

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY EASTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	31 March 2025
<b>DATE OF PANEL DECISION</b>	30 March 2025
<b>DATE OF PANEL BRIEFING</b>	27 March 2025
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Susan Francis, Susan Budd, Joe Awada and Michael Nagi
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 19 March 2025.

#### MATTER DETERMINED

PPSSEC-333 - Bayside - DA-2024/190 - 98 & 106 Banks Avenue, East Gardens - Integrated Development - Lot D – Excavation, removal of six (6) trees, and construction of two (2) x 20 storey buildings consisting of three (3) levels of basement car parking, 385 residential apartment units, communal recreational facilities, embellishment works to Open Space 2 and construction of a private road (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 s.4.6 (3) of the Bayside Local Environmental Plan 2021 (LEP), the Panel is satisfied that the applicant has demonstrated that:

1. compliance with s. 4.4 (Floor Space Ratio) is unreasonable or unnecessary in the circumstances because the proposal is considered consistent with the objectives of the development standard, noting that:-
  - the maximum density and intensity has been established under the concept plan approval,
  - the approved bulk and scale is generally consistent with the approved concept plan,
  - there are no adverse environmental impacts on the adjoining properties and public domain,
  - it has been designed to maintain appropriate visual relationships between the new development and existing locality character and
  - there are no adverse effects on the streetscape, skyline and streetscape; and
2. there are sufficient environmental planning grounds to justify contravening the development standard as the proposed development is consistent with the approved envelope controls under the approved concept plan in relation to building setbacks, building separation and height, provides landscaping which is consistent with the approved concept plan 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 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 Amended Council Assessment Report. The proposal is consistent with the approved concept plan and has satisfied the issues raised by the Design Review Panel. The conditions of consent will address matters of environmental impact.

## CONDITIONS

The Development Application was approved subject to the amended conditions (uploaded to the portal on 26 March 2025) attached to the amended Council Assessment Report with the following amendments.

- Delete Condition 8 and renumber the remaining conditions accordingly
- Amend now Condition 69 (former Condition 70) to read as follows:

### **'69. Tree Offset Controls**

The proposed development includes the removal of six (6) live trees. To offset the loss of canopy the applicant is required to replace the tree at a 3:1 replacement ratio, therefore a total of eighteen (18) new trees shall be planted to offset the canopy loss for environmental reasons. The consent specifies that a Tree Location Plan must be lodged with Council prior to the issue of the relevant Construction Certificate, nominating the location and species of trees to be replanted. Where the applicant is relying on this Agreement to satisfy the consent, this Agreement must be in place prior to the issue of the relevant Construction Certificate.

## REASON


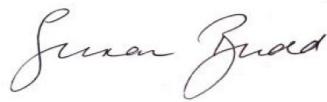



To ensure a Tree Location Plan is lodged nominating the location of species of trees to be replanted. '

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submissions made during public exhibition. The Panel notes that issues of concern included:

- Public transport strain
- Increases traffic and safety concerns
- Wind tunnel effects
- Loss of sunlight

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-333 – Bayside – DA-2024/190
2	PROPOSED DEVELOPMENT	Integrated Development - Lot D – Excavation, removal of six (6) trees, and construction of two (2) x 20 storey buildings consisting of three (3) levels of basement car parking, 385 residential apartment units, communal recreational facilities, embellishment works to Open Space 2 and construction of a private road
3	STREET ADDRESS	98 and 106 Banks Avenue, East Gardens
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"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Bayside Local Environmental Plan 2021</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Bayside Development Control Plan 2022</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: 13 March 2025 (and amended on 19 March 2025)</li> <li>Cl.4.6 Variation request: S.4.4 (Floor Space Ratio)</li> <li>Written submissions during public exhibition: 1</li> <li>Total number of unique submissions received by way of objection: 1</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 15 October 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Carl Scully (Chair), Alice Spizzo and Susan Francis</li> <li><u>Council assessment staff</u>: Fiona Prodromou, Andrew Ison, Felicity Eberhart and Marta Gonzalez-Valdes</li> <li><u>Applicant representatives</u>: Walter Gordon, Ian Lim, Ashna Aggarwal and Kim Samuels</li> <li><u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>Site inspection: 15 October 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Carl Scully (Chair), Alice Spizzo and Susan Francis</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Fiona Prodromou, Andrew Ison, Felicity Eberhart and Marta Gonzalez-Valdes</li> <li>○ <u>Applicant representatives</u>: Walter Gordon, Ian Lim, Ashna Aggarwal and Kim Samuels</li> </ul> <ul style="list-style-type: none"> <li>● Council/Applicant Briefing: 20 November 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Joe Awada and Michael Nagi</li> <li>○ <u>Council assessment staff</u>: Andrew Ison, Felicity Eberhart, Fiona Prodromou, Luis Melim and Marta Gonzalez-Valdes</li> <li>○ <u>Applicant representatives</u>: Walter Gordon, Matthew Lennartz, Ian Lim, Ashna Aggarwal and Kim Samuels</li> <li>○ <u>Department staff</u>: Tim Mahoney</li> </ul> </li> <li>● Applicant Briefing: 27 March 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Susan Francis, Susan Budd, Joe Awada and Michael Nagi</li> <li>○ <u>Council assessment staff</u>: Andrew Ison and Pascal Van de Walle</li> <li>○ <u>Applicant representatives</u>: Walter Gordon, Ian Lim, David Thompson and Ashna Aggarwal</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Ilona Ter-Stepanova</li> </ul> </li> <li>● Final briefing to discuss Council's recommendation: 27 March 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Susan Francis, Susan Budd, Joe Awada and Michael Nagi</li> <li>○ <u>Council assessment staff</u>: Andrew Ison and Pascal Van de Walle</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Ilona Ter-Stepanova</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Amended conditions being an attachment to the Amended Council Assessment Report (dated 13/03/2025 and uploaded 19/03/2025) and uploaded to the portal on 26 March 2025