

<b>Date of Determination</b>	9 September 2021
<b>Panel Members</b>	Alison McCabe(Chair) Brett Newbold (Independent Expert) Michael Leavey (Independent Expert) Donna Gaskill (Community Representative)
<b>Apologies</b>	NIL
<b>Declarations of Interest</b>	NIL

Public meeting held remotely via teleconference on 9 September 2021, opened at 5:00pm and closed at 7:10pm.

Papers circulated electronically on 31 August 2021.

#### **MATTER DETERMINED**

LDA2021/0123

14 Ryedale Road, Denistone (proposed Lot 14A)

**Proposal:** Construction of part 1 and 2 storey boarding house with 8 boarding rooms for 16 lodgers and 4 parking spaces.

The following people addressed the meeting:

1. Clr Jerome Laxale (objector)
2. Llew Morris (objector)
3. Jessica Lawrence (objector)
4. Bryan Hall (objector)
5. Elizabeth Latimer (objector)
6. Gary Wilson (objector)
7. Gerard Turrisi (applicant)
8. George Mourad (applicant/project architect) – registered & attended but did not speak

#### **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 **refuse** 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 **refuse** the application for the following reasons:

1. The proposed development provides an inappropriate level of separation from the boarding house on Proposed Lot 14 which results in the two developments operating as a single boarding house development notwithstanding the two development applications. Accordingly, the 16 boarding rooms proposed in the two applications breaches the maximum 12 rooms in a R2 Low Density Zone pursuant to Clause 33AA of State Environmental Planning Policy (Affordable Rental Housing).
2. As the application, in conjunction with the accompanying application for a boarding house on Proposed Lot 14, is inconsistent with the provisions of Clause 30AA of ARHSEPP, it is not consistent with the objective of providing housing within a low density residential environment of the R2 Low Density Zone within Ryde Local Environmental Plan 2014.
3. The proposed development provides an inappropriate level of separation from the boarding house on Proposed Lot 14 which results in the two developments operating as a single boarding house development notwithstanding the two development applications. Accordingly, the number of residents is in excess of 20 and a boarding house manager is required pursuant to Clause 30(1)(e) of State Environmental Planning Policy (Affordable Rental Housing) but is not provided.
4. The proposed development is uncharacteristic of development in the vicinity of the site, having high security gates and fences (including acoustic fences), excessive building length with lack of articulation and inappropriate colours and material. As such the application does not satisfactorily address the character test contained at Clause 30A of State Environmental Planning Policy (Affordable Rental Housing).
5. The design provides for an unacceptable level of acoustic privacy for the proposed boarding rooms adjacent to the common open space and parking areas.
6. The design affords an unacceptable level of amenity to the residents due to the privacy measure reducing outlook from some rooms, the lack of internal connectivity from the entrance of the premises to the boarding rooms and from the boarding rooms to the common room and common open space.
7. The configuration and layout of the common room results in poor amenity for the residents.
8. The design, which is not adequately physically separated from the development on Proposed Lot 14, affords the future residents with an unacceptably low level of security. No CPTED report has been provided and crime prevention has not been appropriately considered the design of the proposal.
9. The proposal is inappropriate and inconsistent with the following requirements of Part 3.5 Boarding Houses of Ryde Development Control Plan:
  - a) The development does not provide a front door facing the street;
  - b) The development is afforded a poor level of security;

- 
- c) The development is afforded a poor level of privacy; and
    - d) The development has not been designed to minimize privacy impacts.
  10. The design affords an unacceptable level of accessibility, with the design requiring use of the driveway for pedestrians, part of which exceeds the maximum gradient for an accessible path of travel. Use of the accessible path of travel over proposed Lot 14 is not legally permitted with no right-of-carriage way existing or proposed.
  11. The proposal provides inadequate information in relation to boundary fencing and acoustic fencing to determine the impact of the development upon adjoining properties.
  12. The application provides inadequate information to allow assessment of compliance with Clause 87 of State Environmental Planning Policy (Infrastructure).
  13. The application provides inadequate information to allow assessment against State Environmental Planning Policy (Vegetation) as the arboricultural report does not address the proposed development.
  14. The application provides inadequate information to allow assessment against Draft Environment SEPP as the arboricultural report does not address the proposed development.
  15. The Plan of Management lodged with the application does not provide adequate information as required by Part 3.5 of the DCP and does not sufficiently protect the amenity of the residents and neighbours.
  16. The application appears to rely upon the use of a portion of proposed Lot 14 for access to parking space CS3. No right-of-way exists or is proposed over this portion of the site. In the absence of such a legal right of access, access to this parking space is inadequate.
  17. The vehicle manoeuvring area provided to access parking spaces CS1 & CS2 are not compliant with the DCP Part 3.4 Section 3.8.2 Control (e), which requires that parking spaces be accessible within a three point turn, enabling entry and exit in a forward manner to/ from the site.
  18. The proposed onsite detention system has not been designed in accordance with the Council DCP Part 8.2 (Stormwater and Floodplain Management) in that the system must be designed in accordance with Council's simplified design method.
  19. The Stormwater system has not been designed mindful of the proposed subdivision and potential future development of the site. The proposed alignment of drainage services traversing over the alternate lot will require extensive registration of easements which would jeopardise future development, impose on maintenance should both lots come under separate ownership, as well as present non-compliances with Council's DCP Part 8.2 (Stormwater and Floodplain Management) and Part 8.4 (Title Encumbrances) in relation to the requirements for easement dimensions and clearances from adjoining development for the proposed application under consideration.
  20. The proposal does not demonstrate suitable waste management with regard to the following:

- 
- a) The Waste Management Plan does not include any information regarding either the source of fill or the destination of excavated materials.
  - b) The Waste Management Plan does not state where and how the waste and recycling bins will be presented for collection.
  - c) The bulky waste area provided is not large enough to hold a large items and is not a minimum of 5m<sup>2</sup> in area.
  - d) The bin storage area is at the rear of the property so transportation of bins to the kerbside for collection is likely to conflict with pedestrian and vehicular access.
21. The acoustic report does not adequately address the impact of the development upon adjoining properties, failing to do the following:
- a) Identify the sensitive noise receivers potentially affected by the proposal (including the development on proposed Lot 14);
  - b) Identify the noise producing facets of the development (including but not limited to the driveway and parking area, the common room, the communal open space area, air-conditioning); and
  - c) Identify appropriate mitigation techniques to ensure the proposed use does not impact the amenity of the area.
22. The proposed development is not a permitted form of development in the R2 zone under Draft State Environmental Planning Policy (Housing).

## **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

Alison McCabe (Chair)	
Brett Newbold	
Michael Leavey	
Donna Gaskill	

**SCHEDULE 1**

<b>1</b>	<b>DA No.</b>	LDA2021/0123
<b>2</b>	<b>Proposal</b>	Construction of part 1 and 2 storey boarding house with 8 boarding rooms for 16 lodgers and 4 parking spaces
<b>3</b>	<b>Street Address</b>	14 Ryedale Road, Denistone (proposed Lot 14A)
<b>4</b>	<b>Applicant / Owner</b>	Monument Design Partnerships / KaritoINETTE Property Group
<b>5</b>	<b>Reason for referral to RLPP</b>	Contentious development – number of submissions received
<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 (Affordable Rental Housing) 2009</li> <li>○ State Environmental Planning Policy (Building Sustainability Index BASIX) 2004</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>○ State Environmental Planning Policy (Infrastructure)</li> <li>○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>○ Ryde Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ Draft Remediation of Land State Environmental Planning Policy</li> <li>○ Draft Environment State Environmental Planning Policy</li> <li>○ Draft Housing State Environmental Planning Policy</li> </ul> </li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Ryde Development Control Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment 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>Environmental Planning and Assessment Act 1979</i> or 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>• Written submissions during public exhibition: 81 submissions plus petition with 290 signatures</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Clr Jerome Laxale, Llew Morris, Jessica</li> </ul> </li> </ul>

		<p>Lawrence, Bryan Hall, Elizabeth Latimer, Gary Wilson</p> <ul style="list-style-type: none"> <li>○ Council assessment officer – Nil</li> <li>○ On behalf of the applicant – Gerard Turrisi, George Mourad</li> </ul>
8	<b>Meetings, briefings and site inspections by the Panel</b>	<ul style="list-style-type: none"> <li>• Site inspection: At the discretion of Panel members due to COVID-19 restrictions</li> <li>• Briefing: 9 September 2021</li> </ul> <p>Attendees:</p> <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Brett Newbold, Michael Leavey, Donna Gaskill</li> <li>○ <u>Council assessment staff</u>: Sandra Bailey, Deren Pearson, Daniel Pearse, Madeline Thomas, Kerry Gordon (consultant town planner)</li> </ul> <ul style="list-style-type: none"> <li>• Papers were circulated electronically on 31 August 2021</li> </ul>
9	<b>Council Recommendation</b>	<b>Refusal</b>
10	<b>Draft Conditions</b>	Not applicable