

DATE OF DETERMINATION	4 December 2024
DATE OF PANEL DECISION	3 December 2024
DATE OF PANEL BRIEFING	28 November 2024
PANEL MEMBERS	Carl Scully (Chair), Susan Budd, Susan Francis, Joe Awada and Michael Nagi
APOLOGIES	Alice Spizzo
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 20 November 2024.

MATTER DETERMINED

PPSSEC-321 – Bayside – DA-2024/133 – 573 Gardeners Road, Mascot – Demolition of existing structures and construction of an eight (8) storey mixed use development comprising of ground floor retail and parking, seven (7) levels of residential units, basement and above ground car parking and 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 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 proposed development complies with the objectives of the height of building development standard; and
- there are sufficient environmental planning grounds to justify contravening the development standard as the site has flooding constraints, compliance with the National Construction Code requirements for minimum floor to ceiling heights has been achieved and the Australian Standard waste vehicle headroom clearance for a medium rigid vehicle provided.

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, in particular:

- The development, subject to conditions, is consistent with the objectives of the MU1 Mixed Use zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The proposal is an appropriate response to the streetscape and site context by way of architectural design and will not result in any significant impact on the environment or the amenity of nearby residents.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.

- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.
- The Panel considers that the development provides an appropriate built form interface to the existing high density residential apartments to the east and west of the site as well as a respectful built form transition to the low density residential area to the south. In this regard, the Panel notes the provision of a 9 metre landscaped, deep soil area to the south and increased setbacks at the upper level. The Panel considers the impacts of solar access to properties at the south are acceptable having regard to the zone interface which transitions from a high density to a low density residential area.

CONDITIONS

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

- Insert new Condition 145, which reads as follows and renumber the remaining conditions:

145. Plan of Management – Use of Level 1 Communal Open Space

Prior to the issue of any Occupation Certificate, a Plan of Management is to be prepared for the premises to the satisfaction of the Principal Certifier. The plan shall include the following:

- (a) Use of Level 1 communal open space area is not permissible during the night-time period (10.00 pm to 7.00 am)

REASON

To manage site operations so that adverse impacts are minimised.


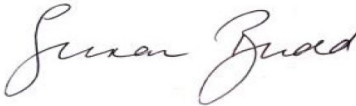



- Amend Condition 104(d) to insert the words ‘and updated Remediation Action Plan as referenced in Condition 69.’ at the end of the condition
- Amend Condition 141 to delete the first sentence and insert ‘ A Site Validation Report (SVR) must be prepared by the Site Auditor for any remediation actions and must be in accordance with:’

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:

- Overshadowing and loss of sunlight
- Loss of Privacy
- Traffic Impacts
- Property values
- Noise during construction

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 Budd
 Susan Francis	 Joe Awada
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-321 – Bayside – DA-2024/133
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of an eight (8) storey mixed use development comprising of ground floor retail and parking, seven (7) levels of residential units, basement and above ground car parking and landscaping
3	STREET ADDRESS	573 Gardeners Road, Mascot
4	APPLICANT/OWNER	Mecone Group Pty Ltd APKC 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 (Planning Systems) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Housing) 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: 20 November 2024 Clause 4.6 variation: S.4.3 (Height of Buildings) of Bayside LEP, 2021 Council Supplementary Report received: 27 November 2024 Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 15 August 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>: Andrew Ison, Pascal Van de Walle, Luis Melim, Fiona Koutsikas and Angela Lazaridis <u>Department staff</u>: Carolyn Hunt and Lisa Ellis Site inspection: 27-28 November 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Susan Budd, Susan Francis, Joe Awada, and Michael Nagi

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Andrew Ison, Pascal Van de Walle, Luis Melim • Applicant Briefing: 28 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Susan Budd, Susan Francis, Joe Awada, and Michael Nagi ○ <u>Applicant representatives</u>: James Ngu, Michael Reeves, Tom Cook, Kristy Vogel, Vahid Bazzaz, Chris Bridge, Fady Rizk ○ <u>Council assessment staff</u>: Andrew Ison, Pascal Van de Walle, Luis Melim ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Final briefing to discuss Council's recommendation: 28 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Susan Budd, Susan Francis, Joe Awada, and Michael Nagi ○ <u>Council assessment staff</u>: Andrew Ison, 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 Supplementary Council Assessment Report and updated on 28/11/2024