

Date of Determination	15 April 2021
Panel Members	Abigail Goldberg (Chair) Eugene Sarich (Independent Expert) Jennifer Bautovich (Independent Expert) Rob Senior (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 15 April 2021 opened at 5:00pm and closed at 5:33pm.
Papers circulated electronically on 6 April 2020.

MATTER DETERMINED

LDA2020/0185 – 19-21 Myra Avenue, Ryde

New multi dwelling housing development containing 5 dwellings (2 x 5 bed and 3 x 3 bed) as well as strata subdivision

The following people addressed the meeting:

1. Soula Karas (objector)
2. Peter Hall (applicant)

PANEL CONSIDERATIONS AND DECISION

The Panel considered 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 the *Ryde Local Environmental Plan 2014* in that:
 - The proposal is contrary to the objectives of the R2 Low Density Residential Zone given the proposal fails to demonstrate it will deliver housing that is safe from flooding to the community.
 - The proposal has not satisfied clause 6.3 as inadequate information has been submitted to demonstrate that the proposal will not create adverse flooding impacts.
 - The proposal has not satisfied clause 6.4 as inadequate information has been submitted to demonstrate that the stormwater drainage system adequately responds to flooding constraints.
2. Pursuant to Clause 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the following draft planning instruments:
 - The development would become prohibited by the Draft Amendment 28 to the Ryde Local Environmental Plan 2014.
3. Pursuant to Section 4.15(1)(a)(b) and (c) of the *Environmental Planning and Assessment Act 1979*, the development has not demonstrated an acceptable environmental impact or that the site is suitable for the proposed development regarding flood impact:
 - The proposal is contrary to Clause 6.3 Flood planning of Ryde Local Environmental Plan 2014 and Part 8.2 of Ryde Development Control Plan 2014. The objective of this clause is to minimise the flood risk to life and property, allow for development that is compatible with the flood hazard and to avoid significant adverse impacts on flood behaviour and the environment. The proposal is inconsistent with the objectives of Clause 6.3(1).
 - The proposal is not considered satisfactory with respect of Clause 6.3(3) for the following reasons:
 - (i) The proposal has not demonstrated compatibility with the flood hazard. A significant portion of the land is mapped as being subject to medium flood risk.
 - (ii) The proposal does not provide sufficient detail regarding the measures to manage the risk to life from flood.
 - The submitted Flood Impact Assessment does not satisfactorily address the requirements of Part 8.2 and Stormwater and Floodplain Management Technical Manual Section 2.2:
 - (i) The proposal does not maintain the current flood storage.
 - (ii) The proposal results in an 80mm increase in flood depth.
 - (iii) The proposal has not achieved acceptable post-development VxD values, when compared with pre development VxD values.
 - (iv) The HEC-RAC Model has not been calibrated to match the pre development overland flow levels and the flood levels provided by Council.
 - (v) There is no record of a Flood Certificate request being issued by Council and included in the flood assessment.

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4. Pursuant to Clause 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the following provisions of *Ryde Development Control Plan 2014*,
 - Part 3.4 Multi Dwelling Housing specifically:
 - Section 2.3 and Section 3.1, as the site is in a non-preferred location for multi dwelling housing because it is affected by overland flow. Insufficient information has been provided to address this constraint.
 - Section 3.9, as the submitted solar diagrams are unsatisfactory to demonstrate that the proposal will not have any unreasonable solar amenity impacts on proposed dwellings.
 - Part 8.2 Stormwater and Floodplain Management, as inadequate information has been submitted to demonstrate that the proposal will not create adverse flooding or stormwater impacts.
 - Part 9.3 Parking Controls, the proposal has not demonstrated compliant vehicle manoeuvring is achieved or indeed possible. The Panel notes that significant design changes would be required to adequately address the parking controls.
 5. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the flood impacts of the development to human life and property cannot be ascertained.
 6. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, in the absence of sufficient flooding information to determine otherwise, the site is unsuitable for the proposed development.
 7. 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.

The Panel adopts the recommendation and reasons for refusal as outlined in the Assessment Officer's report. The Panel notes that a late request for deferral was received from the applicant; however, for the reasons outlined above, the Panel agreed that a deferral would not be appropriate considering the wide range of substantive issues requiring resolution.





CONDITIONS

Not applicable

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the 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	
Abigail Goldberg (Chair)	
Eugene Sarich	
Jennifer Bautovich	
Rob Senior	

SCHEDULE 1		
1	DA No.	LDA2020/0185
2	Proposal	New multi dwelling housing development containing 5 dwellings (2 x 5 bed and 3 x 3 bed) as well as strata subdivision.
3	Street Address	19-21 Myra Avenue, Ryde
4	Applicant / Owner	Robert De Nicola and Patricia De Nicola
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"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 - Remediation of Land State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 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 State Environmental Planning Policy Draft Environment SEPP Draft Amendment to the Ryde Local Environmental Plan 2014 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 Section 7.11 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 <p>The public interest, including the principles of ecologically sustainable development</p>
7	Material considered by the Panel	<ul style="list-style-type: none"> Council assessment report Written submissions during public exhibition: 11 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Nil In objection – Soula Karas

		<ul style="list-style-type: none"> ○ Council assessment officer – Brendon Clendenning (Consultant Planner) ○ On behalf of the applicant – Peter Hall • Submission from Soula Karas summarising issues raised in her address • Late submission received from the applicant on (14 April 2021) <ul style="list-style-type: none"> ○ Correspondence from Planning Direction Pty Ltd (13 April 2021) ○ Flood Study Report prepared by CEC (6 April 2021) ○ Car Park Compliance Review prepared by ParkTransit (13 April 2021)
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: at the discretion of Panellists considering COVID-19 restrictions • Briefing: 15 April 2021 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Abigail Goldberg (Chair), Eugene Sarich, Jennifer Bautovich, Rob Senior ○ <u>Council assessment staff</u>: Sandra Bailey, Kimberley Kavwenje, Steven Hanna, Brendon Clendenning (Planning Consultant) <ul style="list-style-type: none"> • Papers were circulated electronically on 6 April 2021
9	Council Recommendation	Refusal
10	Draft Conditions	Not Applicable