

Date of Determination	14 September 2023
Panel Members	Steve O'Connor (Chair) Deborah Sutherland (Independent Expert) Heather Warton (Independent Expert) Donna Gaskill (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held on 14 September 2023 opened at 6:00pm and closed at 6:30pm.
Papers circulated electronically 6 September 2023.

MATTER DETERMINED

APL2023/0001

Address: 5 Aeolus Avenue, Ryde

Proposal: Section 8.3 Review of determination of LDA2021/0445 which sought consent for the construction and operation of a 48 place child care centre with at-grade parking.

The following people addressed the Panel:

1. Tony Catalano (submitter) – not previously registered
2. Yaozhou Ma (submitter)
3. Jun Meng (Julie) Li (submitter)
4. Steve Sutton (submitter)

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 **confirm the refusal** of development application LDA2021/0445 and **refuse** the Section 8.3 review of determination APL2023/0001 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 **confirm the refusal of LDA2021/0445 and refuse APL2023/0001** (the application) for the following reasons:

1. Under Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development does not satisfy the provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 in that:
 - The proposal does not satisfy a range of provisions contained within the Child Care Planning Guideline, including:
 - i. The selection of this site for a child care centre is not suitable as the traffic and access impacts of the proposal will adversely impact residential amenity and road safety (Part 3.1 and 3.8).
 - ii. The location of this site is not compatible with a child care centre use as it experiences traffic congestion which blocks the frontage of the site during the peak evening period (Part 3.1).

- iii. The selection of this site for a child care centre is not suitable due to high traffic volume along Aeolus Avenue during the evening peak period which creates an unsafe situation for vehicles and pedestrians accessing the site (Part 3.1).
 - iv. The proposal fails to demonstrate how impacts on amenity will be minimised as a result of the operation of the development and its associated parking and traffic impacts (Part 3.8).
2. Under 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 is inconsistent with the relevant objectives of the R2 Low Density Residential zone given existing traffic congestion and road safety concerns make the site unsuitable for a child care centre in this location.
 3. The development is inconsistent with several provisions of the Ryde Development Control Plan 2014:
 - The site is not appropriate for a centre due to problematic access & egress traffic congestion, contrary to Part 3.2(2).
 - The traffic associated with the proposed development will exacerbate the traffic congestion, reduce amenity and safety of vehicles and pedestrians using Aeolus Avenue, in particular during the evening peak period, contrary to Part 3.2(4).
 - The on-site car parking is not likely to be used by the majority of the facility users during peak periods due to the issues mentioned above.
 4. The site is unsuitable for the proposed development under section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
 5. Having regard to the reasons noted above and issues raised in public submissions, under the provisions of section 4.15(1)(d) and section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the development application is contrary to the public interest.




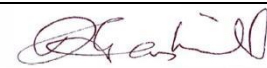
The Panel adopts the recommendation and reasons for refusal as outlined in the Assessment Officer's report and finalised above.

CONDITIONS: Not applicable

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)	
Deborah Sutherland	
Heather Warton	
Donna Gaskill	

SCHEDULE 1

1	DA No.	LDA2022/0278
2	Proposal	Demolition, new shop top housing comprising five commercial tenancies & 62 residential units over two levels of basement car parking.
3	Street Address	2-6 Chatham Road, West Ryde
4	Applicant / Owner	Nigel White, Planning Direction / N & S Navasardian
5	Reason for referral to RLPP	Section 8.5 of the <i>Environmental Planning and Assessment Act 1979</i> : Development Application was determined by the Local Planning Panel.
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Section 8.2 Review under Section 8.2(1)(a) of the EP&A Act 1979. • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Biodiversity & Conservation) 2021 ○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP) ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Draft Remediation of Land SEPP ○ Draft Environment SEPP • Ryde Development Control Plan 2014 • Planning agreements: Nil • Provisions of the <i>EP&A Regulation 2001</i>: Nil • 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 <i>Regulations</i> • 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 • Written submissions during public exhibition: 24 • Verbal submissions in at the public meeting: <ul style="list-style-type: none"> ○ In objection: Tony Catalano, Yaozhou Ma, Jun Meng (Julie) Li, Steve Sutton
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: 14 September 2023 • Briefing: 14 September 2023 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Steve O'Connor (Chair), Deborah Sutherland, Heather Warton, Donna Gaskill ○ <u>Council assessment staff</u>: Sandra Bailey, Carine Elias, Holly Charalambous, Yafeng (Alex) Zhu, Myra Malek <ul style="list-style-type: none"> • Papers were circulated electronically on 6 September 2023
9	Council Recommendation	Confirmation of Refusal
10	Draft Conditions	Not applicable