

**DETERMINATION AND STATEMENT OF REASONS**  
SYDNEY EASTERN CITY PLANNING PANEL

|                                       |                                                                                                                                  |
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| <b>DATE OF DETERMINATION</b>          | 9 December 2025                                                                                                                  |
| <b>DATE OF PANEL DECISION</b>         | 9 December 2025                                                                                                                  |
| <b>DATE OF PANEL MEETING/BRIEFING</b> | 4 December 2025                                                                                                                  |
| <b>PANEL MEMBERS</b>                  | Carl Scully (Chair), Alice Spizzo and Susan Budd                                                                                 |
| <b>APOLOGIES</b>                      | None                                                                                                                             |
| <b>DECLARATIONS OF INTEREST</b>       | Joe Awada and Michael Nagi both declared a Conflict of Duties as they are Councillors and Council is the landowner and applicant |

Public meeting held by teleconference on 4 December 2025, opened at 2.36pm and closed at 3.37pm.

**MATTER DETERMINED**

PPSSEC-410 - Bayside - DA-2024/374 - 179 Russell Avenue, Dolls Point - Demolition of existing structure known as Le Beach Hut Cafe, removal of six (6) trees, and construction of a food and drink premises with public amenities at Peter Depena Reserve operating 6:00am to 10:00pm seven days (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 briefings and the matters observed at the 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, with the exception of the proposed 300 maximum number of patrons and staff. The Panel determined the maximum number of patrons and staff on site at any one time should be restricted to 150, considering the immediate context of the restaurant/café, proximity to residential zones, parkland setting and reliance on public parking.

The proposed restaurant and café uses are permissible with consent on this site as additional permissible uses introduced through an amendment to Bayside Local Environmental Plan, which came into effect earlier this year. The new building and landscaping have been well designed to appropriately integrate the building into its parkland setting and will be a significant improvement to the current development on the site.

**CONDITIONS**

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

- Insert new Condition 2 which reads as follows and renumber the remaining conditions accordingly:
  - 2. Surrender Previous Consents**  
All previous development consents applying to the land, must be formally surrendered to Council prior to issue of any Construction Certificate pursuant to Section 4.17 of the

*Environmental Planning and Assessment Act 1979 and Clause 97 of the Environmental Planning and Assessment Regulation 2000.*

Details demonstrating compliance with the requirements of this condition must be submitted to the satisfaction of the Council prior to the issue of any Construction Certificate.

**Condition reason:** To ensure that all operational controls for the site are governed solely by this new consent and its conditions.

- Insert new Condition 3 which reads as follows and renumber the remaining conditions accordingly:

**3. Exclusion of Function Centre Use**

Notwithstanding the general description of the approved use, consent is not granted for the use of the premises as a Function Centre.

**Condition reason:** To ensure the intensity and management of the use remains consistent with the approved development.

- Amend now Condition 83d) (former Condition 81d)) Operating hours & Operational Requirements to read as follows:

83d) The maximum number of patrons and staff on the site shall not exceed 150 people at any one time, and shall not exceed 12 patrons in the northern courtyard seating area after 6:00pm, and

- Amend now Condition 84 (former Condition 82) to add the following:

84e) Amend to permit a maximum of 150 patrons and staff on site at any one time.

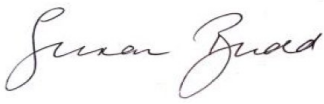
The Panel noted that the condition number referenced in now Condition 81 (former condition 79) was updated to '54'.

## **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:

- Hours of operation
- Traffic, parking and safety
- Acoustic impacts (noise and disruption)
- Design
- Tree removal, including privacy impacts and inadequate information on trees to be removed and impacts on biodiversity
- Land use and compatibility with the RE1 zoning
- Absence of required documentation, including in relation to noise, traffic, parking, arboriculture
- Absence of required consultation, including in relation to consultation with police and Aboriginal representatives and a lack of consideration for disabled parking
- Anti-social behaviour
- Heritage impacts
- Potential uncertainties relation to land ownership
- Breach of Cook Park Plan of Management (in relation to hours of operation)
- Previous health infringements, police incidents, illegal footpath occupation, fire safety and disabled access issues
- Government transparency – lack of tender process, enforcement of previous non-compliances and approval of superior location for the development in the early 2000s
- Exhaust fumes, odour, air pollution and vermin
- View loss
- Request to speed up the construction of the development
- Waste collection

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 Panel notes that in addressing these issues, appropriate conditions have been imposed.

| PANEL MEMBERS                                                                                            |                                                                                                   |
|----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <br>Carl Scully (Chair) | <br>Alice Spizzo |
| <br>Susan Budd          |                                                                                                   |

| SCHEDULE 1 |                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| 1          | PANEL REF – LGA – DA NO.                              | PPSSEC-410 - Bayside - DA-2024/374                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2          | PROPOSED DEVELOPMENT                                  | Demolition of existing structure known as Le Beach Hut Cafe, removal of six (6) trees, and construction of a food and drink premises with public amenities at Peter Depena Reserve operating 6:00am to 10:00pm seven days                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 3          | STREET ADDRESS                                        | 179 Russell Avenue, Dolls Point                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4          | APPLICANT/OWNER                                       | Hania Hapsellis (Sam Crawford Architects) on behalf of Bayside Council<br>Bayside Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 5          | TYPE OF REGIONAL DEVELOPMENT                          | Council related development over \$5 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 (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy (Industry and Employment) 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>Independent Consultant Assessment Report: 26 November 2025</li> <li>Written submissions during public exhibition: 12</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Martin Wilson, Eloise Dalmas, Sean Fogarty</li> <li>Council assessment officer – Pascal van de Walle</li> <li>Independent Planning Consultant - Brendon Clendenning</li> <li>On behalf of the applicant – Benjamin Chan, Hania Hapsellis, Mariam Fares, Andrew Ford</li> </ul> </li> <li>Total number of unique submissions received by way of objection: 11</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>Site inspection: 4 December 2025 <ul style="list-style-type: none"> <li>Panel members: Carl Scully (Chair), Alice Spizzo, Susan Budd</li> <li>Council assessment staff: Pascal van de Walle, Carine Elias</li> <li>Independent Planning Consultant: Brendon Clendenning, Matthew Flynn</li> </ul> </li> <li>Final briefing to discuss Council's recommendation: 4 December 2025</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|    |                        | <ul style="list-style-type: none"><li>○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Budd</li><li>○ <u>Council assessment staff</u>: Pascal van de Walle, Carine Elias</li><li>○ <u>Independent Planning Consultant</u>: Brendon Clendenning, Matthew Flynn</li><li>○ <u>Department Staff</u>: Carolyn Hunt and Ilona Ter-Stepanova</li></ul> |
| 9  | COUNCIL RECOMMENDATION | Approval                                                                                                                                                                                                                                                                                                                                                        |
| 10 | DRAFT CONDITIONS       | Attached to the Council Assessment Report                                                                                                                                                                                                                                                                                                                       |