

DATE OF DETERMINATION	1 December 2022
DATE OF PANEL DECISION	1 December 2022
DATE OF PANEL MEETING	29 November 2022
PANEL MEMBERS	Carl Scully (Chair), Susan Budd, Councillor Michael Nagi, Councillor Michael Sheils
APOLOGIES	Councillor Ed McDougall, Jan Murrell
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 16 November 2022.

MATTER DETERMINED

PPSSEC-180 - DA-2021/637 – 50 and 52 Baxter Road Mascot

Demolition of existing structures, removal of trees and construction of two 2 x twelve (12) storey hotels, being a 300-room hotel on Lot 2 and a 288-room hotel on Lot 3; restaurant and bar on Level 11 of Lot 3, roof top terraces with associated site works, landscaping and signage zones.

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 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 Bayside Local Environmental Plan 2021 (BLEP), that has demonstrated that:

- a) compliance with cl. 4.3 (height of building) 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. 4.3 (height of building) of the LEP and the objectives for development in the B5 – Business Development 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 building height; and approve the application for the reasons outlined in the Council Officer's Assessment Report. The Panel noted issues of concern around

adequate flood management, access for coaches for this site and the adjoining site currently under construction and protected with the benefit of an existing easement. The Panel was satisfied that all hotels will have adequate coach access by requiring construction of the porte-cochere as Stage 1 of the development and by requiring legal instruments documenting ongoing access arrangements to be in place before any further work is undertaken.

In relation to architectural merit, the Panel noted the design had been modified in response to issues raised by the Design Review Panel and that the built form is supported by the Design Review Panel. The Panel was also satisfied that through that process, design excellence has been achieved.

On the issue of flood management, the Panel is satisfied with the design response and building treatments to adequately manage both a 1:100 year and Probable Maximum Flood, noting all habitable areas would be constructed above the Flood Planning Level.



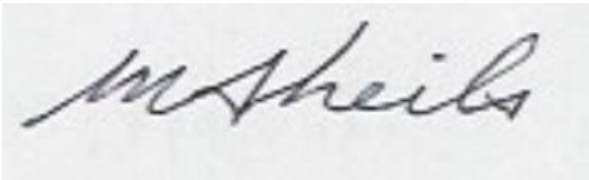
CONDITIONS

The Development Application was approved subject to the conditions in the Council Officer's Assessment Report with the following amendments:

- Delete all references to 'Deferred Commencement'
- Amend Condition 36 by changing the reference to 2013 to 2021 and changing the reference to Clause 6.16 to Clause 6.10
- Amend Condition 147 to remove the reference to the Subdivision Certificate and insert reference to s88B instrument
- Delete Condition 173 (Reason: a duplication of Condition 193).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel is satisfied the concerns raised by the community have been adequately addressed in the Assessment Report and the conditions of consent and that no new issues requiring assessment were raised during the meeting.

PANEL MEMBERS	
 Carl Scully (Chair)	 Susan Budd
Verbal approval at Panel meeting 29/11/2022 Michael Nagi	 Michael Sheils

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-180 - DA-2021/637
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of two 2 x twelve (12) storey hotels, being a 300-room hotel on Lot 2 and a 288-room hotel on Lot 3; restaurant and bar on Level 11 of Lot 3, roof top terraces with associated site works, landscaping and signage zones.
3	STREET ADDRESS	52 Baxter Road Mascot 2020, 50 Baxter Road Mascot 2020
4	APPLICANT/OWNER	Greg Barr, Morehuman Pty Limited/ Manboom 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"> ○ State Environmental Planning Policy No.55 – Remediation of Land ○ State Environmental Planning Policy No.64 – Advertising and Signage ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Bayside Local Environmental Plan 2021 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Botany Bay Development Control Plan 2013 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • 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: 16 November 2022 • Clause 4.6 variation against Clause 4.3 (Height of buildings) of the BLEP 2021 • Written submissions during public exhibition: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Kick-off Briefing: 10 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell ○ <u>Council assessment staff</u>: Fiona Prodromou, Christopher Mackey • Council/Applicant Briefing: 27 October 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell and Susan Budd ○ <u>Council assessment staff</u>: Fiona Prodromou ○ <u>Applicant</u>: Olivia Page, Stephen Kerr and Greg Barr • Final Council Briefing: 29 November 2022, 1:30pm-2:15pm <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Susan Budd, Michael Sheils, Michael Nagi ○ <u>Council assessment staff</u>: Fiona Prodromou

		<ul style="list-style-type: none"> Final applicant/council meeting: 29 November 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Susan Budd, Michael Sheils, Michael Nagi <u>Council assessment staff</u>: Fiona Prodromou <u>Applicant</u>: Greg Barr, Stephen Kerr, Olivia Page, Kylee Smith, Paul Buljevic, Tim Fitzhardinge
9	COUNCIL RECOMMENDATION	Deferred Commencement Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report