

DATE OF DETERMINATION	24 September 2020
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Ken McBryde, Kathie Collins and Chris Quilkey
APOLOGIES	Gabrielle Morrish
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 10 September 2020.

MATTER DETERMINED

2017SWC036 - Blacktown City Council - SPP-16-04462, 5 Schofields Road, Schofields, Integrated Development for the construction of 2 x 5 storey residential flat buildings containing 100 units and 137 car parking spaces over 2 basement levels, associated demolition of dwellings and outbuildings, and tree removal, stormwater drainage works and landscaping (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at items 7 and 8 in Schedule 1.

Development application

The Panel determined to refuse 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 refuse the application for the following reasons –

1. The subdivision DA-16-05461, that will create the finished ground levels and site boundaries that will determine the design of this development, has not yet been approved. Consequently, the likely impacts of the development and the suitability of the site for the development cannot be adequately considered and assessed in accordance with Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act 1979.
2. The site is land locked and proposes an unsatisfactory temporary access arrangement that could potentially lead to traffic impacts un-associated with this development. The site is therefore considered unsuitable under the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
3. The proposed building exceeds the maximum height limit for the site. The finished floor level of the site is still unknown since the subdivision application has not been approved. Therefore, the actual extent of the maximum height exceedance is currently unknown. The application therefore cannot be adequately considered in relation to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
4. Inadequate information has been provided to complete an assessment of the DA in terms of traffic, engineering, waste, architecture and planning. Given that inadequate information has been submitted, approval of the application is not considered to be in the public interest under Section 4.15(i)(e) of the Environmental Planning and Assessment Act, 1979. The application can also not be thoroughly assessed to determine whether it is consistent with the provisions of Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act 1979.






5. The proposed development does not demonstrate satisfactory architectural design due to poor unit design and configuration, excessive use of cement render, overbearing building length, inadequate solar access to common open space areas, poor accessibility to common open space areas and no direct street access provided to ground floor units and lobbies. The application is therefore considered to be inconsistent with the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
6. Valid concerns have been raised by the public during notification that are consistent with the reasons above and therefore the application is considered to not be in the public interest under the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

CONSIDERATION OF COMMUNITY VIEWS

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

- traffic and parking concerns;
- loss of privacy;
- maximum height limit exceedance;
- potential decrease to neighbouring property values;
- loss of access rights;
- loss of solar access;
- inadequate access to the property;
- potential ground stability and drainage impacts;
- insufficient building separation and setbacks to boundaries;
- inconsistencies with the Indicative Layout Plan;
- unclear level differences with neighbouring properties;
- poor unit design;
- noise impacts;
- inadequate adaptability of units;
- inadequate aboriginal heritage assessment;
- destruction of native trees and habitat;
- change to the character of the local area;
- strain on the capacity of local amenities.

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 meeting.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 David Ryan
 Ken McBryde	 Kathie Collins
 Chris Quilkey	

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	2017SWC036 - Blacktown City Council - SPP-16-04462
2	PROPOSED DEVELOPMENT	Integrated Development for the construction of 2 x 5 storey residential flat buildings containing 100 units and 137 car parking spaces over 2 basement levels, associated demolition of dwellings and outbuildings, and tree removal, stormwater drainage works and landscaping
3	STREET ADDRESS	5 Schofields Road, Schofields
4	APPLICANT/OWNER	Design Cubicle
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 55 – Remediation of Land • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 ○ Draft environmental planning instruments: Nil ○ Development control plans: <ul style="list-style-type: none"> ○ Blacktown City Council Growth Centre Precincts Development Control Plan July 2018 (as amended March 2020) ○ 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: September 2020 • Applicant’s clause 4.6 justification • Written submissions during the public exhibition: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE	<ul style="list-style-type: none"> • Site inspection - Site inspections have been curtailed due to COVID-19

	<p>PANEL/PAPERS CIRCULATED ELECTRONICALLY</p>	<p>precautions. Where relevant, Panel members undertook site inspections individually.</p> <ul style="list-style-type: none"> • Clr Quilkey conducted a site inspection on 21 September 2020 • Briefing with Council to discuss their recommendation, 24 September 2020, 11.00am. Attendees: <ul style="list-style-type: none"> • <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Ken McBryde, Kathie Collins and Chris Quilkey • <u>Council assessment staff</u>: Judith Portelli, Jared Spies, Alan Middlemiss and Nadeem Shaikh • <u>Points discussed were</u> – <ul style="list-style-type: none"> ○ Relationship of current DA to undetermined Subdivision DA-16-05461 and status of the latter DA ○ Temporary access arrangements ○ Other matters in Council’s assessment report. • Briefing with Applicant to discuss Council’s recommendation, 24 September 2020, 12.30pm. Attendees: <ul style="list-style-type: none"> • <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Ken McBryde, Kathie Collins and Chris Quilkey • <u>Applicant Representatives</u>: Adam Byrnes, Rony Wardan, Farah Georges, Stephen Albin and Santhurie Naidoo • <u>Council assessment staff</u>: Judith Portelli (Manager, DA assessment), Jared Spies (assessing planner) • <u>Applicants representatives raised the following points in summary</u> – <ul style="list-style-type: none"> ○ Council’s recommendation against the spirit of the government’s initiative to expedite unreasonably delayed development ○ Applicant understood application was progressing satisfactorily in consultation with Council and this recommendation for refusal comes as a surprise at short notice and raises issues of procedural fairness ○ Accepts that changes will be required to be made to the current design following determination of subdivision DA 16-05461, to respond to issues raised in Council’s report, but considers those issues readily resolvable ○ Requests the DA is deferred for determination for 6-8 weeks after the determination of subdivision DA 16-05461, to allow resubmission of amended proposal • Meeting to discuss Council’s recommendations and Applicants commentary, 24 September 2020, 1.30pm. Attendees: <ul style="list-style-type: none"> • <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Ken McBryde, Kathie Collins and Chris Quilkey <p>Meeting closed at 1.55pm with all panel members confirming readiness to consider and receive the report for electronic determination.</p> <ul style="list-style-type: none"> • Papers circulated electronically 10 September 2020.
9	<p>COUNCIL RECOMMENDATION</p>	<p>Refusal</p>

10	DRAFT CONDITIONS	N/A
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