

DATE OF DETERMINATION	4 November 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Edwina Clifton, Bernard Purcell
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 4 November 2020, opened at 10.30am and closed at 11.07am.

MATTER DETERMINED

2019SNH003 – Ryde – LDA2018/0506 at 14-16 Cottonwood Crescent, Macquarie Park for a mixed-use development (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.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Ryde Local Environmental Plan 2014 (LEP), that has demonstrated that:

- a) compliance with cl.4.3 (building height) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl.4.3 (building height) of the LEP and the objectives for development in the B4 Mixed Use zone; and
- c) the concurrence of the Secretary has been assumed.

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 was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons outlined below and in Council's Assessment Report.

The proposal involves demolition of existing buildings and construction of a mixed use development comprising a 20 storey building with 132 apartments over 5 basement levels with provision for 134 car spaces, ground floor retail/office use to the Waterloo Road frontage and landscaping and associated works.

The applicant seeks to increase the building height over the maximum 65m permitted under Clause 4.3 of RLEP 2014. The design height of 67m exceeds the maximum permitted height by 3.07% where the mechanical plant and lift overrun project above 65m, largely due to the slope of the site. Compliance is achieved at the northern and western boundaries, but variations occur at the southern and eastern boundary where the natural ground level is lower. Consequently, the Panel concurs with Council's

assessment that the Applicant's written request for the Clause 4.6 variation is well founded and compliance with the standard would be unreasonable and unnecessary in the circumstances.

The proposal also complies with the majority of planning requirements under Ryde Local Environmental Plan 2014 (RLEP 2014), meets the floor space ratio development standard and is in line with zone objectives and local provisions.

The proposed building and site layout were amended during the assessment stage as per the recommendations of Council's Urban Design Review Panel. The building adopts an appropriate relationship to Waterloo Road through activation of the street frontage, is sympathetic to the riparian zone along Shrimptons Creek and establishes a precedent for a high quality architectural design in the precinct.

The proposal generally meets the requirements of the Apartment Design Guide (ADG) in relation to apartment size, private and public open space, cross ventilation, solar access and privacy. The proposal exceeds the landscaping and deep soil zone requirements for a large site achieving a suitable external environment for occupants of the development.

The development does seek a minor variation for one unit in respect to apartment size and number of units serviced by the passenger lifts. The proposal is also non-compliant with the rear basement setback requirement under Section 7.6(d) of Part 4.5 of RDCP. The building complies with the required setbacks at ground level but seeks a variation to the rear (southern) boundary setback to all basement levels. The Panel concurs with Council that these variations to apartment size, lift number and setback are satisfactory based on individual merit.

The development is consistent with the desired future character of the precinct as identified in the relevant planning instruments. It will contribute to the vision for the future of the corridor providing a high quality, well designed, safe and liveable environment that reflects the site's natural setting. The Panel concurs with Council that the amended building is of high-quality architectural design, integrating business and residential uses and providing an improved lifestyle for those who will live, work and study in the area. The development proposal is sound in terms of design, function and relationship with its neighbours.

After consideration of the development against section 4.15 of the EP&A Act and the relevant statutory and policy provisions, the Panel concurs with Council that the proposal is suitable for the site and approval of the application is in the public interest.

CONDITIONS

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



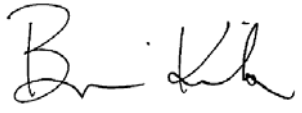


- *Condition 1b) amended to read as follows:*
Amend architectural plan – Ground Floor (AD-DA3103 Rev 9):
 - i. *to provide a connection from the open space area (the outdoor fitness area and parkour) to the reserve (as previously reflected in Rev 3) plus a connection pathway as required by point a) ii above.*
 - ii. *to change the area notated as storage for a bin lifter to be for additional bulky waste storage. The door connecting this area to the adjoining retail waste room is to be deleted and a roller shutter is to be positioned to secure the opening to this area from the loading dock or similar layout that achieves an equivalent increase in bulk storage area.*

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from one community member who wished to address the public meeting. The Panel notes issues of concern included Acoustic levels, Solar Access and Owners Consent.

In relation to the issue of Owners Consent, the Panel accepts Council's advice as detailed in the Assessment Report, which confirms existing owners' consent is valid and there is no impediment to Council's completion of their assessment or the Panel's determination of the application.

The Panel considers concerns raised by the community were adequately addressed in Council's Assessment Report, by Applicant and Council responses during the public meeting and in the conditions as amended.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Edwina Clifton
 Bernard Purcell	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019SNH003 – Ryde – LDA2018/0506
2	PROPOSED DEVELOPMENT	The proposal involves demolition of the existing buildings and construction of a mixed use development comprising a 20 storey building with 132 residential apartments (10 x studio, 29 x 1 bedroom, 79 x 2 bedroom & 14 x 3 bedroom apartments), over five (5) basement levels of car parking for 134 car spaces and ground floor retail/office use to the Waterloo Road frontage. Landscaping and associated works are also proposed.
3	STREET ADDRESS	14 – 16 Cottonwood Crescent, Macquarie Park
4	APPLICANT/OWNER	<p>Applicant: MP Holding P/L c/- Legacy Property</p> <p>Owners:</p> <ul style="list-style-type: none"> • Legro 31 Pty Ltd • Shang A Wang & Ziao Y Qian • Heather J Jackson • Edward Y T Lai & Yee H Kew • Patricia Hellquist • Julia J Wang • Robin M Paterson • Yini Handisurya • Reborah L Regan • Shirthady P Chandra • Sim K Lim and Sim S Lim • Steven & Priscillia J Saouma • Shui B Cheung • Bruce & Karen L Houweling • Christina Y Ke & Yu Zhang • Mathew B Kwoka • Peter P Girolamo • Legpro 32 Pyt Ltd • Barbara A Johnson
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"> ○ 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: Draft Remediation of Land 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

		<ul style="list-style-type: none"> • 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: 14 October 2020 • Clause 4.6 Variation Request (Building Height) • Written submissions during public exhibition: 12 • Unique submissions received by way of objection: 12 • Verbal submissions at the public meeting 4 November 2020: <ul style="list-style-type: none"> ○ Community members – Peter Di Girolamo (on behalf of several owners of 16 Cottonwood Cres, none of which are the applicant). ○ Council assessment officer – Allison Davidson, Sandra Bailey ○ On behalf of the applicant – David Hoy, Adrian Kiilburn, Doug Southwell
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 12 August 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, Rebecca Lockart, Alison Davidson, Peggy Wong • Final briefing to discuss council's recommendation: [date] <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Bernard Purcell, Edwina Clifton ○ <u>Council assessment staff</u>: Sandra Bailey, Rebecca Lockart, Alison Davidson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report