeks to provide a transition of building height from Ricketty Street in a north-eastern direction towards the recently constructed vehicular overpass. This redistributed bulk and scale, which has contributed to the minor height non-compliance, will significantly improve the

developments presentation to the public domain, including Ricketty Street, Venice Street and Alexandra Canal. As such, it would be an inferior urban and architectural outcome to remove commercial floor space and reallocate this to the self-storage facility to achieve strict compliance, despite the minimal impacts created by the proposal.

5. *The non-compliance is entirely consistent with the character of the locality*

- (a) The maximum extent of non-compliance is setback 17.7m from Venice Street, 108m from Ricketty Street, 22.1m from Alexandra Canal and 9.5m to 11m from the north-eastern boundary. Furthermore, the proposal provides an 8.6m setback from the south-eastern façade, 6m from the north-eastern façade, 19.1m to the south-western façade and 8.4m to the north-western façade. These setbacks ensure that the variation is centrally located, will not result in any adverse visual impact when viewed from the public domain or neighbouring properties and will be compatible with the existing and desired character of the locality. Due to the relatively minor area of non-compliance, being a total footprint of 500m² or 5.5% of the site area, the setbacks will ensure that the streetscape impact is minimised.
- (b) The separation distances of the non-compliant elements to the surrounding properties ultimately limits any impact to the character of the locality. As the self-storage facility and predominant built form of the commercial building are compliant with the height standard, the overall bulk and scale of the development will reflect that anticipated by the standards and will also complement the character of neighbouring developments.

6. *The non-compliances achieve a high level of design excellence, based on site analysis*

- (a) The proposal delivers a high quality urban and architectural design which clearly exhibits design excellence, despite the non-compliance. That is, the proposal has undergone in-depth site analysis, numerous iterations and refinement to reach the proposed outcome. The arrangement of bulk and scale and subsequent building height non-compliance have been informed by the existing and desired streetscape character of the locality. As such, the proposed noncompliance is considered the most appropriate response to the streetscape, whilst protecting the amenity of neighbouring properties and public domain.
- (b) The maximum extent of non-compliance is appropriately integrated into the overall building form. The non-compliance will not be visually jarring as the built form is situated within a well-articulated mass. The non-compliant elements are limited to non-habitable elements and are light weight in nature as it relates to the services enclosure. This is incorporated into the contemporary architectural character and will be finished in perforated metal screening to the plant enclosure and cladding to the lift overrun.

7. *Orderly and economic use of land*

- (a) The social benefits of providing additional employment opportunities within a highly sought-after location should be given weight in the consideration of the variation request. It would be a loss to the community (and contrary to the public interest) to deny the variation and require the removal of commercial floor space or the communal roof top open space within a well located and well-designed development. This is a disproportionate response to the relatively minor impacts created by the non-habitable roof elements.

- (b) It is also an inferior outcome to remove commercial floor space and reallocate this to the self-storage facility to achieve strict compliance and therefore remove a considerable portion of employment opportunities within the locality.

8. *The proposal meets aims and objectives of key planning documents*

- (a) The proposed development meets the objectives of the development standard and meets the objectives of the E3 Productivity Support zone;
- (b) The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
 - (i) The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site (1.3(c));
 - (ii) The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly given the minor extent of the variation, the flooding affectation of the site and the redistribution of bulk and scale would lead to a sub-optimal outcome. Insistence on compliance with the height development standard will result in the removal of communal area and commercial floor space which is a disproportionate outcome given the limited impacts of the proposal. Specifically, the additional height does not significantly impact the amenity of surrounding properties and has been designed to address the public domain and ensure the non-compliance is not visually jarring from the public domain or neighbouring properties.

Assessment

- A large portion of the non-compliance sits above the parapet wall, with the lift over run located away from the building line. It is centralised within the building envelope, a minimum of 4.8 metres from the northern elevation, and 8 metres from the eastern and western elevations. On that basis, this does contribute to negative environmental impacts such as overshadowing, privacy and loss of views.
- The raising of the finished floor level is required in order to satisfy Section 5.21 of the LEP. It is agreed that if the site was not flood affected that achieving compliance would be more achievable.
- The rooftop communal open space located on top of level 10 on the southern side of the building provides a positive response to amenity for future staff, and the relocation of services such as lift over runs away from this area maximises the space for the like of landscaping and furniture.
- It is agreed that the redistributed bulk and scale, which has contributed to the minor height non-compliance, will significantly improve the development's presentation to the public domain, and as discussed in further detail later in this report achieves design excellence.
- It is agreed that the area of non-compliance is significantly located away from the property boundary of 5-9 Ricketty Street to the east, and therefore substantially

minimises any negative impacts on that property. It is located approximately 10 metres from the northern boundary of 697 Gardeners Road, which is an undeveloped site and subject to a future application. Given that the neighbouring site is also zoned non-residential, it is anticipated that this non-compliance will not negatively impact on any future development on that site with relation to overshadowing, privacy impacts or loss of views.

- It is agreed that the proposed development will result in the orderly and economic use of the land.
- It is agreed that it satisfies the objectives of both the zone and also the development standard, and will be discussed in further detail later in this report.

Under sub-clause (4), development consent must not be granted for development that contravenes a development standard unless:

- (a)(i) the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3)**

Comment: The applicant's written statement is deemed to adequately cover matters required by sub-clause 3.

- (a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.**

Applicant's 4.6 statement

Clause 4.3 - Height of Buildings Objectives

In order to address the requirements of Subclause 4.6(4)(a)(ii), the objectives of Clause 4.3 are addressed in turn below.

- (a) to ensure that building height is consistent with the desired future character of an area**

The proposed development has been designed as to ensure that the variation to the maximum building height will have no adverse impact to the desired future character of the locality. In this regard, Council do not have any specific desired future character objectives under BLEP 2021. Desired future character is subjective and can be set by the existing, recently approved and proposed buildings within the neighbourhood as considered in *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115. In this regard, the subject site is zoned B7 Business within a locality which contains a mixture of ageing and more recently constructed developments. However, the current standards permit an increase in height and density, generally not seen within the immediate locality and is proposed as part of the subject application.

Directly to the east is an existing part three, part four storey commercial development. Whilst contemporary in nature, this is underdeveloped relative to the controls and does not represent the desired future character of the locality as anticipated by the relevant development standards and controls. Similarly and to the south (on the opposite side of Ricketty Street), there are a mixture of two to three storey developments of varying ages and architectural styles. To the west and on the opposite side of Alexandra Canal are also two storey developments, noting these are subject to lesser building height standards. Whilst not representative of the desired character of the locality, these building have been considered as part of the character

of the locality given the architectural variety they provide to the streetscape.

Following this, the proposal is best described as a mixed-use development including a self-storage facility and commercial building, which is permissible in the zone and is consistent with the desired future character of the locality. Importantly and when considering recent approvals, the following is noted:

- The subject site contains a previous approval for two separate eight storey self-storage facilities under DA2017/1198. These built forms were proposed at a maximum height of 24.3m. Whilst they do not entirely reflect the development standards permitted under the current BLEP 2021, they are greater in bulk and scale than surrounding developments; and
- Nos. 32-34 Ricketty Street (DA-2020/468) was approved for the construction of an 11 storey commercial office development with roof top terrace and above ground parking. This development was designed in accordance with the current planning controls and is compatible with the desired building height of the locality.

Per the above, the character within the locality is undergoing transformation, better reflecting Council's desired character and density. Accordingly, the proposed height encroachment does not result in a building which is incompatible with the desired character and typology of developments throughout the locality. That is, the predominant envelope of both buildings is compliant with the building height standard, which is compatible with the desired future character of the locality. Following this, the non-compliant elements are limited to non-habitable elements which are provided within a high-quality built form that is well articulated and centrally located on the site. The non-compliant elements are designed with considerable setbacks and contemporary materiality, including perforated metal screening and cladding, to ensure that the proposal will respond to the existing and desired future character of the locality.

It is noted that the Desired Future Character is set out under Section 6.2.2 Mascot (West) Business Park Precinct of the BBDCP, as follows:

O1 To encourage and provide for business park development that has an affinity or locational need to be near to Sydney (Kingsford Smith) Airport;

O2 To ensure that the scale, design, material of construction and nature of the development, in the opinion of the Council, contributes positively to the visual amenity and the gateway function of the area;

O3 To allow for the provision and development of an open space and pedestrian corridor along the foreshore of Alexandra Canal;

O4 To ensure that development adjacent to Alexandra Canal assists in achieving improved access visual amenity and quality of landscape in the area;

O5 To ensure that development adjacent to Alexandra Canal minimises the quantity of stormwater runoff, its impact on the aquatic environment and the potential disturbance of contaminated sediments;

O6 To ensure to that development supports an efficient and sustainable transport system with a high level of access to public transport; and

O7 To ensure to that development can withstand the stresses of flooding and sea level rise and does not adversely impact flooding.

Per the above, the proposal provides a building envelope which is reflective of the objectives and desired character of the locality. The proposal provides for a high-quality contemporary development which will positively contribute to the character of the locality, including built form, landscaping and open space. The extent of non-compliance is limited to non-habitable elements and is appropriately obscured as viewed from the public domain. This ensures that despite noncompliance, the proposal is compatible with the desired building pattern in the locality. The burden on insisting on strict compliance would result in the removal of a high-quality communal rooftop area and commercial floor space which would be an unreasonable and unnecessary outcome given the scale of the proposal is compatible with the character of the locality. Additionally, the proposal does not result in any adverse impacts to the amenity of the neighbouring properties as is discussed in objective (b).

The proposal is therefore consistent with objective (a), despite the height breach.

- (b) *to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development*

In terms of visual impact, the bulk, scale and character of the proposed development has largely been addressed in response to objective (a). For the reasons discussed in relation to objective (a), including setbacks, design and materiality, the proposed development, including the non-compliant elements, represents a bulk and scale which is compatible with the existing and desired future character of the locality which minimises any visual impact. Furthermore, when viewed from the public domain and neighbouring properties, the design and siting of the non-compliance will be generally unobtrusive. The considerable visual and physical separation mitigates any potential sense of enclosure or visual impact. Overall, the contemporary design, including modulation, horizontal and vertical elements and fenestration, in conjunction with the modern materials and neutral colour scheme, ensures that the proposal (including the non-compliant elements) is not visually jarring from the streetscape.

In terms of privacy, the height breach does not result in any adverse additional privacy impacts. The areas of noncompliance are limited to non-habitable roof top services and are considerably setback from all boundaries. Furthermore, the subject site is separated from neighbouring developments, which are also non-residential in nature, which mitigates any impact. As such, the parts of the building which do not comply with the height development standard do not result in any further privacy impact beyond a compliant built form.

With regards to overshadowing, the proposed height breach will not result in any adverse overshadowing as opposed to an entirely compliant built form. The shadow diagrams submitted confirm that the proposal will not result in any significant additional overshadowing to the surrounding properties or public domain beyond what is permitted by the increase of density envisaged by the BLEP and BBDCP. That is, despite the site orientation and anticipated density, the proposal will not create any adverse impact due to the non-residential nature of the locality. As such, the additional overshadowing impact as a result of the height breach when compared to a compliant development are insignificant.

In terms of view loss, the proposed variation will not result in any significant loss of views or outlook compared to a building with a compliant height. Importantly, there are no significant views currently enjoyed across the subject site from the public

domain or neighbouring properties and the applicable planning controls effectively anticipate a continuous 44m high built form. Given the non-residential nature of the locality, any loss of views is considered to be entirely reasonable. Accordingly, any potential loss of views created by the non-compliance is considered to be reasonable within the Business Park zone.

Therefore objective (b) is achieved.

- (c) *to nominate heights that will provide an appropriate transition in built form and land use intensity*

The subject site is situated within an area which permits a maximum building height of 44m. Whilst it is noted that a maximum height of 18m is permitted to the north (on the opposite side of Alexandra Canal) and to the north-east (past the overpass), these areas represent different Council areas. In any event, the separation distances between both the compliant built form and non-compliant elements will provide an appropriate transition of built form, density and intensity throughout the locality. As discussed, predominant built form of both buildings complies with the maximum building height standard with only the upper services non-compliant and centrally located to allow the transition of height and density throughout the locality. Given the minor nature of the non-compliance, it will have no adverse impact to this objective being achieved.

Following this, the proposal provides a distribution of built form which includes a reduced building height fronting Ricketty Street, which transitions to the north-east of the site. As detailed in this Variation, this is considered to be the most superior urban and architectural design response given the sites relationship to Ricketty Street Bridge, Venice Street and Alexandra Canal. The redistribution of bulk and scale away from the Ricketty Street frontage (and ground level) improves the developments presentation to the streetscape. As the subject site is separated from the neighbouring IN1 General Industrial zone by Alexandra Canal and the vehicular overpass, an appropriate transition of density and intensity will be maintained. In any case, the extent of non-compliance is limited to non-habitable elements which has no bearing on the perceived built form, density and intensity of the development.

As such, objective (c) is satisfied despite non-compliance.

Objectives of the Zone

Clause 4.6(4)(a)(ii) requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone E3 Productivity Support are as follows:

- *To provide a range of facilities and services, light industries, warehouses and offices.*

The proposal will provide a self-storage facility and commercial building which is permissible in the zone and compatible with the existing and desired future character of the area.

- *To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*

The proposed uses of self-storage and commercial building are permissible with consent and entirely anticipated in the zone. The proposed uses will not detract from existing surrounding uses or uses in the Mascot Town Centre and are entirely

appropriate in this location.

- *To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*

The proposed development incorporates ground level active uses to promote vitality along the Alexandra Canal which will not detract from the Mascot Town Centre or surrounding zones. Similarly, the proposed commercial building will provide an alternative commercial space for tenants that will not detract from the local centre.

- *To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*

The proposed development will provide a mixture of uses which will support a variety of employment opportunities on the subject site. This includes the self-storage facility and mixture of office and retail space within the commercial building.

- *To provide opportunities for new and emerging light industries.*

The proposed uses are permissible with consent but the commercial building has open layouts to promote flexibility for new or emerging light industries if required.

- *To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*

The proposal is not antipathetic to this objective. It is noted that the development will provide for an increase of employment opportunities in the locality which will support other facilities and services and facilities in the locality.

- *To promote redevelopment that is likely to contribute to the locality, including by improving the visual character of the locality, improving access and parking, reducing land use conflicts and increasing amenity for nearby residential development.*

The proposed development will improve the character of the locality by providing a visually interesting and active site that represents a gateway to Bayside Council. The proposal will significantly increase the landscaping on the site and provide a cycleway to link with the existing cycleway and City of Sydney to increase the amenity for residents. It is noted there are no surrounding residential accommodation and therefore no adverse impacts on their amenity.

- *To encourage uses in arts, technology, production and design sectors.*

The proposed commercial building provides open plan, flexible layouts which will be capable of accommodating a variety of uses.

- *To promote businesses along main roads and to encourage a mix of compatible uses.*

As discussed above, the proposed self-storage and commercial building will promote a mix of permissible and compatible land uses on the site.

The proposed development, including those parts of the building that breach the height of buildings development standard, is not antipathetic to the objectives for the zone and for that reason the proposed variation is acceptable.

Assessment

- It is agreed that the proposed development will positively contribute to the future character of the locality, including built form, landscaping and open space.
- It is agreed that the extent of the variation, given its location within the building and distance from the property boundaries will not impact on disruption of views, loss of privacy and loss of solar access to existing development in proximity to the subject site.
- It is agreed, on balance, that it will provide an appropriate transition from the lower existing buildings to the south and east of the subject site, and also in the context of the Stage 1 self-storage building which will have a lower maximum height. It is noted that there is a substantial difference in the maximum building height with the majority of the neighbouring site to the north east at 697 Gardeners Road (i.e. the portion that lies within the City of Sydney LGA). However, that alone is not a sufficient reason to not support a variation to this development standard.
- As established earlier in this report, the proposed development satisfies the relevant objectives of the E3 Productivity Support zone.

On the basis of this assessment, it is concluded that the variation is in the public interest and can be supported.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Section 5.10 – Heritage

The subject site is identified as Heritage Item (I261 – Ricketty Street Bridge), which is an item of local significance.

The Statement of Significance, as sourced from the State Heritage Inventory is fully reproduced below:

The Ricketty Street bridge over Sheas Creek or Alexandra Canal has historic and aesthetic significance, and possible rarity value, in the Botany area, and has the capacity to represent concrete beam bridges of its era within NSW. The bridge makes a valuable contribution to the historic and aesthetic interpretation of the significant Alexandra Canal, and the surrounding industrial area. The current bridge, as a replacement structure for a lift span bridge of 1895, charts the rise in the importance of road traffic in the Botany area, particularly in the form of motor vehicles, and recognition of the steady decline in the importance of water traffic. That the bridge was nevertheless designed to allow for the continued navigability of the canal, recognises the canal's role in the industrial activities in the area. The bridge forms a landmark on the canal and facilitates views of the canal landscape. It is aesthetically compatible with the ashlar lined canal, and is an attractive structure in its own right. The bridge is likely to have rarity value at a local level as an intact item of 1930s road infrastructure, and is capable of representing the key characteristics of the class of concrete beam bridges constructed in the period 1925-1948. It is an excellent example of its type.

The DA was referred to Council's Heritage consultant for review. The following comments were provided:

- Alongside the subject site the Alexandra Canal is intact with original pitched dry packed

sandstone blocks which can be viewed from Ricketty Street Bridge.

- The buildings proposed to be demolished are two storey mid to late 20th century industrial buildings. These buildings have no known heritage value.
- The proposed development is to be setback from the boundary with the canal by 10 metres and 13 metres. The setback from Ricketty Street is 3 metres.
- The proposal includes landscaping to provide connectivity with the canal.
- The increase in height from 7 stories to 8 stories will have negligible impact on the adjoining heritage items.
- Views from Ricketty Street Bridge to Alexander Canal will not be impacted by the development.
- The canal will retain its aesthetic value and no fabric of significance will be impacted.

Based on the above, the proposed development is supported, and thus this Clause is satisfied.

As of the report date, no referral response has been provided from DPE Heritage.

Section 5.21 – Flood Planning

The subject lot is subject to flooding in a 1% Annual Exceedance Probability (AEP). The floor levels of both buildings are therefore required to be raised to a level of RL 3.1.

A Flood Study Report prepared by SGC Consulting Engineers was submitted with the application.

This was reviewed by Council's Development Engineer and the following comments were provided:

- Multiple sections required of the southern building and the podium to be provided and must show the void below the southern building including and not limited to the slab thickness assumed for the development. The sections to show the building being suspended on pier and beam and also show the existing 1200mm diameter pipe going through the property and the existing natural ground levels. Another section is required for the development through the podium.
- The existing scenario hazard model does not reflect the Council TU FLOW model as the existing flood hazard on frontage of Ricketty Street is H3-H4 whilst the applicant has modelled H1 which is not correct. The flooding modelling is to be revised to adapt Council TUFLOW model which represents the correct existing flood hazards.
- The proposed flood modelling is not correct as it shows the proposed hazard in the Ricketty Street as being H1 whilst the existing the scenario is H3-H4. All the flood modelling is to be revised to adopt the Council TUFLOW model and any changes to the model to be stated in the report.
- Further clarification is required on how the void was modelled in TU FLOW.
- Figure A1.11 to be amended to change the hazard difference to change in hazard category.
- Figure A1.19 of the flood report is not correct as the southern building with the void below as dry when the void are provided to allow flood waters to flow through. The flood modelling to be revised to show the accurate level difference. The figure A1.19 is missing the flood level difference mapping and only shows the change in flood extent. The map to be updated with PMF

level afflux mapping.

Based on the above, the proposal has not been designed to adhere to the relevant minimum flood levels and is not satisfactory with respect of the provisions of this clause. Therefore, this is a reason for refusal of this application.

Section 6.1 – Acid Sulfate Soils

The site is identified as being affected by Class 2 ASS. Development overlying these soils requires development consent where the works are required below the natural ground and the water table is likely to be lowered.

The application was accompanied by a Phase 1 and 2 report which provided recommendations which condition an Acid Sulfate Soils Management Plan.

Section 6.2 – Earthworks

The impacts of the proposed earthworks have been considered in the assessment of this proposal.

If approval was recommended, conditions would have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability.

Section 6.3 – Stormwater and WSUD

A full set of stormwater design plans were prepared by S & C Consultants. Two separate discharge points are proposed for the Alexandra Canal.

These plans have been reviewed by Council's Development Engineer, with the following comments provided:

- The concept stormwater plans show 'DRAFT' the applicant is to provide the 'DA issue' CONCEPT STORMWATER PLANS.
- The DRAINS Model is to be provided with the tailwater conditions.

If approval was recommended, the above could have been imposed as conditions.

Section 6.7 – Airspace Operations

The site is located within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.23 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application seeks approval for the redevelopment of the site to a maximum overall building height of 47 metres Australian Height Datum (AHD).

The application was referred to Sydney Airports Corporation Limited who did not object to the proposal on site to a maximum height of 51 metres AHD.

The proposal is satisfactory with respect of the objectives and requirements of this clause.

Section 6.8 – Development in Areas subject to Aircraft Noise

The subject site is located within the 25 to 30 ANEF Contour, thus subject to adverse aircraft noise.

As per sub-section (3), the consent authority must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015 for office and retail premises in areas located in an ANEF contour of 25 or greater.

A Noise and Vibration Impact Assessment was prepared E-LAB Consulting, dated 27 October 2022.

The following noise and vibration assessments were conducted as part of this noise and vibration impact assessment:

- Noise impact from Kingsford Smith Airport on the proposed development
- Noise and vibration impact of mechanical plant and equipment serving the proposed development on surrounding noise and vibration sensitive receivers
- Noise impacts of additional traffic on surrounding local roads generated by the proposed development

Mechanical plant used on the site will need to be designed to comply with the noise emission and noise intrusion criteria in the detailed design stage of the project. Controlling noise from plant and equipment would include a combination of enclosed plant rooms, silencers, lined ductwork, acoustic barriers, acoustic louvres and the selection of quiet plant where required.

Current regulations and standards associated with the development have been reviewed and assessed in accordance with existing site constraints. The construction standards have been provided to satisfy the local council and other relevant standards.

Having given regard to the assessment conducted within this report, it is the finding of this noise and vibration impact assessment that the proposed development is compliant with the relevant noise and vibration criteria controls for this type of development, with the recommended design consideration provided in this report.

If approval was recommended, the implementation of this report would have been imposed as a condition of consent.

Section 6.11 – Essential Services

Services are generally available on site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers with regard to any specific requirements for the provision of services on site.

Section 6.10 – Design excellence

The proposed development is subject to the requirements of this clause. In accordance with the requirements of Section 6.10(4), the application was reviewed by the Design Review Panel (DRP) on three separate occasions:

- 27 January 2023
- 21 April 2023
- 10 August 2023

At the third meeting, the DRP made the recommendation that subject to further amendments, the proposed development would achieve design excellence. These further amendments were as follows:

- The relationship between the two buildings can be strengthened, such as the improved design and material relationship for the buildings, staggering the height difference for the Stage 2 building from one to two storeys, modifications to the gap in Stage 2 or changes to the façade gardens in Stage 2;
- Reconsideration is to be made of the façade gardens as viewed on the southern elevation of the office building with alternative arrangements;
- The glazed slots on the storage building's fire stairs can be extended to ground level to provide, light and enhanced passive surveillance to the adjacent path;
- A reduction of hard surfaces within the central through site link between the two buildings, which can be improved with large canopy trees to deliver a strong civic space;
- Sustainability commitments including solar array capacity are to be provided for review;
- The provision of indigenous themed public art work;
- A site wide signage strategy to inform placemaking, arrival and wayfinding; and
- Main lobby area to the office building is to be relocated to be more active to Venice Street.

The applicant provided the following by way of a response in the amended plans that were received on 20 December 2023:

- Revised architectural plans for the Stage 2 office building where the floor to floor heights in the Stage 2 building have been reduced from levels 4 to 10 to enable a further 350mm difference in height between the two forms. This has resulted in a revised floor to floor height of 3600mm throughout this building.
- The façade gardens have been retained;
- The revised architectural plans extend the glazed slots to ground level of Stage 1 building with glass egress doors and internal illumination.
- The extent of soft landscaping in the central through link has been increased, and in particular adjacent to the Stage 1 building.
- No further detail on sustainability commitments has been provided above what is already demonstrated on the plans.
- No further detail on indigenous themed art work has been provided. The applicant has stated that at the time of lodgment, the draft framework for Connecting with Council 2020 was in place and was not a mandatory consideration. Therefore, the design was already established prior to the release of the Connecting with Country 2023 document.

The applicant has stated an intention to engage an indigenous consultant post DA approval, and will adopt "Country" as the theme to inform the landscaping and potential public art. Three locations will be set aside for aboriginal art and/or sculpture to be provided where deemed appropriate, and have been marked up accordingly on the amended landscape plans, located within the through site link area.

- Details on signage has been provided.

- The front lobby area on the southern façade of the Stage 2 office building has been revised to be more visible from Venice Street when viewed at or around the Stage 1 self-storage building.

The amended plans were reviewed by the DRP and on 15 January 2024, advised that on balance the plans now achieve design excellence, with the following comments provided:

- **Height:** The Panel does not support the breach of height proposed, as it is unnecessary and liable to encourage similar breaches of height on adjacent sites. It will also be highly visible on this exposed site, due to its Canal edge location and proximity to the Ricketty Street bridge. While it is up to Council to judge the veracity of the Section 4.6 provided, it is noted that the requirements of Design Excellence do include the proposal's compliance with DCP and LEP requirements.
- **Design with Country:** The proposal does not exhibit a meaningful approach to Country and is not clear on its commitments. While the applicants have now committed to engaging with Indigenous/ First Nations Elders to advise on public art for three locations, this should be part of a more comprehensive process that may recommend additional measures. It is therefore recommended that a condition of consent be drafted requiring a description of this process, including the engagement of specific Indigenous/ First Nations consultants, preliminary timelines and specific draft commitments.
- **Sustainability:** The proposal does not include a sustainability report including clearly quantified sustainability commitments. These commitments should be made at DA stage. Therefore, a sustainability report should be prepared with clearly documented sustainability measures to be included with DA documentation.
- **Signage:** For a project of this scale, a comprehensive signage strategy should be articulated at DA Stage. As this has not been done, a comprehensive signage strategy must be required by a specific condition of consent. Signage must be WHOLLY integrated into the built form and not sit atop (this has been raised and discussed in detail before). Any proposed pylon signage should be shown and integrated in the proposal. Way finding signage locations should be nominated and clearly located.
- **Staging:** The staging plans submitted do not explain what interim measures are proposed along the northern boundary of the proposed first stage of the development. Instead the stage one plans would suggest that that final paved levels and fragments of future planters will be constructed along the boundary, which is simply not feasible. Interim fencing and retention details are therefore required, either with DA documentation or as a condition of consent.
- **Property to the north of Stage 2:** As noted previously, part of the site falls on land within the City of Sydney LGA. The Panel therefore assumes that the proposal requires approval from the City of Sydney as well as Bayside Council. Planning advice regarding this matter is required as soon as possible to clarify and address this matter. Nor is it clear how property to the north of the subject site is likely to be developed, or to what scale, density and for what purpose. This has been raised on a number of occasions. More information is required regarding the planning controls on this site to verify that the proposal will not unnecessarily constrain future development potential.

Further to these comments, Council provides the following by way of response and/or follow up:

- **Height:** As discussed earlier in this report, Council is supportive of the variation to the building height for the Stage 2 office building.

- **Design with Country:** If the recommendation was for approval, Council would impose a condition relating to requiring a description of this process, including the engagement of specific Indigenous/ First Nations consultants, preliminary timelines and specific draft commitments.
- **Sustainability:** The applicant was requested to provide further commitments prior to the finalisation of the assessment, however, this was not provided. On balance, the insufficient detail is not considered to be a suitable reason for refusal and accordingly if the recommendation was for approval, Council would impose a condition relating to providing further sustainability commitments.
- **Signage:** If the recommendation was for approval, Council would impose a condition relating to a comprehensive signage strategy. As discussed earlier in this report, Council is not supportive of the proposed roof top signs and if recommendation was for approval a condition would be imposed relating to the relocation of these signs to be integrated within the built form.
- **Staging:** If the recommendation was for approval, Council would impose a condition relating to interim fencing and retention details are therefore required, either with DA documentation or as a condition of consent.
- **Property to the north of Stage 2:** Historically, this neighbouring site contained the southern end of a large commercial building now known as Southend Lane on 63 Campbell Road in Alexandria. A large portion of this building was demolished in late 2017 / early 2018 as part of an acquisition for the WestConnex (M8) project to facilitate the construction of the Gardeners Road extension and bridge over Alexandra Canal to connect to the St. Peters Interchange.

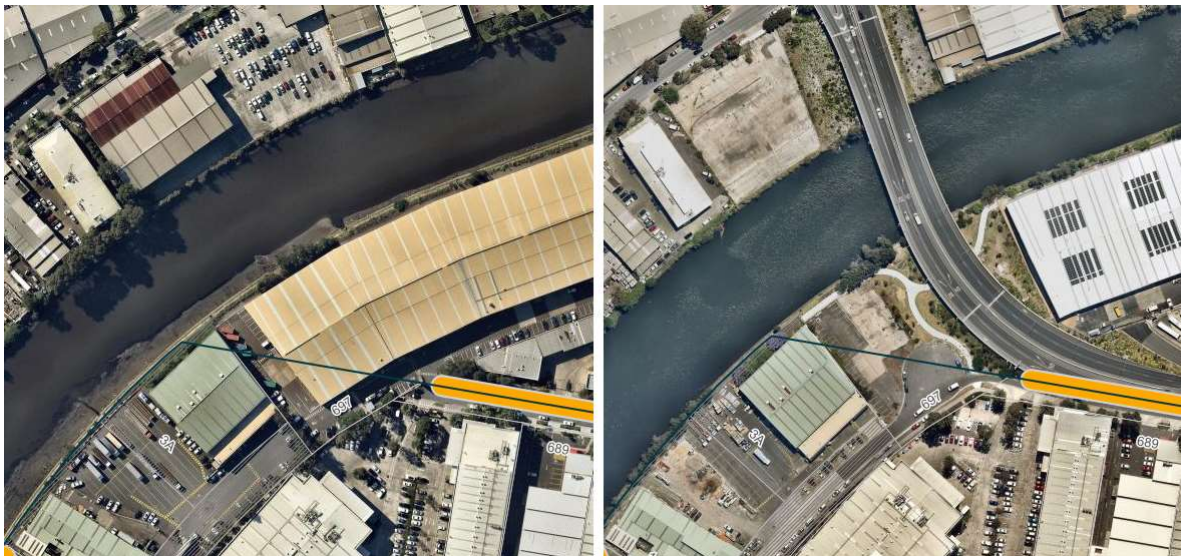


Figure 20: Aerial on left captured on 27 March 2017, to the right 23 October 2023 (Source: Bayside IntraMaps / Nearmap)

Upon the completion of the project in 2020, further embellishment works were undertaken around the bridge, which incorporated the construction of a stage of the cycleway (Alexandra Active Transport Corridor), including a connection to Gardeners Road / Venice Street and built along the canal foreshore to the property boundary of the subject property.

A remaining portion immediately to the north east of the subject site remains, currently under ownership of TfNSW, and likely to be sold off at a later date.

The applicant was requested to provide plans that demonstrated how this neighbouring site, identified as 697 Gardeners Road, was to be developed and to demonstrate that it would not be isolated prior to the finalisation of the assessment, however, this was not provided.

Approximate measurements have been made, using the edge of the fenced area along the west and north, as well as the street edge with Venice Street and property boundary with the subject site as a guide. It has an approximate width of 37 metres, a maximum depth of 66 metres, minimum depth of 41 metres and an area of 1,930m². A portion lies within Bayside Council but a larger portion sits within City of Sydney. Any future DA will require to reconcile with different land use zones (zoned E4 General Industrial under Sydney LEP 2012), development standards (18 metre Height of Building and 1.5:1 Floor Space Ratio under Sydney LEP 2012, both of which are significantly less than what is mapped under the Bayside LEP) as well as different DCP controls, such as setbacks and landscape requirements.

However, based on the above, insufficient detail has been provided by the applicant to ensure that this can be satisfied, and therefore it will be used as a reason for refusal.

In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

DRP comments

Achieved.

Council assessment

Agreed. Significant detail has been provided in the architectural package with relation to building materials, articulation and a façade study which demonstrates their likely appearance during both day and night.

- (b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*

DRP comments

Achieved generally; refinements required to Stage 2 built form, extent of hard paving, central plaza and Stage 2 entry.

Council assessment

Agreed. The amended plans have provided further refinements to the through site link with regards to an increase in soft landscaping. Overall, the design and appearance will improve the quality and amenity of the public domain. If approval was recommended, further detail would be required as to how the developed Stage 1 interface interacts with the undeveloped Stage 2 with relation to interim fencing.

- (c) *whether the development detrimentally impacts on view corridors,*

DRP comments

Achieved generally; refinements required to Stage 2 built form and the legibility of the overall

composition from adjacent heritage bridge, new Canal path and bank opposite.

Council assessment

Agreed. As specified earlier in this chapter, the additional height of the proposed Stage 2 building will not give rise to any detrimental impacts on view corridors.

- (d) *the requirements of any development control plan made by the Council and as in force at the commencement of this clause,*

DRP comments

Achieved generally; however, Connecting to Country process has not been commenced, which is a significant omission.

Council assessment

The proposed development is generally compliant with the Botany Bay DCP 2013 and will be detailed further later in this report.

Connecting to Country is not a prescribed DCP control, however, as discussed earlier in this report, if approval was recommended a condition would be imposed relating to further detail to satisfy this requirement.

- (e) *how the development addresses the following matters:*

- (i) *the suitability of the land for development, existing and proposed uses and use mix,*

DRP comments

Suitable.

Council assessment

As discussed earlier in this report, the proposed development does not satisfy the relevant requirements relating to contamination and flooding, and therefore it cannot be concluded that in its current form is suitable.

- (ii) *existing and proposed uses and use mix*

DRP comments

Suitable.

Council assessment

Agreed.

- (iii) *heritage issues and streetscape constraints,*

DRP comments

Achieved.

Council assessment

As specified earlier in this report, the proposed development is considered to appropriately respond to the local listed item (Ricketty Street bridge).

As of the report date, no referral response has been provided from DPE Heritage.

The most significant streetscape constrain relates to the Ricketty Street frontage and the change in levels with the roadway's eastern approaches to the bridge obscuring a portion of the ground plane when viewed from the southern side. It is considered that an appropriate response has been provided by way of the retention and enhancement of the footpath to connect to the proposed cycleway, as well as appropriate landscaping.

- (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

DRP comments

Achieved generally; refinements required to Stage 2 built form, the legibility of the overall composition and relationship with future built form to the east.

Council assessment

Refer to earlier in this section with the report with relation to 697 Gardeners Road.

- (v) *bulk, massing and modulation of buildings,*

DRP comments

Achieved generally; refinements required to Stage 2 built form, the legibility of the overall composition and relationship with future built form to the east.

Council assessment

Both proposed buildings provides acceptable bulk, massing and modulation of buildings, with significant detail provided through the architectural package.

- (vi) *street frontage heights,*

DRP comments

Achieved generally; however the breach of height proposed appears not to result in any public benefit. A strong and articulate case should be made for any breach in height, clearly explaining its necessity and superior benefits to a complying height.

Council assessment

As specified earlier in this report, the variation to the height for the Stage 2 building is considered acceptable.

- (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*

DRP comments

Further detailed commitments are sought.

Council assessment

The proposed development does not give rise to unacceptable impacts relating to overshadowing, wind and reflectivity.

As discussed earlier in this report, if approval was recommended a condition would be imposed relating to providing additional detail relating to sustainability measures.

- (viii) *the achievement of the principles of ecologically sustainable development,*

DRP comments

Further detailed commitments are sought.

Council assessment

As discussed earlier in this report, if approval was recommended a condition would be imposed relating to providing additional detail relating to sustainability measures.

- (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*

DRP comments

Acceptable.

Council assessment

The proposed development provides suitable pedestrian and cycle connections to and within the site, as well as suitable circulation within both proposed buildings.

- (x) *the impact on, and any proposed improvements to, the public domain,*

DRP comments

Acceptable.

Council assessment

The proposed development will substantially improve the public domain by way of activating the Alexandra Canal as well as the creation of a new through site link between the Canal and Venice Street.

- (xi) *achieving appropriate interfaces at ground level between the building and the public domain,*

DRP comments

Acceptable.

Council assessment

The proposed development will provide ground floor activation to both the Alexandra Canal by way of the construction of a cycleway, as well as creation of a through site link

between the Canal and Venice Street. Both buildings propose ground floor commercial tenancies which will further enhance activation to the cycleway and through site link.

(xii) *excellence and integration of landscape design.*

DRP comments

Further design development and resolution is sought.

Council assessment

The amended landscape plans have been assessed by Council's Landscape Architect and deemed suitable. This will be discussed in further detail later in this report.

Based on the above assessment, the proposed development in its current form does not achieve design excellence.

Section 4.15(1)(a)(ii) – Provisions of any Draft EPI's

Sustainable Buildings SEPP 2022

The Sustainable Buildings SEPP commenced on 29 August 2022. Amendments to the Regulation commenced on 1 October 2023. However the SEPP was a draft during assessment of this application.

The new State Environmental Planning Policy (Sustainable Buildings) 2022 encourages the design and delivery of more sustainable buildings across NSW. It sets sustainability standards for residential and non-residential development and starts the process of measuring and reporting on the embodied emissions of construction materials.

The SEPP would normally apply to the proposed development however savings and transitional provisions have been included so that the SEPP will not apply to development applications or modification applications that have already been submitted, but not yet determined by the commencement date. In this regard the SEPP does not specifically apply to this application and the proposal is satisfactory in this regard.

Section 4.15(1)(a)(iii) – Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

As per Part 2.8 of the DCP, this application was made before the commencement date (10 April 2023), and hence the assessment of this modification application is to be made against the Botany Bay DCP.

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A.2 – Parking Provisions of Specific Uses

All proposed car parking is to be provided on site.

Self-storage building

The DCP specifies the rate 2 spaces plus 1 space per 80m² GFA' for self-storage units.

The total GFA for the self-storage is 14,042m² hence 176 parking spaces is required.

A total of 15 parking spaces have been proposed to service this building, which is a deficit of 161 spaces.

A Traffic Impact Assessment prepared by Traffix, dated October 2022 was lodged with the application.

It recommended the implementation of parking rates in the Self-Storage Facility Traffic and Parking Study (SSFTPS) that was conducted by Aurecon Australia Pty Ltd in 2009. The study was undertaken to identify the typical vehicle parking demands and trip generations of self-storage developments.

The parking study recommended parking rates based on maximum leasable area (MLA) of storage units and provided a range of parking rates based on the size of the facility. For facilities where the MLA is between 6,000m² and 9,000m² the following parking rates would apply:

Office Parking	3
Storage Area Parking	5
Staff Parking	2
Trailer Ute Parking	1
Total	11

This has been reviewed by Council's Development Engineer and the proposed number of car parking spaces is deemed appropriate and exceeds (superior to) the requirements of the SSFTPS.

If approval was recommended, it would be also recommended that this variation be supported by the Sydney Eastern City Planning Panel.

Office building

The DCP specifies the rate of 1 space per 40m² of GFA for commercial premises, including business premises, office premises and retail premises, within 800m of Mascot train station.

The total GFA for the office building is 11,952m² hence 299 parking spaces is required.

A total of 150 parking spaces have been proposed to service this building, which is a deficit of 149 spaces.

The proposed office building has adopted the rate of 1 space per 80m², which was outlined in the Mascot TMP study and adopted for an approved development at 32 Ricketty Street.

It is also to be noted that this rate has been adopted as the rate for the Bayside DCP 2022 that came into force after this DA was lodged.

This has been reviewed by Council's Development Engineer and the proposed number of car parking spaces is deemed appropriate and exceeds (superior to) the requirements of the SSFTPS.

If approval was recommended, it would be also recommended that this variation be supported by the Sydney Eastern City Planning Panel.

Bicycle parking

In every new building, where the floor space exceeds 600m² GFA (except for houses and multi-unit housing) bicycle parking equivalent to 10% of the required car spaces or part therefore as shall be provided. There is sufficient bicycle parking provided in both buildings to satisfy this control.

Part 3A.3.1 – Car park design

All off-street parking facilities are designed in accordance with the current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off-street commercial vehicles facilities (including parking) is in accordance with AS2890.2.

All vehicles will be able to enter and exit the subject site in a forward direction through the two driveways on to Venice Street.

A swept path analysis shall be provided for maneuvering of commercial vehicles.

Pedestrian entrances and exits are separated from vehicular access paths.

The minimum width of access driveway for non-residential development shall be designed to accommodate the largest commercial vehicle accessing the site in accordance with AS2890.2, that being a medium rigid vehicle (MRV).

A total of 4 accessible parking spaces have been provided across both buildings (1 in the self-storage building and 3 in the office building).

Waste collection points for both buildings are located at the ground floor for both buildings.

Part 3A.3.2 – Bicycle Park Design

The proposed bicycle parking is to be considered to be secure and located undercover with easy access from the street and building entries.

No end of trip facilities have been proposed for either of the two buildings. If approval was recommended then a condition would have been imposed to ensure that this is included within both buildings (including at least one shower and change room).

Part 3A.3.3 – Traffic and Transport Plans and Reports

Refer to SEPP assessment earlier in this report.

Part 3A.3.4 – On-Site Loading and Unloading Facilities

Each of the two buildings satisfies the service bay requirements, with each providing parking for medium rigid vehicles (MRV).

Part 3C – Access and Mobility

The proposal has been designed so that the development is accessible from the public domain and internally. Both proposed buildings provides levelled access from the footpath and access to the levels above through the lift core.

Both proposed buildings provide accessible car spaces and it is located in close proximity to the lifts.

The applicant has provided an BCA Compliance Report prepared by J Squared Engineering and dated 25 October 2022.

This report has identified several non-compliances, in which the recommendation was for the need to be addressed via a change in the architectural details or via a performance solution or fire-engineered solution.

If approval was recommended, appropriate conditions would have been imposed within the draft Notice of Determination. The proposal is satisfactory and complies with the objectives of the DCP.

Part 3D – Signage

Refer to SEPP and LEP assessments earlier in this report.

Part 3G – Stormwater Management

An assessment against stormwater management has been discussed in the LEP section of this report.

Part 3H – Sustainable Design

An assessment against stormwater management has been discussed in the LEP section of this report.

Part 3I – Crime Prevention, Safety and Security

This application was referred to the NSW Police to undertake an assessment against the relevant provisions under Crime Prevention Through Environmental Design (CPTED). It has stated no objections to the proposed development, subject to the imposition of conditions, which would have been imposed if the recommendation was for approval.

The proposed development provides opportunities for active and passive surveillance to both Ricketty Street and also Venice Street.

The proposed landscaping will not restrict safety, visibility and legibility from the public domain and within the site.

If approval was recommended, conditions would have been imposed relating to appropriate lighting.

Part 3J – Aircraft Noise and OLS

An assessment against these two matters has been discussed in the LEP section of this report.

Part 3K – Contamination

An assessment against contamination has been discussed in the SEPP section earlier in this report.

Part 3N – Waste Minimisation and Management

A Waste Minimisation and Management Plan was submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

The proposed waste arrangement and report was reviewed by Councils' waste officer who had no objections to the proposal.

If approval was recommended, conditions would have been imposed in the Draft Notice of Determination.

Part 6.2.2 Mascot (West) Business Park Precinct

A Workplace Travel Plan was prepared by Traffix, dated October 2022. It recommended a number

of actions to manage travel demands being generated as a consequence of the proposed development, specifically to seek to reduce the reliance on private vehicle trips. This was reviewed by Council's Development Engineer and deemed acceptable. If the recommendation was for approval, a condition would have been imposed relating to the imposition of the recommendations in this Plan.

The proposed development, and in particular the proposed Stage 1 self-storage building will improve the appearance of buildings to Ricketty Street, which serves as a gateway to the local government area as well as to Sydney Airport.

An assessment against flooding has been discussed in the LEP section of this report.

The proposed buildings are setback greater than 10 metres from the edge of the Alexandra Canal.

A referral was sent to Sydney Water, who are the owners of Alexandra Canal. They advised no objections to the proposal, subject to conditions relating to stormwater design. They would have been imposed if the recommendation was for approval.

An assessment against aircraft noise has been discussed in the LEP section of this report.

Part 6.3.2 – Building and Site Layout

Further assessment on landscaping and tree removal is made in other sections of this report.

The proposed development has been assessed against the relevant objectives and controls under this Part, and is detailed further in the below dot points:

- The site analysis is considered to be adequate.
- The proposed development addresses both Ricketty Street and Venice Street.
- No long blank walls are proposed, with regular modulation of the façade demonstrated.
- The building setbacks to Denison Street are nominated as deep soil zones, is under the minimum prescribed size.
- Internal spaces are designed to satisfy the operational requirements of any future uses on site.
- Basic amenities are proposed that can cater for staff, including a kitchen.
- Adequate waste removal handling and minimisation facilities are provided on site.
- Car parking and loading areas are provided within the site.
- An outdoor recreation area is proposed in the Stage 2 office building.
- The building entrances to both buildings are clearly defined and located so that visitors can readily distinguish the public entrance.
- The proposed development provides an adequate number of openings at each level to allow for natural light and ventilation.

Part 6.3.4 – Building Design and Appearance

The proposed development has been assessed against the relevant controls under this Part, and is detailed further in the below dot points.

- Substantial detail has been provided with relation to a schedule of finishes and a detailed colour scheme for all external walls.
- The proposed development demonstrates a contemporary design.
- Windows are proposed along both frontages to engender a feeling that it is being overlooked.

Part 6.3.5 – Setbacks

Below is a compliance table based on the proposed setbacks:

Control	Proposed	Compliance
Front to a classified road – 9 metres	3 metres minimum for Stage 1 self-storage building	No, see Note 1
Side adjoining a non-residential use – 2 metres	3 metres minimum for Stage 2 office building	Yes
Rear – Nil to 3 metres	Greater than 3 metres to Alexandra Canal	Yes

Note 1 – Front setback

The Stage 1 self-storage building is setback a minimum of 3 metres nearest to the Venice Street intersection, however, this tapers out further towards the Alexandra Canal foreshore line.

It is to be noted that the minimum of 9 metres is not observed to Ricketty Street. The applicant has provided the following justification to this variation:

- *The Venice Street boundary is a total length of 129.415 metres whilst Ricketty Street has a boundary length of 63.91 metres. Due to the substantially greater length of Venice Street, it is a superior outcome to designate this street as the primary frontage. The greater setback to this frontage will improve the streetscape character of the site, maximise landscaping and enable separate vehicular and pedestrian access in a safe manner not possible from Ricketty Street. It would be inferior to provide a 3 metre setback to the entirety of the Venice Street frontage and 9 metres to Ricketty Street which would create a greater visual and physical streetscape impact.*
- *Venice Street is provided as the primary frontage given vehicular and pedestrian access to the development is provided from this frontage. The greater setback to this frontage improves the pedestrianized scale and creates an appropriate interface to the public domain.*
- *Further, the increased setback to Venice Street will provide visual and physical connections to Alexandra Canal, which is reinforced through the central civic area.*

This argument is considered acceptable. Furthermore, the reduced setback to Ricketty Street can be absorbed by way of the differing grades created by the eastern approach to the Ricketty Street bridge which will obscure the ground plane. It also satisfies the relevant objectives of this section of the DCP, that being that it minimizes the impact of the development on the surrounding areas and creates a pleasant environment within and external to the site.

Part 6.3.6 – Parking and Vehicular Access

Refer to the Part 3A assessment made earlier in this report.

Part 6.3.8 – Site Facilities

The architectural plans indicates the location electricity sub-stations along the Venice Street frontage.

Part 6.3.9 – Landscape

The total deep soil landscaped area nominated on the landscape plans is 1,941.62m², which represents 21.7% of the site area. Numerically, it does comply with the 10% minimum requirement in this Part of the DCP.

Further to the above, the landscape plans were reviewed by Council's Landscape Architect, with the following comments provided:

- Design with Country = Connecting with Country – a condition to be included in the consent, if not pre determination: Aboriginal Traditional Custodians and knowledge holders transforming the built environment to promote sustainability, resilience, and community health. The connection to country shall be express in education element in areas of public access along the canal pedestrian access, and include art elements.
- Sustainability report
- Signage strategy within the site, and in the entrance of the site links to public spaces shall also include signal in accordance with Council Signage manual. (2 conditions one internal and one external) Refer to lot E DA-2021/1 for conditions to use as a reference.
- Venice Street frontage shall include new street trees of minimum 200 litres pot size. Street trees shall be in scale with the built form, are to be planted at minimum distance to maximise the canopy cover in the public domain.
- Area between Ricketty Street and the boundary site shall be included in the landscape scope of works of the frontage works application. Consent will include some details of works that will be required to be done:
 - Side of walkway will include a retaining wall, 500mm heigh approx. within the development site.
 - Area behind the wall to the back of kerb of Ricketty street shall be redesign, and include new landscape treatment. Further retaining walls shall be included if where required.
 - Lighting will be included in pedestrian link within the development site.

These could have been imposed as conditions if approval was recommended.

S4.15(1)(a)(iiia) - Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no proposed or existing planning agreements that relate to this proposed development.

S4.15(1)(a)(iv) - Provisions of regulations

Sections 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Section 92 requires the consent authority to consider the provisions of *AS 2601:1991 Demolition of Structures* when demolition of a building is involved. In this regard a condition has been imposed in the draft Notice of Determination to ensure compliance with the standard.

All relevant provisions of the Regulations have been taken into account in the assessment of this

proposal.

S4.15(1)(b) - Likely Impacts of Development

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed are as follows:

Portion of land located within City of Sydney

A portion of the subject site (approximately 159m²) is located in the neighbouring local government area (LGA) of the City of Sydney.

It is identified as 1-3 Ricketty Street in Alexandra according to the City of Sydney records.

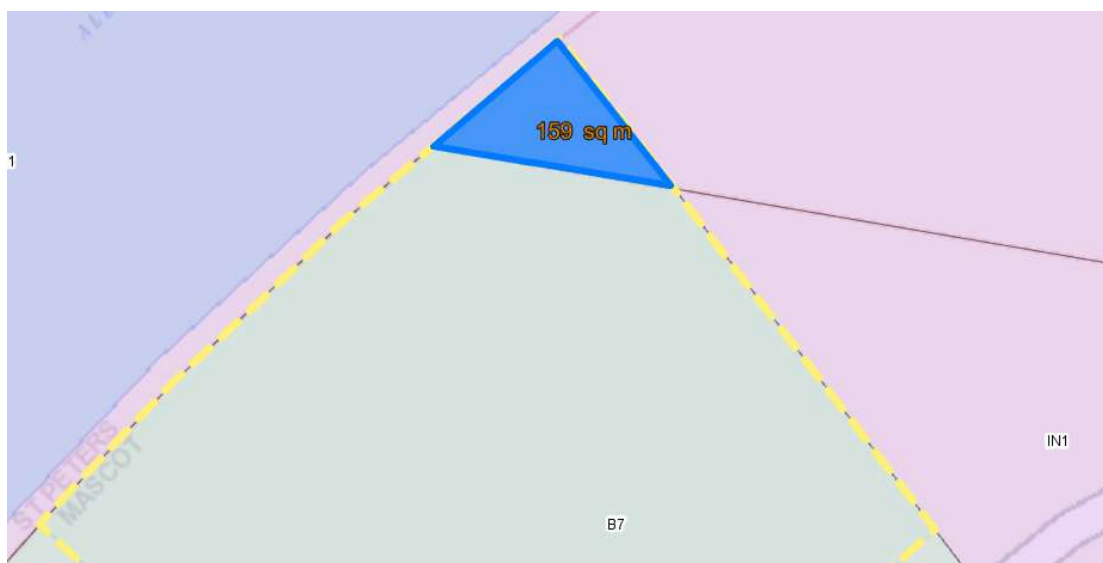


Figure 21: Extract from ePlanning Spatial Viewer showing extent of 1-3 Ricketty Street within City of Sydney local government area



Figure 22: Extract from Staging Plan marking up approximate location of Council boundary

The proposed office building will be contained fully within the Bayside LGA, however, the following development will be required to be undertaken within the portion of land under the control of City of Sydney:

- A portion of the Alexandra Canal Active Transport Corridor and associated landscape works; and
- Demolition of warehouse building



Figure 23: Existing warehouse in Stage 2 area with blue line indicating LGA boundary with City of Sydney (Source: Bayside IntraMaps)

Advice has been received from the City of Sydney by way of these two types of development:

- **Cycleway and landscape works:** A Review of Environmental Factors (REF) to be lodged with City of Sydney, in accordance with Section 2.165(1) of the Transport and Infrastructure SEPP
- **Demolition of warehouse building:** The lodgment of a Complying Development Certificate (CDC), either with Council or with a private certifier.

Sydney Gateway Active Transport Strategy

The proposed development includes a section of cycleway, known as the Alexandra Canal Active Transport Corridor which will form part of an active transport link between Coward Street to the south and Campbell Road to the north.

This cycleway has been constructed to the northern boundary within 697 Gardeners Road.

The staging plan has been amended to incorporate the entire construction of the cycleway within Stage 1.

The plans was referred to TfNSW, who are overseeing the project management of this cycleway. They have provided comments relating to the design, which would have been imposed as conditions if the recommendation was for approval.

Venice Street

Existing and proposed access to the site is via Venice Street, an existing 'right of way' over land known as 3B Ricketty Street which is in the ownership of Transport for NSW (Roads and Maritime Services).



Figure 24: Venice Street right of way easement marked up in red (Source: Bayside IntraMaps)

However, the proposal also includes landscape and other improvements within 3B Ricketty Street and owner's consent has not been obtained.

A referral has been sent to TfNSW to seek clarification on what form of approval may be required, however, as of the report date, no referral response has been provided.

Therefore, on this basis it is considered to be an incomplete application and therefore is included as a reason for refusal in the recommendation.

Staging

The staging plans submitted does not explain what interim measures are proposed along the northern boundary of the proposed first stage of the development. It specifies that at the completion of Stage 1 that final paved levels and fragments of future planters will be constructed along the boundary. This is not deemed to be feasible.

If approval was recommended, a condition would have been imposed relating to details on interim

fencing and retention details.

S4.15(1)(c) - Suitability of the site

The site suffers from various constraints as detailed throughout this assessment. The proposed development is not suitable for the site, having regard to these constraints.

S4.15(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay DCP, the DA was advertised from 14 December 2022 to 18 January 2023. A total of 2 submissions were received, with the primary issues raised relating to the following:

All of the issues raised in these submissions have already been addressed in this report and are listed below:

- Any approvals required for works within land under City of Sydney;
- Provision of future cycleway along Alexandra Canal;
- Provision of public art;
- Traffic generation;
- Car parking; and
- Loading facilities

It was determined that the amended plans when received in December 2023 did not require to be re-advertised.

S4.15(1)(e) - Public interest

The site contains various constraints. On the basis of the current proposal, the site is not suitable for the development and therefore does not satisfy Part 4.15(1)(c) of the Environmental Planning & Assessment Act 1979.

OTHER MATTERS

The Development Application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

Referral Agency	Response Date	Comments
<i>External Referrals</i>		
DPE Water	Not received	
DPE Heritage	Not received	
Water NSW	21 June 2023	No GTAs required
Transport for NSW – Roads	19 December 2022	Concurrence
Transport for NSW - Cycleway	29 February 2024	Supported
Transport for NSW – Venice Street	Not received	
NSW Police	2 February 2023	Supported
Ausgrid	13 December 2022	Concurrence
Sydney Airport	2 February 2023	Supported
Sydney Water	27 January 2023	Supported
Telstra	Not received	Deemed approval
<i>Internal Referrals</i>		
Design Review Panel	15 January 2024	Supported, subject to

Referral Agency	Response Date	Comments
		conditions
Bayside Development Traffic Advisory Committee	14 December 2022	Supported
Development Engineer	30 January 2024	Not supported
Environmental Scientist	15 February 2024	Not supported
Section 7.11 Contributions	Not received	
Heritage	13 March 2023	Supported
Waste	9 December 2022	Supported
Trees Officer	29 December 2023	Supported
Landscaping	14 February 2023	Not supported

Section 7.11 Contributions

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

CONCLUSION

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal was \$49,786,000, the Application is referred to the Sydney East Central Planning Panel for determination.

The proposed development is permissible in the E3 Productivity Support. The applicant has submitted a Clause 4.6 Exception to the maximum Building Height standard of 44 metres.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

On balance, the proposed development in its current form should be not appropriate for the site and it is recommended that the Panel refuse DA-2022/357 for the reasons outlined in this report.