



**2 OCTOBER 2019**

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**NOTICE OF MEETING**

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You are advised of the following meeting:

**THURSDAY 10 OCTOBER 2019.**

**City of Ryde Local Planning Panel Meeting No. 8/19**

**Council Chambers, Level 1A, 1 Pope Street, Ryde - 5.00pm**

## English

If you do not understand this letter, please come to the 1 Pope Street, Ryde (within Top Ryde Shopping Centre), Ryde, to discuss it with Council Staff who will arrange an interpreter service. Or you may ring the Translating & Interpreting Service on 131 450 to ask an interpreter to contact you. Council's phone number is 9952 8222. Council office hours are 8:30am to 5:00pm, Monday to Friday.

## Arabic

إذا لم تفهم محتوى هذه الرسالة، يرجى الحضور إلى 1 Pope Street، Ryde (في Top Ryde Shopping Centre)، Ryde، لمناقشتها مع موظفي المجلس الذين سوف يرتبون للاستعانة بمترجم شفهي. أو قد يمكنك الاتصال بخدمة الترجمة التحريرية والشفهية على الرقم 131 450 لتتطلب من المترجم الاتصال بك. رقم هاتف المجلس هو 9952 8222. ساعات عمل المجلس هي 8:30 صباحاً حتى 5:00 مساءً، من الاثنين إلى الجمعة.

## Armenian

Եթե դուք չէք հասկանում սույն նամակի բովանդակությունը, խնդրում ենք այցելել 1 Pope Street, Ryde (որը գտնվում է Top Ryde Shopping Centre-ի մեջ), Ryde, քննարկելու այն Քաղաքային Խորհրդի անձնակազմի հետ, ովքեր ձեզ համար կապահովեն թարգմանչական ծառայություն: Կամ կարող եք զանգահարել Թարգմանչական Ծառայություն 131 450 հեռախոսահամարով և խնդրել, որ թարգմանիչը ձեզ զանգահարի: Խորհրդի հեռախոսահամարն է 9952 8222: Խորհրդի աշխատանքային ժամերն են առավոտյան ժամը 8:30-ից մինչև երեկոյան ժամը 5:00, երկուշաբթիից մինչև ուրբաթ:

## Chinese

如果你不明白这封信的内容，敬请前往1 Pope Street, Ryde（位于Top Ryde Shopping Centre内），向市政府工作人员咨询，他们会为您安排口译服务。此外，您也可以拨打131 450联络翻译和口译服务，要求口译员与您联系。市政府电话号码为9952 8222。市政府办公时间为周一至周五上午8:30至下午5:00。

## Farsi

لطفاً اگر نمی توانید مندرجات این نامه را درک کنید، به نشانی 1 Pope Street، Ryde (در Top Ryde Shopping Centre) مراجعه کنید تا با استفاده از یک مترجم در این باره با یکی از کارکنان شورای شهر گفتگو کنید. یا آنکه می توانید با خدمات ترجمه کتبی و شفاهی به شماره 131 450 تماس گرفته و بخواهید که به یک مترجم ارتباط داده شوید. شماره تماس شورای شهر 9952 8222 و ساعات کاری آن از 8:30 صبح تا 5:00 بعد از ظهر روزهای دوشنبه تا جمعه است.

## Italian

Se avete difficoltà a comprendere questa lettera, venite in 1 Pope Street, Ryde (dentro al Top Ryde Shopping Centre), Ryde, per discutere con il personale del Comune che organizzerà un servizio di interpretariato. Potete anche contattare il Servizio di Traduzione e Interpretariato al 131 450 per chiedere a un interprete di contattarvi. Il numero di telefono del Comune è il 9952 8222. Gli orari di ufficio del Comune sono dalle 8.30 alle 17 dal lunedì al venerdì.

## Korean

이 서신을 이해할 수 없을 경우, 1 Pope Street, Ryde (Top Ryde Shopping Centre 내)에 오셔서 통역사 서비스를 주선할 시의회 직원과 논의하십시오. 혹은 통번역서비스에 131 450으로 전화하셔서 통역사가 여러분에게 연락하도록 요청하십시오. 시의회의 전화번호는 9952 8222입니다. 시의회 사무실 업무시간은 월요일에서 금요일, 오전 8시 30분에서 오후 5시까지입니다.

**Meeting Date: Thursday 10 October 2019**  
**Location: Council Chambers, Level 1A, 1 Pope Street, Ryde**  
**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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There are no LPP Planning Proposals



## **DEVELOPMENT APPLICATIONS**

- 1 83 Phillip Road, Putney - First floor addition to an existing dwelling - LDA2019/0153**

**Report prepared by:** Assessment officer – Town Planner

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

**File Number:** GRP/09/6/12/1/2 - BP19/1137

### **City of Ryde Local Planning Panel Report**

<b>DA Number</b>	LDA2019/0153
<b>Site Address &amp; Ward</b>	83 Phillip Road, Putney East Ward
<b>Zoning</b>	R2 Low Density Residential
<b>Proposal</b>	First floor additions to an existing dwelling
<b>Property Owner</b>	Kristie R Gatt & Paul J Gatt
<b>Applicant</b>	Envision Group P/L
<b>Report Author</b>	Deren Pearson – Assessment Officer
<b>Lodgement Date</b>	20 May 2019
<b>No. of Submissions</b>	No submissions received
<b>Cost of Works</b>	\$48,000.00
<b>Reason for Referral to LPP</b>	<b>Departure from Development Standard</b> - The proposed development results in a 22.28% departure from the development standard for height

**ITEM 1 (continued)**

	of buildings imposed by Clause 4.3 of RLEP 2014.
<b>Recommendation</b>	Approval
<b>Attachments</b>	Attachment 1: Draft Conditions of Consent Attachment 2: Compliance Table Attachment 3: Clause 4.6 Variation to Clause 4.3 Height of Buildings Attachment 4: Plans submitted with LDA

**1. Executive Summary**

The following report is an assessment of Local Development Application LDA2019/0153 for first floor additions to an existing dwelling at 83 Phillip Road, Putney.

This application is reported to the Ryde Local Planning Panel for determination as it proposes a departure from a development standard in excess of 10% in accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 - Directions by the Minister.

The subject site contains an existing single detached dwelling that is two storeys in height, with an attached garage and swimming pool. The proposed first floor additions are located on the northern side of the dwelling, over the existing first floor terrace. The additions would result in the dwelling being part three storeys in height, with two storeys above the attached garage.

The development contravenes Clause 4.3 of RLEP 2014 which establishes the maximum height development standard of 9.5 metres. The proposal results in a height of 11.617 metres. The proposal results in a 22.28% departure from the standard.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal would not result in any significant adverse impacts upon the streetscape or the amenity of surrounding properties. The proposal does not raise any issues that would be contrary to the public interest and it is considered to be a suitable form of development for the site.

The submitted Clause 4.6 written variation request satisfies the pre-conditions for a consent authority to allow a variation to the standard. The development application is recommended for approval subject to the recommended conditions of consent provided in **Attachment 1** of this report.

**2. The Site and Locality**

### ITEM 1 (continued)

The site is legally described as Lot 1 within DP 522583 and is known as 83 Phillip Road, Putney. The site is located on the southern side of Phillip Road and it has a total area of 1031m<sup>2</sup>. The site is a regular shaped allotment with a 24.155m frontage to Phillip Road and side boundaries to the north-east and south-west that are 42.95m in length.

The site currently contains a two storey residential dwelling with an attached garage accessed from Phillip Road (**Figure 1**) and rear swimming pool.



**Figure 1** - The site as viewed from Phillip Road

The land slopes from RL9.25 at the southern corner of the site to RL3.43 at the north-eastern corner of the site, a fall of 14.55% from the rear of the property to the front boundary. The natural ground level has been altered by excavation to accommodate the garage and plant room at basement level. The finished floor level of the garage is RL4.87. The existing ground level under the concrete slab is RL4.57. The ridge level of the existing dwelling is RL16.11.

The site is adjoined to the east, south and west by single dwellings of one and two storeys in height. There are examples of three storey dwellings in the locality. A part two and part three storey dwelling occupies the property at 77 Phillip Road. A three storey dwelling occupies the property at 1 Jetty Road, Putney.

**ITEM 1 (continued)**

The site is located opposite to Morrison Bay Park, which is adjacent to the Morrison Bay waterway.



Figure 2 - Aerial photograph of site

**3. The Proposal**

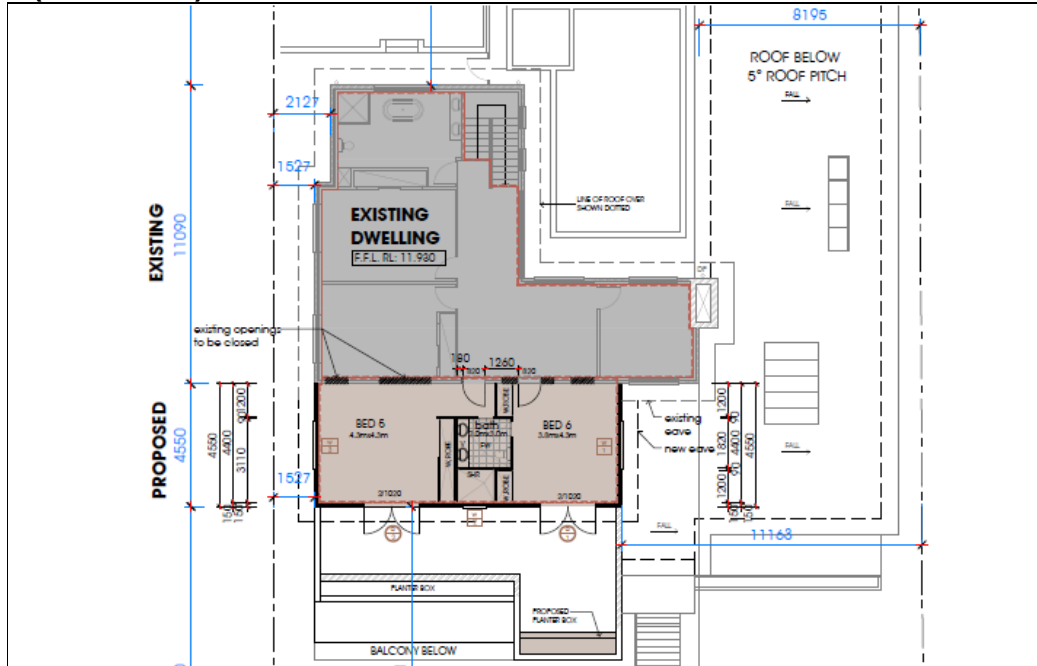
The proposal seeks consent for alterations and additions to the first floor of the existing dwelling. The proposed works include:

- Demolition of the existing first floor pergola and blade wall on the northern side of the first floor of the dwelling;
- Addition of two bedrooms and a bathroom to the northern side of the first floor of the dwelling, over the existing terrace area; and
- Proposed planter box at the far northern end of the first floor terrace.

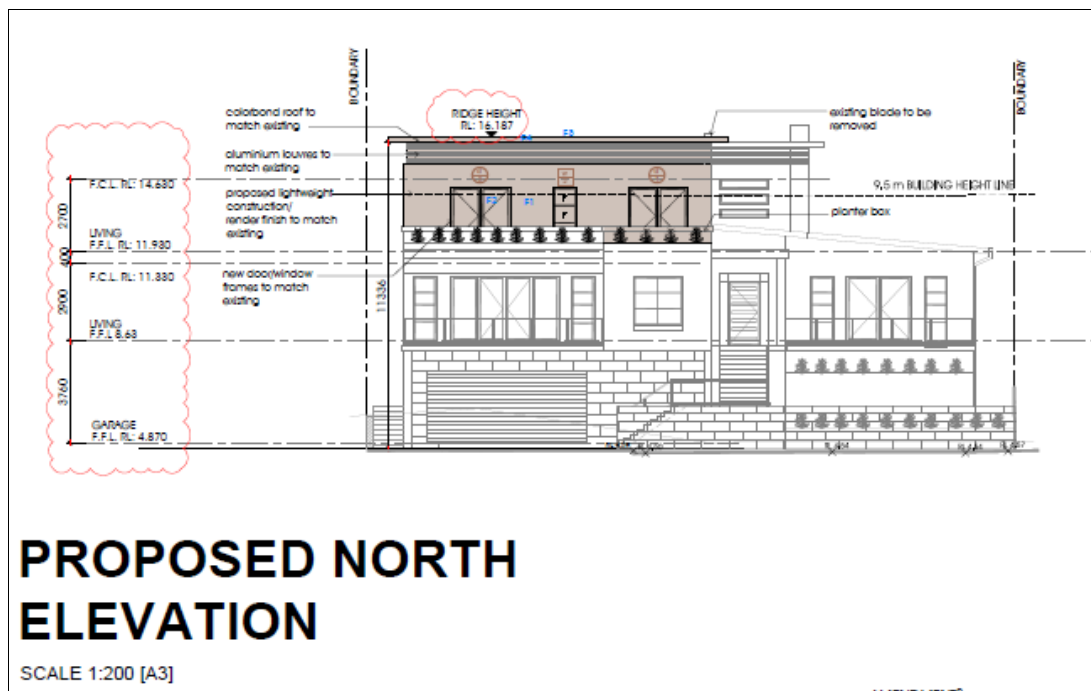
**Figures 3 to 6** below are the first floor plan and elevations of the proposed first floor additions.



**ITEM 1 (continued)**



**Figure 3 - Proposed Floor Plan**



**Figure 4 - Proposed North Elevation - View from Phillip Road**

**ITEM 1 (continued)**

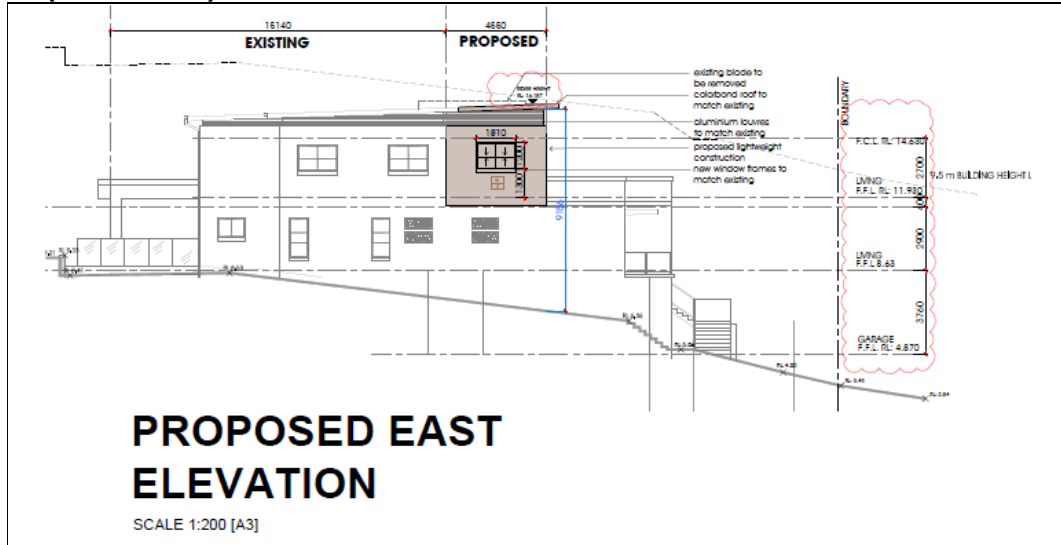


Figure 5 - Proposed East Elevation

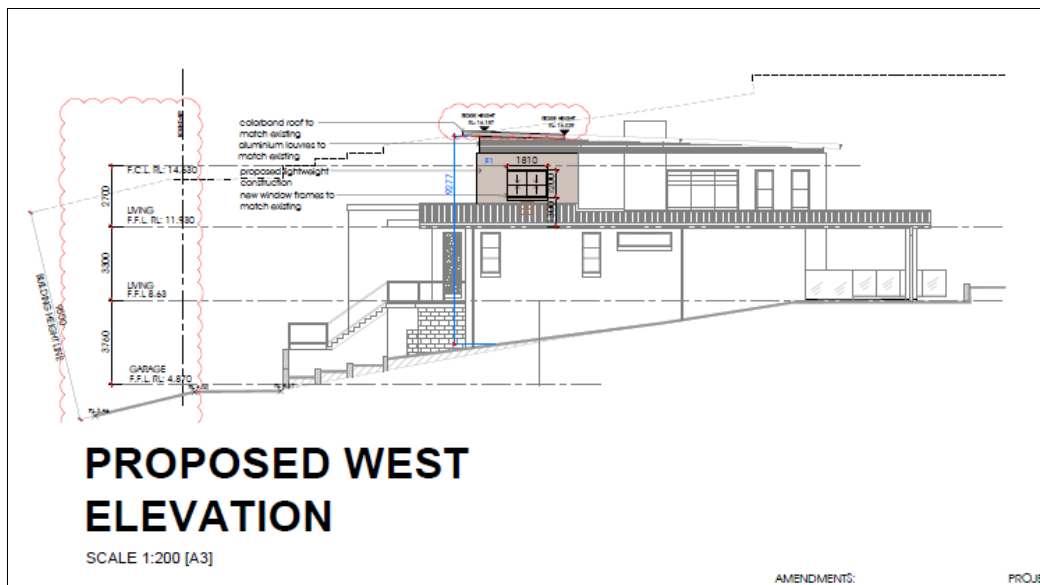


Figure 6 - Proposed West Elevation

**4. Background**

**Application History**

20 May 2019	Local Development Application LDA2019/153 was lodged with Council.
27 May to 12 June 2019	The Application was notified to adjoining property owners. No submissions were received.
27 June 2019	A request for further information was sent to the Applicant, requesting: <ul style="list-style-type: none"> <li>- A Survey Plan; and</li> <li>- A revised Clause 4.6 variation request.</li> </ul>

**ITEM 1 (continued)**

30 July 2019	Further information was submitted by the Applicant, including: <ul style="list-style-type: none"> <li>- Survey Plan;</li> <li>- Amended architectural plans to reflect the levels provided in the survey;</li> <li>- Amended Statement of Environmental Effects; and</li> <li>- Amended Clause 4.6 request to vary the development standard of height of buildings.</li> </ul>
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**5. Planning Assessment**
**5.1 State Environmental Planning Instruments**
**State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)**

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has historically been used for residential purposes. As such, it is unlikely to contain any contamination and given that the proposed additions are to the first floor with no disturbance of the existing ground level, further investigation is not warranted in this case.

**State Environmental Planning Policy (Building Sustainability Index BASIX) 2004**

The proposal is a *BASIX optional development* as defined by the Environmental Planning and Assessment Regulation 2000, as the proposed estimated cost of \$48,000 is less than \$50,000. A BASIX Certificate is not required to be submitted to Council as part of the Development Application. Condition 3 in the attached draft development consent is recommended to ensure that fittings, fixtures and materials comply with Council's DCP in *Part 7.1 Energy Smart, Water Wise*.

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

The Vegetation SEPP commenced on 25 August 2017 and replaced Clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.

The objective of the SEPP 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 involve any works that impact upon existing trees on the subject site or on neighbouring properties. The proposal is for first floor additions with no ground disturbance and the proposal does not require pruning of any trees to accommodate the additions. It is considered that the proposed development does not unduly impact upon the existing trees and vegetation on the site and is acceptable in this regard.

**ITEM 1 (continued)****SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above SREP. 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 SREP are not applicable to the proposed development.

The objective of improved water quality is satisfied through compliance with the provisions of Council's Development Control Plan 2014 Part 8.2.

The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

**1.1 5.2 Ryde Local Environmental Plan 2014**

The subject site is identified as being within the R2 Low Density Residential zone under the provisions of RLEP 2014. The proposal for alterations and additions to an existing dwelling is permissible with development consent.

**Aims and objectives for the low density residential zones:**

- *To provide for the housing needs of the community 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.*
- *To provide for a variety of housing types.*

The proposal is for alterations and additions to the existing residential dwelling. The dwelling house use is consistent with the objectives in providing a variety of housing types to meet the housing needs of the community within a low density residential environment. The second objective is not of relevance to the proposed development. The proposal satisfies the relevant objectives for residential developments.

The following is a summary of the clauses under Ryde LEP 2014 applicable to the development.

**Clause 4.3 Height**

The proposal is subject to a maximum height of 9.5 metres. The existing ground level is at RL4.57 below the basement concrete slab and the Ridge Level is at RL16.187. The proposal has a height of 11.617 metres and does not comply with the development standard. The applicant has sought variation pursuant to Clause 4.6 of RLEP 2014 and an assessment of the variation request is detailed below.

**ITEM 1 (continued)**  
**Clause 4.4 Floor space ratio**

The proposal is subject to a maximum FSR of 0.5:1 (515.50m<sup>2</sup>). The proposal results in an FSR of 0.49:1 (505.79m<sup>2</sup>) and complies with the development standard.

**Clause 4.6 Exceptions to development standards**

The development contravenes Clause 4.3 of RLEP 2014 which establishes the maximum height development standard of 9.5 metres. The proposal results in a maximum height of 11.617 metres and does not comply with the development standard.

Figure 7 below indicates the extent of the building height non-compliance.

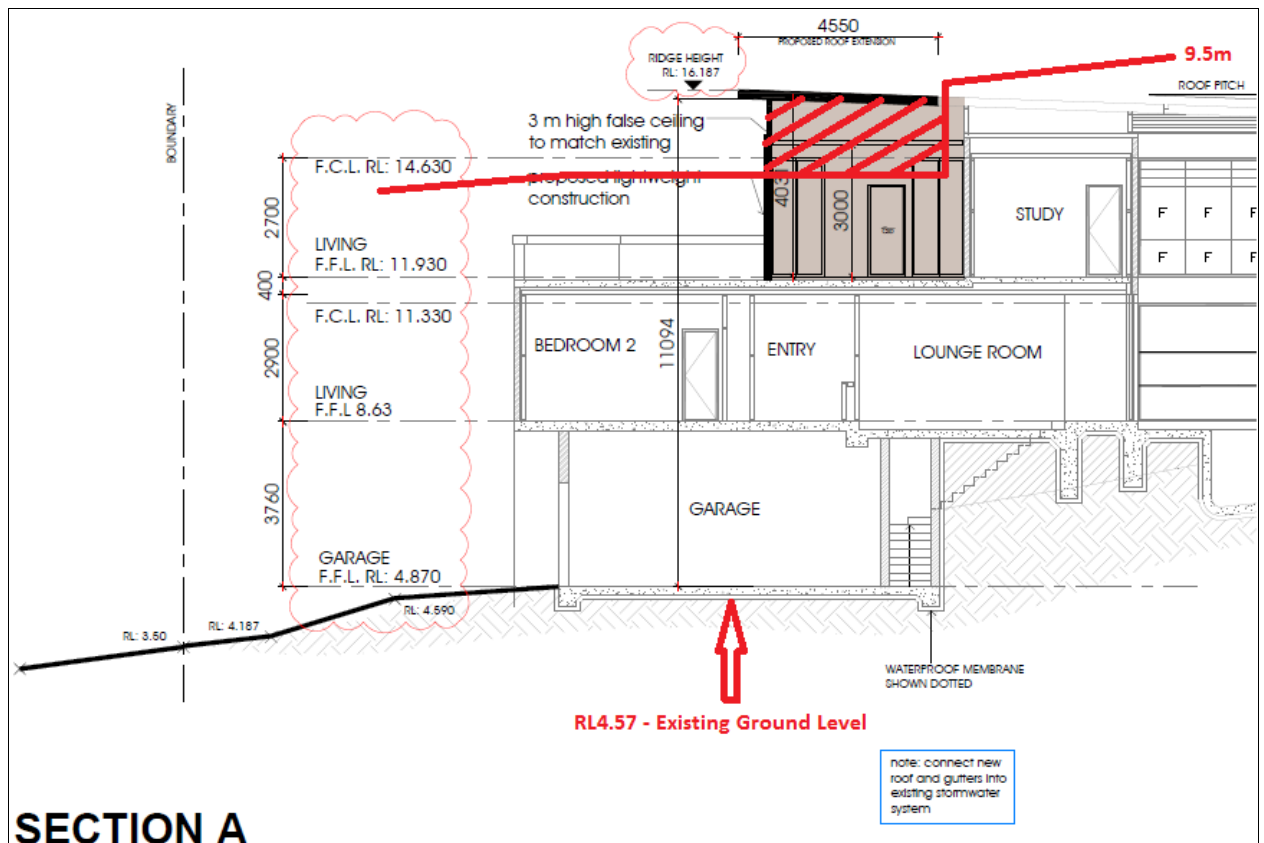


Figure 7 - Building Height non-compliance (hatched in red)

The proposal results in a 22.28% departure from the standard. The applicant has submitted a Clause 4.6 request prepared by Concise Planning and dated 29 July 2019 (**Attachment 3**) to vary the development standard. The discussion below is based on the Applicant’s submission and the assessment made by Council. Clause 4.6 states:

- (1) The objectives of this clause are as follows:

**ITEM 1 (continued)**

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Director-General has been obtained.*

***Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case***

The submission relies upon the common ways to demonstrate compliance with a development standard is unreasonable or unnecessary in accordance with *Wehbe v Pittwater Council (2007)*. The submission relies upon the objectives of the standard being achieved notwithstanding the non-compliance with the standard and that Council has abandoned the control.

The applicant's request provides the following justification:

**ITEM 1 (continued)*****Compliance with the Development Standard is Unreasonable or Unnecessary***

*In Wehbe [2007], Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. The five ways outlined in Wehbe include:*

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).*
- 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Method).*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Method).*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Method).*

*For an objection to be well-founded it is only necessary for an applicant to demonstrate that any one of these five different ways is applicable. The below assessment demonstrates that compliances with the objectives of the building height control have been satisfied notwithstanding the non-compliance with the numerical requirements of the development standard (first method) and by demonstrating that the Development Standard has been abandoned by Council's own actions in granting consents departing from the standard (fourth method).*

***Consistency with Objectives of the Development Standard***

*Clause 4.6 (4) of the Ryde Local Environmental Plan 2014 require the objectives of the development standard to be considered in the assessment of*

**ITEM 1 (continued)**

*a variation to a development standard. The objectives and relevant provisions of Clause 4.3 are as follows:*

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
- (d) to minimise the impact of development on the amenity of surrounding properties,*
- (e) to emphasise road frontages along road corridors.*

*The objectives of the building height development standard are addressed as follows:*

- As outlined in Council's letter, dated 27 June 2019, the proposed building height is established by the finished floor level of the basement level garage. Whilst, the development will have a height of 11.317 metres above ground level (existing), it is recognised that the building will have a height of 9.2 metres when viewed from the public domain as the garage is located partially below ground level (existing). Refer to East and West Elevation Plan (DA 01).*
- Using a comparative approach, if the proposed addition was included as part of the original Development Application, the "building height" would have been measured above the ground level (existing), that being the ground level prior to the excavation for the basement. In this scenario there would be no difference in the appearance of the completed building when viewed public domain. As such, compliance with this control is unnecessary based on the circumstances of the development.*
- The proposed development will not result in the loss of any public or private views for neighbouring buildings or other dwellings contained on the subject site.*
- The proposal will result in an additional number of bedrooms being provided on the subject allotment, thereby making a positive contribution towards the State Government's objectives*



**ITEM 1 (continued)**

*for urban consolidation/ renewal and the reduction of urban sprawl.*

- *The orientation of the proposed development is suitable in relation to adjoining residential developments, in that the proposal will not result in any unacceptable overshadowing of neighbouring developments (measured at the winter solstice).*
- *There is a precedence of this form of development within the locality with neighbouring dwellings in terms of number of storeys and maximum building height. It is therefore considered that the proposed development will result in a compatible design with existing residential developments within the streetscape.*

**Consistency with Land Use Zone Objectives**

*Clause 4.6 (4) of the Ryde Local Environmental Plan 2014 also requires consideration of the relevant zone objectives. The objectives of development within the R2 Low Density Residential zone are as follows:*

- *To provide for the housing needs of the community 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.*
- *To provide for a variety of housing types.*

*The proposed development is considered to satisfy the objectives of the R2 Low Density Residential zone by providing a development that will satisfy the housing needs of the local community in a low density residential setting. The proposed development has been designed in a manner to be compatible with other existing developments located within the immediate proximity and the general locality in terms of bulk, scale and number of storeys.*

Assessment Officer's Comments: The applicant's written Clause 4.6 request for variation has also argued that compliance with the development standard is unreasonable and unnecessary as Council has abandoned the standard in respect of previous decisions it has made. The applicant has provided a list of previous applications approved by Council where the height control has been varied. The list, however, has not given any consideration to the circumstances of the case or what the development was and the applicable height control. Council does not agree that the standard has been abandoned. Variation to the height standard is consistent with the function of Clause 4.6 and does not mean the standard has been abandoned.

The Applicant has demonstrated that the objectives of the standard are achieved notwithstanding the height non-compliance. The proposal despite the non-compliance achieves the objectives of the standard for the following reasons:

- The proposal maintains the existing street frontage and proposes to undertake alterations and additions to the front of the existing dwelling which is

**ITEM 1 (continued)**

consistent with the character of nearby development. The streetscape consists of large two storey dwellings sited above garages.

- The site has a north-south orientation which ensures that the subject dwelling and dwellings on neighbouring site achieve a satisfactory access to sunlight despite the height non-compliance.
- The site is not located in the vicinity of key public transport infrastructure and the land use is consistent with that of the low density area.
- The proposal does not result in any adverse amenity impacts upon neighbouring dwellings.
- The proposal does not result in any unreasonable privacy impacts upon neighbouring dwellings.
- The proposal maintains views from adjoining properties and the streetscape.
- The proposal has no impact upon the road corridor.

The submission has demonstrated that the objectives of the development standard Clause 4.3(1) are achieved, despite the non-compliance and the proposal satisfies Clause 4.6(3)(a) and 4.6(4)(a)(i).

***Environmental planning grounds to justify contravening the development standard***

The submitted request provides the following in response to addressing what the environmental planning grounds are for the variation.

*The proposed building height and the resulting technical variation to the development standard is considered to be justified based on the following sound environmental planning grounds:*

- *The proposal satisfies the relevant objectives of the building height development standard as addressed in Part 3.1 of this report.*
- *The proposal satisfies the relevant objectives of the land use zone as addressed in Part 2.2 of this report.*
- *The departure from the building height development standard and is as a result of the steeply sloping site (approximate gradient of 1:5) from the front of the allotment to the area of the subject works.*
- *The bulk and scale of the resulting building height aligns with the DCP in terms of gross floor area, setbacks, overshadowing, private open space, and landscaped area.*
- *The proposal will provide additional number of bedrooms contributing to the shortfall of housing in Sydney and making a positive contribution towards the State Government's objectives for urban consolidation/ renewal and the reduction of urban sprawl.*

**ITEM 1 (continued)**

- *The orientation of the proposed development is suitable in relation to adjoining residential developments, in that the proposal will not result in any unacceptable overshadowing of neighbouring developments (measured at the winter solstice).*

Assessment Officer's Comments: The submission has established there are sufficient environmental planning grounds to justify contravening the standard in accordance with (Clause 4.6(3)(b) and 4.6(4)(a)(i)). The sufficient environmental planning grounds include:

- The proposal is for alterations and additions to an existing dwelling where the building levels are established.
- The existing topography of the site slopes from the rear to Phillip Road and beneath the existing building footprint.
- The existing dwelling accommodates excavation associated with the basement level and garage at the steepest point of the site which results in the altered existing ground level.
- The height is calculated in relation to the existing ground level and results in the height non-compliance.

***Public interest – Development consistent with the zone objectives and objectives of the development standard***

Clause 4.6 (4)(a)(ii) requires that the consent authority is satisfied that the development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

As detailed in the discussion of whether compliance with the standard is unreasonable or unnecessary, the development is consistent with the objectives of the standard and this has been demonstrated in the submitted variation request. Council is satisfied that the development is consistent with the objectives of the development standard Clause 4.3(1) and Clause 4.6(4)(a)(ii) and it is unreasonable and unnecessary to comply with the development standard in this circumstance and there are sufficient environment planning grounds (Clause 4.6(4)(a)(i)).

The development must also be consistent with the objectives of the zone. In the case of R2 Low Density Residential in RLEP 2014, the objectives of the zone are:

- *To provide for the housing needs of the community 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.*
- *To provide for a variety of housing types.*

The proposal includes two additional bedrooms to the existing dwelling which provides for the housing needs of the community within a low density residential

**ITEM 1 (continued)**

environment. The proposal does not impact upon the provision of facilities of services within the low density residential area. A variety of housing types is achieved in the area with single detached dwellings, dual occupancies and multi-dwelling housing.

Council is satisfied that the development is consistent with the objectives of the *R2 Low Density Residential* zone.

Council is of the view that the development is in the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The submission has demonstrated the proposal achieves the objective of the standard as required by Clause 4.6(3)(a) and 4.6(4)(a)(i).
- The submission relies upon satisfying the objective of the standard in Clause 4.3(1) to demonstrate it is unreasonable or unnecessary to comply with the standard. This has been achieved and Council is satisfied that Clause 4.6(3)(a) and 4.6(4)(a)(i) has been demonstrated.
- The submission has specified sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b) and 4.6(4)(a)(i)); and

Therefore, the proposal is considered to be in the public interest. The development has demonstrated consistency with Clause 4.6(4)(a)(ii).

***Matters required to be taken into consideration by the Director-General before granting the concurrence***

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

**Conclusion**

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.3 Height of Buildings. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request also demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b).

Pursuant to Clause 4.6(4)(a)(i) of RLEP 2014, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). Further, Council is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard for height of buildings and it is consistent with the objectives for development within the *R2 Low Density Residential* zone.

**ITEM 1 (continued)**

The written request is considered to satisfy the provisions of *Clause 4.6 Exceptions to development standards* in RLEP 2014. Despite the 22.28% departure from the development standard, the development meets the objectives of the standard and of the zone. The land slope and previous excavation for the basement level are considered to be satisfactory environmental planning grounds to justify contravention of the standard. The additions are set back significantly from the façade of the building (5.5 metres) and the additions will not result in any significant bulk and scale or any unreasonable amenity impacts upon neighbouring properties.

Council is satisfied that the development is in the public interest and a variation to the height of buildings development standard is considered reasonable and consistent with the requirements of Clause 4.6 in RLEP 2014.

**Clause 6.1 Acid Sulfate Soils**

The site is mapped as containing Class 5 acid sulfate soils, being land within 500m of actual acid sulfate soils. The extent of works, being first floor additions, is such that it is not considered to come into contact with or affect the profile of any area containing actual acid sulfate soils.

**Clause 6.4 Stormwater Management**

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters. The proposal does not result in any additional impervious area and a condition of consent (**Condition 12**) is recommended as follows to ensure that stormwater is directed to the existing drainage system:

**12. Stormwater disposal.** *Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2014, Part 8.2 "Stormwater and Floodplain Management".*

**5.3 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:

*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.*

## ITEM 1 (continued)

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 SEPP

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. Changes proposed include consolidating a number of SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is not inconsistent with the provisions of the draft SEPP.

## 5.4 Ryde Development Control Plan 2014 (RDCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.3: Dwelling Houses and Dual Occupancy (Attached);
- Part 7.2: Waste Minimisation and Management; and
- Part 8.2: Stormwater & Floodplain Management.

An assessment of the relevant controls is provided in **Attachment 2 - Compliance Table**. A discussion of the non-compliance's with the provisions of the DCP is discussed below:

### Part 3.3: Dwelling Houses and Dual Occupancy (Attached)

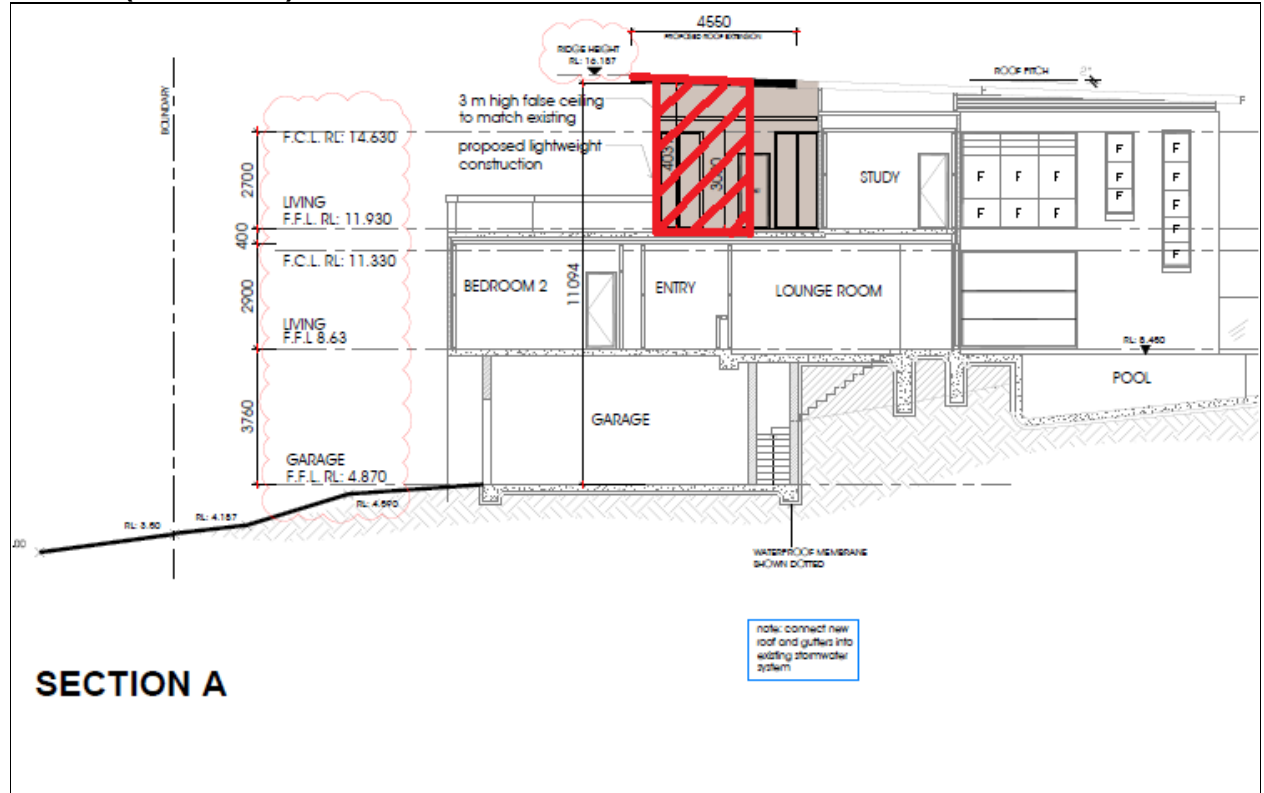
#### 2.2 Dwelling Houses

##### *2.2.2 Alterations and Additions to Dwelling Houses*

Control 2.2.2(c) of RDCP 2014 requires that alterations and additions are to meet the controls for dwelling houses set out in section 2.2.1 *New Dwelling Houses*. The proposed alterations and additions result in the dwelling being part three storeys in height, which is inconsistent with control 2.2.1(b) that states that residential dwellings are to be a maximum of two storeys in height.

**Figure 8** below demonstrates the three storey section of the dwelling resulting from the proposed additions.

**ITEM 1 (continued)**



**Figure 8** - Three storey section of proposed additions (hatched in red)

Ryde LEP 2014 defines a storey as follows:

**storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

The non-compliance is limited to a portion of the building that is 2.5 metres in depth, with a floor area of 28.50m<sup>2</sup>. The building steps down the site and does not present as a building with three storeys on top of each other with a solid façade. The northern elevation to the street provides significant articulation and the proposal does not result in any amenity impacts upon neighbouring properties. The objectives of the control are for new dwellings:

1. To be free-standing in landscaped lots;
2. To be well designed and compatible with the site’s context; and
3. To be of low scale.

The existing building is located within a landscaped setting with established landscaping on the site including two mature jacarandas within the front setback. The building is considered to be well designed with regard to the site’s context as it is responsive to the slope of the land. The existing first floor is set back significantly

**ITEM 1 (continued)**

from the ground floor below and the proposed additions are set back 5.5 metres from the ground floor façade. The existing dwelling is well articulated when viewed from the public domain with projecting and recessing architectural elements, balconies and varied roof-forms. The proposal is compatible with the existing dwelling and will not result in any significant additional building bulk due to the significant setbacks provided. The scale of the building is not out of character with the development in the vicinity of the site and accordingly, a variation to the control is supported.

2.8 Height

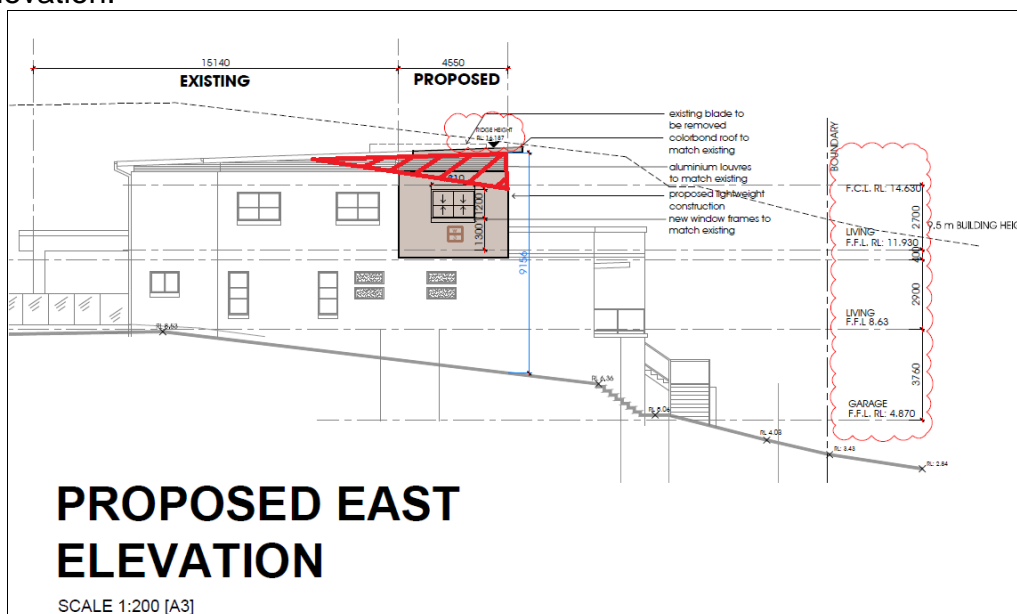
*2.8.1 Building Height*

Control 2.8.1(a) requires that buildings are to be a maximum of 9.5 metres in height with a maximum wall plate height of 7.5 metres and a maximum of two storeys in height.

The issue of the maximum height has already been discussed in detail earlier in the report and is considered acceptable.

The proposal is subject to the maximum wall plate height under control 2.8.1(a), which is the vertical distance between the finished ground level at any point and the point where the adjacent wall joins the roof or to the underside of the eaves. The finished ground level on the eastern side of the dwelling is approximately RL7.10. The underside of the eaves of the additions is at RL15.987. The wall plate height on the eastern side of the dwelling is 8.887 metres. The western first floor wall of the additions is set back 11.16 metres from the western side boundary and is not adjacent to the ground level on that side. The existing ground floor wall complies with the wall plate height on the western side.

**Figure 9** below indicates the extent of the wall plate height non-compliance on the east elevation.



**Figure 9 - Wall plate height non-compliance (hatched in red)**



### ITEM 1 (continued)

The proposal is also subject to the maximum number of storeys under control 2.8.1(a). The control requires that dwellings are to be a maximum of two storeys in height but with a maximum of one floor level above an attached garage. The proposed additions result in the dwelling being part three storeys in height, with two storeys above the existing attached garage.

The non-compliance with the number of storeys controls is depicted in **Figure 9**, which is discussed as part of control 2.2.2 *Alterations and Additions to Dwelling Houses*.

The objectives of the control aim to ensure that:

- 1. the height of development is consistent with the desired future character of the low density residential area and is compatible with the streetscape; and*
- 2. the height of dwellings is not to exceed 2 storeys.*

The proposed additions are consistent with the low density character of the area. The building presents as a single free-standing dwelling to the street and it is located in a landscaped setting. The street and surrounding area consists of a mixture of original and contemporary single dwellings and dual occupancies. The proposal does not result in any disturbance of the natural topography of the land and it does not impact upon any existing significant vegetation. The proposal achieves the objectives of the control, with the exception of the two storey height limit. The existing dwelling is two storeys in height and steps down site with the slope of the land. The three storey element is depicted in **Figure 8**. The non-compliance is limited to a portion of the building that is 2.5 metres in depth, with a floor area of 28.50m<sup>2</sup>. When viewed from the street and from the east and west elevations, the building steps down the site and does not appear as three storeys on top of each other. **Figures 10** and **11** below are two existing examples of three storey dwellings in the vicinity of the site at 77 Phillip Road and 1 Jetty Road, Putney.



**Figure 10** - Part three storey dwelling at 77 Phillip Road, Putney

**ITEM 1 (continued)**



**Figure 11** - Part three storey dwelling at 1 Jetty Road, Putney

The variation to the wall height and number of storeys is considered to be acceptable on merit. The dwelling will not result in unacceptable amenity impacts upon surrounding properties and the built form is articulated through the use of balconies and varied architectural elements and roof forms. The additions are compatible with the existing dwelling and the building will have a very similar in bulk and scale when viewed from neighbouring properties, Phillip Road, Morrison Bay Park and the Morrison Bay waterway. The proposal is considered to be acceptable on merit and a variation to the control is supported.

**6. The likely impacts of the development**

The likely impacts of the development have been considered within this report and the assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014). The development is considered satisfactory in terms of environmental impacts.

**7. Suitability of the site for the development**

The site is zoned R2 Low Density Residential. The proposal seeks consent for first floor additions to the existing dwelling. The site is mapped as containing Class 5 acid sulfate soils, being land within 500m of actual acid sulfate soils. The extent of works, being first floor additions, is such that it is not considered to come into contact with or affect the profile of any area containing actual acid sulfate soils. The land is not identified as being affected by any other environmental constraints.

The proposal exceeds the height development standard. The submitted clause 4.6 variation to the Clause 4.3 has met the jurisdiction prerequisites to enable the consent

**ITEM 1 (continued)**

authority to support the proposed departure from the development standard.. The proposal is an appropriate development and this has been demonstrated in this report. The proposal is considered to be suitable for the site.

**8. The Public Interest**

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised.

The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposal is non-compliant with Clause 4.3 Height, but has been supported by a satisfactory Clause 4.6 variation request.

The proposal does not result in any significant adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

**9. Submissions**

In accordance with DCP 2014 Part 2.1 Notice of Development Applications, the proposal was notified to adjoining property owners from 27 May 2019 to 12 June 2019. In response, no submissions were received.

**10. Referrals**

Due to the nature of the proposed works, the application was not referred to any external referral authorities or to any other departments of Council for referral comments.

**11. Conclusion**

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the subject site and is not contrary to the public interest. The reasons for the decision are as follows:

- The proposal is consistent with the objectives for R2 zoned land.
- The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.
- The proposal is considered to be of low impact to adjoining properties and the surrounding environment.
- The proposal has been supported by a satisfactory Clause 4.6 variation request which demonstrates that compliance with Clause 4.3 Height of Buildings is unreasonable and unnecessary in the circumstances and there

**ITEM 1 (continued)**

are sufficient environmental planning grounds to justify contravening the development standard.

- The proposal is not contrary to the public interest.
- No submissions have been received in respect to the development.

**12. Recommendation**

That the Ryde Local Planning Panel, as the consent authority, grant development consent to LDA2019/0153 for first floor additions to the existing dwelling at 83 Phillip Road, Putney, subject to the draft conditions contained in Attachment 1.

**ATTACHMENTS**

- 1 Draft Conditions of Consent
- 2 Compliance Check
- 3 C4.6 variation to height
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

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**Director - City Planning and Environment**

**ITEM 1 (continued)**

**ATTACHMENT 1**

**ATTACHMENT 1**

**GENERAL**

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

1. Document Description	2. Date	3. Plan No/Reference
<b>4. Architectural Plans</b>		
5. Site Plan, prepared by Envision Group Pty Ltd	6. 15.07.19	7. DA01, Issue D
8. Site Analysis Plan, prepared by Envision Group Pty Ltd	9. 15.07.19	10. DA02, Issue D
11. Sediment Control Plan, prepared by Envision Group Pty Ltd	12. 15.07.19	13. DA03, Issue D
14. Existing Basement Plan and Existing Ground Floor Plan, prepared by Envision Group Pty Ltd	15. 15.07.19	16. DA04, Issue D
17. Existing First Floor Plan and Proposed First Floor Plan, prepared by Envision Group Pty Ltd	18. 15.07.19	19. DA05, Issue D
20. Existing North Elevation and Proposed North Elevation, prepared by Envision Group Pty Ltd	21. 15.07.19	22. DA06, Issue D
23. Proposed East Elevation and Proposed West Elevation, prepared by Envision Group Pty Ltd	24. 15.07.19	25. DA07, Issue D
26. Section A, prepared by Envision Group Pty Ltd	27. 15.07.19	28. DA08, Issue D

**(Reason:** To ensure that the development is in accordance with the determination)

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.

**(Reason:** Statutory requirement)

**ITEM 1 (continued)**

**ATTACHMENT 1**

3. **Energy Efficiency.** The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the **Construction Certificate**.

(Reason: To ensure that buildings are energy and water efficient)

4. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

(Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties)

5. **Hoardings.**

(a) A hoarding or fence must be erected between the work site and any adjoining public place.

(b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

(Reason: To ensure public safety)

6. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

(Reason: To ensure development occurs within the site boundaries)

7. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

(Reason: To ensure public spaces are unobstructed during construction)

8. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

(Reason: Access to public utilities)

**ITEM 1 (continued)**

**ATTACHMENT 1**

9. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.

(Reason: To ensure compliance with the requirements of Roads Act 1993)

10. **Existing Swimming Pool.** The owner of the existing swimming pool within the subject property must:
- a. maintain the existing swimming pool fence in accordance with *Swimming Pools Act 1992 (NSW)* and *Swimming Pools Regulation 2008 (NSW)*, whether or not the swimming pool is operational.
  - b. establish and maintain a suitable clearance in and around the existing swimming pool fence during construction works on the subject property, whether or not the swimming pool is operational.

(Reason: Statutory requirement)

11. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2014, Part 8.2 "Stormwater and Floodplain Management".

(Reason: To protect the environment)

**PRIOR TO CONSTRUCTION CERTIFICATE**

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

12. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be

**ITEM 1 (continued)**

**ATTACHMENT 1**

submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.

(Reason: To ensure compliance with the Australian Standards)

13. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

(Reason: To ensure the proposal is structurally compliant with the Statutory requirement)

14. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: dwelling houses with no delivery of bricks or concrete or machine excavation)

(Reason: Statutory requirement)

15. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:

- (a) Infrastructure Restoration and Administration Fee
- (b) Enforcement Levy

(Reason: Statutory requirement)

16. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.

(Reason: Statutory requirement)

17. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) to apply.

(Reason: Statutory requirement)

18. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.



**ITEM 1 (continued)**

**ATTACHMENT 1**

**(Reason:** To ensure materials are compliant with Council's control requirements)

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

**19. Site Sign**

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**(Reason:** Statutory requirement)

20. **Residential building work – insurance.** In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

**(Reason:** Statutory requirement)

21. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor; and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder; and

**ITEM 1 (continued)**

**ATTACHMENT 1**

- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

(Reason: Statutory requirement)

22. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

(Reason: To ensure the site is safely secured)

**DURING CONSTRUCTION**

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

23. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

(Reason: Statutory requirement)

24. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction work.

(Reason: To protect the amenity of surrounding residents during construction)

25. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

(Reason: To protect the environment and the amenity of surrounding properties)

26. **Construction materials.** All materials associated with construction must be retained within the site.

(Reason: To ensure safety and amenity of the area)

**ITEM 1 (continued)**

**ATTACHMENT 1**

**27. Site Facilities**

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
- (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

**(Reason:** Statutory requirement)

**28. Site maintenance**

The applicant must ensure that:

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
- (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- (c) the site is clear of waste and debris at the completion of the works.

**(Reason:** To ensure the site is appropriately maintained)

- 29. Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.

**(Reason:** To ensure tree protection and consistency with the approved development)

- 30. Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

**(Reason:** Statutory requirement)

- 31. Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

**(Reason:** To ensure public safety)

- 32. Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

**(Reason:** To ensure public safety)

- 33. Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

**ITEM 1 (continued)**

**ATTACHMENT 1**

(**Reason:** To ensure appropriate management of construction waste)

**PRIOR TO OCCUPATION CERTIFICATE**

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

**End of consent**

**ITEM 1 (continued)**  
**ATTACHMENT 2**

**ATTACHMENT 2**

**Compliance Check - Quality Certification**  
**Assessment of Alterations & Additions to a Dwelling House**

<b>LDA No:</b> LDA2019/0153	<b>Date Plans Rec'd:</b> 20 May 2019
<b>Address:</b> 83 Phillip Road, Putney.	
<b>Proposal:</b> First floor addition to existing dwelling.	
<b>Constraints Identified:</b> Acid Sulfate Soils Class 5 Land.	

**COMPLIANCE CHECK**

Ryde LEP 2014	Proposal	Compliance
<b>4.3(2) Height</b>		
9.5m	<b>11.617m</b> Ridge = RL16.187 EGL = RL4.57	<b>No</b> (Clause 4.6 request provided)
<b>4.4(2) &amp; 4.4A(1) FSR</b>		
0.5:1=515.50m <sup>2</sup> (max GFA)  Site area = 1031m <sup>2</sup>	Garage/Basement: 102.56m <sup>2</sup> Ground Floor: 299.55m <sup>2</sup> First Floor: 139.68m <sup>2</sup>  Double garage allowance = 36m <sup>2</sup>  <b>Total GFA = 505.79m<sup>2</sup></b> (or <b>0.49:1</b> )	Yes
<b>5.10(5) Heritage Conservation</b>		
Heritage impact statement required for any development:  (c) on land that is within the vicinity of a heritage item or heritage conservation area	The site is not identified as being a heritage item, nor is it in the vicinity of a heritage item. The site is not within a conservation area.	N/A
<b>6.1 Acid Sulfate Soils</b>		
The development is not to	The site is mapped as	Yes

**ITEM 1 (continued)**

**ATTACHMENT 2**

<b>Ryde LEP 2014</b>	<b>Proposal</b>	<b>Compliance</b>
disturb, expose or drain acid sulfate soils and cause environmental damage.	containing Class 5 acid sulfate soils, being land within 500m of actual acid sulfate soils. The extent of works, being first floor additions, is such that it is not considered to come into contact with or affect the profile of any area containing actual acid sulfate soils.	
<b>6.4 Stormwater Management</b>		
Minimise the impacts of urban stormwater on land.	The proposed first floor addition does not result in any additional hard surface area. New roofing and gutters to drain to existing stormwater system.	Yes
<b>6.5 Limited development on foreshore areas</b>		
The site is not identified as being in the foreshore area.	The site is located opposite Morrison Bay Park and the Morrison Bay waterway. The proposal is sited above the foreshore building line.	Yes

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>2.1 Desired Future Character</b>		
Development is to be consistent with the desired future character of the low density residential areas.	Development is consistent with the desired future character of the low density residential area.	Yes
<b>2.2 Dwelling Houses</b>		
<ul style="list-style-type: none"> <li>- Dwelling houses are to have a landscaped setting which includes significant deep soil areas at the front and rear.</li> <li>- Maximum of two-storeys high.</li> <li>- Dwelling to address the street.</li> <li>- The boundary between</li> </ul>	<p>The existing dwelling is sited within a landscaped setting.</p> <p>The proposed additions increase the dwelling in height to three storeys.</p> <p>Dwelling presents to Phillip Road.</p>	<p>Yes</p> <p><b>No</b> (acceptable)</p> <p>Yes</p>

**ITEM 1 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
public and private space is to be clearly articulated.	Clear articulation between public and private space is provided with a proposed boundary fence.	Yes
- Garages and carports are not to be visually prominent features.	Existing garage.	Yes
- Respond appropriately to the site's constraints and opportunities as identified in the site analysis.	Proposal responds to site constraints.	Yes
- Alterations and additions are to be designed so that the finished building is an integrated whole	Additions are integrated with the existing dwelling.	Yes
- Alterations and additions are to improve amenity and liveability of dwellings and sites, including practical and usable external spaces.	Proposed additions provide amenity	Yes
- Alterations and additions are to meet the controls for dwelling houses	The existing dwelling is two storeys in height and the proposed additions result in a three storey dwelling.	<b>No</b> (acceptable)
<b>2.5 Public Domain Amenity</b>		
<b>2.5.1 Streetscape</b>		
- Front doors and windows are to face the street. Side entries to be clearly apparent.	New front door and portico facing Maze Avenue.	Yes
- Articulated street facades.	Varied roofing elements balcony, deck and portico provide articulation when viewed from Princes Street and Maze Avenue.	Yes
- Garages visible from the street need to be compatible with dwelling design and set back behind the dwellings front elevation.	The garage does not protrude forward of the façade on the secondary frontage. Acceptable.	Yes
- Driveways are to be minimised to maximise deep soil landscape area in	Driveway is 3.5m in width at the front boundary. Driveways are minimised.	Yes

**ITEM 1 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
front garden. <ul style="list-style-type: none"> <li>- Dwellings are to be orientated to match the prevailing orientation of buildings in streetscape</li> </ul>	The building addresses Princes Street and	Yes
<p><b>2.5.2 Public Views and Vistas</b></p> <p>A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views</p> <p>Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. Fence 70% open where height is &gt;900mm.</p>	The site and surrounding streets were inspected and no significant public views or vistas were observed through the site.	Yes
<p><b>2.5.3 Pedestrian &amp; Vehicle Safety</b></p> <ul style="list-style-type: none"> <li>- Car parking located to accommodate sightlines to footpath &amp; road in accordance with relevant Australian Standard.</li> <li>- Fencing that blocks sight lines is to be splayed.</li> </ul>	No front fencing proposed.	N/A
<b>2.6 Site Configuration</b>		
Proposed design is responsive to the topography of the site to minimise excessive excavation. Good design responds to the relationship between internal and external areas.	The proposal does not involve excessive excavation. The proposal provides private open space to the front and rear of the dwelling with stair access from the rear patio.	Yes
<p><b>2.6.1 Deep Soil Areas (DSA)</b></p> <ul style="list-style-type: none"> <li>- Minimum 35% of site area</li> <li>- Min 8m x 8m deep soil area in backyard.</li> <li>- Front yard to have deep</li> </ul>	The proposal first floor addition does not change the existing deep soil area on site.	Yes



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**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
soil area (only hard paved area to be driveway, pedestrian path and garden walls). - To be 100% permeable		
<b>2.6.2 Topography &amp; Excavation</b>  Within building footprint (BF): - Max cut: 1.2m - Max fill: 900mm  Outside building footprint: - Max cut: 900mm - Max fill: 500mm - No fill between side of building and boundary or close to rear boundary - Max height retaining wall 900mm	The proposed first floor addition does not result in any excavation.	Yes
<b>2.7 Floor Space Ratio</b>		
Garage Level	102.56m <sup>2</sup>	
Gound Floor	299.55m <sup>2</sup>	
First Floor	139.68m <sup>2</sup>	
Total (Gross Floor Area)	541.79m <sup>2</sup>	
Less 36m <sup>2</sup> (double) allowance for parking	36m <sup>2</sup>	
<b>FSR max 0.5:1 (or 515.50m<sup>2</sup>)</b>  <b>Note: Excludes wall thicknesses; lifts/stairs; basement storage/vehicle access/garbage area; terraces/balconies with walls &lt;1.4m; void areas.</b>	Garage/Basement: 102.56m <sup>2</sup> Ground Floor: 299.55m <sup>2</sup> First Floor: 139.68m <sup>2</sup>  Double garage allowance = 36m <sup>2</sup> <b>Total GFA = 505.79m<sup>2</sup></b> (or <b>0.49:1</b> )	Yes
<b>2.8 Height</b>		
- 2 storeys maximum (storey incl. basement elevated greater than 1.2m above EGL).	3-storey.	Yes
- 1 storey maximum above attached garage incl. semi-basement or at-grade	Single storey above garage.	Yes

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DCP 2014	Proposed	Compliance
garages.		
Wall plate (Ceiling Height) - 7.5m  <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> <i>FGL = Finished Ground Level</i>	Maximum 8.887m TOW = RL15.987 Approximate EGL = RL7.10 Approximate FGL = RL7.10	<b>No</b> (acceptable)
9.5m Overall Height  <i>NB:</i> <i>EGL = Existing Ground Level</i>	11.617m Ridge = RL16.187 EGL = RL4.57	<b>No</b> (acceptable)
Habitable rooms to have 2.4m floor to ceiling height (min).	3m	Yes
<b>2.9 Setbacks</b>		
<b>Side</b>  <b>Two storey dwelling</b> - 1.5m to 2 <sup>nd</sup> storey wall	The proposed additions are located 11.12m from the western side boundary and 1.5m from the eastern side boundary.	Yes
<b>Front</b> - 6m to façade (generally)	7.6m to new planter box and 13.21m to the new bedroom addition.	Yes
- Attached garages on secondary street frontages are not to protrude forward of the adjacent facade.	N/A	N/A
- Wall above is to align with outside face of garage below.	N/A	N/A
- Front setback free of ancillary elements.	Proposal does not include any ancillary elements within the front setback.	Yes
<b>Rear</b> - 8m to rear of dwelling <b>or</b> 25% of the length of the	The proposed additions are located 28.5m from the rear	Yes

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**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
site, whichever is greater. <b>Note: 10.74m is 25% of site length.</b>	boundary.	
<b>2.11 Car Parking &amp; Access</b>		
<b>General</b> <ul style="list-style-type: none"> <li>- Dwelling house: up to 2 spaces per dwelling.</li> <li>- Max 6m wide or 50% of frontage, whichever is less.</li> <li>- Behind building façade.</li> </ul>	Existing double garage. Unchanged.	N/A
<b>Garages</b> <ul style="list-style-type: none"> <li>- Garages to be located off secondary street frontages where this is possible.</li> <li>- Total width of garage doors visible from public space must not exceed 5.7m and be setback not more than 300mm behind the outside face of the building element immediately above.</li> <li>- Garage windows are to be at least 900mm away from boundary.</li> <li>- Materials in keeping or complimentary to dwelling.</li> </ul>	Existing double garage. Unchanged.	N/A
<b>Parking Space Sizes (AS)</b> <ul style="list-style-type: none"> <li>o Double garage</li> <li>o Internal width: 5.4m (min)</li> <li>o Internal length: 5.4m (min)</li> </ul>	Existing double garage. Unchanged.	N/A
<b>Driveways</b> Extent of driveways minimised	Existing driveway. Unchanged.	N/A
DCP 2014	Proposed	Compliance
<b>Landscaping</b>		
<b>Trees &amp; Landscaping</b> <ul style="list-style-type: none"> <li>- Major trees retained where practicable.</li> <li>- Physical connection to be</li> </ul>	The proposed first floor additions will not impact upon any existing trees on the subject site or neighbouring sites. A new planter box is proposed on the	N/A

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DCP 2014	Proposed	Compliance
<p>provided between dwelling and outdoor spaces where the ground floor is elevated above NGL eg. stairs, terraces.</p> <ul style="list-style-type: none"> <li>- Obstruction-free pathway on one side of dwelling (excl. corner allotments or rear lane access)</li> <li>- Front yard to have at least 1 tree with mature height of 10m min and a spreading canopy.</li> <li>- Back yard to have at least 1 tree with mature ht of 15m min and a spreading canopy.</li> <li>- Hedging or screen planting on boundary mature plants reaching no more than 2.7m.</li> <li>- OSD generally not to be located in front setback unless under driveway.</li> </ul>	<p>first floor.</p>	
<ul style="list-style-type: none"> <li>- Landscaped front garden, with max 40% hard paving</li> </ul>	<p>Unchanged.</p>	<p>N/A</p>
<p><b>Dwelling Amenity</b></p>		
<p><b>Daylight and Sunlight Access</b></p> <ul style="list-style-type: none"> <li>- Living areas to face north where orientation makes this possible.</li> <li>- 4m side setback for side living areas where north is to the side allotment boundary.</li> </ul> <p><u>Subject Dwelling:</u></p> <ul style="list-style-type: none"> <li>- Subject dwelling north facing windows are to receive at least 3hrs of sunlight to a portion of their</li> </ul>	<p>Existing living areas face to the north.</p> <p>N/A</p> <p>The existing north facing windows receive uninterrupted sunlight to the living room between 9am and 3pm on June</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

**ITEM 1 (continued)**

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DCP 2014	Proposed	Compliance
<p>surface between 9am and 3pm on June 21.</p> <ul style="list-style-type: none"> <li>- Private Open space of subject dwelling is to receive at least 2 hours sunlight between 9am and 3pm on June 21.</li> </ul> <p><u>Neighbouring properties are to receive:</u></p> <ul style="list-style-type: none"> <li>- 2 hours sunlight to at least 50% of adjoining principal ground level open space between 9am and 3pm on June 21.</li> <li>- At least 3 hours sunlight to a portion of the surface of north facing adjoining living area windows between 9am and 3pm on June 21.</li> </ul>	<p>21.</p> <p>The principal private open space area is located at the front of the dwelling due to the corner location of the site and the small lot size. This area will receive uninterrupted sunlight between 9am and 3pm on June 21.</p> <p>Unchanged. Principal ground level private open space located to the rear of the dwelling.</p> <p>The proposal will not overshadow any north facing living room windows of neighbouring dwellings.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>
<p><b>Visual Privacy</b></p> <ul style="list-style-type: none"> <li>- Orientate windows of living areas, balconies and outdoor living areas to the front and rear of dwelling.</li> <li>- Windows of living, dining, family etc placed so there are no close or direct views to adjoining dwelling or open space.</li> <li>- Side windows offset from adjoining windows.</li> <li>- Terraces, balconies etc are not to overlook neighbouring dwellings/private open space.</li> </ul>	<p>The proposal does not include and new living areas. New bedrooms are proposed over existing balcony area. No additional privacy impacts.</p> <p>No new living areas proposed.</p> <p>Side windows are offset.</p> <p>Existing balcony. Overlooking reduced as much of the balcony is to be enclosed by the addition of two bedrooms.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

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DCP 2014	Proposed	Compliance
<p><b>Acoustic Privacy</b>            The noise of an air conditioner, pump, or other mechanical equipment must not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. This may require the item to have a sound proofed enclosure.</p>	<p>The proposal will not result in any unreasonable impacts upon the acoustic privacy of neighbouring properties.</p>	<p>Yes</p>
<p><b>View Sharing</b>            - The siting of development is to provide for view sharing.</p>	<p>The subject site and several surrounding properties enjoy views to Morrisons Bay. An inspection of the site and the surrounding area was carried out and the proposal is not considered result in any unreasonable impact upon views to Morrisons Bay.</p>	<p>Yes</p>
<p><b>Cross Ventilation</b>            - Plan layout is to optimise access to prevailing breezes and to provide for cross ventilation.</p>	<p>The proposal provides for cross ventilation.</p>	<p>Yes</p>
<b>External Building Elements</b>		
<p><b>Roof</b>            - Articulated.            - 450mm eaves overhang minimum.            - Not to be trafficable terrace.            - Skylights to be minimised and placed symmetrically.            - Front roof plane is not to have both dormer windows and skylights.</p>	<p>Consistent with existing dwelling.            600mm eaves.            No trafficable roof terraces proposed.            No skylights proposed.            The roof does not include dormers or skylights.</p>	<p>Yes            Yes            Yes            Yes            Yes</p>
<b>Fencing</b>		
<p><b>Front/return:</b>            - To reflect design of</p>		<p>N/A</p>

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DCP 2014	Proposed	Compliance
dwelling. - To reflect character & height of neighbouring fences. - Max 900mm high for solid (picket can be 1m). - Max 1.8m high if 50% open (any solid base max 900mm). - Retaining walls on front bdy max 900mm. - No colorbond or paling - Max width of piers 350mm.	No fencing proposed.	
<b>Side/rear fencing:</b> - 1.8m max o/a height.	No fencing proposed.	N/A
<b>Insulation</b>		
Walls: 3.0 Ceiling: 1.5	BASIX optional development as cost of works is less than \$50,000. A condition of consent ( <b>condition 3</b> ) is recommended to ensure compliance with Ryde DCP <i>Part 7.1 Energy Smart, Water Wise</i> .	Yes (by condition)
<b>Hot Water System</b>		
Any hot water system/s installed as part of a development or as a replacement must consider the most efficient option available to minimise greenhouse gas emissions.	BASIX optional development as cost of works is less than \$50,000. A condition of consent ( <b>condition 3</b> ) is recommended to ensure compliance with Ryde DCP <i>Part 7.1 Energy Smart, Water Wise</i> .	Yes (by condition)
<b>Water Fixtures, Fitting and appliances</b>		
3 star shower heads; 4 star dual flush toilet; 4 star taps (other than bath outlets and garden taps); aerators to bathroom/kitchen taps.	BASIX optional development as cost of works is less than \$50,000. A condition of consent ( <b>condition 3</b> ) is recommended to ensure compliance with Ryde DCP <i>Part 7.1 Energy Smart, Water Wise</i> .	Yes (by condition)
<b>External Clothes Drying Area</b>		
External yard space or sheltered ventilated space for clothes drying	Existing clothes drying area.	Yes
<b>Water Efficient Labelling &amp; Standards (WELS)</b>		

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<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
Minimum WELS rating of 4.5 stars for new or replacement dishwashers & washing machines.	BASIX optional development as cost of works is less than \$50,000. A condition of consent ( <b>condition 3</b> ) is recommended to ensure compliance with Ryde DCP <i>Part 7.1 Energy Smart, Water Wise</i> .	Yes (by condition)
<b>Part 7.2- Waste Minimisation &amp; Management</b>		
Submission of a Waste Management Plan in accordance with Part 7.2 of DCP 2014.	A Waste Management Plan was submitted with the application.	Yes
<b>Part 8.2 - Stormwater Management</b>		
<b>Stormwater</b>		
Drainage is to be piped in accordance with Part 8.2 - Stormwater Management.	The proposal does not result in any additional hard surface area. New roofing and gutters to drain to existing stormwater system.	Yes
<b>Part 9.6 – Tree Preservation</b>		
Where the removal of tree(s) is associated with the redevelopment of a site, or a neighbouring site, the applicant is required to demonstrate that an alternative design(s) is not feasible and retaining the tree(s) is not possible in order to provide adequate clearance between the tree(s) and the proposed building and the driveway.	The proposal involves first floor additions within the footprint of the existing dwelling. The development will not impact upon any existing trees on the subject site or any neighbouring properties.	Yes
<b>BASIX</b>		
BASIX does not apply to the proposal as the alterations and additions to the existing dwelling are valued at less than \$50,000.	BASIX optional development as cost of works is less than \$50,000. A condition of consent ( <b>condition 3</b> ) is recommended to ensure compliance with Ryde DCP <i>Part 7.1 Energy Smart, Water Wise</i> .	Yes (by condition)



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**ATTACHMENT 3**



Address: No. 83 Phillip Road, Putney NSW 2112

Project: **ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE**

Report: **EXCEPTION TO DEVELOPMENT STANDARD (BUILDING HEIGHT)**

Reference: 190012 – Development Application

Date: 29 July 2019

To: City of Ryde Council  
Locked Bag 2069  
NORTH RYDE NSW 1670

Contact: Joseph Toph  
joseph@envisiongroup.com.au

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**DOCUMENT CONTROL TABLE**

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**1. Introduction**

This exception to development standard under Clause 4.6 of the Ryde Local Environmental Plan 2014 has been prepared by Concise Planning Pty Ltd on behalf of Envision Group Pty Ltd. It is submitted to City of Ryde Council in support of a Development Application for the alterations and additions to the existing dwelling house No. 83 Phillip Road, Putney. This exception to development standard has been prepared regarding variations to the building height development standard.

**1.1. Building Height**

Clause 4.3 of the Ryde Local Environmental Plan 2014 (RLEP2014) relates to the maximum building height of development and prescribes a maximum building height of 9.5 metres.

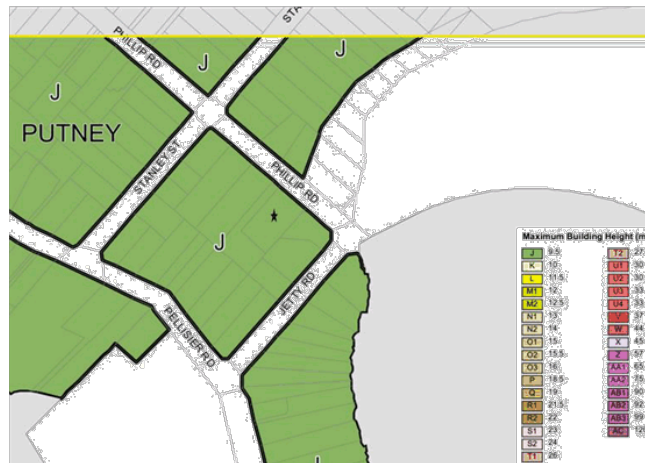


Figure 1: Floor Space Ratio Map. Extract from Ryde Local Environmental Plan 2014 (Source: NSW Legislation, 2019).

**1.2. Building Height Variation**

As outlined above, pursuant to Clause 4.3 of the RLEP2014, the site has a maximum building height of 9.5 metres. Table 1 provides an overview of the applicable maximum building height controls that apply to the site and the resulting maximum building height.

Table 1- Summary of maximum and proposed building height:

Maximum Building Height	Proposed Building Height	Difference in Building Height	Variation
9.5 metres	11.317 metres	1.817 metres	19.12 %

**1.3. Request to Vary a Development Standard**

It is hereby requested that an exception to development standard be granted pursuant to Clause 4.6 of the RLEP2014 so as to permit the proposed building works at a height of 11.317 metres. Clause 4.6 (3) of the Ryde Local Environmental Plan 2014 states:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Furthermore, Clause 4.6 (4) of the Ryde Local Environmental Plan 2014 states:

- (4) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained.

The term "development standard" is defined under Section 4 (1) of the Environmental Planning and Assessment Act 1979 as follows:

*Development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

As per the above definition the building height development standard prescribed under Clause 4.3 of the RLEP 2014 is unambiguously a development standard and has continually been applied in this manner by the consent authority.

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

1. *Wehbe v Pittwater Council* [2007] NSW LEC 827; and
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009.

## ITEM 1 (continued)

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The relevant matters contained in Clause 4.6 of the Ryde LEP, with respect to Clause 4.3 (Building Height) of the Ryde LEP, are each addressed below, including with regard to these decisions.

### 2. Compliance with the Development Standard is Unreasonable or Unnecessary

In *Wehbe* [2007], Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. The five ways outlined in *Wehbe* include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Method).
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Method).
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Method).

For an objection to be well-founded it is only necessary for an applicant to demonstrate that any one of these five different ways is applicable. The below assessment demonstrates that compliances with the objectives of the building height control have been satisfied notwithstanding the non-compliance with the numerical requirements of the development standard (first method) and by demonstrating that the Development Standard has been abandoned by Council's own actions in granting consents departing from the standard (fourth method).

### 2.1. Consistency with Objectives of the Development Standard

Clause 4.6 (4) of the Ryde Local Environmental Plan 2014 require the objectives of the development standard to be considered in the assessment of a variation to a development standard. The objectives and relevant provisions of Clause 4.3 are as follows:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,
- (d) to minimise the impact of development on the amenity of surrounding properties,
- (e) to emphasise road frontages along road corridors.

The objectives of the building height development standard are addressed as follows:

- As outlined in Council's letter, dated 27 June 2019, the proposed building height is established by the finished floor level of the basement level garage. Whilst, the development will have a height of 11.317 metres above ground level (existing), it is recognised that the building will have a height of 9.2 metres when viewed from the public domain as the garage is located partially below ground level (existing). Refer to East and West Elevation Plan (DA 01).
- Using a comparative approach, if the proposed addition was included as part of the original Development Application, the "building height" would have been measured above the

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ground level (existing), that being the ground level prior to the excavation for the basement. In this scenario there would be no difference in the appearance of the completed building when viewed public domain. As such, compliance with this control is unnecessary based on the circumstances of the development.

- The proposed development will not result in the loss of any public or private views for neighbouring buildings or other dwellings contained on the subject site.
- The proposal will result in an additional number of bedrooms being provided on the subject allotment, thereby making a positive contribution towards the State Government's objectives for urban consolidation/ renewal and the reduction of urban sprawl.
- The orientation of the proposed development is suitable in relation to adjoining residential developments, in that the proposal will not result in any unacceptable overshadowing of neighbouring developments (measured at the winter solstice).
- There is a precedence of this form of development within the locality with neighbouring dwellings in terms of number of storeys and maximum building height. It is therefore considered that the proposed development will result in a compatible design with existing residential developments within the streetscape.

**2.2. Consistency with Land Use Zone Objectives**

Clause 4.6 (4) of the Ryde Local Environmental Plan 2014 also requires consideration of the relevant zone objectives. The objectives of development within the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community 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.
- To provide for a variety of housing types.

The proposed development is considered to satisfy the objectives of the R2 Low Density Residential zone by providing a development that will satisfy the housing needs of the local community in a low density residential setting. The proposed development has been designed in a manner to be compatible with other existing developments located within the immediate proximity and the general locality in terms of bulk, scale and number of storeys.

**3. Sufficient Environmental Planning Grounds**

The proposed building height and the resulting technical variation to the development standard is considered to be justified based on the following sound environmental planning grounds:

- The proposal satisfies the relevant objectives of the building height development standard as addressed in Part 3.1 of this report.
- The proposal satisfies the relevant objectives of the land use zone as addressed in Part 2.2 of this report.
- The departure from the building height development standard and is as a result of the steeply sloping site (approximate gradient of 1:5) from the front of the allotment to the area of the subject works.
- The bulk and scale of the resulting building height aligns with the DCP in terms of gross floor area, setbacks, overshadowing, private open space, and landscaped area.

**ITEM 1 (continued)**

**ATTACHMENT 3**



- The proposal will provide additional number of bedrooms contributing to the shortfall of housing in Sydney and making a positive contribution towards the State Government's objectives for urban consolidation/ renewal and the reduction of urban sprawl.
- The orientation of the proposed development is suitable in relation to adjoining residential developments, in that the proposal will not result in any unacceptable overshadowing of neighbouring developments (measured at the winter solstice).

**4. Abandonment of Development Standard by Council**

In accordance with the fourth method of Wehbe [2007] compliance with a Development Standard can be shown as unreasonable or unnecessary if the Standard has been abandoned by Council's own actions in granting Development Consents that depart from the Development Standard. In this regard, it is recognised that there is a clear precedence of this form of development within the locality with a number of dwelling houses displaying variations to the floor space ratio development standard. The below table represents each Clause 4.6 Exception to Development Standard to the building height development standard approved under the Ryde LEP 2014 and demonstrates where Council has abandoned the building height development standard.

Address	Variation:	DA No:	Determination Date:
102-104 Bowden Street, Meadowbank	14.80%	LDA2018/0048	13/12/2018
11 Porter Street, Ryde	2.7% to 2.3%	LDA2014/502	14/05/2015
11 Federal Road, West Ryde	0.25%	LDA2015/0160	10/08/2015
2 Angas Street, Meadowbank	2.9% to 3.5%	LDA2014/ 0308	19/11/2015
29-31 Gaza Road, West Ryde	3.8% to 30% (units 5 to 8) 79% (units 1 to 4)	LDA2014/ 0494	19/11/2015
33 Darwin Street, West Ryde	0.26%	LDA2015/ 0192	6/10/2015
131 Tennyson Road, Tennyson Point	0.90%	LDA2015/ 0202	17/11/2015
117 Bowden Street, Meadowbank	4%-4.85	LDA2015/ 0220	21/12/2015
455-457 Victoria Street, Gladesville	1.20%	LDA2015/ 0239	02/10/2015
428-434 Victoria Road, Gladesville	3.6%	LDA2015/ 0389	11/02/2016
265 Victoria Road, Gladesville	20%	LDA2016/0023	29/06/2016
55 Brush Road, West Ryde	16%	LDA2016/0079	22/04/2016
125 Bowden Street, Meadowbank	2.3-11.6%	LDA2015/ 0161	01/09/2016
230 Victoria Road, Gladesville	4.50%	LDA2015/ 0433	31/08/2016
715-717 Victoria Road, Ryde	7.80%	LDA2015/ 0472	09/09/2016
1-5 Smith Street, Ryde	8.7%	LDA2015/ 0589	07/09/2016
210-2216 Victoria Road, Gladesville	1.08%	LDA2015/ 0653	13/09/2016
109 Vimiera Road, Eatswood	0.60%	LDA2016/ 0022	28/07/2016

**ITEM 1 (continued)**

**ATTACHMENT 3**



11 Farm Street, Gladesville	3.96% (12m height control) and 14.37% (9.5m height control)	LDA2016/ 0146	30/09/2016
694 Abuklea Road, Kaga Place	13%	LDA2016/ 0147	25/07/2016
139 Bowden Street, Meadowbank	29.5%	LDA2014/0211	15/12/2016
1 Angas Street, Meadowbank	4.50%	LDA2015/0540	04/11/2016
123 Bowden Street, Meadowbank	14%	LDA2015/0628 4	08/11/2016
723 -731 Victoria Road, 10 Little Church Street, 3-7 St Annes Street Ryde	10.70%	LDA2015/654	24/10/2016
101-103 Church Street, Ryde	7.40%	LDA2016/0084	29/11/2016
744 Victoria Road	5.80%	LDA2016/0093 5	20/12/2016
121 Bowden Street, 2A Angas Street Meadowbank	16.50%	LDA2016/0324	20/12/2016
8 Haig Avenue, Denistone East	10% (unit 2) 3% (Unit 3)	LDA2016/0385	12/01/2017
30 Champion Road, Tennyson Point	0.83 (Southern Elevation) 0.57% (Northern elevation)	LDA2016/0568	16/02/2017
179-183 Shaftsbury Road, Eastwood	4.30%	LDA2016/0135	21/04/2017
13-15 Jordan Street, Gladesville	3.5% to 10.4%	LDA2016/0203	4/04/2017
38 Gordon Street, Eastwood	4%	LDA2016/0355	06/04/2017
61 Brush Road, West Ryde	16%	LDA2016/0598	01/05/2017
6 Fourth Avenue, Eastwood	8% to 10%	LDA2015/0651	13/06/2017
8 Fourth Avenue, Eastwood	10%	LDA2015/0652	13/06/2017
1 Stansell Street, Gladesville	14.70%	LDA2016/0151	09/05/2017
29 Federal Road, West Ryde	4.8% (unit 1) 3% (Unit 2)	LDA2016/0447	17/08/2017
642 – 678 Victoria Road, 82 Princess Highway Ryde	6.35% to 79.75%	LDA2016/0495	07/08/2017
82- 84 Waterloo Road, Macquaire Park	1.385-4.23%	LDA2016/0602	27/07/2017
173 Shaftsbury Road, 29 Glen Street Eastwood	Up to 6.4%	LDA2016/0535	10/10/2017
2 Kim Street, Gladesville	3.20%	LDA2017/0243	16/10/2017
39-41 Devlin Street, Ryde	36.50%	LDA2016/0359	28/02/2018
175-177 Shaftsbury Road, Eastwood	4.69%	LDA2016/0628	10/05/2018
140-144 Culloden Road, Marsfield	9.4% to 15.7%	LDA2017/0191	12/04/2018
5 Boulton Street, Putney	8.70%	LDA2017/0105	18/07/2018



**ITEM 1 (continued)**

**ATTACHMENT 3**



46 Trelawney Street	3%	LDA2017/0512	24/08/2018
598A & 598B Blaxland Road	7%-9.9%	LDA2018/0090	30/08/2018
9 Peach Street, Macquarie Park	9.70%	LDA2018/0185	26/09/2018
8-14 North Road, Ryde	3.6%	LDA2017/0548	07/11/2018
52 Blaxland Road, North Ryde	5.4%	LDA2018/0058	11/10/2018
32 Frances Road, Putney	8%	LDA2018/0114	30/11/2018
125 Agincourt Road, Marsfield	9%	LDA2018/0323	20/12/2018
20 Mitchell Street, Putney	5%	LDA2017/0539	17/10/2018
7 North Ryde, Ryde	27.90%	LDA2018/0339	13/12/2018
312 Victoria Road, Gladesville	16% to 19.2%	LDA2017/0312	11/10/2018
102 to 104 Bowden Street	14.80%	LDA2018/0048	13/12/2018

Having regard to the above, it is recognised that the development results in a minor variation than approved under previous DA consents approved by Ryde City Council.

**5. Conclusion**

This report has provided justification on the exception to the building height development standard. The building development standard as specified under the RLEP2014 is 9.5 metres, with the proposed development having a building height of 11.317 metres. It is considered that compliance with the development standard is unreasonable and unnecessary in the circumstances of the subject site.

- As outlined in Council's letter, dated 27 June 2019, the proposed building height is established by the finished floor level of the basement level garage. Whilst, the development will have a height of 11.317 metres above ground level (existing), it is recognised that the building will have a height of 9.2 metres when viewed from the public domain as the garage is located partially below ground level (existing). Refer to East and West Elevation Plan (DA 01).
- Using a comparative approach, if the proposed addition was included as part of the original Development Application, the "building height" would have been measured above the ground level (existing), that being the ground level prior to the excavation for the basement. In this scenario there would be no difference in the appearance of the completed building when viewed public domain. As such, compliance with this control is unnecessary based on the circumstances of the development.
- The proposed development is in accordance with the objectives of the R2 Low Density Residential zone and the objectives of the building height development standard.
- The departure from the building height development standard and is as a result of the steeply sloping site (approximate gradient of 1:5) from the front of the allotment to the area of the subject works.
- The additional building height will not result in any unacceptable overshadowing of neighbouring developments (measured at the winter solstice).
- The proposed development will be compatible with the existing built form within the immediate proximity of the subject site.

**ITEM 1 (continued)**

**ATTACHMENT 3**



- The proposal will result in an additional number of bedrooms being provided on the subject allotment, thereby making a positive contribution towards the State Government's objectives for urban consolidation/ renewal and the reduction of urban sprawl.
- There is evidence of abandonment of the FSR development standard under the Ryde Local Environmental Plan 2014.

Having regard to the above assessment, it is considered that the exception to the development standard is warranted and that it should be approved.

- 2 2 Waratah Street, Eastwood - New multi-dwelling housing development containing three dwellings - 1 x 2 storey, 5 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision - LDA2019/0128**

**Report prepared by:** Building Surveyor - Fast Track Team

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

**File Number:** GRP/09/6/12/1/2 - BP19/1143

### City of Ryde Local Planning Panel Report

<b>DA Number</b>	LDA2019/0128
<b>Site Address &amp; Ward</b>	2 Waratah St Eastwood West Ward
<b>Zoning</b>	R2 Low Density Residential
<b>Proposal</b>	New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 5 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision.
<b>Property Owner</b>	Feris Merhi, Ellen M Merhi, Mark A Merhi, Giovanna Merhi
<b>Applicant</b>	GM Building Group
<b>Report Author</b>	Jane Tompsett – Assessment Officer
<b>Lodgement Date</b>	1 May 2019
<b>No. of Submissions</b>	Notification period: 18 submissions
<b>Cost of Works</b>	\$980,000.00

**ITEM 2 (continued)**

<b>Reason for Referral to RLPP</b>	Contentious Development – Development is the subject of 10 or more unique submissions by way of objection
<b>Recommendation</b>	Approval
<b>Attachments</b>	Attachment 1 – Draft Conditions of Consent Attachment 2 – DCP Compliance Table Attachment 3 – A3 Plans

**1. Executive Summary**

The following report is an assessment of a development application to construct a new multi dwelling housing development containing three (3) dwellings and strata subdivision of the three dwellings at No. 2 Waratah Street, Eastwood.

The proposal complies with the requirements of the Ryde Local Environmental Plan 2014. The only non-compliance with Ryde Development Control Plan 2014 Part 3.4 – Multi Dwelling Housing, is in respect to control 3.9 – Overshadowing and Access to Sunlight. In this regard each courtyard is required to have at least 2 hours of sunlight. This has only been provided for unit 3.

The application was lodged on the 30 April 2019. During the notification period, Council received eighteen (18) submissions. The issues raised in the submissions related to the non-compliances with Council's controls (minimum lot size and frontage), concerns with traffic and parking in the cul-de-sac, privacy with first floor windows, and lack of a garbage room facility. All issues raised in the submissions have been addressed in detail in the report.

Amended plans were submitted on 15th August. These plans proposed minor amendments which have improved the privacy and amenity of the subject site and adjoining neighbours. The plans have also demonstrated compliance with vehicle access and egress and internal car parking on the subject site. The amended plans did not require re-notification.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal does not result in any significant adverse impacts upon the streetscape or surrounding properties and is determined to be an acceptable form of development. The proposal has been appropriately designed to achieve the required levels of amenity for future occupants without adversely affecting the amenity of neighbouring properties. The proposal is not considered to raise any issues which would be contrary to the public interest.

## ITEM 2 (continued)

The development application is recommended for approval subject to the recommended conditions provided in **Attachment 1** of this report.

### 2. The Site and Locality

The site is known as No. 2 Waratah Street, Eastwood and is a single allotment with a legal description of Lot 74 in DP 17583.

The site is located on the eastern side of Waratah Street, in between the head of the cul-de-sac to the north and Acacia Street to the South. The site is generally rectangular in shape, with a splayed frontage. The allotment has a frontage to Waratah Street of 21.335m, a rear boundary dimension of 18.65m, side boundary dimensions of 48.08m and 58.44m, and a site area of 993.9m<sup>2</sup>. The site has a cross fall sloping from the rear south eastern corner (RL96.8) to the front north western corner of the site (RL95.5) by approximately 2m.

**Figure 1** below shows the site in its context.



**Figure 1:** Aerial photograph of site in context

The site is currently developed with a part one and part two storey residential brick dwelling (see **Figure 2** below).

## ITEM 2 (continued)



**Figure 2:** 2 Waratah Street Eastwood

There are no significant trees on the site.

The site is located within a low density residential area with surrounding development including a variety of single and two (2) storey residential developments such as detached dwellings and secondary dwellings, attached dual occupancies and multi dwelling housing developments. The surrounding development varies in age, scale and architectural style.

The site is adjoined to the south by a Dual Occupancy development (currently under construction) at 25 Acacia Street (**Figure 3** below) which comprises two dwellings 1 x 5 bedroom and 1x 4 bedroom. The private open space of Unit one is located adjacent to the shared boundary.



**Figure 3:** 25 Acacia Street

To the north of the subject site No. 4 Waratah Street is an older masonry two storey dwelling with a single garage. No. 6 Waratah is a masonry two storey dwelling and secondary dwelling with 7 x bedrooms and a single garage Street. (**Figure 4** below)

## ITEM 2 (continued)



**Figure 4:** 6 Waratah Street (left hand side) and 4 Waratah Street (right hand side) above

Waratah Street is a cu-de-sac with one way traffic around the island at the end (**Figure 5** below) of the street. The access to 2 Waratah Street will be left in only around the island, and left only driving out. The proposed driveway is in a similar position to the existing driveway on the right hand side. (**Figure 5** below)



**Figure 5:** The view of the end of the cul-de-sac. Existing driveway 2 Waratah Street

### 3. The Proposal

Application is made to construct a multi dwelling housing development consisting of:

- 1 x two storey, five bedroom dwelling fronting Waratah Street (Unit 1)
- 2 x single storey, three bedroom dwellings with access from the proposed internal access (Units 2 and 3)

## **ITEM 2 (continued)**

The application, as amended by plans submitted by the applicant on 15 August 2019, is described below.

### **Unit 1**

#### Ground floor

Unit 1 addresses Waratah Street, and has a separate pedestrian access to the porch of the unit. The majority of the ground floor of the unit consists of an open living/kitchen/dining area, as well as a bathroom/laundry and bedroom. The private open space for this unit is located on the south boundary, and adjoins the tandem parking space behind the single garage.

#### First floor

The first floor of Unit 1 comprises four bedrooms and two bathrooms. This floor also contains a sitting area that adjoins the hallway to each bedroom.

### **Unit 2**

Unit 2 is accessed from the front entry door facing the northern boundary. The entry connects to the open kitchen/dining/living area, which accesses the single garage and associated tandem parking space in the eastern side of the house. The unit contains three bedrooms and two bathrooms in the north and southern sections of the house.

### **Unit 3**

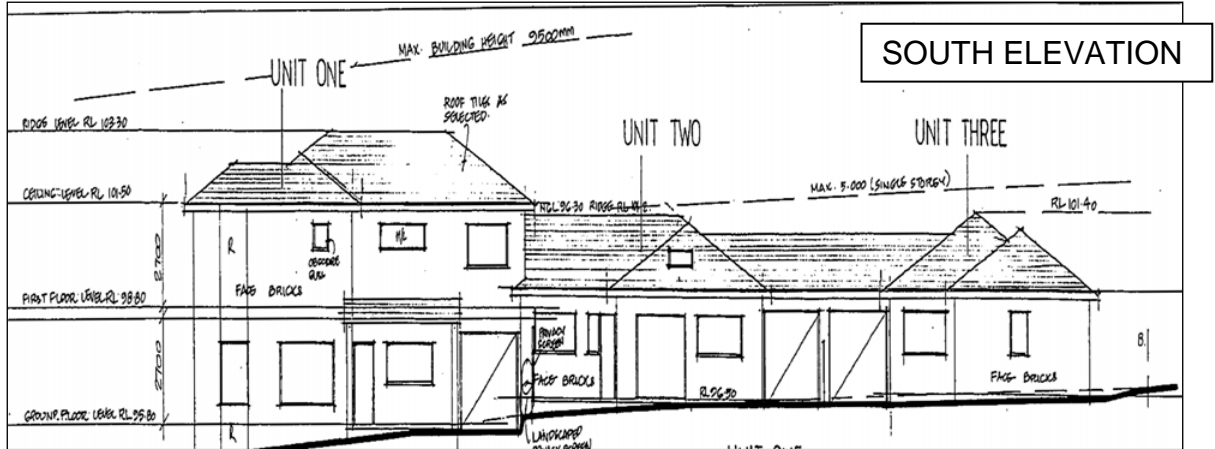
Unit 3 is also accessed from the front entry door facing the northern boundary, and is located at the rear of the site. The unit has a combined kitchen/living/dining area. This unit contains three bedrooms and two bathrooms. It also has two parking spaces in the form of a single garage and tandem space behind the garage, adjoining the private open space.

The private open space for Unit 3 wraps around Unit 3 to the east and south. The rear corner of the site is identified as private open space for Unit 3.

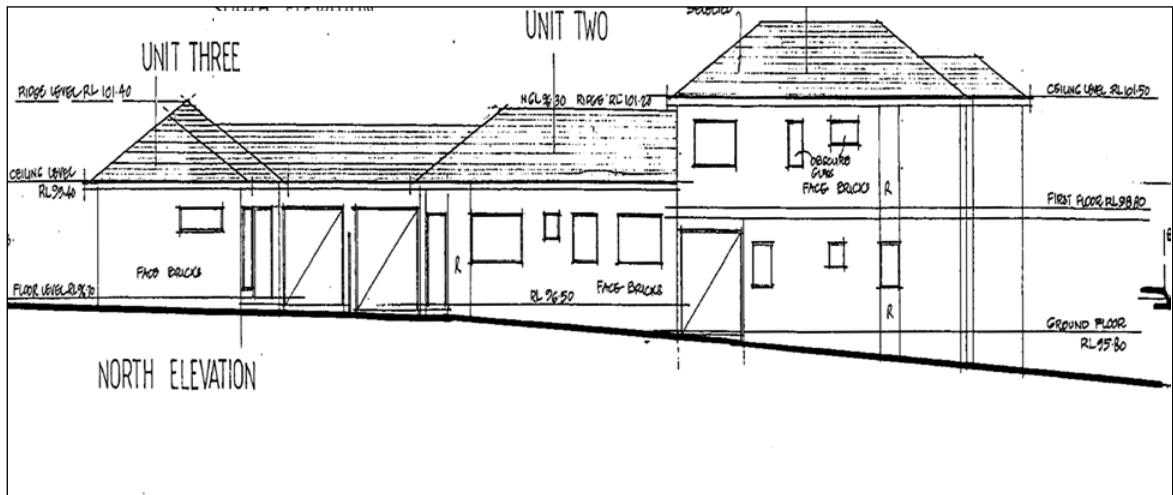
**Figures 6 to 9** below show the various perspectives of the development.



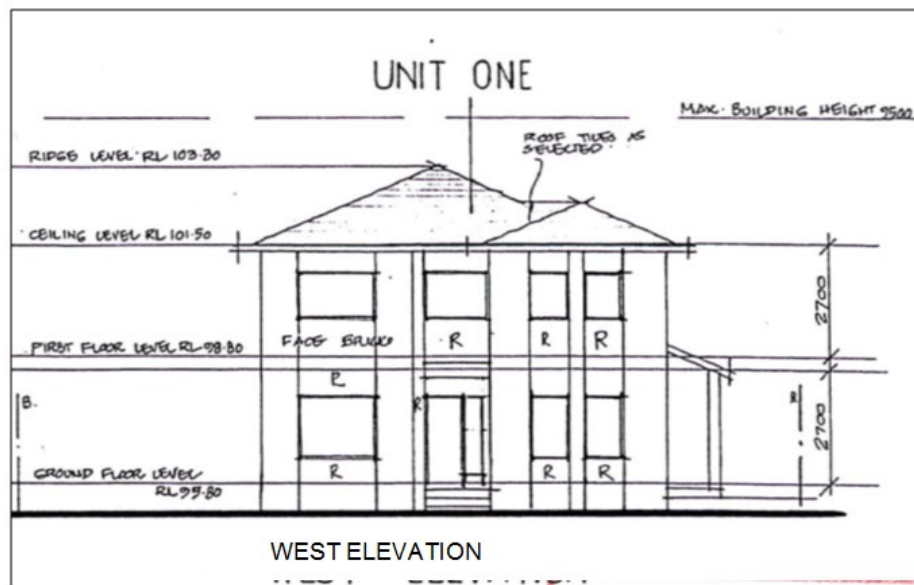
**ITEM 2 (continued)**



**Figure 6:** Proposed South Elevation of 2 Waratah Street

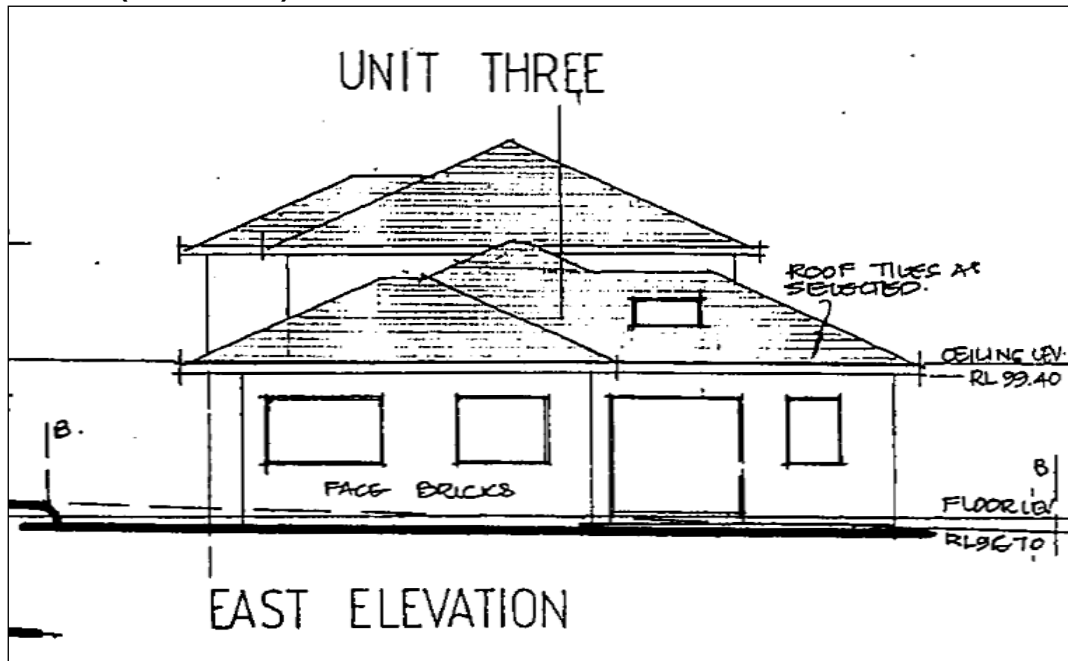


**Figure 7:** Proposed North Elevation of 2 Waratah Street



**Figure 8:** Proposed West Elevation (front) of 2 Waratah Street

**ITEM 2 (continued)**



**Figure 9:** Proposed East Elevation (rear) of 2 Waratah Street

A total of 17 trees and shrubs were assessed by the Arboricultural report prepared by Hugh the Arborist dated 14/04/2019. It is proposed to retain and protect four (4) adjoining neighbour's trees, and remove the remaining 13 trees and shrubs on the subject site. The most common tree to be removed is 4 conifer trees.

**4. Background**

This application was lodged with Council on the 30 April 2019.

7 July 2019

A preliminary assessment of the application identified a number of minor issues that were considered capable of being addressed by plan amendments. A letter was sent to the applicant to address minor non-compliances with Council's DCP 2014.

15 August 2019

Amended plans and information was received that substantially addressed the minor non-compliances with Council's Controls. The changes to the plans included:

- The applicant has removed a window, provided obscure glazing to a window and reduced a window and provided high sill height to the first floor windows of Unit One.
- A skylight has been introduced to Unit Two (2) & Unit Three (3) living rooms.
- The east elevation wall of Unit Three (3) has been modified to comply with Council's control for rear setbacks.
- Details of garbage bin storage has been shown on the amended plans.

## ITEM 2 (continued)

- Car parking and details of manoeuvrability and driveway crossings are compliant with Council's controls.
- Clothes lines have been shown on the plans as required under Council's DCP 2014.
- Security lighting in the driveway is shown on the amended plans.
- Landscaping has been amended to comply with Council's DCP 2014.

The amended plans were not required to be renotified.

## 5. Planning Assessment

### 5.1 State Environmental Planning Instruments

An assessment of the development in respect to Section 4.15 of the Environmental Planning and Assessment Act is detailed below.

#### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

An amended BASIX Certificate (see Certificate 1000805\_03 dated 11 September 2019) has been submitted with this application.

The Certificate confirms that the development will meet the NSW government's requirements for sustainability, if built in accordance with the commitments set out below:

Commitment	Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

#### **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.

Given the established residential use, the proposal is not likely to result in contamination and the site is suitable for the proposed development without need for remediation.

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

**ITEM 2 (continued)**

The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.

The objective of the SEPP 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 development proposes the removal of the following existing vegetation from the site:

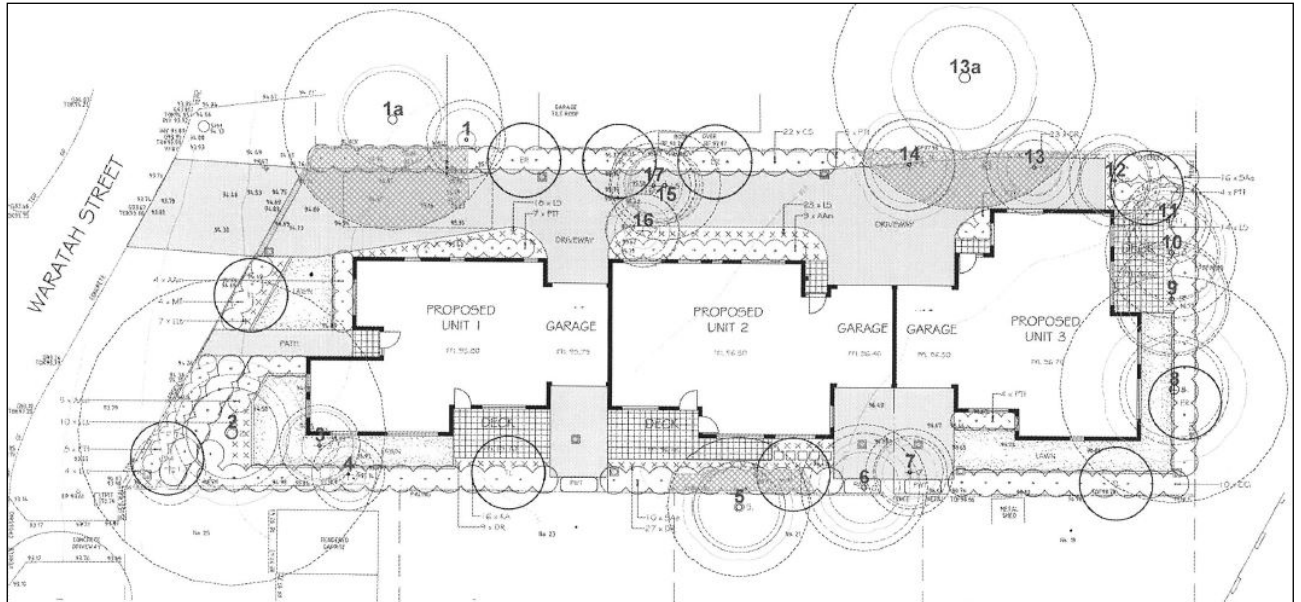
Tree No.	Species "Common name"
2	<b>Arbutus unedo</b> Irish Strawberry Tree (Decorative fruit tree)
3	<b>Magnolia x soulangeana</b> Saucer Magnolia (tree)
4	<b>Pittosporum spp.</b> Variegated Pittosporum (native evergreen shrub/tree)
6	<b>Cupressus spp.</b> Cypress (conifer tree)
7	<b>Metrosiderous excelsior</b> Pohutukawa (New Zealand Christmas tree)
8	<b>Unknown</b>
9	<b>Tristaniopsis laurina</b> Water Gum (native tree)
10	<b>Rondeletia amoena</b> Rondeletia (evergreen flowering shrub)
11	<b>Citharexylum spinosum</b> Fiddlewood (decorative shrub/small tree)
12	<b>Pittosporum undulatum</b> Native Daphne (evergreen shrub)
13	<b>Cupressus spp.</b> Cypress (conifer tree)
14	<b>Gordonia axillaris</b> Fried Egg Tree (closely resembles the Camelia)
15	Unknown in the report
16	<b>Cupressus spp.</b> Cypress (conifer tree)
17	<b>Cupressus spp.</b> Cypress (conifer tree)

Given that the species to be removed do not contain a significant retention value and some species are not native, it is considered that the proposed development does not unduly impact upon any species with biodiversity value on the site. The proposal is consistent with the provisions of the SEPP.

**ITEM 2 (continued)**

Four adjoining neighbour's trees are to be protected during construction in accordance with the recommendations in Arboricultural Impact Assessment prepared by Hugh the Arborist dated 15 April 2019.

The location of the trees are shown in (**Figure 10** below).



**Figure 10:** 2 Waratah Street Eastwood Appendix 1B by Hugh the Arborist dated 15 April 2019

**1.1 5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)**

Outlined below are the following clauses applicable to the proposal.

Clause 2.3 - Zone Objectives and Land Use Table

Under Ryde LEP 2014, the site is zoned R2 Low Density Residential, and the proposed development being *Multi Dwelling Housing* is permissible with Council's consent. Multi dwelling housing is defined as *three (3) or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.*

The proposed built form is consistent with this definition.

Aims and objectives for residential zones:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

**ITEM 2 (continued)**

The proposed development is considered to satisfy the objectives for low density residential zone. The proposal provides for housing within a low density environment and the provision of a multi dwelling housing development provides for a variety of housing types.

**Part 4 – Principle Development Standards**

The following is a summary of the numerical clauses under RLEP 2014 applicable to the development.

Clause	Proposal	Compliance				
<b>4.1B Minimum lot sizes for dual occupancies and multi dwelling housing</b>						
(1) The objective of this clause is to achieve planned residential density in certain zones. (2) Development consent may be granted for development on a lot in Zone R2 Low Density Residential for a purpose shown in Column 1 of the table to this clause if: (a) the area of the lot is equal to or greater than the area specified for that purpose and shown opposite in Column 2 of the table, and (b) the road frontage of the lot is equal to or greater than 20 metres.	R2 Low Density Residential  Multi dwelling housing  993.9m <sup>2</sup>  21.335m	Yes  Yes  Yes  Yes				
<table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> </tr> </thead> <tbody> <tr> <td>Multi dwelling housing</td> <td>900 square metres</td> </tr> </tbody> </table>	Column 1	Column 2	Multi dwelling housing	900 square metres		
Column 1	Column 2					
Multi dwelling housing	900 square metres					
<b>4.3(2) Height</b>						
9.5m	Unit 1 = 8.3m Unit 2 = 4.95m Unit 3 = 5.0m	Yes				
<b>4.3A(2) Exception to Height of Buildings</b>						
5m for a dwelling without street frontage <i>Applicable to Units 2 and 3</i>	Unit 2 = 4.95m Unit 3 = 5.0m	Yes				
<b>4.5A Density Controls for R2 zone</b>						
Development consent must not be granted to the erection of multi dwelling housing on land on Zone R2 Low Density Residential unless: (a) The site area for the building is not less than <ul style="list-style-type: none"> <li>i) For each 1, 2 or 3 bedroom dwelling – 300m<sup>2</sup></li> <li>ii) For each 4 or more bedroom dwelling – 365m<sup>2</sup>, and</li> <li>iii) Each dwelling will have its own contiguous private open space.</li> </ul>	Unit 1 = 5 bedroom Unit 2 = 3 bedroom Unit 3 = 3 bedroom  1 x 365m <sup>2</sup> = 365m <sup>2</sup> 2 x 300m <sup>2</sup> = 600m <sup>2</sup>  Total required area = 965m <sup>2</sup>  Site area = 993.9m <sup>2</sup> The development complies with the private open spaces requirements.	Yes				

**ITEM 2 (continued)****Part 6 Additional local provisions**Clause 6.2 - 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 proposed excavation and earthworks are compliant with Council's controls and considered satisfactory.

Clause 6.4 - 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 applicant has proposed an underground onsite detention system (OSD) within the proposed driveway.

No issues have been raised by Council's Senior Development Engineer with respect to the Stormwater Management system proposed.

The internal drainage details for the development as proposed complies with Council's requirements and is designed to mitigate any potential adverse impacts of stormwater runoff on adjoining properties. Therefore, the proposal satisfies the provisions outlined in Clause 6.4.

**5.3 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:

*As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation*

**ITEM 2 (continued)**

*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 SEPP**

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. Changes proposed include consolidating SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is consistent with the provisions of the draft SEPP.

**5.4 Development Control Plans****Ryde Development Control Plan 2014 (Ryde DCP 2014)**

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.4: Multi Dwelling Housing;
- Part 7.2: Waste Minimisation and Management;
- Part 8.1: Construction Activities;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 8.5: Public Civil Works;
- Part 9.2: Access for People with Disabilities;
- Part 9.3: Parking Controls; and
- Part 9.5: Tree Preservation.

The provisions of DCP 2014 have been considered in this assessment. Parts 7.2 to 9.5 are addressed separately via considerations given in the referral responses provided by Council's Development Engineer and Landscape Architect. The proposal is consistent with the aims and objectives of Ryde DCP 2014 and where strict compliance has not been achieved with the controls, in accordance with Section 4.15(3A)(b) of the Environmental Planning and Assessment Act, flexibility has been shown in determining whether a reasonable alternative solution is provided by the proposed development. These matters are discussed below.



**ITEM 2 (continued)****Part 3.4 – Multi dwelling housing for Low Density Residential zone**

The development is subject to Part 3.4 of the RDCP 2014. A full assessment of the proposal under the RDCP 2014 is illustrated in the compliance table held at **Attachment 1**.

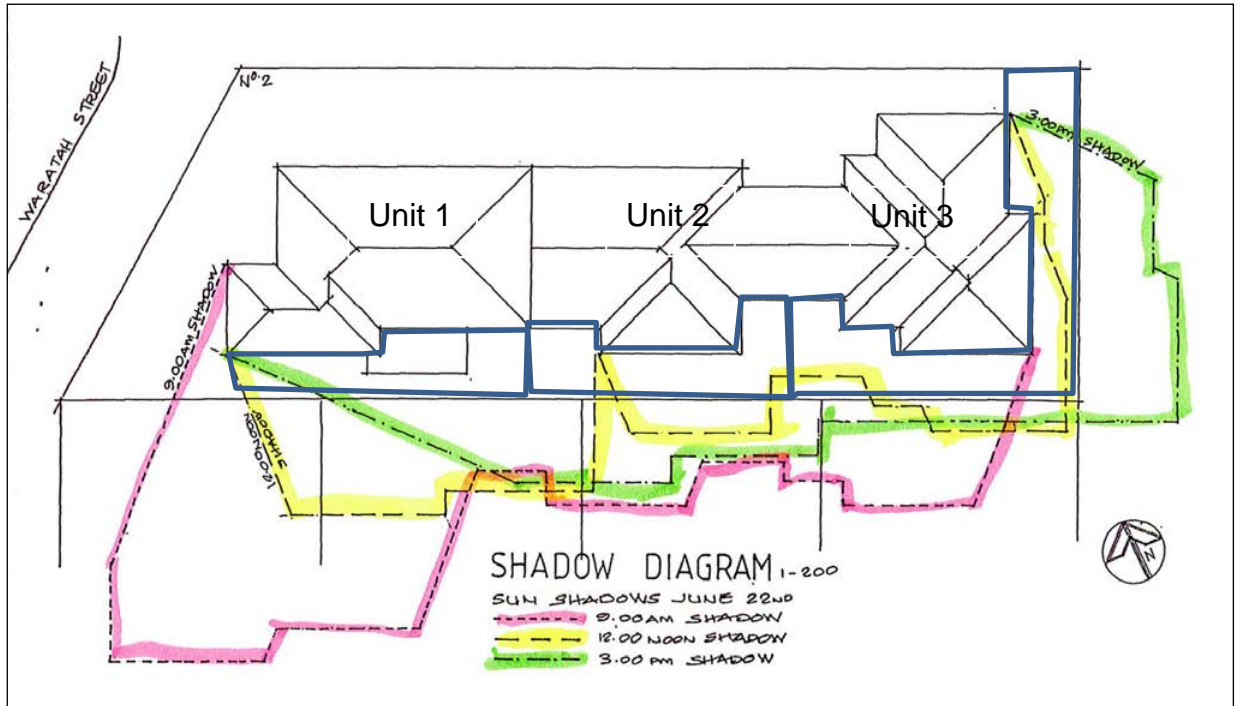
The non-compliances identified within the table are detailed below.

**Section 3.9 – Overshadowing and Access to Sunlight**

Control 3.9(b) requires multi dwelling housing developments to provide two (2) hours sunlight to at least 50% of each courtyard within the development. The private open space for Unit 3 is compliant with the control as the primary open space of the unit being the alfresco area which has a eastern aspect and will achieve at least two (2) hours sunlight to 50%. The private open spaces of Units 1 and 2 will not achieve the required solar access as shown in **Figure 11** below.

The non-compliance occurs due to the driveway being provided along the northern boundary and courtyards along the southern boundary. For a rectangle shape site, it would be possible to flip the development, so that the driveway is provided on the southern side and the courtyards along the northern boundary. This site however has a splayed frontage to the Waratah Street resulting in the northern boundary being the shortest boundary. It would not be possible to flip the development and retain compliance with the front setback requirement. This arrangement could effectively result in one dwelling less on the site. The location of the proposed private open space adjoins those properties that front Acacia Street. This results in greater separation between the private open space of these dwellings and the proposed development. There are other examples of developments in the locality where the private open space will not received the required solar access. Given the splayed frontage of the site this non-compliance is considered justified and the application does not warrant refusal.

**ITEM 2 (continued)**



**Figure 11:** Shadow Diagram 2 Waratah Street. Courtyards for each unit shown in blue.

**5.5 Planning Agreements OR Draft Planning Agreements**

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

**1.2 5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)**

Any applicable Section 7.11 contributions would be subject to a condition for any recommended consent.

Council's current Section 7.11 Development Contributions Plan 2007 (Interim Update (2014) effective 10 December 2014) requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal.

The contribution that is payable with respect to the increase housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

**ITEM 2 (continued)**

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$7,348.02
Open Space & Recreation Facilities	\$18,089.34
Civic & Urban Improvements	\$6,152.54
Roads & Traffic Management facilities	\$839.24
Cycleways	\$524.24
Stormwater Management Facilities	\$1,666.26
Plan Administration	\$141.34
<b>The total contribution is</b>	<b>\$34,760.98</b>

**Condition 16** on the payment of Section 7.11 Contribution of **\$34,760.98** has been included in the Conditions of Consent.

**5.7 Any matters prescribed by the regulations**

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. There are no relevant Clauses applying contained within the regulation relevant to the proposal.

**6. The likely impacts of the development**

The ground floor of Unit 1 and Unit 2 are partially elevated due to the existing gentle slope on the site. To prevent overlooking from the ground floor it is intended to impose the following condition 1 (b).

- **Privacy screen.** To ensure the privacy is maintained for adjoining properties, a 300mm privacy screen is to be attached to the southern boundary side 1.8m high lapped and capped fence, this screen is to be installed along the entire private open space for Unit 1 and adjacent to the deck for Unit 2.

As demonstrated within this assessment and including conditions, it is considered that the proposal will not result in any adverse impacts to the natural and/or built environment.

The proposal does not result in any significant adverse impacts upon any adjoining properties or the streetscape.

**7. Suitability of the site for the development**

As detailed within this report, the proposed development has been designed in response to the site configuration (spay frontage). The proposal is consistent with the traditional form of multi dwelling housing within the City of Ryde due to the site circumstance.

The site meets the minimum frontage width of 20 metres and minimum site area of

### ITEM 2 (continued)

900m<sup>2</sup> and is permissible within the zone. The proposal is compliant with the principal development standards. The proposal is generally compliant with the suite of built form controls and where compliance has not been achieved, the proposal has sought flexibility on the basis of consistency with the objectives of the control despite the non-compliance. The proposal does not result in any adverse impacts on adjoining properties.

The proposal is considered to be an appropriate form of development and is responsive to the site circumstance. On this basis, the site is considered to be suitable for the site.

### 8. The Public Interest

The public interest is best serviced by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised.

The proposal has been assessed against the relevant environmental planning instruments and Council considers the proposal to be acceptable. The proposal is compliant with the principal development standards and is consistent with the relevant provisions contained within RDCP2014.

The non-compliances are considered to be acceptable on merit and do not result in any adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

### 9. Submissions

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the application was notified between 8 May 2019 and 29 May 2019, and advertised in the *Northern District Times* on 9 May 2019.

The amended plans received on 15 August 2019 were not required to be re-notified given the minor extent of design changes and given that the amendments did not increase the impact upon adjoining or neighbouring land or cause material impact on the environment.

In response to the public notification period, eighteen (18) submissions were received from the following properties:

Address	
23 Acacia Street, Eastwood	27 Waratah Street, Eastwood
25 Acacia Street, Eastwood (2)	9 Waratah Street, Eastwood
19 Waratah Street, Eastwood	5 Waratah Street, Eastwood
13 Waratah Street, Eastwood	11 Waratah Street, Eastwood

**ITEM 2 (continued)**

Address	
21 Waratah Street, Eastwood	29 Waratah Street, Eastwood (2)
19 Acacia Street, Eastwood	26 Acacia Street, Eastwood
7 Waratah Street, Eastwood	4 Banksia Street, Eastwood
4 Waratah Street Eastwood	



**Figure 12:** Map showing the location of objectors within the vicinity (subject property is shaded in red).

The submissions raised the following issues:

- **Car Parking and Traffic**

Submissions raised concerns in respect to the impact of traffic and car parking.

Assessment Officer's Comment:

Council's Senior Development Engineer has provided the following comments:

*The proposed residential development consists of three dwellings comprising of,*

**ITEM 2 (continued)**

*1 x 5 bedroom dwelling and 2 x 3 bedroom dwellings. This falls under the medium density category, and thus the parking rates found in Section 2.2 of Part 9.3 from Council's DCP 2014 have been applied.*

*As a result two off-street parking spaces are required per dwelling and an additional shared visitor space. The development depicts a tandem arrangement for each dwelling and a single visitor space located at the rear of the site satisfying the required parking numbers. The allocated spaces and dimensions are in accordance with the requirements of the relevant Australian Standards (AS2890.1), thus the site is capable of accommodating up to 7 vehicles as per Council's DCP requirements.*

*In the interest of public safety, all spaces are capable of providing forward entry and exit from the site. This will ensure adequate visibility of any pedestrians along Waratah Street is maintained. In addition, a passing bay has been provided within the site to ensure vehicles entering the site do not reverse or que along Waratah Street.*

*Council acknowledges the concerns regarding the traffic the development will generate. To determine its impact, the development has been assessed under the RMS Guide to Traffic Generating Developments.*

*The guide provides the following traffic generation rates, presented as "Weekday peak hour vehicle trips" (vtph – vehicle trips per hour), whereby a vehicle trip presents as a one way movement to and from a property:*

<b>Type of Development</b>	<b>Vehicle trips per hour (vtph)</b>
Single dwelling	0.85 vtph / dwelling
Medium density residential dwelling (Smaller units: < 2 bed) (Larger units: 3+ bed)	0.4 – 0.5 vtph / dwelling 0.5 – 0.65 vtph / dwelling

*For a conservative approach, this assessment will assume that a single dwelling will generate one (1) vehicle movement per hour, whereas the proposed development will generate two (2) vehicle movements per hour during a weekday peak hour period. Thus the proposed development will only increase the existing traffic generation by one (1) vehicle per hour.*

*Considering the RMS guide assumes a daily vehicle generation rate of 10 per single house dwelling, which can vary from 10-20% on a day to day basis, the increase as a result of the multi-dwelling proposal is considered negligible and will simply be absorbed within the variance. It can be concluded that the proposal will not significantly impact traffic generation or increase the risk hazard to the public.*

- **Increase in density**

Concerns from the residents regarding increase in the density in the street and neighbourhood.

Assessment Officer's comment

**ITEM 2 (continued)**

Multi dwelling housing is a permitted use in the Low Density Zoning. Council's LEP 2014 Clause 4.5A Density controls in R2 zone states:

*Development consent must not be granted to the erection of multi dwelling housing on land in Zone R2 Low Density Residential unless:*

- (a) *the site area for the building is not less than:*
  - (i) *for each 1, 2 or 3 bedroom dwelling—300 square metres, and*
  - (ii) *for each 4 or more bedroom dwelling—365 square metres, and*
- (b) *each dwelling will have its own contiguous private open space.*

The proposal has 2 x 3 bedrooms and requires 600m<sup>2</sup> and 1 x 5 bedrooms requires 365m<sup>2</sup>. Each dwelling has its own contiguous private open space.

The required land area is 965m<sup>2</sup>. The site has 993.9m<sup>2</sup> and complies with Council's Density requirements. The site also has a 21.335 frontage to Waratah Street which exceeds Council's minimum frontage requirement

- **Demand on local schools and services**

The submissions raised the issue that demand on local schools and services are not sufficient for demand.

Assessment Officer's comment:

The State government is addressing this issue through recent legislation for example State Environmental Planning Policy Educational Establishments and Child Care Facilities 2017 to allow fast tracking development for schools to meet increasing demands.

Multi dwelling housing developments are permissible in R2 Low Density Residential Zones under the Ryde LEP 2014. The location of the proposed development is within proximity of the Eastwood Town Centre, Midway local shops and access to public transport such as bus stops.

Overall, the proposal complies with the site and density requirements outlined in Clauses 4.1B and 4.5A of RLEP 2014, satisfies objectives of R2 Low Density Residential Zones inclusive of the objectives set out in RDCP2014: Part 3.4 – Multi Dwelling housing.

- **Non- Compliances with Councils DCP 2014**

The proposal is compliant with Council's controls for street frontage, lot area, access, car parking, amenity and landscaping, with the exception of Section 3.9 – Overshadowing and Access to Sunlight. The overshadowing and access to sunlight has been justified previously in this report.

- **Privacy**

## ITEM 2 (continued)

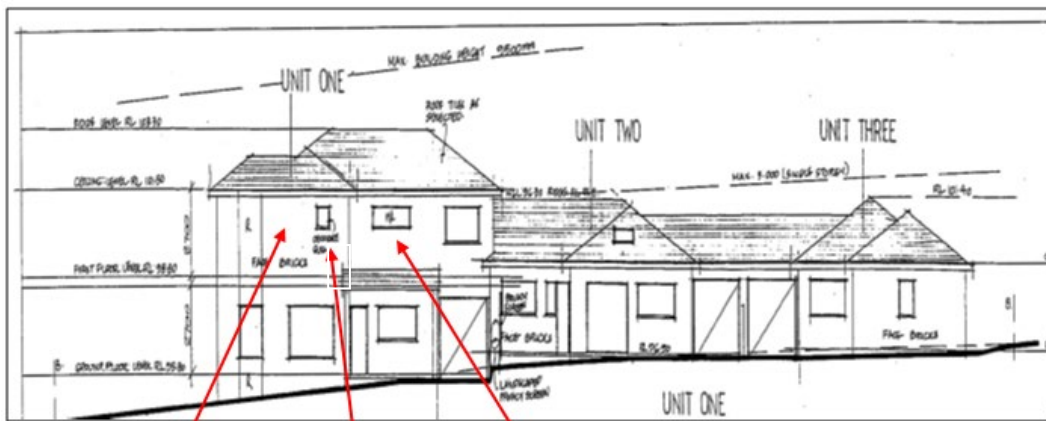
Concerns were raised regarding privacy for the adjoining dwellings in Acacia Street.

### Assessment Officer's comment:

The dwelling currently on site is an existing part one and part two storey dwelling with a first floor window facing south towards the Acacia Street residents. The proposed two storey element for Unit 1 is a similar size (height and length) to the existing dwelling.

The applicant has amended the plans for Unit 1 in respect to the southern side elevation. The changes from the left hand side are as follows:

- removal of a first floor window,
- provided obscure glazing to a ensuite window,
- and changed the window to a highlight window (minimum sill height of 1.5m) the remaining first floor window is a bedroom window (**Figure 13** below).



**Figure 13:** Window removed, obscure window, highlight window, South Elevation amended plans dated 15 August 2019

Due to the window treatment and use of the windows, privacy from the first floor is considered acceptable.

To prevent overlooking from the ground floor it is intended to impose the following condition 1(b).

- **Privacy screen.** To ensure the privacy is maintained for adjoining properties, a 300mm privacy screen is to be attached to the southern boundary side 1.8m high lapped and capped fence, this screen is to be installed along the entire private open space for Unit 1 and adjacent to the deck for Unit 2.
- **Garbage room**

A garbage room is not necessary for the development as there are only three dwellings. Council's DCP 2014 permits each dwelling to store their garbage bins in



**ITEM 2 (continued)**

their private open space in the rear yard. The amended plans received have shown the proposed locations in each Unit's rear yard to comply with Council's control.

**10. Referrals**
**Landscape Architect**

A referral was made to Council's Consultant Landscape Architect, and the following comments have been made:

**1.0 Existing Trees**

*An Arborist Report has been submitted with the application prepared by Hugh The Arborist dated 14/04/2019*

*A summary of the existing trees identified by the Arborist are show in the table below:*

<i>Tree No.</i>	<i>Species "Common name"</i>	<i>Proposed recommendation by Arborist</i>	<i>Comment</i>
1	<b><i>Cupressus sempervirens</i></b> <i>Swanes Golden</i>	<i>Retain and Protect On adjoining property Encroachment &lt;10%</i>	<i>Agree</i>
1a	<b><i>Schefflera actinophylla</i></b> <i>Umbrella Tree</i>	<i>Retain and Protect On adjoining property Encroachment 22%. Proposed driveway in same location as existing driveway. Driveway to be constructed on or above existing soil level.</i>	<i>Agree</i>
2	<b><i>Arbutus unedo</i></b> <i>Irish Strawberry Tree</i>	<i>Remove Not significantly impacted, but significant dieback</i>	<i>Agree</i>
3	<b><i>Magnolia x soulangeana</i></b> <i>Saucer Magnolia</i>	<i>Remove Encroachment 25%</i>	<i>Agree</i>
4	<b><i>Pittosporum spp.</i></b> <i>Varigated Pittosporum</i>	<i>Remove Removed to allow for landscaping</i>	<i>Agree More of a shrub than a tree.</i>
5	<b><i>Jacaranda mimosifolia</i></b> <i>Jacaranda</i>	<i>Retain and Protect On adjoining property Encroachment 9%</i>	<i>Agree</i>
6	<b><i>Cupressus spp.</i></b>	<i>Remove</i>	<i>Agree</i>

**ITEM 2 (continued)**

		<i>In footprint of building</i>	
7	<b><i>Metrosideros excelsior</i></b> <i>pōhutukawa</i>	Remove <i>In footprint of car park</i>	Agree
8	<b>Unknown</b>	Remove <i>Encroachment 27%</i>	Agree
9	<b><i>Tristaniaopsis laurina</i></b> <i>Water Gum</i>	Remove <i>Encroachment 32%</i>	Agree
10	<b><i>Rondeletia amoena</i></b> <i>Rondeletia</i>	Remove <i>Encroachment 37%</i>	Agree <i>More of a shrub than a tree</i>
11	<b><i>Citharexylum spinosum</i></b> <i>Fiddlewood</i>	Remove <i>Encroachment 37%</i>	Agree
12	<b><i>Pittosporum undulatum</i></b> <i>Native Daphne</i>	Remove <i>Encroachment 35%</i>	Agree
13	<b><i>Cupressus spp.</i></b>	Remove <i>In driveway</i>	Agree
13a	<b><i>Liquidambar styraciflua</i></b> <i>Liquidambar</i>	Retain and protect <i>On adjoining property</i> <i>Encroachment 13%</i> <i>Driveway to constructed above grade</i>	Agree
14	<b><i>Gordonia axillaris</i></b> <i>Gordonia</i>	Remove <i>In driveway</i>	Agree
15	<i>Unknown</i>	Remove <i>In driveway</i>	Agree
16	<b><i>Cupressus spp.</i></b>	Remove <i>In driveway</i>	Agree
17	<b><i>Cupressus spp.</i></b>	Remove <i>In driveway</i>	Agree

**2.0 Landscape Plan**

*The Landscape Plan is satisfactory as it satisfies the following requirements of DCP 2014: Part 3.4 Multi dwelling housing*

- *Landscaping used to assist in preserving the privacy of the occupants of dwellings within the development and adjoining properties.*
- *Landscape strips included for privacy purposes must be not less than 1.2 metres wide.*
- *Shrubs planted in this strip must achieve a mature height of 3 to 4 metres.*
- *Where possible small trees with a mature height of 5 to 6 metres should be planted in combination with the shrubs.”*
- *Use native plant material, particularly material indigenous to the area*
- *A planting strip not less than 1.2 metres wide between driveway and adjoining property*

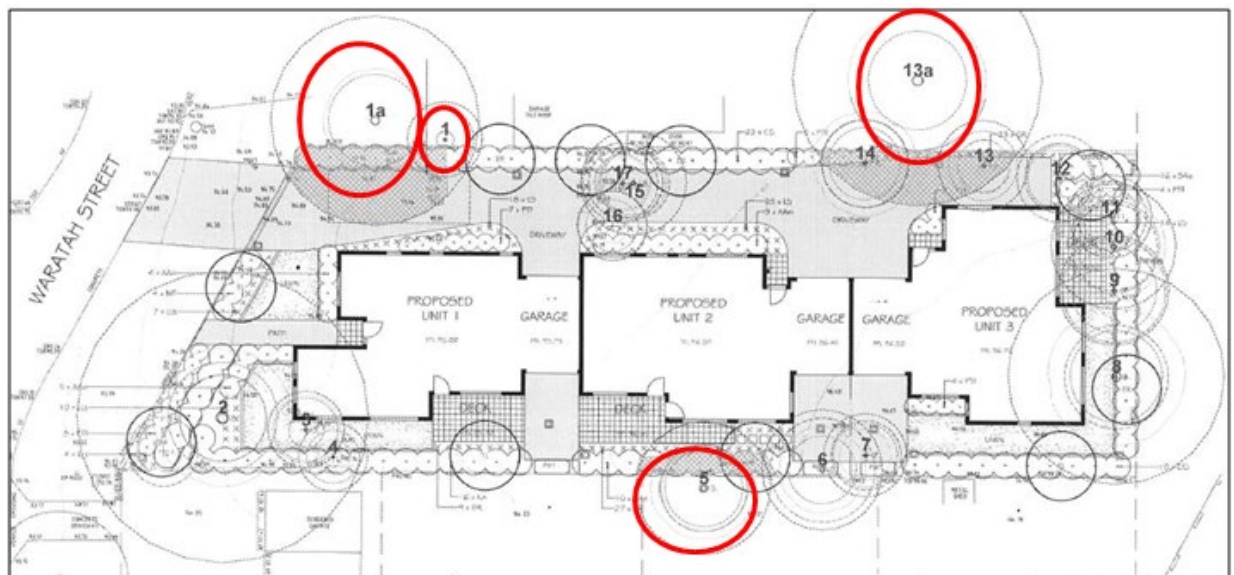
**ITEM 2 (continued)**

- Shrubs planted the driveway strip must achieve a mature height of 2 to 2.5 metres. Where possible small trees with a mature height of 5 to 6 metres should be planted in combination with the screen planting.
- A landscaping strip of not less than 1 metre must be provided between the driveway and the wall of the dwellings.

The Landscape Plan has satisfied the following requirement with the amended plans :

- The edge between the driveway and paths and gardens and lawn areas should be edged or kerbed with concrete or similar materials. Timber edging is not acceptable

Refer to Figure 14 below for location of neighbour trees



**Figure 14:** Location of neighbour trees to be retained circled in red.

**3.0 Stormwater Plan**

Generally on-site detention tanks should not be located in the front setback, if located in the front setback the tank should be located under the driveway. This has been achieved with underground tanks under the driveway.

The stormwater pipes are generally compatible with retention of the existing trees to be retained with the exception of tree 1a. The detention tank is located in its TPZ, however as this is a very resilient species, it is considered it will stay viable after disturbance.

**4.0 Architecture Plans**

The areas of cut and fill will not impact the existing trees

Recommendation

No objection subject to conditions imposed.

**ITEM 2 (continued)**  
**Senior Development Engineer**

A referral was made to Council's Senior Development Engineer, and the following comments have been made:

*Stormwater Management*

*The amended stormwater plan, completed by StormCivil Pty Ltd, drawing number 303168 D1 and D2, issue B, dated 10<sup>th</sup> August 2019, has been reviewed and found to have addressed the previous concern, where the rainwater tank clashed with the secondary car space. The rainwater tanks have simply been relocated adjacent to the secondary space. There are no further objections from a drainage perspective.*

*Vehicle Access and Parking*

*The amended architectural plan (D01-A) incorporates swept paths demonstrating forward entry and exit from the site. The accuracy of these swept paths should not be relied on, however considered the dimensions depicted on the plans are generally in accordance with the requirements of AS2890.1, it is deemed compliant. A condition of consent will be implemented to ensure compliance is maintained at CC stage.*

*Response to Traffic Submissions*

*The proposed residential development consists of three dwellings comprising of one 5-bedroom dwelling and two 2-bedroom dwellings. This falls under the medium density category, and thus the parking rates found in Section 2.2 of Part 9.3 from Council's DCP 2014 have been applied.*

*As a result 2 off-street parking spaces are required per dwelling and an additional shared visitor space. The development depicts a tandem arrangement for each dwelling and a single visitor space located at the rear of the site satisfying the required parking numbers. The allocated spaces and dimensions are in accordance with the requirements of the relevant Australian Standards (AS2890.1), thus the site is capable of accommodating up to 7 vehicles as per Council's DCP requirements.*

*In the interest of public safety, all spaces are capable of providing forward entry and exit from the site. This will ensure adequate visibility of any pedestrians along Waratah Street is maintained. In addition, a passing bay has been provided within the site to ensure vehicles entering the site do not reverse or que along Waratah Street.*

*Council acknowledge the concern regarding the traffic the development will generate. To determine its impact, the development has been assessed under the RMS Guide to Traffic Generating Developments. The guide states a single dwelling will generate one (1) vehicle movement per hour, whereas the proposed development will generate two (2) vehicle movements per hour during a weekday peak hour period. Thus the proposed development will only increase the existing traffic generation by one (1) vehicle per hour.*

*Considering the RMS guide assumes a daily vehicle generation rate of 10 per single house dwelling, which can vary from 10-20% on a day to day basis, the increase as a*

**ITEM 2 (continued)**

*result of the multi-dwelling proposal is considered negligible and will simply be absorbed within the variance. It can be concluded that the proposal will not significantly impact traffic generation or increase the risk hazard to the public.*

**Recommendation**

*There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any development consent being issued for the proposed development.*

**11. Conclusion**

Upon consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant statutory provisions, the proposal is considered to be suitable for the site and is in the public interest.

Therefore the development is recommended to be approved for the following reasons:

- The development complies with the relevant provisions of RLEP 2014 and satisfies the zone objectives
- The proposal is consistent with the desired future character of the area.
- Notwithstanding the variation outlined above within this report, the development generally complies with the relevant provisions outlined in RDCP 2014 Part 3.4: Multi Dwelling Housing which provides acceptable amenity for future occupants and adjoining properties.

**12. Recommendation**

- A) That LDA2019/0128 for the construction of a new multi-dwelling housing development containing three (3) dwellings as well as strata subdivision at 2 Waratah Street, Eastwood subject to the conditions outlined in **Attachment 1** of this report.
- B) That all objectors be advised of the decision of the Local Planning Panel.

**ATTACHMENTS**

- 1 Draft Conditions of Consent
- 2 Compliance Check
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**ITEM 2 (continued)**

**Jane Tompsett**

**Building Surveyor - Fast Track Team**

Report Approved By:

**Colin Murphy**

**Senior Coordinator - Fast Track Team**

**Sandra Bailey**

**Manager - Development Assessment**

**Liz Coad**

**Director - City Planning and Environment**

**ITEM 2 (continued)**

**ATTACHMENT 1**

**Attachment 1 – Draft conditions of consent for LDA2019/0128**

**GENERAL**

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

<b>Document Description</b>	<b>Date</b>	<b>Plan No/Reference</b>
Architectural Plans	21.07.2019	Drawing 5881 D01 <sup>A</sup> , D02 <sup>A</sup> , D03 <sup>A</sup> , D04 <sup>A</sup> as amended by Council and conditions of consent.
Landscaping Plans	13.08.2019	Job Dwg. No. 29.19/098'A' one one/one as amended in red by Council and conditions of consent.
Stormwater Concept Plans	10.08.2019	Job No. 303168 Dwg. No. D1 Sheet 1 of 2, D2 Sheet 2 of 2 Issue B, Dwg. No. E1 Sheet 1 of 1 Issue B prepared by Storm Civil as amended in red by Council and conditions of consent .
Specialist reports	15.04.2019	Arboricultural Impact Assessment report prepared by Hugh the Arborist

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

- (a) **Retaining walls.** All proposed retaining walls are to be shown in detail including top and bottom of wall on the Architectural plans and Landscape plans. There is to be no fill adjacent to any boundaries. The screen planting is to be at existing ground level. The Landscape plan is to reflect the proposed levels.
- (b) **Privacy screen.** To ensure the privacy is maintained for adjoining properties, a 300mm privacy screen is to be attached to the southern boundary side 1.8m high lapped and capped fence, this screen is to be installed along the entire private open space for Unit 1 and adjacent to the deck for Unit 2.

**ITEM 2 (continued)**

**ATTACHMENT 1**

- (c) **Private Outdoor Space.** The Private Outdoor Space (courtyards) must be unroofed. The architectural and stormwater plans are to reflect unroofed private outdoor courtyards.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 1000805M\_03, dated 11 September 2019.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
  - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
  - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.



**ITEM 2 (continued)**

**ATTACHMENT 1**

10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
12. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP Part 8.5 (Public Domain Works), except otherwise as amended by conditions of this consent.
13. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
14. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
15. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.

**PRIOR TO CONSTRUCTION CERTIFICATE**

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

**ITEM 2 (continued)**

**ATTACHMENT 1**

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

16. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	7,348.02
Open Space & Recreation Facilities	18,089.34
Civic & Urban Improvements	6,152.54
Roads & Traffic Management Facilities	839.24
Cycleways	524.24
Stormwater Management Facilities	1,666.26
Plan Administration	141.34
<b>The total contribution is</b>	<b>\$34,760.98</b>

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in Section 7.11 Development Contributions Plan 2007 Interim Update (2014), effective from 10 December 2014.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

17. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
18. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

**ITEM 2 (continued)**

**ATTACHMENT 1**

19. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: dwelling houses with delivery of bricks or concrete or machine excavation)
20. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
  - (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy
21. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
22. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses 4 Waratah Street as this may be affected by the construction work namely 2 Waratah Street. A copy of the survey is to be submitted to the PCA (*and Council, if Council is not the PCA*) prior to the release of the **Construction Certificate**.

**Reason:** Both properties have constructed approximately 100mm from the common boundary. This application doesn't include demolition. However the Dilapidation Survey should be carried out prior to any future demolition approval.
23. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) to apply.
24. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
25. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifying Authority that arrangements have been made for:
  - (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

**ITEM 2 (continued)**

**ATTACHMENT 1**

And

- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in Section 372Q of the Telecommunications Act).

26. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) must be undertaken;

- a) The landscaped strip located along the boundary adjacent to the secondary car spaces must be reduced in width to ensure the secondary space complies with the requirements of AS2890.1. In this regard, the secondary car space requires a clear 3m wide by 5.4m long clearance to demonstrate compliance with AS2890.1.
- b) Swept path diagrams demonstrating compliance with forward entry and exit to the site is required. The swept path diagrams must show vehicles entering each parking space and then exiting the site in a forward direction. The swept path diagrams must include a manoeuvring clearance in accordance with Paragraph B3.2 of AS/NZS 2890.1: 2004 and a further 300 mm clearance to obstructions in accordance with Clause 2.5.2(c) of AS/NZS 2890.1: 2004.
- c) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

27. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Waratah Street, generally in accordance with the plans by StormCivil Pty Ltd, drawing number 303168 D1 and D2, issue B, dated 10<sup>th</sup> August 2019.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a chartered civil engineer and comply with the following;

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

**ITEM 2 (continued)**

**ATTACHMENT 1**

- Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 21.4 m<sup>3</sup> and a maximum PSD of 18.8 L/s. Any variations to these values attributed to changes required by conditions of this consent, must be in accordance with Council's DCP requirements for onsite detention and must be validated in the certification of the design required by this condition.

28. **Driveway Access Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific driveway access levels by Council prior to the issue of the Construction Certificate.

29. **External Engineering Works.** To facilitate satisfactory and safe access to and from the proposed development, the following public infrastructure works shall be constructed at no cost to Council along the entire public road frontage of the site.

- a) Construction of concrete footpath paving and replacement of all damaged kerb and gutter etc.
- b) Construction of any other associated structures across the footway if required by Council's City Works Department.
- c) Relocation or adjustments of any services within the footpath area if required due to proposed works

Any variation to the scope of works, whether due to the site conditions or circumstances arising from detailed assessment of the plans, is at the discretion of Council's City Works and Infrastructure.

Detailed engineering plans prepared by a qualified and experienced civil engineer in accordance with Development Control Plan 2014 Part 8.5 - Public Civil Works are to be submitted to, and approved by Council.

Engineering plans assessment and inspections fee associated with this work are payable in accordance with Council's Schedule of Fees and Charges prior to approval being issued by Council.

30. **Vehicle Footpath Crossing(s).** Concrete footpath crossings and associated gutter crossovers must be constructed fronting the approved vehicle access location(s). The crossing(s) must be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements and AS 2890.1 – 2004 (Offstreet Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.

31. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work. A copy of the dilapidation survey is to be submitted to the Accredited Certifier *and Council* prior to the release of the Construction Certificate.

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

**ITEM 2 (continued)**

**ATTACHMENT 1**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

**32. Site Sign**

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**33. Residential building work – insurance.** In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

**34. Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor; and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder; and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

**35. Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at

**ITEM 2 (continued)**

**ATTACHMENT 1**

their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.

- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

36. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.
37. **Footpath Works.** The applicant shall, at no cost to Council, excavate and/or fill the footpath adjacent to the subject property so the levels of the footpath comply with the levels specified by Council's City Works & Infrastructure Department. All work which is necessary to join the new footpath levels with the levels in front of the adjoining properties in a satisfactory manner shall be carried out by the applicant. The cost of reconstructing footpath paving or adjusting any services that may be affected shall be borne by the applicant.
38. **Tree Retention.** As identified in the Arborist Assessment prepared by Hugh The Arborist dated 14/04/2019. The following trees on site or adjoining the site are to be retained and protected

Tree No.	Species "Common name"	Notes
1	<b>Cupressus sempervirens</b> Swanes Golden	Retain and Protect On adjoining property
1a	<b>Schefflera actinophylla</b> Umbrella Tree	Retain and Protect On adjoining property
5	<b>Jacaranda mimosifolia</b> Jacaranda	Retain and Protect On adjoining property
13a	<b>Liquidambar styraciflua</b> Liquidambar	Retain and protect On adjoining property

39. **Tree Protection.** All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site.
40. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on adjoining allotments in accordance with AS4970-2009 Protection of trees on development sites. All trees are to be monitored to ensure adequate health throughout the construction period. Additionally, all work within the Tree Protection Zones is to be supervised by the Project Arborist throughout construction.

**ITEM 2 (continued)**

**ATTACHMENT 1**

41. **Provision of Arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Project Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.
42. **Tree Protection** is to be installed before demolition and construction commences as indicated in "Section 10.5 Site Specific Tree Protection Recommendations" of the Arborist's Report prepared by Hugh The Arborist dated 14/04/2019.

**DURING CONSTRUCTION**

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

43. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
44. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction work.
45. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
46. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
47. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
  - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - (c) the material is reused only to the extent that fill is allowed by the consent.
48. **Construction materials.** All materials associated with construction must be retained within the site.
49. **Site Facilities**  
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
  - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
50. **Site maintenance**  
The applicant must ensure that:



**ITEM 2 (continued)**

**ATTACHMENT 1**

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
  - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - (c) the site is clear of waste and debris at the completion of the works.
51. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
52. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by StormCivil Pty Ltd, drawing number 303168 D1 and D2, issue B, dated 10<sup>th</sup> August 2019, submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.
53. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with the approved plan by StormCivil Pty Ltd, drawing number 303168 E1, issue B, dated 10<sup>th</sup> August 2019, at the commencement of works on the site. Suitable erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.
54. **Tree Removal.** As identified in the Arborist Assessment prepared by Hugh The Arborist dated 14/04/2019. The following trees on site are to be removed:

Tree No.	Species "Common name"
2	<b>Arbutus unedo</b> Irish Strawberry Tree
3	<b>Magnolia x soulangeana</b> Saucer Magnolia
4	<b>Pittosporum spp.</b> Variegated Pittosporum
6	<b>Cupressus spp.</b>
7	<b>Metrosiderous excelsior</b> pōhutukawa
8	<b>Unknown</b>
9	<b>Tristanopsis laurina</b> Water Gum
10	<b>Rondeletia amoena</b> Rondeletia
11	<b>Citharexylum spinosum</b> Fiddlewood
12	<b>Pittosporum undulatum</b>

**ITEM 2 (continued)**

**ATTACHMENT 1**

	Native Daphne
13	<b>Cupressus spp.</b>
14	<b>Gordonia axillaris</b> Gordonia
15	Unknown
16	<b>Cupressus spp.</b>
17	<b>Cupressus spp.</b>

55. **Project Arborist Inspections.** The Project Arborist is to inspect and document with Certificates of Compliance to the certifying authority as stipulated in SECTION 5 MONITORING AND CERTIFICATION of AS4970-2009.

<b>PROJECT PHASE</b>	<b>ACTIVITIES</b>	<b>PROJECT ARBORIST to</b>
Initial Site Preparation	Establish/delineate TPZ Install protective measures and undertake soil rehabilitation for all trees to be retained.	Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and signage <b>Issue a Certification of Compliance</b> of tree protection measures being in place and soil rehabilitation undertaken
Construction work	Liaison with site manager, compliance and any deviation from approved plan	Maintain or amend protective measures Supervision and monitoring formal notification of any deviation from approved tree protection plan
Stormwater connection installation through TPZ, Implement hard and soft landscape works	<b>Supervise</b> Installation of pipes within tree TPZ	Excavate trench through TPZ under Arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works <b>Issue a Certificate of Compliance</b>
Practical Completion	Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees	Remove all remaining tree Protection measures <b>Certification of tree protection and soil rehabilitation for Protected Trees</b>

**ITEM 2 (continued)**

**ATTACHMENT 1**

Defects liability / maintenance period	Tree vigour and structure	Undertake any required remedial tree works <b>Certification of tree protection if necessary</b>
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56. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.

**PRIOR TO OCCUPATION CERTIFICATE**

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

57. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s).
58. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate**.
59. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

**ITEM 2 (continued)**

**ATTACHMENT 1**

60. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of any **Occupation Certificate**.
61. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of any **Occupation Certificate**.
62. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.
63. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.
64. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems, as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.
65. **Redundant Footpath Crossing.** The existing footpath crossing(s) and associated gutter crossover(s) which are not accessing approved vehicle access points must be removed and restore kerb and gutter, verge and footway to match existing adjoining sections. All new levels and materials must be flush and consistent with adjoining sections and all costs are to be borne by the applicant. The works must be completed to Council's satisfaction, prior to the issue of any Occupation Certificate.
66. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

**ITEM 2 (continued)**

**ATTACHMENT 1**

- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
- b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
- e) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

67. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

**OPERATIONAL CONDITIONS**

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

68. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;
- 6 residential spaces, and
  - 1 visitor space.

**PRIOR TO SUBDIVISION CERTIFICATE**

69. **Final Occupation Certificate.** Prior to the issue of any Subdivision Certificate The final occupation certificate associated with Development Consent DA2019/128 and any related 4.55 applications, must be issued for the entire development prior to the release of the Subdivision Certificate.

70. **Final Plan of Subdivision.** The submission of a final plan of subdivision plus three copies suitable for endorsement by the Authorised Officer.

**ITEM 2 (continued)**

**ATTACHMENT 1**

71. **Final plan of subdivision - title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land
72. **Occupation Certificate.** A final occupation certificate in relation to Development Consent No.Lda2019/128 must be in force.
73. **Existing Easements and Restrictions.** The applicant must acknowledge all existing easements and restrictions of the use of land on the final plan of subdivision.
74. **On-site Stormwater Detention Certification.** The submission of certification by a suitably qualified Civil Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of the Subdivision Certificate.
75. **Removal of encroachments.** All structures, services etc. are to be wholly contained within the legal property boundaries of each lot. All existing structures and services etc are either to be demolished, relocated and/or have appropriate easement/s registered over the encroachment to ensure their legal operation. Prior to issue of Subdivision Certificate, a certificate shall be obtained from a registered surveyor and submitted to the Principal Certifying Authority to confirm this requirement has been met.
76. **Registration of easements.** The registration of all necessary easements is required to ensure all proposed lots will have legal access to all utility services, drainage and vehicular access. Prior to release of the Subdivision Certificate, certification shall be obtained from a registered surveyor and submitted to Council confirming the above requirement will be met upon registration of the linen plan at the Land and Property Information.
77. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.  
  
Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.
78. **88B Instrument.** If required, the submission of an instrument under Section 88B of the Conveyancing Act 1919 with 2 copies, creating any Easements, Positive Covenants and Restrictions on use, the City of Ryde being the authority empowered to release vary or modify the same.

**ITEM 2 (continued)**

**ATTACHMENT 1**

79. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to Section 88 of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the 88 E instrument are to be in accordance with the Council's draft terms for these systems as specified in Council's DCP 2014 Part 8.4 (Title Encumbrances) Section 7, and to the satisfaction of Council.
80. **Notice of Arrangement (Utility Provider).** Notice of Arrangement and compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Ausgrid, Sydney Water, Telstra, Council etc).

**End of consent**

**ITEM 2 (continued)**  
**Attachment 2 – Compliance Table**

**ATTACHMENT 2**

**Compliance Check - Quality Certification**

**Assessment of a Multi Dwelling  
 Housing (attached) Development**

<b>LDA No:</b> LDA2019/0128	<b>Date Plans Rec'd:</b> 30 April 2019
<b>Address:</b> 2 Waratah St Eastwood	
<b>Proposal:</b> New multi-dwelling housing development containing three (3) dwellings - 1 x 2 storey, 5 bedroom dwelling at the front and 2 x single storey, 3 bedroom dwellings at the rear as well as strata subdivision.	
<b>Constraints Identified:</b> None	

DCP 2014	Proposed	Compliance
<b>PART 2.0 – Site Analysis, Location Number and Type of Dwelling</b>		
<b>2.1 Site Analysis</b>		
(a) Site analysis submitted (b) The site analysis should be used to: i. how future dwgs will relate to their immediate surroundings and to each other ii. produce a design that minimise the negative impact on the amenity of adjoining properties and street/neighbourhood	Site analysis Plan 5881 Drawing D03 <sup>A</sup> prepared by Peter Hall and dated 21 July 2019 including Survey Landscape plan and Stormwater plans	Yes
<b>2.2 Minimum allotment size</b>		
(a) Frontage and site area not less than 20m and 900sqm respectively. (b) Hatched Shaped' lots considered unsuitable exception Section 2.4 Retention of existing dwellings.	Frontage = 21.335 Site area = 993.9m <sup>2</sup>	Yes N/A
<b>2.3 Non-preferred locations</b>		
(a) The site is suitable for more intense residential development being multi dwelling. The site is not a non-preferred location.	The site is not a non-preferred location.	Yes
<b>2.4 Retention of Existing Dwellings</b>		
(a) Retention of existing dwg as part of a MDH will not be approved. Exception being heritage significant building or contributory building.		NA
<b>2.4.1 Heritage Significant Buildings</b>		



**ITEM 2 (continued)**

**ATTACHMENT 2**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
<p>(a) The site can be subdivided so that the development is on a separate lot to the item. In this circumstance, the multi dwelling lot must have:</p> <ul style="list-style-type: none"> <li>i. Width not less than 20m beyond access handle;</li> <li>ii. Minimum area of 900sqm excl access handle;</li> <li>iii. Width of access handle not less than 4m for 3 or more dwellings.</li> </ul> <p>(b) New development must complement item;</p> <p>(c) Schedule of conservation and restoration works for item lodged with DA for subdivision.</p> <p>(d) The item is not to be demolished.</p>		NA
<b>2.5 Density controls in R2 zone</b>		
<p>(a) The proposal complies with Clause 4.5A RLEP 2014</p> <p>(a) Site Area not less than:</p> <ul style="list-style-type: none"> <li>i) 300sqm for 1, 2, 3 bedders, and</li> <li>ii) 365sqm for 4 or more bedder.</li> </ul> <p>Each dwelling to have own contiguous private open space.</p> <p>(b) The area of any access handle or the area bwn the FSBL and MHWMM is not included in site area.</p>	<p>Proposal complies with Clause 4.5A.</p> <p>2 x 3 bedroom requires 600m<sup>2</sup></p> <p>1 x 5 bedroom requires 365m<sup>2</sup></p> <p>Total site area required 965m<sup>2</sup> proposed 993.9m<sup>2</sup></p> <p>Each dwelling has its own contiguous private open space</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
<b>2.6 Number of Dwellings</b>		
(a) No more than 12 Dwellings	Three Dwellings proposed	Yes
<b>2.7 Type of Dwellings</b>		
<p>(a) 4 or more dwgs, not more than 75% should have same number of bedrooms. (Round down)</p> <p>(b) The proposed slope, levels, building height, site coverage, landscaping, setbacks, accessibility and shadowing to be considered when assessing:</p> <ul style="list-style-type: none"> <li>i. whether the development complements existing neighbourhood, and</li> <li>ii. whether the development meet needs of householders including older persons with disabilities.</li> </ul>		N/A
<b>PART 3.0 Site Planning</b>		

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
<b>3.1 Slope of Site</b>		
(a) Dwellings presentation to street. At least one dwg clearly seen from street.	Unit 1 front door presents to the street	Yes
(b) Sites with slope > than 1:6 unacceptable.	Rear RL 96.8 Front RL 94.0 Slope 1:20 is less	Yes
(c) Site that slope up from street > than 1:6 unacceptable.	Slope 1:20 is less	Yes
(d) Cross fall > than 1:14 not acceptable.	RL 96.8 RL 94.25 Cross fall 1:20 is less	Yes
<b>3.2 Altering the Levels of the Site</b>		
(a) No imported Fill.	Concrete slab cut and fill is proportionate on the site	Yes
(b) Levels of the site outside of the building footprint not altered by >300mm	Excavation Unit 1 is 300mm on the side boundary near 2 <sup>nd</sup> car space	Yes
	The adjoining deck at Unit 2 is stepped back 800mm from the side boundary and elevated and proposes screen planting. In addition a condition of consent has been imposed to provide a 300mm privacy screen on the boundary fence between adjoining neighbours to maintain privacy Condition 1 (b)	Yes Condition 1(b) To comply
(c) Basement garages not permitted. Steps to be minimised and minimal retaining walls.	No Basement garages	N/A
(d) Private open space generally at natural ground level.	Open space is provided at ground level	Yes
<b>3.3 Storey and Height</b>		
<b>3.3.1 Storeys</b>		
(a) Street facing dwelling may be two storeys provided:		
i. Two storey dwelling not attached to any other two storey dwelling.	Two storey dwelling is not attached to any other two storey dwelling.	Yes
ii. Two storey dwelling is suitable within streetscape.	Two storey dwelling is suitable within streetscape.	Yes
(b) Corner lots, one dwg can be two storeys on shortest street frontage.		N/A
(c) Corner lots with 2 storey dwg to be sensitively designed in regards to topography, dwg size and height.		N/A
<b>3.3.2 Height</b>		

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
(a) Proposal complies with Clause 4.3 and 4.3A (2) of RLEP 2014.	RL 103.30 ridge RL 95.25 below the ridge Maximum height 8.05m	Yes
<b>3.4 Site Coverage</b>		
(a) Site coverage < 40% (b) Pervious area > 35%	Site coverage 355.06m <sup>2</sup> = 35% Pervious area 383.18m <sup>2</sup> = 38%	Yes
<b>3.5 Setbacks</b>		
<b>3.5.1 Front Setbacks</b>		
(a) Development must be i. same as adjoining if difference between setbacks of adjoining dwellings is <2m ii. Average of setback between the two if >2m (b) Setback of 1m less than the above std for not more than 50% of the front elevation.  (c) May vary this requirement if streetscape is likely to change: not less than 7.5m for 50% of frontage, not less than 6.5m for 50% of frontage.	25 Acacia Street 2.190m setback in Waratah Street and 4 Waratah Street is setback 10.5m  Total 12.69m the average of the two setbacks is 6.345m  Proposed 6.350m 5.345m for 50% Proposed 5.350m	Yes  Yes  Yes
<b>3.5.2 Hatchet Shaped Allotment</b>		
(a) Vehicles enter and leave in forward direction.		N/A
<b>3.5.3 Setback from secondary frontage</b>		
(a) Min 4.5m		N/A
<b>3.5.4 Side and Rear Setbacks</b>		
(a) Min 4.5m unless vehicular access is included in this area, then min 6m. (b) Must be adequate to provide appropriate solar access. (c) Ensure existing substantial trees not within proposed courtyard areas. (d) Min 3m up to 50% permitted.	6m  Adequate Solar access for 3 units in addition skylights have been installed in Unit 2 and Unit 3  Private open space in the rear yards. Existing substantial bushes are to be removed from courtyards Varying setbacks from 3m to 6m.	Yes  Yes  Yes  Yes
<b>3.5.5 Internal Setbacks</b>		
(a) Habitable windows do not overlook habitable windows of another dwelling. (b) Min 9m separation provided between habitable windows within development.	No Habitable windows overlook habitable windows of another dwelling  Min 9m separation provided between habitable windows within development.	Yes  Yes
<b>3.6 Private Outdoor Space (courtyards)</b>		

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
<p>(a) Minimum: i. 30m<sup>2</sup> for 2 bed. ii. 35m<sup>2</sup> for &gt;3 bed.</p> <p>(b) Min 4m dimensions. (c) At least 50% access to sunlight for 2 hours. (d) Courtyards do not contain existing substantial trees.</p> <p>(e) Access other than through dwelling to POS and not less than 1m wide. (f) Private outdoor space securely enclosed and visible from living area. (g) Must be one area, can be partially paved but not roofed.</p> <p>(h) Courtyards not in front setback. (i) Min 1.2m wide landscape privacy strip between courtyard and adjoining property.</p>	<p>Unit 2 38.25m<sup>2</sup> Unit 3 68m<sup>2</sup> Unit 1 38.25m<sup>2</sup></p> <p>Minimum of 4m for dimensions</p> <p>Some minor trees in courtyards proposed for removal</p> <p>Through the garage as well as dwelling. Securely enclosed and visible from the living area</p> <p>Unit 1 shows a roof on the architectural plans. All the units show downpipes on the patios on the Stormwater plans. Condition 1(c) <b>Private Outdoor Space.</b> The Private Outdoor Space (courtyards) must be unroofed. The architectural and stormwater plans are to reflect unroofed private outdoor courtyards.</p> <p>Courtyards are not in front setback</p> <p>1.2m landscape strip proposed</p>	<p>Yes</p> <p>Yes</p> <p>No Refer to report Addressed under Overshadowing and Access to Sunlight Yes</p> <p>Yes</p> <p>Yes Refer to condition No. 1 (c)</p> <p>Yes</p> <p>Yes</p>
<b>3.7 Landscaping</b>		
<b>Landscape plans</b>		
<p>(a) A concept landscape plan submitted. (b) Landscaping completed prior to occupation. Should include watering system.</p>	<p>Landscape plan provided by "Iscape" Landscape Architecture August 2019 Job.dwg no. 29.19/098'A</p>	<p>Yes</p>
<b>Protection and retention of trees</b>		
<p>(c) Existing trees retained and buildings setback appropriately. (d) Existing substantial trees not located within courtyards. (e) Tree location must not cause damage to building. (f) Arboriculture assessment where significant tree/s impacted.</p>	<p>Existing neighbour trees are retained and buildings setback appropriately. Existing substantial trees are not located within courtyards. Tree location must not cause damage to building. Arboriculture assessment provided and recommendations conditioned for tree protection for neighbour trees</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Privacy planting</b>		

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
<p>(g) Landscape strips for privacy not less than 1.2m wide. Shrubs must achieve mature height of 3 - 4m. Trees 5 - 6m high.  <b>Planting along the driveway and around pathways</b></p> <p>(h) Landscape strip not less than 1.2m wide bwn driveway and boundary. Shrubs 2 - 2.5m high. Trees 5 - 6m high.</p> <p>(i) Landscape strip not less than 1m bwn driveway and wall of dwgs.</p> <p>(j) Edge bwn driveway &amp; paths edged with concrete, not timber.</p> <p>(k) Rolled edge bwn driveway &amp; garden/lawn areas.  <b>Nature strips</b></p> <p>(l) Trees within footpath to be protected.  <b>On site detention</b></p> <p>(m) OSD tanks and above ground OSD not located in front setback. Driveway preferable. In landscape area, min 300mm soil cover.</p>	<p>Privacy planting achieves a mature height of 3 - 4m. Trees 5 - 6m high.</p> <p>Landscape strip is generally not less than 1.2m wide for the majority of driveway between driveway and boundary. Shrubs 2 - 2.5m high. Trees 5 - 6m high.</p> <p>Landscape strip is generally not less than 1m between driveway and wall of dwgs.</p> <p>Edge between driveway &amp; paths edged with concrete, not timber.</p> <p>Rolled edge between driveway &amp; garden/lawn areas.</p> <p>No existing trees in the footpath</p> <p>OSD blow ground</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
<p><b>3.8 Car Parking, Manoeuvrability and Driveway crossings</b></p>		
<p><b>3.8.1 Car Parking</b></p>		
<p><b>Number of car spaces</b></p> <p>(a) Number of parking spaces, refer to Part 9.3 of DCP:</p> <ul style="list-style-type: none"> <li>- 1 space per 1 or 2 B dwelling,</li> <li>- 2 spaces per 3+B dwelling,</li> <li>- 1 visitor space per 4 dwellings.</li> </ul> <p>(b) At least 1 space per dwg must be lockable garage (round up).</p> <p><b>Hatchet shaped allotments</b></p> <p>(c) Additional onsite parking to be provided for hatchet-shaped lots.</p> <p>(d) Hatchet shaped lots require 1 additional space for every 4 dwellings and be accessible to all residents.  <b>Location</b></p> <p>(e) Garages not located bwn dwellings and street frontage.</p> <p>(f) Garages and parking spaces do</p>	<p>Unit 1 5 Bedrooms            Unit 2 3 Bedrooms            Unit 3 3 Bedrooms</p> <p>Each unit has 2 spaces and 1 visitor space provided</p> <p>Each dwelling has a lockable garage</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
not dominate streetscape. (g) Garage (doors) should be designed to reduce visual prominence. (h) Tandem parking not permitted in front of a garage. (i) Garages and parking areas convenient. (j) Garages separate dwellings.	Garages are not located between dwellings and street frontage. Garages and parking do not dominate streetscape Garage doors face the side boundary not the street and are recessed back from the driveway Tandem parking at rear of garage Garages and parking areas are convenient adjoining each dwelling The garages separate dwellings.	Yes Yes Yes Yes Yes
<b>3.8.2 Manoeuvrability</b>		
(a) Vehicles enter and leave in a forward direction. (b) Corner lots, reversing out permitted depending on traffic conditions. (c) Corner lot, vehicle access point not less than 6m from property boundary at intersection of 2 roads. (d) Tandem arrangement permitted where no impact on manoeuvrability. (e) Enter and leave parking spaces in a single 3 point turn (f) Comply with AS 2890.1.	Vehicles will enter and leave in a forward direction.	Yes N/A N/A Yes Yes
<b>3.8.3 Driveways</b>		
(a) Driveways paved and extent minimised appropriately.	Driveway paved and extent is minimised	Yes
<b>3.8.4 Driveway crossings</b>		
(a) Up to 10 spaces – 4m More than 10 – not more than 6m If width of driveway crossings more than 30% of frontage, two crossings not permitted.	4.5m <30% of frontage single crossing	Yes Yes
<b>3.9 Overshadowing and Access to Sunlight</b>		

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
<p>(a) Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.</p> <p>(b) Sunlight to at least 50% of each courtyard, and principal ground level open space of adjacent properties must not be reduced to less than 2hrs between 9am and 3pm on June 21.</p> <p>Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%.</p> <p>(c) Shadow diagrams must indicate extent of shadowing within development and adjoining properties.</p>	<p>Unit1 , Unit 2 and Unit 3 all face a courtyard from a habitable room</p> <p>Unit 3 comply</p> <p>Unit 1 and Unit 2 have less than 2 hours due to the orientation. The driveway is on the north side due to the splay frontage.</p> <p>Adjoining dwellings comply with from 1pm to 3pm</p> <p>Drawing No. 5881 D03<sup>A</sup></p>	<p>Yes</p> <p>No(1)</p> <p>N/A</p> <p>Yes</p>
<b>3.10 Visual and Acoustic Privacy</b>		
<p>(a) Min 9m separation between facing habitable room windows.</p> <p>(b) No direct views between living area windows or adjacent dwellings (otherwise screening or obscuring necessary).</p> <p>(c) Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius</p> <p>(d) No balconies. Elevated landings (or similar associated with stairs into courtyard) max 1m wide</p> <p>(e) Living and sleeping areas protected from high levels of external noise.</p> <p>(f) Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)</p>	<p>9m separation between facing habitable room windows.</p> <p>No direct views between living area windows or adjacent dwellings.</p> <p>Slightly elevated floor level for Unit 1 and floor level of deck at Unit 2. This has been addressed with a condition of consent to provide a 300mm privacy screen on top of the timber lapped and capped fence</p> <p>Screening has been provided between Unit 1 and Unit 2.</p> <p>Screening has been provided between Unit 1 and Unit 2. Due to change in levels</p> <p>Bedrooms and living areas face the side boundaries</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
<b>3.11 Accessibility</b>		
<b>3.11.1 Pedestrian Access</b>		

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
(a) Safe access achieved for pedestrians. (b) Continuous access path provided and separate from vehicle access where practical.	Pedestrian shared access along the low use driveway is considered satisfactory in this instance	Yes
<b>3.11.2 Access for People with Disabilities – Devts of 6 or more dwellings</b>		
(a) 6 or more dwelling developments have min 35% of dwellings provide access to all indoor areas and outdoor living areas for people with disabilities (street, car parking and common areas accessed in one continuous path of travel) (b) Dwgs designed as per AS4299 must be able to access street, car pkg and common areas using continuous path of travel.		N/A
<b>3.11.3 Access Audits</b>		
(a) Access audit must be submitted for 6 or more dwellings.		N/A
<b>PART 4.0 Building Form</b>		
<b>4.1 Appearance</b>		
(a) Complement streetscape.  (b) Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick.  (c) At least 1 dwg must face street.	The proposal complements the streetscape. And includes a pitched roof, eaves, vertically (and horizontally for highlight windows) oriented windows, verandahs, rendered and face brick. At least 1 dwg faces street.	Yes  Yes  Yes
<b>4.2 Ceiling Height</b>		
(a) Floor to Ceiling min 2.7m	2.7m	Yes
<b>4.3 Roofscape and Roof Materials</b>		
(a) Pitch 22-30 degrees where visible from a public place. (b) Pitch increase to 35% where second storey contained in roof. (c) Eaves of at least 300mm. (d) Gables fronting street is required and hip roofs generally not permitted. (e) Variation in roof line. (f) Use materials consistent with traditional materials.	Pitch 22-30 degrees where visible from a public place.  Eaves of at least 300mm.  Variation in roof line. Use materials consistent with traditional materials.	Yes  N/A  Yes  N/A  Yes  Yes



**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
<b>4.4 Building materials for Walls</b>		
(a) Exterior walls use materials consistent in form and colour of existing development. (b) Windows have vertical proportion of between 2:1 and 3:1.	Masonry and rendered combination  Front facing windows have vertical proportion of between	Yes
<b>4.5 Fences</b>		
<b>4.5.1 Front fence</b>		
(a) Front fences not higher than 1m and must be at least 70% visually permeable. (b) Front fences constructed of materials including: i. Wooden pickets (open), ii. Masonry (sand stone or facebrick); and iii. Wrought iron or similar.	No front fence proposed	N/A
<b>4.5.2 Other Boundary Fences which Face a Street</b>		
(a) Boundary fences facing another street must be constructed of similar materials to front fence. (b) Boundary fencing facing another street, capped and capped timber fences and 'colorbond' not permitted. (c) If boundary fencing is solid, no indentation less than 600mm by 300mm must be provided.		N/A  N/A  N/A
<b>4.5.3 Other boundary fences</b>		
(a) Fences other than boundary fences facing street must be a min of 1.8m high. (b) Side, return and rear boundary fencing constructed of timber to lapped and capped standard.	1.8m CB/TP fence Side and rear boundary	N/A Yes
<b>4.6 Clotheslines and drying area</b>		
(a) Clothes drying facility provided to each dwelling in appropriate location. (b) Laundry within each dwelling.	Clothes drying facility is provided to each dwelling in an appropriate location. Laundry is within each dwelling.	Yes Yes
<b>4.7 Lighting</b>		
(a) Front yard lighting and front of dwelling provided (b) External lighting must not adversely affect adjoining properties. (c) Spot lights discouraged.	External lighting provided in blue along driveway in gardens and front yard	Yes
<b>4.8 Location of bin enclosures</b>		
(a) A. Waste and recycling storage areas and facilities provided in accordance with Part 7.2 of Waste DCP. (b) Up to 5 dwellings, not steeply sloping and wide road frontage: i. Each dwelling provided with	Location of bins shown in each unit Yellow	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
storage area. ii. Storage area not visible from public spaces, habitable rooms or common areas within development or other properties. (c) 6 or more dwellings, or steeply sloping or have narrow frontage: i. Central bin enclosure provided. ii. Enclosure is behind building line and suitably screened.		N/A
<b>PART 5.0 – Engineering</b>		
<b>5.1 Drainage</b>		
<b>Stormwater Runoff</b>  (a) Refer to Part 8.2 Stormwater & Floodplains Management DCP 2014.  <b>Property Drainage</b>  (b) Runoff from roofs and hard surfaces must not cause nuisance or damage to other private properties. (c) Runoff from roofs, driveways and hard surfaces collected and drained via gravity to on-site stormwater detention system before discharge to street gutter or council pipe or watercourse. (d) Interallotment easement acquired where runoff cannot be directed to street or a suitable pipeline. (e) Pump out systems not permitted.  <b>Minimising Flowrates</b>  (f) Surface on-site detention basis not permitted. (g) Pervious area must not be less than 35%. (h) On-site detention system must be provided. (i) Use of porous paving for patios and pathways encouraged. (j) Porous paving considered to be 25% impervious. Use for driveways not permitted.  <b>Stormwater Conservation</b>  (k) Rainwater tanks encouraged. (l) Details of tanks in Part 8.2 of Stormwater Management DCP.	<p>The proposal has been supported by stormwater plans Job 303168 DWG NO. D1 2 Issue B, D2 2 Issue B prepared by Storm Civil and dated 10 August 2019</p> <p>The development application has been considered by Council's Senior Development Engineer/ and Flooding Engineer who is satisfied with the proposal.</p> <p>The development application has been considered by Council's Senior Development Engineer/ and Flooding Engineer who is satisfied with the proposal.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p>



**3 7 Ivy Street, Ryde - New two storey dual occupancy (attached) - LDA2019/0110**
**Report prepared by:** Assessment Officer- Town Planner

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

**File Number:** GRP/09/6/12/1/2 - BP19/1138

### City of Ryde Local Planning Panel Report

<b>DA Number</b>	LDA2019/0110
<b>Site Address &amp; Ward</b>	7 Ivy Street, Ryde Central Ward
<b>Zoning</b>	R2 Low Density Residential
<b>Proposal</b>	New two (2) storey dual occupancy (attached)
<b>Property Owners</b>	Edith Makra & Adam Robert McIlveen
<b>Applicant</b>	Edith Makra
<b>Report Author</b>	Hussein Bazzi – Assessment Officer
<b>Lodgement Date</b>	5 April 2019
<b>No. of Submissions</b>	One (1) submission in support to the development
<b>Cost of Works</b>	\$924,555.00
<b>Reason for Referral to LPP</b>	Departure from Development Standard –The proposal results in 46.66% departure from the minimum frontage requirement of Clause 4.1B(2)(b) of RLEP 2014.
<b>Recommendation</b>	Refusal
<b>Attachments</b>	Attachment 1 – DCP Compliance Table Attachment 2 – C4.6 variation to Clause 4.1B(2) Attachment 3 – A3 Plans

**ITEM 3 (continued)****1. Executive Summary**

The following report is an assessment for the proposed construction of an attached two (2) storey dual occupancy.

This application is reported to the Ryde Local Planning Panel for determination as it proposes a departure from a development standard in excess of 10% in accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 - Directions by the Minister.

The proposed built form consists of two (2) attached dwellings which present to Ivy Street. The frontage to Ivy Street does not meet the development standard for a minimum 20 metre frontage required for dual occupancy development pursuant to Clause 4.1B(2)(b) of Ryde Local Environmental Plan 2014. The site has a frontage of 10.668 metres. The proposal seeks a 46.66% variation to the standard.

The submitted Clause 4.6 written variation request does not satisfy the jurisdictional prerequisites required to satisfy the consent authority and to enable variation to the standard. The Clause 4.6 submission fails Clause 4.6(3)(a) and (b) and Clause 4.6(4) of Ryde LEP 2014. The proposal also fails to satisfy the provisions of Clause's 6.2, 6.3 and 6.4 of Ryde LEP2014.

The proposed design results in unacceptable inconsistencies with the requirements of Part 3.3: Dwelling Houses and Dual Occupancy (Attached), Development Control Plan 2014. A detailed discussion of the non-compliances is detailed within this report in relation to the following:

- Desired future character of the area;
- Visual dominance of the garages;
- Extent of hard paving within front setback;
- Sitting of the development;
- Extent of external fill;
- Wall plate height;
- Solar access; and,
- Visual privacy impacts to adjoining properties.

The application lacks sufficient information in respect to the proposed external levels along the side boundaries, no Erosion and Sediment Control Plan or Flood Impact Statement has been submitted with the application.

The assessment has concluded that the proposal is an unacceptable form of development which results in adverse impacts upon the streetscape and adjoining properties. The subject site is not suitable for the proposed development.

The application was lodged on 5 April 2019 and owners of surrounding properties, owners of surrounding properties were given notice between 12 April 2019 and 28 April 2019. In response to the public notification period, one (1) submission was

### ITEM 3 (continued)

received from the adjoining neighbour at 9 Ivy Street, Ryde in support of the application.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The assessment has concluded that the proposal is an unacceptable form of development which results in adverse impacts upon the streetscape and adjoining properties. In this regard the application is recommended for refusal.

## 2. The Site and Locality

The site is legally described as Lot 7 within DP 29353 and is known as No. 7 Ivy Street, Ryde. The site is located on the southern side of Ivy Street which is a cul-de-sac (**Figure 1**). The site is located on the low side of the street.

The site is irregular in shape with a site area of 700.19m<sup>2</sup>. The site has a frontage of 10.668 metres to Ivy Street. The site has an eastern boundary depth of 38.375 metres and 36.259 metres along the western boundary. The site has a 30.480 metre width at the southern rear boundary adjoining Aitchandar Park.

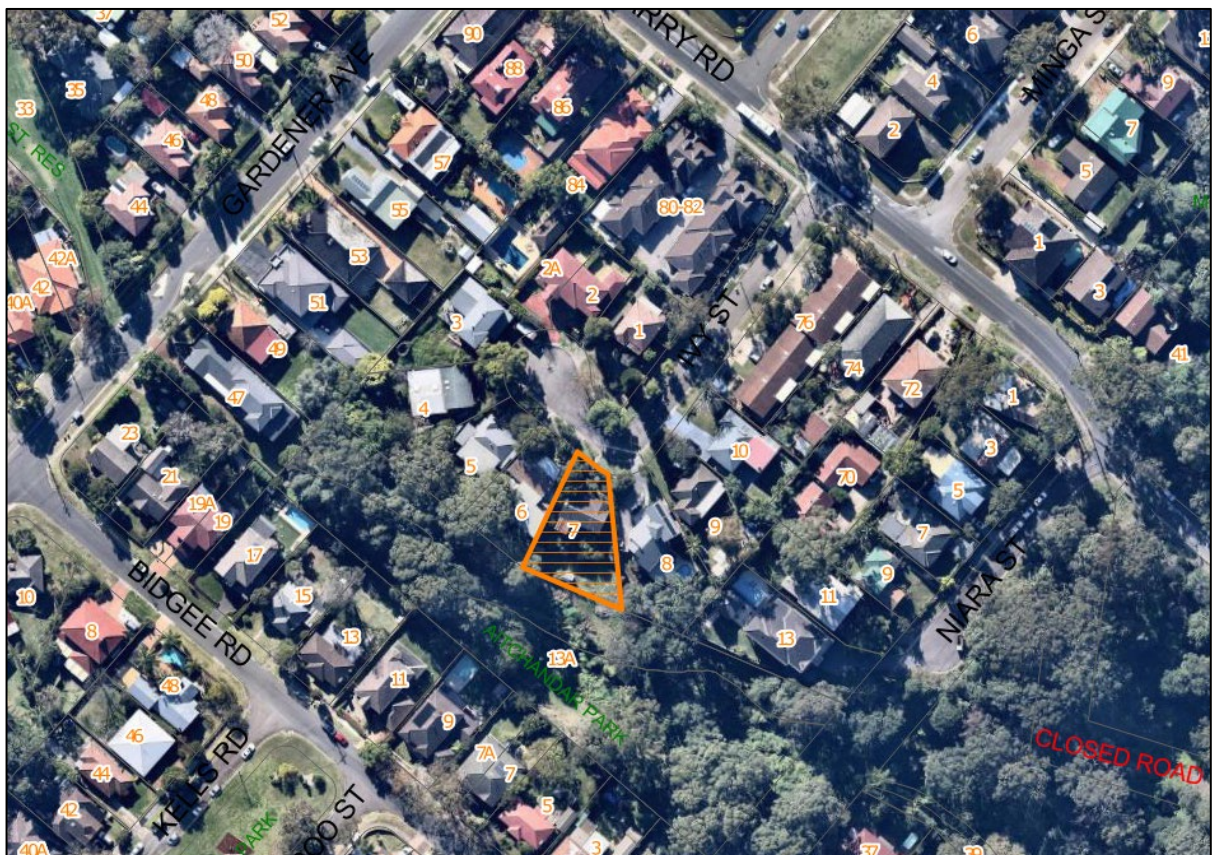


Figure 1: Aerial photograph of the site in context.

**ITEM 3 (continued)**

The site falls from Ivy Street (RL45.173) to the rear of the site (RL37.157). At the rear of the site there is a cross fall south-east to north-west.

The site presently accommodates a single dwelling which presents to Ivy Street. The site does not have vehicular access from Ivy Street. Other site works include rock steps within the front of the site and elevated timber decking at the rear. There is an existing drainage lintel located on the street verge in front of the site. The site contains a domestic landscape setting, with existing vegetation predominantly dominating the area within the front setback (**Figure 2**).



**Figure 2:** The site as viewed from Ivy Street.

The site is located within a low density residential area with surrounding development including a variety of single and two (2) storey residential developments. These developments include detached dwellings, an attached dual occupancy and multi dwelling housing. Adjoining the site are detached dwellings at 6 and 8 Ivy Street (**Figures 3 and 4**).



**Figure 3:** 6 Ivy Street

**ITEM 3 (continued)**



**Figure 4:** 8 Ivy Street

Toward the end of the head of the cul-de-sac is an attached dual occupancy located at No. 2 & 2A Ivy Street (**Figure 5**) approved under LDA2004/0002. At the corner of Ivy Street and Quarry Road, there are multi dwelling housing developments at No. 80 – 82 Quarry Road approved under LDA2006/0999 (**Figure 6**) and No. 76 Quarry Road approved under BA1984/0893 (**Figure 7**).



**Figure 5:** 2 & 2A Ivy Street



**ITEM 3 (continued)**



**Figure 6:** Standing in Ivy Street viewing 80 - 82 Quarry Road



**Figure 7:** Standing in Ivy Street viewing 76 Quarry Road

**3. The Proposal**

The proposal seeks consent for the construction of an attached two (2) storey dual occupancy. The proposal works include:

- Construction of vehicular crossing positioned to the north eastern side along the front boundary from Ivy Street;
- Provision of stormwater works;
- Landscaping works including tree removal; and
- Construction of an attached dual occupancy. The design of the dual occupancy varies between the proposed dwellings. The internal room layouts of both

**ITEM 3 (continued)**

dwelling within the dual occupancy differ from each other with a common party wall to separate the dwellings. The development comprises:

**Unit 7A:**

Ground Floor (RL 42.03)

- Living;
- Dining
- Kitchen;
- Bathroom;
- A patio serving as primary private open space at the rear;
- An entry hall;
- Laundry;
- Study
- Single width garage; and,
- A courtyard orientated to the northern side boundary.

First Floor (RL46.13)

- Three (3) bedrooms (Master bedroom includes a walk in robe and ensuite);
- Hallway; and,
- Bathroom.

**Unit 7B:**

Ground Floor (RL 42.03)

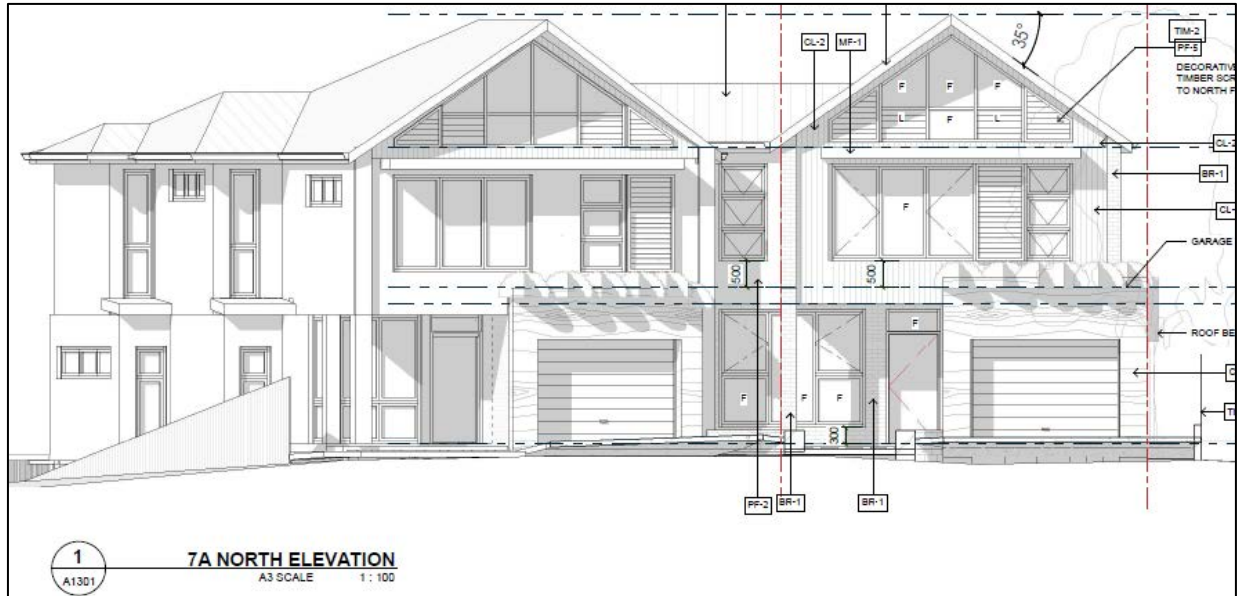
- Living;
- Dining
- Kitchen with a walk in pantry;
- Bathroom;
- An entry hall;
- Laundry;
- Single width garage
- A patio serving as primary private open space at the rear;

First Floor (RL45.93)

- Four (4) bedrooms (Master bedroom includes a walk in robe and ensuite);
- Hallway; and
- Bathroom

**Figures 8, 9, 10, 11 and 12** below show the various elevations of the proposed development including an architectural perspective.

**ITEM 3 (continued)**

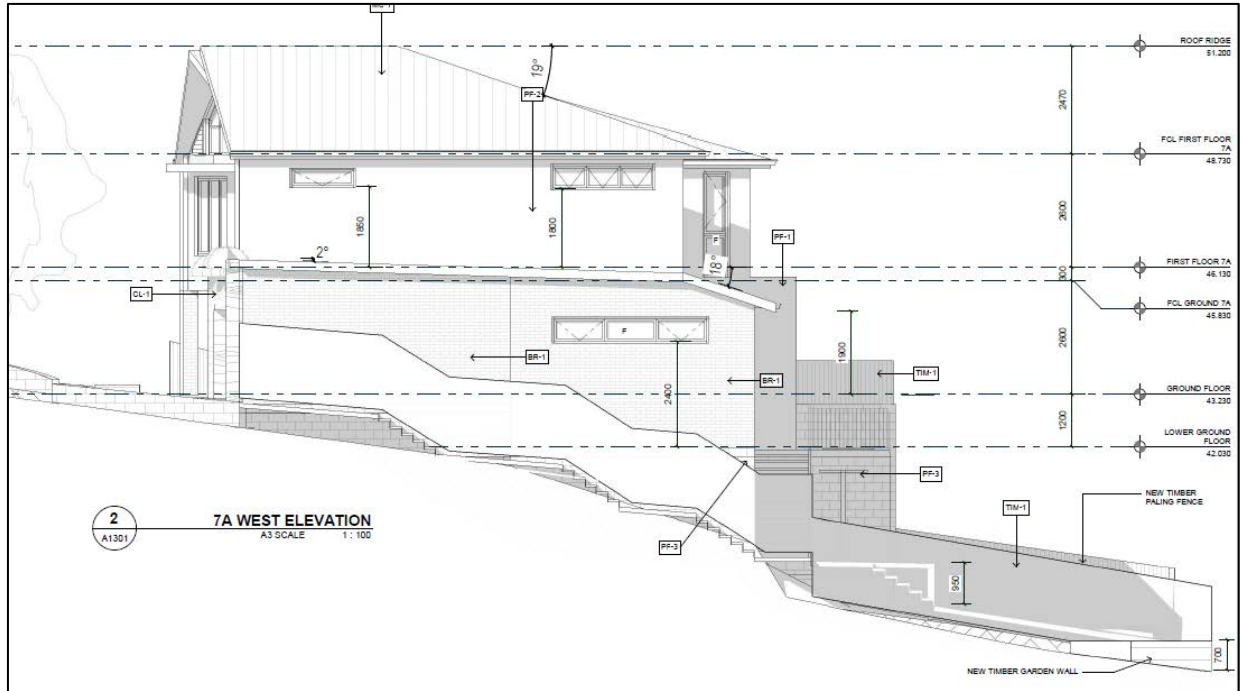


**Figure 8: Northern Elevation**

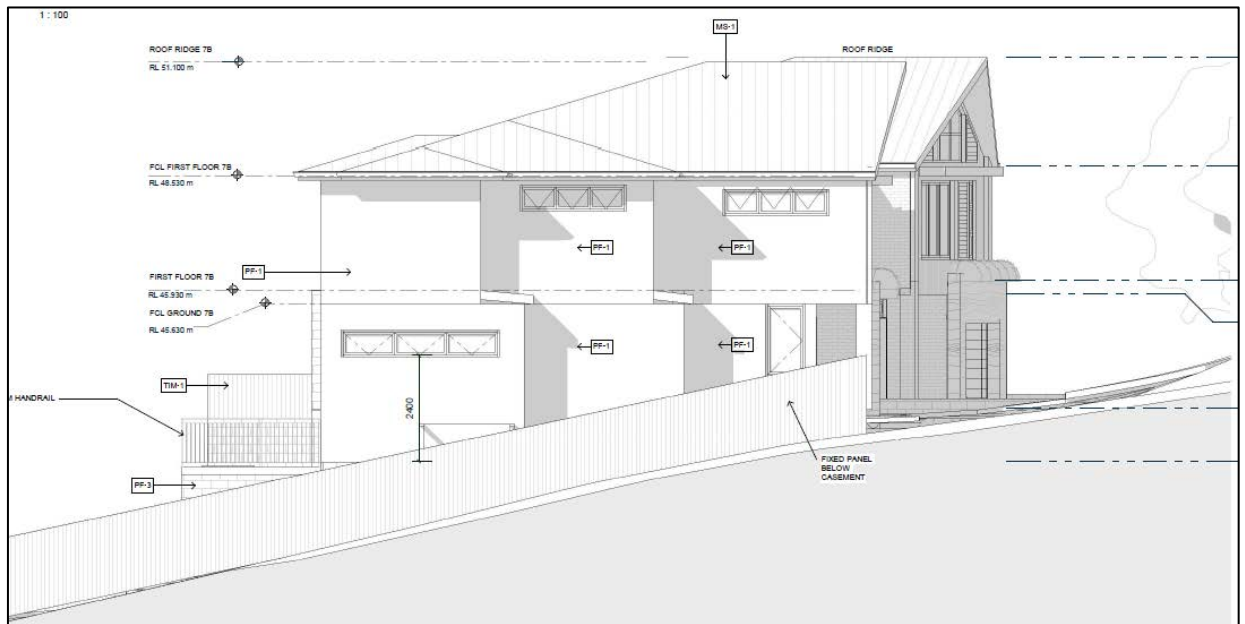


**Figure 9: Southern Elevation**

**ITEM 3 (continued)**



**Figure 10: Western Elevation**



**Figure 11: Eastern Elevation**

**ITEM 3 (continued)**



**Figure 12:** Architectural Perspective

**4. Background**

24 January 2019	<p>PRL2019/4 – A pre-lodgement was held with the applicant and the owner regarding the permissibility for the site to accommodate a dual occupancy (attached) development. The pre-lodgement advice provided by Council in writing was that the site fails to meet the frontage requirement under RLEP2014 Clause 4.1B(2)(b).</p> <p>At the time, the applicant was advised that a dual occupancy (attached) would not be supported due to the sites frontage non-compliance.</p>
5 April 2019	<p>A development application was lodged to Council seeking Consent for the construction of an attached two (2) storey dual occupancy on the subject site.</p>
12 April 2019	<p>The application was notified to adjoining properties. One (1) submission was received in support of the application.</p>

**5. Planning Assessment**

**5.1 State Environmental Planning Instruments**

**State Environmental Planning Policy (Building Sustainability Index BASIX) 2004**

A BASIX Certificate (Certificate No. 1004222M\_02 dated 4 April 2019) has been submitted with the application.

The Certificate confirms that the development will meet the NSW government's requirements for sustainability. The proposed certificate targets are set out below:

**ITEM 3 (continued)**

Commitment	Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	53

**State Environmental Planning Policy No. 55 – Remediation of Land**

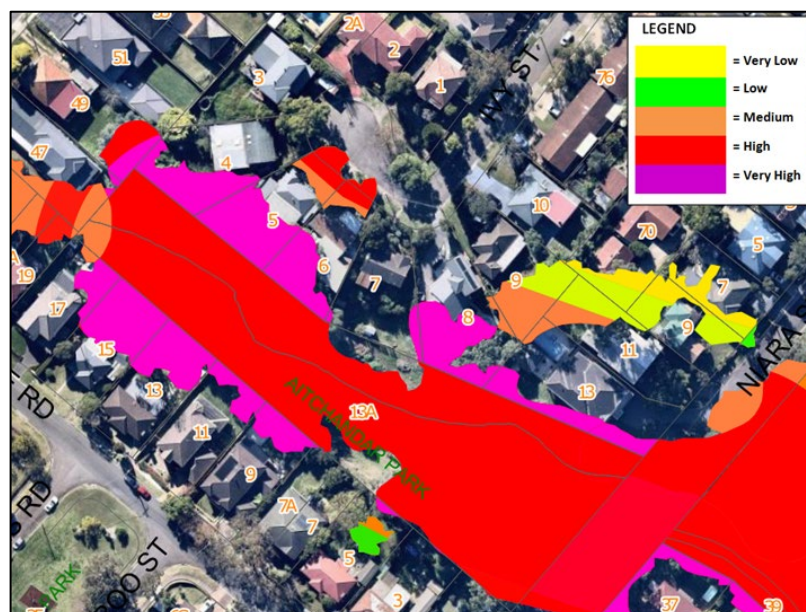
In accordance with Clause 7 of SEPP 55, a consent authority must consider if the land is contaminated, the extent of the contamination, suitability of the proposed use and remediation to standards to ensure if the proposal is suitable.

The site has historically been used for a low density residential use and is not located in close proximity to any known contaminated land. Therefore, it is considered that the subject site satisfies the requirements of SEPP 55 with regard to the proposed development.

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

The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.

The objective of the SEPP 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 site is identified as adjoining an area that is identified as a regional biodiversity corridor, containing high to very high significant trees as shown in **Figure 13**. These species of the Sydney Turpentine Ironbark Forest within the corridor.



**Figure 13: Biodiversity Mapping**

**ITEM 3 (continued)**

The submitted survey identifies minor trees and shrubs within the site. The development proposes the removal of existing low scale shrubs and vegetation. Considering that the species are of low retention value of the shrubs and vegetation the removal is supported.

The proposal has been supported by a landscape plan prepared by Susan Read Landscapes. The landscape plan proposes to plant a species of weed known as Indian Hawthorn (*Rhaphiolepis Indica*). Council's Landscape Architect has advised that the weed is unsatisfactory to be planted near a Critically Endangered Ecological Community. Council's Landscape Architect has advised that this species is an "environmental weed" and it would be inappropriate to plant near the Sydney Turpentine Ironbark Forest which is identified as endangered ecological community.

This is a matter that can be dealt with as a condition of consent.

**1.1 5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)**

Outlined below are the following clauses applicable to the proposal.

Clause 2.3 - Zone Objectives and Land Use Table

Under Ryde LEP 2014, the property is zoned R2 Low Density Residential, and the proposed development being a *Dual Occupancy (Attached)* is permissible with Council's consent.

Aims and objectives for residential zones:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

The proposal provides for housing within a low density environment and the provision of a dual occupancy development provides for a variety of housing types. Concern is held regarding the provision of a dual occupancy on a lot that does not comply with the frontage requirements and is inconsistent with the objectives of the control. In these circumstances, the development is inconsistent with the third aim and objective for the residential zone.

**Part 4 - Principal development standards**

The following table provides a summary of the applicable Clauses regarding the principal development standards of the proposal:

**ITEM 3 (continued)**

Clause	Proposal	Compliance				
<b>4.1B Minimum lot sizes for dual occupancies and multi dwelling housing</b>						
(1) The objective of this clause is to achieve planned residential density in certain zones.  (2) Development consent may be granted for development on a lot in Zone R2 Low Density Residential for a purpose shown in Column 1 of the table to this clause if:  (a) The area of the lot is equal to or greater than the area specified for that purpose and shown opposite in Column 2 of the table, and  (b) The road frontage of the lot is equal to or greater than 20 metres.	R2 Low Density Residential  Dual Occupancy (Attached)  Site Area: 701.9m <sup>2</sup>  Primary frontage to Ivy Street: 10.668 metres.	Yes  Yes  No – See Clause 4.6 Variation below				
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: center;">Column 1</th> <th style="width: 50%; text-align: center;">Column 2</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Dual occupancy (attached)</td> <td style="text-align: center;">580 square metres</td> </tr> </tbody> </table>			Column 1	Column 2	Dual occupancy (attached)	580 square metres
Column 1	Column 2					
Dual occupancy (attached)	580 square metres					
<b>4.3(2) Height of Buildings</b>						
9.5m	<b>Dwelling 7A</b>  Roof RL (highest): RL51.200 EGL (lowest) under: RL41.800 Height of Building = 9.4 metres  <b>Dwelling 7B</b>  Roof RL (highest): RL51.100 EGL (lowest) under: RL41.698 Height of Building = 9.402 metres	Yes				
<b>4.4(2) Floor Space Ratio</b>						
0.5:1 (350.95m <sup>2</sup> )	Ground Floor: 153.12m <sup>2</sup> First Floor: 184.21m <sup>2</sup> Total GFA: 337.33m <sup>2</sup> Minus (36m <sup>2</sup> ) for garages: 301.33m <sup>2</sup>  $\frac{301.33\text{m}^2}{701.9\text{m}^2}$ <b>FSR = 0.43:1</b>	Yes				

Clause 4.6 – Exemptions to Development Standards.

The development contravenes Clause 4.1B (2)(b) which requires Dual Occupancy developments to contain a road frontage which is equal to or greater than 20 metres. The site has a frontage of 10.668 metres to Ivy Street and does not comply with the



**ITEM 3 (continued)**

development standard. The proposal results in a 46.66% departure to the development standard.

The Applicant has submitted a Clause 4.6 request prepared by Natalie Richter Planning dated 4 April 2019 to vary the development standard and the following below is a discussion based on the Applicant's submission, including the assessment made by Council. Clause 4.6 states:

*(1) The objectives of this clause are as follows:*

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Director-General has been obtained.*

**ITEM 3 (continued)**

The submitted variation request has stated it has been prepared to address the following tests, including Clause 4.6 of the RLEP and relevant case law guidelines recently established in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Micaul Holdings Pty Ltd v Randwick City, Council* [2015] NSWLEC 1386, *Moskovich v Waverley Council* [2016] NSWLEC 1015 and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

**Is the proposed development consistent with the objectives of the particular standard and the objectives of the zone?**

The applicant's submission states:

***"1 Objectives of zone***

- To provide for the housing needs of the community 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.*
- To provide for a variety of housing types.*

*The proposal provides for the housing needs of the community within a low density environment, with a suitable and compliant density and scale and reasonable and appropriate useable landscaped external spaces and areas.*

*The development provides a considerable upgrade of the housing on the site with a modern structure which: uses the land well to provide 2 homes and improves: energy efficiency, modern spaces/function and fire safety standards via setbacks, access and construction methods. This is considered to benefit the site, the owners, future occupants and the area.*

*As submitted, at 709.1m<sup>2</sup> in area, with ample space and width from the central section of the site, the site is large enough to support the development and consequently, given the design presentation, the development is demonstrated to be consistent with the desired character described for the area within the Ryde Planning Policies and is worthy of planning/merit support.*

*The proposal provides for additional housing within the 'variety of housing types'. This detached dual occupancy type of house, with a smaller and more manageable block size is desirable according to current metropolitan planning objectives. This proposal supplies options for a mixture of family types and caters for affordability with smaller lot/land sizes within an easily accessible area, close to employment and beneficial supportive opportunities.*

*As detailed in the SEE, the proposal is considered consistent with the objectives relating to the area character and the streetscape, as the proposal will be recessed down the site, behind landscaping and has a roof design, scale and finish consistent with (and smaller than some of) the housing stock*

**ITEM 3 (continued)**

*in the immediate area. This development is landscaped and lower in form in comparison to the existing villa development which is located at the end of Ivy Street.*

*As noted in the SEE, there are similar examples of buildings in the area and the proposal is consistent with the surrounding pattern of buildings. The retention and updating of the existing building will not detract from the prevailing style R2 development, noting that dual occupancy is a permitted and encouraged form of development within the right scale and setting (such as is proposed).*

*The proposal enables space to accommodate work from home opportunities for the 2 dwellings, to support day to day residential needs.*

*Given the above consistency with design objectives and controls and the contextual fit, the proposal is not considered to have an adverse effect on the neighbourhood character, the zone intentions or on other dwellings and is therefore consistent with the R2 zone objectives.”*

**4.1B Minimum lot sizes for dual occupancies and multi dwelling housing**

*“The objective of this clause is to achieve planned residential density in certain zones.*

*Development consent may be granted for a dual occupancy (attached) on a lot in Zone R2 Low Density if the site area is more than 580m<sup>2</sup> and the ‘road frontage’ of the lot is equal to or greater than 20 metres.*

*The proposal is considered to match the character of surrounding housing and has been designed to present as a single footprint with an appropriate FSR (to comply with less than 0.5:1 in FSR).”*

*The development is commensurate in siting and position with the detached houses on either side and this dual occupancy is more modest and detached in scale than some of the larger, more visible multi-dwelling type developments within the area.*

*Therefore, given this appropriate density and street presentation and the overall consistency with the design, scale and character design controls, the proposal is consistent with the objective of the clause which is to achieve the planned density within the R2 zone. As noted, an attached dual occupancy is a permitted and encouraged form of housing in this area and the site is demonstrated in the documents to have the capacity to support this form of housing.*

*In this regard, this provision of modern, quality housing which meets this area character is of considerable benefit to the community, enabling less housing pressure in more sensitive areas. The site and area can support the development and this proposal supports the amenity of the site and the area,*

**ITEM 3 (continued)**

*without detrimental impact. It is submitted that the proposal is entirely consistent with objectives of Clause 4.1B, the objectives of the R2 zoning, the RLEP as well as metropolitan planning goals."*

Assessment Officers Comment:

The proposal would be consistent with the objectives of the R2 zone in so far as the proposal would provide for housing choice within the R2 land and providing for housing needs. The R2 low density residential objectives are not LGA specific and therefore does not relate to the anticipated density or consistency with the desired built form within The City of Ryde. A single dwelling would also achieve consistency with zone objectives and is a permissible form of development within the zone.

The development seeks variation to the development standard of Clause 4.1B (2)(b) for the property width. The reasons provided by the applicant for the proposal achieving the objectives of the zone are reasons any development could demonstrate that compliance is achieved. There is nothing specific about this development, which means it achieves the zone objectives of the standard.

Council is also not satisfied that the development is consistent with the objectives of the development standard Clause 4.1B(1). The objective is as follows:

*"The objective of this clause is to achieve planned residential density in certain zones."*

The objective is to achieve planned residential density in certain zones. In order to achieve the housing target requirements established in The Greater Sydney Region Plan within the Sydney North District Plan, Clause 4.1B establishes minimal frontage and area requirements to facilitate dual occupancy development within the R2 zone on certain sites. The purpose of this standard is to facilitate the additional dwellings required to meet the nominated housing targets.

The Greater Sydney Region Plan nominates a planned density of an additional 7,600 dwellings within the City of Ryde by 2021. As of 30 January 2019, The City of Ryde had delivered an anticipated 12,786 dwellings. The Ryde Local Government Area has exceeded this housing density requirement set by the Sydney North District Plan.

Land zoned for R2 low density residential, has delivered 1,372 dwellings with a further 262 dwellings anticipated. This additional density is anticipated on sites which meet the development standard of 20 metre frontage with (inclusive of the 580m<sup>2</sup> site area requirement). The density is not reliant upon allotments which do not meet the development standard of Clause 4.1B(2).

The applicant's justification relates to the character of the area, compliance with the built form controls, overall site area and that the siting of the development being wide enough to accommodate such development. These matters do not relate to planned residential density.

**ITEM 3 (continued)**

The submission does not detail how the proposal meets the standard's objective. All developments are expected to achieve compliance with the 20 metre standard, and compliance with the development standard is ordinarily the manner of achieving planning objectives. The submission has not provided an alternative means of achieving this objective. The submission's reliance upon the built form meeting the character of surrounding housing and having a compliant FSR meaning an appropriate density and street presentation is achieved does not address the specific objective of Clause 4.1B(1). The standard is not a site specific density control. The density relates to the Municipality and no consideration has been given to the proposal meeting this objective.

The proposal does not meet the objective of Clause 4.1B(1) for dual occupancy developments.

**Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

The applicant's contends strict application of the numeric ratio is considered to be unreasonable and unnecessary in this case for the following reasons:

- *The technical/numeric variation due to location of the site on a corner and the unique subdivision pattern and resultant 'fan' shape of the allotment. The site is irregular in shape and although the street frontage is less than 20m, adequate width is provided at the front building line where the site is 17.8m in width. At this point, where the building is placed, the variation is relatively minor (2.2m) – 11% variation. So, at the building line, the proposal essentially complies with the minimum lot width.*
- *Sufficient supportive area is provided at the building line and to the rear to support the footprint, setbacks and open space areas – in line with planning objectives and amenity controls.*
- *The development has been sensitively designed and positioned on the wider section of the site (between 17.8m and 21m wide at the centre of the development and 23.5m at the rear building line). This means that where the building is positioned, the proposal effectively complies with the 20m minimum width requirement and provides the width to comfortably support the dual occupancy and to be consistent with the residential scale desired for the streetscape and the R2 area. The variation has a much lesser degree at the front of the building at this point and as the site widens, becomes compliant as the boundaries splay.*
- *The narrower section of the site (between 10.66m at the road frontage and 17.8m at the front building line) provides for a compliant and generous front setback comprising desired deep soil landscaping and driveway and pathway areas are provided to be consistent with the streetscape character. The front setbacks are generally in line with the adjoining houses which provide the desired streetscape consistency.*

**ITEM 3 (continued)**

- *Quality landscaping is integrated into the site design and the landscaping reflects the desired character and meets bushfire requirements.*
- *The scale meets design and scale controls and protects/provides for residential amenities in line with the planning/design guideline controls.*
- *The development is not considered to result in adverse scale, shadowing or privacy impacts. The proposal maintains an appropriate relationship with the streetscape and sufficient space is provided for manoeuvrability and deep soil/open space areas.*
- *Similar developments of this type and massing exist within Ivy Street and within the surrounding locality. This area supports a number of housing typologies and this development would be in character and would benefit choice and availability of accessible, affordable and high quality housing.*
- *The attached dual occupancy has been demonstrated to provide 2 spacious houses with good setbacks, with a compliant height and FSR and essentially compliant setbacks (except small incursions along the western side where the building steps in away from the boundary (average 1.5m) and therefore has small pinch points.*
- *The proposal also complies with front and rear setback controls provides for the desired level of landscaping and open space and is consistent with drainage, flooding and fire legislation. The proposal has been designed to minimize sit disturbance and to sit in line with the adjoining houses and to present as a low density house presentation.*
- *The siting of the building away from the front boundary, below the street level reduces the visibility of the new building and creates a consistent building line for this section of the street. The frontage is to be landscaped in line with the DCP controls and objectives.*
- *Sufficient space is provided around the building footprint to maintain the amenity of adjoining properties. Required ancillary facilities (bin areas, paths, private open space, driveways, parking) are able to be provided, to support residential function and amenity.*
- *The development provides for varied housing opportunities (smaller and more affordable types) to cater for different family sizes and situations. This aligns with the Ryde R2 zone objectives and the NSW planning policies of providing for a range of housing and increasing affordability (with less house/land size) close to well-serviced areas and accord with controls.*
- *Spacious private back gardens are provided at the rear, in a similar position to the open spaces on adjoining properties, matching the character and pattern. A pleasant outlook would be enjoyed by the houses to the rear, over the reserve. This development provides the opportunity for an additional household to enjoy the area.*
- *The site can support the development environmentally and this represents an efficient use of land resources for Sydney/Ryde.*
- *Despite the technical variation for a small portion of the frontage, the development is consistent with the objective of Clause 4.1B which is to achieve planned residential density in certain zones (for the reasons outlined above).*

**ITEM 3 (continued)**

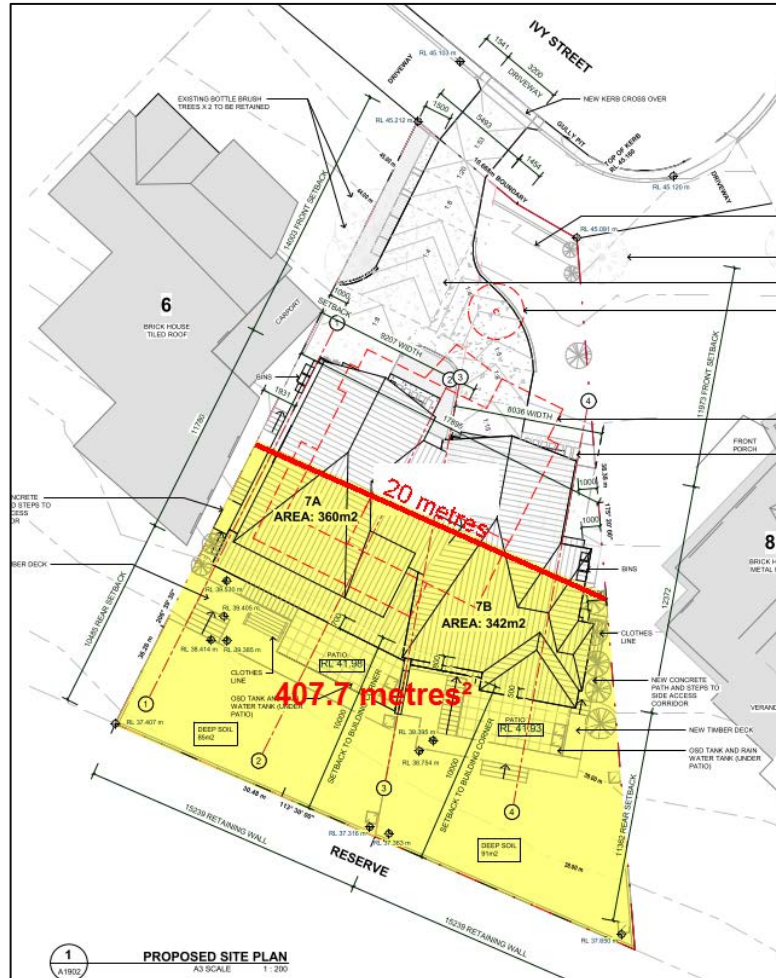
- *Strict compliance in reference to the front section of the site is considered unreasonable in that the width of the site increases out to comply and is where the building is sited.*
- *The proposed development is not considered to impact on the status of the clause with the available appropriate site width with which to fit dual occupancy development. This clause does not delineate between rectangular or fan shaped lots and despite the shape and the narrow frontage, the site is considered to provide the width for most of the site as required to address the intent of this clause. We submit that the strict application of this clause to a fan/trapezium shaped site is unreasonable in this circumstance given the land/environmental/residential offering of this site and that this dual occupancy provides an improved housing stock, housing opportunities and provides a demonstrated better planning outcome than with the strict application of the provision which would prevent this opportunity.*
- *Strict numerical compliance for the sake of the uniquely narrow site frontage in this case would also prevent the reasonable development of an attached dual occupancy which is a permissible development opportunity within the zone.”*

Assessment Officers Comment:

The proposal is not a technical non-compliance, The site does not meet the required 20 metre frontage. The irregular shape of the allotment is not relevant to demonstrating why it is unreasonable or unnecessary to comply. The site does not meet the minimum 20 metre width requirement until approximately 17.9 metres into the site and results in only 407.7m<sup>2</sup> of site area meeting the 20 metre requirement. The site would then be non-compliant with the minimum site area requirement of 580m<sup>2</sup> pursuant to Clause 4.2B(2)(a).

This is represented in **Figure 14**. The site at no point meets the combination of minimum site area and site width required by Clause 4.1B(2)(a) and (b) required for dual occupancy development.

**ITEM 3 (continued)**



**Figure 14:** Site plan demonstrating where the 20 metre width is achieved including the area measurement.

The applicant’s justification has failed to demonstrate why compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The proposal has not met the jurisdictional prerequisite of Clause 4.6(3)(a) and Clause 4.6(4)(a)(i).

**Are there sufficient environmental planning grounds to justify contravening the development standard?**

The applicant provides the following justification to demonstrate there are sufficient environmental planning grounds to contravene the development standard. These are as follows:

*“In relation to planning merits:*

- *The proposal provides for appropriate form and has been carefully and creatively designed to fit well with the site and area specific DCP controls and to represent the ideal outcome.*



**ITEM 3 (continued)**

- *The development responds well to the streetscape and the character of adjoining development with good setbacks, modulation, landscaping and appropriate materials.*
- *The design is compliant with the intent of the merit-based DCP development guidelines and non-compliances have been justified within the documentation. The development is consistent with relevant Regional, State and Local Environmental Planning Policies and is considered to be in the public interest and is permissible within the R2 zone and compliant with relevant objectives.*
- *The variation to the front boundary width is a product of the residential subdivision pattern and lot shape/front curve. Notwithstanding this shape, a suitable building platform is provided with no unreasonable streetscape or amenity impacts to adjoining residents. The site width essentially complies for the bulk of the site and the lot area is more than compliant to support the dual occupancy.*
- *The development provides safe, accessible, good quality residential floor plans, internal and external spaces, accessibility and landscaped amenity. This will allow a high quality and equitable housing outcome to increase housing options, choices, quality and affordability in line with planning aims.*
- *The proposal provides pedestrian access, density near public transport and on-site parking to minimise impacts on the local road network.*
- *The development has been designed in accordance with energy efficient/BASIX requirements and promotes passive solar access, natural cross ventilation, low reliance on artificial heating and cooling, water sensitive urban design and area appropriate landscaping.*
- *The proposal provides for the retention and replenishment of mature trees and limits site alteration with a stepped design and limited cut.*
- *Effective and appropriate planting is proposed to protect privacy and amenity for residents and the characteristics and siting have been designed to consider neighbours.*
- *The development is considered to plan the site well and to efficiently plan and utilise the site in terms of maximising land resources in a sustainable way.*
- *Design and site development outcomes are preferable to strict numeric compliance and the proposal results in a beneficial planning outcome given the above merits.”*

**Assessment Officers Comment:**

The written submission is required to establish that there are sufficient environmental planning grounds to justify contravening the standard (Clause 4.6(3)(b)). The justification relies upon the merits of the development against the suite of built form controls, the lot size, shape and width, including the existing subdivision pattern.

**ITEM 3 (continued)**

These are not sufficient environmental planning grounds to justify contravention of the development standard.

Compliance with other planning controls, absence of impact, subdivision patterns or the sustainability of the finished development are not a sufficient environmental planning ground. This is what is expected of any low scale residential development.

The written request has not adequately addressed the matters required by Clause 4.6(3)(b). The proposal has not demonstrated there are sufficient environmental planning grounds to justify contravention of the development standard.

The consent authority cannot be satisfied by the justification made that the matters required to be addressed in Clause 4.6(3) and Clause 4.6(4)(a)(i) have in fact been demonstrated.

**Is the proposed development in the public interest?**

The applicant's submission is as follows:

***“Is there a public benefit in maintaining the development standard?”***

*Given the merits put forward in the SEE, there is not considered to be a particular public benefit in strictly maintaining the development standard in this case as it would preclude a reasonable development. The proposal is not considered to create any unreasonable impact and it is noted that this development standard has been varied in some other similar cases, where there have been usual or particular circumstances do with shapes and frontage widths.*

*The intention of this clause is to ensure adequate buildable dimensions and where developments can demonstrate this and consistency with area character, concessions have been allowed. The wording of the clause is not considered to account for unusual lot shapes.*

*Commonly in planning practice, these sorts of site width clauses intend to ensure there is sufficient overall side width/dimensions to support development and it is considered that sufficient site width is demonstrated to accommodate general design compliance.*

*Therefore, in this case, it is considered that the benefits in this case of supporting the variation outweigh the benefits of strictly applying this part of Clause 4.1B where the proposal meets planning and environmental objectives of the clause and allows for a beneficial development.”*

**Assessment Officers Comment:**

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's request has addressed (3)(a) and (b) (unreasonable and unnecessary and sufficient environmental planning grounds).

**ITEM 3 (continued)**

It is Council's opinion the variation has not demonstrated sufficient environmental planning grounds and that it is unreasonable or unnecessary to comply with the standard in accordance with Clause 4.6(4)(a)(i).

Clause 4.6 (4)(a)(ii) requires that the consent authority is satisfied that the development is in the public interest. This part of the clause sets out the considerations of public interest for the purposes of Clause 4.6. The submission has not demonstrated and the consent authority cannot be satisfied that the development is consistent with the objectives of the development standard and the objectives for the zone.

The development is considered not to be in the public interest for the following reasons:

- The submission has failed to satisfactorily address consistency with the objective of Clause 4.1B. The residential densities required for the Ryde LGA have been achieved and yet the proposal seeks to provide for an attached dual occupancy on a site which does not meet the minimum road frontage to facilitate such a development;
- The applicant has not satisfactorily demonstrated that the control is unreasonable or unnecessary in the circumstances of the case as required by Clause 4.6(3)(a); and,
- No adequate justification has been provided by the applicant that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

As the development has not met the prerequisites of Clause 4.6(3)(a) and (b) it cannot be demonstrated that the proposal satisfies Clause 4.6(4)(a)(i). Therefore, the proposal is not considered to be in the public interest.

***Matters required to be taken into consideration by the Director-General before granting the concurrence***

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

**Conclusion**

The proposed development failed to submit a satisfactory written request to vary the lot width development standard which complies with Clause 4.6 Exceptions to development standards of the Ryde Local Environmental Plan 2014. The submission has not met the jurisdiction prerequisites and the development is recommended for refusal.

### **ITEM 3 (continued)**

#### **Part 6 - Additional local provisions**

##### Clause 6.2 - Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of surrounding land.

The proposal seeks to excavate internal to the buildings footprint to a maximum depths of 779mm. The proposed extent of excavation, will not result in any adverse detrimental impacts upon environmental functions and processes, neighbouring uses or features of surrounding land.

The proposal has not adequately shown the proposed finished levels along the side boundary. The proposal seeks to provide fill along the boundaries but the height has not been demonstrated. There is potential for privacy impacts upon the two adjoining dwellings at 6 and 8 Ivy Street.

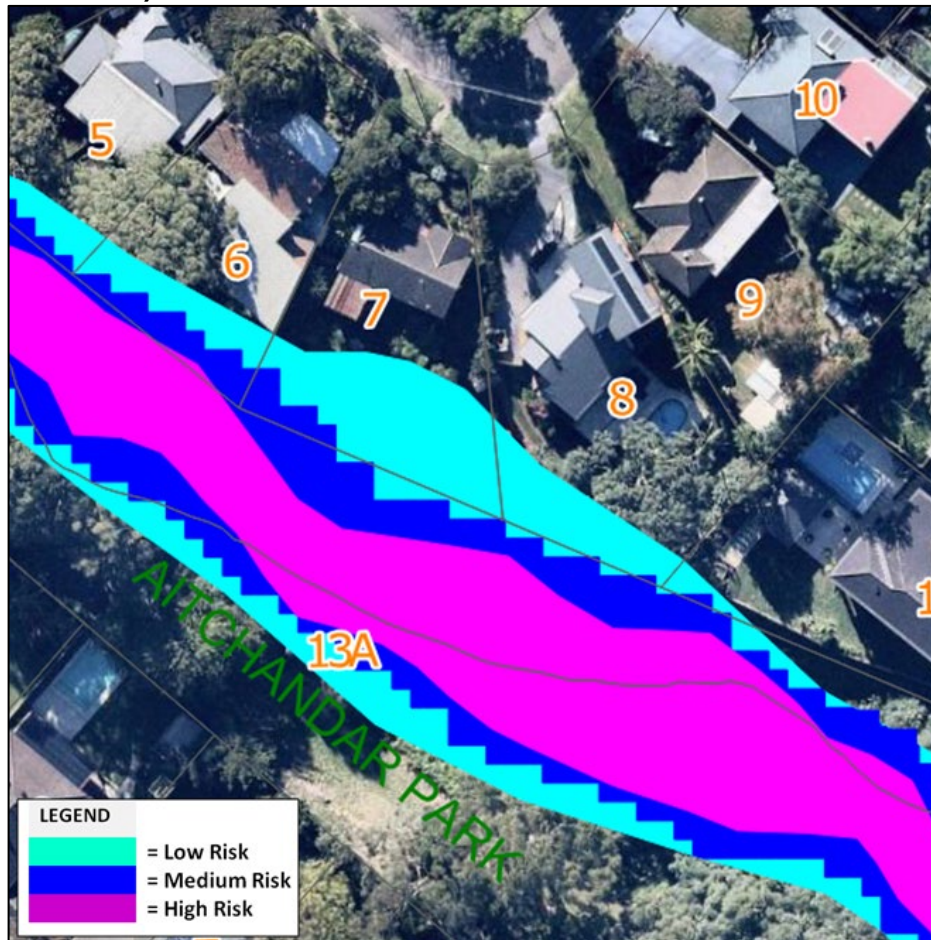
The submitted elevations have shown a 1.8 metre high boundary fence proposed on top of the proposed steps. This will result in an increased boundary fence height as viewed from the adjoining properties. No external levels have been provided to determine the exact height of fill between the building and adjacent to the boundary. The proposed development may result in unforeseen impacts to the amenity of adjoining properties and is inconsistent with the provisions of Clause 6.2(3)(b), (d) and (h).

##### Clause 6.3 - Flood Planning

The objective of this control is to minimise the flood risk to life and property associated with the use of land, to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change and to avoid significant adverse impacts on flood behaviour and the environment.

The subject site is affected by low to medium risk flooding, as shown in **Figure 15**.

**ITEM 3 (continued)**

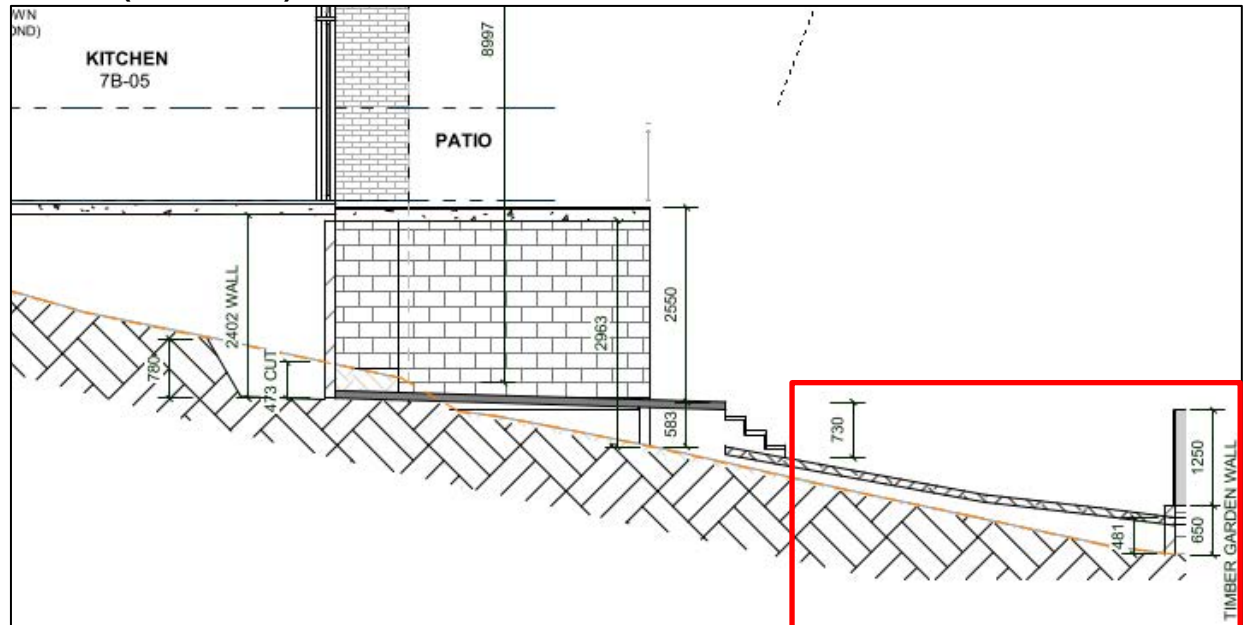


**Figure 15:** Figure showing the flooding flow path through the site.

The application has not been supported by a suitable Flood Impact Statement to satisfy the requirement flooding component of the development. The proposal seeks to construct a 600mm retaining wall containing fill within the rear yard along the southern boundary (**Figure 16**), where the overland flow path is located. The proposal cannot be supported on the basis that the fill within the flow path will result in a risk of overland flow being diverted onto neighbouring properties. The proposal has been considered unsatisfactory by Council's Flooding Engineers.

The proposed development has not provided adequate consideration to the flood affectation of the site and provided measures to satisfy the objectives of the control Clause 6.3 (1)(a), (c) and Clause 6.3(3)(a), (b), and (c).

**ITEM 3 (continued)**



**Figure 16:** Section 7B showing the extent of fill with retaining wall on southern boundary.

**Clause 6.4 – Stormwater Management**

The objective of this control is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters. The proposal is consistent with the provisions of Clause 6.4(3) in that the proposal has been designed to maximise the use of permeable surfaces allowing for water filtration and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.

The proposed stormwater management system for the development discharges to the existing public infrastructure network located in 8 Ivy Street, which discharges to the creek at the rear and incorporates an onsite detention system complying with Councils requirements.

Concern is raised over the lack of details provided regarding the location of the drainage easement. Council's Engineers have advised that, the applicant has failed to provide the exact location of the stormwater pipe in the lodged documentation.

The purpose of locating the pipe will ensure that the proposed building footprint is outside of the zone of influence so that the proposed development would not interfere with Council rights to access the easement for the purposes of maintenance. If the pipe is damaged in future or as a result of construction, this can ultimately result in potential impacts of stormwater runoff on adjoining properties. These are matter that could be addressed with the provision of additional information and conditions of consent.

**ITEM 3 (continued)****5.3 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:

*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 SEPP**

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. Changes proposed include consolidating SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is consistent with the provisions of the draft SEPP.

**5.4 Development Control Plans****Ryde Development Control Plan 2014 (RDCP 2014)**

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.3: Dwelling Houses and Dual Occupancy (Attached);
- Part 7.2: Waste Minimisation and Management;
- Part 8.1: Construction Activities;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;

The provisions of RDCP 2014 have been considered in this assessment. A discussion of the non-compliance's with the provisions of the DCP is discussed below:

**ITEM 3 (continued)****Part 3.3: Dwelling Houses and Dual Occupancy (Attached)**Section 2.1 - Desired future character of the area

The objectives of this control are to ensure that development is consistent with the desired future character of the low density residential areas. A feature of the desired future character of low density residential areas is to limit the amount of dual occupancy (attached) dwellings. The intent behind limiting the amount of dual occupancy developments within R2 Zones is established under the objective of RLEP 2014 - Clause 4.1B(1) which is to “*achieve planned residential density in certain zones.*”

This objective primarily relates to overall residential density within R2 zones. As stated above in *Section 5.2 - Ryde Local Environmental Plan 2014, Clause 4.6 - Exemptions to Development Standards* of this report, the Greater Sydney Region Plan within the Sydney North District Plan nominates a planned density of an additional 7,600 dwellings within the City of Ryde by 2021 in which the Ryde LGA has significantly exceeded this target.

The desired future character is to limit dual occupancies. This is achieved by allowing for dual occupancy development on specific sites which meet the minimum allotment width. The proposal seeks to develop a site non-compliant primary frontage and would be contrary to the objective of development being consistent with the desired future character.

Section 2.9.1, Control's (c), (e) and Section 2.11.1, Control's (c), (d) and (i) – Visual dominance of garages.

Section 2.9.1, Control's (c), (e) and Section 2.11.1, Control's (c), (d) and (i) – Visual dominance of garages relate to the positioning, width and design of the garages. The controls require garages to be setback a minimum of 1.0 metre from the dwelling's front façade and requires the width of the garages to be 6.0 metres or 50% of the frontage (whichever is less).

The objectives of the controls are to provide articulation to a dwellings front façade whilst ensuring that car parking structures and garage doors are not prominent features with regard to either the individual lot or the streetscape.

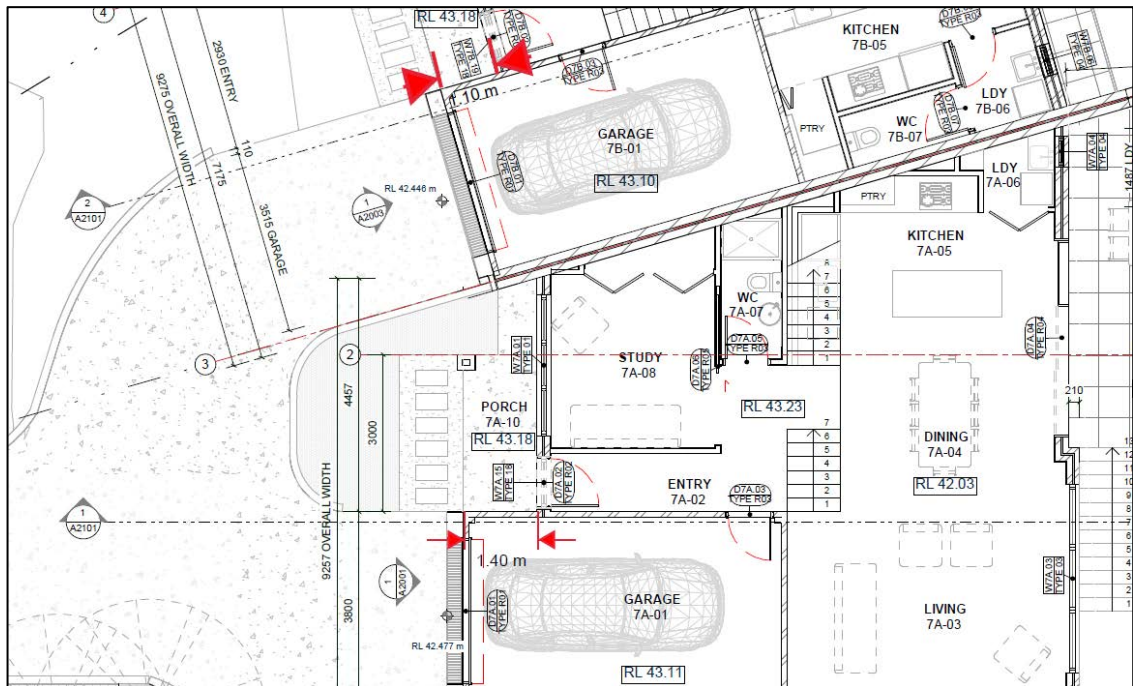
The proposed garages are not setback 1.0 metres from the dwelling's façade. The garage for Dwelling 7A protrudes by 1.4 metres and the garage for Dwelling B protrudes by 1.1 metres (**Figure 17**). The proposal has been designed to transition the front façade of the dwellings in response to the site width which results in the siting of the garages forward of the front façade.

The combined width of the garage doors will be 7.315 metres, and 50% of the frontage equals 5.334 metres. The proposal is non-compliant with the controls. Whilst the positioning of the garages does provide articulation the combination of the



**ITEM 3 (continued)**

projection and garage widths results in this being the predominant element when viewed from the streetscape. The proposal is inconsistent with the objectives of the control.



**Figure 17:** Measurements of the garage location from the dwellings main façade.

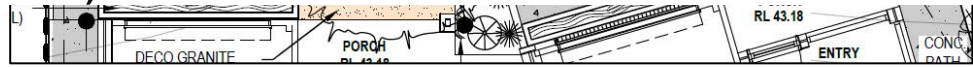
Section 2.5.1, Control (b), Section 2.11.1, Control (g), Section 2.13 (e) and 2.6.1(b) - Extent of hard paving within front setback

The controls require that developments are to provide a clearly defined landscaped front garden with hard paved areas to be minimised, and at a maximum to be no more than 40%. The objectives are to enhance the appearance and amenity of developments and enhance the character of the locality and the streetscape, whilst ensuring that there is a sufficient deep soil area within the front setback. The existing character of Ivy Street includes landscaped front gardens and the extent of hard paving is minimised.

The extent of hard paving within the front setback consists of the driveway which is of single width at the street and widens to provide access to the two (2) garages. This results in the extent of hard paving to be equivalent to 52% of the area within the front setback.

Given the design of the driveway and extent of hard paving, the non-compliance will not enhance the appearance and amenity of development. The extent of hard paving is also inconsistent with the character of the locality and the streetscape. The non-compliance does not achieve the objectives of the control and is not supported.

**ITEM 3 (continued)**



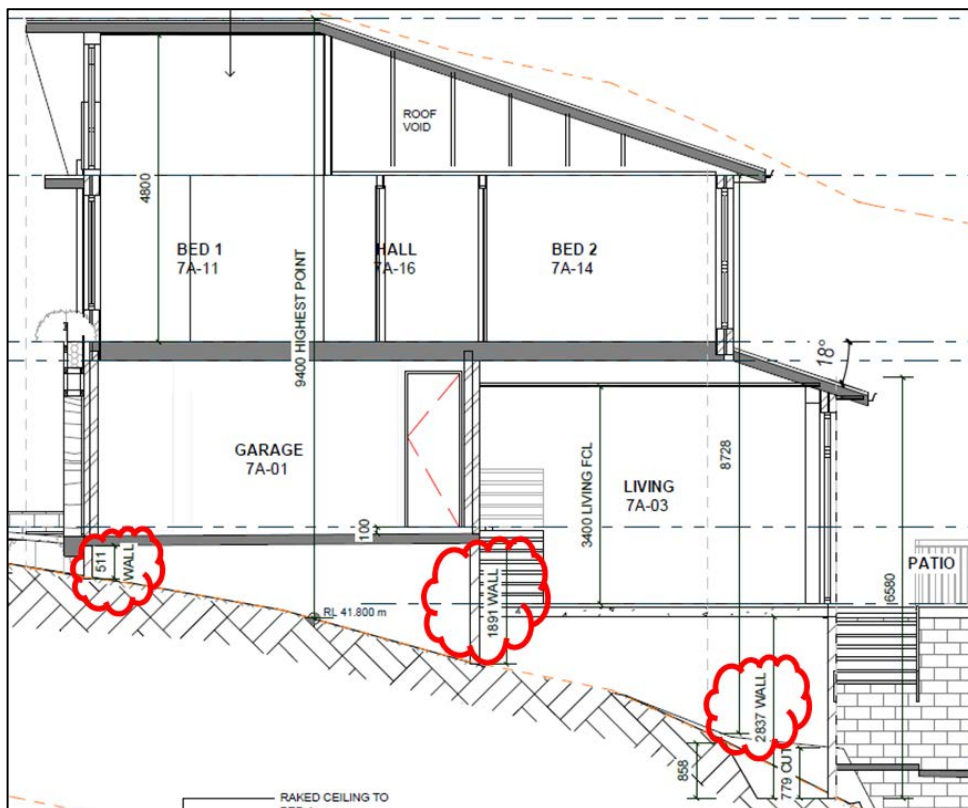
**Figure 18:** Figure showing the extent of the driveway.

Section 2.6.2, Control (a) – Sitting of the development

Section 2.6.2, Control (a) states that the building form and siting of the development is to relate to the original topography of the land and of the streetscape. The land slopes from Ivy Street (RL45.173) falling toward the rear (RL37.157).

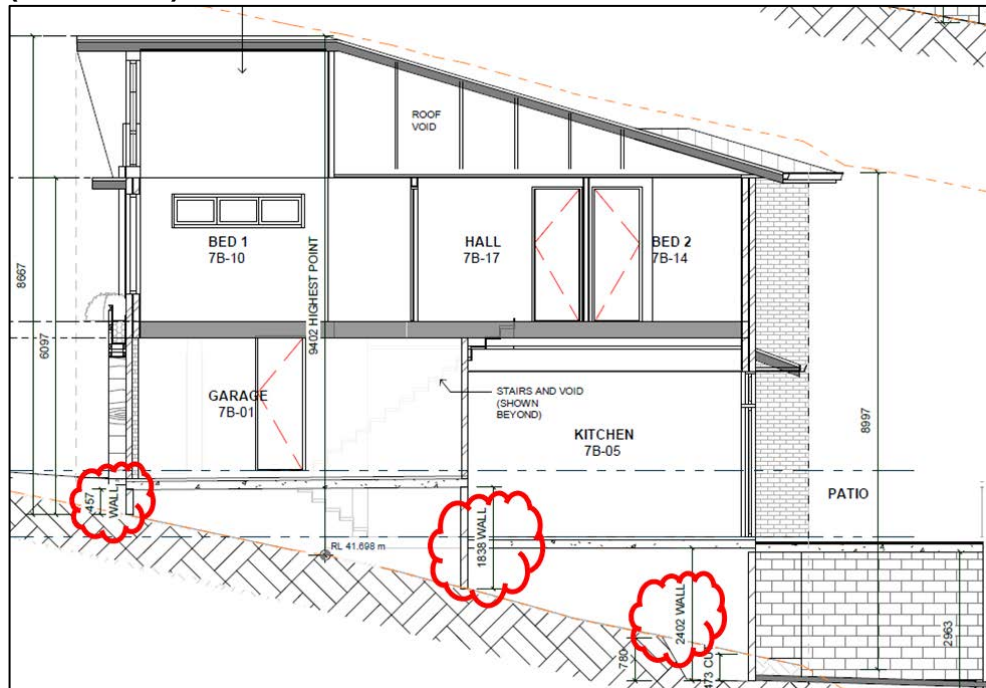
The proposal has been designed to establish the levels in response to the front of the site and as the topography changes at the rear results in an elevated built form. The rear of the development does not relate to the topography of the land and is elevated on piers. The proposal results in the following elevation:

- Dwelling 7A will be elevated between 551mm at the front portion, up to 1891mm at the centre of the building and up to 2.037 metres at the rear (**Figure 19**).
- Dwelling 7B will be elevated between 457mm at the front portion, up to 1.838 metres at the centre of the building and up to 2.402 metres at the rear (**Figure 20**).



**Figure 19:** Section 7A

**ITEM 3 (continued)**



**Figure 20: Section 7B**

In response to the site's topography, the rear of the development should be stepped down to achieve the desired relationship with the topography. The elevated nature of the design results in the following impacts:

- An excessive bulk that is inconsistent with the existing landform;
- The bulk with an excessive wall plate height results in a negative visual impact to adjoining properties;
- The development results in an elevated driveway with 813mm of fill, which exacerbates the prominence of hard paving within the front setback as viewed from the streetscape;
- By elevating the development at the rear results in elevated patios serving as primary private open space with fill on the side boundaries. The proposal results in privacy impacts to the adjoining properties at 6 and 8 Ivy Street; and
- The scale of the development as viewed from the adjoining reserve is exacerbated by the elevation and non-compliant rear setback.

Therefore, given the reasons above the non-compliance cannot be supported.

Section 2.6.2, Controls (c)(iii), (iv), (v) and (vi) - Fill

Section 2.6.2 sets out the allowable extent for developments to fill within the site. The maximum allowable extent of fill is limited to 500mm external to the buildings footprint. The controls state that fill is not allowed within the side boundaries adjacent to the building and adjoining properties.

**ITEM 3 (continued)**

The proposal seeks to fill external to the building footprint, up to 813mm underneath the proposed driveway (Figure 21). Fill is also proposed on the side boundaries to make provisions for concrete pathways and steps up to approximately 750mm on the western elevation. No external levels have been provided to enable an accurate height of the fill, so a scaling measurement is relied upon. (Figure 22)

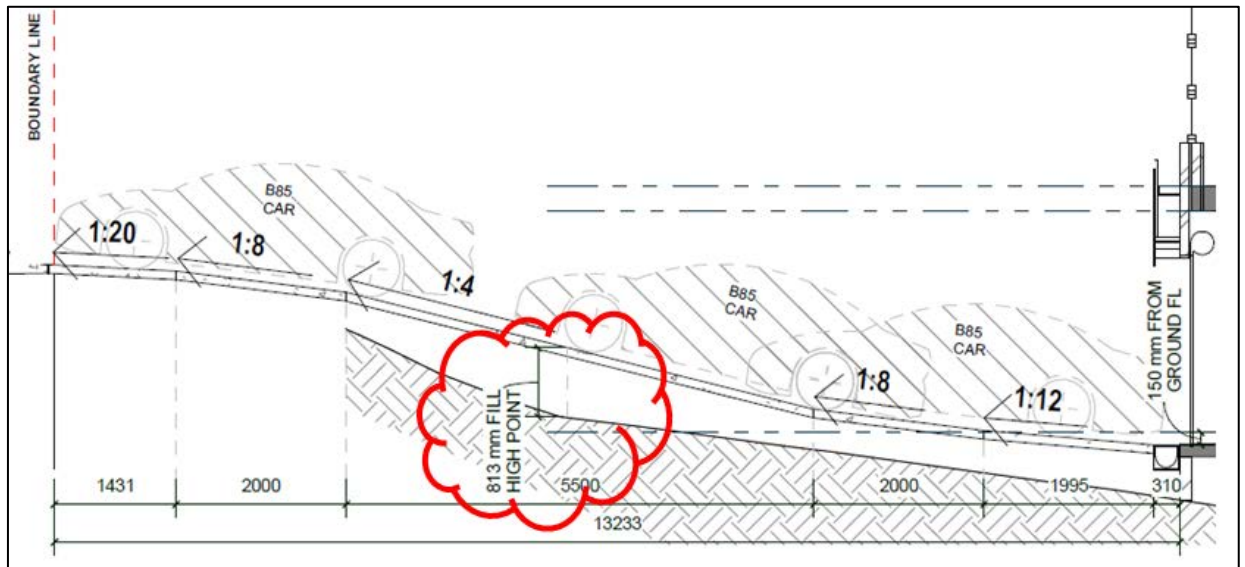


Figure 21: Driveway Section

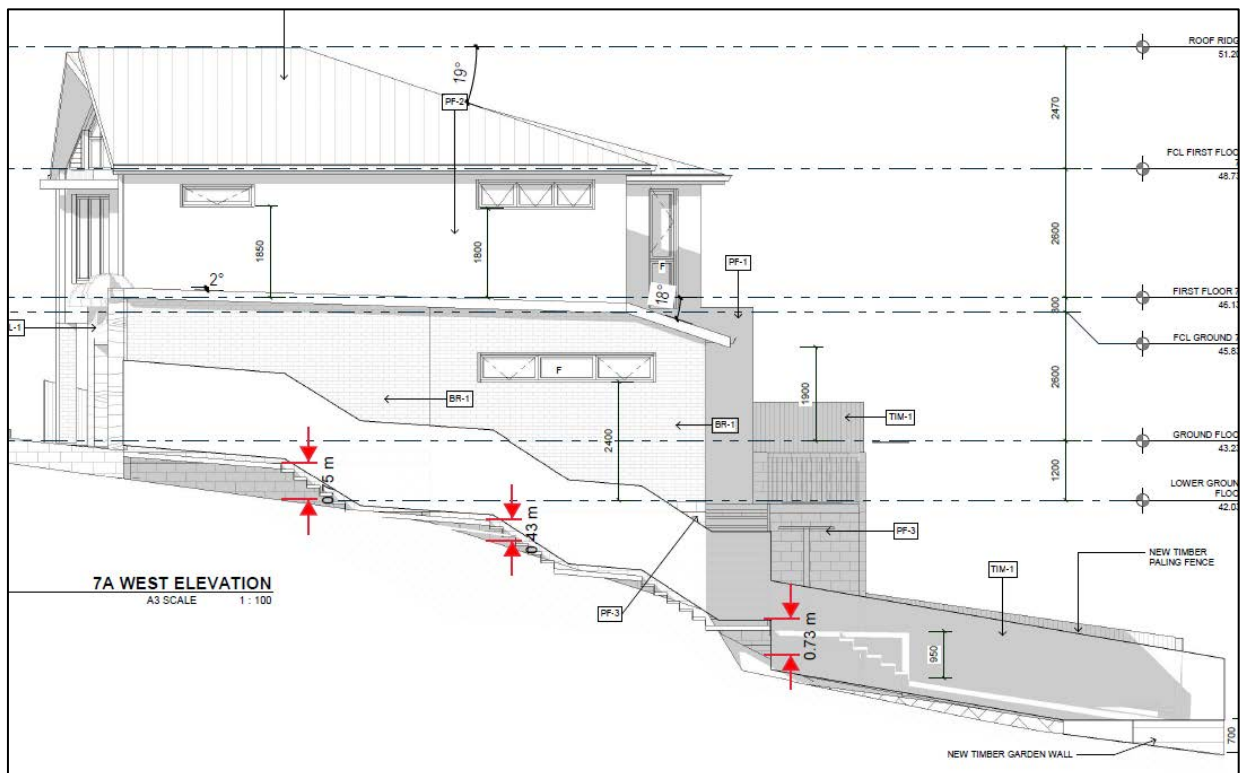


Figure 22: Western elevation showing the concrete pathway and steps

**ITEM 3 (continued)**

The extent of filling underneath the driveway and filling within the side boundaries cannot be supported for the following reasons:

- The combination of the extent of hard paving within the front setback in combination with the filling within the driveway will intensify the dominance of hard paving within the front setback. The development of a dual occupancy on a insufficient frontage width is a major factor to this non-compliance, which cannot be supported;
- The non-compliance for filling on the boundary is as a result of the sitting of the development being not sympathetic with the existing topography of the land, as discussed above;
- The fill on the boundaries will result in privacy impacts to the adjoining dwelling, through potential overlooking opportunities to the adjoining neighbouring windows above the boundary fence; and,
- The proposal includes provision of a 1.8 metre high fence to be erected on top of the pathway. The extent of filling within the side boundaries will result in a boundary fence to an approximate height of 2.550 metres when viewed from the adjoining property. This height results in unacceptable visual impact.

The non-compliance cannot be supported.

**Section 2.8, Control (a) - Building Height**

In accordance with Control (a), the maximum wall plate height for dual occupancy developments is limited to 7.5 metres. This measurement is the vertical distance between the finished ground level at any point and the point where the adjacent wall joins the roof.

Council's measurement for the overall wall plate height is 8.4 metres. The applicants Statement of Environmental Effects identifies that the wall plate is also non-compliant with a maximum height of 8.728 metres for dwelling 7A and 8.797 metres for dwelling 7B.

Ordinarily, the slope of the site is a contributing factor for a non-compliant wall plate height. However, in this circumstance the elevated nature of the development is not sympathetic to the sloping topography of the site and results in the wall plate height non-compliance. It is considered the extent of non-compliance could be achieved through a more sensitive design stepping down the dwelling to achieve a development which is sympathetic with the existing topography. The non-compliant wall plate height cannot be supported.

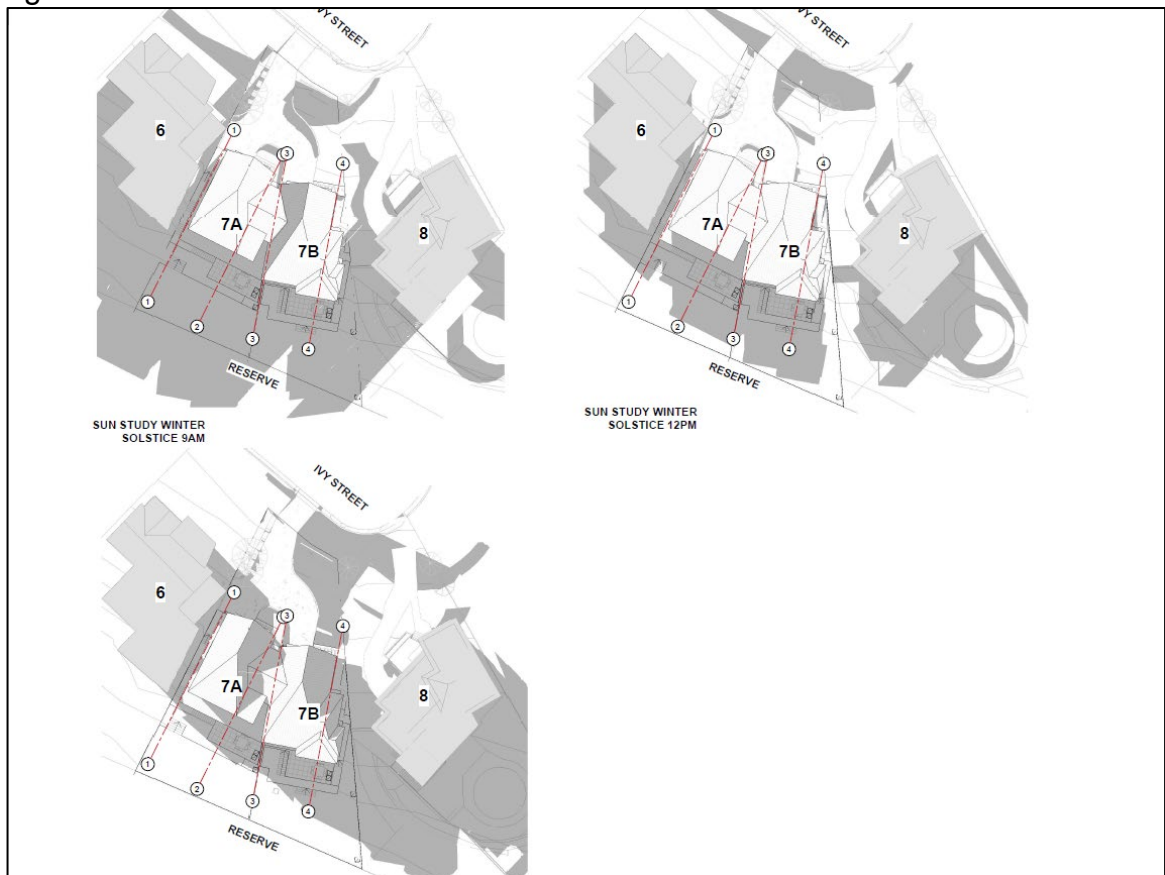
**Section 2.14.1, Controls (a), (c) and (d) – Solar access**

Developments are required to consist of a design to maximise solar access and encourage the use of passive solar design to the internal living areas and private open spaces. The controls stipulate that the living areas are to be predominantly orientated north to allow the provision of at least three (3) hours sunlight to living

**ITEM 3 (continued)**

areas on 21 June and maximise private open spaces to achieve at least (2) hours sunlight to 50% of the private open space on 21 June.

The living areas are predominantly orientated south, which achieves minimal solar access to the internal living areas. The areas utilised for primary private open space in this case being the patios will be completely overshadowed between 9am and 3pm on 21 June. Although dwelling 7A may achieve at least two (2) hours to 50% of its space, a concern is raised over the patio which is the principle area for private open space being completely overshadowed. **Figure 23** shows the submitted shadow diagrams.



**Figure 23:** Shadow diagrams

The rear portion of the rear yard can achieve at least two (2) hours sunlight. The overshadowing is a result of the orientation of the land and existing subdivision pattern. The site has a north – south orientation. Despite this, the proposal is considered to be unsatisfactory for the following reasons:

- The provision of a living area not being orientated north is a result of the proposed located on the garages, a more considered design with a more suitable development on the site (i.e a single dwelling house), can achieve a living area presenting north inclusive of at least 2 hours to 50% for the principle area utilised as private open space;

**ITEM 3 (continued)**

- The patios of serving as primary private open space will receive no sunlight between the hours of 9am to 3pm during the winter solstice, which ultimately results in a poor amenity outcome for future occupants for recreational purposes as the use of the patios are considered to be higher than the rear portion of the yard which achieves sunlight;
- The proposal does not comply with the development standard to facilitate dual occupancy development. A single residential dwelling on the site has greater potential to be designed to achieve compliance with the control whilst fulfilling the objectives of the control; and,

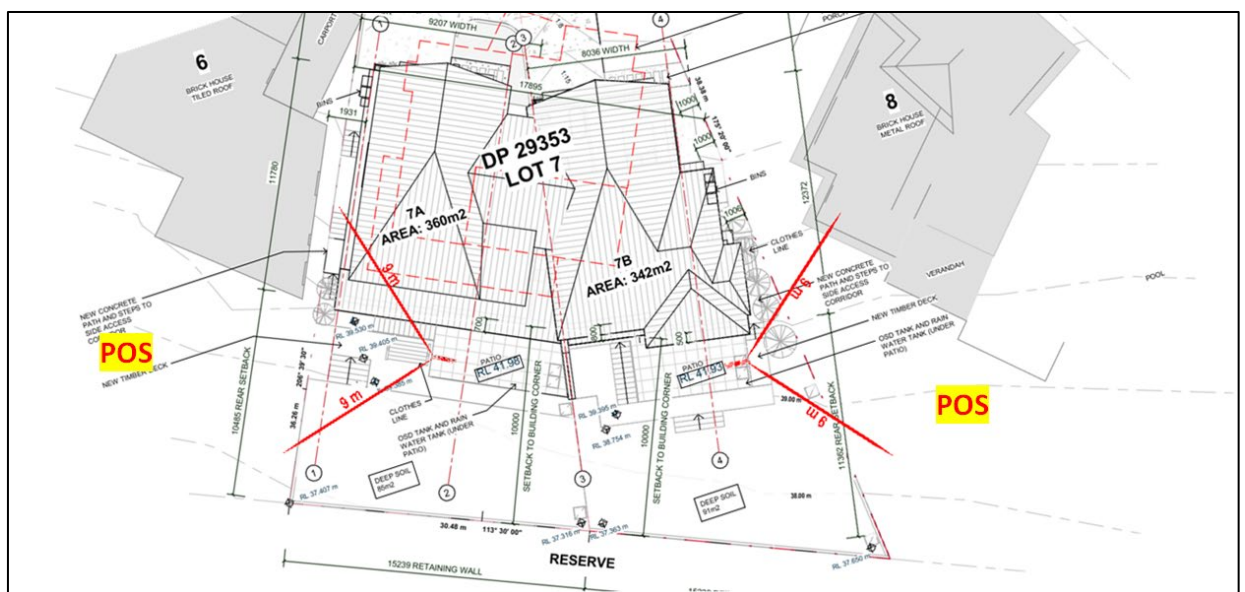
The proposal is considered unsuitable given the extent of overshadowing.

Section 2.14.2, Controls (b) and (c) – Visual Privacy

The visual privacy requirement of all dwellings is to require that terraces, balconies and outdoor living areas are to be orientated to the front and rear boundaries whilst ensuring that terraces and external living areas do not overlook into neighbouring dwellings or private open space. The visual privacy requirements aim to protect the amenity of neighbouring allotments by providing appropriate levels of visual privacy to internal living spaces and external private open space.

The proposed patios serving as primary private open space for both dwellings are elevated significantly (Up to 2.837 metres for dwelling 7A and 2.402 metres for 7B) and sited within the general 9.0 metre privacy sensitive zone. The proposal will result in visual privacy impacts to 6 and 8 Ivy Street (**Figure 24**).

*Note: These are indicate heights only, given the limited level of information on external levels provided architectural plans.*



**Figure 24:** Site plan showing the general 9.0 metre, 45 degree view cone

**ITEM 3 (continued)**

The elevated patios are a result of the sloping topography of the site and the development not being sympathetic to the topography of the land. The line of sight provides direct overlooking opportunities to the private open spaces of 6 and 8 Ivy Street. As stated above, the fill along the side boundaries also creates privacy impacts. The proposal results in unacceptable privacy impacts.

**Part 8.1 – Construction Activities**Section 2.1.2 – Erosion and Sediment Control Plan

The control requires an Erosion and Sediment Control Plans must be submitted to determine whether the site can be developed in the manner suggested whilst incorporating adequate erosion control.

The subject site is adjoining Aitchander Park which is Zoned E2 Environmental Conservation, an objective of the zone is to protect the ecological significance of the area. Aitchander Park contains species which are from the Sydney Turpentine – Iron Bark Forrest which apart of a endangered ecological community as per Schedule 2 of the *Biodiversity Conservation Act 2016*. In this regard, given the adjoining allotment an Erosion and Sediment Control Plan should have been submitted with the development application to determine the means in which the development will ensure no impact to Aitchander Park.

**Part 8.2: Stormwater & Floodplain Management**Section 4.4.1, Control (a) - Flood Impact Statement

The site is flood affected and a Flood Impact Statement must be prepared in accordance with Section 2.2 of the Stormwater and Floodplain Management Technical Manual and is required to address the various controls related to the following development types.

The applicant has not prepared a suitable Flood Impact Statement to satisfy the requirements outlined in Council's DCP (2014) Part 8.2 and the Stormwater and Floodplain Management Technical Manual and NSW Floodplain Development Manual. Council is not satisfied that the proposed development has provided adequate measures to satisfy the primary objective of the control and to demonstrate the proposal will not result in flooding impacts to adjoining properties. The proposal is unacceptable in this regard.

Section 4.4.5, Control (d) – Residential

Section 4.4.5, Control (d) states that development must not divert major overland flows or reduce flood storage such to adversely impact the neighbouring property or surrounding area. The proposal seeks to fill within the rear setback and construct a 600mm retaining wall along the southern boundary to contain the fill, where the overland flow path is located.



**ITEM 3 (continued)**

Council's Drainage Engineers have advised that filling in the overland flow path cannot be supported, as the fill will result in risks of overland flow being diverted into neighbouring properties. Given that the proposal has not provided a Flood Impact Statement, the development will result in unforeseen impacts to adjoining properties and the proposal cannot be supported.

**Part 8.4: Title Encumbrances****Section 2.1.3 – Building near or over a Drainage Easement**

In accordance with Section 2.1.3, *“Council will not consent to permit construction over a council drainage easement that will prevent or hamper constructing, reconstructing, maintaining, repairing, cleansing or gaining access to the pipes or easement”*.

Council records indicate there is an existing 375mm diameter drainage pipe traversing along the eastern boundary between 7 and 8 Ivy Street. The submitted plans do not show the exact location of the stormwater pipe. This existing drainage pipe has neither been addressed in the submitted documentation for Council to accurately determine the exact location of the drainage pipe.

The development seeks to construct to the eastern boundary with a non-compliant side setback inclusive of eave overhang. Concern is held that there is potential the development may construct a permanent structure over the drainage pipe, which ultimately establishes potential future issues for maintenance. Council cannot be satisfied of this requirement until the location of the drainage pipe has been identified and shown on plan.

**5.5 Planning Agreements OR Draft Planning Agreements**

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

**5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)**

The application has been recommended for refusal; therefore Section 7.11 will not apply.

**5.7 Any matters prescribed by the regulations**

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. As the proposal is recommended for refusal, there are no further matters for consideration.

### **ITEM 3 (continued)**

#### **6. The likely impacts of the development**

The proposal is inconsistent with the provisions of RLEP 2014. The proposal additionally, results in non-compliances with the suite of built form controls outlined in RDCP 2014. The development presents adverse and unacceptable impacts to the streetscape and adjoining properties.

#### **7. Suitability of the site for the development**

The site is zoned R2 Low Density Residential. The proposal is for an attached dual occupancy. The proposal does not meet the minimum required frontage. The submitted clause 4.6 variation to the Clause 4.1B (2)(b) has not met the jurisdiction prerequisites to enable the consent authority to support the proposed departure from the development standard. The design of the finished development is also inconsistent with the suite of built form controls. The proposal is not suitable for the site.

#### **8. The Public Interest**

The public interest is best serviced by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised.

The proposal has been assessed with the relevant environmental planning instruments and Council considers the proposal to be unacceptable. The proposal is non-compliant with the principal development standards regarding frontage width for dual occupancies and other clauses contained within RLEP 2014. The proposal is also inconsistent with the provisions of the RDCP 2014.

These non-compliances are considered unacceptable and on this basis the proposal is contrary to the public interest.

#### **9. Submissions**

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, owners of surrounding properties were given notice between 12 April 2019 and 28 April 2019. In response to the public notification period, one (1) submission was received from the adjoining neighbour at 9 Ivy Street, Ryde in support of the application.

The submission stated the following:

*"I have no objection; at least it's not a block of flats."*

## ITEM 3 (continued)

### 10. Referrals

#### INTERNAL REFERRALS

##### Senior Development Engineer

The application was referred to Council's Senior Development Engineer for an assessment of the engineering components of the proposal. The comments provided are as follows:

##### Stormwater Management

*The proposed stormwater management system for the development discharges to the existing public infrastructure network located in 8 Ivy Street, which discharges to the creek at the rear and incorporates an onsite detention system complying with Councils requirements.*

*A review of the plan, completed by C.K. Engineering Services Pty Ltd, drawing number 19787 Sheet 1 to 5, revision 1, dated 3rd April 2019, has noted the following matters;*

- *OSD is located outside of the 1 in 100 year flood event.*
- *The connection to Council's infrastructure located in 8 Ivy Street must be made to Council's specification and satisfaction as this will be considered the property of Council.*
- *The public infrastructure within 8 Ivy Street must be located by a suitably qualified surveyor to ensure it is located within the existing drainage easement. The purpose of this is to ensure the proposed building footprint is outside of the zone of influence.*

##### Vehicle Access and Parking

*The proposal provides 1 off-street parking space per dwelling where the dimensions comply with AS2890.1.*

*The grades do not provide a 5% grade for the first 6m, however considering the low traffic, no pedestrian footpath, and complying transition grades, there is no objection to this proposal.*

*The vehicular crossing provided appears to be clear of the kerb inlet pit however the plans do not depict the lintel location. The end wing of the crossing must be a minimum 500mm away from the kerb lintel. The purpose of this is to protect Council's infrastructure.*

**ITEM 3 (continued)**

*Note to Planner – the proposed hardstand in the front yard will require a considerable amount of fill to be added to achieve the proposed grades to the garage. This will appear as a bridge like structure from the street, and will dominate the frontage.*

*Flooding and Overland Flow*

*The site is affected by the 1 in 100 year flood event and is categorised as low to medium risk. The flooding is located at the rear of the site along the southern boundary which is adjacent to the creek.*

*The plans submitted identify that the proposed works are outside the 1 in 100 year event, thus concluded the risk of flooding is very low. The applicant has not obtained flood levels from Council.*

*As per Council's DCP requirements, the application must be supported with a Flood Impact Statement to demonstrate that the proposed development complies with Section 2.2.2 of Council's Stormwater and Floodplain Technical Manual. As per Section 2.2.1 of the Stormwater and Floodplain Technical Manual, the applicant shall incorporate the site specific flood information in the Flood Impact Statement.*

*The plans depict a raised garden at the rear of the property which is located within the flood affected zone. Council do not permit any fill around this area, and thus must be removed from the proposal. A cut and fill plan is required to determine the extent of cut or fill proposed on the site.*

*Recommendation*

*The engineering matters are a result of insufficient information.*

**Council's City Works (Stormwater and Catchments)**

The application was referred to Council's Stormwater and Catchments Engineer's in the City Works department for review of the flooding and drainage components. The comments provided are as follows:

*The site is affected by low to medium risk flooding in the Southern half of the property.*

- 1. Council is not satisfied that the proposed development has provided adequate measures to satisfy the primary objective of the NSW Floodplain Development Manual (2005) (and Council's DCP (2014) Part 8.2). The site is noted to be subject to low to medium flood risk hazard.*
- 2. The applicant is proposing the construction of a raised garden retaining wall and fill (above the natural ground level) along the southern boundary, where*

**ITEM 3 (continued)**

*there is an overland flow path along the boundary. Council does not support the use of fill or raised walls/fences in the overland flow path as there is risk of adverse flood impacts such as overland flows being diverted into neighbouring properties.*

3. *The applicant has not prepared a suitable Flood Impact Statement to satisfy the requirements outlined in Council's DCP (2014) Part 8.2 and the Stormwater and Floodplain Management Technical Manual and NSW Floodplain Development Manual.*
4. *Council records indicate that an existing 375 mm diameter drainage pipe is located along the boundary between No. 7 Ivy Street and No.8 Ivy Street. The submitted survey plan does not show the exact location of the stormwater pipe. This existing drainage pipe has not been addressed in the lodged documentation.*

**Landscape Architect**

**The application was forwarded to Council's Landscape Architect for an assessment of the landscaping components of the application. The comments provided are as follows:**

- *Indian hawthorn (*Rhaphiolepis indica*) is regarded by the NSW Department of Primary Industries " as an environmental weed in NSW and Qld. It is mainly a problem in remnant bushland in the Sydney and Brisbane regions" Therefore this species is unsatisfactory near bushland especially near a Critically Endangered Ecological Community. It should be substituted with a local native species.*
- *The remaining exotic species are not listed on the Department of Primary Industries as weeds*
- *Most of the species in the Schedule are native species and are satisfactory*
- *No Arborist Report has been lodged. The Landscape Plan shows existing Camellias and Magnolia to be retained along the eastern boundary. This is in conflict with the Stormwater Plan that shows stormwater pipes and a grassed channel down the eastern boundary.*

**EXTERNAL REFERRALS****Bushfire Consultant**

The application was referred to Council's external Bushfire Consultant, for an assessment of the development with regard to planning for bushfire. The comments provided are as follows:

**ITEM 3 (continued)**

*“To accord with Councils request for a review of bushfire compliance or otherwise with Planning for Bush Fire Protection 2006 for the subject development application, the following information is provided having regard to Section 4.14 of the Environmental Planning and Assessment Act 1979.*

*We have assessed the subject property and the surrounding lands for the purposes of determining the potential bushfire impact to the subject property. We have also reviewed the documentation provided by Council relevant to the subject development application including the Bushfire Assessment Report prepared by Australian Bushfire Consulting Services.*

*Recommendation*

*That all new works shall comply with the recommendations detailed within the Bushfire Risk Assessment prepared by Australian Bushfire Consulting Services, Reference 19-038, Dated 4th April 2019.*

*The intent of this determination is also to act as a certificate under section 4.14 Subsection 1b) of Environmental Planning and Assessment Act 1979 that demonstrates that the proposal, when combined with the recommendations contained herein, conforms to the relevant specifications and requirements of the document entitled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the NSW Department of Planning.”*

**11. Conclusion**

After consideration of the development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is not suitable for the site and is contrary to the public interest.

Therefore, it is recommended that the application be refused. The reasons for decision are as follows:

- The site fails to comply with the provisions of RLEP 2014. The frontage requirement to Ivy Street and the applicants Clause 4.6 written variation is not well founded and fails to demonstrate consistency with the objective of the control, that the non-compliance is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravention of the development standard.
- The proposal results in risk of overland flow being diverted onto neighbouring properties.

**ITEM 3 (continued)**

- The development does not comply with the suite of built form controls, which ultimately results in unacceptable impacts to the streetscape and adjoining properties.
- The insufficient information submitted with the application does not enable a detailed assessment to be made by Council.

**12. Recommendation**

Pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, that the Ryde Local Planning Panel refuse LDA2019/110 for the construction of a two (2) storey dual occupancy (attached) on land at 7 Ivy Street, Ryde for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of Ryde Local Environmental Plan (RLEP 2014) in that:
  - The proposal is contrary to the objectives of the R2 – Low Density Residential Zone.
  - The proposed development does not comply with Clause 4.1B(2)(b) of Ryde Local Environmental Plan 2014. The proposal seeks to utilise a 10.668 metre frontage presenting to Ivy Street to accommodate a dual occupancy (attached) which does not meet the minimum width of 20 metres; and,
  - The written request prepared by Natalie Richter Planning dated 4 April 2019 made to pursuant to Clause 4.6 of the Ryde Local Environmental Plan 2014 to vary the minimum frontage width is not well founded. In particular, the written request fails to adequately demonstrate the following:
    - i. The proposed development is inconsistent with the objectives of the standard (Clause 4.6 (4)(a)(ii));
    - ii. That compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and the matters required to be demonstrated have not been adequately addressed (Clause 4.6(3)(a) and Clause 4.6(4)(a)(i)); and,
    - iii. That there are sufficient environmental planning grounds to justify contravening the development standard and the matters required to be demonstrated have not been adequately addressed (Clause 4.6(3)(b) and Clause 4.6(4)(a)(i)).
- The development does not comply with Clause 6.2. The provision of the proposed fill on the boundaries may result in unforeseen impacts to the privacy and amenity of adjoining properties and is inconsistent with the provisions of Clause 6.2(3).
- The proposal fails to comply with Clause 6.3; the application has not been

**ITEM 3 (continued)**

supported with Flood Impact Statement. Council is not satisfied that the proposed development has provided adequate measures to satisfy the objectives of the control.

2. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of the *Ryde Development Control Plan 2014* in particular:

**Part 3.3 – Dwelling houses and Dual Occupancy (attached)**Control 2.1 - Desired Future Character

- The proposal is inconsistent with the streetscape and maintenance of the desired future character of the area.
- The excessive hard paving within the front setback is unsympathetic with adjoining low density residential development.

Section 2.9.1, Control's (c), (e) and Section 2.11.1, Control's (c), (d) and (i) – Garage dominance

The proposed garages are not setback 1.0 metres from the dwellings façade. The location, combined width and external finishes of the garages will result in car parking structures to be visually prominent features.

Section 2.5.1, Control (b), Section 2.11.1, Control (g), Section 2.13 (e) and 2.6.1(b) - Extent of hard paving within front setback

The extent of hard paving within the front setback and width of the driveway are not sympathetic with adjoining development and is considered not to enhance the appearance and amenity of development or the character of the locality and the streetscape.

Section 2.6.2, Control (a) – Sitting of the development

The development does not relate to the natural topography of the land and is elevated significantly above the natural ground level and is not sympathetic with the sloping topography of the land. The proposal will impact the amenity of the streetscape and adjoining properties.

Section 2.6.2, Controls (c)(iii), (iv), (v) and (vi) - Fill

The extent of fill within the driveway will have an unacceptable impact on the existing streetscape. The filling adjacent to the building and side boundaries may result in amenity impacts to adjoining properties.

Section 2.8, Control (a) - Building Height



**ITEM 3 (continued)**

The overall wall plate height is excessive and occurs as result of the design not being sympathetic to the site's topography.

Section 2.14.1, Controls (a), (c) and (d) – Solar access

The proposal results in unacceptable amenity for future occupants due to the limited solar access to living areas and private open space.

Section 2.14.2, Controls (b) and (c) – Visual Privacy

The development results in unacceptable privacy impacts. The elevated patios and proposed fill on the boundaries results in overlooking of the private open spaces of 6 and 8 Ivy Street.

Section 4.4.5, Control (d) – Residential

The proposal seeks to construct a retaining wall containing fill along the southern boundary, where the overland flow path is located. The filling in the overland flow path will result in a risk of overland flow being diverted into neighbouring properties.

4. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the development has failed to provide details prescribed by the regulations contained within the Environmental Planning and Assessment Regulation 2000, Schedule 1. Insufficient information has been submitted to enable assessment of the proposed development.
  - The proposal has failed to provide the external finished levels relating to the steps and concrete pathways between the building and side boundaries, to enable a detailed assessment.
  - No Erosion and Sediment Control Plan has been submitted with the application as required by Part 8.1 Construction Activities Section 2.1.2 – Erosion and Sediment Control Plan
  - No Flood Impact Statement has been submitted as required by Section 4.4.1, Control (a) Part 8.2: Stormwater & Floodplain Management.
  - Council records have indicated that there is an existing 375mm diameter drainage pipe is traversing along the eastern boundary between 7 and 8 Ivy Street. The submitted survey plan does not show the exact location of the stormwater pipe. Section 2.1.3 – Building near or over a Drainage Easement in Part 8.4: Title Encumbrances, this existing drainage pipe has neither been addressed in the submitted documentation for Council to accurately determine the exact location of the drainage pipe.
5. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed attached dual occupancy is not suitable for the site. The proposal is contrary to Section 1.3 Objects of the *Environmental Planning and*

**ITEM 3 (continued)**

*Assessment Act 1979.*

Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development is not in the public interest as it fails to achieve the objectives and requirements of the applicable environmental planning instruments and local provisions.

**ATTACHMENTS**

- 1 Compliance Check
- 2 C4.6 variation to street frontage
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

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**ATTACHMENT 1**  
**Attachment 1 – DCP Compliance Table**

DCP 2014	Proposed	Compliance
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>Section 1.0 Introduction</b>		
<b>Part 1.6 Site Analysis</b>		
Site analysis to be submitted.	Drawing prepared by Edith Design and dated 04.04.2019	Yes
<b>Section 2.0 General Controls</b>		
<b>2.1 Desired Future Character</b>		
Development is to be consistent with the desired future character of the low density residential areas.	The proposed development is inconsistent with the desired future character of the area. The development seeks consent for a dual occupancy on a deficient frontage, has garages that are visually prominent features and does not contain a backyard which is maximised given the applicant intention to set the building back to achieve a sufficient width for the development,	No
<b>2.2 Dwelling Houses</b>		
(a) Landscape setting which includes significant deep soil areas at the front and rear	The landscape setting of the site includes compliant deep soil areas accounting for 37% of the site.	Yes
(b) Maximum two storeys high	Development is 2 storeys in height. Dwellings will address Ivy Street.	Yes Yes
(c) Dwellings address the street	Boundary between public and private space is defined.	Yes
(d) Boundary between public and private space is clearly articulated	Garages will be the visually prominent features.	No
(e) Garages and carports are not to be visually prominent features	Dwelling generally responds to the site analysis.	Yes
(f) Dwellings are to response appropriately to the site analysis		
<b>2.3 Dual Occupancy (attached)</b>		
(a) New dual occupancy buildings are to meet the	Proposal meets the controls for new dwelling houses set out in	Yes

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**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
controls for new dwelling houses set out in 2.2.1.	2.2.1.	
<b>2.5 Public Domain Amenity</b>		
<b>2.5.1 Streetscape</b>		
(a) Site design, building setbacks and level changes respect the existing topography	Design of the dwelling fails respond to the site. Details regarding the non-compliances are demonstrated below within this table.	No
(b) Front gardens to complement and enhance streetscape character	Front garden does not enhance the streetscape character. This is due to the excessive hardstand areas within the front setback.	No
(c) Dwelling design is to enhance the safety and amenity of the streetscape	The design of the dwellings fail to enhance the streetscape, given the extent of non-compliances indented.	No
(d) Carports and garages visible from the public street are to: (i) Be compatible with the building design (ii) Be setback behind the dwelling's front elevation	The proposed garages are compatible with the building design. Concern is held regarding the visual dominance of the garages.  Extent of hard stand area within the front setback is excessive and accounts for 54%.	No
(e) Driveways and hard stand areas are to be minimised .	The façade of the development is considered to be not well design given the visual prominence of the garages.	No
(f) Facades from the public domain are to be well designed.		
<b>2.5.2 Pedestrian &amp; Vehicle Safety</b>		
(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	The car parking located to accommodate sightlines to footpath and road in accordance with AS2890.1.	Yes
(b) Fencing that blocks sight lines is to be splayed.	The existing fence will not obstruct sightlines to the footpath or road.	Yes
(c) Refer to relevant AS	Generally complies with AS2890.1.	Yes

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**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
when designed driveways		
<b>2.6 Site Configuration</b>		
<b>2.6.1 Deep Soil Areas</b>		
<ul style="list-style-type: none"> <li>- 35% of site area min.</li> <li>- Deep soil area must include:                             <ul style="list-style-type: none"> <li>(ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).</li> </ul> </li> <li>- Dual occupancies need only one 8m x 8m in back yard</li> <li>- Deep soil areas to have soft landscaping</li> <li>- Deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.</li> </ul>	<p>Deep Soil Area overall = 37%</p> <p>Excessive hardstand area is proposed with the front garden area.</p> <p>No 8m x 8m DSA in the rear proposed. Given that the design of the dwelling is setback to achieve a width the provision for a 8m x 8m is compromised.</p> <p>Deep soil areas consist of landscaping.</p> <p>As shown on the stormwater plan, the deep soil areas will be compromised by underground structures such as PVC piping.</p>	<p>Yes</p> <p>No – Variation unacceptable.</p> <p>No – Variation unacceptable.</p> <p>Yes</p> <p>No – Variation unacceptable.</p>
<b>2.6.2 Topography &amp; Excavation</b>		
(a) Building form and siting relates to the original topography of the land and of the streetscape.	The sitting of the building does not related to the original topography of the land. The building is suspended excessively on piers up to 1.838 metres above the existing ground level.	No – Variation unacceptable.
(b) The area under the building footprint may be excavated or filled so long as: <ul style="list-style-type: none"> <li>(i) the topography of the site requires cut</li> </ul>	<p>Within BF Max cut: 779mm</p> <p>Max fill: Not applicable. No fill proposed internal to the building footprint as the building is</p>	<p>Yes</p> <p>N/A</p>

**ITEM 3 (continued)**

**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
<p>and/or fill in order to reasonably accommodate a dwelling</p>	<p>suspended on piers/columns.</p>	<p>Yes</p>
<p>(ii) the depth of excavation is limited to 1.2m maximum</p>	<p>Outside BF Max cut: 779mm</p>	<p>Yes</p>
<p>(iii) the maximum height of fill is 900mm</p>	<p>Max fill: 813mm fill underneath the driveway.</p>	<p>No – Variation unacceptable</p>
<p>(c) Areas outside the dwelling footprint may be excavation and/or filled so long as:</p>	<p>Retaining walls will not exceed 900mm.</p>	<p>Yes</p>
<p>(i) the maximum height of retaining walls is not &gt;900mm</p>		
<p>(ii) the depth of excavation is not &gt;900mm</p>		
<p>(iii) the height of fill is not &gt;500mm</p>		
<p>(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours</p>	<p>As shown on the submitted plans, fill on the boundary is proposed. The proposal seeks to fill between the side boundaries to make provisions for concrete pathways and steps. This may result privacy impact between the proposed development at the dwellings at 6 and 8 Ivy Street.</p>	<p>No – Variation unacceptable.</p>
<p>(v) the filled areas do not have an adverse impact on the privacy of neighbours</p>	<p>Although the elevations have shown have shown that there will be a 1.8 metre high boundary fence will be erected on top of these steps, this results in an excessively high side boundary fence when viewed from adjoining properties, causing visual impact and negative impact on the amenity of those properties. No external levels have been provided.</p>	
<p>(vi) the area between the adjacent side wall of the house and the side boundary is not filled</p>		
<p>(vii) the filled areas are not adjacent to side or rear boundaries</p>		
<p>(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management</p>	<p>The proposal seeks to fill raised within the rear yards up to 473mm - 481mm above the natural ground level and construct a 600mm retaining wall along the southern boundary, where there is an overland flow path is traversing.</p>	<p>No – Variation unacceptable.</p>
	<p>The proposal will not seek to</p>	<p>Yes</p>

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**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
(e) Generally the existing topography is to be retained.	excessively alter the existing topography of the site.	
<b>2.7 Floor Space Ratio (FSR)</b>		
(a) FSR is 0.5:1 in accordance Clause 4.4  (b) A floor area of 36m <sup>2</sup> maybe excluded when this area accommodates 2 car space. An area of 18m <sup>2</sup> may be excluded when the area accommodates 1 parking space.	Ground Floor: 153.12m <sup>2</sup> First Floor: 184.21m <sup>2</sup> Total GFA: 337.33m <sup>2</sup> Minus Garage concession (36m <sup>2</sup> ): 301.33m <sup>2</sup>  FSR Calculation:  $\frac{301.33m^2}{701.9m^2}$  <b>FSR = 0.43:1</b>	Yes
<b>2.8 Height</b>		
<b>2.8.1 Building height</b>		
(a) Building heights are to be as follows:  - Maximum height of 9.5 metres for dwellings and dual occupancy.  - Outbuildings including garages and carports maximum height 4.5 metres.	<b>Dwelling 7A</b>  Roof RL (highest): RL51.200 EGL (lowest) under: RL41.800 Height of Building = 9.4 metres  <b>Dwelling 7B</b>  Roof RL (highest): RL51.100 EGL (lowest) under: RL41.698 Height of Building = 9.402 metres	Yes
<u>Maximum wall plate</u>  - 7.5m max above FGL or - 8m max to top of parapet  <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> - <i>FGL = Finished Ground Level</i>	No external levels to determine the finished ground levels on the plans have been provided to calculate the wall height. Measurement has been taken via scaling of the drawings.  Wall height = 8.4 metres	No – Variation unacceptable/ Insufficient information
<u>Maximum number of storeys:</u>  - 2 storeys maximum (storey incl basement elevated greater than 1.2m	Maximum 2 storeys proposed.	Yes

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DCP 2014	Proposed	Compliance
above EGL). - 1 storey maximum above attached garage incl semi-basement or at-grade garages	1 storey proposed above at grade garages.	Yes
<b>2.8.2 Ceiling Height</b>		
(a) Habitable rooms to have 2.4m floor to ceiling height (min).	2.6m minimum room height.	Yes
<b>2.9 Setbacks</b>		
<b>2.9.1 Front setbacks</b>		
(a) Dwellings are generally to be set back 6m from street front boundary	Front setback: 11.973 metres	Yes
(b) On corner sites, the setback secondary frontage minimum 2m	Not applicable. Not a corner site.	N/A
(c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade	The proposed garages are not setback 1.0 metres from the dwellings façade. The garage for Dwelling 7A protrudes in front of the façade 1.4 metres and the garage for Dwelling B protrudes in front of the façade 1.1 metres.	No – Variation unacceptable.
(d) The front setback free of structures. The exception is car parking structures which comply with 2.11.	The front setback is free of ancillary structures.	Yes
(e) Attached garages, including semi-basement garages on secondary frontages not to protrude forward of the façade. The exception is garages located on battle axe allotments. These garages do not need to be setback.	As above, the garage for Dwelling 7A protrudes in front of the façade 1.4 metres and the garage for Dwelling B protrudes in front of the façade 1.1 metres.	No – Variation unacceptable.
(f) The outside face of wall	The outside face of the walls above the garage align with the outside face of the garages below.	Yes



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**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
built above a garage aligns with the outside face of the garage wall below.		
<b>2.9.2 Side Setbacks</b>		
<p>(a) One storey dwellings setback 900mm</p> <p>(b) Two storey dwellings setback 1.5m</p> <p>(c) The second storey addition to a single storey dwelling are to be set back 1.5m</p> <p>(d) Allotments wider than they are long, one side setback a min of 20% of the width of the lot or 8m, whichever is greater.</p>	<p><b>Ground Floor:</b></p> <p>Eastern side setback: 1.0 metres</p> <p>Western side setback: 1.0 metres</p> <p><b>First Floor:</b></p> <p>Eastern side setback: 1.184 metres</p> <p>Western side setback: 1.5 metres</p>	<p>No</p>
<b>2.9.3 Rear Setbacks</b>		
<p>(a) The rear setback min 25% of the site length or 8m, whichever is greater.</p> <p>(b) Allotments wider than they are long, min setback of 4m</p> <p>(c) Dwelling on battle axe allotment are to be setback the rear boundary of the front lot min of 8m. Single storey garage or outbuilding can be within setback.</p>	<p>A rear setback of 9.32m is 25% of site length.</p> <p>Proposed rear setbacks:</p> <p>Dwelling A: 6.6 metres</p> <p>Dwelling B: 5.3 metres</p>	<p>No</p>
<b>2.11 Car Parking and Access</b>		
<b>2.11.1 Car Parking</b>		
<p>(a) Dwellings 2 spaces. Dual occ 1 space/dwg</p>	<p>1 space provided per dwelling.</p>	<p>Yes</p>
<p>(b) Spaces can be enclosed or roofed.</p>	<p>Spaces are enclosed within lockable garages.</p>	<p>Yes</p>
<p>(c) Garages setback 1m behind front elevation.</p>	<p>Garages are not setback 1.0 metres behind the façade. As stated above.</p>	<p>No – Variation unacceptable.</p>

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**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
<p>(d) Located forward of existing dwelling if:                      (i) there is no other suitable position                      (ii) no vehicular access to the rear of side of the site                      (iii) it is preferred that it is single car width.</p>	<p>Garages are located forward of the building line. The applicants intent for the location of the garages was to attempt to fit the proposed development into the site. Despite this intent the non-compliances for the garages being located forward of the building line, results in the garages to be the prominent features of the development and cannot be supported.</p> <p>Garage doors are solid.</p>	<p>No – Variation unacceptable.</p> <p>Yes</p>
<p>(e) Garages doors solid. No expanded mesh doors.</p>	<p>Not applicable. No secondary access available.</p>	<p>N/A</p>
<p>(f) Preference located off laneways, secondary street frontages.</p>	<p>The extent of the driveway is excessive and dominates the entire front setback.</p>	<p>No – Variation unacceptable.</p>
<p>(g) Driveway widths minimised. Driveways single car width except where needed to be widen to double garage access.</p>	<p>The driveway is not roofed.</p> <p>50% of the dwellings frontage is 5.334 metres. The proposed width of the driveways combined will be 7.315 metres exceeding the maximum requirement.</p>	<p>Yes</p> <p>No – Variation unacceptable.</p>
<p>(h) Driveways not roofed.</p>		
<p>(i) Min width 6m or 50% of the frontage whichever is less</p>	<p>The width of each garage door will not exceed 5.7 metres.</p> <p>Not applicable. Not a battle axe allotment.</p>	<p>Yes</p> <p>N/A</p>
<p>(j) Total width garage doors not be &gt;5.7m</p>		
<p>(k) Driveways for battle axe enable vehicles to enter and leave in forward direction</p>	<p>Garages doors will not be recessed greater than 300mm.</p>	<p>Yes</p>
<p>(l) Garage doors not be recessed more than</p>		

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DCP 2014	Proposed	Compliance
300mm		
<b>2.13 Landscaping</b>		
(a) Major trees to be retained where practical	No major trees will be impacted.	Yes
(b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m	The lot is adjoining urban bushland located in Aitchander Reserve. The proposal will not unduly impact any native or indigenous plant species.	Yes
(c) Provide useful outdoor spaces	Outdoor spaces can be considered useful for their purpose.	Yes
(d) Physical connection between dwelling and external ground level	Physical connections between the dwelling and external ground levels are provided.  $\frac{94.97m^2}{182.13m^2} = 52\%$	Yes
(e) Provide landscape front garden. Hard paved areas no more than 40%.	Pathway located along the side setbacks connecting the front to the rear provided.	No – Variation unacceptable.
(f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required where there is rear lane access or corner allotment.	Given the extent of hard paving and the located on the landscaping proposed, the landscape elements within the front garden are considered not to be in scale with the development.	Yes
(g) Landscape elements in front garden to be compatible with scale of dwelling.	A Riberry Lilly Pilly is proposed within the front setback with a capable mature height of up to 15 metres. A Blue Berry Ash with a capable mature height of 30 metres is proposed within the front setback.	No
(h) Front garden at least 1 canopy tree at least 10m in height	Landscaping is located appropriately to potentially assist	Yes

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**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
(i) Mature tree at least 15m in rear garden with the DSA.	in privacy between dwellings.  Hedge planting on boundaries will not exceed 2.7 metres.	Yes
(j) Locate and design landscaping to increase privacy between dwellings.	The proposal seeks to construct of a raised garden beds filling along the southern boundary, where there is an overland flow path is traversing, which may result in impacts to overland flow.	No – Variation unacceptable.
(k) Hedge planting on boundary no greater than 2.7m	OSD systems located underneath patios in the rear.	Yes
(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.	Landscaping is included in the POS of each dwelling.  Considered to improve energy efficient of building and micro climate of external living areas.	Yes  Yes
(m) OSD not to be located within front setback unless it is underneath driveway		
(n) Landscaping to include POS		
(o) Designed to improve energy efficient of building and micro climate of external living areas.		
<b>2.14 Dwelling Amenity</b>		
<b>2.14.1 Daylight and Sunlight Access</b>		
(a) Living areas are to be predominantly located to the north where possible	Living areas are orientated south. Although this may be a result of the orientation of the allotment, the site is not suitable for dual occupancy development. The provision of a single dwelling on the site (which is a more suitable outcome), will enhance the amenity of future occupants.	No – Variation unacceptable.

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DCP 2014	Proposed	Compliance
<p>(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.</p> <p><u>Subject Dwelling</u></p> <p>(c) Windows to north facing living areas of subject dwellings are to receive at least 3 hours of sunlight between 9am to 3pm on June 21.</p> <p>(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.</p> <p><u>Neighbouring properties:</u></p> <p>(e) For neighbouring properties:</p> <p>(i) sunlight to 50% of principal areas of ground level POS is not reduced to less than 2 hours between 9am to 3pm on 21 June</p> <p>(ii) windows to north facing living areas to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of surface, where can be reasonably maintained given orientation and topography.</p>	<p>Not applicable. North is not the allotments side boundary.</p> <p>Given the orientation of the allotment and nature of the development, there are no north facing windows living areas or windows.</p> <p>The areas for primary private open space will be completely overshadowed between 9am and 3pm on 21 June. Although dwelling 7A may achieve at 2 hours to 50% of its space, a concern is raised over the patio being completely overshadowed.</p> <p>Given the orientation of the site, 8 Ivy Street will be impacted by shadow cast from the development. 8 Ivy Street will retain at least 3 hours between the hours 9am and 3pm on 21 June.</p> <p>The north facing living areas at 8 Ivy Street will not be impacted by the development.</p>	<p>N/A</p> <p>No – Variation unacceptable.</p> <p>No – Variation unacceptable.</p> <p>Yes</p> <p>Yes</p>
<b>2.14.2 Visual Privacy</b>		
<p>(a) Orientate the windows of main living spaces (living room, dining, kitchen,</p>	<p>The windows of the living rooms are orientated to the side boundaries. Despite this, the location of the windows are</p>	<p>Yes</p>

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**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
<p>family etc) to the front and rear</p> <p>(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary</p> <p>(c) Terraces and balconies are not to overlook neighbour's living areas and POS</p> <p>(d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS</p> <p>(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.</p>	<p>considered acceptable given that the windows contain a sill height of 2.4 metres above the FFL.</p> <p>There is an elevated timber deck, oriented to the side boundary facing 8 Ivy Street, with potential overlooking opportunities.</p> <p>The patios serving as primary private open space for both dwellings are elevated significantly above ground level providing visual privacy impacts to 6 and 8 Ivy Street.</p> <p>Dwelling 7A: 3.88 metres Dwelling 7B: 2.93 metres</p> <p><i>Note: Indicate heights only, given the level of information provided on the survey and architectural plans.</i></p> <p>Windows associated with the living areas and kitchen will not allow direct impact for overlooking to adjoining properties.</p> <p>Given the location, sill heights and room uses of windows, there is not visual connection between the development and adjoining windows.</p>	<p>No – Variation unacceptable.</p> <p>No – Variation unacceptable.</p> <p>Yes</p> <p>Yes</p>
<b>2.14.4 View Sharing</b>		
<p>(a) The siting of development is to provide for view sharing.</p>	<p>No views will be impacted by the development.</p>	<p>Yes</p>
<b>2.14.5 Cross Ventilation</b>		
<p>(a) Designed to optimise access to prevailing breezes and provide for</p>	<p>As shown on the site analysis, the development provides for cross ventilation and provides for cross ventilation.</p>	<p>Yes</p>

**ITEM 3 (continued)**

**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
cross ventilation.		
<b>2.15 External Building Elements</b>		
<b>2.15.1 Roofs</b>		
<p>(a) Relate roof design to the desired built form by:                      (i)articulating the roof                      (ii)roof is consistent with the architectural character of dwelling                      (iii)eaves minimum 450mm overhang on pitched roofs                      (iv)compatible roof form, slope, material and colour to adjacent buildings                      (v)roof height is in proportion to the wall height of the building</p> <p>(b) The main roof not trafficable terrace.</p> <p>(c) Proposed attic contained within the volume of the roof space.</p> <p>(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.</p> <p>(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.</p> <p>(f) Balconies and terraces are not to be set into roofs.</p> <p>(g) Scale of the roof is to be in proportion with the scale of the wall below.</p> <p>(h) Attics may be located in the garage roofs if the garage is located next to</p>	<p>The proposed roof form is articulated and in proportion to the wall height of the dwellings. The roof form considered consistent with the architectural character of the development. The proposed eaves of the development overhang greater than 450m with compatible external colours and finishes of adjacent buildings.</p> <p>The roof will not be a trafficable terrace.</p> <p>Not applicable. No attic will be contained within the roof.</p> <p>Not applicable. No skylights proposed.</p> <p>Not applicable. No dormer room windows or skylights.,</p> <p>No balconies or terraces set into the roof.</p> <p>The scale of the roof is in scale with the wall below.</p> <p>Not applicable. No attics proposed.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

**ITEM 3 (continued)**

**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
the dwelling. Garages located within front or rear setbacks are not to have attics.		
<b>Part 7: Environment</b>		
<b>7.1: Energy Smart, Water Wise</b>		
<b>3.0 The information Guide</b>		
<b>3.2 Required information</b>		
(a) Energy efficiency performance report (b) Site analysis	Certificate No. 1004222M_02 dated 4 April 2019  Energy: 53 Water: 41  Plans consistent with Certificate	Yes
<b>Part 7.2 Waste Minimisation and Management</b>		
<b>2.3 All developments</b>		
(a) Developments must provide space for onsite waste containers	On site space is provided.	Yes
(b) Compliant size of storage areas and number of storage containers.	Satisfactory size for storage and number of containers.  Not required. Low scale residential only.	Yes  Yes
(c) Space to be provided for bulk waste where appropriate.	Storage is acceptable.	Yes
(d) Storage of green waste provided	Storage stored within the boundaries of the site.	Yes
(e) Stored within the boundaries of the site.	Submitted and complies with Part 7.2 of Council's DCP.	Yes Yes
(f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted.	Located in an easy and convenient location.	Yes
(g) Located to provide easy, direct and convenient access.	No incineration devices proposed. Collection point via Ivy Street.	Yes Yes
(h) No incineration devices.	Provided on the driveway and less than 14:1	Yes
(i) Collection point		



**ITEM 3 (continued)**

**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
identified on plan.  (j) Path for wheeling bin collection not less than 14:		
<b>2.5 Residential Developments comprising 1 or 2 Dwellings</b>		
(a) Space inside each dwelling for receptacles for garbage, recycling.	Required waste spaces provided.	Yes
(b) Space provided outside the dwellings to store the required garbage, recycling and green waste bins. Screened from street. Easy access to wheel the bins to the kerbside.	Waste storage spaces are located to not be visible from the street.	Yes
<b>Part 8: Engineering</b>		
<b>8.1 Construction Activities</b>		
<b>2.1.2 Erosion and Sediment Control Plan</b>		
Erosion and sediment control plan to be submitted.	No Sediment and Erosion Control plan has been provided with the application.	No – Insufficient information
<b>Part 8.2 Stormwater and Floodplain Management</b>		
<b>2.0 Stormwater Drainage</b>		
(a) Drainage is to be piped in accordance with Section 2.0 Stormwater Drainage  Application has been considered satisfactory by Development Engineering and City Works.	Stormwater Plan prepared by CK Engineering Services ref 19787 and dated 03.04.2019  Proposal has not been considered satisfactory by Council's Development Engineer and City Works.	No – Not supported by Council's Engineers
<b>4.0 Flooding and Overland Flow</b>		
4.4.1(a) development that is flood affected has been provided with a Flood Impact Statement. Report prepared in accordance with Section 2.2 of the Stormwater and Flood Plan Management Technical Manual	Site is constraint by overland flow. No Flood Impact Assessment has been provided with application.	No – Insufficient Information
<b>Part 8.3 Driveways</b>		
<b>4.0 Designing internal access roads and parking spaces</b>		
4.1 (a) the design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the	Proposed driveway will cater for compliance with AS2890.1-2004.	Yes

**ITEM 3 (continued)**

**ATTACHMENT 1**

DCP 2014	Proposed	Compliance
minimum requirements of AS2890.1-2004.		
<b>S2.0 Design Standards</b>		
<b>S2.2 Vehicular crossing widths</b>		
(a) Min 3.0m and max of 5.0m.  (b) Max width of 6m to facilitate accessing two adjacent garages if the distance between the space and the street frontage is less than 5.0m	Proposed driveway crossover will be 3.2 metres in width.	Yes
<b>Part 9.2 Access for People with Disabilities</b>		
<b>4.1.2 Class 1 Buildings</b>		
Accessible path required from the street to the front door, where the level of land permits.	Acessable pathway between the street and the development is provided via the driveway.	Yes

## **Clause 4.6 Variation**

### **Clause 4.1B (2)**

#### **Minimum Road Frontage Dimension for Dual Occupancy (Attached)**

##### **7 Ivy Street, Ryde**

#### **Proposed Attached Dual Occupancy – R2 Zone**

##### **Summary**

This submission is prepared pursuant to Clause 4.6 of Ryde Shire Local Environmental Plan ('RLEP') 2014 in support of the proposed construction of an attached dual occupancy on the site (as detailed in the attached Plans and Statement of Environmental Effects – 'SEE').

The existing allotment of land does not comply with the minimum road frontage *part* of the Development Standard (*part* of 4.1B(2) pertaining to ideal site size). The dimension at the road frontage is 10.66m, at the street curve and the lot widens/fans out to 30.478m at the rear boundary and is around 20m wide where the attached dual occupancy building is positioned.

Therefore, this technical non-compliance as to the site width reference is confined to the very front of the site where there is a narrowing towards the bend in Ivy Street and the building is not located at this point due to the required front setback. Although there is a technical numeric non-compliance *at this point*, the site fans out at the rear and meets/exceeds the minimum site area requirement stated in Column 1 of the Clause 4.1.B (2) for the bulk of the site (>17.8m site width as it widens beyond the proposed front building line).

Therefore, part of the Development Standard is fully complied with (most of the site is >20m and the site is well over 580m<sup>2</sup> in area). In addition, the proposal effectively complies with the site width requirement from the proposed front building as it extends further back on the site.

The application is considered to demonstrate that despite this technical numeric variation at the top/front, the site provides ample and compliant site area (701.9m<sup>2</sup>) and significant and ample width from the mid-point of the site to the rear. The area and general dimension can therefore support the development and provide sufficient opportunity to comply with density and design controls.

Despite the variation at the street boundary, space is available to design a dual occupancy which meets the desired buildable area and dimensions. The proposal presents the required low density style with consistent scale and architectural themes for the area and protects a consistent streetscape. The design is considered to present as a pleasant contemporary residential form to the street and will be situated lower than street level, behind landscaping and with an appropriate low and gabled roof form.

The proposal is considered to provide a good 'fit' with the low density area whilst providing a range of housing options in line with the zone objectives.

As detailed in the Site Plan extract below, the site width for most of the extent of the site is comparable with a 'standard' rectangular shaped block (which are more commonplace in the area/largely rectilinear lot pattern). It is considered that this clause may more appropriately relate to these rectangular lots, and does not specifically speak for unusual shaped blocks which also provide reasonable width and area such as in this case despite a triangulated front setback area. I.e. Lots >20m with different shapes.



Site Plan showing that the site/road frontage is uncharacteristically narrow in relation to the remainder of the site. This was due to the original subdivision creating lot frontages which would fit around the corner/bend.

As can be seen from this plan, the eastern side boundary is angled and triangulates towards the frontage simply to provide a straight side boundary line to connect with the curved front boundary. This feature leads to the narrower frontage and the numeric breach where the site is 10.66m wide and well under the 20m standard at the 'road frontage'.

However, it is submitted that despite this, the site significantly widens out from the front so that at the building line and for the bulk of the development, ample space is available to support the development, to allow the desired density outcome in a similar way to/better than some rectangular lots.

The development has been positioned at the appropriate place on site to achieve width and is designed and sited to comply with LEP and DCP controls. The proposal provides for the required front set back and is proposed with an appropriate height and FSR/density. Side and rear setbacks are consistent with the merit controls.

The attached dual occupancy is positioned in line with the adjoining houses and has a similar footprint and contiguous landscaping and open space areas for the benefit of properties and the area character/pattern. Therefore, the development is considered consistent with the area character and density objectives.

We request a variation to the strict application of road frontage width element of the standard in this case given that the objectives of the standard relate to setting a minimum site width to support a development of this kind and that despite the triangulation of the subject frontage, space is available from the building line to achieve an appropriate density and style for the area.

Variation would allow this development and provide a valuable additional housing opportunity which will upgrade housing, efficiency and improve bushfire and flood resilience and landscaping.

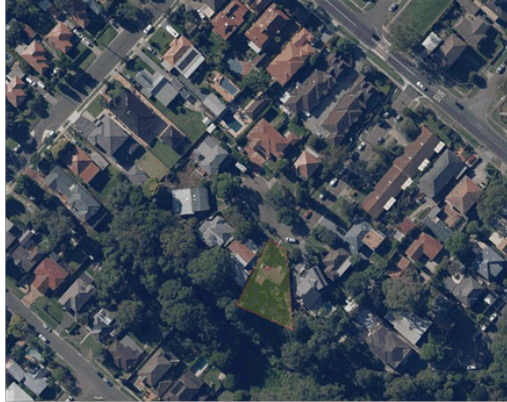
The design is considered to create a better and improved planning outcome for the site, for Ryde to boost housing numbers and choice, affordability level and environmental resilience for Sydney.

### **The Proposal**

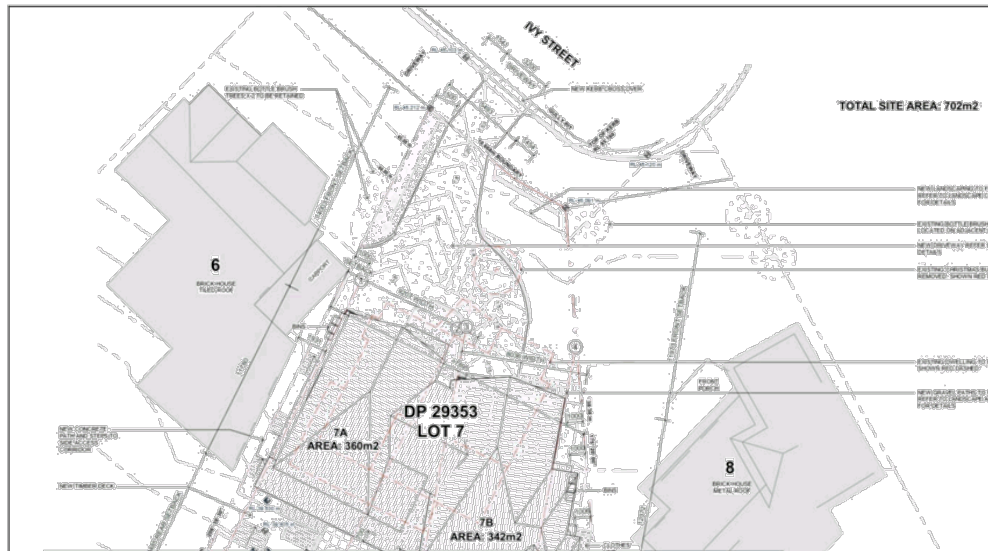
The proposal comprises the demolition of existing structures and construction of 2 x attached dwellings to form a dual occupancy (attached) with landscaping, driveway and associated civil works.

Car parking and rear private open space are integrated into the dual occupancy design.

As detailed in the documents, the site widens out to be 17.8m at the front building line and widens from the point out to a width of 30.478m at the rear of the site. The width at the front building line is detailed in the site plan below. This plan also shows that the position of the building is commensurate with that of the adjoining houses.



Six Maps Extract showing the site shape and features and surrounding character/mixed densities/dwelling sizes



Plan Extract/Site Plan – Showing Proposed frontage and width at the building line, Edith Design

**Clause 4.6**

Clause 4.6 of the RLEP relates to *Exceptions to Development Standards* and provides an opportunity to vary development standards where it can be demonstrated that the strict application of the standard is unreasonable and unnecessary under the circumstances, and that the flexibility will achieve a neutral or better development/planning outcome.

This Clause 4.6 variation is prepared to address the following tests, including Clause 4.6 of the RLEP and relevant case law guidelines recently established in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90,

*Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Micaul Holdings Pty Ltd v Randwick City, Council* [2015] NSWLEC 1386, *Moskovich v Waverley Council* [2016] NSWLEC 1015 and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

#### The Development Standard Being Varied

The development standard is Development Standard within Part 4 of the RLEP. This Clause requires a site area of over 580m<sup>2</sup> and a minimum road frontage of 20m or more to support an attached dual occupancy development within the R2 zone.

Specifically, The Clause states:

#### **4.1B Minimum lot sizes for dual occupancies and multi dwelling housing**

- (1) *The objective of this clause is to achieve planned residential density in certain zones.*
- (2) *Development consent may be granted for development on a lot in Zone R2 Low Density Residential for a purpose shown in Column 1 of the table to this clause if:*
- (a) *the area of the lot is equal to or greater than the area specified for that purpose and shown opposite in Column 2 of the table, and*
- (b) *the road frontage of the lot is equal to or greater than 20 metres. (Numeric Variation Sought relating to fan shaped site which is narrow at the front)*

<b>Column 1</b>	<b>Column 2</b>
<i>Dual occupancy (attached)</i>	<i>580 square metres (Complies)</i>
<i>Multi dwelling housing</i>	<i>900 square metres</i>

As noted, the site shape and narrow width at the 'road frontage' presents a technical variation of part of subclause (b) - the 20m 'road frontage' width required. However the width increases as it fans out.

Therefore, it is submitted in relation to this clause that the site largely complies and that the intention is aligned with ensuring an adequate width for a building (ideally 20m). The site area is generous and fully complies with subclause (b) (Columns 1 and 2) of the standard.

With consideration as to the width at the buildable area, the width of the site at the proposed front building line is 17.8m (only a small variation from 20m - due to the closing angles of the side boundaries). Through the building footprint and to the back, the site width increases to around 23m at the rear building line (exceeding the width requirement). Therefore, it is regarded that where the building is located, the proposal is generally consistent with the site width requirement of the numeric standard and the development is supportable and has merit in this regard.

#### The Form and Detail Required for a Clause 4.6 Submission

This submission has been prepared in accordance with the provisions of the LEP, Department of Planning Guidelines and recent case law to consider the following points:

1. The objectives and purposes of the development standard and the zone;
2. Will the objectives of the LEP, the frontage/area standard (4.1B) and R2 zone be upheld, despite the non-compliance;
3. Is the site area/frontage objective/standard relevant to the proposal;
4. Is strict compliance with the standard unreasonable or unnecessary in the circumstances of the case;
5. Would the objectives be defeated or thwarted if compliance was required;
6. Is the zoning of the land unreasonable or inappropriate;
7. Are there sufficient environmental planning grounds to justify contravening the development standard, and is the variation well founded;
8. Would a compliant development result in an inferior design and planning outcome;
9. Is there a public benefit in maintaining the development standard;
10. Is the development is consistently applied and whether strict compliance with the standard in the circumstances of the case would be unreasonable or unnecessary or tend to hinder the

attainment of the objectives of the LEP, the clause and the Environmental Planning and Assessment Act (EPAA).

11. Does the submission adequately address the relevant Clause 4.6(3) matters in relation to the environmental planning outcome and does the variation have a neutral or better environmental planning outcome than one that does not.

**1. Objectives of Ryde LEP, the Standard, and Clause 4.6**

**The Ryde LEP 2014 aims:**

The particular aims of the RLEP are as follows:

**1.2 Aims of Plan**

- (1) *This Plan aims to make local environmental planning provisions for land in Ryde in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) *The particular aims of this Plan are as follows:*
  - (a) *to encourage a range of development, including housing, employment and recreation, that will accommodate the needs of the existing and future residents of Ryde,*
  - (b) *to provide opportunities for a range of housing types that are consistent with adjoining development and the existing environmental character of the locality,*
  - (c) *to foster the environmental, economic, social and physical development of Ryde so that it develops as an integrated, balanced and sustainable city,*
  - (d) *to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,*
  - (e) *to improve access to the city, minimise vehicle kilometres travelled, facilitate the maximum use of public transport and encourage walking and cycling,*
  - (f) *to protect and enhance the natural environment, including areas of remnant bushland in Ryde, by incorporating principles of ecologically sustainable development into land use controls,*
  - (g) *to preserve and improve the existing character, amenity and environmental quality of the land to which this Plan applies,*
  - (h) *in relation to economic activities, to provide a hierarchy of retail, commercial and industrial activities that enable employment capacity targets to be met, provide employment diversity and are compatible with local amenity*

The site is zoned R2 (Low Density Residential) under RLEP 2014 and the development for an attached dual occupancy is permissible with consent in the zone.

The proposal is consistent with the general aims in that it improves the contribution of the site to a high quality, high amenity environment and protects the important heritage and cultural characters of the Ryde area.

The development is considered to preserve the low density and residential/landscaped character despite the numeric frontage variation, as detailed within this submission and the SEE.

The development provides for a good level of bedroom and living space for residents, good areas of landscaping and open space and a positioning and scale which has been designed to protect neighbour amenities and provide consistent spatial separation to surrounding buildings.

The development is environmentally sustainable and supplies housing options for the community. This is considered to promote the '*environmental, economic, social and physical development of Ryde so that it develops as an integrated, balanced and sustainable city*'.

The proposal provides high quality and energy efficient housing which is in character with the area. The proposal also utilises land efficiently in line with state and local planning objectives in terms of consolidating land for residential use in well serviced, accessible and already altered and developed areas. Increasing these opportunities in accessible areas is considered to alleviate pressure on supplying housing across more sensitive areas and to benefit the population.

The provision of additional homes has the potential to improve the 'vehicle kilometres travelled' in line with the zone objectives because residents can catch public transport and walk to surrounding areas. This design also minimises parking with the integrated parking and driveway.

This development is also considered to provide for environmental improvement and resilience with the proposed improvement of the site via the bushfire and drainage mitigation and construction and the landscape embellishment. The landscaping will make improvements for the natural environment and the streetscape, replacing existing landscaping.

## **Zone R2 Low Density Residential**

### **1 Objectives of zone**

- *To provide for the housing needs of the community 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.*
- *To provide for a variety of housing types.*

The proposal provides for the housing needs of the community within a low density environment, with a suitable and compliant density and scale and reasonable and appropriate useable landscaped external spaces and areas.

The development provides a considerable upgrade of the housing on the site with a modern structure which: uses the land well to provide 2 homes and improves: energy efficiency, modern spaces/function and fire safety standards via setbacks, access and construction methods. This is considered to benefit the site, the owners, future occupants and the area.

As submitted, at 709.1m<sup>2</sup> in area, with ample space and width from the central section of the site, the site is large enough to support the development and consequently, given the design presentation, the development is demonstrated to be consistent with the desired character described for the area within the Ryde Planning Policies and is worthy of planning/merit support.

The proposal provides for additional housing within the 'variety of housing types'. This detached dual occupancy type of house, with a smaller and more manageable block size is desirable according to current metropolitan planning objectives. This proposal supplies options for a mixture of family types and caters for affordability with smaller lot/land sizes within an easily accessible area, close to employment and beneficial supportive opportunities.

As detailed in the SEE, the proposal is considered consistent with the objectives relating to the area character and the streetscape, as the proposal will be recessed down the site, behind landscaping and has a roof design, scale and finish consistent with (and smaller than some of) the housing stock in the immediate area. This development is landscaped and lower in form in comparison to the existing villa development which is located at the end of Ivy Street.

As noted in the SEE, there are similar examples of buildings in the area and the proposal is consistent with the surrounding pattern of buildings. The retention and updating of the existing building will not detract from the prevailing style R2 development, noting that dual occupancy is a permitted and encouraged form of development within the right scale and setting (such as is proposed).

The proposal enables space to accommodate work from home opportunities for the 2 dwellings, to support day to day residential needs.

Given the above consistency with design objectives and controls and the contextual fit, the proposal is not considered to have an adverse effect on the neighbourhood character, the zone intentions or on other dwellings and is therefore consistent with the R2 zone objectives.

### **4.1B Minimum lot sizes for dual occupancies and multi dwelling housing**

*The objective of this clause is to achieve planned residential density in certain zones.*

*Development consent may be granted for a dual occupancy (attached) on a lot in Zone R2 Low Density if the site area is more than 580m<sup>2</sup> and the 'road frontage' of the lot is equal to or greater than 20 metres.*

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The proposal is considered to match the character of surrounding housing and has been designed to present as a single footprint with an appropriate FSR (to comply with less than 0.5:1 in FSR).

The development is commensurate in siting and position with the detached houses on either side and this dual occupancy is more modest and detached in scale than some of the larger, more visible multi-dwelling type developments within the area.

Therefore, given this appropriate density and street presentation and the overall consistency with the design, scale and character design controls, the proposal is consistent with the objective of the clause which is to achieve the *planned density* within the R2 zone. As noted, an attached dual occupancy is a permitted and encouraged form of housing in this area and the site is demonstrated in the documents to have the capacity to support this form of housing.

In this regard, this provision of modern, quality housing which meets this area character is of considerable benefit to the community, enabling less housing pressure in more sensitive areas. The site and area can support the development and this proposal supports the amenity of the site and the area, without detrimental impact. It is submitted that the proposal is entirely consistent with objectives of Clause 4.1B, the objectives of the R2 zoning, the RLEP as well as metropolitan planning goals.

#### **Clause 4.6 Exceptions to Development Standards**

Clause 4.6 aims to provide for flexibility in certain demonstrated circumstances and to promote better planning outcomes which may not necessarily be achieved by strict compliance.

It is considered that Clause 4.1B of the RLEP does not make provision for lots with unusual shapes or the sort of shape presented in this case. Despite the numeric variation at the 'road frontage', we submit that this lot is sufficiently wide for the most part (at and behind the building line/front setback) to meet this 20m width minimum. Where the building is proposed, the width essentially complies (17.8m) and it is wider than 20m as the building extends back. Therefore, the built form is able to reflect the density intended by the clause. The narrow section only effects the top part of the site (the front setback area) whereas the remainder is considered to be wide enough to support the development.

The site is large enough (701.9m<sup>2</sup> when 580m<sup>2</sup> is the minimum) and is wide enough to support the attached dual occupancy which is permissible for the site. Despite the unusual shape of this site, the site is considered to deliver the buildable width and shape to meet the objectives of the standard and provide appropriate/commensurate density with the area and at the same time increase housing choice to meet the zone objectives.

The strict application of this numeric value at the street, simply apply the top/front dimension of the site is considered to be unreasonable and unnecessary in this case and support for this variation would allow an improved housing outcome for the site and allow the reasonable site potential to be realised. In this case, the shape, the site area, dimensions, design and appropriate scale and fit with the area allow for the provision of 2 quality dwellings to improve opportunities for residents and the community.

The dual occupancy is considered to represent a high quality, overall improvement to the subject site and the area and is worthy of flexibility and support in this instance. With consideration of these circumstances, overall, the development is consistent with the objectives of the standard and Clause 4.6 allows for the flexibility the technical hurdle of the road frontage width for this fan shaped site. Given that the zoning and the relevant layers of applicable planning legislation and objectives are met the proposal is considered supportable.

It is also noted from a review of the Councils Clause 4.6/SEPP 1 register that this clause has been previously varied for unusual lots and to support these housing outcomes where they are demonstrated to be consistent with and complementary to the area. One similar and notable example which was supported was a fan shaped allotment at 6 Dawes Crescent Eastwood

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(approved 5 April 2016). In this case there was a variation of 43.6% and this lot had a similar situation where it was around 11m at the front widening out quickly to the rear. We have reviewed other applications which have created more modest departures and have reviewed the reasons that these have been supported being of low impact and upholding planning objectives behind the standard. We consider that this application is similarly founded and justified and the merits would be appropriate for allowing the variation under Clause 4.6.

**2. Are the objectives of the zone and standard upheld despite the non-compliance?**

As previously detailed, the proposal will create a development which is consistent with the area character and the desired density (FSR, height, landscaping, setbacks). The proposal will provide a less visible dual occupancy than some others in the area in an appropriate landscaped character.

The proposal will improve the quality of housing, increase options within the environmental capacity of the site and area, and is responsive to the site and context and upholds the zone objectives.

**3. Are the Minimum Frontage Site Area objectives relevant to the proposal?**

The objectives are relevant to the proposal in so far as ensuring a site is wide and spacious enough to support an attached dual occupancy development and to ensure setbacks and scale off sets are provided to sympathise with the desired area character and neighbours. To guide appropriate development with an appropriate footprint.

Another way this standard could be viewed is ensuring that sufficient site dimensions are provided to support development of an entire site where it does not have a rectangular shape, rather than as determined just at the 'road frontage'. As this site is wide enough at the building line (accounting for the required front setback and street building line) and provides more than enough site area, the proposal is considered consistent with the objectives of the site frontage control.

As demonstrated in the SEE, the proposal balances built form with landscaping and creates the desired low density built form character, to protect the area aesthetic, protect other properties and to provide landscaped amenity for the benefit of residents, the area and the natural environment.

The development provides for residential amenity and density in line with the site area and frontage width/site dimension standard. As the proposal is consistent with the objectives, it is worthy of support irrespective of the road width.

**4. Is strict compliance with the standard be unreasonable and unnecessary in the circumstances of the case?**

The strict application of the numeric ratio is considered to be unreasonable and unnecessary in this case given:

- The technical/numeric variation due to location of the site on a corner and the unique subdivision pattern and resultant 'fan' shape of the allotment. The site is irregular in shape and although the street frontage is less than 20m, adequate width is provided at the front building line where the site is 17.8m in width. At this point, where the building is placed, the variation is relatively minor (2.2m) – 11% variation. So, at the building line, the proposal essentially complies with the minimum lot width.
- Sufficient supportive area is provided at the building line and to the rear to support the footprint, setbacks and open space areas – in line with planning objectives and amenity controls.
- The development has been sensitively designed and positioned on the wider section of the site (between 17.8m and 21m wide at the centre of the development and 23.5m at the rear building line). This means that where the building is positioned, the proposal effectively complies with the 20m minimum width requirement and provides the width to comfortably support the dual occupancy and to be consistent with the residential scale desired for the

streetscape and the R2 area. The variation has a much lesser degree at the front of the building at this point and as the site widens, becomes compliant as the boundaries splay.

- The narrower section of the site (between 10.66m at the road frontage and 17.8m at the front building line) provides for a compliant and generous front setback comprising desired deep soil landscaping and driveway and pathway areas are provided to be consistent with the streetscape character. The front setbacks are generally in line with the adjoining houses which provide the desired streetscape consistency.
- Quality landscaping is integrated into the site design and the landscaping reflects the desired character and meets bushfire requirements.
- The scale meets design and scale controls and protects/provides for residential amenities in line with the planning/design guideline controls.
- The development is not considered to result in adverse scale, shadowing or privacy impacts. The proposal maintains an appropriate relationship with the streetscape and sufficient space is provided for manoeuvrability and deep soil/open space areas.
- Similar developments of this type and massing exist within Ivy Street and within the surrounding locality. This area supports a number of housing typologies and this development would be in character and would benefit choice and availability of accessible, affordable and high quality housing.
- The attached dual occupancy has been demonstrated to provide 2 spacious houses with good setbacks, with a compliant height and FSR and essentially compliant setbacks (except small incursions along the western side where the building steps in away from the boundary (average 1.5m) and therefore has small pinch points.
- The proposal also complies with front and rear setback controls provides for the desired level of landscaping and open space and is consistent with drainage, flooding and fire legislation. The proposal has been designed to minimize sit disturbance and to sit in line with the adjoining houses and to present as a low density house presentation.
- The siting of the building away from the front boundary, below the street level reduces the visibility of the new building and creates a consistent building line for this section of the street. The frontage is to be landscaped in line with the DCP controls and objectives.
- Sufficient space is provided around the building footprint to maintain the amenity of adjoining properties. Required ancillary facilities (bin areas, paths, private open space, driveways, parking) are able to be provided, to support residential function and amenity.
- The development provides for varied housing opportunities (smaller and more affordable types) to cater for different family sizes and situations. This aligns with the Ryde R2 zone objectives and the NSW planning policies of providing for a range of housing and increasing affordability (with less house/land size) close to well-serviced areas and accord with controls.
- Spacious private back gardens are provided at the rear, in a similar position to the open spaces on adjoining properties, matching the character and pattern. A pleasant outlook would be enjoyed by the houses to the rear, over the reserve. This development provides the opportunity for an additional household to enjoy the area.
- The site can support the development environmentally and this represents an efficient use of land resources for Sydney/Ryde.
- Despite the technical variation for a small portion of the frontage, the development is consistent with the objective of Clause 4.1B which is to achieve planned residential density in certain zones (for the reasons outlined above).
- Strict compliance in reference to the front section of the site is considered unreasonable in that the width of the site increases out to comply and is where the building is sited.
- The proposed development is not considered to impact on the status of the clause with the available appropriate site width with which to fit dual occupancy development. This clause does not delineate between rectangular or fan shaped lots and despite the shape and the narrow frontage, the site is considered to provide the width for most of the site as required to address the intent of this clause. We submit that the strict application of this clause to a fan/trapezium shaped site is unreasonable in this circumstance given the land/environmental/residential offering of this site and that this dual occupancy provides an improved housing stock, housing opportunities and provides a demonstrated better planning outcome than with the strict application of the provision which would prevent this opportunity.
- Strict numerical compliance for the sake of the uniquely narrow site frontage in this case would also prevent the reasonable development of an attached dual occupancy which is a permissible development opportunity within the zone.

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- Strict compliance is not reasonable or necessary and would restrict the ability to provide the desired additional housing opportunity when the lot size, shape and site features/constraints provide the opportunity to increase housing choice within a context which complies with the low density residential scale and design provisions. The proposal is consistent with Greater Sydney and Ryde planning objectives of delivering housing in the right areas.

**5. Would the objective of the standard be defeated or thwarted if compliance was required?**

The objectives of the standard are considered to be met. The design would be compromised with strict compliance and that this would not represent a better planning or environmental outcome.

The objectives of the standard seek to balance built form and landscaping and to improve the streetscape and amenity. These underlying site width *intentions* of the standard remain applicable and relevant and this objective of providing adequate site width to support development would not be thwarted as the proposal is considered consistent.

**6. Is the zoning of the land unreasonable or inappropriate?**

The zoning of the land is not considered to be unreasonable or inappropriate. The R2 zoning reflects the desired low density intention of this area which is mixed density to allow for some low density style housing types (including attached dual occupancies). The zoning of the land is not unreasonable in this location.

**7. Are there sufficient environmental planning grounds to justify contravening the development standard/ is the variation well founded?**

In relation to planning merits:

- The proposal provides for appropriate form and has been carefully and creatively designed to fit well with the site and area specific DCP controls and to represent the ideal outcome.
- The development responds well to the streetscape and the character of adjoining development with good setbacks, modulation, landscaping and appropriate materials.
- The design is compliant with the intent of the merit-based DCP development guidelines and non-compliances have been justified within the documentation. The development is consistent with relevant Regional, State and Local Environmental Planning Policies and is considered to be in the public interest and is permissible within the R2 zone and compliant with relevant objectives.
- The variation to the front boundary width is a product of the residential subdivision pattern and lot shape/front curve. Notwithstanding this shape, a suitable building platform is provided with no unreasonable streetscape or amenity impacts to adjoining residents. The site width essentially complies for the bulk of the site and the lot area is more than compliant to support the dual occupancy.
- The development provides safe, accessible, good quality residential floor plans, internal and external spaces, accessibility and landscaped amenity. This will allow a high quality and equitable housing outcome to increase housing options, choices, quality and affordability in line with planning aims.
- The proposal provides pedestrian access, density near public transport and on-site parking to minimise impacts on the local road network.
- The development has been designed in accordance with energy efficient/BASIX requirements and promotes passive solar access, natural cross ventilation, low reliance on artificial heating and cooling, water sensitive urban design and area appropriate landscaping.
- The proposal provides for the retention and replenishment of mature trees and limits site alteration with a stepped design and limited cut.
- Effective and appropriate planting is proposed to protect privacy and amenity for residents and the characteristics and siting have been designed to consider neighbours.
- The development is considered to plan the site well and to efficiently plan and utilise the site in terms of maximising land resources in a sustainable way.

- Design and site development outcomes are preferable to strict numeric compliance and the proposal results in a beneficial planning outcome given the above merits.

**8. Would a compliant development result in an inferior design and planning outcome?**

Compliance is considered unnecessary for the sake of the narrow frontage, given that the development of this site for the purposes of a dual occupancy can achieve appropriate density and to comply with the balance of design and scale controls. The dual occupancy is considered to fit well with the area meets the width requirement for a large part of the site where it widens.

It is submitted that not allowing this proposed dual occupancy (given the demonstrated benefits and merits for the area, environment and community) would result in an inferior land use planning outcome. It is the position of the owner and the applicant that this proposal will improve the site in relation to the street presentation and area character given the quality architectural design, appropriate setbacks and siting and the balance between built form and landscaping.

Strict compliance would unduly restrict the contribution of this site to land resources available for providing sensitive and area appropriate dual occupancies. Compliance with the minimum frontage is not achievable due to the *existing* site configuration and shape however the proposal is considered to provide for the desired planning outcome.

**9. Is there a public benefit in maintaining the development standard?**

Given the merits put forward in the SEE, there is not considered to be a particular public benefit in strictly maintaining the development standard in this case as it would preclude a reasonable development. The proposal is not considered create any unreasonable impact and it is noted that this development standard has been varied in some other similar cases, where there have been usual or particular circumstances do with shapes and frontage widths.

The intention of this clause is to ensure adequate buildable dimensions and where developments can demonstrate this and consistency with area character, concessions have been allowed. The wording of the clause is not considered to account for unusual lot shapes. Commonly in planning practice, these sorts of site width clauses intend to ensure there is sufficient overall side width/dimensions to support development and it is considered that sufficient site width is demonstrated to accommodate general design compliance.

Therefore, in this case, it is considered that the benefits in this case of supporting the variation outweigh the benefits of strictly applying this part of Clause 4.1B where the proposal meets planning and environmental objectives of the clause and allows for a beneficial development.

**10. Whether the development is consistently applied and whether strict compliance with the standard in the circumstances of the case would be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the LEP, the clause and the Environmental Planning and Assessment Act (EPAA).**

The Act seeks to encourage development which enables the proper management, development and conservation of natural and artificial resources and the promotion and co-ordination of the orderly and economic use and development of land.

As detailed, the proposal is considered to use the site well, to provide an upgrade to housing which is consistent with planning code and amenity guidelines, in an environmentally resilient and supportive way, promoting economic and environment efficiencies and maintaining/protecting the welfare of the community in creating a high quality built environment.

The proposal is considered to represent the orderly and economic use of land resources in line with the aims of the Act.

**12. Does the submission adequately address the relevant Clause 4.6(3) matters in relation to the environmental planning outcome and does the variation have a neutral or better environmental planning outcome than one that does not.**

This submission addresses the matters relevant to the assessment provided by Clause 4.6 and as detailed and for the reasons contained in this assessment, the proposal is considered to have better environmental planning outcome in allowing for the upgrade of the site and the additional housing provided by the proposed dual occupancy.

**Summary**

- The proposal is considered to provide a better planning outcome in providing 2 x high quality, environmentally sound and high amenity dwellings to meet zoning objectives.
- Strict application for the sake of the road frontage, where the site is most narrow is not considered reasonable, practical or necessary in this instance. This is because the site dimensions and area generally comply with the standard (well over 20m for a large proportion of the site, 17.8m at the proposed building line with 701.9m<sup>2</sup> available useable site area) and can therefore provide an appropriate density dual occupancy.
- The proposal is consistent with the *objectives* of the RLEP 2014, the R2 zone, the dimensional/area requirement of Clause 4.1B and Clause 4.6, as detailed.
- The proposal is compliant with the height and FSR controls and also consistent with setback and deep soil landscaping controls.
- The proposal has been designed to respect the objectives of the residential planning controls and maximise residential amenity internally and externally to the site.
- The proposal will improve housing stock, add an additional housing opportunity within a good/accessible area, assist with affordable housing (smaller block sizes/utilisation of land), and provide water management, landscaping and fire upgrades.
- The application provides for the orderly and economic development of land, improvement of housing and the protection of the environment, consistent with Council's planning objectives.
- The development is consistent with the objective of Clause 4.6 in providing flexibility in certain circumstances. The merits presented are considered to demonstrate that a better planning outcome can be achieved in this instance, for this lot, despite the numeric frontage variation.
- In this regard, strict numeric compliance would unduly constrain the opportunity of the site to contribute to a sensitive and appropriate housing outcome which meets the desired ratios for dual occupancy.
- The proposed variation is considered to be well-founded and to create a positive/better planning outcome which is consistent with the range of applicable planning controls as detailed in this submission and the accompanying SEE. In addition to the appropriate density and housing outcomes achieved, the proposal will upgrade the site in terms of landscaping, water management, access and bushfire risk, providing compelling and positive environmental grounds for support.



Natalie Richter, Town Planner (B. Town Planning, UNSW), 4 April 2019

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