

Date of Determination	10 November 2022
Panel Members	Alison McCabe (Chair) Susan Hobley (Independent Expert) Anthony Panzarino (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 10 November 2022 opened at 5:00pm and closed at 6:45pm.

Papers circulated electronically on 1 November 2022.

MATTER DETERMINED

APL2022/0003 Review of Determination of LDA2021/0278

Address: 6 Shackel Avenue, Gladesville

Proposal: Section 8.3 Review of Determination of LDA2021/0278 for alterations and additions to existing residential dwelling.

The following people addressed the meeting:

1. Andrew Martin (Applicant/Town Planner)

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 8.4 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. The site is not suitable for the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*. The proposal seeks to utilise a structure that has been unlawfully constructed. A Building Information Certificate has not been obtained. Development consent cannot be granted for alterations to, and use of, an unauthorised structure.

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2. 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 proposed development does not comply with the height of buildings standard prescribed by Clause 4.3 of *Ryde Local Environmental Plan 2014*. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.
 - The proposed development does not comply with the floor space ratio standard prescribed by Clause 4.4 of *Ryde Local Environmental Plan 2014*. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of clause 25 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* in that the scale, form, design and siting of the building is not compatible with the likely future character of the locality and that the development detracts from the character of the waterways.
4. The development is inconsistent with provisions of the *Ryde Development Control Plan 2014*, specifically:
- The proposed development is inconsistent with sections 2.5.1 Streetscape.
 - The proposal results in an excessive gross floor area and is inconsistent with section 2.7 Floor Space Ratio.
 - The proposal seeks to extend the existing wall plate height and height in storeys non-compliances associated with Section 2.8.2 of the RDCP 2014.
 - Insufficient shadow diagrams have been provided to satisfy Section 2.14.1 – Solar access.
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.




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 notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
Alison McCabe (Chair)	
Susan Hobley	
Anthony Panzarino	

SCHEDULE 1

1	DA No.	APL2022/0003 Review of Determination of LDA2021/0278
2	Proposal	Section 8.3 Review of Determination of LDA2021/0278 for alterations and additions to existing residential dwelling.
3	Street Address	6 Shackel Avenue, Gladesville
4	Applicant / Owner	Nicole Matak / Roumany & Mariam Gadalla
5	Reason for referral to RLPP	<p>Departure from development standards – contravention of the height of buildings and floor space ratio development standards by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction.</i></p> <p>The former development application (LDA2021/0278) was determined by the RLPP, the review of determination decision must be conducted by the panel as per section 8.3(4) of the <i>Environmental Planning and Assessment Act 1979.</i></p>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Section 8.2 of Environmental Planning and Assessment Act 1979 • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy BASIX 2004 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • 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: Nil • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support: Nil ○ In objection: Nil ○ Council assessment officer: Nil ○ On behalf of the applicant: Andrew Martin

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: 10 November 2022 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Susan Hobley, Anthony Panzarino ○ <u>Council assessment staff</u>: Sandra Bailey, Shannon Butler, Daniel Pearse, Myra Malek, Sonya Constantinou (Consultant Planner) <ul style="list-style-type: none"> • Papers were circulated electronically on 1 November 2022
9	Council Recommendation	Refusal
10	Draft Conditions	Not applicable