

Date of Determination	11 February 2021
Panel Members	Abigail Goldberg (Chair) Michael Leavey (Independent Expert) Jennifer Bautovich (Independent Expert) Donna Gaskill (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on Thursday 11 February 2021, opened at 5:00pm and closed at 5:16pm.

Papers circulated electronically on 3 February 2021.

MATTER DETERMINED

LDA2020/0247 - 298-312 Blaxland Road, Ryde

Demolition of existing structures; new multi-dwelling housing development containing 30 dwellings (9 x 2 bed, 20 x 3 bed, 1 x 4 bed, including 3 adaptable dwellings) over a split basement containing 63 car parking spaces, under Division 1 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

The following people addressed the meeting:

1. Kirsten Morton (objector)

PANEL CONSIDERATIONS AND DECISION

The Panel considered 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.

The reasons for the refusal are as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to achieve compliance with the height limits prescribed by clause 4.3 and clause 4.3A, and the clause 4.6 variation request has not provided suitable environmental planning grounds for the contravention of this standard.
2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development has not satisfied *State Environmental Planning Policy No.55 – Remediation of Land* as a Preliminary Site Investigation has not been submitted to properly consider whether further contamination assessment is required.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *Ryde Local Environmental Plan 2014* in that:
 - The proposal is contrary to the objectives of the R2 Low Density Residential Zone in failing to provide housing that serves the housing needs of the community within a low-density residential environment.
 - The proposal fails to provide the site area required by clause 4.5A.
 - The proposal is inconsistent with clause 6.2 as the proposed earthworks are unsympathetic to the natural topography of the site, resulting in unacceptable impacts on dwelling amenity and the streetscape.
 - The proposal has not satisfied clause 6.4 as inadequate information has been submitted to demonstrate that the proposal will not create adverse stormwater impacts.
4. The development is inconsistent with the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, specifically:
 - Less than 20% of the total gross floor area of the development is to be used for the purposes of affordable housing, and Division 1 of this policy is therefore of no effect.
 - The proposal is inconsistent with the following provisions:
 - Clause 14(1)(e) – the majority of dwellings do not receive adequate midwinter solar access, and are provided with substandard amenity.
 - Clause 14(2)(b) – the majority of dwellings are too small to provide adequate amenity.
 - Clause 15 – the design does not respond appropriately to the *Seniors Living Policy: Urban Design Guidelines for Infill Development*.
 - Clause 16A – the proposal is not compatible with the character of the local area.
5. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *State Environmental Planning Policy (Infrastructure) 2007*, specifically:
 - Clause 102 – no information has been submitted to demonstrate that appropriate measures will be taken to ensure the dwellings meet the acoustic criteria required by this clause.
6. Pursuant to Clause 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the following draft planning instruments:
 - Draft Remediation of Land State Environmental Planning Policy, as a Preliminary Site Investigation has not been submitted regarding whether further contamination assessment is required.
 - The development would become prohibited by the Draft Amendment to the Ryde Local Environmental Plan 2014.

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7. Pursuant to Clause 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the following provisions of *Ryde Development Control Plan 2014*,
 - Part 3.4 Multi Dwelling Housing specifically:
 - Section 2.3 and Section 3.1, as the site is in a non-preferred location for multi dwelling housing because of its steep topography. The proposal is a poor response to the site's natural constraints and the character of the local area.
 - Section 2.6, as the proposal contains more than 12 dwellings and would therefore dramatically change the character of the locality.
 - Section 2.7, as the development does not complement the neighbourhood or meet the needs of all householders, including older persons and persons with disabilities.
 - Section 3.2, as site levels would be altered significantly to accommodate the development, creating a range of amenity impacts.
 - Section 3.3.1, as the proposal seeks a range of attached dwellings of a height in storeys that is not compatible with the locality.
 - Section 3.5.4, as the non-complying side setbacks contribute unnecessarily towards poor built form outcomes.
 - Section 3.6, as private open space areas are poorly located, and provided with compromised amenity, inadequate size, and poor access.
 - Section 3.7, as tree removal has not been supported with sufficient information, and inadequate opportunity has been afforded to suitably replenish the urban bushland which would be lost on site.
 - Section 3.8, as the proposal provides adequate parking, and the driveway, vehicle manoeuvring areas, and service vehicle parking, each present a dominant streetscape element.
 - Section 3.9, as buildings are not sited and designed to maximise solar access to habitable rooms and private open space areas.
 - Section 3.10, as the proposal results in adverse overlooking impacts between dwellings, particularly from elevated private open space areas.
 - Section 4.2 as the proposal provides inadequate ceiling heights to ensure sufficient light, space and ventilation to all rooms.
 - Section 4.6, as well located clothes drying facilities have not been provided.
 - Section 4.8, as waste areas are not conveniently located.
 - Part 8.2 Stormwater and Floodplain Management, as inadequate information has been submitted to demonstrate that the proposal will not create adverse stormwater impacts.
 - Part 9.2 Access for People with Disabilities, as the proposal does not provide Class A adaptable dwellings.
 - Part 9.5 Tree Preservation, as the minimum content required for Arboricultural Impact Assessments has not been provided.
 8. Pursuant to Clause 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act Regulations 2000*, a BCA Compliance Assessment Report has not been submitted to consider the impacts of potential design amendments required to achieve compliance with the *Building Code of Australia*.
 9. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the natural impacts of the development, relating to the Critically Endangered Ecological Community located on site, have not been properly established.
 10. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is unsuitable for the proposed development.

11. 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.





CONDITIONS

Not applicable

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition and heard from 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	
Abigail Goldberg (Chair)	
Michael Leavey	
Jennifer Bautovich	
Donna Gaskill	

SCHEDULE 1

1	DA No.	LDA2020/0247
2	Proposal	Demolition of existing structures; new multi-dwelling housing development containing 30 dwellings (9 x 2 bed, 20 x 3 bed, 1 x 4 bed, including 3 adaptable dwellings) over a split basement containing 63 car parking spaces, under Division 1 of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> .
3	Street Address	298-312 Blaxland Road, Ryde
4	Applicant / Owner	Kool Family Developments Pty Ltd / Mr Mohammed Dib
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 height of buildings 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 (Affordable Rental Housing) 2009 ○ State Environmental Planning Policy No. 55 - Remediation of Land ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 ○ Ryde Local Environmental Plan 2014 ○ Biodiversity Conservation Act 2016 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Draft Remediation of Land State Environmental Planning Policy ○ Draft Environment SEPP ○ Draft Amendment to the Ryde Local Environmental Plan 2014 • 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 • Section 7.11 Development Contributions Plan 2020 • 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

		<ul style="list-style-type: none"> 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 requests – Height of Buildings Written submissions during public exhibition: 10 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Nil In objection – Kirsten Morton On behalf of the applicant – Nil
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> Site inspection: At the discretion of the Panel due to COVID-19 restrictions Briefing and Public Meeting: 11 February 2021 <p>Attendees:</p> <ul style="list-style-type: none"> <u>Panel members</u>: Abigail Goldberg (Chair), Michael Leavey, Jennifer Bautovich, Donna Gaskill <u>Council assessment staff</u>: Sandra Bailey, Kimberley Kavwenje, Daniel Pearse, Brendon Clendenning & Ben Tesoriero (Consultant Planners) <ul style="list-style-type: none"> Papers were circulated electronically on 3 February 2021
9	Council Recommendation	Refusal
10	Draft Conditions	Nil