

Date of Determination	10 March 2022
Panel Members	Steve O'Connor (Chair) Jennifer Bautovich (Independent Expert) Michael Leavey (Independent Expert) Rob Senior (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 10 March 2022 opened at 5:00pm and closed at 5:40pm.

Papers circulated electronically on 3 March 2022.

MATTER DETERMINED

LDA2021/0172

6 Meriton Street, Gladesville

Proposal: Demolition of existing structures and construction of a boarding house containing 21 rooms and a manager's room with basement car parking.

PANEL CONSIDERATIONS AND DECISION

The Panel considered the matters listed at item 6, the material listed at item 7, and the material presented at meetings and briefings listed at item 8 in Schedule 1.

The Panel requests that the applicant be encouraged to actively consider a joint development on 8 Meriton Street and the subject land to assist in addressing the various concerns raised about the proposed development outlined in the Council officer's report to achieve a far better urban outcome.

DEVELOPMENT APPLICATION

The Panel determined to **refuse** the development application as described in Schedule 1, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

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

1. Pursuant to Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act 1979*, the development does not comply with the development standard of Clause 30(1)(h) parking of *State Environmental Planning Policy (Affordable Rental Housing) 2009*: No written variation request to the standard pursuant to *Clause 4.6 of Ryde Local Environmental Plan 2014* has been submitted by the applicant. As such, the jurisdictional prerequisites have not been met and consent cannot be granted to the proposal.
2. Pursuant to Clause 1.3 of *Environmental Planning and Assessment Act 1979*, the development does not satisfy Objects (a), (b), (c), (f), (g) and (h) of the Act for the following reasons:
 - The proposed development does not provide for an appropriate built form which responds to the site, to adjoining properties and to the immediate locality. Approval of the development would prevent the orderly development of the land. The proposal does not exhibit principles of good design and it would adversely impact upon the character of the area.
 - The Development Application should be refused because the proposed development would isolate the adjoining property at No. 8 Meriton Street and the subject development site ought to amalgamate with that adjoining property.
 - The development will result in No 8 Meriton Street being isolated and the applicant has failed to demonstrate that amalgamation is not feasible, and that orderly and economic use and development of 8 Meriton Street can be achieved.
3. Pursuant to Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act 1979*, the development does not comply with the Aims of *State Environmental Planning Policy Biodiversity and Conservation 2021*. An adequate arborist assessment has not been undertaken in the vicinity of the trees to be retained either on site or on adjoining properties. No relevant approvals have been obtained from the relevant owners in relation to one adjoining Camellia tree which would be adversely impacted by the proposed development. The proposal does not maintain existing tree cover outcomes and this matter has not been adequately addressed by the applicant.
4. Pursuant to Section 4.15(1)(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*:
 - *Clause 29(2)(b) – Landscape Area*, the landscape treatment of the front setback is not compatible with the streetscape.
 - *Clause 29(2)(c) – Solar Access*. There is a communal living room proposed to the rear of the site which would not receive the minimum 3 hours of sunlight between 9am and 3pm on June 21.
 - *Clause 29(2)(e) – Parking*, the proposal provides 10 car parking spaces and does not meet the required 12 spaces.
 - *Clause 29(2)(f) – Accommodation Size*. The proposal does not meet the minimum requirement for dual rooms of 16m². The proposal includes rooms 13 and 21 which are dual rooms having an area of only 13.6m².
 - *Clause 31(1)(h) – Parking*, four (4) motorcycle and four (4) bicycle spaces are proposed. The proposal does not meet the required five (5) motorcycle and five (5) bicycle spaces.
 - *Clause 30A – Character of Local Area*, the proposed built form, proportions of the building, proposed reduced front/side setbacks, landscaped setting, the bulk/scale of works on a narrow 595sqm development site and the architectural design does not respond to the existing and desired built form character for the local area.

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5. Pursuant to Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act 1979*, the development does not comply with the following clauses of *Ryde Local Environmental Plan 2014*:
- Clause 1.2 Aims of Plans (2)(b), (c) and (g). The proposal does not provide a built form, a density and a landscaped treatment which would be compatible with the immediate locality where it would present significant adverse impacts to the streetscape and existing amenity of adjoining properties.
 - The proposal is contrary to the objectives of Clause 6.2(1) Earthworks. The extent of excavation in conjunction with the proposed nil setbacks associated with the basement, is likely to result in adverse structural and tree impacts onto adjoining properties.
 - The proposal is contrary to the objectives of Clause 6.4(1) Stormwater Management. The proposed basement has not made proper allowance for the installation of a subsurface drainage system which is required to address the relevant geotechnical implications involved on adjoining properties and on the development structure itself.
6. Pursuant to Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of *Ryde Development Control Plan 2014 Part 3.5 – Boarding Houses*:
- Part 3.5 – Boarding Houses specifically:
 - Clause 1.3(2),(4),(6) and (7) – Objectives as the proposal does not satisfactorily demonstrate that the design of the boarding house would provide a high-quality development with good amenity for future occupants with restricted internal amenity of the boarding/manager/common rooms. The proposal does not provide sufficient parking spaces to ensure the operation of the boarding house is viable for future occupants. The proposed development is not considered to be of an appropriate design that is consistent with surrounding properties or the desired future character of the local area. The design of the development would have unacceptable impacts on the adjoining property to the south with respect to overshadowing, bulk/scale and restriction of outlook for adjoining properties due to the narrow and undersized nature of the subject development site.
 - *Clause 2.0 – Location and Character* in that the proposed development is not consistent with the character of the local area for the following reasons:
 - The bulk and scale of the development is not compatible with the surrounding area.
 - Inadequate landscaping/deep soil areas are provided in the front and side setback areas.
 - The proposal does not provide sufficient parking arrangements.
 - The basement design is not satisfactory and would contain adverse off-site impacts.
 - *Clause 2.3(f) – Size and Scale* in that the proposal is three storeys in height, which is compatible with other existing residential flat buildings however it would be two storeys higher than the existing adjoining single storey dwelling at No.8 Meriton Street to the south. The proposal results in unacceptable impacts on adjoining properties with respect to overshadowing and visual privacy.
 - The proposal provides for insufficient deep soil areas to the front and side setbacks which would not be commensurate with the scale of a three storey development containing 21 boarding rooms, a manager room, a common room and a large basement within this neighbourhood context.
 - *Clause 2.3(g) and (h) – Parking and Traffic* in that the proposal has a shortfall of two car parking spaces in accordance with the requirements of the SEPP (Affordable Rental

Housing) 2009. The assessment of the basement plans and associated traffic report has indicated that the design of the basement is not suitable for the subject site and this will impact on the surrounding street network.

- *Clause 3.2(a) - Privacy and Amenity* as the main entrance to the boarding house is located at the ground level with a V-shaped pathway and a single width driveway and does not address Meriton Street. The front design of the development is not supported due to the front pedestrian and one-way driveway ramp resulting in an inappropriate front landscaped treatment and adversely affecting pedestrian/ vehicular safety.
- *Clause 3.2(c) - Privacy and Amenity* as the proposal does not suitably mitigate privacy impacts on neighbours due to the bulk/scale and the minimal side setbacks of the development.
- *Clause 3.6(e)(i) – Bedrooms* in that the two dual rooms are undersized which contributes to already compromised internal amenity to be provided for future boarders and no detail is shown on plans that the kitchenettes provide for the required bench space or storage in the form of cupboards or shelves.
- *Clause 3.6(e)(v) – Laundry and Drying Facilities* in that the required amount of outdoor drying facilities has not been adequately addressed by the applicant. Inadequate information has been submitted on whether sufficient space has been allocated to outdoor drying purposes.

- Part 8.3 Driveways specifically:

- The constrained basement parking area would require vehicles to undertake an excessive degree of maneuvering to park in the designated spaces. This would discourage drivers from accessing the spaces (compounding the parking shortfall) or increase the possibility of property damage. In particular, the small parking spaces require a five point turn to enter and exit and this is not compliant with the maneuvering requirements specified in the Ryde Development Control Plan 2014 Part 8.3 - Driveways Section 4.2 control (a) which requires vehicles to enter and exit a designated space in a three point turn.
- The same control requires disabled spaces to be accessed similarly by a B99 design vehicle, which has not been demonstrated.

- Part 9.3 Parking controls specifically:

- The development present concerns regarding the structural integrity and viability of the proposed basement given the plans portray basement walls of only 150mm in thickness. These concerns include:
 - the viability of the development to support adjoining land
 - the support of the development structure itself
 - the proposed basement footprint makes no allowance for installation of a subsurface drainage system which is required to prevent geotechnical implications on adjoining property and the development structure
 - the development will likely entail installation of larger structural elements in the basement level which will impose on vehicle manoeuvring
 - The development is not compliant with AS 2890
 - The vehicle entry lacks any facility to accommodate two-way traffic flow at the entry to the site thereby requiring entering vehicles to stand in the public roadway in the event of opposing vehicle flow. This is contrary to Section 3.2.2 of AS 2890.1 which states in such instances, *“Reversing movements to public roads shall be prohibited wherever possible.”*
 - The dimension of the width of the shared area adjoining the disabled parking space (2m) is less than required by AS 2890.6 (2.4m req).

7. Pursuant to *Section 4.15(1)(b)* of the *Environmental Planning and Assessment Act 1979*, the proposed development will have unacceptable impacts on the streetscape, on the existing/desired future character of the area and on the amenity of adjoining properties due to the narrow 15.445m width and small 595sqm size of the lot. These concerns would be addressed with the subject site amalgamating with the adjoining property to the south at No. 8 Meriton to provide for a boarding house or a small residential flat development that minimises its off-site impacts.
8. Pursuant to *Section 4.15(1)(c)* of the *Environmental Planning and Assessment Act 1979*, the site is unsuitable for the site for the proposed development as the site results in an excessively bulky and out of scale building on a narrow/undersized allotment which will result in poor amenity for future occupants and surrounding properties. The proposed development represents as an overdevelopment and the subject site ought to amalgamate with the site at No. 8 Meriton Street.
9. Pursuant to *Section 4.15(1)(d)* of the *Environmental Planning and Assessment Act 1979*, submissions have been received in accordance with the Act and regulations which have been considered and which have overwhelmingly objected to the development.
10. Pursuant to *Section 4.15(1)(e)* of the *Environmental Planning and Assessment Act 1979*, the development is contrary to the public interest because it fails to achieve the objectives and requirements of the applicable environmental planning instruments.

CONDITIONS

Not applicable.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
Steve O'Connor (Chair)	
Jennifer Bautovich	
Michael Leavey	
Rob Senior	

SCHEDULE 1

1	DA No.	LDA2021/0172
2	Proposal	Demolition of existing structures and construction of a boarding house containing 21 rooms and a manager's room with basement car parking
3	Street Address	6 Meriton Street, Gladesville
4	Applicant / Owner	Joseph Panetta / Meriton Street Holdings P/L
5	Reason for referral to RLPP	<p>Contentious development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection.</p> <p><i>Schedule 1, Part 2 of Local Planning Panels Direction</i> and</p> <p>Departure from development standards</p> <p>3 - development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.</p> <p><i>Schedule 1, Part 2 and 3 of Local Planning Panels Direction</i></p>
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Affordable Rental Housing) 2009 ○ State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy - BASIX ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Ryde Development Control Plan 2014 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	Material considered by the Panel	<ul style="list-style-type: none"> • Council assessment report • Written submissions during public exhibition: 25 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support - Nil

		<ul style="list-style-type: none"> ○ In objection - Nil ○ Council assessment officer - Nil ○ On behalf of the applicant - Nil ● Christina Faulkner provided a brief submission after withdrawing her request to address the Panel.
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> ● Site inspection: At the discretion of Panel members due to COVID-19 restrictions ● Briefing: 10 March 2022 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Steve O'Connor (Chair), Jennifer Bautovich, Michael Leavey, Rob Senior ○ <u>Council assessment staff</u>: Sandra Bailey, Kimberley Kavwenje, Daniel Pearse <ul style="list-style-type: none"> ● Papers were circulated electronically on 3 March 2022
9	Council Recommendation	Refusal
10	Draft Conditions	Not applicable