

DATE OF DETERMINATION	17 June 2024
DATE OF PANEL DECISION	15 June 2024
DATE OF PANEL BRIEFING	6 June 2024
PANEL MEMBERS	Carl Scully (Chair), Glennis James, Alice Spizzo, Joe Awada and Michael Sheils
APOLOGIES	Michael Nagi
DECLARATIONS OF INTEREST	Joe Awada declared a non-pecuniary interest as his family own and operate a childcare centre in the local government area. He participated in the panel meetings.

Papers circulated electronically on 3 June 2024.

MATTER DETERMINED

PPSSEC-273 – BAYSIDE – DA-2023/106 – 594, 596, 598, 600 Princes Highway, Rockdale – Integrated Development - Amalgamation of lots, demolition of existing structures, and construction of a ten (10) storey mixed use building containing a childcare centre with capacity for 96 children, operating 7:00am to 6:00pm Monday to Friday and eighty-eight (88) residential apartments, communal and private roof top terraces and basement parking (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

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

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 2022 (LEP), that has demonstrated that:

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

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) 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 MU1 Mixed Use zone; and
- c) 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 with the following amendments.

- Amend Condition 16 Sydney Airport, part (a) to insert the words 'metres AHD' after the number 44
- Delete Condition 20 Surrender of Development Consent, and renumber the remaining conditions accordingly
- Amend now Condition 20 Design Amendments, part (b)(i) (former Condition 21(b)(i)) to read as follows:
 - (i) the western podium façade building finishes should remove painted and rendered finishes and instead use masonry or brick wall construction
- Delete now Condition 20 Design Amendments, part (b)(ii), (x) and (xi) (former Condition 21 Design Amendments, part (b)(ii), (x) and (xi)) and renumber the remaining parts accordingly
- Delete now Condition 23 Payment of Section 7.11 Contributions, part (b) (former Condition 24 Payment of Section 7.11 Contributions, part (b)) and renumber the remaining parts accordingly
- Amend now Condition 26 Design Excellence, parts (b) and (c) (former Condition 27(b) and (c)) by amending the minimum scale from 1:10 to 1:20
- Amend now Condition 40 Waste Storage (Residential and Mixed Use Developments), part (d)(ii) (former Condition 41 (d)(ii)) to remove dot points and insert the following:
 - 5L of waste per child per day.
 - 5L of recycling per child per day.
 - Collected twice weekly
- Insert the following new conditions and renumber the remaining conditions accordingly:

73. Ground floor glazing to Princes Highway frontage

Prior to issue of any Construction Certificate, plans must be submitted to, and approved by, Council's Director of City Futures (or delegate) demonstrating that the glazing along the entire Princes Highway frontage at ground floor level is clear glazing with a minimum of 80% transparent (i.e. a maximum of 20% may be covered by signs or obscured by shelving or the like).

REASON

To ensure compliance with Controls C2 and C7 and Objectives O1, O3 & O4 of Part 3.1.4 'Active Street Frontages' of the Bayside DCP 2022, to ensure compliance with relevant Objectives of the MU1 Mixed Use zone including the following *"To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces"* and to ensure design excellence is achieved in accordance with Clause 6.10 'Design Excellence' of the Bayside LEP 2021.

74. Cross Ventilation

Prior to issue of the relevant Construction Certificate, the plans and documentation must clearly show that the windows located on southern elevation facing the access corridor for units 102-104, 202-204, 302-304, 402-404, 502-503, 602-603, 702-703, 802-803, 902 are operable and that these windows can be operated manually and will not be reliant on remote control to be opened to allow natural cross ventilation.

REASON

To ensure compliance with the cross-ventilation requirements of the Apartment Design Guide and the 'ADG – Natural Ventilation' plan submitted with the development application.

- Delete former Condition 121 Consolidation of Lots, and renumber the remaining conditions accordingly
- Amend Condition 133 Private Waste Collection, to insert the word "Commercial" at the start of the condition and insert at the end of the condition, insert "Residential waste and recycling can be collected by Council or a private waste contractor."
- Amend Condition 141 General Landscape, part (b)(i) to correct the spelling of 'trees'

- Amend Condition 150 to insert the words ‘as a childcare centre’ in the first sentence after the words ‘approved use’.
- Amend Condition 151 Child Care Centres – Maximum Number of Children, by deleting the sentence “The maximum number of children in the outdoor play area is limited to 40.” and inserting ‘The usage and numbers for childcare shall be in line with the acoustic report and PoM requirements.’
- Delete now Condition 161 Smoking, and renumber the remaining conditions accordingly
- Insert the following condition and renumber the remaining conditions accordingly:

167. Fire Hydrant

Prior to issue of any Occupation Certificate, the Certifying Authority is to ensure any fire hydrants are visually screened from the public domain in accordance with Australian Standard 2419.1.

REASON




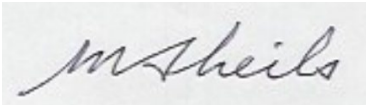

To ensure that the visual impacts resulting from the fire hydrants are minimised and that the development achieves Design Excellence in accordance with Clause 6.10 of the Bayside LEP 2021.

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:

- Balconies on northern elevation and consistency with Apartment Design Guide
- Solar access
- Privacy and overlooking
- Photomontage not reflecting design
- Mechanical plan location and screening
- Location of child care centre
- Noise impact from outdoor play areas
- Layout of units
- Traffic and parking, including child care pick up and drop off
- Affordable housing percentage
- Site analysis and setbacks
- Pocket park adequacy

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

PANEL MEMBERS	
 Carl Scully (Chair)	 Glennis James
 Alice Spizzo	 Michael Sheils
 Joe Awada	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-273 – Bayside – DA-2023/106
2	PROPOSED DEVELOPMENT	Integrated Development - Amalgamation of lots, demolition of existing structures, and construction of a ten (10) storey mixed use building containing a childcare centre with capacity for 96 children, operating 7:00am to 6:00pm Monday to Friday and eighty-eight (88) residential apartments, communal and private roof top terraces and basement parking
3	STREET ADDRESS	594-600 Princes Highway, Rockdale
4	APPLICANT/OWNER	Fuse Architecture Pty Ltd The Trustee for Chandru Property Unit Trust No 5
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 (Planning Systems) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Housing) 2021 Bayside Local Environmental Plan 2021 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Bayside Development Control Plan 2022 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2020</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: 3 June 2024 Clause 4.6 variation requests: Cl. 4.3 Height of Buildings Written submissions during public exhibition: 7 Total number of unique submissions received by way of objection: 7
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 27 February 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Joe Awada and Michael Sheils <u>Council assessment staff</u>: Andrew Ison, Pascal van de Walle and Luis Melim <u>Applicant representatives</u>: Sonya Constantinou, Brendon Clendenning and Rachid Andary <u>Department staff</u>: Carolyn Hunt and Lisa Ellis Site inspection: 06 June 2024

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James and Joe Awada ○ <u>Council assessment staff</u>: Pascal van de Walle and Andrew Ison <ul style="list-style-type: none"> • Applicant Briefing: 06 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Joe Awada and Michael Sheils ○ <u>Applicant representatives</u>: Rachid Andary ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Final briefing to discuss Council's recommendation: 06 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Joe Awada and Michael Sheils ○ <u>Council assessment staff</u>: Andrew Ison and Pascal van de Walle ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report