

Date of Determination	10 June 2021
Panel Members	Marcia Doheny (Chair) Jennifer Bautovich (Independent Expert) Eugene Sarich (Independent Expert) Donna Gaskill (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference (Council staff at the North Ryde Office) on 10 June 2021 opened at 5:00pm and closed at 6:00pm.

MATTER DETERMINED

LDA2020/0358 - 26 Beattie Avenue, Denistone East

Demolition of existing structures and construction of a two storey child care centre for 68 children and 10 staff with basement parking for 13 vehicles. Proposed hours of operation are 7:00am to 6:00pm Monday to Friday. Approval is also sought for the removal of one (1) street trees.

The following people addressed the meeting:

1. Clr Jerome Laxale
2. Clr Bernard Purcell
3. Warren Smith
4. Rosemary Boyle
5. Anne Paton
6. Peter (Suhuai) Luo
7. Nick Low
8. Vernon Keyser
9. Glen Johnson
10. Adrian Zenere / Vernon Moroz (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.

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*.


REASONS FOR THE DECISION

The Panel determined to **refuse** the application for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not satisfy the following provisions of the *Child Care Planning Guideline* as required by Clause 23 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
 - Part 2, Principle 1 – Context and Part 2, Principle 2 – Built Form. The proposal is not considered to be designed in response to the site's topography. The proposed basement contributes to uncharacteristic visual presentation to the streetscape.
 - Part 2, Principle 3 – Adaptive learning spaces. The proposal relies upon the 50 preschool children at first floor level to travel through the building to access the ground floor outdoor play spaces.
 - Part 2 - Principle 4 – Sustainability. A Section J report addressing sustainability has not been submitted.
 - Part 2 - Principle 6 – Amenity. The proposal has not been designed to provide high levels of amenity for the children, with the design incorporating fixed openings within three elevations and not achieving reasonable ventilation throughout the building and is contrary to this principle.
 - Part 3 – 3.2 - Local character, streetscape and the public domain interface. The character and scale of proposed development does not achieve the desired outcomes anticipated by the CCPG nor is it considered to be residential-compatible or small-scale. The subject site is considered to be unsuitable for the proposed childcare centre.
 - Part 3 - 3.3 – Building, orientation, envelope, building design and accessibility. The building design is not considered to be fit for purpose and does not deliver a high level of amenity for children.
 - Part 3, 3.8 – Traffic, parking and pedestrian circulation. The proposal is contrary to Part 3.8 Traffic, parking and pedestrian circulation of the *Child Care Planning Guideline*.
 - Part 4, 4.4 – Ventilation and natural light. The proposal has not been designed to achieve high levels of amenity for the children in regard to natural ventilation within the building and is contrary to this regulation.
 - Part 4, 4.9 – Outdoor space requirements. The proposal provides for fifty (50) pre-schoolers at first floor level without any immediately adjoining outdoor play spaces and is contrary to this regulation.
2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of *Ryde Local Environmental Plan 2014*:
 - Clause 6.2 Earthworks. The proposal includes excavation across the entire site including 3.49m depth for the basement and 690mm for the outdoor play spaces. The proposal relies upon retaining walls across the site and is not sympathetic to the site's topography.

3. Pursuant to Section 4.15(a)(iii) of the Environmental Planning and Assessment Act 1979, the development does comply with the following provisions of the Ryde Development Control Plan 2014:

- Clause 3.1 – Site Selection and Location in the Child Care Planning Guidelines and Clause 2.1 – Suitability of Location and Site for the following reasons:
 - The site is not suitable for the use as a child care centre as the use is not compatible with existing surrounding residential developments. The design and operation of the child care centre will have adverse privacy impacts on adjacent residential properties and exacerbate traffic conditions in the local road network.
 - The intensification of use of the site requires additional car parking to be provided. The proposal has not demonstrated the required parking spaces can be adequately accommodated within the development and is likely to increase traffic volumes and demand for on street parking during drop off and pick up times, thus adversely impacting on traffic conditions in the surrounding streets.
- Clause 3.1 All Child Care Centres. Clause 3.1 of the Ryde DCP 2014 requires attention to be paid in the design to maximise energy efficiency and sustainability and compliance with Part 7.1 Energy Smart, Water wise of the RDCP 2014. The application has not been supported by a Section J report and has not demonstrated energy efficiency.
- Part 3.2 – Part 5.1 Car Parking, Traffic and Access and Part 9.3 – Parking Controls of the Ryde DCP 2014. The proposal is an intensification of use and has not demonstrated there will be no adverse impact upon local traffic as follows:
 - The proposal does not provide sufficient car parking spaces in accordance with the requirements for child care and staff parking spaces under *Clauses 5.1(b) and (h) in Part 3.2 of the Ryde DCP 2014 and Clause 2.3(a) in Part 9.3 of the Ryde DCP 2014* and will have a detrimental impact on traffic conditions in the local road network by exacerbating traffic congestion and increasing demand for on street parking spaces;
 - The Traffic Impact Assessment Report submitted with the proposal does not satisfy the requirements of *Clause C33 in the Child Care Planning Guidelines and Clause 5.3(c) in Part 3.2 of the Ryde DCP 2014* as the report contains insufficient information and does not accurately reflect existing traffic conditions or provide adequate justifications that the intensification of use of the site will not adversely impact on the amenity of surrounding properties, the neighbourhood and surrounding road network;
 - The proposal is inconsistent with *Clause C36 in the Child Care Planning Guidelines and Clause 5.2(d) in Part 3.2 of the Ryde DCP 2014* as the proposal does not provide a designated loading area for service vehicles to ensure that service vehicles do not impede on pedestrian access to the site or impact on pedestrian safety;
 - The proposal is inconsistent with *Clause 5.1(f) in Part 3.2 of the Ryde DCP 2014* as underground car parking for sites located in low density residential areas is not permitted.
- Part 3.3 - Building orientation, envelope and design. The proposal includes excavation that exceeds the maximum extent of excavation permitted *Clause 2.6.2(b)(ii) in Part 3.3 of the*



Ryde DCP 2014. The extent of excavation is out of character with immediately surrounding low density dwellings and results in design which is not relative to the needs of the locality.

4. The following documentation was not submitted and/or was considered to be inadequate:
 - A Demolition plan (indicating all structures proposed to be demolished) and a demolition management plan (detailing proposed demolition method, waste disposal and operation) was not submitted;
 - A Section J report addressing sustainability was not submitted;
 - The Traffic Impact Assessment Report does not accurately reflect existing traffic conditions or provide adequate justifications that the intensification of use of the site will not adversely impact on the amenity of surrounding properties, the neighbourhood and surrounding road network.
5. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site. The site as intensification of the use of the site will have adverse amenity impacts on immediately adjoining residential properties and the traffic generation resulting from the use will exacerbate traffic congestion and demands for on street parking within local streets which is inconsistent with the low density residential character of the locality. The proposal is contrary to Section 1.3 Objects of the Environmental Planning and Assessment Act 1979.
6. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

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





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	
Marcia Doheny (Chair)	
Jennifer Bautovich	
Eugene Sarich	
Donna Gaskill	

SCHEDULE 1		
1	DA No.	LDA2020/0358
2	Proposal	Demolition of existing structures and construction of a two storey child care centre for 68 children and 10 staff with basement parking for 13 vehicles. Proposed hours of operation are 7:00am to 6:00pm Monday to Friday. Approval is also sought for the removal of one (1) street trees.
3	Street Address	26 Beattie Avenue, Denistone East
4	Applicant / Owner	Silvana Basevski & Blagojce Basevski
5	Reason for referral to RLPP	Contentious development – is the subject of 10 or more unique submissions by way of objection. Schedule 1, Part 2 of Local Planning Panels Direction
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 & Childcare Facilities) 2017 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 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 assessment report Written submissions during public exhibition: 53 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Nil In objection – Cllr Jerome Laxale, Cllr Bernard Purcell, Warren Smith, Anne Paton, Rosemary Boyle, Peter (Suhuai) Luo, Nick Low, Vernon Keyser & Glen Johnson

		<ul style="list-style-type: none"> ○ Council assessment officer – Nil ○ On behalf of the applicant – Adrian Zenere • Warren Smith, Anne Paton, Rosemary Boyle, Peter (Suhuai) Luo, Nick Low, Vernon Keyser & Glen Johnson put in an additional submission each, circulated to the Panel prior to the meeting.
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: At the discretion of Panel members due to COVID-19 restrictions • Briefing: 10 June 2021 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Marcia Doheny (Chair), Jennifer Bautovich, Eugene Sarich, Donna Gaskill ○ <u>Council assessment staff</u>: Sandra Bailey, Alicia Hunter, Daniel Pearse, <ul style="list-style-type: none"> • Papers were circulated electronically on 2 June 2021
9	Council Recommendation	Refusal
10	Draft Conditions	Not applicable