

DATE OF DETERMINATION	10 November 2023
DATE OF PANEL DECISION	10 November 2023
PANEL MEMBERS	Carl Scully (Chair), Amelia Thorpe, Alice Spizzo and Jan Murrell
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 27 October 2023.

MATTER DETERMINED

PPSSEC-274 – Waverley – DA-155/2018/B – 55 Grafton Street, Bondi Junction – Modification to alter internal layout, relocation of northern columns, provision of additional height, reduction in apartments from 95 to 90 and reduction in carparking from 111 to 107 spaces (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 listed at item 8 in Schedule 1.

Application for modification of consent

The Panel determined to approve the modification application pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

The Panel is satisfied that the application is substantially the same development and the reasons for the original approval have been taken into consideration for this determination. The Panel has also had regard to the submissions received.

The Panel is satisfied that the modification warrants approval on a merit assessment and determined to approve the application.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Amend Condition 32 as follows:
 - (a) - delete '84' and replace with '86'
 - (d) - delete '9' and replace with '7'
- Amend Condition 42 to read as follows:

42. PLANNING AGREEMENT

The owner/applicant is to:

- i. Enter into an Agreement in accordance with Waverley's Planning Agreement Policy 2014 prior to the issue of any Construction Certificate for the development that relates to building works, other than demolition, excavation, piling, shoring and ancillary work for

construction purposes including site hoardings and temporary site sheds, contained in DA-155/2018/B; and

- ii. Pay a monetary contribution amount of \$5,535,200.00 prior to the issue of any Occupation Certificate for the Development (calculated in accordance with Waverley's Planning Agreement Policy 2014 at 1,496sqm of GFA exceedance at a rate of \$3,700/sqm).
- iii. A Planning Agreement will be entered into under Section 7.4 of the Environment Planning and Assessment Act 1979 between the applicant/owner of the land subject of the Development and Council.

In accordance with the said offer, the Planning Agreement shall make provision in respect to the following:

- (i) The Planning Agreement shall be registered upon the title to the land the subject of the Development prior to the issue of any Construction Certificate for the Development that relates to any building work, other than demolition, excavation, piling, shoring and ancillary works for construction purposes including site hoardings and temporary site sheds that relates to works contained in DA-155/2018/B.
- (ii) The owner/applicant shall provide Council with a Bank Guarantee to secure the payment of the Monetary Contribution prior to the issue of any Construction Certificate that relates to any building work, other than demolition, excavation, piling, shoring and ancillary works for construction purposes including site hoardings and temporary sheds that relates to works contained in DA-155/2018/B for the Development which is:
 - In a form acceptable to Council and from an institution acceptable to Council
 - Irrevocable
 - Unconditional
 - With no end date

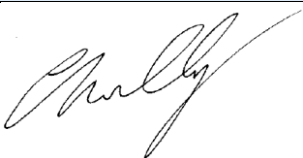
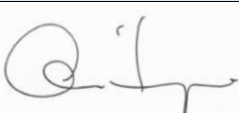
The payment of the Monetary Contribution to Council is to be made prior to the issue of any Occupation Certificate for the Development and is to be applied towards a public purpose in accordance with the Agreement and Council's Planning Agreement Policy 2014.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Parking
- Views
- Height
- Overshadowing
- Privacy
- Setbacks
- Character of the area

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report. The Panel notes that in addressing these issues, appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Amelia Thorpe



Alice Spizzo



Jan Murrell

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-274 – Waverley – DA-155/2018/B
2	PROPOSED DEVELOPMENT	Modification to alter internal layout, relocation of northern columns, provision of additional height, reduction in apartments from 95 to 90 and reduction in carparking from 111 to 107 spaces
3	STREET ADDRESS	55 Grafton Street, Bondi Junction
4	APPLICANT OWNER	Grafton Street Development Pty Limited The Trustee for JQZ Sixteen Unit Trust
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> SEPP (Building Sustainability Index – BASIX) 2004 SEPP 65 (Design Quality of Residential Apartment Development) 2002 SEPP (Transport and Infrastructure) 2021 SEPP (Biodiversity and Conservation) 2021 SEPP (Resilience and Hazards) 2021 SEPP (Planning Systems) 2021 Waverley Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Waverley Development Control Plan 2022 Planning agreements: Yes Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 25 October 2023 Written submissions during public exhibition: three (3) Total number of unique submissions received by way of objection: three (3)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 15 August 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair) <u>Applicant Representatives</u>: Harsha Yadav, Andrew Harvey, Jeremy Hung, Bryna Hearmon, Simon Lee <u>Council assessment staff</u>: Kylie Lucas and Bridget McNamara <u>Department staff</u>: Louisa Agyare and Lisa Ellis Site inspection: 12 October 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair) and Alice Spizzo <u>Council assessment staff</u>: Kylie Lucas and Bridget McNamara Applicant Briefing: 9 November 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Alice Spizzo, and Jan Murrell <u>Applicant representatives</u>: Harsha Yadav, Ian Hayes, Jeremy Hung, Ferdi Haefele, Andrew Harvey, Michael Lee and Borui Huang

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Kylie Lucas and Bridget McNamara ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis <ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 9 November 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Alice Spizzo and Jan Murrell ○ <u>Council assessment staff</u>: Kylie Lucas and Bridget McNamara ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report