

<b>DATE OF DETERMINATION</b>	Thursday 21 March 2019
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Sue Francis, John Roseth, Michael Nagi, Paul Pappas
<b>APOLOGIES</b>	Ed McDougall
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Rockdale Town Hall, 488 Princes Highway Rockdale on 21 March 2019, opened at 11.45am and closed at 2.25pm.

#### **MATTER DETERMINED**

2017SCL037 – Bayside – DA2017/371 at 84 New Illawarra Road Bexley (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.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

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

The decision was 4:1 in favour, against the decision was Paul Pappas.

#### **REASONS FOR THE DECISION**

The majority of the Panel (Carl Scully, John Roseth, Sue Francis and Michael Nagi) accepts that the applicant's written cl 4.6 submission in relation to varying the height and FSR has demonstrated sufficient environmental grounds to allow the variations and that the proposal meets the objectives of the zone and standards notwithstanding the variations and is thus in the public interest.

The majority of the Panel accepts the recommendation of the assessment report to approve the application; however, without imposing Condition 12(a) which would require the removal of the top floor of Block A.

The Panel's reasons for approval and removing the condition seeking to remove the upper level of Block A are:

- The proposal has no material adverse impact on neighbouring properties.
- The proposal responds appropriately to the site's constraints, in particular, the slope of the land and the overland flow path.
- The design is appropriate in the context of the surrounding development.
- The Panel placed considerable weight on the public benefit of providing social housing.

As regards the decision not to impose condition 12(a), the majority of the Panel considered that the proposal was consistent with the Site Compatibility Certificate, which appears to have been based on a two-storey appearance to New Illawarra Road and a three-storey appearance to Bexley Road. The Panel also noted that the Council's Design Review Panel considered the proposal to be a "reasonable fit for the area notwithstanding its increased height". In addition, the Panel had regard to the considerable distance

to Barnsbury Grove and the screening provided by the trees within the public park when the proposal is viewed from there.

Against the approval was Paul Pappas, who voted for a deferral to request that the applicant amend the design to create a transition between heights and lessen the impact of the height.






#### CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report and amended conditions received on 21 March 2019 with the deletion of condition 12(a). The Panel notes that the applicant has agreed to the conditions (other than 12(a)).

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those who addressed the panel. The Panel notes that issues of concern included the area's character, height, traffic and the precedent provided for a proposed Planning Proposal on adjoining land. As concerns character and height, the Panel believes that the proposal, while of a greater scale than existing development, will be compatible with that character and the likely future character of the area, where compatibility does not require sameness. The Panel notes that the applicant's and the council's traffic experts agreed that the traffic impact is acceptable. The Panel did not believe that this proposal would provide any precedent for the Planning Proposal for the adjoining land.

The Panel therefore considers that concerns raised by the community have been adequately addressed.

PANEL MEMBERS	
 Carl Scully (Chair)	 John Roseth
 Peter Brennan	 Michael Nagi
 Paul Pappas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SCL037 – Bayside – DA2017/371
2	PROPOSED DEVELOPMENT	Construction of a part two and three storey residential flat building comprising 10 residential units fronting New Illawarra Road and a second residential flat building of up to 5 storeys in height and comprising 14 residential units fronting Bexley Road including parking underneath.
3	STREET ADDRESS	84 New Illawarra Road (and former 313 Bexley Road), Bexley North
4	APPLICANT/OWNER	NSW Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown 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 XXXX</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</li> <li>Rockdale Local Environmental Plan 2011</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Rockdale Development Control Plan 2011</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</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: 11 March 2019</li> <li>Written submissions during public exhibition: 60</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In objection – Nathan Kearnes, Simon Rabagliati, Stephen McIntyre on behalf of the Say No to Rezone Community Group, Johanna Cordes</li> <li>Council assessment officer – Brendan Clendenning (council consultant planner)</li> <li>On behalf of the applicant – Daniel Ouma-Machio,</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Site inspection and briefing: 15 March 2018</li> <li>Final briefing to discuss council's recommendation, 21 March 2019 at 11am. Attendees:</li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Carl Scully (Chair), Sue Francis, John Roseth, Michael Nagi, Paul Pappas</li><li>○ <u>Council assessment staff</u>: Pascal Van De Walle, Brendan Clendenning (council planning consultant), Luis Melim</li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report