

Date of Determination	10 February 2022
Panel Members	Steve O'Connor (Chair) Jennifer Bautovich (Independent Expert) Donna Gaskill (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on Thursday 10 February 2022, opened at 5:00pm and closed at 5:12pm.

Papers circulated electronically on 3 February 2022.

MATTER DETERMINED

LDA2021/0228

19 Wattle Street, West Ryde

Proposal: Demolition of existing dwelling and structures and construction of a four (4) storey residential apartment building comprising six (6) units and basement car parking for eight (8) vehicles.

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 briefing 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 4.3(2) 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 R4 - High Density Residential zone; and
- c) the concurrence of the Secretary has been assumed.

DEVELOPMENT APPLICATION

The Panel determined to **approve** 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 **approve** the application for the following reasons:

1. The variation to the height control requested under Clause 4.6 of the RLEP is justified for the following reasons:
 - The development is consistent with the desired future character of the locality.
 - The development will not result in overshadowing that would adversely impact the adjoining properties.
 - The non-compliance in height does not result in an exceedance in the floor space ratio.
 - The breach in height is relatively minor and is not inconsistent with adjoining properties.
2. The proposal is consistent with the objectives of the R4 High Density zone under RLEP 2014. The development is also consistent with the development standards in RLEP 2014 with the exception of height.
3. The proposal results in breaches to the Apartment Design Guide in respect to building separation and setbacks. Despite the non-compliances, the development will still provide adequate amenity to future residents whilst maintaining amenity to the adjoining residential properties.
4. The proposal is consistent with the desired future character of the area.
5. The proposal is not considered to create likely impacts on the residential amenity of adjoining properties.
6. The proposal is not contrary to the public interest.

The Panel adopts the recommendation and reasons for refusal as outlined in the Assessment Officer's report.

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments...

Amendment of condition 41 as follows:

41 Vehicle Access & Parking. All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) / documentation must be provided with the plans submitted with the application for a Construction Certificate;

- a) In order to facilitate access to and from the waste room to the driveway ramp (so as to avoid utilising the internal lift to transport bins to the kerb for collection) the outer tandem carspace (carspace 8) must be deleted. All linemarking and references to this space must be deleted from the plans submitted with the application for the construction certificate.
- b) Further to (a) above and to ensure the preservation of the minimum level of resident parking, the Visitor space (carspace 1) is to be allocated as a residential space. All signs and linemarking details are to be revised accordingly.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

Addition of Condition 41a as follows:

41a Traffic Signal System. To prevent conflicting traffic flows on the section of single lane driveway access / ramp in the property, particularly when sight distance from the entry to the end of the access is obscured, a traffic signal must be installed to warn a driver entering of any vehicles approaching from the opposite direction.

The signal system must:

- Be clearly visible from both entry points to the access/ ramp,
- Present as a traffic control device to a driver, in the sense of having red/ green illuminated lamps or wording.
- Must clearly indicate to the driver entering, by way of red lamp or wording, a requirement to give way to the opposing vehicle approaching,
- Default to green for traffic entering the development from the public domain.
- Provide demarcated waiting bay (linemarked) for the vehicle having to give way to the approaching vehicle. The waiting bay must be located inside the property boundary at the entry to the development, clear of the swept turning path of the opposing vehicle such to allow the vehicle to pass and is to be (where possible) clear of any manoeuvring paths to adjacent parking spaces.

The system is to be operational prior to the issue of any Occupation Certificate. Details of the system, including the system operation, components and placement within the development, must be detailed by a

practising Traffic Engineer. This engineer is to submit these details and certify that the system has been installed accordingly, to the Accredited Certifier prior to the issue of any Occupation Certificate.

Condition 135 to be replaced as follows:

135 Parking Allocation. Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows:




- 6 residential spaces
- 1 visitor space

As per the condition "Vehicle Access and Parking", the outer space of the tandem parking arrangement (carspace 8 on the approved plans) must not be implemented. The visitor space (carspace 1 on the approved plans) is to be allocated as a resident space and a single visitor space maintained (carspace 5).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
Steve O'Connor (Chair)	
Jennifer Bautovich	
Donna Gaskill	

SCHEDULE 1

1	DA No.	LDA2021/0228
2	Proposal	Demolition of existing dwelling and structures and construction of a four (4) storey residential apartment building comprising six (6) units and basement car parking for eight (8) vehicles.
3	Street Address	19 Wattle Street, West Ryde
4	Applicant / Owner	Architectural Design Studio (NSW) Pty Ltd / Joseph & Samira Elias
5	Reason for referral to RLPP	<ul style="list-style-type: none"> • Sensitive Development – Development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies. <i>Schedule 1, Part 4 of Local Planning Panels Direction</i> • Contentious Development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 ○ 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 State Environmental Planning Policy • 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> • 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

		<ul style="list-style-type: none"> • Clause 4.6 variation request to Clause 4.3(2) Height of buildings • Written submissions during public exhibition: 15 • 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 - Nil
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 February 2022 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Steve O'Connor (Chair), Jennifer Bautovich, Donna Gaskill ○ <u>Council assessment staff</u>: Sandra Bailey, Madeline Thomas, Daniel Pearse, Terry English ○ <u>On behalf of the applicant</u>: Laura Ortegata & Ihab Shams (architects), Andrew Robinson (planner), George Elias (owner) • Papers were circulated electronically on 3 February 2022
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 1 to the Council assessment report