

DATE OF DETERMINATION	29 May 2025
DATE OF PANEL DECISION	29 May 2025
DATE OF PANEL MEETING	29 May 2025
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Susan Francis, Joe Awada and Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 20 May 2025.

MATTER DETERMINED

PPSSEC-330 - Bayside - DA-2024/172 - 2 Tingwell Boulevard, Eastgardens - BATA 2 - Lot C – Integrated Development - Tree removal, excavation, construction of a mixed-use development including three buildings comprising 7 to 13 storeys, 3 basement levels for car parking, 232 residential apartments, 2 retail premises, and associated communal recreational facilities, landscaping and servicing infrastructure (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 the 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 s.4.6 (3) of the Bayside Local Environmental Plan 2021 (LEP), the Panel is satisfied that the applicant has demonstrated that:

- compliance with s.4.4 (Floor Space Ratio) is unreasonable or unnecessary in the circumstances because the proposal satisfies the objectives of the standard, noting that the maximum density and intensity of use for Lot C were established under the Concept Plan approval for the site and the proposed development has been designed to minimise adverse environmental impacts and does not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and public places; and
- there are sufficient environmental planning grounds to justify contravening the development standard as the approved Concept Plan for the site has restricted the overall gross floor area intended for Lot C and the proposed development is generally consistent with the approved envelope controls and demonstrates compliance with the Apartment Design Guide.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The Panel deferred the matter on 29 April 2025 so that the applicant could provide the Panel with further information to demonstrate compliance with the solar requirements of the Apartment Design Guidelines. On receipt of the detailed information in regard to this, the Council and Panel are satisfied that the proposed development achieves compliance with the guidelines.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Section 4.6 variation to floor space ratio and approve the application for the reasons outlined in the Council Assessment Report and Council's Supplementary Report.

CONDITIONS






The Development Application was approved subject to the amended conditions in the Council Assessment Report (uploaded to the portal on 23 April 2025).

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 building separation/Adverse Visual privacy/Overlooking
- Overshadowing/Creation of dark and mouldy areas to existing units/Reduction in access to natural light and lack of ventilation
- Additional pressure on public transport, pedestrian crossings and infrastructure/precinct population capacity/request for independent study on cumulative impacts
- Traffic, access and road network
- Lack of trees
- Location of serviced apartments

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 supplementary report confirmed to the Panel compliance with the Apartment Design Guidelines in relation to solar access. The Panel notes that in addressing these issues, appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Alice Spizzo
 Susan Francis	 Joe Awada
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-330 - Bayside - DA-2024/172
2	PROPOSED DEVELOPMENT	BATA 2 - Lot C – Integrated Development - Tree removal, excavation, construction of a mixed-use development including three buildings comprising 7 to 13 storeys, 3 basement levels for car parking, 232 residential apartments, 2 retail premises, and associated communal recreational facilities, landscaping and servicing infrastructure
3	STREET ADDRESS	2 Tingwell Boulevard, Eastgardens
4	APPLICANT OWNER	Walter Gordon (on behalf of Karimbla Properties (No.39) Pty Ltd) Karimbla Properties (No.39) 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 (Resilience and Hazards) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 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: Planning Agreement (executed on 28 October 2021 and amended in May 2023 and December 2024) between Karimbla Properties (No. 39) Pty Ltd (Developer) and Bayside Council (Council) -Planning Agreement AR971967 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: March 2025 Supplementary report received: 20 May 2025 S.4.6 variation: S.4.4 (Floor Space Ratio) of Bayside Local Environmental Plan 2021 Written submissions during public exhibition: 36 (including 2 x pro forma letters) Verbal submissions at the public meeting: <ul style="list-style-type: none"> Katie Zhukov Council assessment officer – Fiona Prodromou, Christopher Thompson On behalf of the applicant – Walter Gordon, Frank Ru, Matthew Lennartz, Paul De Saily Total number of unique submissions received by way of objection: 12

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Preliminary Briefing: 15 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis ○ <u>Council assessment staff</u>: Fiona Prodromou, Andrew Ison, Felicity Eberhart, Marta Gonzalez-Valdes ○ <u>Applicant representatives</u>: Walter Gordon, Ian Lim, Ashna Aggarwal, Kim Samuels ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis • Site inspection: 15 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis ○ <u>Council assessment staff</u>: Fiona Prodromou, Andrew Ison, Felicity Eberhart, Marta Gonzalez-Valdes ○ <u>Applicant representatives</u>: Walter Gordon, Ian Lim, Ashna Aggarwal, Kim Samuels • Council/Applicant Briefing: 20 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Joe Awada, Michael Nagi ○ <u>Council assessment staff</u>: Fiona Prodromou, Felicity Eberhart, Andrew Ison, Luis Melim, Marta Gonzalez-Valdes ○ <u>Applicant representatives</u>: Walter Gordon, Matthew Lennartz, Ian Lim, Ashna Aggarwal, Kim Samuels ○ <u>Department staff</u>: Tim Mahoney • Council/Applicant Briefing: 4 March 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Joe Awada, Michael Nagi ○ <u>Council assessment staff</u>: Fiona Prodromou, Marta Gonzalez-Valdes Luis Melim ○ <u>Applicant representatives</u>: Walter Gordon, Matthew Lennartz, Ian Lim, Ashna Aggarwal, Cameron Greenbatch ○ <u>Department staff</u>: Carolyn Hunt, Lisa Ellis and Ilona Ter-Stepanova • Council briefing to discuss Council's recommendation: 29 April 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Joe Awada, Michael Nagi ○ <u>Council assessment staff</u>: Fiona Prodromou, Carine Elias, Christopher Thompson ○ <u>Department staff</u>: Carolyn Hunt and Ilona Ter-Stepanova • Council/Applicant Briefing: 29 May 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Joe Awada, Michael Nagi ○ <u>Applicant representatives</u>: Walter Gordon, Matthew Lennartz, Ian Lim, Ashna Aggarwal, Sumedh Kataria ○ <u>Council assessment staff</u>: Fiona Prodromou, Carine Elias, Felicity Eberhart ○ <u>Department staff</u>: Carolyn Hunt and Ilona Ter-Stepanova • Final briefing to discuss Council's recommendation: 29 May 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Joe Awada, Michael Nagi ○ <u>Council assessment staff</u>: Fiona Prodromou, Carine Elias, Felicity Eberhart ○ <u>Department staff</u>: Carolyn Hunt and Ilona Ter-Stepanova
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9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report uploaded to the portal on 23 April 2025