

DATE OF DETERMINATION	22 August 2023
DATE OF PANEL DECISION	22 August 2023
DATE OF PANEL MEETING	16 August 2023
PANEL MEMBERS	Brian Kirk (Chair), Nicole Gurran, John Brockhoff, Sophie Lara-Watson, OAM Sarkis Yedelian
APOLOGIES	Peter Debnam
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 02 August 2023.

MATTER DETERMINED

PPSSNH-357 - LDA2022/0394 – Ryde - 122 Herring Road, Macquarie Park (Morling College), Amending Development Application to amend Concept Development Approval under LDA2019/0264 (Building envelopes and footprint) and Stage 1 Detailed Works comprising demolition, construction of 3 mixed use buildings with 265 apartments and commercial and retail space with associated basement parking with 395 spaces, partial construction of a road, landscaping, and public domain improvements within Site A. The Stage 1 Detailed Works is Integrated Development requiring approval from WaterNSW (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:

- compliance with cl. 4.3 Height of Buildings is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

The Panel is 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 clauses 4.6 and 4.4 of the LEP and the objectives for development in the MU1 Mixed Zone; and
- 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*, with a deferred commencement condition as recommended by Council, requiring the surrender of Consent LDA2019/0264.

The Panel's decision was unanimous.

REASONS FOR DECISION

The Panel unanimously resolved to approve the development application for the reasons set out below and in the Council's Assessment Report.

Clause 4.3 of the LEP permits a maximum building height of 45m. The development proposes building heights of between 43.5m to 49.3m as noted in the Council's Assessment Report. The contravention of the building height development standard varies between 5.1% and 9.5%. The Panel is satisfied that the applicant's Clause 4.6 written request to contravene this development standard is well founded. The Panel concurs with Council that the contravention of the height standard results in a development which is consistent with the scale anticipated on this site and will read favourably in the context of the redevelopment of neighbouring sites in the future. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal; and there are sufficient environmental planning grounds to justify contravening this development standard.

The Panel considers that the issues raised in the submissions do not warrant the refusal of the application and have been adequately addressed in this report. The proposed development does not create unreasonable environmental impact to existing adjoining existing development in the immediate vicinity.

The Panel considers the proposed development has been properly assessed against relevant planning controls and is suitable for the site. Accordingly, the Panel believes approval of the development application is in the community interest. The Panel notes that the proposed development serves the public interest through the provision of a through-site roadway, publicly accessible open space area, and will provide a mix of apartment types to address growing housing demand and support the growth of the local community.

CONDITIONS

The Panel considered the Applicant's written submission of 14 August 2023, addressing Council's recommended conditions requiring the deletion of 24 tandem car parking spaces on Basement Levels 02 and 03 (Conditions 1(a), 60 and 196). Having regard to the arguments advanced by both the Applicant and the Council in this regard, the Panel determined to accept the Council's conditions.

The Development Application was approved as a "Deferred Commencement" consent subject to the conditions in Council's Assessment Report with two new conditions relating to **Electric Vehicle Charging Points** and **Services and Fire Hydrant Enclosure** as listed below:

Electric Vehicle Charging Points

Prior to a Construction Certificate being issued, amended basement plans are to be submitted to the Principal Certifying Authority depicting Electric Vehicle charging points at a minimum rate of 10% of each category of parking (23 residential, 3 visitor and 1 car share) with a minimum 'Level 2' charging point consisting of single or three-phase point with a power range of 7kW-22kW, as defined by NSW Electric and Hybrid Vehicle Plan, Future Transport 2056 (21 January 2019). Further, capability is to be provided within the switchboards and cabling for all parking spaces to be converted in the future.

(Reason: To ensure that the development adequately caters for owners of electric vehicles.)

Services and Fire Hydrant Enclosure

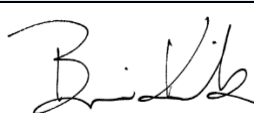
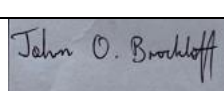
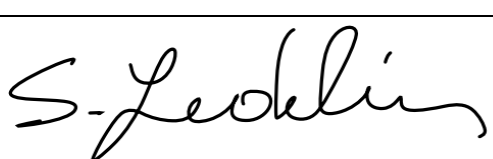
Prior to the issue of a Construction Certificate for works above ground slab level, the Certifying Authority is to be provided with plans demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that compliments the building and in accordance with the requirements of EP1.3 & EP1.4 of the BCA.

(Reason: To ensure essential services are appropriately screened.)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 3 written submissions made during the public exhibition of the proposal. Issues raised included Overdevelopment in the area and provision of supportive infrastructure, height, and proximity of the development to existing neighbouring buildings, traffic generation/congestion, and construction disturbance.

The Panel considers concerns raised in submissions have been adequately addressed in Council's Assessment Report.

PANEL MEMBERS	
 Brian Kirk (Chair)	 Nicole Gurran
 John Brockhoff	Endorsed by email dated 22 August 2023 Sophie Lara-Watson
 OAM Sarkis Yedelian	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-357 - LDA2022/0394 – Ryde
2	PROPOSED DEVELOPMENT	Amending Development Application to amend Concept Development Approval under LDA2019/0264 (Building envelopes and footprint) and Stage 1 Detailed Works comprising demolition, construction of 3 mixed use buildings with 265 apartments and commercial and retail space with associated basement parking with 395 spaces, partial construction of a road, landscaping and public domain improvements within Site A. The Stage 1 Detailed Works is Integrated Development requiring approval from WaterNSW
3	STREET ADDRESS	122 Herring Road, Macquarie Park (Morling College)
4	APPLICANT/OWNER	Applicant: TOGA Pty Ltd Owner: Baptist Union of NSW
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - NSW Threatened Species Conservation Act 1995 - Commonwealth Environment Protection and Biodiversity Conservation Act 1999 - Environmental Planning and Assessment Regulation 2021 - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Transport and Infrastructure)

		2021 - State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development - Ryde Local Environmental Plan 2014 - Draft environmental planning instruments: Nil - Development control plans: - 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 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. - Attachment 1: Draft Conditions of consent - Attachment 2: Plans. - Attachment 3: Clause 4.6. - Letter dated 14 August 2023 from Morling College. - Written submissions during public exhibition: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	12 April 2023 - Briefing 16 August 2023 - Final briefing to discuss council's recommendation: <u>Panel members</u>: Brian Kirk (Chair), Nicole Gurran, John Brockhoff, Sophie Lara-Watson <u>Council assessment staff</u>: Holly Charalambous, Carine Elias, Sandra Bailey, Gavin Zev, Jacob Smith, Anthony Collier <u>Applicant representatives</u>: John Wynne, Peter McCrindle, Roger Jasprizza, Olivia Lambert, Jessica Kelley, Ian Gray, Jack Kerstens, Ellie Evans, Karl May, Paul Shaw.
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report