

Date of Determination	13 April 2023
Panel Members	Alison McCabe (Chair) Graham Brown (Independent Expert) Jennifer Bautovich (Independent Expert) Rob Senior (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 13 April 2023 opened at 5:00pm and closed at 6:00pm. Papers circulated electronically on 6 April 2023.

MATTER DETERMINED

LDA2022/0023

Address: 130 Pittwater Road & 57 Thompson Street, Gladesville

Proposal: Demolition of existing structures and construction of part 2, part 3 storey mixed use development comprising parking within basement 2, retail premises and loading docks within basement 1, a cafe, a medical centre and a liquor store on ground floor, parking at level 1 and a childcare facility within level 2 and lot consolidation.

The following people addressed the meeting:

1. Georgie & Cam Johnson (submitters)
 2. Edward Douglas Graham - known as Doug – (submitter)
- On behalf of applicant:
 - Anthony El-Hazouri (Director - Revelop)
 - Emily Han (Senior Development Manager - Revelop)
 - Adam Byrnes (Town Planner - Think Planners)
 - Sam Semaan (Architect - Tesserarch)
 - Daniel Walker (Traffic Consultant - McLaren Traffic Engineer)

PANEL CONSIDERATIONS 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.

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*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel was concerned that the application sought to use land zoned R2 Low Density Residential to gain access to the B1 carpark that was designated as the carpark for the medical centre and the childcare centre; these uses being permissible uses in the R2 Low Density Residential zone as well as permissible in the B1 Neighbourhood Centre zone. The medical centre and the childcare centre are physically located in the B1 Neighbourhood Centre zone.

The Panel strongly held the view that the integrity of the R2 Low Density Residential zone and the B1 Neighbourhood Centre zone should be maintained and that the question of permissibility, principally the use of the R2 Low Density Residential zone, should not be questioned. The Panel did not consider that the use of conditions or requirements for Plans of Management provided sufficient certainty when the fundamental issue was about permissibility.

The Panel was not satisfied that the application plans or the measures suggested by the applicants' representatives at the Panel meeting provided adequate certainty that the R2 Low Density Residential zoned land would not or could not be used for other uses in the proposed development that are prohibited in the R2 Low Density Residential zone and as such the application must be refused.

The Panel also considered that the following aspects of the development were unsatisfactory:

1. The cl 4.6 written requests does not provide adequate reasons why the height and floor space ratio development standards should be varied.
2. The distribution of car parking spaces between the two separate car parking areas does not reflect the potential uses that the carparks are designed to service.
3. The above ground car park is a poor design solution with the potential for adverse amenity impacts on nearby residential properties.
4. The street setbacks of the building are a poor design solution given the commercial nature of the site and the context.

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

1. The proposed development must be refused as parts of the proposed mixed use development is prohibited in the R2 Low Density Residential zone of Ryde Local Environmental Plan 2014.
2. The proposed development must be refused as the cl 4.6 written requests do not provide adequate reasons why the Height of Buildings development standard in cl 4.3(2) and the Floor Space Ratio development standard in in cl 4.4(2) of Ryde Local Environmental Plan 2014 should be varied.
3. The proposed development should be refused as the design does not adequately address the potential impact on nearby residential properties or the commercial location or reinforce the commercial interface with the street as appropriate to the zone.
4. The configuration of the development results in an above ground carpark uncharacteristic of the area, a disproportionate allocation of carparking between uses and an inefficient use of the carpark. Carpark allocation between the basements and lack of connectivity results in a shortfall of car parking for the shop uses.

5. The building has not been designed to segregate all functions of the different uses resulting in a prohibited form of development.
6. The ongoing use and function of the site requires an unreasonable reliance on strict compliance with a Plan of Management to satisfy ongoing permissibility. Non-compliance would result in a development not being permitted.
7. The streetscape presentation of the building and the setback from the street frontage is not compatible with the form of development in the local neighbourhood centre.
8. The potential impacts to traffic flow and potential for queuing arising from the implementation of boom gates and intercom system to restrict access to the basement carpark have not been addressed.





CONDITIONS

Not applicable.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report. No new issues were raised during the public meeting.

PANEL MEMBERS	
Alison McCabe (Chair)	
Graham Brown	
Jennifer Bautovich	
Rob Senior	

SCHEDULE 1

1	DA No.	LDA2022/0023
2	Proposal	Demolition of existing structures and construction of part 2, part 3 storey mixed use development comprising parking within basement 2, retail premises and loading docks within basement 1, a cafe, a medical centre and a liquor store on ground floor, parking at level 1 and a child care facility within level 2 and lot consolidation.
3	Street Address	130 Pittwater Road & 57 Thompson Street Gladesville
4	Applicant / Owner	The Trustee for Gladesville WW Investment Trust / Gladesville WW Pty Ltd
5	Reason for referral to RLPP	<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>; and</p> <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>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2022 • Ryde Development Control Plan • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000: Australian Standard AS 2601—2001: The Demolition of Structures</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	<ul style="list-style-type: none"> • Council assessment report • Clause 4.6 variation requests for clauses 4.3(2) Height of Buildings and 4.4(3) Floor Space Ratio • Written submissions during public exhibition: 14 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil

		<ul style="list-style-type: none"> ○ In objection - Georgie & Cam Johnson, Edward Douglas Graham ○ Council assessment officer - Nil <ul style="list-style-type: none"> ○ On behalf of the applicant - Anthony El-Hazouri, Emily Han, Adam Byrnes, Sam Semaan, Daniel Walker
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: 13 April 2023 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Graham Brown, Jennifer Bautovich, Rob Senior ○ <u>Council assessment staff</u>: Sandra Bailey, Sohail Faridy, Emily Lu, Myra Malek • Papers were circulated electronically on 13 April 2023
9	Council Recommendation	Approval
10	Draft Conditions	Not Applicable