

DATE OF DETERMINATION	2 December 2020
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, Brian Kirk, Edwina Clifton, Bernard Purcell
APOLOGIES	None
DECLARATIONS OF INTEREST	Julie Savet Ward declared a non-pecuniary conflict of interest as Christine Covington (on the applicant team) was a working colleague on the Board of the Environmental Protection Agency.

Papers circulated electronically on 20 November 2020.

MATTER DETERMINED

2018SNH022 – Ryde – LDA2018/0172 at 45-61 Waterloo Road Macquarie Park for a 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.

Development application

The Panel determined to approve the Concept Plan Application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel approved the Concept Plan application for the reasons outlined below and in Council's Assessment Report.

The Concept Plan application comprises five (5) mixed-use building envelopes, distribution of car parking spaces, provision of new roads and public domain works and pedestrian links at 45 – 61 Waterloo Road, Macquarie Park. It seeks consent to distribute 117,070m² of floor space and 1,170 car parking spaces across 5 buildings ranging in height between 6 to 18 storeys, provision of 3 new roads (Roads 1, 14 and 16) and 3 east-west pedestrian links between Buildings C and AB, Building D and the future park (Catherine Hamlin Park), and Buildings E and F.

The proposed Concept Plan is permissible with consent under the Ryde Local Environmental Plan 2014 (RLEP). In accordance with the incentive provisions in Clause 6.9 the RLEP, the site is eligible for additional height and floor space, subject to contributions to identified access and open space networks.

The proposed site layout including the location of new roads, pedestrian links and building envelopes are consistent with the built form, access network and public domain controls under Part 4.5 – Macquarie Park Corridor in the RDCP 2014. The proposed concept plan layout is also consistent with the maximum building height of 65m and FSR of 3.66:1 permitted under Clause 6.9 of the RLEP 2014, subject to the executed Planning Agreement that provides for the construction and dedication of 3 new roads, construction of 3 pedestrian links and associated public domain works.

The proposed new roads and pedestrian links are identified as part of the Access Network under Sections 4.1 and 4.2 in Part 4.5 of the Ryde Development Control Plan 2014 (RDCP) and satisfy the incentive

provision subject to a Planning Agreement under Section 7.4 of the Environmental Planning and Assessment Act 1979. The Planning Agreement was executed in 2018 between the City of Ryde Council and John Holland Macquarie Park Land Custodian Pty Ltd for the delivery of new roads and pedestrian links as part of the construction of future buildings under separate development applications.

The Concept Plan proposal complies with relevant controls under Part 4.5 – Macquarie Park Corridor in the RDCP 2014 with the exception of deep soil with the site providing approximately 330m² of deep soil representing 1% of the required 20% deep soil area. The Panel agrees with Council that having regard to the provision and location of new roads and pedestrian links, the remainder of the site cannot accommodate a minimum 20% for deep soil areas with minimum dimensions of 20m x 10m. Given the amenity to be provided by the park, the non-compliance with deep soil areas is considered acceptable, as landscaping will be provided where possible throughout the development.

The proposal is also non-compliant with the required provision of 3 hours of direct sunlight to 50% of the park between 9am and 3pm on 21 June. The proposal achieves solar access to 41% of the park between 10am and 11am, 60% between 11am and 1pm and 30% between 1pm and 2pm. Given, the orientation of the site and the new roads, building footprints and envelopes are constrained and will overshadow potential communal open spaces. However, the Applicant's amendments to building envelopes have sought to maximise solar access for the park and consequently solar access is considered acceptable.

The Panel concurs with Council that the Concept Plan application is consistent with the desired future character of the precinct as identified in the relevant planning instruments and policies. The Concept Plan will provide parameters for future detailed design of the remaining four buildings and delivery of new roads, pedestrian links and public domain works. The Concept Plan will contribute to significant economic growth and the future prosperity of Macquarie Park and facilitate the orderly development of the site. It is also sound in terms of design, function and relationship with its surroundings.

During briefings with Council and the Applicant, the Panel was briefed extensively on disagreement regarding the wording and resultant obligations of Condition 13 – Waterloo Road Upgrades and Condition 25(c) – Public Domain Improvements – Waterloo Road. Planning and legal arguments were presented verbally by the Applicant and Council and had also been detailed in the Assessment Report and in correspondence from the Applicant. After considerable debate of the issues from both Council and the Applicant, the Panel concurred with Council's position and the proposed conditions. Accordingly, Conditions 13 and 25(c) remain as drafted by Council.

In summary, the Panel agrees with Council's Assessment Report that the proposal provides an opportunity to redevelop the site for commercial uses in a coordinated and staged manner. The Concept Plan proposal is responsive to the strategic intentions for Macquarie Park under the RDCP 2014 and RLEP 2014 and associated planning controls that have been adopted for the locality. Having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, the Concept Plan is considered suitable for the site and is in the public interest.

Sue Francis agrees to approve the application but would have not imposed condition 25c in relation to the public domain upgrades adjacent to the park and would have sought independent legal advice regarding the application of the VPA, its terms relative to road 16 and the demand for the signalised intersection. She believes that at the minimum it is likely that the terms of the VPA may need amending, by agreement. The conflicting input from TfNSW in respect of this works is of concern relating to this work.

CONDITIONS



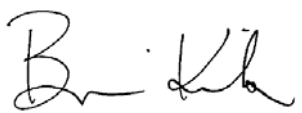


The development application was approved subject to the conditions in Council's Assessment Report with the following amendment:

- Condition 7 amended to read as follows:
Building Height.
 - (a) The height of the buildings must not exceed the following heights to the top of the building:
 - Building AB: RL 107.35 (AHD)

- Building C: RL103.00 (AHD)
 - Building D: RL 118.70 (AHD)
 - Building E: RL 83.35 (AHD)
 - Building F: RL 94.75 (AHD)
- (b) Building Height shall be calculated in accordance with Clause 4.3 and 4.3A of the Ryde Local Environmental Plan 2014, applicable at the time of development consent.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 Brian Kirk	 Bernard Purcell
 Edwina Clifton	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SNH022 – Ryde – LDA2018/0172
2	PROPOSED DEVELOPMENT	A concept plan application for the mixed use development of the site comprising site layout, maximum building envelopes and gross floor area distribution across 5 buildings across site, on site car parking, 3 pedestrian links, and staging of development into 4 stages.
3	STREET ADDRESS	45-61 Waterloo Road, Macquarie Park
4	APPLICANT/OWNER	John Holland Macquarie Park Land Custodians 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"> ○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; ○ State Environmental Planning Policy (Infrastructure) 2007; ○ State Environmental Planning Policy (State and Regional Development) 2011; ○ State Environmental Planning Policy (State and Regional Development) 2011; ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; ○ State Environmental Planning Policy No. 19 –Bushland in Urban Areas; ○ State Environmental Planning Policy No. 55 –Remediation of Land; ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Draft Remediation of Land State Environmental Planning Policy; ○ Draft Environmental State Environmental Planning Policy; • Development control plans: <ul style="list-style-type: none"> ○ 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	<ul style="list-style-type: none"> • Council assessment report: 19 November 2020 • Applicant memo: 26 November 2020 • Council memo: 27 November 2020 • Written submissions during public exhibition: nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 8 July 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Bernard Purcell ○ <u>Council assessment staff</u>: Sandra Bailey • Site inspection & briefing: 5 June 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, Edwina Clifton, Bernard Purcell

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Sandra Bailey, Tony Collier • Final briefing to discuss council's recommendation: 2 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, Brian Kirk, Bernard Purcell, Edwina Clifton ○ <u>Council assessment staff</u>: Sandra Bailey, Liz Coad, Paul Kapeta, Michael Dixon, Yafen (Alex) Zhu, David Matthews, Peggy Wong, Rebecca Lockart, Daniel Pearse, Jason Chanphakeo ○ <u>Applicant representatives</u>: Mark Crudden, Andrwe Ridge, Christine Covinton, Max Newman, Andrew Johnson, Jennie Buchanan
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report