

DATE OF DETERMINATION	Wednesday 4 December 2019
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, John Roseth, Bernard Purcell
APOLOGIES	Edwina Clifton
DECLARATIONS OF INTEREST	None

Public meeting held at Christie Conference Centre, 100 Walker Street North Sydney, on 4 December 2019, opened at 12pm and closed at 1.55pm.

MATTER DETERMINED

2018SNH009 – Ryde- LDA2017/0547 at 11-17 Khartoum Road Macquarie Park for concept development application (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.

The panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

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 3:1 in favour, against the decision was Sue Francis.

REASONS FOR THE DECISION

The majority of the Panel (Peter Debnam, John Roseth and Bernard Purcell) voted to approve the application for the following reasons:

1. The concept proposal is consistent with the desired future character of the precinct and complies with the planning controls of the Ryde LEP 2014.
2. While there are non-compliances with the guidelines of Ryde DCP 2014, these are either minor or have been justified.
3. The proposal includes the carrying out of works for public benefit, including road works, associated road dedication, public domain works and the creation of a pedestrian link and associated easement. These works are in accordance with the Access Network Structure Plan of the Ryde DCP 2014.

Sue Francis agrees with the merits of the proposal but would have deferred determination of the matter to seek legal advice as to the power to impose both condition 30 of the concept application and condition 36 of the Stage 1 DA. Specifically:

1. Section 7.11 and 7.12 of the Act are the mechanisms which allow a condition to be attached to a DA in respect of the provision of monetary or in-kind contribution for the provision of infrastructure facilities and services. No contribution plan exists for these works.
2. In the absence of the above, a VPA may be entered into between the parties (RMS and the applicant) under Section 7.4 of the Act. Section 7.7 expressly prevents a development consent from

being granted or having effect unless or until a planning agreement is entered into. No VPA yet exists for these works.

Both conditions appear to lack certainty or power as presented to the Panel.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments:

- Condition 6 of the Concept Approval is deleted as its intent is achieved by condition 7.
- Condition 30 of the Concept Approval: “stage 2 application” is replaced by “any subsequent stage application”.
- Condition 36 of the Stage 1 Consent the words “the applicant is to enter” are replaced by the words “In accordance with the email dated 4 December 2019 to the Panel and Council, the applicant confirmed that they had agreed to enter”.

CONSIDERATION OF COMMUNITY VIEWS

The public exhibition of the application did not elicit any submissions. The council received one submission during the notification of the Voluntary Planning Agreement, which it treated as a late submission. The submission raised the issue of setback, height and whether a later application could seek an increase in height. Given that the proposal complies with the setbacks required by the Development Control Plan and with the height control in the Local Environmental Plan, the Panel considers that the submission has been adequately considered.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 John Roseth	 Bernard Purcell

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SNH009 – Ryde – LDA2017/0547
2	PROPOSED DEVELOPMENT	The proposal comprises a Concept Development Application for development of the entire 30,030m² site, and for the initial stage of development (Stage 01). The Concept Development Application includes the design parameters such as building envelopes, building layout, parking, roads, open space as well as staging of the future development of the site. The Concept Development includes the building envelopes for five commercial offices to a maximum height of 44.5m, and four retail and support pavilions around a central publicly accessible open space area, known as Bochetto Park. Basement parking will be provided for 987 vehicles. The proposal also includes a new public road, two private roads and a pedestrian through site link. Stage 01 works include the demolition of the existing south-western building, construction of a 10 storey mixed use commercial and retail building with 3 levels of basement car parking, construction of a portion of the internal 14.5m private road connecting to Khartoum Road, construction of a portion of the pedestrian through site link and associated landscaping.
3	STREET ADDRESS	11-17 Khartoum Road and 33- 39 Talavera Road, Macquarie Park
4	APPLICANT/OWNER	Stockland Pty Ltd/ The Trust Company Limited
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy (State and Regional Development) 2011; - State Environmental Planning Policy No. 55 – Remediation of Land; - State Environmental Planning (Vegetation in Non Rural Areas) 2017; - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; - Greater Sydney Regional Plan - A Metropolis of Three Cities, 2018; - Ryde Local Environmental Plan 2014 - Draft environmental planning instruments: Nil - Development control plans: - City of Ryde Development Control Plan 2014 - 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	• Council assessment report: 21 November 2019 • Written submissions during public exhibition: Nil • Verbal submissions at the public meeting: - o Council assessment officer – Sandra Bailey - o On behalf of the applicant – Gavin Boswana, Stephen White, Samantha Czyz, Andrew Johnson
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Briefing: 25 July 2018 - o <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, Bernard Purcell - o <u>Council assessment staff</u>: Sandra McCarry, Natalie Camirilleri • Site inspection: 25 July 2018 - o <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, Bernard Purcell - o <u>Council assessment staff</u>: Sandra McCarry, Natalie Camirilleri • Final briefing to discuss council's recommendation, 4 December 2019 at 11.30am. Attendees: - o <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, Bernard Purcell - o <u>Council assessment staff</u>: Sandra Bailey, Daniel Pearse, Elias Elias, Connie Steers, Brendan Clendenning, Greg Tesorie
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report