

DETERMINATION AND STATEMENT OF REASONS
SYDNEY CENTRAL CITY PLANNING PANEL

DATE OF DETERMINATION	30 May 2022
DATE OF PANEL DECISION	30 May 2022
DATE OF PANEL MEETING	19 May 2022
PANEL MEMBERS	David Ryan (Chair), Ken McBryde, Richard Thorp, Jane Fielding
APOLOGIES	
DECLARATIONS OF INTEREST	Abigail Goldberg declared she may have a perceived conflict of interest. Roberta Ryan declared she may have a perceived conflict of interest.

Papers circulated electronically on 9 May 2022.

MATTER DETERMINED

PPSSCC-285 – City of Parramatta – DA/812/2021 - 33 Marion Street, Parramatta - 21-27 storey mixed-use building incorporating retail, commercial, boarding house and shop-top housing uses. Concept component of a staged application, seeking approval for building location, footprints and envelope; pedestrian links; pedestrian/vehicular entries; open space and landscaping. The development would be delivered across two stages requiring further development consent. 50% of the residential floor space would be affordable housing pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.

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 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 Parramatta Local Environmental Plan 2011(LEP), the Panel is **not** satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.4 of the LEP and the objectives for development in the B4 Mixed Use zone.

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




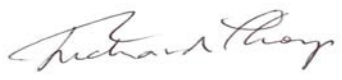
The Panel considered the applicant's request to defer the determination of the application to enable a competitive design process to be completed. Because of the nature and extent of design concerns raised by Council in relation to the current scheme, the panel was unconvinced that they could be adequately and appropriately resolved through the design excellence process proposed by the applicant. Therefore, the indeterminate delay in determining the application to enable the completion of such a process could not be justified in the circumstances. As such, the panel did not support the request to defer the determination of the application.

Whilst the Panel acknowledges the public benefit attached to providing affordable housing in highly accessible locations, this does not override the need to give due consideration to matters such as design excellence and potential adverse impacts associated with such development.

Consequently, the Panel determined to refuse the application for the reasons outlined in the Council Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submission made during public exhibition. The Panel notes that issues of concern were overshadowing, ventilation/breezes, building height. The Panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 David Ryan (Chair)	 Jane Fielding
 Ken McBryde	 Richard Thorp

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-285 – City of Parramatta – DA/812/2021
2	PROPOSED DEVELOPMENT	21-27 storey mixed-use building incorporating retail, commercial, boarding house and shop-top housing uses. Concept component of a staged application, seeking approval for building location, footprints and envelope; pedestrian links; pedestrian/vehicular entries; open space and landscaping. The development would be delivered across two stages requiring further development consent. 50% of the residential floor space would be affordable housing pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
3	STREET ADDRESS	33 Marion Street, Parramatta
4	APPLICANT/OWNER	Pacific Planning/Loura Petroleum Pty Ltd, CN Marion Pty Ltd, 2 x individuals (not named for privacy reasons)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • SEPP (Building Sustainability Index: BASIX) 2004 • SEPP (Transport and Infrastructure) 2021 • SEPP (Affordable Rental Housing) 2009 [Savings provision in Housing SEPP 2021] • SEPP (Planning Systems) 2021 • SEPP (Resilience and Hazards) 2021 • SEPP No. 65 (Design Quality of Residential Apartment Development) & Apartment Design Guide • SEPP (Biodiversity and Conservation) 2021 • Parramatta Local Environmental Plan 2011 • Deferred Commencement Parramatta CBD LEP 2022 • Draft Parramatta Consolidated LEP 2020 • Parramatta Development Control Plan 2011 • Voluntary Planning Agreement • EP&A Regulations 2021
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 6 May 2022 • Applicant's supplementary submission and Council response dated: 18 May 2022 • Clause 4.6 variation request to Parramatta Local Environmental Plan 2011, Clause 4.4 – Floor Space ratio • Written submissions during public exhibition: One (1) • Total number of unique submissions received by way of objection: One (1)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 1 December 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: David Ryan (Chair), Ken McBryde, Richard Thorp, Jane Fielding ○ <u>Council assessment staff</u>: Alex McDougall, Myfanwy McNally • Final briefing to discuss council's recommendation: 19 May 2022 <ul style="list-style-type: none"> ○ David Ryan (Chair), Ken McBryde, Richard Thorp, Roberta Ryan (noting that Roberta Ryan identified a potential perceived conflict

		<p>of interest during the course of the briefing and consequently withdrew from any further involvement in the determination of the application)</p> <ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Alex McDougall, Myfanwy McNally ○ <u>Applicant representatives</u>: Matt Daniels, James Matthews, Tim Hales, Todd Neal, Frank Stanisic, Jason Nowosad <p>Council staff provided a summary of key issues in the assessment report, responses to applicant's supplementary submission and clarification of the design excellence process.</p> <p>The applicant team:</p> <ul style="list-style-type: none"> • Requested that the Panel defer determining the DA to enable a Design Excellence review process to be undertaken. • Referred to discussions with the Department of Planning and Environment (DPE) advising of the potential for approval by the Secretary of procedures that would allow a single architect to satisfy the competitive design process requirements in accordance with Clause 7.10 of the PLEP (rather than 3). • Stressed the importance of affordable housing component of the development, and advised that an indication of support for the application based on this factor may be forthcoming to the Panel from the DPE. • Referred to legal opinion submitted in relation to the interpretation of the interplay of the various FSR provisions applying to the development. • Advised that the development would no longer be staged, but will be developed in one stage. However, no changes were proposed to the concept design as a result. • Responded to merit based issues raised in Council's assessment report; advising that most can be adequately addressed through the competitive design process.
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable