

DATE OF DETERMINATION	28 July 2023
DATE OF PANEL DECISION	28 July 2023
DATE OF PANEL MEETING	27 July 2023
PANEL MEMBERS	Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Sophie Lara-Watson OAM Sarkis Yedelian
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 11 July 2023.

MATTER DETERMINED

PPSSNH-356 – City of Ryde - LDA2022/0390, 5 Halifax Street, Macquarie Park, Lot 110 DP 1224238, Earthworks, removal of trees and the construction of three residential flat buildings (Building 1 x 29 storeys, Building 2 x 6 storeys and Building 3 x 6 storeys) containing a total of 304 units, comprising five basement parking levels and total of 299 car parking spaces (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 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. 4.4(2) Floor Space Ratio 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 clauses 4.6 and 4.4 of the LEP and the objectives for development in the R4 High Density Residential 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 Panel’s decision to approve the development was 3:2 with panel members Sophie Lara-Watson and Sarkis Yedelian dissenting from the majority decision.

REASONS FOR DECISION

The Panel majority approved the proposal for the reasons set out below and in Council’s comprehensive Assessment Report.

The proposal does contravene Ryde’s LEP which establishes three maximum floor space ratios for the site and the Applicant submitted a Clause 4.6 written request to justify contravention of the development standard Clause 4.4 (2) Floor Space Ratio. The Panel majority concurs with Council that the written request

has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The Panel majority agrees the Applicant's written request has demonstrated sufficient environmental planning grounds and consistency with the objectives of the development standard for floor space ratio to justify the variation.

Additionally, the proposal does not comply with the Apartment Design Guide controls regarding separation to future anticipated development to the north and south and some aspects of building separation within the site. However, the Panel concurs with Council that the non-compliances can be supported on merit.

The development application is classed as integrated development as approval under the Water Management Act 2000 is required. Concurrence from Water NSW has been provided.

The Panel majority concurs with Council that the proposed residential flat building development has been properly assessed according to relevant planning controls and is consistent with the objectives and development standards for land zoned R4 High Density Residential. The proposal positively contributes to the overall architectural quality of the Macquarie Park Corridor and fits sensitively into the streetscape. It does not create unreasonable environmental impact to existing adjoining development and the site is suitable for the development. Accordingly, the Panel majority believed approval of the proposal is in the community interest.

Panel members Sophie Lara-Watson and Sarkis Yedelian dissented from the majority decision for the following reasons – The Macquarie Park Strategic Infrastructure and Services Assessment has been prepared to inform the Macquarie Park Innovation Precinct Place Strategy and Masterplan. This report has identified there is inadequate infrastructure and services to support the recent and approved development. Although this location is adjacent to Macquarie Park it is affected by the lack of open spaces and infrastructure for further residents. If this development is approved, it will further add to the demand for the infrastructures and services as well as putting pressure on what currently exists. The required infrastructure and services should be provided prior to the development occurring. Council's Development Contributions Plan will not be able to accommodate all the required infrastructure and lead to poor community outcomes.

CONDITIONS

The Development Application was approved subject to the conditions in Council's Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 8 written submissions made during the public exhibition of the proposal. Issues raised included parking, floor space ratios, Clause 4.6 variation and urban design guidelines. The Panel considers concerns raised in submissions have been adequately addressed in Council's Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Nicole Gurran
 Brian Kirk	Endorsed by email dated 26 July 2023 Sophie Lara-Watson



OAM Sarkis Yedelian

SCHEDULE 1

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-356 – City of Ryde - LDA2022/0390
2	PROPOSED DEVELOPMENT	Earthworks, removal of trees and the construction of three residential flat buildings (Building 1 x 29 storeys, Building 2 x 6 storeys and Building 3 x 6 storeys) containing a total of 304 units, comprising five basement parking levels and total of 299 car parking spaces
3	STREET ADDRESS	5 Halifax Street, Macquarie Park, Lot 110 DP 1224238
4	APPLICANT/OWNER	The Trustee for Lachlan’s Line D1 Unit Trust (Landmark)
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none">• Environmental planning instruments:<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• Environmental Planning and Assessment Regulation 2021• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Industry and Employment) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Planning Systems) 2021• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004• Ryde Local Environmental Plan 2014• Draft environmental planning instruments: Nil• Development control plans:<ul style="list-style-type: none">• Ryde Development Control Plan 2014• Planning agreements: Ryde Section 7.11 Development Contributions Plan 2020• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>:• 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</i>

		<p><i>and Assessment Act 1979 or regulations</i></p> <ul style="list-style-type: none"> • 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. • Attachment 1: Proposed Architectural Plans • Attachment 2: Proposed Landscape Plans • Attachment 3: Applicant’s Clause 4.6 Request • Attachment 4: Assessment against ADG & DCP • Attachment 5: Recommended Conditions of Consent • Written submissions during public exhibition: 8
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • 19 April 2023 - Briefing • 26 July 2023 - Final briefing to discuss council’s recommendation: <ul style="list-style-type: none"> • <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Sophie Lara-Watson, OAM Sarkis Yedelian • <u>Council assessment staff</u>: Sandra Bailey, Carine Elias, Shannon Butler
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report