

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	8 August 2024
DATE OF PANEL DECISION	8 August 2024
DATE OF PANEL BRIEFING	7 August 2024
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Glennis James, Anthony Bazouni, and Joseph Cordaro
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 29 July 2024.

#### MATTER DETERMINED

PPSSEC-298 – Canada Bay – DA2023/0235 – 25 & 27 Leeds Street, Rhodes – Demolition of the existing structures on the site and site preparation and Construction of a mixed-use development containing six (6) buildings ranging from 4 to 13 storeys and comprising 8 retail premises and 249 apartments (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.4.4 (Floor Space Ratio) 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.4.4 (Floor Space Ratio) of the LEP and the objectives for development in the MU-1 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 Assessment Report.

## CONDITIONS

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






- Amend Condition 8 to correct the spelling of 'Management' in the last paragraph
- Amend Condition 11(c) to remove the duplicated word 'the'
- Amend Condition 13 to change the word 'remedial' to 'remediation' on two occasions in the first sentence
- Insert the reason 'Environmental protection' for Condition 44
- Insert the reason 'Public Amenity' for Condition 45
- Insert the reason 'Stormwater Management' for Condition 46
- Insert the reason 'Flood Risk Management' for Condition 47
- Insert the reason 'Public Domain Civil Works' for Condition 48
- Amend Condition 63 to change the word 'remedial' to 'remediation' in part (a) and in the second paragraph

## 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:

- Inadequate provision of green spaces
- Traffic congestion
- Overdevelopment of site and preference for site exclusive waterside park
- Building height exceedance
- Contamination
- Architectural design lacks merit
- Building separation
- Vision for Rhodes
- Rooftop gardens
- Construction and operational traffic management – submission of construction management plan
- Council engagement with major landowners including IKEA for the planning for the precinct

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)	 Glennis James
 Alice Spizzo	 Anthony Bazouni
 Joseph Cordaro	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-298 – Canada Bay – DA2023/0235
2	PROPOSED DEVELOPMENT	Demolition of the existing structures on the site and site preparation and Construction of a mixed-use development containing six (6) buildings ranging from 9 to 13 storeys and comprising 8 retail premises and 249 apartments
3	STREET ADDRESS	25 & 27 Leeds Street, Rhodes (Lot A in DP329241, Lot C in DP367132 and Lot 2 in DP1192949)
4	APPLICANT/OWNER	Thomas Nader Ben Fife & Michael Touma
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Building Sustainability Inex: BASIX) 2004</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Canada Bay Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>City of Canada Bay Development Control Plan</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 24 July 2024</li> <li>Clause 4.6 variation requests: cl. 4.3 (Height of Buildings) and cl.4.4 (Floor Space Ratio)</li> <li>Written submissions during public exhibition: 5</li> <li>Total number of unique submissions received by way of objection: 5</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 8 February 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Carl Scully (Chair)</li> <li><u>Applicant representatives</u>: Thomas Nader, Saul Moran, Mark Schofield, Lucy Hammond, Nick Hatz, John Rowley</li> <li><u>Council assessment staff</u>: Edna Sorensen, Shannon Anderson</li> <li><u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>Briefing: 18 April 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe, Anthony Bazouni,</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Edna Sorensen, Shannon Anderson</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> <ul style="list-style-type: none"> <li>• Site inspection: 07 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Anthony Bazouni and Joseph Cordaro</li> <li>○ <u>Council assessment staff</u>: Edna Sorensen, Shannon Anderson</li> </ul> </li> <li>• Applicant Briefing: 07 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Anthony Bazouni and Joseph Cordaro</li> <li>○ <u>Applicant representatives</u>: Thomas Nader, Anthony Kazacos, Mark Schofield, Nick Hatzi, John Rowley, Ro Iyer, Saul Moran, Leon Kinsella</li> <li>○ <u>Council assessment staff</u>: Edna Sorensen, Shannon Anderson</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>• Final briefing to discuss Council's recommendation: 07 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Anthony Bazouni and Joseph Cordaro</li> <li>○ <u>Council assessment staff</u>: Edna Sorensen, Shannon Anderson</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report