

Meeting Date: Thursday 9 September 2021
Location: Meeting Remotely
Time: 5.00pm

City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.

NOTICE OF BUSINESS

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DECLARATIONS OF INTEREST

DEVELOPMENT APPLICATION

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14 Ryedale Road, Denistone (proposed Lot 14)
Construction of part 1 and 2 storey boarding house with 8 boarding
rooms for 16 lodgers and 4 parking spaces. | 3 |
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DEVELOPMENT APPLICATIONS

- 1 LDA2021/0122**
14 Ryedale Road, Denistone (proposed Lot 14)

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

Report prepared by: Consultant Town Planner; Assessment officer – Town Planner

Report approved by: Senior Coordinator - Development Assessment; Manager - Development Assessment; Director - City Planning and Environment

File Number: GRP/09/6/12/1/2 - BP21/832

City of Ryde Local Planning Panel Report

DA Number	LDA2021/0122
Site Address & Ward	14 Ryedale Road, Denistone (proposed Lot 14) West Ward
Zoning	R2 Low Density Residential
Proposal	Construction of part 1 and 2 storey boarding house with 8 boarding rooms for 16 lodgers and 4 parking spaces
Property Owner	KaritoINETTE Property Group
Applicant	Monument Design Partnerships
Report Author	Kerry Gordon – Consultant Town Planner
Lodgement Date	20 April 2021
No. of Submission	81 submissions plus petition with 290 signatures
Cost of Works	\$1,881,836
Reason for Referral to Local Planning Panel	More than 10 individual submissions
Recommendation	Refusal

ITEM 1 (continued)**1. Executive Summary**

Application is made to construct a part 1 and 2 storey boarding house with 8 boarding rooms for 16 lodgers and 4 parking spaces.

It is noted that the development is proposed to be constructed on the front portion of 14 Ryedale Road, identified throughout this report as proposed Lot 14, which has development consent to be subdivided into two allotments, though the allotments have not been registered.

The application was lodged at the same time as a development application to construct a part 1 and 2 storey boarding house with 8 boarding rooms for 16 lodgers and 4 parking spaces on the rear portion of 14 Ryedale Road, identified throughout this report as proposed Lot 14A, which has been approved as a battle-axe allotment in the aforementioned development consent to subdivide the site into two allotments.

The notification of the application occurred in conjunction with the application for the second boarding house and submissions received addressed both applications. The notification attracted 81 submissions and a petition with 290 signatures objecting to the applications with the concerns, amongst others, related to the lack of parking provision, out of character with the area, excessive density, traffic, seeking to use “loophole” to provide more than 12 rooms in R2 zone, seeking to use “loophole” to avoid need for onsite management, loss of privacy, subdivision isn’t registered, noise, loss of trees, shadowing, enough boarding houses in Ryde, setbacks and overdevelopment of the site.

The proposed design is considered to be unacceptable due to the following and is recommended for refusal.

- Inadequate front setback.
- Unacceptable landscaped setting.
- Design is uncharacteristic of the area in relation to flat roof, high security gate, length of building, colours and materials.
- Inappropriate impact upon adjoining properties in relation to shadowing, visual bulk, visual and acoustic privacy which is exacerbated by non-compliant setback.
- Inappropriate separation from boarding house on proposed Lot 14A results in the site 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 should be provided. Further, the 16 boarding rooms breaches the 12 maximum under ARHSEPP and as such cannot be approved.
- The inappropriate separation between the two boarding houses would result in significant security and privacy impacts upon the future residents of the development.

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- Maneuvering to exit the rearmost parking space in a forward direction would require traversing proposed Lot 14A and no right-of-way exists or is proposed which would permit such legal access.
- Inadequate information submitted in relation to impact upon trees, acoustic impact of the development and upon development (in relation to railway) and CPTED report.
- Stormwater management system does not provide appropriately sized OSD.
- The stormwater management system has not been designed separate from the system of Proposed Lot 14A.
- Access to the onsite parking spaces does not comply with AS2890.1, AS2890.6 and Part 3.4 of the DCP.

2. The Site and Locality

The site is known as 14 Ryedale Road, Denistone and is a single allotment with a legal description of Lot 49 in DP 1095321. The site is located on the western side of Ryedale Road, to the north of its intersection with Elston Avenue. The site is an irregular, rectangular shaped allotment with a frontage to Ryedale Road of 15.24m, a rear angled boundary dimension of 17.525m, side boundary dimensions of 121.28m (northern) and 112.86m (southern) and a site area of 1,789m². The site falls from the street to the rear by approximately 8.4m and has a cross-fall from north to south.

The site is currently developed with a modest, single storey detached dwelling house of brick and tile construction (see Figure 1). The dwelling has a setback of approximately 14m from the street. The property has vehicular access from a driveway along the northern boundary of the site. The majority of the property is undeveloped, with a sloping lawned area at the rear of the dwelling containing scattered trees.



Figure 1: Existing dwelling at 14 Ryedale Road, Denistone

ITEM 1 (continued)

Development Consent LDA2019/0100 has been granted for the demolition of the existing dwelling and subdivision of the site into two allotments. The subdivision (see Figure 2), created a front standard allotment with street frontage and a rear battle-axe allotment.

The battle-axe handle of the rear lot (proposed Lot 14A) has a width of 3.24m and a right-of-way in favour of the front lot (proposed Lot 14) is required by condition of consent over the access handle. A second right-of-way, over proposed Lot 14 and in favour of proposed Lot 14A was approved for a portion of land with a width of 5.5m for the front 6m of the northern boundary at the front of proposed Lot 14, then splaying towards the access handle.

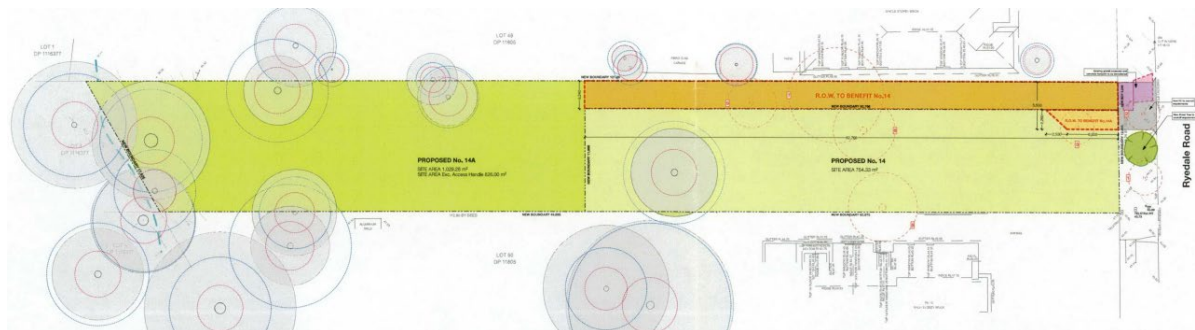


Figure 2: LDA 2019/0100 subdivision plan of 14 Ryedale Road, Denstone

Proposed Lot 14 has a frontage to Ryedale Road of 12.0m, a rear boundary dimension of 11.998m, side boundary dimensions of 62.766m (northern) and 62.975m (southern) and a site area of 754.33m². Of this area, 16.37m² is burdened by the right-of-way in favour of proposed Lot 14A, leaving 737.96m² unburdened. Whilst the approved plan does not show it, the conditions of consent require the provision of an easement for drainage over proposed Lot 14A in favour of proposed Lot 14 to a proposed stormwater dispersal system.

Proposed Lot 14A has a frontage to Ryedale Road of 3.24m which provides an access handle to the battle-axe allotment. The access handle is 62.766m in length. The main body of proposed Lot 14A has a splayed rear boundary dimension of 17.525m, side boundary dimensions of 58.514m (northern) and 49.885m (southern) and a site area of 1,029.28m² (826.0m² exclusive of the access handle).

Consent for removal of a number of trees on the site has been granted with Development Consent LDA 2019/0100, being a NSW Christmas Bush, 2 x Crepe Myrtle, Port Wine Magnolia, Black Bean Tree and 2 x Common Coral trees at the rear of the site (see Figure 3).

ITEM 1 (continued)

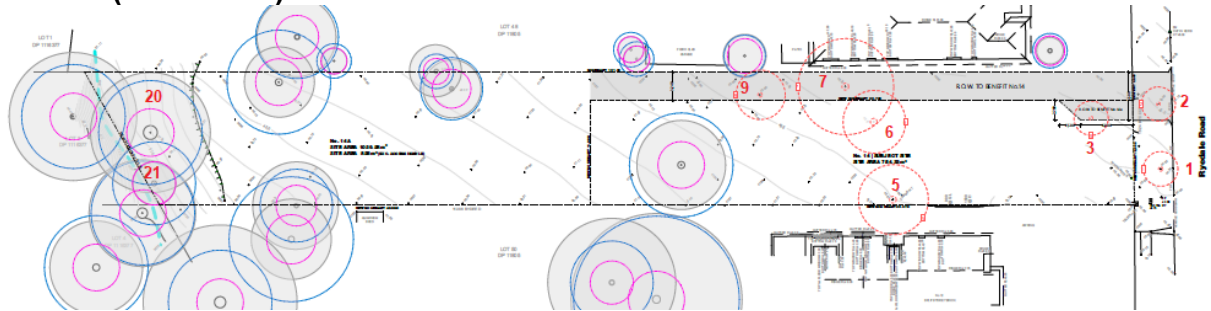


Figure 3: Subdivision plan including trees approved for removal (indicated in red)

Trees that were required to be retained by the subdivision approval were an Arizona Cypress, Sydney Blue Gum, Turpentine and Jacaranda.

The rear of proposed Lot 14A is subject to inundation in the 1:100 ARI flood event.

Immediately to the rear of the site is Symon's Reserve (see Figure 4) and then Denistone Railway Station and the railway line (see Figure 7). Symon's Reserve is heavily treed and appears to contain remnant bushland. Near the rear boundary of proposed Lot 14A, within Symon's Reserve is an open drainage channel.



Figure 4: Rear of proposed Lot 14A towards Symon's Reserve

Immediately adjoining the site to the north is 16 Ryedale Road which is occupied by a part 1 and 2 storey dwelling. This dwelling is constructed with a front setback of approximately 12m and a setback from the common boundary with 14 Ryedale Road of approximately 1.6m. The dwelling has seven windows within the southern elevation, oriented toward the subject site and appears to have the living areas at the rear of the dwelling, opening onto a patio (see Figure 5).

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Figure 5: Rear of dwelling at 16 Ryedale Road viewed from subject site

Immediately adjoining the site to the south is 12 Ryedale Road which is occupied by a split-level dwelling with rooms partially in the roof at the rear. This dwelling is constructed with a front setback of approximately 15m and a setback from the common boundary with 14 Ryedale Road of approximately 3.4m. The driveway to this property runs down the northern boundary to an attached carport near the front of the dwelling.

The dwelling has six windows within the northern elevation, oriented toward the subject site and appears to have the living areas at the rear of the dwelling, opening onto a patio (see Figure 6). A swimming pool is located near the rear of the dwelling, immediately adjacent to the common boundary with the subject site.



Figure 6: Rear of dwelling at 12 Ryedale Road viewed from subject site

ITEM 1 (continued)

The surrounding area is low density residential in character and is zoned R2 Low Density Residential under RLEP. The development within the area largely consists of detached dwelling houses, predominantly with single storey presentation to the street, with a few scattered single storey multi dwelling housing developments (see Figure 7).



Figure 7: Aerial photograph of site in context

Symon's Reserve is part zoned RE1 Public Recreation and part E2 Environmental Conservation under RLEP.

3. The Proposal

Application is made to construct a part one and two storey boarding house with 8 boarding rooms for 16 lodgers and 4 parking spaces. It is noted that the development is proposed to be constructed on proposed Lot 14 which is the front lot approved by the subdivision development consent, though the allotments have not been registered.

The application was lodged at the same time as a development application to construct a part 1 and 2 storey boarding house with 8 boarding rooms for 16 lodgers and 4

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parking spaces on proposed Lot 14A, the rear, battle-axe allotment in the aforementioned development consent.

The site plan for the subject application is included below as Figure 8:

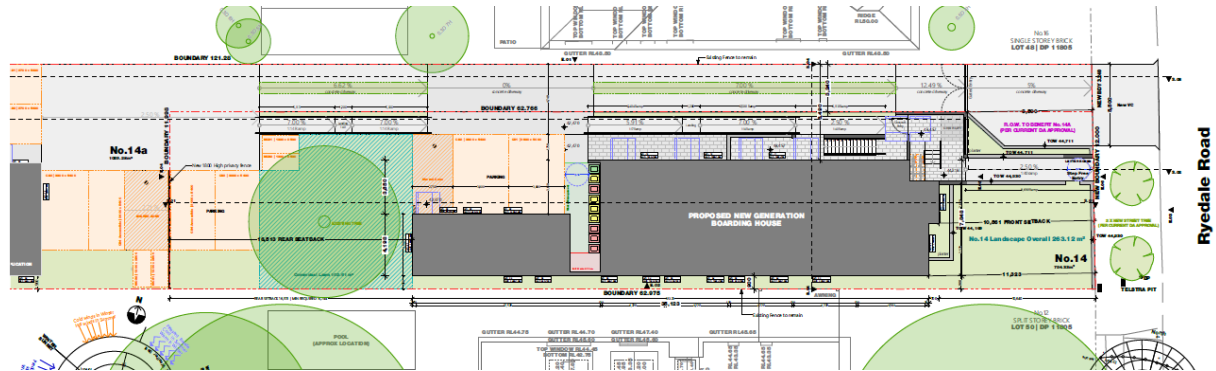


Figure 8: Proposed Site Plan

The development proposed on proposed Lot 14 is described as follows:

Ground:

The ground floor is to be constructed over two levels with the front portion to be constructed at RL 43.457 and the rear portion to be constructed at RL42.47. The front portion is to contain three boarding rooms, two of which are to be accessible rooms. The rear portion of this floor contains a further two boarding rooms, also identified as being accessible and a communal room with attached WC.

The boarding rooms face to the north and are accessed by an external walkway, which is only roofed opposite the front two boarding rooms. The external walkway is accessed via a separate ramp which is unroofed, which provides access between the boarding rooms and from the boarding rooms to the common room, parking and common open space.

The common room is separated from the ground level boarding rooms by a covered garbage store area (which is only partially enclosed) and is oriented to the north with an outlook to the parking spaces for the boarding house and the access handle for proposed Lot 14A. The common open space is located to the rear of the communal room but there is no direct connection between the two by way of a door.

Pedestrian access to the site is provided by way of a path, then a set of stairs to a secure gate, which then accesses the aforementioned uncovered ramp and external walkways. Accessible entry to the boarding house is proposed via a chair lift.

Vehicular access to the parking spaces for the boarding house is via the right-of-way over the access handle of proposed Lot 14A. The parking spaces are all perpendicular to the access handle, with 2 spaces proposed in front of the common room and a second 2 spaces and 2 motorcycle spaces proposed at the rear of the site. It is noted

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that the 2 parking spaces adjacent to the common room have widths of 3.8m, due to the narrow width of the access handle, in order to allow maneuverability from the narrow access handle.

The plans do not indicate the provision of any fencing to the side boundaries of the site but show a 1.8m high privacy screen adjacent to the car parking space at the rear boundary, with the remainder of the rear boundary being unfenced. No front fence is proposed, however a 2.3m high metal security fence “encloses” the front of a 2.76m high projecting front roofed “porch”, which is enclosed by walls to both sides and the rear. The ground floor has a front setback of 10.6m – 11.3m, with the roofed “porch” having a setback of 8.7m. The southern side wall of the building has a length of 35.1m and a side setback of 900mm. The northern side wall has a variable setback from the access handle of proposed Lot 14A of 3.25m – 6.9m. The rear setback proposed is 16.5m.

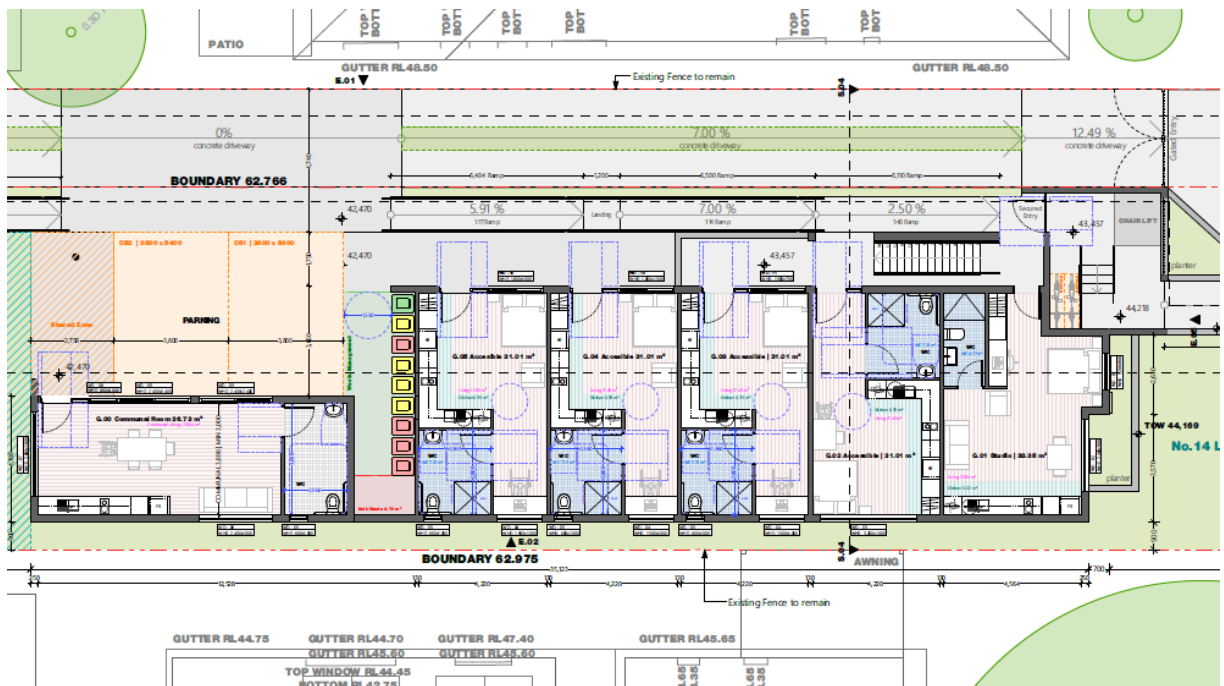


Figure 9: Proposed ground floor plan

First:

The first floor occupies only the front portion of the building and projects over the ground floor “porch”, having a front setback of 8.7m-12m. The southern façade has a 1.5m side setback and the northern façade has setbacks of 1.5m-3.2m from the access handle to proposed Lot 14A.

This level contains three boarding rooms which are accessed by stairs that are enclosed on the first floor but open on the ground floor.

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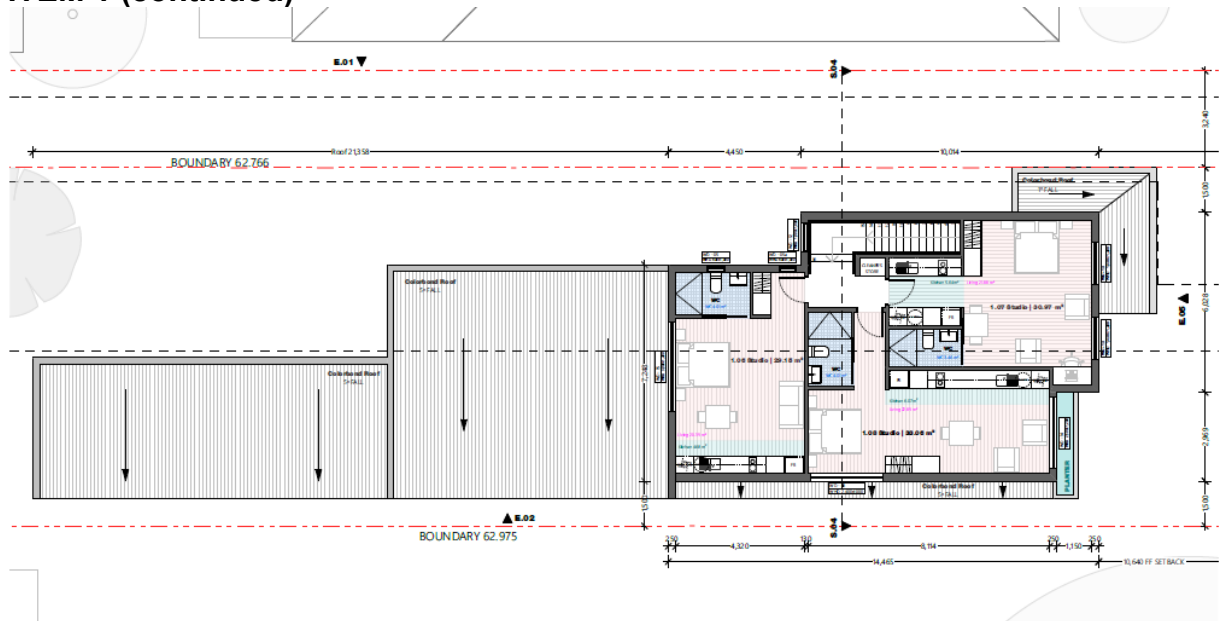


Figure 10: Proposed first floor plan

Each boarding room is provided with a bathroom and kitchenette containing a sink, a two burner cooktop, bar fridge, microwave and washing machine/dryer.

The design of the building is modern, with a flat roof and is to be constructed of a combination of pale brown and black face bricks, black render and black metal cladding.



Figure 11: Proposed East and West Elevations. The first diagram shows the relationship of the development with the adjoining properties.

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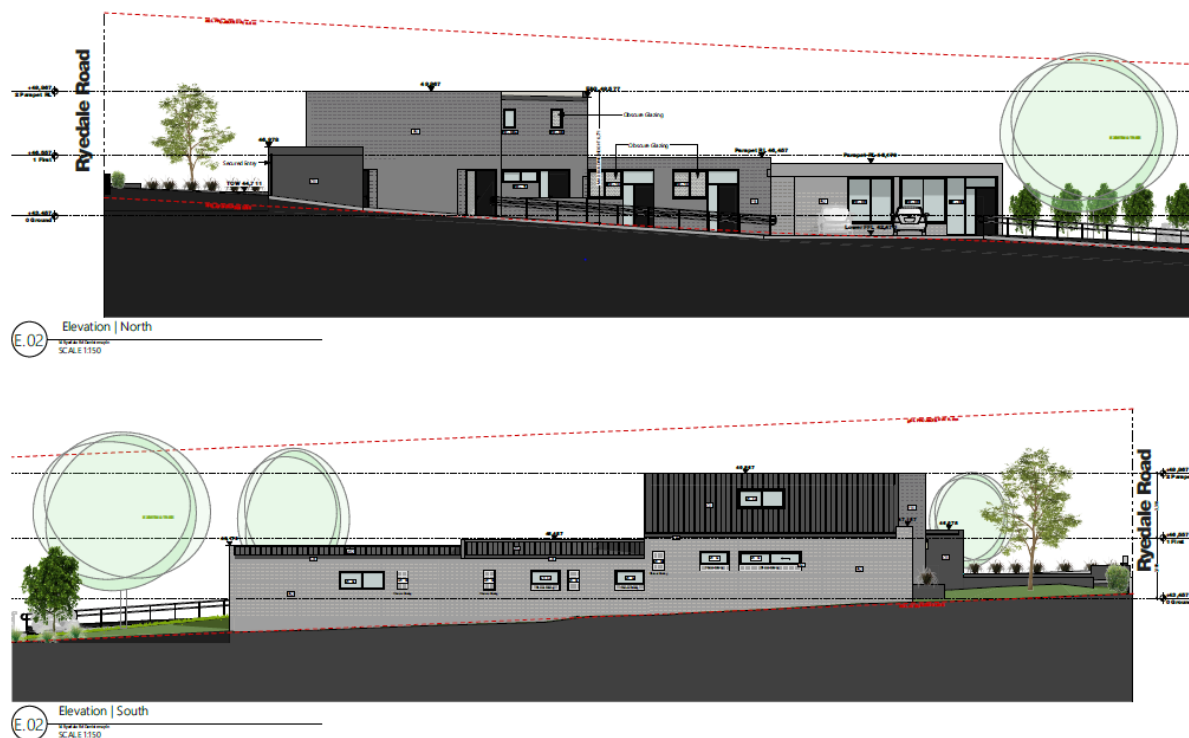


Figure 12: Proposed North and South Elevations

4. Planning Assessment

4.1 State Environmental Planning Instruments

State Environmental Planning Policy (Affordable Rental Housing) 2009

The application is made under the provisions of State Environmental Planning Policy (Affordable Rental Housing) (ARHSEPP) and as such the provisions of Division 3 relating to Boarding Houses are applicable to the application.

Clause 26 indicates that the division is applicable to land within zone R2 Low Density Residential and as the site is so zoned under RLEP, the division is applicable to the subject site.

Clause 27 indicates that the clauses 29, 30 and 30A do not apply for the purpose of boarding houses in R2 zones unless all or part of the development is within an accessible area. The site is less than 800m from the entrance to Denistone Railway Station and as such is in an accessible area.

Clause 28 indicates that boarding house development is permitted with consent.

Clause 29 contains a series of standards which cannot be used to refuse consent if they are complied with. These standards are addressed in the following table.

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Provision	Required	Proposed	Complies
FSR	Maximum FSR 0.5:1 = site area of 737.96m ² = GFA maximum 368.98m ²	The applicant has provided a calculation sheet which shows the development has a GFA of 305.77m ² .	Yes
Building Height	Maximum building height under LEP – 9.5m	The building has a maximum height of 7.9m.	Yes
Landscaped area	Landscape treatment of front setback is to be compatible with the streetscape	As is discussed in relation to the character test following, the proposal will result in inadequate landscaping forward of the building to be compatible with the streetscape which is characterised by greater setbacks to buildings, which are within landscaped setbacks.	No
Solar access	One or more communal living room receives at least 3 hours sunlight between 9am and 3pm at mid-winter	The communal room receives 6 hours of solar access between 9am and 3pm at midwinter.	Yes
Private Open Space	One area of at least 20m ² with minimum dimension of 3m is provided for use of lodgers	The communal open space area proposed has an area of 102.5m ² , with minimum dimension of 7.5m	Yes
Parking	At least 0.5 of a parking space is provided for each boarding room – minimum 4 spaces	8 rooms and 4 spaces	Yes, but refer to later comments about access to spaces.
Accommodation size	Double rooms are at least 16m ² in area excluding private kitchen or bathroom facilities	Boarding rooms range from 17.49m ² to 22.89m ²	Yes
Facilities	A boarding house may have a private kitchen or bathroom in each boarding room	Private kitchenette and bathroom facilities are provided in each room.	Yes

Clause 30 contains development standards for boarding houses which are addressed in the following table.

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Provision	Required	Proposed	Complies
Common room	Minimum one communal living room for 5 or more boarding rooms	One common living room is provided	Yes
GFA	No boarding room to have gross floor area exceeding 25m ² excluding private kitchen and bathroom	Boarding rooms range from 17.49m ² 22.89m ²	Yes
Occupancy	No boarding room to be used by more than 2 adult lodgers	Each boarding room is proposed to be a double room	Yes
Kitchen/Bathroom	Adequate kitchen and bathroom facilities are required for a boarding house for the use of each lodger	Private kitchenette and bathroom provided in each room.	Yes
Manager	If a boarding house accommodates 20 or more lodgers a manager's dwelling shall be provided onsite	<p>The application is for 16 lodgers, however a second development application is lodged for the same allotment for another 16 lodgers.</p> <p>The applications are lodged by the same applicant on what is currently one block of land in one ownership. Further, the design of the proposal does not physically separate the vehicular access, pedestrian access, access to parking spaces or access to the common areas of open space and has a single, shared drainage system.</p> <p>As such, notwithstanding the proposed development has been lodged as two separate applications, they are considered to be co-dependent and as such would operate as a single boarding house development. It is</p>	No

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		considered appropriate that the site have an onsite boarding house manager, which is not proposed.	
Parking	At least 1 motorcycle and bicycle parking space shall be provided for every 5 boarding rooms - 8 rooms require 2 motorcycle and 2 bicycle spaces required	2 motorcycle and bicycle spaces provided	Yes, however the location of the bicycle spaces is inappropriate as it is not a secure location.

Clause 30AA applies to boarding houses in R2 zones and requires that consent must not be granted to a boarding house on land in that zone unless it has no more than 12 boarding rooms. The two concurrent applications are lodged by the same applicant on what is currently one block of land in one ownership. Further, the design of the proposal does not physically separate the vehicular access, pedestrian access, access to parking spaces or access to the common areas of open space and has a single, shared drainage system. As such, notwithstanding the proposed development has been lodged as two separate applications, they are considered to be co-dependent and as such would operate as a single boarding house development. As such it is considered that the two development applications combined are for one development of a boarding house which has 16 boarding rooms and as such is not permitted by virtue of Clause 30AA of AHRSEPP. Whilst a boarding house is permitted in the zone under RLEP, this provision overrides RLEP to the extent of any inconsistency and as such the proposal cannot be approved.

Clause 30A requires that consent shall not be granted to a boarding house unless consideration has been made of whether the design of the development is compatible with the character of the local area.

The character of the local area is for largely one, but with some two, storey development with relatively large front setbacks, being located in a significant landscaped setting. The proposed building has a front setback that is less than the characteristic front setback on the western side of this section of Ryedale Road. The reduced setback, in combination with the two storey design and projecting “porch” is out of character with the streetscape, resulting in a development with unacceptable visual bulk and inadequate landscaping to ameliorate that bulk.

The proposed design, particularly the flat roof, solid side walls that are visible in the streetscape, use of metal cladding, proposed colours and provision of the visually dominant entrance “porch” and security fencing are uncharacteristic of development in the area.

The provision of a wall with a length of 35m with no articulation by way of variation in setback and which extends forward of and to the rear of the adjoining dwelling to the

ITEM 1 (continued)

south will present an uncharacteristic form of development as viewed from that property.

Due to the lack of front setback, the flat roof, design, materials and colours and the unarticulated 35m long southern wall, the design of the development is not considered to be compatible with the character of the area.

Clause 52 prevents consent being granted to strata or community title subdivide a boarding house. The application does not seek approval for subdivision.

State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

The application is accompanied by a satisfactory BASIX certificate.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires consideration of whether a site is potentially contaminated and whether any such contamination makes the site unsuitable for the proposed form of development or whether remediation works are required to make the site suitable for the form of development proposed.

The site has a history of residential use and as such is unlikely to contain any contamination other than potentially in relation to asbestos and lead paint within the building. As the application does not involve demolition of the building, which has already been approved, no further investigation is required.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) (SEPP Vegetation) applies to the site and addresses preservation of trees and vegetation.

The objective of SEPP Vegetation is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.

The proposal does not include the removal of any trees, with the trees in the vicinity of the development having been granted consent for removal under the consent for subdivision of the site. However, no assessment has been made in the arboricultural report of the works in the vicinity of the tree to be retained or trees on adjoining properties.

State Environmental Planning Policy (Infrastructure)

The proposal is subject to the provisions of Clause 85 of State Environmental Planning Policy (Infrastructure) (SEPP(Infrastructure)) as the site is within proximity to the Northern Line heavy rail corridor. The application was referred to Sydney Trains and

ITEM 1 (continued)

no objection to the application was raised in response to the referral subject to conditions.

The proposal is also subject to the provisions of Clause 87 of SEPP (Infrastructure) as the site is within proximity to the Northern Line heavy rail corridor and the acoustic report submitted with the application does not adequately address the provisions.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 is a deemed SEPP and applies to the subject site.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of Ryde Development Control Plan 2014 (RDCP 2014). The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument

4.2 Ryde LEP 2014Permissibility

The site is zoned R2 Low Density Residential under the provisions of Ryde Local Environmental Plan 2014 (RLEP) and a boarding house is a permissible use with consent in that zone.

The objectives of the R2 zone are addressed following:

- *To provide for the housing needs of the community within a low density residential environment.*

As the application, in conjunction with the accompanying application for a boarding house on proposed lot 14A, is inconsistent with the provisions of Clause 30AA of ARHSEPP, it is not considered to be consistent with the objective of providing housing within a low density residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

This objective is not applicable to the proposal.

- *To provide for a variety of housing types.*

This proposal would result in an increase in the variety of housing types in the locality.

ITEM 1 (continued)Height of Buildings

Clause 4.3 sets a maximum height control for the site of 9.5m. The proposal satisfies this control with a maximum height of 7.9m.

Floor Space Ratio

Clause 4.4 sets a maximum FSR for the site of 0.5:1. The site of proposed Lot 14 has an area of 737.96m² which would permit a maximum gross floor area (GFA) of 368.98m². The applicant has provided a calculation sheet which shows the development has a GFA of 305.77m², complying with the control.

Heritage

The site is not within the vicinity of any items of heritage, is not within a conservation area and is not identified as an item of heritage.

Earthworks

Clause 6.2 requires consideration of the impact of earthworks in relation to environmental functions, processes, neighbouring uses, cultural and heritage items and features of the surrounding land. The following matters are required to be considered:

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

The assessment of the application by Cardno indicates the proposal will not result in any of these detrimental impacts.

(b) the effect of the development on the likely future use or redevelopment of the land,

The proposed excavation is to facilitate the future development of the site.

(c) the quality of the fill or the soil to be excavated, or both,

The site has not been identified as contaminated and a condition of any consent should require the use of only virgin excavated natural material (VENM) for the purpose of fill.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

A dilapidation report is recommended for any consent.

(e) the source of any fill material and the destination of any excavated material,

ITEM 1 (continued)

The site has not been identified as contaminated. No information has been provided regarding either the source of fill or the destination of excavated materials. The lack of information in this regard is addressed in this report.

(f) the likelihood of disturbing relics,

Given the location of the site and its previous development, it is considered unlikely that any relics would be disturbed.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

Subject to adequate sedimentation measures during construction, the proposal is unlikely to impact any waterway and it will not impact any drinking water catchment or environmentally sensitive area.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Any consent should include conditions addressing sedimentation measures during construction and requiring dilapidation reports for adjoining structures.

Stormwater Management

Clause 6.4 addresses Stormwater management and requires the following matters to be considered:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The concept stormwater disposal plans have been assessed by Council's Engineers as being unacceptable, but capable of resolution (see comments in referral section).

4.3 Draft Environmental Planning Instruments**Draft Remediation of Land State Environmental Planning Policy**

The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:

ITEM 1 (continued)

As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. The subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Draft Environment State Environmental Planning Policy

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. The application provides inadequate information to allow assessment against the Draft Environment SEPP as the arboricultural report does not address the proposed development. This concern has been included in the reasons for refusal.

Draft Housing State Environmental Planning Policy

The Draft SEPP (Housing) is currently on public exhibition until 29 August 2021 and is a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

Boarding Houses are proposed to be removed as a permitted use from the R2 zone via the Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2021.

For the sake of completeness, the application has been assessed under the provisions of the SEPP, if the use was permitted in the zone. Clause 23 identifies development standards that if complied with, prevent the consent authority from requiring more onerous standards for the matters. These matters are addressed in the following table:

Provision	Required	Proposed	Complies
Floor Space Ratio	FSR not exceeding the maximum permissible FSR for residential accommodation, being 0.5:1 (368.98m ²) Site Area = 737.96m ²	The applicant has provided a calculation sheet which shows the development has a GFA of 305.77m ² . FSR = 0.41:1	Yes
Landscaped Area	The minimum landscape requirements for multi dwelling housing under a	Multi dwelling housing is not a permitted use in the R2 zone. As such, this clause is not applicable.	N/A

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	relevant planning instrument.		
Solar Access	3 hours of direct solar access provided between 9am and 3pm mid-winter in at least 1 communal living area.	The communal room receives 6 hours of solar access between 9am and 3pm mid-winter.	Yes
Communal Living Area	As 8 boarding rooms are provided, a communal living area of 34m ² with minimum dimensions of 3m.	From the architectural plans, the internal area of the communal open area is 30.04m ² with a dimension of 3.698m	No
Communal Open Space	Total area of at least 20% of the site area with minimum dimension of 3m.	The development provides 102.61m ² of communal open space at the rear of the site. This is disconnected with the communal living area and does not exceed the required area.	No
Parking	At least 0.5 of parking space is provided for each boarding room – minimum 4 spaces,	4 spaces provided.	Yes
Motorcycle Parking	At least 1 motorcycle parking space for every 5 boarding rooms. 8 rooms requires 2 motorcycle spaces.	2 spaces provided,	Yes
Bicycle Parking	At least 1 bicycle parking space for every 5 boarding rooms. 8 rooms requires 2 bicycle spaces.	2 spaces provided.	Yes

Clause 24 of the Draft SEPP specifies that development consent must not be granted unless the consent authority is satisfied of the matters identified in the following table:

Provision	Required	Proposed	Complies
Character	The design of the development is to be compatible with the character of the local area.	As demonstrated in this report, the development is not compatible with the character of the local area.	No
GFA	No room will have a gross floor area of more than 25m ² excluding kitchen and bathroom facilities.	Boarding rooms range from 17.49m ² to 22.89m ² .	Yes
Occupancy	Not to be occupied by more than 2 lodgers.	Each boarding room is proposed to be a double room.	Yes
Facilities	Adequate bathroom, kitchen and laundry facilities provided for each resident.	Private kitchenette and bathroom provided in each room.	Yes

ITEM 1 (continued)

Size of the Boarding House	For a boarding house in the R2 zone – not more than 12 boarding rooms.	As already addressed in this report, the development does not comply with this requirement.	No
Communal Area	For a boarding house containing at least 6 rooms, at least 1 communal area is to be provided.	One common living area is provided.	Yes
Minimum Lot Size	The minimum lot size is 600m ² .	The site area is 737.96m ² .	Yes
Front/Side and Rear Setbacks	For R2 zoned land, the minimum setback requirements for multi dwelling housing under a relevant planning instrument.	Multi dwelling housing is not a permitted use in the R2 zone. As such, this clause is not applicable.	N/A
Size of Rooms	Double rooms are at least 16m ² in area.	Boarding rooms range from 17.49m ² to 22.89m ² .	Yes

Clause 25 requires that a consent authority from the date of the issue of the occupation certificate must be satisfied that the boarding house will be used as affordable housing for perpetuity. No information has been provided in the Statement of Environmental Effects to demonstrate how this matter will be satisfied.

4.4 Development Control Plans

Ryde Development Control Plan 2014

The applicable provisions of Ryde Development Control Plan 2014 (RDCP) are

- Part 2.1 Notification of Development Applications
- Part 3.5 Boarding Houses
- Part 7.1 Energy Smart, Water Wise
- Part 7.2 Waste Minimisation and Management
- Part 8.1 Construction Activities
- Part 8.2 Stormwater and Floodplain Management
- Part 8.3 Driveways
- Part 9.3 Parking Controls
- Part 9.5 Tree Preservation

The application was notified in accordance with RDCP and the submissions received are addressed later in this report.

Construction Activities, Stormwater, Driveways and Parking are addressed in the engineer's comments later in this report. It is noted that the parking controls applicable to the development are those identified under ARHSEPP and the application is compliant with the controls.

ITEM 1 (continued)

The requirements for energy and water savings are addressed by the BASIX Certificate provided with the application and are acceptable.

The Waste Management Plan does not include any information regarding either the source of fill or the destination of excavated materials. Further, the proposal does not demonstrate suitable waste management as advised by Council's Senior Resource Recovery Advisor. The proposal does not state where and how the waste and recycling bins will be presented for collection, nor does it provide sufficient bulky waste storage. Transporting the bins from the storage area at the rear of the building to the road reserve may result in conflict with vehicular and pedestrian access. These concerns are included in reasons for refusal of the application.

The impact of the development in relation to the trees has been addressed previously in relation to SEPP (Vegetation).

The requirements for Boarding Houses are addressed following.

Part 3.5 Boarding Houses

Part 3.5 addresses boarding houses and is applicable to the assessment of the application other than when the provision is inconsistent with the requirements of ARHSEPP, in which case those requirements override the provisions of RDCP. The following table provides an assessment of the application against the provisions of Part 3.5.

Provision	Required	Proposed	Complies
Design and Local Area Character	Compatible with character of local area, consider – <ul style="list-style-type: none"> • Predominant building type • Predominant height • Predominant front setback and landscape • Permissible FSR and site coverage • Predominant spacing of buildings • Predominant parking arrangement • Predominant side setbacks • Predominant rear setback 	This has been addressed in relation to ARHSEPP and the development is not considered to be compatible with the character of the local area. With regard to side setbacks, the development breaches the setback control on the southern side with only a 900mm setback at ground level. The breach results in the inability to provide appropriate landscaping to visually soften the bulk of the building, including as viewed from the street as the building projects well forward of the adjoining dwelling to the south.	No
	Within vicinity of heritage item needs to be sympathetic to heritage significance	The site is not within the vicinity of a heritage item.	Yes

ITEM 1 (continued)

Size and Scale	Must demonstrate satisfactory <ul style="list-style-type: none"> • Overshadowing and privacy • Streetscape • Building setbacks • Parking and traffic impact • Landscape • View impacts • Impact on trees • Suitable lot size, shape and topography 	<p>Poor levels of privacy between the 2 proposed developments are provided. Concerns are also raised in relation to privacy impacts upon adjoining properties, particularly in the absence of adequate detailing of fencing.</p> <p>The cumulative impact of the 2 developments is a significant increase in shadowing of 12 Ryedale Road. In the absence of hourly shadow diagrams and elevation shadow diagrams, the full impact of the shadowing cannot be determined. The additional information was not requested given the significant number of concerns with the design of the proposal.</p> <p>As has been discussed elsewhere in this report the design of the building is not considered appropriate in the streetscape or in relation to its visual bulk as viewed from 12 Ryedale Road.</p> <p>The design contains inadequate landscaping to provide an appropriate setting for the scale and length of the building.</p> <p>The impact of the development upon trees cannot be determined in the absence of a suitable arboricultural report.</p> <p>The narrow width of the site makes it very difficult for a successful design for a boarding house.</p>	No
Parking and Traffic	Parking is not to be located within communal open space or landscape areas	The parking is poorly located and not appropriately separated from the communal open space or common room.	No

ITEM 1 (continued)

Privacy and Amenity	Main entrance to be located and designed to address street.	<p>The main entrance fronts the street but given the lack of a front door once a person enters the premises, they could approach any boarding room, the common room or the common open space.</p> <p>The site is also not separated from the boarding house on proposed Lot 14A, the subject of a concurrent application. This affords an unacceptable level of privacy and security for both developments.</p>	No
	Access ways to front entrance located away from windows of boarding rooms for privacy.	The design has an external walkway providing access to the ground level boarding rooms, with windows and side windows to the doors facing the walkway for three rooms. The windows will result in an unacceptable level of visual and acoustic privacy to the rooms.	No
	Designed to minimise privacy impacts on neighbours	<p>The boarding house has not been appropriately designed to minimise privacy impacts between the two developments or in relation to adjoining properties for the reasons already addressed in this report. It is noted that the elevations appear to show the communal open space area being elevated above ground level which may result in privacy impacts to the pool of 12 Ryedale Road, but in the absence of RLs for this area the impact cannot be determined.</p> <p>It is also noted that a 3m high acoustic wall has been recommended to ensure appropriate acoustic amenity to neighbours. Such a wall is an inappropriate and visually uncharacteristic element in a low density residential area.</p>	No

ITEM 1 (continued)

Accessibility	All boarding house developments to be accompanied by accessibility report.	An access report has been prepared to accompany the application. The design provides an accessible path of travel into the site and within the site to the communal room and communal open space. However, the path of travel requires occupants to use a chair lift to enter and exit the premises which is considered to provide a substandard level of access that is cumbersome for the user. Given it will be used a number of times each day the option of using a chair lift is unacceptable and the design should incorporate a ramp. Concern is also raised that the accessible path of travel is external and uncovered and requires a person to cross the driveway to access the communal open space. The communal open space is grassed, appears to be sloped and not designed to be suitably accessible.	No
Waste Minimisation and Management	Required in accordance with DCP	This has been addressed previously in the report and is acceptable.	Yes
Sustainability and Energy Efficiency	BASIX Certificate required	BASIX Certificate provided	Yes
Internal Building Design	Must make provision for laundry facilities, communal food preparation facilities, sanitary facilities and storage areas.	Each boarding room has a bathroom, washing machine and storage. The proposed communal room has a kitchen. It is unclear whether clothes lines are proposed.	In part, could be addressed by condition
	Safety to be optimized by providing for overlooking of communal areas, provision of lighting and providing clear definition between public and private spaces.	The design does not provide for adequate separation between the boarding house and the separate boarding house on proposed Lot 14A, subject of a concurrent application. As such, persons related to the other boarding house or visitors to that boarding house could access the common open space, common room and walkways	No

ITEM 1 (continued)

		to all dwellings which affords a poor level of safety and security.	
Bedrooms	<p>Not to open directly onto a communal area</p> <p>Must comply with ARHSEPP Minimum 2.1m² required for basin and toilet plus 0.8m² for shower, 1.1m² for laundry which must include a tub and 2m² for a kitchenette. Kitchenettes must have small fridge, cupboards, shelves, microwave and 0.5m² of bench space.</p>	<p>Boarding room are designed with windows beside doors and other windows opening onto a common external corridor which affords a poor level of safety and privacy.</p> <p>Rooms comply with ARHSEPP</p> <p>The boarding rooms are of adequate size</p> <p>Kitchenettes have adequate facilities.</p>	In part
Communal Living Room	<p>Locate adjacent to communal open space to minimise impact on neighbours</p> <p>Minimum size 15m² plus additional 15m² for each additional 12 persons Openings to be oriented away from adjoining residential properties.</p>	<p>The common room is located adjacent to the common open space but is poorly designed and oriented towards the parking area with no direct connectivity to the common open space.</p> <p>36.73m² - complies</p> <p>The common room has a window adjacent to the adjoining dwelling to the south which is inappropriate and may lead to unacceptable acoustic impacts.</p>	No
Communal Kitchen and Dining Areas	<p>To be in an accessible location Area to be minimum 6.5m² or 1.2m² per resident that does not contain a kitchenette and provide one sink and stove top cooker per 6 people Combined kitchen/dining areas to have minimum 15m² area</p>	<p>The common room is accessible.</p> <p>The common kitchen is of appropriate size however should be provided with an oven and four hob stove top. This could be conditioned.</p> <p>Common room is of adequate size.</p>	In part, compliance could be conditioned
Bathroom	Communal bathrooms must be accessible 24 hours a day.	No communal bathrooms	N/A
Laundry and Drying Facilities	Outside drying areas shall be located in communal open space	No external drying area identified.	No

ITEM 1 (continued)

Management	Required to be managed Plan of Management Required	The Plan of Management provided is not consistent with the requirements of Part 3.5. See following comments.	No
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Plan of Management

The Plan of Management is inadequate and should be amended as follows to ensure the protection of the amenity of surrounding residents and boarders:

- Section 3.2 should to include a requirement for copies of Occupancy Agreements to be made available to Council upon request.
- Section 3.6 should to require no visitors to be onsite between the hours of 10pm and 8am.
- Section 3.7 point j should to be amended to include the provision of an oven in the communal room.
- Section 3.7 point l should to specify a minimum of 6 dining chairs and lounge seating for a minimum of 4 people.
- Section 3.7 point m should to specify a minimum of 6 chairs and include a BBQ.
- Section 3.7 point m should to be amended to prevent use of the outdoor communal area before 8am and to delete reference to its use on New Year's Eve.
- The Plan of Management should include all noise attenuation measures recommended in the acoustic report.
- The Plan of Management should include a section addressing the use and allocation of the accessible rooms with prioritization being given to persons with disabilities requiring use of the rooms.
- The Plan of Management should include a section indicating all parking onsite is to be available on a first come first use basis, is not to be allocated to boarders and is not to incur an additional charge, the exception being accessible spaces which may be allocated to persons with a disability sticker on their car and at no additional cost.
- Section 3.9 should be amended to require gardening at least every month, with increased maintenance in the hotter periods of the year.
- Section 3.13 should be amended to permit assistance animals.
- Section 3.14 should be amended to require the written consent of Council to amend the Plan of Management.
- Section 4.1 should be amended to specify the Boarding House Managing Agent is to be contactable 24/7 and is to respond immediately to any complaint of a criminal nature including, but not limited to, threats of violence, acts of violence, sexual assault, drug usage.
- Section 1.3 of house rules should be amended to change the hours to 8am to 10pm any day;

ITEM 1 (continued)

- Section 1.6 of the house rules should be amended to identify a suitable area for smokers that will not detrimentally impact boarders or surrounding residents to prevent the use of the street for smoking.
- Section 2.7 of the house rules should be amended to prevent visitors from being onsite between 10pm and 8am.
- Section 3.2 of the house rules should change the hours of use of the communal outdoor space to between 8am and 10pm.
- Definitions should be included.
- Requires the front door to be locked by residents where there isn't one.
- The Plan of Management should be amended to include emergency contact information.
- The Plan of Management should be amended to include the provision of an emergency landline phone.

Part 9.2 Access for People with Disabilities

The issue of accessibility has already been addressed in the report under the heading of Part 3.5 Boarding Houses.

4.5 Planning Agreements OR Draft Planning Agreements

The application is not the subject of any planning agreements or draft planning agreements.

4.6 Section 7.11 Development Contributions Plan 2020

Any approval would be subject to a condition in relation to contributions.

4.7 Any matters prescribed by the regulations

All matters prescribed by the regulations have been considered in the assessment of the application.

5 The likely impacts of the development

The impacts of the development have been considered throughout this report.

6 Suitability of the site for the development

The narrowness of the site and its interrelationship with the adjacent access handle to proposed Lot 14A make provision of a boarding house on the property more problematic and difficult to design in a manner that provide adequate privacy and security. The proposed design is not suitable for the site.

ITEM 1 (continued)**7 The Public Interest**

Given the above assessment, it is not considered that approval of the application would be in the public interest as the site is not suitable for the proposed boarding house.

8 Submissions

The application was notified between 21 April – 12 May 2021. In response to the notification, 81 submissions and a petition with 290 signatures were received. It is noted that the notification occurred in conjunction with the notification for the development on proposed Lot 14A and as such some of the concerns raised following relate to the other development application. The concerns raised in the submissions are summarised and addressed following.

Design is out of character with the area/ inappropriate architecture/ gated fencing out of character/ inadequate front setback/ design looks like a motel/ design looks like a commercial building

Comment: This concern is concurred with as has been discussed in the report.

Excessive density/ more than 12 rooms in a R2 zone not permitted/ the subdivision isn't registered/ overdevelopment

Comment: This concern is concurred with as has been discussed in the report.

Inadequate parking

Comment: The proposal provides parking in accordance with the requirements of ARHSEPP, however concern is raised in relation to access to the parking as is discussed within the report.

Traffic impact/ impact upon intersection with Elston Avenue/ no assessment of maneuverability in parking areas/ the access handle is 63m long and there area no passing bays

Comment: Council's Traffic Engineer has not raised any concern in relation to these traffic impacts.

Should have a boarding house manager

Comment: This concern is concurred with as has been discussed in the report.

Proposal is a commercial use in a residential zone

Comment: A boarding house is a residential use and is permissible in the zone.

ITEM 1 (continued)

Loss of property value

Comment: This is not a matter that can be considered in the assessment of the application.

Inadequate notification

Comment: The notification of the application is consistent with the provisions of the DCP.

The proposal overlooks neighbouring properties

Comment: Concerns in relation to privacy are concurred with and are addressed elsewhere in the report.

Impact upon trees/ safety of construction under trees/ impact upon remnant Blue Gums and wildlife/ Loss of Black Bean tree/ acoustic report does not address the impact of the development upon the adjoining trees

Comment: This concern is concurred with as has been discussed in the report. It is noted that approval has already been granted for the removal of the Black Bean tree under the consent for the subdivision.

Will result in unacceptable noise impacts/ the plans do not show the acoustic fence or air conditioner locations as per the acoustic report/ 3m high acoustic fence is inappropriate/ impact of driveway upon 16 Ryedale Road/ no assessment has occurred in relation to the noise impact between proposed Lot 14 and proposed Lot 14A/ acoustic report does not address impact upon residents of railway/ acoustic report does not use standard terminology/ acoustic report does not address standard time periods in its assessment/ acoustic report does not address plant or construction noise/ speed hump will increase noise

Comment: This concern is concurred with as has been discussed in the report. The acoustic report accompanying the application is not adequate and the proposed 3m high acoustic fence is inappropriate.

Inadequate bin storage is provided/ where will the bins be placed for collection/ will result in illegal dumping of furniture/ no waste management plan for construction

Comment: This concern is concurred with as has been discussed in the report.

ITEM 1 (continued)**Concerned about the type of resident/ COVID impact of high density living**

Comment: There is no evidence to suggest the type of occupant would have a detrimental impact upon the amenity of the area. The COVID pandemic is not a reason to refuse applications for boarding houses.

Shadow impact upon 12 Ryedale Road/ should provide elevation and hourly shadow diagrams

Comment: This concern is concurred with as has been discussed in the report.

Inconsistent with changes proposed for the SEPP

Comment: Whilst it is acknowledged that a review of ARHSEPP is being undertaken, there is no draft SEPP which is a matter for consideration at the moment.

Loss of community spirit/ already enough boarding houses in West Ryde

Comment: These are not matters for consideration in the assessment of the application.

Lack of privacy for boarders/ poor internal amenity/ the boarding rooms have poor internal amenity due to privacy mitigation measures/ acoustic impacts

Comment: This concern is concurred with as has been discussed in the report.

Not located in proximity to facilities

Comment: This is not a locational requirement under ARHSEPP.

Precedence

Comment: The application and any future applications would need to be considered on their merits.

Concerns with impact of smokers

Comment: This concern is concurred with as has been discussed in the report.

There is a conflict of interest as there is a Council logo on the plans

Comment: It is unclear as to why there is a Council logo on the plans. However, notwithstanding this, the application is being assessed by an independent town planner and as such there is no conflict of interest.

ITEM 1 (continued)
Lack of side setback

Comment: The lack of side setback for the building is inconsistent with the provisions of the DCP.

No consideration has been given to impact upon the creek and its riparian zone at the rear in Symon's Reserve due to scouring/ impact of extent of hard surfaces and runoff/ impact upon flora and fauna in Symon's Reserve/ doesn't address overland flow/ site and reserve are occupied by a Powerful Owl family and echidna

Comment: These concerns are more relevant to the other application, however stormwater has been addressed in the Engineer's comments within this report.

Bushfire impact and need for evacuation has not been addressed

Comment: The site is not identified as being bushfire prone.

Sedimentation plans do not address impact upon 12 Ryedale/ do not divert upstream water around development/ do not prevent soil being deposited on Ryedale Road

Comment: Council's Engineer has not raised concerns with the proposed sedimentation plan.

Doesn't address ISEPP in relation to proximity to railway

Comment: This concern is concurred with as has been discussed in the report.

Breach of rear setback

Comment: This concern appears to relate to the other application.

No safe pedestrian access to proposed to Lot 14A

Comment: This comment relates to the other application.

Overlooking of 16 Ryedale Road from common room

Comment: In the absence of detailed fencing information, this privacy concern is concurred with.

Impact of fill adjoining swimming pool at 12 Ryedale Road reducing compliance of swimming pool fence/ impact upon pool of adjacent communal open space

Comment: In the absence of RL information for the common open space area this concern cannot be addressed.

ITEM 1 (continued)**Impact of leaf drop into pool of 12 Ryedale Road**

Comment: The tree in proximity to the pool is an existing tree and the existing impact of this tree is not altered by the proposal.

Retention of existing boundary fences will not ensure privacy as they are in part mesh fences

Comment: This concern is concurred with as has been discussed in the report.

Bin storage opposite living room of 12 Ryedale Road

Comment: The location of the bin store is not of concern as it fully enclosed by a wall and roof at the southern side, providing protection to 12 Ryedale Road.

No identity for 14A from the street/ where will the letterboxes go?

Comment: This concern relates to the other application.

Cars reversing out of the parking spaces on proposed Lot 14 will need to traverse proposed Lot 14A/ insufficient maneuvering area within car park

Comment: This concern is concurred with and in the absence of a right-of-way over proposed Lot 14A the maneuvering space for the car parking spaces is inadequate.

The arborist report does not address the current proposal

Comment: This concern is concurred with as addressed in the report.

The electronic gate prevents egress in case of fire

Comment: This concern is concurred with but could be addressed by condition.

No bicycle parking is provided for proposed Lot 14A

Comment: This concern relates to the other application.

The POM refers to basement parking/ hours of use of common open space too long/ who will manage acoustic measures when there is no onsite manager/ doesn't allocate parking

Comment: A number of concerns exist with the POM as have been identified in the report. It is noted that it is preferable that parking is not allocated such that it is used as much as possible, reducing impact upon on-street parking.

ITEM 1 (continued)

Sign with details of manager of proposed Lot 14A won't be able to be seen from the street

Comment: This concern relates to the other application.

The initial subdivision is invalid as it was based on false information.

Comment: No information has been submitted to substantiate this claim.

Site is not suitable as it is a battle-axe lot

Comment: This concern relates to the other application.

The elongated design, which is elevated, uninterrupted, poorly articulated and has no meaningful landscaping has a detrimental impact on the outlook from 12 Ryedale Road

Comment: This concern is concurred with as addressed in the report.

Proposed Lot 14 has inadequate width for a boarding house

Comment: This concern is concurred with as addressed in the report.

Impact of lighting in car park

Comment: This concern could be addressed by conditions.

Not legal to approve as subdivision has not been registered

Comment: This concern could potentially be addressed by a deferred commencement condition.

9 Referrals

External Referrals

Sydney Trains

The site is in proximity to the Northern Line heavy rail corridor and as such the application was referred to Sydney Trains as required by Clause 96 of SEPP (Infrastructure). The following comments were received in response to the referral:

Council is advised that Sydney Trains, via Instruments of Delegation, has been delegated to act as the rail authority for the Northern Line heavy rail corridor and to process the review for this development application.

ITEM 1 (continued)

As such, Sydney Trains now advises that the proposed development has been assessed in accordance with the relevant Transport for NSW Assets Standard Authority standards and Sydney Trains requirements. To ensure that the proposed development is undertaken in a safe manner Council is now requested to impose the conditions provided in Attachment A.

Comment: The requested conditions should be included in any consent granted for the application.

NSW Police

The application was referred to NSW Police for comments with regard to crime prevention. In response NSW Police provided the following comments.

Police noted that there was no CPTED report contained within the application. The applicant has not adequately addressed the issue of Crime Prevention.

Police request that a detailed CPTED report be included in all new development applications. The report must include details of how the applicant will address each criteria of the Safer by Design principles. It should not just state that they have been 'addressed'. The report should provide in depth details of how the principles have been addressed, and what measures have been put into place to ensure that all principles have been covered. For example: Lighting should cover the type of lighting that is to be installed and a detailed lighting report should be included.

In residential unit complexes and boarding houses, theft from mailboxes within the Sydney Metropolitan area is a growing concern that can lead to fraud and identity theft. Police request that the design of the mail boxes in unit complexes/boarding houses are to be designed in such a way that the mail can be placed into letter boxes from outside of the building however the mail can only be accessed by the residents from within a secure mail room inside a secure building with access to residents only. There should also be a facility to leave larger sized parcels in a secure area of the building so that they are not left outside where they can be stolen.

Police request that all buildings have CCTV installed both internally and externally around the buildings. The quality of the CCTV is crucial and should be such that it can identify a person or vehicle. The positioning of CCTV is also crucial, and it is recommended that applicants of new developments seek the services of a professional security consultant when determining the layout of cameras.

Once this CPTED report has been completed, police would like the opportunity to review the report and make comment as required.

Comment: Given the number of concerns with the application, this additional information was not sought from the applicant.

ITEM 1 (continued)**Structural Engineer - Cardno**

As the site is located in an area of land instability, the application was referred to Cardno for comments and the following response was received.

1. *Part of the subject site of this application are indicated on Council's maps as being at risk of slope instability. Council's normal policy for sites indicated on Council's maps as being at risk of slope instability is to require the applicant to provide a geotechnical report that assess the risks of slope instability to both property and to life and that recommends procedures by which the assessed risks can be appropriately minimised.*
2. *This application is for the construction of part single, part double storey, 8 room plus communal area new generation boarding house.*
3. *The architectural drawings submitted with this application indicate that minimal excavation will be required and that filling to a maximum depth of about 1.5m may be required if non-suspended ground floor slabs are utilised.*
4. *Submitted with this application stormwater drainage plans and drainage details prepared by Engineering Studio Civil and Structures.*

Shown thereon is that all stormwater falling on the roof of the proposed building is to be collected and piped to a below ground combined OSD and rainwater reuse tank.

Stormwater falling on impermeable surfaces around the proposed building together will outflow from the OSD tank is shown to be collected and piped to discharge in the proposed dispersal drain across a contour at the rear of the site.

5. *Also submitted with this application was a geotechnical report dated 1 February 2021 by Ideal Geotech (Ideal). In this report below ground conditions were described as topsoil to a depth of about 0.4m, overlying natural silty clay up to about 1.9m, overlying extremely weathered shale.*

In Table 2 of the Ideal report is a summary of risk to property and life for four assessed hazards. In all cases the risk posed by the development is assessed as low to very low.

Ideal advise that the site is currently in a stable condition and that in their opinion the site is suitable for the proposed dual boarding house development and will not be subject to subsidence, slip, or slope failure provided all recommendations presented in their report are adhered to and that construction is carried out in accordance with good engineering and hill slope practices.

Cardno assesses that the Ideal report dated 1 February 2021 complies with Council's normal requirements for geotechnical reports submitted in relation to developments on sites indicated on Council's maps as being at risk of slope instability.

ITEM 1 (continued)

Should Council's officers decide to approve this application, Cardno recommends that this approval be conditioned requiring that all design works and all construction works be executed in full compliance with all of the recommendations in the Ideal Geotech report dated 1 February 2021.

Landscape Architect and Arborist

The application was referred to Council's Consultant Landscape Architect and Arborist for comments in relation to landscaping and the following response was received.

The application in its current form cannot be supported given the proposal fails to provide a sufficient level of Arboricultural information to complete the assessment.

The Arborist Impact Assessment (AIA) submitted as part of this Development Application is considered out of date, being produced on the 18th September 2019 (more than 12 months ago).

The submitted AIA also references and relies upon architectural plans that relate to a different building footprint and design when compared to the architectural plans submitted as part of the development application for the subject site, LDA2021/0122 - (refer to Figure 1 below which indicates different proposed building footprint and inclusion of double driveways).

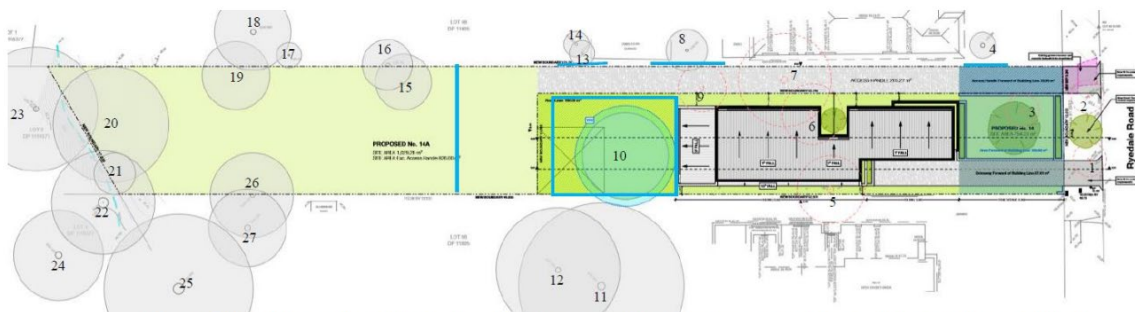


Figure 1: Proposed Site Plan & Tree Protection Plan (Source: The Ents Tree Consultancy Arborist Report, 2019)

As such, it is recommended that the following content be included in a letter to the applicant requesting further information:

Outdated Arboricultural Impact Assessment: *The Arboricultural Impact Assessment (AIA) prepared by the The Ents Tree Consultancy dated 18th September 2019 is greater than twelve (12) months old and is therefore considered out of date and unable to be relied on for accurate site information to complete a full assessment. As such, an updated AIA specifically related to the subject development application, must be submitted to ensure accurate and current site and tree data is captured and assessed. Reports covering more than one development application will not be accepted and information not relevant to the subject application must not be included to ensure clarity.*

ITEM 1 (continued)

Inaccurate Assessment of Impacts *The building works and proposed development design referenced in the Arboricultural Impact Assessment prepared by the The Ents Tree Consultancy dated 18th September 2019 do not relate to the architectural plans and design submitted. To enable a full assessment of the proposal to be carried out, a revised Arboricultural Impact Assessment prepared in accordance with the City of Ryde Tree Management Technical Manual must be submitted to Council which relates to the current proposed building design, landscape arrangements, stormwater design and driveway footprints.*

Comment: Given the number of concerns with the application, this additional information was not sought from the applicant.

Internal Referrals

Senior Development Engineer

Stormwater

The proposed stormwater management system for the development discharges to natural waterway at the rear of the property via a dispersal system and incorporates an onsite detention system. The proposed point of discharge was considered in LDA2019/100 and found to be acceptable.

A review of the plan has noted the following matters;

- The subdivision of the site will require the creation of a drainage easement over any drainage services which traverse the alternate lot. In this regard, the stormwater plans have not paid any heed to simplifying easements for the subdivision. Essentially the drainage system for each lot should be kept separate. For example, the subject site discharges to the driveway, which is owned by the rear lot, and will require an easement over the downstream portion of the system. This easement would not comply with the requirements of the DCP in terms of building setbacks and is likely to complicate maintenance of the future system. The matter could be resolved by segregating the systems and limiting the discharge of the front lot through one drainage line along the southern boundary. This could be addressed by condition.*
- The applicant has implemented an onsite detention system calculated utilising DRAINS software. This is not compliant with the DCP and the OSD must be designed using Council's simplified method.*

As a culmination of both the above matters, the consultant's estimations of contributory catchments to each OSD will need to be adjusted. It is apparent that the subject property will have a hardstand catchment of 510.9m². This would warrant a detention storage of 13m³ be provided, requiring a further 5m³ (5000L) storage. This could be readily provided by a second tank adjoining the one proposed in the hardstand area.

ITEM 1 (continued)

These matters could be dealt within the standard condition of consent regarding stormwater management.

Public Domain

The proposed development would warrant reconstruction of the existing driveway and the public domain infrastructure fronting the site, due to the intensification of development on the lot.

Vehicle Access and Parking

A review of the vehicle parking and access notes;

- *The driveway has provided an overtaking bay at the entry to facilitate two-way vehicle movements at the intersection with the road frontage. This is as per the original subdivision and is acceptable.*
- *The access aisle fronting CS1 & CS2 is nominated as 4.74m wide and is less than the minimum required by AS 2890.1 for open parking areas. The applicant has not provided any swept path analysis however an inspection with AS 2890.1 turn templates notes that the spaces appear viable with drivers being able to reverse in and exit in a forward manner. This ideally should be clarified by the applicant. See figure below.*

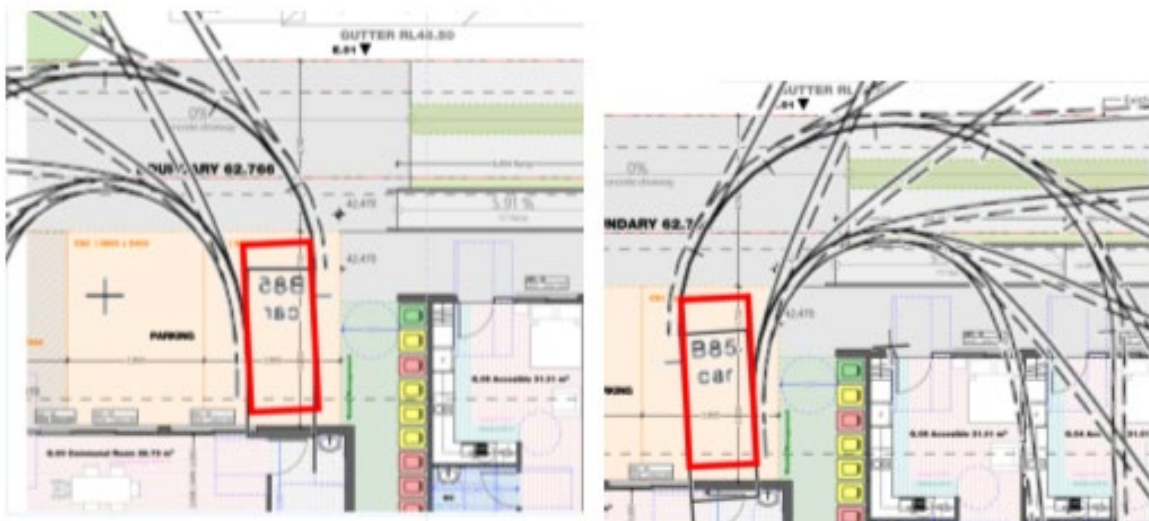


Figure depicting a reverse in manoeuvre and then forward exit.

- *It is evident that vehicles accessing spaces on the subject lot will be to traverse the alternate lot and therefore will require the registration of a ROW over the access paths. This has not been proposed in the approved plans of LDA2019/100 and will therefore need to be addressed, potentially by a condition of deferred commencement.*

ITEM 1 (continued)

- *It is noted that Council's Traffic Section has drawn concern regarding the length of the driveway and the limited opportunity for passing movements. With reference to AS2890.1, Clause 3.2.2, the standard is not overly prescriptive in this regard noting, "on long driveways, passing opportunities should be provided at least every 30m.". The Standard goes on to mention that sight distance and traffic volumes are relevant factors to consider. In this case, a conflicting vehicle flow would only occur when a driver attempts to access the drive when there is another vehicle on it. As the driveway configuration provides a waiting bay at either end (the open parking area on No. 14A and the driveway entry) the driver entering therefore is likely to remain in the waiting bay until the opposing vehicle passes. Notwithstanding this, the midsection point is nominated to be 4.74m wide and should (in theory) provide 930mm of clearance when subtracting the width of the B99 (1.94m width) and the B85 (1.87m) design vehicles. The 930mm would theoretically allow 300mm clearance on either side and between the vehicles. The Standard does specify two way access aisles and entry points are to be 5.5m wide minimum however this is in relation to public carparks where drivers may not be familiar with parking layout or in locations where efficient manoeuvring is required (such as the entry from the road). Both of these factors are not evident with this development.*
- *Parking space CS3 requires the use of the shared area for compliance with AS 2890.6 (Disabled Parking Spaces). This requirement extends beyond the scope of a legal instrument which typically encompasses Right of Way's and presents significant concern whether the measure will be retained forever in the future.*
- *Efficient access to parking space CS4 is imposed upon by the presence of the ramp adjoining the driveway. A vehicle would not be able to enter the space in a single forward movement nor would it be able to exit similarly should the driver reverse into the space.*

In regard to parking demand, the development provides 8 boarding rooms and therefore in accordance with the SEPP (ARH) for boarding houses, would warrant provision of 4 parking spaces, 2 motorbike parking spaces and 2 bicycle spaces. This has been provided on site.

Comment: The above concerns are included in reasons for refusal of the application.

Environmental Health

The application was referred to Council's Environmental Health Officer for comments in relation to acoustic impact and waste management. The following response was received:

ITEM 1 (continued)**Acoustic**

An acoustic assessment prepared by Issa Makdissi dated 19 February 2021 has been assessed and the following concerns are raised.

- 1. The established background noise levels were determined by taking 45-minute readings, rather than long term unattended noise monitoring.*
- 2. The established background noise level is reported to 45.4 dBA.*
- 3. There is no assessment of noise and vibration from rail noise on the proposed development and the rear of the proposed site is immediately adjacent to Denistone train station.*

The rating background noise level can revert to the default background noise levels available in the Noise Policy for Industry however, the assessment fails to document whether the development does or can be made compliant with the Noise Policy for Industry.

The main concern with this is that there is consideration of noise and vibration impacts from rail noise. Given this is a requirement of the Infrastructure SEPP and proximity to the rail corridor, I recommend a revised acoustic report be prepared.

This application cannot be supported and requires the preparation and submission of an additional acoustic assessment report that addresses the following requirements:

1) Acoustic Report Adjacent to Rail Corridor – Infrastructure SEPP

Clause 87 of the Infrastructure SEPP indicates for the purposes of building for residential use that the consent authority must not grant consent to the development unless it is satisfied that the appropriate measures will be taken to ensure that the following LA_{eq} levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am*
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

To ensure and outline the construction measures required to be incorporated within the development an acoustical investigation of the proposal is to be provided a suitably qualified acoustical consultant that demonstrates that the above LA_{eq} levels will not be exceeded.

2) Acoustic Report (NSW EPA Noise Policy for Industry)

An acoustical investigation of the proposal is to be undertaken by a suitably qualified acoustical consultant describing and assessing the impact by the proposal.

ITEM 1 (continued)

*The acoustic report shall be based on the requirements of the **NSW EPA Noise Policy for Industry** as well as relevant Australian Standards. (Particular regard shall be had to the intrusive and amenity noise criteria).*

The investigation shall include:

- (a) The identification of sensitive noise receivers potentially impacted by the proposal*
- (b) Details of the existing acoustic environment at the receiver locations*
- (c) The identification of operational noise producing facets of the development and the proposed mitigation techniques to be implemented to ensure that the proposed use does not impact on the amenity of the area*
- (d) A statement indicating that the development is capable of complying with the criteria together with details of acoustic control measures that will be incorporated into the development.*

Waste Management Plan

A waste management plan has been submitted with the application, addressing all stages of the development including demolition, construction and operation.

The waste management plan has not detailed that there is any asbestos containing material. However, based on the age of the dwelling to be demolished it is likely to contain asbestos containing materials within the structures. Standard conditions can be applied for this.

Comment: Given the number of concerns with the application, this additional information was not sought from the applicant.

Building

The application was referred to Council's Building Surveyor for comments. In response, no objections to the application were raised subject to recommended conditions.

Senior Resource Recovery Advisor

The proposal was referred to Council's Senior Resource Recovery Advisor with respect to waste management for the site. The following comments were provided:

The subject development application proposes the construction of an affordable housing development containing eight (8) self-contained dwellings, with a gated entry off Ryedale Rd with the driveway going the full length of the property to access a property at the rear of the site. The bin storage area is located towards the rear of the development. Adequate space is shown on the plans for bins however the space for the bulky waste is not adequate.

ITEM 1 (continued)

- *The Waste Management Plan does not state where and how the bins will be presented for collection. Please provide further details.*
- *If the property is to be a domestic rated property, then the bins will need to be provided and serviced by Council's Waste contractor. Provide clarify.*
- *Although there is a bulky waste area provided it is not large enough to hold a bed, fridge etc. It needs to be enlarged to provide an area of 5m².*
- *The bin storage area is at the rear of the property so transportation of bins to the kerbside for collection is likely to be an issue along with access by residents. It is recommended that the bin storage area is moved to the front of the building.*

Comment: The above concerns are included in reasons for refusal of the application.

10 Conclusion

The proposed design is considered to be unacceptable due to the following and is recommended for refusal.

- Inadequate front setback.
- Unacceptable landscaped setting.
- Design is uncharacteristic of the area in relation to flat roof, high security gate, length of building, colours and materials.
- Inappropriate impact upon adjoining properties in relation to shadowing, visual bulk, visual and acoustic privacy which is exacerbated by non-compliant setback.
- Inappropriate separation from the boarding house on proposed Lot 14A results in the site 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 should be provided. Further, the 16 boarding rooms breaches the 12 maximum under ARHSEPP and as such cannot be approved.
- The inappropriate separation between the two boarding houses would result in significant security and privacy impacts upon the future residents of the development.
- Maneuvering to exit the rearmost parking space in a forward direction would require traversing proposed Lot 14A and no right-of-way exists or is proposed which would permit such legal access.
- Inadequate information submitted in relation to impact upon trees, acoustic impact of development and upon development (in relation to railway) and CPTED report.
- Stormwater management system does not provide appropriately sized OSD.
- The stormwater management system has not been designed separate from the system of Proposed Lot 14A.
- Access to the onsite parking spaces does not comply with AS2890.1, AS2890.6 and Part 3.4 of the DCP.

ITEM 1 (continued)**12. Recommendation**

- A. That Development Application LDA2021/0122 for the construction of a part 1 and 2 level boarding house to contain 8 boarding rooms for a maximum of 16 boarders and 4 parking spaces at 14 Ryedale Road, be refused for the following reasons.
1. The proposed development provides an inappropriate level of separation from the boarding house on proposed Lot 14A 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 an 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 14A, 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 14A 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 an inadequate front setback, flat roof, projecting porch, high security gates and fences (including acoustic fences), excessive building length and inappropriate colours and material. The development also does not provide a characteristic landscaped setting. 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 Ryedale Road and fails when assessed against Clause 29 of State Environmental Planning Policy (Affordable Rental Housing).

ITEM 1 (continued)

6. The design provides for an unacceptable level of privacy for the proposed boarding rooms, common open space and common room from occupants of proposed Lot 14A and their visitors.
7. The design affords an unacceptable level of amenity to the residents due to the privacy measures reducing outlook from some rooms, the inadequate privacy measures for other rooms and 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.
8. The design, which is not physically separated from the development on proposed Lot 14A and its access handle, 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 in 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 minimise privacy impacts.
10. The design affords an unacceptable level of accessibility, with the use of a platform lift to enter the premises and the provision of an inaccessible and sloped common open space area not resulting in dignified and equitable access for persons with disabilities.
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 proposal provides inadequate information in the form of hourly and elevation shadow diagrams to determine the impact of the development upon the solar access of the dwelling and private open space of 12 Ryedale Road.
13. The application provides inadequate information to allow assessment of compliance with Clause 87 of State Environmental Planning Policy (Infrastructure).
14. The application provides inadequate information to allow assessment against State Environmental Planning Policy (Vegetation) as the arboricultural report does not address the proposed development.

ITEM 1 (continued)

15. The application provides inadequate information to allow assessment against Draft Environment SEPP as the arboricultural report does not address the proposed development.
16. 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.
17. The application appears to rely upon the use of a portion of proposed Lot 14A 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.
18. The vehicle manoeuvring area provided to access parking spaces CS1 & CS2 are not compliant with AS 2890.1 Section 2.4.2 with respect to the minimum access aisle width required to access angled parking spaces.
19. The vehicle manoeuvring area provided to access parking space CS4 is 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.
20. 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.
21. 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.
22. 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 5m² in area.

ITEM 1 (continued)

- 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.
23. 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 14A);
 - 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.
24. The proposed development is not a permitted form of development in the R2 zone under Draft State Environmental Planning Policy (Housing).
- B. That the persons who made submissions be advised of this decision.

ATTACHMENTS

- 1 Architectural Plans - subject to copyright provisions

Report Prepared By:

**Kerry Gordon Planning Consultant
Kerry Gordon Planning Services Pty Ltd**

**Deren Pearson
Assessment officer – Town Planner**

Report Approved By:

**Kimberley Kavwenje
Senior Coordinator - Development Assessment**

**Sandra Bailey
Manager - Development Assessment**

**Liz Coad
Director - City Planning and Environment**