

DATE OF DETERMINATION	19 December 2024
DATE OF PANEL DECISION	18 December 2024
DATE OF PANEL BRIEFING	12 December 2024
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo and Susan Francis
APOLOGIES	None
DECLARATIONS OF INTEREST	Joe Awada and Michael Nagi declared a conflict of duties as they are Councillors and Council is the applicant and landowner for this application. They did not participate in the meetings.

Papers circulated electronically on 5 December 2024.

MATTER DETERMINED

PPSSEC-313 – Bayside – DA-2024/50 – 2 Myrtle Street, Botany – Integrated Development - Demolition of existing aquatic centre structures, tree removal and construction of a recreation facility (aquatic centre) including indoor and outdoor swimming pools, leisure facilities, gymnasium, waterslides, splashpad, changerooms, amenities, landscaping, signage, and modifications to existing car park (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.

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 1, Reports and Documents table to correct the typographical error of the author of the Operational Waste Management Plan to 'Elephants Foot Recycling Solutions'
- Amend Condition 4 to read as follows:
 - General Landscape Condition**
New street trees planted as part of this development approval shall be maintained by the Applicant for a period of **twelve (12)** months after the issue of the final occupation certificate. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties; to sustain adequate growth and health. Maintenance does not include trimming or pruning of the trees under any circumstances.

REASON

To ensure compliance with landscape requirements from relevant policies.

- Amend Condition 6 to read as follows:

6. Complaints

Handling of complaints by centre operators is to be in accordance with Bayside Council's Complaints Management Policy (Ref: F14/311 - 19/198011 & F16/951 - PP19/20I) dated 13 November 2019.

- Delete Conditions 14 and 15 and renumber the remaining conditions accordingly
- Amend now Condition 15 (former Condition 17) to correct typographical error of the word 'Tuesday'
- Amend now Condition 16 (former Condition 18) title to replace 'ARTC' with Australian Rail and Track Corporation
- Insert new Condition 20 and renumber the remaining conditions accordingly, which reads as follows:

20. NSW Police

The following conditions are imposed as recommended by NSW Police with details to be shown in the plans and documentation submitted with the Construction Certificate and implemented prior to issue of the final Occupation Certificate:

- a) High quality CCTV cameras to be installed and positioned strategically throughout the premises (Both internal and external). Pay particular attention to entry and exit points as well as any blind spots. Common areas should have CCTV as well as any storage areas (Bike racks).
 - b) Each specific area of the premises should have CCTV covering it.
 - c) CCTV to cover any bicycle parking spaces.
 - d) CCTV to cover outdoor pool areas, indoor pool areas, and learn to swim areas.
 - e) CCTV to cover outdoor seating areas including grandstand and seating areas.
 - f) CCTV is to cover the footpath on Myrtle Street.
 - g) CCTV is to cover carpark
 - h) CCTV is to cover Aquatic Centre at the rear (Lord Street end)
 - i) Lighting should be installed/upgraded and positioned throughout the premises particularly on Myrtle Street and Carpark. Lighting must allow visibility at night. Any lighting near CCTV cameras must not affect the recording ability and hinder image/video quality.
 - j) CCTV footage is to be retained for a minimum of two weeks and made available to police as part of any investigation of an incident.
- Amend now Condition 21 Design Amendments (former Condition 22) to delete 'a' and replace with 'any' in the first sentence after the words 'issue of'
 - Amend now Condition 23 Long Service Levy Fee (former Condition 24) to delete 'the relevant' and replace with 'any' in the first sentence after the words 'issue of'
 - Amend now Condition 24 Detailed Landscape Plan (former Condition 25) to:
 - delete 'a' and replace with 'any' in the first sentence after the words 'issue of'
 - amend part c) to read as follows:
 - c) Area nominated 13 in Landscape plan- Provide details of how bike racks relate to the adjacent proposed retaining wall/seating area. include sections. The height of the wall must be minimised to discourage its use for seating, to avoid visual impacts to Myrtle Street, and to discourage theft; alternatively, this area will need to be redesigned.
 - insert the following at the end of the condition 'Details to be provided on plans and satisfied prior to issue of the relevant Construction Certificate
 - Amend now Condition 25 Sydney Water Tap-in (modified) (former Condition 26) to delete 'the' and replace with 'any' in the first sentence after the words 'issue of'

- Amend now Condition 26 Erosion and sediment control plan (former Condition 27) to delete 'a' and replace with 'any' in the first sentence after the words 'issue of'
- Amend now Condition 30 Building/Driveway within Proximity of On-Site Detention (modified) (former Condition 31) to delete 'any' and replace with 'the relevant' in the first sentence after the words 'issue of'
- Amend now Condition 31 Structural Certification for Flood Prone Land (former Condition 32) to insert the word 'relevant' in the first sentence after the words 'issue of the'
- Amend now Condition 32 Flow Through Fencing (former Condition 33) to insert the word 'relevant' in the first sentence after the words 'issue of the'
- Amend now Condition 33 Updated Flood impact Assessment (former Condition 34) to delete 'an' and replace with 'any' in the first sentence after the words 'issue of'
- Amend now Condition 34 Detailed Flood Risk Management Plan (former Condition 35) to insert the word 'relevant' in the first sentence after the words 'issue of the'
- Amend now Condition 35 Flooding Requirements (former Condition 36) to insert the word 'relevant' in the first sentence after the words 'issue of the'
- Amend now Condition 37 Construction Site Management Plan (former Condition 38) to delete 'a' and replace with 'any' in the first sentence after the words 'issue of'
- Amend now Condition 38 Utilities and Services (former Condition 39) to delete 'the' and replace with 'any' in the first sentence after the words 'issue of'
- Amend now Condition 41 Equal Access to Premises (former Condition 42) to delete 'a' and replace with 'the relevant' in the first sentence after the words 'issue of'
- Amend now Condition 46 Lighting (former Condition 47) to delete 'a' and replace with 'the relevant' in the first sentence after the words 'issue of'
- Amend now Condition 47 Trade Waste Agreement (former Condition 48) to delete 'the' and replace with 'any' in the first sentence after the words 'issue of'
- Amend now Condition 49 Tree Offset Controls (former Condition 50) to delete 'a' and replace with 'any' in the second paragraph after the words 'issue of'
- Amend now Condition 50 Essential Fire Safety Measures (former Condition 51) to delete 'a' and replace with 'the relevant' in the first sentence after the words 'issue of'
- Amend now Condition 91 Landscape Maintenance Plan (former Condition 92) to delete 'an' and replace with 'the final' in the first sentence after the words 'issue of'
- Amend now Condition 93 Section 73 Certificate – Sydney Water (former Condition 94) to delete 'an' and replace with 'any' in the third sentence after the words 'obtained before'
- Amend now Condition 94 Certification of New Stormwater System (former Condition 95) to delete 'any' and replace with 'the final' in the first sentence after the words 'issue of'
- Amend now Condition 95 Certification of Roof Drainage System (former Condition 96) to delete 'any' and replace with 'the final' in the first sentence after the words 'issue of'
- Amend now Condition 96 Works-As-Executed Plans and any other Documentary Evidence (former Condition 97) to delete 'relevant' and replace with 'final' in the first sentence after the words 'issue of the'
- Amend now Condition 97 Positive Covenant Application (former Condition 98) to insert the word 'final' in the first sentence after the words 'issue of the' and correct the typographical error of the word 'Bayside' in the second paragraph
- Amend now Condition 99 Certification of Tanking and Waterproofing (former Condition 99) to delete the word 'any' and replace with 'the final' in the first sentence after the words 'issue of'
- Amend now Condition 102 Flood Risk Management Plan – Major (former Condition 103) to delete 'the' and replace with 'any' in the first sentence after the words 'issue of'
- Amend now Condition 103 Preservation of survey marks (former Condition 104) to delete 'an' and replace with 'the final' in the first sentence after the words 'issue of'
- Delete former Condition 105 – Section 73 Certificate – Sydney Water and renumber the remaining conditions accordingly
- Amend now Condition 104 Repair of Infrastructure (former Condition 106) to delete 'an' and replace with 'the final' in the first sentence after the words 'issue of'
- Amend now Condition 105 Release of Securities (former Condition 107) to delete 'an' and replace with 'the final' in the first sentence after the word 'receives'




- Amend now Condition 106 Completion of Public Utility Services (former Condition 108) to delete 'relevant' and replace with 'final' in the first sentence after the words 'issue of the'
- Amend now Condition 107 Geotechnical Certification (former Condition 109) to delete 'any' and replace with 'the final' in the first sentence after the words 'issue of'
- Amend now Condition 108 Parking Facility Certification (former Condition 110) to insert 'final' in the first sentence after the words 'issue of the'
- Amend now Condition 109 Green Travel Plan (former Condition 111) to insert 'final' in the first sentence after the words 'issue of the'
- Amend now Condition 110 Loading Bay Management Plan (former Condition 112) to insert 'final' in the first sentence after the words 'issue of the'
- Amend now Condition 115 Registration – Environmental Health (former Condition 117) to delete 'an' and replace with 'any' in the first sentence after the words 'issue of'
- Amend now Condition 117 Acoustic Measures Validation (former Condition 119) to insert 'the final' in the first sentence after
- Amend now Condition 119 Emergency Spill Response Management Plan (former Condition 121) to delete 'the' and replace with 'any' in the first sentence after the words 'issuing of'
- Delete Development Consent Advice (h) NSW Police

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
- Tree removal
- Construction impacts
- Access/lift access to waterslides
- Acoustic impacts and hours of operation

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)	 Susan Francis
 Alice Spizzo	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-313 – Bayside – DA-2024/50
2	PROPOSED DEVELOPMENT	Integrated Development - Demolition of existing aquatic centre structures, tree removal and construction of a recreation facility (aquatic centre) including indoor and outdoor swimming pools, leisure facilities, gymnasium, waterslides, splashpad, changerooms, amenities, landscaping, signage, and modifications to existing car park
3	STREET ADDRESS	2 Myrtle Street, Botany
4	APPLICANT/OWNER	Hannia Hapsellis (on behalf of Bayside Council) Bayside Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 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: 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: 3 December 2024 Written submissions during public exhibition: 4 Total number of unique submissions received by way of objection: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 11 July 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Michael Sheils, Paul Pappas <u>Council assessment staff</u>: Pascal van de Walle and Marta Gonzalez-Valdes <u>Independent Planning Consultants</u>: Brendon Clendenning, Kalinda Li <u>Department staff</u>: Carolyn Hunt Site inspection: 12 December 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo and Susan Francis <u>Independent Planning Consultants and Expert Engineers</u>: Brendon Clendenning, Kalinda Li <u>Council assessment staff</u>: Pascal van de Walle, Luis Melim

		<ul style="list-style-type: none"> • Applicant Briefing: 12 December 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo and Susan Francis ○ <u>Applicant representatives</u>: Hania Hapsellis, Louise Farrell, Andrew Ford, Michael Mackowski, Andrew Hobbs, Clinton Wyner, Robert McFee, Mike McGrath ○ <u>Independent Planning Consultants and Expert Engineers</u>: Brendon Clendenning, Kalinda Li, Chris Borg, Sammy Gazal ○ <u>Council assessment staff</u>: Pascal van de Walle, Luis Melim ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Final briefing to discuss Council's recommendation: 12 December 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo and Susan Francis ○ <u>Independent Planning Consultants and Expert Engineers</u>: Brendon Clendenning, Kalinda Li, Chris Borg, Sammy Gazal ○ <u>Council assessment staff</u>: Pascal van de Walle, Luis Melim ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and amended on 11 December 2024