

Date of Determination	10 August 2023
Panel Members	Alison McCabe (Chair) Steven Layman (Independent Expert) Michael Leavey (Independent Expert)
Apologies	Rob Senior (Community Representative)
Declarations of Interest	NIL

Meeting held on 10 August 2023. Papers circulated electronically on 3 August 2023.

MATTER DETERMINED

LDA2022/0323

Address: 36 Potts Street Ryde

Proposal: Demolition, new dual occupancy (attached) and strata subdivision.

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.

The Panel considered a further memo in respect to the provisions of Clause 4.6(4) and 4.6(5).
 The Panel has not relied on Section 10 of the Clause 4.6 written request.

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 4.1B(2)(b) (minimum road frontage) 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 4.1B(2)(b) (minimum road frontage) of the LEP and the objectives for development in the R2 Low 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, noting that quorum consisted of 3 Panel members.

REASONS FOR THE DECISION

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

1. The proposal is consistent with the objectives for R2 zoned land.
2. The proposal complies with the statutory provisions set out in the EP&A Act 1979.
3. The proposal is considered to be of low impact to adjoining properties and the surrounding environment.
4. The proposal has been supported by a satisfactory Clause 4.6 variation request which demonstrates that compliance with Clause 4.1B Minimum lot sizes for dual occupancies is unreasonable and unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standards.
5. Although the development is affected by overland flow, the development will have immaterial significance in respect of flood impacts.
6. The proposal is not contrary to the public interest.
7. The submission received in response to this DA has been considered and addressed in this report. None of the issues raised warrant the refusal of the subject application.

The Panel adopts the recommendation and reasons for approval as outlined in the Council report.

CONDITIONS




The development application was approved subject to the conditions in the Council assessment report subject to the addition of condition 1(d) as follows:

The unenclosed second car space to Unit 2 and associated structure is to be deleted and replaced with landscaping. The driveway and footpath crossing are to be narrowed to 3 metres. Details are to be included in any construction certificate drawings.

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	
Alison McCabe (Chair)	
Steven Layman	
Michael Leavey	

SCHEDULE 1

1	DA No.	LDA2022/0323
2	Proposal	Demolition, new dual occupancy (attached) and strata subdivision.
3	Street Address	36 Potts Street Ryde
4	Applicant / Owner	Rajan Khatak / Rajan Khatak & Gursimran Gill
5	Reason for referral to RLPP	Departure from Development Standards – <i>Development that contravenes a development standard by more than 10% (minimum frontage width).</i>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy Resilience and Hazards SEPP 2021 ○ State Environmental Planning Policy BASIX 2004 ○ State Environmental Planning Policy Biodiversity and Conservation SEPP 2021 ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • Ryde Development Control Plan 2014 • Planning agreements: Nil • City of Ryde Section 7.11 Development Contributions Plan 2020 • Provisions of the <i>Environmental Planning and Assessment Regulation 2001</i>, <i>Australian Standard for Demolition – Clause 61(1)</i> & <i>Building Code of Australia Upgrade – Clause 64</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>EP&A 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 to Clause 4.1B(2)(b) (minimum road frontage) • Written submissions during public exhibition: 2 • Memo from Council dated 7 August 2023
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 • Papers were circulated electronically on 3 August 2023 • Briefing: 10 August 2023 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Steven Layman, Michael Leavey ○ <u>Council assessment staff</u>: Sandra Bailey, Carine Elias, Daniel Pearse, Sohail Faridy, Myra Malek
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 1 to the Council assessment report