

Department of Planning and Environment

Our ref: SSD 24299707

Mr Stephen Barry
Planning Director
Independent Planning Commission
Suite 15.02 Level 15
135 King Street
SYDNEY NSW 2000

Attention: Tahlia Sexton

18 December 2023

Subject: Response to Independent Planning Commission's Request for Information on the Talavera Road Data Centre Campus Expansion

Dear Mr Barry

I refer to your letter of 12 December 2023 seeking further information in relation to the Department of Planning and Environment's (the Department's) consideration of clause 6.9 of the Ryde Local Environmental Plan 2014 (Ryde LEP).

The Department's consideration of clause 6.9 of the Ryde LEP is discussed in its assessment report, particularly, pages 54 and 55. The objective of clause 6.9 is to encourage additional commercial development in the Macquarie Park Corridor that is coordinated with an adequate access network and recreation areas. The site of the data centre expansion is not impacted by any proposed future precinct roads or parks. However, the Department notes the Applicant recently upgraded the Talavera Road public domain as part of a work in kind agreement with Council in relation to another development consent on the site. Furthermore, the current development application proposes enhanced landscaping along boundaries of the site including adjacent to the proposed new precinct roads (which are yet to be constructed).

As also noted within the report, under clause 11 of State Environmental Planning Policy (State and Regional Development) 2011 as in force at the time the development application was lodged, development control plans do not apply to State significant development.

Department of Planning and Environment

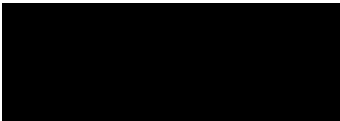
You may be aware the Applicant, Macquarie Telecom Data Centres Pty Ltd, initially proposed to enter into a voluntary planning agreement with City of Ryde Council by way of issuing a letter of offer to Council on 10 October 2022 (see Attachment 1) in connection with this development application. However, on 17 November 2023, this offer was withdrawn by the Applicant (see Attachment 2).

Section 7.7 of the *Environmental Planning and Assessment Act 1979* states that any environmental planning instrument that requires a planning agreement to be entered into before a development application can be determined or having effect, until one is entered into, has no effect. Furthermore, a consent authority cannot refuse to grant development consent on the ground that a planning agreement has not been entered into or the developer has not offered to enter into such an agreement.

For these reasons, the Department has not sought the Applicant to enter into any planning agreement.

I trust this information addresses the Commission's questions. However, should you have any further questions, please do not hesitate to contact Joanna Bakopanos, Team Leader, Industry Assessments, on [REDACTED] or [REDACTED]

Yours sincerely,

A large black rectangular redaction box covering the signature of Chris Ritchie.

Chris Ritchie

**Director, Industry Assessments
Planning Group**