

<b>Date of Determination</b>	9 December 2021
<b>Panel Members</b>	Marcia Doheny (Chair) Michael Leavey (Independent Expert) Susan Hobley (Independent Expert) Rob Senior (Community Representative)
<b>Apologies</b>	NIL
<b>Declarations of Interest</b>	NIL

Public meeting held remotely via teleconference (Council staff at the North Ryde Office) on 9 December 2021 opened at 5:00pm and closed at 6:48pm.

Papers circulated electronically on 30 November 2021.

#### **MATTER DETERMINED**

##### **LDA2020/0375**

114-116 Victoria Road, Gladesville

**Proposal:** Construction of a six storey residential apartment building comprising 55 apartments with three levels of basement carparking with 74 spaces.

The proposal is integrated development under the Environmental Planning and Assessment Act 1979, as the subject site requires a dewatering licence. The relevant approval body is WaterNSW.

The following people addressed the meeting:

1. Sandra Chapman (objector) – Owners Corp 120 Victoria Rd
2. Diaa Gabra (objector) – Owners Corp 120 Victoria Rd
3. Nick Tizzone & Enrique Blancodecordova (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.

##### **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 Clause 4.3(2) Height of buildings is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development 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 because it is consistent with the objectives of clause 4.3(2) (Height of buildings) 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 (deferred commencement)** the development application, as described in Schedule 1, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* and the amendments identified in the Conditions section of this determination.

The decision was unanimous.

## REASONS FOR THE DECISION

The Panel determined to **approve (deferred commencement)** the application for the following reasons:

1. The proposal 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 4.3 which demonstrates compliance is both unreasonable and unnecessary and has provided sufficient environmental planning grounds to support the variation.
3. The proposal does not result in any significant adverse impacts upon adjoining properties or the streetscape.
4. 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 as a deferred commencement subject to the conditions in the Council assessment report as well as modifications as follows:

1. An additional deferred commencement condition as follows:

**2) An amended landscape plan** shall be submitted to Council. This plan shall include, but not be limited to the following:

- a) a range of different functional activities in different parts of the communal open space (COS) that supports a variety of socialising and recreational opportunities for the anticipated demographic of the future residents (eg: communal garden, exercise area, barbeque and outdoor eating area, children's play area);
- b) a species list that provides for all amenity plantings to be locally indigenous;
- c) a maintenance schedule;
- d) details of how access to all areas of the of the landscaping is to be provided to ensure maintenance. Particular attention is to be provided to the area adjacent to the vehicular access ramp and along the southern boundary.

2. Condition 76 amended as follows:

**76. Geotechnical Design, Certification and Monitoring Program.** The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighbouring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts arising from such works, the applicant must engage a suitably qualified and practicing Engineer having experience in the geotechnical and hydrogeological fields, to design, certify and oversee the construction of all subsurface structures associated with the development.

This engineer is to prepare the following documentation:

- a) A detailed excavation plan documenting the excavation methodologies to be used and how excavation will meet the recommendations of the approved Geotechnical Report.
- b) Certification that the civil and structural details of all subsurface structures are designed to;
  - provide appropriate support and retention to neighbouring property,
  - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,
  - ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.
- c) A Geotechnical Monitoring Program (GMP) to be implemented during construction that;
  - is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
  - details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
  - details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
  - details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.
  - Is in accordance with the recommendations of the approved Geotechnical Report.





The excavation plan, certification and the GMP is to be submitted for the approval of the Accredited Certifier prior to the issue of the Construction Certificate.

**Reason:** To ensure there are no adverse impacts arising from excavation works.

## 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 two objectors who addressed the Panel raised concerns in respect of the excavation and the serious risk of damage to their building at 120 Victoria Road.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and conditions of consent. Conditions have been included to require a dilapidation report pre & post development, a Geotechnical Monitoring Program to be implemented throughout construction and structural engineering certification that the development satisfies the BCA. No new issues were raised during the public meeting.

PANEL MEMBERS	
Marcia Doheny (Chair)	
Michael Leavey	
Susan Hobley	
Rob Senior	

**SCHEDULE 1**

<b>1</b>	<b>DA No.</b>	LDA2020/0375
<b>2</b>	<b>Proposal</b>	Construction of a six storey residential apartment building comprising 55 apartments with three levels of basement carparking with 74 spaces
<b>3</b>	<b>Street Address</b>	114-116 Victoria Road, Gladesville
<b>4</b>	<b>Applicant / Owner</b>	Zonie Properties Pty Ltd
<b>5</b>	<b>Reason for referral to RLPP</b>	<p><b>Sensitive Development</b> – Development to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies.</p> <p>Schedule 1, Part 4 of Local Planning Panels Direction</p> <p><b>Contentious development</b> – (b) in any other case – is the subject of 10 or more unique submissions by way of objection.</p> <p>Schedule 1, Part 2 of Local Planning Panels Direction</p>
<b>6</b>	<b>Relevant mandatory considerations</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development</li> <li>○ State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>○ State Environmental Planning Policy (Building Sustainability Index BASIX) 2004</li> <li>○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>○ Ryde Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ Draft Remediation of Land State Environmental Planning Policy</li> <li>○ Draft Environment SEPP</li> </ul> </li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Ryde Development Control Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Environmental Planning &amp; Assessment Act</li> <li>• Section 4.46 Development that is integrated development (cf previous s91A)</li> <li>• Contaminated Lands Management Act 1997</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning</i></li> </ul>

		<p><i>and Assessment Act 1979 or regulations</i></p> <ul style="list-style-type: none"> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	<b>Material considered by the Panel</b>	<ul style="list-style-type: none"> <li>• Council assessment report</li> <li>• Clause 4.6 variation to Clause 4.3(2) Height of buildings</li> <li>• Written submissions during public exhibition: 36</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support - Nil</li> <li>○ In objection - Sandra Chapman, Diao Gabra</li> <li>○ Council assessment officer - Kimberley Kavwenje</li> <li>○ On behalf of the applicant - Nick Tizzone, Enrique Blancocordova</li> </ul> </li> <li>• Diao Gabra also provided a submission for the Panel's consideration</li> <li>• Joanna Tilker withdrew her request to address the Panel and sent a written submission instead</li> </ul>
8	<b>Meetings, briefings and site inspections by the Panel</b>	<ul style="list-style-type: none"> <li>• Site inspection: At the discretion of Panel members due to COVID-19 restrictions</li> <li>• Briefing: 9 December 2021 Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Marcia Doheny (Chair), Michael Leavey, Susan Hobley, Rob Senior</li> <li>○ <u>Council assessment staff</u>: Sandra Bailey, Kimberley Kavwenje, Emily Lu</li> </ul> </li> <li>• Papers were circulated electronically on 30 December 2021</li> </ul>
9	<b>Council Recommendation</b>	<b>Deferred Commencement Approval</b>
10	<b>Draft Conditions</b>	Attachment 1 to the Council assessment report