

DATE OF DETERMINATION	26/10/2023
DATE OF PANEL DECISION	20/10/2023
DATE OF PANEL MEETING	18/10/2023
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Sophie Lara-Watson, Sarkis Yedelian OAM
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 04 October 2023.

MATTER DETERMINED

PPSSNH-362 – City of Ryde – LDA2022/0408 at 5-11 Lachlan Avenue & 155-159 Herring Road, Macquarie Park – Demolition and construction of a 14-storey mixed use development comprising commercial premises at the ground level fronting Herring Road, 307 residential apartments, 4 basement parking levels and associated communal open space areas including a pool, landscaping, stormwater management works, public domain works and stratum subdivision. (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 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 of the Ryde Local Environmental Plan 2014 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (2) (Height of building) 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 (development standard) of the LEP and the objectives for development in the MU1 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 noted the proposal was generally compliant with relevant planning controls except in the case of building height, various ADG guidelines and DCP setback requirements.

In relation to building height, Clause 4.3 of RLEP 2014 permits 45m but the proposed towers each exceed that permitted height – Tower A by 2.1m (or 4.7%), Tower B by 2.3m (or 5.1%) and Tower C by 3.3m (or 7.3%). The breaches relate to the uppermost section of the roof and rooftop plant of each tower.

The Applicant submitted a written request for a variation under Clause 4.6 which notes in part that *“the site’s topography comprises a significant level of change of around 12m from a high of approximately RL 67.24 at the western corner of the site falling to RL 54.46 to the south-eastern corner of the site The significant level change across the site means the minor exceedance above the 45m height plane occurs on the parts of the three buildings which are located at the low point of the site ...”*

The Panel concurs with Council that the request was well presented and contained sufficient environmental planning grounds to justify the variation. 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 comprehensive Assessment Report.

In relation to ADG non-compliances for building separation, orientation, visual privacy and apartment size and layout – the Panel concurs with Council that these issues were considered extensively by the Urban Design Review Panel and Council officers and were found acceptable in the circumstances. With regard to the DCP setback requirements, the Panel concurs with Council that non-compliance of the western side of the basement car park is acceptable as the encroachment does not add to the bulk and scale of the development and enables plantings through the provision of deep soil zones to a depth of 6m.

The Panel notes the local area is undergoing significant transformation in keeping with the Macquarie Park Place Strategy. The site is within the Herring Road and North Ryde Station Priority Precinct, which aims to revitalise the area and provide new homes within an area that is close to infrastructure, public transport and employment opportunities. The site is not only close to transport routes and a major shopping complex, it is also surrounded by sites with existing buildings, as well as approvals for buildings, of similar heights and scale.

The Panel further notes the proposal benefited from extensive consultation between Council and the Applicant over the last year including four reviews by the Urban Design Review Panel. Significant changes were made to the design.


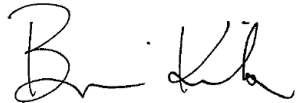
In summary, the Panel concurs with Council that the proposal has been properly assessed against relevant planning controls, is consistent with the strategic intentions for Macquarie Park and the MU1 Mixed Use zone objectives and approval of the application is in the community interest.



CONDITIONS

The proposed conditions had been considered by Applicant and Council and were further discussed between the Panel and Council. The Panel sought clarification and amendment of the Acoustic conditions and the Development Application was subsequently approved subject to amended conditions in Council’s email of 18th October 2023.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 3 written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included building separation and sunlight access, building height and impact on flora and fauna. The Panel considers that concerns raised by the community have been adequately addressed in Council’s Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk

 Nicole Gurran	Sophie Lara-Watson Sophie Lara-Watson
 Sarkis Yedelian OAM	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-362 – City of Ryde – LDA2022/0408
2	PROPOSED DEVELOPMENT	Demolition and construction of a 14-storey mixed use development comprising commercial premises at the ground level fronting Herring Road, 307 residential apartments, 4 basement parking levels and associated communal open space areas including a pool, landscaping, stormwater management works, public domain works and stratum subdivision. (as described in Schedule 1).
3	STREET ADDRESS	5-11 Lachlan Avenue & 155-159 Herring Road, Macquarie Park
4	APPLICANT/OWNER	Applicant: Toni Walter – Urbis Owner: Casey Tham
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"> ○ Environmental Planning and Assessment Act 1979; ○ 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 (Sustainable Buildings) 2022; ○ State Environmental Planning Policy (Transport and Infrastructure) 2021; ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; ○ Ryde Development Control Plan 2014; ○ Section 7.11 Contribution Plan ○ 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: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 04/10/2023 • Clause 4.6 variation: Clause 4.3 – Height of Buildings (4.7% to 7.3% variation) • Written submissions during public exhibition: 3 • Total number of unique submissions received by way of objection: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 12/04/2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Sophie Lara-Watson ○ <u>Council assessment staff</u>: Sandra Bailey, Holly Charalambous, Anthony Collier • Final briefing to discuss council's recommendation: 18/10/2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Sophie Lara-Watson, Sarkis Yedelian OAM ○ <u>Council assessment staff</u>: Sandra Bailey, Holly Charalambous, Sohail Faridy, Carine Elias] ○ <u>Applicant representatives</u>: Toni Walter
9	COUNCIL RECOMMENDATION	Approval subject to conditions
10	DRAFT CONDITIONS	Attached to the Council Assessment Report