

<b>Date of Determination</b>	12 May 2022
<b>Panel Members</b>	Steve O'Connor (Chair) Michael Leavey (Independent Expert) David Epstein (Independent Expert) Rob Senior (Community Representative)
<b>Apologies</b>	NIL
<b>Declarations of Interest</b>	NIL

Public meeting held remotely via teleconference on 12 May 2022 opened at 5:00pm and closed at 5:40pm.  
Papers circulated electronically on 29 April 2022.

#### **MATTER DETERMINED**

##### **LDA2021/0278**

**Address:** 6 Shackel Avenue, Gladesville

**Proposal:** Alterations and additions to existing residential dwelling.

#### **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 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.
  - There is insufficient information provided to confirm if the proposal satisfies Clause 6.1 Acid Sulfate Soils as it is unclear if the development will involve the disturbance of more than 1 tonne of soil, and/or if the works are likely to lower the watertable.
  - The proposal is inconsistent with Clause 6.2 as the proposed earthworks are unsympathetic to the natural topography of the site, resulting in unacceptable impacts on the development as viewed from the waterway and neighbouring properties.
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 *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* in that no amended BASIX Certificate has been provided with the application as required by section 37 (4)(a) of the Regulations.
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 a number of provisions of the *Ryde Development Control Plan 2014*, specifically:
  - The proposed development is inconsistent with sections 2.5.1 Streetscape and 2.6.2 Topography and Excavation.
  - The proposal results in an excessive floor space 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.
  - The proposal seeks to lower the ceiling height of the first floor study/library area to 2.39m and this results in a non-compliant floor to ceiling height, short of that required by Section 2.8.2 of the RDCP 2014.
  - The waste storage area is not identified within the plans as prescribed in Section 2.3 of Part 7.2.
  - No Erosion and Sediment Control Plan was submitted with the DA, as prescribed by Section 2.1.2 of Part 8.1.
  - Insufficient information has been submitted to enable a proper assessment of the proposed overshadowing provisions contained within Section 2.14.1 Daylight and Sunlight Access.

5. The site is unsuitable for the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
6. 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.

### 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	
Steve O'Connor (Chair)	
Michael Leavey	
David Epstein	
Rob Senior	

**SCHEDULE 1**

<b>1</b>	<b>DA No.</b>	<b>LDA2021/0278</b>
<b>2</b>	<b>Proposal</b>	Alterations and additions to existing residential dwelling
<b>3</b>	<b>Street Address</b>	6 Shackel Avenue, Gladesville
<b>4</b>	<b>Applicant / Owner</b>	Roumany Gadalla
<b>5</b>	<b>Reason for referral to RLPP</b>	<b>Departure from development standards</b> – 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>
<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 (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy BASIX</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP)</li> <li>○ Ryde Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</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>• Provisions of the <i>Environmental Planning and Assessment Regulation 2001</i>: Clauses 61 to 64</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 and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
<b>7</b>	<b>Material considered by the Panel</b>	<ul style="list-style-type: none"> <li>• Council assessment report</li> <li>• Written submissions during public exhibition: 3</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support - Nil</li> <li>○ In objection - Nil</li> <li>○ Council assessment officer - Nil</li> <li>○ On behalf of the applicant - Nil</li> </ul> </li> </ul>
<b>8</b>	<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: 12 May 2022 Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Steve O'Connor (Chair), Michael Leavey, David Epstein, Rob Senior, Nicole Matak (applicant)</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Council assessment staff</u>: Sandra Bailey, Niroshini Stephen, Daniel Pearse, Brendon Clendenning (Consultant Planner)</li><li>● Papers were circulated electronically on 29 April 2022</li></ul>
9	<b>Council Recommendation</b>	<b>Refusal</b>
10	<b>Draft Conditions</b>	Not applicable