

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY EASTERN CITY PLANNING PANEL

|                                 |                                                                                                                                                                                                                                   |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF DETERMINATION</b>    | Thursday 2 May 2019                                                                                                                                                                                                               |
| <b>PANEL MEMBERS</b>            | Carl Scully (Chair), Sue Francis, John Roseth, Stephen Bargwanna, Bill Gawne                                                                                                                                                      |
| <b>APOLOGIES</b>                | None                                                                                                                                                                                                                              |
| <b>DECLARATIONS OF INTEREST</b> | Stephen Bargwanna does not have a conflict of interest but declared for the public record that the architects for the proposal are the architects for his daughter's family home. Mr Bargwanna has no involvement with the build. |

Public meeting held at Fraser Suites, 488 Kent Street Sydney, on 2 May 2019, opened at 1:30 pm and closed at 3.20pm.

#### MATTER DETERMINED

2018SCL010 – Waverley – DA482/2017 – 59-75 Grafton Street Bondi Junction – Mixed Use Building (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 unanimous

#### REASONS FOR THE DECISION

- The Panel notes that the applicant has made a written submission under clause 4.6 of the Waverley LEP 2012 in respect of a variation of the height standard, which has been assessed by the council as providing sufficient environmental planning grounds to justify the variation. The Panel accepts that the height variation meets the objectives of the zone and the height standard and that it results in a better planning outcome and it has no material impact on surrounding properties and is thus in the public interest. The variation is justified principally on the grounds of the steeply sloping site and the provision of equitable access to the communal open space on the roof which requires a lift tower.
- The Panel notes that the proposal also varies the separation distances required by the Apartment Design Guide. However, it meets the objectives of those guidelines as the arrangement of windows ensures that there is no unacceptable overlooking between apartments.
- Apart from the above variations, the proposed building generally complies with the development controls, in particular, with the maximum FSR of 6:1 and it fits into the desired future character of Bondi Junction.

#### CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report as amended as follows:

- Condition 1 amended to include the following plan references to reflect the following amendments:
  - o DA2111 Rev E 29/04/2019
  - o DA2112 Rev G 29/04/2019
  - o DA2300 Rev E 29/04/2019
  - o DA2301 Rev F 29/04/2019
  - o DA2302 Rev D 29/04/2019
  - o DA2402 Rev E 29/04/2019
  - o DA2406 Rev E 29/04/2019
- Delete Condition 2A (as it is no longer required)
- Include a new condition as follows, to be Condition 129:

***Hours of operation of communal open space of the development***

*The use of the communal open space on the roof and level 5 of the development shall be restricted to the following hours:*

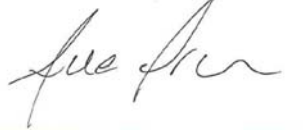
- a) Monday to Friday (excluding public holidays) 7am to 9pm*
- b) Weekends and public holidays 8am to 9pm*
- c) New Year's Eve 9am to 12:30 am*

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from two objectors at the public meeting. The major concerns were impact on traffic and parking and the impact on existing views.

The Panel is satisfied that the traffic impact will be acceptable. For existing developments that have access from Hegarty Lane, the situation will improve, since all access is proposed from Grafton Lane.

As regards the impact on views, the Panel accepts that there will be an impact on the views from some properties, notably to the west; however, the views that would be impacted are so impacted from a that part of the building which complies with the height controls and which is consistent with the desired and anticipated built form established by Councils statutory controls. The Panel notes that extensive views of the water to the north are unaffected by the proposal.

| PANEL MEMBERS                                                                                              |                                                                                                          |
|------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <br>Carl Scully (Chair) | <br>Sue Francis      |
| <br>John Roseth         | <br>Stephen Bargwanna |
| <br>Bill Gawne          |                                                                                                          |

| SCHEDULE 1 |                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1          | PANEL REF – LGA – DA NO.                              | 2018SCL010 – Waverley – DA482/2017                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2          | PROPOSED DEVELOPMENT                                  | Demolition of existing commercial building and construction of 19 storey mixed use building.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 3          | STREET ADDRESS                                        | 59-75 Grafton Street, Bondi Junction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 4          | APPLICANT/OWNER                                       | Clygen 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 55 - Remediation of Land</li> <li>State Environmental Planning Policy 65 - Design Quality of Residential Flat Development</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 (State and Regional Development) 2011</li> <li>State Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>Waverley Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Waverley Development Control Plan 2012</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: 23 April 2019</li> <li>Clause 4.6 variation requests</li> <li>Letter of Concurrence from Sydney Trains</li> <li>Written submissions during public exhibition: 22</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In objection – Christopher Matthews (on behalf of the Bondi Residents Action Group), Hal Dyball and Joy Matthews</li> <li>Council assessment officer – Beth Matlawski</li> <li>On behalf of the applicant – Sandra Robinson and Angela Dimarco</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>Site inspection: 10 May 2019</li> <li>Briefing: 10 May 2019</li> <li>Final briefing to discuss council's recommendation, 2 May 2019, 1:10 pm. Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Carl Scully (Chair), John Roseth, Sue Francis, Bill Gawne and Stephen Bargwanna</li> <li><u>Council assessment staff</u>: Beth Matlawski, Angela Rossi, Mitchell Reid and Hugh Johnston</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 9          | COUNCIL RECOMMENDATION                                | Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 10         | DRAFT CONDITIONS                                      | Attached to the council assessment report                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |