

Date of Determination	8 May 2023
Panel Members	Alison McCabe (Chair) Jennifer Bautovich (Independent Expert) Susan Hobley (Independent Expert) Antonio Panzarino (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

MATTER DETERMINED (Electronic Determination)

LDA2021/0204

Address: 8 Ethel Street, Eastwood

Proposal: Demolition of the existing building, construction of a 5 storey mixed use development comprising a ground floor commercial tenancy, 12 residential apartments and 2 levels of basement carparking and strata subdivision (13 lots).

DEVELOPMENT APPLICATION

On 8 June 2022, the Panel considered the above development application. The Panel determined to defer the development application as described in Schedule 1, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The application was deferred for amended plans and additional information. The following was required to be addressed:

- 1) To ensure that the basement can be built and that no damage will be caused to the adjoining properties, a detailed Geotechnical report & Structural report as well as a detailed construction methodology for the basement is to be provided;
- 2) It is to be demonstrated that the basement lift hoist is able to be operated within the proposed basement in a safe manner. Manufacturer's specifications are to be provided;
- 3) Amended plans to delete unit 11 and replace it with a communal open space terrace. Consideration should be given to its potential uses for the anticipated future demographic of the development and its design and layout developed accordingly. Facilities such as a BBQ, shading, tables and seating, water supply, lighting and landscaping should be provided.
- 4) The communal terrace will have hours that restrict its use to 8pm on weeknights and Sundays and 9pm on Saturdays.
- 5) Redesign the living areas of unit 12 to orientate north and amend the communal terrace to a private terrace for unit 12.
- 6) Redesign the ground floor communal open space: the pergola to line up with the entry gallery; soft landscaping with feature plantings visible from the southern entry corridor to be installed between the western wall and the pergola; replace pathway adjacent to the southern elevation of unit 1 with landscape plantings; provide for screen plantings along the eastern edge of the space; replace the artificial turf with paving; and ensure a better relationship between the common room and the outdoor area.

- 7) Redesign the entry and recess the front door to the entry gallery to provide separation from the fire door egress from the basement. The entry gallery should use materials that give the feeling of a laneway. Plans are to be provided at a scale of 1 to 50 of the gallery area detailing high quality finishes. Details and finishes of the entrance are to be provided demonstrating a high quality address to building and street presentation.
- 8) Reconfigure the entry to unit 1 so that it is away from the lift doors/lobby and the stairs to the basement.
- 9) Amend schedule of external materials and finishes to remove crème brick or similar and replace with a darker brick.
- 10) Location for electric vehicle charging points and whether solar panels are proposed.
- 11) Utilise rainwater for irrigation of landscape plantings.

The Panel resolved that the additional information did not need to be renotified and will go back to the Panel directly for electronic determination via circulation of documents, a supplementary report and revised conditions of consent.

The timeframe for the submission of information is 28 days or as agreed to by Council.

A supplementary report has been prepared by Council Officers and sent electronically to the Panel on 24th April 2023.

REASONS FOR THE DECISION

The Panel are of the view that the amended plans and additional information satisfies the concerns that the Panel originally had with the development application.

The amended plans result in a breach of Clause 4.3 of the Ryde Local Planning Panel. The breach is equivalent to 1.17m above the maximum 15.5m height control. The Panel accepts the applicant's Clause 4.6 written request to vary the height of the development (Clause 4.3) in LEP 2014 has adequately addressed the matters in subclause 4.6(3) (a) & (b) and would not be contrary to the public interest as it is consistent with the objectives of the development standard in Clause 4.3 and the objectives of the B4 Mixed Use zoning of Ryde Local Environmental Plan 2014.

The Panel are of the view that the development application can be supported subject to the conditions in the supplementary report and the following amended and additional conditions:

1. That condition 34 (Section 7.11 contributions) be amended to reflect the increase in the CPI. This condition should now read:

34. Section 7.11. A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 35,213.10
Open Space & Recreation Facilities	\$ 60,635.31
Roads & Traffic Management Facilities	\$ 18,614.88
Plan Administration	\$ 1,716.92
The total contribution is	\$ 116,180.21

These are contributions under the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* as specified in City of Ryde Section 7.11 Development Contributions Plan 2020, effective from 1 July 2020.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

(Reason: Statutory requirement).

2. That an additional part c be added to condition 1 to read as follows:

To improve the access and privacy to unit 1 when opening the front door, a security gate is to be provided across the outdoor entry portico area. This gate is to be shown on the construction certificate plans.

3. That an additional part d be added to condition 1 to read as:

The Landscape Plan shall be amended to show the lay-out of the Ground Floor courtyard shown on the Architectural drawings (Drawing 19062) with necessary additional plantings included in the planting plan and plant schedule.

The Plant Schedule shall be amended to delete the following species: *Ficus lyrata*; *Lagerstroemia indica*; *Magnolia spp*; *Aspidistra spp.*; *Escallonia spp.*; *Loropetalum spp.*; *Nandina spp.*; *Raphiolepis spp.*; *Sansevieria trifasciata*; *Phormium tenax*; *Liriope spp.*; *Philodendron spp.*; and *Trachelospermum spp*. Suitable replacements include, but are not limited to, the following: *Acacia fimbriata*; *Acacia floribunda*; *Banksia ericifolia*; *Banksia serrata*; *Callicoma serratifolia*; *Ceratopetalum gummiferum*; *Elaeocarpus reticulatus*; *Ficus coronata*; *Hymenosporum flavescens*; *Leptospermum polygalifolium*; *Leptospermum laevigatum*; *Leptospermum petersonii*; *Doryanthes excelsa*; *Dianella tasmannica*; *Dianella prunina*; *Lomandra longifolia* (incl. L. 'Tanika'); *Scaevola aemula*; *Brachyscome multifida*; *Dendrobium speciosum*; *Hibbertia dentata*; *Viola hederaceae*; *Dichondra repens*; *Pratia purpurascens*; *Geitonoplesium cymosum*; *Pandorea pandorana*; *Hardenbergia violaceae*; *Baeckea imbricata*; *Baeckea linifolia*; and *Baeckea virgata*.

Refer to BASIX "List of indigenous/low water use species for Ryde Council" and/or Ryde Council's lists of native plant species available from the Council website at ryde.nsw.gov.au/Environment-and-Waste/Bushland-and-Wildlife/Native-Vegetation.

4. That an additional part e be added to condition 1 to read as:
An additional condition requiring at a minimum, all residential visitor parking spaces within the basement are to be provided with electric vehicle charging points.

PANEL MEMBERS	
Alison McCabe (Chair)	
Jennifer Bautovich	
Susan Hoblely	
Antonio Panzarino	

SCHEDULE 1

1	DA No.	LDA2021/0204
2	Proposal	Demolition of the existing building, construction of a 5 storey mixed use development comprising a ground floor commercial tenancy, 12 residential apartments and 2 levels of basement carparking as well as strata subdivision into 13 lots
3	Street Address	8 Ethel Street Eastwood
4	Applicant / Owner	Andrew Grieve / The Owners - Strata Plan No. 18447
5	Reason for referral to RLPP	Contentious Development – More than 10 unique submissions objecting to the proposal have been received as a result of public notification of the application. and Sensitive Development – Development to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies.
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development ○ 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 • Development Contributions: City of Ryde Section 7.11 Development Contributions Plan 2020 • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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 request - Clause 4.3(2) Height of buildings

		<ul style="list-style-type: none"> • Written submissions during public exhibition: 22 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support - Nil ○ In objection - Bernard Waller, John Zhang, Victor Sinnadurai, David Leong, Ian Jo ○ Council assessment officer - Nil ○ On behalf of the applicant - Andrew Grieve
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: 9 June 2022 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Jennifer Bautovich, Susan Hobley, Antonio Panzarino ○ <u>Council assessment staff</u>: Sandra Bailey, Holly Charalambous, Daniel Pearse • Papers were circulated electronically on 2 June 2022
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 6 to the Council assessment report