

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	7 June 2024
DATE OF PANEL DECISION	6 June 2024
DATE OF PANEL BRIEFING	12 March 2024
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Amelia Thorpe, Michael Nagi and Joe Awada
APOLOGIES	Nil
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 20 May 2024.

MATTER DETERMINED

PPSSEC-245 – DA-2022/357 - Bayside - 1-3 and 3A Ricketty Street, Mascot, Demolition of existing structures and construction an 8 storey self-storage facility and 12 storey commercial building with above ground parking and landscaping (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Bayside Local Environmental Plan 2021 (LEP), that has demonstrated that:

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

the Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings) of the LEP and the objectives for development in the E3 Productivity Support zone; and
- the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the Council Assessment Report.

CONDITIONS






The Development Application was approved subject to the conditions in the Council Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

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

- Separate development application requirement for demolition
- Provision of future cycleway and public art
- Additional traffic and loss of intersection service
- Departure from car parking provision
- Loading facilities

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report. The Panel notes that in addressing these issues conditions have been imposed addressing.

PANEL MEMBERS	
 Carl Scully (Chair)	 Amelia Thorpe
 Alice Spizzo	 Michael Nagi
 Joe Awada	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-245 – DA-2022/357 - Bayside
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction an 8 storey self-storage facility and 12 storey commercial building with above ground parking and landscaping
3	STREET ADDRESS	1-3 and 3A Ricketty Street, Mascot
4	APPLICANT OWNER	Edward Shaw - The Trustee for The Canal Aviv Trust Canal Aviv Pty Limited
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Bayside Local Environmental Plan 2021 Draft environmental planning instruments: State Environmental Planning Policy (Sustainable Buildings) 2022 Development control plans: <ul style="list-style-type: none"> Botany Bay Development Control Plan 2013 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 4 March 2024 Council supplementary report received: 11 March 2024 Council supplementary assessment report: 20 May 2024 List any clause 4.6 variation: Clause 4.3 Height of Buildings Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick Off Briefing: 14 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Alice Spizzo <u>Applicant representatives</u>: Edward Shaw, Jeff Mead, Nitzan Ronen, Peter Mystriotis, Grand Cheng, Mark Simpson, Tasman Shen, Louisa Macleod, Ted Yu <u>Council assessment staff</u>: Andrew Ison, Pascal van de Walle, Marta Gonzales- Valdes <u>Department staff</u>: Lillian Charlesworth and Suzie Jattan

- Briefing: 11 May 2023
 - Panel members: Carl Scully (Chair), Amelia Thorpe and Michael Nagi
 - Council assessment staff: Andrew Ison
 - Department staff: Lillian Charlesworth and Suzie Jattan
- Briefing: 24 August 2023
 - Panel members: Carl Scully (Chair), Amelia Thorpe, Michael Nagi and Joe Awada
 - Council assessment staff: Andrew Ison, Pascal van de Walle, Luis Melim, Edward Courtenay
 - Department staff: Carolyn Hunt and Lisa Ellis
- Site inspection: 12 March 2024
 - Panel members: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe, Joe Awada
 - Council assessment staff: Andrew Ison, Pascal van de Walle, Luis Melim, Haven Barr
- Applicant Briefing: 12 March 2024
 - Panel members: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe, Michael Nagi, Joe Awada
 - Applicant representatives: David Waghorn (applicant), Peter Mystriotis (owner)
 - Council assessment staff: Andrew Ison, Pascal van de Walle, Luis Melim, Judith Betts, Christopher Thompson, Atef Syed, Haven Barr
 - Department staff: Tim Mahoney and Lisa Ellis
- Briefing to discuss council's recommendation: 12 March 2024
 - Panel members: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe, Michael Nagi, Joe Awada
 - Council assessment staff: Andrew Ison, Pascal van de Walle, Luis Melim, Judith Betts, Christopher Thompson, Atef Syed, Haven Barr
 - Applicant representatives: David Waghorn (applicant), Peter Mystriotis (owner)
 - Department staff: Tim Mahoney and Lisa Ellis
- Briefing: 2 May 2024
 - Panel members: Carl Scully (Chair)
 - Applicant representatives: Aaron Ruan, Peter Mystriotis, Jonathon Joseph and Nitzan Ronen
 - Council assessment staff: Andrew Ison, Pascal van de Walle, Luis Melim, Edward Courtenay
 - Department staff: Carolyn Hunt and Lisa Ellis
- Applicant Briefing: 4 June 2024
 - Panel members: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe, Joe Awada
 - Applicant representatives: Nitzan Ronen, David Waghorn, Aaron Ruan, Peter Mystriotis
 - Council assessment staff: Andrew Ison, Pascal van de Walle and Bill Chan
 - Department staff: Carolyn Hunt and Lisa Ellis

		<ul style="list-style-type: none">• Final briefing to discuss council’s recommendation: 4 June 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe, Michael Nagi, Joe Awada○ <u>Council assessment staff</u>: Andrew Ison, Pascal van de Walle and Luis Melim○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Nil