

DATE OF DETERMINATION	15 December 2020
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Ed McDougall, Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by videoconference on 15 December 2020, opened at 9am and closed at 9.35am.

MATTER DETERMINED

PPSSEC-1 – Bayside – DA-2019/228 – 41-45 Bay Street and 4 Chapel Street, Rockdale (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.

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:

- compliance with cl. 4.6 is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the B4 zone; and
- the concurrence of the Secretary has been assumed.

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 Clause 4.6 variation to building height and approve the application for the reasons outlined in the Council Officer's assessment report.

- The Panel is satisfied, subject to a number of deferred commencement conditions that must be satisfied by amended plans for the approval of the Director of City Futures, the development is worthy of approval.
- The Panel notes the development subject to conditions is generally consistent with Council's planning controls and guidelines and the Apartment Design Guide (ADG) requirements.
- The deferred commencement is to also include the requirement for additional open space and an amenities room to be provided on the rooftop as a single storey element in the area currently shown as the top level of the two storey unit shown as Unit 8E. This unit is to be modified to be

shown as a single storey unit (reason: this additional community open space and recreation room is to compensate for the number of units that receive less than the recommended solar access and to supplement communal areas given the density)

- The amended plans are to also provide for additional deep soil planting area, in particular on the Chapel Street frontage, to accommodate canopy trees. As a consequence, the landscaped plans shall be amended in accordance with the requirements of the deferred commencement conditions to ensure appropriate landscaping commensurate with the size of the building.

CONDITIONS






The development application is approved subject to the conditions in the Council Officer's assessment report with additional deferred commencement conditions to give effect to the above design and landscape changes.

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:

- Overshadowing and loss of light to the neighbouring properties
- Privacy impacts and view loss
- Setbacks
- Traffic and car parking impacts
- Construction impacts with relation to noise and retention of structural integrity of neighbouring buildings
- Loss of character
- Non-compliances with the ADG with relation to building separation, solar access and deep soil
- Inadequate Clause 4.6 assessment for height variation
- Insufficient geotechnical information
- Inadequate site analysis

The Panel considers that concerns raised by the community have been addressed in the assessment report and no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Roberta Ryan	 Ed McDougall
 Michael Nagi	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-1 – Bayside – DA-2019/228
2	PROPOSED DEVELOPMENT	Integrated Development - Construction of a nine (9) storey mixed use development including basement car parking, ground floor RSL club and 80 residential apartments.
3	STREET ADDRESS	41 – 45 Bay Street and 4 Chapel Street, Rockdale
4	APPLICANT/OWNER	Applicant: Statewide Construction & Development Pty Ltd Owner: Rockdale RSL Sub-Branch Club Ltd, 45 Bay Street Pty Ltd, Bay On The Chapel Pty Ltd and Bay Chapel Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment State Environmental Planning Policy (BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings Rockdale Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Rockdale Development Control Plan 2011 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 7 December 2020 Clause 4.6 variation request – Height Written submissions during public exhibition: 11 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Ian Cady Council assessment officer – Andrew Ison, Christopher Mackey On behalf of the applicant – Rohan Dickson, Garry Chapman, Trevor Black Total number of unique submissions received by way of objection: 11
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 19 November 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Michael Nagi

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Andrew Ison, Christopher Mackey • Site inspection: Due to Corona virus precautions, the Panel visited the site independently, prior to 15 December 2020. • Final briefing to discuss council's recommendation: 15 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Michael Nagi, Ed McDougall ○ <u>Council assessment staff</u>: Andrew Ison, Christopher Mackey
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report and the amended deferred commencement conditions as indicated to above