

Date of Determination	10 September 2020
Panel Members	Steve O'Connor (Chair) Eugene Sarich (Independent Expert) Michael Leavey (Independent Expert) Rob Senior (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference (Council staff at the North Ryde Office) on 10 September 2020, opened at 5:00pm and closed at 6:28pm.
 Papers circulated electronically on 2 September 2020.

MATTER DETERMINED

LDA2019/0328 - 176 Quarry Road Ryde, NSW 2112

Consolidation of two lots into one and construction of a two storey child-care centre with basement car parking for 20 vehicles. The child-care will operate between 7am and 6pm Monday to Friday and have a capacity for up to 95 children.

The following people addressed the meeting:

1. Kim Wong (objector)
2. Vinolack Songvilay (objector)
3. Mary Olivieri (objector)
4. Katrina Samawi (objector)
5. Joe El-Sabbagh of Designcorp Architects (applicant)
6. Giovanni Cirillo of Planning Lab (applicant)

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(2) 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(2) 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 proposed consolidation of two lots into one and construction of a two storey child care centre with basement car parking is consistent with the objectives of the relevant provisions of the ESEPP, RLEP 2014 and RDCP 2014, with minimal environmental impacts.
2. The proposal has been supported by a satisfactory clause 4.6 written request which demonstrates that compliance with the clause 4.4(2) floor space ratio development standard is unreasonable in the circumstances of this specific proposal. The clause 4.6 written request also demonstrates that there are sufficient environmental planning grounds to justify contravention of the development standard.
3. The submissions received in response to this DA have been considered and addressed in this report. None of the issues raised warrant the refusal of the subject DA.
4. The proposed development is consistent with the existing and desired future character of the local area and will have no unacceptable impacts on adjoining properties.
5. The site is suitable for the proposed development, which is also in the public interest.

The Panel adopts the recommendation and reasons for approval as outlined in the Assessment Officer's report subject to the following amendments to the Recommendation.

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments:

The addition of Condition 109 which states:

109 Operational Management Plan. An operational management plan must be developed, adopted and implemented by Management at the Child Care Centre and cover issues such as hours of use, child use of outdoor play areas, noise management plans, complaints handling and security. The operational management plan must be consistent with and reflect the plan of management required by Condition 4 and reflect conditions of consent. A copy must be kept onsite in the main office.

Reason: To ensure the operation of the facility minimises impact on neighbouring residents.

As a result, present condition 109 should be renumbered to 110.

The modification of condition 40 to now read as follows:

Stormwater Management. Stormwater runoff from the development shall be collected and piped by gravity flow to the kerb in Quarry Road, generally in accordance with the plans by EZE Drainage Solutions Pty Ltd, drawing number 17125 D1 to D5, revision C, dated 2nd July 2020, subject to any variations marked in red on the approved plans or noted following:

- To minimise the expanse of hardstand the OSD storage must be extended and located under the pathway in the front setback.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following:

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- The subsurface drainage system must be designed to preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network, as well as avoid long term impacts related to the support of structures on neighbouring properties.
- The cantilevered section of acoustic barriers on the boundary of the property must incorporate a drainage system to ensure that stormwater runoff from the barrier is not directed on to neighbouring properties. Stormwater runoff from the acoustic barrier drainage system must be directed to the development's stormwater management system

Reason: To ensure effective stormwater management.

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.

PANEL MEMBERS	
Steve O'Connor (Chair)	
Eugene Sarich	
Michael Leavey	
Rob Senior	

SCHEDULE 1

1	DA No.	LDA2019/0328
2	Proposal	Consolidation of two lots into one and construction of a two storey child-care centre with basement car parking for 20 vehicles. The child-care will operate between 7am and 6pm Monday to Friday and have a capacity for up to 95 children.
3	Street Address	176 Quarry Road, Ryde
4	Applicant / Owner	Designcorp Architects / Antonio Salerno
5	Reason for referral to RLPP	<p>Contentious development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection.</p> <p><i>Schedule 1, Part 2 of Local Planning Panels Direction</i></p> <p><i>and</i></p> <p>Departure from development standards – contravention of the floor space ratio development standard by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction</i></p>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP) ○ 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 • Section 7.11 Development Contributions Plan 2020 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: <ul style="list-style-type: none"> ○ Environmental Planning and Assessment Regulation 2000 ○ Education and Care Services National Regulations • 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 assessment report • Clause 4.6 variation request to C4.4(2) Floor Space Ratio • Written submissions during public exhibition: 42 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Katrina Samawi, Kim Wong, Vinolack Songvilay & Mary Olivieri ○ Council assessment officer – Ben Tesoriero (planning consultant) ○ On behalf of the applicant – Joe El-Sabbagh of Designcorp Architects & Giovanni Cirillo of Planning Lab • Katrina Samawi also provided a summary of speaking points
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: Nil– site photos provided • Pre-Briefing: 21 August 2020 • Briefing: 10 September 2020 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Steve O’Connor (Chair), Eugene Sarich, Michael Leavey (did not attend pre-briefing), Rob Senior ○ <u>Council assessment staff</u>: Ben Tesoriero (Planning Consultant), Kimberley Kavwenje, Daniel Pearse <ul style="list-style-type: none"> • Papers were circulated electronically on 2 September 2020
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 3 of assessment report