

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	12 September 2024
DATE OF PANEL DECISION	11 September 2024
DATE OF PANEL MEETING	10 September 2024
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Graham Brown and Anthony Bazouni
APOLOGIES	Joseph Cordaro
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 3 September 2024.

MATTER DETERMINED

PPSSEC-296 – Canada Bay – DA2023/0222 – 9 -13 Blaxland Road, Rhodes – Construction of a 37-storey shop-top housing development containing 242 apartments, retail/commercial premises at the podium levels, and 9 basement car parking, with associated 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 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 Canada Bay Local Environmental Plan 2013 (LEP), that has demonstrated that:

- compliance with cl. 4.3 (Height of Buildings) 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 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) 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; 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 Addendum Assessment Report.

CONDITIONS

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

- Amend Condition 52 Amended BASIX Assessment and Certificate, to read as follows:

52 BASIX Assessment and Certificate

The approved plans and supporting documents must be amended to reflect the BASIX Certificate requirements to the satisfaction of the principal certifier prior to the issue of the Construction Certificate to incorporate the following requirements:

- The submitted document has not clearly demonstrated that a recycled water network will be proposed. This includes the tank location and purple pipelines, as per Control C17, Section K16.8 – Environmental Resilience, Park K Special Precincts of the Council’s Development Control Plan.
- The submitted BASIX and Efficient Living report have not clearly indicated the source of greywater contributing to the system. Specifically, the document should clarify:
 - The number of units contributing greywater.
 - The amount of greywater per unit or title contributing to the system per day.
 - The type of treatment devices that will be provided.
- The report must clearly demonstrate how the proposed recycled water system complies with relevant regulations and requirements (e.g., NSW Health) to ensure safe use for irrigation and toilet flushing without causing adverse impacts to the systems.

The BASIX certificate must show that the development exceeds the BASIX SEPP water target by 20 points and surpasses the BASIX SEPP energy target by 15 points.

Condition reason: Sustainable building practice and regulatory compliance

- Amend typographical error in Condition 54 to change ‘creadit’ to ‘credit’

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:

- Station Bridge Plaza connection unviable
- Insufficient active frontage
- Insufficient building separations
- Adverse traffic impacts (during construction and operation)
- Overshadowing impacts on public spaces
- Building height control exceedance
- Overdevelopment of the site
- Inadequate Wind Study
- Inadequate fire study
- Lack of visual privacy
- Amenity impacts during construction
- Water quality impacts

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and Addendum 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)



Graham Brown



Alice Spizzo



Anthony Bazouni

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-296 – Canada Bay – DA2023/0222
2	PROPOSED DEVELOPMENT	Construction of a 37-storey shop-top housing development containing 242 apartments, retail/commercial premises at the podium levels, and 9 basement car parking, with associated landscaping
3	STREET ADDRESS	9-13 Blaxland Road, Rhodes
4	APPLICANT/OWNER	BBG Management Pty Ltd (Billbergia) Leeds Investment No. 9 Pty Ltd, Rhodes Station Property Pty Limited, Rhodes Investments 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 (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: 1 August 2024 Council Addendum Assessment Report: 2 September 2024 Clause 4.6 variation requests: Cl.4.3 (Height of Buildings) and Cl.7.6 (Maximum Height of Building Podiums in Rhodes Precinct) Written submissions during public exhibition: 16 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Council assessment officer – Nima Salek and Shannon Anderson On behalf of the applicant – Saul Moran, Lisa-Maree Carrigan and Shane O'Donnell Total number of unique submissions received by way of objection: 16
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 16 November 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair) <u>Applicant representatives</u>: Charles Hung, Saul Moran, Ryan Cole, Lisa-Maree Carrigan, Shane O'Donnell and Thomas Gregg <u>Council assessment staff</u>: Nima Salek and Shannon Anderson <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis

		<ul style="list-style-type: none"> • Briefing: 23 January 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair) ○ <u>Council assessment staff</u>: Nima Salek and Shannon Anderson ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Briefing: 18 April 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Alice Spizzo, Anthony Bazouni ○ <u>Council assessment staff</u>: Nima Salek and Shannon Anderson ○ <u>Department staff</u>: Carolyn Hunt • Site inspection: 08 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Graham Brown, Anthony Bazouni, and Joseph Cordaro ○ <u>Council assessment staff</u>: Nima Salek and Shannon Anderson • Briefing to discuss Council's recommendation: 08 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Graham Brown, Anthony Bazouni, and Joseph Cordaro ○ <u>Council assessment staff</u>: Nima Salek and Shannon Anderson ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Applicant Briefing: 10 September 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Graham Brown and Anthony Bazouni ○ <u>Applicant representatives</u>: Saul Moran, Lisa-Maree Carrigan, Shane O'Donnell, Lucy Hammond, Ben Trenko ○ <u>Council assessment staff</u>: Nima Salek and Shannon Anderson ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Final briefing to discuss Council's recommendation: 10 September 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Graham Brown and Anthony Bazouni ○ <u>Council assessment staff</u>: Nima Salek and Shannon Anderson ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Addendum Assessment Report