

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	28 May 2024
DATE OF PANEL DECISION	28 May 2024
DATE OF PANEL MEETING	23 May 2024
PANEL MEMBERS	Carl Scully (Chair), Amelia Thorpe, Susan Budd, Brian McDonald and Philippa Scott
APOLOGIES	Alice Spizzo
DECLARATIONS OF INTEREST	Darcy Byrne declared a conflict of interest as he had participated in a previous Council consideration of the site and made public comments about the proposal. He did not participate.

Public meeting held by teleconference on 23 May 2024, opened at 2.32pm and closed at 3.34pm.

MATTER DETERMINED

PPSSEC-282 – Inner West – DA/2023/0467– 469-483 Balmain Road, Lilyfield – Concept and detailed (Stage 1) Development Application for the retention of character buildings fronting Balmain Road and construction of a mixed-use development comprising of residential flat building and light industry uses (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 Inner West 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 E4 General Industrial 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 and as following:

The Panel noted that the site has been identified for redevelopment of the nature and scale proposed through a site specific rezoning which established new planning controls for the site. The proposed development makes provision for employment (including creative) uses, and the adaptive reuse of existing character buildings fronting Balmain Road as well as residential uses. . The Panel is satisfied that the proposed development meets the requirements of Clause 6.25(3) of the Inner West Local Environmental Plan 2022, subject to the deferred commencement condition in relation to the provision of residual employment space and adaptive reuse of the character building in the Stage 2 application. The Panel noted that 6000 m² for employment uses (including 1200m² of creative uses purposes) would be provided under the approved concept plan.

The site will provide a high level of amenity for future residents and occupants of the employment/creative areas including proximity to the open space of Callan Park, the site through links and residential roof top open space.

The proposed development will revitalise this former industrial site by providing a mix of employment and high quality residential uses and is in the public interest.

CONDITIONS

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

- Amend Deferred Commencement Condition A, dot point 1 to include the words after 'Provides', 'a minimum of'
- Amend Condition 1 to insert the Plan Name - 'Design guidelines (which form part of the Concept Plan application)' and move the following plan references to new Condition 11A:

11A. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date	Prepared by
A-DA002 rev 4	Site Plan	03 May 2024	CHROFI
A-DA010 rev 04	Ground floor demolition and retention plan	03 May 2024	CHROFI
A-DA011 rev 04	Level 1 demolition and retention plan	03 May 2024	CHROFI
A-DA101 rev 04	Basement 2 floor plan	03 May 2024	CHROFI
A-DA102 rev 04	Basement 1 floor plan	03 May 2024	CHROFI
A-DA103 rev 04	Ground floor plan	03 May 2024	CHROFI
A-DA104 rev 04	Level 1 / podium	03 May 2024	CHROFI
A-DA105 rev 04	Level 2	03 May 2024	CHROFI
A-DA106 rev 04	Level 3	03 May 2024	CHROFI
A-DA107 rev 04	Level 4	03 May 2024	CHROFI
A-DA108 rev 04	Level 5	03 May 2024	CHROFI
A-DA109 rev 04	Roof plan	03 May 2024	CHROFI
A-DA201 rev 04	North elevation	03 May 2024	CHROFI

A-DA202 rev 04	East elevation	03 May 2024	CHROFI
A-DA203 rev 04	South elevation	03 May 2024	CHROFI
A-DA204 rev 04	West elevation	03 May 2024	CHROFI
A-DA301 rev 04	Sections A & B	03 May 2024	CHROFI
A-DA302 rev 04	Sections C & D	03 May 2024	CHROFI
A-DA303 rev 04	Sections E & F	03 May 2024	CHROFI
A-DA304 rev 04	Sections G & H	03 May 2024	CHROFI
A-DA305 rev 04	Sections I & J	03 May 2024	CHROFI
A-DA306 rev 04	Section K	03 May 2024	CHROFI
A-DA307 rev 01	Section B coloured	03 May 2024	CHROFI
A-DA308 rev 01	Section D coloured	03 May 2024	CHROFI
A-DA309 rev 01	Section E coloured	03 May 2024	CHROFI
A-DA310 rev 01	Section I coloured	03 May 2024	CHROFI
A-DA311 rev 01	Section J coloured	03 May 2024	CHROFI
A-DA312 rev 01	Section M coloured	03 May 2024	CHROFI
A-DA313 rev 01	Section N coloured	03 May 2024	CHROFI
A-DA351 rev 02	Detailed facade sections	03 May 2024	CHROFI
A-DA401 rev 04	Apartments - building A+B - level 2	03 May 2024	CHROFI
A-DA402 rev 04	Apartments - building A+B - level 2	03 May 2024	CHROFI
A-DA403 rev 04	Apartments - building A+B - level 2 -5	03 May 2024	CHROFI
A-DA404 rev 04	Apartments - building A+B - level 3 + 4	03 May 2024	CHROFI
A-DA405 rev 04	Apartments - building A+B - level 3 + 4	03 May 2024	CHROFI
A-DA406 rev 04	Apartments - building A+B - level 5	03 May 2024	CHROFI
A-DA407 rev 04	Apartments - building A+B - level 5	03 May 2024	CHROFI
A-DA408 rev 04	Apartments - building C - level 2	03 May 2024	CHROFI
A-DA409 rev 04	Apartments - building C - level 3 + 4	03 May 2024	CHROFI
A-DA410 rev 04	Apartments - building C - level 3 + 4	03 May 2024	CHROFI
A-DA411 rev 04	Apartments - building C - level 5	03 May 2024	CHROFI
A-DA412 rev 04	Apartments - building C - level 5	03 May 2024	CHROFI

A-DA413 rev 04	Apartments - building D + E	03 May 2024	CHROFI
A-DA414 rev 04	Apartments - building F	03 May 2024	CHROFI
A-DA610 rev 03	Material palette	03 May 2024	CHROFI
A-DA611 rev 04	Signage	03 May 2024	CHROFI
2522121 rev E	Landscape Plans	13 March 2024	Place Design Group pty Ltd
20231948 rev 3	Tree Protection Plan	20 April 2023	Australis Tree Management
20231948 rev 3	Arboriculture Impact Assessment	20 April 2023	Australis Tree Management
72046.04	Remediation Action Plan	March 2023	Douglas Partners
Project 720426.03 doc no. R.001.Rev2	Report on Geotechnical Investigation	June 2023	Douglas Partners
C220450 Access r1	Access Report	12 May 2023	Credwell
22S0007 issue C	Transport Impact Assessment	22 May 2023	PeopleTrans
20221426.1 rev 3	Noise Impact Assessment	10 May 2023	Acoustic Logic Pty Ltd
1376956M_02	BASIX Certificate	1 February 2024	ESD Synergy pty Ltd
Report No. 4590 Rev F	Operational Waste Management Plan	18 May 2023	Elephants Foot
Project: 221004	Structural engineering report	26 April 2023	Xavier Knight
Drawing No. C000-A, C100-C, C101-C, C102-D, C150-D, C200-B, C250-C, C320-B and C350-A	Stormwater drainage concept plan	31 March 2023	Xavier Knight

As amended by the conditions of consent.

Reason: To ensure development is carried out in accordance with the approved documents.

- Insert new Condition 10A, which reads as follows:

10A.Design Guidelines

The following design principles apply to the site:

- Historic consideration.
- Enhance Land Use.
- Local Amenity.
- Optimise building envelope.

- e. Carefully consider parking/ access.
- f. Consider traffic generation.
- g. Improved site permeability.
- h. Improved public access.
- i. Ecologically sustainable development.

Reason: To confirm the terms of the concept application.

- Amend Condition 81. Storage to read as follows

81. Storage

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with a storage plan which demonstrates at least 50% of the storage space is located within apartments and provides details of basement storage allocations to each unit which comply with the requirements in the Apartment Design Guide.

Reason: To ensure appropriate storage volumes are provided.

- Insert new Condition 82A. Fire Hydrants, which reads as follows:

82A. Fire Hydrants

Prior to the issue of any Construction Certificate, the Certifying Authority is to be provided evidence that the required fire hydrants shall be enclosed by a suitably designed accessible screen to the satisfaction of Council's Manager Development Assessment.

Reason: To protect the character of the streetscape.

- Insert new Condition 82B. Floor to Ceiling Heights, which reads as follows:

82B. Floor to Ceiling Heights

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with detailed sections demonstrating that 2.7m floor to ceiling heights can be achieved for level 5 of buildings A and B within the approved RL to the roof area.

Reason: To ensure appropriate floor to ceiling heights are provided.

- Amend Condition 120. Operation and Management Plan by inserting the word 'which' in the second line after 'Plan'

- Insert new Condition 141A. Plan of Management, which reads as follows:

141A. Plan of Management

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Plan of Management for residential communal open space that addresses the following:

- a. Minimise the potential impact on nearby residents;
- b. Minimise noise emissions and associated nuisances;
- c. Effectively manage and respond to residents complaints; and
- d. Restricts the use of the roof top communal open spaces until 11pm except for New Years Eve/Day.

Reason: To protect residential amenity.

- Correct typographical error in Condition 143. Operation and Management Plan, in third line 'Certificate'



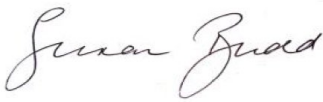


CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Traffic and Parking
- Streetscape, pattern of development
- Solar access and overshadowing
- Noise and vibration
- Public infrastructure and services

- Privacy, view/outlook loss
- Affordable housing
- Trees, deep soil areas
- Heritage, flooding
- Through site link
- Public and Private Open Space
- Zone objectives, employment uses, legislative controls
- Contamination
- Inadequate access report, social impact assessment
- Impact on WestConnex power substation
- Construction impacts
- Public interest/benefit
- Undesirable precedent and cleanliness of surrounding streets
- Cross ventilation and no BASIX annotation

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed, including a condition requiring a Plan of Management for use of the residential communal open space.

PANEL MEMBERS	
 Carl Scully (Chair)	 Amelia Thorpe
 Susan Budd	 Brian McDonald
 Philippa Scott	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-282 – Inner West – DA/2023/0467
2	PROPOSED DEVELOPMENT	Concept and detailed (Stage 1) Development Application for the retention of character buildings fronting Balmain Road and construction of a mixed-use development comprising of residential flat building and light industry uses
3	STREET ADDRESS	469-483 Balmain Road, Lilyfield (Lot 2 DP 1015843)
4	APPLICANT/OWNER	Roche Group Pty Ltd c/- Wes Van Der Gardner Roche Group Pty Ltd
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 (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Inner West Local Environmental Plan 2022 Draft environmental planning instruments: Draft State Environmental Planning Policy (Sustainable Buildings) 2022 Development control plans: <ul style="list-style-type: none"> Leichhardt Development Control Plan 2013 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 14 May 2024 Clause 4.6 variation requests: cl. 4.3 (Height of Buildings) Written submissions during public exhibition: 74 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Lance Goldsmith, Mark Williams, Grania Hickley, David Eckstein Council assessment officer – Annalise Ifield On behalf of the applicant – Wes van der Gardner, Michael Oliver, Matthew Di Maggio and Tai Rophia Total number of unique submissions received by way of objection: 68
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Council/Aplicant Briefing: 28 September 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Alice Spizzo, Brian McDonald and Philippa Scott

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Annalise Ifield, Ruba Osman, Martin Amy, Andrew Newman, Eamon Egan, Katerina Lianos, Ferdinand Dickel, Sean Wilson and Angela Berryman ○ <u>Applicant Representatives</u>: Tai Ropiha, Matthew Di Maggio, Clare Swan and Wes van der Gardner ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis <ul style="list-style-type: none"> ● Council/Applicant Briefing: 29 February 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Brian McDonald and Philippa Scott ○ <u>Council assessment staff</u>: Annalise Ifield, Ruba Osman, Joe Bertacco and Tom Irons ○ <u>Applicant Representatives</u>: Matthew Di Maggio, Wes van der Gardner, Michael Oliver, Reuben Jacobson, Tai Ropiha and Tobias Grund ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis ● Site inspection: 23 May 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair) and Susan Budd ○ <u>Council assessment staff</u>: Annalise Ifield, Ruba Osman, Sean Wilson and Tom Irons ● Final briefing to discuss council's recommendation: 23 May 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Susan Budd, Brian McDonald and Philippa Scott ○ <u>Council assessment staff</u>: Annalise Ifield, Ruba Osman, Tom Irons and Martin Amy ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report