

DATE OF DETERMINATION	1 July 2021
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Ed McDougall, Michael Nagi
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Meeting held videoconference on 1 July 2021, opened at 9am and closed at 10am.

MATTER DETERMINED

PPSSEC-111 – Bayside - DA-2020/468 at 32-34 Ricketty Street, Mascot – Office Premises (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 Botany Bay Local Environmental Plan 2013 (LEP), that has demonstrated that:

- a) compliance with cl. 4.6 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 cl. 4.6 of the LEP and the objectives for development in the B7 zone; and
- c) 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 floor space ratio; and approve the application for the reasons outlined in the Council Officer's assessment report.

- The Panel is satisfied the development of a commercial building with the architectural presentation as shown in the plans will be an asset to the employment objectives of the zone.
- The development whilst exceeding the FSR is within the building envelope in terms of height and provides greater setbacks than required and therefore is supported by the Panel.

CONDITIONS

The development application was approved subject to the conditions in the Council Officer's assessment report with the following amendments.

Amend Condition 115 to read as follows:






115. Provision of Right of Footway

The provision of a 2.0 metre wide Right of Footway, in favour of Bayside Council, along the boundary with Ossary Street is to be provided and, a right of footway over the through site link along the eastern side of the building (connecting Ricketty street and Ossary Street) in favour of Bayside Council is to be provided. The Right of Footways are to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. Bayside Council requires proof of lodgement and registration of the signed Subdivision / Strata Certificate and 88B Instrument with the Land Titles Office. A written acknowledgment shall be obtained from Bayside Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier.

The right of footway traversing north south through the site (along the eastern side of the building connecting Ricketty street and Ossary Street) may be closed during times that are outside of the approved hours of operation of the ground floor uses. This can be addressed via positive covenant or via the terms of this easement.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-111- Bayside – DA/2020/468
2	PROPOSED DEVELOPMENT	Integrated development for the demolition of existing structures and construction of an eleven (11) storey commercial office development with rooftop terrace and above ground parking
3	STREET ADDRESS	32-34 Ricketty Street, Mascot
4	APPLICANT/OWNER	Linkcity Pty Ltd/ Elegant Capital Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment & Schedule 7 of the SEPP- State and Regional Development 2011 which regional panels may be authorised to exercise consent authority functions of councils ○ Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications ○ Integrated development – Water Management Act 2000 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Vegetation in non-rural areas) 2017 ○ Botany Bay Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Botany Development Control Plan 2013 • 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: 21 June 2021 • Clause 4.6 variation request floor space ratio • Written submissions during public exhibition: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 18 March 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Michael Nagi ○ <u>Council assessment staff</u>: Angela Lazaridis, Ben Latta, Luis Melim Panel members visited the site independently, prior to 1 July 2021 • Final briefing to discuss council's recommendation: 1 July 2021 <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>: Angela Lazaridis, Ben Latta, Luis Melim ○ <u>Applicant representatives</u>: Simon Nesbitt, Chris Wilson, Nicolas Swiderski, Thomas Hansen

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Officer’s assessment report