

DATE OF DETERMINATION	25 June 2024
DATE OF PANEL DECISION	25 June 2024
DATE OF PANEL MEETING	25 June 2024
PANEL MEMBERS	Carl Scully (Chair), Amelia Thorpe, Alice Spizzo and Anthony Bazouni
APOLOGIES	Joseph Cordaro
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 25 June 2024, opened at 2.17pm and closed at 3.04pm.

MATTER DETERMINED

PPSSEC-287 – Canada Bay – DA2023/0158 – 444, 446 Concord Road, 33, 35, 37 39, 41 Blaxland Road, 1, 3, 5 Llewellyn Street, Rhodes – The project comprises excavation and construction of a mixed-use development, including residential accommodation, a medical centre, a childcare centre and commercial and retail tenancies, with associated landscaping and basement car 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 requests from the applicant, made under cl 4.6 (3) of the Canada Bay Local Environmental Plan 2013 (LEP), that has demonstrated that:

- compliance with cl.4.3 (height of buildings), cl.7.4 (minimum non-residential floor space in Rhodes precinct), cl. 7.5(1) and (2) (minimum building separation and maximum floor areas above building podiums in Rhodes Precinct) and cl. 7.6 (maximum height of building podiums in Rhodes Precinct) 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 requests adequately address 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), cl.7.4 (minimum non-residential floor space in Rhodes precinct), cl. 7.5(1) and (2) (minimum building separation and maximum floor areas above building podiums in Rhodes Precinct) and cl. 7.6 (maximum height of building podiums in Rhodes Precinct) of the LEP and the objectives for development in the MU1 Mixed Use zone,

as outlined in the Council assessment report.

The Panel noted that the independent design expert, Paul Walter, advised in the report dated 10 June 2024 that with the amendments made to the proposed plans with the inclusion of the recommended conditions, the proposed development satisfies cl. 7.2 of the Canada Bay Local Environmental Plan, 2013 and exhibits design excellence.

Taking into account the Council assessment report and the report of the design excellence expert, the Panel was satisfied that the breaches of the controls provided a better planning outcome than compliance.

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 variations in relation to height of buildings, minimum non-residential floor space, minimum building separation and maximum floor areas above building podiums and maximum height of building podiums in Rhodes Precinct 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 and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Height of podiums
- Potential impacts on views and solar access
- Property value impact
- Non-compliance with the planning control
- Excessive building height and density
- Overshadowing of McIlwaine Park
- Quality of life reduces due to high-density
- Excavation and construction impact
- Construction impacts
- Traffic congestion and impacts
- Amalgamation with No.31 Blaxland Road
- Impacts on privacy, solar access and ventilation for No. 31 Blaxland Road

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.

PANEL MEMBERS	
 Carl Scully (Chair)	 Amelia Thorpe
 Alice Spizzo	 Anthony Bazouni

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-287 – Canada Bay – DA2023/0158
2	PROPOSED DEVELOPMENT	The project comprises removal of existing vegetation, excavation and construction of a mixed-use development, including residential accommodation, a medical centre, a childcare centre and commercial and retail tenancies, with associated landscaping and basement car parking
3	STREET ADDRESS	444, 446 Concord Road, 33, 35, 37 39, 41 Blaxland Road, 1, 3, 5 Llewellyn Street, Rhodes
4	APPLICANT/OWNER	Town Planning, Meriton Karimbla Properties (No. 43) 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 (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Canada Bay Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> City of Canada Bay Development Control Plan 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: 17 June 2024 Clause 4.6 variation requests: cl.4.3 (height of buildings), cl.7.4 (minimum non-residential floor space in Rhodes precinct), cl. 7.5(1) and (2) (minimum building separation and maximum floor areas above building podiums in Rhodes Precinct) and cl. 7.6 (maximum height of building podiums in Rhodes Precinct) Written submissions during public exhibition: 20 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Kotryna Fraser Council assessment officer – Shannon Anderson Independent Urban Designer - Paul Walter On behalf of the applicant – Walter Gordon, Gilbert Ho, Ian Lim and Sumedh Kataria Total number of unique submissions received by way of objection: 20
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 31 August 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair)

		<ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Flora Lin, Matthew Lennartz, Sumedh Kataria, Rido Pin, William Brindle, Paul De Saily and Ian Lim ○ <u>Council assessment staff</u>: Nima Lettice and Samuel Lettice ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis <ul style="list-style-type: none"> • Briefing: 5 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair) ○ <u>Council assessment staff</u>: Nima Lettice and Samuel Lettice ○ <u>Department staff</u>: Carolyn Hunt • Briefing: 28 November 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe and Anthony Bazouni ○ <u>Applicant representatives</u>: Walter Gordon, Luke Marquet, Ian Lim, William Brindle, Daniel Turini, Paul De Saily Samuel Henson, Sumedh Kataria and Matthew Lennartz ○ <u>Council assessment staff</u>: Nima Salek and Shannon Anderson ○ <u>Independent Urban Designer</u>: Paul Walter ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis • Briefing: 29 February 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Joseph Cordaro and Anthony Bazouni ○ <u>Applicant representatives</u>: Walter Gordon, Ian Lim, William Brindle, Ching Oung, Miki Hendler, Daniel Hendler, Frank Ru, Matthew Lennartz, Jeff Mead, Sumedh Kataria, Paul De Saily, Samuel Henson and Harry Triguboff ○ <u>Council assessment staff</u>: Nima Lettice and Shannon Anderson ○ <u>Independent Urban Designer</u>: Paul Walter ○ <u>NSW Government Architects/DRP</u>: Rory Toomey ○ <u>Department staff</u>: Carolyn Hunt • Briefing: 23 April 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair) ○ <u>Applicant representatives</u>: Walter Gordon, Ian Lim, Ching Oung, Sumedh Kataria and Matthew Lennartz ○ <u>Independent Urban Designer</u>: Paul Walter ○ <u>Council assessment staff</u>: Nima Lettice and Shannon Anderson ○ <u>Department staff</u>: Carolyn Hunt • Site inspection: 25 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe and Anthony Bazouni ○ <u>Council assessment staff</u>: Shannon Anderson and Nima Salek • Final briefing to discuss Council's recommendation: 25 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe and Anthony Bazouni ○ <u>Council assessment staff</u>: Shannon Anderson and Nima Salek ○ <u>Independent Urban Designer</u>: Paul Walter ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report