

Date of Determination	12 August 2021
Panel Members	Stephen O'Connor (Chair) Graham Brown (Independent Expert) David Epstein (Independent Expert) Rob Senior (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 12 August 2021 opened at 5:00pm and closed at 5:45pm.

Papers circulated electronically on 4 August 2021.

MATTER DETERMINED

MOD2021/0001 to Modify Development Consent No. LDA2015/0084

25-29 Nancarrow Avenue, Ryde NSW 2112

Proposal Section 4.55(1A) to modify class numbers and opening hours for an existing gym/fitness centre. The current hours of operation are 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday) and are proposed to change to 5am to 8:30pm (Monday to Friday) and 5:45am to 12:00pm (Saturday). The proposed modification also seeks to change the maximum class size from 12 people to 30 people.

The following people addressed the meeting:

1. Danny Chau (objector)
2. Eli Minassian (supporter)
3. Josh Annesley (applicant)
4. Troy Saidi (applicant)

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

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *Ryde Local Environmental Plan 2014* in that:
 - The proposal is contrary to the objectives of the B4 Mixed Use Zone as Council is not satisfied that the development as proposed would be compatible with other land uses in the locality.
2. The development is inconsistent with of provisions of the *Ryde Development Control Plan 2014*, specifically:
 - Part 9.3 Parking Controls, as the proposal does not provide sufficient parking for the proposed increased capacity of the development.
3. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided to determine whether the acoustic impacts of the expanded use are satisfactory.
4. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is unsuitable for the proposed increase in the intensity of the approved use.
5. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.
6. Pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, the proposal is not of minimal environmental impact.

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


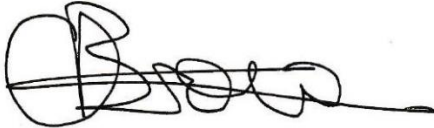

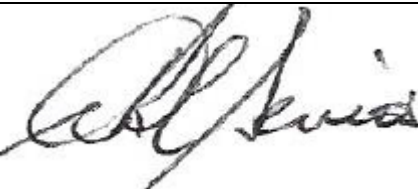
CONDITIONS

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	
Stephen O'Connor (Chair)	
Graham Brown	
David Epstein	
Rob Senior	

SCHEDULE 1		
1	Application No.	MOD2021/0001 (to modify LDA2015/0084)
2	Proposal	Section 4.55(1A) to modify class numbers and opening hours for an existing gym/fitness centre. The current hours of operation are 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday) and are proposed to change to 5am to 8:30pm (Monday to Friday) and 5:45am to 12:00pm (Saturday). The proposed modification also seeks to change the maximum class size from 12 people to 30 people.
3	Street Address	25-29 Nancarrow Avenue, Ryde
4	Applicant / Owner	Josh Annesley / ELLS Trading P/L
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.</p> <p><i>Schedule 1, Part 2 of Local Planning Panels Direction</i></p>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> Section 4.55 – Modification of Consents Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Ryde Local Environmental Plan 2014 Draft environmental planning instruments: <ul style="list-style-type: none"> Draft Remediation of Land SEPP Draft Environment SEPP Development control plans: <ul style="list-style-type: none"> Ryde Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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 Written submissions during public exhibition: 21 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Eli Minassian In objection – Danny Chau Council assessment officer – Nil On behalf of the applicant – Josh Annesley, Troy Saidi

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: 12 August 2021 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen O'Connor (Chair), Graham Brown, David Epstein, Rob Senior ○ <u>Council assessment staff</u>: Sandra Bailey, Brendon Clendenning, Sandra McCarry, Daniel Pearse, Vincent Shepherd ○ <u>Applicant</u>: Josh Annesley, Troy Saidi <ul style="list-style-type: none"> • Papers were circulated electronically on 4 August 2021
9	Council Recommendation	Refusal
10	Draft Conditions	Not applicable