

<b>DATE OF DETERMINATION</b>	Thursday 5 December 2019
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Abigail Goldberg, John Roseth, Ed McDougall, Michael Nagi
<b>APOLOGIES</b>	Sue Francis
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Fraser Suites, 488 Kent Street Sydney, on 5 December 2019, opened at 11am and closed at 12.35pm.

#### **MATTER DETERMINED**

2018SCL067 – Bayside – DA2018/196 at 130-140 Princes Highway & 7 Charles Street Arncliffe for an integrated development (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.

#### **Application to vary a development standard**

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Rockdale Local Environmental Plan 2011 (LEP), that has demonstrated that:

- a) compliance with 4.3 (Height of Building) and cl.4.4 (Floor Space Ratio) (development standard) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of clause 4.3 and 4.4 (development standard) of the LEP and the objectives for development in the B4 Mixed Use and R4 High Density zone; and
- c) the concurrence of the Secretary has been provided.

#### **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**

1. The proposal fits into the future desired character of the site and locality.
2. While the proposal requires the FSR development standard in the Rockdale Local Environmental Plan 2011 to be varied, the non-compliance is of a "technical" nature because the total Gross Floor

Area (GFA) permissible on the site is not exceeded. The variation is justified in a written submission by the applicant under clause 4.6 of the LEP (see above).

3. While the proposal requires the variation of the height development standard in the Rockdale Local Environmental Plan 2011, the variation is for a minor portion of the building and limited to lift overruns and parts of the parapet and roof of building A. The variation is justified in a written submission by the applicant under clause 4.6 of the Local Environmental Plan (see above).
4. The proposal achieves design excellence as required by clause 6.14 Of the Rockdale Local Environmental Plan 2011.
5. The proposal complies with the principles of the Princes Highway Arncliffe Precinct of the Rockdale Development Control Plan 2011.

### CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendment:

- Condition 39 amended to include the following sentence  
*The construction Management Plan is to maximise the availability of on-site parking.*






### CONSIDERATION OF COMMUNITY VIEWS

The Panel considered 12 written submission and one petition signed by 36 persons in response to the public exhibition of the proposal. Six objectors spoke at the public meeting.

One major issue of concern was whether the remaining parts of the street block would become “isolated sites” as a result of this development. The applicant provided diagrams to demonstrate that the remaining sites could be developed to their development potential. In addition, the proposal includes two areas of open space, which reduce the impact of the development on existing properties in Wickham and Charles Street and will increase the amenity of these sites when and if they are redeveloped.

Additional issues included overshadowing and overlooking of properties in Wickham and Charles Street, traffic and parking and the preferred use of Princes Highway for access. The Panel is satisfied that, given the density and building height is permissible on the site, the impact on those properties is reasonable.

As regards impact on traffic and parking, the Panel notes that the proposal complies with the requirements of the Rockdale Development Control Plan 2011. To minimise the impact of construction traffic, the following sentence is added to Condition 39: *The construction Management Plan is to maximise the availability of on-site parking.*

PANEL MEMBERS	
 Carl Scully (Chair)	 Abigail Goldberg
 John Roseth	 Ed McDougall
 Ed McDougall	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SCL067 – Bayside – DA2018/196
2	PROPOSED DEVELOPMENT	Integrated Development - Demolition of existing structures and construction of 10 storey mixed use development including 182 dwellings, 2 show room tenancies, 3 level basement parking with access via Charles Street and Stratum subdivision into two lots.
3	STREET ADDRESS	130-140 Princes Highway & 7 Charles Street, Arncliffe
4	APPLICANT/OWNER	Combined Projects (Wickham St) 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 (State and Regional Development 2011 - Schedule 7)</li> <li>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development &amp; Apartment Design Guide</li> <li>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>State Environmental Planning Policy BASIX 2004</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land</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>: Part 6 –Procedures relating to Development Applications</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: 21 November 2019</li> <li>Clause 4.6 Variation Request – Floor Space Ratio</li> <li>Written submissions during public exhibition: 13, including 1 petition</li> <li>Verbal submissions at the public meeting 5 December 2019: <ul style="list-style-type: none"> <li>In objection – John Kuzevski, Goerga Balassis, Ewa &amp; Michael Dmitrewicz, Zeinab Elzein, Charles Lew</li> <li>Council assessment officer – Fiona Prodromou</li> <li>On behalf of the applicant – Stephen Kerr, Theo Loucas</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 25 October 2018 <ul style="list-style-type: none"> <li><u>Panel members</u>: Carl Scully (Chair), John Roseth, Susan Budd</li> <li><u>Council assessment staff</u>: Fiona Prodromou, Chris Mackey, Luis Melim</li> </ul> </li> <li>Site inspection: 22 August 2019 <ul style="list-style-type: none"> <li><u>Panel members</u>: Carl Scully (Chair), Michael Nagi</li> <li><u>Council assessment staff</u>: Patrick Nash, Fiona Prodromou, Andrew Ison, Luis Melim</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation, 5 December 2019 at 10am. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Abigail Goldberg, John Roseth, Ed McDougall, Michael Nagi</li> <li>○ <u>Council assessment staff</u>: Fiona Prodromou, Patrick Nash, Marta Gonzalez-Veldes, Luis Melim, Chris Mackey</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report