

DATE OF DETERMINATION	29 April 2021
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Jeremy Swan
APOLOGIES	None
DECLARATIONS OF INTEREST	Lee Kosnetter declared a non-pecuniary conflict of interest and did not participate in the Panel for this matter. Lee noted the conflict is through a new association with the adjoining landowners; and notes that to an extent that it would be reasonably perceived as affecting his unbiased involvement in the outcome of the application.

Public meeting held videoconference on 29 April 2021, opened at 2pm and closed at 2.50pm.

MATTER DETERMINED

PPSSEC-83 – Waverley – DA482/2017/A – 57-75 Grafton Street, Bondi Junction (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.

Development application

The Panel determined to refuse the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was 3:1 in favour, against the decision was Roberta Ryan.

REASONS FOR THE DECISION

The Panel is satisfied that the development is substantially the same as that originally approved. However, the Panel determined on a merits assessment to refuse the modification application for the reasons outlined in the Council Officer's report.

- The Panel concurs that the application for an additional two storeys over the height limit of 60metre has not adequately demonstrated that the additional environmental impacts, in particular in terms of view loss, would warrant approval.
- The 60 metre height limit that applies to the Northern most portion of the LGA has only been exceeded in a minor way in previous decisions and the granting of consent for two additional storeys in height will have flow on environmental impacts not anticipated by the planning controls.
- The Panel, on a merits assessment also concurs with the Council Officer's report that the application for additional floor space over and above Council's FSR control has not demonstrated that the additional environmental impacts, in particular in terms of view loss, would warrant approval.
- The Panel considers the objectives of the controls are not satisfied by the additional two floors (height and FSR):
 - Clause 4.3(1) (a) To establish limits on the overall height of the development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of view.
 - Clause 4.4(1) (d) To establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

- The onus is on the applicant to provide adequate and detailed assessment and analysis of the additional impacts created by the height and FSR exceedances sought to the planning controls.

Roberta Ryan disagreed with the majority decision for the following reasons:

- As per the Waverley Design Excellence Advisory Panel considerations that it will make a positive contribution to the streetscape amenity and that the exceedances are acceptable. I have had regard to the legal advice provided by Mills Oakley.

CONDITIONS





Not applicable.

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:

- Height and density
- Amenity impacts – overshadowing, solar access, views, privacy
- Traffic and parking impacts
- Not substantially the same development
- Construction, value, infrastructure

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

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Roberta Ryan	 Jeremy Swan

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-83 – Waverley – DA/482/2017/A
2	PROPOSED DEVELOPMENT	Modification to construct two additional residential levels, provide five additional apartments, internal alterations and changes to bicycle parking spaces, roof design and façade.
3	STREET ADDRESS	57-75 Grafton Street, Bondi Junction
4	APPLICANT/OWNER	Clygen Pty Ltd
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"> State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Regional Environmental Plan (Sydney Harbour Catchment) 2005 Waverley Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Waverley Development Control Plan 2012 Planning agreements: Offer to enter into a Planning Agreement under Waverley Planning Agreement Policy 2014 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: 15 April 2021 Applicant written submission, dated: 26 April 2021 Written submissions during public exhibition: 12 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Allister Bevage Council assessment officer – Kylie Lucas, Angela Rossi On behalf of the applicant – Sandra Robinson, Dennis Rabinowitz, Greg Shand, Glenn O’Loughlin Total number of unique submissions received by way of objection: 12
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: Panel members visited the site independently, prior 29 April 2021 Final briefing to discuss council’s recommendation: 29 April 2021 <ul style="list-style-type: none"> Panel members: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Jeremy Swan

		○ <u>Council assessment staff</u> : Kylie Lucas, Angela Rossi, Peggy Wong
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report