

COUNCIL SUPPLEMENTARY 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	Approval, subject to Deferred Commencement
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	20 May 2024

BACKGROUND

On 12 March 2024, this DA was reported to the Sydney Eastern City Planning Panel for determination.

The Panel agreed to defer the determination of the matter until 4 June 2024. The matter was deferred to allow the provision of:

- Further testing and reporting on contamination at the site;
- Further information to be provided to Council on potential of flood impacts;
- The applicant to provide Council with legal advice as to whether the Panel may proceed to a consent without the support of Heritage NSW; and
- The applicant is to provide Council with proof of owners' consent from Transport for NSW (TfNSW) regarding the property at Lot 1 DP 551509.

The following table is a timeline as to what has been provided by the applicant:

Matter	Documentation	Date received
Contamination	Additional Site Investigation from EI Australia	30 April 2024
Flooding	Flood Study Report from SGC	30 April 2024
Heritage	Legal advice from Pike & Verekers Lawyers	30 April 2024
Owner's consent	Owner's Consent – Lot 1 DP 551509	4 April 2024

On 2 May, a status briefing was held with the Sydney Eastern City Planning Panel, with the following discussed:

- Additional information received relating to contamination and flooding and being reviewed by Council staff.
- Legal advice with relation to Heritage NSW advice received.
- Land owner's consent from TfNSW received.

The applicant has now satisfied all of the Panel's reasons for deferral and the application is recommended for **approval**.

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, APPROVE 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, subject to the attached Deferred Commencement conditions.
2. That the submitters be notified of the Panel's decision.

ASSESSMENT OF THE PANEL'S DEFERRMENT

1. Contamination

An *Additional Site Investigation* (ASI), prepared by EI Australia and dated 29 April was lodged by the applicant. A summary of what works undertaken is provided below:

- A total of 28 sampling locations, with depths varying from 0.2 metres to 2.2 metres below ground level
- Installation of five groundwater wells
- Soil vapour gas readings
- Safe Work Dangerous Goods search

The ASI concluded that:

1. Gross and widespread contamination was not encountered, with the identified contamination limited to shallow fill at specific locations and
2. That the site can be made suitable for the proposed commercial/industrial development subject to:
 - (a) The completion of a Hazardous Materials Survey (HMS) of the current site prior to demolition.
 - (b) Preparation of a Remediation Action Plan (RAP) to include, but not be limited to, the following:
 - Remedial management of the asbestos impacted fill material identified at six different locations;
 - Remedial management of the lead impacted fill material identified in one location;
 - Procedures to deal with unexpected finds identified during remediation and construction; and
 - Preparation of a waste management plan to classify waste material to be removed from the site, in accordance with the EPA (2014) *Waste Classification Guidelines*.
 - (c) Preparation of an Asbestos Management Plan (AMP) to address the asbestos exposure risk during construction activities of the proposed development.
 - (d) Preparation of an Acid Sulfate Soil Management Plan (ASSMP) to address the soil potentially below 1.3m below ground level (bgl) to 2m bgl during construction activities of the proposed redevelopment.
 - (e) Preparation of a final site validation report by a qualified environmental consultant, certifying the site suitability for the proposed development.

The ASI was reviewed by Council's Environmental Scientist who agreed with the recommendations, subject to the imposition of conditions in the attached draft schedule, including the following:

- Preparation of a Remedial Action Plan (RAP)
- Preparation of an Acid Sulfate Soils Management Plan
- Preparation of a Site Validation Report

2. **Flooding**

A *Flood Study Report*, prepared by SGC and dated 30 April was lodged by the applicant. A summary of what works undertaken is provided below:

- An assessment of overland flooding; and
- Propose mitigation measures to ensure that the proposed structure will not have any adverse impacts on flooding characteristics, including suspending both buildings and the central pedestrian connection.
- Flood risk management resolved.

It concluded that as the site does not increase the flooding elsewhere in the floodplain and the risk associated with flooding can be managed, that the proposed development should be supported.

This was reviewed by Council's Development Engineers, who agreed with the recommendation, subject to the imposition of conditions in the attached draft schedule, as such:

- *The architectural plans to be revised and in accordance with the approved flood report (Figure 6-2, 6-3&6-4) are required to be provided for both buildings and the central podium/courtyard and must show the void below the building and podium up to RL2.77m AHD including, and not limited to, the slab thickness and footings assumed for the development. Multiple sections are to be provided to show the stage 1&2 buildings being suspended with a void below the ground floor, sections of the central podium/courtyard shared by stage 1 & 2 showing the void below and the existing 1200mm diameter pipe going through the property, the existing natural ground levels and the suspended courtyard with a void below. The footing location not to conflict with the stormwater pipe. Elevations to be provided for all frontages of the buildings with the louvers with a minimum 100mm gap.*
- *A subfloor plan to be provided showing the column locations and the natural ground levels below the ground floor and podium level.*

The proposed suspension of structures removes ability for deep soil planting and conditions will be amended to require some modifications to mitigate this matter.

The above conditions are to be included within the Part A section of the recommended draft Deferred Commencement conditions.

3. **Heritage**

The applicant has provided legal advice, prepared by Pikes & Verekers Lawyers and dated 30 April 2024.

In summary the legal advice concluded that Heritage NSW do not have a concurrence or approval role, and that the Panel may proceed to a consent.

Council is in agreement with the conclusion reached, and no further action is required to resolve this matter.

A summary of the advice provided is below:

- The subject site itself has no statutory heritage significance. It is in the vicinity of Alexandra Canal (SHR 01621 and Bayside LEP I260) and Ricketty Street Bridge (Bayside LEP I261) is located to the south-western corner of the subject site.
- The DA was referred to Heritage NSW as a matter of courtesy due to the proximity to Alexandra Canal being a state-listed item. That being the case, support from Heritage NSW is not required for consent to be granted.
- It is apparent from the comments that they are not supporting or opposing the development, they are simply providing comments.
- The relevant heritage provision in Bayside Local Environmental Plan 2021 is cl 5.10. Pursuant to subclause (5) the consent authority may require a heritage management document for land in the vicinity of a heritage item. A Heritage Impact Statement prepared by Urbis and dated 27 November 2023 was submitted and an Addendum responsive to the Heritage NSW comments has been prepared. A Heritage Impact Statement is a heritage management document as defined in the LEP. The jurisdictional requirement under cl 5.10(5) of the LEP has been satisfied.
- No approval is required pursuant to s 57 of the Heritage Act 1977 as the subject site is not on the State Heritage Register. There is no indication that there are any relics present on the subject site. For abundant caution, any consent could include a condition requiring a permit to be obtained under s140 of the Heritage Act 1977 in the event of an unexpected find. That would be required by law in any event.
- Further, no approval is required under Part 6 of the National Parks and Wildlife Act 1974. Again, for abundant caution a condition could be imposed on the consent in the event of an unexpected find.
- For all of the above reasons we are of the view that the Panel may proceed to a consent without the support of Heritage NSW. Heritage NSW has not been asked for its support or opposition, simply its comments, and those comments have been addressed by the submission of further documentation by the Applicant.

Council is in agreement with the above advice and therefore no further action is required in order to assist with the determination.

Conditions will be imposed to address the legislative requirements under the Heritage Act as per the legal advice.

4. Venice Street

On 4 April, the applicant provided owners consent for works within Lot 1 in DP 551509, with it signed by a Senior Manager within Transport for NSW (TfNSW).

It was a Council form (for Owners Consent) and signed electronically.

CONCLUSION

The proposed development at 1-3 Ricketty Street, Mascot has been assessed with regard to the s4.15 of the Environmental Planning and Assessment Act 1979 including relevant State Environmental Planning Policies, Bayside LEP 2011 and the Botany Bay DCP 2013.

The revised documentation submitted to Council satisfactorily resolves the concerns raised by the Sydney Eastern City Planning Panel and it is recommended that the Panel determine the application in accordance with the recommendation provided.

Draft conditions have been updated based on the above and will be issued to the applicant for consideration prior to determination.

The reasons for this recommendation are:

- The proposed variation to the Height of Building has been assessed in accordance with Clause 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable.
- The development, subject to conditions, is consistent with the objectives of the E3 Productivity Support zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the objectives of Botany Bay Development Control Plan 2013 and generally consistent with the relevant requirements of Botany Bay Development Control Plan 2013.
- The proposal and uses are suited to the site and area.
- The proposal is an appropriate response to the streetscape and topography and will not result in any significant impact on the environment or the amenity of nearby residents.
- The scale and design of the proposal is suitable for the location, will have minimal impact on the heritage value of the Alexandra Canal and nearby heritage listed bridge, and is compatible with the desired future character of the locality.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions of consent.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.