

<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**

LDA2021/0061

60 Balaclava Road, Eastwood

**Proposal:** Demolition of existing dwelling and construction of 2 storey boarding house with 12 boarding rooms for 15 lodgers and 6 parking spaces in a basement that is partially above ground at the rear.

The following people addressed the meeting:

1. Mei Chen (objector)
2. John Haniotis (objector - also on behalf of Marilyn Bolton)
3. Benjamin Black (applicant/town planner)

#### **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 application is not accompanied by a current BASIX report as required by State Environmental Planning Policy (BASIX).
2. The application is not accompanied by a Detailed Site Investigation as recommended in the Phase I Site Investigation Report and as such it has not been demonstrated that the site is suitable for the proposed use, or that the site can be remediated to the extent necessary for the proposed use. The application has not satisfied the requirements of State Environmental Planning Policy No. 55 – Remediation of Land.
3. The proposed development breaches the maximum permitted Floor Space Ratio pursuant to Clause 4.4 of Ryde Local Environmental Plan 2014 and Clause 23 of draft State Environmental Planning Policy (Housing).
4. The proposed development is uncharacteristic of development in the locality, having an inadequate front landscape setting, excessive length and excessive bulk at the rear. The front façade design emphasizes the two storey bulk of the building and the driveway “void” presenting an uncharacteristic streetscape. 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 proposed development has an uncharacteristic landscape setting as viewed from Balaclava Road and fails when assessed against Clause 29 of State Environmental Planning Policy (Affordable Rental Housing).
6. The design provides for an unacceptable level of privacy for proposed boarding room 2 from the pathway to the garbage and bike store areas.
7. The design affords an unacceptable level of amenity for residents due to privacy measures which would restrict sunlight and outlooks for some rooms.
8. The design affords an unacceptable level of amenity to residents with disabilities, with the majority of common open space (rear yard) not proposed to be landscaped in a manner such that it is suitably accessible. Further, inadequate information is provided in relation to the provision of clothes drying facilities for the occupants of accessible rooms.
9. The development fails to comply with Part 7.2 of the Ryde Development Control Plan 2014, as it fails to provide a storage area for bulky items such as furniture that is awaiting disposal.
10. The Plan of Management lodged with the application does not provide adequate information as required by Part 3.5 of the Ryde Development Control Plan 2014 and does not sufficiently protect the amenity of the residents and neighbours.
11. The application is not accompanied by an acoustic report assessing noise impacts from Balaclava Road on the proposed site or anticipated noise from the proposed use on adjoining residents.

12. 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>	LDA2021/0061
<b>2</b>	<b>Proposal</b>	Demolition of existing dwelling and construction of 2 storey boarding house with 12 boarding rooms for 15 lodgers and 6 parking spaces in a basement that is partially above ground at the rear
<b>3</b>	<b>Street Address</b>	60 Balaclava Road, Eastwood
<b>4</b>	<b>Applicant / Owner</b>	Wen Architects / Jia Shen Xu
<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>○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Ryde Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ Draft Housing SEPP</li> <li>○ Draft Remediation of Land State Environmental Planning Policy</li> <li>○ Draft Environment 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: 21</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Mei Chen, John Haniotis (also spoke on behalf of</li> </ul> </li> </ul>

		<p>Marilyn Bolton &amp; other objectors)</p> <ul style="list-style-type: none"> <li>○ Council assessment officer – Nil</li> </ul> <p>On behalf of the applicant – Benjamin Black</p>
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, Sandra McCarry, 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