

Date of Electronic Determination	30 July 2020
Panel Members	Steve O'Connor (Chair) Jennifer Bautovich (Independent Expert) Michael Leavey (Independent Expert) Rob Senior (Community Representative)
Declarations of Interest	NIL – Declarations of Interest already provided – no changes

ELECTRONIC DETERMINATION

Matter deferred at the Ryde Local Planning Panel meeting dated 12 September 2019.
 Supplementary report and supporting documents circulated electronically on 14 July 2020.

MATTER DETERMINED

LDA2018/0385 – 8 Grove Lane, Eastwood

New multi-dwelling housing development comprising 3 x two storey 3 bedroom dwellings, 1.0m high front fence, associated car parking and tree removal

PANEL CONSIDERATIONS

At its meeting of 12 September 2019, the Panel considered the material listed at item 7, and the material presented at meetings and the matters observed at the site inspection listed at item 8 in Schedule 1. The Panel unanimously determined to defer its decision to an electronic determination to be made at a later date, pending a supplementary report from Council providing further information in respect of the shadow diagrams and the issues raised in the submission from Francis Wiffen as well as for Council's General Counsel to consider the issues raised in the submissions from James Ryan and provide further advice in relation to parking provisions.

A supplementary report was circulated to the Panel on 14 July 2020.

This report was made available on Council's website and further submissions were received. All of those submissions were forwarded to the Panel and each Panel member has had the opportunity to review the additional submissions.

A briefing was held at 5:00pm on 28 July 2020, during which Council and the Panel discussed the application. Prior to the briefing, the chair raised the following points for discussion:

- Confirm whether Council officers agree with the explanation provided in the submission from James Ryan dated 23 July 2020, that the reason for the difference in overshadowing impact on his client's property is that the wrong height of the boundary fence has been used (ie 1.8m rather than 1.45m)

- Confirm what the minimum width of the private outdoor open space is for proposed Units 1, 2 and 3, noting that James Ryan has stated in his submission dated 23 July 2020 that all three units fail to have the minimum 4m width required in Council's DCP
- Confirm whether the private open space for proposed Units 1, 2 and 3 complies with Council's DCP for solar access
- Respond to the comments in James Ryan's submission dated 23 July 2020 (paragraphs 23 and 24 related to tandem car parking and retention of roller doors
- Has the advice from James Ryan's barrister been referred to Council's General Counsel?

The Panel are of the view that this matter is appropriate to determine electronically.

DECISION

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* subject to the modification of the conditions as detailed below.

The decision was unanimous.

REASONS FOR THE DECISION

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

- The development complies with the relevant provisions of RLEP 2014 with no unreasonable adverse impact to adjoining properties;
- The proposal provides the opportunity to redevelop the site to deliver a diverse choice of housing to meet the future needs of residents, which fulfils the objectives of R2 Low Density Residential Zone;
- The proposal is considered to respond to the existing and the desired future character of the area; and,
- The Panel had regard to the proposal's variations to RDCP 2014, as addressed in the Council assessment reports and discussed during the Panel's deliberations, and is satisfied the variations are reasonable and substantiated having regard to the objectives of the controls, the nature of the site and its setting and the design of the development. In particular, the Panel is satisfied that:
 - i) the shadow impacts of the development are reasonable having regard to the size, shape and orientation of the land, the complying building height and rear setback of those building elements giving rise to overshadowing outside the site and the height of the proposed rear fencing which is consistent with fencing height in residential areas; and
 - ii) the proposal is consistent with the objectives and requirements of Part 3.3.1 of RDCP 2014 relating to storey controls.

CONDITIONS

The development application was approved subject to the conditions accompanying Council's supplementary assessment report with the following amendments. These amendments to the conditions have been made by the Panel following consideration of the issues raised in the public submissions.

Conditions 1, 18, 33 and 43 are to be amended to read 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:

Document Description	Date	Plan No/Reference
Site Plan	27.03.2020	Job No. 1306, DWG No. DA - 01, Issue F
Ground Floor & First Floor Plan	01.05.2020	Job No. 1306, DWG No. DA - 11, Issue G
Elevations & Fence Detail	26.09.2019	Job No. 1306, DWG No. DA - 21/C, Issue C
Section A & B	26.09.2019	Job No. 1306, DWG No. DA - 31, Issue D
Section B1 & B2	26.09.2019	Job No. 1306, DWG No. DA - 31-1, Issue B
Sections C1, C2 & C3	26.09.2019	Job No. 1306, DWG No. DA - 31-2, Issue A
Stormwater Drainage Plan	22.09.2019	REF: 2018660 S1, Revision C
Stormwater Drainage Plan Details	22.09.2019	REF: 2018660 S2, Revision C
Landscape Plan	31.03.2020	DWG No. L01/1 – K23118, Revision D
Arboricultural Assessment Report	10.09.2018	Arboricultural Assessment Report prepared by Tree Landscape Consultants.
Parking Design Review	December 2018	Parking Design Review prepared by Apex Engineers

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

- (a) The garage door shown at the rear of the garage on the floor plans for unit 1 and 2 is to be deleted. The rear external wall of the garage is to be in accordance with the south elevation as shown on plan Elevation and Fence Detail DA-21/C dated 26/9/2019.
- (b) The finished floor level of the alfresco for unit 2 is to be lowered by 360mm. This is to be achieved by the provision of two steps from the dining room to the alfresco. The finished floor level is not to exceed RL91.14.

The Development must be carried out in accordance with the plans approved under this condition.

18. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

A Contribution Type	B Contribution Amount
Community & Cultural Facilities	\$12,123.60
Open Space & Recreation Facilities	\$20,876.30
Transport Facilities	\$6,408.96
Plan Administration	\$591.14
Total Contribution	\$40,000.00

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in City of Ryde Section 7.11 Development Contributions Plan 2020, effective from 1 July 2020.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

33. **Privacy Screens.** The provision of privacy screens are to be erected to the southern elevation of the alfresco's of each unit. The bottom of the privacy screens are to be erected in accordance with the following heights:

- Unit 1: RL92.05 (1.4m above FFL)
- Unit 2: RL92.54 (1.4m above FFL)
- Unit 3: RL93.60 (1.4m above FFL)

Each screen is to be a minimum height of 500mm and must have; no individual opening more than 30mm wide, and a total area of all openings that is no more than 30% of the surface area of the screen or barrier. Details demonstrating compliance with this condition are to be provided in the plans for the **Construction Certificate**.





43. **Wheel Stoppers and Bollard.** To ensure safety and mitigate damage to adjoining properties located south of the development site. Wheel stoppers and a bollard are to be provided at the end of the tandem car parking space for Unit 3. The wheel stoppers and bollard are to be designed by a suitably qualified professional and must be constructed in accordance with the relevant Australian Standard. Details demonstrating compliance are to be submitted to the Principle Certifying Authority prior to the issue of the **Construction Certificate**.

Conditions 57 and 82 that require the approval to the Ryde Traffic Committee are deleted.

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 on 12 September 2019. Several additional written submissions were also circulated to the Panel prior to the electronic determination of the application.

The Panel considers that concerns raised by the community have been adequately addressed in the original and supplementary assessment reports, and conditions of consent.

PANEL MEMBERS	
Steve O'Connor (Chair)	
Jennifer Bautovich	
Michael Leavey	
Rob Senior	

SCHEDULE 1

1	DA No.	LDA2018/0385
2	Proposal	New multi-dwelling housing development comprising 3 x two storey 3 bedroom dwellings, 1.0m high front fence, associated car parking and tree removal.
3	Street Address	8 Grove Lane, Eastwood
4	Applicant / Owner	Steve Wu / Xiao Chun Yan
5	Reason for referral to RLPP	<ul style="list-style-type: none"> • Twenty – seven (27) submissions objecting to the development. • Seven (7) submissions to the amended plans
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Draft Remediation of Land SEPP ○ Draft Environment SEPP • 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>: 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>Environmental Planning and Assessment Act 1979</i> or regulations <p>The public interest, including the principles of ecologically sustainable development</p>
7	Material considered by the Panel	<ul style="list-style-type: none"> • Council supplementary assessment report & accompanying documents • Written submissions regarding supplementary report: <ul style="list-style-type: none"> ○ In objection – Kai Shuen & Chin Lim ○ In objection - Grant & Nicole Rajaratnam ○ In objection - Francis Wiffen (2 x submissions) ○ In objection - James Ryan on behalf of Ming Hui Xiao (2 x submissions including legal advice) ○ In objection - Nathan Lu (on behalf of Ming Hui Xiao)

		<ul style="list-style-type: none"> ○ On behalf of the applicant – Nil
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> ● Site inspection, briefing & initial public meeting: 12 September 2019 - Attended by Panel members (Steve O'Connor, Jennifer Bautovich, Michael Leavey, Rob Senior) and Council Development Assessment staff (Sandra Bailey & Hussein Bazzi) ● Electronic Determination: 30 July 2020 ● Papers were circulated electronically on 14 July 2020 ● Briefing by the Panel on 28th July 2020. Attended by Panel members (Steve O'Connor, Jennifer Bautovich, Michael Leavey, Rob Senior) and Council Development Assessment staff (Sandra Bailey, Hussein Bazzi and Myra Malek)
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 1 to the supplementary assessment report