

<b>Date of Determination</b>	14 December 2023
<b>Panel Members</b>	Marcia Doheny (Chair) Vanessa Holtham (Independent Expert) Trevor Bly (Independent Expert) Donna Gaskill (Community Representative)
<b>Apologies</b>	NIL
<b>Declarations of Interest</b>	NIL

Meeting held on 14 December 2023. Papers circulated electronically on 7 December 2023.

#### **MATTER DETERMINED**

##### **LDA2022/0361**

**Address: 9 Lincoln Street, Eastwood**

**Proposal:** Demolition of existing dwelling, in-ground swimming pool and garage and the construction of a centre based childcare centre with basement parking.

#### **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.

#### **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 4.4 (Floor Space Ratio) 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 4.4 (Floor Space Ratio) 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.

## 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 Environmental Planning and Assessment Act 1979.
3. The proposal has been supported by a satisfactory Clause 4.6 variation request which demonstrates that compliance with Clause 4.4 (Floor Space Ratio) is unreasonable and unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.
4. The proposal is not considered to create unreasonable environmental impact to existing development in the immediate vicinity.
5. The site is considered suitable for the proposed development.
6. The proposal is not contrary to the public interest.

## PANEL COMMENTS

The Panel has noted the concerns from objectors about potential conflict between cars and pedestrians, particularly children. The Panel raised this directly with Council's expert traffic engineer who confirmed that comprehensive consideration has been given to this issue and that the proposal is satisfactory in this regard. However, the Panel considered that additional conditions should be imposed to remind drivers of the presence of children and to ensure sight lines when exiting the driveway of the centre provide for adequate visibility of pedestrians.

## CONDITIONS

The development application is approved subject to the conditions in Attachment 1 of the Council Assessment report, and changes to the conditions as follows:

### Condition 46 is to read:

**46. Traffic and Pedestrian Safety.** *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 (Offstreet 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) *To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area (particularly the presence of school children), the development must have clear sight through a splayed region extending no less than 2.4m into the site and 4m along the front boundary alignment (double that required by AS 2890.1) to the west of the driveway entry and extending to*

*the side boundary for the eastern side of the entry. The region must be free of all obstructions greater than 300mm in height.*

- b) *A warning sign must be located facing drivers exiting the basement garage, cautioning drivers of children crossing the driveway entry.*

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

*(Reason: To ensure the vehicle access and parking area is in accordance with the required standards and safe for all users.)*

**Condition 1 is to be amended to add point (f) as follows:**

**1. Approved Plans/Documents.** *Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:*

*Prior to the issue of a Construction Certificate, the following amendments shall be made:*

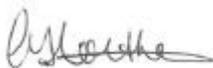
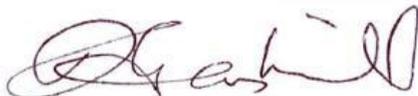
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**(f) Driveway treatment.** *The driveway in the front setback area is required to be paved with suitable material with texture and style. **Plain concrete is not permitted.***

*(Reason: To improve the appearance of the driveway in the residential setting).*

**CONSIDERATION OF COMMUNITY VIEWS**

The Panel considered the neighbours’ written objections, as well as issues raised by submitters at the Panel meeting. Having regard to the Council Assessment report, briefings from Council staff and the imposition of additional conditions by the Panel, the Panel is satisfied that the issues raised have been considered and appropriately addressed.

PANEL MEMBERS	
Marcia Doheny (Chair)	
Vanessa Holtham (Independent Expert)	
Trevor Bly (Independent Expert)	
Donna Gaskill (Community Representative)	

**SCHEDULE 1**

<b>1</b>	<b>DA No.</b>	<b>LDA2022/0361</b>
<b>2</b>	<b>Proposal</b>	Demolition of existing dwelling, in-ground swimming pool and garage and the construction of a centre based childcare centre with basement parking
<b>3</b>	<b>Street Address</b>	<b>9 Lincoln Street, Eastwood</b>
<b>4</b>	<b>Applicant / Owner</b>	Laurie Liskowski (Liskowski Architects) / Lincoln Eastwood Holdings Pty Ltd (Robert Rezk)
<b>5</b>	<b>Reason for referral to RLPP</b>	<p><b>Departure from Development Standards</b> – <i>Development that contravenes a development standard by more than 10% (Clause 4.4 - Floor Space Ratio).</i></p> <p><b>Contentious Development</b> – More than 10 unique submissions objecting to the proposal have been received as a result of public notification of the application - Schedule 1, Part 2 of Local Planning Panels Direction.</p>
<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 (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ Ryde Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Ryde Development Control Plan 2014</li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021, Australian Standard for Demolition – Clause 61(1)</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environments, 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>EP&amp;A Act 1979</i> or the 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>• Clause 4.6 variation request to Clause 4.4 (Floor Space Ratio)</li> <li>• Written submissions during public exhibition: 20 (notification), 12 (re-notification)</li> </ul>
<b>8</b>	<b>Meetings, briefings and site inspections by the Panel</b>	<ul style="list-style-type: none"> <li>• Site inspection: Panel inspection 14 December 2023</li> <li>• Papers circulated: Electronically on 7 December 2023</li> <li>• Briefing: 14 December 2023</li> <li>• Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Marcia Doheny (Chair), Vanessa Holtham (Independent Expert), Trevor Bly (Independent Expert), Donna Gaskill (Community Representative)</li> <li><u>Council assessment staff</u>: Carine Elias, Daniel Pearse, Sandra Bailey, Holly Charalambous, Bekim Haliti</li> </ul> </li> </ul>
<b>9</b>	<b>Council Recommendation</b>	<b>Approval</b>
<b>10</b>	<b>Draft Conditions</b>	Attachment 1 to the Council assessment report, subject to amendments to conditions in Determination & Statement of Reasons.