

Date of Determination	10 February 2023
Panel Members	Alison McCabe (Chair) Brett Newbold (Independent Expert) Susan Hobley (Independent Expert) Anthony Panzarino (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

MATTER DETERMINED

APL2022/0004 Review of Determination of LDA2021/0296

Address: 3 Porter Street & 105 Church Street, Ryde

Proposal: Section 8.3 review of determination LDA2021/0296 for the fitout and use of the redundant plant area for the purposes of storage and distribution of goods.

PANEL CONSIDERATIONS AND DECISION

The Panel considered the matters listed at item 6, the material listed at item 7, and the material presented at the briefing listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under clause 4.6 (3) of the Ryde Local Environmental Plan 2014 (LEP), that has demonstrated that:

- a) compliance with clause 4.4(2) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the standard

The Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under clause 4.6 (3) of the LEP; and
- b) the development is in the public interest as it is consistent with the objectives of clause 4.4(2) (maximum FSR) of the LEP and the objectives for development in the B4 Mixed Use zone; and
- c) the concurrence of the Secretary has been assumed.

DEVELOPMENT APPLICATION

The Panel determined to **approve** the development application as described in Schedule 1, pursuant to Section 8.4 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to **approve** the application for the following reasons:

- 1) The proposal is a permissible land use and is consistent with the objectives for B4 zoned land.
- 2) The proposal has been supported by a satisfactory Clause 4.6 written variation to Clause 4.4(2) which demonstrates compliance is both unreasonable and
- 3) unnecessary and has provided sufficient environmental planning grounds to support the variation.
- 4) The proposal will not result in any significant, adverse nor unreasonable impacts
- 5) upon adjoining properties or the public domain.
- 6) The proposal is not contrary to the public interest.





The Panel adopts the recommendation and reasons for approval as outlined in the Assessment Officer's report.

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
Alison McCabe (Chair)	
Brett Newbold	
Susan Hobley	
Anthony Panzarino	

SCHEDULE 1

1	DA No.	APL2022/0004 (S8.3 review of LDA2021/0296)
2	Proposal	Section 8.3 review of determination LDA2021/0296 for the fitout and use of the redundant plant area for the purposes of storage and goods distribution.
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	<ul style="list-style-type: none"> • 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> • LDA2021/0296 was originally determined by the Panel
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Objects of EP&A Act • Environmental planning instruments: <ul style="list-style-type: none"> ○ SEPP Resilience and Hazards SEPP 2021 ○ SEPP 65 - Design Quality of Residential Apartment Development ○ SEPP Transport and Infrastructure SEPP 2021 ○ SEPP Biodiversity and Conservation SEPP 2021 ○ Ryde Local Environmental Plan 2014 • Development control plans: Ryde Development Control Plan 2014 • Section 7.12 Fixed Rate Levy (Section 7.12) Development Contributions Plan 2020 • 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 request to Cl 4.4(2) (maximum FSR) • Written submissions during public exhibition: 2
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: At discretion of Panel due to COVID-19 restrictions • Briefing: 10 February 2023 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Marcia Doheny (Chair), Brett Newbold, Susan Hoble, Anthony Panzarino ○ <u>Council assessment staff</u>: Colin Murphy, Sohail Faridy, Daniel Pearse, Myra Malek, Tyson Ek-Moller (Consultant Planner) • Papers were circulated electronically on 3 February 2023
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 1 to the Council assessment report