

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	28 April 2025
DATE OF PANEL DECISION	28 April 2025
DATE OF PANEL MEETING	17 April 2025
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Glennis James, Joe Awada and Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 17 April 2025, opened at 1.31pm and closed at 1.43pm.

MATTER DETERMINED

PPSSEC-302 – Bayside – DA-2023/361 – 75, 81 & 83-85 Railway Street, Rockdale, Botany – Integrated Development – Retention and modification to existing facade at 83-85 Railway Street, demolition of all other structures, construction of a 7-9 storey mixed-use development comprising of ground floor commercial, 129 residential units, basement parking and associated landscaping, widening of Heston Lane to rear and provision of footpath to a portion of Heston Lane at rear of site (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 inspection 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 2021 (LEP), the Panel is satisfied that the applicant has demonstrated that:

- compliance with cl. 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances because the proposal is consistent with the objectives of the standard, as it is designed to ensure consistency with the desired future character of the area, elements which breach the height standard have been treated in a way to reduce visual impact and provide an appropriate transition in built form and intensity; and
- there are sufficient environmental planning grounds to justify contravening the development standard as the development responds to the topography of the site and local area, with the proposal not resulting in unsatisfactory shadow, privacy or view loss impacts and provides a consistent built form response and positive urban design outcome.

The Panel determined to uphold the Section 4.6 variation to building height.

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 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 21 Design Amendments to insert new part 'n', which reads as follows:
n) Unit 412 – Level 4
The planter box and screen planting across the western side of the balcony to Unit 412 is to continue at the same depth to the southern side of the balcony to the wall of Bedroom 1 of that Unit.
- Amend Condition 40, to add the following:
Under the reference to the architectural plans:
l) planter box detail changes in accordance with condition 21 n) which requires the planter box and screen planting to Unit 412 to continue around to the southern side of the balcony and adjoin the wall of Bedroom 1 of that unit.

Under the reference to 2. Detailed Landscape Plan






- m) planter box detail changes in accordance with condition 21 n) which requires the planter box and screen planting to Unit 412 to continue around to the southern side of the balcony and adjoin the wall of Bedroom 1 of that unit.*

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:

- Traffic impacts
- Pedestrian safety
- Emergency access for school during and after construction
- Car parking on street and on site
- Construction noise
- Overshadowing, privacy and overlooking
- Site should be use for more amenities /shops
- Bulk, scale, height and massing on site
- Sustainability
- Tree removal and native vegetation
- Insufficient local infrastructure and amenities

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	 Joe Awada
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-302 – Bayside – DA-2023/361
2	PROPOSED DEVELOPMENT	Integrated Development – Retention and modification to existing facade at 83-85 Railway Street, demolition of all other structures, construction of a 7-9 storey mixed-use development comprising of ground floor commercial, 129 residential units, basement parking and associated landscaping, widening of Heston Lane to rear and provision of footpath to a portion of Heston Lane at rear of site
3	STREET ADDRESS	75, 81 & 83-85 Railway Street, Rockdale, Botany
4	APPLICANT/OWNER	Applicant: Anthony Habouk Owner: Zoe Holdings Rockdale 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 (Housing) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 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: Bayside Council and Owner/Developer of 75-81 Railway Street, Rockdale (26 November 2018) 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: uploaded to portal on 7 April 2025 Section 4.6 variation: S.4.3 (Height of Buildings) Bayside LEP 2021 Written submissions during public exhibition: 22 Verbal submissions at the public meeting: <ul style="list-style-type: none"> On behalf of the applicant – Conrad Johnston Total number of unique submissions received by way of objection: 22
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 6 February 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair) <u>Council assessment staff</u>: Marta Gonzalez-Valdes, Pascal Van de Walle and Haven Barr <u>Applicant representatives</u>: Anthony Habouk, Alex Harb, Oliver Guan and Alan Powell <u>Department staff</u>: Carolyn Hunt and Lisa Ellis

		<ul style="list-style-type: none"> • Council Briefing: 2 May 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Alice Spizzo and Joe Awada ○ <u>Council assessment staff</u>: Fiona Prodromou, Luis Melim and Marta Gonzalez-Valdes ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Council/Applicant Briefing: 10 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair) and Alice Spizzo ○ <u>Council assessment staff</u>: Fiona Prodromou, Marta Gonzalez-Valdes and Felicity Eberhart ○ <u>Applicant representatives</u>: Anthony Betros, Conrad Johnston, Anthony Habouk, Alex Harb and Oliver Guan ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Council/Applicant Briefing: 5 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Joe Awada and Michael Nagi ○ <u>Council assessment staff</u>: Fiona Prodromou, Luis Melim and Felicity Eberhart ○ <u>Applicant representatives</u>: Anthony Betros, Anthony Habouk, Conrad Johnston, Alex Harb, and Oliver Guan ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Site Inspection: 17 April 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Joe Awada and Michael Nagi ○ <u>Council assessment staff</u>: Marta Gonzalez Valdes and Carine Elias • Final briefing to discuss Council's recommendation: 17 April 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Glennis James, Joe Awada, Michael Nagi ○ <u>Council assessment staff</u>: Marta Gonzalez-Valdes, Carine Elias and Pascal Van de Walle ○ <u>Department staff</u>: Carolyn Hunt and Ilona Ter-Stepanova
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report