

Date of Determination	11 August 2022
Panel Members	Marcia Doheny (Chair) Graham Brown (Independent Expert) Jennifer Bautovich (Independent Expert) Donna Gaskill (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 11 August 2022 opened at 5:00pm and closed at 5:28pm.

Papers circulated electronically on 2 August 2022.

MATTER DETERMINED

LDA2021/0296

Address: 3 Porter Street & 105 Church Street, Ryde

Proposal: Alterations to existing basement and change of use of a plant room to a local distribution premises.

The following people addressed the meeting:

1. Anthony Betros (Planning Consultant) – on behalf of applicant (to answer questions)
2. Eun Seo – Architect/Applicant (to answer questions)

PANEL CONSIDERATIONS AND DECISION

The Panel visited the site and 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.

DEVELOPMENT APPLICATION

The Panel determined to **refuse** the development application as described in Schedule 1, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* for the following reasons:

1. The proposed development is prohibited in the B4 Mixed Use zone under Ryde Local Environmental Plan 2014 (LEP 2014) as the proposed development does not satisfy the definition of a “local distribution centre” in the Dictionary to LEP 2014.
2. The proposed development does not establish that safe and healthy working conditions have been provided for future employees given the subterranean nature of the site and the lack of ventilation and sunlight.

The decision was unanimous

REASONS FOR THE DECISION

The Panel was not satisfied that sufficient information was provided to establish that the proposed use of the site was a “local distribution centre” and was a permissible use as in the B4 Mixed Use zone. If the applicant seeks a review of this refusal, it would be expected that a legal opinion would be supplied to support this position. Alternatively, if it is found that the proposed use was not permissible and the use was defined differently, then a legal opinion should also be provided to support this position.

The Panel was also not satisfied that safe and healthy working conditions will be provided for future employees. If the applicant seeks a review of this refusal, it would be expected that a report be prepared by a qualified person that identifies the standards required under the Building Code of Australia (BCA), including fire safety for the proposed use. The Panel notes that the minimum standards under the BCA may not be sufficient given the characteristics of the site.


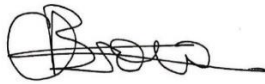

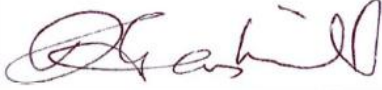
CONDITIONS

Not applicable

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. No community members sought to be heard at the Panel meeting.

The panel considers that some concerns raised by the community supported the refusal of the application by the Panel.

PANEL MEMBERS	
Marcia Doheny (Chair)	
Graham Brown	
Jennifer Bautovich	
Donna Gaskill	

SCHEDULE 1

1	DA No.	LDA2021/0296
2	Proposal	Alterations to existing basement and change of use of a plant room to a local distribution premises
3	Street Address	3 Porter Street & 105 Church Street, Ryde
4	Applicant / Owner	Eun Seo Architects Pty Ltd / HLWZ Developments Pty Ltd
5	Reason for referral to RLPP	<p>Departure from development standards – contravention of the floor space ratio development standard by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction</i></p> <p>Contentious development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection - <i>Schedule 1, Part 2 of Local Planning Panels Direction</i></p>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Objects of EP&A Act • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy Resilience and Hazards SEPP 2021 ○ State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development ○ State Environmental Planning Policy Biodiversity and Conservation SEPP 2021 ○ State Environmental Planning Policy Transport and Infrastructure SEPP 2021 ○ 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 • Section 7.12 Fixed Rate Levy (Section 7.12) Development Contributions Plan 2020 • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 61 to Clause 64 • 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	<ul style="list-style-type: none"> • Council assessment report • Clause 4.6 variation to C4.4(2) Floor space ratio • Written submissions during public exhibition: 15 • Verbal submissions at the public meeting:

		<ul style="list-style-type: none"> ○ In support - Nil ○ In objection - Nil ○ Council assessment officer - Nil ○ On behalf of the applicant – Anthony Betros, Eun Seo
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> ● Site inspection: At the discretion of Panel members due to COVID-19 restrictions ● Briefing: 11 August 2022 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Marica Doheny (Chair), Graham Brown, Jennifer Bautovich, Donna Gaskill ○ <u>Council assessment staff</u>: Sandra Bailey, Daniel Pearse, Kimberley Kavwenje, Tyson Ek-Moller (Consultant Planner), Jason Chanphakeo ● Papers were circulated electronically on 2 August 2022
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 1 to the Council assessment report (not applicable – Panel refusal)